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December 11, 2008 (8:30am)

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OFFICE OF SECRETARY  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

HEARING

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In the Matter of: : Docket No. IA-050-052  
DAVID GEISEN : ASLB No. 06-845-01-EA  
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Thursday,  
December 11, 2008

The above-entitled matter came on for further hearing, pursuant to notice, at 8:30 a.m.

BEFORE:

MICHAEL C. FARRAR, Administrative Judge, Chair

E. ROY HAWKENS, Administrative Judge

NICHOLAS G. TRIKOUROS, Administrative Judge

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

2 (8:30 a.m.)

3 JUDGE FARRAR: All right, we're all here.  
4 Thank you all for showing up bright and early on  
5 Thursday morning at 8:30.

6 Mr. Hibey, you had received some materials  
7 by way of quasi-discovery we can call it, related to  
8 other people who were or were not charged by the  
9 Staff. Oh, we did look at the one item that was  
10 redacted and we can assure you there's nothing in  
11 there that you would need. If there is something we  
12 may ask you a question about which you can follow up  
13 on, but it's not consequential for purposes of the  
14 case.

15 MR. HIBEY: The other materials, I don't  
16 know whether the Panel also received what we received.

17 JUDGE FARRAR: Yes, we did.

18 MR. HIBEY: Our declination letters. We  
19 call them declination letters in our world. They  
20 simply advise the person that no further proceedings  
21 will be taken against them. We have no other  
22 information with respect to that.

23 JUDGE FARRAR: Maybe I didn't make my  
24 request then of the Staff clear enough.

25 MR. HIBEY: Oh, I think you did, but this

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1 is what we've got. That's the situation, Your Honor.  
2 We've got no --

3 JUDGE FARRAR: It's a situation right this  
4 minute, but it will not be the situation two minutes  
5 from now.

6 MR. HIBEY: Yes, Your Honor.

7 JUDGE FARRAR: We've got a bunch of  
8 declination letters. I thought we had asked for the  
9 reason behind why people, but particularly Mr. Swim  
10 and Mr. Campbell, were not charged by the Staff. The  
11 declination letters, I'm sure Mr. Swim and Mr.  
12 Campbell were happy to receive them, but it gives us  
13 no information. If we don't have by the noon hour  
14 more information, Mr. Hibey is going to ask us to draw  
15 an inference that there was no valid reason for  
16 distinguishing those people from Mr. Geisen. You will  
17 say yes, you have your witnesses here who will  
18 testify. Mr. Hibey will say, yes, but I can't cross  
19 examine them because I didn't get discovery. We'll  
20 have a lot of wasted argument about nothing.

21 Now when can we get the information that  
22 says what happened with Mr. Swim and Mr. Campbell?

23 MR. GHASEMIAN: Your Honor, there is no  
24 written analysis of why actions were not taken. And  
25 our understanding was to search for documents that

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1 reflected that analysis. And based on -- and we  
2 passed that information on to the Office of  
3 Enforcement. They did their research and based on  
4 their processes, they informed us that when the Staff  
5 decides not to take action, that is not something  
6 that's documented. With one exception in this case,  
7 we've provided the strategy form to defense counsel.  
8 It reflected and I forget their titles, but one of  
9 them referred to Mr. Cook, and the other referred to  
10 another individual.

11 So there is no written documentation for  
12 the Staff to provide to the Board. However, we will  
13 have individuals, Mr. O'Brien, to testify, and he can  
14 elaborate on that and what the processes are and why  
15 we didn't take action against certain individuals.

16 JUDGE FARRAR: I appreciate that  
17 explanation, but as I understand the backup materials  
18 that were provided for the people whom the Staff did  
19 charge, there's a Review and Enforcement Office Review  
20 Panel sits down. Now what they're asking, what  
21 someone is asking us to believe is they sit down  
22 around the table and say who is up next? Mr. So-and-  
23 So. Do we have any papers relating to this? No, we  
24 just want to talk about and have a decision. They had  
25 something in front of them when they made that

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1 decision. They had something in front. Now maybe  
2 they had the entire Office of Investigations Report,  
3 but that's a very dense document to get through. I  
4 assume they had some summary from somebody about  
5 something or the Board couldn't meet.

6 MR. GHASEMIAN: Your Honor, if I may --

7 JUDGE FARRAR: I see some of your  
8 Enforcement people getting agitated in the back and --  
9 you can have them speak directly to us, if you'd like,  
10 Sir?

11 MS. CLARK: Would you like to have him  
12 speak to this?

13 JUDGE FARRAR: Yes.

14 MS. CLARK: Why don't you go ahead?

15 JUDGE FARRAR: Let's cut right through all  
16 this. Your name is?

17 MR. LUEHMAN: My name is Jim Luehman.

18 JUDGE FARRAR: And your role is?

19 MR. LUEHMAN: I was the Deputy Director of  
20 the Office of Enforcement.

21 JUDGE FARRAR: Can you help me with this  
22 problem?

23 MR. LUEHMAN: I think, Your Honor, the way  
24 the process worked and Mr. O'Brien will be able to  
25 testify specifically in the Davis-Besse -- with the

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1 individuals involved at Davis-Besse, but the way the  
2 process worked typically is for those individuals  
3 where there was -- where they were being considered,  
4 typically was for those individuals where we weren't  
5 going to make a case, there was a summary.

6 There was a summary oral discussion at the  
7 Board why those individuals, what the differences  
8 between the individuals that were being -- that we  
9 were proceeding forward with were and what the  
10 differences and why there was not sufficient evidence  
11 for the individuals that we weren't proceeding forward  
12 with. And that's what I think happened in this case.  
13 That's why there's no specific written records.

14 JUDGE FARRAR: Would the Board Members  
15 then bring to that session just their own appreciation  
16 of the documents they had read? What would be in  
17 front of them that they could make any -- have a basis  
18 for making a rational decision?

19 MR. LUEHMAN: I think typically they would  
20 have the portions, the applicable portions of the  
21 Office of Investigation report for the individuals.  
22 It would probably be the specific testimony or  
23 specific interviews that were done of those  
24 individuals and then related records. But most of it  
25 would have been either testimonial or written

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1 documents that were part of the OI investigation.

2 JUDGE FARRAR: Let me tell you the problem  
3 I have with that. If I have the OI investigation, the  
4 approach you take as I recall was taken in that  
5 investigation -- in that report, was to take  
6 particular charges and recite all the interviews and  
7 the conclusions. But if I want to know about a  
8 particular individual, I might have to jump to six  
9 different sections of that report. So if I'm on the  
10 Board, I would think I would have insisted that  
11 somebody hand me the six different portions rather  
12 than try to jump around in the report. Is that not  
13 what you all did?

14 MR. LUEHMAN: I think the answer is there  
15 is no summary document. I think that we relied on the  
16 individual sections.

17 There was a couple of levels of  
18 individuals that are at that Board. There are the  
19 people that have actually reviewed the evidence in  
20 depth, the enforcement, the assigned enforcement  
21 specialist lawyers and specialists from the Region and  
22 from Headquarters.

23 JUDGE FARRAR: Those are the people who  
24 know the facts?

25 MR. LUEHMAN: Yes.

1 JUDGE FARRAR: So the Board is not just  
2 people at your level who are making a decision. You  
3 have on that Board the people who are firsthand  
4 familiar with the facts?

5 MR. LUEHMAN: Absolutely. And the role of  
6 the managers which I can discuss, but the role of the  
7 managers is to then test the presentation that's made  
8 before them by pulling out relevant portions of the  
9 testimony and/or the documents and saying especially  
10 the big role of the managers in those cases is to make  
11 sure that we're consistent, one individual to another,  
12 so we say with respect to this CR, this person did.  
13 Now why is it different for this person? And then we  
14 would get an oral response from the people that  
15 actually reviewed the evidence.

16 JUDGE FARRAR: Mr. Luehman, thank you.  
17 That explanation is very helpful.

18 Mr. Hibey, you may or may not like that or  
19 you may or may not -- if you were the head of  
20 Enforcement, you may or may not run the office that  
21 way, but that's what we're told and I don't know where  
22 you want -- do you want to have a comment on where you  
23 think that leaves us? But according to what Mr.  
24 Luehman has told us, there are -- well, do you have  
25 the Office of Inspection Report?

1 MR. HIBEY: Yes, sir.

2 JUDGE FARRAR: Unredacted?

3 MR. HIBEY: Yes.

4 JUDGE FARRAR: Okay. So I think what Mr.  
5 Luehman has told us, there's nothing that exists more  
6 than that.

7 MR. HIBEY: Those particulars which have  
8 just been recited to us will be considered and there  
9 will be examination.

10 JUDGE FARRAR: Right, you can --

11 MR. HIBEY: I hope I'll have a little  
12 latitude, Your Honor, because this is the first time  
13 we've had an explanation of it and so there may be a  
14 little searching in some of the questions that are put  
15 to the witness, but I understand what is before the  
16 Court and where the Court appears to be coming out at  
17 this time.

18 JUDGE FARRAR: Okay, thank you then.  
19 According to this, we have what we have. We're going  
20 to have no more, so that's fine. And in terms of  
21 latitude, we pushed very early in the week,  
22 particularly Mr. Ghasemian with you, to make sure we  
23 could get to this point where we have plenty of time  
24 before the weekends to get to the key points which are  
25 Mr. Geisen's testimony and Ms. Clark, your cross.

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1           And so we're pleased to be here where you  
2           in cross examining Mr. Geisen and Mr. Hibey, cross  
3           examining the Enforcement people will have plenty of  
4           time to get to this.

5           And Mr. Hibey and Mr. Wise, I'm sure  
6           you've informed Mr. Geisen and I think I said it once  
7           before, but to avoid me having to preface everything  
8           from here on, Mr. Geisen, if we were to find you  
9           guilty, here's what we want to know about the  
10          punishment. You can assume anytime we talk about the  
11          punishment that's a hypothetical on the assumption,  
12          the assumption we found you guilty of something. And  
13          so when we talk about the penalty, that's implicit and  
14          obviously, the Board --

15                   MR. GEISEN: I understand, Your Honor.

16                   JUDGE FARRAR: The Board, like a jury,  
17                   does not make its decision. Unlike a jury, we're  
18                   allowed to talk to each other as the case goes on, but  
19                   like a jury, we don't make a decision until the end of  
20                   the case.

21                   All right, with all that preliminary, is  
22                   there anything else of a preliminary nature? Okay, if  
23                   you would continue, Mr. Wise, with your direction  
24                   examination of Mr. Geisen.

25                   DIRECT EXAMINATION (CONTINUED)

1 BY MR. WISE:

2 Q Good morning.

3 A Good morning.

4 Q When we left off yesterday, we were  
5 talking about the October 3rd conference call. I want  
6 you to turn your attention to what occurred as you  
7 came out of that call.

8 Were there tasks that you were given?

9 A Yes.

10 Q And who gave those to you?

11 A Mr. Moffitt.

12 Q And what were they?

13 A Well, I had two tasks. One was to get  
14 with Systems Engineering and have them start  
15 developing the nozzle by nozzle table that was  
16 requested. And my other task was to start developing  
17 for further on developing the crack growth rate model  
18 that we had started and to really get it moving  
19 because we felt that was going to be our argument  
20 going forward.

21 Q Can we have you explain to the Board a  
22 little bit about what your role was in those two  
23 projects and who else you were working with? Let's  
24 start with the crack growth rate model?

25 A Well, the crack growth rate model was

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1 being developed by our PRA expert who is Kendall Byrd.  
2 Kendall was at that time a senior engineer within the  
3 Nuclear Engineering Group, so he was one of my people.  
4 And he was our expert. He developed all of our PRA  
5 and developed the model. He didn't do it in a vacuum.  
6 He got a lot of assistance and stuff from like  
7 Framatome and B&W.

8 Q And what was your role in facilitating or  
9 overseeing his work?

10 A He would just keep me informed on where  
11 he's going. Kendall was -- he had a tendency to talk  
12 over my capability of understanding PRA. So I would  
13 ask the rudimentary questions of what was it telling  
14 us, how we're doing it, that type of thing. But as  
15 far as the intricacies of the model and all that, that  
16 was beyond what I was able to comprehend and he really  
17 didn't have the time to spend time teaching me it.

18 Q If you know, can you tell the Board a  
19 little bit about what you understood Mr. Byrd's  
20 background and training to be in the area of  
21 probabilistic risk assessment?

22 A Well, most of his training he got after  
23 coming to Davis-Besse. He had started out in the  
24 Design Group, then went through the SRO Program. Then  
25 went back to Design Engineering and started training

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1 up for the PRA. Attended some training courses out at  
2 MIT. I couldn't speak to a lot more detail other than  
3 that.

4 Q And with regard to the nozzle table, who  
5 was working on that project?

6 A That was Andrew Siemaszko.

7 Q And what was your role in that project?

8 A I gave him the assignment.

9 Q Why was Mr. Siemaszko chosen to do the  
10 table?

11 A He was the logical choice being that he  
12 was a system engineer that had responsibility for the  
13 head and had all of the past inspection information.

14 Q Were you aware at that point that he had  
15 been involved in drafting the language that was in  
16 2731?

17 A I'm not sure. Obviously, I know it now.  
18 I don't know that I could say right then and there  
19 that I knew exactly who was drafting what sections.  
20 I knew he was involved with drafting portions of 2731,  
21 but -- because his name was on the green sheet. But  
22 I don't know. I would be misleading the Court for me  
23 to say that I knew exactly what sections he worked on  
24 specifically.

25 Q Do you recall that there was a

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1 representation in 2731 that videotapes had been re-  
2 viewed, I believe the Bulletin said in May or in the  
3 spring of 2001. Do you recall that representation?

4 A Words to that effect.

5 Q Is that his microphone? Might have been  
6 me, actually, sorry.

7 When Mr. Siemaszko began putting the table  
8 together, what instructions was he given about what  
9 his task was?

10 A That he needed to do an nozzle by nozzle  
11 table, that the NRC had specifically requested it, and  
12 that the previous language out there was, in the  
13 Bulletin was just nonspecific enough.

14 Q What years was the table suppose to cover?

15 A Well, the initial assignment was for 1998-  
16 2000.

17 Q And what was your understanding on October  
18 3 about what review of those two inspections showed?

19 A Well, the only information I had relative  
20 to those inspections was what I had read out of 2731.  
21 So I was operating right on the premise of what we had  
22 actually said in 2731 and my viewpoint of what we were  
23 asking him to do was really take whatever he did with  
24 his previous inspections that he had performed to go  
25 back through those tapes and put it in a tabular

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1 format on a nozzle by nozzle basis. Basically, I  
2 guess, a more nozzle by nozzle detailed book.

3 Q Did there come a time that you met with  
4 Mr. Siemaszko to review how he was putting together  
5 the table?

6 A Yes, I did.

7 Q Do you recall exactly when that occurred?

8 A Not exactly. It was probably a week or so  
9 after he had gotten the assignment.

10 Q Tell the Board how that meeting happened  
11 and what you recall occurring during it?

12 A Well, Systems Engineering is located on  
13 the fifth floor of the office building that's inside  
14 the protected area, inside the fence. And we always  
15 had our managers meetings every morning, were always  
16 held in the fourth floor conference room. The  
17 infamous fourth floor conference, that also gets  
18 transferred over to being out at central. It's a  
19 multi-use room.

20 So after one of those morning meetings,  
21 before heading back out to the Administration  
22 Building, I swung by his desk and asked him how he's  
23 doing and that's when he informed me that he initially  
24 I guess attempted to do the frame by frame looking at  
25 videotape and that wasn't working out very well

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1 because every time he paused it, or whatever, you got  
2 a disturbance in the picture. It didn't pause well or  
3 you get lines or whatever. So he had transferred  
4 stuff over or was having the Training Department copy  
5 all the VHS tapes over to CD format, a digital format  
6 so that he could review them on his computer and then  
7 he could just with the space key or the up and down  
8 arrow key go digital frame by frame and then they came  
9 up clear.

10 So he had gotten some of those CDs back  
11 from Training and he threw one in his computer and  
12 showed me how he did the work, how he pulled up the  
13 pictures. Showed me his acceptance criteria.  
14 Explained how he was looking for the downhill side of  
15 the nozzles, looking for popcorn-type boron.  
16 Basically, explaining the exact same process he had  
17 learned at Arkansas.

18 Q Let's go back and take that apart a little  
19 bit. You said he put it in and pulled up the picture?

20 A Yes, the CDs he had already loaded on his  
21 computer, so he just opened the file.

22 Q When you met with him, where did you meet  
23 with him?

24 A In his cubicle.

25 Q I take --

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1 A That's on the fifth floor.

2 Q I take it that his computer screen was in  
3 front of him?

4 A Correct.

5 Q Was this the first time you had seen  
6 portions of those videotapes?

7 A Yes.

8 Q How long did you meet with him that day?

9 A Maybe an hour.

10 Q During that hour, did there ever come a  
11 time that he pressed --

12 JUDGE FARRAR: Wait a minute, those were  
13 the videotapes that had been digitized?

14 THE WITNESS: Correct. At that point he  
15 had some of the tapes converted over and he had other  
16 tapes over at the training center in the process of  
17 being converted over. So he didn't have everything  
18 with him at that point.

19 BY MR. WISE:

20 Q Do you know which years he was showing  
21 you?

22 A No, I don't.

23 Q Did this occur before or after you came to  
24 know that the review was going to have to go back to  
25 1996?

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1 A This was before that.

2 Q Is it fair to assume that what he was  
3 looking at was '98 and 2000 at that point?

4 A I would assume that. Yes, that would be  
5 a fair assessment.

6 Q Did there ever come a time during the hour  
7 that he hit play and let the tape roll for you so you  
8 could watch it the way we watched it the other day  
9 during this hearing?

10 A No. The real focus was he was -- the  
11 discussion went more along the lines of not here's the  
12 video, but here's the still frame and this is the  
13 methodology that I'm using. Because I was really  
14 asking about the methodology, what was his acceptance  
15 criteria, what was the methodology he was using.

16 Q What did he explain --

17 JUDGE FARRAR: Mr. Wise, and again, I'm  
18 sorry, because maybe I was getting organized here.  
19 What date is this happening?

20 THE WITNESS: This is within the week  
21 after the assignment was made.

22 MR. WISE: Which was directly after the  
23 October --

24 THE WITNESS: I'm sorry, this was within  
25 the week after the October 3rd meeting. I believe I

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1 made the assignment that exact same day as October  
2 3rd. If not then, I made it first thing the next  
3 morning.

4 JUDGE FARRAR: Thank you.

5 BY MR. WISE:

6 Q Do you think the meeting with Mr.  
7 Siemaszko occurred before the Technical Assistance  
8 meeting on the 11th?

9 A Yes.

10 Q What did he tell you about the methodology  
11 he was using?

12 A He described it as he was looking to see  
13 if the downhill side of the nozzle was clear of any  
14 popcorn-type boron deposits. If he could see the  
15 downhill side, then he would declare that as a non-  
16 leaker, I mean provided it didn't have any deposits.  
17 He did say that at times he'd have to look at multiple  
18 views, in other words, he'd have to look -- may have  
19 to come in it from two different mouse holes, just to  
20 get a good angle or good look at it. Sometimes just  
21 because of the optics, I guess, there was some  
22 blurring and stuff like that. So that's how he was  
23 doing the correlation. So in my mind that left me  
24 with okay, well, that's going to be a far more  
25 detailed review than if you just went in from one

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1 mouse hole and moved on. He was actually doing a  
2 correlation between multiple mouse holes.

3 Q Did he show you any pictures or did he  
4 freeze any frames on his computer that day that showed  
5 boron around a nozzle?

6 A There were pictures with some boron piled  
7 up behind on the uphill side. That's how we got into  
8 the discussion about the downhill being cleared.

9 Q And what did he explain to you about what  
10 he did when he found a nozzle that looked that way?

11 A He would look to see if the deposits were  
12 -- appeared to have been like fall there or just piled  
13 up there. If you -- almost like a snowdrift type  
14 thing where it falls downhill and it comes to rest.  
15 And he was also looking for signs of paths that it  
16 could have come, like are there streaks coming down  
17 nozzles showing that you've got flow from up above?  
18 Are there -- for lack of a better term, stalactites or  
19 deposits directly above that on mirror insulation,  
20 that sort of thing.

21 Q After the meeting that you had with Mr.  
22 Siemaszko, what was your sense of the soundness of his  
23 methodology?

24 A I agreed with it.

25 Q Did you have any concerns about whether he

1 was giving the project sufficient care, attention?

2 A No, I thought he was dedicated to it.

3 Q Did you see as you were at his cubicle  
4 with him that day, anything that resembled the  
5 portions of the 2000 video that Mr. Ghasemian showed,  
6 I believe on the first day of the hearing to Mr.  
7 Holmberg where the camera was running into large piles  
8 of boron?

9 A No, I didn't.

10 Q Yesterday, Mr. Martin testified that you  
11 told him that you reviewed the videotapes in August of  
12 2001 in preparation for interactions with the NRC.  
13 Before the time that you were at Mr. Siemaszko's  
14 cubicle, had you reviewed the videotapes?

15 A No, I hadn't.

16 Q Do you recall the conversation with Mr.  
17 Martin?

18 A No, I don't. I know that I talked to him  
19 because I can't say that I specifically remember that  
20 conversation. Mr. Martin was the CNRB representative  
21 that was in charge of engineering reviews, so I had  
22 had numerous interviews with him over the two-year  
23 time frame that I had become the design manager. So  
24 I -- that one didn't stand out over any of the other  
25 ones. So that's why I say I know I've interviewed

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1 with him, but I can't recall any specific details of  
2 that particular interview.

3 Q On a related question, do you recall any  
4 discussion -- when did you learn that the head had not  
5 been cleaned coming out of 2000?

6 A I have been asked that question numerous  
7 times. It was some time in the fall of 2001.

8 Q Do you recall how you learned it?

9 A It was, I believe, in a conversation with  
10 Mark McLaughlin.

11 Q What was Mark McLaughlin's role at that  
12 point?

13 A Mark was -- he was like I said earlier, he  
14 was developing the inspection plan for the next outage  
15 and he was trying to determine, pre-plan, which drives  
16 were going to have to do NDE on and initially he was,  
17 I guess, planning on just the ones that had not --  
18 where the interference fit didn't open up. We  
19 couldn't justify it or prove that interference could  
20 open up by the SIA model.

21 Q Go ahead.

22 A Sorry. But when he got -- found out that  
23 the head hadn't been completely cleaned, that kind of  
24 expanded his scope.

25 Q Did you ever review videotapes of the past

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1 inspections with Mr. McLaughlin?

2 A No.

3 Q Assume for a second that you hadn't  
4 learned that the head had not been cleaned in 2000 by  
5 reviewing videotapes. Would you have learned that  
6 from the as-left or the as-found videotapes?

7 A You would have learned that from the as-  
8 left.

9 Q When Mr. Siemaszko was doing his nozzle  
10 table, was he looking at as-found or as-left tapes as  
11 far as you understand?

12 A He should have been looking at the as-  
13 found.

14 Q Why?

15 A Well, the as-found is -- when you're going  
16 in and looking to see if you've got a leaker, when the  
17 head is off and on the stand, there's no driving  
18 force, there's no float, so you have to go look for  
19 the as-found because the deposits have to occur at  
20 high pressure, high temperature. So you're looking  
21 for immediately post-operating what deposits do we  
22 have. If the as-found -- by definition, the as-left  
23 is maybe post-cleaned. So you've already removed the  
24 evidence of your leaking.

25 Q Do you recall an interview with the NRC,

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1 Office of Investigations agents in October of 2002?

2 A Yes.

3 Q Specifically, Joe Ulie, Jim Gavula,  
4 Michelle Janicki?

5 A Yes.

6 Q Did they ask you about the way Mr. Martin  
7 had recorded what he believed you said in March of '02  
8 during that interview?

9 A I don't believe I was asked anything about  
10 Mr. Martin.

11 Q After you had this session with Andrew at  
12 his cubicle, do you remember how long it was before  
13 the technical assistants meeting?

14 A I think it was the next week.

15 Q Did you have any part in setting that  
16 meeting up?

17 A No. Mr. Lockwood would have set up the  
18 meeting. It was done at Mr. Campbell's direction.

19 MR. WISE: Judge Trikouros, do you have a  
20 question?

21 JUDGE TRIKOUROS: Yes, but I'm looking for  
22 a propitious time to ask it. It's not yet.

23 MR. WISE: Okay.

24 BY MR. WISE:

25 Q There were slides that were shown at that

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1 meeting, correct?

2 A That's correct.

3 Q What was your role in the preparation of  
4 those slides?

5 A I helped make those slides.

6 Q Along with whom?

7 A There was a group of us that got together,  
8 Mr. Moffitt, Mr. Lockwood, myself, I believe someone  
9 from Framatome might have -- I think it was Mr.  
10 Fyfitch, and Ken Byrd helped with some aspects of it.  
11 Gerry Wolf -- he probably didn't help much with making  
12 the slides, but he was our runner, so he was running  
13 around getting them all printed at Kinko's and  
14 everything the night before.

15 Q I want to show you Staff 55.

16 JUDGE TRIKOUROS: Mr. Wise?

17 MR. WISE: Yes.

18 JUDGE TRIKOUROS: Maybe I will ask my  
19 question now. It sounds like you're in a little bit  
20 of a lull.

21 MR. WISE: Certainly.

22 JUDGE TRIKOUROS: October 3rd, the October  
23 3rd telephone call, you were aware at that time that  
24 the statements that were made in the 2731 letter or  
25 response to the Bulletin were incorrect in terms of

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1 the 100 percent inspection from the 2000?

2 THE WITNESS: No, Your Honor. I thought  
3 they were correct at that point.

4 JUDGE TRIKOUROS: Mr. Moffitt in his  
5 testimony, there was some discussion of whether or not  
6 you had actually said that at the October 3rd  
7 telephone call where you had specifically said that.  
8 Mr. Moffitt said Mr. Geisen did not say that. I know  
9 that he didn't because I know that that would have  
10 been incorrect.

11 So I'm trying to -- so Mr. Moffitt seems  
12 to have understood as of October 3rd at that  
13 conference call that the statement that there was a  
14 full inspection made from the 2000 tapes or that the  
15 2000 inspection was a full inspection, he seems to  
16 have known that, at least that's the way I read this  
17 testimony. I could read this and perhaps I will in a  
18 moment. But so I'm trying to understand who, what and  
19 when.

20 You're saying you thought that the 2731  
21 letter was accurate, even at that October 3rd meeting?

22 THE WITNESS: That's correct, Your Honor.

23 JUDGE TRIKOUROS: Yet, Mr. Moffitt seems  
24 to have known that it wasn't.

25 THE WITNESS: I can't speak to what Mr.

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1 Moffitt said, Your Honor. I'm not sure what question  
2 he was answering and what context it would be.

3 JUDGE TRIKOUROS: Well, it says, in fact,  
4 I believe this is your attorney questioning you. "And  
5 on 2000, David Geisen did not say that the entire head  
6 and all the nozzles had been inspected." So they're  
7 referring to the 2000 outage. And your response,  
8 "Right" -- I mean Mr. Moffitt's response, "Right,  
9 absolutely not. That would have caught my attention  
10 because I knew that to be incorrect."

11 THE WITNESS: I think -- I don't want to  
12 put words in Mr. Moffitt's mouth, but that single  
13 phrase that you're asking without the accompanying  
14 disclaimer as to which ones were not able to be viewed  
15 would make that first statement incorrect, unless you  
16 have accompanying disclaimer that says the following  
17 were also not able to be viewed. So that's what I'm  
18 guessing he was answering the question to, but that's  
19 just my supposition, sir.

20 JUDGE TRIKOUROS: Okay. That's still a  
21 confusing matter.

22 THE WITNESS: I would grant you that.

23 MR. WISE: At the risk of previewing my  
24 closing, I think I may be able to explain kind of  
25 where this is in the context of Mr. Moffitt's

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1 testimony especially, if that's okay with the Court.

2 JUDGE TRIKOUROS: It may be okay with us,  
3 but if you give your view, then the Staff will want to  
4 give its view.

5 MR. WISE: Certainly. I'll limit it to  
6 non-argument.

7 JUDGE TRIKOUROS: Yes, okay.

8 MR. WISE: Just kind of laying out what I  
9 believe the facts were.

10 JUDGE TRIKOUROS: So this would be like an  
11 addendum to your opening statement of what you hope  
12 the facts prove?

13 MR. WISE: I guess that's right.

14 JUDGE TRIKOUROS: Okay.

15 MR. WISE: Judge Trikouros, when this  
16 issue came up in the criminal trial, there was  
17 testimony a statement was made that there was 100  
18 percent expression except for the five or six nozzles  
19 at the top of the head. The prosecutors presented the  
20 view that the statement 100 percent of the head  
21 inspected meant, ignoring the caveat phrase, meant  
22 that the representation was made by Mr. Geisen that  
23 they had seen every nozzle.

24 And so the question to Mr. Moffitt was  
25 simply you didn't understand him to be saying at that

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1 point that the 2000 inspection had inspected every  
2 nozzle. I believe what he was saying was certainly  
3 that if he had heard that, it would have struck him as  
4 untrue. I believe the same way it would have struck  
5 Mr. Geisen, I'm sure.

6 JUDGE TRIKOUROS: With respect to the four  
7 or five nozzles that were excluded as a result of the  
8 stress -- the interference analysis?

9 THE WITNESS: No, they were actually a  
10 combination of excluded by deposits, I believe, was  
11 what we put in, the 2731.

12 JUDGE TRIKOUROS: But the reference he was  
13 making was to those few additional nozzles, not to the  
14 broader question?

15 THE WITNESS: I'm not sure I follow --

16 JUDGE TRIKOUROS: You're telling me that  
17 when he says the inspection was not complete, that  
18 he's referring not to the -- there are two levels of  
19 incomplete here.

20 THE WITNESS: I understand.

21 JUDGE TRIKOUROS: There's the true  
22 incomplete.

23 THE WITNESS: Right.

24 JUDGE TRIKOUROS: Which is that only a  
25 small fraction of the nozzles were actually inspected.

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1 And then there's the other, sort of the other  
2 incomplete which is that 65 out of 69 were represented  
3 to be inspected. So are you telling me that when he  
4 says it was incomplete, with respect to the 2731  
5 letter, that he's referring to those few additional  
6 nozzles?

7 THE WITNESS: That's my understanding.  
8 It's just my belief, but I believe at that time Mr.  
9 Moffitt and I were on the exact same page as far as  
10 what 2731 said.

11 JUDGE TRIKOUROS: Thank you.

12 MR. WISE: Your Honor, this is Staff  
13 Exhibit 10 which is 2731. I believe the portion of  
14 this document that we're talking about is the  
15 accounting of the 12 RFO inspection result where  
16 there's discussion of the five leaking flanges that  
17 had left deposits on the head.

18 I believe what Mr. Moffitt was  
19 communicating was that he understood that he believed  
20 at that point, albeit wrongly, that there had been an  
21 inspection of the entire head, but that there were  
22 some nozzles that were precluded that Mr. Geisen was  
23 communicating was that and that he was not saying that  
24 the they looked at every nozzle. I believe that was  
25 the tenor of the examination of Mr. Moffitt.

1 JUDGE TRIKOUROS: Thank you.

2 JUDGE HAWKENS: Mr. Wise, are you going to  
3 explore any more the discussion between Mr. Geisen and  
4 McLaughlin, that when Mr. McLaughlin shared that 100  
5 percent of that or had it not been cleaned?

6 MR. WISE: I was not going to at this  
7 point, but I'm happy to have Your Honor do it now.

8 JUDGE HAWKENS: Thank you. To me, that's  
9 some important information about what Mr. McLaughlin  
10 knew, when he knew it and what was the context of him  
11 sharing it with you. And you said the fall, but you  
12 were not precise and --

13 THE WITNESS: It was in one of the  
14 meetings that we had -- several individuals that were  
15 meeting to prepare the subsequent submittals. And --  
16 because we knew we had a subsequent submittal we were  
17 going to have to make because we committed to that in  
18 2731, so we had this like team with working on the  
19 crack growth rate model, working on the table, and  
20 like I said earlier, Mr. McLaughlin had his little  
21 group that was working on the future inspection. And  
22 that team would get together periodically and talk  
23 about where we're at. I can't pin a time or date down  
24 on that, but he was -- what he was concentrating on  
25 was the fact that he was going to have to do NDE and

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1 he was reporting out where he was at with that and at  
2 the same time what type of methodologies they were  
3 going to be using because that was one of the  
4 commitments that we had made in our first submittal  
5 was that I would have to look at 2731, but I think we  
6 gave them like a time frame of like by January or  
7 something of 2002, we would have a complete inspection  
8 plan to them.

9 That was -- Mr. McLaughlin had requested  
10 to push that submittal off until after the first of  
11 the year because he wanted to use the fall outage  
12 season for like lessons learned, techniques learned at  
13 other plants. And so I mean he had brought it up in  
14 that meeting, in that context.

15 JUDGE HAWKENS: And you say it -- you were  
16 preparing the supplemental letter that would have been  
17 the 2744 letter. So this would have been October 30?

18 THE WITNESS: I don't necessarily know  
19 that it was for that particular submittal. This was  
20 like a team meeting where Mr. Moffitt was I think the  
21 team leader for all practical purposes for most of the  
22 stuff. He would then kick it off and say okay, where  
23 do we stand on this, where do we stand on that? And  
24 that was one of the opening agenda items that we had  
25 because we had said in 2731 that we were going to

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1 provide this update to the NRC specifically on what  
2 our NDE techniques were going to be used, procedures  
3 were going to be used. I mean for some of that stuff,  
4 we didn't even have procedures developed yet, so that  
5 was -- Mark was working on that as well.

6 And what the acceptance criteria was going  
7 to be, whether we were going to tweak that acceptance  
8 criteria based upon inspection results that fall at  
9 other plants. So that was an on-going issue that we  
10 knew we were going to -- we knew we had that submittal  
11 down the road. So that's kind of how that discussion  
12 was coming about. It wasn't necessarily for a 2744,  
13 2735. So that's why I can't really put a time stamp  
14 on it. I didn't equate it to one of those submittals.

15 JUDGE HAWKENS: In Mr. Martin's interview  
16 with you, he said you told him you were disappointed,  
17 but not worried when you learned the head had not been  
18 cleaned.

19 Why weren't you worried? I mean it seems  
20 to me at that point a lot of people had been  
21 representing the head had been cleaned, to you and to  
22 the NRC. To me, I would start thinking, I need to dig  
23 a little bit deeper here. I'm wondering about how  
24 responsible and accountable my subordinates are.

25 THE WITNESS: You're right, Your Honor,

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1 and in hindsight I wish I had dug a lot deeper into  
2 that. It's not a good excuse to say that you were  
3 tunneled in on your crack growth rate model and ignore  
4 this other stuff because that didn't affect your crack  
5 growth rate model and someone else was working on it.  
6 And I've had seven years to ponder and reflect on this  
7 and there's a lot of things I wish I had done  
8 substantially different on that, but that's why he  
9 asked me that. No, I wasn't worried about it at the  
10 time. I wish I had. That was something that I knew  
11 Mark McLaughlin was running with and I had the highest  
12 respect for Mark.

13 I don't know if that answers your  
14 question, but I mean that's just kind of where I was  
15 at at the time.

16 JUDGE HAWKENS: I can see it didn't have  
17 as much relevance to the crack growth rate model you  
18 may have been focusing on, but I would have thought it  
19 would have had a great deal of relevance to the nozzle  
20 by nozzle table that you were supervising just because  
21 the fact that it was so substantial, it could not be  
22 removed or it was inaccessible. Did that create  
23 questions in your mind about the table by table or the  
24 nozzle by nozzle table that Mr. Siemaszko was  
25 creating?

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1 THE WITNESS: I didn't make that  
2 connection from the standpoint that I viewed it as  
3 that was as an as-left condition and it had nothing to  
4 do with the videos that we had in our hands that were  
5 as-found. I mean we never attempted to say that our  
6 as-found videos were qualified inspection. It was  
7 what we had and so how we left the head was irrelevant  
8 to building that table. It just created a lot of  
9 problems for Mr. McLaughlin going forward.

10 JUDGE HAWKENS: That's good for now.  
11 Thank you very much.

12 JUDGE TRIKOUROS: Perhaps you can help me  
13 with some more connections that I need made.

14 The 2731 letter had the big lie, let's  
15 say, the 100 percent inspection, well, 65 out of 69  
16 nozzles. then there was the second level of incorrect  
17 statement which was that X nozzles from 1996, X  
18 nozzles from 1998, and X nozzles from 2000 gave us a  
19 complete picture. That also was proven to be  
20 incorrect.

21 THE WITNESS: That's correct.

22 JUDGE TRIKOUROS: How did you -- when did  
23 you first find out that the first one was incorrect.  
24 That the 2731 letter was wrong?

25 THE WITNESS: That was some time after the

1 -- I think it was just a matter of a couple of days  
2 after the briefing of the technical assistants and  
3 when I got the table from Andrew Siemaszko indicating  
4 that it didn't match.

5 JUDGE TRIKOUROS: What didn't match?

6 THE WITNESS: Well, he was coming up with  
7 it, when he did his nozzle by nozzle was not matching  
8 what we had said in 2731.

9 JUDGE TRIKOUROS: Did he tell you that or  
10 did you see that from interacting with him?

11 THE WITNESS: I don't remember  
12 specifically having a conversation with him. I  
13 thought it was from just viewing the table.

14 MR. WISE: Your Honor, could I interrupt  
15 just to correct a misimpression? Because I think it's  
16 important to have the Judge, the Court understand Mr.  
17 Geisen's answer.

18 I don't believe the 2731 there was a  
19 quantification. I think 2731 was represented in 2000  
20 when we did the inspection. We found flange leakage.  
21 We cleaned it to the extent possible.

22 2735, when there's the able, I believe  
23 that that is the first time there's a number put to  
24 it, 65 of 69, 50 of 69. I will check that to make  
25 sure.

1 JUDGE TRIKOUROS: Right, right.

2 MR. WISE: As they go into the October 3rd  
3 phone call, I think it's the general impression of  
4 five or six on the top that weren't clean and then it  
5 gets quantified and then what the Court is going to  
6 hear is that the 65 of 69 number is then carried  
7 through -- I'm sorry, that's not right. I just  
8 misspoke. The 2735 presentation is 65 of 69 for 1996;  
9 50 of 69 for 1998; and for the 2000, it's now 45 of  
10 69.

11 So we've gone from a situation where we've  
12 said five or six and now we're at 45 of 69. That  
13 number then I believe stays constant through the  
14 remaining serials and the fact that the tables is  
15 reproduced virtually without change except for there's  
16 some language in a footnote in some of the later  
17 submissions. I don't want the Court to think there  
18 was a situation where on October 3rd there was the  
19 quantified set number and then that number kept on  
20 changing over the next --

21 JUDGE TRIKOUROS: I'm off of October 3rd.

22 MR. WISE: Okay.

23 JUDGE TRIKOUROS: I'm not asking the  
24 general question how the transition occurred between  
25 the 2731 statements which was 100 percent, 65 out of

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1 69; and then the --

2 JUDGE FARRAR: I think Mr. Wise is saying  
3 that's not what that letter says.

4 MR. WISE: It just wasn't that clear.  
5 2731 says --

6 JUDGE FARRAR: Let's put it up and look at  
7 it.

8 MR. WISE: It's on its way.

9 (Pause.)

10 JUDGE FARRAR: Where are we reading?

11 MR. WISE: Under the first bullet that  
12 says April 2001 inspection results.

13 JUDGE TRIKOUROS: Okay, well, the first  
14 sentence right off the bat is incorrect.

15 MR. WISE: If it's taken in isolation,  
16 absolutely.

17 JUDGE TRIKOUROS: I guess it depends on  
18 what you mean by inspection.

19 THE WITNESS: Actually, the very first  
20 sentence is 100 percent correct.

21 JUDGE FARRAR: Wait, wait. The court  
22 reporter will be upset.

23 Mr. Siemaszko, you first. Mr. Geisen.

24 MR. WISE: That I would have to object to.

25 (Laughter.)

1 JUDGE FARRAR: I can ask you to burn the  
2 tape, but I would probably get in trouble.

3 (Laughter.)

4 Sorry, Mr. Geisen.

5 THE WITNESS: That's quite all right, Your  
6 Honor. The first sentence is actually very correct in  
7 that it's talking about the CRDM flange inspection  
8 above reactor pressure vessel insulation. So we are  
9 talking about the actual flange inspection.

10 MR. WISE: So I misdirected the Court  
11 which is what led you astray.

12 JUDGE TRIKOUROS: It's easy to make these  
13 mistakes in this case, but there's plenty of --

14 MR. WISE: The inspection is actually --  
15 the relevant inspection that we've been discussing,  
16 the nozzle inspection is actually described in the  
17 second paragraph.

18 JUDGE TRIKOUROS: Where is it, I'm sorry?

19 MR. WISE: In the paragraph here. Where  
20 it says inspection of the RPV head/nozzle area  
21 indicated some accumulation of boric acid deposits.  
22 I believe in 2731, that is as specific as the Bulletin  
23 was on what the inspection found.

24 So the next --

25 JUDGE FARRAR: You mean the response.

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1 MR. WISE: The response, yes. Thank you,  
2 Your Honor.

3 JUDGE HAWKENS: The subsequent paragraph,  
4 the next paragraph also, did you -- that also  
5 addresses the --

6 MR. WISE: That addresses the subsequent  
7 review.

8 JUDGE HAWKENS: Right. So that's 2731.

9 MR. WISE: This is 2735, Your Honor, which  
10 is Staff 11 which is the October 17th submittal that  
11 comes with Mr. Siemaszko's nozzle by nozzle table.  
12 And on page five of the document is the language and  
13 the previous inspection results paragraph that sets  
14 forth the 65 of 69 and that's here.

15 JUDGE TRIKOUROS: All right, so 2735 is  
16 the -- we shift to the second level which is what I  
17 had indicated about certain nozzles from certain --

18 THE WITNESS: That's correct, Your Honor.

19 JUDGE TRIKOUROS: Now take me then from  
20 there to when we understood that that was incorrect or  
21 you understood that that was incorrect?

22 THE WITNESS: I didn't -- that was the  
23 last understanding that I had prior to us going into  
24 the root cause evaluation for this event.

25 JUDGE TRIKOUROS: So throughout you felt

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1 that this was correct?

2 THE WITNESS: That's correct, Your Honor.

3 JUDGE TRIKOUROS: All right.

4 BY MR. WISE:

5 Q Okay, so let's go back to the time after  
6 the tech assistants meeting because at some point  
7 between October 11th and the submission of Serial  
8 Letter 2735, you do learn that something that Mr. --  
9 that you've been traveling on isn't true or isn't  
10 accurate?

11 A That's correct.

12 Q And tell the Board what that is?

13 A We had made and I think I was personally  
14 the person speaking to the slides at the time to the  
15 tech assistants. The presentation we had made was --  
16 mirrored what we had said at the October 3rd meeting.  
17 And at that time we had not gone through this  
18 detailed, hadn't completed the nozzle by nozzle.  
19 Andrew Siemaszko was still working on it, but I hadn't  
20 received that. It was a few days after that that I  
21 received this that the results of the table at least  
22 I would say the preliminary results of the table  
23 because preliminary results of the table didn't have  
24 '96 on it.

25 Preliminary results of the table indicated

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1 much worse. So I brought that to my boss, Steve  
2 Moffitt, indicating that what we told the ACRS,  
3 actually strike that. The tech advisors here in  
4 Washington was not accurate. And that we needed to  
5 get that corrected. And Mr. Lockwood was in on that  
6 conversation and it was decided to do a new submittal  
7 or a supplemental. And that was the genesis of 2735.

8 And between the time of that conversation  
9 and the actual submittal of 2735, Andrew Siemaszko  
10 went back and also reviewed the '96 information and  
11 added that column to it so that the final table that  
12 we submitted was all three.

13 Q Let's walk through that. Can I have Staff  
14 55 up? Thanks.

15 Do you recognize this as one of the slides  
16 presented to the technical assistants?

17 A I would have to say we --

18 Q I'm your lawyer, trust me, it is.

19 (Laughter.)

20 A Okay, but it looks like -- all our slides  
21 look the same. We all have the same little symbols on  
22 the sides and everything.

23 Q And when you said you presented the  
24 information to the technical assistants, it was this  
25 type of information you received?

1 A Correct.

2 Q Take a look at the very top flag. Do you  
3 recall that language?

4 A Yes.

5 Q You described before a process of  
6 compiling the slides in preparation for the meeting.

7 A Correct.

8 Q Was that language ever changed?

9 A Actually, yes, the night before.

10 Q What did the original language say?

11 A It said "using video recordings from 11  
12 RFO and 12 RFO.

13 MS. CLARK: I'm sorry. I apologize for  
14 interrupting, but I don't think we've identified for  
15 the record the page number or the flag you're  
16 referring to.

17 MR. WISE: I think we're on Staff 55,  
18 we're on the numbered slide, number 7, and I'm asking  
19 Mr. Geisen about the top line on that page.

20 JUDGE FARRAR: Thank you, Ms. Clark.

21 BY MR. WISE:

22 Q Initially, it said 11 RFO and 12 RFO?

23 A Correct.

24 Q And why was that inaccurate?

25 A I felt that it was not accurate because we

1 were actually using a compilation of the two outages,  
2 not one. And by having "and", you're essentially  
3 saying that either outage stands on its own. And that  
4 wasn't what we were saying. We were using the video  
5 from both outages to come to that conclusion.

6 Q When you edited it the way it appears in  
7 the slide, what was your basis for believing that that  
8 statement was correct at the time?

9 A That was from what we had submitted in  
10 2731 and any discussions we had had up until this  
11 point with either Framatome or -- there were a lot of  
12 people involved in discussions. I can't -- even  
13 Framatome was even involved with this actual -- when  
14 we were presenting these slides, putting them  
15 together. They're the ones that did the inspections.

16 Q When Mr. Siemaszko came to you after this  
17 presentation and said that there was something that  
18 made that untrue, what was it that he told you?

19 A That -- well, I don't know if I would say  
20 that it was -- what makes it untrue is that the fact  
21 that when you look at his table and you go all the way  
22 back to 11 RFO --

23 Q Which is what year?

24 A '98, sorry. If you take this fact as  
25 true, then what you're expecting to see on this table

1 is a clean bill of health under the 1998 column. And  
2 when I didn't have that clean bill of health under  
3 1998 column, that's what caused the red flags to go  
4 off in my mind and cause me to go to Mr. Moffitt.

5 JUDGE TRIKOUROS: Now your work with Mr.  
6 Siemaszko prior to this didn't identify that?

7 THE WITNESS: No, Your Honor.

8 JUDGE TRIKOUROS: And this presentation  
9 that you all made to the technical assistants, when  
10 did you prepare this presentation?

11 THE WITNESS: The night before.

12 JUDGE TRIKOUROS: The night before. So  
13 you were --

14 THE WITNESS: At the hotel.

15 JUDGE TRIKOUROS: The B&W offices of  
16 something?

17 THE WITNESS: I think we were actually at  
18 the Doubletree Hotel.

19 JUDGE TRIKOUROS: That's here in  
20 Rockville.

21 THE WITNESS: I'm staying there now.

22 JUDGE TRIKOUROS: Here in Rockville, not  
23 back home before you came here?

24 THE WITNESS: That's correct, Your Honor.  
25 I mean -- some of that -- I think we -- I would tell

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1 you that all the fancy graphics and all that kind of  
2 stuff, that was actually the backdrop or whatever it  
3 was borrowed from a previous slide presentation that -  
4 - so we had some rudimentary that was from a -- I  
5 think Mr. McLaughlin provided it from a presentation  
6 he had done to the industry or a presentation he had  
7 received from the industry in like August.

8 So that's where a lot of the fonts and  
9 graphics and all that came. So all we were doing was  
10 massaging that.

11 JUDGE TRIKOUROS: And we means who?

12 THE WITNESS: Everyone that was in  
13 attendance for the meeting. That would have been  
14 myself, Ken Byrd, Steve Moffitt, Steve Fyfitch, Guy  
15 Campbell, Gerry Wolf. I think I'm missing a couple.

16 MR. WISE: Your Honor, this is page two.

17 JUDGE TRIKOUROS: But basically, people  
18 like Siemaszko were not involved at all in the  
19 preparation of this?

20 THE WITNESS: No, they were not, Your  
21 Honor.

22 JUDGE HAWKENS: But since this came from  
23 previous presentations, you say McLaughlin may have  
24 been responsible for the initial wording of this  
25 Bulletin, you massaged it, to be consistent with your

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1 understanding based on your view of the films?

2 Is that correct?

3 THE WITNESS: No, I may have misled you on  
4 that. What I'm saying is is that if you look at this,  
5 it's -- it's a pretty well laid out with the graphics  
6 and everything pretty laid out PowerPoint and I didn't  
7 want to go and say oh yeah, we just did this up from  
8 scratch. We actually stole his PowerPoint with the  
9 backgrounds and everything, but most of the verbiage  
10 that's in there is all new. That's all I'm saying.

11 Sorry if I misled you.

12 JUDGE TRIKOUROS: And apart from Ken Byrd,  
13 everybody was a management level person?

14 THE WITNESS: Correct. Actually, Ken Byrd  
15 and Gerry Wolf. Gerry Wolf worked for Dave Lockwood.  
16 Hew as in Reg. Affairs.

17 JUDGE HAWKENS: So there's no single  
18 individual to whom, for example, this top bullet may  
19 be attributed. This was created by the group?

20 THE WITNESS: Yes, sir.

21 JUDGE HAWKENS: Agreed to by the group?

22 THE WITNESS: Yes, sir.

23 JUDGE HAWKENS: And in your mind, largely  
24 reflected what was represented in Letter 2731?

25 THE WITNESS: That's correct, Your Honor.

1 BY MR. WISE:

2 Q And when you get to the draft of the  
3 table, I take it what you have learned is that the  
4 1998 inspection was not as good as you believe it to  
5 be?

6 A Correct.

7 Q Why did that not cause you to have doubt  
8 in Andrew Siemaszko's either credibility or  
9 competence?

10 A Well, don't get me wrong. I was not  
11 happy. I was pretty upset over the fact that we had  
12 made a representation that was no longer accurate.  
13 But I had tasked Andrew with going and doing a  
14 complete nozzle by nozzle verification and in my mind  
15 having -- when you asked someone to go back and do a  
16 much more detailed review and document it on a nozzle  
17 by nozzle basis, it wasn't surprising that you came  
18 back with more refined results. I was disappointed  
19 with the results more from the standpoint of I was  
20 hoping to hear something as gloomy as I had heard.  
21 But it didn't send off oh, okay, I asked this guy to  
22 do a more detailed review and he comes back with more  
23 detailed results. Why would that surprise me? Do you  
24 know what I'm saying? It seemed fitting with what I  
25 had asked him to do.

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1 Q The fact that he brought the information  
2 to your attention have any part in your evaluation?

3 A I'm not sure I follow your question. He  
4 --

5 Q Would you doubt his credibility at that  
6 point or his honesty?

7 A Well, no. He didn't try to hide anything  
8 from me. He just provided me exactly what I asked him  
9 for which was a nozzle by nozzle with two years or two  
10 inspections on there.

11 Q Was there any discussion within the group  
12 about whether Andrew was up to the job or worthy of  
13 the trust of the group?

14 A No, I think -- I'm sorry, finish.

15 Q Was there any discussion about whether  
16 Andrew was up to the job?

17 A No, the only discussion that was ever held  
18 in the fall of 2001 with regard to Andrew's capability  
19 was when the discussion -- when I suggested he come  
20 out to Washington and there was a discussion regarding  
21 his language and in a sense his very, very strong  
22 accent that he's hard to understand at times.

23 Q When you found out that the information  
24 you had learned with the draft table showed that what  
25 you had said that the technical assistance was

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1 inaccurate, why didn't you call the technical  
2 assistants and let them know that you had told them  
3 something that was proven to be untrue?

4 A We had a policy within Davis-Besse and I  
5 think it was FENOC-wide that all communications with  
6 the NRC Headquarters or staff would be done through  
7 Regulatory Affairs. And even if we had a conversation  
8 with the Resident Advisor, we were expected then to --  
9 unless it was just a passing courtesy-type  
10 conversation, but I mean if it was discussing anything  
11 of any kind of technical nature, we were actually  
12 expected to write down what was asked and what we  
13 answered on a form and provide that to Reg. Affairs so  
14 that they could keep track of all that. So I felt I  
15 was doing exactly what I supposed to do by going to my  
16 boss and to the Reg. Affairs Manager.

17 Q What was the outcome of your conversation  
18 with your boss, who I assume is Mr. Moffitt and  
19 Regulatory Affairs, who I assume is David Lockwood?

20 A That's correct. The outcome was that we  
21 would be a supplemental in which is what 2735 was  
22 meant to do.

23 JUDGE FARRAR: Mr. Wise, let me ask a  
24 question, if I may.

25 MR. WISE: Yes.

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1 JUDGE FARRAR: When you said the Resident  
2 Advisor, you meant the Resident Inspector?

3 THE WITNESS: I'm sorry, correct. Resident  
4 Inspector.

5 JUDGE FARRAR: And that's the NRC employee  
6 who is stationed on site as a full-time job?

7 THE WITNESS: That's correct. Most times  
8 we had two of them.

9 JUDGE FARRAR: Were either or both of them  
10 over this several month period involved in what you  
11 were doing?

12 The Bulletin came there on site. The  
13 Bulletin comes and says hey, there's a problem here  
14 that could lead to a shutdown. Is that something that  
15 they got involved in, monitoring your work or  
16 anything?

17 THE WITNESS: If they got -- I'm sure they  
18 took some sort of involvement. I don't think a  
19 Bulletin would come to the site without the Resident  
20 getting involved. But if they did take an  
21 involvement, it probably would have been through Reg.  
22 Affairs. I didn't have any involvement with them, but  
23 I'm -- that's not to say that they didn't have any.

24 JUDGE FARRAR: Would you recognize them  
25 when they walked through the plant and did you know

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1 what they looked like?

2 THE WITNESS: I knew who they were because  
3 they were -- almost every single morning managers  
4 meeting they were at. They were plugged in.

5 JUDGE FARRAR: They sat in the meetings?

6 THE WITNESS: They sat in the meetings/

7 JUDGE FARRAR: Thank you.

8 JUDGE TRIKOUROS: Could you talk to me a  
9 little bit about Framatome?

10 They did the inspections on the head. Mr.  
11 Siemaszko was was sort of the liaison between the  
12 company and Framatome?

13 THE WITNESS: I wouldn't say that Mr.  
14 Siemaszko was liaison at all between Framatome. Mark  
15 McLaughlin was probably more of a liaison between  
16 Framatome than anyone else because in several of the  
17 past outages he was like the contract coordinator for  
18 their outage work. Framatome may have done the  
19 inspection and been on site doing the inspection, but  
20 they turned over the VHS tapes, the originals to  
21 Systems Engineering.

22 So I can't speak to -- whether Mr.  
23 Siemaszko contacted them or not, I don't know, but  
24 there's a high strong possibility that he didn't, that  
25 he didn't need to.

1 JUDGE TRIKOUROS: And they weren't --  
2 Framatome personnel were not involved in any of this  
3 really, the meeting preparations, the slide  
4 preparations for the meetings, the reviews of these  
5 serial letters, nothing like that?

6 THE WITNESS: No, they, Framatome did have  
7 an involvement in developing some of the serial  
8 responses and in participating in these meetings. But  
9 their involvement, I think, was different than what --  
10 was on a different topic so to speak than what Mr.  
11 Siemaszko was working on. For instance, Framatome did  
12 a finite element analysis for gaps. They were very  
13 active with Mr. Byrd in developing the crack growth  
14 rate model and I'm quite certain he wouldn't have been  
15 able to do that solo with the amount of help he was  
16 getting from them.

17 So they were very much involved with  
18 certain aspects and actually specifically I believe,  
19 there were certain portions of the Bulletin that in  
20 reality are meant to go right to the NSSS supplier.  
21 I mean based on the nature of the questions.

22 JUDGE TRIKOUROS: But not the parts that  
23 were shown to be inaccurate?

24 THE WITNESS: I believe that's correct,  
25 sir.

1 JUDGE FARRAR: Mr. Wise, as long as we've  
2 interrupted you this much, I don't have yesterday's  
3 transcript yet. Did you ask yesterday about the  
4 impact of the June 27th, 2001 internal memorandum on  
5 all of this Mr. Geisen's thinking? Did we cover that  
6 yesterday?

7 MR. WISE: We discussed that document. We  
8 discussed how he didn't believe it was a JCO as Mr.  
9 Goyal has referred to it and understood it to be a  
10 document that was reviewing the question of if  
11 something shut the plant down, whether they should do  
12 an inspection.

13 JUDGE FARRAR: But did we discuss how it  
14 influenced -- how it influenced or should have  
15 influenced his thinking during the events?  
16 Independent of what it meant within the company,  
17 whatever issue they were dealing with in that memo,  
18 did we discuss how the fact that he signed that memo  
19 and not just a green sheet, how that influenced his  
20 thinking?

21 MR. WISE: We have not, but I was going to  
22 ask him about frankly that entire set of -- we can do  
23 that now.

24 JUDGE FARRAR: No, no, no. You do it when  
25 you want to, but I wanted to make sure -- we're passed

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1 that point chronologically. I didn't want to have us  
2 lose sight of that.

3 MR. WISE: Very well.

4 JUDGE FARRAR: But you don't have to do it  
5 now.

6 MR. WISE: I think now is as good a time  
7 as any, because I think it makes sense in the context  
8 of this conversation. So let's talk about that.

9 BY MR. WISE:

10 Q We had seen a set of documents yesterday  
11 where Mr. Goyal had sent emails and some trip reports  
12 talking about how one of the lessons from Oconee was  
13 that Oconee found their leakage because they had no  
14 flange leakage in a pristine head. Do you remember  
15 those documents?

16 A Correct.

17 Q Clearly, at this point in the discussion  
18 in October, you know we're not dealing at Davis-Besse  
19 with no flange leakages and a pristine head.

20 A Correct.

21 Q At that point in time did you -- were you  
22 thinking back to the documents that Mr. Goyal had sent  
23 and if not, why not?

24 A I don't think I can say that I was  
25 thinking necessarily back on those. I don't

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1 necessarily know that I would discount them. I mean  
2 it's -- there was really no -- I didn't really give it  
3 -- what he was talking about really didn't seem to  
4 weigh in on what I was working on. In other words, a  
5 lot of this stuff he was talking about dealt with the  
6 future inspection aspects and what made for a  
7 successful inspection, what made for not a success,  
8 you know, what you needed to have in place to have a  
9 successful inspection.

10 At no point were we claiming that our  
11 inspections that we had done in the past were  
12 qualified visual inspections. What we were doing is  
13 we were taking videotape that we just happened to have  
14 of those inspections, not actually even required to  
15 keep videotape of the inspections, but since we had  
16 it, we were using that and putting in a different  
17 calibrated eyeball on it, so to speak, looking at the  
18 tapes from a -- with a different acceptance criteria,  
19 looking for a different thing, looking for the popcorn  
20 boron type thing that in the past we may not have  
21 focused on that, but because we had the videotapes, we  
22 could go and do that.

23 So the majority of the email traffic that  
24 I had gotten over the summer was hey, these are  
25 lessons learned from other plants when they did their

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1 inspections that we want to have in place and stuff  
2 and that's all well and good, and that would be great  
3 information for setting up our inspection for 2002 but  
4 it did nothing for me as far as setting up a starting  
5 point for my crack growth rate model.

6 Q And the October 3rd phone call with the  
7 NRC when there was a discussion of 100 percent  
8 inspection with five or six nozzles obscured, were  
9 there any questions from the NRC side about how the  
10 lessons learned from Ocone played into that fact  
11 about the 2000 inspection?

12 A No.

13 Q When 2735 was sent in, October 27th,  
14 correct?

15 A I'll take your word for that.

16 Q Do you recall another meeting with the NRC  
17 on October 24th?

18 A Correct.

19 Q Do you recall any discussion in the  
20 October 24th meeting about whether or not the results  
21 that were now being reported from 10, 11 and 12 RFO  
22 could be squared with lessons learned from Ocone  
23 about a pristine head and a lack of flange leakage?

24 A I don't at this time remember any specific  
25 discussion along that line.

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1 Q Can you give the Board a sense of whether  
2 or not those two subjects were interrelated at this  
3 point and if not, why not?

4 A When you're talking, I'm getting confused  
5 here. When you're talking the two subjects, you're  
6 talking the Oconee results and --

7 Q Here's what we have, right? We have a  
8 history in 2001 of lessons learned at Oconee about  
9 discovery of the evidence of circumferential cracking  
10 being based on an inspection of a pristine head and no  
11 history of flange leakage.

12 And then through October of 2001 we have  
13 discussions where Davis-Besse is albeit incorrectly,  
14 we now know providing information that in '96, '98,  
15 and 2000 there were inspections that were compromised  
16 by the existence of boron and by flange leakage.

17 My question is why is it the discussions  
18 in October between Davis-Besse and the NRC did not  
19 focus on why the fact of those boron deposits made  
20 this a complete nonstarter given what had been learned  
21 at Oconee?

22 A Well, I mean that comes back to the whole  
23 reason we were doing the crack propagation model in  
24 the first place was to say what is our susceptibility  
25 of having the -- discovering the same 164 degree crack

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1 that they had at Oconee 3. And the best we could do,  
2 the best information, the best data that we had was to  
3 go and take our past video inspection, use it as a  
4 starting point and go forward with that with our crack  
5 model and forecast out.

6 That's not to say that -- I mean, there  
7 was a lot of hypothetical stuff. If you go and say  
8 okay, I'm going to assume for PRA space that I'm  
9 getting a crack initiation through-wall, that's going  
10 to go through-wall right when we start up from our  
11 1996 outage, you then don't at the same time say well,  
12 if your assumption is that you went through-wall in  
13 1996, why are you not shutting the plant down for  
14 pressure boundary leakage?

15 They were two separate issues. At least  
16 in my mind. In one case, it's a theoretical or a  
17 hypothetical and the other one is these are what you  
18 have out there actually, and the actual was everybody  
19 on station had this mentality or this frame of  
20 reference that yes, we had past flange leakage. We  
21 did flange repairs. We repaired those flanges. And  
22 now we're moving forward. And did we have this  
23 preconceived notion that we're not as susceptible as  
24 Oconee 3? Absolutely. We were not nearly as old as  
25 Oconee 3 and even when you added in all of the

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1 mathematical fudge factors for higher head temperature  
2 and all that into the mix, we were still 3.1 effective  
3 full-power hours or years away from Oconee 3. So our  
4 mentality was okay, it's -- and I won't say that this  
5 is the right mentality. I've had seven years to  
6 ponder over why -- how could we have changed our  
7 thinking to be more tuned in on it.

8 But the bottom line is that we were  
9 approaching it from the standpoint of okay, how do we  
10 show we don't have a problem versus we have a problem,  
11 how do we prove that we don't have a problem?

12 It was a frame of reference that we  
13 started from. So the results from the Oconee  
14 inspection was really pouring into our acceptance  
15 criteria and everything going forward for our next  
16 inspection. There was nothing that we took from  
17 Oconee 3 that went into our probabilistic risk  
18 assessment model, other than the fact that it  
19 generated the need for it. I don't know if that  
20 answers the question.

21 JUDGE FARRAR: No, I'm fine on this.  
22 What's the other area?

23 MR. WISE: The other area is this and this  
24 goes a little bit to Judge Hawkens question before.

25 JUDGE FARRAR: Just tell me briefly what

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1 the area deals with.

2 MR. WISE: It is that at some point that  
3 you learn that head has not been cleaned. Why did  
4 that not cause you concern about Mr. Siemaszko's  
5 credibility in relation to the work he was performing?

6 JUDGE FARRAR: When he later learns that  
7 the head was not cleaned -- I have a different  
8 question before we leave this.

9 MR. WISE: Okay.

10 JUDGE FARRAR: On page four of the  
11 charging document in this case, the order, the  
12 enforcement order directed to you.

13 Ms. Clark, do you have an exhibit number?  
14 Is that an exhibit?

15 MS. CLARK: No, we don't have it as an  
16 exhibit.

17 JUDGE FARRAR: Okay, I take it it's in  
18 front of us because that's the hearing request for  
19 hearing challenges that document.

20 MS. CLARK: Yes.

21 JUDGE FARRAR: Page four of that document,  
22 the bottom paragraph talks about a June, just kind of  
23 says factually that there was this June 27th memo --  
24 in fact, I'll read it since it's not in the record.

25 On June 27, 2001, Mr. Geisen approved and

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1 signed an intra-company memorandum that indicated that  
2 "large boron leakage from a control rod drive  
3 mechanism brand CRDM flange was observed during 12  
4 hours while inspection" and "this leakage did not  
5 permit the detailed inspection of CRDM nozzles."

6 That's a factual statement. Last night,  
7 having seen for the first time the background of why  
8 the Enforcement Office charged Mr. Geisen in each of  
9 the three paragraphs that went into their decision,  
10 they say the design engineering manager was aware in  
11 June 2001, based on a memorandum he signed of the  
12 accumulation of boric acid on the reactor head and  
13 that all the nozzles could not be inspected.

14 A similar statement in the second  
15 paragraph, similar statement in the third paragraph.

16 So it seems to me that's -- if that  
17 document that I just referred to -- the internal  
18 enforcement order kind of justification, it seems to  
19 me why we're here is the June -- at last from the  
20 Staff's mind is the June 27th memo, 2001. So we  
21 really need to talk about that. And what Mr. Geisen  
22 knew then and what -- how that did or did not carry  
23 through to his thinking in the fall of 2001.

24 BY MR. WISE:

25 Q Let me ask you, in the fall of 2001, were

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1 -- did you at any point reflect back to this June 27th  
2 memorandum that Mr. Goyal had sent out?

3 A No, I didn't.

4 MR. WISE: Your Honor, up on the screen is  
5 Staff 31 which is that memo.

6 BY THE WITNESS:

7 Q Let me direct your attention to page three  
8 of the document which contains the discussion that the  
9 Judge just read, specifically in the last paragraph.

10 The second sentence "large boron leakage  
11 from a CRDM plant was observed." Let me represent to  
12 you for the purpose of this question that in 2731 the  
13 Bulletin said "some accumulation was observed."

14 At the time that you were doing the green  
15 sheet review of 2731, did you recall this document  
16 saying large versus 2731 saying some?

17 A No, I didn't, but --

18 Q Was there any discussion of that between  
19 Mr. Goyal to you?

20 A No.

21 Q The sentence --

22 JUDGE FARRAR: Was there any discussion  
23 when -- reframe the question so I have a time frame.  
24 Was there any discussion on June 27th or any  
25 discussion in the fall or ever?

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1 THE WITNESS: Neither one, Your Honor.

2 MR. WISE: And I believe we covered this  
3 yesterday, but this is the portion of the memorandum  
4 that Mr. Goyal said that Mr. Swim had him edit,  
5 because the next sentence is "the flange was repaired  
6 and the head was cleaned."

7 JUDGE FARRAR: No, no, the next sentence.  
8 Don't skip the third sentence in the paragraph.

9 MR. WISE: Your Honor, you're absolutely  
10 correct.

11 JUDGE FARRAR: Let's get to that one and  
12 then we can talk about --

13 MR. WISE: The third sentence says "this  
14 leakage did not permit the detailed inspection of CRDM  
15 nozzles."

16 Any discussion with Mr. Goyal in June of  
17 2001 about that sentence?

18 THE WITNESS: No, I can only speak to how  
19 I would have taken it.

20 BY MR. WISE:

21 Q How would you have taken it?

22 A Well, it says did not permit the detailed  
23 inspection of CDRM nozzles. I did not take that as a  
24 totality. I did not take that as all CRDM nozzles.  
25 I just took that as the CRDM nozzles that you can't

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1 inspect because of the boron. I didn't -- mentally,  
2 I didn't attribute that to saying that the entire head  
3 was coated and you couldn't inspect anything. I  
4 didn't make that connection.

5 Q In June of 2001 when this document was  
6 brought to you for approval, had you had any  
7 involvement in the past inspection?

8 A No, I did not.

9 Q Did you have any discussion with Mr. Goyal  
10 at this point or at any point through to the end of  
11 the events we're going to discuss today about whether  
12 this document and what had been presented in this  
13 document was inconsistent with the representations  
14 that Davis-Besse later made?

15 A No, I did not.

16 Q When you said on October 3rd that 2000 was  
17 a 100 percent inspection except for five or six  
18 nozzles at the top of head obscured by boron deposits,  
19 were you thinking about this sentence in the June  
20 memo?

21 A No, I wasn't.

22 JUDGE HAWKENS: Did you ever think back at  
23 the red photo and the flow coming out of the holes and  
24 how that might have obscured and prevented the -- an  
25 inspection?

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1 THE WITNESS: Yes, Your Honor. I think  
2 that I can't say that that entered into my mind. That  
3 was so long ago, but knowing that you had this red  
4 photo out there, that you had leakage, if you knew  
5 that you had a flange leakage in the back of your mind  
6 as you go and review this, nothing in here says that  
7 that's not true. That doesn't invalidate the model I  
8 had in my mind, what he's saying here.

9 JUDGE HAWKENS: And the model, tell me  
10 again the model you had in your mind?

11 THE WITNESS: The model was that we had  
12 some boron on top of the head. And that prevented you  
13 from reviewing some of the nozzles. I didn't have  
14 this quantifiable table of you could see this, you  
15 could not see that. It was in a much more  
16 generalistic standpoint.

17 JUDGE FARRAR: Mr. Wise, you want to go to  
18 the next sentence?

19 MR. WISE: Your Honor, are you talking  
20 about "the flange was repaired" sentence?

21 JUDGE FARRAR: Yes.

22 BY MR. WISE:

23 Q Can you read that sentence, Mr. Wise, "and  
24 the flange was repaired" --

25 A "The flange was repaired and the head was

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1 cleaned."

2 Q Mr. Goyal testified that there was some  
3 additional language in that sentence that Mr. Swim  
4 instructed him to take out. Do you recall that  
5 testimony?

6 A I do recall that testimony.

7 Q Were you aware of that edit in June of  
8 2001?

9 A No, I was not.

10 Q Do you have any idea why that happened or  
11 what motivated Mr. Swim?

12 A No, I don't. I'm not saying I'm annoyed  
13 by it.

14 Q Did he ever come to talk to you about it?

15 A No, he did not.

16 Q Did Mr. Goyal come to talk to you about  
17 it?

18 A No.

19 Q Tell me what significance the repair of  
20 the flange would have had to your thinking going to  
21 the 2002 inspection?

22 A I think the repair of the flange is  
23 important, given the fact that we had a history of  
24 flange leakage and I was under the impression that we  
25 had been going in and repairing the same flange,

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1 changing the gasket over and over and over again. So  
2 it made sense to finally machine it so we didn't have  
3 to keep going in and keep reliving the problem.

4 MR. WISE: Judge, I'm not sure we have any  
5 more questions about this document, but I would  
6 certainly defer to the Board if you have additional  
7 questions.

8 JUDGE FARRAR: We -- no, that answers my  
9 particular question about this, but Judge Trikouros  
10 will have some questions, but I think we all could use  
11 a break. It's -- let's -- it's three after. let's  
12 come back at 20 after. We'll have some more  
13 questions.

14 Thank you.

15 (Off the record.)

16 JUDGE FARRAR: Be seated, please. Thank  
17 you.

18 Ms. Clark, just so the record is clear,  
19 that Staff document I was reading from is called  
20 SDP/EA Request and Strategy Form. It has the number  
21 05-182, and it has no name on it, but it deals with  
22 the design engineering manager. It's the two-page  
23 document that you furnished us last night. It might  
24 be appropriate -- it ought to be in the record. We  
25 can wait until your enforcement people take the stand,

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1 and you could introduce it as a staff document.

2 It says at the top in large, italicized  
3 print "Not for Public Disclosure Without Approval of  
4 the Director, Office of Enforcement." I don't know if  
5 the Board outranks him for purposes of public  
6 disclosure, but if this is something that you want us  
7 to keep under -- it has to be part of our record, but  
8 if you want to present it in a way that we keep it  
9 under seal --

10 MS. CLARK: I know we have that cover  
11 sheet on it, but there is nothing in there that can't  
12 be disclosed publicly.

13 JUDGE FARRAR: Okay. I appreciate that,  
14 conferring with your people. So we'll have that be a  
15 Staff exhibit later on.

16 Go ahead, Mr. Wise.

17 MR. WISE: Thank you.

18 BY MR. WISE:

19 Q Mr. Geisen, there are two more big events  
20 that I want to cover with you this morning, and then  
21 we're going to talk about the impact of the order.  
22 The first event is the filing of 2744, and the second  
23 is the November 8th meeting with the NRC staff. Okay?

24 A Okay.

25 Q Let's start with 2744. Explain to the

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1 Board what 2744 was and why it was submitted as far as  
2 you know.

3 A My understanding is 2744 was a way of  
4 docketing the inspections to the NRC Staff. My  
5 understanding from Mr. Lockwood is that you -- I'm  
6 sorry. My understanding was that you had to have  
7 something in paper form to docket it so that it could  
8 be microficheable. I don't even know if that's a  
9 word, but you know what I mean.

10 But so the videotapes themselves could not  
11 by themselves be docketed. So we were creating this  
12 docketed letter and I asked Mr. Siemaszko to provide  
13 representative photos of what he was looking at when  
14 he did his evaluation.

15 Q The photos that appear in 2744, were those  
16 provided to you by Mr. Siemaszko?

17 A That's correct.

18 Q Were there any photographs that he  
19 provided that you did not include in 2744?

20 A No.

21 Q When you -- there are captions in 2744,  
22 correct?

23 A That's correct.

24 Q Who wrote those captions?

25 A I wrote the captions. That's not the

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1 labeling of the photos, but the actual captions. I  
2 wrote those.

3 Q Right.

4 MR. WISE: Your Honor, I'm going to pull  
5 up Staff's Exhibit 13, which is 2744, and I'm going to  
6 use the version with the less good photos because it  
7 has the captions.

8 BY MR. WISE:

9 Q Mr. Geisen, I'm going to show you -- well,  
10 first of all, let's start with the beginning of this  
11 exhibit. Do you recognize Staff's 13?

12 A Yes, I do.

13 Q What is it?

14 A It's 2744 submittal.

15 Q Okay. On page 7 of 55, what is on that  
16 page?

17 A This is the table that we had previously  
18 submitted in 2735.

19 Q As far as you know, the inspection results  
20 reported for 2000, '98 and '96, had those changed from  
21 2735?

22 A I believe this table was just directly  
23 copied.

24 Q The head maps that appear starting on page  
25 9 of the document, who created those?

1           A       Well, the person that was responsible for  
2           it was Mr. McLaughlin, but I think he actually had a  
3           student engineer working for him that created them.

4           Q       Were you involved in the creation of these  
5           maps?

6           A       No, I wasn't.

7           Q       What was your understanding about what  
8           data was used to create them?

9           A       I think I didn't really ask anybody, but  
10          I think what he used was the data tables, the table  
11          that Andrew Siemaszko put together.

12          Q       Getting to the photographs, on page 11 of  
13          55, do you see the caption at the very top?

14          A       Yes.

15          Q       Is that something you wrote?

16          A       That's correct.

17          Q       Let's look at the caption on page 13 of  
18          55, which is the third page of photographs of the 1996  
19          inspection. The second sentence says because of the  
20          location on the head it could not be removed by  
21          mechanical cleaning but was verified to not be active  
22          or wet and, therefore, did not pose a threat to the  
23          head from a corrosion standpoint.

24                    Tell the Board what your basis for  
25          information was for writing that caption.

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1           A       That was from what Andrew Siemaszko had  
2       told me.

3           Q       Did you have another conversation with him  
4       as you were preparing this document or were you  
5       referring to past conversations?

6           A       This would have been a past conversation.

7           Q       How, if you know, did Andrew determine  
8       that it was verified to not be active or wet?

9           A       I would assume that just by the touch or  
10      feel of it from when the inspections were done, but I  
11      don't know how he came to that summation. I didn't  
12      ask him. He just told me that. So that's what I  
13      wrote.

14          Q       Do you know whether he had spoken with  
15      others in the course of doing his constructions of the  
16      table?

17          A       My understanding is he had spoken to  
18      several individuals when he was reviewing the  
19      videotapes and the subsequent CDs. I believe he spoke  
20      to Mr. Chimahusky and Mr. Mainhardt. I don't know if  
21      he spoke to Mr. Goyal.

22          Q       In writing the captions and preparing this  
23      document did you yourself review the videotapes?

24          A       No, I did not.

25          Q       As you sit here now, looking back on what

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1 you wrote, do you wish that you had?

2 A Yeah, absolutely.

3 Q At the time that you were writing the  
4 captions, did you have any question about whether the  
5 information Mr. Siemaszko had provided you was  
6 accurate or reliable?

7 A No. I thought he was accurate.

8 JUDGE HAWKENS: Mr. Wise, before you go  
9 on, may I ask a question?

10 MR. WISE: Yes, of course.

11 JUDGE HAWKENS: The third sentence, Mr.  
12 Geisen.

13 THE WITNESS: The one that starts with  
14 "additionally"?

15 JUDGE HAWKENS: Yes. It says,  
16 "Additionally, since these drivers were not credited  
17 with leaking," what did you mean by that and how did  
18 you make that determination, especially in the drive  
19 and the top right-hand corner, which you can't see  
20 clearly from this photo, but are you -- do you  
21 remember this photo? Do you want to put on a better  
22 picture?

23 THE WITNESS: I think I saw it enough  
24 yesterday, Your Honor.

25 JUDGE HAWKENS: All right.

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1 THE WITNESS: What I was referring to by  
2 that statement was the fact that we had our SAE  
3 analysis complete at this point, and we could not take  
4 credit for those top drives leaking because of the  
5 interference fit.

6 JUDGE HAWKENS: Can you dummy down that  
7 response for me a little bit?

8 THE WITNESS: Okay. When we say -- we say  
9 they're not credited with leaking, that's the same way  
10 of saying that, okay, we are assuming that, well,  
11 based on our analysis those drives, the interference  
12 fit that's on there during manufacture at high  
13 temperature and pressure doesn't open up enough to  
14 relieve it, to provide a leak path. So we can't  
15 credit them as being leak -- having a leak path.

16 JUDGE FARRAR: If a --

17 THE WITNESS: So it might have been a  
18 false -- go ahead.

19 JUDGE FARRAR: I believe the caption is  
20 every so slightly wrong. You say they're not credited  
21 with leaking. You're saying they're not credited with  
22 having a leak path that we could observe if they were  
23 leaking. Would that be a longer and better caption?

24 THE WITNESS: Yeah, I could definitely  
25 have worded this better. I could have put all kinds

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1 of verbiage about the SIA interference, but what I was  
2 saying is that you can't take credit for them leaking.  
3 So, therefore, because of the interference fit, we  
4 came to the assumption that the boron there was from  
5 previous flange leakage.

6 BY MR. WISE:

7 Q If a nozzle had an interference fit and a  
8 crack, would you expect to see leakage at that nozzle?

9 A No, back then. I think we know  
10 differently now.

11 JUDGE TRIKOUROS: Which really is a  
12 misinterpretation of that analysis. It's a very  
13 conservative analysis. Just because it's not credited  
14 with leaking, it doesn't mean that it can't leak. It  
15 just means that it's not credited with leaking. You  
16 can't take credit for it on the plus side, but it  
17 might leak, and you know, I think one should not  
18 assume that.

19 THE WITNESS: Yeah. You know, looking  
20 back on it, there's clearly a -- I mean, we were wrong  
21 on that. I mean, we went back and forth with SIA.  
22 When I say "we," the station went back and forth with  
23 SIA through numerous revisions of their calculations  
24 trying to take out all of the conservatism that they  
25 could to try to get down to that very number, the very

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1 fewest number that would not leak, and then we took  
2 that obviously erroneously to the conclusion that  
3 you're talking about, that they won't leak.

4 MR. WISE: Your Honor, I'm now on the page  
5 marked C37 at the bottom.

6 BY MR. WISE:

7 Q And these are photographs; they're  
8 represented to be photographs from the spring 2000  
9 inspection. Was this the first time you had seen  
10 photographs of that inspection?

11 A That's correct.

12 Q Do you recall what your impression was  
13 from seeing the photographs?

14 A Well, when I saw these photographs like  
15 this, I felt as though something had to be said  
16 regarding, you know, the obvious change in quality of  
17 the previous series of photos that existed. So I felt  
18 a caption or explanation was necessary to talk about  
19 that.

20 Q Were you ever given photographs that were  
21 similar to the what I think we can all agree were the  
22 worst portions of the 2000 video that we saw on  
23 Monday?

24 A No, these were the only photos I received.

25 Q When you wrote in a couple of captions

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1 that the pictures were representative of the condition  
2 of the head, why did you write that?

3 A Well, specifically because I had asked  
4 Andrew to give me a series of photographs that were  
5 representative of what he was looking at.

6 Q This goes in on October 30th, and then a  
7 little bit more than a week later is the meeting with  
8 the NRC Staff that Dr. Hiser described yesterday where  
9 you showed videos. I want to talk to you about  
10 November 8th as long as the Board doesn't have more  
11 questions at 2744.

12 JUDGE FARRAR: Go ahead.

13 BY MR. WISE:

14 Q Tell the Board the circumstances of how  
15 you came to end up showing the videotapes to the NRC  
16 on November 8th.

17 A By virtue of -- sorry -- by virtue of a  
18 vote that I wasn't present for. I mean, that's what  
19 it came down to. For personal reasons, we had -- a  
20 whole group of us were flying out for a public meeting  
21 and then the next days the ACRS meeting to discuss the  
22 crack growth rate model. There was still a lot of  
23 discussion going on about whose -- what values to use  
24 for various not constants but variables that we were  
25 treating from lab data where they use a 95 percent fit

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1 or whatever. Anyway, that's beyond this.

2 So for personal reasons I couldn't fly out  
3 the night before. So I felt out that morning. I got  
4 to the public meeting about ten o'clock in the  
5 morning. It wasn't a big deal because I wasn't  
6 actually presenting anything, and I had gotten  
7 previous approval from Mr. Moffitt, but apparently the  
8 night before a vote was taken as to who was going to  
9 -- that the NRC had requested to watch these videos,  
10 who's going to present them, and I won.

11 Q Watch them not at the public meeting?

12 A This was to be presented to them that  
13 night, that night. So when I got there about ten  
14 o'clock in the morning, I was told by Mr. Lockwood,  
15 "Here's the tapes. Guess what. You get to present  
16 this tonight after we're done with the meeting to the  
17 NRC Staff." And --

18 Q Had there been discussion before you  
19 arrived that day about whether the NRC had requested,  
20 other than the October 3rd conference call, whether  
21 the NRC had requested to see the videotapes?

22 A Was there a discussion before I arrived?

23 Q Were you aware of any discussion before  
24 November 8th where the NRC had reiterated their  
25 request to see the videotapes?

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1           A       No, but since Mr. Lockwood came to me with  
2 the tapes, I just assumed the communication had  
3 occurred and had gone through him.

4           Q       But you were not privy to discussion  
5 within your own team in the week before November 8th  
6 that this meeting was coming.

7           A       No.

8           Q       Mr. Lockwood told you that you were going  
9 to be the one to show the tapes?

10          A       That's correct.

11          Q       When did he give you the tapes?

12          A       About the time that I arrived at midday.

13          Q       Did you have any time to review the tapes  
14 before your meeting that night, that evening at 5:30?

15          A       No, I didn't.

16          Q       Tell the Board what Mr. Lockwood gave you  
17 physically.

18          A       Well, I've heard Mr. Hiser's report that  
19 it was a briefcase. I don't necessarily remember a  
20 briefcase. I remember I thought it was a stack or six  
21 cassettes, VHS cassettes that were the inspections  
22 from 1996, 1998 and 2000, based upon the labels that  
23 were on them.

24          Q       Labels on the spine of the tapes?

25          A       Correct.

1 Q Did you have the CDs or the digitized  
2 version of the inspections?

3 A No, we didn't.

4 Q How did you come to end up in the room  
5 with the folks that you showed the tapes to?

6 A I don't remember the details. The public  
7 meeting ended, and I was escorted to a room.

8 JUDGE FARRAR: Hold on, Mr. Wise.

9 These tapes that Mr. Lockwood gave you,  
10 the six tapes, had you ever seen them; had you ever  
11 handled them before?

12 THE WITNESS: No, Your Honor.

13 JUDGE FARRAR: This is the first you ever  
14 saw the cassette?

15 THE WITNESS: Well, I won't say that it  
16 was the first time I saw them. It was the first time  
17 I had possession of them. They may have been in  
18 Andrew Siemaszko's cubicle when -- when I was in his  
19 cubicle. So I can't say that I never physically  
20 actually saw the tapes, but actually watched them, I  
21 had not watched them yet.

22 JUDGE TRIKOUROS: But these were  
23 represented to you as the complete tapes of those  
24 inspections?

25 THE WITNESS: I think I would be

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1 misspeaking if I said those words were used. I was  
2 handed this set of tapes that said that you're to show  
3 the inspection tapes to the NRC. I -- I don't know  
4 that those exact words were used, but I just came to  
5 the conclusion that they were the complete tapes.

6 JUDGE TRIKOUROS: But your understanding,  
7 there was nothing said that would change your  
8 understanding that those were the complete tapes.

9 THE WITNESS: No, there wasn't.

10 BY MR. WISE:

11 Q Which tape did you show first?

12 A I don't remember. It could have been the  
13 '98 or the '96. I'd have to go -- I didn't take any  
14 notes or anything of this.

15 Q Dr. Hiser says that he believes '96 was  
16 first. Any reason to disbelieve that?

17 A I have no reason to disbelieve his memory.

18 Q Describe for the Board kind of what  
19 happened. You put the tape in. What happened?

20 A Well, I put the tape in and I started  
21 playing it.

22 Q Did you start at the beginning?

23 A Yes. My view, obviously I was the wrong  
24 person to be doing it, but anyways, I put the  
25 videotape in.

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1 JUDGE FARRAR: Why were you obviously the  
2 wrong person?

3 THE WITNESS: Well, because I started  
4 getting asked a lot of questions that I couldn't even  
5 come close to answering.

6 JUDGE FARRAR: You weren't the wrong  
7 person to run the projector. You were the wrong  
8 person --

9 THE WITNESS: No, I was more than capable  
10 to push the start-stop button, but I put the tape in,  
11 and it was clear; it was obvious to me in a very short  
12 period of time frame that whatever the NRC had asked  
13 for, whatever the Staff had asked for as far as  
14 someone presenting, I wasn't hitting the mark because  
15 they were asking questions about -- really I think it  
16 was focusing more on, okay, let's discern how you came  
17 up with this data table. All right? And so how did  
18 you call this drive? How did you call that drive?

19 And you know, I very quickly had to say,  
20 you know, I'm not the person that made those calls,  
21 and --

22 JUDGE HAWKENS: In retrospect, what person  
23 would have been better qualified than you?

24 THE WITNESS: Well, that would have been  
25 Andrew Siemaszko, and I actually did -- offered up

1 that we could bring him in to answer those questions,  
2 and we went through -- I think we went through one  
3 full tape. I don't know if it was '98 or the '96. I  
4 assume Mr. Hiser's memory is correct and it was the  
5 '96. We went on to the '98. We were fast forwarded  
6 through some of the stuff.

7 As you've seen portions of the tape,  
8 there's stuff that guys standing around on platforms  
9 and stuff like that that you would obviously want to  
10 fast forward through.

11 When it came to the 2000 tape, having seen  
12 the pictures from the 44 document that we had sent in  
13 and getting complaints -- I think it was from Mr.  
14 Bateman at the time -- with the '98 tape about how  
15 we're zooming in on some of these drives and the  
16 pictures are fuzzy. The focus is not right there and  
17 everything.

18 JUDGE FARRAR: Bateman being a Staff  
19 person in --

20 THE WITNESS: I'm sorry. Mr. Bateman was  
21 an NRC Staff individual at the time, and I remember  
22 him asking a lot of questions of me. I specifically  
23 remember because he hit me up on the same questions  
24 the next day before the ACRS, but there were certain  
25 instances where the focus wasn't there. Cameras

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1 shaking; you're not getting the best angle, and I made  
2 the comment of the quality of the 2000 is even worse  
3 because anyone who has seen those pictures that we had  
4 submitted, they're very hard to visualize the focus on  
5 there. The coloring is -- I don't know if we think we  
6 were helping ourselves by going to a color camera, but  
7 it washed out everything. So the quality was just not  
8 there.

9 JUDGE FARRAR: Refresh my recollection.  
10 Had you previously watched the 2000 tape or are you  
11 saying its quality was not good because of the frames  
12 from it that you had previous submitted?

13 THE WITNESS: I hadn't watched the tape,  
14 but I think you can draw a very valid conclusion on  
15 the quality of that tape from those pictures that were  
16 presented in 44.

17 JUDGE FARRAR: From the individual frames,  
18 from the individual frame that --

19 THE WITNESS: From the frames, yes, yes,  
20 sir.

21 So anyways, the meeting ended. It wasn't  
22 a pleasant meeting, at least from my viewpoint. I  
23 felt as though I was completely unprepared. Went  
24 back, made that comment to my compatriots who were  
25 back at the hotel enjoying a nice steak dinner

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1 together and everything, and I told them. I said, "I  
2 think we need to bring Andrew out because I can't  
3 answer their questions."

4 And I think it was about a week later that  
5 Andrew Siemaszko flew out to Washington to address  
6 that.

7 BY MR. WISE:

8 Q You've now seen what's on the 2000 tape?

9 A Yes, I have.

10 Q And you know the representations that have  
11 been made about the 2000 inspection?

12 A Yes, they're not accurate.

13 Q If you had known what was on that tape and  
14 Mr. Lockwood had said to you on the morning of the  
15 8th, you get to go show these tapes, would you have  
16 agreed to do it?

17 A Well, number one, if I knew that, what was  
18 on that tape, we probably wouldn't have been there  
19 that morning discussing it because we wouldn't have  
20 been continuing the discussion at all. We should have  
21 been shutting down.

22 But, no, I mean, I wouldn't have agreed to  
23 go and present something that I knew was, you know,  
24 going to paint a really ugly picture of myself.

25 Q Was there at any point in that meeting

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1 that you were trying to prevent the staffers from  
2 seeing portions of that tape?

3 A No. I was pretty much an audio-visual  
4 operator.

5 Q Did there come a time that you were asked  
6 to either pause or rewind the tape that you didn't do  
7 it?

8 A No.

9 Q Were there portions of the tape that you  
10 were somehow trying to avoid?

11 A No.

12 Q Did you know how long any of the tapes  
13 were?

14 A No.

15 Q The ACRS meeting was the next day,  
16 correct?

17 A That's correct.

18 JUDGE HAWKENS: Before going to the ACRS  
19 meeting, I have a few questions, Mr. Wise.

20 MR. WISE: Of course.

21 JUDGE HAWKENS: What's your memory of the  
22 length of the meeting with the staff that night?

23 THE WITNESS: Well, I heard Mr. Hiser  
24 testify to an hour to two hours. I don't think it was  
25 nearly that long, although at times it did seem like

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1 an eternity, but I thought it was only about like an  
2 hour long based upon the fact that I didn't get back  
3 to the hotel all that late. I mean, I got back to the  
4 hotel I think it was about seven o'clock, and we  
5 didn't start until after 5:30 and then with travel  
6 time. So I'm estimating probably about any hour.

7 JUDGE HAWKENS: And you said your  
8 recollection is you had six cassettes. Did I  
9 understand you correctly?

10 THE WITNESS: I don't remember how many  
11 cassettes I actually had. I had the tapes for the  
12 three inspections or the three outages.

13 JUDGE HAWKENS: Okay.

14 THE WITNESS: But I only showed two. I  
15 don't remember how many tapes there were.

16 JUDGE HAWKENS: You don't remember how  
17 many tapes.

18 THE WITNESS: I think they were like --  
19 and I don't remember carrying any kind of briefcase.  
20 I thought they were like in bag, but -- like a paper  
21 bag or something.

22 JUDGE HAWKENS: So it could have been  
23 three cassettes, one for each?

24 THE WITNESS: I really don't know. I  
25 don't remember.

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1 JUDGE HAWKENS: Is it your memory that you  
2 only showed a portion of the '96 and '98?

3 THE WITNESS: My memory is that I showed  
4 one full length and that the other one --

5 JUDGE HAWKENS: Do you recall which one  
6 that was?

7 THE WITNESS: No, I don't, and that there  
8 was another one that we -- that I started to show, and  
9 we fast forwarded through parts of it and then quit.  
10 Enough, and I think my recollection is the quitting  
11 was not driven so much by the tape itself, but by the  
12 fact I wasn't able to answer their questions. I was  
13 not the right guy.

14 JUDGE HAWKENS: I think we heard testimony  
15 yesterday that an individual viewing the tape was  
16 shocked later when he saw what he thought were  
17 different portions of the tape. Is it your memory  
18 that the portions that would have shocked him were  
19 shown that evening?

20 THE WITNESS: I don't know. I really  
21 don't have a recollection of --

22 JUDGE HAWKENS: Were you shocked at any  
23 portions of the tape as you were reviewing them with  
24 him?

25 THE WITNESS: No, I was not.

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1 BY MR. WISE:

2 Q Your recollection is that the tape that  
3 you ran to its completion was the first tape you  
4 showed, not the second?

5 A That's correct.

6 Q When you left the meeting was there any  
7 request by the staff to leave the tapes behind?

8 A No, there wasn't, but in all honesty, if  
9 there had been I probably would have had to -- I  
10 probably would have said I need to run that through  
11 Reg. Affairs because I think those were our originals.

12 JUDGE TRIKOUROS: And nobody said anything  
13 to you that there might be some fallout from these  
14 tapes, that there might be some issues that the Staff  
15 becomes aware of? Nothing like that?

16 THE WITNESS: No, Your Honor, and didn't  
17 hear anything after that.

18 JUDGE HAWKENS: Okay. You saw the  
19 handwritten notes yesterday that someone had written  
20 on I think it was Exhibit 31 that indicated that if  
21 they see the tapes we're going to be hanging out wide  
22 open or some terminology like that?

23 THE WITNESS: Yes, Your Honor.

24 JUDGE HAWKENS: And yet no one told you  
25 that if they see the tapes there may be questions that

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1 come up, that here's how you might answer them,  
2 nothing like that?

3 THE WITNESS: No, Your Honor, but having  
4 seen that note yesterday, if it was one of the  
5 individuals that then sent me to show the tapes, I  
6 think I rightly would be very angry with them because  
7 it's kind of like setting me up.

8 JUDGE HAWKENS: And yet the tapes didn't  
9 show anything. The tapes that you showed didn't  
10 apparently show anything that was of any concern.

11 THE WITNESS: That's correct, Your Honor.

12 BY MR. WISE:

13 Q Of any concern at that time to you.

14 A Well, that's correct. I mean, I think we  
15 all have a different perspective on what's acceptable  
16 now.

17 Q Looking back at the entire 1996 tape now,  
18 are there portions of the 1996 tape that concern you  
19 now, knowing what you know?

20 A Well, from my perspective now, if I saw a  
21 snowflake on a reactor vessel head, you know, I would  
22 go into alarm mode, but you know, I'm sure there are  
23 probably still people out there that would tell me  
24 that I was overkill, but having been what I've been  
25 through, my tolerance level for that is significantly

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1 different.

2 Q The ACRS meeting the next day, we've  
3 looked at the portions of the transcript, and I really  
4 just have one question for you. When you gave the  
5 answer that is in the transcript, were you trying to  
6 mislead the Vice Chair about what was on the  
7 inspection tapes?

8 A No. The intent of the answer was, I guess  
9 in a previous portion we must have -- because I don't  
10 have the entire transcript, but based on what's there,  
11 there was the lead-on question. You say this is  
12 limited, and what I was trying to say in that is that  
13 it's limited from the standpoint the inspection videos  
14 that we were using were not done specifically looking  
15 for circumferential cracking, and we were using them  
16 from an historical perspective and going back, and as  
17 such, we didn't have necessarily all of the frames and  
18 viewpoints we would want to have. So it was limited.  
19 That's all I was trying to convey with that.

20 Q What did you base that statement on?

21 A That they were limited?

22 Q Yes.

23 A Based on my own knowledge that they were  
24 not -- those videotapes were not done for that  
25 purpose.

1 MR. WISE: Your Honor, I was going to move  
2 on to the impact of the order unless the Board has  
3 more questions either about ACRS or about any of the  
4 factual events.

5 JUDGE FARRAR: Go ahead then, Mr. Wise.

6 BY MR. WISE:

7 Q Mr. Geisen, if you could tell the Board  
8 what happened at Davis-Besse as it relates to you and  
9 your position after the discovery of the conversion  
10 cavity.

11 A Well, first off, when it was discovered,  
12 I was the backshift outage manager, and shortly after  
13 the discovery of the head hole, the corrosion, when it  
14 was decided that we weren't going to have a readily  
15 achievable repair or solution, we disbanded the Outage  
16 Central, and I went back to my duties as design  
17 manager and then in May of 2002, was removed and  
18 replaced by an individual that was transferred over  
19 from the Perry Nuclear Plant. I was --

20 Q Before your transfer out of that job,  
21 what, if anything, did you do in terms of reviewing  
22 documents and materials relevant to the discovery of  
23 the cavity?

24 A Well, I poured through as many documents  
25 as I could get my hands on. There was looking at all

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1 the paper work that led up to it. I was involved with  
2 getting interviewed by root cause times, AIT members,  
3 obviously Mr. Martin, numerous other individuals, and  
4 I mean, it was kind of a soul searching time frame.

5 We -- when I say "we" -- all of the  
6 manager sans supervisors had been called in to the  
7 EEC, Energy Education Center, which was a huge  
8 auditorium out in an administration building, and were  
9 addressed by Mr. Burgenthall, Vice President of the  
10 plant, that said, "You all have to make up your minds  
11 right now. You have one of two options in your  
12 conclusion, and that is that you were either criminal  
13 or you were stupid, and why was that?"

14 And so I knew I wasn't criminal, but I was  
15 obviously stupid, and so I took that to heart and  
16 started reviewing a lot of these documents and trying  
17 to figure out why is it that we could have missed it.

18 Q As you did that review and in  
19 retrospect --

20 JUDGE FARRAR: Mr. Wise, he said that was  
21 Mr. Burgenthall. What had happened to Mr. Campbell?  
22 Was he Mr. Campbell's replacement?

23 THE WITNESS: That's correct, Your Honor.  
24 Mr. Campbell prior to the outage, there had been a  
25 shake-up or Round Robin of the -- at the vice

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1 president level, and I believe Mr. Campbell at that  
2 time -- I'm not 100 percent certain -- he was the Vice  
3 President in either Perry or Beaver Valley. I think  
4 it was Perry, and he had been moved over there.

5 Mr. Burgenthall, who had previously been  
6 the plant manager, was promoted up to the Vice  
7 President slot.

8 JUDGE FARRAR: Go ahead, Mr. Wise.

9 BY MR. GHASEMIAN:

10 Q Did you meet with the Office of  
11 Investigations at any point?

12 A In the fall of 2002, in October.

13 Q And during that discussion, did you talk  
14 about blinders or tunnel vision?

15 A Yes, I believe I did.

16 Q Can you tell the Board by October of 2002  
17 what you meant by blinders and tunnel vision?

18 A Well, I think that, number one, I was --  
19 I was speaking to the fact that I felt I had become  
20 way too engrossed in the refining the crack growth  
21 rate model and trying to figure out why our model was  
22 different from the NRC's model and just got too  
23 involved in that and lost the forest for the trees, so  
24 to speak, because I wasn't stepping back and looking  
25 at everything.

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1 To this day I question why I didn't take  
2 a more active role in grilling Mr. Siemaszko on his  
3 table and his inspection, but at the same time, it  
4 creates a lot of turmoil from the standpoint that you  
5 ask that question of that, but then you have to say,  
6 okay, well, as a supervisor, as a manager, there's a  
7 lot of stuff that you rely on your guys to do. What  
8 other things have I relied in the past on my engineers  
9 to do that I should have double-checked all their  
10 work?

11 The list is endless. So I struggle with  
12 that, and I haven't come up with a -- I still struggle  
13 to this day because I haven't come up with a, okay,  
14 how should I have known that that was something that  
15 I should have had someone else check on his work.

16 Q In October of 2001, September and October  
17 of 2001, aside from the things and activities you've  
18 described to the Board in relation to the bulletin,  
19 did you have other work going on at Davis-Besse?

20 A I'm sorry. With --

21 Q Were you --

22 A In what time frame are we talking about?

23 Q September and October of 2001. During the  
24 time that you were participating in 2735, 2744, the  
25 meetings that you've discussed, was there other work

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1 that you were doing at Davis-Besse --

2 A Sure, there was.

3 Q -- as manager of design basis?

4 A There was all of the modifications. We  
5 were trying to get ready for the 13th refueling  
6 outage. Design manager signs off approval on every  
7 single modification. So there was a lot of review I  
8 was doing for that, as well as the INPO evaluation was  
9 going on and the cross-hairs were on us.

10 Q When you talked to the Office of  
11 Investigations in October of 2002, did they ask you  
12 whether you had, in fact, reviewed videotapes of the  
13 inspections in August of 2001?

14 A No.

15 Q Did they ask you to explain the context of  
16 that comment that Mr. Martin had in his notes?

17 A They didn't ask me anything about Mr.  
18 Martin.

19 Q Did there come a time that you left Davis-  
20 Besse?

21 A Yes, I left Davis-Besse in October of  
22 2002.

23 Q And did you at some point after that  
24 resume work at a nuclear power plant?

25 A Yes. I can go through the whole history.

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1 I mean, we had such an influx of people from all over  
2 the FENOC organization that a -- there was several  
3 individuals were going to be transferred out. I think  
4 there was 14 total of us. I think only one or two  
5 accepted the rotation. Most of us opted to just leave  
6 the company.

7 My reason for leaving the company is when  
8 I got pulled out of the design engineering position,  
9 I was demoted down to a project manager, and I was  
10 made the project manager of the restart manager for  
11 reactor coolant pumps. We had an extensive amount of  
12 work we had to do with those because we had to replace  
13 all of the flange gaskets that formed the hard seal  
14 between the pump halves.

15 I was informed by Mr. Lou Meyers that, you  
16 know, I was given this transfer notice that I could  
17 take a transfer. It would be a lateral transfer from  
18 my current position there to Perry Nuclear Power  
19 Plant, but in doing so I would also be evaluated for  
20 the upcoming year regardless of my upcoming  
21 performance at Perry; I would still be evaluated as  
22 below expectations, and to me that just seemed like an  
23 untenable position to take a lateral move but  
24 regardless of what you did you would still be marked  
25 as not meeting expectations because then it paints the

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1 picture of not only was I demoted, couldn't handle it  
2 at that current level, but now I can't handle it at  
3 the next lower level.

4 So at that point I decided to leave the  
5 company. Initially I went to work, hung out my shingle  
6 as a consultant and was actually doing design reviews  
7 for the Davis-Besse plant for Sergeant & Lundy, and  
8 did that for approximately two months, and at which  
9 point due to some payment issues between First Energy  
10 and Sergeant & Lundy, that work dried up, and then I  
11 applied for a position at the Kewaunee Nuclear Power  
12 Plant.

13 Q Where is that?

14 A Which is in Wisconsin, Kewaunee,  
15 Wisconsin, and went to work at that plant as their  
16 quality assurance manager.

17 Q When did you --

18 A They call it nuclear oversight manager.  
19 So I had quality assurance and quality control.

20 Q When did you start at Kewaunee?

21 A I started the 15th of January.

22 Q Of what year?

23 A Of 2003.

24 Q And how long did you work there?

25 A I worked there until January 6th of or

1 January 5th of 2006.

2 Q During the three years that you worked at  
3 Kewaunee, did you ever have occasion where there was  
4 a question about the quality or integrity of your  
5 work?

6 A No, there was not.

7 Q Were you promoted while you were at  
8 Kewaunee?

9 A I took a lateral movement back into  
10 engineering.

11 Q In 2006, when you were terminated at  
12 Kewaunee, what caused that termination?

13 A My order from the NRC.

14 Q Do you remember the date that issued?

15 A I believe it was the -- signed off on the  
16 fourth, and I -- I was called on the evening of the  
17 fourth. I actually got a phone call on the way home  
18 on my cell phone that said, you know -- that was from  
19 the NRC that basically said you don't get to go back.

20 Q Did you have any contact with your  
21 employer, Kewaunee, after the call from the NRC?

22 A Yes, I had a fair amount of contact with  
23 them.

24 Q What were you told?

25 A I was told that -- well, initially I was

1 scheduled to have back surgery on the 6th of January.  
2 It was already prescheduled. So I actually had back  
3 surgery then, and the company kept me on sick leave  
4 until the end of February hoping that the issue would  
5 be resolved in a short manner, at which point they  
6 finally said, well, it appears as though this is not  
7 going to be resolved in any kind of short order. So  
8 we have no choice. We can't keep you at home  
9 indefinitely, and so they had to release me, but  
10 encouraged me to reapply once the issue is behind me,  
11 but with no guarantee that my existing position would  
12 be available anymore.

13 Q Let me take you to the year, to the time  
14 frame before the issuance of the order. During 2005,  
15 were you engaged in any discussions with the U.S.  
16 Department of Justice, either directly or through your  
17 lawyers?

18 A Yes.

19 Q Did there come a time that the Department  
20 of Justice offered you what's known as a deferred  
21 prosecution agreement?

22 A In November of 2005, yes.

23 Q What was your understanding of the terms  
24 of that offer?

25 A I would have had to have said that I lied,

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1 and in doing so I would have been given basically a  
2 probation and no further action taken against me.

3 Q Did you understand that if you agreed to  
4 this offer the Department of Justice would not return  
5 a criminal indictment against you?

6 A That is correct.

7 Q Was it your understanding that if you  
8 accepted the agreement you would have no criminal  
9 record as a result?

10 A That's correct.

11 Q What was your understanding of what your  
12 lawyers were told by the Department of Justice when  
13 you decided not to accept that offer?

14 A I believe they pleaded with you to have me  
15 reconsider.

16 Q Did you reconsider?

17 A Not very long.

18 Q Why not?

19 A Because I would have to look myself in the  
20 mirror the rest of my life.

21 Q And why would that be a problem?

22 A Well, I didn't lie. I knew I hadn't lied,  
23 and had I signed that piece of paper which in itself  
24 was a lie, I would have sold out my integrity.

25 Q Were you aware that by turning down the

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1 deferred prosecution agreement you exposed yourself to  
2 a potential felony charge?

3 A Yes.

4 Q That carried potential jail time?

5 A Yes.

6 Q Was there, in fact, an indictment returned  
7 when you turned down the deferred prosecution?

8 A Yes, there was.

9 Q Let's talk about what happened after your  
10 employment at Kewaunee was terminated. What did you  
11 do after that point forward?

12 A Well, there wasn't a lot to choose from.  
13 So I ended up starting my own company, and we service  
14 restaurants.

15 Q What kind of company is it?

16 A We make and install replacement door and  
17 drawer gaskets for refrigerators.

18 Q What's the name of the company?

19 A Commercial Gaskets of Wisconsin.

20 Q Can you give the Board some sense of how  
21 the company has done in the last two and a half years  
22 or two years since you created it?

23 A Well, the first year was a struggle, as  
24 most new companies are. The second year, we started  
25 to have a little bit of progress. This year has been

1 very, very slow. It's not a big company by any  
2 stretch of the imagination. It's a -- I have a  
3 service vehicle that I operate out of my home. I have  
4 one other individual -- well, for a long time I had  
5 one other individual that worked for me. I fitted him  
6 out with a service vehicle and he operates out of his  
7 home down in the southern part of Wisconsin.

8 Our annual sales are about \$140,000 a  
9 year. My revenue or pay from that last year was  
10 \$19,000.

11 Q Give the Board some sense of the  
12 difference between your pay over the last two and a  
13 half years and you remained in your position at  
14 Kewaunee versus what you've realized?

15 A It's on the realm of about a quarter of a  
16 million dollars.

17 Q Other than the monetary effects, can you  
18 tell the board what, if any, other effects the  
19 issuance of the order has had on you?

20 A It's been difficult. My family has been  
21 through a lot in the last six years, and it was an  
22 extremely difficult decision to not cave in and go  
23 with the deferred prosecution agreement, given the  
24 fact that at the time my sister-in-law who I was very  
25 close to had just passed away from a brain tumor. My

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1 wife's mother had passed away from an unexpected heart  
2 attack, and my son was recovering from Hodgkin's  
3 lymphoma. There's been a lot of emotional issues as  
4 a result of that:

5 In some aspects our family is closer, but  
6 in other aspects our family has been tore apart. I  
7 can honestly say that I have not been the father or  
8 the husband that I would have liked to have been  
9 because I've been preoccupied and not there, and I  
10 feel a lot of responsibility over the fact that my  
11 children have been adversely affected by it and my  
12 wife has been adversely affected by it.

13 I really don't care to comment on anything  
14 else.

15 Q Let me turn you away then from the impact  
16 of this and ask you a couple of questions back to the  
17 core of the allegations.

18 The information that you're alleged to  
19 have misrepresented dealt with the past inspections of  
20 the head, correct?

21 A That's correct.

22 Q Did you have any involvement in the past  
23 inspections of the head?

24 A No.

25 Q If it had come to light that the 2000

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1 inspection was not as it was initially represented to  
2 be, would that have indicated a performance failure on  
3 your part?

4 A It was a performance failure on my part  
5 for not identifying it and uncovering it in 2001.

6 Q No, I mean if it had come to light that  
7 the 2000 inspection actually was inadequate, would  
8 anybody have said, "Well, Dave Geisen did the 2000  
9 inspection. He did a poor job"?

10 A No.

11 Q What about the '98 inspection?

12 A No.

13 Q What about the '96 inspection?

14 A No.

15 Q There's been talk about a company agenda  
16 to stay open. Tell the Board about what financial  
17 benefit you received from the fact that the company  
18 was allowed to operate past December 31st.

19 A None.

20 Q Did you get a bonus for it?

21 A I got a \$500 bonus around Christmas time  
22 from Mr. Moffitt for the countless hours that I spent  
23 on the road.

24 Q Did you expect to see a promotion because  
25 of the plant's ability to stay open?

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1 A No.

2 Q Was there ever any role that you had in  
3 determining how the company would evaluate the  
4 potential costs of shutting down early?

5 A No.

6 Q Was that a part of the job of the design  
7 basis manager?

8 A No, it was not.

9 MR. WISE: I don't have any more, Your  
10 Honor.

11 JUDGE HAWKENS: Mr. Geisen, could I take  
12 you back to the ACRS meeting for a moment?

13 THE WITNESS: Yes, sir.

14 JUDGE HAWKENS: You volunteered to talk to  
15 the '98 and 2000 tapes, and you represented the view  
16 we got from them was in many cases some of the drives  
17 you couldn't get a good view of. There were many  
18 cases the camera angle was not optimal. Somebody  
19 reading that, I think, could reasonably conclude that  
20 you were the experts on the tapes because you  
21 volunteered to discuss them because you were talking  
22 about many case. It looked like you had a detailed  
23 knowledge of those tapes and it might reasonably be  
24 concluded that you had, in fact, viewed those tapes.

25 But you say you had not at that point.

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1 THE WITNESS: That's correct.

2 JUDGE HAWKENS: So why were you so  
3 confident in making those what appear to be detailed,  
4 knowledgeable representations about the tapes having  
5 not seen them?

6 THE WITNESS: Well, first, number one, I  
7 was probably of the people that were there able, you  
8 know, available to answer that question, I was the  
9 most qualified. Certainly I had overlooked or  
10 overseen the, looked over the shoulder of Mr.  
11 Siemaszko when he was reviewing it. I had reviewed  
12 the data tables he had provided. So I was in my mind  
13 more qualified to answer the question than anybody  
14 else sitting there from FENOC. So it only made sense  
15 for me to speak up at that point.

16 With regard to the angles and the videos,  
17 in my mind it was clearly obvious from the pictures  
18 that we had taken, the verbiage or conversations that  
19 I had had with Andrew about how he was having to go  
20 through multiple mouse holes to get a good angle  
21 because the camera wasn't necessarily focused in the  
22 right area; I won't say that I didn't know at that  
23 point what he had gone through to view and what some  
24 of the camera angles were looking at.

25 The real focus of the presentation was

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1 that I was trying to tell them that we were not  
2 focusing specifically at that joint, that intersection  
3 between the nozzles and the head and doing a 360 look.  
4 We were very limited in doing that.

5 I don't know if that answered your  
6 question or not.

7 JUDGE HAWKENS: I think it did. Thank  
8 you.

9 JUDGE TRIKOUROS: In your position as  
10 design basis engineering manager, were you responsible  
11 for Chapter -- I don't know what you called it there  
12 -- Chapter 15 or Chapter 14, the transient and  
13 accident analysis section of the FSAR, the design  
14 basis of the plant in terms of that, of those events.

15 THE WITNESS: I believe so, yes, sir.

16 JUDGE TRIKOUROS: So was there any  
17 discussion during all of this of what the potential  
18 implications were of a circumferential crack that  
19 would release a control rod drive mechanism, the rod  
20 ejection, what we all the rod ejection event?

21 THE WITNESS: I don't recall ever having  
22 a discussion specifically regarding tying that back to  
23 the FSAR. I think we were -- I mean, the plant  
24 already had design -- was designed -- one of the  
25 design accidents was a small break LOCA, which this

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1 would have fallen into that category as how we define  
2 the small break local as far as a hole size.

3 So from that standpoint we were bounded by  
4 that accident. I believe -- and now this is just not  
5 because anyone talked to me about it -- but I believe  
6 that was the reason when the station agreed to certain  
7 compensatory measures with the NRC of staffing the  
8 control room with additional operators, I believe that  
9 was the reason, was because at Davis-Besse you're  
10 actually more protected from an equipment protection  
11 scheming standpoint. A large break LOCA we have a  
12 better response than we do for a small break LOCA, and  
13 in many instances operators have to mitigate the  
14 challenges to the systems. The operators have to take  
15 more actions on a small break, whereas on a large  
16 break they can just step back and the equipment will  
17 handle everything.

18 So I believe there must have been some  
19 discussion that went on at some point because they  
20 staffed up the control room as part of those  
21 compensatory measures. But I was not involved in the  
22 discussion of those compensatory measures.

23 JUDGE TRIKOUROS: So the people working on  
24 the response to this bulletin weren't given a little  
25 education about what they were really working on.

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1 This event, this very severe event, there is an  
2 enthalpy deposition to the fuel from the release of  
3 the rod that causes potential fuel failure; immediate,  
4 big hole in the top of the vessel or at least a four  
5 inch diameter hole in the top of the vessel; missile  
6 comes off at the control rod mechanism, becomes a  
7 missile, could damage other control rod drive  
8 mechanism, could head right up, destroy the  
9 containment wall. I guess there's a missile shield  
10 for that purpose.

11 So a very bad event. Were there any -- so  
12 people weren't trained at all in, you know, what it is  
13 that we're trying to protect against from this  
14 bulletin or anything like that?

15 THE WITNESS: No, there wasn't anybody --  
16 there was no specific discussion along that, but in  
17 fairness to the people that were involved in that, I  
18 mean, Ken Byrd, who took a huge involvement with  
19 regard to doing the probabilistic risk assessment and  
20 the crack growth rate model was well versed in all of  
21 that because he was or had been through the SRO  
22 training, and the outage manager that was involved  
23 with -- I believe was involved with coming up with  
24 compensatory measures, Scott Coakley, had an SRO  
25 license as well.

1                   So I don't think -- no, there was no  
2                   specific training or topic given, but there were  
3                   people that were very involved that understood those.  
4                   I mean, I think what you're asking for is, I think, a  
5                   lot of that was understood.

6                   JUDGE TRIKOUROS: Okay. That's good.

7                   And you know, of course, from the NRC  
8                   Staff perspective, that's what they want to prevent.  
9                   I mean, their goal is to make sure there's no such  
10                  event that occurs at any nuclear power plant. It's a  
11                  big deal --

12                  THE WITNESS: Absolutely.

13                  JUDGE TRIKOUROS: -- and they're going to  
14                  make sure it doesn't happen. So, you know, we've got  
15                  a juxtaposition, you know, going on here. Clearly,  
16                  your job is to try and keep the plant operating, but  
17                  operating safely, and so I just want to make sure  
18                  that --

19                  THE WITNESS: I don't --

20                  JUDGE TRIKOUROS: -- there is perspective  
21                  on this, and that the people who are working on this  
22                  bulletin understood the implications.

23                  THE WITNESS: I believe everybody that --  
24                  I guess everybody is saying -- is too -- is I'm  
25                  putting words in to everyone's mouth, but my belief is

1 that the people that were involved in this understood  
2 the severity of a rod ejection and understood the  
3 severity of a circumferential crack growing to  
4 failure.

5 JUDGE TRIKOUROS: Okay. And I understand  
6 how difficult it is to shut a nuclear power plant down  
7 in December or July or August, for that matter, and I  
8 understand the pressures that are imposed, and I  
9 understand the arguments that ensue, and you know,  
10 I've been through many of these, more than I can  
11 count.

12 So what was the environment there? Was --  
13 was -- there was no discussion about concerns about  
14 dispatchers telling you, "Try not to shut this down  
15 because we need this power now"? There was no  
16 discussion regarding any of this?

17 THE WITNESS: No, Your Honor.

18 JUDGE TRIKOUROS: There was no pressure --

19 THE WITNESS: At least --

20 JUDGE TRIKOUROS: -- to not shut this  
21 plant down that was evident?

22 THE WITNESS: No, Your Honor. I believe  
23 if those discussions were held, I think they were held  
24 outside the team that was responding to this. The  
25 team, you know, as I've said before, did we have

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1 blinders on? Yes, I mean, we clearly were zeroed in  
2 and focusing on circumferential crack and crack  
3 propagation for circumferential crack, and as I've  
4 said before, it's tough to take pride and solace in  
5 the fact that our model was correct, given the fact  
6 that the result of it, of the event is that, no, we  
7 didn't have a circumferential crack anywhere like we  
8 projected we wouldn't.

9 But at the same time, we had this whole  
10 other issue that has now completely tainted whatever  
11 success you have with modeling. It doesn't matter.  
12 It's a moot point. So did we have blinders on? Were  
13 we tunneled in on that one specific topic? I think  
14 the entire industry was tunneled in on circumferential  
15 cracking.

16 I mean, let's be realistic. Axial  
17 cracking had been known about for a long time. Axial  
18 cracking was not considered a safety issue. It was  
19 the circumferential cracking that elevated this to a  
20 bulletin, and that's what we tunneled in and focused  
21 on.

22 JUDGE FARRAR: Did you have health  
23 insurance at Kewaunee?

24 THE WITNESS: Yes.

25 JUDGE FARRAR: Has that continued from

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1 then to now?

2 THE WITNESS: Fortunately, my wife is  
3 employed with health insurance.

4 JUDGE FARRAR: So your son --

5 THE WITNESS: My son has been in remission  
6 for three years.

7 JUDGE FARRAR: And his expenses were  
8 covered to the extent -- except to Dr. Bolson and so  
9 forth?

10 THE WITNESS: Yeah.

11 JUDGE FARRAR: Except for approximately  
12 45,000. Thank you.

13 In the time between what I take it you  
14 described as the flurry of interviews right after  
15 spring of 2002 and until when was the last time then  
16 or after then and before January 4th, 2006 that anyone  
17 from the NRC Staff interviewed you?

18 THE WITNESS: I had my OI investigation  
19 interview the tail end of -- it was like, I think, the  
20 27th of October 2002. The next interface that I had  
21 with anybody was a proffer session in February of  
22 2004, proffer with Department of Justice, and there  
23 were three members of the NRC on that team.

24 JUDGE FARRAR: Did that proffer which you  
25 represented in your response to Mr. Wise -- the

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1 proffer dealt with the elimination of any jeopardy  
2 under the criminal laws -- was it coupled or not  
3 coupled with any proffer with respect to NRC  
4 enforcement action?

5 THE WITNESS: Your Honor, you are now  
6 speaking in legaltese (phonetic) that are beyond what  
7 I understand. I'll have to defer to my lawyer.

8 JUDGE FARRAR: Unfortunately --

9 THE WITNESS: You can't let that happen.  
10 Okay. My understanding is --

11 JUDGE FARRAR: Let me -- let me try to  
12 rephrase.

13 THE WITNESS: If you could take some of  
14 the technical words out I might be able to answer.

15 JUDGE FARRAR: Department of Justice said,  
16 "Okay. If you'll sign this deal, we won't prosecute  
17 you criminally."

18 THE WITNESS: That was in November of  
19 2005. That was not at this 2004 meeting. The 2004  
20 meeting, my impression was it was just an interview or  
21 a deposition type thing.

22 JUDGE FARRAR: With the Department of  
23 Justice and NRC people there?

24 THE WITNESS: Correct.

25 JUDGE FARRAR: Okay. When you got the

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1 proffer in what, November?

2 THE WITNESS: DPA.

3 JUDGE FARRAR: In November 2005.

4 THE WITNESS: Correct.

5 JUDGE FARRAR: The Department of Justice  
6 says, "If you'll sign this deal" -- and your lawyers  
7 were there with you?

8 THE WITNESS: Actually I was notified over  
9 the phone by my lawyers that this had been offered.

10 JUDGE FARRAR: Oh. Then I can't ask. I  
11 won't ask you.

12 Mr. Wise, were you involved in that?

13 MR. WISE: Yes.

14 JUDGE FARRAR: Was the proffer not to have  
15 a criminal case coupled or not coupled with a proffer  
16 not to have a Staff enforcement action?

17 MR. WISE: There was no mention of a Staff  
18 enforcement action.

19 JUDGE FARRAR: Okay. Thank you.

20 Before the Staff enforcement action came  
21 to your attention -- by the way, who called you? Do  
22 you remember?

23 THE WITNESS: I don't remember for sure.

24 JUDGE FARRAR: Before that, were you aware  
25 that anyone did or did not -- anyone from the NRC

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1 staff went to Kewaunee to ask theme how you were doing  
2 in terms of honesty, integrity, reputation,  
3 performance?

4 THE WITNESS: I don't believe that  
5 happened because it appeared to me that this was as  
6 much a surprise to my employer as it was to me. But  
7 I don't -- no one ever approached me, Your Honor,  
8 saying that they were questioned.

9 JUDGE TRIKOUROS: I think it was the day  
10 before yesterday with Mr. Goyal on the witness stand.  
11 You heard him say that he was pressured by Mr. Cook  
12 and Mr. Siemaszko to sign 2731 when he -- when he knew  
13 that it was not correct. Is that the first time he  
14 had ever said that? Did that come out in any other  
15 interaction you've had, at the criminal trial, for  
16 example?

17 THE WITNESS: I think that did come out in  
18 the criminal trial.

19 JUDGE FARRAR: Mr. Cook was tried with  
20 you?

21 THE WITNESS: That's correct, Your Honor.

22 JUDGE FARRAR: He was found not guilty?

23 THE WITNESS: That's correct, Your Honor.

24 JUDGE TRIKOUROS: And the jury had heard  
25 him identify Mr. Cook at the person who pressured him

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1 to sign?

2 THE WITNESS: I believe that's correct,  
3 Your Honor, to the best of my recollection.

4 (Pause in proceedings.)

5 JUDGE FARRAR: Mr. Wise, I believe that  
6 you had said your direct was concluded, but does  
7 anything we asked prompt you to ask anymore questions?

8 MR. WISE: No, Your Honor.

9 JUDGE FARRAR: All right. Then your  
10 direct examination of Mr. Siemas -- jeez.

11 THE WITNESS: I understand what you mean.

12 JUDGE FARRAR: I'm sorry.

13 -- Mr. Geisen has been concluded. We  
14 thank you for your testimony.

15 Staff, as I understand, our arrangement is  
16 you will be able to cross-examine him and treat him as  
17 -- and go beyond the scope of the direct to conduct  
18 your own direct. Do you need more time than usual for  
19 a luncheon break to prepare for that?

20 MS. CLARK: Yes, I think that would be  
21 very helpful.

22 JUDGE FARRAR: It's one o'clock. Is an  
23 hour and a half, one o'clock, or would you rather --  
24 well, let's work backwards, and again, I've tried to  
25 assure you that this is important and you will have as

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1 much time as you need, but we still need to bear in  
2 mind that we want to finish, and I think our best plan  
3 is that we finish with Mr. Geisen today so that we can  
4 hear from the enforcement people tomorrow.

5 If we gave you until 1:15, that would be  
6 almost an hour and 45 minutes. Can you -- are you  
7 pretty sure you'd finish?

8 MS. CLARK: I believe so. I'd finish  
9 today.

10 JUDGE FARRAR: Today could be midnight.

11 MS. CLARK: By, say, six o'clock or so.

12 JUDGE FARRAR: Six o'clock, okay.

13 MS. CLARK: Yes.

14 JUDGE FARRAR: Then let's take a break  
15 until 1:15 and then we'll have your exam, the Staff's  
16 examination of Mr. Geisen.

17 Thank you all.

18 MR. WISE: Thank you.

19 (Whereupon, at 11:33 p.m., the hearing was  
20 recessed for lunch, to reconvene at 1:15 p.m., the  
21 same day.)

22 JUDGE FARRAR: Is Mr. Hibey going to be  
23 with us, or --

24 MR. WISE: He will be, but we can go ahead  
25 and start.

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1 JUDGE FARRAR: Okay. If there are no  
2 matters that need our attention --

3 MS. CLARK: I have one preliminary matter.

4 JUDGE FARRAR: Yes, ma'am.

5 MS. CLARK: With regard to the handwritten  
6 notes that we have been discussing on the agenda --

7 JUDGE FARRAR: Yes.

8 MS. CLARK: -- I have been in touch with  
9 our Office of Investigations, and they have told me  
10 that those were in fact Dale Miller's handwritten  
11 notes.

12 JUDGE FARRAR: They were what?

13 MS. CLARK: Dale Miller's handwritten  
14 notes.

15 JUDGE FARRAR: Okay. Mr. Geisen, did you  
16 deal enough with Mr. Miller to know his handwriting?

17 MS. CLARK: No, Your Honor.

18 JUDGE FARRAR: Okay. Okay. Ms. Clark,  
19 thank you for that information. If anybody wants to  
20 do anything with it, we'll do something with it. And  
21 if I remember correctly, Mr. Miller was in fact  
22 charged by the Staff, got five years, settled it down.

23 MS. CLARK: That's correct.

24 JUDGE FARRAR: And was not prosecuted by  
25 the Department of Justice.

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1 MS. CLARK: That's correct.

2 JUDGE FARRAR: Okay. Good. Thank you for  
3 tracking that down for us.

4 All right. Ms. Clark, your turn with Mr.  
5 Geisen.

6 CROSS EXAMINATION

7 BY MS. CLARK:

8 Q Good afternoon, Mr. Geisen. I'd like to  
9 start just asking you some questions about your  
10 responsibilities when you were Design Basis  
11 Engineering Manager. And in terms of the group that  
12 you managed, was your group responsible for design  
13 changes to the plant?

14 A That's correct.

15 Q Would a modification to cut access holes  
16 be considered a design change to the plant?

17 A Yes, it would be.

18 Q So that would be a matter that was under  
19 your responsibility?

20 A That's correct.

21 Q Would your group also oversee a matter  
22 such as the purchase of inspection equipment -- for  
23 example, the crawler that you said could be used to go  
24 up the vessel head for inspections?

25 A Not unless it was to be used by my

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1 department.

2 Q So when you were talking about getting one  
3 on loan from Arkansas Nuclear, that was not a matter  
4 that you were -- was that a matter that you were  
5 addressing in your responsibility as the Design Basis  
6 Engineer Manager?

7 A No, it wasn't. That was a case where Mr.  
8 Siemaszko needed the equipment, but Systems  
9 Engineering didn't have the funding left in their  
10 budget. So I agreed to pay for it out of the design  
11 budget.

12 Q I think you said before that these types  
13 of design changes, or I guess -- are they called  
14 modifications?

15 A We had all different levels of design  
16 changes that we called design changes. Modification  
17 would be an actual physical modification to a plant,  
18 but also in design changes were things like if a  
19 serial number or model number changed, that would be  
20 a design change as well potentially.

21 Q Well, something -- of course, I'm talking  
22 specifically about a modification to cut access holes.  
23 Was that the type of thing that would need to be  
24 scheduled well in advance of when it was to be  
25 actually accomplished?

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1 A Yes, it would be.

2 Q Would you say it would have to be  
3 scheduled six months in advance?

4 A It would depend -- I didn't get involved  
5 with the actual scheduling aspect of it. That was a  
6 modification that was a turnkey modification provided  
7 by Framatome. So the actual scheduling of it would  
8 have been an outage function, and scheduling the  
9 resources of it would have depended on whether we had  
10 Framatome contracted to do the work or whether we  
11 contracted with a different vendor to do the work.

12 Q What would your role be in the  
13 modification?

14 A It would be approving the final design  
15 product provided by -- that was essentially a canned  
16 modification we would have bought from Framatome. So  
17 my organization would have put a coversheet on it and  
18 gone through the appropriate design reviews and  
19 approved it.

20 Q So that would have had to have been done  
21 before purchase, your role would be before purchase?

22 A Purchasing the modification?

23 Q Yes.

24 A It's actually --

25 Q Or contracting for it. Is that a better

1 term?

2 A Contracting for the installation --

3 Q Yes.

4 A -- would probably be -- because we  
5 actually would buy the modification from Framatome and  
6 then go through the approval of it.

7 Q Okay. So would you say your role in it --

8 A And it's really an iterative process. If  
9 we had --

10 Q Right.

11 A -- changes to the design, they would  
12 obviously make those changes.

13 Q And would your role be, say, required six  
14 months ahead of time?

15 A Ideally.

16 Q Okay. I'd like to talk a little bit about  
17 your involvement in the B&W Owners Group Steering  
18 Committee. Is it true -- it's my understanding that  
19 you became a member when you were promoted to Design  
20 Basis Engineering Manager, is that correct?

21 A That's correct.

22 Q And after becoming a member, you received  
23 briefings about nozzle cracking issues?

24 A That's correct.

25 Q And was this because the Owners Group

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1 Steering Committee was very concerned with the nozzle  
2 cracking issue at that time?

3 A You could say that.

4 Q And in your role on that Steering  
5 Committee, and through those briefings, did you become  
6 familiar with the small popcorn-like indications of  
7 nozzle leakage that we have been talking about?

8 A Yes. That was reported out by the Oconee  
9 rep.

10 Q So you got a specific briefing on the  
11 indications at Oconee?

12 A Yes.

13 Q Did you know whether -- what inspection  
14 technique Oconee was using --

15 A To the best --

16 Q -- when they --

17 A -- of my knowledge --

18 Q I'm sorry.

19 A Well, first off, they went through a  
20 series of iterations of inspection techniques as they  
21 got better at it. So initially they were doing just  
22 straight visual inspections, and then later on my  
23 understanding is they were doing a combination of dye  
24 penetrant and eddy current.

25 Q When they initially found it, did they

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1 find relatively small deposits?

2 A That's my understanding.

3 Q And did they appear like the popcorn-type  
4 deposits we have been talking about?

5 A Yes, that's my understanding.

6 Q Based on the information you got about  
7 this issue, did you make a presentation to your senior  
8 management on circumferential cracking at Oconee 3?

9 A That's correct.

10 Q Did that happen some time in the spring of  
11 2001?

12 A That's correct.

13 Q Okay. Now, I'd like to talk a little bit  
14 about the NRC Bulletin, which is Staff Exhibit  
15 Number 8. Were you surprised when this bulletin came  
16 out, or did you know that -- did you expect it?

17 A Well, I expected something to come out of  
18 the NRC as a result of circumferential cracking.

19 Q How did you know that was going to happen?

20 A There had been a lot of conversations  
21 amongst the Owners Group members, the Steering  
22 Committee members, as well as I had gotten some  
23 feedback from the -- via the -- I don't know who --  
24 which rep on -- I think it was from the Framatome rep,  
25 who was also involved with the MRP and NEI.

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1 Q Did you read the bulletin when it came  
2 out?

3 A I don't recall if I read it right away.

4 Q Were you aware that the bulletin was  
5 concerned with nozzle cracking?

6 A Yes. The whole purpose of the -- focus of  
7 the bulletin was circumferential cracking.

8 Q Were you aware that the bulletin  
9 identified a concern about whether inspections were  
10 adequate to identify nozzle cracking indications?

11 A I certainly am now. I'm not sure -- I  
12 don't remember back then how much emphasis I had  
13 pulled out of the bulletin on that specific aspect.

14 Q Were you aware that the NRC was concerned  
15 about these indications of nozzle leakage?

16 A With respect to circumferential cracking,  
17 I think they were very concerned.

18 Q And was there a -- were you -- was that  
19 concern because of the fact that the indications were  
20 so small?

21 A No. I believe they -- that was the fact  
22 that we had had a circumferential crack. We, as an  
23 industry, had had a circumferential crack at Oconee  
24 that was of very significant size and heightened  
25 everyone's concern over the fact that you could have

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1 a nozzle tube fracture off and end up in a small break  
2 LOCA.

3 Q Was that the first time there had ever  
4 been a large nozzle crack in the industry?

5 A Of a circumferential nature? Yes, to the  
6 best of my --

7 Q That's your understanding?

8 A That's my understanding.

9 Q When you were briefed about Oconee 3 and  
10 they talked about those -- was that the plant where  
11 they had the large crack, at Oconee?

12 A Oconee 3 is the one that had the 164-  
13 degree circumferential crack.

14 Q And those small popcorn-type deposits,  
15 were they at the nozzle where they had that 165-degree  
16 crack?

17 A I don't know that I can answer that. I  
18 don't know.

19 Q So when they showed you those small  
20 indications of leakage, and that Oconee representative  
21 came and briefed you, he showed you small popcorn  
22 deposits, but he didn't talk about the crack?

23 A Pretty much almost the entire conversation  
24 was about the circumferential crack.

25 Q And he also showed you the deposits,

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1 right?

2 A Yes.

3 Q So did you think those were related?

4 A Absolutely. But I don't necessarily know  
5 that we were talking about it in a one-to-one  
6 relationship there.

7 Q So you thought that he might have been  
8 talking about small deposits and large cracks, but you  
9 didn't know there was any relationship between the  
10 two?

11 A That's not what I said. What I said is I  
12 -- the conversation focused on the circumferential  
13 crack. And he also had mentioned that we had popcorn-  
14 type boron deposits, and the assumption was is that  
15 those were associated with the circumferential crack.  
16 But I don't necessarily know that he made that tie.  
17 I can't speak that he directly came out and said,  
18 "These popcorn borons were associated exactly with  
19 this crack," which is I believe what your first  
20 question was.

21 Q Did you make --

22 A I can't speak to that.

23 Q Okay. Did you make -- when you heard that  
24 briefing, did you make the tie in your mind that there  
25 could be small popcorn deposits at the same time that

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1 there were large circumferential cracks?

2 A I don't necessarily know that I quantified  
3 it. I said that I -- in my mind, if you had a  
4 circumferential crack that was through-wall, yes, you  
5 would have leakage manifested by deposits.

6 Q And did you think that those deposits  
7 could be these small popcorn deposits?

8 A Like I said, I don't -- I didn't go  
9 through a thought process at that time of quantifying  
10 the size.

11 Q So you're telling us that you heard these  
12 briefings, but you didn't think that the briefings  
13 were there -- were designed to explain to you that  
14 there could be large cracks that would only  
15 demonstrate small popcorn-type indications. Is that  
16 your testimony?

17 A I'm sorry. You're going to have to  
18 rephrase that. I lost track of that question.

19 Q From what you're telling me, is it your  
20 testimony that you got these briefings, you got these  
21 briefings from someone at Oconee, and they talked  
22 about popcorn deposits, and they talked about large  
23 cracks, but you did not understand them to tell you  
24 that the small popcorn deposits were the only  
25 indications of a large crack?

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1           A       I've got to be honest, if I say yes or no,  
2           I'm not sure exactly what I'm saying yes or no to.  
3           Let me restate what actually went on. That might  
4           help. The Oconee representative to the Steering  
5           Committee presented the fact that they had found this  
6           164-degree circumferential crack that was through-  
7           wall, which obviously creates a huge safety concern  
8           from the standpoint that you've got this potential for  
9           a LOCA.

10                   The majority of the conversation -- or the  
11           conversation we had, the briefing we had, focused more  
12           on the fact that you've got this crack growing, how  
13           did it manifest itself, how did you get there, more  
14           along a technical content of how the crack would --  
15           was postulated to grow to the top side of the weld,  
16           and then because of stress rises caused by the J-weld  
17           turn circumferentially and start growing there. That  
18           was the focus.

19                   The fact that they found it doing a visual  
20           inspection, there wasn't an intense focus at that time  
21           of these were the indications that we had. Much more  
22           -- it was much more along the lines of this is the  
23           dynamics of the crack and the propagation of it. It  
24           wasn't so much a field discovery-type discussion as  
25           much as it was the technical metallurgical discussion

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1 that goes behind it.

2 And that's why I'm struggling over these  
3 phrases that you are putting in there about small and  
4 trying to quantify it. I don't recall any kind of  
5 quantifying discussion with them relative to that. It  
6 was a technical discussion about the crack and the  
7 propagation of it.

8 Q So you did not take away from that  
9 discussion that large cracks could be -- could result  
10 in only small indications at the nozzle penetration  
11 interface?

12 A No. I didn't necessarily make that --  
13 that wasn't a takeaway from this. The conversation  
14 takeaways, like I said, focused on the crack  
15 propagation and the immediate concern or the immediate  
16 hurdles that Oconee was tackling during that, which  
17 was how were they going to repair it, fix it, and the  
18 NDE that they were doing.

19 Q Okay. Let's look at Staff Exhibit  
20 Number 8, which is the NRC Bulletin. Okay. Mr.  
21 Geisen, you've been in the nuclear industry for a long  
22 time, correct? You had been in the nuclear industry  
23 a long time by this point, is that correct?

24 A That's correct.

25 Q How many NRC bulletins would you say that

1 you had seen over the years you had been in the  
2 nuclear industry?

3 A Two or three.

4 Q Would you consider those significant  
5 events, when the NRC issues a bulletin?

6 A Yes..

7 Q So would you generally think that was  
8 something you should become knowledgeable about?

9 A Yes.

10 Q And you knew that nozzle cracking was an  
11 issue from your time on the Owners Group, right?

12 A That's correct.

13 Q And you knew that this bulletin was coming  
14 in, is that correct?

15 A I knew that there was going to be  
16 something submitted, correct.

17 Q So do you think it was likely that you  
18 read this bulletin when it came in?

19 A At some point, yes.

20 Q Let's look at page number 5 of 15. Let's  
21 look at the language at the beginning of the first  
22 full paragraph there. It says, "The cracking  
23 identified at ONS2 and ONS3," is that Oconee?

24 A That's correct.

25 Q "Reinforces the importance of conducting

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1 effective examinations of the RPV upper head, e.g.  
2 visual under the insulation examinations of the  
3 penetrations for evidence of borated water leakage."  
4 Okay. So when you read this, did this trigger you to  
5 realize that the findings at Oconee somehow were  
6 significant with regard to inspections of the head?

7 A Yes.

8 Q Did you understand this to mean that this  
9 was because of the small deposits that were seen at  
10 Oconee?

11 A Once again, I'm getting hung up I guess on  
12 the words "small deposits at Oconee." I'm -- when I  
13 read this, I wouldn't have quantified a deposit. I  
14 would have said the inspection is important, and the  
15 characterization of the cracks is very important. And  
16 when they're talking about the NDE and PT and UT and  
17 eddy current, that was extremely important, given the  
18 fact that, once again, you are talking about cracks  
19 that start out axial.

20 And if you can characterize it early  
21 enough, you catch it before it grows through-weld,  
22 into the top of the weld, and turns circumferentially.  
23 That's how I would have taken this.

24 Q Just one moment, please.

25 (Pause.)

1 All right. Let's go to page 2 of 15, and  
2 I'm looking at the first full paragraph. The first  
3 reference is to Information Notice 2001-05, Through-  
4 Wall Circumferential Cracking of Reactor Pressure  
5 Vessel Head Control Rod Drive Mechanism Penetration  
6 Nozzles at Oconee Nuclear Station, Unit 3. Are you  
7 familiar with that -- were you familiar with that  
8 information notice?

9 A Yes, I was.

10 Q And that also addressed circumferential  
11 cracking?

12 A That information notice was a -- kind of  
13 a synopsis of what had occurred at Oconee.

14 Q And I'll direct your attention -- further  
15 down there it says, "This visual examination followed  
16 cleaning of the RPV head during a prior outage to  
17 remove all existing boric acid deposits." That could  
18 mask the identification of subsequent deposits that  
19 would indicate new or ongoing leakage.

20 The VT-2 examination revealed small  
21 amounts of boric acid deposits, less than one cubic  
22 inch, at locations where the nozzles -- I'm  
23 paraphrasing a little bit here -- nozzles exited the  
24 RPV head for nine of the 69 CRDM nozzles.

25 Now, is that the event that you received

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1 a briefing on when you were a member of the Owners  
2 Group?

3 A I believe that's correct.

4 Q The description here is that the boric  
5 acid deposits -- some measured less than one cubic  
6 inch. Would you characterize that as small?

7 A Yes, I would.

8 Q And does this tell you that there were  
9 small boric acid deposits at locations where the  
10 nozzles exited the head?

11 A Yes, it says that.

12 Q And you knew then that there had been a  
13 165-degree crack as well at Oconee?

14 A Yes, I knew there was a 100 -- I think it  
15 was actually 164 degrees, but yes.

16 Q Okay. Thank you. Okay. Now I'd like to  
17 go to page 4 of 15 under the section entitled  
18 "Discussion." And I'm in the first full paragraph,  
19 about the middle. The language starts, "In addition,"  
20 it says, "the presence of circumferential cracking at  
21 Oconee," do you see that -- where I am? It's about  
22 the middle of the paragraph.

23 A Okay.

24 Q "In addition, the presence of  
25 circumferential cracking at Oconee, where only a small

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1 amount of boric acid residue indicated a problem,  
2 calls into question the adequacy of current visual  
3 examinations for detecting either axial or  
4 circumferential cracking in VHP nozzles. This is  
5 especially significant if prior existing boric acid  
6 deposits on the RPV head mask the identification of  
7 new deposits." Do you understand this to tell you or  
8 -- and you read this information notice, this  
9 bulletin, did you not?

10 A Correct.

11 Q And so you read this piece, I take it, as  
12 well?

13 A Correct.

14 Q Didn't this tell you that the presence of  
15 small boric acid deposits raised a concern within the  
16 NRC as to the adequacy of inspections?

17 A That's correct. I took that whole section  
18 to mean that the NRC was raising concerns whether the  
19 whole industry approach to doing inspections was  
20 adequate.

21 Q And did you understand it to mean that the  
22 reason there was a concern is that the indications of  
23 leakage were very small?

24 A I think that was one of the issues.

25 Q And since those indications were very

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1 small, they could be masked or covered up by boric  
2 acid from other sources?

3 A That's correct.

4 Q Now I'd like to direct your attention to  
5 page 5 of 15, and I'm looking at the first full  
6 paragraph on that page. Reading from the beginning,  
7 "The cracking identified at Oconee reinforces the  
8 importance of conducting effective examinations" --

9 JUDGE FARRAR: Excuse me. I lost this --

10 MS. CLARK: Sorry. Okay. I guess --  
11 should I proceed using a hard copy, or should we wait?

12 JUDGE FARRAR: Off the record.

13 (Whereupon, the proceedings in the  
14 foregoing matter went off the record at  
15 1:43 p.m. and went back on the record at  
16 1:44 p.m.)

17 JUDGE FARRAR: Back on the record.

18 We had a little bit of a video problem,  
19 so, since Ms. Clark is going to be questioning on this  
20 same exhibit for a while, we'll let the cart cool  
21 down, the electronic cart cool down, and work off hard  
22 copy like we did in this country for 200 years. So  
23 we'll survive.

24 Mr. Geisen, do you have the document in  
25 front of you?

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1 THE WITNESS: Yes, Your Honor, I have it  
2 in front of me.

3 JUDGE FARRAR: Go ahead, Ms. Clark.

4 BY MS. CLARK:

5 Q Okay. I'm reading from page 5 of 15.  
6 "The cracking identified at Ocone reinforces the  
7 importance of conducting effective examinations of the  
8 RPV upper head, and using appropriate NDE methods to  
9 adequately characterize cracks." So, again, did this  
10 tell you, once again, that it was important to have an  
11 effective examination in order to see these nozzle  
12 crack indications?

13 A Yes, that's what it says in the first  
14 half.

15 Q Page 6 of 15, number 5, "Circumferential  
16 cracking of CRDM nozzles was identified by the  
17 presence of relatively small amounts of boric acid  
18 deposits. This finding increases the need for more  
19 effective inspection methods to detect the presence of  
20 degradation in CRDM nozzles before the nozzle  
21 integrity is compromised." Once again, did this tell  
22 you that the NRC's concern was that inspections be  
23 sufficiently thorough to see these small nozzle crack  
24 indications?

25 A Yes, it does.

1 Q Now, I'm looking at page 11 of 15, and I'm  
2 reading from 1-D. This section, by the way, is under  
3 a caption which is entitled "Requested Information."  
4 And number 1 says, "All addressees are requested to  
5 provide the following information." Sub D says, "A  
6 description of the VHP nozzle and RPV head  
7 inspections, type, scope, qualification requirements,  
8 and acceptance criteria, that have been performed at  
9 your plant in the past four years and the findings.  
10 Include a description of any limitations, insulation,  
11 or other impediments to accessibility of the bare  
12 metal of the RPV head for visual inspections."

13 Now, did that tell you that the NRC was  
14 asking licensees to describe all of the inspections  
15 that had been conducted for the previous four years?

16 A That's correct.

17 Q And they specifically wanted to know the  
18 scope of the inspection, is that correct?

19 A That's correct.

20 Q Also, the qualification requirements, is  
21 that correct?

22 A That's correct.

23 Q Can you tell me what qualification  
24 requirements of an inspection are?

25 A I think at this point the NRC was looking

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1 for a VT-2 qualified inspection of the nozzles, which  
2 neither one of our previous two inspections would have  
3 met that qualification.

4 Q And you said a qualification exam was for  
5 VT-2?

6 A I believe it was VT-2 that they were  
7 asking for, but I would have to go back through the  
8 rest of the bulletin.

9 Q Can you describe for me what the  
10 requirements for VT-2 examination are?

11 A Not off the top of my head. I do remember  
12 having a conversation with Mr. Chuck Daft asking if  
13 our videotapes -- because one of the things you have  
14 to ask someone that is VT-2 qualified, and he would  
15 have been one of our VT-2 qualified inspectors. So I  
16 had asked him if he could satisfy the intent of a  
17 qualified visual inspection by using the tapes from  
18 1998 or 2000, and he indicated no.

19 Q Do you know if that kind of inspection  
20 would require a visual inspection of every single  
21 nozzle?

22 A I would assume it --

23 Q A VT-2?

24 A That's what I would assume, that the VT-2  
25 -- you're actually doing it on a per joint basis, and

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1 you're trying to get a full 360-degree view of every  
2 single nozzle, which was apparently the difficulty  
3 Mr. Daft was having with using the videotapes.

4 Q Thank you. The next -- the last sentence  
5 under 1-D says, "Include a description of any  
6 limitations, insulation, or other impediments to  
7 accessibility of the bare metal of the RPV head for  
8 visual examinations." Now, did you understand  
9 limitations to mean anything that would prevent you  
10 from seeing part of the head?

11 A I probably keyed in a little bit more on  
12 the insulation part. And when I reviewed this, my  
13 interpretation of the limitations to accessibility was  
14 from a structural standpoint, knowing that the  
15 Westinghouse design had their insulation laying  
16 directly on top of the bare metal. So it physically  
17 prevented them from doing any kind of inspection.

18 Hindsight being 20/20, I wish I had also  
19 viewed the existence of any kind of debris as an  
20 impediment as well, but that's not how I viewed it at  
21 the time.

22 Q So how far off the head was the insulation  
23 at Davis-Besse?

24 A Approximately two inches.

25 Q And that, in fact, impeded visual

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1 inspection using a camera on a stick, didn't it?

2 A I believe that's correct.

3 Q I now would like to turn your attention to  
4 page 4 of 15. We are now under the section  
5 "Discussion," at the end of the first paragraph. Are  
6 you there?

7 A We are at the end of --

8 Q Of the first --

9 A -- the first paragraph under "Discussion"?

10 Q -- under "Discussion," yes, and I'm  
11 reading -- it says, "However, the NRC staff believes  
12 that boric acid deposits that cannot be dispositioned  
13 as coming from another source should be considered as  
14 a conservative assumption to be from VHP nozzles, and  
15 appropriate corrective actions may be necessary." Did  
16 you understand that to mean that if you could not  
17 determine that the boric acid was from a different  
18 source you were to assume it was from nozzle leakage?

19 A I can't recall at -- you know, how I would  
20 have taken that section at this time. I guess I'd  
21 have to go back and look at how I -- reading this from  
22 front to back, because I would have read the bulletin  
23 from front to back. And, quite frankly, now that I'm  
24 jumping all over it, I'm not sure how I would have  
25 taken that.

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1           But if they were talking about -- for  
2 instance, if we were at that point in the bulletin  
3 talking about future inspections, recognizing that I  
4 didn't have a qualified inspection, then I would say  
5 that would be -- you would incorporate that into the  
6 acceptance criteria for your future qualified  
7 inspections.

8           Q       So if you read this with regard to future  
9 inspections, you would conclude that it was telling  
10 you to assume any indications were from nozzle leakage  
11 if you could not determine they were from another  
12 source.

13          A       That is correct.

14          Q       But you don't necessarily think that would  
15 be the case for past inspections?

16          A       If you were trying to call your past  
17 inspection a qualified inspection, I think the  
18 progress is you would do the inspection and then you  
19 would assume that, okay, if I've got a deposit there,  
20 it is potentially from the nozzle leakage. And then,  
21 take the next appropriate action, which is an NDE of  
22 some sort, other than visual.

23          Q       So for past inspections -- are you saying  
24 that for past inspections, if you could not determine  
25 what the source of the boric acid was, you should

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1 assume it was from nozzle leakage?

2 A I think that that's -- you could draw that  
3 from this. I'm just saying that at the time I did not  
4 draw that from this.

5 Q I'm sorry. I don't understand the  
6 difference between what you said and what I said. So  
7 please explain it to me again.

8 A I'm sorry. Now I'm really lost.

9 Q Okay.

10 A You're asking me to explain what?

11 Q Well, you explained that for future  
12 inspections, if you could not determine the source of  
13 the boric acid, you should assume that it is from  
14 nozzle leakage. And are you saying that this would  
15 have a different meaning with regard to past  
16 inspections?

17 A What I'm saying is that when I read this  
18 section, since the majority of the section dealt with  
19 -- and I'll go up earlier in the section where it says  
20 -- it talks about the findings at Ocone, then it  
21 says, "These findings raise questions regarding the  
22 industry approach developed in generic responses to  
23 97-01." That utilizes PWSCC susceptibility modeling  
24 based on the base melt conditions, do not consider  
25 those of weld metal.

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1                   It's going into details of how our current  
2 inspection criteria might not be right. And so when  
3 I read that whole paragraph, I was viewing it as, what  
4 are we going to do as an industry changing our  
5 inspection criteria going forward? And one of the  
6 things that I keyed in on that was that any deposit  
7 that would be on there you would say is assumed to be  
8 attributed to nozzle crack leakage.

9                   Q        Okay. Let's go back to page 11 of 15.  
10 Again, this is where we were before, and we're talking  
11 about the requested information. And under 1-D --  
12 I'll wait for you to get there.

13                  A        Okay.

14                  Q        It's asking for inspections, the type,  
15 scope, qualification requirements, and acceptance  
16 criteria that have been performed in the past four  
17 years. That's asking for past inspection information,  
18 isn't it?

19                  A        That's correct.

20                  Q        So wouldn't it make sense that the  
21 discussion that we were reading before refers to past  
22 inspections?

23                  A        No, that's not how I took it at all.

24                  Q        So you thought that the discussion section  
25 was asking for -- was telling licensees how to conduct

1 future examinations -- inspections. Is that what  
2 you're telling me?

3 A I'm saying that that particular paragraph  
4 I felt was identifying shortfalls in the current  
5 industry inspection -- how we currently did  
6 inspections within the industry.

7 Q But you didn't think that applied to past  
8 inspections. So, in other words -- let me go back.  
9 This -- is it correct that this bulletin was asking  
10 for past inspection results?

11 A In Section 1-D, that is correct.

12 Q And you were going to be -- the plant was  
13 going to be providing information about past  
14 inspections, correct?

15 A That's correct.

16 Q And you were going to have to describe  
17 those inspections, correct?

18 A That is correct.

19 Q And do you think that this discussion  
20 section was relevant to how you described your past  
21 inspections?

22 A I think many portions of it are.

23 Q But not all of them?

24 A Well, you're asking me about -- you're  
25 pulling a section out of Section 4, and I just -- or

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1 out of page 4. All I can tell you is how I read that.

2 Q So you read this bulletin to be talking  
3 sometimes about past -- how to describe past  
4 inspections and sometimes how only to describe future  
5 inspections.

6 A I read the bulletin as a lot more than  
7 that. I read the bulletin as attempting to get the  
8 hands around an industry-wide phenomenon of a  
9 circumferential cracking, and it dealt a lot more than  
10 just with future and past inspections. All I'm trying  
11 to say is that you are -- the section you are pulling  
12 out on page 4, as I read through that whole paragraph,  
13 I take that as identifying where there is an  
14 identified industry shortfall in how we do  
15 inspections.

16 Now, did I then take that industry-  
17 identified shortfall and go back to -- from page 4  
18 back to page 11 and apply that as new criteria that I  
19 should have been applying to inspections I have done  
20 in the past? No, I did not do that. I took it as  
21 front information, and then when I got to the part  
22 where it says, "The addresses -- all addressees," on  
23 page 11, "will provide the following information," the  
24 intent was to provide that information to the best  
25 ability, not to go back and revise inspection criteria

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1 of inspections that were done two to four year  
2 earlier.

3 I don't know if that's answering your  
4 question, but I'm trying.

5 Q Oh, that answers it. Thank you. What was  
6 your understanding of the reason that the NRC was  
7 asking for past inspection results?

8 A My understanding was to find a baseline  
9 for the industry they were doing -- getting the  
10 information from all the plants.

11 Q Do you think that -- did you understand  
12 that they were going to use that information to  
13 determine whether there were any safety concerns with  
14 regard to nozzle cracking?

15 A I don't know what their intent was when  
16 asking for that information, honestly. I can't speak  
17 to what they were going to do with the information.

18 Q Okay. Let's move on to the 2000 outage.  
19 Let's go to 2735, which is Exhibit 11. We talked  
20 before about the 12th refueling outage. And as I  
21 recall, Mr. Geisen, you said that you did not recall  
22 the dates of the outage. Is that correct?

23 A Not the exact start/stop dates.

24 Q Okay.

25 A They were -- it was in the spring of 2000.

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1 Q I'd like you to look at page 2 of 5 under  
2 the section entitled "Previous Inspection Results."

3 JUDGE FARRAR: What page, Ms. Clark?

4 MS. CLARK: Page 2 of 5.

5 BY MS. CLARK:

6 Q And if you look at the beginning of the  
7 second full paragraph, that tells you that the 12th  
8 refueling outage began on April 1st and ended on  
9 May 18th of 2000.

10 A Okay.

11 Q Do you have any reason to think that's not  
12 correct?

13 A No.

14 Q Okay. Now, you talked about taking over  
15 an outage central for Mr. Swim.

16 A That's correct.

17 Q And please, if you could, again tell me  
18 when you -- do you recall how far into the outage you  
19 took over?

20 A I believe it was about three weeks into  
21 the outage.

22 Q And did you remain there until the end?

23 A I believe that's correct.

24 Q Okay. Okay. Now I'd like to turn to  
25 Staff Exhibit Number 18, which is Condition

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1 Report 2000-1037. Now, you talked about this I  
2 believe yesterday with Mr. Wise. You saw this  
3 condition report during the refueling outage, didn't  
4 you?

5 A That's correct.

6 Q I'd like to direct your attention to the  
7 first page. The top block there is entitled  
8 "Condition Description." And that says, "Inspection  
9 of the reactor head indicated accumulation of boron in  
10 the area of the CRD nozzle penetrations through the  
11 head. Boron accumulation was also discovered on the  
12 top of the thermal insulation under the CRD flanges."

13 So did that tell you that there was large  
14 accumulations of boron on the head?

15 A That's correct. It says there's  
16 accumulations on the head.

17 MR. WISE: Your Honor, I have to object at  
18 this point. I mean, I know these two gentlemen who  
19 are going to testify tomorrow are here to provide --  
20 so that they can listen to Mr. Geisen's testimony.  
21 They're not here to be providing assistance to the  
22 Staff as they cross examine Mr. Geisen.

23 MS. CLARK: Very well. I won't talk to  
24 them anymore. It would just save a little time,  
25 because I had just forgotten something, and they knew

1 it off hand.

2 JUDGE FARRAR: I'm sorry. I didn't -- I  
3 was -- didn't notice that. But I thought you had --  
4 the Staff had a different technical advisor for --

5 MS. CLARK: I found it.

6 JUDGE FARRAR: Ms. Clark, just help me  
7 with this.

8 MS. CLARK: Oh. I had asked -- I was  
9 looking for something in the condition report, and I  
10 just asked somebody behind me where it was, because I  
11 couldn't remember. I'm afraid I'm not as familiar  
12 with the documents as Mr. Wise is.

13 JUDGE FARRAR: No, that's all right.  
14 And --

15 MS. CLARK: But I certainly will refrain  
16 from doing that, if he objects.

17 JUDGE FARRAR: I thought -- but I thought  
18 you had a gentleman who was --

19 MS. CLARK: Oh. We do have a consulting  
20 expert here.

21 PARTICIPANT: Your Honor, he is moving up.

22 JUDGE FARRAR: Yes.

23 MS. CLARK: But I asked one of our  
24 enforcement people, instead of my consulting expert.

25 JUDGE FARRAR: That's all right. Mr.

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1 Wise's objection was -- he thought something might be  
2 happening. It apparently wasn't, so we're fine.  
3 Let's go on.

4 MS. CLARK: Okay.

5 JUDGE FARRAR: Mr. Wise, please don't look  
6 at me like that.

7 MR. WISE: I'm sorry?

8 JUDGE FARRAR: Don't look at me like that.

9 MR. WISE: I didn't mean to look at you  
10 any way, Your Honor. I have no problem if Ms. Clark  
11 consults with Mr. --

12 JUDGE FARRAR: And I think you were  
13 correct to wonder why she was talking to those  
14 gentlemen. Apparently, it was a routine rather than  
15 a substantive thing, just dealing with the document.  
16 So your objection was well framed, but I think nothing  
17 has happened here. So let's keep going on.

18 BY MS. CLARK:

19 Q Okay. Mr. Geisen, I believe you testified  
20 yesterday that you were actually very involved with  
21 this condition report, weren't you?

22 A I was involved with removing it from the  
23 mode restraint list.

24 Q And when you did that, did you read this  
25 condition report?

1 A Yes, I did.

2 Q Did you read it with some care?

3 A I believe so.

4 Q And did you remove the mode restraint  
5 based on your assessment that that was an appropriate  
6 action?

7 A Yes.

8 Q Okay. I'd like to direct your attention  
9 to page 4. Oh, I'm sorry. Yes, page 4. And let's  
10 see, under the title "Events Description," if you  
11 would go to the third paragraph. And it's talking  
12 about leaking control rod drives.

13 JUDGE HAWKENS: Ms. Clark, could you  
14 please repeat which exhibit we're on now?

15 MS. CLARK: Oh. This is Exhibit 18. This  
16 is Condition Report 2000-1037.

17 JUDGE HAWKENS: I'm with you. And what  
18 page?

19 MS. CLARK: And on page 4.

20 JUDGE HAWKENS: Thank you.

21 BY MS. CLARK:

22 Q And I'm reading from the first -- the  
23 third paragraph under "Event Description." And it  
24 begins by talking about five leaking control rod  
25 drives identified, and that the main source of leakage

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1 was with the F10 drive.

2 Moving down into that paragraph,  
3 approximately in the middle, it says, "There are no  
4 boron deposits on the vertical faces of the flange of  
5 G9 drive. The bottom of the flange of G9 drive is  
6 inaccessible for inspection due to the boron buildup  
7 on the reactor head insulation, not allowing full  
8 camera insertion. Since the boron is evident only  
9 under the flange and not on the vertical surfaces,  
10 there is a high probability that the G9 is leaking  
11 CRD."

12 Now, does "CRD" represent control rod  
13 drive?

14 A Yes, it does.

15 Q So did this tell you that there was a  
16 concern that there was boron from a leaking control  
17 rod drive?

18 A I took that as a leaking flange.

19 Q What was meant, then, by the statement  
20 that, "There is a high probability that G9 is a  
21 leaking CRD"?

22 A The high probability that G9 is a leaking  
23 CRD, and I took that as G9's flange is leaking.

24 Q Isn't "CRD" control rod drive?

25 A Yes. But, I mean, if you're going to get

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1 that technical about it, the control rod drive is the  
2 part that is bolted to the control rod drive nozzle.  
3 And I didn't -- sometimes when we used "CRD" we were  
4 talking about the CRDM nozzle.

5 Q Okay. Looking back at page 1, under  
6 "Comments," it says, "This condition report should be  
7 sent to SYME for resolution." What is SYME?

8 A That would stand for Systems Engineering -  
9 Mechanical.

10 Q Okay. Now, when it goes to SYME, is that  
11 the group that is responsible for the cleaning?

12 A No. That would be the group that would be  
13 responsible for resolving the condition report. The  
14 condition report would have to be evaluated as to what  
15 work was done. In this case, if cleaning was one of  
16 the work items that came out of it, the group that did  
17 the resolution would generate an action item to  
18 whatever group needed to do that work.

19 Q Okay. So when you -- so I think you  
20 testified before that this was -- that you released  
21 the mode restraint based on the cleaning, so when  
22 would this engineering evaluation be done?

23 A The condition report would -- has several  
24 different evaluations that can be done on it. This  
25 particular one, if you look at page 2 of 7, it was

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1 identified on the top of the page that Systems  
2 Mechanical was the responsible owner of this condition  
3 report. It was categorized as routine. It was a due  
4 date of 7/17/2000. And the cause determination that  
5 they would have to do is an apparent cause.

6 Did that answer your question?

7 Q So Systems Engineering would be  
8 responsible for doing an engineering evaluation of the  
9 condition report, is that what you're saying?

10 A An engineering evaluation is a very broad  
11 term that can speak to a lot of different types of  
12 evaluations. What I was trying to say is that page  
13 there actually dictates out what type of evaluation  
14 they would do, which was an apparent cause evaluation.

15 Q Okay. And who prepares apparent cause  
16 evaluations?

17 A Apparent cause evaluation could be done by  
18 a myriad of different groups. In this case, it was  
19 assigned to Systems Mechanical.

20 Q Now, that was done after you signed off on  
21 the mode restraint? When I'm looking at the last  
22 page, the date for your removal from mode restraint  
23 was 4/27/00. And then, when I look at page 2, it  
24 appears there are signatures from Andrew Siemaszko and  
25 Glenn McIntyre from May 1st.

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1           A     Okay. Yes, let me -- if it helps, I can  
2 walk you through the progression of this. There is a  
3 -- the mode restraint itself was to complete actions  
4 necessary to restore the equipment to allow the mode  
5 to change. That's on page 2.

6                     On page 6 of 7, there was a -- there was  
7 an overview of what needed to be cleaned. And so what  
8 I did is the mode restraint was to identify we needed  
9 to go in and clean that equipment. To restore that  
10 equipment, we had to go to clean it. So, therefore,  
11 identified that there was a condition -- or a work  
12 order out there to clean the head, and that that work  
13 order was on the mode restraint list.

14                    Once that was verified, this particular  
15 condition report was removed from the mode restraint  
16 list. That does not relieve -- did not relieve  
17 Systems Mechanical from their responsibility of  
18 finishing out the evaluation of the condition report.

19           Q     But --

20           A     It just removed it from a tracking list.

21           Q     Okay. But -- okay. So but it was okay  
22 under your procedures to start up before the  
23 engineering evaluation was done.

24           A     That's correct, because the identified  
25 remedial action was to clean the head. And I'd refer

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1 you back to page 6 of 7 where it says, "Accumulated  
2 boron deposit between the head and the thermal  
3 insulation," it says here it was removed by the  
4 cleaning process. No boric acid damage to the head  
5 was noted during that. So Engineering had done their  
6 evaluation prior to -- I assume this -- I have no way  
7 of knowing when that was actually signed off.

8 Q I see. So you're saying that that was  
9 actually the evaluation, and the evaluation said --

10 A That is the evaluation that Sys Eng would  
11 have --

12 Q -- that all that was needed was the  
13 cleaning.

14 A That's correct.

15 Q And then, that describes the cleaning with  
16 the hot water at pressure.

17 A I'll have to review this and read it,  
18 because this I don't believe was originally in that --  
19 was completed at the time that I wrote the removal  
20 from the restraint, the mode restraint list.

21 Q So that was probably -- so if I'm looking  
22 at the date from -- was that the thing that was  
23 prepared by Andrew Siemaszko and Glenn McIntyre?

24 A That's correct. This part here, when they  
25 sign off on page 2, where it says "Dated 5/1" --

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1 Q Right.

2 A -- that is where they are saying that this  
3 -- I guess I'd call it pages 4 through 7 -- was the  
4 evaluation that they did to satisfy their assignment  
5 that they received on page 2. And they signed off on  
6 that on 5/1/2000. So that writeup did not exist yet.  
7 Does that make sense?

8 Q Yes. Let's see. Now, during the outage,  
9 I believe we have testified that you were involved in  
10 a discussion about the cleaning method that was used.  
11 And, in fact, you were approached by a couple of  
12 engineers about what to do because the regular method  
13 wasn't working, is that right?

14 A That's correct.

15 Q And when I talk about the "regular  
16 method," was that mechanical cleaning?

17 A That's correct.

18 Q And mechanical cleaning involved what?

19 A I'm not sure exactly what verbiage they  
20 had used when we had the discussion. But my  
21 understanding was removal of it using a vacuum and  
22 possibly push rods to break up clumps.

23 Q And what was the concern about using the  
24 method with water?

25 A The concern is that the -- you are

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1 basically taking the dry boric acid and putting it  
2 back into solution.

3 Q And what is the issue with boric acid in  
4 solution?

5 A Well, it's wet boron, or it forms boric  
6 acid. When the boric -- or the -- let me rephrase it.  
7 The dry deposits on the head would have been boron.  
8 By putting them back into a water-based solution, you  
9 form the boric acid, which can be corrosive. That was  
10 the concern that was raised by the Design Group.

11 Q Okay. Let's move to Staff Exhibit  
12 Number 19, which is Condition Report 2000-0782.  
13 During the outage, you saw this condition report as  
14 well, is that correct?

15 A That's correct.

16 Q Okay. Let's look at the condition  
17 description. It says, "Inspection of the reactor  
18 flange indicated boric acid leakage from the weep  
19 holes. The leakage is red brown in color." What is  
20 the significance of the color of the leakage?

21 A Well, red would indicate that the -- that  
22 there is corrosion products in the boron. And brown  
23 could indicate either that the boron is old or that it  
24 has got corrosion products in it. Boron tend to get  
25 gray or brown when it got old, but if it has got

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1 corrosion products in it it would be a red color.

2 Q Let's see. Let's turn to page 3 of 4.  
3 I'm looking under "Event Description" in the first  
4 paragraph. It says, "Initial reactor vessel head  
5 inspection conducted on April 5, 2000, revealed an  
6 accumulation of boron on the southeast reactor head  
7 flange between the head and the studs. Boron deposits  
8 were lava-like and originating from the mouse holes  
9 and CRD flanges." What does the term "lava-like"  
10 indicate to you?

11 A That it was flowing out of the mouse  
12 holes, and it was of a thick consistency.

13 Q Would that mean that it wasn't completely  
14 dry?

15 A Didn't necessarily take it that way. But  
16 I suppose it could be taken that way.

17 Q When we talk about flange leakage, to talk  
18 -- let's talk a little bit about the mechanism of how  
19 that occurs. What happens when the boric acid  
20 solution comes out of the flanges? Does it flash to  
21 steam at that point, or some time later?

22 A That's going to depend upon the dynamics  
23 of the leak path. It could flash to steam if there is  
24 a rapid enough escape of the fluid. It could manifest  
25 itself as a growing crystal on the outside surface.

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1 It just depends on the characterizations of that -- of  
2 the leak path.

3 Q And how does it make its way down to the  
4 vessel head?

5 A It can flow down the sides of the CRDM  
6 nozzle tubes.

7 Q When you say "flow," do you mean that it  
8 would be in a liquid kind of form?

9 A It can be. It can -- I'm not sure whether  
10 they call it a liquid, whether it's a paste, or dry,  
11 or somewhere in between. I just know that I use the  
12 word "flow" because I have seen pictures of nozzle  
13 tubes that have streaks on them that are indicative of  
14 something flowing down them. And since the streaks  
15 appear to be white with residue, I would anticipate  
16 that that's a flow of borated water down them.

17 Q What happens when they hit the nozzle  
18 head, the reactor head? Do they then become dry?

19 A I would expect they would become dry then  
20 or even potentially shortly before that. Once it gets  
21 below the insulation, the ambient temperature, by  
22 virtue of the insulation, should be close to what head  
23 temperature is. So it should be close to 600 degrees.  
24 So how far down it travels I couldn't -- that would be  
25 pure speculation.

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1 Q Would you expect the boron to be white in  
2 color?

3 A Once again, it depends on its path that it  
4 takes. If it does not come in contact with any other  
5 debris, any other -- call it "dirt" or service  
6 structure, support steel, I mean, there is a lot of  
7 things that it can come in contact that it can pick up  
8 stuff along the way. But if it was just in its purest  
9 form, it would be white.

10 Q And if it's in its dry form, would that  
11 ordinarily be cleaned up with a vacuuming method?

12 A I don't know that I can speak to that. I  
13 have never actually cleaned up boron.

14 Q Okay. Okay. Let's move on to Staff  
15 Exhibit Number 66. That's the red photo. I know we  
16 have talked about this before, and I believe you said  
17 that your reaction was that this was ugly. Is that  
18 correct?

19 A That's correct.

20 Q And did you -- would you -- did you  
21 identify the fact that boron was red in that  
22 photograph?

23 A Do you mean, did I --

24 Q When you saw it, did you notice that there  
25 was red boron?

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1 A I'm sure I did.

2 Q Was it your understanding that this  
3 photograph was taken before cleaning?

4 A It was my understanding that that  
5 photograph was taken by Pete Mainhardt, along with  
6 several other photos, as part of the initial  
7 inspection.

8 Q So this would be part of the as-found  
9 condition?

10 A That is correct.

11 Q When you look at that boron, would you say  
12 that that is a lava-like boron deposit?

13 A That's how I would describe it, yes.

14 Q Now, since it is coming out of the weep  
15 holes, did you make any conclusions about where the  
16 source might be?

17 A I couldn't do that without going inside  
18 the weep holes and following it.

19 Q But it must have been coming --

20 A Obviously, it is coming from the head.

21 Q It is coming from the head.

22 A Or somewhere.

23 Q And that means that it is in a somewhat  
24 liquid form on the head in order to flow out. Would  
25 you say that's true?

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1 A It appears as though that's the case, yes.

2 Q So based on this photograph, did you know  
3 that you did not have a clean head coming into the  
4 12RFO?

5 A Yes, I think there is no reason to expect  
6 that you can have a photo like this and have a clean  
7 head.

8 Q Now, at the time that you were in the  
9 outage and you saw this photograph, were you aware  
10 that Davis-Besse had a history of flange leakage?

11 A Yes.

12 Q And did you know that that flange leakage  
13 had been going on for a number of years?

14 A Yes, it had.

15 Q Were you aware that because of that flange  
16 leakage boron deposits had been found in previous  
17 inspections?

18 A I would have assumed so, but I guess I --  
19 you know, to say that it -- I viewed a lot of previous  
20 video or anything or pictures, the answer to that  
21 would be no. But it would make an obvious conclusion  
22 that if you did have leakage in the past you would  
23 come into an outage -- I don't know how else we would  
24 have found the leakage, but I wasn't involved with  
25 those inspections.

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1 Q Would you say that was general knowledge  
2 at the plant, that you had leaking flanges?

3 A It was certainly general knowledge among  
4 supervisors and managers and Engineering.

5 Q Okay. I'd like to turn next to Geisen  
6 Exhibit Number 18. That is The Outage Insider. Okay.  
7 Looking -- do you see the date of this Insider?

8 A April 29, 2000.

9 Q And I believe you have testified that you  
10 read this.

11 A I'm sure I did.

12 Q Did you read it on the day it came out or  
13 some time soon thereafter?

14 A Usually it was my intention to read it the  
15 day it came out.

16 Q Do they come out every day?

17 A Most every day.

18 Q And you read them pretty much every day,  
19 then?

20 A That's correct.

21 Q Let's see. Let's look at the first  
22 paragraph under "Reactor Head Cleaning." It says,  
23 "Due to a history of leaking control rod drive  
24 mechanism flanges on the reactor head, boric acid has  
25 built up in this area. Access is very difficult due

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1 to the construction of service structure surrounding  
2 the area. Reactor head is carbon steel, and boric  
3 acid can be corrosive to carbon steel. Five CRDM  
4 flanges were identified as leakers and repaired this  
5 outage."

6 Did you understand that to tell you that  
7 Davis-Besse had a lot of boric acid from flange  
8 leakage?

9 A That's correct.

10 Q And when they said, "Access to this area  
11 is very difficult due to the construction of service  
12 structure surrounding the area," would that have to do  
13 with the weep hole access?

14 A There's actually -- I would actually say  
15 it's two-fold. The first is the weep hole access to  
16 the top of the head, and the other area that it is  
17 extremely difficult to get to because of the  
18 construction of service water -- the service structure  
19 is the area around the actual flanges themselves.

20 Q And it points out that the reactor head is  
21 carbon steel, and boric acid can be corrosive to  
22 carbon steel?

23 A Correct.

24 Q Let's see. Let's look at the second --  
25 let's see, I'm sorry. Let me find myself here. Oh,

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1 I'm looking at the last -- I think it's -- this is the  
2 last full paragraph on that page. And the very last  
3 sentence, it says, "This is the first time in Davis-  
4 Besse history that the reactor head has been cleaned."  
5 Was that news to you?

6 A Well, I don't believe it was true, but  
7 this was a document that was put out by somebody that  
8 is within the Communications Department. I think what  
9 the intent of that was it's the first time it was  
10 cleaned using the water technique.

11 Q I guess it wouldn't make sense that it had  
12 never been cleaned at all. Do you think --

13 A Well, then, that wouldn't explain the  
14 attempt to use vacuums in the past.

15 Q Okay. Looking to the first part of that  
16 paragraph, it says -- well, the previous sentence  
17 says, "The reactor head was successfully cleaned  
18 yesterday thanks to Andrew's efforts." And then, it  
19 says, "This is the first time in Davis-Besse history  
20 that reactor head has been cleaned." Putting those  
21 two sentences together, do you think this meant that  
22 this was the first time it had been successfully  
23 cleaned?

24 A Once again, I'm sorry, you're asking me to  
25 interpret what was intended by the outage

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1 communications person. All I can tell you is that  
2 when I read that, and it says, "This is the first time  
3 in Davis-Besse history the reactor head had been  
4 cleaned," I took it as being cleaned with water, since  
5 that's what the first -- the previous two paragraphs  
6 were speaking to.

7 Q Okay. Thanks. Generally, with regard to  
8 cleaning, the amount to which it was or not  
9 successfully cleaned is not relevant to the as-found  
10 condition of the head, is it?

11 A Cleaning -- well, for that particular --

12 Q For that same outage.

13 A For the same outage, that's correct.

14 Q So I'm talking about 12RFO. So the  
15 cleaning -- whatever cleaning was accomplished in  
16 12RFO was not relevant to the as-found condition of  
17 the head, was it?

18 A That is correct.

19 Q All right. Next, I'm going to talk about  
20 some of the trip reports you received. We talked --  
21 you talked about those a little bit already. I think  
22 you have already described what trip reports are, but  
23 if you could just briefly tell us again.

24 A Any time an individual at the station went  
25 on a trip, we have them document the trip, what it

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1 involved, any lessons learned out of that. And they  
2 had to submit that as part of their plan to get paid  
3 for that trip.

4 Q And was it your practice to review trip  
5 reports?

6 A It was my practice -- I had a standard  
7 routing of all trip reports for trips taken within  
8 Design Engineering that each supervisor, as well as  
9 myself, was on the cc distribution for that.

10 Q Okay. Let's look at Staff Exhibit  
11 Number 22. This is a January 30, '01, trip report.  
12 Do you recognize this report?

13 A Yes. This is the one that Mr. Goyal  
14 testified to earlier this week.

15 Q Looking down at the first bullet -- I  
16 guess generally this is talking about a B&W Owners  
17 Group Materials Committee meeting. So was that a  
18 different committee in the same Owners Group that you  
19 were a member of?

20 A Yes. That's not to say it's a different  
21 committee. It's the Owners Group. The way it is  
22 structured is you have an Executive Committee, and  
23 reporting to the Executive Committee you have a  
24 Steering Committee, and then underneath the Steering  
25 Committee are a bunch of subcommittees. And this --

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1 Materials is one of those subcommittees reporting up  
2 to the Steering Committee.

3 Q Did you have some sort of oversight or  
4 authority over this committee?

5 A We, the Steering Committee, controlled the  
6 budgets. The answer to that is yes.

7 Q So if they wanted funding, they would have  
8 to request it from you?

9 A Correct. The committee -- the  
10 subcommittees would put together a project plan and an  
11 estimation of the costs involved with that. And then  
12 that -- the chairman of that subcommittee would make  
13 a presentation to the Steering Committee, and the  
14 Steering Committee would take those presentations of  
15 all the subcommittees, prioritize those projects, and  
16 identify which ones are going to be funded and which  
17 ones are going to be not funded or delayed, depending  
18 on the resources available for that given year.

19 Q So was it important for you to keep  
20 abreast of what was happening in the Materials  
21 Committee?

22 A Yes.

23 Q Okay. Let's look under the first bullet  
24 there. And, again, just to go back to the first  
25 paragraph -- the paragraph before, it says that this

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1 was concerning a discussion of Oconee 1, and these  
2 were the highlights. The first bullet says, "Boric  
3 acid crystals were detected on the RVH," I guess the  
4 reactor vessel head, "during a routine visual head  
5 inspection. They were able to find this leak because  
6 their CRDM flanges do not leak, and the head was in  
7 pristine condition."

8 Now, let's start with the first part of  
9 that. "They could find it because their CRDM flanges  
10 do not leak." Did this tell you that they could find  
11 it because they weren't getting boron from other  
12 sources, which could mask the nozzle indications?

13 A That's correct.

14 Q And the second part says they could find  
15 it because the head was in pristine condition. What  
16 do you understand that to mean?

17 A I would take the two sentences combined --  
18 or the two portions of that sentence combined that  
19 they did not have any flange leakage. And as a result  
20 of not having any flange leakage, they had no residue  
21 on their head.

22 Q Now, did this tell you that you would need  
23 a pristine head to find these nozzle indications?

24 A It certainly indicated that there would --  
25 it would make the job a lot harder.

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1 Q Now, at this time, you knew that Davis-  
2 Besse had a history of flange leakage, didn't you?

3 A That's correct.

4 Q And you knew that the head hadn't been  
5 successfully cleaned, didn't you?

6 JUDGE FARRAR: Mr. Geisen, did you say it  
7 would make the job harder? If you had a pristine  
8 head, it would make the job easier.

9 THE WITNESS: It would make the job harder  
10 without having a pristine head.

11 JUDGE FARRAR: Okay.

12 BY MS. CLARK:

13 Q And you knew that there certainly was not  
14 a pristine head when -- at Davis-Besse when you  
15 entered the 12th refueling outage, didn't you?

16 A That's correct.

17 Q So you didn't have a pristine head and you  
18 had flange leakage at the same time.

19 A That's correct.

20 Q So you didn't satisfy either of those  
21 conditions, did you?

22 A That's correct.

23 Q Let's go to Staff Exhibit Number 28. This  
24 is a trip report dated April 26, '01. And we might  
25 have talked about what this group was before, but if

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1 you could briefly tell us what the NER -- NEI/MRP  
2 Alloy 600 ITG and NRC meeting is.

3 A I will attempt to. This was a group, and  
4 it kind of had grown by combination. EPRI -- I think  
5 MRP started out, my understanding is, underneath EPRI,  
6 "MRP" meaning Materials Reliability Program. And  
7 eventually NEI got involved and it combined in.

8 The Alloy 600 is referring to the  
9 stainless steel alloy that is -- 600 that is used in,  
10 among other things, the CRDM nozzles, but -- and a lot  
11 of other things such as steam generator tubes. And I  
12 can't remember what the ITG stood for. I'm pretty  
13 sure the G was Group, but I don't know for sure what  
14 the rest of that is.

15 This was a group that Prason Goyal was  
16 on. He was actually part of the MRP. And he  
17 obviously attended a meeting in April of 2001 to  
18 discuss Alloy 600 issues.

19 Did that cover enough?

20 Q Yes. Thank you. Let me pause while I  
21 find where -- here we go. Okay. I direct your  
22 attention page 3, and the last -- the beginning of the  
23 last paragraph. And it says, "Steve Fyfitch of FTI  
24 presented a safety assessment, and the safety  
25 assessment basically indicated that these types of

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1 cracks are very tight, and the leakage rate is very  
2 low." What was the significance of that?

3 A It was indicating that he wouldn't get a  
4 lot of boron buildup.

5 Q So you could have a pretty large crack and  
6 still not have very much boron indications?

7 A Correct.

8 Q This information was not new to you at  
9 this time, was it?

10 A I had not reviewed the safety assessment  
11 that --

12 Q I'm talking about the fact that the boron  
13 leakage indications could be small.

14 A No. I don't believe that was new  
15 information.

16 Q Let's move on to Staff Exhibit Number 33.  
17 This is a July 12, '01, trip report.

18 A I'm sorry. Which exhibit is this?

19 Q Number 33.

20 A 33?

21 Q Yes. And this says, "Subject: EPRI/MRP  
22 Alloy 600 Workshop." What can you tell us about that?

23 A I'm not sure I could tell you what -- if  
24 there is a -- anything that discerns the Alloy 600  
25 workshop from the MRP. I don't know how they were --

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1 how their internal structure was, but it was my  
2 understanding some of the same group.

3 Q Why would an Alloy 600 workshop be  
4 concerned with the lessons learned from Ocone in  
5 ANO-1?

6 A Because they are -- the nozzles at both  
7 plants were Alloy 600 material.

8 Q So from the subject line, you would have  
9 known that this was related to the nozzle cracking  
10 issue?

11 A Yes. I don't know necessarily from that  
12 subject line that it -- it just talks about the  
13 workshop. I had to go through the whole thing. But  
14 it --

15 Q Oh, okay.

16 A -- looks like, based upon what he has got  
17 written here, the entire topic of what they discussed  
18 was focused only on the nozzle cracking. There was --  
19 I don't see anything other than that in here. I'm  
20 sure that the Alloy 600 group had other things they  
21 were working on, but it appears as though at this  
22 particular meeting all they focused on was nozzle  
23 cracking.

24 Q Okay. Looking under "Lessons Learned from  
25 Davis-Besse," the first bullet says, "Service

1 structure access is needed in order to clean and  
2 inspect the head. Note: Davis-Besse does not have  
3 service structure holes." Now, at this point in time,  
4 which is July of 2001, you knew then, didn't you, that  
5 you didn't have service structure access holes at  
6 Davis-Besse?

7 A That's correct.

8 Q Had there been a modification for that --  
9 for service structure accesses, holes to be cut?

10 A Yes.

11 Q And what had happened to that  
12 modification?

13 A I believe that it was -- at one point it  
14 was scheduled for 13RFO, and I think eventually it was  
15 rescheduled to 14RFO, and then eventually completed in  
16 13RFO.

17 Q Had it ever been scheduled for a previous  
18 RFO?

19 A It may have been. I don't know.

20 Q I think Mr. Wise yesterday asked you, when  
21 you were in outage central during the 2000 outage, he  
22 asked you about the modifications. I believe you said  
23 that you saw all of the modifications when you were in  
24 outage central, is that correct?

25 A No. I believe the -- when I see

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1 modifications is when the Design Group approves them.  
2 As the Design Engineering Manager, I would see  
3 modifications. Modification -- you know, I'm not sure  
4 where that reference --

5 Q Well, let's talk about --

6 A -- came from.

7 Q Let's talk about -- specifically about  
8 cutting these access holes. Are you aware that there  
9 had been any request to do that during the 2000  
10 outage, to cut these access holes?

11 A No.

12 Q But you came to know this after that time,  
13 that there -- do you have any idea when a request was  
14 made to cut these access holes?

15 A The original modification I believe dated  
16 back. The modification request dated back to '94, I  
17 believe.

18 Q So it had been -- it had been requested in  
19 '94, and as of July 2001 it hadn't been done yet?

20 A That is correct.

21 Q Was that because it was deferred over and  
22 over again?

23 A I don't know what the early history of  
24 that was. I wasn't on the Project Review Group at  
25 that time. So I can't speak as to whether it was

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1 deferred or whether it was scheduled out that far  
2 initially. I just -- I don't know without going back  
3 and researching the --

4 Q Well, that's okay.

5 A -- Project Review Group --

6 Q But certainly by this date you knew that  
7 there was a modification to have that done.

8 A That's correct.

9 Q The second bullet says, "Leaking nozzle  
10 may produce very little boric acid." And you knew  
11 that as well already?

12 A That's correct.

13 Q "The head needs to be clean in order to  
14 see a leaking nozzle." You already knew that, didn't  
15 you?

16 A That's correct.

17 Q "The inspection to look for boric acid  
18 should be done in accordance with the procedure."  
19 What did you understand that to mean?

20 A I wasn't sure exactly -- I mean, we --  
21 historically, we had -- I think what he was saying is  
22 that we didn't have a firm procedure for going in and  
23 actually doing the inspection. We brought Framatome  
24 in, and historically they would go and do the  
25 inspection. But I don't necessarily know that they

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1 were following a Davis-Besse procedure to do that.

2 Q Okay. I think that's about -- in terms --  
3 again, going back to the access holes. That was a  
4 design issue, wasn't it, cutting access holes into the  
5 service structure?

6 A Yes. There would have had to have been a  
7 modification.

8 Q And would that have to be approved by you?

9 A That's correct.

10 Q Had you ever talked to Prasoan Goyal about  
11 this modification request?

12 A No, I had not.

13 Q Were you aware that it was -- he was  
14 pressing to have this done?

15 A He never actually came to me requesting  
16 it, so he wasn't pressing me for it. I know that,  
17 obviously, as initiator of it, he wanted it done.

18 Q Were you aware that he was asking other  
19 people besides yourself to get this accomplished?

20 A Not that I'm aware of. He didn't come to  
21 me with that. He had mentioned it in -- obviously, in  
22 a couple of e-mails that we've seen lately.

23 Q Let's see. I think yesterday, or maybe it  
24 was this morning, you spoke about an Owners Group  
25 meeting that occurred in this timeframe -- July 12th.

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1 Do you recall that?

2 A An Owners Group meeting on July 12th?

3 Q I may have gotten my notes wrong.

4 A No, I don't recall that.

5 Q Okay. Let's move to Staff Exhibit 40.

6 And this is another trip report, and this one is dated  
7 August 22, '01. This says it's an NRC Bulletin 2001-  
8 01 meeting.

9 A Okay.

10 Q Now, again, you knew at this time that the  
11 bulletin had been issued, correct?

12 A That's correct.

13 Q And as we sort of touched on before, was  
14 it your understanding that the bulletin was a  
15 significant issue within the plant?

16 A That's correct.

17 Q And it would be a concern to management  
18 that a response to a bulletin was coming, is that  
19 correct?

20 A That's correct.

21 Q So is this the kind of trip report that  
22 you would read with care?

23 A Yes, I would think I would.

24 Q Reading from this report, Mr. Goyal says  
25 in the first paragraph that he went to the NRC's

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1 offices in Rockville, Maryland, and the NRC was to  
2 explain their expectations for the bulletin response.  
3 The first item is, "Develop a qualified visual exam  
4 procedure specifically for CRDM visual -- nozzle  
5 visual inspection, qualified inspectors." Did you  
6 understand that -- by this that the NRC felt that a  
7 qualified visual examination was necessary in order to  
8 look for nozzle indications?

9 A Yes. My understanding from this is that  
10 that is outlining all of the things that we would need  
11 to do to have a qualified inspection. That's correct.

12 Q Okay. Let's look at bullet -- I guess  
13 there's two sets of bullets. I'm looking at the  
14 second one, number 3. The very last sentence, it  
15 says, "Visual examination must be capable of reliable  
16 detection and source identification."

17 In order to have reliable detection, would  
18 it be necessary, in your -- from your understanding,  
19 to see every nozzle on the head?

20 A That is absolutely correct.

21 Q Based on this, was it your understanding  
22 that the NRC expected an examination of the entire  
23 head, including all of the nozzles, to reliably detect  
24 indications of nozzle leakage?

25 A That's correct. I think it spells it out

1 pretty well in the sentence before that, that the  
2 visual examination needs to be done in accordance with  
3 a qualified VT-2 procedure, and include defined  
4 acceptance criteria. It must be capable of reliable  
5 detection and source identification. I think, once  
6 again, we're speaking of how we -- what we wanted to  
7 have the qualified inspection to consist of.

8 Q So a partial examination would not have  
9 satisfied the NRC's expectations, would it?

10 A That's correct.

11 MS. CLARK: Your Honors, this might be a  
12 good time to break.

13 JUDGE FARRAR: Okay. In terms of how much  
14 you plan to do, how -- what proportion have you  
15 completed?

16 MS. CLARK: A quarter to a third.

17 JUDGE FARRAR: That's not the answer I was  
18 hoping for. This has been an hour and 40 minutes.

19 Let me see all counsel at the bench,  
20 please.

21 Off the record.

22 (Whereupon, the proceedings in the  
23 foregoing matter went off the record at  
24 2:55 p.m. and went back on the record at  
25 2:58 p.m.)

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1 JUDGE FARRAR: Back on the record. Let's  
2 take a -- It's a couple of minutes of. Let's come  
3 back at ten after 3:00 p.m.

4 (Whereupon, a short recess was taken.)

5 JUDGE FARRAR: On the record. I think we  
6 have electronics going again.

7 Mr. O'Brien, you're here kind of because  
8 you have to be.

9 MR. O'BRIEN: Yes, sir.

10 JUDGE FARRAR: Mr. Luehman, you're here  
11 because we invited you to be and we wanted your kind  
12 of wise head opinion at the end. We wanted you to see  
13 Mr. Geisen. I know you probably had other things  
14 planned to do this week if you're properly employed.  
15 If you'd like to -- And we're going to be here it  
16 looks like a good bit longer. If you would like to  
17 absent yourself for the afternoon, check in with Mr.  
18 O'Brien and he can tell you of any startling or  
19 otherwise things that happen or even counsel and then  
20 come back tomorrow. You're welcome to stay to give us  
21 your -- to have a full basis for giving us the  
22 opinions we're going to ask you about. But if at any  
23 time you'd like to leave, please feel free.

24 MR. LUEHMAN: Thank you.

25 JUDGE FARRAR: Okay. And then what we

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1 will do tomorrow, Mr. O'Brien, you'll be here first  
2 and then we will ask you and, Mr. Luehman, you will  
3 not be here until Mr. O'Brien finishes and then, Mr.  
4 O'Brien, you two are not to talk in between. But if  
5 Mr. Luehman leaves today, you can talk to him before  
6 you testify tomorrow. Thank you very much.

7 MR. O'BRIEN: Your Honor, excuse me if I  
8 might ask.

9 JUDGE FARRAR: Yes.

10 MR. O'BRIEN: Is the expectation when I'm  
11 finished testifying tomorrow I will be finished or do  
12 you want me to stay or be able to come back?

13 JUDGE FARRAR: I think you'll be finished.

14 MR. O'BRIEN: Understood. Thank you.

15 JUDGE FARRAR: Yes. You'll be finished.  
16 Good. Thank you.

17 Okay. If that makes it easier for you all  
18 to go ahead, Ms. Clark.

19 MS. CLARK: Thank you.

20 BY MS. CLARK:

21 Q Mr. Geisen, next I'm going to go through  
22 some emails that you received. But before I start  
23 with the specific emails, I'd like to ask you. I know  
24 you testified that you got a number of emails in a  
25 given day. Do you recall how many you said?

1           A       It would vary anywhere probably from 15 to  
2       35-40.

3           Q       And did you say that you got about one-  
4       third of those from people that worked for you?

5           A       I would say I think what I was talking  
6       about was there was a percentage that I was on  
7       standard distribution that were not necessarily were  
8       for me, but it went to everybody in the manager group.

9           Q       Was it your practice to read your emails?

10          A       Yes.

11          Q       If you got an email that was giving you  
12       information but not asking for a response, was it your  
13       practice to reply?

14          A       No.

15          Q       So if you did not reply, that didn't imply  
16       that you hadn't read the email, did it?

17          A       That's correct.

18          Q       And if you understood the information in  
19       the email, was it your practice to schedule a follow-  
20       up meeting with the individuals who gave it to you?

21          A       Not unless there was a question.

22          Q       All right. Let's go to Staff Exhibit No.  
23       31.

24                   (Off the record comments.)

25                   BY MS. CLARK:

1 Q I know we've talked about this before.  
2 This is the subject "Mode 5 Reactor Vessel Head  
3 Inspection Recommendation" dated June 27, 2001. Mr.  
4 Geisen, you signed off on this. Is that correct?

5 A Yes. That's correct.

6 Q And you approved this in signing off on  
7 it.

8 A That's correct.

9 Q What did that mean that you approved it?

10 A That it was essentially an engineering  
11 evaluation and that I was agreeing with it.

12 Q So did that mean that you read this  
13 carefully?

14 A That's correct.

15 Q And that you agreed with the engineering  
16 evaluation.

17 A That's correct.

18 Q Let's look at page two and the last  
19 paragraph.

20 (Off the record comments.)

21 BY MS. CLARK:

22 Q Are you there? Okay. The last paragraph  
23 it says, "During 12RFO at Davis-Besse the reactor  
24 vessel head inspection was performed in accordance  
25 with the boron inspection walkdown. Large boron

1 leakage from a CRD implant was observed. Leakage did  
2 not permit the detailed inspection of CRDM nozzles."  
3 So this told you, didn't it, that the inspection  
4 during 12RFO did not permit a detailed inspection?

5 A That's correct.

6 Q How did you read that?

7 A That it did not permit the detailed  
8 inspection of some of the CRDM nozzles.

9 Q What would you think? Would a detailed  
10 inspection involve looking at every single nozzle?

11 A I took it as detailed inspection when we  
12 were referring to it on a nozzle-by-nozzle basis.

13 Q Now is it fair to say that this  
14 engineering evaluation, the focus of it, was on  
15 inspection?

16 A That's correct.

17 Q How is it that that came to you as a  
18 design basis of engineering manager?

19 A I'm not sure who requested it of Mr.  
20 Goyal, but since he was within my department it came  
21 to me.

22 Q Why would an inspection evaluation come to  
23 you in your position?

24 A Well, I think it was driven by the fact  
25 that Mr. Goyal was on the Material Reliability Program

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1 Alloy 600 Task Group.

2 Q Did that make him the plant expert on that  
3 subject?

4 A He was the plant expert on Alloy 600.  
5 That's correct.

6 Q And would that also make him an expert  
7 with regard to these inspections?

8 A As big an expert as we had with regard to  
9 Alloy 600 inspections.

10 Q Was he the plant expert for nozzle  
11 cracking?

12 A I don't necessarily know that I would --  
13 I would say that he's probably the expert, yes.

14 Q Okay. When you read the statements that  
15 the large boron deposits prevented a detailed  
16 inspection, that didn't surprise you, did it?

17 A No.

18 Q Because you already knew the condition of  
19 the head from the red photo.

20 A That's correct.

21 Q And from the other reports you'd received.

22 A That's correct.

23 Q Let's move onto Staff Exhibit No. 32.  
24 This is an email. It's from Prason Goyal. It shows  
25 you on the cc list and it's dated July 10, 2001.

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1 A Correct.

2 Q In the email it discusses "Completion of  
3 table 1 plant specific data verification form RV had  
4 previous inspection status columns." It goes on to  
5 say, "The table currently shows 100 percent inspection  
6 which is not correct. Because of a large boric acid  
7 deposits on the head, very few CRDMs could be  
8 inspected." So this told you in fact that only a  
9 small number of CRDMs could be inspected, didn't it?

10 A That's correct.

11 Q So would it be fair to say that it wasn't  
12 even close to 100 percent inspection?

13 A That's correct.

14 Q Let's go to Staff Exhibit No. 36. This is  
15 an email from Prasoon Goyal. This is to you as a  
16 recipient and the date is August 11, 2001 and this  
17 concerns a meeting held in Dave Lockwood's office and  
18 from the attendance list it appears you were not at  
19 that meeting. Is that accurate?

20 A That's correct.

21 Q Let's look at the second paragraph, I'm  
22 sorry, the third paragraph and the last sentence. It  
23 says, "It was pointed out that we cannot clean our  
24 head through the mouse holes and Andrew Siemaszko is  
25 requesting three large holes be cut in the service

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1 structure for viewing and cleaning." Now based on  
2 your testimony today, by this time you knew the fact  
3 that there was a modification request out for those  
4 three large holes to be cut in the service structure.  
5 Is that true?

6 A That's correct.

7 Q And were you aware that they were  
8 necessary because you could not clean the head unless  
9 you had those access holes?

10 A No.

11 Q So that was new information to you in this  
12 email.

13 A I didn't view it as a requirement. I  
14 viewed it as Mr. Siemaszko's requesting those to make  
15 it easier to do the viewing and cleaning.

16 Q So knowing that there was this outstanding  
17 bulletin, wouldn't this be a warning that there were  
18 impediments to compliance with the bulletin?

19 A The -- Are we talking about the three  
20 large holes?

21 Q Yes. Well, the mouse holes were an  
22 impediment.

23 A Well, the --

24 Q Let's go back. You knew that the --

25 A I don't necessarily follow that question.

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1 Q I'm sorry. The bulletin required access,  
2 required, was looking for inspections, correct?

3 A Correct.

4 Q And it was looking for inspections that  
5 were sufficient to verify whether those nozzle  
6 indications were present, correct?

7 A Correct.

8 Q And this would require an inspection of  
9 the entire head. Is that correct?

10 A That is correct.

11 Q So the fact that you could not access the  
12 head through these mouse holes sufficiently to clean  
13 it was a warning, wasn't it, that there were  
14 impediments to having that kind of complete  
15 inspection?

16 A I did not take that statement that way  
17 when I read it. I took that as they said, they  
18 pointed out, "Can I clean our head through the mouse  
19 holes" and I took that as he's requesting three large  
20 holes to allow him to have better access for cleaning  
21 the head not necessarily for doing the inspection. I  
22 still believed at this point that our rover, the  
23 crawler approach, was still adequate for inspection.

24 Q Mr. Geisen, do you recall testifying in  
25 the criminal proceeding?

1 A Yes.

2 Q Do you recall being asked this question?

3 A No, but I'm sure I was.

4 Q I'd like to -- On Exhibit 71 turn to page  
5 1964 please. Beginning on line 20, Mr. Poole says,  
6 "In August 11, 2001 email from Prason Goyal about the  
7 response to bulletin 2001-01, do you recognize that"  
8 and you say, "Correct."

9 He then says, "I've enlarged the third  
10 paragraph which says 'It was pointed out that we  
11 cannot clean our heads through the mouse holes.'  
12 Again, this is a result of design of the reactor  
13 vessel head, is it not?" The answer is "Correct."

14 Question, "It's another warning, is it  
15 not?" And the answer is "Yes."

16 And the question is "And now it's a  
17 warning in the context of bulletin 2001-01, isn't that  
18 true?" And you answer, "Yes."

19 And the question is "Bulletin 2001-01  
20 required Davis-Besse to report on inspections that had  
21 been done." And you answered "That's correct."

22 And the question is "They wanted to know  
23 that the plant was safe to operate." Answer, "I think  
24 that's the general intent of the bulletin, yes."

25 Question, "In order to know if a plant was

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1 safe to operate, they needed to know whether  
2 inspections had been done." Answer, "Correct."

3 Question, "They needed to know whether the  
4 inspections that had been done were capable of finding  
5 boric acid indicative of nozzle leak." Answer,  
6 "Correct."

7 Question, "And here's a warning. We  
8 cannot clean our heads through mouse holes. But you  
9 didn't act on that." Answer, "No." Do you recall  
10 that testimony now?

11 A Yes.

12 MR. WISE: Your Honor, under the rule of  
13 completeness I'd ask Ms. Clark to read the excerpts of  
14 his testimony also from page 2008 to 2009.

15 JUDGE FARRAR: All right. Ms. Clark, if  
16 you would do that.

17 MS. CLARK: Or he could do it on redirect.

18 MR. WISE: I don't think I should have to  
19 wait.

20 JUDGE FARRAR: Yes. That would be a  
21 danger. You may be technically correct but that would  
22 be too big a danger of separation and we --

23 MS. CLARK: Where did you want to start  
24 reading on that? I'm on page 2008.

25 MR. WISE: Right. I would like you to

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1 start reading at line six and go through page 2009 at  
2 line six.

3 MS. CLARK: Okay. Question, "Did Prasoon  
4 Goyal ever come to you and say, 'We have a problem'?  
5 This is a warning." Answer, "No, he did not."

6 "Did Theo Swim ever come to you and say,  
7 'We have a problem. This is a warning'?" Answer, "No,  
8 he didn't.

9 Question, "Did any of the emails you were  
10 shown by Mr. Poole have a heading that said 'Warning,  
11 urgent, anything like that.?' " Answer, "No. There  
12 was one email that he introduced that said 'Urgent' in  
13 the heading I think."

14 Question, "That was Mr. Miller's email  
15 about the September 20<sup>th</sup> phone call." Answer, "That's  
16 correct."

17 "Did any of the emails that Mr. Goyal sent  
18 to you and others about lessons learned at Oconee or  
19 any others bear a heading that said these were  
20 urgent?" Answer, "No."

21 "As you looked at them in early 2001  
22 though mid 2001 did you have a sense that what Mr.  
23 Goyal was telling you was that the plant had a  
24 problem?" Answer, "No. I think he was asking for --  
25 and many words was it would be easier to do those

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1 inspections if we had inspection ports."

2 Question, "And as you look back at these  
3 emails, now do you see things differently as you saw  
4 them then?" Answer, "Absolutely."

5 Is that enough?

6 MR. WISE: Actually if you could read the  
7 one next question and answer, too. Thank you.

8 MS. CLARK: Okay. I'm going to have you  
9 do it next time.

10 "As you looked at the questions that you  
11 were interacting with NRC about in October and  
12 November of 2001, were you thinking back to the emails  
13 that Mr. Poole has just shown you from the early part  
14 of that year?" Answer, "No."

15 MR. WISE: Thank you.

16 MS. CLARK: And those, I was reading the  
17 questions and answers from Mr. Wise on redirect, not  
18 on cross examination.

19 MR. WISE: That's correct. That's right.

20 BY MS. CLARK:

21 Q Okay. Mr. Geisen, it told you that we  
22 can't clean our heads through mouse holes and you knew  
23 you needed access to the head because you needed to do  
24 a thorough inspection to see these small indications  
25 of nozzle leakage. Now knowing that this bulletin was

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1 outstanding, wouldn't it have caused you some warning  
2 that you might have a problem with these thorough  
3 inspections if you couldn't even get through the mouse  
4 holes to clean the head?

5 A Are you talking about going forward or in  
6 the past?

7 Q At the time you got this bulletin, this  
8 email. Because at this time you knew there was a  
9 bulletin outstanding, didn't you?

10 A Correct.

11 Q And you understood what that bulletin was  
12 asking, didn't you?

13 A That's correct.

14 Q And you knew that you needed a thorough  
15 inspection in order to satisfy the bulletin, didn't  
16 you?

17 A The bulletin was asking for inspection  
18 history.

19 Q Yes, and in order to --

20 A That's why I'm specifically asking the  
21 question going forward or going back because we didn't  
22 have inspection openings in existence for past  
23 inspections.

24 Q You're correct and this does refer to  
25 13RFO.

1 A Okay.

2 Q So you knew going forward into 13RFO you  
3 were absolutely going to have to have a thorough  
4 inspection, didn't you?

5 A That's correct.

6 Q And you knew -- And this was telling you  
7 that under the mouse holes that were currently in  
8 place they weren't able to get enough access to clean  
9 the head.

10 A That's correct. They were requesting the  
11 openings to clean the head.

12 Q So that told you that there was going to  
13 be a problem with the inspection with those mouse  
14 holes, didn't it?

15 A I guess I might have focused on the first  
16 sentence of that paragraph.

17 Q That you're going to do a volumetric  
18 examination.

19 A Correct.

20 Q So would that be done without use of the  
21 mouse holes?

22 A That's correct. One hundred percent  
23 volumetric exam would be doing the NDE of every  
24 nozzle.

25 Q So you knew though that using a camera on

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1 a stick you would have had a problem with an  
2 inspection.

3 A Correct. But even if we were doing a  
4 visual inspection in 2002, we'd already made plans to  
5 do it using our crawler. So I didn't view the camera  
6 on a stick as even a viable option anymore.

7 Q Because you knew you couldn't get a  
8 thorough enough examination.

9 A Correct. It was too difficult --

10 Q Is that why it was no longer an option?

11 A -- to get the camera up to the top of the  
12 head.

13 Q Okay. Thank you.

14 Let's go to Exhibit 39. This is an August  
15 17, 2001 email. This is from Prasoon Goyal and you  
16 are on the cc list.

17 A That's correct.

18 Q This was an email to  
19 sfyfitch@framatech.com. That was an individual at  
20 Framatome, wasn't it?

21 A Yes. It was Steve Fyfitch.

22 Q Was Steve Fyfitch working on a crack  
23 growth analysis at the time?

24 A That's my understanding, yes.

25 Q Now at this point in time, this is August

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1 of 2001, were you involved in the crack growth  
2 analysis?

3 A Not at that point, no.

4 Q Were you aware of it?

5 A I knew that work was going forward on it,  
6 but I wasn't involved in it.

7 Q Do you know why they were developing a  
8 crack growth analysis?

9 A I believe that was because there was a  
10 requirement to look at what if you're not going to  
11 come down for an inspection before the end of the year  
12 provide reasons or assurances as to why it's okay to  
13 continue to operate further and I believe that's what  
14 they had started working on.

15 Q Now a crack growth analysis, is that  
16 basically a calculation of how rapidly a crack will  
17 grow once it begins?

18 A In simplistic terms, yes.

19 Q Was the thinking that you could use that  
20 analysis to calculate how large the crack would be --  
21 Let's go back. When you say if you weren't going down  
22 what did you mean to do an inspection?

23 A There was a requirement and the bulletin  
24 basically made out the requirement that if you were  
25 not going to perform an inspection, a qualified

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1 inspection, before December 31<sup>st</sup> of 2000, then you had  
2 to provide reasons of why it's okay to continue to  
3 operate beyond, what assurances you have going beyond  
4 that.

5 Q And by assurance, do you mean assurance  
6 that you won't have a nozzle crack that might cause an  
7 ejection?

8 A That's how I took it, yes.

9 Q Now the crack growth analysis, did it have  
10 a starting point?

11 A That's kind of the topic of this request  
12 from Prason as to identifying a starting point, but,  
13 yes, you always have to have a starting point.

14 Q And the starting point, would that have to  
15 be a good inspection?

16 A Correct.

17 Q So, in other words, it's --

18 A A good inspection or you'd have to make  
19 some sort of assumptions to accommodate for it.

20 Q When we talk about good inspection, does  
21 that mean an inspection that was adequate to provide  
22 assurance that there were no indications of nozzle  
23 leakage?

24 A Correct. But I believe the model did it  
25 on a nozzle-by-nozzle basis.

1 Q And so you actually had to analyze each  
2 individual nozzle.

3 A What they -- my understanding of how they  
4 did the model is they treated each nozzle as a  
5 potential crack site. So essentially you had 69  
6 different mini models so to speak in the main model.  
7 Given the fact that you can have cracks growing in  
8 multiple nozzles at the same time, you essentially  
9 modeled each nozzle separately and then they were all  
10 pulled together in a big model that gave you your core  
11 damage frequency.

12 Q Did different assumptions go into each  
13 nozzle?

14 A Actually, I think some had to because the  
15 nozzles that we -- We had to make some assumptions  
16 with regard to the nozzles that you couldn't credit  
17 with showing leakage.

18 Q So that evaluation might show that some  
19 nozzles are going to crack more rapidly than others.

20 A Definitely because the model took into  
21 account the stress factors at each nozzle location.  
22 So as each nozzle I guess is penetrating through the  
23 vessel head, it penetrates at a different angle. So  
24 you have different stresses and those stresses impact  
25 the rate at which a crack will grow in that nozzle.

1 Q Now as a starting point of the crack  
2 growth analysis, would you have to have an inspection  
3 that demonstrated there was no nozzle leakage at that  
4 point?

5 A At that nozzle, correct.

6 Q So that you knew that the crack hadn't  
7 started yet in other words.

8 A That's correct.

9 Q Okay.

10 A The assumption was for -- The assumption  
11 is that immediately upon startup from an outage where  
12 you had a clean indication of that nozzle we made the  
13 assumption that that's when the crack went through-  
14 wall because you could have cracks developing in the  
15 nozzle prior to that but are invisible to you from a  
16 visual inspection standpoint and then that they just  
17 went just that last little bit through-wall upon start  
18 up.

19 Q Okay. Looking at the last sentence of the  
20 first paragraph, it says, "Is it possible to go back  
21 to 1998? That was when a good head exam was done with  
22 no nozzle leakage meaning not taking any credit for  
23 2000 inspection." Do you read that to mean that Mr.  
24 Goyal was telling Mr. Fyfitch that you would not be  
25 able to use the 2000 inspection for any of the

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1 nozzles?

2 A It could be read that way.

3 Q Is that the way you read it?

4 A No, it's not, but I could see how --

5 Q How did you read it?

6 A That since we were going on a nozzle-by-  
7 nozzle basis that we had to go back to 1998 to get all  
8 the nozzles clean, not clean, but --

9 Q Do you mean a baseline for every nozzle?

10 A A baseline for every nozzle. You had to  
11 go back to 1998.

12 Q So did you read this to mean that for  
13 those nozzles you couldn't see in 2000 you would be  
14 able to fall back to 1998 to get a good inspection?

15 A That's correct.

16 Q So you would actually be using these two  
17 different inspections together in order to cover all  
18 the nozzles.

19 A That's correct.

20 Q Okay. Let's go to Staff Exhibit 44. Do  
21 you recognize this document?

22 A This is a report that Mr. Gibbs did to  
23 Mark McLaughlin.

24 Q Mr. Gibbs was a consultant.

25 A That's correct. I think he was the owner

1 and primary consultant under Piedmont.

2 Q And he had prepared this report at Mr.  
3 Moffitt's request.

4 A That's correct.

5 Q And Mr. Moffitt was your supervisor,  
6 wasn't it?

7 A That's correct.

8 Q So did at least some portions of this  
9 report relate to your responsibilities as design basis  
10 engineering manager?

11 A I'd have to look through that from that  
12 perspective. I'm not sure. The essence of the report  
13 was Mr. Gibbs was brought in to provide help to Mark  
14 McLaughlin.

15 Q And Mr. McLaughlin was in charge of the  
16 13RFO. Is that correct?

17 A Correct. I think the phraseology that Mr.  
18 Gibbs used in here is the CRDM Inspection and Repair  
19 Project Team and that would be Mr. McLaughlin's team.

20 Q Let me direct your attention to the second  
21 paragraph under number one on the first page. It  
22 said, "Davis-Besse in its response to NRC Bulletin  
23 2001-01 that the top head visual inspections would not  
24 be compromised due to any pre-existing boric acid  
25 crystal deposits. Given previous experience of

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1 removing boric acid deposits from the head the likely  
2 need to remove these deposits at the center top head  
3 by mechanical means. the severity restricted access  
4 allowed by service structure mouse holes from  
5 mechanical cleaning, etc., the most prudent course of  
6 action to avoid outage delays would be to access holes  
7 in the reactor service structure as soon as possible  
8 in 13RFO." Again, we've talked about this  
9 modification and I believe you said that that was  
10 under -- that would need to be approved by you. Is  
11 that correct?

12 A That's correct.

13 Q So is it fair to say that this paragraph  
14 relates to matters that were under your  
15 responsibilities?

16 A That's correct.

17 Q And as a document that was prepared at the  
18 request of your boss, would this be an important  
19 matter for you to review in your duties?

20 A Yes.

21 Q Now you may recall during the criminal  
22 proceeding Mr. Gibbs testified. Do you recall that?

23 A I know he testified. I can't recall  
24 exactly what he testified to without referring to  
25 transcripts.

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1 Q Okay. Just a minute. Let's go to Staff  
2 Exhibit 75 and to page 832. Do you have that page?

3 A I see it on the screen.

4 Q Okay. Starting at line 22, do you see the  
5 question "Let me ask. Did you distribute these  
6 findings?" And the answer is "I made a partial ..."

7 A Can I interrupt and ask?

8 Q I'm sorry.

9 A The context of this. This is who is  
10 asking who.

11 Q Okay. Yes.

12 (Off the record discussion.)

13 Page 814. I guess to 813 actually.

14 A Okay.

15 (Off the record discussion.)

16 Q Do you see at the bottom it says, "Greg  
17 Gibbs, Direct Examination"?

18 A Yes.

19 Q And now to go to page 832 and --

20 (Off the record discussion.)

21 On line 13 on 832, it says, "I'm going to  
22 hand you Government's Exhibit 65 and ask you to take  
23 a look at that." And then he says, "What is that  
24 document?" "This is a letter that I had addressed to  
25 Mr. Mark McLaughlin. Again Mark was the project

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1 engineer for the inspection activity and in it I  
2 addressed the observations I made as a result of the  
3 work that I did there for those three and a half  
4 days."

5 Then it goes on to say --- Then he goes on  
6 to ask Mr. Gibbs, "Did you distribute these findings"  
7 and his answer is "I made a partial distribution of  
8 the findings. I personally left copies with Mr.  
9 Steven Moffitt. Although Mr. Moffitt was not there on  
10 that Friday, I left them with the staff. Again, Mr.  
11 Geisen was not there that Friday at least at the time  
12 I was trying to locate him and so I left a copy on his  
13 desk."

14 MR. WISE: Your Honor, I have a similar  
15 completeness objection and this time I'll read it  
16 unless Ms. Clark wants to read it.

17 MS. CLARK: Okay. Thank you.

18 JUDGE FARRAR: Go ahead, Mr. Wise.

19 MR. WISE: There is a page and a half in  
20 Mr. Gibb's cross examination about this subject. It  
21 starts on page 850 at line 16 and I'm willing to do  
22 this either way, Your Honor. I can either read the  
23 page and a half or the Court can read it now. But I  
24 think it's important that it be in the record at this  
25 point.

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1 JUDGE FARRAR: If it's only a page, why  
2 don't you read it and then we'll have it there.

3 MR. WISE: Okay. Very well. Thank you.

4 Question was "And you said I think before  
5 that you did not speak with Dave Geisen that entire  
6 week." Answer, "I did not and I don't know if Dave  
7 was there or wasn't there, but I did not see him that  
8 week. And the only time I did attempt to talk with  
9 Dave was when I delivered the report and he was not  
10 available at that time."

11 Question, "And you delivered the report to  
12 him as a courtesy I think you said." Answer, "Yes, I  
13 thought it was important that he have the report  
14 because there were some key activities in it that were  
15 related to activities in his department. One, even  
16 the cutting of the holes would require certain stress  
17 analysis to be performed, okayed on the part of Mr.  
18 Prason Goyal to review the information associated  
19 with the gaps and that sort of thing. So there were  
20 people in this department that had activities that  
21 were discussed in this letter and because I did that  
22 I thought it was appropriate that he being the  
23 management get a copy."

24 Question, "And you left it for him as a  
25 courtesy." Answer, "Yes."

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1 Question, "You followed up. You said you  
2 were unable to speak with Steve Moffitt, correct?"

3 Answer, "That is correct."

4 Question, "But you followed up with Mr.  
5 Moffitt." Answer, "I did."

6 Question, "In fact you called him a number  
7 of times over the next couple of weeks." Answer, "I  
8 made many attempts to get a hold of Mr. Moffitt. Yes,  
9 that's correct."

10 Question, "Eventually, you got him on the  
11 phone." Answer, "Eventually he returned my call,  
12 yes."

13 Question, "And you spoke with him."  
14 Answer, "Yes, I did."

15 Question, "And you spoke with him to make  
16 sure he had gotten the report." Answer, "Yes."

17 Question, "And read the report?" Answer,  
18 "Yes."

19 Question, "And understood what you were  
20 talking about?" Answer, "That is correct."

21 Question, "You did not ever try to follow  
22 up with Mr. Geisen." Answer, "No. I did not try to  
23 follow up with Mr. Geisen. Mr. Moffitt was the  
24 individual who hired me. He is also the most senior  
25 manager associated with this activity and I thought it

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1 important that he understand what was in the report.  
2 In fact, I left him a note. I thought he should  
3 review the video tapes of the particular post clean  
4 video tapes so he could see pictures of the condition  
5 of the head."

6 Question, "This is Mr. Moffitt you're  
7 talking about." Answer, "That is correct."

8 Question, "And you did not have follow-up  
9 with Mr. Geisen." Answer, "No, again I had not  
10 contact with Mr. Geisen during that inspection."

11 BY MS. CLARK:

12 Q So, Mr. Geisen, you've heard quite a bit  
13 there, but I would say the gist of it is that Mr.  
14 Gibbs testified he left it on your desk. Is that fair  
15 to say

16 A That's correct.

17 Q You know that you did receive this, don't  
18 you?

19 A I believe I did.

20 Q And again this report responded to a  
21 request from your supervisor. Therefore it would be  
22 a fairly significant document to you, wouldn't it?

23 A Well, I mean it was a request by Mr.  
24 Moffitt for assistance to another individual in the  
25 department. Mark McLaughlin also worked for Mr.

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1 Moffitt.

2 Q So are you saying this would not be  
3 something that would be significant to you in your  
4 job?

5 A No, it would not have been. I would have  
6 treated it as a for information only because it was  
7 directed to Mark.

8 Q Does that mean that you would not have  
9 read it?

10 A I didn't say that. I said I probably did  
11 read it.

12 Q Okay.

13 A I just -- I'm saying that with regard to  
14 the significance of it, I would have attributed it as  
15 a document that was directed to Mark McLaughlin.

16 Q And it was just given to you for  
17 information.

18 A That's correct.

19 Q But would it have been your practice to  
20 read this even if it was just given to you for  
21 information?

22 A Eventually. However, keep in mind that  
23 September 14<sup>th</sup> was in the middle of our INPO  
24 evaluation and I'm sure I did not read it at that  
25 time.

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1 Q And why is that?

2 A Because it was in the middle of our INPO  
3 evaluation and I was preoccupied.

4 Q How long did your INPO evaluation  
5 continue?

6 A We exited on the 28<sup>th</sup> of September.

7 Q And when did it begin?

8 A I believe right around the 1<sup>st</sup> or 2<sup>nd</sup> week.

9 Q So it was for the entire month.

10 A There was -- It was off and on. There was  
11 -- I couldn't tell you the exact schedule without  
12 going back in history and looking at it.

13 JUDGE FARRAR: Ms. Clark, let me  
14 interrupt.

15 MS. CLARK: I'm sorry.

16 JUDGE FARRAR: How if at all did the  
17 events of September 11<sup>th</sup> effect what was going on at  
18 the plant?

19 THE WITNESS: At the plant it increased  
20 security immensely and beyond that it didn't really --  
21 I mean there were no immediate impacts on my workload.  
22 My impacts on my workload came probably two or three  
23 months later as security related modifications  
24 trickled in.

25 JUDGE FARRAR: Thank you. Go ahead, Ms.

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1 Clark. Sorry for the interruption.

2 BY MS. CLARK:

3 Q So is it your testimony that during the  
4 entire month of September while you were involved in  
5 the INPO activities you did not read the documents  
6 that were left on your desk?

7 A No, I'm not saying that. What I'm saying  
8 is that when documents come into my IN basket I have  
9 a tendency to go through all the documents in that IN  
10 basket and prioritize which ones I'm going to read and  
11 usually read those in that order, not ignoring the IN  
12 basket, but at least trying to manage it.

13 Q So depending on a priority, there might be  
14 items that would stay in your IN basket for a whole  
15 month and you would not read them.

16 A That's a possibility.

17 Q Even a consultant report that was directed  
18 to your supervisor. You think you might go a whole  
19 month and not read that.

20 A This report at face value was not directed  
21 to my supervisor. It was directed to Mark McLaughlin.

22 Q Yes, but the first sentence says "At your  
23 and Mr. Steve Moffitt's request." You wouldn't even  
24 have glanced at it in order to prioritize it.

25 A I may -- Yes, I'm sure I probably glanced

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1 at it to prioritize it. But you're asking me if I  
2 read it in --

3 Q Don't you think you would have noticed  
4 that the very first words were "At your and Mr. Steve  
5 Moffitt's request"?

6 A Yes, I probably would have noticed that.

7 Q How busy were you with the INPO? Like  
8 were you working long days? Were you working unusual  
9 shifts?

10 A I was working probably 12, 13 hour days.

11 Q Is that similar to the time you were  
12 putting in while you were at outage central?

13 A Outage central we were on a 12 hour  
14 schedule.

15 Q Meaning --

16 A So you ended up --

17 Q What does that mean?

18 A It means there were two crews, two shifts,  
19 and you had probably a half hour turnover. So you  
20 would end up doing about a 12 and a half hour day.

21 Q So were you working even more during the  
22 2000 outage than you were during the INPO would you  
23 say at least in terms of your hours?

24 A I really can't tell you what the duration  
25 of my hours were seven years ago. I can't tell you.

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1 I'm sorry.

2 Q Well, I think we talked about -- We know  
3 what your shifts were, right, during the outage? You  
4 were saying they were 12 hour shifts.

5 A That's correct.

6 Q How many days a week?

7 A Six days a week.

8 Q Do you think it's likely that you were  
9 working more than that on the INPO?

10 A Off and on I may have. I'm just saying I  
11 can't recall what my hours were during that INPO  
12 evaluation.

13 Q You testified that you read the Outage  
14 Insider sometime around the day that you got it.

15 A That was my practice.

16 Q You got the Outage Insider on April 29<sup>th</sup>  
17 of 2000. That was right in the middle of the 12RFO  
18 outage when you said you were working six 12 hour  
19 shifts. So your testimony is that you had time to  
20 read the Outage Insider, but this document might have  
21 stayed in your IN basket for a whole month. Is that  
22 what your testimony is?

23 A That's correct.

24 Q Thank you. Next I'd like to talk about  
25 the bulletin responses. Let's start with 2731 and you

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1 said that you knew that Rod Cook was developing this,  
2 didn't you?

3 A I think we're looking for the exhibit  
4 number.

5 Q Actually, we didn't need to pull it up.

6 A All right.

7 Q I'm just asking -- You knew that Rod Cook  
8 was developing 2731.

9 A I know that Rod Cook developed 2731.

10 Q Did you know that at the time?

11 A I can't remember when I realized that Rod  
12 was the actual drafter of that document. I know that  
13 it was obviously some time before the green sheet  
14 review because he started giving me stuff.

15 Q Okay. So he was giving you stuff before  
16 the green sheet review, wasn't he?

17 A Correct. Approximately a day or two  
18 before.

19 Q But you told him you didn't want to review  
20 the draft. Is that correct?

21 A Yes, I told him I wanted to review the  
22 final product.

23 Q So when Mr. Wise showed you those series  
24 of emails sending out drafts that you didn't get that  
25 was because you told him not to send them to you.

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1           Isn't that right?

2           A       No, that's not correct.

3           Q       Why is that then?

4           A       Why is I did not get the emails?

5           Q       Mr. Wise showed --

6           A       What's the question?

7           Q       He showed a series of emails sending out  
8           drafts of 2731 and he pointed out that you were not  
9           listed on any of those emails as a recipient.

10          A       Correct.

11          Q       And my question is isn't that because you  
12          told Mr. Cook not to send you drafts.

13          A       No, I believe those emails that you're  
14          referring to where among the people, the working  
15          people, that were developing the drafts. The  
16          conversation I had with Mr. Cook developed a day or  
17          two before I got it for green sheet review where he  
18          had nearly a finished product and was trying to get a  
19          jump start on getting the reviews and gave me a copy  
20          to review. Before I got a chance to even review it,  
21          he came in with another copy with a revision and at  
22          which point I said, "I want to see the finished  
23          product."

24          Q       Okay.

25          A       But that was right at the very tail end of

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1 the development.

2 Q Okay. Thanks. Let's go to Exhibit No. 10  
3 which is the green sheet and we've already established  
4 that you signed it under Block 14. I just want to  
5 direct your attention to the very last page of the  
6 green sheet and could you please read what it says  
7 under Block 14?

8 A Yes. "Review and approval. Initiator  
9 checks and/or enters the desired reviewers. The  
10 technical accuracy of a response to the NRC is a  
11 responsibility of the director and management  
12 individual assigned the action."

13 Q When you got 2731 for review, you read it  
14 for accuracy, didn't you?

15 A That's correct.

16 Q And you signed it based on your  
17 determination that it was accurate.

18 A That's correct.

19 Q And you also read it for completeness,  
20 didn't you?

21 A That's correct.

22 Q And you signed it based on your assessment  
23 that it was complete, didn't you?

24 A That's correct.

25 Q Were you also aware of the NRC

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1 requirement, the 50.9, that "all information provided  
2 to the NRC must be complete and accurate"?

3 A Yes.

4 Q Have you received training on that  
5 requirement?

6 A I believe that was covered as part of the  
7 site orientation training.

8 Q Let me ask you, Mr. Geisen. If you got  
9 2731 and you saw something that was inaccurate or  
10 incomplete would it be okay to sign off on it because  
11 somebody else should have noticed it?

12 A No.

13 Q Would it be okay to sign off on it because  
14 somebody who had more knowledge than you had signed  
15 it?

16 A No.

17 Q Okay. Let's move onto the call from Brian  
18 Sheron. You were aware that he made a phone call to  
19 Davis-Basse on September 28, 2001, correct?

20 A That's correct.

21 Q And he called --

22 JUDGE TRIKOUROS: Can I interrupt for one  
23 second?

24 MS. CLARK: I'm sorry.

25 JUDGE TRIKOUROS: I'm not quite sure I

1 understood this. That Block 14 indicated that the  
2 director or manager was supposed to perform the  
3 technical review or was responsible for the technical  
4 review? I think the answer was responsible for the  
5 technical review, right?

6 THE WITNESS: It is the responsibility of  
7 the director and management individual assigned the  
8 task.

9 JUDGE TRIKOUROS: Was that you?

10 THE WITNESS: Well, that's a gray area  
11 here because it was as we mentioned before the shotgun  
12 approach. If you looked at the number of people on  
13 here there are numerous director and management people  
14 checked on here.

15 JUDGE TRIKOUROS: Right. So that's what  
16 I'm asking is who of all of those people -- Do all of  
17 them have that responsibility or does one of all of  
18 them has that responsibility?

19 THE WITNESS: All of them have that  
20 responsibility, sir.

21 JUDGE TRIKOUROS: All of them including  
22 Guy Campbell.

23 THE WITNESS: That's correct. The way the  
24 form is written every block that's checked under 14  
25 that is a manager or director you would have to abide

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1 by that block, that description on the backside that  
2 says it's their responsibility.

3 JUDGE TRIKOUROS: And you were asked just  
4 now that if even something that involved technical  
5 areas that you had no knowledge in but that the work  
6 was done by someone who worked for you who was an  
7 expert in that area, what do you view your  
8 responsibility was with respect to signing something  
9 under those circumstances?

10 THE WITNESS: It's my responsibility to  
11 verify the accuracy and it's not exactly stipulated  
12 how I verify that accuracy. My way of verifying that  
13 accuracy at that time was to verify that the  
14 individuals that had that technical knowledge had  
15 reviewed and approved this document.

16 JUDGE TRIKOUROS: And were there other  
17 ways that might have been available to you?

18 THE WITNESS: I probably could have taken  
19 the document and asked for the source document of  
20 every single line item in there and done a  
21 verification that way. I didn't do it that way.

22 JUDGE TRIKOUROS: Is that a practical  
23 option with respect to every calculation and every  
24 letter to the NRC and every document that flows across  
25 your desk?

1 THE WITNESS: No, I don't believe it is.  
2 But I mean there's an awful lot of leeway granted in  
3 the description of Block 14 as to how you would  
4 interpret that and that is the other end of the  
5 extreme of how it could be interpreted.

6 JUDGE FARRAR: At Kewaunee, somebody does  
7 that, but it's not all the people in Block 14, one of  
8 them or someone like that.

9 THE WITNESS: Their form is different.

10 JUDGE FARRAR: Someone there gets assigned  
11 checking out every --

12 THE WITNESS: That's correct, Your Honor.  
13 They have actually a review and approval block that  
14 falls below the technical reviewer block.

15 JUDGE FARRAR: Did I understand you in  
16 response to Ms. Clark to indicate that even if people  
17 below you who were knowledgeable had signed the green  
18 sheet if you saw something that you knew that was  
19 wrong, you would not sign it.

20 THE WITNESS: That's correct, Your Honor.

21 JUDGE FARRAR: Go ahead, Ms. Clark.

22 BY MS. CLARK:

23 Q Okay. Moving onto the Brian Sheron call,  
24 I believe you said you were in an INPO exit meeting  
25 when you got called out to hear about this phone call.

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1 Is that correct?

2 A Actually the INPO exit meeting had already  
3 been completed and we were in a -- the managers stuck  
4 around and were debriefing with regard to what we had  
5 just heard from INPO.

6 Q And it was Mr. Campbell who came and got  
7 you.

8 A Mr. Campbell came and got Mr. Moffitt and  
9 Mr. Lockwood and then Mr. Moffitt came in and got me.

10 Q Okay. And I believe you described Mr.  
11 Campbell's reaction. Would you say he was distraught?

12 A I think I said he was angry.

13 Q Okay. Did he tell you at the time that  
14 Mr. Sheron had talked about shutting down the plant by  
15 the end of 2001?

16 A That's correct.

17 Q And this call prompted a strong management  
18 reaction, didn't it?

19 A Yes, we started many phone calls after  
20 that.

21 Q Did you also start reviewing your response  
22 to the bulletin?

23 A I did.

24 Q Did you in the context of doing that also  
25 review the bulletin?

1 A I don't recall at this time.

2 Q Was the purpose of your reviewing the  
3 Serial letter 2731 to try to figure out what the issue  
4 might be?

5 A Correct.

6 Q So it would have been necessary for you to  
7 understand what the bulletin asked, wouldn't it?

8 A That would make sense. I just don't  
9 necessarily recall picking up the bulletin. So that's  
10 why I say I may have.

11 Q Was this a significant focus of your  
12 efforts after that September 28<sup>th</sup> date?

13 A Yes, it was.

14 Q So I'm thinking now between September 28  
15 and the October 3 conference call, did you spend a  
16 significant amount of time looking into this issue?

17 A Not over the weekend, but I did when we  
18 came back that next week.

19 Q So you said you read the serial letter  
20 again.

21 A Correct.

22 Q And you knew of course that the serial  
23 letter was discussing inspections.

24 A That's correct.

25 Q Did it ever prompt you to talk to any of

1 the engineers who did the inspections?

2 A No.

3 Q You knew that Mr. Goyal was an expert in  
4 this area, didn't you?

5 A That Mr. Goyal?

6 Q Yes, I'm sorry. Goyal.

7 A Was an expert in?

8 Q Nozzle cracking.

9 A Correct.

10 Q And he was one of your direct  
11 subordinates, was he not?

12 A He reported to Theo Swim was actually the  
13 direct, correct.

14 Q But he was underneath you.

15 A He was underneath my department, correct.

16 Q And your supervision. And did you ever  
17 talk to Mr. Goyal about this?

18 A Not that I recall, but he may have been in  
19 on one of the meetings prior to the 3<sup>rd</sup>.

20 Q So even though you were trying to figure  
21 out what was wrong, you didn't ask any of the experts  
22 to review the serial letter or to give you any  
23 feedback?

24 A No because at that time I didn't know what  
25 area of 2731 was the concern.

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1 Q Since you didn't know what area, you  
2 didn't talk to anybody.

3 A I didn't talk to Mr. Goyal.

4 Q About the serial letter at this time?

5 A Not that I recall.

6 Q Did you talk to anybody else?

7 A We had some meetings.

8 Q With managers?

9 A There were managers. There were other  
10 people other than managers in the meeting.

11 Q Well, I know there was a prep meeting,  
12 correct, on October 2<sup>nd</sup>.

13 A That's correct.

14 Q And you did have Framatome on there,  
15 correct?

16 A That's correct.

17 Q But Framatome didn't give you any feedback  
18 on inspections, did they?

19 A No, but I believe the reason Framatome was  
20 involved in the meeting is because they provided --  
21 they were one of the providers of information to the  
22 bulletin response.

23 (Off the record discussion.)

24 And without -- I don't have any notes of  
25 the meeting. So I have to rely on the meeting notes

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1 that other people have taken.

2 Q So did you plan to -- Excuse me a second.  
3 So when you went into the October 3<sup>rd</sup> meeting, what  
4 prompted you to talk about inspections?

5 A I don't know. As I stated earlier, I  
6 don't recall speaking at the October 3<sup>rd</sup> meeting and  
7 my only recollection of that meeting comes from Mr.  
8 Miller's notes and since he had notes and I don't I  
9 have no reason to doubt the veracity of his notes, but  
10 at the same time I can't really add anything to them  
11 beyond what's in those notes.

12 Q Now when you were at that October 3<sup>rd</sup>  
13 meeting, you did know that you were talking about your  
14 response to 2731, didn't you?

15 A Correct.

16 Q And you knew that that response was to an  
17 NRC bulletin about nozzle cracking, didn't you?

18 A Correct.

19 Q And that as we discussed before you were  
20 well aware that that bulletin was concerned about the  
21 thoroughness of inspections. Is that right?

22 A Correct.

23 Q And the concern was that those inspections  
24 must be adequate to find these small nozzle  
25 indications.

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1 A That's correct.

2 JUDGE FARRAR: I forgot to tell the  
3 audience about the need to turn off your cell phones.  
4 Sorry.

5 BY MS. CLARK:

6 Q So when you told the NRC there had been  
7 100 percent inspection you knew the context of their  
8 question, didn't you?

9 A I don't know that there was a question  
10 asked.

11 Q Okay. I thought -- I just assumed that  
12 you answered a question that the staff had. Did you  
13 just volunteer this information?

14 A I once again don't know. I'm going off of  
15 what the notes were provided by Dale Miller and  
16 according to the notes I said that information. I  
17 have no reason to doubt that I said that, but whether  
18 I said that in context to responding to a question I  
19 don't know.

20 Q But you knew that this whole call was  
21 about the bulletin, didn't you?

22 A That's correct. This call was about  
23 actually why we were being asked to shut down.

24 Q So I think you've testified now that when  
25 you said 100 percent inspection you meant that you

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1 were telling the NRC that you hadn't done a sampling  
2 inspection. Is that correct?

3 A That's correct.

4 Q Now is there any way that a sampling  
5 inspection would satisfy the results of that bulletin?

6 A No.

7 Q Davis-Besse never did sampling inspections  
8 of their heads, did they?

9 A No.

10 Q In fact, are you aware of any plant that  
11 does sampling inspections of their reactor heads?

12 A I'm not real familiar with inspections at  
13 most other plants.

14 Q But you knew at Davis-Besse they never did  
15 that, didn't you?

16 A That's correct.

17 Q And you knew that we were talking about a  
18 bulletin that was concerned about whether inspections  
19 were adequate to see every single nozzle on the head,  
20 didn't you?

21 A That was one of the focuses of the  
22 bulletin, correct.

23 Q So when you said we did 100 percent  
24 inspection --

25 MR. WISE: Your Honor, now I have to

1 object. This is the third time that Ms. Clark has  
2 said that and the testimony that the speaker said 100  
3 percent inspection except for five or six nozzles, You  
4 just can't take that out of context and ask half the  
5 statement.

6 BY MS. CLARK:

7 Q Okay. Well, let's say -- okay. Let's  
8 talk about that. You said 100 percent inspection and  
9 I believe -- Let me get the document so we can be more  
10 precise. Let's go to Exhibit 52. Exhibit 51 is Mr.  
11 Miller's notes. Now let's go through these first. Do  
12 you recognize this document?

13 A Yes.

14 Q And is the one that you were relying on to  
15 indicated what you said during that conference call?

16 A That's correct.

17 Q It starts out with Al Hiser. It says,  
18 "Response, inspection last outage, coverage not  
19 clear." Do you think that could be that he was asking  
20 for information? Well, let's say this. Was he saying  
21 that your response regarding inspections for the last  
22 outage was not clear, that the coverage was not clear?

23 A I can't say whether that is a response to  
24 our response or whether Al Hiser is responding. I  
25 don't know.

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1 Q But it says -- But it appears that he was  
2 saying inspection last outage, correct?

3 A Correct.

4 Q That's how the conversation began. So  
5 presumably when you said 100 percent inspection you  
6 were talking about 2000. Is that your understanding?

7 A Yes, I guess I would take that as that.

8 Q Then we have your initials and it says,  
9 "100 percent inspection of head, some areas precluded  
10 from inspection due to flange leakage. Definite signs  
11 of boron flow from leakage. Videotaped, reviewed 12,  
12 11, 10 RFO videos."

13 Now I'd like to turn your attention to  
14 Exhibit 52. These are the notes that Mr. Holmberg  
15 took regarding the same phone call and here it says,  
16 "NRR questioned the scope of the April 2000 head  
17 examinations. The licensee stated that 100 percent of  
18 the head was inspected which included the CRD housing  
19 to head interfaces. However, for five to six nozzles  
20 near the center of the head, boric acid from CRD  
21 flange leakage precluded definitive conclusions that  
22 the CRD nozzle welds were not leaking." Now based on  
23 Mr. Holmberg's notes, it appears that in fact the NRC  
24 was asking a question about the scope of the April  
25 2000 head inspection, doesn't it?

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1 A Correct.

2 Q And your response was that "100 percent of  
3 the head was inspected including the CRD housing to  
4 head interfaces, but for five to six of those nozzles  
5 boric acid from CRD flange leakage precluded  
6 definitive conclusions." Now that states that in fact  
7 you told them that you saw the entire head, but you  
8 just couldn't make definitive conclusions for five to  
9 six nozzles, doesn't it?

10 MR. WISE: Objection. That's what Mr.  
11 Holmberg's notes say.

12 BY MS. CLARK:

13 Q Right. That's what Mr. Holmberg -- Based  
14 on those notes. Is that how you would read them?

15 A That's how I would -- That's what it says.  
16 Correct.

17 Q Now going back to Exhibit 51 which is Mr.  
18 Miller's notes which are much more abbreviated, that  
19 is consistent with his notes. Is it not? That  
20 interpretation.

21 A Mr. Holmberg's interpretation or Mr.  
22 Miller's interpretation?

23 Q The one that we just discussed from Mr.  
24 Holmberg's notes, I'm asking you if that  
25 interpretation is consistent with Mr. Miller's notes.

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1           A     I can see how that can be -- those can  
2 line up, yes.

3           Q     So in fact it's entirely possible that you  
4 were saying that there was 100 percent inspection of  
5 every nozzle on the head, but that because of the  
6 results of the inspection you couldn't make definitive  
7 conclusions that there was no nozzle leakage for five  
8 to six at the top. Isn't that possible that you could  
9 have said that?

10          A     I don't remember saying that.

11          Q     Is it possible?

12          A     Certainly. I don't have a recollection of  
13 the meeting.

14          Q     And that would be consistent with the  
15 notes that we have seen, wouldn't it?

16          A     It could be --

17          Q     If you had said that.

18          A     Potentially yes with Mr. Holmberg's.

19                JUDGE TRIKOUROS: May I interrupt one  
20 moment?

21                MS. CLARK: Sure.

22                JUDGE TRIKOUROS: Did you not participate  
23 in this October 2<sup>nd</sup> pre-meeting to this one?

24                THE WITNESS: Yes, I did, Your Honor.

25                JUDGE TRIKOUROS: And Mr. Campbell was

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1 agitated just a few days earlier about this.

2 THE WITNESS: That's correct, Your Honor.

3 JUDGE TRIKOUROS: And you don't remember  
4 the meeting on the 3<sup>rd</sup> at all?

5 THE WITNESS: I don't remember speaking at  
6 the meeting. I remember it occurring. The things  
7 that stood out, certain things stood at the meeting.  
8 Other things didn't. I remember the things that stood  
9 out. I don't remember speaking about this. It didn't  
10 stand out. So I have to rely on Mr. Miller's notes.

11 JUDGE TRIKOUROS: Did you remember a  
12 request made for the video tapes at that meeting?

13 THE WITNESS: No, I don't. But it could  
14 very well have happened. It's just not one of the  
15 things that stood out in my memory.

16 JUDGE TRIKOUROS: Mr. Holmberg's notes  
17 indicated that they requested video tapes and a  
18 nozzle-by-nozzle. Mr. Miller's notes say only a  
19 nozzle-by-nozzle. And Mr. Miller as we now know is  
20 the gentleman who had indicated on October 2<sup>nd</sup> I guess  
21 it was that we don't want them to see those video  
22 tapes.

23 THE WITNESS: That's my understanding.  
24 Yes, sir.

25 JUDGE FARRAR: Just to make the record

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1 clear, this was not a face-to-face meeting, right?

2 This was a --

3 THE WITNESS: This was a teleconference,  
4 Your Honor.

5 JUDGE FARRAR: So by definition you're not  
6 seeing the NRC people when they're talking. You're  
7 hearing who's ever talking. You're hearing a voice.

8 THE WITNESS: That's correct, Your Honor,  
9 and there was actually multiple stations on my  
10 understanding. Not only was NRR on, but I believe the  
11 region was on and Framatome was on all on a conference  
12 call from four different locations at least.

13 JUDGE HAWKENS: Mr. Geisen, Mr. Miller's  
14 notes toward the bottom indicate that you stated there  
15 you had an 80 percent or there was an 80 percent  
16 confidence in the 12 RFO. Do you recall that  
17 statement or what it meant?

18 THE WITNESS: No, I don't, Your Honor.

19 JUDGE FARRAR: Had your team assigned  
20 speaking roles, you know, different roles for  
21 different people to play as the call evolved?

22 THE WITNESS: I don't remember any. I  
23 remember that Mr. Moffitt was kicking it off. I  
24 believe Mr. Moffitt was going to run the meeting. He  
25 was going to be the highest person in the meeting and

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1 then Mr. Campbell came in and sat in as kind of like  
2 the silent observer.

3 JUDGE FARRAR: Would that mean that when  
4 -- if a question was asked Mr. Moffitt might point to  
5 somebody to answer or you don't remember?

6 THE WITNESS: He could very well have.  
7 That's why I said I don't have any recollection of  
8 actually talking to it. But I don't doubt that DCG  
9 are my initials and that's what was intended by Mr.  
10 Miller and I didn't have any -- I wasn't a big note  
11 taker.

12 JUDGE TRIKOUROS: At the end of that  
13 meeting, you were given the assignment by Mr. Moffitt  
14 to get the nozzle-by-nozzle done.

15 THE WITNESS: I don't know whether he gave  
16 me the assignment or I volunteered for it, but, yes,  
17 I had the assignment going out of that.

18 JUDGE TRIKOUROS: And the person that was  
19 doing it was Mr. Siemaszko.

20 THE WITNESS: That's correct, Your Honor.

21 JUDGE TRIKOUROS: Who actually worked in  
22 another department from yours.

23 THE WITNESS: That's correct, Your Honor.

24 JUDGE TRIKOUROS: Was his manager there?

25 THE WITNESS: There was no representative

1 from systems engineering, but I knew everybody from  
2 systems since I had come from there.

3 JUDGE TRIKOUROS: So there was no systems  
4 engineering representation at all at that meeting.

5 THE WITNESS: No, Your Honor.

6 JUDGE TRIKOUROS: Mr. Siemaszko wasn't  
7 there either.

8 THE WITNESS: No.

9 JUDGE TRIKOUROS: So you got the  
10 assignment because you were there one way or the other  
11 whether you volunteered or not.

12 BY MS. CLARK:

13 Q Okay. Mr. Geisen, I believe you testified  
14 that you made that statement about 100 percent  
15 inspection based on your review of Serial Letter 2731.  
16 Is that correct?

17 A That's correct.

18 Q But you didn't have any other source of  
19 information other than that serial letter for that  
20 statement, did you?

21 A There may have been discussed on the 2<sup>nd</sup>  
22 at the prep meeting.

23 Q Okay. Let's go back to the prep meeting  
24 on the 2<sup>nd</sup>. I know you said Framatome was there, but  
25 they didn't speak to inspections and you told me that

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1 you didn't speak to any of the engineers who did the  
2 inspections. So where would you have gotten that  
3 information?

4 A I don't know.

5 Q It's just possible there might have been  
6 something that you forgot.

7 A I don't know. It could have been  
8 discussed at the meeting. That's all I'm saying is I  
9 don't remember.

10 Q Okay. Let's go back to 2731. That's  
11 Staff Exhibit No. 9 and let's look at page three of  
12 19. So this is the source of your information on the  
13 April 2000 inspection results, correct?

14 A Correct.

15 Q Looking at the first sentence, it says,  
16 "In April 2000, Framatome Nuclear Power Station  
17 performed a 100 percent video inspection of CRDM  
18 flanges above the RPV insulation." Now that was a  
19 flange inspection. So that was not an inspection of  
20 the head, was it?

21 A That's correct.

22 Q And if one were doing a flange inspection  
23 one would not be able to see the head, would you?

24 A No.

25 Q Because of the mirror insulation that's

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1 between the flanges and the head, correct?

2 A That's correct.

3 Q The second paragraph said, "Inspection of  
4 the RPV head nozzles area indicated some accumulation  
5 of boric acid deposits. The deposits were located  
6 behind the flanges and no visible evidence of nozzle  
7 leakage was detected." That doesn't tell you that 100  
8 percent inspection was done, does it?

9 A No.

10 Q So you didn't get that information from  
11 Serial Letter 2731, did you?

12 A I don't know where I got that from. I may  
13 have taken it out of the first sentence. I don't  
14 know. As I said, I don't even remember talking about  
15 it at the third meeting. All I can go by is what Mr.  
16 Miller's notes say.

17 Q Okay. Let's move onto what happened after  
18 the October 3<sup>rd</sup> call. So you were assigned to develop  
19 the crack growth model. Is that correct?

20 A Correct. It fell in the purview of design  
21 engineering.

22 Q Was this already underway by this time,  
23 the crack growth model?

24 A I think portions of it probably were based  
25 upon Framatome was working on some of that. I'm not

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1 sure how far along we were on the PRA aspect of it.

2 Q Do you know when that crack growth model  
3 work was begun?

4 A Well, it was a very iterative process. So  
5 there wasn't -- I don't think you could say that we  
6 actually had our final finished product until mid  
7 November. We had various revisions or runs of the  
8 model and the PRA and it was being revised and honed  
9 and improved.

10 Q And you were also assigned to supervise  
11 the development of a nozzle table, correct?

12 A I assigned it. If you want to call it  
13 supervision --

14 Q Well, were you responsible for the table?

15 A Andrew Siemaszko was responsible for the  
16 table.

17 Q And were you responsible to your  
18 management for the development of that table?

19 A Probably.

20 Q Didn't your management ask you whether Mr.  
21 Siemaszko was developing a nozzle table properly?

22 A Yes, he asked me that.

23 Q And didn't you speak about the nozzle  
24 table to the NRC?

25 A That's correct.

1 Q So wouldn't it be fair to say that you  
2 were responsible for the nozzle table?

3 A If you want to say I was responsible for  
4 it, fine.

5 Q Would you say that?

6 A I did not develop the table, but I  
7 presented it.

8 MS. CLARK: Your Honors, I realize that I  
9 have a couple of pages that I would like to be able to  
10 get from my desk. Can we break for like ten minutes.

11 JUDGE FARRAR: Sure. Let's come back at  
12 quarter of 5:00 p.m. That will be 12 minutes. And  
13 how are we doing? Ms. Clark, how are we doing?

14 MS. CLARK: You know, I'm actually making  
15 much better progress.

16 JUDGE FARRAR: Okay. Good. We'll be back  
17 at 4:45 p.m. Off the record.

18 JUDGE FARRAR: Please proceed, Ms. Clark.

19 MS. CLARK: Thank you.

20 BY MS. CLARK:

21 Q I just want to talk briefly about your  
22 assignment to develop the crack growth model. I  
23 believe you testified earlier that Mr. Moffitt told  
24 you the model would be your argument. Could you  
25 explain that? Do you think maybe what he meant was

1 that this would be the argument that there wouldn't be  
2 a safety problem if you continued to operate until the  
3 Spring of 2002?

4 A I'm sorry. I don't -- where are you  
5 getting this from? I don't recall that statement.

6 JUDGE HAWKENS: What exhibit are you  
7 looking at, Ms. Clark?

8 MS. CLARK: Well, this was earlier  
9 testimony today.

10 JUDGE FARRAR: State what --

11 BY MS. CLARK:

12 Q Well, let's just ask then what was the  
13 purpose of the crack growth? Was that to justify  
14 continued operation until the Spring of 2002?

15 A That was to -- that's correct.

16 Q And so, the purpose really was to support  
17 operation until the next scheduled refueling outage.  
18 Wasn't it?

19 A That's correct.

20 Q And to prevent early shutdown. Correct?

21 A Correct.

22 Q Okay. Let's talk about the TA briefing on  
23 October 11<sup>th</sup>. You testified that there was a meeting  
24 the night before where you developed the slides. Is  
25 that correct?

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1 A That's correct.

2 Q And I believe you said you were the  
3 scribe?

4 A That's correct. It was actually developed  
5 on my laptop.

6 Q And did you put in the information  
7 regarding inspections?

8 A I believe so.

9 Q And was that because you were the most  
10 knowledgeable person within that group about  
11 inspections?

12 A I believe so.

13 Q Now, you've testified that when you  
14 presented the slide and we've heard it many times,  
15 Slide 7 says, "All CRDM penetrations were verified to  
16 be free from popcorn-type deposits using video  
17 recordings from 11RFO or 12 RFO." You've testified  
18 that you didn't have the nozzle table yet, did you?

19 A That's correct.

20 Q The only -- is it correct to say that the  
21 only information you had still at this time was from  
22 reading serial letter 2731?

23 A That's correct. It may have been also  
24 from some side bars with -- because there were other  
25 people that participated in the development of the

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1 slides, so they may have brought stuff to the  
2 discussion, as well.

3 Q I'm sorry. You think that other people  
4 may have what?

5 A They may have brought input or stuff to  
6 the slides.

7 Q Are you talking about in the meeting where  
8 you put the slides together?

9 A Correct.

10 Q So you think it's possible that somebody  
11 might have said something that caused you to say that?

12 A What I'm saying is that the information  
13 that was in those slides was a culmination of what we  
14 knew, or what I knew from 2731, and a team effort to  
15 put together a slide of what the team believed created  
16 the correct picture.

17 Q Let's go to the slide.

18 A It's not like it's a -- just blindly  
19 taking it from 2731.

20 Q Let's go to those slides. That's Staff  
21 Exhibit 55. And I'm looking at a slide that has  
22 number 7 at the bottom, and it's entitled "Facts."  
23 And there's a number of flags. The first flag says,  
24 "All CRDM penetrations were verified to be free from  
25 popcorn-type boron deposits using video recordings

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1 from 11RFO or 12 RFO."

2 Now, did you present that slide?

3 A Yes, I did.

4 Q And did you make that statement?

5 A I believe I did.

6 Q So were you responsible for that  
7 statement?

8 A I was responsible for making it to the  
9 tech advisors, yes.

10 Q Since you made a statement directly to the  
11 NRC, are you also responsible for insuring that it's  
12 accurate and correct?

13 A Yes.

14 Q Now, I want to ask you again about the  
15 basis for that statement. You have said that you  
16 reviewed Serial Letter 2731. Is there any other  
17 independent basis that you had to make that statement?

18 A I don't know if there were other -- there  
19 may have been -- I may have gotten information from  
20 elsewhere, but I don't know of any specifics that I  
21 can point to at this point.

22 Q The statement -- when you said something -  
23 - when you say generally that something is verified,  
24 wouldn't you say that's a very affirmative statement?

25 A Yes.

1 Q As an engineer, would you verify something  
2 without substantial definite information to support  
3 that statement?

4 A That would be true if I said that I  
5 verified, but that's not what I was saying.

6 Q So you were saying that somebody else  
7 verified it?

8 A That's correct.

9 Q But you can't tell us who that would have  
10 been?

11 A Well, my belief would have been it would  
12 have been the people that prepared the response to  
13 2731.

14 Q All right. Let's go back to 2731, Exhibit  
15 9. And let's go back to page 3 of 19, where it talks  
16 about April 2000 inspection results 12RFO. Now, would  
17 you please direct our attention to where it says there  
18 that all of the nozzle penetrations were verified to  
19 be free of popcorn deposits?

20 A It doesn't use those exact words in there.

21 Q And what words did you rely on?

22 A This was -- I took the information that  
23 was in 2731, call it absorbed, became my frame of  
24 reference, and from that frame of reference made the  
25 statement. So to say that there's going to be a word-

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1 for-word correlation, I can't point to that.

2 Q Well; can you show us what words gave you  
3 that information?

4 A The fact that the review was conducted to  
5 reconfirm that indications of boron leakage at Davis-  
6 Besse nuclear power station were not similar to those  
7 indications seen at ONS and ANO-1. That's in the  
8 bullet for subsequent review of 1998 and 2000  
9 inspection video tapes.

10 Q Are you saying that that told you that all  
11 of the nozzles had been inspected?

12 A No, what I'm saying is that is what caught  
13 -- you asked the question of where did that bullet  
14 come from, and that's where I got that information for  
15 that bullet.

16 Q Okay.

17 A It probably had been better for me to word  
18 it CRDM penetrations were reconfirmed to be free.  
19 That might have been a better choice of words.

20 Q Let's go back to the Facts slide again.  
21 It says, "All CRDM penetrations were verified." So  
22 doesn't that tell -- aren't you telling the NRC that  
23 you have looked at every single one of those CRDM  
24 penetrations?

25 A That's not what was intended by that.

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1 Q Isn't that what it says?

2 A Yes, that's what it says.

3 Q So when you said that, you didn't mean it?

4 A That's -- I think they have to take the  
5 entire article in context of what we were saying.

6 Q So you're saying you didn't mean that when  
7 you said it.

8 A Correct. I think it's not accurate at  
9 this point. I can't say exactly -- I can't add any  
10 more detail to that. My belief at this time was by  
11 looking at either 11RFO or 12RFO we had verified.

12 Q And what was that -- and that belief was  
13 based on Serial Letter 2371. Is that correct?

14 A That's correct.

15 Q But you can't point us to anything in 2731  
16 that says that, can you?

17 A No, I cannot.

18 Q All right.

19 JUDGE HAWKENS: Excuse me. Mr. Geisen,  
20 can you refresh my memory. I think you were  
21 responsible for changing the word "and" to "or",  
22 because you had a concern that neither of these  
23 articles standing on its own would support that  
24 conclusion. Is that right?

25 THE WITNESS: That's correct, Your Honor.

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1 JUDGE HAWKENS: And what was that based  
2 on, again? Was it based on a conversation with Mr.  
3 Siemaszko or somebody else?

4 THE WITNESS: I believe it was mostly from  
5 the information from 2731, where we talked about two  
6 different inspection results.

7 JUDGE TRIKOUROS: But did you speak to Mr.  
8 Siemaszko? I guess a week earlier you had that  
9 telephone call, the assignment was made for nozzle-by-  
10 nozzle table development. Did you speak to him at all  
11 during the following week that preceded this meeting?

12 THE WITNESS: He was -- I did meet with  
13 him prior to this meeting to verify, excuse me, check  
14 his methodology that he was using for doing that  
15 table-by-table, excuse me, nozzle-by-nozzle  
16 verification table. I cannot say that I specifically  
17 spoke to him about the word-by-word bullet that is in  
18 here, that I got it from him. There may have been  
19 things that he talked about in the process of  
20 describing his technique that I absorbed to create  
21 this bullet. But at the time this was delivered, I  
22 believed that between 1998 or the 2000, we had a good  
23 look at each nozzle. And it wasn't until after I got  
24 the nozzle table back from Mr. Siemaszko shortly after  
25 this presentation, that I realized that we had spoke

1 in error. And that's when I brought it to the  
2 attention of Mr. Moffitt and Mr. Lockwood.

3 JUDGE TRIKOUROS: And you do believe that  
4 it was you who had the impression that the statement  
5 that was made to the technical assistants was that  
6 first bullet, that that was correct. That it was you,  
7 not something that came out of the meeting with -- the  
8 preparation meeting the night before in terms of  
9 consensus or anything. You're the one who -

10 THE WITNESS: How to develop that  
11 statement? I'm not sure. I know, I remember the part  
12 about the discussion about the 10RFO being -- excuse  
13 me, the 11RFO and 12RFO being changed to the "or". I  
14 remember that discussion. As far as "verified" and  
15 the rest of those words in there, I don't have an  
16 independent recollection of how that was generated.  
17 But it's save to say that had I been asked to provide  
18 a bullet, that was my viewpoint at that time. That  
19 was my belief at that time, so I would say it's not  
20 unusual, or not unthinkable for me to have provided  
21 that bullet as part of this group dynamic that we were  
22 in.

23 JUDGE FARRAR: Ms. Clark, your questioning  
24 that you were just doing of Mr. Geisen, you were  
25 questioning him on page -- was that page 3 you asked

1 him about?

2 MS. CLARK: On the Serial Letter?

3 JUDGE FARRAR: Yes. And how he could draw  
4 conclusions from page 3.

5 MS. CLARK: It's page 3 of 19.

6 JUDGE FARRAR: Right. I don't know who's  
7 supposed to ask him about this, but hadn't we  
8 previously talked in the case about the material on  
9 page 2 under "Response"?

10 MS. CLARK: Your Honor, if you're looking  
11 at the 100 percent?

12 JUDGE FARRAR: No, I'm looking at under  
13 "Response", the second Response paragraph on page 2.

14 MS. CLARK: Yes. And the first paragraph?

15 JUDGE FARRAR: First paragraph, second  
16 sentence.

17 MS. CLARK: Yes. That 100 percent refers  
18 to the flanges.

19 JUDGE FARRAR: No, no, no, no, not -- the  
20 third sentence.

21 MS. CLARK: No?

22 JUDGE FARRAR: Right. I see the third  
23 sentence refers to the flanges. But I had been  
24 relying or been paying attention to earlier in the  
25 case the second sentence.

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1 MS. CLARK: The scope?

2 JUDGE FARRAR: Yes. Because I had -

3 MS. CLARK: The scope was to -

4 JUDGE FARRAR: I had trouble with the way  
5 that sentence was phrased in terms of the company  
6 representation, but I thought that's what triggered -  
7 that that company call it misrepresentation is what  
8 triggered everyone later thinking about the 100  
9 percent, or am I -- do you want to ask Mr. Geisen  
10 about it?

11 MS. CLARK: Sure. Are you following, Mr.  
12 Geisen, where we are?

13 THE WITNESS: I've got to be honest, no.

14 JUDGE FARRAR: That's all right. Nobody  
15 pays attention to it.

16 MS. CLARK: Perhaps I can read the  
17 sentence to you. Just one sentence.

18 JUDGE FARRAR: Yes.

19 BY MS. CLARK:

20 Q It says, "The scope of the visual  
21 inspection was to inspect the bare metal RPV head area  
22 that was accessible through the weep holes to identify  
23 any boric acid leaks/deposits."

24 Now, at that time, as you knew, didn't  
25 you, that one could not see the entire head through

1 the weep holes. Is that correct?

2 A Because of the obstructions of the boron.  
3 That's correct.

4 Q And because of the limitations of the  
5 insulation, given the fact that you were using a  
6 camera on a stick. That was also an impediment,  
7 wasn't it?

8 A I don't know that I was that familiar with  
9 the inspection technique to make that ruling.  
10 Obviously, I've come to understand that was a huge  
11 impediment, but I also, like, for instance, in the  
12 2000, I don't know that we even used a stick.

13 Q You don't know that?

14 A I don't know, because it appeared as  
15 though -- what I've looked at since then, it looks as  
16 though like the camera angle was moveable, which would  
17 lead me to believe that perhaps there was boroscope-  
18 type camera used instead.

19 Q And that wouldn't be on a stick?

20 A Well, not per se, in that a boroscope  
21 gives you a little bit more flexibility because you  
22 can - it's steerable.

23 Q Would it be -

24 JUDGE FARRAR: Is that like one of those  
25 spiral metal deals?

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1 THE WITNESS: Yes, Your Honor.

2 JUDGE FARRAR: So it's rigid in one sense,  
3 but flexible.

4 THE WITNESS: It's got like a joystick.

5 JUDGE FARRAR: It's not like a string, you  
6 can push it, but it -

7 THE WITNESS: Yes, Your Honor. It's got  
8 like a -

9 JUDGE FARRAR: It's a snake kind of thing.

10 THE WITNESS: -- joystick ability to move  
11 the head around.

12 BY MS. CLARK:

13 Q But as we discussed, you knew at this time  
14 that there was a modification outstanding to cut  
15 access holes, didn't you?

16 A Correct.

17 Q And the reason for that modification was  
18 because there was limited access through the weep  
19 holes. Wasn't that true?

20 A That's correct.

21 Q So you knew that, and you also knew that  
22 the inspection was limited by the boron deposits, so  
23 when they said the scope of the visual inspection was  
24 to inspect the area that was accessible through the  
25 weep holes, that would necessarily mean it wasn't 100

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1 percent, wouldn't it? Because you know you have two  
2 problems, you've got boron on the head, number one.  
3 And number two, you've got accessibility problems  
4 which required a modification.

5 A I'm going to -

6 Q So didn't that tell you that they couldn't  
7 reach the whole head when they were inspecting?

8 A I think I'm going to have to ask you to  
9 pull that section up again, because I think I read  
10 that differently.

11 Q Okay.

12 A You're talking the second line in there.

13 Q Yes.

14 A Okay. I believe when I read that, I was  
15 taking it from the standpoint that you have this area  
16 that is bounded by the service structure, the head,  
17 and the insulation that is accessible through the weep  
18 holes. In other words, you're defining an area. This  
19 says RPV head area, defined by those boundaries.  
20 Okay?

21 To go and say that what you're reading  
22 into with accessible means that -- in my mind, that  
23 was reading that's our method, or our entry point for  
24 doing the inspection. Another way to put that is if  
25 you were to say that -- if you were to put cut these

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1 inspection holes into the side of the service  
2 structure, has that defined area changed? No, I guess  
3 you could then say it's the RPV area that's accessible  
4 through either the inspection openings, or the mouse  
5 holes. I was not reading it the way -- I guess I  
6 wasn't putting that same inflection on accessible.

7 Q Okay. Well, let's just say that it said  
8 the scope of the inspection was to inspect the bare  
9 metal head area. Let's just stop there, and not even  
10 talk about the accessibility. Isn't that telling you  
11 that that's the scope of the inspection that they were  
12 trying to conduct?

13 A That's correct.

14 Q It doesn't tell you, does it, that they  
15 were able to see every single nozzle penetration, does  
16 it?

17 A No, it doesn't.

18 Q I mean, you could try to do an inspection  
19 and not be able to, couldn't you?

20 A That's correct. That whole paragraph is  
21 talking about the -- identifying the inspections, not  
22 the results of the inspections.

23 Q Thank you.

24 JUDGE TRIKOUROS: Have you ever worked  
25 with this Boric Acid Corrosion Control Program?

1 THE WITNESS: I've been exposed to it  
2 before, yes.

3 JUDGE TRIKOUROS: So you're familiar with  
4 its contents?

5 THE WITNESS: Yes, Your Honor.

6 JUDGE TRIKOUROS: Does that require a bare  
7 metal inspection?

8 THE WITNESS: The requirement is that you  
9 remove the boron at least sufficiently enough to  
10 evaluate the base metal.

11 JUDGE TRIKOUROS: So if I say I looked at  
12 the RPV head using the Boric Acid Corrosion Control  
13 Program, it means that I was able to access bare metal  
14 of the reactor vessel head.

15 THE WITNESS: That's correct. What we  
16 know now, we did not conform to that, quite obviously.

17 JUDGE TRIKOUROS: But, obviously, it does  
18 say that in here.

19 JUDGE FARRAR: Mr. Geisen, Item 1-D, the  
20 Agency is asking for a description of any limitations,  
21 insulation or other impediments to accessibility of  
22 the bare metal of the RPV head for visual  
23 examinations. In the response the company gave, do  
24 they give a fair answer to that question, description  
25 of any limitations to -

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1 THE WITNESS: In hindsight I would say no.  
2 I think at the time, the response was weighing too  
3 much of the fact that there were several utilities out  
4 there that -- specifically, Westinghouse design, where  
5 the insulation was right on the head, and you couldn't  
6 even get an inspection on it. And I think we  
7 erroneously took that as the impediment.

8 JUDGE FARRAR: Careful with the "we".

9 THE WITNESS: Sorry.

10 JUDGE FARRAR: You weren't involved in  
11 this one. Right?

12 THE WITNESS: That's correct. But I think  
13 the station erroneously went on that path.

14 JUDGE FARRAR: And they also didn't say  
15 that our camera isn't long enough to reach, or at  
16 least in '98, our fixed camera on the pole isn't long  
17 enough to see the top or the geometry precludes us  
18 seeing the top. You're pushing the pole in and it  
19 runs against, someone up here used the word or said we  
20 ran to the tangent, and the pole kept going up  
21 pointing to the insulation rather than to the nozzles  
22 at the crown of the head.

23 THE WITNESS: That's correct, but I think

24 -

25 JUDGE FARRAR: But the company never said

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1 that here.

2 THE WITNESS: But I think even if the  
3 company had taken that -- if the company was viewing  
4 that, at least in my perspective, you still would have  
5 said as long as there's a means to get up there and do  
6 that inspection, then it's not an impediment. So I  
7 would have viewed the fact that we've got this crawler  
8 that can get up there as, there is no impediment. In  
9 other words, I don't think that question was answered  
10 by the company, nor would I have anticipated it being  
11 answered from a past versus a going forward, can we do  
12 the inspection? Because my impression was, is they  
13 were looking for what kind of modifications are going  
14 to need to be done to these plants to facilitate these  
15 inspections going forward.

16 JUDGE FARRAR: Okay. But this question  
17 now that I look at it more carefully says, "Tell us  
18 about the past four years."

19 THE WITNESS: I understand that. I  
20 understand what it says, and I'm just saying that, how  
21 I was viewing it when I read the bulletin. Clearly,  
22 it's not. My interpretation is not correct, but that  
23 was the mind set that I would have evaluated this in  
24 back then. I'm trying to put myself back in where I  
25 was in the Fall of 2001 from a frame of reference.

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1 JUDGE FARRAR: What was the date of the  
2 call where the NRC Staff was going to tell you what  
3 their expectations were, mid-September?

4 THE WITNESS: The shutdown call?

5 JUDGE FARRAR: No, the general call in  
6 response to the bulletin where they were going to say  
7 here's what we're expecting in your bulletin response.

8 THE WITNESS: I think that was actually  
9 the meeting that they had on the 15<sup>th</sup> that Mr. Goyal  
10 documented in a -

11 JUDGE FARRAR: Oh, that was August.

12 THE WITNESS: That was August.

13 JUDGE FARRAR: Okay. And do we have any  
14 information on the record that they would have said  
15 here's our expectation when we ask you about  
16 impediments.

17 THE WITNESS: Not that I'm aware of. I  
18 think the gist of that, the majority of that  
19 conversation focused on, if I remember correctly, what  
20 constitutes a qualified visual inspection, and having  
21 a VT-2 procedure.

22 JUDGE TRIKOUROS: Well, I get the distinct  
23 impression that somehow you got the monkey on your  
24 back for dealing -- for interacting with the NRC on  
25 this bulletin, on these issues coming out of the

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1 bulletin. Is it possible, and you made a statement  
2 that is not -- that you don't know where you got the  
3 information from, that was very favorable to Davis-  
4 Besse. And it was identified -- it was made to the  
5 Commissioners, in fact. And it was made --  
6 represented as being fact. And it appears that the  
7 management team that put that presentation together,  
8 of that management team, you were the one who created  
9 that bullet. And you presented that bullet.

10 THE WITNESS: I believe that's the case.

11 JUDGE TRIKOUROS: And the source of that  
12 information is not clear to you at all.

13 THE WITNESS: I believe the majority of  
14 that information came from my understanding of 2731.

15 JUDGE TRIKOUROS: Right. And looking at  
16 2731 on its face, one would have to have some other  
17 thinking in order to extract that information from it.  
18 Is it possible that you were trying to please Mr.  
19 Campbell here? Was Mr. Campbell continuing to be a  
20 force in all of this with respect to positive outcomes  
21 of these meetings?

22 THE WITNESS: Well, Mr. Campbell was  
23 definitely a force to be reckoned with, but I think  
24 most vice presidents are. The real intent of this  
25 meeting was to just try to get some lines of

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1 communication open.

2 JUDGE TRIKOUROS: There was an eagerness  
3 associated with your behavior such that you were  
4 creating information, in essence, or viewing things in  
5 a way that were more favorable than they actually --  
6 the information they actually contained. So all I  
7 can assume is that there was some desire on your part  
8 to have the outcome of this meeting come out  
9 favorable. And there doesn't appear to be any other  
10 source of that information, other than the 2731, and  
11 your eagerness to -- and I understand that. You  
12 wanted the meeting to come out favorable to the  
13 company. That's a normal thing. But you didn't speak  
14 to anyone. You admit that you have not spoken to  
15 anyone. That somehow you extracted that information,  
16 and got it into your head that that was fact.

17 THE WITNESS: Correct.

18 JUDGE TRIKOUROS: So do we understand this  
19 right now? Is there anything more that we need to  
20 understand about this?

21 THE WITNESS: I don't believe so.

22 MR. WISE: Judge, I'd just ask you to hold  
23 that thought until the end of redirect, because I  
24 think there is, but it's not appropriate for me to  
25 bring it out now.

1 JUDGE FARRAR: Ms. Clark, I don't know  
2 which of the judges started that digression, but we're  
3 taking it out of your time.

4 MS. CLARK: Just one moment, please.

5 BY MS. CLARK:

6 Q Okay. I think we can talk a little bit  
7 about what happened after the TA briefing. I know you  
8 discussed it a little bit. You said that when you saw  
9 that nozzle table that you got from Andrew Siemaszko,  
10 you knew that it could not be reconciled with what you  
11 had told the technical assistants. Is that correct?

12 A That's correct.

13 Q Let's look at that table. It is Staff  
14 Exhibit 11, Attachment 2, page 1 of 2. Is this the  
15 way it looked when you got it from Andrew Siemaszko,  
16 except for the note at the bottom?

17 A Not initially. There was only two  
18 columns, or two inspection columns.

19 Q So he didn't give you any nozzle  
20 information for 1996. Is that correct?

21 A That's correct.

22 Q Now, I presume you first looked then at  
23 the '98 and 2000 inspection results, and you realized  
24 that it did not support your statement that you made  
25 to the technical assistants. Correct?

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1 A That's correct.

2 Q And you've testified that you took that to  
3 - remind me again who you took that to?

4 A Steve Moffitt and Dave Lockwood.

5 Q Okay. Now, at this point in time, you  
6 realized that you had given the NRC inaccurate  
7 information. Correct?

8 A Correct.

9 Q And you knew that under NRC regulations,  
10 you are prohibited from doing that. Correct?

11 A Correct.

12 Q Did you believe you had any personal  
13 responsibility to correct that information?

14 A Yes.

15 Q And how did you go about doing that?

16 A I went to my boss, and I went to the Reg  
17 Affairs Manager.

18 Q Did that correct the information that  
19 you'd given to the NRC?

20 A I believe that by having it resubmitted  
21 under 2735, yes.

22 Q But not by going to your managers. That  
23 didn't correct it, did it?

24 A Yes, well, it started it.

25 Q You knew that these technical assistants

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1 had these slides, didn't you?

2 A Correct.

3 Q Did you think it was important for them to  
4 know the slides they had in their possession were not  
5 correct?

6 A Yes.

7 Q But you never did anything to tell those  
8 technical assistants that those slides were not  
9 correct?

10 A I notified my boss, and the Reg Affairs  
11 Manager, who's responsible for communicating that back  
12 to the NRC.

13 Q Did they do that? Did anybody go to those  
14 technical assistants and tell them that those slides  
15 were not correct?

16 A I don't know that.

17 Q But you felt that this was your  
18 responsibility, didn't you?

19 A Correct.

20 Q But you didn't feel that you needed to do  
21 any more than tell your manager?

22 A No, I felt I did the right thing telling  
23 my manager, and the Reg Affairs Manager.

24 Q So if you tell your manager that you lied  
25 to the NRC, that's -

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1 MR. WISE: Objection.

2 MS. CLARK: -- the end of your  
3 responsibility?

4 MR. WISE: Objection.

5 BY MS. CLARK:

6 Q So if you tell the NRC inaccurate  
7 information, is that the end of your responsibility?

8 A I don't think that -- I thought I was  
9 doing what I was supposed to do, so I thought it was.

10 Q So even if your manager doesn't do  
11 anything, that's okay?

12 MR. WISE: Objection.

13 JUDGE FARRAR: That's a hypothetical that  
14 we don't need, I don't think is appropriate, because  
15 I thought he said it started the process, and his  
16 manager did do something.

17 MS. CLARK: But his manager never went to  
18 the technical assistants. Nobody ever told the  
19 technical assistants that those slides were not  
20 correct.

21 MR. WISE: That's legally irrelevant.

22 MS. CLARK: But I'm asking him if he had -

23

24 JUDGE FARRAR: I understand where you're  
25 going, but there is evidence on the record that Reg

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1 Affairs deals with the Agency. Nobody else gets to  
2 talk to -- gets to fly in and talk to the Agency.

3 MS. CLARK: Well, I guess that gets to my  
4 question then. If you have a company policy that you  
5 go to Reg Affairs, does that absolve you of any other  
6 duties with regard to correcting information to the  
7 NRC?

8 MR. WISE: Objection, Your Honor. This  
9 entire line of questioning is based on an ignorance of  
10 what happened. To say that he's absolved and did  
11 nothing ignores the fact that he went and another  
12 submission was filed.

13 MS. CLARK: I submit that this was -- this  
14 information was not corrected. These technical  
15 assistants -

16 JUDGE FARRAR: Wait. Whether it's  
17 corrected is a different matter, and we'll get to  
18 that. That's the substance. But are we ask -- if  
19 he's in a company and he says hey, we made -- I'm on  
20 the line here. I made a bad statement. Let's get  
21 this fixed. And he goes to the people in the company  
22 who he's supposed to, I think he used the word he  
23 started the process, and then they send a letter to  
24 the NRC. You're asking him if he should have made  
25 sure that everybody in the NRC who had the slides got

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1 the letter, as opposed -

2 MS. CLARK: I'm saying that he stood  
3 before the technical assistants and personally told  
4 them something that he knew was not correct.

5 JUDGE FARRAR: Right. And so the company  
6 -

7 MS. CLARK: And is that sufficient for him  
8 to -- and he can say yes, is that sufficient for him  
9 to go to his manager and say that.

10 JUDGE FARRAR: He doesn't get to say  
11 what's sufficient. He can tell us what he -

12 MS. CLARK: In his opinion, does that  
13 satisfy the -

14 JUDGE FARRAR: He can say what he did, and  
15 the company did.

16 MS. CLARK: Well, he knows he has  
17 obligations under 50.9. And I want to understand what  
18 he thinks his obligations are.

19 MR. WISE: He's got no obligation to call  
20 the tech assistants. There's nothing in the regs that  
21 say that. It's an absurd proposition.

22 MS. CLARK: I want to know -

23 JUDGE FARRAR: I'll let you ask the  
24 question, but you'll never win the case on that  
25 theory. You may win it on other theories, but I can't

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1        imagine that if I go back to my company and say we  
2        have to file this, and I find out that they filed it,  
3        and sent it in to the right people in the NRC, whoever  
4        got -- whoever you filed 2735 with, it's their job to  
5        make -- like who's the fellow here, Dr. Hiser, said he  
6        got invited -- all of a sudden the technical  
7        assistants are meeting, and on five minutes notice he  
8        gets called up there, and he's there. He's wondering  
9        why we're having this meeting. When he later gets the  
10       response, I assume he then might want to send it to  
11       the technical assistants if they're still interested  
12       in this.

13                    MS. CLARK: Well, I will move on.

14                    JUDGE FARRAR: I mean, I don't -

15                    JUDGE TRIKOUROS: Let me interject here  
16       for a second.

17                    THE WITNESS: May I go on record as saying  
18       that I thought I satisfied my requirements of  
19       notification when I went to my boss and the Reg  
20       Affairs Manager to remedy the situation. That was my  
21       impression, that I had satisfied that requirement.

22                    JUDGE FARRAR: And what did that yield?

23                    THE WITNESS: That yielded 2735, a  
24       docketed submission to the NRC.

25                    JUDGE FARRAR: And then the answer to Ms.

1 Clark's question is in your mind, that was the end of  
2 your obligation.

3 THE WITNESS: That closed the loop of my  
4 obligation.

5 JUDGE FARRAR: You're free to argue, Ms.  
6 Clark, but not with the witness, that that's not what  
7 the reg means, and that he should have done more, but  
8 we're not going to get any more out of his mouth.

9 MS. CLARK: All right.

10 BY MS. CLARK:

11 Q Let's talk about the table. I'll direct  
12 your attention to the note at the bottom which says,  
13 "In 1996 during 10RFO, the entire RPV head was  
14 inspected. Since the video was void of head  
15 orientation narration, each specific nozzle view could  
16 not be correlated." Did you write that note?

17 A Yes, I did.

18 Q Now, Mr. Siemaszko told you -- did Mr.  
19 Siemaszko tell you that there was no head orientation  
20 on the '96 inspection tape?

21 A That's correct.

22 Q And, as a consequence, he could not  
23 identify which nozzles he was looking at?

24 A That's correct.

25 Q Did you base your statement there that 100

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1 percent of the nozzles could be inspected -- what did  
2 you base that on, or the entire RPV head was  
3 inspected?

4 A That we did not deliberately exclude a  
5 section.

6 Q So are you saying this again is -- that  
7 you were saying this wasn't a sample inspection?

8 A That's correct.

9 Q So are you saying that you were not  
10 representing that you saw the whole head when you said  
11 that?

12 A I think that's represented by the  
13 statement that there was no leakage identified from  
14 each specific nozzle.

15 Q Okay. Let's go back. Can you tell me  
16 again what you meant when you said the entire RPV head  
17 was inspected?

18 A That the entire RPV head had been  
19 inspected in 1996.

20 Q Do you mean every -- that every nozzle was  
21 visualized?

22 A That was my understanding. Correct.

23 Q And what was your basis for that  
24 statement?

25 A Based upon a conversation I had with

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1 Andrew Siemaszko, when he reported it to me.

2 Q So he told you that he could not identify  
3 the nozzles, but he also told you that he saw all of  
4 them. Is that correct?

5 A That's correct, that he had gone into the  
6 -- he could see the nozzles, but because of no sound,  
7 devoid of what he called head orientation narration,  
8 because there was no sound, he could not tell which  
9 mouse hole he was in, so he couldn't go nozzle-by-  
10 nozzle, but said that he had gone through the whole  
11 tape, and the whole head had been covered.

12 Q Did this raise any questions in your mind  
13 about how he could know that if there was no  
14 orientation?

15 A No, it didn't.

16 Q So you didn't ask him any questions about  
17 that?

18 A No, I did not.

19 Q Do you know how long he took doing his  
20 review of the '96 inspection tape?

21 A No, I do not.

22 Q Now, when this Serial Letter was being  
23 submitted, had you done the Gap analysis?

24 A I personally didn't do the Gap analysis.

25 Q Were you -- who did this Gap analysis?

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1           A     There were two of them done, one by  
2     Framatome, and one by Structural Integrity Associates.  
3     And the contracts for getting those done was overseen  
4     by Mr. Mark McLaughlin.

5           Q     And weren't you involved with the Gap  
6     analysis?

7           A     No, I was not.

8           Q     Were you familiar with it?

9           A     Yes, I was.

10          Q     And did you know what it showed?

11          A     I think the final version, because it did  
12     go through several versions, I think the final version  
13     showed four of the 69 nozzles would not leak.

14          Q     And you also knew the results of the crack  
15     growth analysis by this time?

16          A     I'm sorry. Which time in history are we  
17     now talking about?

18          Q     At Serial Letter 2735. At that point in  
19     time, did you know the outcome of the crack growth  
20     analysis?

21          A     I don't think we had a complete outcome of  
22     the crack growth rate analysis until much later in  
23     November. We had our version, but at that time frame,  
24     there was still a lot of discussion going on as to  
25     what the variables should be used for modeling the

1 crack growth rate and the stress intensity factors.

2 Q Now, at this point in time, you knew that  
3 was underway, and you knew that you didn't have a  
4 baseline from the '98 and 2000 inspections for each  
5 nozzle. Isn't that correct?

6 A That's correct. We had to go back to  
7 1999, excuse me, '96.

8 Q So you knew that the only way you would be  
9 able to support a crack growth analysis is if you  
10 could use '96. Is that correct?

11 A I believe that's correct.

12 Q Now, at this point in time, you knew that  
13 there was a modification request out to cut access  
14 holes in the reactor head. Correct?

15 A Correct, but at that point in time, I  
16 don't know if it was for 13RFO, it might have been for  
17 14RFO. Like I said earlier, I believe it got moved  
18 from 13R to 14R, and then back to 13R. And exactly  
19 when those transfers occurred, I can't necessarily  
20 correlate them to the date of this letter.

21 Q And the purpose of that modification was  
22 to get better access to the head because you couldn't  
23 inspect the entire head through the weep holes. Isn't  
24 that correct?

25 A I did not believe that at that time. We

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1 believed we could inspect the head using -- going  
2 forward using the rover or the crawler.

3 Q Okay. You knew there was a modification  
4 out to cut larger access holes. Correct?

5 A That's correct.

6 Q And I think you said that had been  
7 outstanding since 1994.

8 A That's correct.

9 MR. WISE: I object. I think we've been  
10 over this three or four times.

11 BY MS. CLARK:

12 Q So you knew that the reason for the  
13 modification request was because they couldn't inspect  
14 the entire head. Correct?

15 MR. WISE: Objection; asked and answered.

16 JUDGE FARRAR: Ms. Clark, I promised you  
17 some leeway here, but in view of the hour, is this  
18 something new?

19 MS. CLARK: Well, it's actually just a  
20 couple of questions. And if Mr. Geisen would answer  
21 my question, then it would be very -- go much more  
22 quicker.

23 MR. WISE: He's answered this question.

24 MS. CLARK: He has not answered my  
25 question. He has answered my question by talking

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1 about 13RFO, and I'm talking about a modification  
2 that's been in place since 1994. And I'm asking  
3 whether that modification, which has been in place  
4 since 1994, was there because you couldn't access the  
5 entire head through the weep holes.

6 BY MS. CLARK:

7 Q And you knew that, didn't you?

8 JUDGE FARRAR: I thought he answered -

9 THE WITNESS: No.

10 JUDGE FARRAR: Wait. Your lawyer has an  
11 objection. I thought he answered that at the time  
12 you're talking about, he had the rover in mind.

13 MS. CLARK: I'm talking about what he knew  
14 about the past inspections, and accessibility of the  
15 head.

16 JUDGE FARRAR: We'll give you a little  
17 more. Go ahead. Re-ask the question. And, Mr. Wise,  
18 your objection is noted, but we're going to give a  
19 little leeway here.

20 BY MS. CLARK:

21 Q So going back again, the modification --  
22 you knew the modification had been in place since  
23 1994. Correct?

24 A Correct.

25 Q To cut the access holes. And you knew the

1 access holes were being requested in that modification  
2 because they couldn't get to the entire head using a  
3 camera on a stick through a weep hole. Isn't that  
4 correct?

5 A Correct.

6 Q So you knew that it was not possible to  
7 see 100 percent of the head in 1996. Isn't that  
8 correct?

9 A I would say that's correct the way that's  
10 worded.

11 Q Thank you.

12 JUDGE FARRAR: Ms. Clark, if you're  
13 shifting to a new subject, Mr. Geisen, was the  
14 Regulatory Affairs person at the technical assistants  
15 meeting?

16 THE WITNESS: Yes, Your Honor.

17 JUDGE FARRAR: What was the Regulatory  
18 Affairs person's name?

19 THE WITNESS: Dave Lockwood.

20 JUDGE FARRAR: Ms. Clark, was he charged  
21 by the Staff?

22 MS. CLARK: He was not.

23 JUDGE FARRAR: Okay.

24 JUDGE TRIKOUROS: He works for Worley?

25 THE WITNESS: That's correct, Your Honor.

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1 MS. CLARK: Now we're on 2744. And that  
2 is Staff Exhibit 13.

3 JUDGE FARRAR: Let me interrupt you for a  
4 minute. Mr. Geisen, it's getting late in the day, and  
5 while -- and this is not an easy ordeal, so from now  
6 on if at any point you want to take a little break and  
7 stretch or whatever, let us know.

8 THE WITNESS: I'm fine, Your Honor. Thank  
9 you.

10 JUDGE FARRAR: The rest of us are  
11 accustomed to this.

12 MS. CLARK: And you'll be happy to hear  
13 I'm nearing the end.

14 JUDGE FARRAR: Oh, good. But at this time  
15 of day, witnesses - well, particularly if you've been  
16 there all day, tend to get tired, so put up your hand.  
17 We'll take a little stretch in place and come back.  
18 Go ahead, Ms. Clark.

19 MS. CLARK: 2744, that's Exhibit 13. And,  
20 again, there is a nozzle table. And I will try to  
21 make this brief.

22 BY MS. CLARK:

23 Q Going down to the note at the end, Mr.  
24 Geisen, did you write that note?

25 A Correct. It was actually the same note as

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1 before, just modified.

2 Q And this time you said, "100 percent of  
3 the nozzles were inspected by visual examination."  
4 Now, that's an even stronger statement than saying the  
5 whole head was inspected. Wouldn't you agree?

6 A Correct.

7 Q You also stated that nozzles 1, 2, 3, and  
8 4 were excluded. What did that mean?

9 A Say that nozzles 1, 2, 3, and 4 do not  
10 have sufficient inference gap.

11 Q But when you say they were excluded, I  
12 didn't understand if you meant they were excluded from  
13 what?

14 A Well, going forward from that point, if  
15 you go back to the actual writing in this submittal,  
16 we talk about not crediting those because they did not  
17 have a interference fit that would open up. So only  
18 crediting 64, or the remaining 65 out of the 69  
19 nozzles.

20 Q Now, we talked about not crediting --  
21 those are nozzles that your calculation showed didn't  
22 have sufficient interference gap to show nozzle  
23 leakage?

24 A That's correct.

25 Q Now, that analysis that's done to

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1 determine whether there's an interference gap, is that  
2 a mathematical model that you run?

3 A That was the analysis that was done first  
4 by Framatome, and then by Structural Integrity  
5 Associates. It's a finite element analysis.

6 Q And it was -- I think you said it was run  
7 several times. Is that correct?

8 A That's correct.

9 Q And did you get different results when you  
10 ran it different times?

11 A That's correct.

12 Q And is that because you changed the  
13 assumptions?

14 A There were various reasons why that was.  
15 For instance, the Framatome model initially used  
16 manufacturing tolerances versus actual tolerances. In  
17 other words, they used the manufacturing spec  
18 tolerances versus the actual tolerances. That's just  
19 one example of the things that changed. I was not in  
20 charge of that analysis, so I'd have to defer to Mark  
21 McLaughlin for the other things that went into the  
22 changes.

23 Q But does the fact that the analysis can  
24 change according to how you run it indicate that you  
25 don't have an absolute answer on this nozzle gap

1 issue?

2 A I think that's inherent with any  
3 mathematical model, yes.

4 Q Thank you. All right. Let's talk about  
5 the photographs. Did you write the captions on these  
6 photographs?

7 A Yes, I did.

8 Q Now, I think you testified that you had  
9 now at this point in time watched videos with Mr.  
10 Siemaszko. Is that correct?

11 A I had reviewed some still photographs, or  
12 not photographs but freeze frames with Mr. Siemaszko  
13 for approximately an hour verifying his methodology  
14 for doing the work.

15 Q And you testified that this was the first  
16 tie you saw any images from the 2000 video tapes?

17 A I believe that's correct.

18 Q Mr. Geisen, do you remember when -- do you  
19 recall being deposed by me in this last month?

20 A Yes.

21 Q Do you recall telling me during that  
22 deposition that you thought that maybe you had seen  
23 the 2000 video tapes when you reviewed them with Mr.  
24 Siemaszko?

25 A May have.

1 MR. WISE: Can I have the page number?

2 MS. CLARK: Let's see, 94.

3 MR. WISE: Thanks. Are we going to have  
4 the whole answer?

5 MS. CLARK: Well, I don't have it in the  
6 record. He's answered that he thought he might have  
7 said it. Do you think -

8 MR. WISE: Can I read the whole answer?

9 JUDGE FARRAR: Yes, but we need -

10 MS. CLARK: I need to put it in the  
11 record, I guess.

12 JUDGE FARRAR: Yes, just read it in.

13 MS. CLARK: Okay.

14 MR. WISE: The question was, "So do you  
15 know what tapes he was showing you? Answer: I don't  
16 know. I've been asked that in the past. I don't  
17 recall exactly which ones. I thought they were -- had  
18 a lot more color to them, which led me to believe that  
19 maybe they were 2000, but I can't say for sure."

20 JUDGE FARRAR: And what was the context --  
21 the question was what?

22 MR. WISE: What tapes Mr. Siemaszko was  
23 showing Mr. Geisen during the meeting at Mr.  
24 Siemaszko's cubicle.

25 BY MS. CLARK:

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1 Q All right. Do you recall being questioned  
2 by our Office of Investigations about which video  
3 tapes you reviewed? This was in October of 2002.

4 A I recall being questioned. I don't recall  
5 any details. I'll have to defer to the transcript.

6 Q Okay. That would be Exhibit 79, and page  
7 145, line 2. And, actually, I think it should  
8 probably start on 144 at line 20. And it says -- the  
9 question is, "All right. Do you recall which outages  
10 and which inspections, whether they were a head or  
11 flange?" Answer is, "I don't view any of the flange  
12 inspections. My reviews were directly of the head  
13 under the insulation." And then you go on to say, "I  
14 had viewed portions of '96, '98, and 2000 when I was  
15 reviewing it with Andrew to see how he looked at each  
16 one." Do you recall that?

17 A No, but if the transcript says that, I'm  
18 sure that's what I said.

19 Q So would it be fair to say that you've had  
20 varying recollections about what tapes you saw?

21 A That's correct.

22 Q During this time frame, I believe Mr. Wise  
23 asked you some questions about the state of your  
24 knowledge. And I believe you said, when he asked you  
25 why is it that you made these statements in light of

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1 all this information you received in emails and trip  
2 reports, you said you were focusing on crack growth  
3 instead of inspections. Do you recall that?

4 MR. WISE: I'm sorry, Your Honor. I just  
5 didn't -

6 JUDGE FARRAR: Do you mean during this  
7 earlier today, or at some other time?

8 MS. CLARK: You know what, I will withdraw  
9 that question.

10 MR. WISE: I apologize for the  
11 interruption.

12 MS. CLARK: No problem.

13 BY MS. CLARK:

14 Q Let's move on to the ACRS meeting. And  
15 the transcript is Exhibit 59.

16 JUDGE TRIKOUROS: While you're looking for  
17 that information, can I ask you why you did put the  
18 100 percent statement down in 2744 in that note? Is  
19 there a -

20 THE WITNESS: Why it was changed from  
21 whole head to 100 percent?

22 JUDGE TRIKOUROS: Yes.

23 THE WITNESS: I have no idea, Your Honor.  
24 I mean, to me, they meant the same thing.

25 JUDGE TRIKOUROS: But you -- whether it

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1 says whole head or 100 percent, was that your thought,  
2 that that was correct? You had just testified a few  
3 minutes ago that you were aware that that wasn't  
4 correct.

5 THE WITNESS: No, at the time that's what  
6 I believed to be correct for 1996.

7 JUDGE TRIKOUROS: Okay.

8 BY MS. CLARK:

9 Q Okay. Do you have the ACRS? Okay, we're  
10 there. Let's see. And your statement begins at the  
11 bottom of 397. And I know you talked about this  
12 before. The question was a question on the 1998 and  
13 the 2000 inspections, you said they were limited. And  
14 you said, "Yes, sir." And they said, "What was the  
15 extent"? And in your response, you said that "they  
16 were looking for other things. The two inspections in  
17 1998 and 2000 were really looking for the impact of  
18 boric acid leakage from leaky flanges." Then you went  
19 on to say that, "when you look at the '96 data, you  
20 get more of a downward look of the nozzles because you  
21 were specifically following around the vacuum probe,  
22 so what really comes down to it is the best video we  
23 have on this goes all the way back to '96." So is it  
24 fair to say that you were telling them that the best  
25 video evidence you've got is from '96?

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1 A Yes.

2 Q And you were saying the reason for that  
3 was because the '98 and 2000 inspections were looking  
4 for different things than the '96 inspection was. Is  
5 that fair?

6 A Yes. The '96 data had clear pictures of  
7 the nozzle to head interface.

8 Q And you were telling the ACRS the reason  
9 for the difference, and why '96 was better, is because  
10 they were looking for different things in '96 than  
11 they were in '98 and 2000. Is that correct?

12 A No, that's not correct.

13 Q Then you were saying that all three were  
14 looking for different things?

15 A That's correct. The line of questioning  
16 started from a statement that I'm assuming was made  
17 based upon - I've only got a small section of what  
18 you've got here of the total ACRS meeting - but from  
19 what I gleaned from that is, a comment must have been  
20 made earlier, I assume by Mr. Moffitt since the  
21 question was directed back to Mr. Moffitt, as saying  
22 that you said that the inspections were limited. Mr.  
23 Moffitt replied, "Yes, sir." And they asked, "How  
24 so?" And I tried to explain that these inspections  
25 were looking for a different phenomenon; that when we

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1 did these inspections, we were not specifically  
2 looking for what we know knew was the type of deposit,  
3 the popcorn deposit you would see from a  
4 circumferential crack.

5 Q So you were lumping all of them together.  
6 They were all looking for different things?

7 A Yes.

8 Q I'm trying to get the context. You were  
9 saying '96, '98, and 2000 were all looking for  
10 different things, and that's why the inspections were  
11 limited. Is that what you were saying?

12 A Correct.

13 Q So it was your statement to them when they  
14 asked you about limitations, that the limitation of  
15 the inspection was because they were looking for other  
16 things. Now, when you've got a camera on a stick in  
17 a weep hole, what else would you be looking for  
18 besides the condition of the head?

19 A You are still looking for the condition of  
20 the head. However, when you go and say that this  
21 inspection is limited relative to the inspection you  
22 would do for circumferential cracking, you can't go  
23 and say that these video tapes from our previous  
24 inspection would even come close to satisfying the  
25 intent of what you would have for a qualified visual

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1 inspection going forward. So you can't compare them  
2 and say they're the same. That's why they're limited.  
3 It's not to say that -- when I say we're looking for  
4 different things, it's not to say that we were not  
5 looking at the head.

6 Q So the limitation wasn't because they  
7 weren't looking at the head. The limitation was  
8 because of the inspection technique, wasn't it?

9 A I think they were -- that's reading more  
10 into what my answer was intended to be. My answer is  
11 intended to say that those previous inspections do not  
12 compare to what you would do for a qualified  
13 inspection. You don't have the same 360 look around  
14 a nozzle. You don't have the same record keeping of  
15 maintaining a document of the nozzle, so they're  
16 limited. I don't know how else to say that.

17 Q All right. Well, let's move on. At this  
18 point in time, you knew that inspections were limited  
19 because of the geometry of the head, and the access of  
20 mouse holes. Isn't that correct?

21 A Yes, it was difficult to do the  
22 inspections.

23 Q And you also knew it was limited because  
24 of the boron on the head. Correct?

25 A For certain areas of the head, that's

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1 correct.

2 Q So when he asked you about what was the  
3 extent of the inspection, and your responded by saying  
4 why they were limited, wouldn't those have been  
5 relevant factors?

6 A They would if -- obviously, the question  
7 of why they were limited was from a previous statement  
8 we had made, that they were limited. And I was trying  
9 to answer why we had said they were limited.

10 Q So, in other words, you were answering to  
11 say why they were limited. Is that fair?

12 A I was answering why we had used the phrase  
13 "they are limited".

14 Q Right. And so, you were trying to explain  
15 to them the reason the inspections were limited. And  
16 you said it was because of the purpose, I guess. But  
17 isn't it true that the reasons they were limited,  
18 that's not the only reason. They were also limited  
19 because of accessibility, and also because of the  
20 boron.

21 A That was not the question I was answering.

22 Q But that was -- you just said that what  
23 you were saying in your answer, you were explaining  
24 what the limitations were. Now, did I get that wrong?

25 A Yes, you did.

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1 Q What were you trying to say in your  
2 answer?

3 A I was trying to explain why we had said  
4 that the inspections were limited.

5 Q And the only reason you said that was  
6 because they were looking for other things?

7 A Without having the full context of what  
8 was said at the ACRS, which I don't have in front of  
9 me, and this was from over seven years ago; so, no, I  
10 don't remember the full context of everything that was  
11 said. I'm going off of what was captured in this  
12 exhibit, and it says in this exhibit is - I'll read it  
13 word-for-word. "A question on the 1998 and 2000  
14 inspections, you said they were limited. Mr. Moffitt  
15 said, "Yes, sir. What was the extent of the  
16 inspection?" So I answered to that.

17 Q Okay.

18 A I was trying to address from what extent  
19 they were limited. Now, I don't have in front of me  
20 all the other details of what led up to the part that  
21 caused -- where it says, "You said they were limited."

22 Q Well, let's just focus on that question.  
23 If I ask you today what were the limitations of those  
24 inspections, and you told me that the limitation was  
25 we weren't looking for boron at the nozzles, and you

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1 didn't mention the fact that there was boron on the  
2 head, or the fact that there was limited  
3 accessibility, would that be a complete answer?

4 A If you were to ask me today what the  
5 limitations were of the inspection, I would have to  
6 tell you that they were extremely limited, because we  
7 had boric acid deposits on the head.

8 Q And also because of the limitation on  
9 accessibility. Correct?

10 A That is correct.

11 Q And without those statements, that would  
12 not be a complete answer, would it?

13 A That is correct. But you just -

14 JUDGE FARRAR: Your question is today.

15 MS. CLARK: My question -

16 THE WITNESS: You just asked me -

17 JUDGE FARRAR: Your question is today.

18 MS. CLARK: My question is today.

19 JUDGE FARRAR: Okay.

20 BY MS. CLARK:

21 Q Okay.

22 A Based on what I know today, that is  
23 correct.

24 MS. CLARK: Just a minute.

25 JUDGE FARRAR: Ms. Clark, I think, Judge

1       Hawkins reminds me we had asked at some point for the  
2       ACRS agenda.

3               MS. CLARK: Yes. On that, I have tried to  
4       find one, and did somebody know that there was an  
5       agenda? I have not been able to find an agenda.

6               JUDGE FARRAR: I assume the -- I've seen  
7       agendas. I don't know if there was one -

8               MS. CLARK: Exactly, but we have been  
9       looking, and we have not found one.

10              JUDGE FARRAR: Well, keep looking.

11              MS. CLARK: Okay.

12              JUDGE FARRAR: Not right now.

13              MS. CLARK: Yes, one moment. We have one  
14       exhibit we may want to enter, but I'm almost done.  
15       But if you'd give us a few minutes, we'll see if we  
16       can locate it.

17              JUDGE FARRAR: What, the exhibit?

18              MS. CLARK: The exhibit.

19              JUDGE FARRAR: Okay.

20              JUDGE TRIKOUROS: Mr. Geisen, are you  
21       okay? Do you want to take a break?

22              THE WITNESS: I'm hanging in there, Your  
23       Honor. Thank you for your concern.

24              JUDGE TRIKOUROS: Let us know, please.

25              THE WITNESS: I'm receiving direction.

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1 JUDGE FARRAR: No, take a -- we're off the  
2 record.

3 (Whereupon, the proceedings went off the  
4 record at 6:00:59 p.m., and went back on the record at  
5 6:05:38 p.m.)

6 JUDGE FARRAR: Back on the record. We've  
7 taken a slight break in place. Go ahead, Ms. Clark.

8 MS. CLARK: Your Honors, my plan was to  
9 discuss one exhibit. I think we only have a few  
10 questions on it, and we, for some reason, have  
11 misplaced it, and it can't be found.

12 JUDGE FARRAR: Is it a new exhibit?

13 MS. CLARK: It's a new exhibit. And I was  
14 wondering if perhaps we could have leave to address it  
15 first thing tomorrow morning?

16 JUDGE FARRAR: No, I don't want to do  
17 that.

18 MS. CLARK: No?

19 JUDGE FARRAR: Can you -- do you need the  
20 exhibit to ask the questions?

21 MS. CLARK: Yes. Okay. Could -- I don't  
22 know how -

23 JUDGE FARRAR: That would be the end of  
24 your examination?

25 MS. CLARK: Yes.

1 JUDGE FARRAR: Mr. Wise, at this point,  
2 how long do you think your examination would be?

3 MR. WISE: Ten minutes, maybe 15.

4 JUDGE FARRAR: Well, here's what we could  
5 do, if you have it back in the other building, someone  
6 can go get it. We'll do Mr. Wise's redirect, and then  
7 reopen the case for just the new exhibit, and he can  
8 redirect again. So if you all want to go get it,  
9 that's fine. And if you're not -- if Mr. Ghasemian  
10 isn't back by then, we have some other business we can  
11 do to prepare for tomorrow.

12 As I used to say to my kids, Mr.  
13 Ghasemian, you run, I'll count.

14 (Laughter.)

15 JUDGE FARRAR: Okay. So, Ms. Clark,  
16 you're finished for now?

17 MS. CLARK: Yes, I am. Thank you.

18 JUDGE FARRAR: Okay. Mr. Wise.

19 (Off the record comments.)

20 REDIRECT EXAMINATION

21 BY MR. WISE:

22 Q Let's talk about the ACRS. The point  
23 where you're saying that your inspections were looking  
24 for other things, the inspections that would be  
25 conducted looking for circumferential cracking, what

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1 would they be looking for?

2 A They'd be focusing in very closely on that  
3 seam between the nozzle and the head, looking for  
4 popcorn-type boron deposits on the downhill.  
5 Actually, if you had the ability, you'd do it all, you  
6 had your choice, ideally you'd do all 360 around, and  
7 it would be performed by a quality - well, a VT-2  
8 qualified inspector.

9 Q What was your understanding of the reason  
10 that the video tapes were made in '96, '98, and 2000?

11 A My primary understanding was they were to  
12 look for gross degradation of the head.

13 Q Were they also focused on evidence of  
14 flange leakage?

15 A That's part of it.

16 Q Let me ask you, I want to turn your  
17 attention back to what Judge Trikouros was talking to  
18 you about, about the slides in the technical  
19 assistants meeting on October 11<sup>th</sup>. And, Andy, if you  
20 can pull up for me -- I'm sorry. I thought I had the  
21 number. I apologize. If you can pull up for me 55.  
22 Thanks.

23 We were talking mostly about the first  
24 flag that says, "All CRDM penetrations were verified  
25 to be free from popcorn-type boron deposits using

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1 video recordings from 11RFO or 12RFO." Your  
2 understanding was that using either the 2000  
3 inspection or the '98 inspection, all the nozzles  
4 could be seen?

5 A That's correct.

6 Q I take it that part of that assumption was  
7 that the '98 inspection had been a good inspection?

8 A That's correct.

9 MR. WISE: Andy, will you pull for me  
10 Staff 39?

11 BY MR. WISE:

12 Q This is an email from Prason Goyal to Mr.  
13 Fyfitch that you were CC'd on?

14 A Correct.

15 Q Dated August 17<sup>th</sup>, 2001?

16 A Correct.

17 Q Look at Mr. Goyal's language at the second  
18 to last line of the first paragraph and read it.

19 A "Is it possible to go back to 1998? That  
20 is when a good head exam was done with no nozzle  
21 leakage."

22 Q Now, you testified, I believe, on your  
23 initial direct that this was an email that you had no  
24 present recollection, as you sit here today, of  
25 receiving. Correct?

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1 A Correct.

2 Q I take it you believe you read it when you  
3 got it?

4 A Correct.

5 Q And that was in August of 2001. Correct?

6 A That's correct.

7 MR. WISE: Andy, will you pull up Staff 9  
8 for me?

9 JUDGE FARRAR: What date in August was  
10 that one that was just -

11 MR. WISE: August 17<sup>th</sup>.

12 BY MR. WISE:

13 Q This is 2731. Correct?

14 A Correct.

15 Q Will you look at the bullet point in the  
16 underlined April 1998 inspection results, 11RFO.

17 A Okay.

18 Q The first sentence, "This visual  
19 examination showed an uneven layer of boric acid  
20 deposits scattered over the head."

21 A Correct.

22 Q Is there anything in that sentence that  
23 says that there were nozzles precluded?

24 A No.

25 Q I take it you would agree with me that

1 there's a lot of language in 2731 that is vague, at  
2 best?

3 A I would definitely agree with that.

4 Q Is that the portion of 2731 that suggested  
5 to you that the 1998 inspection had not revealed any  
6 precluded nozzles?

7 A That's correct.

8 MR. WISE: Andy, will you pull up Staff 48  
9 for me? I'm sorry, 47. Thank you. And can you roll  
10 down one so we have the page that doesn't have the  
11 sticker on it? Great..

12 BY MR. WISE:

13 Q Now, I'm going to ask you to take a look  
14 at this document. Do you recognize what this is?

15 A This was the discussion agenda for the  
16 2003 - I'm sorry - the October 3<sup>rd</sup> teleconference with  
17 the NRC.

18 Q Now, you said there were meetings on  
19 October 2<sup>nd</sup> and October 3<sup>rd</sup>. Correct?

20 A That's correct.

21 Q October 2<sup>nd</sup> was In-House only, was FENOC  
22 only?

23 A No. Framatome, I think was involved, as  
24 well.

25 Q But didn't include the NRC.

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1 A That's correct.

2 Q And October 3<sup>rd</sup> was the call that included  
3 the NRC.

4 A That's correct.

5 Q Looking at this document, can you tell  
6 whether this agenda was from a meeting that was with  
7 the NRC, or without the NRC?

8 A No.

9 Q Look at the bottom.

10 A Okay.

11 Q How about now?

12 A Well, where it says -- I don't know that  
13 we would have used this or not as a talking point or  
14 not. If we did, we would have, obviously, left off  
15 that last part.

16 Q Okay. Is it a fair deduction that this  
17 may be an agenda from the October 2<sup>nd</sup> prep meeting?

18 A That's what I believe it to be.

19 MR. WISE: Andy, can you scroll back up  
20 for me? Thank you.

21 BY MR. WISE:

22 Q Will you look at the first bullet under SI  
23 -

24 JUDGE FARRAR: Mr. Wise, just so the  
25 record is clear, the part you're referring to said,

1 "For FENOC Eyes".

2 MR. WISE: "For FENOC Eyes Only."

3 JUDGE FARRAR: Yes.

4 MR. WISE: Thank you, Your Honor.

5 BY MR. WISE:

6 Q Look at the bullet that says, "SIA Finite  
7 Element Analysis for Nozzle Gaps."

8 A Okay.

9 Q Are there sub-bullets underneath that  
10 point?

11 A Yes.

12 Q And what are the sub-bullets?

13 A First one is "Visual inspection and head  
14 cleaning performed in 11RFO. Visual inspection, head  
15 cleaning performed in 12RFO."

16 Q Whose names are underneath those two  
17 entries?

18 A That would be Mark McLaughlin and Andrew  
19 Siemaszko.

20 Q Do you recall whether Mr. McLaughlin and  
21 Mr. Siemaszko were in any of the prep meetings?

22 A They may have been. I don't recall.  
23 There was a lot of people there.

24 Q Is it possible that at one of these prep  
25 meetings Mr. McLaughlin and/or Mr. Siemaszko spoke

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1 about the visual inspection and head cleanings in  
2 11RFO and 12RFO?

3 A It's possible. But like I said earlier,  
4 I don't have a recollection of the meeting on the 2<sup>nd</sup>  
5 or the 3<sup>rd</sup>.

6 Q On the 3<sup>rd</sup> of October, the notes of Mr.  
7 Miller reflect that you said, and I'm not even sure I  
8 can segregate now between Mr. Miller, and Mr.  
9 Holmberg, and Dr. Hiser, but when I was discussing  
10 this with Dr. Hiser, there was discussion about how  
11 someone at Davis-Besse that we've stipulated is you,  
12 said "100 percent inspection of the head except for  
13 five or six nozzles obscured by boron." The numbers  
14 five or six, those don't appear in 2731. Correct?

15 A No.

16 Q Assuming that it is you that said those  
17 things, would you have made those numbers up had you  
18 not heard them from someone?

19 A No, I would have heard it from somewhere,  
20 but I can't identify where that was.

21 Q On the 11<sup>th</sup> of October at the TA meeting -  
22 - well, let me ask you this. Judge Trikouros asked  
23 you if it wasn't true that you wanted the meeting to  
24 come out favorably for the company. And we talked  
25 about Mr. Campbell's anger at the time of the call.

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1 And I guess I'll just ask you this way; would you have  
2 knowingly misrepresented things to the NRC in order to  
3 make Mr. Campbell happy?

4 A No. I think what would have made Mr.  
5 Campbell happy at the -- we're talking about the  
6 meeting with the tech assistants. Right?

7 Q Or the October 3<sup>rd</sup> call. Or, frankly, I  
8 think this applies to the entire -

9 A Okay.

10 Q I imagine that the Judge's question  
11 applied to the entire course of September 28<sup>th</sup> through  
12 the end of November.

13 A Well, I had no vested interest in making  
14 Mr. Campbell happy. I mean, he certainly hadn't made  
15 my life happy for two years as a Design Manager, but  
16 the -- I can't say that there was any kind of undue  
17 pressure put on by him to keep the plant up and  
18 running, but it was certainly understood that that was  
19 a desire, just from a sheer economics. That doesn't  
20 mean that at any time anyone suggested we should be  
21 damn the torpedoes, full speed ahead, regardless of  
22 damage, maintain the ship afloat-type thing.

23 Q Okay. I don't think think that was what  
24 the Judge was suggesting, and I didn't mean to put it  
25 that starkly to you.

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1 A Okay.

2 Q But if Mr. Campbell had had a heavy hand  
3 and had been angry after September 28<sup>th</sup>, I take it  
4 that would have affected the managers to want to get  
5 an efficient response.

6 A Yes.

7 Q Would it have led you to alter facts in  
8 order to persuade the NRC of things that you knew were  
9 not true?

10 A No.

11 Q To the extent that you -- you've talked  
12 about hindsight. To the extent that you missed  
13 things, or wished you had seen things in a more  
14 complete way, as you sit here now, do you think that  
15 was a product of Mr. Campbell's reaction to the  
16 September 28<sup>th</sup> call?

17 A No.

18 Q I need to walk you through one more area,  
19 because there's another area that I think is  
20 confusing.

21 MR. WISE: Andy, if you will pull up Staff  
22 13 for me, which is 2744.

23 BY MR. WISE:

24 Q Now, we're at the note to the table. And  
25 I want you to look at the language specifically that

1 says, "100 percent of nozzles were inspected by visual  
2 examination." That is the same sentence that in 2735  
3 had read, "In 1996 during 10RFO, the entire head was  
4 inspected." Correct?

5 A Correct.

6 MR. WISE: Andy, will you scroll up to  
7 page 2 of 2? Great. Right there is perfect.

8 BY MR. WISE:

9 Q Okay. Will you look with me about seven  
10 lines down in the first paragraph.

11 A "During 10RFO, 65 of 69 nozzles were  
12 viewed. During 11RFO, 50 of 69 nozzles were viewed.  
13 During 12RFO, 45 of 69 nozzles were viewed."

14 Q I need you to explain to the Board how it  
15 is that in the same document you all say 65 of 69  
16 nozzles were viewed, and also 100 percent of the  
17 nozzles, or the entire head was inspected. What was  
18 the difference between those two statements, or are  
19 they just contradictory?

20 A Well, the difference is that we couldn't  
21 take credit for four of the 69 nozzles because of not  
22 having a gap open up, so we couldn't consider them as  
23 being viewable for crack purposes. I mean, hindsight,  
24 we could have linked them much better together with  
25 the table, but we tried to explain that in the

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1 bullets, or the footnote of the table by that's what  
2 was intended to be meant by the 1, 2, 3, 4 nozzles  
3 can't be credited. I'm not sure exactly if that was  
4 the exact verbiage that was used, but words to that  
5 extent.

6 Q But did you intend to communicate that  
7 every nozzle had been seen?

8 A No, I was -- the message was, we were --  
9 we had seen 65 of those nozzles. We didn't really --  
10 we discounted the four that we couldn't take credit  
11 for.

12 MR. WISE: That's all I have, Your Honor.

13 JUDGE FARRAR: Okay. Thank you, Mr. Wise.  
14 Ms. Clark, Mr. Ghasemian made it back in record -

15 MS. CLARK: Yes, and I have my document.  
16 Thank you.

17 JUDGE FARRAR: Okay. Then let's reopen  
18 your cross, or your examination of Mr. Geisen.

19 CROSS EXAMINATION

20 BY MS. CLARK:

21 Q Just a few questions about the ACRS  
22 meeting. You attended with Mr. Moffitt. Were there  
23 other individuals from FENOC with you?

24 JUDGE FARRAR: Why are we doing -- oh,  
25 because Mr. Wise asked about it?

1 MS. CLARK: No, this is concerning my  
2 document.

3 JUDGE FARRAR: Oh, okay.

4 BY MS. CLARK:

5 Q So going back to the ACRS meeting, you  
6 attended with Mr. Moffitt. Correct?

7 A That's correct.

8 Q Now, when there was a question on  
9 inspections, you volunteered to answer that question.  
10 Is that because you were the most knowledgeable person  
11 to speak on that question?

12 A I think -- I don't know why I volunteered.  
13 Maybe just to help my boss out.

14 Q Would you have been more knowledgeable  
15 than Mr. Moffitt at that point?

16 A Most assuredly.

17 Q Do you recall that slides were presented  
18 by FENOC during that meeting?

19 A I don't recall.

20 Q Okay. This is -- I'm going to show you a  
21 slides entitled, "Davis-Besse Nuclear Power Station  
22 Briefing Regarding Reactor Pressure Vessel Head  
23 Penetration Nozzle Cracking." Does that appear to be  
24 the slides from that meeting?

25 A Looks like it. Looks like Mr. Moffitt's

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1 got his initials on it, or his signature on it, so I  
2 would assume this is his personal copy.

3 Q I'm sorry. I didn't hear your answer.

4 A Your question was did this look like  
5 slides that we would have presented, and I said yes.  
6 The copy you handed me actually looks like Mr.  
7 Moffitt's handwriting at the bottom with his name, so  
8 this was probably his personal copy.

9 Q Okay.

10 A And I guess that answers the question  
11 asked earlier, what the objective was, because that's  
12 on the next page.

13 MS. CLARK: I would like to ask that we  
14 admit this into the record.

15 MR. WISE: I guess at this point I'm not  
16 sure what the relevance is.

17 MS. CLARK: Well, these were submitted for  
18 the ACRS meeting, so they show information that FENOC  
19 presented. And we've been talking a lot about the  
20 context of Mr. Geisen's statements.

21 JUDGE FARRAR: Why didn't we get them  
22 earlier?

23 MS. CLARK: You mean when -- oh, we just  
24 discovered them today. I mean, they've been there,  
25 but I -

1 JUDGE FARRAR: Other than relevance, Mr.  
2 Wise, do you have any objection?

3 MR. WISE: Your Honor, I guess I'd ask if  
4 I could reserve -

5 JUDGE FARRAR: I wish I hadn't said that.  
6 That's probably not good judicial behavior, but at  
7 this point, and as everyone knows, rules of evidence  
8 are much more liberal in administrative proceedings.  
9 And we follow the rule that when in doubt, let it in,  
10 because then you can disregard it later. Whereas, if  
11 you don't let it in, and you say gee, we should have  
12 let that in -

13 MR. WISE: That's fine, Your Honor.

14 MS. CLARK: Well, I can establish -

15 JUDGE FARRAR: Oh, no, no, no. It's  
16 admitted as -- we'll have the court clerk mark it for  
17 identification as Staff what?

18 MR. GHASEMIAN: Staff Exhibit 84.

19 JUDGE FARRAR: Okay. This would be Staff  
20 84, and it will be admitted.

21 (WHEREUPON, THE DOCUMENT REFERRED TO WAS  
22 MARKED STAFF EXHIBIT NO. 84 FOR  
23 IDENTIFICATION, AND WAS RECEIVED IN  
24 EVIDENCE.)

25 BY MS. CLARK:

1 Q Now, Mr. Geisen, I believe earlier today  
2 you testified that you had never represented that you  
3 had a qualified visual inspection. Do you recall that  
4 testimony?

5 A Yes.

6 Q Now, I ask you to turn to the slide that  
7 has the caption, "Plant-Specific Deterministic  
8 Aspects."

9 A Correct.

10 Q Would you please read that first star?

11 A "A qualified visual inspection performed  
12 in 1996, additional inspections in 1998 and 2000."

13 Q Does that refresh your recollection?

14 A Of?

15 Q Of making that statement?

16 A No.

17 Q You knew that wasn't correct, didn't you?

18 A I believe that statement is incorrect.

19 Q Thank you.

20 JUDGE FARRAR: Wait. You believe now it's  
21 incorrect.

22 THE WITNESS: Correct.

23 JUDGE FARRAR: But she said -- the  
24 question was -

25 MS. CLARK: Oh, I asked whether you knew

1 then.

2 JUDGE FARRAR: -- whether you knew then.

3 THE WITNESS: I have no recollection of  
4 this.

5 BY MS. CLARK:

6 Q Well, my question is whether at the time  
7 of the ACRS meeting, did you believe that you had ever  
8 done a qualified visual inspection during any of those  
9 outages?

10 A I don't believe so, no.

11 MS. CLARK: Thank you.

12 JUDGE FARRAR: Did you have any part in  
13 the preparation of these slides?

14 THE WITNESS: I don't recall, Your Honor,  
15 on this. I'd have to go back. I don't recall  
16 producing them, and I don't recall what was said at  
17 the ACRS. And I don't have enough minutes here to  
18 refresh my memory of what was said.

19 MR. WISE: Do you have any reason to  
20 believe -- do you have any recollection of these  
21 slides being shown at the meeting?

22 THE WITNESS: No.

23 MR. WISE: Did you represent that the '96  
24 inspection was a qualified video in that portion of  
25 the transcript you've been shown?

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1 THE WITNESS: No.

2 JUDGE FARRAR: You meant qualified visual?

3 MR. WISE: Yes.

4 JUDGE HAWKENS: Although you don't  
5 remember, is it possible that Davis-Besse and Mr.  
6 Moffitt made a slide presentation at the ACRS meeting?

7 THE WITNESS: That's certainly possible,  
8 Your Honor. I don't remember it. There were -- I  
9 know that that particular ACRS meeting was not a  
10 specific ACRS meeting with Davis-Besse. It was a lot  
11 of people, a lot of different companies talking.

12 JUDGE FARRAR: Do we know -- do you know  
13 whether these were given to the ACRS?

14 THE WITNESS: I don't know that.

15 JUDGE TRIKOUROS: These are just  
16 additional slides from the exhibit that we have  
17 already on file? This is a separate -

18 MS. CLARK: These were separate, yes.

19 JUDGE FARRAR: Do we need to reconsider  
20 the Board's ruling to admit these, if we don't know  
21 that they ever made their way anywhere?

22 MR. WISE: I think you do. I mean, I  
23 don't think there's foundation.

24 JUDGE FARRAR: For all we know, this is  
25 Mr. Moffitt's name on here. It has the date. Maybe

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1 he brought them with him and never showed them.

2 MS. CLARK: That's possible.

3 JUDGE TRIKOUROS: I'm sorry. I was  
4 confusing the ACRS with the technical assistants  
5 meeting.

6 JUDGE FARRAR: I think since Mr. Geisen  
7 can't corroborate anything about them, and we don't  
8 know anything -- you had the whole ACRS transcript,  
9 didn't you?

10 MS. CLARK: Yes, we did.

11 JUDGE FARRAR: Well, unless you come  
12 forward with something in there that says Mr. Moffitt  
13 showed some -

14 MS. CLARK: Really, I would have to rely  
15 on Mr. Geisen's memory to establish that they were  
16 submitted. We don't have any independent -

17 JUDGE FARRAR: Then the exhibit is not  
18 admitted.

19 (WHEREUPON, THE DOCUMENT REFERRED TO,  
20 PREVIOUSLY MARKED STAFF EXHIBIT NO. 85  
21 WAS WITHDRAWN.)

22 JUDGE FARRAR: Okay. Ms. Clark, is that-

23 MS. CLARK: That's all.

24 JUDGE FARRAR: That's all. And, Mr. Wise,  
25 that was all?

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1 MR. WISE: I have nothing further.

2 JUDGE FARRAR: The Board has no questions  
3 of Mr. Geisen. If something comes to mind by tomorrow  
4 that we think is something we need to ask, then we'll  
5 ask him to take the witness stand again. It's been a  
6 long day for you, Mr. Geisen, but I know it's a day -  
7 it's been a long day you've been waiting for a long  
8 time, so I'm sure you were happy to endure it. Thank  
9 you for sharing your testimony with us.

10 THE WITNESS: Thank you for hearing me,  
11 Your Honor.

12 JUDGE FARRAR: Okay. Ms. Clark, well  
13 done, or maybe you're like the head waiter who says  
14 it'll be an hour, when I'm happy in a half hour, but -

15  
16 MS. CLARK: I've learned.

17 JUDGE FARRAR: After your initial  
18 projection, I was afraid it would take us too long,  
19 very well done.

20 All right. Tomorrow, we'll hear from Mr.  
21 O'Brien. And I think we mentioned this long ago in a  
22 pre-hearing conference, but there's an old Appeal  
23 Board decision called Atlantic Research Corporation  
24 back in 1980, which Mr. Justice Rosenthal was the  
25 Chairman, and I was on the Board immediately before I

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1 made my 21-year escape from this place. And that  
2 talked -- that was a civil -- it was the Appeal Board  
3 and it was a civil penalty case where the Office of  
4 Enforcement had a schedule of civil penalties, and the  
5 issue was how binding was that on the Licensing Board  
6 and Appeal Board. And it came out that it's a trial  
7 de novo, and the final decision is not the Office  
8 Director of Enforcement, but it's the Hearing Board.  
9 And the Hearing Board has freedom to do what it wants,  
10 but there was a schedule of civil penalties. And it  
11 says the schedule of civil penalties does not amount,  
12 however, to so much wasted ink. The Board is supposed  
13 to bear the schedule in mind, but not to give it  
14 necessarily conclusive effect. So it's in that spirit  
15 that we will be hearing from the enforcement people.

16 We are charged with, if we were to find  
17 Mr. Geisen was guilty of one or more of the charges,  
18 we would be charged with determining whether the five-  
19 year penalty was correct. We don't handle these cases  
20 every day or every decade, so that's why we'd be  
21 looking -- one of the things we'll be looking for from  
22 the Office of Enforcement is what cases have they had  
23 before, how are these done? Again, what they decide  
24 is not binding. We assume we'll get some guidance  
25 from other people, how other people in this case were

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1 handled, and how previous cases were handled. So  
2 we'll -- that's one of the reasons we want to hear  
3 from him.

4 Ms. Clark, just so we can get our minds in  
5 tune, in terms of the maximum length of a - obviously,  
6 here seeing whether five years was justified or  
7 something less, obviously, it can't be more, but the  
8 law and the regulations don't make clear to me, or do  
9 you all think you could impose a lifetime ban on  
10 someone? Is that within the realm of the -- talking  
11 now legal issues, do you believe that you could impose  
12 a lifetime ban on someone for egregious enough  
13 conduct?

14 MS. CLARK: Could I consult with my  
15 enforcement person?

16 JUDGE FARRAR: Sure. Mr. O'Brien, you're  
17 welcome to -

18 MR. O'BRIEN: I can't answer you in fact  
19 right off the top of my head, Your Honor, but I  
20 believe yes, the policy does permit that action. I  
21 believe we have not implemented that action in eons,  
22 or just short of eons, but I believe it does permit  
23 that, because I believe in the past the Agency may  
24 have implemented such action.

25 JUDGE FARRAR: Okay. The regulation just

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1 says you can't make a knowing false statement, and  
2 then your enforcement policy talks about, not in this  
3 context, but in other contexts, five years would  
4 ordinarily be the maximum, unless there's something  
5 bad. So I assume that means you think you could do  
6 lifetime, if the case warranted. I'm just trying to  
7 put a context, is five years the maximum, or is five  
8 years less than the maximum. But we will have any  
9 number of questions on that penalty phase.

10 Ms. Clark, you will then put on Mr.  
11 O'Brien, ask him about things. And then Mr. Hibey,  
12 are you going to do that? We will give you your  
13 choice tomorrow morning whether you want to do the  
14 cross then, or whether you want us to ask our  
15 questions, and then you do cross, so it's up to you.  
16 If you do cross first, then we'll ask questions.  
17 We'll give you a further chance to follow-up on our's.  
18 And, Ms. Clark, you, of course, will have a chance, as  
19 well.

20 MR. HIBEY: Your Honor, I think that -- I  
21 can tell you tomorrow, or if you'd give me a few  
22 minutes. I'd like to consult with Mr. Wise about  
23 this, because I have an idea of the areas I'd like to  
24 have considered when my -

25 JUDGE FARRAR: While we sit here, just

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1 talk to him?

2 MR. HIBEY: Just give us a couple of -

3 JUDGE FARRAR: Oh, sure. And just so  
4 there's no surprises, we plan to ask about the other  
5 people in this case charged and not charged, just to  
6 know what the thinking was.

7 MR. O'BRIEN: Your Honor, if I may ask a  
8 question?

9 JUDGE FARRAR: Sure.

10 MR. O'BRIEN: I just want to make sure I'm  
11 clear so I'm able to be responsive to the needs of the  
12 Court tomorrow. You're going to ask me specifically  
13 in this case, the generic dialogue with Mr. Luehman.  
14 Is that correct?

15 JUDGE FARRAR: Yes. You are this case.  
16 Were you involved in this case?

17 MR. O'BRIEN: Yes, sir. I wrote the  
18 orders.

19 JUDGE FARRAR: Okay. Good. Then our plan  
20 was talk to you about this case, and then talk to him  
21 about the last couple of -- he's been around a long  
22 time, the last couple of decades, and get his general  
23 opinion.

24 MR. O'BRIEN: I appreciate that. I just  
25 wanted to be clear so I can be responsive.

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1 JUDGE FARRAR: Okay. Right. So the  
2 people who were charged, and the ones -- not all the  
3 ones not charged, but particularly Mr. Campbell and  
4 Mr. Swim, we want to know what went on there. And we  
5 may have some questions about the Miller and Moffitt  
6 settlements. I remember signing settlement orders  
7 where they bargained their five years down to  
8 something else with some conditions, and we'll talk  
9 about why you all thought that was acceptable. And  
10 then we will ask you questions about Mr. Geisen. Okay?  
11 Thank you for asking, and I appreciate your  
12 willingness to help. Mr. Hibey?

13 MR. HIBEY: Yes, Your Honor. The thought  
14 I had was that perhaps in the usual circumstance where  
15 we feel so strongly that there should not be a penalty  
16 phase in this case at all, that it would be  
17 appropriate for the panel to ask questions after the  
18 direct examination, because that will give us an idea  
19 of what's on your mind, and will set the framework for  
20 your consideration. And, at the same time, will give  
21 me some guidance about some of the things that are on  
22 my mind, that I may ask about.

23 JUDGE FARRAR: Okay. Fair enough.

24 MR. HIBEY: If that's agreeable with the  
25 Court, that's -

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1 JUDGE FARRAR: Yes. Then we will ask  
2 questions, after Ms. Clark, of course. You know how  
3 we are, we'll probably ask questions during her's,  
4 after her's, during your's.

5 MR. HIBEY: Yes, I think that's going to  
6 happen, too.

7 JUDGE FARRAR: As a general scheme, she'll  
8 go -- you're going to do this, Ms. Clark?

9 MS. CLARK: Mr. Ghasemian will be.

10 JUDGE FARRAR: Okay. Mr. Ghasemian will  
11 go first, Board will go second, and Mr. Hibey third.  
12 And we'll continue until we're done.

13 MR. HIBEY: And we'll have a rule on  
14 witnesses.

15 JUDGE FARRAR: And the rule on -- right.  
16 Mr. Luehman will not be here, and no one here is to  
17 speak to him about what happens here until after he  
18 testifies.

19 MR. WISE: Your Honor, Ms. Thibault just  
20 reminded me that I have three exhibits also to move  
21 in, which are the portions of the transcripts that  
22 were used with Dr. Hiser. So they've been marked  
23 Geisen 19, 20, and 21. I guess I'd just move them at  
24 this point.

25 JUDGE FARRAR: Okay. Any objection, Ms.

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1 Clark?

2 MS. CLARK: No objection.

3 JUDGE FARRAR: Okay. Then those will be  
4 admitted into evidence.

5 (WHEREUPON, THE DOCUMENTS REFERRED TO,  
6 PREVIOUSLY MARKED GEISEN EXHIBIT NOS. 19-  
7 21 FOR IDENTIFICATION, WERE RECEIVED IN  
8 EVIDENCE.)

9 JUDGE FARRAR: All right. Well, it's 20  
10 of seven on Thursday night, so at one point we thought  
11 we might be done by now, but at least we're going to  
12 meet our overall goal of being finished this week. So  
13 I thank all of you. Again, it's been only six weeks,  
14 I guess seven weeks since the status report came in,  
15 and we said let's get cracking with this case. I know  
16 it's been difficult on all of you to get everything  
17 put together, and we admire the job that both sides  
18 did, and the quality of your presentations. So thank  
19 you for that.

20 Oh, what time tomorrow?

21 MR. HIBEY: Perhaps, at the same time,  
22 8:30.

23 JUDGE FARRAR: Mr. O'Brien, you had asked  
24 if you have to come back, standby after your  
25 testimony, so I assume that means you'd like to beat

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1 it out of town.

2 MR. O'BRIEN: I have a Christmas  
3 celebration with my family I'd like to make this week,  
4 to be honest.

5 JUDGE FARRAR: Okay. Well, then let's put  
6 you on at 8:30, and see how fast we can get you out of  
7 here. But it'll be as fast as it can be, but that's  
8 the only promise I can make.

9 MR. GHASEMIAN: Your Honor, Mr. O'Brien  
10 has suggested to me that I would propose a 6 a.m.  
11 start, but, -

12 JUDGE FARRAR: Well, you and he can come  
13 in here and talk about things all you want, and we'll  
14 drift on in in our jammies eventually, and get here.  
15 Thank you, and I think the laughter, Mr. Geisen, is a  
16 sign not that we don't take this case very seriously,  
17 and I think you have seen through the week that we do,  
18 but that we sometimes try not to take ourselves too  
19 seriously. But this is -- most of our cases involve  
20 expert witnesses predicting the future, will this  
21 particular facility that someone wants to build be  
22 safe. This is the only case in my seven years back  
23 here where we've had the privilege of considering an  
24 individual's challenge to an enforcement order, and  
25 the country is founded on individual liberties and

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1 rights. You'd be free from bad treatment by your  
2 government, and on the other hand, the NRC Staff is  
3 certainly within its legitimate authority to say we  
4 can't have people not telling the Agency the truth,  
5 that the system can't work that way. So, in that  
6 sense, it's a privilege for us to be here, and try to  
7 adjudge a case like this fairly. So, again, we thank  
8 you all for what you've done, and we'll see you  
9 tomorrow at 8:30. Thank you.

10 (Whereupon, the proceedings went off the  
11 record at 6:45 p.m.)

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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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