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February 17, 2006

VIA FACSIMILE (301) 415-3431 and REGULAR MAIL

Michael Johnson, Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: *In the Matter of Andrew Siemaszko*, IA-05-021

Dear Mr. Johnson;

On behalf of Andrew Siemaszko, we request that the NRC correct and modify the language in the *Order Prohibiting Involvement In NRC-Licensed Activities*, issued April 21, 2005.

The basis of this request is that the Order, as written, does not accurately portray the action proposed against Mr. Siemaszko. This has been discussed, at length, before the Atomic Safety and Licensing Board (ASLB) constituted to hear Mr. Siemaszko's appeal of the enforcement action. I have attached for your review several pages of the hearing transcript in which the NRC Staff conceded that the language was not accurate, and that it would change the language. At yesterday's hearing the NRC Staff counsel advised the Board that, notwithstanding its agreement to correct the original Order, it now required I request the modification in writing from your office. I am now requesting that you modify the Order to make it perfectly clear that this is not an immediately effective order and that Mr. Siemaszko has no obligation to advise either an employer or the Commission that he has obtained employment with a Licensee until and unless this civil enforcement action is upheld in the Staff's favor.

Specifically, I request that the Agency modify the Order as follows:

Section III, pg. 8, pp. 2:

Currently reads:	“...from the effective date of this Order “
Recommended change:	...from the effective date of this order, or should Mr. Siemaszko seek a hearing, for such period of time as determined by the Commission.

Section IV, pg 8, pp. 2

Currently reads:	“...for a period of five years following the prohibition period.”
Recommended change:	...from the effective date of this order, or should Mr. Siemaszko seek a hearing, for such period of time as determined by the Commission.

Section IV, pg 8-9

Currently reads:	“Mr. Siemaszko is prohibited for five years from the effective date of this Order.”
Recommended change:	Mr. Siemaszko is prohibited for five years from the effective date of this Order, or should Mr. Siemaszko seek a hearing, for such period of time as determined by the Commission.

Section IV, pg 9, Para 2

Currently reads:	“If Mr. Siemaszko is currently involved with another licensee in NRC-related activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.”
Recommended change:	If Mr. Siemaszko is currently involved with another licensee in NRC-related activities, and he does not appeal this Order, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. If he appeals this Order, this requirement will not apply unless

and until the Commission makes a final
determination of the Enforcement Action.”

I am sure that there may be other methods of clarifying that the “effective date” of this Order does not occur until after a final decision of the Agency. However, I request that the Agency make a clarification as soon as possible and post the notification in the public record.

Thank you very much for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Billie P. Garde".

Billie Pirner Garde

Attachment a/s
Fax w/o attachment

Cc: Sara Brock w/o attachment
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop: O 15-D21
Washington, DC 20555

Attachment – December 15, 2005 Transcript – pg. 97-116; 146-147

1 ADMIN. JUDGE McDADE: That's fine. And I
2 would just simply ask then if you do it, if you just
3 email it so that we and the NRC Staff would have an
4 opportunity to review it and for us to take it into
5 consideration prior to issuing an order in this
6 matter.

7 And again, it may be after you look at it
8 you won't feel that anything further is needed and if
9 you could just simply notify the NRC Staff and the
10 Board to that effect.

11 MR. CLIFFORD: Fine, thank you.

12 ADMIN. JUDGE McDADE: Okay, I guess that
13 gets us into the substance of what we're here for
14 which is the Motion for Stay and at this particular
15 point in time I would have some questions for the NRC
16 Staff.

17 Specifically, as I read the case law, we
18 are called upon to do a balancing. The balancing is
19 the issue, Mr. Siemaszko's right to a speedy
20 resolution of the charges against him, against in this
21 instance, the Government's ability to go forward with
22 an investigation and if the investigation warranted
23 it, a criminal prosecution.

24 The first question I have has to do with
25 the impact that this proceeding has on Mr. Siemaszko

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1 at this point in time. In all of the pleadings that
2 the NRC Staff has issued to the Board, they have made
3 the statement that he, Mr. Siemaszko, has not suffered
4 any deprivation of rights at this point because it is
5 not an immediately effective order and that therefore,
6 there is very little, if anything, sitting on his side
7 of the balance as opposed to what the Government's
8 position is where they argue that the ongoing
9 investigation significantly -- is a matter that
10 requires a delay.

11 In the order, it indicated, although on
12 the face of it it says this order is not immediately
13 effective, it nevertheless does say that in paragraph
14 4 if Mr. Siemaszko is working in the nuclear industry,
15 he must immediately cease and he must then notify both
16 his employer and the NRC Staff. In light of that, and
17 also in light of the fact that there was publicity,
18 specifically a press release issued by the NRC Staff
19 at the time that the suspension order was issued, what
20 I'd like the Government to discuss is specifically
21 one, given that language and the order, is this an
22 immediately effective order?

23 Would Mr. Siemaszko be able to work in the
24 nuclear industry now if he could find employment in
25 the industry? And even if it is not an immediately

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1 effective order, isn't his inability to find
2 employment in the nuclear industry because of the
3 pendency of this proceeding, a matter that should be
4 weighed in favor of moving forward?

5 Ms. Brock?

6 MS. BROCK: To address your questions in
7 order, I do not believe paragraph 2 of the order can
8 be read to mean that he must immediately cease those
9 activities, although I understand how one might read
10 it that way.

11 ADMIN. JUDGE McDADE: But it says in hoc
12 verba he must immediately cease those activities.

13 MS. BROCK: Right, but the paragraph right
14 before says he's prohibited for five years from the
15 effective date of this order. And throughout it, it
16 refers to the effective date of the order as a sort of
17 drafting thing, we probably should have written if Mr.
18 Siemaszko is currently involved with another licensee
19 or other NRC-licensed activities on the effective date
20 of this order he must immediately cease these
21 activities.

22 But the order is not immediately
23 effective.

24 ADMIN. JUDGE LAM: Do you mean, Mr. Brock,
25 we should interpret what you are reading as to when

1 and if the order becomes effective?

2 MS. BROCK: He must immediately cease
3 those activities, yes.

4 ADMIN. JUDGE LAM: Okay.

5 ADMIN. JUDGE McDADE: So it's your
6 position that even though the order says he must
7 immediately cease those activities and notify. If, in
8 fact, he didn't cease those activities and he didn't
9 notify that he would not be in violation of the order?

10 MS. BROCK: Definitely not, because the
11 date -- the order --

12 ADMIN. JUDGE McDADE: It's not definitely.
13 I mean the express language of the order says that
14 that would be a violation. So what we're looking for
15 is your interpretation of it.

16 MS. BROCK: Well, the paragraph before
17 says Mr. Siemaszko is prohibited for five years from
18 the effective date of this order. And the --

19 ADMIN. JUDGE McDADE: But the preface of
20 that language is and I quote, "if Mr. Siemaszko is
21 currently involved." There's nothing prospective
22 about that. It says "if Mr. Siemaszko is currently
23 involved." And then it goes on to say "he must
24 immediately cease those activities."

25 MS. GARDE: Judge, where are you reading

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1 from specifically?

2 ADMIN. JUDGE McDADE: It's paragraph 4.2.

3 MS. GARDE: Okay.

4 MS. BROCK: The paragraph right before it
5 states "Mr. Siemaszko is prohibited for five years
6 from the effective date of this order" and I believe
7 the cover letter to it states "the enclosed order
8 prohibits your involvement in all NRC-licensed
9 activities for a period of five years commencing 90
10 days from the effective date of this order."

11 And so I'm looking for more explanations
12 about -- and to the extent there's any question about
13 that, I would note the order itself has a provision
14 for the Director of the Office of Enforcement to relax
15 or rescind any of the above conditions upon
16 demonstration by Mr. Siemaszko for good cause.

17 And in explaining how you can ask for a
18 hearing, it offers 90 days. I guess the difference,
19 the significant difference between an immediately
20 effective order and a non-immediately effective order
21 is when we issue an immediately effective order it's
22 effective and he gets a later hearing, even without a
23 stay issue, whereas in the instant case, he's having
24 the right to an administrative review by this Board
25 prior to the effectiveness of this hearing.

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1 And so if he was to gain employment in the
2 nuclear industry today, on the basis of this order,
3 the Commission would not be able to say that he was
4 violating the order.

5 ADMIN. JUDGE McDADE: That's the position
6 of the Staff.

7 MS. BROCK: That's the position of the
8 Enforcement Staff, yes.

9 ADMIN. JUDGE McDADE: Now with regard to
10 the other aspect of the issue, the fact that he has
11 this matter pending, he has this cloud hanging over
12 his head, doesn't it effectively, even if not de iure,
13 de facto, inhibit his ability to be employed in the
14 industry and therefore have an impact on him
15 financially?

16 MS. BROCK: Well, I think for that we have
17 to look at the fact that he wasn't -- look at multiple
18 things. One, he wasn't employed prior to us issuing
19 the order. Had, in fact, been terminated, has had a
20 fair amount of publicity regarding that of his own
21 initiation. And then I would also point to and I
22 believe I put this case -- I'll take a moment to find
23 it, in one of our earlier reply findings, but in terms
24 of a due process right, legal harm is a very defined
25 concept.

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1 ADMIN. JUDGE McDADE: But aren't we
2 dealing here with due process which is an issue of
3 fundamental fairness, that a cloud has been put over
4 his head. The only opportunity he has to dissipate
5 this cloud is to have the hearing and to demonstrate
6 that the allegations are incorrect?

7 MS. BROCK: Well, in terms of -- but the
8 Supreme Court on the due process right has
9 specifically held that damage to a person's reputation
10 doesn't state a claim for relief under the fourteenth
11 amendment. That's Paul v. Davis, 424 U.S. 693 (1976).
12 And in that case, the Police Department had published
13 a flyer distributed to local area merchants of mugshot
14 photos of active shoplifters and Mr. Davis was on the
15 flyer. He had never been indicted. He hadn't -- his
16 guilt or innocence hadn't been resolved. After
17 circulation of the flyer, the charges against him were
18 dismissed.

19 And the Court held that false statements
20 did not make a deprivation of liberty within the
21 meaning of the due process clause and that damage to
22 reputation must be coupled with the alteration of a
23 legal status such as the loss of an employment
24 position.

25 In the instant case, the Government did

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1 not cause the loss of his employment position and we
2 haven't altered his legal status. Therefore, I don't
3 think that his due process rights to a prompt hearing
4 have been triggered in this case.

5 ADMIN. JUDGE McDADE: Okay, that's the
6 position of the Staff.

7 MS. BROCK: That is the position of the
8 Staff.

9 ADMIN. JUDGE McDADE: For Mr. Siemaszko?

10 MS. GARDE: Your Honor, we agree. You
11 used the term "a cloud over his head." I'd say it's
12 more the sort of Damocles hanging over his head as he
13 waits for this to be resolved. And I don't think that
14 you can read that paragraph 4.2 to be modified by 4.1
15 and I think I mentioned this at the last hearing, that
16 I was contacted prior to this order being issued to
17 find out if he currently was employed within the
18 industry. I don't think that call was just an idle
19 conversation. I think this order was written knowing
20 that he was not currently employed in the industry.

21 And in the context of how this impacts
22 him, as a practical matter, he cannot go out and seek
23 employment in the industry with any expectation that
24 he would get such employment, if for no other reason
25 than when he fills out the information regarding his

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1 status, he would have to fully disclose on any access
2 for security to a facility, he'd have to fully
3 disclose exactly what was going on here.

4 And so the practical reality of the
5 publicity, the fact that he isn't in a position to
6 apply without this being resolved, and is not able to
7 clear his name without a hearing, I think all argue in
8 the balancing test in his favor of getting this matter
9 resolved as quickly as possible.

10 ADMIN. JUDGE HAWKENS: Ms. Garde, I would
11 agree with you that the proceeding does have an
12 effect. It does put a cloud over his employability
13 prospects, but even if putting the proceeding aside,
14 would he have to, if he sought employment in the
15 nuclear industry, likely be required to disclosed that
16 he had been fired from his prior position?

17 MS. GARDE: He would have to --

18 ADMIN. JUDGE HAWKENS: And would that not
19 also put a cloud over his employability?

20 MS. GARDE: He would have to disclose
21 that. His access was not pulled, for cause, when he
22 was terminated. So people get fired in the industry
23 all the time. I think I would obviously advise him to
24 do full disclose about everything that's happening and
25 I frankly think since if he was exonerated which we

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1 believe he would be in front of this hearing, and he
2 explained all of that, his reason for termination is
3 directly tied to exactly the reasons that are before
4 this hearing and I think that explains that and he's
5 seeking an opportunity to clear his name.

6 So he would say the full story and I think
7 being cleared would weigh in his favor, whether it
8 would weigh enough in his favor in this reduced
9 industry is too speculative for me to comment. I
10 can't come to you and say he has a job offer and
11 someone said oh, but now that I know who you are, you
12 know, I'm rescinding that job offer. If I had such
13 evidence, I would tell you. We don't have that.

14 ADMIN. JUDGE McDADE: I believe at the
15 last hearing, Mr. Lochbaum had indicated that a number
16 of people, I believe, two, had approached him looking
17 for people who were qualified to take positions in the
18 industry that Mr. Siemaszko would have met the
19 qualifications of those individuals, but yet given the
20 cloud over his head, that he would not be employable
21 by them.

22 Is that a correct recollection?

23 MR. LOCHBAUM: Judge McDade, if I could
24 also address Judge Hawken's point?

25 In my capacity at the Union of Concerned

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1 Scientists, I have worked with people who were fired
2 from nuclear power plants, get jobs back in the
3 nuclear industry. It happened a few years ago with
4 Harry Blank and Mark Samek at the Millstone Nuclear
5 Power Plant. They were fired. And as in Andrew
6 Siemaszko's case, their badges were pulled for cause,
7 they were hired back.

8 The same company that hired those two
9 individuals back, was a consulting firm that I had
10 worked for for 14 years. They called me earlier this
11 year looking for somebody for a job that Andrew
12 Siemaszko would have been perfectly suited for, but
13 they couldn't touch him, based on the NRC's action.
14 Not the fact that FirstEnergy fired him, but the NRC's
15 case in this one.

16 ADMIN. JUDGE HAWKENS: Why? Nothing in
17 this order, nothing in this proceeding bars his entry
18 back into the nuclear field?

19 MR. LOCHBAUM: Andrew Siemaszko is known -
20 - the reputation of Andrew Siemaszko has, a result of
21 NRC's actions, he's responsible for the bad things
22 that happened to Davis-Besse, so a consulting firm
23 really can't market that bad actor to a nuclear power
24 plant which are their clients. It's not a saleable
25 commodity right now.

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1 The other company that contacted -- it was
2 an organization, wasn't a company -- was the Illinois
3 Emergency Management Agency. I've worked with them
4 over a number of years. They have State Resident
5 Inspectors at all the nuclear power plants in the
6 State of Illinois. One of those positions is open and
7 was vacated by a person with less experience and
8 capability than Andrew Siemaszko, but the Illinois
9 Emergency Management Agency cannot touch Andrew
10 Siemaszko because of the image that he has because of
11 this case. Again, not because he was fired from
12 FirstEnergy. They understand that that happens from
13 time to time. It was this NRC proceeding that just
14 made it a nonstarter.

15 ADMIN. JUDGE HAWKENS: So also the
16 circumstances of his firing were out of the ordinary.
17 We're trying -- you're trying to put this in a
18 category of a normal firing. Arguably, it's not,
19 against ordinary circumstances.

20 MR. LOCHBAUM: I also don't mean to imply
21 that if either of those organizations would have got
22 past that first start and brought him in for an
23 interview, that it wasn't guaranteed that he would
24 have been employed. I don't mean to make that at all.

25 ADMIN. JUDGE LAM: So Mr. Lochbaum, what

1 you are saying is this, even though the Staff order is
2 not immediately effective, the perception you have is
3 that it has materially damaged Mr. Siemaszko's
4 employment possibilities?

5 MR. LOCHBAUM: In those two cases that NRC
6 order basically took his name off the table. Those
7 companies couldn't even consider him for employment.

8 ADMIN. JUDGE LAM: Even though the order
9 is not immediately effective?

10 MR. LOCHBAUM: I think there was a
11 discussion here between lawyers as to whether it was
12 or it wasn't. The people out in the streets don't
13 really have that background and don't really
14 understand those subtleties, so the image on the
15 street is he's out of the industry regardless of what
16 the subtleties of the law says in that language.

17 MS. GARDE: Your Honor, if I could be
18 heard? He was terminated on September 24, 2002 and I
19 think relevant to your consideration, I'd like to just
20 read the last sentence of his termination letter in
21 which it says "at this juncture, the company has
22 determined that although your performance fell below
23 its expectations, you did not engage in deliberate
24 misconduct."

25 There are a lot of people fired from one

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1 facility because their performance fell below whatever
2 the expectations were of that particular employer who
3 become re-employed and do very well in other places.
4 So it isn't -- I don't think it's the termination that
5 is impacting his ability to say yes, I was terminated
6 and I want to try again at this other job.

7 ADMIN. JUDGE HAWKENS: There have been
8 references in the various briefs we've received about
9 a pending Department of Labor proceeding.

10 MS. GARDE: Yes.

11 ADMIN. JUDGE HAWKENS: And how Mr.
12 Siemaszko moved to have that proceeding placed on hold
13 in light of the criminal investigation.

14 Can you provide some additional background
15 facts on that?

16 MS. GARDE: Sure. After Mr. Siemaszko was
17 terminated, we filed, our firm filed on his behalf a
18 Department of Labor case alleging that his termination
19 was in retaliation for his having raised and pushed
20 the issues regarding the need to clean the boric acid
21 off of the head of the reactor during 12-hour RFO, and
22 then his subsequent activities.

23 When and hopefully soon, we can present
24 our whole facts to you, I think you will see that it
25 was Andrew who actually got this issue even on the

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1 chart to do anything during 12-hour RFO. It wasn't
2 even on the schedule to do any cleaning on it. And we
3 believe that the story about why he was fired is a
4 little bit more complicated and demonstrates a
5 retaliatory animus toward him by management.

6 When we were involved in that proceeding
7 and we were -- we actually had both sides had
8 completed some discovery, Mr. Siemaszko's deposition
9 was noticed and shortly before his deposition
10 occurred, I might have the dates a little bit wrong on
11 this, we learned that he was a target of the federal
12 investigation. And so at that time, we engaged in
13 discussion with the Judge and asked the Judge if he
14 could postpone the proceeding until that matter was
15 resolved. We briefed it. FENOC opposed it, but
16 ultimately the Judge granted our request.

17 We notify the Judge every other month, I
18 believe, of what the status of the criminal proceeding
19 is and we will intend to pick up as soon as we are
20 able to in that proceeding.

21 Does that answer your question?

22 ADMIN. JUDGE HAWKENS: Yes. Maybe you can
23 explain to me why you saw to stay there and don't feel
24 a stay is necessary here?

25 MS. GARDE: Well, first of all, that was

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1 right in the beginning of learning that he was a
2 target of a potential criminal investigation. And so
3 the timing of it put us in a bind. Frankly, it put
4 all parties in a bind because the FENOC witnesses that
5 we would have needed to depose, some of them weren't
6 exactly the same situation. And so we -- this all
7 happened 15 months ago.

8 If we get to the same crossroads in this
9 case, we're in a much different posture in the context
10 of understanding what the Justice's interest in him
11 are and what is the status of that. And I think I
12 alluded to that in my letter to you last week, that
13 although nothing is completely clear, based on what we
14 do know, the Justice Department has absolutely no
15 interest in the matters that are before you, that his
16 -- the only communications between Mr. Siemaszko and
17 the Justice Department have been regarding events in
18 November 2001. So nothing about 12 RFO is of interest
19 to them, based on our understanding.

20 So I don't see that anything you would do
21 in this hearing would have an impact on that. If we
22 face the question, I mean if the Staff asks a question
23 that fell within the scope of the Justice Department's
24 interest, we clearly would have to consult with his
25 criminal counsel. We'd clearly have to make a

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1 decision. But those are not things before you.

2 ADMIN. JUDGE LAM: Ms. Garde, it puzzles
3 me about your legal strategy though. Isn't it right,
4 it seems to me, that the most expeditious way to
5 restore Mr. Siemaszko's employability is to prevail in
6 the Department of Labor, wrongful employment
7 termination administrative proceeding. If you are
8 willing to stay that proceeding, why would an
9 additional stay at this particular proceeding harm Mr.
10 Siemaszko's employment prospects?

11 MS. GARDE: You make a good point and we
12 have discussed that and frankly, and I'm sure it's
13 obvious that Mr. Siemaszko has no resources. So our
14 firm isn't in a position to represent Mr. Siemaszko
15 full-time in four or five different proceedings on a
16 pro bono basis.

17 And at the time that we made the original
18 decision, we didn't know near what we know now. We
19 have talked about reinstating the Department of Labor
20 proceeding and proceeding, but frankly, we want to
21 wait and see what happens here so we can give him our
22 best advice.

23 ADMIN. JUDGE McDADE: Let me just make
24 sure I understand it. This point is the NRC Staff has
25 moved for stay. You have aggressively opposed that

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1 stay. In the event that we were to deny the NRC
2 Staff's Motion and move forward, you understand that
3 it would be very unlikely that we would then grant Mr.
4 Siemaszko a stay in the proceeding.

5 MS. GARDE: Oh absolutely.

6 ADMIN. JUDGE McDADE: And you also
7 understand that in the event that we move forward, and
8 Mr. Siemaszko were deposed by the NRC Staff, if he
9 refused to answer under the fifth amendment ability to
10 refuse to answer if a truthful answer would tend to
11 incriminate him, in this administrative proceeding, we
12 could take an adverse inference against him based on
13 that?

14 MS. GARDE: We do understand that. In his
15 last deposition, actually the Judge, Mr. Clifford
16 presented him, and the Judge was there to rule on the
17 assertion of privilege, question by question. And if
18 we found ourselves in that position, we would just
19 have to see where those questions went. But yes, we
20 absolutely understand. You could draw an adverse
21 inference by his refusal to answer a question and
22 claim a fifth amendment.

23 ADMIN. JUDGE McDADE: A quick question for
24 Mr. Lochbaum. Based on your experience in the
25 industry, sir, the language in the order that I had

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1 mentioned earlier that if Mr. Siemaszko is currently
2 involved in NRC-licensed activities, he must
3 immediately cease those activities. How would that be
4 interpreted in the industry by a potential employer?

5 MR. LOCHBAUM: If I was -- I work for a
6 consulting firm and if one of the people working for
7 me on a project had gotten that order, he would have
8 been out the door by the end of that day, that working
9 day or he would not have reported to work on the next
10 working day if it happened on the weekend. I couldn't
11 expose my company to the NRC's ire by seeming to be a
12 party to violating that order.

13 ADMIN. JUDGE McDADE: Before we move on to
14 something else, does the NRC Staff have anything in
15 response to statements made by counsel for Mr.
16 Siemaszko or by Union for Concerned Scientists?

17 MS. BROCK: Sure. And just for the
18 record, I asked Doug Starkey who is one of our
19 enforcement specialists to join me at the table so I
20 don't have to be running back to ask him questions.

21 A few things. One thing that Ms. Garde
22 commented on that he had lost his employment in
23 September of 2003?

24 MS. GARDE: September of 2002.

25 MS. BROCK: September of 2002 and I would

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1 make the point that two and a half years passed from
2 that time to when we issued our order, during which
3 time he did not regain employment in the nuclear
4 industry. So to pin his current lack of employment on
5 this order, especially in light of the case law on
6 what due process is and what a legal depravation is,
7 I think is not credible.

8 In terms of the order, the order has a
9 provision in it for relaxation. The order has
10 contacts of who to ask if there are questions about
11 the order. So I think to the extent that anyone read
12 the order and was unclear about whether he needed to
13 immediately cease activities, that could easily be
14 addressed by contacting the Office of Enforcement at
15 the NRC.

16 I guess that's all I have.

17 ADMIN. JUDGE LAM: Ms. Brock, before you -
18 - may I ask you, in your motion to extend the stay,
19 you again make the statement that there is an
20 allegation about witness intimidation. Would you be
21 able to tell us more than what you had said there?

22 MS. BROCK: The NRC received an allegation
23 of intimidation by a FENOC employee for testifying
24 before the Grand Jury.

25 ADMIN. JUDGE McDADE: Is there any tie

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1 cloud, because of the misunderstanding on how the
2 enforcement order should be interpreted or was now
3 that you understand the proper interpretation, would
4 that diminish the cloud?

5 MR. LOCHBAUM: In my view it doesn't.

6 ADMIN. JUDGE McDADE: Thank you.

7 MR. LOCHBAUM: thank you.

8 ADMIN. JUDGE McDADE: Judge Lam, anything
9 further?

10 ADMIN. JUDGE LAM: If I may follow up? I
11 think, Mr. Lochbaum, I think the proper interpretation
12 of that order would be what the Staff has put forward,
13 that this order is not immediately effective. If Mr.
14 Siemaszko is employed today, he has no duty, he has no
15 obligation to inform anybody. I think that may help
16 him a little bit.

17 MS. GARDE: Your Honor, I really would
18 like to ask for a clarification of that from the Staff
19 in writing, because that certainly is contrary to the
20 language in the order.

21 ADMIN. JUDGE HAWKENS: It seems like a
22 fair request and I would hope the counsel would agree
23 to that.

24 MS. GARDE: Thank you.

25 MS. BROCK: I don't anticipate any problem

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1 with that.

2 ADMIN. JUDGE McDADE: Okay, I think that
3 basically wraps up everything that we need to do
4 today, that today, the Staff will furnish those
5 declarations, affidavits to Mr. Siemaszko's attorneys.
6 I don't think we need to issue a separate protective
7 order, that we have a verbatim transcript here and
8 it's very clear that those are not to be disseminated
9 to anyone other than counsel for Mr. Siemaszko in this
10 proceeding and Mr. Siemaszko. They're not to be
11 physically transferred to anybody else.

12 At the concluding of this proceeding, they
13 will at the request of the Staff either be destroyed
14 or returned to the Staff and any copies would be
15 destroyed. If Mr. Siemaszko wishes to make other uses
16 of it or disseminate it for other purposes, he should
17 come to the Board and make a request for that, that
18 Mr. Siemaszko, if he believes he has anything further
19 to add, having read those would submit that by close
20 of business on Tuesday next so that we could take it
21 into consideration in drafting our order. And we
22 would then issue an order if we would anticipate
23 issuing an order some time next week that will discuss
24 all of the relevant issues.

25 Let me just ask, given the fact that the

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