

1 lawyers if you could do what was necessary for
2 safety.

3 MR. COLLINS: Right, I
4 understand that comment. It's very well articulated.
5 Dr. Sheron works for me. He's my technical associate
6 director in the office of NRR. Let me put that
7 comment into perspective because I believes it's a
8 comment that's based on an E-mail that's written in
9 the issuance of those E-mails from a freedom of
10 information request.

11 We were going through a process with the
12 Davis-Besse facility that started in the
13 August/September time frame where they were
14 responding to a request of information from us in the
15 form of the bulletin, 2001-01 for the bases of their
16 inspections of the reactor vessel head. That's not
17 unique to Davis-Besse. We did it to the fleet, all
18 103 operating reactors, subject to all of our
19 requirements, but, in this case, it was isolated to
20 the 60 or so pressurized water reactors that we have.
21 At the same time that we were receiving information
22 from the facilities, there were a number of
23 facilities who asked for extensions or who based on
24 their first submittal of information to us looked
25 like that had not provided an adequate bases for the

1 inspections of the reactor vessel heads given that we
2 now knew there were circumferential cracking as well
3 as axial cracking, so we were preparing a means by
4 which we could address a concern if it arose to a
5 level of safety and that mechanism that we had was in
6 order. You asked Jack the question, Jack answered
7 it appropriately of our enforcement sanctions. They
8 go all the way from letter writing, if you will, all
9 the way up to issuing an order to shut down the
10 plant, all the way to revoking a license, if
11 necessary, so we were preparing for the worst case
12 because it takes time to prepare the order, and it is
13 a legal document, and it has quid pro quo. If we
14 issue an order to a licensee, and they have to take
15 action; if it's immediately effective, they have to
16 take the issue, but they also have hearing rights,
17 which goes in front of a hearing board. We argue our
18 case. They argue their case. One of those prevails
19 based on the judicial system and then off we go.

20 MS. LUEKE: But, meanwhile, the
21 plant is still operating?

22 MR. COLLINS: Meanwhile, the
23 plant -- no. If it's immediately effective, in this
24 case, the plant would be shut down while that process
25 would be playing out.

1 MS. LUEKE: Okay.

2 MR. COLLINS: So the plant is in a
3 safe condition, but regulatory reputation, if you
4 will, could be at risk if we arbitrarily use that as
5 a tool without a substantial basis, so when we talk
6 about the formulation of that document, like any
7 legal documents, we talk about the requirements, what
8 would be argued in Court, what's the legal standing,
9 what's precedent, what you need for proof, okay,
10 because we are in a legal process. In this case,
11 Davis-Besse has a license from us, which we issue
12 based on a licensing process and that has quid pro
13 quo and hearing rights.

14 Now, in this case, the proof is
15 substantiating that there's a leak, not suspecting
16 that there is a leak, but substantiating that there's
17 a leak, and that was the issue that's being debated,
18 if you will, during the process of should we or
19 should we not, could we or could we not issue that
20 order.

21 MS. LUEKE: Okay, thank you.
22 Just one last question, it's the same one I started
23 with.

24 What can he we could as concerned citizens to
25 help you do your job better, should we write our

1 Congressmen, say, give everybody a raise or, you
2 know --

3 MR. GROBE: That sounds good.

4 (Laughter).

5 MR. GROBE: I think the most
6 important thing you can do is what you're already
7 doing, and that is being informed, share your
8 concerns with us, make sure that we understand your
9 perspectives. For those of you that have been to
10 these meetings before -- and I know Sam has said this
11 already, safety is our only focus. It's not the
12 finances of the company, it's not the schedule --
13 restart schedule. It's nothing of those things.
14 It's safety, and if a plant isn't safe, we will take
15 whatever actions are necessary to make sure it's put
16 in a safe condition. If that requires a shut down of
17 the plant, that's the action we'll take.

18 Lawyers are one of our tools to help us take
19 the right action to make sure that the plants are
20 safe.

21 MS. LUEKE: Thank you.

22 MR. COLLINS: I'm going to add a
23 little bit to that. I know FirstEnergy is here
24 tonight, but I would say that there is a forum for
25 discussion with the operator of this facility besides

1 the type that's forced the events of just you.

2 MS. LUEKE: I'm not aware of

3 that forum. What is that?

4 MR. COLLINS: I'm saying there

5 should be.

6 MS. LUEKE: Oh, okay, yeah.

7 MR. COLLINS: And so as a

8 citizen, and I've had the opportunity and am

9 fortunate to have jobs with the NRC, at the sites,

10 been a resident inspector, have been a senior

11 resident inspector, have lived and raised a family in

12 the area of these nuclear power plants, and it's

13 important that the citizens, the constituency, if you

14 will, are involved in a facility, and that there's a

15 continual dialogue and a continual understanding and

16 appreciation for the technology and the obligations

17 of the operator and the role of the NRC, not just

18 when there's a problem because building up that

19 confidence and understanding of the processees and

20 the creative tension, if you will, that the citizens

21 are concerned and they want to be involved and it's a

22 positive thing, keeps everybody engaged, and it

23 fights that complacency issue because it's not just

24 you who is questioning, it's not just you who is

25 looking, it's not just you who is challenging. Doing

1 all of that in a constructive way, I believe, is a
2 useful tool.

3 MS. LUEKE: Has a suggestion
4 been made to FirstEnergy by you?

5 MR. COLLINS: I'm sorry?

6 MS. LUEKE: Have you made the
7 suggestion to FirstEnergy?

8 MR. COLLINS: Have I personally?

9 MS. LUEKE: Yes.

10 MR. COLLINS: Yes.

11 MS. LUEKE: Okay.

12 MR. GROBE: I appreciate those
13 thoughts and it brought something to my mind that I
14 think is important to understand.

15 FirstEnergy has chartered -- Bob Saunders,
16 the President of FirstEnergy, has chartered a group
17 that he calls his restart oversight panel, and it's
18 primarily comprised of senior executives from across
19 the industry, but Bob invited Jere Witt, your County
20 Administrator, to sit on that panel, and Jere is an
21 active member of that panel. I have observed the
22 panel and Jere in action, and I also meet regularly
23 with Jere, and that's another opportunity for you to
24 get information and also provide feedback to Jere as
25 far as what's going on at the plant, and he's --

1 being County Administrator, he's obviously very well
2 connected to the community, and he gives me feedback
3 on a regular basis of what his sense of the
4 community's thinking and concerned about and he
5 provides that also to FirstEnergy through the restart
6 oversight panel, so that's another opportunity.

7 MS. LUEKE: And I just was glad
8 to see a lot of -- more things empowering the
9 employees, I think is really important because they
10 are people that we know and trust locally.

11 MR. GROBE: Good, thank you.

12 MS. LUEKE: We don't know the
13 higher ups, but we know that good people work there,
14 and that by those people having more power, I think
15 that we all lose power by that. Thank you.

16 MR. GROBE: Thank you very
17 much.

18 MR. COLLINS: Good questions.

19 MR. GROBE: Is there any other
20 questions or comments from any another individual?

21 (Indicating).

22 MR. GROBE: Certainly, sir.

23 MR. FOWLER: Good evening. John
24 Fowler is my name. I'm a local Oak Harbor resident.
25 I have basically four questions this evening.

1 Earlier it was mentioned in your literature
2 provided this evening, it describes a little bit,
3 these bottom nozzle tests that have been done,
4 apparently that Davis-Besse or FirstEnergy rather is
5 using a Framatome, a contractor, to do some analysis.

6 MR. GROBE: Uh huh.

7 MR. FOWLER: Now, so the
8 relationship is that Framatome is paid by FirstEnergy
9 to conduct these tests?

10 MR. GROBE: That's correct.

11 MR. FOWLER: Is that correct?

12 MR. GROBE: Uh huh.

13 MR. FOWLER: So they potentially
14 might have some interest in coming out with a
15 conclusion that would be favorable to FirstEnergy,
16 the possibility exists?

17 MR. GROBE: Sure.

18 MR. FOWLER: Okay. What I'm
19 wondering is the raw data that's collected being
20 provided to you, the NRC, so that your own experts
21 can look at the raw data and come to your own
22 conclusions and compare and contrast that with the
23 analysis produced by Framatome, the paid employee, if
24 you will, of FirstEnergy?

25 MR. GROBE: That's an excellent

1 question. The most consulting groups -- whether
2 they are engineering consulting groups like
3 Framatome, PNP, or any other group that provides a
4 service, if they don't provide an adequate technical
5 service, they're not going to be in business long, so
6 there is substantial motivation for Framatome to do a
7 good job, but, yes, Sam's staff has invited
8 Davis-Besse to the headquarters office, and I think
9 either Christine or Tony was mentioning that meeting,
10 it's currently scheduled for the 26th of November,
11 and whenever -- we try to have as many of our
12 meetings our here in the local community as possible,
13 there are times when it's just not cost effective, if
14 we have a situation like this one where there's a
15 variety of technical experts at headquarters that
16 need to be engaged in the dialogue, we'll invite the
17 licensee to headquarters to discuss the issue, but
18 what we do is we provide toll free access to that
19 meeting via a telecommunications network, and
20 depending on what we expect is going to be the
21 interest of the meeting, we'll get anywhere from 50
22 to several hundred phone lines, and you can both
23 listen in and participate in the public dialogue
24 following that meeting. The purpose of that meeting
25 is to discuss the bottom head penetration situation,

1 and I'll talk a little bit more about that in a
2 moment, but we've invited Davis-Besse in. We've
3 asked them to bring Framatome with them. The
4 purpose of that meeting is to understand exactly what
5 the data is --

6 MR. FOWLER: Okay.

7 MR. GROBE: -- what the analysis
8 is, what Framatome's recommendations were, and why
9 they felt those recommendations were appropriate and
10 what plan of action Davis-Besse is taking.

11 Let me step back for the folks that aren't as
12 knowledgeable as you and just try to explain a little
13 bit about what the bottom head issue is.

14 MR. FOWLER: Okay.

15 MR. GROBE: During the Containment
16 Health inspections, Davis-Besse identified some
17 corrosion products on the bottom head and they
18 couldn't tell whether those corrosions products were
19 coming from leaking penetrations in the bottom head
20 or if they had simply run down the side of the vessel
21 and collected on the bottom head, so they are still
22 trying to sort that through and figure out what's the
23 best thing to do to answer that question completely
24 to their satisfaction and ours, so that's a specific
25 issue. You had another question?

1 MR. FOWLER: Yes, along the same
2 lines as mentioned earlier that apparently there is a
3 technology that's used on some other reactors,
4 on-line leak detection.

5 Would on-line leak detection, if such a
6 system had been installed, would that have aided the
7 resident inspectors or the agency as a whole in
8 determining that there was a problem with the head?

9 MR. COLLINS: That's not clear. I
10 think there will be a projection. Let me tell you
11 why. The on-line leaking detection system would
12 sense that there is a potential for leakage inside
13 containment, you would then have to go find the
14 source of the leakage, and there were already
15 indicators, I believe, that there may be leakage in
16 containment.

17 MR. FOWLER: Okay.

18 MR. COLLINS: And those pieces of
19 information were not aggregated in a way that allowed
20 FirstEnergy or the NRC to understand better where the
21 leakage is and how to discover it.

22 MR. FOWLER: So mandating an
23 on-line leakage detection system would not
24 necessarily have benefitted this particular
25 circumstance because it was already known that there

1 was some leakage based on --

2 MR. COLLINS: It was suspected.

3 MR. FOWLER: -- visible signs --

4 MR. COLLINS: There were

5 indications that hadn't been read correctly that

6 there would be leakage, like clogged filters, those

7 types of things, the presence of boron in the head.

8 I would, Mr. Fowler, I would say that this detection

9 system in conjunction with the other actions that

10 have been taken, such as the requirement to complete

11 the inspection of the reactor vessel head, the

12 requirement to be able to remove the installation

13 that masked the cracking in this case, all off those

14 together would enhance the ability to prevent this

15 from happening again.

16 MR. FOWLER: But that by itself

17 would not be a silver bullet, so to speak, in the

18 future to what positively prevent this. They still

19 need -- we still need to have good inspectors on site

20 and the results of their inspections acted upon.

21 MR. COLLINS: My experience is,

22 it's always a combination of not more than one

23 thing --

24 MR. FOWLER: Good.

25 MR. COLLINS: -- that prevents an

1 event.

2 A response to your earlier question is, by
3 law, the NRC has access to any and all information
4 that a licensee has that we need to have access to --
5 to make a safety determination and that includes
6 proprietary information, and we have people on site,
7 two in this case, who have unfettered access and the
8 ability to conduct unannounced inspections every day
9 and all night if that's necessary.

10 MR. FOWLER: Yeah, we definitely
11 need the human element as well as the technical.

12 Another question, the last time I brought
13 this up -- and I didn't see anything in the
14 literature this time that addressed it. One of the
15 elements that you've identified in here is -- one of
16 your key elements is looking at all the safety issues
17 totally involving the plant before it's brought back
18 on line, but what is going on with the casks at is
19 this point? Have those been inspected and will they
20 before the plant is brought back on-line, the above
21 ground storage casks? Those don't relate to this
22 particular issue, but they do relate to the
23 community's confidence in the safety of the plant as
24 a whole that we identified last time, some variances
25 in the casks as promised and the casks as delivered,

1 are we inspecting the casks, when were they last
2 inspected, and are they safe?

3 MR. GROBE: It's -- there is a
4 long answer, but the short answer is yes. The
5 longer answer is that we have a variety of
6 inspections that we do, security, radiation
7 protection inspection around the casks. The casks
8 are not part of the restart checklist, and so there
9 is no additional inspection under the 0350
10 Davis-Besse Oversight Panel of the dry casks, beyond
11 our normal baseline inspection.

12 MR. FOWLER: Can you tell us when
13 those were last done and when they're scheduled
14 again?

15 MR. GROBE: I don't have that
16 information, but --

17 MR. COLLINS: If you leave your
18 name and number, we can get that information to you.

19 MR. FOWLER: Sure, sure. And,
20 lastly, what was reported in the paper and I asked
21 this question last time in terms of their, in
22 essence, their PRP or personal reliability program, a
23 lot of the decisions that were poorly made by
24 FirstEnergy staff were committee decisions, if you
25 will, groups formed, and it almost appears that they

1 came to a point that they spent most of their
2 committee time attempting to justify doing nothing
3 rather than resolving problems that they knew
4 existed. It was indicated that those people -- some
5 have left. I've never seen and I don't know if it
6 will ever be released, the names of the people on
7 those committees, but have they been removed from
8 positions to where they can make similar bad
9 decisions in the future perhaps at another plant
10 whether it's a Perry or a Calvert Cliffs? Since
11 there is no PRP to track these folks, where do they
12 go and how do we know they won't continue to make bad
13 decisions in the future that affect other people?

14 MR. GROBE: That's an excellent
15 question. There's an ongoing investigation into
16 exactly how the decisions were made and what
17 involvement individuals, specific individuals, may
18 have had. If we concluded that these individuals
19 behaved intentionally in violation of our
20 requirements, we get into what the first question you
21 asked about our normal or traditional enforcement
22 sanctions. Those sanctions include in the case of
23 willful deliberate violations, the potential for
24 orders and the agency has issued orders to
25 individuals prohibiting their involvement in nuclear

1 related activities for a period of time.

2 MR. FOWLER: So this
3 investigation is still ongoing at this point?

4 MR. GROBE: That's correct.

5 MR. FOWLER: Okay. The
6 proprietary information that you indicated earlier
7 that the resident inspectors have access to would
8 that include minutes of these meetings that were
9 conducted by FirstEnergy when decisions were made?

10 MR. GROBE: Yes, we have -- not
11 only can we review minutes of such meetings, but we
12 have access to attend such meetings.

13 MR. FOWLER: Okay. So that
14 should give you a pretty good basis for this
15 investigation then and the ultimate individuals that
16 were penalized?

17 MR. COLLINS: Also, Mr. Fowler,
18 as Jack alluded to, we have an office of
19 investigations, who are professional investigators.
20 They have subpoena rights. They have the ability to
21 conduct interviews, take records and make
22 determinations as you might imagine in these cases,
23 so they are professionals, if you will, in this area.

24 MR. FOWLER: Have you ever
25 actually assessed a penalty against an individual or

1 removed their ticket to operate, so to speak, have
2 they ever done that?

3 MR. COLLINS: Yes, it's more
4 common in the materials area, like radiographers, for
5 example --

6 MR. FOWLER: Okay.

7 MR. COLLINS: -- because they
8 have the direct impact on safety.

9 MR. FOWLER: Exactly.

10 MR. COLLINS: But there have been
11 individuals that have been removed for misconduct or
12 deliberate acts. An example of that would be an
13 individuals who may have falsified a document for
14 security clients as part of a screening process.

15 MR. FOWLER: So they are
16 tracked, and they are no longer able to participate
17 in the program, if you will?

18 MR. COLLINS: They are provided
19 a formal order from the NRC that prohibits their
20 activity, and they are tracked as long as they are
21 employed for the --

22 MR. FOWLER: Excellent.

23 MR. COLLINS: -- remainder of
24 that.

25 MR. FOWLER: Thank you, I

1 appreciate that.

2 MR. WHITCOMB: Good evening, Ms.
3 Lipa, gentlemen. I have a few prepared statements
4 and a question, and the question will be directed to
5 Tony, so pay attention. There will be a quiz.

6 Thank you for attending tonight, Mr. Collins.
7 It's good to see the highest levels of the NRC
8 involved.

9 MR. GROBE: Howard, do you
10 want to introduce yourself?

11 MR. WHITCOMB: Oh, I'm sorry.
12 I'm Howard Whitcomb, resident of the community since
13 1985. I hope that these public meetings are a
14 dynamic process and not a static one. In other
15 words, I hope that our comments are heartfelt and
16 taken back and something is done with them. It's
17 not evident to us here in the community that that, in
18 fact, is happening. I'm asking that as the director
19 of NRR, you see that something does happen.

20 Two comments, two areas of concern, if you
21 will. The first is the current assessment of the
22 quality assurance program.

23 Over the last several months, the NRC has
24 cited specific violations of the licensing
25 requirements regarding the use of both unqualified

1 personnel and inadequate procedures during the
2 current performance of work inside the containment
3 building. This is after March of this year.
4 During that same period, FirstEnergy has reported its
5 own difficulty in controlling the large number of
6 contract personnel currently working at the
7 Davis-Besse site. Specific polar crane maintenance
8 performed by vendor personnel resulted, at one point,
9 in a decision to temporarily suspend the use of the
10 polar crane. While the public has not been fully
11 apprised as to the reasons for that decision, the
12 allegations contained in a pending lawsuit
13 illustrates the current inability of the average
14 worker at Davis-Besse to raise problems to
15 management's attention even today.

16 FirstEnergy has also reported that its very
17 own 10 CFR 50 Appendix B quality assurance
18 organization, upon which the license to operate
19 Davis-Besse is predicated, has recently failed to
20 perform independent reviews of safety related
21 activities at the Davis-Besse facility. 10 CFR 50,
22 titled "Energy" is the governing federal law
23 regarding the nuclear industry. Appendix B to 10
24 CFR 50 specifically requires each licensee to
25 establish a quality assurance program that applies to

1 the design, fabrication, construction and testing of
2 the structures, systems and components of the
3 facility. Additionally, every licensee of a nuclear
4 operating plant must -- or is required to include
5 information pertaining to the managerial and
6 administrative controls to be used to assure safe
7 operation of the nuclear facility.

8 I'm not going to bore anyone here with the
9 reading of the code, but it is public information and
10 is law.

11 Appendix B contains 18 very specific criteria
12 to be included in any and all licensee quality
13 assurance programs. Based on the recent reports
14 received by both the NRC and Davis-Besse regarding
15 the quality assurance program, it appears that the
16 quality assurance program fails to satisfy all of the
17 required criteria. Specifically, the following eight
18 criteria either do not exist or have significant
19 deficiencies.

20 Criterion V is with respect to programs that
21 govern instructions, procedures and drawings.

22 Criterion VI requires procedures for document
23 control.

24 Criterion IX is the control of special
25 processees.

1 Criterion X are the criteria for inspection
2 at the plant.

3 Criterion XI is test control.

4 Criterion XVI is corrective action program.

5 We've already heard that there are serious
6 deficiencies with that program.

7 Criterion XVII is the quality assurance
8 records and the maintenance of those records.

9 And, finally, Criterion XVIII governs how
10 audits are to be performed.

11 Based on the recent findings of the NRC as
12 well as the reports from FirstEnergy, it is clear
13 that the quality assurance program at Davis-Beese
14 does not currently exist at a level whereby safe
15 operation of a nuclear plant can be assured, and,
16 therefore, the basis for operating license can
17 continue to be issued. FirstEnergy's recent actions
18 demonstrate that the company is not yet prepared to
19 implement a quality assurance program which places
20 reactor safety as its number one priority.

21 My question, Mr. Mendiola, is, what
22 inspection activities, to date, have been performed
23 by the NRC to address the apparent lack of and/or
24 complete breakdown of a satisfactory quality
25 assurance program at the Davis-Besse facility?

1 MR. GROBE: Howard, Tony is
2 responsible for licensing activities, so why don't
3 you let me take that question because I'm on the
4 inspection side of the house. Tony, do you want
5 to --

6 MR. MENDIOLA: That's fine.

7 MR. GROBE: Okay. The --
8 pardon me? Christine, you want to --

9 MS. LIPA: No, go ahead.

10 MR. GROBE: Nobody wants to
11 answer your question except me. The quality
12 assurance criterias, as you're well aware, is a very
13 important part of our regulatory process, and, in a
14 nutshell, what they expect is that things are done in
15 a disciplined methodical way, and when that doesn't
16 happen, if the licensee identifies the attribution
17 into their corrective action program, which is
18 required under the quality assurance requirements, if
19 we identify it, we issue a violation. Violations
20 are not uncommon. I think we'd all like to be
21 perfect, but we all make mistakes and very rarely are
22 those violations significant. We inspect day in and
23 day out against those criteria as well as the large
24 number of other requirements both include Federal
25 regulations and in specific licensing for facility,

1 and when we identify violations, we take appropriate
2 action. We have not concluded to date that the
3 entire quality assurance program is flawed. We
4 clearly concluded and so did the company that the
5 corrective action program, which is Criterion XVI, as
6 you mentioned, was -- there were serious performance
7 deficiencies in the corrective action program at the
8 Davis-Besse. That's been significantly improved
9 based on our recent inspections, but we still find
10 occasional violations, and when we find those,
11 they're cited, so it's -- our inspection -- the basis
12 for our conclusion that the quality assurance program
13 is adequate, is contained in our inspections. The
14 plant is not operating today, and it won't operate
15 until the panel is convinced that it can be operated
16 safely, and Sam and Jim accept the panel's
17 recommendation if it gets to that point, so I think
18 the plant is safe today, and it won't operate until
19 NRC concludes that it can be operated safely.

20 MR. COLLINS: Yeah, I'm going to
21 agree with everything Jack said, however, I'm going
22 to provide a mechanism for you, perhaps, Mr.
23 Whitcomb, that is, you apparently have some
24 information in your views document, and if you want
25 to write either to myself or to Tony or to Jack with

1 the bases for your concerns, we'll evaluate them or
2 respond to your issues in writing. I think Jack's
3 correct in that we have not come to a conclusion, and
4 I copied down you're words, that there were serious
5 problems, there are examples of issues, we would
6 agree with that, but we perhaps have not aggregated
7 them in the way that you have.

8 Now, in response to the first lady who came
9 up, I don't want to automatically dismiss that
10 because I'm not going to stand here and tell you that
11 we know everything. So if you have a review, if you
12 have information that you want us to consider, please
13 submit it to us. We'll evaluate it and respond to
14 you in writing.

15 MR. WHITCOMB: I don't think that
16 my point is that I have specific information that
17 needs to be evaluated. This is information that has
18 been shared at all the meetings in the last several
19 months.

20 MR. COLLINS: Okay.

21 MR. WHITCOMB: And I guess what
22 I'm saying is, as a member of the public and in the
23 spirit of your initial opening comments about gaining
24 trust of the public, my concerns are, is that all of
25 these issues that have been raised over the last

1 several months suggest serious problems.

2 The question is very simply, what activities,
3 what specific inspections have the NRC done
4 addressing the quality assurance program and whether
5 or not it is in acceptable shape since March of this
6 year?

7 MR. COLLINS: Okay. If we don't
8 have that answer tonight, we can respond to you.

9 MR. GROBE: If you take a look
10 at our checklist, some of the items in the checklist
11 go directly to your question, and we have done a
12 variety of inspections that include quality assurance
13 program attributes and we've made citations, which
14 you've read from, and you've referenced in some of
15 your comments, so we've done a variety of inspections
16 into the adequacy of the licensee's implementation of
17 activities at the plant which are controlled under
18 their quality assurance program, so I'd be glad to
19 get into this in more detail privately or as Sam
20 suggested, if you want to -- if you've rolled up the
21 issues that you have read in our correspondence
22 differently than we have, we would be glad to
23 consider that, but at this point, we haven't come to
24 the same conclusion you have.

25 MR. WHITCOMB: I guess my question

1 is, the NRC has evaluated the quality assurance
2 program since March, and they have come to that
3 conclusion or they have not even evaluated it?

4 MR. GROBE: The quality assurance
5 program is part of every one of our inspections.
6 For example, Marty and a team of eight other people,
7 spent about eight weeks looking at design control,
8 that's Criterion III. You know, day in and day out
9 Doug and Scott are in the plant looking at various
10 activities. It might be something covered by a
11 license requirement. It might be something covered
12 by 10 CFR, it might be something covered specifically
13 by the quality assurance requirements, but that's an
14 integral part of all of our inspections.

15 MR. WHITCOMB: Okay. You mentioned
16 design criteria, Criterion III, that was not one that
17 I listed, but, for instance, test control, have you
18 had somebody look at test control since March?

19 MR. GROBE: Part of the inspection
20 that Marty did, we call it our safety system design
21 and performance inspection, we look not only at
22 design, but we also look at maintenance and operating
23 procedures and test procedures and that would cover
24 Criterion X, Criterion XI. All of our inspections
25 look at Criterion XVI, so that's -- it's an integral

1 part of the fabric of our inspections.

2 MR. WHITCOMB: Okay.

3 MS. LIPA: The -- one of the
4 items on the checklist is quality audits and
5 self-assessment programs.

6 MR. WHITCOMB: 3.C, I think, or 2.C.

7 MS. LIPA: 3.C and I don't know
8 the exact status of this part of our inspection, but
9 it's one of items that the inspector has on the list
10 where the licensee is doing a review of this program.
11 The inspectors plan to review the licensee's review
12 when they're done and also review what the licensee
13 plans to do about it, so that is one of the items
14 that we have in addition to what Jack said how it's
15 really a part of all the inspections.

16 MR. WHITCOMB: So that's a future
17 activity, though? That hasn't actually occurred yet?

18 MS. LIPA: Well, the program
19 inspection has started. A couple of the
20 inspections -- a couple of the programs have already
21 been reviewed by the Utility, so the plan is for the
22 inspector to wait until they are done with their
23 review and take a look at the program and see what
24 they found and what they plan to do about it, so the
25 program inspection has started, but not the detailed

1 look at this as far as I know.

2 MR. WHITCOMB: Okay. The second
3 question or the second comment I'd like to make
4 briefly here is in regards to what I would call the
5 separation of interest between the Nuclear Regulatory
6 Commission and the licensee and it's impact upon the
7 public confidence.

8 This afternoon I asked a question regarding
9 whether Mr. Jack Martin, a member of the Davis-Besse
10 Company Nuclear Review Board and Restart Overview
11 Panel was, in fact, the very person as John Martin,
12 the former Region III, regional administrator. The
13 answer was yes.

14 In a Toledo Blade article on December 18th,
15 1993, it was reported that the Davis-Besse nuclear
16 plant was found to be in violation of at least two
17 licensing requirements. Mr. John Martin, the
18 administrator of the U.S. Nuclear Regulatory
19 Commission's regional office in Lisle, Illinois said
20 he was disturbed by Toledo Edison Company's
21 performance there.

22 Quote, reasonable people should be running
23 these things, unquote, Mr. Martin said referring to
24 the nuclear plants in general. Quote, my
25 expectation for you guys, meaning Edison, is to be an

1 industry leader. You're struggling to be above
2 average, unquote, he said. Again, that was December
3 18th, 1993.

4 The inclusion of Jack Martin on FirstEnergy's
5 Restart Overview Panel violates the public's trust.
6 In light of the problematic history of the safety
7 issues at Davis-Beese facility, and Mr. Martin's
8 specific knowledge of those problems, it is
9 inconceivable how he can now sit independently on a
10 panel charged with making recommendations relative to
11 the restart of the Davis-Besse nuclear plant. Last
12 month, I raised a similar issue regarding Mr. Lou
13 Storz's participation on this same panel. The value
14 of Mr. Martin's input regarding restart issues is
15 equally questionable. The NRC cannot hope to regain
16 the public's confidence that it exists as an
17 independent agency when a former senior level manager
18 is now working for the very same facility he once
19 criticized as the regional administrator with
20 oversight responsibilities of the Davis-Besse
21 facility.

22 The superficial findings of the NRC's Lessons
23 Learned Task Force last month also indicate that the
24 NRC will not or cannot conduct a self-critical and
25 honest evaluation of itself. These actions,

1 collectively, demonstrate that the NRC intends to
2 confer upon FirstEnergy management disparate and
3 preferential treatment in comparison to the rest of
4 the industry.

5 I have previously noted that it is time for
6 change and that it is time to disband the 0350 Panel
7 and insert an independent review team as envisioned
8 and demanded by the 2-206 petition. As a resident of
9 this community, I hold the public health, safety and
10 welfare above all else. On October 24th, I asked
11 Congressman Dennis Kucinich for a congressional
12 investigation to evaluate the continued and sustained
13 ability of the NRC to fulfill and execute its
14 responsibilities in an independent and unbiased
15 manner, and without alternative motive other than
16 ensuring the public health, safety and welfare. I
17 again renew that request as it the clearly time for
18 change. Thank you.

19 MR. GROBE: Let me just make
20 a comment about the Restart Oversight Panel, so
21 everybody's understands what that's all about. The
22 Restart Oversight Panel is not a requirement by the
23 NRC. It's an initiative that the company took to
24 bring together a very broad spectrum of very
25 experienced people to give them advice to tell them

1 what they think is going right and what's going
2 wrong. It includes senior executives from a number
3 of utilities. It includes individuals from the
4 Institute of Nuclear Power Operations. It includes
5 former regulators, so it's a broad spectrum
6 organization that the company invited in to give them
7 advice to critique what they're doing, and it doesn't
8 have any regulatory standing. It's not a
9 requirement on our part. I've personally observed
10 about half their meetings as have a number of other
11 staff here observed meetings, and that panel is
12 giving very critical review of the activities of
13 FirstEnergy, so it's -- from my perspective, it's
14 adding value. Sam?

15 MR. COLLINS: I respect your
16 points, Mr. Whitcomb, because public confidence to us
17 is important and that public confidence in many cases
18 is perception. The strong credible regulator plays a
19 part in regulation as much as technical decisions do.
20 I think you'd understand this with your legal
21 background, that there is a statutory prohibition
22 from a member of senior executive service as any
23 regional administrator is and was from interfacing
24 directly with the industry for I think the period is
25 a year, I may have that wrong, but it's about a year.

1 There is also a lifetime band on participating in
2 those areas where there was a direct decision making
3 process involved where the executive was involved in
4 that regulatory decision, if you will. We have to
5 fill out forms every year, and it indicates that that
6 took place and when an individual retires, they are
7 briefed on those types of things, and they are held
8 up to those types of obligation, so that is a place
9 to start, if you will, to understand the basis of
10 your concern.

11 I think we would both agree and there might
12 even be a parallel aspect in the judicial system if I
13 were smart enough to go that way, but we want
14 knowledgeable people not only running these plants,
15 but we want knowledgeable people to commend to advice
16 on issues and to be involved in the industry
17 generally, whether it's the future of the
18 operating -- or the decommissioning. Those
19 knowledgeable individuals are usually a product of
20 experience. I agree with your point that we need to
21 in all cases avoid the perception of compromise and
22 not being objective, particularly as a regulator, so
23 I'll take that point.

24 The Lessons Learned Task Force, I don't share
25 your opinion is superficial. I have been reviewing

1 their report for three weeks for about two to three
2 hours a day on the senior team deciding what to do
3 with those findings and they are pretty substantial,
4 in my view, either that, or we are not very efficient
5 in reviewing them, which could be partly the case.

6 MR. WHITCOMB: Either that or your
7 level of excellence is different than mine.

8 MR. COLLINS: Well, that could be
9 true, and I'll take that.

10 The independence issue, I'm the individual
11 who signed out the response to the 2-206 as you well
12 know asking for the independent panel. I would like
13 to review for you what's going on, of course, and at
14 your behest and others, Representative Kucinich, of
15 Ohio did call for the field hearing, so we did go to
16 the field hearing. That's a manner of oversight.
17 We have an office of investigations which is
18 completely independent, of course, to the chairman of
19 the agency. They're conducting a number of
20 investigations of the conduct of the staff. Me, I'll
21 tell you, in the decision making process, they're
22 going to go come to an independent decision of did
23 the staff follow the rules? Do we have procedures?
24 Do we have process? Do we have accurate information?
25 Those reports will be issued, and, if necessary,

1 actions will be taken, and that's how we police
2 ourselves with an independent party.

3 We have at the behest again of Representative
4 Kucinich, he's asked for the general accounting
5 office, the way the auditing and oversight are of the
6 Congress to do an independent review of the agency's
7 actions in regard to Davis-Beese. That's scheduled.
8 We have an exit meeting before the end of the year
9 that will be conducted. I've lost count, but that's
10 the third or fourth independent review, and then
11 there's the prospect of a hearing in front of
12 Congress which is now being scheduled, and we will go
13 down in front of the elected officials and explain
14 our processees, explain the lessons learned report
15 and be subjected to that scrutiny, so all things
16 considered, again, we can differ on opinion, but
17 that's the processees that we're using to say that
18 there are independent reviews being conducted on our
19 actions.

20 Meanwhile, we're the best ones to police our
21 actions given that we have independent people who
22 weren't involved in our processees, because they
23 understand the inspection program, and they know what
24 it's supposed to accomplish. They know our rules
25 and regulations and procedures and that can be best

1 done and that's what the Lessons Learned Task Force
2 has done, so, in total, lessons learned being part of
3 it, but the other four or five independent oversight
4 activities being the rest of it, I think we have met
5 the spirit, at least, of independence and scrutiny.

6 MR. WHITCOMB: I would just in
7 response, and I understand what you're saying, and I
8 don't disagree necessarily in philosophy, but
9 understand this, based on the series of events that
10 have occurred and the lack of forthrightness that
11 appears to have occurred over the last year in terms
12 of information to the public -- and that's not
13 necessarily the NRC's issue, but just generally, the
14 public is in somewhat a confused state, and they
15 don't have all the information, and they're making a
16 lot of comments and concerns noted to the NRC and to
17 FirstEnergy that, you know, they're concerned about
18 it. They don't want the plant to start up and
19 perhaps not for the right reasons.

20 Now, the -- because of all this
21 misinformation, this misleading information, it is
22 very difficult for me to accept any of you panel
23 members to stand up and say, well, if former
24 Commissioner Martin made a recommendation to restart
25 Davis-Besse, far be it for me to stand up, put my

1 head on the chopping block and say, no, no, no, I
2 don't agree. The public's perception of the NRC is
3 it should be distinct, free from any connections, any
4 relationships, either present or past, in order to be
5 truly independent.

6 MR. COLLINS: Uh huh.

7 MR. WHITCOMB: And that's where the
8 problem is right now is that the public doesn't that
9 confidence that you are truly functioning as an
10 independent organization.

11 MR. COLLINS: Yeah, and I'll accept
12 that. You did promote Jack Martin, though, to a
13 Commissioner as regional administrator.

14 MR. WHITCOMB: I'm sorry.

15 MR. COLLINS: I'm sure he would
16 appreciate that. The other is that we do not accept
17 nor is an individual like Mr. Martin a prior NRC
18 employee coming to the NRC and advising us on the
19 restart of Davis-Besse. That would be a prohibited
20 activity which I mentioned to you before.

21 MR. WHITCOMB: I understand that.

22 MR. COLLINS: They can advise the
23 licensee, but they can't advise us.

24 MR. WHITCOMB: I understand that.

25 MR. COLLINS: Okay.

1 MR. WHITCOMB: Thanks.

2 MR. GROBE: Other questions?

3 This has been a productive evening for me. I
4 appreciate all the questions.

5 I have to say this is the first evening we
6 haven't had to replace that pen. They seem to
7 disappear every time we put one on the podium.

8 MS. CABRAL: Everything else in
9 Port Clinton has disappeared, but not your pen.

10 MR. GROBE: Thank you.

11 MS. CABRAL: My concern is really
12 complacency and how to avoid complacency in the
13 public and with you people. In Port Clinton when
14 the sirens go off, we have three options; either the
15 first of the month when they're testing it, there's a
16 tornado, or there is something going on with the
17 power plant, so we always go through these things,
18 and think, nope, it's the first of the month.
19 Sunday, it was like, the weather is bad, maybe it's a
20 tornado. My complacency went out the window when
21 the tornado hit the property, the garage flew, the
22 house flew. You're picking yourself up off the
23 floor and you're thinking where are the neighbors,
24 where is the house, where is the dog? We've got a
25 mess downtown. Anybody is who is complacent go down

1 and look, and how are people going to get over being
2 complacent about the nuke, you know, I mean, it's the
3 third one on the list is the power plant. Well, if a
4 tornado can hit and all of this is going on with
5 problems there. I don't know if we need to have
6 more public awareness, you know, Congress to get more
7 money, you know. They've got all these ads. All
8 these ads of smoking on TV, people are paranoid about
9 that. How do you really make people aware and
10 concerned so they keep after all of you, how do we
11 have all of you get out -- and you don't think a
12 disaster is real until it's looking you in the face,
13 you know, and I don't want you all to get hit by a
14 tornado so you can say, yeah, I know these things
15 really do happen. What is the down side, you know,
16 if you hadn't caught this problem when you did and
17 stopped it, what would have happened? Can you make
18 commercials out of this and show people, you know?
19 Where do we go and who do we get to, you know, get
20 the money into making people aware?

21 MR. GROBE: You've raised some
22 really excellent points, and let me -- I'm going to
23 try to touch on a couple of them, and Sam will fill
24 in the blanks that I don't hit on.

25 I personally gave a presentation at the last

1 meeting that we had on the nuclear society on
2 Davis-Besse and the specific issues that contributed
3 to what happened here and --

4 THEREUPON, a baby began crying.

5 MR. GROBE: Another unhappy
6 citizen.

7 (Laughter).

8 MR. GROBE: But that's one
9 mechanism that we have to share experiences and
10 ensure that these kinds of issues don't happen. I
11 know that there's been a number of industry meetings
12 that we don't attend that are for the utilities.

13 Just recently, a chief executive officer
14 meeting through the Institute of Power Operation
15 where Peter Berg, Chief Executive officer for
16 FirstEnergy attended and gave a presentation,
17 received comment. I know that Lew Myers has
18 attended several industry meetings and his message is
19 exactly your message; don't think it can't happen to
20 you because it can if you become complacent, and you
21 have to fight against that all the time, every day,
22 day in and day out. It's what we call safety
23 culture. It's how people think. It's how they
24 perform every activity that they perform. It's how
25 they respond to any information that comes before

1 them. It's the independent checks and balances that
2 go on. Your concern is very valid. Many of those
3 checks and balances do not work well at Davis-Besse,
4 and we have to learn from it. We have to make sure
5 that we don't become complacent. We have to make
6 sure the utilities don't become complacent, and
7 that's the whole purpose to the Lessons Learned Task
8 Force, to find out within the NRC what happened, why
9 it happened and the group that Sam sits on to
10 determine what we need to do to make sure this
11 doesn't happen again, so I think we're -- meaning the
12 NRC and the Utility, is trying to make sure that we
13 learn, that we share our information with other
14 regulatory agencies. We've had a lot of interest
15 from nuclear regulatory organizations across various
16 countries and around the world. I know FirstEnergy
17 has had a lot of interest from other utilities, and
18 we also have a number of formal mechanisms that we
19 use to communicate things. We've already issued
20 three bulletins on this subject, and those are
21 documents that require licensees to take some action
22 and respond to questions, whatever it is. We've also
23 issued a number of information lists to make these
24 happen very shortly after the incident was identified
25 to share immediately with all the utilities what we

1 knew happened at Davis-Besse. One of the specific
2 information notices was a concern -- concerned the
3 precursor information that we have, boric acid
4 contamination on containment of air coolers, the
5 corrosions accumulation on radiation filters and
6 making sure that that receives an appropriate level
7 of attention because it could be one of two things.
8 It could be something rather insignificant, like some
9 corrosion inside some tubing that radiation detect
10 for or it could be corrosion in the atmosphere inside
11 the containment building which is coming from
12 somewhere else, so always don't look for the easy
13 answer. Make sure you get the right answer.

14 Sam, did you have any other comments you
15 wanted to make?

16 MR. COLLINS: I'm sorry, ma'am. I
17 didn't catch your name.

18 MS. CABRAL: Barb Cabral.

19 MR. COLLINS: You asked an excellent
20 question, and that is how do you take this
21 information and move it to a place where you're
22 better because of it, and you can prevent these types
23 of things from happening to the extent that you can
24 control those things. The Lessons Learned Task
25 Force is coming here to make a presentation for the

1 public and the stakeholders. They're also going to
2 each of the regional offices, and we have four of
3 those throughout the nation, and those regional
4 offices are where our inspectors are housed. Those
5 are the individuals that come to the plants and do
6 the inspection and who the resident inspectors report
7 to and that's where they're housed.

8 We're also taking this and moving the lessons
9 learned into a specific action plan and that's the
10 part of the group that I'm a member of, and that will
11 be published and we'll track those and move those
12 into our processees and hopefully become a better
13 performing organization, but that's this issue.

14 We also have to be cautious of the fact that
15 this is a very demanding technology. It's a very
16 unforgiving technology, and that warrants the best
17 and the brightest, and it warrants the questioning
18 attitude and you have to fight complacency all the
19 time. We rotate our senior residents every seven
20 years maximum. Mr. Whitcomb mentioned objectivity,
21 that's part of the reason. The other is to keep them
22 fresh and to keep them challenged, so you have to
23 build these mechanisms into your processees to fight
24 them all the time and that's a very real issue. We
25 agree with you.

1 MS. CABRAL: Well, we do love our
2 electricity, and we hope we have some again someday,
3 and we do appreciate the energy company. We kind of
4 think of them as the knight and shining armour coming
5 down the streets with their 50 trucks to put us back
6 together, so it's -- keep us safe. Thank you.

7 MR. GROBE: Thank you very much.
8 Other questions? I saw a lot of hands go up
9 as first-timers to these meetings, but I haven't seen
10 a whole lot of you coming forward with questions.
11 You must have some questions. Give us some feedback
12 here.

13 MR. COLLINS: I have an answer to
14 Mr. Whitcomb. He challenged me to take actions on
15 the meeting, and I have three; one this morning from
16 Mr. Douglas he asked about a videotape of the head,
17 and I give him -- I think FirstEnergy committed to
18 show that to him.

19 Mr. Fowler talked about casks and when were
20 they last inspected. I think we're going to get that
21 information to him, and the third was Mr. Whitcomb
22 saying take actions away from the meeting, and I'm
23 crossing that one off.

24 (Laughter).

25 MR. GROBE: Who else has a

1 question?

2 Okay. Well, the -- if you're not the kind
3 of person that likes to come up to a microphone, we
4 always stick around after the meeting. We'd be glad
5 to answer any questions personally one-on-one, any of
6 the NRC staff, so please feel free to come up and ask
7 any questions you might not have been interested in
8 bringing up at a microphone in front of everybody, so
9 thank you very much for coming, and our next meeting
10 of this nature is December 10th, that will be an
11 afternoon meeting at the armory -- not the armory,
12 but at the clubhouse at Camp Perry. I'm not sure I
13 like that, but we'll be at Camp Perry on the 10th in
14 the afternoon with the Utility, and then in the
15 evening for public information.

16 There was some question about access to the
17 facility, you just need a driver's license. Shortly
18 after 9-11 there was very restricted access. You
19 just need to show a driver's license at the gate, and
20 they'll let you right in, so please come to our next
21 meeting.

22 Just in summary, if you're interested in the
23 bottom head issue, there will be phone lines
24 available for you to plug into that meeting. That
25 will be in Washington on the 26th, and the Lessons

1 Learned Task Force is next week on the 10 -- excuse
2 me, the 20th here at the high school. Thank you
3 again for coming.

4 A reminder, our feedback forms, we are eager
5 to get your insights on how we can better run these
6 meetings or any other thoughts you might have, so
7 take the opportunity to fill out a feedback form and
8 drop it in the mail. We'd appreciate that. Thank
9 you very much.

10 THEREUPON, the meeting was adjourned.

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CERTIFICATE

STATE OF OHIO)
) ss.
COUNTY OF HURON)

I, Marlene S. Rogers-Lewis, Stenotype Reporter and Notary Public, within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the foregoing, consisting of 90 pages, was taken by me in stenotype and was reduced to writing by me by means of Computer-Aided Transcription; that the foregoing is a true and complete transcript of the proceedings held in that room on the 13th day of November, 2002 before the Nuclear Regulatory Commission.

I also further certify that I was present in the room during all of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Wakeman, Ohio this day of , 2002.

Marlene S. Rogers-Lewis
Notary Public
3922 Court Road
Wakeman, OH 44889

My commission expires 4/29/04