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Action: ADMITTED REJECTED WITHDRAWN

Date: 12/8, 2008 (Tr. p. 826)

1 (A side bar conference
2 record.)

3 THE COURT: Please call you
4 Wise.

5 MR. WISE: Thank you, Your Honor. Defense calls
6 David Geisen.

7 DAVID GEISEN,
8 was herein, called as if upon examination, was first duly
9 sworn, as hereinafter certified, and said as follows:

10 DIRECT EXAMINATION

11 BY MR. WISE:

12 Q. Mr. Geisen, good afternoon.

13 A. Good afternoon.

14 Q. Could you introduce yourself to the jury please
15 and spell your last name for the court reporter?

16 A. My name is David Geisen, G-E-I-S-E-N.

17 Q. Mr. Geisen, in the fall of 2001 did you work at
18 Davis-Besse?

19 A. Yes, I did.

20 Q. What was your job?

21 A. I was the design basis engineering manager.

22 Q. Did you participate in communications with the
23 NRC regarding Davis-Besse's responses to bulletin 2001-01?

24 A. Yes, I did.

25 Q. Did you ever submit written documents to the NRC

1 (A side bar conference was had off the
2 record.)

3 THE COURT: Please call your next witness, Mr.
4 Wise.

5 MR. WISE: Thank you, Your Honor. Defense calls
6 David Geisen.

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11 BY MR. WISE:

12 Q. Mr. Geisen, good afternoon.

13 A. Good afternoon.

14 Q. Could you introduce yourself to the jury please
15 and spell your last name for the court reporter?

16 A. My name is David Geisen, G-E-I-S-E-N.

17 Q. Mr. Geisen, in the fall of 2001 did you work at
18 Davis-Besse?

19 A. Yes, I did.

20 Q. What was your job?

21 A. I was the design basis engineering manager.

22 Q. Did you participate in communications with the
23 NRC regarding Davis-Besse's responses to bulletin 2001-01?

24 A. Yes, I did.

25 Q. Did you ever submit written documents to the NRC

1 that you knew to be false?

2 A. No, I did not.

3 Q. Did you make any oral statements to the NRC that
4 you knew to be false?

5 A. No, I did not.

6 Q. Did you participate in a scheme to deceive the
7 Nuclear Regulatory Commission?

8 A. Absolutely not.

9 Q. Did you withhold information regarding the safety
10 of Davis-Besse from the NRC?

11 A. No, I did not.

12 Q. Let me ask you to tell the jury a little bit
13 about yourself, starting with how old you are.

14 A. I am 47 years old.

15 Q. Where do you live?

16 A. I live in De Pere, Wisconsin. It's just outside
17 Green Bay.

18 Q. How long have you lived there?

19 A. Just over three years.

20 Q. And before you moved to Wisconsin, where did you
21 live?

22 A. I lived in Perrysburg, Ohio.

23 Q. Are you married?

24 A. Yes, I am, wife's in the back row.

25 Q. What's her name?

1 A. Kathleen.

2 Q. Do you have any kids?

3 A. Yes, we do.

4 Q. How many?

5 A. We have three kids; a daughter who's off, 24
6 years old, lives in D.C.

7 Q. What's her name?

8 A. Ashley. She works for the National Law
9 Enforcement Museum. I've got a son who's 19, Nicholas,
10 who's at Drake University right now his sophomore year
11 pre-med. And I've got a daughter, Meg, who's at the
12 University of Minnesota at Megan, who is a freshman music
13 major.

14 Q. What year did you and Kathy get married?

15 A. We got married shortly after graduation from
16 college in 1982.

17 Q. Where did you graduate from college?

18 A. Marquette University.

19 Q. And after you graduated from college, what did
20 you do next?

21 A. I was ROTC at Marquette, so my junior year, I did
22 recover -- got selected for and went off into the Navy in
23 nuclear submarines.

24 Q. I'm going to have to ask you to slow down just a
25 little bit so that Ms. Nixon can take everything down. I

1 apologize.

2 How many years were you in the Navy?

3 A. Six years.

4 Q. And did you do any tours on submarines?

5 A. Yes, I was on a ballistic submarine that was
6 stationed in Connecticut but refitted out the HollyRock,
7 Scotland, did five patrols on it.

8 Q. When did you leave the Navy?

9 A. I left the Navy in May of 1988.

10 Q. And what did you do after you left the Navy?

11 A. I joined Toledo Edison and the Davis-Besse
12 Nuclear Power Station.

13 Q. Is Toledo Edison now the company known as First
14 Energy?

15 A. Yeah, they've gone through a couple of changes
16 but First Energy now.

17 Q. What year did you join First Energy?

18 A. 1988.

19 Q. And can you tell the jury a little bit about the
20 jobs you held between 1988 and 1996.

21 A. Yes, in 1988 I joined as -- in their systems
22 engineering group. I was actually in the mechanical
23 systems group at various mechanical systems assigned to me,
24 primarily pumps. And then I did that all the way until
25 1994. I was selected for the senior -- senior reactor

1 operator licensing program. That was --

2 Q. From 1988 to 1994 when you were in systems
3 engineering, were you ever involved with the reactor vessel
4 head?

5 A. No.

6 Q. 1994, you said you entered the scene, or reactor
7 operator training program?

8 A. That's correct.

9 Q. And tell me a little bit about what that program
10 was.

11 A. That's a program that's designed to teach you
12 everything about all the different systems at the plant,
13 learn about the -- how the plant actually functions,
14 operates, all aspects of it, and what the goal of actually
15 getting you licensed to operate in the control room,
16 operate the plant.

17 Q. How long were you in the SRO training program?

18 A. Until the summer of 1996.

19 Q. In 1996 when the plant was going through the 10th
20 refueling outage, did you have any involvement in that
21 outage?

22 A. No, not really. We were still in preparation for
23 our final exams with the NRC that were going to be in the
24 summer.

25 Q. So I take it you had no involvement in the head

1 cleaning efforts in 1996?

2 A. No, I didn't.

3 Q. Or in the inspection efforts in 1996?

4 A. No, I didn't.

5 Q. You've heard testimony from Prasoon Goyal about
6 his writing of a PCAQ or a condition report in 1996. Do
7 you recall that testimony?

8 A. Yes, I do.

9 Q. Did you have anything to do with that condition
10 report in 1996?

11 A. No, I didn't.

12 Q. 1997?

13 A. No.

14 Q. 1998?

15 A. No.

16 Q. When was the first time that you saw that
17 condition report, 96-551?

18 A. I believe I saw it sometime in the spring of
19 2002. I can't say exactly who had showed it to me because
20 I was involved in a lot of different interviews because we
21 had just found the cavity and we were trying to do a lot of
22 searching as to what happened. So sometime in that time
23 frame.

24 Q. Was there a time during your tenure at
25 Davis-Besse that you were on the Corrective Action Review

1 Board?

2 A. Yes. The Corrective Action Review Board is a
3 position that's filled by managers, and I didn't get
4 through my whole history at Davis-Besse, but at -- in March
5 of 2000, I became the design basis engineering manager, at
6 which point I became a member of the CARB or the Corrective
7 Action Review Board.

8 Q. That was in 2002 -- I'm sorry. That was in 2000?

9 A. March of 2000, that's correct.

10 Q. Okay. I'll try not to confuse you. Let me --

11 A. I do that myself.

12 Q. Let me take you back to 1998. At the time that
13 the plant went through 11 RFO, did you have any involvement
14 in the head cleaning during 11 RFO?

15 A. No, I didn't.

16 Q. Or in the inspection of the head at 11 RFO?

17 A. No, I didn't.

18 Q. Did you have any role in the 11th refueling
19 outage?

20 A. Yes, I did.

21 Q. What was that?

22 A. During that time frame as I had come out of the
23 senior operating program and was made a supervisor in
24 systems of the electrical and instrumentation control
25 group, but because I've had so much experience with reactor

1 coolant pump motors, there was motor work going on. I
2 believe it was actually upper bearing rework on two-two
3 motor, but I'm not positive on actually which motor it was.
4 And I got recruited to work on the motors.

5 Q. And again, that had nothing to do with the head
6 cleaning and head inspection?

7 A. No.

8 Q. When did you become the manager of design
9 engineering?

10 A. March of 2000.

11 Q. And tell the jury a little bit about what your
12 responsibilities were as the manager of design engineering.

13 A. Well, the manager of design engineering is
14 responsible for -- overall for the design of the plant,
15 whereas other engineering groups might be responsible for
16 day-to-day maintenance operation of the plant. My group
17 was -- I basically had five supervisors that work for me
18 that consisted of mechanical design, mechanical, slash,
19 civil design that was under Theo Swim. Mr. Lang was my
20 supervisor of the electric and IC design group. Dennis
21 Mominee was my supervisor of procurement engineering. They
22 are the ones that do a lot of the evaluations of our parts
23 and stuff that we buy, and establishing specifications to
24 make sure what we order is what we -- whether what we get
25 is what we ordered.

1 And then I also had a computer engineering group,
2 which is Greg Hayes, and they were responsible for the
3 mainframes of computers that operate at the plant.

4 And then the last group I had was Ted Lang, who
5 was nuclear engineering. And they were responsible
6 primarily -- they did a lot of things, but primarily a lot
7 of nuclear calculations.

8 Q. Just so the jury understands how the flowchart
9 works, you described a couple supervisors that you had.
10 Were those supervisors that were above you on the
11 organization chart or below you?

12 A. I'm sorry. They were below me. I had five
13 supervisors that reported to me, and I myself reported up
14 to Steve Moffitt, the director of technical services.

15 Q. You were here, there were five supervisors
16 underneath you?

17 A. Correct.

18 Q. How many engineers were there underneath those
19 five supervisors?

20 A. Approximately 30 to 32 engineers split up among
21 the five groups.

22 Q. When you took the job as manager of the
23 department in 2000, can you tell the jury a little bit
24 about how the department had performed over the past year
25 before you took the job?

1 A. Well, the department was -- was not performing
2 well. There was a lot of issues. Probably the biggest
3 concern within the station was there was -- there had been
4 kind of an alienation between the design group, which was
5 operating -- their offices and everything are outside the
6 fence, outside the protected area, and the rest of
7 engineering was inside the fence. And there was some real
8 serious communication issues there. Myself, coming from
9 the plant engineering group, I was hoping to bridge that a
10 little bit by putting me into the design group.

11 Design also had struggled with a lot of issues
12 with modifications, getting them issued in a timely manner.
13 I came into it right before the 12th refueling outage, and
14 it was not a good outage from the standpoint we didn't have
15 a lot of modifications ready. The packages were not ready.
16 Parts were not ordered in a timely manner. There were a
17 lot of last minute changes, a lot of what we call FPR's,
18 field problem resolutions, were being generated, so we were
19 getting a lot of scrutiny.

20 And probably within the first three, four months
21 of me being in that role, we got -- I got a lot of help in
22 terms of outside groups coming in and doing evaluations and
23 identifying a big laundry list of things we needed to fix.

24 Q. You described failures on getting modifications
25 ready. Are those modifications that were implemented

1 during the refueling outages?

2 A. They were intended to be implemented during
3 refueling outages. In this particular outage at 12 RFO, we
4 actually had to defer some of them out of there because we
5 didn't have them ready.

6 Q. And by didn't have them ready, what would make a
7 modification not ready?

8 A. The package, the design package -- it just
9 wouldn't be done. Design has a lot of work that they have
10 to do with regard to calculations, drawing up dates. I
11 mean, there's a lot of that goes into developing a
12 modification to the plant. We're called design basis
13 engineering because we maintain the design basis of the
14 plant, so you just don't change the plant willy nilly.
15 You've got to have a very thought-out process to do that.
16 And they weren't ready to go, or they were completed so
17 late that we, you know, basically put the procurement group
18 into a difficult position because they were ordering parts
19 late and the lag time of the parts --

20 Q. How many modifications, on average, did the plant
21 implement during a refueling outage?

22 A. Well, it spiked up a lot in 12 RFO, but three
23 outages before that averaged about 30 to 40. It was
24 probably for the total cycle, operating cycle and outage, a
25 little bit more comfortable with those numbers. We would

1 end up having about 68 to 70.

2 Q. And how many of those modifications would design
3 engineering be involved in?

4 A. All of them. I didn't finish what I was going to
5 say, is that it spiked up to 12 RFO because it was -- there
6 was a big obsolescence push to try to fix some of our old
7 obsolescence issues. So I think the total for 12 -- cycle
8 12 to 12 RFO and cycle 13 and 13 RFO was 175 and 168
9 respectively, so it really jumped up.

10 Q. Tell The Judge what you mean by obsolescence
11 issues.

12 A. Because we maintained the design basis of the
13 plant. We maintain that all the way down to even the
14 serial number or the model number of a valve. And there
15 would be times when you would find, okay, well, the
16 manufacturer of that is no longer available or they've
17 changed that model and you've got to do what we call
18 like-for-like valuation. But it may be the exact same
19 size, shape, valve, but it's a different model number. So
20 therefore, that's actual design change to the plant.

21 Q. Okay. Let me take you back to 12 RFO and ask you
22 if there came a time that you became involved in
23 discussions about the effort to clean the reactor vessel
24 head during 12 RFO.

25 A. Yes, I did.

1 Q. And how did it happen that you got involved in
2 those discussions?

3 A. Well, the -- it was brought to my attention. I
4 don't remember exactly who all brought it up, but there was
5 a representative or discussion going between plant
6 engineering and design engineering at the engineering
7 supervisor level, and it was kicked up to me.

8 Q. Who were the people involved in the discussion
9 from the design --

10 A. Prasoon Goyal and Theo Swim. Prasoon was --
11 worked for Theo.

12 Q. And Theo was who?

13 A. One of my supervisors.

14 Q. And by that, you mean a supervisor underneath
15 you?

16 A. Correct, reported to me.

17 Q. And who was involved in the discussion from the
18 systems side?

19 A. I know Glenn McIntyre intire was involved because
20 he -- he and Theo were at the same level and they were
21 discussing it.

22 Q. And who was it that was actually doing the
23 cleaning of the head?

24 A. That was Andrew Siemaszko.

25 Q. Tell the jury a little bit about the source of

1 the disagreement or the discussion between the systems
2 folks and the design folks.

3 A. Well, the concern among the design folks -- well,
4 first of all, what systems wanted to do -- so they had been
5 unsuccessful cleaning the head with the traditional
6 mechanical means, with just going in with a vacuum and
7 trying to vacuum it up. So they wanted to use a high
8 pressure -- not high pressure, but high temperature water
9 at 140 degrees water and pressure wash it off. And this
10 had been a process that had been used on -- that they had
11 been using -- they, systems engineering had been using on
12 the containment air coolers to clean boron deposits off
13 them. So they wanted to use the exact same equipment, the
14 same approach on the head. The concern that design
15 individuals had, specifically Prasoon and Theo, was that
16 they didn't want the boron to go -- which was in a dry
17 state. They didn't want it to go back into a wet state.

18 Q. What decision was made about how to clean the
19 head?

20 A. It was decided it was more important to get the
21 boron off the head so we need -- we went ahead with the hot
22 water wash.

23 Q. Did there come a time that you were in outage
24 central during 12 RFO?

25 A. Yes. I -- I -- a little history there, I took --

1 once again, I took the manager role about a week before the
2 outage started in March of 2000. It didn't seem like it
3 was any time at all before the outage actually started, but
4 I was spending the first part of the outage learning the
5 job basically, learning the people, learning -- learning,
6 you know, who worked for me.

7 Meanwhile, the outage is going on, and Theo Swim
8 had been placed on the outage. We called it outage
9 central, but it was a conference room where representatives
10 from all different groups in the plant convened together
11 and monitored the outage. And for about the first three,
12 three-and-a-half weeks, he was in that role. And that's
13 kind of a burn out role for him because you -- I mean,
14 you're doing 12-hour days, seven days a week.

15 Q. Did there come a time when you replaced him?

16 A. Yes, he was getting burned out, so I volunteered
17 to take his spot.

18 Q. While you were in outage central -- strike that.
19 Sorry.

20 As you've been in this courtroom, do you recall
21 seeing a photograph that the prosecutors are referred to as
22 the red photo?

23 A. Yes, I have.

24 Q. And that's a photo that depicts boron coming out
25 of the weep holes during 12 RFO, correct?

1 A. Correct, I think that was from the as-found
2 inspections.

3 Q. Did you see that picture in 2000 when you were in
4 outage central?

5 A. I think I saw it floating around pictures, copies
6 of it floating around in outage central.

7 Q. Do you recall what your reaction was to seeing
8 that photograph?

9 A. Just looked like something we would obviously
10 have to address, but it didn't really alarm me at the time.

11 Q. Do you recall what you thought the source of the
12 boric acid was in the photographs?

13 A. I really didn't think about it that in-depth. By
14 the time I had gotten to the outage central, that
15 inspection had long since been done. So I guess I really
16 didn't think much about it.

17 Q. Did you think what you were seeing was boron
18 coming out of corrosion on the reactor vessel head?

19 A. No, I thought that the leakage we were seeing was
20 similar to the leakage we had seen in previous outages,
21 that because the plant had a history of flange leakage,
22 although I hadn't been involved with previous inspections,
23 I was well aware that we had gone in and repaired flanges.

24 Q. You said that that photo didn't alarm you or
25 cause you concern at the time. As you see it now, do you

1 have a different feeling about it now?

2 A. Well, I think my entire prospective of things is
3 different when you've got 20/20 hindsight of knowing that
4 you've got a cavity on the head. You tend to reevaluate
5 everything that you looked at.

6 Q. As you -- as the plant left the 12th refueling
7 outage, what was your belief about whether the reactor
8 vessel head had been completed and successfully cleaned?

9 A. I believe it had been completely cleaned.

10 Q. Do you recall why you thought that?

11 A. I believe there was a presentation part of the
12 restart readiness, but I don't -- I'm not 100 percent
13 certain. This is a long time ago.

14 Q. Are you familiar with a publication called The
15 Outage Insider?

16 A. I am familiar with it. I have seen it here at
17 the trial, copies of it. I've got to be honest that I
18 don't actually remember it that well from that long ago. I
19 did have a habit of reading all of The Outage Insiders as
20 well as the online document.

21 Q. Was it required reading for the managers?

22 A. There was nothing that was written down that said
23 you shall read this, so I mean, required, it was expected
24 reading.

25 Q. Okay. When did it come to your attention, or

1 when did you learn that the head had, in fact, not been
2 cleaned successfully coming out of 12 RFO?

3 A. That would have been sometime in October of 2001
4 after we started -- I know it was after the meeting on the
5 3rd of October.

6 Q. Do you recall how that came to your attention?

7 A. No, I don't.

8 Q. Do you recall reading the report from Mr. Gibbs?

9 A. No. I know that he sent a quick copy in my in-
10 basket, but quite frankly, I don't have a recollection of
11 ever reading it. Not to say that I didn't, I just don't
12 have any recollection of it.

13 Q. Did you ever discuss the letter with Mr. Gibbs?

14 A. No.

15 Q. Did you have conversations in the October of 2001
16 time frame with Mark McLaughlin?

17 A. I might have, but I don't recall.

18 Q. Let me ask you this: When you did learn --

19 A. Let me rephrase it, I did have a lot of
20 conversations with Mark, but on that specific issue, the
21 Gibbs report, I don't recall ever discussing it with Mark.
22 Is that what you're getting at.

23 Q. No, I'm sorry, I wasn't clear. Do you recall
24 whether you had discussions with Mr. McLaughlin about the
25 fact that the head had not been entirely cleaned at 12 RFO?

1 A. I don't recall anything specific about that.

2 Q. In October of 2001 when you said you learned this
3 information, what were you doing at that time?

4 A. Well, there was a lot of things going on in
5 October. We were still -- as a group, we were still trying
6 to get our modifications complete for 13 R -- we were
7 behind. Not so much behind on the ones that were
8 identified, but there was some late identified. We had
9 about 26 mods that were late, identified for 13 R, so we
10 were working on that as a group. I also had two actions
11 that I was responsible for oversight on. One was the
12 development of crack growth rate model. Ken Byrd, who was
13 one of my engineers, he worked underneath Ted Lang in the
14 nuclear engineering group was working on that. And then
15 there was the nozzle-by-nozzle table that Andrew Siemaszko
16 was putting together.

17 Q. When you learned that the head had not been
18 cleaned coming out of 12 RFO, what, if any, significance
19 did that have to you at the time you learned it?

20 A. It really didn't have a big significance because
21 my -- the two things I was focusing on was really tied to
22 as the -- as the as-found inspections going into 12 RFO,
23 going into 1998, the 11 RFO. It really didn't -- now
24 you're talking about the as -- the as-left, which would
25 have been packed at our inspections for 13 RFO, which Mark

1 McLaughlin had the lead on that. Mark is a very capable
2 engineer, so I was letting him take care of that.

3 Q. Let me take you back to the end of 2000,
4 beginning of 2001. Can you tell me at that time frame what
5 involvement you had with issues relating to nozzle
6 cracking?

7 A. When I became the design basis engineering
8 manager, there was a lot of collateral duties that came
9 along with that. I already mentioned the Corrective Action
10 Review Board. Another one was being the station's rep, the
11 plant rep for the B & W steering committee.

12 Q. Tell the jury a little bit about what the
13 steering committee did.

14 A. What the steering committee -- well, the owners
15 group is -- probably better to start with the owners group.
16 What an owners group is, plants of the same ownership, same
17 design, get together and form an owners group. And that --
18 there's -- there's a Westing House Owners Group. There's a
19 combustion owners group, and there's a B & W owners group.
20 There's also General Electric Owners Group. And the
21 purpose of the owners group was to address issues that were
22 common to all the plants so that you've kind of got an
23 economies of scale. So the steering committee was set up
24 to -- because you can come up with a lot of different
25 things that you want to go work on. Every plant's going to

1 come into the mix with a, hey, I'd like to look at this,
2 I'd like to fix this, I'd like to do this. Let's work on
3 it together. And before you know it, you get completely
4 overwhelmed with projects. So the steering committee,
5 their goal was to ferret through all those and pick the
6 highest priority ones to work on.

7 Q. Did the steering committee deal with issues from
8 a high general level or in a plant specific level?

9 A. At -- basically not -- I can't say plant specific
10 level because it was a fleet level, so it was a higher
11 level, but we did have a group that was above us.

12 Q. Did you -- as by virtue of your service on the
13 steering committee, did you come to know about what had
14 been found at the Ocone plant?

15 A. Yes.

16 Q. And did there come a time that you made
17 presentations at Davis-Besse about what had happened at
18 Ocone?

19 A. Yes.

20 Q. Do you recall when those presentations were?

21 A. The first -- I can't tell you the exact date. It
22 would have been the spring of 2001, first presentation was
23 to the management team. The managers themselves, and there
24 was a presentation that was made to Mr. Marefield
25 (phonetic).

1 Q. What were the purpose of those presentations?

2 A. Just to bring everyone up to speed on what had
3 happened at Oconee because it was -- specifically what
4 happened at Oconee 3 because that was a new event.

5 Q. Did you speak about how those issues could impact
6 Davis-Besse or what relevance they had to Davis-Besse?

7 A. I may have, I -- I'd have to go back and review
8 the presentations.

9 Q. In order to makes those presentations, did you
10 collect information about Davis-Besse's past inspection
11 history?

12 A. No. This was more of a discussion on the
13 cracking phenomenon that we were seeing, and I use the word
14 phenomenon because I had seen a circumferential crack
15 before it had always been axial cracks.

16 Q. I'm going to show you what has been admitted as
17 Government's Exhibit 22 --

18 A. Okay.

19 Q. -- which is an e-mail from Prasoon Goyal to
20 Mr. Siemaszko on which you were CC'd dated December 13th,
21 2000. Do you recall seeing this e-mail during Mr. Goyal's
22 testimony?

23 A. Yes.

24 Q. Have you reviewed it in preparation for your
25 testimony here today?

1 A. Yes, I have.

2 Q. Do you have a specific recollection of receiving
3 this e-mail in December of 2000?

4 A. No, I don't, but it was obviously CC'd to me. I
5 just don't recall it.

6 Q. Will you take a look at the text at the bottom of
7 the e-mail?

8 A. Yes.

9 Q. As you look at that text and think back to what
10 was known to you by virtue of your work on the steering
11 committee, would this e-mail have told you anything that
12 you did not already know?

13 A. No.

14 Q. How many E-mails would you guess you got in a day
15 in your job as manager of design basis engineering?

16 A. It varied. It would be anywhere from 20 to 50.

17 Q. Did you have any discussions with Mr. Goyal about
18 this e-mail?

19 A. No.

20 Q. Or about what he had learned about Ocone?

21 A. No, but I mean, this was just an FYI from him, so
22 I think he was just trying to tell me what was going on at
23 his level within the owners group.

24 Q. This is Government 23. I'll ask you to take a
25 look at this document. Do you see it on the screen,

1 Mr. Geisen?

2 A. Yes.

3 Q. Do you recognize this as a trip report?

4 A. That's correct.

5 Q. To Mr. Swim from Mr. Goyal?

6 A. That's correct.

7 Q. Do you recall Mr. Goyal testifying about this --

8 A. Yes, I do.

9 Q. -- trip report? Have you reviewed this in
10 preparation for your testimony today?

11 A. Yes, I have.

12 Q. Do you have any specific recollection of
13 reviewing this trip report in January of 2001?

14 A. No, but I -- I read all the trip reports that
15 came in, so I'm sure I saw it.

16 Q. Can you tell the jury a little bit about why trip
17 reports are generated?

18 A. Well, you spend a lot of money sending people out
19 on these trips, and you want to -- you want to make sure
20 that you're getting something back in terms of what did
21 they learn. And it's often very easy for someone to go out
22 on trips and say, you know, it was a great trip, I learned
23 a lot, but if they don't tell anybody, you really
24 haven't -- the site hasn't learned anything. So I had made
25 it a policy within design that you will create a trip

1 report, and for every trip summarizing what the trip was
2 about, any lessons learned, and you will forward that to --
3 other than myself, but it would go to all the supervisors
4 within the group, so if the supervisors and I had an
5 expectation of the supervisor to review it, are there
6 things here that I want to pass along to the people in my
7 group.

8 Q. I take it you read the trip reports when they
9 came to you?

10 A. Yes.

11 Q. Do you have any recollection of discussing this
12 trip report with Mr. Goyal?

13 A. No, I didn't talk --

14 Q. Or with Mr. Swim?

15 A. No.

16 Q. Let me call your attention to the first bullet
17 point, and specifically to the second sentence where it
18 says at Ocone, they were able to find this leak because
19 their CRDM flanges do not leak, and the head was in
20 pristine condition. Do you see that sentence?

21 A. Yes.

22 Q. What was your understanding in January of 2001
23 about the condition of the RPV head at Davis-Besse coming
24 out of 12 RFO?

25 A. I was still under the impression that we had

1 cleaned it successfully with the hot water.

2 Q. As you look at this e-mail as you sit here today,
3 is there anything in this -- I'm sorry, strike e-mail, trip
4 report. As you look at this trip report, as you sit here
5 today, is there anything in this document that would have
6 caught your attention as being different from what you
7 already knew?

8 A. No, because we had already discussed this as a
9 steering group.

10 Q. This is Government 25?

11 THE JUROR: Excuse me, shouldn't the jury be
12 seeing this too?

13 MR. WISE: Yes. I am very sorry. Thank you.

14 BY MR. WISE:

15 Q. Mr. Geisen, we're going to go back to Mr. Goyal
16 to Mr. Siemaszko, the text of the e-mail is about what
17 Oconee has found at Oconee 1, correct?

18 A. Yeah, specifically Oconee 1.

19 Q. And what was your testimony about whether this
20 information was something new from what you had learned at
21 the steering committee?

22 A. It was the same information we had been told by
23 the steering committee, rather.

24 Q. And you did not have any follow-up discussions
25 with Mr. Goyal about --

1 A. No, I didn't.

2 Q. The second one that we just discussed was the
3 January 30th trip report from Mr. Goyal to Mr. Swim?

4 A. Correct.

5 Q. Okay. Let's go back to that bullet point.

6 A. Yeah, the second bullet.

7 Q. Well, take a look at the first bullet, second
8 sentence. It discusses that the head was in pristine
9 condition?

10 A. Correct.

11 Q. And you said that was consistent with your
12 understanding of Davis-Besse's head at the time?

13 A. Correct.

14 Q. Let me put up Government's 25. Do you recognize
15 this as an e-mail from Mr. Goyal to Mr. Siemaszko CC'd to
16 you?

17 A. Yes.

18 Q. Do you recall seeing this e-mail in March of
19 2001?

20 A. No, I don't.

21 Q. Okay. Have you reviewed it in preparation for
22 your testimony today?

23 A. Yes, I have.

24 Q. Tell me the significance of what Mr. Goyal is
25 reporting about the Oconee 3 nozzles.

1 A. Well, the significance is that Oconee had 60 out
2 of 69 of their nozzles were all made out of the same heat
3 of material. And Davis-Besse had five nozzles that were
4 made out of that same heat. So at this point, since we
5 didn't have any kind of failure analysis of the Oconee 3
6 plant and the circumferential crack, we were just trying to
7 look at anything. So this was just trying to say next time
8 we do an inspection in 13 R -- or excuse me, 13 RFO, let's
9 make sure to pay special attention to this.

10 Q. Throughout that last answer, you've been using
11 the word we.

12 A. I'm sorry.

13 Q. Who was working on this issue at Davis-Besse?

14 A. This was where Prasoon had sent this to Andrew
15 Siemaszko, because he would have been the one that would
16 have been -- he's the owner of the reactor vessel as a
17 system, and so he would have been involved with the
18 inspection.

19 Q. Were you working with Mr. Goyal on issues
20 relating to nozzle cracking?

21 A. Not directly. Prasoon was involved with working
22 with some issues on the MRP.

23 Q. Does the heat issue that's mentioned in the
24 second paragraph have anything to do with what you just
25 heard Dr. Bullen testifying about regarding various heats

1 from which nozzles were made?

2 A. Oh, I think we know now that it has a big thing
3 to do with it. It's got much higher, I think he testified
4 up to eight times higher crack growth rate.

5 Q. In March of 2001, did this e-mail have any
6 particular significance to you?

7 A. Not at that point, no.

8 Q. Did you -- were you aware of the information
9 that's contained in this e-mail from the steering group
10 when you received this e-mail?

11 A. Yes.

12 Q. As you look back on it now, does this e-mail have
13 a different significance to you than it did at the time?

14 A. Absolutely, because we know that that heat is
15 highly susceptible to cracking at most, so I would say
16 more -- not more susceptible to cracking, but once a crack
17 is induced in it, it perpetuates at a much faster rate than
18 other heats.

19 Q. I'm putting on the screen Government's Exhibit
20 26, which is an inner company memorandum dated June 27th
21 from Mr. Goyal. Do you recall Mr. Goyal's testimony about
22 this document?

23 A. Yes, I do.

24 Q. Do you recall that this was a document that you
25 signed?

1 A. On page 3, correct.

2 Q. As an approver?

3 A. That's correct.

4 Q. I believe that the jury was told that this
5 document was a JCO. Can you tell the jury, first of all,
6 what a JCO is?

7 A. JCO stands for -- well, this is not a JCO, but
8 JCO stands for -- is a justification for continued
9 operation. And my understanding is it's a formal agreement
10 or a formal evaluation between the station and the
11 government and the NRC. I know that a later time we saw --
12 or what I saw earlier was Mr. Goyal had put a cover sheet
13 on this and labeled this always a JCO.

14 Q. What is this document that you're looking at
15 right now?

16 A. Well, this document -- well, it's kind of
17 captured in the first paragraph. In the question there
18 says should Davis-Besse perform a visual inspection if the
19 plant shuts down to mode five conditions. What we had at
20 the station so you could avoid a lot of chaos or when it --
21 if and when the plant were to trip off line.

22 Q. What does that mean?

23 A. I'm sorry, if the plant, for whatever reason,
24 were to shut down automatically, and it could be for a lot
25 of reasons I mean, in 1998, we were shut down by a tornado.

1 So in the event that you do shut down, there's -- before
2 you go and start up, there may be work that you want to do
3 that you can't do when the plant's up and operating. And
4 so we actually maintain two different work lists. We have
5 a mode three work list and a mode five work list. Both
6 require the plant to be shut down, but mode five required
7 it to be shut down, cooled down and depressurized.

8 So what this was really asking the question of
9 should we be putting things in place in case we were to
10 trip and go to mode five, should we have everything in
11 place for work orders, contracts, whatever we needed for
12 doing an inspection.

13 Q. By June of 2001, was there a sense at Davis-Besse
14 that the NRC was going to take some follow-up action on the
15 findings at Oconee?

16 A. I know that we had already had an information
17 notice out by then. That came out shortly after the Oconee
18 three. I can't tell you. I know there was a discussion at
19 some point during the summer that there's probably going to
20 be a bulletin coming out, but I couldn't tell you when that
21 discussion occurred.

22 Q. We discussed, I think, before that you signed
23 this document as approved?

24 A. That's correct.

25 Q. Would you have read this document?

1 A. Yes, I did.

2 Q. Would you have read it closely?

3 A. Yes.

4 Q. I'm going to show you page 2 of the document. In
5 June of 2001, what was your understanding as to the
6 condition of the reactor vessel head coming out of 12 RFO?

7 A. Once again, that we had cleaned it successfully
8 with the hot water.

9 Q. Take a look at the last paragraph of this second
10 page, specifically the fourth line.

11 A. Where it says the flange was repaired and the
12 head was cleaned?

13 Q. Correct. Is that a reference to 12 RFO?

14 A. That's correct.

15 Q. Did anything in this document from Mr. Goyal
16 change your opinion in June of 2001 about the condition of
17 the head coming out of 12' RFO?

18 A. No, it didn't.

19 Q. Did you ever have a discussion with Mr. Goyal
20 about this memorandum?

21 A. May very well have. I don't recall it, but, I
22 mean, it would be highly unusual for him to bring in a
23 document like that. That requires my approval signature,
24 and not discuss it with either he or Theo Swim, discuss it
25 with me. I mean, morally if you're going to go get

1 approval signature of someone above you, you take the
2 document to them and discuss it with them.

3 Q. Do you recall any discussion with Mr. Goyal about
4 language that he had had in this document being omitted at
5 Mr. Swim's request?

6 A. No, I don't.

7 Q. Would that have caused you concern if he had
8 suggested that to you?

9 A. I probably ask was he happy with the revision.

10 Q. This is Government's 27, which is an e-mail from
11 Mr. Goyal to Mr. Siemaszko, CC'd to you and others. Do you
12 recall Mr. Goyal testifying about this document?

13 A. Yes, I do.

14 Q. Did you review this in preparation for testifying
15 today?

16 A. Yes, I did.

17 Q. Do you have any specific recollection of
18 receiving this e-mail back in July of 2001?

19 A. No, but I'm CC'd on it so I probably did.

20 Q. Can you tell the jury what this e-mail is about?

21 A. Yeah. Prason was our site recipe for the EPRI
22 MRP. And they were --

23 Q. I'm sorry?

24 A. I'm sorry.

25 Q. What is the EPRI MRP?

1 A. EPRI stands for Electric Power Research
2 Institute. They are a -- they do a lot of work for the
3 electric industry, and there's a lot of committees and
4 stuff that we participate on. They have a group that's
5 called the MRP and it's called materials reliability
6 program. And that was like a sub committee. So when I say
7 EPRI MRP, the MRP is a sub committee of EPRI, and Prasoon
8 was on that committee.

9 Q. And what is it that is being discussed in this
10 e-mail?

11 A. Well, they -- at this time frame, the NRP was
12 developing what they called a susceptibility model and they
13 were trying to range all of the pressurized water reactors
14 in the country based upon simple but, you know, a series
15 of, I don't know, criteria. They were talking about age,
16 then they went just the age from based on what your
17 temperatures is that your head was operating at. And there
18 was a form data verification form as the title implies.

19 Q. What is the form asking for information about?

20 A. It had a lot of information on there, but
21 specifically what Prasoon was asking Andrew about was to
22 verify that the information in the inspection column was
23 correct.

24 Q. In July of 2001, were you involved in past
25 inspection information?

1 A. No, I wasn't.

2 Q. Were you involved in communications with the MRP?

3 A. No.

4 Q. Do you have any specific recollection as you sit
5 here today of receiving this e-mail?

6 A. No, I don't.

7 Q. Do you know who -- at the time, did you know who
8 had done the 2000 inspection?

9 A. No, I did not at that time.

10 Q. What would you have taken from this e-mail on
11 July 10th, assuming you saw it?

12 A. It was sent to -- I would take it as Prasoon is
13 asking Andrew, who is in a different department, to do
14 something for him. And I think out of courtesy, he was
15 CCing it to Andrew's supervisor, Andrew's supervisor
16 manager, and then his -- you know, Prasoon's supervisor and
17 me.

18 Q. There came a time in October of 2001 where you
19 had -- you were parting interactions with the NRC regarding
20 past inspections, correct?

21 A. That's correct.

22 Q. When you had those discussions in October of
23 2001, did you have any recollection of this July e-mail?

24 A. No.

25 Q. Showing you a trip report marked as Government's

1 Exhibit 28 from Mr. Goyal to Mr. Swim --

2 A. Correct.

3 Q. -- dated July 12th. Do you recall Mr. Goyal
4 testifying about this document?

5 A. Yes, I do.

6 Q. What do you recall his testimony was about, what
7 this document was written for?

8 A. Well, once again, it was a -- it was a trip
9 report for a trip that he attended with the MRP, and it
10 says right in the first sentence, June 13th, 14th and 15th.

11 Q. Have you reviewed this document to prepare for
12 your testimony today?

13 A. Yes, I have.

14 Q. Do you have any recollection of receiving this
15 document in July of 2001?

16 A. Not specifically, but once again, it was a trip
17 report. I tried to make a point of reading all trip
18 reports.

19 Q. Based on what's in the document about the lessons
20 learned at Oconee, is there anything in this document that
21 would have either changed what you then believed to be true
22 or caused you concern?

23 A. No.

24 Q. Government 36 is an e-mail from Mr. Goyal to you.

25 A. Correct.

1 Q. Do you recall Mr. Goyal's testimony about this
2 document?

3 A. Yes, I do.

4 Q. Were you at the meeting that the e-mail is about?

5 A. No, I wasn't.

6 Q. From looking at the e-mail, can you tell what the
7 purpose of the meeting was?

8 A. I would guess that this was probably a work scope
9 committee meeting.

10 Q. And what is the work scope committee?

11 A. Well, the work scope committee was like -- that
12 was the directors that would approve large projects, they
13 would fund large projects. Basically to get a project
14 modification or anything, it proved that the plant was kind
15 of a two-tier approach. If you were like -- let's say you
16 were an engineer and you came up with an idea and you first
17 bring it to the project review committee, which was staffed
18 with managers, make your pitch and then if -- then it would
19 go from there up to the work scope committee, which was
20 staffed by the directors, I'm just guessing at that point,
21 because I look at the attendance here and with the
22 exception of licensing, everyone else was a director.

23 Q. Do you recall receiving this e-mail in August of
24 2001?

25 A. No, I don't.

1 Q. Did Mr. Goyal ever come and talk to you about
2 either the e-mail or the meeting that the e-mail's about?

3 A. Not that I recall.

4 Q. As you look at the two paragraphs below the list
5 of names of people at the meeting, can you tell the jury
6 how you believe you would have analyzed this e-mail,
7 assuming you received it?

8 A. Well, there's a lot of discussion about what we
9 have to do for inspections in 13 RFO. And there's
10 obviously a lot of discussion on do we have to have some
11 sort of plans or scenarios worked up for what if we find
12 cracks and what we have to do to fix those.

13 Q. In August of 2001, who was tasked with leading
14 the preparations for 13 RFO?

15 A. Mark McLaughlin.

16 Q. Let me call your attention to the third paragraph
17 that starts I indicated. Do you see where I'm looking at?

18 A. Yes, I see that.

19 Q. And specifically to the sentence that begins on
20 the second line and reads it was pointed out that we cannot
21 clean our head through the mouse holes. Do you see that
22 sentence?

23 A. Yes, I see that.

24 Q. Do you have any recollection of reading that
25 sentence in August to be telling you that the head had not

1 been cleaned in 12 RFO?

2 A. No, I didn't. I didn't read this that way at
3 all.

4 Q. How do you know that you didn't read it that way?

5 A. Well, because I think it would have stuck in my
6 mind that we hadn't cleaned the head at that point.

7 Q. And what would that have meant to you?

8 A. Well, I mean, we had said -- I was operating on
9 the premise all along that we had a pristine head. I mean,
10 when I look at this, the thing that jumped out in my --
11 when I reviewed this for this testimony is Andrew Siemaszko
12 requesting three large holes to be cut in the service
13 structure, review any cleaning, and we already had a
14 modification on the books to cut, I think it was seven to
15 nine holes for that very thing. So I'm just guessing that
16 at the time, I just chalked this up to, yeah, this is
17 further ratification that we want to get this modification
18 done.

19 Q. And did Mr. Goyal ever come talk to you about how
20 the head had been left at 12 RFO?

21 A. No.

22 Q. When you say you thought the head was pristine,
23 are you talking about how it was found at the beginning of
24 12 RFO or how it was left?

25 A. How it was left. And I don't think I ever used

1 the word pristine, but, you know --

2 Q. Oh, I believe you did.

3 A. Did I?

4 Q. Let me just ask you, though.

5 A. I know we cleaned it with hot water with the idea
6 of getting all the boron off.

7 Q. Can you tell the jury what the difference is
8 between as left and as found as it relates to going
9 forward?

10 A. Well, any time that you do the inspection to look
11 for leakage, you really want to do your as found because
12 the leakage manifests itself at pressure. And so you shut
13 down, you go in, do your inspection looking at did anything
14 occur while I was at pressure, did anything leak out. Once
15 you clean the head and then you do an as left, that as left
16 inspection is really intended to be a baseline for your
17 next as-found inspection.

18 Q. Let me show you one last e-mail. This is
19 Government's Exhibit 40, which is from Mr. Goyal to
20 Mr. Fyfitich on which you are CC'd.

21 A. Correct.

22 Q. Did you review this document in preparation for
23 your testimony today?

24 A. Yes, I did.

25 Q. Do you have any specific recollection of seeing

1 this in August of 2001?

2 A. No, but I -- once again, I was CC'd on it, so I'm
3 sure I probably got it.

4 Q. What is your understanding of what Mr. Goyal was
5 doing at the time that he sent this e-mail to Mr. Fyfitch?

6 A. Well, in reading through the document, there was,
7 once again -- I mentioned earlier he was on the MRP, and
8 they were developing a susceptibility model. And in that
9 susceptibility ranking model, we end up coming out as a
10 plant that was within five -- it says EFPY, which stands
11 for Effective Full Power Years of Oconee 3.

12 Q. What's the subject matter of the e-mail?

13 A. It talks about the NRC bulletin.

14 Q. Do you understand that to be bulletin 2001-01?

15 A. Is it? I'm assuming that's what it would apply
16 to. That was the only bulletin I think we had at the time.

17 Q. Were you involved on August 17th of 2001 in the
18 drafting of the response to bulletin 2001-01?

19 A. No.

20 Q. Take a look at the statement at the very bottom
21 of the first paragraph where Mr. Goyal asks, is it possible
22 to go back to 1998. That is when a good head exam was done
23 with no nozzle leakage, meaning not taking credit -- taking
24 any credit for 2000 inspection. Do you see that sentence?

25 A. Yes, I do.

1 Q. In August of 2001, did you believe that the 2000
2 inspection had been a full and complete inspection?

3 A. I don't think I really even thought about it that
4 much. I hadn't even seen the response yet, the 2731, so I
5 often ask myself that question.

6 Q. Would it, seeing this e-mail, have caused you any
7 concern?

8 A. No, I took it as he was trying to -- Framatome is
9 working on doing some gap analysis with regard to the weld,
10 and I think that was just a continuing part of that. We
11 had -- I think there was testimony made that SIA did gap
12 analysis for us. Framatome did some for us as well.

13 Q. We have just looked at nine documents from
14 December of 2000 through August of 2001. In that
15 eight-month period, can you estimate how many trip reports
16 you received per week on average?

17 A. Probably about one a week on average.

18 Q. How many e-mails did you receive per day on
19 average?

20 A. Probably anywhere from 20 to 50, depending on the
21 day.

22 Q. Do you recall any discussions with Mr. Goyal or
23 anyone else on any of those documents that I've just showed
24 you?

25 A. No.

1 Q. Tell the jury a little bit about what you were
2 doing in your job in August of 2001.

3 A. Well, August of 2001 was -- was -- was a tough
4 month. And given the fact that we had had -- I mentioned
5 there was a lot of problems within the design basis group.
6 And actually, I was actually challenged by the site vice
7 president to come up with an action plan to address
8 shortcomings within the design group. I provided an action
9 plan in October of 2000. And there was ten pretty
10 significant improvement initiatives. We're talking about
11 design calculation reconstitution, stuff like that. And a
12 lot of those issues dealt back to some audit -- I keep
13 saying audit finance, but it really is AFI is Area For
14 Improvement is what it stands for, but it sure felt like
15 about an audit finding. But these were things from Impo,
16 that in previous Impo evaluations, that he had provided a
17 lot of shortcomings in our group. So we were trying to get
18 those up to speed. Impo was coming back in for the next
19 inspection in September. And so the month of August was
20 spent a lot of time in prep work for -- that Glenn McIntyre
21 had been pulled out of his role as a supervisor and put
22 into a full time role to prep for the -- for the Impo team
23 coming in, and I was one of the engineering people that was
24 on his -- helping on the team to get ready.

25 In addition to that, I mentioned these ten

1 improvement initiatives that we had self assessments that
2 we were rung through the month of July and August so that
3 when Impo came in, we would at least look polished and
4 prepared, may not be completely done with all the
5 improvement issues, but at least we could go and say this
6 is how far we've come, you know, we've made a real good
7 faith effort to really square away the design group, and
8 this is what we have left to do. So we were kind of
9 benchmarking where each one of those initiatives were at
10 the time.

11 Q. Aside from the Impo preparations, were there
12 other things that you were working on in your role as
13 manager of design basis engineering in August of 2001?

14 A. No. We were trying to get our mods done for 13
15 RFO.

16 Q. What does that mean?

17 A. The modifications, the -- by the time August
18 rolled around, our -- our due date had already passed for
19 getting these mods done, we'd try to get them done like
20 nine months ahead of time. And we had stragglers, I think
21 I mentioned earlier we had about 26 that were issued after
22 the freeze date or after the due date for various reasons.
23 Some were because they were late identified, but we were
24 scrambling to get those done, and every design package
25 that's issued is personally signed off by myself as the

1 design managers.

2 Q. You are aware that bulletin 2001-01 was issued on
3 or about August 4th of 2001?

4 A. That's correct.

5 Q. Were you involved in the drafting of
6 Davis-Besse's initial response 2731?

7 A. No.

8 Q. Were you assigned to any specific answers in that
9 response?

10 A. No.

11 Q. Were you involved in meetings about reviews of
12 the drafts that were being passed around in preparation to
13 submit a final response?

14 A. No, I wasn't.

15 Q. Were you involved in the greensheet?

16 A. Yes, I was.

17 Q. What was your understanding of your role in the
18 greensheet review of 2731?

19 A. Well, if you look at the greensheet, there are
20 several managers' names or positions -- not names but
21 positions, design basis engineering being one of them, that
22 are like preprinted on the greensheet. And it's because
23 most of the greensheets always come to those managers. And
24 my role was to go through, read the document, make sure it
25 made sense to me but at the same time verify that the right

1 people participated in the preparation of that document,
2 and that they had also had reviewed and signed the
3 concurrence of that document.

4 Q. What was the date of your first personal
5 interaction with the NRC regarding the bulletin?

6 A. That would have been October 3rd we had a
7 teleconference.

8 MR. WISE: Judge, I'm sorry, I have not gotten as
9 far as I would like. This might be a good time to break
10 for the evening if The Court so wish.

11 THE COURT: Thank you. Ladies and gentlemen, I
12 had discussed with counsel beforehand that if he felt he
13 could finish by 5:15 or so, 5:30 at the very latest, we
14 would continue with Mr. Geisen. It appears that that will
15 not be the case, and so rather than keep you and breaking
16 at an -- at a rather opportune time, we'll break now. Can
17 we start tomorrow morning at 8:30?

18 Very good. 8:30 tomorrow morning. All right
19 with all counsel?

20 MR. WISE: Yes, Your Honor.

21 THE COURT: Very good. Please remember as we
22 part, as I have in each of the days we have parted, that
23 you are not to discuss this case among yourselves, nor with
24 anyone else, nor permit anyone to discuss it with you.
25 Please do not read, watch, listen to anything touching on

1 this case in any way. Please do not make up your mind on
2 the ultimate issues which you will determine at the end of
3 the case, where there are more witnesses to be heard, the
4 arguments of counsel, and The Court's instructions. Enjoy
5 your time away. We'll see you at 8:30 in the morning.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

Angela D. Nixon, RPR, CRR

Date

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-712
5 Plaintiff, - Toledo, Ohio
6 v. - October 19, 2007
7 DAVID GEISEN, et al., - Trial
8 Defendant. -

9
10 VOLUME 11 OF 15
11 TRANSCRIPT OF TRIAL
12 BEFORE THE HONORABLE DAVID A. KATZ
13 UNITED STATES DISTRICT JUDGE.

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1 (Commenced at 9:04 a.m.)

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09:04:28 3 DAVID GEISEN, CONTINUED DIRECT EXAMINATION

09:04:28 4 BY MR. WISE:

5 Q. Good morning, Mr. Geisen. When we stopped yesterday, we
6 were talking about the late September or early October
7 timeframe. Can you tell the jury again the day that you first
8 had an interaction with the NRC regarding bulletin 2001-01?

9 A. **October 3, 2001.**

10 Q. You had also described a role in the greensheet review
11 2731, correct?

12 A. **That's correct.**

08:04:58 13 Q. How many times did you sign that greensheet?

14 A. **Twice.**

15 Q. And in what capacities?

16 A. **As a Design Basis engineering manager, and then for my**
17 **boss, Steve Moffitt.**

18 Q. When you signed it as the Design Basis Manager, what
19 would you have been looking for?

20 A. **I would have gone through the document looking for those**
08:35:21 21 **pertinent sections that deal with the design of the plant and**

08:35:25 22 **make sure that they sounded right to me as well as verify that**

08:35:29 23 **the appropriate people from my staff were involved with the**

08:35:34 24 **reviews and also signed off on it.**

25 Q. Can you speak up just a little bit?

08:35:40 1 In your review as the Design Basis Manager, would
08:35:48 2 you have paid any special attention to information about past
08:35:48 3 inspections?

4 A. No.

08:35:50 5 Q. When you signed off on it for Mr. Moffitt, what would
08:35:54 6 that review have entailed?

08:35:56 7 A. I would have looked to verify that the people that were
08:36:02 8 reporting to him would have signed off on it, which would have
9 been obviously myself and probably Dave Eschelman, who was the
10 Plant Engineering Manager, that he had already completed his
11 review at that time.

08:36:15 12 Q. Now let's go forward to October 3. What happened on
08:36:21 13 October 3?

08:36:21 14 A. We had a teleconference -- "we" being there's a group of
15 people at the plant had a teleconference with a group of people
16 at NRC headquarters in Washington.

17 Q. And do you recall preparing for that phone call?

08:36:38 18 A. Yes. I mean, I think the phone call was, like, on a
08:36:42 19 Wednesday, and we had prepped on that Monday, Tuesday. And I
08:36:48 20 don't recall a lot of details about the prep, but I have had a
21 chance to review Mr. Miller's notes. I didn't personally have
08:36:56 22 any notes of the meeting myself. So I know we have a prep
08:37:00 23 meeting and a teleconference with Framatome on the 2nd.

08:37:07 24 Q. As you think back to the October 3rd call, can you tell
25 the jury approximately how many people were involved from the

1 Davis-Besse side?

2 A. It's hard to say. We were in a -- I think it was Steve

3 Moffitt's office. It was either Steve Moffitt's or Dave

4 Lockwood's office. I don't remember for sure, but both offices
5 are set up pretty much the same. We have a conference table.

6 So we probably had, I don't know, six to eight people in there,

7 maybe.

8 Q. I'm going to put up on the screen what has been

9 previously admitted as Government's Exhibit 78.

10 MR. WISE: Can we switch that so the jury can see

11 it as well?

12 BY MR. WISE:

13 Q. Mr. Geisen, do you recognize what Government's Exhibit

14 78 is?

15 A. Yes, I do.

16 Q. What do you recognize that to be?

17 A. These are Dale Miller's notes of the October 3rd

18 teleconference with the NRC.

19 Q. Do you have a specific -- do you have a recollection

20 aside from Mr. Miller's notes of what it is that you discussed

21 during this call?

22 A. No, I don't.

23 Q. Do you have any reason to believe that Mr. Miller's

24 notes are inaccurate?

25 A. No.

- 08:38:51 1 Q. And so if you would, focus with me on this section.
- 08:39:00 2 A. **Okay.**
- 3 Q. Which has the initials D.C.G. Do we assume that those
- 4 are your initials?
- 5 A. **I would assume that that was me, yes.**
- 6 Q. Assuming that you spoke the information that's contained
- 7 in Mr. Miller's notes, is it fair to say that you were speaking
- 8 on the topic of past inspections of the head?
- 9 A. **That's correct.**
- 10 Q. How would you have gone about gathering information
- 11 about the past inspections that had been done of the head?
- 08:39:28 12 A. **Well, preparation for the meeting, I had reviewed our**
- 13 **response to 2731. And I know that we had conversations about**
- 14 **it with Framatome the day before on the 2nd. I can't say each**
- 08:39:46 15 **piece/part, where it came from. I also had conversations with**
- 08:39:50 16 **people like Bob McIntyre's supervisor in Systems over the**
- 08:39:55 17 **mechanical group. Their group is always responsible for -- I**
- 18 **shouldn't say always; most of the time they were responsible for**
- 19 **the inspections of the head.**
- 08:40:03 20 Q. Why would you have gone to Mr. McIntyre to gain that
- 21 information?
- 08:40:08 22 A. **He was the supervisor of the group.**
- 23 Q. Would you have gone to the actual engineers that did the
- 08:40:13 24 inspections?
- 08:40:14 25 A. **Not normally. Out of practice I wouldn't have done that**

1 because I try to go with the supervisors so that they know that
2 -- I mean, it just wasn't my practice to bypass the supervisors.

08:40:29 **3 Q.** Do you have any recollection of whether you spoke with
08:40:32 **4 Andrew Siemaszko before the October 3rd phone call about past**
08:40:36 **5 inspections?**

6 A. I don't recall. I might have.

08:40:38 **7 Q.** Did you, yourself, review videos of the past inspections
8 before the October 3rd phone call?

9 A. No.

08:40:56 **10 Q.** Based upon what you see in Mr. Miller's notes, can you
08:41:02 **11 tell the jury what you likely said about the last inspection?**

08:41:10 **12 A. Yeah. It looks like I said that we did an inspection**
13 of the whole head and that there were some areas that were
08:41:19 **14 precluded from being inspected because of nozzle or CRDM --**
15 flange leakage that had pooled around, boron had pooled around
16 the nozzles. And we had signs of -- it says there were
08:41:36 **17 definite signs of boron flow from leakage. That would be**
08:41:41 **18 referring to the streams that would have been evident on the**
08:41:44 **19 flanges, coming down the tubes.**

08:41:46 **20 I also went on. I talked about the tapes that**
21 were reviewed, also talked about the cleaning a little further
22 down.

23 And then further down towards the bottom I talked
24 about the 80 percent confidence. I'm not sure where that came
25 from other than the fact that looking at Mr. Miller's notes from

1 the previous day, I believe that that was probably from
2 conversations with Framatome.

08:42:16 **3 Q.** All the information you presented during this call,
08:42:22 **4** assuming that you presented what Mr. Miller's notes show, did
5 you have any question about the accuracy of that information?

08:42:29 **6 A. No.**

7 Q. Or the reliability of your sources?

08:42:32 **8 A. No.**

08:42:43 **9 Q.** After the October 3rd phone call concluded, what
10 happened next within the Davis-Besse team?

08:42:50 **11 A. I'm sure we discussed -- I'm sure we sat around and**
08:42:56 **12 discussed the results of the phone call, and I know we came up**
13 with an action plan. There were -- Steve Moffitt had given me
14 basically two tasks to manage or coordinate, one being the
08:43:08 **15 development of a crack growth rate model, and the other one was**
16 the nozzle-by-nozzle table that Mr. Hiser had requested.

08:43:25 **17 Q.** Let's talk about the nozzle-by-nozzle table. What was
08:43:31 **18** the nozzle-by-nozzle table to present information about?

08:43:35 **19 A. Well, the intent was instead of -- I guess what we had**
08:43:40 **20 previously done was a videotape review. I say we; it would have**
21 been the guys -- Andrew, who provided the information to the
08:43:49 **22 bulletin, had -- all he had done is review videotapes at that**
23 point. And what we were looking for was a specific, let's
08:44:00 **24 create a table with each nozzle location and a definitive result**
25 for each nozzle at each location for each outage.

08:44:11 1 Q. By each outage, what do you mean?

08:44:27 2 A. **Initially we were doing two outages because the bulletin**
3 **called for it to go back --**

08:44:35 4 Q. Which two?

08:44:45 5 A. **I'm sorry, the 2000 and 1998 bulletin had you go back**
6 **for four years.**

08:44:58 7 Q. At that point, we're talking October 3rd. Had you had
8 any prior experience doing head inspections?

08:45:06 9 A. **No.**

08:45:11 10 Q. Why was Mr. Siemaszko chosen to construct the
11 nozzle-by-nozzle table?

08:45:19 12 A. **He's the one that had done the previous inspection and**
13 **owned the system. I mean, the reactor head was part of the**
14 **reactor coolant system. He was the system engineer for that.**
15 **So he was the logical choice as to who to put that together.**
16 **Additionally, he had participated in the Arkansas '01 inspection**
17 **in the spring. What we felt we were doing was taking these**
18 **tapes and putting a calibrated eyeball on it.**

08:45:36 19 **If I'm going too fast, let me know. I was killing**
20 **Angela yesterday.**

08:45:36 21 **We would put a calibrated eyeball on these tapes,**
22 **the original intent of the tapes was not to view -- was not to**
23 **look specifically for nozzle leakage as much as the general**
24 **condition of the head. So we were basically looking at the**
25 **tapes with a different set of criteria, different set of**

08:45:42 **1 eyeballs; that's what we were putting Andrew on for.**

2 Q. What direction did you give Andrew as he started to
3 compile the table?

08:45:52 **4 A. I don't know that I provided him any direction other**
5 than we needed a nozzle-by-nozzle, and I can't even say whether
08:45:59 **6 I provided that to him directly or went through Glenn McIntyre.**

08:46:05 **7 Actually, it would have been John Cummings by that time. But I**
8 don't know. You know, I mean, as far as -- I don't know how
9 that communication was done. I was trying to remember it, but

08:46:18 **10 in essence we had asked him to do -- whether it came from me**
11 directly or from plant engineering through their man chain, the
08:46:28 **12 message was we needed the nozzle-by-nozzle inspection.**

08:46:32 **13** Q. Did there come a time that you had a discussion with
14 Andrew about how he was doing this work?

15 A. Yes. It would have been -- I don't know, maybe a week
08:46:44 **16 or two later. He was in the process of doing the**
08:46:50 **17 nozzle-by-nozzle.**

08:46:52 **18** Q. Okay. Let's break this down a little bit. Where did
08:46:56 **19** you have the meeting with him?

20 A. I just stopped by his cubicle.

08:47:01 **21** Q. How long did you meet with him?

22 A. Probably about an hour.

23 Q. And can you describe what it is that he told you about
24 how he was doing his work?

08:47:11 **25 A. Yeah. I just stopped by and asked him how it was**

1 going, just checking up. I had been in the building anyways
2 for the morning manager's meeting, so it's just one floor up, so
3 I stopped by and asked him how he was making his calls. And
4 he -- I'm sorry.

5 Q. Where was he sitting at the time?

6 A. **At his desk.**

7 Q. Did he have his computer in front of him?

8 A. **Sure. He was using his computer.**

9 Q. Did he show you portions of the past inspection tapes?

08:47:44 10 A. **Not the tapes but, I mean, the video clips.**

08:47:49 11 Q. When you say not the tapes but the video clips, explain

12 to the jury what you mean.

13 A. **Well, he had already -- I think Mr. McLaughlin testified**
14 **that he helped facilitate it, but they already converted the VHS**
15 **tapes over to digital format on CDs.**

16 Q. And why was that done?

08:48:10 17 A. **Andrew had said that when he tried to do the pause and,**
18 **you know, fast-forward pause -- with the VHS when you pause, you**
19 **don't get a nice, crisp, clear picture, and the ability to**

08:48:25 20 **stop-it-on-a-dime type thing. It was very difficult. So the**

08:48:30 21 **plan was by putting it into a digital format, you could just**

08:48:35 22 **put, like, the space forward on the keyboard, and it would go**

23 **actually one digital frame at a time, and you could step through**
24 **it. So that's what he was doing when I walked up.**

25 Q. And during the meeting that you had with him, did he

1 show you frames from the videos?

2 **A. Yes. Right about where he was at the time he just**
3 **started explaining how he did it.**

4 Q. Do you recall which year he was looking at as you were
08:49:02 5 having this conversation with him?

6 **A. No.**

08:49:04 7 Q. What did he explain to you about how he was making
08:49:08 8 judgments on a particular nozzle that he showed you on his
08:49:12 9 screen?

10 **A. Well, he was explaining how he was looking for the**
08:49:16 11 **downhill side because that's apparently where the gaps open up**
12 **the most and that he was looking specifically for this**
13 **popcorn-type of boron deposit on that downhill intersection. He**
08:49:33 14 **indicated that he was also at the same time looking for leakage**
15 **from or signs of leakage from above, such as the streaking down**
16 **the tubes. He said that.**

08:49:44 17 Q. Why did you understand that he was looking for streaking
08:49:49 18 from above?

19 **A. He was trying to see if there were signs of boric acid,**
20 **boron deposited from the possible flange leakage from above.**

21 Q. In the frames that he showed you were there frames that
22 showed boric acid around nozzles?

23 **A. Yeah, I think there was in the background and stuff.**

08:50:09 24 Q. Were there any nozzles that he showed you where there
25 was boron on the upside side of the nozzles?

1 A. Yes.

2 Q. What did he explain to you about why that nozzle could
3 be -- if it was, why that nozzle could be considered acceptable?

08:50:22 4 A. Well, he was saying that, okay, the downhill side radius
5 or where that intersection was was relatively clean. So he was
08:50:34 6 looking at that area. And he would look on the uphill side,
7 and it would indicate what looked like you've got this boron
8 that tumbled down and just came to rest on the uphill side of
9 the tube, almost like a snowdrift versus, like, a crystal-like
08:50:54 10 deposit type of thing. And he was doing that. In some cases
11 he said he had to go in different mouse holes at multiple angles
12 to get a good correlation on a particular drive, to have a good
08:51:08 13 view from one side. So he'd have to, like, combine the two for
14 two different sides.

15 Q. Based upon your conversation with him, did you have a
08:51:17 16 degree of comfort with how he was doing his job?

17 A. Yeah, I thought he was doing a pretty thorough job.

18 Q. Did he appear to be using a methodology that made sense
19 to you?

08:51:30 20 A. Yes.

08:51:31 21 Q. As you sat with him that day at his cubicle, was there
22 any discussion of the e-mails that you and I walked through
23 yesterday about Ocone having a clean head or a pristine head?

24 A. No, we were focused just on the video inspection he was
25 doing.

08:51:51 **1** Q. After that conversation with Mr. Siemaszko, did there
2 come a time that you had a conversation with Steve Moffitt about
3 Andrew's work?

08:52:04 **4** A. I think -- I can't tell you exactly when, but I know
5 that Steve and I had talked about how the inspection was being
6 done, and I pretty much reiterated exactly what I discussed with
7 Andrew and how it was done.

8 Q. Do you recall if your conversation with Mr. Moffitt
08:52:22 **9** occurred before or after the October 11th meeting with the
08:52:26 **10** technical assistants?

11 A. I can't say for sure.

08:52:29 **12** Q. Let's turn to that October 11th meeting for a second,
13 and then we'll come back to this topic. Do you recall a
08:52:36 **14** meeting on the 11th with technical assistants?

15 A. Yes, I do.

08:52:41 **16** Q. Were you present at that meeting?

17 A. Yes, I was.

18 Q. Did you present slides at that meeting?

08:52:45 **19** A. Yes, I did.

08:52:46 **20** Q. Can you tell the jury a little bit about how those
21 slides were made?

22 A. We made them the night before. We were -- when I say

23 "we", there was a group of us, not only the presenters, but I

24 think a couple other support personnel who came along. We went

25 out to Washington, D.C., and then I think we were staying at the

08:53:18 1 Doubletree Hotel there in Rockville, and we had a conference
08:53:21 2 room that we were in there, and as kind of like a team
3 collaborative effort we put together these slides as a
4 PowerPoint. They were speaking points for the meeting the next
5 day.

08:53:27 6 Q. Was Andrew Siemaszko at either the prep session or the
7 meeting?

8 A. No, he wasn't.

9 Q. Had you set the meeting for the 11th?

10 A. I think it was set by Dave Lockwood and Doug Pickett.

08:53:36 11 Q. I'm going to show you a page from Government's Exhibit
12 87, which is in evidence.

13 Do you recognize this slide?

08:53:43 14 A. Yes, I do.

08:53:44 15 Q. What do you recognize this slide to be?

16 A. This is one of the slides that I presented to -- the
08:53:51 17 PowerPoint we presented to the tech assistants.

08:53:54 18 Q. Will you look at the first flag under the word "Facts"?

19 A. Okay.

20 Q. Do you recall presenting that information?

21 A. Yes.

22 Q. Can you tell the jury what that information was based
08:54:07 23 upon?

08:54:08 24 A. It was based upon the very work that Andrew was doing
25 that we went back and looked at these video clips and were

1 verifying them to be free of popcorn-type boron.

2 Q. At the point that you were presenting at this meeting on
3 the 11th, had Mr. Siemaszko finished his nozzle-by-nozzle table?

4 A. I don't think so.

5 Q. The word "or" between 11 RFO and 12 RFO, can you tell
6 the jury how that word got into this slide?

7 A. Well, I know we changed it. We originally -- we typed
8 it up, and it said "and." And I indicated that that -- during
9 our discussion, that wasn't going to be accurate.

10 Q. Why not?

11 A. Because "and" implies that -- what we were doing is we
12 were compiling two inspections to try to get an overall picture.

13 And the "and" would imply that each inspection could stand
14 alone, by itself would allow you to see all the CRDMs, and we
15 knew that wasn't the case for the 12th refueling outage because
16 we had had five flanges that worked.

17 Q. When you presented this slide to the technical
18 assistants, did you have any question about whether it was
19 accurate?

20 A. No.

21 Q. Would you have presented this information if you
22 believed it was inaccurate?

23 A. No.

24 Q. Take a look at the third flag on this slide for me.

25 A. Plant specific finite one?

1 Q. What is that flag talking about?

2 A. The finite element analysis was the work that structural
3 integrity associates had done to show that the gaps would open
4 up. So what we were saying with that is that essentially four
5 of the 69 drives were not going to have sufficient gaps open up
6 that you could take credit for them for a visual inspection.

7 Q. Who was working with Structural Integrity Associates to
8 gather this information?

9 A. Mark McLaughlin.

10 Q. Did there come a time after the October 11th meeting
11 that you learned that some of the information you had presented
12 that day was not accurate?

13 A. Yes. I think it was within the week afterwards.

14 Andrew had completed his table at that point. And there was
15 clearly -- there were drives that we could not take credit for
16 inspecting in the 11th refueling outage for 1998. So that's
17 when I went to Steve Moffitt.

18 Q. When Andrew brought you that information, did that cause
19 you to question his credibility?

20 A. No, because he was -- he was doing exactly what we asked
21 him to do, which was to create a nozzle-by-nozzle table. I
22 mean, I guess I expected that if you're going to go and ask for
23 a lot more detail on an inspection, you can't be surprised if
24 you get results that are different than what you initially
25 intended.

1 Q. And you said you went to Mr. Moffitt with this
2 information?

3 A. **That's correct.**

4 Q. Why did you do that?

5 A. **Well, he's my boss.**

6 Q. And what was the purpose of going to your boss with the
7 information?

8 A. **Well, because I think we had conveyed inaccurate**

08:57:47 9 **information during our meeting and during the previous submittal**

08:57:51 10 **for the 2731.**

08:57:54 11 Q. And what was the decision about what to do to rectify
08:57:59 12 that?

13 A. **Well, I had indicated -- as soon as Andrew had told me**
14 **this information, since I was also working on the -- with Ken**
08:58:09 15 **Byrd on the crack growth rate model, and we needed the**
08:58:13 16 **inspection information as the starting point for our crack**
08:58:17 17 **growth rate, so I had told Andrew, well, let's expand that table**
18 **and go to add in 1996 if you have that. He indicated he had**
19 **the tapes for that, so he indicated he would start down that**
08:58:32 20 **path.**

21 **So I told Mr. Moffitt the same thing, that we would**
08:58:35 22 **need to correct the information. And we went to Dave Lockwood**
23 **to ask, what's the -- I think Roy Leslie was involved as well,**
08:58:44 24 **but it was to basically ask the question: Well, how do we do**
08:58:48 25 **this; How do we go and revise what we've already told the NRC?**

1 Q. Who is Mr. Lockwood?

2 A. **Mr. Lockwood was the Regulatory Affairs manager.**

08:59:05 3 Q. Do you recall when the next submission was made to the
4 NRC?

08:59:10 5 A. **It was later that month, the 2735.**

6 Q. Does October 17th sound about right?

7 A. **Yes.**

8 Q. What did 2735 include that had not been previously
9 provided to NRC?

10 A. **Well, it gave a breakdown of -- in the verbiage, the**
11 **description, we actually talked about how many drives we**
12 **couldn't take credit for in 2000, how many we couldn't take**
13 **credit for in 1998. And then we had the '96 data in there as**
14 **well.**

15 Q. Was this Andrew's nozzle-by-nozzle table?

08:59:43 16 A. **That was an attachment. We added the description in the**
17 **actual body, then we had the attachment. Then we also had**
18 **those maps, head maps that were developed by Mr. McLaughlin in**
19 **there as well.**

20 Q. The conversation that you and I discussed very briefly

09:00:03 21 before that you had with Mr. Moffitt about Mr. Siemaszko --
22 about the reliability of Mr. Siemaszko's work, did that

09:00:11 23 conversation occur before 2735 was filed?

09:00:15 24 A. **Yes.**

09:00:16 25 Q. Do you recall the substance of your conversation with

09:00:22 **1** Mr. Moffitt?

09:00:23 **2** **A. Just to describe how he was doing it.**

09:00:27 **3** **Q.** Did you tell Mr. Moffitt that you could verify Andrew

4 Siemaszko's work?

09:00:33 **5** **A. I don't think I used the word verify. I think I said**

6 **that I thought Andrew was doing a good job.**

09:00:40 **7** **Q.** Did you tell Mr. Moffitt that you had confidence in

09:00:43 **8** Andrew's results?

9 **A. Yes, I did.**

10 **Q.** Did you tell him your feelings about Mr. Siemaszko's

09:00:51 **11** care in doing his work?

09:00:54 **12** **A. I don't know that we really talked that much about that**

13 **as much as we did how he was making the calls.**

09:01:01 **14** **Q.** Did you assure Mr. Moffitt that you believed Andrew's

15 work was correct?

09:01:06 **16** **A. I might have.**

17 **Q.** At that point when you're talking with Steve Moffitt,

18 did you have any question about the reliability of Andrew's

19 work?

09:01:14 **20** **A. No.**

09:01:18 **21** **Q.** Do you recall after 2735 was filed another meeting with

22 the NRC, specifically on October 24th?

23 **A. Yes.**

24 **Q.** What was the purpose of that meeting, if you recall?

09:01:30 **25** **A. The purpose was to meet with the staff. We had made**

1 a -- an agreement or commitment on the 3rd of October to have a
2 follow-up meeting with them. And so we met with the staff to
3 convey this information to them.

4 Q. I'm going to show you a page from Government's Exhibit
5 108, which is in evidence. Do you recognize this slide?

6 A. Yes, but I'd have to look at the whole package to say
7 which one it is because we ended up using the same PowerPoint a
8 lot.

9 Q. Let me show you the front page to Exhibit 108.

10 A. Okay.

11 Q. If you look at the first paragraph of text, can you tell
12 from the first paragraph of text what the accompanying slides
13 relate to?

14 A. Yes. This is where we talk about the purpose, and it's
15 to present our information about the bulletin response,
16 circumferential cracking of the nozzles.

17 Q. And the date of that meeting?

18 A. That was the 24th of October.

19 Q. I'm going to turn your attention to one of the slides
20 that follows in Government's Exhibit 108. Did you present this
21 slide?

22 A. I think I did.

23 Q. Was Mr. Siemaszko at this meeting?

24 A. No.

25 Q. What was the basis of your information that you were

09:02:59 1 presenting in this slide?

09:03:01 2 A. **This was from our -- my conversations with Andrew.**

3 Q. And if you look at the first two paragraphs in this

09:03:10 4 slide, can you tell the jury what information you were relating

5 to the NRC on this day?

09:03:15 6 A. **Well, that information is right out of what our 2735**

09:03:24 7 **response was.**

09:03:25 8 Q. Did you have any question about the accuracy of this

9 information when you provided it on the 24th?

10 A. **No.**

09:03:31 11 Q. Would you have provided it if you had had questions

12 about it?

13 A. **No.**

09:03:41 14 Q. This is a slide two pages later from the same

15 presentation. Do you believe you presented this slide as well?

16 A. **I believe so.**

09:03:48 17 Q. Can you tell the jury the difference between the text in

18 this slide as opposed to the similar slide that you presented on

19 October 11th?

20 A. **Yeah. Well, the 11th one, if you recall, a few minutes**

09:04:06 21 **ago we had -- it said the first sentence was identical to the**

09:04:11 22 **last part where it said it was from 11 RFO and 12 RFO -- 11 RFO**

23 **or 12 RFO, whereas now we're putting in there 10 as well.**

09:04:22 24 Q. I'm going to put below this this slide from Government's

09:04:26 25 Exhibit 87.

09:04:31 1 A. I think we may have changed the font on facts, and
2 that's about it. But the rest of it was just a verbiage
09:04:39 3 change. And then we -- because of the 10 RFO video, the
4 results relied upon actually some interviews that Andrew had had
5 with the engineers that performed inspections, we added the
6 bullets that were underneath that you have covered up right now.
7 Q. What was your basis for believing that the results were
09:05:02 8 based on interviews that Andrew had had?
09:05:04 9 A. That's what he had indicated to me.
09:05:13 10 Q. Do you recall a request on the 24th from the NRC
09:05:17 11 requesting photographs and videotapes?
12 A. I don't recall specifically that they requested that at
13 that meeting. I know they had requested photos through Dave
09:05:32 14 Lockwood; and Dave Lockwood committed to sending them some, I
15 guess. That's what caused us to generate the 2744, I think it
16 is.
17 Q. 2744. Do you remember when that was filed with the
18 NRC?
19 A. The end of the month. I think it was the 30th, 31st.
09:05:52 20 Q. Can you describe to the jury what 2744 was?
21 A. It was a -- they wanted -- the NRC wanted a sampling or
22 a representative -- or photos, I guess, of the nozzles. And so
23 what we had asked Andrew to do, since he had all the digital
09:06:16 24 files, AVI files, whatever, to go ahead and provide
09:06:22 25 representative snapshots so that we could docket it with the

1 **NRC.**

26 2 **Q.** Let me back you up. You said we asked Andrew. Who's
3 "we"?

09:06:31 4 **A. I may have. I think I asked him to actually provide a**
09:06:36 5 **representative sample of the photos he was looking at.**

6 **Q.** Were you involved in preparing 2744?

7 **A. Yes, I was.**

8 **Q.** Were you involved in drafting the captions for 2744?

9 **A. Yes, I was.**

10 **Q.** Were you involved in the process of compiling

09:06:51 11 photographs?

12 **A. The photos were compiled by Andrew, but I put the**

09:06:55 13 **captions on it.**

14 **Q.** And what direction did you give Andrew about what
15 photographs you wanted? What did you tell him?

09:07:01 16 **A. I asked him to give me a representative sample of all**
09:07:05 17 **three outages.**

09:07:06 18 **Q.** When you wrote the captions, did you have conversations
09:07:09 19 with Andrew about what the photographs were that he had provided
09:07:12 20 to you?

21 **A. I'm sorry; I missed part of that. Could you restate**
09:07:17 22 **it?**

23 **Q.** Do you mean repeat all seven parts of that question?

24 When you talked with Andrew -- when you were

09:07:24 25 writing the captions, what were the captions based on?

09:07:29 **1 A. Based upon my -- well, some of them were talking about**
33 **2 the methodology that we were using, so that was from previous**
3 conversations with Andrew where I was looking over his shoulder
4 and he was telling me how he was doing it. Others were based
5 on other conversations we had with regard to the various -- his
09:07:52 **6 conversations with other engineers. I didn't talk with him**
09:08:02 **7 about the captions; these were just captions that I created out**
8 of previous conversations I had had.

09:08:11 **9 Q. Did you write the captions that said these photographs**
09:08:14 **10 are representative of the condition of the head in X outage?**

09:08:18 **11 A. Yes, I did.**

12 Q. What did you base that on?

13 A. Because I had asked him to give me photos that were
09:08:26 **14 representative.**

15 Q. Did you write the caption that said that the boron in
16 this picture was found to be dry; therefore, not active?

17 A. Yes, I did.

18 Q. And what was that based on?

19 A. That was based upon -- I believe that was based upon a
20 conversation I had had with Andrew that he was reflecting back
09:08:44 **21 on a conversation he had with somebody else.**

22 Q. Had you personally spoken with any of the people that
23 had done the past inspections before you wrote the captions?

09:08:53 **24 A. No, I hadn't.**

25 Q. Did you have a sense when you submitted or participated

1 in submitting 2744 to the NRC that it was inaccurate?

2 A. No.

3 Q. Misleading?

4 A. No.

09:09:06 5 Q. Vague?

09:09:07 6 A. No.

7 Q. What was the purpose of providing those photographs?

09:09:11 8 A. **My understanding at the time was that we weren't allowed**
9 **to docket just film. You had to have something that could be**

09:09:21 10 **microfiched. So we were printing out pictures so that we could**

09:09:25 11 **send those to the NRC as a formal submittal.**

12 Q. Did you look at the pictures as you compiled the

09:09:33 13 documents?

09:09:34 14 A. Yes.

09:09:40 15 Q. What did you notice about 2000 versus '98 versus '96 as
16 you looked at the photographs?

17 A. **Well, you could definitely tell the difference between**

09:09:49 18 **them. I don't know if it was because -- I think we used**

09:09:52 19 **different equipment. The 1998 and the 1996 pictures appeared**

09:10:00 20 **to be black and white. And whereas the 2000 appeared to be --**

09:10:05 21 **we must have used a color camera. The focus, the quality of**

22 **the optics was -- the best was probably 1996, the clearest**

09:10:17 23 **picture. Everything seemed to be the most in focus, the least**

24 **amount of light glare bouncing off of surfaces. The next**

09:10:26 25 **one -- next would have been the '98. 2000 was the worse of the**

09:10:31 **1 three.**

● **2 Q.** Was the quality of the photographs or the quality of the
09:10:37 **3** images in 2000, was that captured in one of the captions?

09:10:41 **4 A. I'd have to look at the submittal. I'm sorry.**

09:10:45 **5** MR. WISE: Your Honor, could I have a second?

09:10:47 **6** THE COURT: Of course.

09:10:47 **7** BY MR. WISE:

09:11:36 **8**

09:11:36 **9 Q.** I'm going to show you a page from Government's Exhibit
10 113 which has been admitted.

09:11:45 **11** Do you recognize that as a page of the submission?

09:11:48 **12 A. Yes.**

● **13 Q.** Taking a look at the second paragraph, does that refresh
14 your recollection about whether there was a caption about the
09:11:58 **15** lighting and video quality?

16 A. Right. There is.

17 Q. Do you recall what your sense was of the difference
18 between 2000 and the earlier tapes in terms of quality and
09:12:10 **19** clarity?

20 A. Yeah. Like I had mentioned, I think the 2000 there was
09:12:15 **21 -- because it was in color, there was a lot of hue changes, and**
09:12:23 **22 the focus did not seem to be nearly as good.**

09:12:29 ● **23** MR. WISE: Your Honor, just for the record, so I
24 don't leave a misimpression with the jury, the photos of the
25 images are worse in this than the original. So the photos are

1 not this bad. I just wanted to show it to Mr. Geisen for the
2 caption.

3 THE COURT: Fine.

09:12:56 4 BY MR. WISE:

09:12:56 5 Q. Did there come a time, Mr. Geisen, that you presented
09:13:00 6 the videotapes to the NRC?

09:13:02 7 A. Yes.

09:13:03 8 Q. Do you recall the date?

9 A. **November 8th of 2001.**

10 Q. Did you go to Washington, D.C., specifically to present
11 the videos to the NRC on November 8?

09:13:14 12 A. **No, I didn't.**

09:13:15 13 Q. Why did you go to Washington at that time?

14 A. **Well, we had a series of meetings that were scheduled.**

15 **There was one that was a public meeting on the 8th. I was just**

09:13:26 16 **going to be a witness -- or in the audience; I wasn't actually**

09:13:31 17 **presenting. Then there were two meetings on the 9th that I was**

09:13:35 18 **participating in.**

09:13:36 19 Q. Did you travel to Washington, D.C., with the rest of the
20 Davis-Besse team?

21 A. **No. The team travelled out on the 7th. Historically**
22 **we'd always travel the day before, do a last-minute brief the**
23 **night before to make sure we had everybody prepped and the**
24 **appropriate number of copies and everything we were going to**
25 **hand out for handouts and that sort of stuff. Usually we would**

09:14:01 **1 send somebody down to Kinko's to make last-minute copies or**
09:14:05 **2 something. And I don't remember what it was, but I had a**
3 personal engagement that I had to take care of on the night of
09:14:12 **4 the 7th, so I requested permission from Mr. Moffitt to fly out**
09:14:16 **5 late. So I flew out the next morning on the 8th. I got to**
6 the NRC building about 10:00, 10:30.

7 Q. When did you learn that you were going to present
09:14:27 **8 videotapes to the NRC on the evening of the 8th?**

9 A. After I got there on the 8th, Dave Lockwood and Steve
10 Moffitt came up to me, and they basically said, you were
09:14:39 **11 selected to present these. It was one of these things I wasn't**
12 there the night before, so...

13 Q. Had you brought the videotapes with you?

14 A. No, I think Dave Lockwood did.

09:14:51 **15 Q. Was Mr. Siemaszko part of the team that was out there at**
16 this time?

17 A. No, he wasn't.

09:14:57 **18 Q. What time was the meeting set that you were going to**
19 show the tapes?

20 A. 5:30 that night.

21 Q. And you said you learned at what time that you were
09:15:05 **22 going to be doing the presentation?**

23 A. Probably around 10:00, 10:30.

24 Q. After you learned you were going to present the tapes,
25 did you sit down and watch the tapes before the meeting?

1 A. **No. We had meetings scheduled the rest of the day.**

2 Q. As you went to the meeting at the NRC at 5:30, had you
3 ever reviewed the tapes kind of from start to finish running the
4 tapes through?

5 A. **No, actually I hadn't even looked at these tapes at all**
6 **because the only thing I had seen up to that point was portions**
7 **of the digital video that -- when I was looking over Andrew's**
8 **shoulder. So I actually hadn't looked at the VHS at all.**

09:15:45 9 Q. When you got to the meeting, can you describe for the
10 jury just kind of what the room looked like that the meeting was
09:15:51 11 held in?

12 A. **Nothing fancy. It was probably an 18-by-20 foot square**
09:15:59 13 **meeting room. Desks and stuff around it or long tables and**
14 **chairs type of thing. And we had a TV monitor on top of one of**
15 **those metal push-around carts that had a metal shelf and a VCR**
09:16:18 16 **deck underneath it.**

09:16:19 17 Q. You said you had actual VHS tapes?

18 A. **That's correct.**

09:16:23 19 Q. Do you recall how many people from the NRC were at this
09:16:27 20 meeting?

21 A. **It seemed like a lot. But I was by myself, so probably**
22 **about eight to 12. I don't know. Something like that. We**
09:16:36 23 **were kind of huddled around the cart that had the TV on it.**

24 Q. Mr. Hiser testified, I believe on the second day of this
09:16:44 25 trial, that you controlled the remote during this meeting. Do

- 09:16:47 **1** you recall, first of all, whether there was a remote control?
- 2** **A. I don't remember a remote. I remember we were huddled**
- 3** **around this TV cart and I was operating the VCR.**
- 4** **Q.** By pushing the buttons on the VCR?
- 5** **A. I think it was push buttons, but I was operating the**
- 09:17:05 **6** **VCR.**
- 7** **Q.** Which tape was shown first by you?
- 8** **A. I believe it was 1996.**
- 9** **Q.** Why did you put in 1996?
- 09:17:12 **10** **A. I just picked one. We had -- I think I even asked the**
- 11** **staff where they wanted to start. No one really had a**
- 09:17:24 **12** **preference, so I just picked the earliest one.**
- 09:17:27 **13** **Q.** And then I take it you put the machine in the tape?
- 14** **A. No, I put the tape in the machine. It works better**
- 15** **that way.**
- 09:17:36 **16** **Q.** I guess it's good that you were there and not me.
- 09:17:39 **17** You put the tape in the machine. Then what did
- 18** you do?
- 19** **A. I pushed play, and we just watched the tape.**
- 09:17:49 **20** **Q.** Did there come a time that you either paused the tape,
- 09:17:53 **21** fast-forwarded the tape, or rewound the tape?
- 22** **A. There were times where I would fast forward and let that**
- 23** **slow/fast forward so you can scan it.**
- 24** **Q.** Why would you do that?
- 25** **A. Well, there are times where you're pulling -- like, the**

1 video camera is coming out of one mouse hole, going to another.

2 It didn't appear to be anything worthwhile during that. And I

3 felt that we wanted to get through as many of the tapes as we

4 could. And just -- the staff was okay with that, and they

5 would tell me if they wanted me to stop and look at something; I

6 would stop and rewind.

7 Q. When you fast-forwarded or rewound the tape, did the

8 picture remain up on the screen?

9 A. Yes.

10 Q. Was there ever a time -- you know, the little --

11 A. You know, it had the little lines across it because

12 you're going at a faster speed.

13 Q. Was there ever a time when you were fast forwarding or

14 rewinding the tape that the screen went blank?

15 A. Not that I recall.

16 Q. Was there ever a time when a staff member asked you to

17 either pause or to rewind or to fast forward the tape that you

18 refused to do so?

19 A. No.

20 Q. Was there any conversation going on during the showing

21 of the 1996 tape?

22 A. Yeah. I think there was -- I was getting asked

23 questions about, well, how did you classify that drive? How did

24 you -- you know, how did you call that drive and various drives

25 and stuff.

09:19:23 **1 I'm not the person that did the inspection. I can**
2 tell you how we did it, but I wasn't the actual person that
3 actually did it.

4 Q. What did you tell the staff when they asked how you did
5 it, how --

09:19:35 **6 A. I explained how we were looking at that downhill**
09:19:39 **7 intersection between the nozzle tube and the head, and we were**
09:19:44 **8 looking for popcorn-type boron deposits.**

09:19:48 **9 Q.** When you say they were asking you about specific
10 nozzles, what kind of questions were you getting?

11 A. They would point to a specific nozzle that was on tape
12 and say, you know, how did you call that one? And I couldn't
13 even tell you at the time what the nozzle number was much less
14 how we called it. So I simply said: I'm not the one that made
15 the calls. I think even at that point I said: We'd be happy
09:20:15 **16 to bring the guy out here that did.**

09:20:17 **17 Q.** Is there any sense that the staff was frustrated with
18 your inability to answer those questions?

19 A. I think they were extremely frustrated in my ability
20 because I think they expected to talk to somebody that actually
21 did the inspection.

09:20:29 **22 Q.** How much of the 1996 tape did you play?

23 A. We went through whole thing.

24 Q. Did you make any effort while you were showing the '96
09:20:36 **25 tape to prevent the NRC from seeing any parts of that tape?**

1 A. No.

2 Q. Did you know what was on that videotape before you put
3 it in the machine?

4 A. **Other than it was supposed to be the '96 inspection. I**
5 **don't think I follow your question.**

6 Q. Were there any parts of the tape that you were worried
7 about them seeing?

8 A. **Oh, no.**

9 Q. What tape did you put in after the '96 tape?

10 A. **I think it was the '98.**

11 Q. And tell the jury a little bit about how -- what
12 happened when you put that tape in?

13 A. **Same type of thing. I was playing it and we would fast**
14 **forward through portions of it. Some of the NRC staff that were**
15 **there commented on the quality of that video, saying that --**
16 **because I think when we paused, they would say, there's not --**
17 **you can't tell; it's too blurry; you can't get a good view;**
18 **there seems to be a lot of light reflection because the drives**
19 **were shiny, so you'd get a lot of glare, and I don't see how you**
20 **can make these calls. Once again, I said: Well, I'm not the**
21 **guy that made the calls.**

22 Q. Do you recall seeing more boron on the head in the '98
23 tape than had been on the '96 tape?

24 A. **Yes, I think there was.**

25 Q. Did that surprise you?

09:22:05 1 A. **No, because we had already made a submittal that**
2 **indicated that there was, like, a progression of more boron**
3 **from -- in 1998, then to even more in 2000.**

09:22:09 4 Q. Did you show the entire '98 tape?

5 A. **I don't think so. I think we only showed a portion of**
6 **it.**

09:22:20 7 Q. Is it your decision -- was it your decision alone to not
8 show the rest of the '98 tape?

9 A. **No, I think it was pretty much a consensus in the room.**

10 Q. Did you put in the 2000 tape?

11 A. **I offered to, but I also know -- was criticized for**
12 **saying comments along the line of that: If you thought '98 was**
09:22:39 13 **bad, 2000 is even worse because --**

14 Q. What were you speaking to when you said that?

15 A. **Well, I mean the focus, the coloring and the glare of**
16 **everything, the optics were much worse on 2000. That is what**
09:22:52 17 **we had said in our 2744 document.**

18 Q. Were you concerned about showing the NRC what was on the
19 2000 tape?

09:23:02 20 A. **No.**

21 Q. Had you watched the 2000 tape?

22 A. **No. But I knew the coloration and the optics was not**
09:23:11 23 **good of the pictures we had sent on 2744.**

09:23:18 24 Q. When you left the NRC that night, did you leave the
25 tapes with them or did you take them with you?

1 A. **No, I took them back.**

2 Q. Did anyone from the NRC ask you to leave the tapes

3 behind?

4 A. **No, they didn't.**

5 Q. If they had asked you that question, would you have left

6 them?

7 A. **I probably would have. I probably would have asked Mr.**

8 Lockwood first because I didn't know if, number one, that was

9 our only copy, and whether there was some sort of paperwork I

10 had to fill out to transmit it to them.

11 Q. Were you making any effort on November 8th to hide

12 anything from the staff of the NRC?

13 A. **No, I wasn't.**

14 Q. Can you describe for the jury briefly what your feelings

15 were coming out of that meeting?

16 A. **I was extremely frustrated because I couldn't answer the**

17 questions. I felt like -- well, I mean, I felt stupid. I

18 mean, I couldn't answer the questions that they were asking.

19 And I was kind of angry at my teammates that had given me these

20 tapes and sent me off to do that because I felt I wasn't

21 prepared to actually go into that situation.

22 Q. Did you ever describe the tapes as worthless?

23 A. **I think I used the phrase "garbage" the next day.**

24 Q. When you used the phrase "garbage", what did you mean by

25 that?

09:24:47 1 A. Well, the next morning we had a presentation. It was
2 to talk about the crack growth rate model. And I think it was
3 Mr. Bateman from the NRC that kept wanting to go back to: How
4 could you make these calls; those tapes were all blurry and
09:24:56 5 everything? And I got frustrated. And I was, you know,
09:25:00 6 trying to make a presentation on this, and I keep getting
7 sidetracked on this, and I got frustrated. At one point I
8 said: Hey, I'll admit the quality of those tapes is garbage.
9 Or something along that phrase. That would have been on the
10 morning of the 9th.

09:25:18 11 Q. Did you have a belief at that point about whether the
12 quality of the digital images that Mr. Siemaszko had used were
09:25:23 13 better than the videos?

14 A. Well, I'm sure they were better. Not necessarily from
15 a -- I mean, you're using the same camera, so, I mean, from an
09:25:35 16 optics standpoint, you could say that it's coming from the same
09:25:38 17 source, but I think the ability to stop it digitally, you didn't
18 get as much distortion as you did when you paused the VHS tape.

19 Q. Do you recall at any point during the meeting on the 8th
20 or the next day on the 9th where anyone from the NRC said to
21 you: What we saw on those videotapes showed so much boron that
22 we can't give you credit for past inspections?

23 A. No.

09:26:11 24 Q. Was there a decision made by the Davis-Besse team about
09:26:16 25 sending out Mr. Siemaszko to NRC?

09:26:20 **1 A. Yes. I -- when I got done presenting the videotapes,**
● **2 went back to the hotel, and the rest of the team had already**
09:26:31 **3 gathered in our conference room, and I told them that it didn't**
4 go well and that they really needed to speak to the person
09:26:39 **5 that -- the questions they had were for the person that did the**
09:26:42 **6 inspection. I told them that I had told the NRC that, hey, we**
7 can bring out the guy that did the inspection, Andrew. And --
8 Q. Did that happen?
9 A. Yes, it did. We had discussions on it. We brought him
10 out, I think, the 14th.
11 Q. Do you recall whether there was discussion about
09:27:00 **12 concerns about whether Andrew should be sent?**
● **13 A. Yeah. There was. Because I think his supervisor was**
09:27:07 **14 concerned about his ability to command the English language.**
09:27:12 **15 Andrew's got a very strong accent, and sometimes he's not easy**
16 to understand.
17 Q. Was there any concern about his reliability or his
09:27:20 **18 honesty?**
19 A. No. That's why we brought him out.
20 Q. Do you recall when Mr. McLaughlin was testifying, an
21 e-mail on November 15th from Structural Integrity Associates
22 showing that they now believed that all the gaps would open up?
09:27:40 **23 A. Yes, I remember that.**
● **24 Q. Who was running that communication with SIA during**
25 November?

1 A. Mark McLaughlin.

2 Q. Do you have any recollection of the e-mail exchange

09:27:51 3 between yourself and Mr. McLaughlin and Mr. Lockwood about that
4 result?

09:27:56 5 A. No, I don't. But I don't think it would have mattered
6 from the standpoint we were already in our PRA model; we weren't
7 taking credit for those.

8 Q. Would the fact that the gaps would open up have changed
09:28:12 9 or altered the validity of the PRA in your understanding?

09:28:17 10 A. No, because I think we had already said that because of
09:28:21 11 boron, there was some boron on top of the head in 2000 -- or
09:28:25 12 excuse me, in the 10 RFO, 1996. And we had already said that,
13 well, those same drives that would not open up, which now would
09:28:39 14 open up, were precluded from being inspected anyway. So we
15 weren't taking credit for them either way.

09:28:46 16 Q. Was it your understanding that the November 15th e-mail
17 was SIA's last word on whether the gaps would or would not open
18 up?

09:28:56 19 A. I'm not sure on that. I had thought at some point they
09:28:59 20 had changed, but based on what I heard Mr. McLaughlin say the
21 other day, he was the expert on it, so I'd say I was probably in
09:29:07 22 error saying they revised it again.

09:29:09 23 Q. Do you recall making a presentation to the company
09:29:12 24 Nuclear Review Board on November 29th?

25 A. I've reviewed the information since then.

09:29:17 **1** Q. Are you aware during that presentation the meeting
minutes reflect that you told the CNRB that four of the gaps
2 would not open up?
3

4 A. **That's correct.**

5 Q. Would you have provided that information to the CNRB if
6 you believed it to be untrue?
7

8 A. **No, that's what I believed was the truth at the time.**

09:29:35 **8** Q. Let me ask you about a meeting with the NRC on November
09:29:39 **9** 28th. Do you recall that meeting?
09:29:41 **10** A. **Yes.**

09:29:44 **11** Q. I want to show you a slide from Government's Exhibit
09:29:57 **12** 118.
09:29:58 **13** Do you recognize that as a slide from the November
09:30:01 **14** 28th presentation?
09:30:03 **15** A. **It's a similar slide we made in several presentations.**
16 So I -- unless I saw the whole package again, I wouldn't be able
09:30:12 **17** to say it's specifically from that meeting.
18

19 Q. Let me show you the cover sheet of this exhibit.
20

21 A. **Okay. I see the date of the meeting.**

09:30:22 **22** Q. Let me make sure I get the exhibit number in there.
23

24 This is 118. You see the date of the meeting in the box?
25

26 A. **Correct. 11-28.**

09:30:33 **27** Q. Did you present this slide?
09:30:36 **28** A. **I believe I did.**

09:30:38 **29** Q. Did it reflect accurate information to the best of your

1 knowledge when you presented it?

2 A. Yes.

09:30:45 3 Q. Do you recall anyone from the NRC's side interrupting

09:30:50 4 during the presentation to say, why do you keep on telling us

5 this information about '96, '98 and 2000 because we've told you

6 that we are not crediting those inspections based on the

09:31:06 7 videotapes?

8 A. No.

09:31:16 9 Q. Mr. Geisen, at any point during the time we've been

10 talking about when you were involved in the bulletin responses,

11 did anyone at Davis-Besse tell you to lie or mislead the NRC?

09:31:28 12 A. No, they didn't.

13 Q. What would you have done if you had been given that

14 instruction?

15 A. I would have denied it. I probably would have been

09:31:38 16 very, I don't know, indignant (sic) about it because of

09:31:43 17 the -- I mean, they would be questioning my integrity. I

18 wouldn't want to work there.

09:31:50 19 Q. Have you ever worked at an operation or a plant where

09:31:53 20 you were told by your superiors to lie or falsify information?

21 A. No.

22 Q. Can you imagine what you would have done in that

23 circumstance?

24 A. I probably would have left. I mean, our whole industry

25 is based upon truth and integrity.

09:32:09 **1** Q. How far did you and your family live from Davis-Besse?

2 A. **About 25 miles.**

3 Q. How often did you come to work at the plant?

09:32:18 **4** A. **Daily.**

09:32:20 **5** Q. If you would have had concerns about the safety of the

6 plant, would you have covered those up?

7 A. **No.**

09:32:27 **8** Q. Do you have any regrets as you sit here today and as you

9 look back to your performance in the fall of 2001 with the job

10 that you did?

09:32:35 **11** A. **I don't think you could be in my position right now on**

12 **this stand and not say that you've got a lot of regrets. I**

13 **regret that I didn't take a more -- I mean, this was a**

09:32:48 **14** **life-changing event for me, but it was also a huge event for the**

15 **industry. I mean, the industry that -- I've spent 20 years in**

09:32:56 **16** **nuclear power, and we've had our -- we, as an industry, have had**

17 **our setbacks. I mean, you've got Three Mile Island; you had**

09:33:07 **18** **Chernobyl; now you have the hole in the head at Davis-Besse,**

19 **also an incident at Davis-Besse in '85. And so, you know, so I**

20 **feel a lot of remorse or regret over the fact that I didn't --**

09:33:25 **21** **couldn't avert this.**

09:33:26 **22** Q. What do you wish you would have done different?

09:33:29 **23** A. **Well, I wish I had spent a lot more time reviewing past**

24 **inspection data and possibly putting a second engineer to**

09:33:37 **25** **double-check everything that Mr. Siemaszko was doing and try to**

09:33:41 **1** come up with more of a consensus answer instead of just a single
 09:33:46 **2** engineer's answer.

3 Q. In the fall of 2001 did you believe that was necessary?

09:33:50 **4** A. **No, I didn't.**

5 Q. Did you doubt the information you were getting?

09:33:54 **6** A. **No.**

7 Q. Did you ever lie to the NRC?

8 A. **No.**

9 Q. Did you knowingly make any false statements to the NRC?

10 A. **No.**

09:34:04 **11** MR. WISE: That's all I have, Your Honor. Thank

12 you.

09:34:10 **13** THE COURT: Cross-examination, Mr. Poole.

09:34:13 **14** MR. POOLE: We will have some questions.

09:34:27 **15** - - -

09:34:27 **16** DAVID GEISEN, CROSS-EXAMINATION

09:34:28 **17** BY MR. POOLE:

09:34:28 **18** Q. Good morning, Mr. Geisen.

19 A. **Good morning.**

09:37:08 **20** Q. Why don't we start with the 12th refueling outage. I

21 think you probably recall testifying that you were involved in

09:37:20 **22** outage central; isn't that right?

23 A. **That's correct.**

09:37:24 **24** Q. And you were at that time a new manager?

09:37:27 **25** A. **That's correct.**

09:37:34 1 Q. And in your role at outage central, you had occasion to
09:37:41 2 review the Condition Reports that were produced?

09:37:44 3 A. **That's correct. As each one was written, I would review**
4 **the previous day's worth of Condition Reports. All the managers**
5 **did.**

09:37:55 6 MR. POOLE: And I would like to display, Your
09:38:02 7 Honor, a photograph from Government's Exhibit 12.

09:38:07 8 THE COURT: Which has been previously admitted?

09:38:10 9 MR. POOLE: Previously admitted.

10 BY MR. POOLE:

11 Q. You testified among other things you saw a picture
12 that's come to be known as the red photo?

13 A. **That's correct.**

09:38:19 14 Q. And at the time you assumed taking care of whatever
09:38:27 15 issues that raised was somebody else's responsibility?

16 A. **That's correct.**

09:38:32 17 Q. You also were involved in the discussion about head
18 cleaning?

09:38:38 19 A. **That's correct.**

09:38:41 20 Q. And I forget if you characterized it this way, but there
09:38:47 21 was a debate over whether it was appropriate to use steam and
09:38:52 22 water to clean the boron off the head?

09:38:55 23 A. **Yeah. It wasn't steam, but it was -- it's a --**

09:39:01 24 **Hotsy-Totsy is the brand name of the steam cleaning equipment,**
25 **but it's not actually steam; it's 140 degrees hot water. It's**

09:39:09 **1 a pressure washer.**

09:39:10 **2 Q. A hot water pressure washer?**

3 A. That's correct.

09:39:16 **4 Q. Specifically there was another Condition Report, CR**

09:39:26 **5 2000-1037, that covered the cleaning effort?**

6 A. That's correct.

09:39:33 **7 Q. And you were actually involved in that Condition Report,**

09:39:37 **8 weren't you?**

9 A. Yes, I removed that Condition Report from the mode

09:39:41 **10 restraint list.**

09:39:49 **11 MR. POOLE: I'd like to display a page of**

12 Government's Exhibit 15 previously admitted.

13 THE COURT: Yes. That's fine.

14 BY MR. POOLE:

15 Q. Is this the last page of that Condition Report?

16 A. Yes, it is.

09:40:01 **17 Q. And signed by you?**

18 A. That's correct.

09:40:04 **19 Q. And it removes the mode restraint which would have**

09:40:12 **20 prevented the plant from starting up before the cleaning was**

09:40:17 **21 done?**

09:40:17 **22 A. It removed the mode restraint of this CR because there**

23 was already a work order generated to clean the head. The

24 reason the CR is on the mode restraint list is because when you

25 want the CR to be reviewed, you want to make sure that review

09:40:36 **1 happens before there's a mode change so that if there's any work**
2 that needs to be generated, or any corrective work that needs to
3 be done as a result of that Condition Report, that it gets
4 scheduled. So my basis for removing this from the mode
5 restraint list is we had a work order that had been identified
6 as a corrective action that was on the mode restraint list.

09:41:00 **7 Q. Now, does generating paper count as a corrective action**
8 in a nuclear power plant?

09:41:07 **9 A. No, it counts as putting together an evaluation.**

09:41:20 **10 Q. Say in the Navy if you had a condition adverse to**
11 quality that was documented, would generating paper about it be
12 considered a solution to the problem?

09:41:34 **13 A. It depends on the problem. If the problem is perhaps a**
14 design related, and you go in and generate a calculation that
09:41:45 **15 addresses the issue, then I guess the answer would be yes. I'm**
09:41:49 **16 not sure that answers your question, though. Is that what**
09:41:53 **17 you're getting at?**

18 Q. I'll take a different approach. If the cleaning had
19 remained on the mode restraint list, could the plant have
20 started up while it was still there?

09:42:13 **21 A. If it -- well, it wouldn't have unless someone had**
22 consciously removed that as a mode restraint.

09:42:22 **23 Q. And that's the purpose of the mode restraint, isn't it?**

09:42:25 **24 A. That's correct.**

09:42:26 **25 Q. And later on it became apparent that not completing the**

1 cleaning was a problem, didn't it?

2 A. Much later on we felt that -- I found out that the

3 cleaning had not been as thorough as it was intended to be,
4 that's correct.

5 Q. And it was a problem, wasn't it?

6 A. I'm not sure I understand what you're getting at, but
7 it's a problem.

8 Q. Well --

9 A. I mean, it did create an issue for potential -- in 13

10 RFO not being able to do -- you know, you didn't have a baseline
11 for 13 RFO.

12 Q. And by "baseline", what we're talking about is you
13 didn't have the kind of pristine head you'd need to do a visual
14 examination?

15 A. That's a true statement.

16 Q. And when you found out that the cleaning hadn't been
17 completed, you knew that Davis-Besse did not have the kind of
18 pristine head that would be required for a qualified visual
19 examination?

20 A. I've got to be careful how I answer that question
21 because at the time I was visualizing a qualified visual
22 inspection as you either go do a visual inspection, but if you
23 can't, you would then follow it up with an NDE. I realize
24 today that's probably not a very realistic viewpoint. And
25 so -- but back at that point, if you had asked me that question

1 back in 2001, I would have said, yes, we can do a qualified
2 visual inspection because we would immediately go into NDE if we
3 couldn't.

4 Q. Just to remind the jurors, NDE is nondestructive --

5 A. **Nondestructive examination.**

6 Q. So that would be dye penetrant, ultrasonic testing?

7 A. **Yeah, even doing radiographs. All that falls into NDE.**

8 Anything that does an inspection that doesn't damage the
9 equipment is pretty much called NDE.

10 Q. And visual inspection is usually not considered an NDE

11 technique; isn't that right?

12 A. **It's usually considered just visual, right.**

13 Q. So the effect of lifting this mode restraint was to make
14 a visual examination at the 13th refueling outage impossible, at
15 least for the parts of the head that were not cleaned?

16 A. **Which mode restraint are we talking, this CR mode**
17 **restraint?**

18 Q. The one we're looking at here.

19 A. **I didn't view it that way. I viewed it as we were**
20 **doing an inspection or that the -- I'm sorry, we were doing a**
21 **head cleaning. So yeah, I guess you could say that. I didn't**
22 **-- when I wrote this, I didn't anticipate that the head would**
23 **not be cleaned completely.**

24 Q. Sure, at the time you wrote this, the cracking problem
25 was not as apparent as it was later; is that a true statement?

1 A. **We hadn't had any circumferential cracking, yeah.**

2 Q. The cracks at Ocone had not yet occurred?

3 A. **That's correct.**

4 Q. The Bulletin 2001-01 had not yet been written?

5 A. **That's correct.**

6 Q. So at the time this was just about cleaning?

7 A. **That's correct.**

09:46:29 8 Q. When you were involved in the discussions about

09:46:33 9 cleaning, did you know who the person was who was responsible

10 for doing the cleaning?

11 A. **I believe it was Andrew Siemaszko, but I've got to be**

09:46:41 12 **honest, I know that for a fact now, and I can't say for sure**

09:46:47 13 **seven years ago if I knew that at the time, but I believe I did.**

09:46:53 14 Q. All right. By the fall of 2001 when you were doing the

15 bulletin responses -- well, it was during the fall of 2001 that

09:47:02 16 you learned that the head had not been cleaned?

17 A. **That's correct.**

09:47:08 18 Q. And at that point, if not earlier, you knew that the

19 person who was responsible for doing it was Andrew Siemaszko?

09:47:14 20 A. **For doing the head cleaning --**

21 Q. Yes.

09:47:17 22 A. **-- or the inspection?**

23 Q. Head cleaning and an inspection.

24 A. **Okay. Head cleaning, I probably knew that was Andrew.**

25 Q. All right. Let's look at some of the e-mails -- well,

1 before I do that, do you recall being a member of the Project

2 Review Group at Davis-Besse?

09:47:52 3 A. Yes. I became a member of the Project Review Group
4 when I became a manager in 2000.

09:48:04 5 Q. Do you remember that Project Review Group meeting at
6 which -- well, do you remember any Project Review Group meetings
7 at which there was a discussion of the proposal to cut access

09:48:16 8 ports into the service structure on the reactor vessel head?

09:48:20 9 A. I know that having -- in preparation for this trial I

09:48:27 10 reviewed the project review committee meeting minutes; I think
11 it was from July or August of 2001, it might have been 2000. I
12 think it was 2000 where it was rescheduled from a budgetary
13 standpoint from, I think, 13 RFO to 14 RFO.

14 Q. All right. Let's take a look at that exhibit.

15 MR. POOLE: I believe it's in evidence, Your Honor.

16 It's Exhibit 21.

09:49:03 17 THE COURT: Yes.

09:49:15 18 MR. HIBEY: Excuse me, Your Honor. Is the mike on
19 at the podium?

09:49:23 20 THE COURT: Yes.

09:49:25 21 MR. POOLE: Should I speak louder?

09:49:43 22 BY MR. POOLE:

23 Q. We're looking now at the cover page of Exhibit 21. And

09:49:50 24 I've enlarged the heading Project Review Group Meeting Minutes,

09:49:54 25 September 7th, 2000.

1 A. **Correct.**

2 Q. Is that the document you reviewed to prepare for your

09:49:59 3 testimony?

4 A. **Correct.**

09:50:08 5 Q. And does it show you on distribution?

6 A. **Yes, it does.**

09:50:32 7 Q. All right. I'm going to display page 8 of that exhibit

09:50:36 8 to the jury. And at the bottom there is a mention of

09:50:40 9 installing service structure opening.

09:50:42 10 A. **That's correct.**

09:50:44 11 Q. And it's deferred to the 14th refueling outage; is that

12 right?

13 A. **That's correct.**

09:50:51 14 Q. For financial reasons?

09:50:53 15 A. **That's correct.**

09:50:54 16 Q. You were part of the committee that decided to defer

17 that --

09:50:58 18 A. **That's correct.**

19 Q. -- service structural opening?

20 Do you recall the discussion?

21 A. **Not a lot of detail.**

22 Q. Well, tell the jury what detail you remember.

23 A. **Okay. Well, what I know is from what's in here is that**

24 **there was obviously a discussion. Normally we would have --**

09:51:16 25 **anytime we had a discussion along a particular model, we usually**

1 bring the MOD sponsor in. So I would assume, but I don't
2 remember for sure, that in the response -- it might have been
3 Prasoon that sponsored it initially or initiated it, would have
4 spoke to it, or it would have been Plant Engineering that spoke
5 it to.

09:51:44 6 Q. And in retrospect the decision to defer that service
7 structure opening, year after year as it was, turned out to be a
09:51:54 8 mistake?

9 A. That's correct.

09:52:15 10 Q. Counsel asked you about a series of e-mails that
09:52:20 11 preceded the first submission to the Nuclear Regulatory
09:52:27 12 Commission, and you addressed each in turn. I'd like to ask
13 you some questions about some of those.

14 The first one is the e-mail, Government's Exhibit
09:52:38 15 22, from Prasoon Goyal on December 13, 2001.

09:52:48 16 MR. POOLE: Your Honor, that's in evidence.

09:52:56 17 A. December 13, 2000.

09:53:00 18 BY MR. POOLE:

09:53:00 19 Q. Did I misstate the date?

09:53:03 20 A. I thought you said 2001.

21 Q. Okay. December 13, 2000. It's an e-mail from Prasoon
22 Goyal to Andrew Siemaszko, you, and others?

09:53:14 23 A. Correct.

09:53:16 24 Q. It's about the lessons learned from Ocone 1. Among the
25 lessons learned are that the small -- the amount of boric acid

09:53:41 1 observed in the visual inspection at Oconee was very small and
09:53:51 2 that it is important to have a clean head for a good visual
09:53:54 3 inspection. If the head is not clean, the chances of finding
09:53:54 4 boric acid such as that observed at Oconee 1 are not very good.

09:53:59 5 I think your testimony about that exhibit is it
6 really didn't tell you anything new.

7 A. **That's correct. We had already been briefed by the Duke**
09:54:08 8 **representative on the Steering Committee about the Oconee 1**
09:54:12 9 **inspection.**

09:54:25 10 Q. So you know the amount of boric acid that you can expect
11 to find for an inspection for nozzle cracking is a very small
12 amount?

13 A. **That's correct.**

14 Q. You knew that it was important to have a clean head?

09:54:50 15 A. **That's correct.**

09:54:53 16 Q. And you knew that if the head was not clean, the chances
17 of finding boric acid deposits like those at Oconee were not
09:55:04 18 good?

19 A. **That certainly makes it much harder.**

09:55:09 20 Q. And since you already knew those things, there was no
09:55:13 21 action you were required to take as a result of this e-mail?

09:55:17 22 A. **No. This was just an FYI.**

09:55:32 23 Q. The next document was a trip report by Mr. Goyal.

09:55:57 24 Again, it's lessons learned from Oconee 1. I'm going to

09:56:03 25 enlarge the first bullet for the jury. They were able to find

1 a leak because their CRDM flanges do not leak and the head was
2 in pristine condition. This is just another FYI?

3 **A. This was the trip report. I think it was actually from**
4 **the same conversations he had had.**

09:56:25 5 **Q.** Now, there's an element of a warning in this, isn't
6 there?

09:56:33 7 **A. You could say that.**

09:56:35 8 **Q.** Because you knew that there was a problem with leaking
9 flanges at Davis-Besse?

09:56:40 10 **A. Yes.**

09:56:41 11 **Q.** And it was a design problem? It was the flange that
12 they built the reactor with, isn't that right -- I'm sorry, the
13 gasket that was allowing the leaking was the one that the plant
14 was built with?

09:56:55 15 **A. Could you rephrase the whole thing because I think you**
16 **started saying it was not a design problem? I don't want to --**

17 **Q.** I'm sorry. I probably mumbled.

18 **A. I think there was a design problem.**

19 **Q.** It was a design problem?

20 **A. Yes.**

21 **Q.** It was a problem in the original design of the plant
22 that they used flanges --

23 **A. Gaskets.**

09:57:17 24 **Q.** -- gaskets in the flanges that allowed leakage?

25 **A. It think it was a combination of the gasket and the**

09:57:24 **1 bolting because when we modified, went to a different style, we**
09:57:27 **2 actually used different flanges -- I'm doing the same thing --**
09:57:32 **3 different gaskets and different bolting.**

09:57:35 **4 Q.** And you knew that Davis-Besse's flanges had a history of
09:57:45 **5** leaking?

6 A. That's correct.

7 Q. Which caused boron to appear on the head?

8 A. That's correct.

9 Q. Which would then not be pristine?

09:57:52 **10 A. That's true.**

11 Q. And then not allow detection of nozzle leakage if it was
09:57:57 **12** occurring?

13 A. Wherever the boron was, that is true.

09:58:03 **14 Q.** But you didn't act on this warning, did you?

09:58:06 **15 A. No.**

09:58:08 **16 Q.** But you were Manager of Design Engineering?

09:58:11 **17 A. That's correct.**

09:58:27 **18 Q.** All right. I think -- well, the next exhibit that Mr.

09:58:34 **19** Wise covered with you was a March 26, 2001 e-mail from Prasoon

09:58:45 **20** Goyal, Government's Exhibit 25.

09:58:47 **21** MR. POOLE: Previously admitted, Your Honor, and
22 I'm going to display it.

09:58:53 **23 A. Okay.**

24 BY MR. POOLE:

25 Q. That's the e-mail about the heats, isn't it?

1 A. **That's correct.**

58 2 Q. And Davis-Besse nozzles 1, 2, 3, 4, and 5 are the same

3 heat as nine different nozzles that had already cracked at

09:59:14 4 Ocone 3?

5 A. **That's correct.**

09:59:17 6 Q. You said at the time you didn't pay much attention to

7 this.

8 A. **Well, this was information I already knew from the**

9 **Steering Committee, that 60 of the 69 nozzles at Ocone 3 were**

10 **the same heat as the five at Davis-Besse.**

09:59:34 11 Q. Coincidentally, those were the top five nozzles on the

12 reactor vessel head, weren't they?

13 A. **That's correct.**

14 Q. And those are the same nozzles that at the time you

15 thought were incapable of showing a gap?

16 A. **That's true, or four of those five anyway.**

09:59:52 17 Q. So is it fair to say that since nine nozzles in this

18 heat had already been found to have cracks at Ocone 3, this

19 e-mail is a warning that these nozzles at Davis-Besse come from

20 a heat that is susceptible to cracking?

10:00:16 21 A. **Yeah. I wish I put a lot more emphasis on this issue**

10:00:21 22 **back then.**

10:00:29 23 Q. And, in fact, one of those nozzles is the nozzle that

10:00:34 24 cracked with the really significant consequences that we've

10:00:39 25 already talked about, Nozzle 3?

10:00:41 **1 A. Right. Yeah. Actually, two of the nozzles that we**
2 had cracking on nozzle 2 and 3 are the same heat.

10:01:04 **3 Q.** Mr. Wise asked you about the document that has often
4 been called a JCO or Justification of Continued Operation. And
10:01:19 **5** you differed with that nomenclature, but do you recall
10:01:23 **6** discussing that document?

10:01:24 **7 A. Yes. The recommendation for doing inspection if we**
8 were to trip and go to Mode 5.

10:01:37 **9 Q.** Just to recap your testimony, if there were an event
10 that caused the plant to go down such as a tornado, go down to
11 Mode 5 where it's offline, it's cool, and it's depressurized,
12 the question is then, would Davis-Besse have to inspect the
13 reactor vessel head?

14 A. Correct.

10:02:00 **15 Q.** And the justification -- I'm trying to not call it its a
16 JCO -- a justification was written to make it restart under
17 those circumstances without such an inspection?

18 A. Correct. If you're more comfortable you can call it a
19 recommendation.

10:02:17 **20 Q.** And you signed off on that?

21 A. That's correct.

10:02:20 **22 Q.** Now, at the time you signed off, you knew that you

10:02:25 **23** had -- or you'd been warned that an effective inspection
24 requires conditions that didn't exist on the reactor vessel head
25 at Davis-Besse?

10:02:38 **1 A. I'm sorry; I'm not following your question.**

● **2 Q.** Well, we've already talked about the lessons from

3 Ocone, the lessons that without a clean head, you can't inspect

10:02:52 **4** the head visually to determine if you have nozzle cracking?

5 A. Correct.

10:02:57 **6 Q.** And without a pristine head, a visual inspection isn't

10:03:06 **7** going to work?

10:03:08 **8 A. Correct.**

10:03:11 **9 Q.** You knew that Davis-Besse had a flange leakage problem

10:03:15 **10** which made the head not pristine?

10:03:20 **11 A. That's correct.**

10:03:22 **12 Q.** And then you signed off on a justification to not

● 10:03:29 **13** inspect the head if the plant tripped and went down?

14 A. That's correct.

10:03:34 **15 Q.** Now, I mean, let's just think through that scenario. A

10:03:39 **16** tornado comes along, the plant trips, it goes to Mode 5. You

10:03:45 **17** have to do a head inspection. They go in, attempt to visually

10:03:52 **18** inspect, and discover lots of boron. What happens next?

10:03:57 **19 A. Where the boron would be located, if it would obscure**

20 some drives, at that point we would have had to go in and pull

21 those drives off and actually do an inspection then. That

22 would probably have necessitated actually removing the reactor

10:04:17 ● **23** head from the reactor, putting it on service structure work

24 stand so you could actually start pulling off those drives, and

10:04:26 **25** then do an NDE of those nozzles.

10:04:30 **1** Q. And what would an NDE consist of? Can you just
2 describe for the jury how that would have been conducted at the
3 time?

10:04:38 **4** A. **That's why I said you'd pull the drives off, because the**
5 drive mechanism would then -- by pulling it off, would allow you
10:04:45 **6 to have access to the diameter of the nozzle and you'd be able**
10:04:50 **7 to run a probe down through that and look for cracking.**

10:04:55 **8** Q. Okay. A probe. At the time do you know which
10:04:59 **9** technology would have been used?

10 A. **I think we were using eddy current, but I'm not 100**
10:05:05 **11 percent positive.**

10:05:09 **12** Q. Would all of that have been time consuming?

10:05:13 **13** A. **Oh, absolutely.**

14 Q. And expensive?

15 A. **Absolutely.**

10:05:17 **16** Q. And that's why this recommendation was written?

10:05:22 **17** A. **The recommendation was to ask the question, yes, to see**
10:05:27 **18 -- I wouldn't say it's because it was time consuming. It was**
10:05:31 **19 asking the question, should we do the inspection?**

10:05:33 **20** Q. To ask the question whether we should do the inspection;
21 and to answer it: No, we shouldn't?

10:05:39 **22** A. **Well, that's what the answer was in the recommendation,**
23 that's correct.

10:06:29 **24** MR. POOLE: Government's Exhibit 28 was another one
25 Counsel asked you about, previously admitted. I'm going to

10:06:38 1 display a page of that exhibit, Your Honor.

38 2 BY MR. POOLE:

3 Q. It's another trip report, isn't it?

4 A. Yes.

5 Q. From Prasoon Goyal?

10:06:53 6 A. **That's correct.**

7 Q. It says: We need service structure access to clean and
8 inspect the head. (Note: Davis-Besse does not have service
9 structure holes.)

10:07:13 10 I believe your testimony was that you already knew

10:07:15 11 that Davis-Besse needed access ports.

10:07:18 12 A. **That's correct.**

10:07:20 13 Q. But --

10:07:21 14 A. **I'm sorry, the actual statement is Davis-Besse does not
15 have them. I knew that.**

10:07:28 16 Q. Does not have them. All right. My recollection --

17 A. **That's what you asked me, right?**

10:07:35 18 Q. No, my question is about the testimony you gave
19 yesterday.

10:07:38 20 A. **Okay.**

21 Q. My recollection of your testimony, correct me if I'm
22 wrong, is that you said that you already knew that Davis-Besse
23 needed these openings, these access ports.

10:07:46 24 A. **That's correct. I was well aware we did not have
10:07:54 25 openings.**

1 Q. And that they were needed?

57 2 A. **We had a modification out for them, yes.**

3 Q. That's the same modification that was postponed to the
4 14th refueling outage?

5 A. **That's correct.**

10:08:09 6 Q. There's an element of warning in this, isn't there? We

10:08:15 7 need access to clean and inspect the head and we don't have

8 service structure holes. Wouldn't you call that a warning?

9 A. **Today I would. But at the time I didn't take it that**

10 way.

10:08:26 11 Q. It wasn't the first warning that Praseon Goyal sent, was

10:08:31 12 it?

13 A. **No. Praseon was a very strong advocate for cutting the**
14 **holes in the head -- I'm sorry, in the service structure apron.**

10:08:39 15 Q. I take it nobody was in favor of cutting holes in the

10:08:43 16 head?

17 A. **Not until we found the hole and we wanted to cut it out.**

18 Q. Yes. And he goes on with some other information that

10:08:53 19 you had already seen in previous e-mails and messages, leaking

10:08:58 20 nozzle may produce very little boric acid; the head needs to be

10:09:03 21 clean; the inspection needs a procedure, we don't have one.

22 Now, this whole service structure thing, the lack of access,

10:09:11 23 that's a design issue, isn't it?

10:09:13 24 A. **That's correct. The actual installation of the holes**

25 **would be a modification that would have to be approved through**

10:09:21 **1 design.**

10:09:23 **2 Q.** And the limitation on access to the reactor vessel head
10:09:29 **3** was a result of the original design?

10:09:33 **4 A. That's correct.**

10:09:35 **5 Q.** So this is a design issue, isn't it?

10:09:40 **6 A. I think you could put it that way, but I would also**

10:09:44 **7 think that it's a plant issue as well. I think there was more**

10:09:49 **8 people than design that were concerned about being able to do a**
9 good job.

10 Q. Sure. The people who did the inspections were
11 concerned about it, weren't they?

12 A. Absolutely.

10:10:00 **13 Q.** So you, as design manager, read this warning, but did
14 not act on it?

15 A. That's correct.

10:10:31 **16 Q.** All right. Moving to Government's Exhibit 36.

10:10:36 **17** MR. POOLE: Previously admitted, Your Honor. I'll
10:10:39 **18** display it to the jury.

10:10:44 **19** BY MR. POOLE:

10:10:44 **20 Q.** In an August 11, 2001 e-mail from Prasoon Goyal about
21 the response to Bulletin 2001-01 -- do you recognize that?

22 A. Correct.

10:11:15 **23 Q.** I've enlarged the third paragraph which says: It was

10:11:19 **24** pointed out that we cannot clean our head through the mouse

10:11:22 **25** holes.

10:11:23 1 Again, this is as a result of a design of the
2 reactor vessel head; is it not?
3 A. **Correct.**
10:11:31 4 Q. It's another warning; is it not?
10:11:34 5 A. **Yes.**
10:11:36 6 Q. And now it's a warning in the context of Bulletin
10:11:42 7 2001-01; isn't that true?
10:11:43 8 A. **Yes.**
10:11:44 9 Q. Bulletin 2001-01 required Davis-Besse to report on
10:11:50 10 inspections that had been done?
11 A. **That's correct.**
10:11:53 12 Q. They wanted to know that the plant was safe to operate?
10:11:59 13 A. **I think that's the general intent of the bulletin, yes.**
10:12:03 14 Q. In order to know if a plant was safe to operate, they
10:12:07 15 needed to know whether inspections had been done?
16 A. **Correct.**
10:12:12 17 Q. They needed to know whether the inspections that had
10:12:15 18 been done were capable of finding boric acid indicative of a
19 nozzle leak?
20 A. **Correct.**
10:12:26 21 Q. And here's a warning: We cannot clean our head through
22 mouse holes.
10:12:36 23 But you didn't act on that?
24 A. **No.**
10:13:04 25 MR. POOLE: Next, Government's Exhibit 40,

1 previously admitted, Your Honor. And we'll display it for the
2 jury.

10:13:11 3 THE COURT: Yes.

10:13:15 4 BY MR. POOLE:

10:13:15 5 Q. Another e-mail from Prasoon Goyal?

10:13:19 6 A. **That's correct.**

10:13:27 7 Q. This one says: Is it possible to go back to '98; that
8 is when a good head exam was done with no nozzle leakage
9 (meaning not taking any credit for 2000 inspection).

10:13:45 10 And this e-mail went to you, didn't it?

11 A. **I think it was actually to Mr. Fyfitch at Framatome. I**
12 **was CCed on it.**

13 Q. It was copied to you?

10:14:03 14 A. **That's correct.**

10:14:08 15 Q. Now, we're talking about not crediting the 2000
10:14:11 16 inspection because it wasn't a good inspection?

17 A. **Correct.**

10:14:20 18 Q. This was August 17, 2001?

19 A. **I believe that's correct. I only have the one section,**
10:14:27 20 **though.**

10:14:35 21 Q. I'll give you the page back.

22 A. **Yes, the 17th.**

10:14:38 23 Q. So that's two or three weeks before the first bulletin

10:14:41 24 was signed off on by you and submitted to the Nuclear Regulatory

10:14:47 25 Commission?

- 10:14:47 **1** A. **That's correct.**
- 10:14:49 **2** Q. I'd call that a warning, wouldn't you?
- 10:14:53 **3** A. **You could call it a warning. I didn't view that at the**
- 4** **time. I wish I had.**
- 5** Q. Certainly a clear indication that the 2000 inspection
- 6** was not a reliable inspection?
- 10:15:05 **7** A. **Right. We knew that because of the five leaking flanges**
- 8** **that we repaired.**
- 10:15:23 **9** Q. 2731 did not state that it wasn't a reliable inspection?
- 10** A. **No, it didn't.**
- 10:15:33 **11** Q. In fact, it took credit for that inspection?
- 12** A. **Portions of it, yes.**
- 10:15:47 **13** Q. But your statement yesterday when you were asked about
- 14** this is you didn't think there was a problem with the 2000
- 10:15:53 **15** inspection?
- 10:15:56 **16** A. **I don't recall that.**
- 10:15:59 **17** Q. So anyway, your testimony here today is that you knew
- 10:16:03 **18** the 2000 inspection wasn't a thorough, 100 percent inspection
- 19** because you knew there was flange leakage?
- 10:16:11 **20** A. **That's correct.**
- 21** Q. And you knew it already in mid August of 2001?
- 10:16:16 **22** A. **That's correct.**
- 10:16:21 **23** MR. POOLE: Your Honor, may I suggest this is an
- 10:16:23 **24** appropriate time for a break?
- 10:16:26 **25** THE COURT: All right. Ladies and gentlemen,

1 we'll now take our mid-morning break, 15 minutes, until

2 approximately 10:30. Please remember my previous admonitions

3 not to discuss this case among yourselves nor with anyone else

4 nor permit anyone to discuss it with you. And do not make up

5 your minds on the ultimate issues you will be asked to decide at

6 the end of the case. Enjoy your break.

7 (Recess taken.)

8 THE COURT: Please continue, Mr. Poole.

9 BY MR. POOLE:

10 Q. Mr. Geisen, when we left off, I think we began

11 discussing --

12 THE COURT: Mr. Poole, I have to interrupt you

13 again. I apologize.

14 (A short break is taken.)

15 THE COURT: Thank you. Sorry for the

16 interruption.

17 MR. POOLE: Not a problem.

18 BY MR. POOLE:

19 Q. Mr. Geisen, before we took our break, we discussed a

20 series of e-mails and trip reports that were sent to you before

21 the response to Bulletin 2001-01 was sent to the NRC. Do you

22 remember that?

23 A. Yes.

24 Q. Now, you were one of the signers of the greensheet, the

25 review and approval report, were you not?

10:40:05 **1 A. Yes.**

10:40:07 **2** MR. POOLE: And that's Government's Exhibit 59.

3 And, Your Honor, we'll display a page of that to the jury if the

4 Court permits.

10:40:19 **5** THE COURT: Very good.

10:40:45 **6** MR. POOLE: Does the Court and the witness and the

10:40:47 **7** jurors have that exhibit up?

8 THE COURT: I believe so.

10:40:52 **9** THE WITNESS: 40?

10:40:54 **10** MR. POOLE: That's the one we were at before the

10:40:56 **11** break. At this time I'll display a page from Government's

10:41:00 **12** Exhibit 59.

10:41:00 **13** BY MR. POOLE:

10:41:03 **14** Q. Now, is that the page you signed off on the greensheet

15 for the first response to Bulletin 2001-01?

10:41:11 **16** A. Yes, it is.

17 Q. It contains your initials next to Design Engineering

18 Manager?

19 A. That's correct.

10:41:21 **20** Q. I'll enlarge block 14 for the jury.

21 And are those your initials also next to S. P.

10:41:39 **22** Moffitt?

23 A. That's correct, D.C.G. for S.P.M.

10:41:45 **24** Q. So you signed on behalf of the Director of Technical

25 Services?

1 A. **That's correct.**

01 2 Q. Your testimony yesterday when asked about signing it,
10:42:05 3 you thought it was your responsibility to make sure the right
4 people reviewed it?

5 A. **Correct.**

6 Q. People with knowledge. And today you added something
10:42:18 7 to that, you said you reviewed it to see if it sounds right to
8 me?

10:42:25 9 A. **That's correct.**

10:42:30 10 Q. Sounds right. Have you ever reviewed the instructions

10:42:37 11 on the back of the greensheet?

12 A. **Yes, I have.**

10:42:43 13 Q. Let's take a look at those now. Let's see, we were
14 looking at your signature in Block 14.

15 A. **Correct.**

10:42:54 16 Q. Do you recognize this as the instructions on the back of
10:42:58 17 the greensheet?

10:42:59 18 A. **Correct.**

10:43:01 19 Q. I'll enlarge the instructions for Block 14. It says:

10:43:07 20 Review and approval. Is that correct?

10:43:09 21 A. **Correct.**

22 Q. Initiator checks and/or enters the desired viewer(s).

23 The technical accuracy of a response to the NRC is the

24 responsibility of the director and management individual

25 assigned the action.

10:43:33 1 So somebody has responsibility for technical
2 accuracy?
3 A. **Correct.**
4 Q. That's the thrust of this. Now, you signed as Design
10:43:45 5 Engineering Manager. Were you the responsible person?
10:43:49 6 A. **Yes. I was part of management.**
7 Q. So you were responsible for technical accuracy?
8 A. **Yes.**
10:43:57 9 Q. Now, if you're responsible for technical accuracy, is
10:44:06 10 "sounds right to me" the standard?
10:44:13 11 A. **No.**
12 Q. You have an obligation to satisfy yourself that it's
10:44:18 13 accurate?
14 A. **That's correct.**
10:44:20 15 Q. Did you do that for 2731?
16 A. **Yes, I did.**
10:44:31 17 Q. All right. I'm going to hand you Government's Exhibit
10:44:45 18 60, which is 2731.
10:44:51 19 MR. POOLE: Previously admitted, Your Honor.
10:44:51 20 BY MR. POOLE:
21 Q. And do you recognize that as the bulletin that you
10:44:56 22 signed off on?
10:45:01 23 A. **Yes.**
10:45:03 24 Q. Now, I've tabbed the page that includes 1D, which is the
10:45:12 25 question that the bulletin posed about past inspections. Do you

1 see that?

2 A. **Uh-huh.**

10:45:18 3 Q. It asks for a description of impediments?

10:45:26 4 A. **Correct.**

10:45:27 5 Q. Now --

6 A. **I'm sorry; I didn't realize that was a question.**

7 Q. Pardon?

10:45:33 8 A. **I'm sorry for the pause. I didn't realize that was a**
9 **question.**

10 Q. So do you see anything in there that discusses the fact
11 that boric acid from flanges is an impediment to inspection?

12 A. **No.**

10:45:53 13 Q. Do you see any discussion in there about the proposal to
14 cut access holes in the service structure to permit better

10:46:05 15 inspections?

16 A. **No.**

10:46:07 17 Q. Is there anything in there that says that the difficult

10:46:14 18 access through the weep holes is an impediment to inspection?

19 A. **No.**

10:46:20 20 Q. You knew all those things; you've already said that, and
21 you signed off on the greensheet, didn't you?

10:46:29 22 A. **I signed -- yes, I signed off on the greensheet. I'm**
10:46:34 23 **sorry; it was a multiple-part question there.**

24 Q. I'll break it up. So you signed off on the greensheet.

25 And you knew that boric acid from flanges was an impediment to

1 inspection, and it doesn't say that there?

2 **A. That's correct.**

3 **Q.** You knew that the limited access available through the
4 mouse holes was an impediment, and 2731 does not say that?

5 **A. That's correct; it does not say that, only limited**
6 **access.**

7 **Q.** And there's no discussion at all about the proposal to
8 cut access ports into the service structure?

9 **A. No, it doesn't.**

10 **Q.** I'm going to hand you a document that has not been

11 previously admitted. It's Government's Exhibit 69. Take a
12 minute to read over it. Then I'm going to ask you some

13 questions.

14 Without stating what the contents are, would you
15 tell the Court what that document is?

16 **A. It appears to be an e-mail from Dale Miller to --**

17 **Q.** To a bunch of people?

18 **A. A lot of people.**

19 **Q.** One of which is you?

20 **A. Yeah. It looks like, two to a line, is probably a**
21 **little over a dozen people representing several different**
22 **plants, maybe a dozen or dozen and a half plants.**

23 **Q.** Let me help you out.

24 **A. Then CCed to myself and probably, it looks like, about**
25 **10 other people.**

1 Q. And the subject is CRD Nozzle Bulletin 2001-01 Recent
2 Developments-Urgent.

10:49:30 3 MR. POOLE: Your Honor, we move that document into
10:49:32 4 evidence.

10:49:33 5 MR. WISE: No objection.

10:49:35 6 THE COURT: It will be admitted. It may be
7 displayed to the jury.

10:49:58 8 BY MR. POOLE:

10:49:58 9 Q. Mr. Geisen, do you recognize this e-mail?

10 11 A. **I can't say that I do, but it was obviously -- I was
11 obviously CCed on it.**

12 Q. Do you remember the events at that time? This e-mail
13 says: This morning the CNO of FENOC was contacted by Brian
14 Sheron.

15 Do you recall the contact with Brian Sheron?

10:50:20 16 A. **Yes. This is regarding that phone call that Bob
10:50:24 17 Saunders got from Brian Sheron on the 28th of September.**

10:50:29 18 Q. And it says: The caller -- that's Brian Sheron -- was
19 strongly suggesting that Davis-Besse reconsider our response to
20 the bulletin and consider shutting down by the end of the year
21 and perform an inspection of the reactor vessel head CRD
22 nozzles.

10:50:46 23 A. **Correct. That's what it says.**

10:50:50 24 Q. And this e-mail, this urgent e-mail that went out to

10:50:58 25 people, everybody at the plant expressed concern about that

10:52:48 **1 heating loads in the winter. If there is a demand, they end up**
2 starting peaker units to provide enough power for the grid.
3 The consumer usually doesn't see a problem.

10:53:06 **4 Q. Is that because they buy electricity from other people?**

5 A. Either buy electricity or they may start, like I say,
6 start peaker units. That's really left up to what they call
7 load dispatchers that work the grid because it may be cheaper
8 for them to buy it than it is for us to make it if it's, like, a
10:53:27 **9 gas turbine unit or something like that.**

10 Q. Can you tell us what a peaker unit is?

11 A. I'm sorry. A peaker unit is units that generate
10:53:39 **12 electricity. They may be gas turbine; it could be coal-fired;**
10:53:43 **13 could be oil-fired. It could even be hydroelectric, but**
10:53:48 **14 usually hydroelectric is base loaded, and we don't have any of**
15 that up here anyways. But the reason they're considered peaker
10:53:55 **16 units is because they're not as efficient as other units;**
17 they're more costly to run; their cost per megawatt generated is
18 a lot higher. So they don't run them except for when you've got
10:54:07 **19 a peak demand, then you put it on then.**

10:54:10 **20 Q. So then while the plant is down, FENOC is either buying**
10:54:17 **21 electricity from somewhere else or running expensive peaker**
10:54:23 **22 units to replace this electricity that's not being generated at**
23 Davis-Besse?

24 A. Correct. Usually that's the case. Unless, like I've
10:54:31 **25 said, you've got a low demand period.**

1 Q. All right. Would December and January of 2001 be low
2 demand periods in Ohio?

3 A. **No, in northwest Ohio that's considered very high demand**
4 **because we historically have a lot of electrical heating loads;**
5 **there's a lot of homes that have electric heat.**

6 Q. So it's an expensive time to shut down?

7 A. **Yes.**

8 Q. By that time there was an -- it was an established fact
9 in the industry that plants like Davis-Besse that were doing
10 inspections were finding cracks; is that a fair statement?

11 A. **At the time we got this bulletin there had been four**
12 **similar plants; three at Oconee and the Arkansas plant. All of**
13 **those had found leaks from axial cracks, that's correct.**

14 Q. We saw that Oconee, which had many nozzles -- I think
15 you said 60 from the same heat as the top five at Davis-Besse,
16 they had nine cracked nozzles on a single head?

17 A. **That's correct.**

18 Q. So people at Davis-Besse knew when they shut down there
19 was a pretty good chance they were going to find cracks?

20 A. **I don't know that everyone was thinking that way, but**
21 **you could draw that conclusion. I don't want to put -- you**
22 **asked me what people at Davis-Besse were thinking, and I don't**
23 **want to answer for everybody.**

24 Q. Okay. Well, you certainly knew because you were
25 involved on the industry committees and received trip reports

10:56:28 **1** and e-mails from Prasoon Goyal, who was knowledgeable; you
2 certainly knew that?

10:56:34 **3** **A. I certainly knew we were susceptible to cracking,**
10:56:38 **4 absolutely.**

5 **Q. Susceptible to cracking. So the plant shuts down,**
10:56:46 **6 disassembles the head, does an inspection, and now they find a**
7 crack. What does the plant do about it when they find a crack?

8 **A. Well, at that time the accepted repair mechanism or**
10:57:00 **9 methodology was to machine out the drive and start at the bottom**
10 machining out until you got above where the crack was, which was
10:57:10 **11 usually at the J weld. If it was actually a crack below the J**
12 weld, you wouldn't do any repair it to; you'd just monitor it.

10:57:19 **13 But if it was a crack in the J weld area, then you would grind**
14 that out and/or machine it out, then you end up going back in
15 and rewelding it, essentially a new J weld. And then there was
16 a stress relaxation process called the temper bead relaxation
10:57:41 **17 process.**

10:57:42 **18** **Q. Okay.**

10:57:43 **19** **A. That's the stuff that the Steering Committee was working**
20 on.

10:57:48 **21** **Q. Let's just show the jury where this occurred.**

10:57:52 **22** **Government's Exhibit 125 is the sort of 3D cross-sectional model**

10:58:00 **23** **of the reactor vessel head. Where would the repair activity**
24 occur?

10:58:04 **25** **A. Okay. What you'd end up -- I'll yell. What you'd end**

1 up doing is you actually put a rig underneath that would machine
2 out this metal, and it would keep machining it out until it got
10:58:23 3 above the crack, and then you would reweld this in a circular --
4 you'd reweld this using a weld rig that would just give passes
5 to basically reestablish the J weld. You don't completely
10:58:44 6 reestablish the drive all the way down; you just now, instead of
7 having something sticking out, it would be flush with the bottom
8 of the head, inside the head.

9 Q. Now, what's -- the reactor vessel head is taken off the
10:59:07 10 reactor and put on the stand. And at that point it's cool; is
11 that correct? It's not 600 degrees?

12 A. No, you have to have a cool-down before you can even
10:59:21 13 work on it to remove the studs that hold it together.

14 Q. What's the environment like under the reactor head?

10:59:30 15 A. With it installed or -- under what condition? I'm
10:59:35 16 sorry.

17 Q. When it's on the stand and cooled.

18 A. When it's on the stand and cooled, it's inhospitable
10:59:43 19 because it's been exposed to so much radiation for so long that
20 it's a very high dose area. It's an exclusionary. There's no
21 one allowed underneath there.

10:59:55 22 Q. So you can't put a human being underneath the reactor
10:59:59 23 vessel head?

24 A. Not without taking extraordinary measures.

25 Q. You described the rig that was used to do machining and

11:00:07 1 welding.

2 A. That's what the Steering Committee was actually
3 designing in the spring of 2001 because when Oconee 3 had to do
4 their repairs, they actually had to put a person underneath
5 there, and they had to put them in a lead box to shield them.
6 Then they had to do it manually. That's why they ended up with
7 such an extensive dose expenditure for that outage.

11:00:29 8 Q. If Davis-Besse had shut down in the fall of 2001, found
9 cracks, and then sought to repair them, what technology would
10 then have been available?

11:00:47 11 A. By then they -- robotics had been developed. I think
11:00:52 12 they were available by mid summer. Framatome was the
11:00:55 13 fabricator.

11:00:59 14 Q. And that robotic equipment was in pretty high demand,
15 was it not?

11:01:06 16 A. Well, it was built by or funded by the Steering
11:01:11 17 Committee. So it was only to be used by B&W plants.

11:01:16 18 Q. Right.

19 A. Right.

20 Q. But wasn't it the case during the fall of 2001 that if
11:01:22 21 you wanted to use that equipment, you had to stand in line, or
22 you had to schedule it at a time that it was available?

23 A. We would have had to schedule it. I can't sit here
24 today and say that we would have been standing in line. I
11:01:34 25 don't know.

11:01:37 **1** Q. But whether or not it was available at the moment you
● **2** needed it, it is fair to say this is a time-consuming and
11:01:44 **3** expensive process?

11:01:45 **4** A. **Absolutely.**

11:01:52 **5** Q. When this e-mail came out, Government's Exhibit 69, that
11:01:56 **6** was the concern, wasn't it?

11:02:03 **7** A. **I didn't take that from the writing here. This was not**
11:02:07 **8 directed at just the B&W plants. This was, if you look at the**
11:02:12 **9 "to" line, it goes to a lot of non-B&W plants. The question**
10 was, we were trying to get -- I think Mr. Miller was trying to
11 set up a teleconference to specifically talk to all of the high
11:02:27 **12 susceptibility plants, which those are the plants per the MRP**
● **13 were within 5 EFY of Oconee 3. So it would be incorrect for**
14 me to state that that was just the B&W plants. There were
15 other plants in that category.

11:02:45 **16** Q. That's a fair statement. But the concern -- were you
17 concerned if the plant shut down prior to the end of the year
18 that the plant would have these kind of problems?

11:03:02 **19** A. **I'm sorry, what problems? Tooling?**

20 Q. Undergoing the time and expense of inspection and
11:03:12 **21** possibly repair of cracked nozzles at a time when it was
11:03:18 **22** inexpensive -- expensive to be offline and necessitating
11:03:23 **23** expensive work to be done?

● 11:03:26 **24** A. **If you have to do it, you have to do it.**

11:03:37 **25** Q. But, in fact, Davis-Besse's response was to try to

11:03:42 **1** persuade the Nuclear Regulatory Commission that they shouldn't
2 have to shut down by the end of the year?

11:03:48 **3** **A. That's correct. We thought we would have been safe to**
11:03:51 **4 operate until our scheduled outage, which was the first week in**
5 April of 2002.

11:04:09 **6** **Q.** I'm going to show the witness Government's Exhibit 65,
11:04:13 **7** which I believe was previously admitted.

11:04:57 **8** Do you recognize Government's Exhibit 65?

9 **A. Yeah, this is the Piedmont report for Mr. Gibbs that he**
11:05:04 **10 testified to earlier.**

11:05:09 **11** MR. POOLE: Your Honor, we're going to display that
12 to the jury.

11:05:27 **13** BY MR. POOLE:

11:05:27 **14** **Q.** Paragraph 1 of that letter discusses CRDM inspection and
15 repair. Remind me, did you tell the jury when you received
16 this document?

11:05:45 **17** **A. No, I didn't recall when I had gotten it.**

11:05:50 **18** **Q.** So is it your testimony sitting here today that you
19 don't recall ever receiving this document?

20 **A. No, I know I received it; I just don't recall when.**

21 **Q.** Okay. Did you receive it in the fall of 2001?

22 **A. Sometime in the fall of 2001, correct.**

23 **Q.** Is there any reason -- I mean you heard his testimony
24 that he left it on your desk. Is there any reason to believe
25 you didn't see it within a couple days of his having written it?

1 A. I probably did not as a function of what else I had
2 going on during that time frame since we were in the preps for
3 our INPO evaluation. It was probably not right, but it
4 probably did sit.

5 Q. For how long? A week, two weeks?

6 A. Probably quite a while.

7 Q. When you did read it, you saw that it said on completion
8 of 12 RFO the reactor vessel head had boric acid deposits of
9 considerable depth?

10 A. Correct, I guess the tail end of that first paragraph.

11 Q. The next sentence, the first sentence in the next
12 paragraph contains a warning, doesn't it? It tells you that
13 that last bulletin response, the one that you signed off on, had
14 incorrect information; is that fair?

15 A. I certain --

16 MR. WISE: Objection.

17 A. I certainly wish I had taken it that way, yes.

18 BY MR. POOLE:

19 Q. It said Davis-Besse stated in its response to Bulletin
20 2001-01 that the top head visual inspections would not be
21 compromised due to any preexisting boric acid crystal deposits.

22 It goes on: Given previous experience in removing boric acid

23 deposits from the head, the likely need to remove these deposits

24 at the center top head by mechanical means, the severely

25 restricted access allowed by the service structure mouse holes

1 for mechanical cleaning, the industry experience of Duke Power
2 that clearly emphasizes the need for good access to the head for
3 cleaning and inspection, and the NRC commitments and inspection
11:08:23 4 requirements for the visual inspection, the most prudent course
5 of action to avoid outage delays would be to access holes in the
6 Reactor Service Structure as soon as possible in the 13th
11:08:37 7 refueling outage.

11:08:43 8 What did you do when you read that language?

9 A. **Nothing.**

11:08:48 10 Q. And did it cause you concern that you had signed off on

11:08:57 11 a letter to the Nuclear Regulatory Commission, whose technical

11:09:03 12 accuracy you were responsible for, that contained inaccurate

13 information about inspections -- future inspections not being

11:09:14 14 compromised?

15 MR. WISE: Objection to the form of the question.

11:09:29 16 THE COURT: Overruled. You may answer if you can.

11:09:32 17 THE WITNESS: I'm going to have to have him restate

18 the question.

11:09:39 19 BY MR. POOLE:

11:09:39 20 Q. All right. This -- I'll bring it up.

11:09:48 21 You said you signed off on the bulletin response,

11:09:53 22 right?

23 A. **That's correct.**

24 Q. You said you were responsible for its technical

11:09:57 25 accuracy?

11:09:58 **1 A. That's correct.**

00 **2 Q. This letter told you that there was a bunch of boric**
3 acid left on the head that would preclude, at least in those
11:10:10 **4 areas, a visual inspection; is that correct?**

11:10:15 **5 A. That's correct.**

11:10:22 **6 Q. It points out that the bulletin response you signed off**
7 on said that inspections would not be compromised; is that
11:10:30 **8 correct?**

11:10:30 **9 A. That's correct.**

11:10:31 **10 Q. And you did nothing to solve that problem?**

11:10:35 **11 A. Well, no, because we viewed it as, at the time, if we**
12 had boric acid or crystal deposits on something, we couldn't
13 inspect it, like I mentioned earlier, we would immediately go
14 into an NDE. So we viewed it as we wouldn't have trouble doing
15 an inspection. Mr. Gibbs wrote this for 13 RFO.
16 Did that answer your question? I'm not certain.
17 My answer is probably just as convoluted as the original
18 question.

19 Q. It was understandable.

20 A. Okay.

11:11:16 **21 Q. Are you familiar with the requirements of regulation**
22 50.9, the NRC regulation about accuracy and completeness?

11:11:28 **23 A. Yes.**

11:11:35 **24 Q. You understand when a licensee makes a submittal to the**
11:11:39 **25 NRC, it's required to be accurate and complete?**

1 A. **That's correct.**

44 2 Q. When bulletin -- I'm sorry, when the response, 2731, was
11:11:51 3 sent to the NRC, it said the visual inspections would not be
11:11:58 4 compromised, didn't it?

5 A. **That's correct.**

11:12:01 6 Q. And you thought that was okay because you could always
7 back it up with another kind of inspection?

11:12:11 8 A. **That's correct.**

11:12:14 9 Q. Is that accurate and complete if it doesn't contain the
10 information that you already knew?

11:12:19 11 A. **Based on what I know today, no, I'd have to say no.**

12 Q. And you knew when you read this memo that visual
11:12:27 13 inspection alone was not going to be sufficient?

11:12:31 14 A. **Correct.**

11:13:46 15 MR. POOLE: At this time we would like to display
16 to the jury Government's Exhibit 78, Mr. Miller's notes which
17 have been admitted.

18 THE COURT: They have, and you may.

11:14:06 19 BY MR. POOLE:

11:14:06 20 Q. Do you recall Mr. Wise had asked you some questions
21 about these notes?

22 A. **Yes, I do.**

11:14:15 23 Q. I've enlarged the first part that says, D.C.G. 100

11:14:21 24 percent inspection of head, some areas precluded from inspection
25 due to flange leakage, definite signs of boron flow from

11:14:34 1 leakage. I'll stop there for now.

38 2 You said that you made these statements based on
3 information that you got from Andrew Siemaszko?

11:14:50 4 MR. WISE: Objection. That's not what he said.

5 BY MR. POOLE:

6 Q. Correct me if that's not what you said.

7 A. **I believe I said I wasn't sure where I got that**
8 **information from, but that it probably came from Plant**

11:15:02 9 **Engineering and possibly Andrew Siemaszko. I really don't -- I**

11:15:11 10 **didn't take personal notes of the meeting, so I have to go off**
11 **of Mr. Miller's notes as to what was said.**

11:15:21 12 Q. And it says videotapes-reviewed 12, 11, 10 RFO videos.

11:15:32 13 Now, that sounds like there's been a video

11:15:36 14 inspection already on that date. Is that what happened?

15 A. **My understanding is yes, we had reviewed the videotapes.**
16 **When I say "we", that Plant Engineering had reviewed the**
17 **videotapes in writing up their response to 2731.**

11:15:57 18 Q. Okay. And 2731, in fact, represented that there had
19 been a view of the '98 and 2000 videotape, didn't it?

20 A. **That's correct.**

11:16:16 21 Q. It was on this phone call that Allen Hiser asked for a
11:16:22 22 nozzle-by-nozzle summary of the inspections?

11:16:25 23 A. **I believe that's correct.**

11:16:27 24 Q. Well, that's the next item in the outline, isn't it?

25 A. **Correct. And that's why I say that. It's got --**

11:16:37 **1 A.I.H. I'm assuming is Mr. Hiser.**

● **2 Q.** And you recall that you testified that that became an

11:16:43 **3** item that you were responsible for?

4 A. Correct.

11:16:47 **5 Q.** The nozzle-by-nozzle summary?

11:16:49 **6 A. I was responsible for coordinating, putting that**

7 together, yes, that's correct.

8 Q. That's right. You've already testified that Andrew

9 Siemaszko prepared a nozzle-by-nozzle summary and you reviewed

10 his work?

11:17:05 **11 A. I reviewed how -- his methodology is really what I**

12 believe what I testified to. It would be -- it would be an

● 11:17:17 **13 exaggeration for me at this point to say that I did a**

14 nozzle-by-nozzle review of his work.

11:17:24 **15 Q.** Right. That wasn't the question I asked.

11:17:27 **16 A. Okay. I just wanted to clarify.**

11:18:12 **17 Q.** All right. You testified about a meeting with the

11:18:15 **18** technical assistants at -- of the commissioners at the Nuclear

19 Regulatory Commission.

20 A. That's correct.

11:18:49 **21** MR. POOLE: Your Honor, Government's Exhibit 87 has

22 been admitted, and we'd like to display a page for the jury.

11:19:00 **23** THE COURT: Yes, that's fine. You did say 87?

11:19:05 **24** MR. POOLE: 87.

11:19:07 **25** THE COURT: Very good.

11:19:10 1 BY MR. POOLE:

2 Q. Do you recall being questioned about this exhibit by Mr.
3 Wise?

4 A. **Yes.**

5 Q. And you testified that when you talked about CRDM
11:19:21 6 penetrations being verified, verified to be free from
7 popcorn-type boron deposits using video recordings, that you
8 were relying on others?

9 A. **That's correct.**

11:19:33 10 Q. And who, again, were you relying on at that point?

11 A. **Andrew Siemaszko.**

11:19:45 12 Q. And so he's the one that told you that he verified that
13 all penetrations were free from popcorn in one video or the
14 other?

11:19:59 15 A. **I don't know if those were the exact words he used, but**
11:20:04 16 **that's the essence, yes.**

11:20:09 17 Q. Now, for an engineer, words are important, aren't they?

18 A. **I think so. I think words are important to everybody.**

11:20:16 19 Q. If you say that you verified a fact to be true, is that
20 a strong claim or a weak claim?

21 A. **I think it's fairly strong.**

11:20:28 22 Q. And you made the representation that the penetrations
23 were verified to be free from popcorn on the date of this
24 presentation, which was October 11, 2001?

11:20:49 25 A. **That's correct.**

- 11:20:51 **1** Q. But you told the jury when Mr. Wise was questioning you
57 **2** that at the time you made this representation, Andrew Siemaszko
3 hadn't finished his nozzle-by-nozzle review of the tapes?
4 A. **That's correct.**
- 11:21:08 **5** Q. But you went right ahead with this strong claim that the
6 head had been verified to be free from popcorn deposit, didn't
7 you?
- 11:21:18 **8** A. **That's correct.**
- 11:21:25 **9** Q. Now, you described a time that came after this technical
11:21:34 **10** assistants briefing -- let me back up. I have another question
11 on this one.
- 11:22:04 **12** No, I don't. I was wrong.
13 So you described in your testimony that there came
14 a time when you find out -- found out that those inspections in
15 '98 and 2000 weren't as good as you thought they were?
16 A. **That's correct.**
- 11:22:30 **17** Q. In fact, the exact words you used were those inspections
11:22:35 **18** were not what you originally intended?
19 A. **I may have used those words.**
- 11:22:44 **20** Q. And what you were told at that time was that a
11:22:51 **21** substantial number, more than a handful, of nozzles were not
11:22:57 **22** viewed in 2000 and in '98?
23 A. **That's correct.**
- 11:23:01 **24** Q. And you told that to Mr. Moffitt?
11:23:04 **25** A. **That's correct.**

11:23:11 1 Q. And there was a concern about correcting the information
2 that had been sent to the Nuclear Regulatory Commission?

11:23:19 3 A. Yes.

11:23:30 4 Q. You said you didn't question the results Andrew
5 Siemaszko had provided to you in the past?

11:23:37 6 A. No.

11:23:43 7 Q. And this -- despite the fact that there had been a
8 previous review of videotapes prior to 2731 being sent out?

9 A. Correct.

11:23:56 10 Q. You say this despite the fact that Andrew Siemaszko is
11 the individual responsible for the cleaning who didn't complete
12 it?

11:24:06 13 A. Okay.

11:24:09 14 Q. Is this a person whose representations to you were the
15 sort of representations that you, as a manager at a nuclear
16 power plant, should rely on?

17 A. At the time I had complete faith in Andrew.

11:24:57 18 Q. All right. Let's talk about the October 24th meeting.
19 That was the meeting with the Nuclear Regulatory Commission
20 staff persons; is that right?

11:25:15 21 A. I believe that's correct, in D.C.

11:25:20 22 MR. POOLE: Your Honor, we're going to want to

11:25:22 23 display some pages from Government's Exhibit 108, which is the

11:25:27 24 slides from the meeting on the 24th and previously admitted.

11:25:40 25 THE COURT: Yes. That's fine.

11:26:06 **1** BY MR. POOLE:

06 **2** Q. Here's a page from that presentation. Do you recognize
3 it?

11:26:12 **4** A. **Yes, I believe that's the one we just talked about a**
5 minute ago.

11:26:24 **6** Q. Among other things it makes the representation that all

11:26:27 **7** but four nozzle penetrations were inspected in 1996?

8 A. **That's correct.**

9 Q. How did you know that?

10 A. **That was based upon the work that Andrew was doing.**

11:26:39 **11** Q. Did he tell you that 65 out of 69 nozzle penetrations
12 were inspected in 1996?

13 A. **I don't think he directly told me. That's the**
14 information he provided in the 2735 response. But I can't say
15 that we actually spoke face-to-face regarding that.

11:27:03 **16** Q. We've seen a succession of e-mails from Prasoon Goyal

11:27:09 **17** stating that the limited access to the head created by

11:27:17 **18** inspection through the mouse holes was an impediment to

11:27:21 **19** inspection. Isn't that what we just looked at?

11:27:27 **20** A. **Yes. Before the break?**

21 Q. Yes.

22 A. **Yes.**

23 Q. E-mails that you received before the first bulletin

24 response was sent to the NRC?

25 A. **That's correct.**

11:27:38 1 Q. And, in fact, you knew that first he and then Andrew

2 Siemaszko said that it was necessary to cut access ports in the
3 reactor vessel head to permit inspection and cleaning?

11:27:56 4 A. **I think that would be an over-characterization of what**
5 **they were asking for.**

11:28:03 6 Q. Did we not just look at an e-mail that said we need

11:28:07 7 access ports?

8 A. **Correct. But to say that it would -- just to merely**
9 **permit it; we had done inspections in the past. What they were**
10 **asking for was to make it easier to do that. I'm not trying to**

11:28:24 11 **be nitpicky. I just -- because to answer that question one way**

12 **would say we can't do any inspections ever, which wouldn't --**

11:28:34 13 **would question how they would get tapes in the first place.**

14 Q. So what you're trying to explain is why you were willing

11:28:40 15 to accept the representation 65 out of 69 were inspected in

16 1996?

11:28:45 17 A. **That came from the tape, correct.**

11:28:48 18 Q. And, in fact, using the technology available at the

11:28:54 19 time, inspection of 65 out of 69 was impossible?

11:29:00 20 A. **I didn't believe that to be the case.**

11:29:05 21 Q. All right. Now -- all right. We'll move on.

11:29:31 22 MR. POOLE: Your Honor, I'm going to display

11:29:33 23 another page.

24 BY MR. POOLE:

25 Q. This is a page that Mr. Wise asked you about, and you

1 pointed out that in the first paragraph we've had added another
2 inspection, the 10th refueling outage?

3 A. Correct.

4 Q. That's the one where you've said 65 out of 69 were
5 inspected?

6 A. Correct.

7 Q. Now, the company's position was we can't do a -- well,
8 the position taken in 2735 was we couldn't do a nozzle-by-nozzle
9 inspection on the '96 tape because there was no orientation

10 information. Do you remember that?

11 A. Correct. That was my understanding.

12 Q. And so what was that based on, the '96 review? Was
13 it -- if you couldn't do a nozzle-by-nozzle with the videotape,
14 how could you be sure that you were reviewing the entire head?

15 A. You're asking me a question of how the inspection was
16 done, and I'm not the person that did the inspection. But my
17 understanding of it was that you had video of the drives; you
18 just couldn't go to say that specific drive is drive 56, and so
19 if you've got video of it, you can do some sort of assessment.

20 And my understanding is Andrew took that information and spoke
21 with people involved with that inspection to come up with the
22 information that he put on the table and in the submittal.

23 Q. Well, let me use an analogy. Suppose you're wandering
24 around in a forest with a video camera. You've been wandering
25 around for a while. And later on you want to answer the

1 question, have we seen all the trees? How can you answer that
2 question without knowing where you were when the video was
3 taken?

11:31:40 4 **A. I'm not sure I could answer that analogy that you're**
11:31:44 5 **giving me.**

11:31:45 6 **Q.** All right. We'll move on. What this says in this
7 slide here is a review of visual recordings as well as
11:31:54 8 eyewitness accounts served as the means of the inspection.
11:31:58 9 Wasn't that intended to explain in part how the '96 inspection
11:32:02 10 was done?

11 **A. I believe that's correct.**

11:32:05 12 **Q.** And you were in court here the day that Prasoan Goyal --
13 days that Prasoan Goyal testified, weren't you?

14 **A. Yes, I was.**

15 **Q.** And he did that inspection?

11:32:14 16 **A. That's my understanding.**

11:32:16 17 **Q.** Did you ever ask him if he'd done a 100 percent
11:32:20 18 inspection?

19 **A. No, I did not.**

20 **Q.** And, in fact, you know now that he believed he saw 50 to
11:32:27 21 60 percent of the nozzles?

11:32:29 22 **A. That's correct.**

11:32:33 23 **Q.** So this is not a true statement, is it, that all

11:32:36 24 penetrations were verified to be free from popcorn deposits
25 using 10, 11, and 12 RFO?

- 11:32:43 **1 A. Not based on what I've heard from Prasoon Goyal, I'd**
● 47 **2 have to say no, that's not a true statement.**
- 11:32:56 **3 Q. Let's talk about 2735. That was submitted to the NRC on**
4 October 17, 2001?
- 11:33:39 **5 A. I believe that's correct.**
- 11:33:45 **6 Q. You signed off on it?**
- 7 A. That's correct.**
- 8 Q. You signed the greensheet?**
- 9 A. That's correct. That's what I signed off on.**
- 11:33:58 **10 MR. POOLE: I'm going to display Government's**
11:34:01 **11 Exhibit 104 to the jury, Your Honor; previously admitted.**
- 11:34:06 **12 THE COURT: You may do so.**
- 11:34:13 **13 BY MR. POOLE:**
- 11:34:13 **14 Q. Is that the greensheet you signed off on?**
- 11:34:17 **15 A. I believe it is.**
- 11:34:19 **16 Q. And responsible manager, D.B.E., Design Basis**
11:34:25 **17 Engineering, D. Geisen, then your initials?**
- 18 A. That's correct.**
- 11:34:29 **19 Q. Did you sign for anybody else on that one?**
- 11:34:32 **20 A. No, I didn't.**
- 21 Q. Just yourself?**
- 22 A. That's correct.**
- **23 Q. And you were the person who was responsible for the**
24 technical accuracy of the information in that submission; is
25 that a fair statement?

- 11:34:45 **1 A. Yeah, I was one of them.**
- 2 Q. One of the people?**
- 3 A. Right. I think the way the greensheet reads, everyone**
- 4 that signs that agrees they're agreeing with the technical**
- 5 information. So I don't want to make it sound like I'm pompous**
- 6 and they had no role.**
- 11:35:10 **7 Q. Let's take a look at the instructions because they're a**
- 8 little more specific. I won't suggest that you're pompous, but**
- 9 it does say the technical accuracy of a response to the NRC is**
- 10 the responsibility of the director and management individual**
- 11:35:29 **11 assigned to the action?**
- 12 A. Correct.**
- 11:35:31 **13 Q. And you were a management individual assigned to the**
- 14 action?**
- 15 A. Correct.**
- 16 Q. And, in fact, as to the video review, you were**
- 11:35:40 **17 specifically tasked with coordinating them?**
- 18 A. That's correct.**
- 11:35:44 **19 Q. So you had both the responsibility and direct**
- 11:35:49 **20 involvement?**
- 11:35:51 **21 A. Correct.**
- 11:36:42 **22 Q. Do you recall testimony about the issue of whether the**
- 11:36:49 **23 gap in the annulus around the nozzle at the top of the reactor**
- 24 vessel head was capable of opening at full temperature?**
- 25 A. Yes.**

11:37:04 1 Q. And the issue there is, and correct me if I'm wrong, if
11:37:11 2 the gap doesn't open, the nozzle could crack, and the crack
3 could grow, and there would be no visual indication on the
11:37:22 4 surface of the reactor vessel head. Is that the concern?
5 A. **That's correct.**
11:37:29 6 Q. And there was, during the fall of 2001, a concern that
11:37:40 7 four or five nozzles at the top of the reactor vessel head would
8 not open?
11:37:49 9 A. **That's true.**
11:37:51 10 Q. Which makes them uninspectable by visual means?
11 A. **That's correct.**
11:38:00 12 Q. And therefore capable of having an undetected crack?
13 A. **Correct.**
11:38:11 14 Q. Later in the fall of 2001 it was discovered that through
11:38:16 15 analysis by a company called SAI, I believe, and correct me if
16 I'm wrong on that, that the gaps would open up?
17 A. **I believe one of their revisions indicated that all the**
18 **cracks would open up.**
11:38:36 19 Q. And you provided that information to the CNRB?
11:38:42 20 A. **That the cracks would open up?**
21 Q. Would open up.
22 A. **No, I believe -- I don't think that's correct.**
11:38:52 23 MR. POOLE: We're going to show the witness
24 Government's Exhibit 119. I believe that's previously
11:39:27 25 admitted, October 3rd. We'll display a page to the jury.

1 THE COURT: That's correct. You may display it.

2 BY MR. POOLE:

3 Q. I'm going to show you Government's Exhibit 119, which on
4 the first page says: Subject approved CNRB meeting minutes.
5 And I've tabbed the relevant page. I'd like you to take a look
6 at it, then I'll ask you some questions.

7 A. Okay.

8 Q. Do these minutes of the CNRB reflect that you told them
9 that it had been discovered that the gaps wouldn't open up?

10 A. Yes. I was mistaken there in my previous comment.

11 Q. So you knew and the company Nuclear Review Board knew
12 that the gaps could open up?

13 A. Correct.

14 Q. Did you give that information to the Nuclear Regulatory
15 Commission?

16 A. I don't believe we did.

17 Q. All right. Do you recall Mr. -- I believe it was Mr.

18 Moffitt's testimony that there was a discussion -- maybe it was

19 McLaughlin -- there was a discussion about whether that

20 information should be provided to the NRC, even though the

21 decision was made that it would not be?

22 A. Yes, I believe it was Mr. McLaughlin that spoke to that
23 yesterday.

24 Q. And you were a part of that meeting, weren't you?

25 A. I believe it was myself and Mr. Lockwood.

11:42:03 **1** Q. Now, do you consider the information that was provided
2 to the Nuclear Regulatory Commission on that subject accurate
3 and complete?

11:42:12 **4** A. **If we didn't change it, probably not, no.**

11:42:25 **5** Q. You testified about being involved in serial 2744.
6 That was the letter that went to the NRC with all the pictures
11:42:35 **7** of the reactor vessel head?

8 A. **That's correct.**

11:42:51 **9** MR. POOLE: Your Honor, that's Government's Exhibit
10 113.

11:42:56 **11** THE COURT: That was admitted previously?

12 MR. POOLE: Yes.

11:43:05 **13** BY MR. POOLE:

11:43:05 **14** Q. You said on that Serial Letter, you were furnished
11:43:11 **15** photographs by Andrew Siemaszko.

11:43:13 **16** A. **Correct.**

11:43:15 **17** Q. And you supplied captions for the photographs; is that
11:43:22 **18** correct?

11:43:22 **19** A. **That's correct.**

11:43:25 **20** Q. And you said some of the information that you put into
21 the captions came from Mr. Siemaszko; is that correct?

22 A. **Correct.**

23 Q. Some from your own observations about his techniques?

24 A. **Correct.**

11:43:40 **25** Q. Some from other people?

11:43:44 1 A. I don't know specifically where the other information
2 would come from.

3 Q. So you -- your own knowledge and Andrew Siemaszko?

4 A. Right.

11:44:41 5 Q. All right. I'm going to show you now and the jury a
6 picture -- well, a page from 2744; it's one that you testified
7 about on direct. There it is. And you recall that picture
8 being a picture from the '96 inspection?

11:45:07 9 A. That's what I would take from this, yes.

11:45:12 10 Q. I'd like to focus on the language at the bottom. Some
11 boron piles were observed at the top of the head in the vicinity
12 of previous leaking flanges. Because of its location, it could
13 not be removed by mechanical cleaning but was verified not to be
14 active or wet and therefore did not pose a threat to the head
15 from a corrosion standpoint.

11:45:39 16 We'll get back to that sentence, but for our
17 purposes now, the sentence I want to ask you about is this one:
18 Additionally, since these drives are not credited with leaking,
19 that further ratifies that the boron is from previous flange
20 leakage.

11:45:56 21 All right. So this is one of those drives that
22 was believed to have a gap that wouldn't open up?

11:46:02 23 A. Correct.

11:46:04 24 Q. The statement that you've made here is: Since we know
11:46:11 25 that these drives won't open up and leak, that shows us that the

11:46:19 1 boron we're looking at in the picture is the from previous
24 2 flange leakage?
11:46:26 3 A. **That was one of the indications, plus the screening and**
11:46:31 4 **stuff.**
5 Q. I just want to ask about that sentence.
6 A. **Okay.**
7 Q. Now, later on you learned that those drives would open
8 up and would leak?
11:46:43 9 A. **Correct.**
11:46:45 10 Q. So the confidence that you got from knowing that they
11:46:52 11 wouldn't open up, I mean, that proves there must be flange
12 leakage was misplaced, wasn't it?
11:46:59 13 A. **Yeah, potentially. But the other thing, this was in a**
11:47:06 14 **completely different time frame than when I wrote this. We had**
11:47:11 15 **the report from SIA that said that they would not open up.**
16 Q. Sure. At the time you believed it to be true that the
11:47:19 17 gap wouldn't open up?
18 A. **Correct.**
19 Q. Later on you found out that it would?
11:47:24 20 A. **Correct. One of the revisions said that it would.**
21 Q. And you participated in a meeting where you discussed,
22 should we reveal this to the NRC or not? And it was decided
11:47:38 23 we're not going to provide that information to the NRC. Don't
24 you think that would have made a difference to the
11:47:46 25 representation you made here?

- 11:47:51 **1 A. I can see where that conclusion would be made, yes.**
- 55 **2 Q. Well, let's talk about the rest of that caption.**
- 11:48:07 **3** There's that statement about boron, because of its location
- 4** could not be removed by mechanical cleaning, but it was verified
- 11:48:18 **5** not to be active or wet.
- 11:48:20 **6** Now, do you remember being asked about that by the
- 11:48:25 **7** investigators in this case?
- 11:48:27 **8 A. Vaguely.**
- 11:48:30 **9 Q. And when they asked you, how did you verify it not to be**
- 11:48:35 **10** active or wet; do you remember what you said?
- 11:48:40 **11 A. I think I got that information from Ed Chimahusky, but I**
- 11:48:47 **12** wasn't sure.
- 11:48:48 **13 Q. Do you remember what Mr. Chimahusky said on the stand?**
- 11:48:51 **14 A. Yes, I do.**
- 15 Q. He said you didn't get that information from him?**
- 16 A. That's correct.**
- 11:48:59 **17 Q. And, in fact, sitting here today, can you tell the jury**
- 18** where you got that information?
- 19 A. No, I can't. I mean, in 2002 when the Office of**
- 11:49:12 **20** Investigation asked me, I thought it was potentially from Ed
- 21** Chimahusky, but I wasn't sure at that time. I can't tell you
- 22** today.
- 11:49:28 **23 Q. Do you know who did the inspection in '96?**
- **24 A. I understand that was Mr. Goyal.**
- 11:49:35 **25 Q. And do you recall that he was asked whether he verified**

11:49:39 1 that that boron was not active or wet?

2 A. **I don't recall that question, but he may very well have**
3 **been.**

11:49:49 4 Q. Would it surprise you to learn that nobody asked him
11:49:54 5 that question?

11:49:57 6 A. **At this point in the investigation, yes, I would be very**
11:50:01 7 **surprised if no one asked him that question. Or are you**
11:50:04 8 **referring to way back then?**

11:50:06 9 Q. Well, the fact of the matter is -- if the jury's
10 recollection is different, so be it -- didn't Praseon Goyal say
11 on the stand that he never verified that that boron was not
11:50:22 12 active or wet?

13 A. **I'm not sure. I'd have to -- I'm sorry, I don't recall**
14 **every single thing he said on the stand. So I'm sorry.**

15 Q. But who else could have verified that other than the man
16 who did the inspection?

11:50:39 17 A. **That would make sense that it would be the person that**
18 **did the inspection.**

11:51:55 19 Q. Do you recall, getting back to the phone call from Brian
20 Sheron, I think you said you were busy on September 28th when
11:52:11 21 that phone call occurred, busy with the INPO inspection?

22 A. **Correct. That was a Friday.**

11:52:19 23 Q. And that was the phone call in which Sheron said that
11:52:24 24 the utility should -- or licensee, I think that's the sort of
25 language they used -- should reconsider its bulletin response

11:52:33 **1** and shut down and inspect by the end of the year?

11:52:36 **2** **A. I'm assuming that's what he said. I wasn't on the**
11:52:40 **3 phone call, but that's what I've been told.**

11:52:46 **4** **Q. Do you recall that Mr. Moffitt, Steve Moffitt, pulled**
11:52:52 **5 you out of the INPO inspection at the time of that phone call?**

6 **A. It actually was Guy Campbell.**

11:53:00 **7** **Q. What was the purpose of that?**

11:53:02 **8** **A. Guy Campbell grabbed several of us managers to discuss**
9 the fact that he was somewhat agitated as he had just gotten a
10 phone call from his boss, Mr. Saunders, that said: Hey, I just
11 got a phone call about your plant, and I don't hear about
12 anything from you. So he was a little annoyed and he called us
13 out. And I can't tell you exactly what all the meetings and
11:53:32 **14 everything were about or what the discussion was about after**
15 that, but I think Mr. Lockwood took pretty much the lead at that
11:53:40 **16 point to start establishing some sort of line of communication**
17 with the NRC.

11:53:45 **18** **Q. So that was discussions amongst some pretty high-level**
11:53:50 **19 people at FirstEnergy?**

11:53:52 **20** **A. The discussion that I participated in -- which**
21 discussion?

22 **Q. What's Mr. Saunders' title?**

23 **A. He's the Chief Nuclear Officer, or was at that time.**

11:54:06 **24** **Q. Mr. Campbell?**

11:54:07 **25** **A. He is the site vice-president.**

11:54:09 1 Q. And they were concerned?

11:54:12 2 A. **I can't speak to what Mr. Saunders' feelings were**
11:54:18 3 **because I didn't communicate with him. That was a**
11:54:23 4 **communication that happened between Mr. Campbell and Mr.**
11:54:23 5 **Saunders. So I really can't --**

11:54:25 6 Q. You mean Mr. Campbell? Mr. Campbell, was he concerned?

7 A. **Yes, he was.**

11:55:25 8 Q. Do you recall when you first started your direct
9 testimony yesterday that Mr. Wise asked you a series of

11:55:32 10 questions about did you ever lie to the NRC, did anybody ever
11 direct you to do that? Do you remember those questions?

12 A. **Yes, I do.**

11:55:42 13 Q. One of those questions was: Did you ever conceal from
14 the Nuclear Regulatory Commission any safety-related
11:55:55 15 information?

16 And your answer to that was: No?

17 A. **Correct.**

11:56:00 18 Q. But we've talked about a number of things, pieces of
11:56:06 19 information that you had that were not revealed to the NRC,
20 haven't we?

11:56:14 21 A. **You talk about pieces. The only one I'm aware of is**
11:56:20 22 **the gap information. Is that what we're talking about?**

23 Q. Well, then there are the impediments to inspection that
11:56:26 24 were missing from the first bulletin response. There was the
25 information about this failure to correct the language that you

11:56:45 1 personally put in the caption from the photograph; you never
2 corrected that, did you?

3 **A. No, we never sent any new photos.**

11:56:57 4 **Q.** And throughout this process, it's basically been your
5 position that either you viewed the responsibility for providing
6 correct information -- you viewed it as somebody else's
7 responsibility?

11:57:19 8 MR. WISE: Objection.

11:57:24 9 THE COURT: Why don't we ask the question.

10 BY MR. POOLE:

11 **Q.** Isn't that so?

11:57:29 12 **A. I'm sorry. You're going to have to put it in a**
11:57:34 13 **question.**

11:57:38 14 THE COURT: I'm supposed to say that.

11:57:41 15 THE WITNESS: I didn't understand the question.
16 I'm sorry.

11:57:44 17 MR. POOLE: Your Honor, I think we'll quit there.

18 I think we've asked our questions.

11:57:51 19 THE COURT: Redirect?

11:57:53 20 MR. WISE: I'll be brief. Thank you.

11:57:53 21

11:57:53 22 - - -

11:57:53 23 DAVID GEISEN, REDIRECT EXAMINATION

11:58:06 24 BY MR. WISE:

11:58:06 25 **Q.** David, let me ask you this. Mr. Poole started by

1 asking you about e-mails and trip reports in January and March
2 of '01 that he categorized as warnings to you. Did you take
3 those e-mails and trip reports as warnings in January and March
4 of 2001?

11:58:25

5 **A. No. I wish I had.**

11:58:27

6 **Q.** Did Prasoon Goyal ever come to you and say: We have a
7 problem; this is a warning?

11:58:32

8 **A. No, he did not.**

9 **Q.** Did Theo Swim ever come to you and say: We have a
10 problem; this is a warning?

11 **A. No, he didn't.**

11:58:42

12 **Q.** Did any of the e-mails that you were shown by Mr. Poole
13 have a heading that said: Warning, urgent, anything like that?

11:58:48

14 **A. No. There was one e-mail that he introduced that said**
15 **urgent in the heading, I think.**

11:58:56

16 **Q.** That was Mr. Miller's e-mail about the September 28th
17 phone call?

11:59:02

18 **A. That's correct.**

11:59:08

19 **Q.** Did any of the e-mails that Mr. Goyal sent to you and
20 others about lessons learned at Oconee or any others bear a
21 heading that said these were urgent?

22 **A. No.**

11:59:20

23 **Q.** As you looked at them in early 2001 through mid 2001,
24 did you have a sense that what Mr. Goyal was telling you was
25 that the plant had a problem?

11:59:28 1 A. No. I think he was asking for in many of those was it
2 would be easier to do these inspections if we had inspection
3 ports.

11:59:39 4 Q. As you look back at those e-mails now, do you see things
5 differently as you saw them then?

11:59:45 6 A. Absolutely.

11:59:46 7 Q. As you looked at the questions that you were interacting
8 with the NRC about in October and November of 2001, were you
11:59:53 9 thinking back to the e-mails that Mr. Poole has just shown you
10 from the early part of that year?

11 A. No.

12:00:11 12 Q. I'm going to show you the first page of Mr. Gibbs'
13 report that is Government's Exhibit 65. And I believe that Mr.
14 Poole suggested to you that this letter told you that Bulletin
15 2001-01 was inaccurate.

16 First of all, who is this letter addressed to?

17 A. Mark McLaughlin.

12:00:43 18 Q. As you look at the page that's up on the screen, do you
19 see the word "inaccurate" in that text?

20 A. No.

21 Q. Do you see the word "false" in that text?

22 A. No.

23 Q. Do you see the word "misleading" in that text?

24 A. No.

12:00:58 25 Q. Did you ever speak to Mr. Gibbs about this letter?

1 A. **No, I didn't.**

2 Q. Did you speak to Mr. McLaughlin about his conversations
3 with Mr. Gibbs?

12:01:06 4 A. **No, I didn't.**

12:01:07 5 Q. To your knowledge did Mr. Gibbs ever tell anyone at
6 Davis-Besse that what he was reporting was that there were
7 false, misleading, or inaccurate statements in bulletin response
12:01:17 8 2731?

12:01:18 9 A. **I think Mr. Gibbs, if he had felt that way, would have**
10 **gone directly to the vice-president.**

12:01:28 11 Q. Mr. Poole was asking you about 2731 and how that
12 document did not say that the limited access was an impediment.
13 Do you remember those questions?

14 A. **That's correct.**

15 Q. What did you believe about the ability of the station to
16 clean the head in 2000 as you were doing the greensheet review
12:01:51 17 in August of 2001?

12:01:52 18 A. **Well, for 2731 I thought we were very successful in**
12:01:58 19 **getting the head clean with the hot water. And as far as being**
20 **able to do inspections, although it's not ideal, you could do**
12:02:06 21 **inspections through a mouse hole.**

12:02:08 22 Q. Did you believe the lack of holes had prevented a
23 successful cleaning in 2000?

24 A. **No.**

12:02:14 25 Q. Were you aware that the people involved in doing the

12:02:17 1 inspections had been involved in the drafting of 2731?

2 A. Yes.

12:02:22 3 Q. Do you have any reason to believe that 2731 was not
4 technically accurate when you did the greensheet review?

12:02:29 5 A. No.

6 Q. You talked with Mr. Poole about the captions in 2744,
7 the photograph; do you recall that?

8 A. Correct.

9 Q. Do you recall the question about whether you had spoken
10 with Mr. Chimahusky?

12:02:40 11 A. Yes.

12 Q. When you were compiling information preparing the
13 captions, what was that based on?

12:02:51 14 A. It was based on the sum total of knowledge I had

12:02:56 15 acquired from talking to Andrew, my knowledge of the plant,
16 talking to the other individuals. I can't say that this
17 statement came from this person at this point.

12:03:10 18 Q. Did you believe that Andrew had spoken with others?

12:03:13 19 A. Yes.

20 Q. When you were writing the language about verified not to
21 be active and wet, you said you can't recall specifically who
22 that came from?

12:03:22 23 A. No, I can't. But I know that that phrase had been used
24 before.

25 Q. Do you think that you just made it up without believing

1 that it was true?

2 A. No.

12:03:30 3 Q. The discussion about the gap analysis in the November

12:03:35 4 15th e-mail.

5 A. Correct.

12:03:37 6 Q. At the time that you were presenting the probabilistic

12:03:43 7 risk assessment that Mr. Byrd was doing, what was your

12:03:47 8 understanding about whether you were taking credit for the top

12:03:50 9 four nozzles in the 1996 inspection?

12:03:53 10 A. We weren't taking credit for them.

12:03:55 11 Q. If the gaps opened up, would that potentially allow you

12 to, in fact, take credit for those nozzles?

13 A. No, because we already knew that there was boron up

14 there near those drives, so that we, from an inspection

12:04:10 15 standpoint, still would not have been able to take credit for

16 it. So when we did our -- I'm going to stop using the word

12:04:18 17 "we" because that gets me in trouble.

18 When Ken Byrd reran his most -- the final version

12:04:26 19 of his probabilistic risk assessment, he ran it not taking

20 credit for that, I think actually at one point ran it not taking

21 credit for any inspections.

22 Q. Did you make the final call to provide the revised SAI

12:04:43 23 information to the NRC?

24 A. No, I did not.

25 Q. Do you believe that the decision not to -- if that was,

12:04:47 1 in fact, the final decision -- was done to try to keep bad
2 information from the NRC?

12:04:52 3 A. No. I think Mark captured it accurately, that it was
12:04:57 4 because it was less conservative.

5 Q. Mr. Poole asked you a series of questions about the
6 expense that Davis-Besse would have incurred had they had to
12:05:09 7 shut down early.

8 Do you remember those questions?

9 A. Yes.

12:05:13 10 Q. Would any of that expense have come out of your pocket?

11 A. No.

12 Q. Would you have sacrificed your career to save
12:05:20 13 Davis-Besse money?

12:05:21 14 A. No.

12:05:24 15 MR. WISE: That's all I have. Thank you.

12:05:48 16 THE COURT: You may step down.

12:05:54 17 Ladies and gentlemen, we'll now take roughly an
18 hour and 15 minutes, somewhere around 20 after 1:00 for our
19 lunch break.

20 Please remember my previous instructions and
12:06:09 21 admonitions not to discuss this case among yourselves or with
22 anyone else, nor to permit anyone else to discuss it with you.

12:06:18 23 Do not read, listen to, or watch anything touching on this case.

24 And do not make up your mind on the ultimate issues you will
25 decide at the end of the case when it is submitted to you for

1 your verdict.

2 Enjoy your lunch. We'll see you at approximately
3 20 after the hour.

4 (Recess taken.)

5 - - -

6

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8

C E R T I F I C A T E

9

10 I certify that the foregoing is a correct transcript from the
11 record of proceedings in the above-entitled matter.

12

13

14 Tracy L. Spore, RMR, CRR

Date

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I N D E X

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3 DAVID GEISEN, CONTINUED DIRECT EXAMINATION 1905

4 BY MR. WISE:

5 DAVID GEISEN, CROSS-EXAMINATION 1945

6 BY MR. POOLE:

7 DAVID GEISEN, REDIRECT EXAMINATION 2007

8 BY MR. WISE:

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