

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GENERAL PUBLIC UTILITIES CORPORATION, :
JERSEY CENTRAL POWER & LIGHT COMPANY, :
METROPOLITAN EDISON COMPANY and :
PENNSYLVANIA ELECTRIC COMPANY, :
:
Plaintiffs, :
:
-against- :
:
THE BABCOCK & WILCOX COMPANY and :
J. RAY McDERMOTT & CO., INC., :
:
Defendants. :
-----X

Deposition of JAMES DAVID PHINNEY,
taken by the Plaintiffs, pursuant to
notice, at the offices of Kaye, Scholer,
Fierman, Hays & Handler, Esqs., 425
Park Avenue, New York, New York, on
January 13, 1982 at 9:42 o'clock a.m.,
before Charles Shapiro, a Certified
Shorthand Reporter and Notary Public
within and for the State of New York.



WALTER SHAPIRO, C.S.R.
CHARLES SHAPIRO, C.S.R.

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A p p e a r a n c e s :

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, ESQS.
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BY: ROBERT F. WISE, ESQ., JR. ESQ.,
of Counsel

-and-

K. ANN McDONALD, ESQ.,
of Counsel

ALSO PRESENT:

DAVID TAYLOR

oOo

IT IS HEREBY STIPULATED AND AGREED by
and among the attorneys for the respective
parties hereto that the sealing, filing and

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certification of the within deposition be,
and the same hereby are, waived; that the
transcript may be signed before any Notary
Public with the same force and effect as
if signed before the Court.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, are reserved to the time of
trial.

oOo

J A M E S D A V I D P H I N N E Y, having
been first duly sworn by Charles Shapiro, a
Notary Public within and for the State of New
York, was examined and testified as follows:

EXAMINATION BY

MR. SELTZER:

Q Did you attend the B&W User's Group
meeting on November 15 and 16, 1977?

A I don't know. I can't verify that date.

Q Was it your practice in 1977 to attend

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regularly convened B&W User's Group meetings?

A Yes, it was.

Q Do you recall attending a meeting in or about November 1977 that was a User Group meeting?

A I don't know. The problem is with the dates.

Q Do you remember a User's Group meeting that took place at the Twin Bridges Marriott Hotel in Washington D.C.?

A Yes, I do.

Q Has more than one User's Group meeting been held there that you have attended?

A No. I have only been at one at the Twin Bridges.

Q Do you recall any of the other B&W attendees at that meeting?

A Yes, I do. Bob Baker, Charlie Pryor, and that is all I can remember right now.

Q For how many days did you attend?

A I don't -- I am not sure. I was there overnight and so it was probably a day and a half.

Q Did you arrive on the morning that the session began, or did you arrive the night before?

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A The night before, I believe.

Q Is it your recollection that you just stayed through the first day of the two-day meeting or did you then stay the next night and attend the half day that was the conclusion of the meeting?

A I believe I was there for the whole meeting and therefore I would have stayed over two nights.

Q Do you remember Bill Spangler being in attendance?

A No, I can't remember that.

Q Jim Smotrel?

A No, I can't remember that either.

Q Bob Wascher?

A No, I don't.

Q Somebody nicknamed Pat Patterson?

A Yes, I remember Pat.

Q Frank Fahland?

A I don't remember.

Q Art Brown? Do you remember Art being in attendance?

A I remember Art Brown.

Q Do you remember Al Cobb being in attendance?

A I can't remember that.

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Q Did you make any presentation at that meeting?

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A Yes, I believe I did. It's hard to differentiate between presentations. There have been many of them and a presentation in connection with this particular meeting is hard to do, but I believe I did.

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Q On what subject do you believe you made a presentation?

A I believe it would have been on refueling outage performance that had occurred in the recent past on a number of utility units.

Q What was the point of your presentation, if there was a point?

A A comparison of performance on refueling outage and maintenance work done during refueling outages between units was the point of the presentation.

Q Did you discuss the performance of specific and identified utilities?

A Yes, I did.

Q Which ones did you cover?

A I don't remember.

Q Did you discuss anything about refueling

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at Three Mile Island Unit 1?

A I don't know. It would have been -- it would have been usual, you know, the usual type of presentation. It would have included Three Mile Island Unit 1.

Q But you don't have any recollection today of having discussed it?

A No, I don't.

Q Do you have any recollection of having discussed refueling at any of the Oconee units?

A Again, it would have been the usual presentation to include the Oconee units, but I don't specifically recall that I did.

Q Did you make any comment about how many days of refueling outage there had been at any of the units?

A That would have been included in a presentation such as the one I described. I don't recall what I specifically said regarding days of outage time.

Q Compared to other B&W plants, was it your belief at the time that Three Mile Island Unit 1 had a very favorable record on refueling outage days?

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A Yes, they did.

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Q In other words, they were able to accomplish refueling efficiently and expeditiously in terms of a relatively short number of days?

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A In a relative sense, relative to other similar utilities and units, the answer is yes.

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Q Did you ever investigate what it was that Three Mile Island Unit 1 and its owner, Metropolitan Edison, were doing that was expeditious and efficient compared to other plants?

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A I wouldn't use the word "investigate." I would use the word "considered." And yes, we did. We were interested in that -- their performance and why it was different from other units.

Q What did you find out was giving Met Ed a better performance on refueling outages?

MR. WISE: At TMI-1?

MR. SELTZER: I think that is the only plant that it had refueling from Met Ed.

Q Isn't that right?

A That is true.

Two things that I remember: One is that the Met Ed staff in preparation for refueling outages started their planning for those activities

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much earlier than other utilities did in the past.

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The other element was that the size of the staff

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at Three Mile Island was generally larger than

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the size of staffs at other nuclear facilities.

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Q Did you ever say complimentary things

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about the way in which Met Ed handled refueling

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outages?

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A I don't remember.

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Q Did you ever suggest to owners or

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operators of other B&W plants either at a User's

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Group meeting or on any other occasion that they

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should try to follow Met Ed's example?

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A Not directly. I -- you know, in

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presentations I have made on the general subject

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of refueling, that message can come across to the

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audience. I don't believe I ever specifically said

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that Utility A should adopt this philosophy that

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Met Ed has.

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Q What did you mean when you said it "can

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come across"?

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A As part of the presentation on refueling

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outage performance there are typically comments

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made about why this went well or why this didn't

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go so well, and if the audience is listening they

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can pick up that information.

Q You mean they could pick up what had gone well and why it had gone well at Metropolitan Edison's plant?

A That's true, yes.

Q Was there a representative from the Davis-Besse plant at that meeting?

A Which meeting?

Q The User's Group meeting in November 1977.

A I don't remember.

Q Do you have any recollection of whether any representative from Toledo Edison or Davis-Besse made any presentation at that User's Group meeting?

A I don't remember that either.

Q Do you remember whether anybody from B&W described anything relating to a September 24, 1977 transient at Davis-Besse now commonly referred to as the Davis-Besse accident?

A I don't remember any presentation made on that subject.

Q Do you remember anyone at the meeting either from B&W or anyone else indicating that there had been an event at a B&W nuclear plant in which

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2 operators had prematurely shut off high pressure
3 injection?

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4 A No, I don't remember any information on
5 that subject.

5

6 Q Do you remember anyone stating at
7 this User's Group meeting that operators at a
8 B&W plant had been misled by rising pressurizer
9 water level?

9

10 A No, I don't.

10

11 Q Do you remember anyone making a point
12 at this User's Group meeting that saturation had
13 occurred in the reactor coolant system outside the
14 pressurizer at a B&W plant?

14

15 A No, I do not.

15

16 Q Do you recall anybody indicating at
17 this User's Group meeting that operators at a
18 B&W plant had been misled by an indicator light in
19 their control room which had apparently indicated
20 that a pilot-operated relief valve was closed when,
21 in fact, it was open?

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22 A I don't remember.

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23 Q I would like to show you what has
24 previously been marked B&W Exhibit 1001 (handing
25 document to the witness).

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MR. WISE: Do you want him to read the whole thing or do you want to direct his attention to some part of it?

Q Have you ever received a copy of this exhibit before?

A I can't remember if I did or did not.

Q It doesn't look familiar to you as you sit here today?

A The subject material looks familiar to me. The particular document I can't verify if I got or not.

Q Take a look at page 10, please.

Does any of the information at the bottom of page 10 and on page 11 refresh your recollection that Terry Murray attended from Davis-Besse?

A I can't place him in the room, but I believe he was there.

Q I am not asking you to convince yourself he was there. I am really asking you whether you have any recollection that he was there.

A I don't remember one way or the other.

Q Does the text that appears at the bottom of page 10 and on page 11 refresh your recollection that anybody gave a presentation on behalf of the

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Davis-Besse plant?

A Again, I don't remember one way or the other.

Q Does the entry 9/24/77 on page 11 refresh your recollection that anyone described the Davis-Besse accident which happened on that date?

A Again, I don't remember one way or the other.

Q I would like to show you some handwritten notes previously marked B&W Exhibit 1002 (handing document to the witness).

B&W produced these handwritten notes from a B&W file, and B&W has stated that these are somebody's notes taken with respect to the User's Group meeting in the middle of November, 1977.

Do you recognize the handwriting?

A No, I don't recognize the handwriting.

Q Have you ever seen these notes before?

A I believe I have seen these notes before?

Q When?

A A few months ago is my best recollection.

Q Who showed them to you?

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A I believe Frank Fahland was the man who had this notebook.

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Q What were the circumstances under which Frank Fahland showed you these notes?

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A That was in a --

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MR. WISE: I will advise the witness with respect to any meetings where counsel was present that he should advise me before he discussed that testimony. We obviously may have to assert an attorney-client privilege.

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MR. SELTZER: I would understand that.

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Q Were attorneys present at the meeting where Frank showed you these notes?

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A Yes, they were.

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Q Were attorneys participating in the meeting other than just sitting there?

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A Yes.

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Q Other than being shown the notes at a meeting where counsel for Babcock & Wilsock were present, have you ever seen these notes?

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A No, I have not.

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Q Would you turn to the page that is numbered at the bottom 71.

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Do you see the scribble that looks like "Davis-Besse" about two-thirds, three-quarters of the way down?

A Yes, I do.

Q Turning to the next page about halfway down there is an entry "9/14 CRDM stator failure."

Do you see that?

A Yes, I do.

Q Below that there is an entry "9/24 SFRCS trip."

Do you see that?

A I see that.

Q If you can make out any of the handwriting that appears adjacent to that and immediately below that going all the way down to the 10/24 entry, tell me if that refreshes your recollection that the Davis-Besse September 1977 accident was discussed at the User's Group meeting.

A Again, I don't remember one way or the other.

Q In the fall of 1977, Bob Wascher worked for B&W, right?

A To my knowledge, yes.

Q In what part of B&W did he work?

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2 A He was a manager in the Nuclear Service
3 Organization.

4 Q Were you a manager in the Nuclear
5 Service Organization then, too?

6 A Yes.

7 Q Did Bob have any title that distinguished
8 him from you?

9 A Yes, he did. There were several
10 organizational changes and title changes through
11 that entire period and I don't recall what his
12 specifically was at that time.

13 Q What, if you can recall, was his area
14 of responsibility?

15 A His area of responsibility, I believe,
16 was the marketing of services to operating utilities,
17 services which would be provided by the Nuclear
18 Power Generation Division.

19 Q The Nuclear Power Generation Division is
20 the Nuclear Products and Services Branch of Babcock &
21 Wilcox?

22 A Yes, it is.

23 MR. WISE: For commercial products.

24 I don't think it is an important point, but
25 you are not entirely accurate. I don't know

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BY MR. SELTZER:

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whether you want to pursue it further with this witness or whether it makes any difference to you. I don't think that is an accurate statement of the Nuclear Power Generation Division's area of responsibility. I just don't want to mislead you. This perhaps is not the right witness to cover that with.

Q What kinds of services was Bob Wascher marketing?

A Special tools and products, engineering services, outage, refueling outage, maintenance support. Those are the main ones.

Q I would like you to look again at B&W Exhibit 1001, please.

Take a look at page 5, please (handing document to the witness).

At the top of that page there is the heading "Site Problem Reports and Field Changes," in these notes of the B&W User's Group meeting which you attended, and let me back up. Maybe I should fill in a slight missing link.

From the description of Jim Phinney's presentation on refueling concerns and the statement

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on the first page that this is the User's Group meeting of November 15 and 16 at the Twin Bridges Marriott Hotel, does this refresh your recollection that November 15 and 16 is the date on which you attended a User's Group meeting at the Twin Bridges Marriott Hotel?

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A I don't remember the dates.

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Q Does this refresh your recollection that it was in the fall of 1977?

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A No. I don't remember what season it was.

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Q Do you keep a diary?

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A No, I don't keep a diary.

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Q Desk calendars?

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A I have desk calendars.

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Q Do you keep them from year to year or

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throw them out at the end of the year?

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A I throw them out at the end of the year.

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Q Do you keep itineraries?

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A I don't know what you mean.

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Q Some executive secretaries prepare

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itineraries for them and keep copies of their

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itineraries so that years later they can't deny

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where they have been.

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A No, I don't keep them.

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Q It states on page 5 that "Mr. R.E. Wascher of B&W described the system which B&W has in place for assessing the applicability problem found at one site to all of the other B&W units. The system requires that an assessment be made and documented on each problem which arises." Skipping a sentence, the next to the last sentence says --

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MR. WISE: Why don't we read the

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whole thing rather than skipping sentences?

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MR. SELTZER: All right.

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Q Not skipping a sentence, "If the documented assessment indicates that the problem is applicable to a given plant, the problem is added as an outstanding problem to computerized reports which indicate the total number of problems outstanding against a given plant. The problems are thus maintained visible to management and can be expedited vigorously. The system likewise provides for generic handling of field changes."

Were you aware in 1977 that B&W had created a program of the type described in that paragraph?

A Yes, I was.

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2 Q Who was in charge of that program, if
3 anybody was in charge of it?

4 A That program was administered in the
5 Plant Equipment Services Organization managed
6 by Ken Ellison.

7 Q As the manager of Operating Plant
8 Services, was this a program that was of some
9 use to you?

10 A Yes, it was.

11 Q Did you believe that there were problems
12 which arose at one B&W plant which had applicability
13 to other B&W plants?

14 THE WITNESS: Can I have that question
15 again?

16 Q Did you believe that there were problems
17 which arose at one B&W nuclear plant which had
18 applicability to other B&W nuclear plants?

19 MR.WISE: You are asking him for a general
20 belief rather than whether he recollects
21 specific problems that did have applicability
22 to more than one plant?

23 MR. SELTZER: That is right.

24 A As a general belief, I believe there
25 were some that had applicability elsewhere.

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Q Is one of the reasons that there was applicability of problems from one plant to other plants because there were many similarities in the design of B&W nuclear plants?

A That is a reason. There are many similarities in components.

Q By "components," you mean in equipment installed in the plant and in instrumentation installed in the plant?

A Yes, and -- well, my words describing what you said is design.

Q Is another reason that there was applicability for problems that arose at one plant to other B&W plants because the plants tended to have similar procedures?

A That is not my general belief, relative to the SPR, Site Problem Report Program.

Q Were you aware in 1977 that the B&W nuclear plants that were in operation each had procedures initially drafted by Babcock & Wilcox?

MR. WISE: Let me just pose sort of a standing objection to the point that we have discussed before.

MR. SELTZER: I anticipated you.

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Q I am talking about B&W supplied plants, not B&W-owned plants.

MR. SELTZER: Is that what you are concerned about?

MR. WISE: It is confusing in the record to call them B&W nuclear plants.

MR. SELTZER: O.K.

THE WITNESS: Can I have the question again?

Q Did you understand in 1977 that B&W had prepared initial drafts of the procedures which were in use at the B&W-supplied nuclear plants?

A No, they were not in use.

Q I am sorry. I am referring to the plants being operating plants. That was the "in-use" modified.

A I understand that.

Q Did you understand that B&W had prepared drafts of procedures for the owners of, or the operators of B&W-supplied nuclear plants?

A Yes, I did.

Q Were you aware of any B&W-supplied nuclear plant for which B&W had made no contribution to the drafting of procedures?

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A No, I am not aware of any situation like that.

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Q When you were site operations manager for Three Mile Island Unit 1 did you understand that B&W had prepared drafts of the procedures for the operation of TMI-1?

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A Yes.

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MR. SELTZER: Yes.

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Q How did B&W gather information from different plants regarding problems?

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A Well, the site problem reporting procedure was a way to gather information on problems -- that is, regarding problems.

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Q What was the site problem reporting procedure?

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A I can't quote the details of the procedure to you.

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Q What were its contours, as best you can recall?

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A Give me that question again, please?

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Q What were the contours of the program as opposed to the details which you don't recall?

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A The problem was described on a SPR form by the originator. It was input to an individual in the Plant Equipment Services Organization who they distributed the SPR to appropriate people for information and to others for action.

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Q B&W had representatives at the sites of many B&W-supplied nuclear plants in 1977, did it not?

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A It had -- I don't recall if we had representatives at all or some -- or all or many. I know we had representatives at some.

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Q There were certainly B&W employees at the site of every plant that had not yet gone commercial; isn't that right?

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A No. There could have been plants under construction where there would be no B&W representation at the site.

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Q From the time that a B&W-supplied plant went into start-up and test until it went commercial, it certainly is your recollection that there was a B&W site representative?

A Yes, that is true.

Q After a plant had gone commercial, was it the practice in or about 1977 to continue to have a B&W site representative there for some period of time?

A It was not B&W's practice to maintain a staff at those plants. There are occasions where between B&W and that utility customer we had agreed to continue a form of representation on the site.

Q Were there B&W-supplied plants which had gone commercial by mid 1977 that continued to have B&W site representatives?

A I believe so.

Q Do you remember which ones?

MR. WISE: First of all, can you remember which ones had gone commercial, because I think Mr. Seltzer has two parts: Do you remember which ones went commercial, and secondly, which ones had site representatives of those that

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went commercial so you might want to answer the question in two parts.

A I don't recall all of the plants that were in commercial operation at that point in time. I don't have the dates in front of me.

TMI-1 was certainly commercial and there were B&W people at that site.

That is all I can recall.

Q Had any of the Oconee units gone commercial?

A Yes.

Q Were there B&W representatives at Duke Power's Oconee site?

A There were after a specific date. I don't remember what the date was.

Q Had Arkansas Nuclear-1 gone commercial by mid 1977?

A I believe so.

Q Was there a B&W site representative at ANO-1?

A I don't think so.

Q Other than through site problem reports, what, if anything, did you do to keep yourself informed about problems that were occurring at

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operating plants?

A I kept myself informed on plants under my responsibility with regard to status of those operating plants, whether it be problems or not, normal operation, through my service managers who had project management responsibility for those units and utilities.

Q Did you have regular written reports that you received from service managers?

A I received written input regularly on a monthly basis from the service managers, yes.

Q Each of them sent you a report each month, or were supposed to send you a report each month?

A Each of them should have provided input, which was then collated in a report each month.

Q For every B&W plant from start-up and test through commercial operation, was there a B&W service manager who had responsibility?

A No.

Q There were some plants for which no B&W service manager had any responsibility?

A There were plants in start-up and

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plants in operation. The plants in operation were

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the ones who had service managers assigned. The

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plants in start-up were handled, project-managed

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elsewhere in our division.

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Q For every plant that had gone commercial,

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was there a service manager who had responsibility?

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A The break point was not necessarily

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the commercial date, but it was close.

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Q Is it correct that at least once a

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month you would receive a report on the status

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and any problems which had occurred at each of

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the B&W-supplied plants under the jurisdiction

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of your service managers?

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A No, that is not correct. I would

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receive a report on status and problems that

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the service manager was aware of.

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Q For each plant?

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A For each plant under my jurisdiction,

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yes.

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Q What, if anything, did you do to keep

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yourself informed about problems of general

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applicability that arose at plants that had not

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yet been transferred to service manager responsibility?

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I think, just so that you are clear what I am asking

1
2 about, these would be plants that were either in
3 start-up and test or had very recently gone
4 commercial.

5 A The site problem report applicability
6 would provide such information.

7 Q That is the program that Bob Wascher
8 was describing on page 5 of B&W 1001?

9 A Yes.

10 Q Could you explain how that program
11 kept you advised of problems of general
12 applicability arising at plants that were not
13 under the control of service managers?

14 MR. WISE: I understood him earlier to
15 testify as to his understanding of how the
16 program worked. You are not asking him for
17 the same response, are you?

18 I am not sure I understand the
19 question. You asked him earlier how the
20 program worked, and I think he gave you his
21 general description of the contours, as you
22 put it, with the understanding that he could
23 not remember the details.

24 Q Is the program for reporting site
25 problems that you described earlier the same as the

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program being described by Wascher on the top of page 5?

A Yes, it is essentially -- it is the same program.

Q It is correct, isn't it, that there were matters that had applicability to more than one plant that never made it to the level of formality of a site problem report; isn't that right?

A Not to my knowledge.

Q In other words, every time a service manager spotted the slightest thing that had cross-applicability, it became a site problem report?

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

Q Do you recall ever spotting something of significance, something worth bringing to the attention of owners or operators of another plant because it had arisen at a different plant but which had never been elevated to a site problem report?

A I don't remember any specific occurrence like that.

Q Do you believe that you never told a

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utility about a problem at another plant except if that problem had been documented as a site problem report?

MR. WISE: Can I have that read back, please?

(Question read)

MR. WISE: I will object to the form of the question. If the witness can figure out what the question is, I will permit him to answer.

A I don't understand the question.

MR. SELTZER: I withdraw it.

Q You have indicated that some problems which arise at one plant and which have applicability to other plants are documented in a site problem report.

I take it you in your responsibilities as manager for Operating Plant Services from time to time communicated with the owners and operators of B&W-supplied plants; is that right?

A That's right.

Q Did you also communicate with them about problems that had arisen at other B&W-supplied plants which were applicable to the plant owned or operated

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by the person to whom you were talking?

A Yes.

Q Is it your best recollection based on the way in which you operated that you never told an owner or operator of a plant about a problem of generic applicability except if that problem had been documented in a site problem report? In other words, was that a necessary criterion for you to pass on the information?

A No, I wouldn't consider that a necessary criteria to pass on information.

Q Based on your recollection of how you operated, do you believe that there were problems of generic applicability which you passed on to owners or operators of B&W-supplied plants which had not been documented in site problem reports?

MR. WISE: I guess one of the problems that I am starting to have at some point in these questions is what you mean by "problems of generic applicability."

If you are talking about operating experiences at other plants, that is one thing. If you are talking about general problems that would be of generic applicability, that

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may be something else. I suppose you could be talking about any number of problems that may not arise through experience at operating units. I guess I am having a definition problem with what you are asking the witness to testify about.

Q I am focusing on problems that have arisen at other B&W-supplied units.

A On B&W scope of supply equipment?

Q Yes.

MR. WISE: Now what is the question?

A Yes, now what is the question?

MR. WISE: Charlie can read it back.

(Question read)

A I don't know.

Q Did you ever become aware of problems of generic applicability by going out and visiting B&W-supplied plants yourself?

MR. WISE: We have not gone through this witness' work history and so on. I think we have supplied you with a brief summary of it and I guess that question has its problems given this witness' work history. It shows that he was at Oconee, he was at TMI-1 during

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certain periods of time, and I think the way you posed the question without tying it to a time period makes it very difficult for him.

If you are speaking about the time that he was in Lynchburg as manager of Operating Plant Services, that is one question. If you are asking about other time periods, it is another.

Q I would like to limit the question to the period during which you were the manager of Plant Start-Up Services or the manager of Operating Plant Services between August 1975 and May 1979.

Did you ever learn of problems of generic applicability by going to visit plant sites yourself?

A I don't remember.

Q Did you go to visit plant sites?

A Yes, I did.

Q Did you talk to people when you were there?

A Yes, I did.

Q Did you talk to them about their B&W-supplied nuclear equipment?

A It seems I would have. I don't recall

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any specific conversation.

Q What was your purpose in making site visits?

A Contact with the customer. Feedback from the customer regarding his degree of satisfaction with the services that my organization was responsible for delivering in the way of services to that utility.

My second purpose was to make contact with people who worked for me at the site.

Q During the time that you were the manager for Plant Start-Up Services and the manager for Operating Plant Services, did you have any specific responsibility for seeing to it that the owners and operators of B&W-supplied plants got information from B&W about problems of generic applicability?

A Yes. I had some responsibility in that area.

Q What was that responsibility?

A In the case it varied a little, depending on which job we are talking about. In the start-up, job information was returned to the site through the site operations manager who worked for me.

1
2 In the case of operating plants,
3 information was disseminated to operating utilities
4 through the services managers who worked for me.

5 Q Why, if at all, did you believe it
6 was desirable for B&W to communicate site problems
7 observed at one B&W plant to other B&W-supplied
8 plants where the problem might be applicable?

9 A Well, I believed it beneficial to the
10 utility in order for them to avoid problems that
11 occurred elsewhere, to provide them the opportunity
12 to avoid problems which occurred elsewhere.

13 Q You mean if they were warned that a
14 problem had arisen at another B&W-supplied plant,
15 they might be better able to avoid a reoccurrence
16 of a similar problem at their plant?

17 A If they take action they may be, yes.

18 Q You said that B&W had site managers
19 at plants that were in start-up and test or had
20 recently gone commercial and had service managers
21 who were responsible for each of the B&W-supplied
22 plants that had gone commercial and were not still
23 under the jurisdiction of a site operations manager.

24 Was it the case that there was sometimes
25 more than one B&W employee working on site at a B&W-

1
2 supplied plant?

3 A Yes.

4 Q Is it correct that B&W had more opportunity
5 than an individual B&W customer to learn of problems
6 at one B&W-supplied plant which problems would be
7 applicable to other B&W-supplied plants?

8 MR. WISE: What do you mean by "more
9 opportunity"? You mean as to a specific
10 problem or as to any problems?

11 MR. SELTZER: As to any problems.

12 MR. WISE: The question is horribly
13 vague.

14 Q What I am driving at is, isn't it a fact
15 that B&W was in a better position to monitor problems
16 of generic applicability occurring at B&W-supplied
17 plants than was any individual owner or operator
18 of a B&W-supplied plant?

19 A Yes.

20 Q Why was that?

21 A We had, in the case of the operating
22 plant service, organized communication with a number
23 of plants on a regular basis. That is about the best
24 answer I can give you, I believe.

25 Q Did you ever learn anything about the

1
2 status of B&W-supplied plants or problems at B&W-
3 supplied plants through operating personnel who
4 came to Lynchburg for training?

5 A I don't remember any.

6 Q Was there any communication between
7 Plant Start-Up Services or Operating Plant Services
8 and the Training Services Group at Lynchburg?

9 A You have to be more specific on that
10 question.

11 Q You knew the period 1975 through
12 1979 that Norm Elliott headed the Training Services
13 Group?

14 A Yes.

15 Q You knew that groups of operating
16 personnel from many of the B&W-supplied plants
17 regularly came into Lynchburg for training, right?

18 A Yes, I did.

19 Q You knew that they were getting classroom
20 instruction and you knew they were getting simulator
21 instruction, right?

22 A I knew that was generally the instruction
23 material that was done by Norm's group, yes.

24 Q Was it your understanding that Norm
25 Elliott's group was, among other things, trying to

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2 train operating personnel to handle transients and
3 other problems that arose at B&W-supplied plants?

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A My understanding is that Norm Elliot
5 was executing a training program which he had
6 contracted to deliver with that utility.

6

7

Q Now, I am --

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A I don't know the specific content of
9 those programs.

9

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Q Again, I am not asking for specific
11 detail, specific content.

11

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A Yes.

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Q Did you ever have any understanding
14 while you were the head of Start-Up Services and
15 Operating Plant Services that B&W's training group
16 was training people to handle transients and
17 problems at B&W-supplied plants?

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THE WITNESS: Can we have that question
19 again, please?

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Q Did you ever have an understanding
21 while you were manager of Start-Up Services or
22 manager of Operating Plant Services that one of the
23 things that the B & W Training Section was training
24 people to do was to handle operating problems?

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A Yes, I had that understanding.

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Q Were you aware in this '75 to '79 period of any program for exchange of information on operating problems between the Start-Up and Operating Plant Services Groups and Training Services?

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A I am not aware of a program in place to do that. I don't remember a program in place to do that.

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Q Just so that it is not my use of the word "program" that in any way limits the testimony on this, was there any vehicle, any method by which you were aware there was communication between the Start-Up Services people and the Plant Operating Services people through to the Training Services People at B&W to communicate about operating problems?

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A The use of the word "vehicle" again, I don't remember any vehicle that was used. There was certainly communication. On what level, you know, I can't describe a program.

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MR. SELTZER: Read back the last sentence, please.

(Record read)

Q You say there was certainly communication.

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2 Are you saying that you know as a fact
3 that there was communication or are you just
4 speculating that there must have been?

5 A No, I don't know of a fact. I can't
6 recall an incident that, indeed, there was an
7 instance where there was communication on any
8 given subject. It is the organizations were well
9 known to each other and the personnel in those
10 organizations were known to each other.

11 Communication on that level certainly
12 took place.

13 Q Or at least you think it should have
14 taken place; is that right?

15 MR. WISE: You are asking if he is
16 going to change his testimony?

17 MR. SELTZER: I am really asking him --

18 Q Do you know for a fact that it took
19 place, or are you just saying given the --

20 A I believe that it took place.

21 Q O.K.

22 Did you ever walk over to the Training
23 Section prior to the Three Mile Island accident
24 during the period that you were the manager of
25 Operating Plant Services to tell anyone over there

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about a particular operating problem that you thought should be incorporated in training?

A I don't remember one way or the other.

Q Do you remember sending any written messages to the training people during that period?

A Again, I don't remember one way or the other.

MR. WISE: Richard, when you get to a convenient point, it is now 11:01.

MR. SELTZER: That is a good idea.

Let's take a break.

(Recess taken)

BY MR. SELTZER:

Q What part of B&W's operations was Mr. Smotrel operating in in 1977?

A I believe he was in Engineering.

Q Did he have any specific area of expertise?

A I don't remember. I don't know.

Q In B&W Exhibit 1001 there is an "Enclosure 3." The pages are numbered at the top. Enclosure 3 has the number "42" in the top right.

MR. WISE: There you go.

THE WITNESS: All right.

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Q Could you turn to the eighth page of that enclosure?

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A Yes.

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MR. WISE: The one that says "Recommending changes to operating procedures"?

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MR. SELTZER: Right.

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Q Do you have that in front of you?

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A Yes.

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Q Do you recall that on one or more occasion B&W advised operators of its B&W-supplied nuclear plants of recommended changes to operating procedures?

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A I don't recall specifics. Again, I believe we made recommendations regarding changes or modifications to operating procedures.

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Q What was your understanding of the purpose for notifying customers of changes or modifications to operating procedures?

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A The area I can speak to in that subject is maintenance procedures primarily with respect to operational procedures. You know, the purpose or reasons for changes I am really not qualified to give you that answer on that with respect to maintenance procedures. There are several reasons.

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2 Q Who had principal responsibility for
3 communicating recommended changes in operating
4 procedures during the period that you were manager
5 of Operating Plant Services?

6 A The material regarding changes was
7 transmitted through my service managers acting
8 as the project manager, for a definition, a project
9 manager activity, and did transmit those changes
10 to the utilities.

11 The input, however, for those changes
12 would come from varying sources in the Babcock &
13 Wilcox company.

14 Q What sources?

15 A Engineering Department is an example;
16 other service operations -- Service Organization
17 is another example.

18 Q Are there any other places?

19 MR. WISE: Besides Engineering and
20 Nuclear Service? Is that the question?

21 MR. SELTZER: Yes.

22 A I don't believe so.

23 Q Who was responsible for communicating
24 recommended changes in operating procedures to
25 B&W-supplied plants when you were manager of

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Plant Start-Up Services?

A You said to B&W operating plants?

Q No.

A B&W-supplied operating plants?

Q No. It is my fault.

A Can you read the question back again?

Q When you were the manager of Plant Start-Up Services, who was responsible for communicating proposed changes in operating procedures to B&W-supplied plants?

A I could only speak to the plants, B&W-supplied plants in start-up at that time, and those recommended changes would again come from the same sources as I mentioned previously and would be transmitted through our senior site, B&W person on the site which was the site operations manager.

Q Yes.

A Those would be typically changes to the B&W drafts that may have been submitted earlier. The customer was responsible for implementation of the changes in his operating procedures.

Q Before the Three Mile Island accident, what, if any, occurrences at B&W-supplied plants were you aware of where a pilot-operated relief

1
2 valve had failed to close?

3 A I don't remember any prior to the Three
4 Mile Island Unit-2.

5 Q In other words, before the Three Mile
6 Island accident occurred, Jim Phinney was unaware
7 of the fact that a PORV had failed to close at the
8 Davis-Besse plant?

9 MR. WISE: That is not the same question.

10 MR. SELTZER: O.K., it is a different
11 question.

12 MR. WISE: You asked him before what
13 he could remember today. Are you asking
14 him now to recall what he knew at the time
15 of any such failures?

16 BY MR. SELTZER:

17 Q Do you believe you knew before the
18 Three Mile Island accident that the Davis-Besse
19 pilot-operated relief valve had on at least one
20 occasion failed to close?

21 A I don't remember that incident
22 occurring.

23 MR. WISE: But the question is --

24 THE WITNESS: He confused me.

25 MR. WISE: There are two time periods.

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2 He asked you some questions about what you
3 can recall today.

4 THE WITNESS: Yes.

5 MR. WISE: And he is now asking you a
6 question as to whether you have knowledge or
7 information as to whether even though you
8 may not recall that incident today, you were
9 aware of it before the Three Mile Island
10 accident.

11 I don't know whether you are able to
12 testify one way or the other about it, but
13 I want to make sure you understand the
14 distinction in the question. Perhaps I
15 confused you. You have a look of confusion
16 on your face.

17 THE WITNESS: Yes, I am confused about
18 the question.

19 A Can I have that one more time, please?

20 Q As you sit here today, do you believe
21 that you knew before the Three Mile Island accident
22 that there had been a failure of the pilot-operated
23 relief valve to close at Davis-Besse before the
24 Three Mile Island accident?

25 A I don't remember knowing that there was

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such a failure.

Q Before the Three Mile Island accident, were you aware of any B&W-supplied plant in which the quench tank or reactor coolant drain tank rupture disk had broken?

A I remember a -- I can't remember the details, but I remember on one of the Oconee plants that at one point in time there had been a ruptured disk burst. I don't remember the circumstances of that failure of the rupture disk.

Q Do you know whether it burst due to a release of coolant from the top of the pressurizer?

A No.

Q Before the Three Mile Island accident, were you aware of any instance in which saturation had occurred in the reactor coolant system outside the pressurizer at a B&W-supplied facility?

A I don't remember any occurrences.

Q Before the Three Mile Island accident, were you aware of any occasion on which pressurizer water level rose while reactor coolant system pressure fell?

A I don't remember an occurrence like that.

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MR. SELTZER: I would like to mark as GPU Exhibit 403 for identification a January 13, 1982 brief resume of James D. Phinney.

(Resume of James D. Phinney dated January 13, 1982 was marked GPU Exhibit 403 for identification, as of this date.)

Q Is GPU Exhibit 403 scrupulously accurate in every respect (handing document to the witness)?

A It is accurate to the extent that I remember the detail which went into generating this exhibit.

Q At Clarkson did you take any courses in nuclear physics?

A No, I did not have a course in nuclear physics, no.

Q Did you have any courses in nuclear engineering?

A No.

Q Did you have any courses in the mechanics of a nuclear plant?

A I had one course which in part dealt with the mechanics of a nuclear plant, yes.

Q Which course?

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A I believe that was a general physics course.

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Q When you say a general physics course, was it the basic physics course at Clarkson?

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A It was one of the several general courses that were required for the mechanical engineering degree. This particular physics course contained a segment which dealt with the nuclear -- nuclear reactors and that sort of thing.

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Q Have you had any formal education since Clarkson in which you studied any more about nuclear energy?

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A Could you explain "formal"?

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Q I am referring to courses at a degree-granting institution.

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A No, I have not.

Q Is December 1969 the date on which you commenced work for the Nuclear Power Generation Division of Babcock?

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A Yes, it is.

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Q What led you to employment in the Nuclear Division of B&W?

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A I had a continuing interest in field service work. However, in the Fossil Power

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Generation Division I had reached what I considered to be a career peak in the field. The opportunity existed to do similar field work, similar in the respect that it dealt with components and hardware in the field, and with utilities and with utilities in start-up, and so I took advantage of that opportunity.

Q What, if any, prior experience had you had with nuclear power?

A Prior to December '69, none.

Q Did you enter any training program in order to develop your qualifications for working on nuclear power equipment?

A I remember two elements of a training program that I went through, yes.

Q Could you describe them, please?

A The first was classroom and simulator training in Lynchburg.

The second was on-the-job training at Oconee Nuclear Station.

Q When you say "on-the-job training," is that the same as learned by doing?

A In part, yes. But with supervision. It is more intense, perhaps, than later. And

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2 secondly, my assignment to Oconee Nuclear Station
3 was made quite early relative to the start-up
4 schedule date on Oconee-1 for the purpose of
5 allowing time for me to become familiarized with the
6 plant.

7 Q Was the classroom and simulator
8 training received by you in one continuous stretch?

9 A I don't remember.

10 Q About how many days were devoted to
11 classroom and simulator training with Jim Phinney?

12 A Again, I don't remember.

13 Q Can you bound it?

14 A I would, yes. I would estimate I
15 spent two weeks in that program.

16 Q Two weeks total for both the classroom
17 and the simulator?

18 A Yes.

19 Q Do you remember who the instructors
20 were?

21 A No, I don't.

22 Q Did you have hands-on experience at the
23 simulator?

24 A Yes, I did.

25 Q Did you have the classroom and simulator

1

2 training before you went to Oconee?

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4 A Yes, I did.

5

6 Q Was the classroom and simulator training
7 your first exposure to nuclear power plant procedures?

8

9 A I can't say. I don't remember the
10 scheduling of that training relative to the period
11 of time I was in Lynchburg.

12

13 Q What earlier opportunity did you have
14 to work with procedures for the operation of a
15 nuclear plant?

16

17 A I am not sure it was earlier but the
18 other opportunity was to prepare test specification
19 and draft procedure material for -- to meet our
20 scope of supply that we were supposed to provide
21 to utilities under our NSS contract.

22

23 Q For which plant were you working on
24 the drafting procedures?

25

26 A There were several and I don't know
27 the answer to that question. I don't remember
28 the specific plants.

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30 Q Do you remember any of the plants for
31 which you were drafting procedures?

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33 A Oconee-1, I remember. The others I
34 don't recall.

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Q When is the first time that you learned that the B&W simulator had not been programmed to show or be able to show saturation in the reactor coolant system outside the pressurizer?

MR. WISE: Inside the pressurizer, you said?

MR. SELTZER: Outside.

A I did not learn that.

Q Do you not know that it was only after the Three Mile Island accident that the simulator was reprogrammed so that it could show the effects of saturation occurring in the reactor coolant system outside the pressurizer?

THE WITNESS: Can I have that question again, please?

Q Do you not know that it is only after the Three Mile Island accident happened that B&W reprogrammed its simulator so that it could, for the first time, show the effects of saturation occurring in the reactor coolant system outside the pressurizer?

A I can't answer that question. I don't recall being aware of that situation at all.

Q Are you aware that before the Three Mile

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Island accident, operators were not being trained on the simulator to witness a rise in pressurizer water level in response to a break at the top of the pressurizer?

MR. WISE: I will permit you to ask the question without any implication as to whether or not that fact is true or not.

A I don't know one way or the other.

Q Do you believe that in your simulator training you ever saw a transient in which a break at the top of the pressurizer produced any rise in pressurizer water level?

A I can't remember the content of my training to that degree.

Q Were you taught in your B&W simulator or classroom training about the effects of saturation in the reactor coolant system on water level in the pressurizer?

A I don't remember.

Q Did you receive any written materials as part of your B&W classroom or simulator training?

A I believe we did.

Q Do you still have those?

A No, I don't.

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Q Do you have any of it?

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A No.

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Q Can you be sure without checking that you don't have it in some drawer or file either at the office or at home?

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A Yes, I can be sure. I have gone through my -- on my memory I am going through my office now and it is not there.

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Q What about at home?

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A No, it is not at home.

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Q In your experience at B&W prior to the Three Mile Island accident, did you come to know what the B&W recommended procedure was for handling high pressure injection during a loss of coolant accident?

THE WITNESS: Could I have that question one more time?

Q In your B&W experience before the Three Mile Island accident, did you learn what the B&W recommended procedures were for the handling of high pressure injection following a loss of coolant accident?

A I don't remember knowing the specifics of that.

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Q Did you learn during that same time period what the B&W recommended procedures were for operating high pressure injection under any circumstance where high pressure injection had automatically initiated?

A I can't remember when and specifically what I knew of those procedures and when. You know, I am generally aware of what was in those procedures in terms of, you know, B&W draft material input in my experience after coming with the Nuclear Power Generation Division.

Q Did you learn before the Three Mile Island accident what the B&W recommended procedure was for operation of the high pressure injection system when HPI had initiated as a result of an overcooling transient?

A Again, I don't recall having learned those things.

Q What did you do in the initial months of your assignment to the Nuclear Power Generation Division?

A As I mentioned, I believe that training program took place in that period of time.

In addition to that, I was -- I prepared

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material for test specifications and for draft procedures which subsequent to approvals would be released to the utility for use in their test program and in preparing the test program and for use in the utility for preparing their operating procedures. And in addition, I was given an assignment on some first-of-a-kind type testing that was done on Ocone-1.

Q You and I have both used the phrase "operating procedures" this morning.

As you have used it, does that embrace what are sometimes called emergency procedures?

A No. I wouldn't say that all of my testimony so far includes emergency procedures.

Q When you say that you worked on drafting operating procedures --

A Yes.

Q -- that included the emergency procedures relating to operation of the reactor coolant system, didn't it?

A Well, I said I worked on draft operating procedures, which is a title, O.K --

MR. WISE: He wants to know whether you worked on draft emergency procedures.

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A I believe I did.

Q When you used the phrase "operating procedures," were you including in that the emergency procedures dealing with operating the plant under abnormal or transient conditions?

A I don't remember my earlier comments regarding draft operating procedures, but I did work on some draft emergency procedures as well.

Q Is the procedure for handling a loss of coolant or loss of pressure, as drafted by B&W, an emergency procedure or an operating procedure?

A I can speak to the period of time in 1969, '70 and '71 where I believe that particular procedure would have been referred to as a draft emergency procedure by B&W.

Q In your experience with the NPGD, did B&W generally supply a draft of the procedure for loss of coolant, loss of pressure to purchasers of B&W nuclear plants?

A I don't remember.

Q Are you aware that B&W did supply a draft of the loss of coolant, loss of pressure procedure to purchasers of some B&W nuclear plants?

A Again, I don't remember the specific

1
2 titles of procedures that were -- draft procedures
3 that were provided.

4 Q You have described what you were doing
5 during your initial months as an engineer in nuclear
6 service.

7 What was your next assignment?

8 A My next assignment was as a service
9 engineer at Oconee Unit 1.

10 Q In other words, what you have previously
11 described is what you worked on from December '69?
12 There is a gap of one year in your resume from
13 February 1971 through February 1972. There is no
14 record here of what Jim Phinney was doing.

15 Were you employed by B&W during that
16 year?

17 A Yes, I was. I believe we have a
18 mistake on the resume, and I went to Oconee in
19 February of '71.

20 MR. WISE: Instead of February of '72
21 as it is typed up on the resume?

22 THE WITNESS: Right.

23 MR. WISE: It may be a typographical
24 error.

25 MS. McDONALD: It is probably my fault.

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2 BY MR. SELTZER:

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Q So if I change this to February of 1971,
4 that would be accurate?

5

A Yes, it would be.

6

Q Are there any other mistakes on GPU
7 Exhibit 403?

8

If you find any more, just let us know,
9 please.

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A I will.

11

Q What were your responsibilities when
12 you were assigned to the Oconee site?

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A There were a number of different
14 assignments I had at Oconee Nuclear Station
15 all relative to the final construction stages of
16 and start-up of Unit 1. The responsibilities I
17 had were in equipment and systems that made up
18 parts of the plant. My early assignments dealt
19 with some of the auxilliary systems and the fuel
20 handling system, and my responsibilities with respect
21 to those areas were assistance to the customer and
22 final construction and check-out of the components
23 that were supplied by B&W.
24 The next area of responsibility that I
25 had was performing a similar function, that is,

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assistance to the utility in final construction and initial operation or initial check-out of components in the reactor coolant system. And then the final area of responsibility I had was as a site operations engineer where several B&W service engineers worked for me and covered, again, various systems and equipment in the plant providing advice and consultation to the customer.

Q While you were at Oconee, did they load fuel?

A Just, I believe, in the last few months of my assignment at Oconee they did indeed load fuel.

My responsibilities for that phase of the operation were simply -- were the mechanical portions of the plant. The fuel loading and reactor physics fell under another person's responsibility in providing the customer with advice and consultation.

Q At the time that you went through -- classroom and simulator training at B&W, were you part of a group of people being trained?

A There were additional people involved in at least the simulator portion of that training.

Q Were any of them customers?

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A No, I don't believe so.

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Q After Oconee you got promoted to Three Mile Island, right?

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A Yes, that is correct.

6

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Q Did you live in the Middletown area for more than a year?

8

A I lived in Lancaster, Pennsylvania.

9

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11

Q Is it correct that you were B&W's site operations manager for Three Mile Island Unit 1 from March 1973 through August 1974?

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A That is correct.

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Q Who had been the SOM at Oconee while you had been at Oconee?

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A Initially it was Henry Bailey. Later our organization changed and we had a site manager. His name was David Berger. And by the time I left, I worked for Roy McConnell, who was the site operations manager.

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Q When you moved to Three Mile Island had there already been someone else occupying the position of SOM?

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A He didn't have the title of SOM but we had other B&W people at the site.

Q Who had been the top honcho at the site

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2 before you became site operations manager?

3 A For the Nuclear Service Organization it
4 would be Lee Rogers. There was also a B&W
5 Construction Company representative at the site
6 for the construction side of our advice and
7 consultation requirements.

8 Q Did Lee Rogers continue on at the
9 site after you became site operations manager?

10 A Yes, he did.

11 Q What were his responsibilities when
12 you became site operations manager?

13 A He filled the site operations engineer's
14 position which was equivalent to the position that
15 I held when I left Oconee.

16 Q So Rogers had been number one on the
17 service organization side of the B&W site
18 responsibilities and he moved to number two when
19 you came to Three Mile Island; is that right?

20 MR. WISE: I think that is a bit of
21 an unfair characterization.

22 I will permit the witness -- I will object
23 to the question and permit the witness to answer
24 it, if he can.

25 A I wouldn't characterize the situation

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2 as you have. He was temporarily filling the
3 position that I eventually took over on an acting
4 basis, if you will, and then his position was
5 site operations engineer for the period of time
6 that I was -- I was able to fill the site operations
7 manager position.

8 Q In other words, you are suggesting that
9 Lee's role as your predecessor was just as an
10 interim measure until B&W assigned somebody permanently
11 to fulfill the role you did?

12 A That is correct.

13 Q After you left Three Mile Island, Lee
14 Rogers became the site operations manager?

15 A Yes, he did.

16 Q I take it you worked closely with Lee
17 Rogers while you were at Three Mile Island?

18 A Yes, I did.

19 Q What were the principal responsibilities
20 as the site manager as you discharged them when
21 you were at the unit?

22 A The site operations manager, my
23 responsibilities were to provide the utility with
24 advice and consultation on the B&W scope of supply
25 equipment. In addition, I had administrative

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responsibilities for personnel on site under the services contract that we had with GPU or Met Ed.

Q What was the status of each of the Three Mile Island units during the time you were site operations manager?

A TMI-1 was beginning to do what I would call, what I would term system and functional testing about the time that I arrived, and about the time I departed the unit was taken critical and was beginning to raise power level.

TMI-2 was purely in the construction stage. I don't remember the percent complete that it was in at the time.

Q Who were the senior operations people from Met Ed with whom you dealt?

A Jack Herbein was on the site. Jim O'Hanlon was on the site. Jim Floyd. Those were the senior people.

Q Did you form any opinion about their competence as nuclear plant managers?

A Not that I recall.

Q Did Herbein do things which led you to believe that he was incompetent to be a manager of a nuclear facility?

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A No, he didn't.

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Q Did Jim O'Hanlon do anything that led you to believe he was incompetent to be a manager of a nuclear facility?

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MR. WISE: Anything that came to Mr.

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Phinney's attention --

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MR. SELTZER: Of course.

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Q All I can go on is what came to your

attention. Do you know of anything that led you to believe that Jim O'Hanlon was incompetent to be a manager of a nuclear plant?

A No, I didn't. In my relationship with

him I did not become aware of anything of that nature.

Q Did you learn of anything which led

you to believe that Jim Floyd was incompetent to be a manager at a nuclear plant?

A No, I did not.

Q Do you remember getting Bert Dunn's

1

2 February 1978 memoranda regarding operator
3 interruption of high pressure injection?

4 A I remember getting a memorandum. I
5 don't remember the date on it at the moment.

6 Q Let me show you GPU Exhibit 78, which
7 is Bert's 1978 memo, and let me show you GPU
8 Exhibit 79, which is the addendum one week later
9 (handing document to the witness).

10 A O.K. The February 9th memo is the
11 one I remember, I remember receiving.

12 Q Did you read it when you got it?

13 A I don't remember it, you know. The
14 material looks familiar to me. That is the reason
15 I remember that I, you know, got the memo.

16 Q Did you know who Bert Dunn was when you
17 got the memo?

18 A I know who Bert Dunn is and I knew what
19 his position was at that time.

20 Q Did you ever discuss Dunn's memo,
21 GPU Exhibit 78, or the subject matter contained
22 in his memo with anyone prior to the Three Mile
23 Island accident?

24 A I don't remember. I don't remember.

25 Q You don't remember doing that?

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A No, I do not.

Q A bunch of other witnesses have testified that there was a presentation given in or about the end of September, 1977 in training room B at Old Forest Road at which Jim Kelly--Joe Kelly?

MR. WISE: Yes.

Q Joe Kelly and Fred Faist gave a presentation of some of the things that had happened in connection with the Davis-Besse accident on September 24, 1977.

Were you among the audience for that show?

A I don't remember one way or the other.

Q Have you ever testified under oath with respect to the Three Mile Island accident?

A No, I have not.

Q Other than by counsel, have you been interviewed by anyone with respect to the Three Mile Island accident?

A I don't believe so.

Q Has anyone other than counsel ever asked you what you did after you got Dunn's memo?

A No.

Q Other than counsel, have you ever talked

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2 with anybody since the Three Mile Island accident
3 about the Dunn memo that you recall receiving or
4 the contents of it?

5 A I never talked with anyone regarding
6 my receipt of the memo or my -- any actions I
7 may have taken with regard to it. There have been
8 general discussions about the memo since the
9 Three Mile Island accident, but that is the extent
10 of it.

11 Q Other than discussions with counsel,
12 with whom have you had such discussions?

13 A I don't remember.

14 Q Did Bert Dunn ever come up to you after
15 the accident and ask you in words or substance whether
16 you did anything when you got his memo?

17 A No, not that I recall.

18 Q Take a look at the other people who
19 got copies of Dunn's memo.

20 Do you see the list, Swanson, Roy,
21 et cetera?

22 A Yes, I do.

23 Q Do you know all the people on that list?

24 A Yes, I do.

25 Q Some of them were in Nuclear Service in

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2

1978, weren't they?

3

A Yes.

4

Q Which ones?

5

A Roger Pittman, Tom Scott, and I was in
Nuclear Service.

7

Q Did you ever ask Pittman or Scott what,
if anything, they did when they got Dunn's memo?

9

A Not that I recall.

10

Q Other than through counsel, have you
ever learned what anybody else did with Dunn's
memo?

12

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A No. I don't remember learning of any
other actions that other people had taken.

14

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Q Why did you think Dunn sent you this
memo?

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MR. WISE: Can I have that read

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back?

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Q Why did you think Dunn sent you this
memo?

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MR. WISE: Why did he think that at what
time?

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MR. SELTZER: When he got it in '78.

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A I think that Bert sent me this memo
for -- for information regarding an activity he was

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pursuing.

Q Did it occur to you that he may have sent it to you because you were responsible for communicating with operating plants about generic problems?

A I don't remember if that occurred to me or not.

Q What group was Tom Scott in at Nuclear Services in February of 1978?

A I can't remember.

MR. WISE: Off the record.

(Discussion off the record)

(Luncheon recess taken at 12:36 p.m.)

1
2 Afternoon Session

3 2:17 o'clock p.m.
4

5 JAMES DAVID PHINNEY, resumed:

6 BY MR. SELTZER:

7 Q During your tenure as manager of
8 Operating Plant Services, to whom did you report?

9 A I reported to Andy Olds for that period
10 of time.

11 Q He was the head of Nuclear Service?

12 A Nuclear Service, yes.

13 Q You are sure that you have no recollection
14 today of attending the meeting among B&W managers
15 when Kelly and Faist briefed people about the
16 Davis-Besse transient in or about the end of
17 September, 1977?

18 A I have no recollection of that one way
19 or the other.

20 Q Were you a regular recipient of site
21 problem reports when you were manager of Operating
22 Plant Services?

23 A No, I was not a regular recipient of those
24 reports. As I indicated earlier, they were processed
25 elsewhere in the organization.

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Q You didn't -- I am sorry.

A No. There would have been occasions where I had gotten them for information, you know, but not -- not on a regular basis.

Q Are you saying you didn't make it a practice to at least skim the site problem reports that were being developed, generated?

MR. WISE: Are you talking about the ones that he got or the ones that he didn't get?

MR. SELTZER: No.

Q I am asking whether you had any practice in 1977, 1978 to at least glance at in some meaningful way all the site problem reports that were being generated with respect to the B&W-supplied nuclear plants.

A I did not look at all site problem reports generated on B&W-supplied plants.

As I said before, they were processed elsewhere.

Q Did you have any standing request that you had made known to others at B&W that they should send you any particular type of site problem reports?

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2 A I don't recall a request like that. I
3 have seen site problem reports and I had seen them
4 during that period of time, but I don't recall a
5 standard request, as you suggested.

6 Q What I am trying to find out is whether
7 it was just pure coincidence that you and a site
8 problem report happened to be in the same place
9 at the same time in 1977 and 1978, or is there
10 any pattern to why you would get certain site
11 problem reports and not others?

12 A I don't recall any specific pattern.
13 I certainly had the opportunity to ask for
14 information regarding any specific problem that
15 I wanted to see information on.

16 Q You testified earlier that the site
17 problem reports were the principal means by which
18 problems of general applicability arising at B&W-
19 supplied nuclear plants would be disseminated among
20 B&W-supplied plants, and I also understand your
21 testimony just now that you could get any site
22 problem report that you wanted to.

23 I am having trouble figuring out how
24 you would know that you wanted a site problem report
25 if the principal way that you find out problems of

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general applicability is from the site problem report.

Is there any other way that you learned in 1977 or 1978 about problems of general applicability?

MR. WISE: I think one of the problems maybe is that you haven't laid a foundation for whether this witness had, as part of his responsibility, keeping up with or learning about and processing site problem reports or problems of general applicability, as you put it. I think that is an assumption that seems to be underlying the questions that somehow Mr. Phinney's job required him to be the one who did that, and I don't know that that has been established.

I have no objection if you want to continue pursuing this line of questioning, but it seems to me that it might help you get the information you want if we try and find out who was responsible for doing that within B&W.

Q Who was responsible for doing that within B&W?

A As I said, the site problem reports were processed, administered as they came in, by an

1
2 individual in Plant Equipment Services, disseminated
3 from there to the appropriate function within
4 B&W for action where it, you know, the technical
5 resolution to that specific problem and a determination
6 of applicability was made.

7 Q Plant Equipment Services?

8 A Plant Equipment Services was the place
9 where that -- the administration of that site
10 problem report program was carried out.

11 Subject to evaluation and determination
12 of applicability, that information would then flow ,
13 back to this individual in Plant Equipment Services
14 who could then have a resolved site problem report
15 along with the information on applicability.

16 MR. WISE: Finish your answer. Don't
17 worry about it if they are reading something
18 else.

19 A (continuing) And my function would be to
20 transmit that resolution as it applies to plants
21 that were where the project management function
22 resided in my organization.

23 Q Your responsibility would be to transmit
24 it?

25 A To transmit, yes.

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2 Q Who was the head of Plant Equipment
3 Services in 1977 and 1978?

4 A I think I said earlier it was Ken
5 Ellison. There was a management change there
6 sometime during that period which I can't recall
7 where Hal Baker took over that job.

8 Q What job did Ken Ellison move on to?

9 A He took a project manager job in our
10 project management organization, you know, out of
11 Nuclear Service entirely.

12 Q Is he still around B&W?

13 A Yes, he is.

14 Q Did you rely on Ellison's group to
15 screen SPR's for you?

16 MR. WISE: I object to the form of the
17 question. The witness can answer it if he
18 understands.

19 A I -- it was not my job to rely on them
20 for that function. As I understand their function,
21 they executed the administration of the SPR program
22 as it existed at that point in time.

23 Q If they didn't select an SPR for you to
24 send to the plants that you had responsibility for,
25 you wouldn't send the SPR, would you?

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2 A First of all, it is not the SPR in itself
3 that goes to the plant. It is the resolution after
4 it's been determined -- after that resolution has
5 been determined applicable to that plant. That
6 determination does not take place in Plant Equipment
7 Services. That determination resides in the
8 individual in the Engineering Department who would
9 have cognizance over that component or system.

10 Q Prior to today, have you ever gone
11 back and looked at the site problem report for
12 the Davis-Besse September 1977 accident?

13 A No, I haven't. I am not sure that, in
14 fact, to my knowledge, I am not sure that an SPR
15 exists on that subject.

16 Q Here it is (indicating).

17 A O.K.

18 Q I take it from your answer that nobody
19 even told you that an SPR existed for the Davis-Besse
20 accident; is that right?

21 A I can't say that they did or did not. I
22 don't recall.

23 Q After the Three Mile Island accident,
24 did anybody ever come to you and say in words or
25 substance, "How come you never warned Met Ed, Jim

1

2 Phinney, about the problems that had arisen at
3 Davis-Besse?"

4

A No, no one ever approached me with that
5 question.

6

Q Joe Kelly wrote a memo dated November 1,
7 1977 on the subject of "Customer Guidance On High
8 Pressure Injection Operation" (handing document to
9 the witness).

10

MR. WISE: Let the record show that
11 the witness has been given GPU Exhibit 76.

12

MR. SELTZER: O.K.

13

Q Have you ever seen GPU Exhibit 76 before
14 today?

15

A I don't remember whether or not I have,
16 I saw this.

17

Q Have you ever read anything produced by
18 the President's Commission on Three Mile Island?

19

A I have read reports. I believe some of
20 them came from the President's Commission on Three
21 Mile Island.

22

Q What reports do you believe you read
23 from the President's Commission?

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A I can't recall the specific ones.

25

Q Did you read any writings generated by

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2 the NRC special inquiry?

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A I don't know.

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5 Q That is the group that sometimes is
6 called the Rogovin Commission?

6

A The Rogovin Commission.

7

8 I believe I read some of that material
9 as well. I don't recall the specifics.

9

10 Q From those readings of materials
11 generated by the Kemeny Commission or the Rogovin
12 Commission, I take it you learned about or refreshed
13 your recollection about the Kelly or Dunn series
14 of recommendations; isn't that right?

14

MR. WISE: Now which is the question?

15

16 He learned about it or that it refreshed
17 his recollection about it? They are two
18 very different things.

18

19 Q You came across material concerning
20 the Kelly-Dunn recommendations for use of high
21 pressure injection?

21

22 A I don't recall that I did or did not
23 in reading those reports.

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24 Q You mean you read reports by the
25 President's Commission and by the NRC special inquiry
and you don't remember anything in what you read

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2 relating to Kelly and Dunn's involvement in the
3 chain or events leading up to Three Mile Island?

4 A I can remember that, you know, the
5 subject or the names at least were in reports that
6 I read. I don't know which of the two reports
7 you mentioned, maybe both.

8 I don't recall what, in addition -- in
9 addition to that I read from those reports.

10 Q Understand that in my next series of
11 questions I am not asking about something that you
12 learned at the knee of counsel. I am only seeking
13 what you know outside of what counsel put into your
14 head.

15 From any sources of knowledge that you
16 had prior to today, what do you know was Bert Dunn's
17 involvement with respect to the issue of operator
18 interruption of high pressure injection?

19 A I had read this memo (indictating) --

20 MR. WISE: The witness is referring to
21 GPU Exhibit 78, Mr. Dunn's February 9, 1978
22 memo.

23 A --subsequent to the TMI-2 accident, and that
24 was -- that is essentially the extent of my knowledge.

25 Q How soon after the accident did you read

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it?

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A I don't recall specifically. It was days or weeks, that time frame.

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Q Were you concerned in the aftermath of the Three Mile Island accident with sending out the site instructions on operation of high pressure injection?

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MR. WISE: Do you know what Mr. Seltzer

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is referring to?

11

A I know that there were site instructions that were released.

12

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What do you mean by "concerned"? Was I involved?

14

15

Q Yes. Like signed it on an approved line, April 4, 1979, supplementary operating instructions for HPI system.

16

17

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A I may or may not have signed that.

19

Q Let me see if you recognize your signature. I will show you GPU 85 (handing document to the witness).

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Maybe you won't recognize it. Somebody signed for you?

23

24

A I know that is not my signature.

25

Q Who signed for you?

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A That looks like R.J. Baker, Jr.

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Q Did Baker work for you?

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A He worked for me while I was manager of

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Operating Plant Services.

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Q Did Baker have your permission to sign

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GPU Exhibit 85 on your behalf?

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MR. WISE: You mean this specific one

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or had Mr. Phinney left Mr. Baker with some

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general delegation of authority for matters

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of this type? I think it makes a difference

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because of where --

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MR. SELTZER: I would like the witness --

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MR. WISE: -- Mr. Phinney was at the

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time, so I think you may choose to bring

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that out or not bring that out as you wish,

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but I think at least to make the record

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clear we ought to specify whether you are

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talking about this particular piece or general

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delegation.

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MR. SELTZER: I understood from the

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first five words.

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Q Can you testify whether you gave Baker

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explicit authority to sign your name on this document

24

or whether he had general authority to sign your name

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1
2 to anything except your personal checking account?

3 A He did not have general authority to
4 sign for me. In this case here he either had
5 specific authority from me for this document or had
6 provided a delegation letter by me for a specified
7 period of time.

8 At this point in time, April 4th, 1979,
9 I was on special assignment in -- as a member of
10 the recovery operations at B&W Old Forest Road
11 facilities.

12 Q It is a fact, is it not, that shortly
13 after the Three Mile Island accident B&W did send
14 out supplementary operating instructions to operators
15 of B&W plants for governing the use of high pressure
16 injection?

17 A I believe that is accurate.

18 Q Do you recognize GPU Exhibit 85 as
19 being the site instruction which was sent out on
20 your behalf to B&W service managers?

21 A I have no reason to disbelieve that. I
22 don't recognize this specifically, but it looks like
23 it should.

24 Q Do you recognize the instructions as being
25 instructions that you recall were sent out shortly

1
2 after the Three Mile Island accident?

3 A Again, I don't recognize them specifically,
4 but I have no reason to believe that these are not
5 the instructions that went out at that time.

6 Q Do you recall that in the April-May, 1979
7 period B&W prepared and sent out small break operating
8 guidelines?

9 A I recall that that set of guidelines,
10 instructions were being worked on.

11 I was not directly involved in the
12 preparation or activity related with getting those --
13 that material out and therefore I can't say exactly
14 when they were or...

15 Q Do you know that after the Three Mile
16 Island accident B&W did prepare and issue to its
17 operating plants, small break operating guidelines?

18 A I don't recognize the term that you
19 are using on small break operating guidelines.

20 Q If I called it a blue book, would that
21 ring a bell?

22 A No, that would not ring a bell with me.

23 At a point in time that these -- that I
24 think the material you are talking about was generated --
25 you know, your calendar reference is correct -- by that

1
2 time I am off on another job. That removed me from
3 that area.

4 Q What was the new job?

5 A After this temporary assignment in the
6 few weeks subsequent to the TMI accident, I moved
7 to a new job in support of B&W's operation -- as
8 far as support at Three Mile Island Unit 2 with the
9 recovery phase.

10 Q What led you to read Burt Dunn's
11 memo, GPU Exhibit 78, in the week immediately after
12 the Three Mile Island accident?

13 A I remember the subject coming up. I
14 don't remember any substantial discussion, but I
15 do remember the subject coming up and I believe
16 there simply was one somewhere that I found and read
17 it.

18 Q Did you also read Burt Dunn's February 16,
19 1978 memo at that time? That is GPU Exhibit 79.

20 A No, I don't remember that one.

21 Q Does seeing it refresh your recollection
22 (handing document to the witness)?

23 A No, it does not.

24 Q When you read GPU Exhibit 78 after the
25 Three Mile Island accident, did you understand that

1

2 the recent incident at Toledo to which Bert was
3 referring was the Davis-Besse September 1977
4 accident? This here (indicating).

5

A I could not have made a connection
6 to a calendar date at that point in time.

7

Q I am only referring to a calendar
8 date just to distinguish that event from any other
9 transient at a B&W plant. I think you have
10 indicated previously you are now aware that there
11 was a specific transient at Davis-Besse in
12 September 1977.

13

I take it you are now aware, are you
14 not, that a pilot-operated relief valve failed
15 open and that the operators at Davis-Besse for some
16 period of time had shut off the high pressure
17 injection flow while the loss of coolant accident
18 was still in progress at Davis-Besse, are you not?

19

MR. WISE: Are you aware of all that
20 now, that Mr. Seltzer has just told you? That
21 is the question.

22

A I am not aware of that at this moment,
23 O.K. I believe everything you said is in this
24 memo and I had read that at one time after the
25 TMI-2 accident, so I was aware at one time. I don't

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believe I am right now.

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Q So GPU Exhibit 78 refreshes your recollection to the extent that you can say that it did tell you that the operators at Toledo Edison had terminated high pressure injection in the course of a loss of coolant accident; is that right?

MR. WISE: Now I am afraid I don't understand the question.

MR. SELTZER: Let me take it in smaller pieces.

MR. WISE: I think that might help.

Q You are now aware that there was a transient in which a pilot-operated relief valve failed in the open position at Davis-Besse-1 sometime before the Three Mile Island accident, right?

A Yes, I am aware of that.

Q Did you understand when you read GPU Exhibit 78 after the Three Mile Island accident that Bert Dunn was referring to that prior Davis-Besse incident in the paragraphs that he wrote to you and others in this memo?

A I don't recall what I thought at the time that I read this, although again, I don't have any reason to not believe that he was not -- that he

1
2 was referring to that Davis-Besse transient.

3 Q There are a lot of negatives stumbling
4 over each other in that sentence. Let me not put
5 words in your mouth. What are you saying about
6 whether this memo --

7 A I believe this memo -- I have no reason
8 to suspect this memo doesn't refer to the incident
9 at Toledo.

10 Q The incident where the pilot-operated
11 relief valve failed open?

12 A Yes. I don't recall what I thought
13 at the time that I read it.

14 Q You knew when you reread the memo after
15 the Three Mile Island accident that you were marked
16 for a copy of it, right?

17 A Yes.

18 Q And you knew that you had previously
19 received a copy of it, right?

20 A I remembered reading it before, sometime
21 previous, and therefore I assume I received a copy
22 of it.

23 Q When you say "sometime previous," you
24 mean previous to the Three Mile Island accident?

25 A Yes.

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Q Dunn in his second paragraph has some description of what the operators did during the Davis-Besse accident, and he concludes with the sentence, "Had this event occurred in a reactor at full power with other than insignificant burnup, it is quite possible, perhaps probable, that core uncovering and possible fuel damage would have resulted."

When you reread this memo after the Three Mile Island accident, you knew at that time that there had been core uncovering at Three Mile Island, did you not?

A I believe so.

Q You knew that there had been fuel damage at Three Mile Island, didn't you?

A I don't know, but that is a matter of degree.

Q There sure was a lot of radiation being recorded outside the vessel, wasn't there?

A To my knowledge, yes.

Q That would indicate fuel damage, wouldn't it?

A I am really not qualified to say whether it indicated fuel damage or some other mechanism

1
2 for release.

3 Q Did you have a belief that there was
4 fuel damage?

5 A Yes, I think I believed that there was
6 fuel damage.

7 Q You knew that the Three Mile Island
8 reactor had been operating at or near full power
9 immediately prior to the accident, didn't you?

10 A I don't recall specifically the power
11 levels that the TMI-2 reactor had been operating
12 at. I certainly knew that it was at -- at a fairly
13 significant power level.

14 Q You knew by the time you reread Dunn's
15 memo that Three Mile Island Unit 2 had been in
16 operation for a sufficiently long period and at
17 sufficiently high power levels that it was a reactor
18 in which there was more than insignificant burnup;
19 isn't that right?

20 A You know, I am not qualified to say
21 what insignificant burnup is or is not, and would
22 not have made that kind of judgment.

23 Q What does burnup refer to?

24 A To the best of my knowledge, burnup
25 refers to the extent to which fuel has been used for

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2 that cycle.

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Q When you read after the accident this specific sentence about reactor at full power, other than insignificant burnup, possible core uncover and fuel damage resulting, did it send a chill up your spine?

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9

A I don't remember what I thought about when I reread it after the accident.

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Q Did you recognize this as being a forecast of the Three Mile Island accident?

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A No, I was not in a position to recognize that as a forecast of the Three Mile Island accident.

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Q What I mean is, when you read that after the accident, did it occur to you that Dunn had done a pretty good job of anticipating the Three Mile Island accident?

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A You are talking about a subject that I don't have the technical depth to make that judgment on.

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Q You said you knew that there had been core uncover and believed there had been full damage and you knew that the plant had been operating at a pretty significant power level.

25

Didn't it occur to you that Dunn had

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2 forecast what had recently happened at Three Mile
3 Island?

4 MR. WISE: You have asked that question
5 before and I think you had gotten an answer
6 from the witness. I think it is time to ask
7 him another question.

8 MR. SELTZER: I will try that one last
9 time.

10 MR. WISE: I think it is exactly the
11 same question he answered earlier. If he
12 wants to change his answer, I suppose he can
13 do so.

14 A I already answered that question.

15 Q When you read this memo after the Three
16 Mile Island accident, was there any portion of it
17 that you just plain didn't understand?

18 A I don't remember what my reaction or
19 understanding was of that memo when I read it after
20 the accident.

21 Q Did you go to anyone to seek clarification
22 of any portion of it?

23 A No, I did not.

24 Q Do you see the statement which is the
25 last sentence of page 1 of GPU Exhibit 78 where Dunn

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says he is recommending that operating procedures be written to allow for termination of high pressure injection under the following two conditions only?

A Yes, I see that sentence.

Q Do you see the two conditions for termination of high pressure injection on the next page?

A Yes.

Q Did you understand when you reread Dunn's memo that he was proposing or recommending these operating procedures in order to prevent a reoccurrence of the type of accident that had happened at the Toledo Edison, Davis-Besse plant?

THE WITNESS: Can I have that question again, please?

Q When you read Dunn's recommended operating procedures, did you understand that he was proposing them in order to prevent a reoccurrence of the type of event which had already taken place at the Toledo Edison, Davis-Besse plant?

A Again, I don't -- I don't recall my reaction to that sentence and recommendations, and therefore would not have understood that. I mean I don't understand today what I, you know, read then.

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Q You don't understand today this memo?

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A I mean I don't understand -- excuse me.

4

I am getting confused.

5

I don't recall what my understanding of that was at that time.

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Q You knew that Dunn was writing about a concern which grew out of the Davis-Besse accident, right?

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A Yes.

11

Q Dunn begins the third paragraph by saying, "The incident points out that we have not supplied sufficient information to reactor operators in the area of recovery from loss of coolant accident."

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Did you understand the words "the incident" referred to the Davis-Besse accident?

16

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A Are you referring to when I reread this letter after the TMI-2 accident?

18

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Q Yes. And take a look at it now to refresh your recollection.

20

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A Yes. I have no reason to, you know, not believe that that is what he was referring to.

22

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Q When he says "we have not supplied sufficient information," you understood the "we" referred to Babcock & Wilcox, right?

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A I would have taken that to mean Babcock & Wilcox.

MR. WISE: That is not the question, Mr. Phinney.

THE WITNESS: O.K.

MR. WISE: Please listen to the question. Try and answer Mr. Seltzer's question.

THE WITNESS: Can I have the question again, please?

MR. SELTZER: I will ask the next one.

Q "The following rule," he says, "is based on an attempt to allow termination of high pressure injection only at a time when the reactor coolant system is in a subcooled state and the pressurizer is indicating at least a normal level for small breaks. Such conditions guarantee full system capacity and thus assure that during any follow on transient would be no worse than the initial accident. I, therefore, recommend that," and he goes on with his two recommendations.

Does that refresh your recollection that you understood when you read this memo after the Three Mile Island accident, particularly with his sentence, "I, therefore, recommend," that Dunn

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2 was making his recommendations of certain operating
3 procedures in order to prevent a reoccurrence of the
4 Davis-Besse accident ?

5 A Again, as before, I don't remember my
6 interpretation or understanding that I had of
7 this memo when I read it after the accident.

8 Q I think I know what is going to happen,
9 but let me ask you this question: As you read
10 it today, do you understand that Dunn is recommending
11 these operating procedures in order to prevent a
12 reoccurrence of an event like the Davis-Besse
13 accident?

14 MR. WISE: I am going to object on the
15 grounds that I think we have been over it a
16 number of times.

17 I do not see how it can possibly be
18 relevant, in the first place, what Mr.
19 Phinney's mental impression is this afternoon
20 after an awful lot of work and effort has gone
21 into post-TMI-2 analysis. His perceptions and
22 his understanding today are probably irretrievably
23 colored by what has happened. I think any
24 mental impressions that he would be able to
25 give you today would be worthless as far as

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2 their evidentiary value on events that occurred
3 prior to the accident.

4 Secondly, the ground of my objection
5 is that I think it is unfair to ask this
6 witness to make a technical analysis of what
7 is obviously a complicated subject sitting
8 here in this room today under the pressures
9 of testifying as a witness.

10 I have no objection and have not objected
11 to your asking him what his mental state or
12 mental impressions were or what opinions he
13 drew at earlier times. Those are matters of
14 fact and he can testify to the best of his
15 recollection what he believed or what he knew
16 at the time, and that may be relevant to some
17 purpose, but to ask him to try and formulate
18 an opinion this afternoon sitting here under
19 these conditions with respect to what he has
20 testified several times is something that he
21 does not recall very well from reading at the
22 relevant times I think is -- it is impossible
23 for him to do and I can't see how it could
24 possibly have any relevance to the action.
25 So I object on the grounds that I think we have

1
2 covered this in previous depositions.

3 MR. SELTZER: I press the question.

4 MR. WISE: I am going to direct him not
5 to answer that question on the grounds that,
6 as I said, we have discussed before. I think
7 it leads us into something that is extremely
8 unfair to the witness and is only going to
9 confuse these procedures rather than move them
10 forward.

11 MR. SELTZER: Counsel for plaintiffs
12 take the view that that instruction is improper.
13 We, however, are not going to permit you to
14 apply a double standard and direct your
15 witnesses not to answer at the same time that
16 you proceed in asking our witnesses questions
17 that do call for present understanding. Until
18 such time as you withdraw your instructions
19 not to answer, we feel that we can't let you
20 have it both ways and we will feel impelled
21 by your action to remind you that we are not
22 going to let you get present understanding
23 in response to your questions.

24 I also have to note that I find it
25 somewhat absurd to have counsel for defendants

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2 say that I am a proponent of the direction
3 not to answer because I have taken the position
4 that I have. I think that that is twisting
5 history improperly.

6 MR. WISE: Number one, I haven't said
7 one way or the other who is a proponent of
8 the instruction, but just let me comment.
9 I have permitted questions today with respect
10 to Mr. Phinney's present knowledge about many
11 things. The objection is a more narrow one.
12 It is directed specifically at questions
13 regarding a document such as Exhibit 78
14 or others that you might wish to show him at
15 another time where you are asking him to form
16 a judgment or opinion based upon that document
17 sitting here today.

18 I have no objection to your asking
19 him his present understanding concerning
20 relevant matters and I believe I have allowed
21 you to ask such questions and to have him
22 answer as to what today he understands
23 happened at Davis-Besse or what today he
24 understands happened at TMI-2 or anyplace
25 else. I think that is allowable and you are

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2 certainly entitled to get his present knowledge.

3 The objection is limited to an attempt
4 to have him form a belief or a judgment or
5 an opinion with respect to his understanding
6 of something today. I think that is calling
7 for a mental operation sitting here at the
8 table and that is the area where I press the
9 objection, and I would hope that in the depositions
10 that we are taking of GPU witnesses, the various
11 people from my firm are not pressing that question.

12 I can't speak for every question they
13 have asked in the various depositions that
14 have gone on. I can say that to the best of
15 my knowledge I never asked one of your
16 witnesses to look at a document and interpret
17 it while he was sitting at the witness table
18 for the first time, and we certainly went
19 through a number of depositions on contract
20 witnesses with Dave Klingsberg in attendance,
21 and both sides scrupulously avoided people to
22 interpret contracts sitting at the deposition
23 table.

24 So I think it has been something that
25 both sides have recognized in at least parts of

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2 the depositions.

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3 (Recess taken)

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4 BY MR. SELTZER:

4

5 Q Dunn's memo, GPU Exhibit 78, forecasts
6 the possibility or probability of core uncovering
7 and fuel damage.

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8 Before the Three Mile Island accident,
9 do you recall any other memos that you got warning
10 of the possibility of core uncovering and fuel damage?

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11 A The only memo I recall receiving is
12 this GPU Exhibit 78 memo.

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13 Q What, if anything, was it your practice
14 to do with memos that you received from others at
15 B&W in or about 1978?

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16 A There were several alternatives. I may --
17 you know, we are speaking generically now in the
18 sense of what I might do with any memo that came
19 across my desk.

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20 I may call someone on a given subject.
21 I may ask one of my people to follow up on a
22 particular subject that I may be interested in.
23 I may use a particular file to simply store the
24 information and have it come back to me. Or I
25 could simply keep it for information or alternately

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2 discard it.

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Q Do you have any recollection of forwarding
4 Dunn's memo, GPU Exhibit 78, to anyone else to take
5 action?

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A No, I don't have any recollection of that.

7

Q Do you remember taking any action yourself
8 after you initially received GPU Exhibit 78?

9

A I don't remember whether or not I took
10 action on that memo.

11

Q Aside from this memo about the Davis-Besse
12 incident, had you ever heard of any other incident
13 prior to the Three Mile Island accident where
14 operators of a B&W-supplied plant had prematurely
15 shut off high pressure injection?

16

A I don't recall hearing of any such
17 occurrence.

18

Q Between September of 1977 and March
19 1979 did you make any site visits to Davis-Besse?

20

A I don't remember if I did or did not.

21

Q Are you aware that after the Three
22 Mile Island accident, the NRC announced that it was
23 going to fine B&W for incidents arising out of
24 or connected to the Three Mile Island accident?

25

A I remember that general subject of a

1
2 fine. I don't recall the specifics of the reason
3 for it.

4 Q Are you aware that under the regulations
5 created by the Nuclear Regulatory Commission there
6 are certain requirements for reporting substantial
7 safety hazzards which a vendor like B&W comes to
8 know about?

9 A I recall -- are you referring to part 21
10 requirements?

11 Q Yes.

12 A I am aware of the existence of the
13 federal regulation on that subject, yes.

14 Q Are you aware that the NRC found that
15 B&W had violated part 21 by not reporting the Dunn
16 concerns over operator interruption of high pressure
17 injection?

18 A I am not aware of any specific
19 findings by the NRC. I don't remember or recall.

20 Q Looking again at GPU Exhibit 85 (handing
21 document to the witness), are you aware of B&W
22 communicating those two rules for the use of high
23 pressure injection to the operators of B&W-supplied
24 plants prior to the Three Mile Island accident?

25 THE WITNESS: Could I have that question

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again, please?

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Q Focusing on the two rules for the use of high pressure injection that are contained in GPU Exhibit 85, do you see those?

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A Yes.

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Q Do you have any knowledge that B&W communicated those rules to the operators of B&W-supplied nuclear plants before the Three Mile Island accident?

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A I don't have -- I don't have enough information to answer that question. I simply don't know whether or not these types of communications went out in this fashion earlier or not. There were communications on the subject of use of high pressure injection and low pressure injection earlier. Their comparison of those to these I can't speak to right now.

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Q Do you know whether B&W had ever told the operators of B&W-supplied plants that one independent criterion for determination of high pressure injection was determining whether the reactor coolant system was 70 degrees subcooled?

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A Again, I am not qualified to, in a technical sense, answer that question.

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Q You are miscomprehending my question.

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A O.K.

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I am not saying just by getting you to say you don't know about it we are going to prove our point that it never went out, but if I ask 250 people and all 250 people say no, I never heard of it going out, then that might start to mean something, particularly if we ask enough of the right people. So all I am asking you, as you sit here today, do you know of whether B&W ever sent out to operators of its plants prior to the Three Mile Island accident instructions regarding termination of high pressure injection that included the 50-degree subcooling rule that is being sent out on April 4, 1979?

I can't recall whether or not that was done. On the other hand, I would not have been the person who could give you an answer on that subject in general due to my position in the organization.

Q If it had gone out as a site instruction while you were manager for plant services, would you have been involved in approving its going out?

A My organization would have transmitted

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the information to the utilities for which we had communication responsibility.

Q And you would have approved it, right?

A I would have approved, as GPU 85 is approved, for release to the service managers to disseminate it to utility customers.

Q So if in the period from February 1976 through the date of the Three Mile Island accident such an instruction were sent out as a site instruction, you would have approved it; isn't that right?

A Again, I would have approved the site instruction for release to customers --

Q That is all I am asking.

A I would not have approved the technical content of that site instruction.

Q Do you recall approving for release to customers any instruction for the use of high pressure injection that included a 50-degrees subcooling rule?

A I don't recall that, but a great many site instructions, of course, were generated on a number of subjects and --

Q All I am asking is for your present

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recollection.

A I know, but I want you to understand that a number of documents were generated via site instructions, sent to customers via site instructions and remembering any specific one of them would be a great difficulty for me.

Q I take it since the Three Mile Island accident nobody has brought to your attention the fact that a site instruction was sent out before the accident communicating rules for the governance of high pressure injection that are similar to those in GPU Exhibit 85; isn't that right?

A I don't recall anyone bringing that to my attention.

Q Is it your your understanding that the rules for the operation of the high pressure injection system expressed in GPU Exhibit 85 were intended to apply whenever the high pressure injection system is actuated because of a low pressure condition?

A I cannot -- I don't have the technical basis and understanding to say whether or not it was applicable in -- I think you said all cases.

Q I am not asking you for anything deeper

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than your own understanding. I am just asking you whether you understood that the intent of these instructions, which you approved for communication, was that these rules would govern the operation of high pressure injection when it had automatically actuated.

MR. WISE: My recollection of the testimony was that Mr. Baker had approved them for Mr. Phinney. I don't know that we have got testimony that Mr. Phinney actually saw, read or understood these rules at any time.

Q Have you ever seen, read or understood these rules at any time?

A In the presence of counsel.

MR. WISE: Aside from any discussions we may have had in the preparation for this deposition.

Before that had you ever seen these or reviewed them or attempted to form an understanding of them?

A I don't remember if I saw these instructions and understood them at the time or not.

Q Did you know before the Three Mile Island

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accident that anyone at the Nuclear Service Department had voiced any concern about new rules for high pressure injection taking the plant solid?

A I don't recall any voicing on that subject.

Q Did you ever learn after the Three Mile Island accident that a concern about whether Dunn's proposed rules for operation of high pressure injection would take the plant solid had in any way delayed issuing Dunn's new guidelines?

A No, I don't remember any conversations on that subject.

Q Have you ever run into a gentleman who goes by the name of Hallman?

A Yes.

Q How do you know him?

A Well, I know him. He works for me right now in our present jobs.

I knew him back in the '77-'78 time frame as -- since he was a manager in the Nuclear Service Organization, as was I.

Q What is Don Hallman's present job?

A He is manager of Operating Plant Services.

Q In addition to having the manager of

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Operating Plant Services report to you, who else reports to you?

A I have the manager of Plant Start-Up Services, manager of Field Operations, manager of Maintenance Engineering, the manager of Plant Performance Services, and an administrative supervisor.

Q Who is the manager of Plant Performance Services?

A Tom Fairburn.

Q Was Hallman's move a promotion, a demotion or a lateral move?

A That move occurred before I took the job that I have right now. I think that would have been a lateral move for him.

Q Let me show you GPU Exhibit '80 which is a memo from Don Hallman to Bruce Karrasch dated August 3, 1978, subject operator interruption of high pressure injection (handing document to the witness). The memo was also written to J.D. Phinney.

Do you see your name up there?

A Yes, I do.

Q Is this a copy of the memorandum which you received in the regular course of business in or about early August 1978?

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A I don't recollect receiving this memo, but I don't have any reason to believe that I didn't get it since I am on the carbon copy.

Q Have you ever had occasion since August 1978 to reread GPU Exhibit 80?

MR. WISE: Outside of with counsel or do you want to include that?

MR. SELTZER: If I ask him did he read it with counsel without asking him what he and counsel discussed about it will you permit him to answer?

MR. WISE: I have no objection to your asking whether he read it recently, if you want to know whether he has refreshed his recollection in the recent past. We permitted those questions in the past.

Q Have you read GPU Exhibit 80 at any time since August 1978?

A Yes, I read it recently.

Q What was the occasion for your recently reading it?

A In preparation for this testimony I read it with counsel.

Q Did you read any person's testimony in

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preparation for your testifying?

A No, I did not.

Q Did you read both Dunn memos, GPU Exhibit 78 and GPU 79?

A Yes, I did.

Q Did you read Kelly's memo, GPU 76?

A I don't remember if I saw this one or read it, GPU 76.

Q Does seeing GPU Exhibit 80 refresh your recollection that there was a concern by at least someone in Nuclear Service in 1978 about the possibility of Dunn's proposed rules for high pressure injection taking the plant solid?

A No. It doesn't refresh my memory on that subject.

Q Why did you believe Hallman was sending you GPU Exhibit 80?

A I don't remember what my reaction was at the time.

Q Do you believe you read GPU Exhibit 80 when you received it initially?

MR. WISE: Again I will permit it, but you are getting pretty clearly into the area of speculating and guessing, I think.

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A Again, I don't recall.

Q Would it have been your normal practice to read a memo that you got from somebody else in B&W, another manager of B&W?

A Yes, it would have been my normal practice.

Q And after reading it you would have decided what, if any, action by you was required?

A Yes, I would have made a judgment on that.

Q Do you see the statement in the next to the last paragraph beginning "To date, Nuclear Service"?

A Yes, I do.

Q Don Hallman states there, "To date, Nuclear Service has not notified our operating plants to change HPI policy consistent with References 1 and 2 because of our above-stated questions. Yet, the references suggest the possibility of uncovering the core if present HPI policy is continued."

Did it cause you any concern in August of 1978 that Nuclear Service had not notified operating plants, which were under your jurisdiction

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to change high pressure injection policy?

A I don't recall if it caused me concern or not.

MR. WISE: I think you might want to read the rest of the memo or at least the next sentence in the memo and to make the record clear. It reads, "We request that Integration resolve the issue of how the HIP system should be used."

I think, in order to make the record complete, that ought to be in there if you are going to ask this witness those questions.

Q After you got GPU Exhibit 80, did you ever take any steps to see whether Integration was doing anything to resolve this issue, which the references suggested, raised the possibility of core uncovering if present HPI policy were continued?

A I don't remember whether I did or did not communicate with Integration on that subject.

Q Do you have any reason to believe that you did?

A No, I have no reason to believe that I did, nor do I have recollection that I did not.

Q Do you have any recollection of doing

1
2 anything regarding the subject of instructions on
3 the use of high pressure injection after you got
4 GPU Exhibit 80 and before the Three Mile Island
5 accident?

6 A Could I have that question again?

7 Q Do you have any recollection of doing
8 anything with regard to instructions on the operation
9 of high pressure injection after you got GPU Exhibit 80
10 in early August 1978 and prior to the Three Mile
11 Island accident?

12 A I don't recall whether or not I did
13 anything.

14 Q There is no specific act that you can
15 recall and testify to; is that right?

16 A That is right.

17 Q Since the Three Mile Island accident,
18 have you ever made any inquiry to try to find out
19 whether you had forwarded either Dunn's memos for
20 which you were sent copies or Hallman's memo which
21 was sent to you on to anyone else?

22 A No, I did not make any inquiries on that.

23 Q Have you ever looked through your files
24 to try to find the copies of Dunn's memos and
25 Hallman's memo which were sent to you?

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A I looked through all of my files consistent with the direction we had for producing information on this subject and other subjects, and, you know, so I looked to that extent.

Q What did you find?

A I turned over a number of files which -- they are chronological files primarily. I do not recall these being included.

Q You tried to pull out the chronological files which you believed were related in some way to the Three Mile Island accident?

A I turned over all of my chronological files to counsel who then -- well, I am not sure what actions took place at that point.

All of my chronological files were turned over for review.

MR. WISE: It is my understanding that they have been produced to you.

MR. SELTZER: All of his chronological files, unedited, unexpurgated?

MR. WISE: I am not sure to what extent they were reviewed and I am sure any privileged material was taken out, and I am also not so sure whether this was before or after we

1
2 began to mirror plaintiffs' policy of reviewing
3 the material to remove documents not called
4 for by the stipulation.

5 There was an early period when we
6 produced files intact. Once we learned that
7 the same was not being done for us by
8 plaintiffs, we did adopt the policy of
9 removing from files documents not called
10 for by the stipulation.

11 I can't recall whether Mr. Phinney's
12 chronological files came before or after that
13 policy change, but we did produce his
14 chronological files under one policy or the
15 other.

16 BY MR. SELTZER:

17 Q I take it that all of your memoranda
18 and correspondence go into your chron file?

19 A I can't verify that all correspondence
20 got into that file. My policy was that all material
21 which I signed off as the originator did go into
22 my chron file.

23 Q Would that include something which
24 Baker signed on your behalf?

25 A It should.

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Q So we would know if we got your chron file if we could find a copy of GPU Exhibit 85?

A GPU what?

Q 85.

A This was a site instruction which would have gone into the site instruction files as opposed to the type of memo -- memorandum where I was the originator, as I said before (indicating).

The site instruction I was not the originator.

Q In Hallman's memo to Karrasch, you and others, GPU Exhibit 80, he says that, "References 1 and 2," which are Dunn's memo, "recommend a change in B&W's philosophy for high pressure injection system use during low-pressure transients."

Do you see that, the first sentence?

A Oh, yes.

Q What did you understand was the change in B&W's philosophy for high pressure injection system use being referred to in that sentence?

A I don't remember what I understood. In fact, I don't remember -- this particular memo, I don't remember receiving it.

Q Did you know that under the B&W draft

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2 procedures that had been supplied to B&W nuclear
3 plants before the Three Mile Island accident an
4 operator first had to identify what transient
5 was occurring before the operator knew which
6 procedures to apply?

7 MR. WISE: Could I have that repeated,
8 please?

9 (Question read)

10 MR. WISE: Are you asking if he knows
11 whether that is true or not?

12 MR. SELTZER: Right.

13 A I don't know whether that is true or
14 not.

15 Q You said that you worked on drafting
16 procedures at one point in your B&W career, right?

17 A Yes.

18 Q Did you work on drafting procedures
19 which were transient response procedures?

20 A I worked on draft operating procedures
21 and draft emergency procedures.

22 What I remember about the emergency,
23 draft emergency procedures were that they were, you
24 know, they involved transients, yes.

25 Q The draft emergency procedures, as you

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recall, had a section entitled "Symptoms," right?

A I believe they did. I am referring to the time frame now when I was generating this type of material in '69, '70.

Q You understood that the list of symptoms was provided so that the operator could compare his observations of plant conditions to the symptoms in the procedures to decide whether the conditions in the plant warranted applying the specific procedures that he had in front of him; isn't that true?

A The purpose of a -- could I have that question again?

Q The operators had emergency procedures, the emergency procedures each had symptoms listed, and the symptoms were the symptoms which were applicable to a particular transient.

I am asking you: Isn't it a fact that before an operator applied a specific transient procedure he was supposed to look at the plant conditions and see if the plant conditions matched the symptoms for a specific procedure?

MR. WISE: I object to the form of the question.

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The witness may answer it if he can

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figure it out.

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A I, with respect to the work that I did
in 1969, 1970, 1971, again, the material that we

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produced which had various sections in it was

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produced for draft input material to the customer

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who generated his own set of symptoms, and in that

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way developed the procedure that was used by the

10

operators of the plant.

11

The degree with which the comparison

12

was made to plant operating conditions and the

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symptoms in the customer's procedures, I can't

14

speak to.

15

Q It was your understanding that the

16

draft procedures were intended to be a template

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for the customer's procedures, right?

18

A My understanding was that it was the

19

B&W technical input to be used to the extent the

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customer elected to do so in preparing his procedures

21

to run his plant.

22

Q Let's be very elemental about it.

23

What did you understand was the purpose

24

of listing symptoms in the procedures?

25

A To provide guidance to the operator if

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2 those symptoms got into the operator's procedures.

3 Q And how was it intended that the list
4 of symptoms would guide the operators?

5 A It was -- well, provided as guidance
6 for comparison purposes to plant conditions.

7 Q Could you explain what you mean by
8 provided for comparison purposes? Why would there
9 be a purpose of comparing plant conditions? First
10 off, compare them to what?

11 A You are really in an area now where
12 I am having some vague, you know, problems with
13 work that I did ten, eleven years ago and recalling
14 the specific applicability and how they were used
15 or intended to be used.

16 At the time I believe that I had, you
17 know, a good understanding of the content of the
18 material and the intent for the various sections of
19 the material which we generated in draft form for
20 the customer's use.

21 I can't recall that information in detail
22 now.

23 Q O.K. I am not asking for detail.

24 In your answer you said something like
25 the symptoms were intended for comparison with

1
2 plant conditions. I am really just trying to find
3 out a little bit more about what you meant when
4 you said they were intended for comparison with plant
5 conditions.

6 What did you mean by that?

7 A Well, in comparing -- in understanding
8 plant conditions with respect to guidance, various
9 procedures should indicate to the operator what,
10 you know, what the situation is with regard to
11 the transient in his plant.

12 Q And should it tell the operator which
13 procedure to apply?

14 MR. WISE: Should what tell the operator?

15 Q Should the comparison of plant conditions
16 to the symptoms listed in the procedures guide the
17 operator with respect to which procedure he should
18 be applying?

19 A I can't answer that because I have no
20 way of knowing which procedures that customer
21 ultimately selected for use in his plant.

22 Q So you are saying that from years of
23 being manager of Plant Start-Up Services and
24 manager of Plant Operating Services, you don't know
25 whether the symptoms listed in B&W drafted procedures

1
2 were intended to guide the operator to which was
3 the correct procedure to apply to particular
4 transients?

5 A What I am saying is the correct
6 procedure was a customer's procedure. It was not
7 a B&W draft procedure.

8 Q Let's try and be more direct about it.
9 You had seen customers' procedures,
10 hadn't you?

11 A I had seen them, yes.

12 Q I have seen some also. SMUD, I have
13 seen Davis-Besse's.

14 The procedures ultimately adopted by
15 the owners of B&W-supplied plants tended to have
16 a lot of similarity to the B&W drafted procedures;
17 isn't that right? I am just asking you to comment
18 on the ones that you are familiar with.

19 A I have seen procedures that have some
20 similarity to the technical input provided via the
21 draft procedures that B&W prepared, and I have seen
22 other procedures in the customer's plant which were
23 created entirely by the customer.

24 Q Are you aware that Rancho Seco and
25 Davis-Besse had procedures which paralleled in many

1
2 respects the B&W draft procedures?

3 A I can't speak to that. I don't know
4 the answer to that.

5 Q What about TMI-1 where you were SOM?

6 THE WITNESS: Can I have that question
7 again, please?

8 Q It is a cryptic question.

9 What about TMI-1 where you were SOM?

10 Don't you know from your work at Three
11 Mile Island where you were the site operations
12 manager for Unit 1 that the Three Mile Island-1
13 procedures closely paralleled the B&W draft
14 procedures?

15 A I know that -- material, procedure
16 material which Metropolitan Edison generated some --
17 had input provided by B&W via the draft procedures.
18 The degree of similarities I can't speak to.

19 Q You reviewed some of the procedures
20 after they had been finalized by Met Ed, didn't
21 you?

22 A I can't remember how I handled those
23 at that point in time.

24 Q Did you sit on any committees that
25 reviewed procedures at Met Ed?

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2 A I was on a committee which reviewed
3 the programs, the TWG.

4 Q And you don't remember if you participated
5 in any reviews of operating procedures or emergency
6 procedures?

7 A I don't remember operating or emergency
8 procedures going through that committee.

9 Q I am not limiting it to that committee.
10 I am not even limiting it to committees.

11 A Oh, oh.

12 I don't recall how we handled the
13 interface between B&W on the site and Med Ed with
14 regard to operating and emergency procedures.

15 Q So you are saying that you are willing
16 to swear today that you don't remember reviewing
17 any Met Ed-prepared procedures?

18 A I don't remember that.

19 Q O.K.

20 A Test procedures, I know we reviewed.

21 Q No, I mean operating and emergency
22 procedures.

23 Do you recognize that the form of
24 procedure for operating the high pressure injection
25 system which is in GPU 85 is different in kind from the

1
2 type of procedure which B&W had been drafting before
3 the Three Mile Island accident?

4 A Do you mean that the technical
5 differences or format differences?

6 Q Mostly format and specifically I am
7 driving at this: Do you know that the operator
8 isn't required to look for the cause of the
9 transient in order to apply the new procedures
10 for high pressure injection regulation?

11 A I remember a form different in the
12 sense that the draft procedures produced by B&W
13 in at least the 1969-70 time frame were formatted
14 differently than what is in GPU 85 (indicating).

15 I don't recall any differences with
16 regard to operator action.

17 Q Isn't it a fact that before the
18 accident the operator had to identify what caused
19 a transient in order to know what procedure to
20 apply?

21 MR. WISE: What is the basis for having
22 this witness answer a question like that?

23 MR. SELTZER: It seems like he is as
24 good a witness as anybody.

25 MR. WISE: How can he say what various

1
2 operators at various B&W-supplied plants know
3 or don't know --

4 MR. SELTZER: I apologize. I see your
5 point.

6 Q I am directing my question to B&W drafted
7 procedures.

8 A O.K.

9 May I have the question again, please?

10 Q Do you know that before the Three Mile
11 Island accident, the B&W drafted procedures, operating
12 procedures and emergency procedures tended to require
13 the operator to identify the cause of the transient
14 before the operator would know which procedure to
15 apply to the transient?

16 A I don't remember those procedures in
17 enough detail to answer that question.

18 Q Do you know what the initials ATOG
19 stand for?

20 A Yes.

21 Q Are you familiar with the contours of
22 the Abnormal Transient Operating Guidelines program?

23 A No, I have very little familiarity with
24 that set of guidelines.

25 Q Do you know that since the Three Mile

1
2 Island accident B&W has sent out to all plants a
3 50-degrees subcooling curve?

4 MR. WISE: Is this the April 17th --

5 MR. SELTZER: May 10th.

6 MR. WISE: Let the record show that
7 the witness has been shown GPU Exhibit 87,
8 which is a memorandum, and some attached
9 material dated May 10, 1979 (handing document
10 to the witness).

11 A I wasn't involved in preparing this
12 material or in transmitting it to the customers.

13 Q That was not the question.

14 A I am sorry.

15 Q I asked an easier question.

16 A O.K.

17 Q Do you know that after the Three Mile
18 Island incident, a 50-degrees subcooling curve was
19 sent from B&W for transmission to customers?

20 A No, I don't know that. I remember the
21 subject but I don't have enough detail to say whether
22 or not that was done.

23 Q Do you know that since the Three Mile
24 Island accident B&W has recommended to customers
25 that they apply a 50-degree subcooling rule for

1

2 the operation of high pressure injection?

3 A No, I don't know that, and again, I am
4 not the person who is in a position that would know
5 that.

6 Q Who do you think would know something
7 like that?

8 A Well, the names of the people on this
9 exhibit I would think would lead you to who would
10 know about that.

11 Q If I handed you the exhibit and if you
12 wanted to call somebody up and ask them, who would
13 be your first choice?

14 A Well --

15 Q Remember the question is, did we send
16 out an instruction telling people to run HPI by
17 a 50-degrees subcooling rule since Three Mile
18 Island happened?

19 A If that was the question I felt I needed
20 to have an answer to, the first thing I would do
21 would be to go to the administrative files that
22 log that information in and out to the customer
23 and I would ask for that to be searched. That would
24 reside with the Operating Plant Service site instruction
25 files.

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Q In other words, you might go over to Don Hallman's group?

A Today, yes. And this was -- this was exhibit --

MR. WISE: 87.

THE WITNESS: Exhibit 87.

A When Exhibit 87 was generated, the person was Ken Ellison.

MR. SELTZER: Why don't we resume tomorrow and, as I said, I am sure we will finish tomorrow.

MR. WISE: O.K.

(Time noted: 4:30 p.m.)

oOo

James David Phinney

Subscribed and sworn to
before me this
day of , 1982.

C E R T I F I C A T E

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2
3 STATE OF NEW YORK)
4 : ss.:
5 COUNTY OF NEW YORK)

6 I, Charles Shapiro, a
7 Notary Public within and for the State of New York,
8 do hereby certify that the foregoing deposition
9 of James Davis Phinney was taken before
10 me on January 13, 1982;

11 That the said witness was duly sworn
12 before the commencement of his testimony and
13 that the within transcript is a true record of said
14 testimony;

15 That I am not connected by blood or
16 marriage with any of the parties herein nor
17 interested directly or indirectly in the matter in
18 controversy, nor am I in the employ of any of the
19 counsel.

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand this 26TH day of JANUARY 1982

22
23 Charles Shapiro

24 Charles Shapiro, CSR
25