

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

-----x

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

Continued deposition of The Babcock & Wilcox Company, by BERT MERRIT DUNN, taken by Plaintiffs, pursuant to adjournment, at the offices of Kaye, Scholer, Fierman, Hays & Handler, Esqs., 425 Park Avenue, New York, New York, on Friday, March 13, 1981, at 9:42 o'clock in the forenoon, before Charles Shapiro, a Certified Shorthand Reporter and Notary Public within and for the State of New York.



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ROBERT KEATON (AM SESSION)

CLINTON MARRS (PM SESSION)

\* \* \*

B E R T M E R R I T D U N N, resumed,  
having been previously duly sworn by the  
Notary Public, was examined and testified  
further as follows:

EXAMINATION (Continued)

BY MR. SELTZER:

Q You are aware, are you not, that your  
testimony today continues to be under oath?

A Yes.

Q Other than the memoranda which we  
have already marked for identification and shown  
you, are you aware of any other memoranda  
having been written with respect to your concern  
over preamture termination of high-pressure injection  
prior to the Three Mile Island accident?

MR. FISKE: Could I hear the question  
again, please? I'm sorry.

(Question read by the reporter.)

MR. FISKE: You mean is he today aware  
of any?

MR. SELTZER: Yes.

A I believe we have marked for identification,  
or considered during this deposition a Kelly memo,  
memorandum, written in November of '77, two

1  
2 memorandums by myself written in February of '78  
3 and a memorandum by Don Hallman written in August  
4 of '78, and I believe I am aware of one additional  
5 memorandum on the subject.

6 Q Frank Walters?

7 A Yes.

8 Q That's the memo by Frank Walters in  
9 November of 1977?

10 A I believe it's in November of 1977.

11 Q Are you aware of any other memorandum on  
12 the subject of premature termination created prior  
13 to the Three Mile Island accident?

14 A Not that I recall at this time.

15 Q Do you have any basis for believing that  
16 there are any additional memoranda that were  
17 created on that subject prior to the Three Mile  
18 Island accident?

19 A No.

20 Q When Kal Goslow came to see you, did he  
21 have any notes?

22 A I don't know.

23 Q When Al Womack or Alan Womack, as you  
24 call him, took over as the Manager of the Plant  
25 Design Section, did you and he sit down at or about



2 that time to discuss the work of your ECCS Unit?

3 A I believe we did.

4 Q Where did you meet?

5 A I'm not sure.

6 Q Was anyone else present?

7 A I'm not sure.

8 Q Do you believe anyone else was present?

9 A I have no recollection one way or the other.

10 Q What was the purpose of the meeting as  
11 you understood it?

12 A A general let's-get-to-know-each-other-  
13 a-little-bit meeting, what are the dominant issues  
14 with which ECCS is dealing at this particular time.

15 Q Anything else?

16 A Some description of those issues.

17 Q How long did the meeting last?

18 A I don't remember.

19 Q Did you have lunch together as part  
20 of the meeting?

21 A Not that I recall.

22 Q Had you had any prior contact with Al  
23 Womack?

24 A Yes.

25 Q In support of the work on the MK

1  
2 plant?

3 A Primarily.

4 Q Did you say anything to Alan Womack  
5 at that meeting or at any other earlier meeting  
6 that you had with him after he became head of the  
7 Plant Design Section in which you discussed your  
8 concern about premature termination of high-pressure  
9 injection?

10 A After he became head of the Plant Design  
11 Section?

12 Q Yes.

13 A Yes.

14 Q When?

15 A Shortly following the accident at Three  
16 Mile Island.

17 Q Did you have any conversation with him  
18 at any time before the Three Mile Island accident  
19 in which you discussed your concern?

20 A No, not that I recall.

21 Q Did Dr. Womack hold monthly staff  
22 meetings for the Plant Design Section prior to the  
23 Three Mile Island accident?

24 A Approximately.

25 Q Were those attended by most or all

1  
2 of the Unit Managers in the Plant Design Section?

3 A That is correct.

4 Q Normally you attended and Bruce  
5 Karrasch attended, among others?

6 A Yes.

7 Q Mr. LaBelle would also attend?

8 A Yes.

9 Q At any of Alan Womack's staff meetings  
10 did Bruce Karrasch ever mention that Don Hallman  
11 had raised an issue with him with respect to your  
12 prescription for how to handle high-pressure  
13 injection?

14 A I don't know.

15 Q Do you have some basis or recollection  
16 that he may have raised it?

17 MR. FISKE: I object to that question.

18 Q Is there anything in your recollection  
19 that makes you believe that he did raise it at  
20 one of the staff meetings?

21 A No.

22 Q When you said "I don't know," in  
23 response to my earlier question whether Bruce  
24 Karrasch had raised it, why don't you know whether  
25 he raised it?

1  
2 A For those meetings that I attended, I don't  
3 recall a raising of such an issue by Mr. Karrasch.

4 I also do not believe that I attended  
5 all such meetings.

6 Q In addition to Unit Managers, who,  
7 if anyone else, attended the Womack Design Section  
8 staff meetings?

9 A Substitutes for Unit Managers plus Alan's  
10 secretary.

11 Q When you say "secretary," do you mean  
12 amanuensis or somebody who functions as an  
13 administrative secretary?

14 A I don't understand the term amanuensis.

15 Q Somebody who is a typist and takes  
16 shorthand is an amanuensis.

17 A Alan's secretary functions as both a typist  
18 and stenographer and for some purposes as  
19 an administrative assistant.

20 Q Did Alan continue the practice of hvaing  
21 an agenda circulated before or at the staff  
22 meetings?

23 A From time to time.

24 Q Were any minutes of any of Alan's  
25 meetings circulated after the meeting?

2

A No.

3

Q Did people take notes at the

4

meetings?

5

A Yes.

6

Q Did you take notes at the meetings?

7

A Yes.

8

Q Did you ever raise at any of Alan

9

Womack's staff meetings your concern regarding

10

premature termination of high-pressure injection?

11

A No.

12

Q Did you ever raise --

13

A Not prior to the accident at Three Mile

14

Island.

15

Q Prior to the TMI accident, did you

16

ever raise for discussion at either Don Roy's

17

staff meetings or at any of Alan Womack's

18

staff meetings the matter of pressurizer water

19

level rising while reactor coolant system

20

pressure dropped?

21

A I don't believe so.

22

Q Do you think anybody else did, to the

23

best of your recollection?

24

A No.

25

Q Did you ever discuss at any of the

1  
2 pre-Three Mile Island accident staff meetings  
3 anything concerning loss of pressurizer level  
4 off scale low?

5 A I don't know.

6 Q Prior to the Three Mile Island  
7 accident were safety concerns discussed at any  
8 of the Design Section staff meetings?

9 A Not generally.

10 Q They were sometimes discussed?

11 A I cannot recall such a discussion.

12 Q Did you ever discuss at Design  
13 Section staff meetings contemplated improvements  
14 in B&W reactors?

15 A I am not sure one way or the other.

16 Q From your familiarity with the agenda,  
17 do you believe that the agenda would reflect  
18 whether safety concerns were discussed?

19 MR. FISKE: I am not sure I understand  
20 that question.

21 MR. SELTZER: From his recollection  
22 of the agenda that he has seen does he  
23 believe that if we had the agenda in front  
24 of us we would be able to tell whether  
25 safety concerns had been discussed at these

meetings.

MP. FISKE: The question is if safety concerns were discussed, would that be reflected in the agenda, is that the point?

MR. SELTZER: No. It's more the inverse.

BY MR. SELTZER:

Q Do you believe that by looking at the agenda you would be able to tell whether safety concerns were discussed at the staff meetings?

A No.

Q What kinds of things were listed on the agenda?

A The things proposed for discussion during the staff meeting.

Q If it had been proposed that a specific concern should be discussed, would that appear on the agenda?

A Maybe.

Q Have you discussed safety concerns at staff meetings since the TMI accident?

A We have, I believe, discussed work related to safety at staff meetings since the accident.



1

2

Q Before the accident, did you discuss work relating to safety at the staff meetings?

3

4

A I testified earlier that I didn't recall whether we did or did not.

5

6

Q Do you now recall whether you discussed work which related to safety at pre-TMI staff meetings?

7

8

9

A No. I wouldn't change my testimony.

10

11

12

13

Q Did Alan Womack ever convene meetings other than the regular monthly staff meetings at which he and several or all of the Unit Managers would get together?

14

A Yes.

15

16

Q What would be the circumstances for his convening those meetings as you recall?

17

A I think the circumstances could vary widely.

18

19

20

21

Q Under what circumstances do you recall Al Womack convening such meetings between his taking over as head of the Design Section in August of 1978 and the Three Mile Island accident?

22

23

24

25

A Meetings in which one or more members of the staff was present and other than the meetings I testified to earlier in which we were participating in a general get to know each other

1  
2 would be called for general briefing of Mr.  
3 Womack on the status of work of major importance  
4 to the section as it was progressing.

5 Q Before the Three Mile Island accident,  
6 did you ever talk with Alan Womack about the  
7 Davis-Besse September 1977 transient?

8 A I don't know.

9 Q Do you believe that you did?

10 MR. FISKE: I am going to object unless  
11 you ask for his recollection.

12 Q Do you have any recollection whatsoever  
13 of having had such a conversation with Alan  
14 Womack?

15 A No.

16 Q Not even a glimmer of a recollection?

17 A Not even a glimmer.

18 Q At any of the meetings other than  
19 staff meetings that were held with Al Womack  
20 between his becoming head of the Design Section  
21 and the Three Mile Island accident, was there  
22 any discussion of the Davis-Besse event or  
23 premature termination of high-pressure injection?

24 A I do not know.

25 Q At any meeting with Dr. Roy before

1  
2 the Three Mile Island accident other than the one  
3 conversation which you have already described  
4 with Dr. Roy, was the subject of the Davis-Besse  
5 transient or termination of high-pressure injection  
6 ever raised?

7 A I do not know.

8 Q You have no recollection of it being  
9 raised? Is that what you are testifying?

10 A No. I do not know.

11 Q Do you have any recollection of it being  
12 raised at any such meeting with Dr. Roy?

13 A I have no such recollection.

14 Q At meetings with Dr. Roy was there any  
15 discussion about pressurizer level going up while  
16 reactor coolant system pressure drops, to your  
17 knowledge?

18 A I do not know.

19 Q Do you have any recollection of any  
20 discussion at an meeting with Roy or Womack at  
21 which saturation in the reactor coolant system  
22 was discussed?

23 A The question was do I have any recollection  
24 of any meeting with Dr. Roy or Dr. Womack --

25 Q Prior to the Three Mile Island

1  
2 accident.

3 A -- prior to the Three Mile Island accident  
4 at which the subject of saturation in the  
5 primary system was raised?

6 Did you include in the question high  
7 pressurizer level or was the question just related  
8 to saturation in the primary system.

9 Q Let me broaden it to both  
10 disjunctively. In other words, was either subject  
11 discussed? I am not requiring as a condition that  
12 both had been discussed at the same meeting.

13 A Today I recall meeting with the Section  
14 Manager of Plant Design on subjects or, rather,  
15 a subject which related to the occurrence or  
16 possible occurrence of saturation in the primary  
17 system.

18 Q When did you have that meeting?

19 A At the present I can't recall the -- I can't  
20 fix the time.

21 It was prior to the accident at  
22 Three Mile Island.

23 Q Was it before or after the September  
24 '77 Davis-Besse transient?

25 A I am not sure.

1

2

Q Was this a general meeting of the  
Plant Design Section at which this was discussed?

3

4

A No.

5

6

Q What was the purpose or context of  
the meeting in which it was discussed?

7

8

9

10

11

12

A Questions had been raised by an NRC site  
representative relative to pressurizer level  
going off scale low and it was a briefing to  
our Section Manager on how we would respond to  
the questions in a general exploration for his  
edification of the situation.

13

14

Q How did you get into a discussion  
of saturation in the primary system?

15

16

17

18

19

20

A As part of the backup which we would use  
to enhance our position on the issue we intended  
to show that for this particular type of event  
saturation within the primary system would not  
create unacceptable consequences within the  
reactor core.

21

22

Q What site was involved?

23

24

A The Davis-Besse site.

25

Q Who was the Site Inspector?

A I don't know that his title is Inspector.

Q What was his title?

1

2

A I don't know.

3

4

Q Who was the site person that you are referring to?

5

6

A The site person I referred to was an NRC employee and his name was Presswell.

7

8

Q Who was the B&W site representative who was being given the benefit of your knowledge?

9

A Excuse me?

10

11

12

Q Whom were you edifying with the explanation of saturation occurring as a result of voiding of the pressurizer?

13

14

A The Section Manager, Plant Design.

15

16

17

Q Is the phenomenon that you were discussing one in which you have lost all level in the pressurizer so that a bubble is created in the piping adjacent to the pressurizer?

18

19

20

A The phenomena that we were discussing were those that would accompany the total loss of fluid inventory in the pressurizer.

21

22

Q Could you identify who the Plant Design Manager was at the time of this meeting?

23

A No.

24

25

MR. SELTZER: I would like to mark for identification as GPU Exhibit 81 a



1  
2 memo from Eric Swanson to Bert Dunn and  
3 others dated November 22, 1978, subject  
4 Toledo Edison Company Pressurizer Level  
5 Meeting.

6 (Memo from Eric Swanton to Bert Dunn  
7 and others dated November 22, 1978, subject  
8 Toledo Edison Company Pressurizer Level  
9 Meeting, marked GPU Exhibit 81 for  
10 identification, as of this date.)

11 BY MR. SELTZER:

12 Q Does GPU Exhibit 81 marked for  
13 identification refer to the meeting that you were  
14 just referring to?

15 A I don't believe so.

16 Q Does GPU Exhibit 81 then refresh  
17 your recollection that there was another meeting  
18 among members of the Plant Design Section at  
19 which pressurizer level was discussed?

20 A No.

21 Q Do you recall attending a meeting  
22 at which some or all of the items on the agenda  
23 attached to GPU Exhibit 81 were discussed?

24 A At this time I do not recall such a meeting.

25 Q Is GPU Exhibit 81 a copy of a



1  
2 memorandum which you believe you received in  
3 the regular course of business in or about late  
4 November of 1978?

5 A Yes.

6 Q You were requested by this memorandum  
7 to participate in a meeting to discuss design and  
8 requirements for the Toledo auxiliary feedwater  
9 operation, et cetera, to be held on Monday,  
10 November 27, 1978.

11 Did you attend such a meeting?

12 A I don't know.

13 Q Do you keep a diary?

14 A No.

15 Q Do you maintain a desk calendar?

16 A Yes.

17 Q If you wanted to find out whether on  
18 Monday November 27, 1978 you attended a meeting  
19 like the one described here, would you be able  
20 to check your 1978 desk calendar?

21 A No.

22 Q Why not?

23 A My desk calendar is of the rip-off type  
24 and previous pages would be in the incinerator  
25 or the trash.

1  
2 Q Probably have long since been  
3 incinerated or disposed of?

4 THE WITNESS: Can I answer probably  
5 to that?

6 MR. FISKE: Yes.

7 A Probably.

8 Q Did you take the opportunity of this  
9 November 27, 1978 meeting to discuss with those  
10 in attendance the problem of rising pressurizer  
11 level?

12 MR. FISKE: Mr. Seltzer, I think he  
13 has just testified that he doesn't recall  
14 the meeting.

15 MR. SELTZER: Maybe my stimulating  
16 question will encourage a recollection.

17 A I don't know.

18 Q Do you have any recollection of doing  
19 so?

20 A No.

21 Q Do you see anything in the attached  
22 agenda which would refer to a discussion of rising  
23 pressurizer level including rising pressurizer  
24 level in response to saturation in the primary  
25 system?

1  
2 MR. FISKE: Could you please repeat  
3 the question.

4 (Record read.)

5 MR. FISKE: I guess your question,  
6 Mr. Seltzer, is whether any of the items  
7 on the agenda deal with that subject?

8 MR. SELTZER: Exactly. You said it  
9 much better than I was trying to.

10 A The answer is no.

11 MR. SELTZER: I would like to mark  
12 for identification as GPU Exhibit 82 a  
13 memorandum from L. R. Cartin to Bruce  
14 Karrasch with a copy to Bert Dunn dated  
15 November 29, 1978, subject Toledo Edison -  
16 B&W Meeting Minutes.

17 (Memorandum from L. R. Cartin to  
18 Bruce Karrasch with a copy to Bert Dunn dated  
19 November 29, 1978, subject Toledo Edison -  
20 B&W Meeting Minutes, marked GPU Exhibit  
21 82 for identification, as of this date.)

22 BY MR. SELTZER:

23 Q First, I would like to ask you to  
24 turn to the page which is fourth from the back,  
25 the list of attendees, Attachment 1.

1  
2 It says, "Meeting on Control of  
3 Steam Generator Level and Associated Pressurizer  
4 Level at Lynchburg," November 27, 1978.

5 Do you see that?

6 A Yes.

7 Q Do you see the handwriting that I am  
8 pointing to?

9 A Yes.

10 Q What does it say there?

11 A It says under that line, "Bert<sup>E</sup> Dunn, B&W,  
12 ECCS Analysis."

13 Q That's your handwriting, isn't it?

14 A It could be.

15 Q Does it appear to be? Is that about  
16 the way you write "Bert Dunn, B&W, ECCS Analysis"?

17 A Yes.

18 Q Does that refresh your recollection  
19 that you did attend a meeting on November 27,  
20 1978 at which you discussed pressurizer level  
21 with respect to Davis-Besse Unit 1?

22 A No.

23 Q Would you conclude from that that you  
24 did attend such a meeting on November 27, 1978?

25 MR. FISKE: I object to that question.

1  
2 MR. SELTZER: I think I am still  
3 entitled to his answer.

4 MR. FISKE: Well, I don't think Mr.  
5 Dunn is in any better position to draw that  
6 conclusion than anybody else.

7 MR. SELTZER: He may know the practice  
8 that he engages in whether he would put his  
9 name down on an attendance list of a  
10 meeting without having been at the meeting  
11 just to fake his having been there or whether  
12 he believes seeing his name on an attendance  
13 list is good evidence that he was at the  
14 meeting, that's my question.

15 MR. FISKE: Well --

16 BY MR. SELTZER:

17 Q Do you believe that seeing your name  
18 on this attendance list and conceding that that is  
19 your handwriting, that it is good evidence that you  
20 were at that meeting?

21 MR. FISKE: Well, I will object to  
22 the form of the question.

23 You can answer it, Mr. Dunn.

24 A I believe we conceded that this was probably  
25 my handwriting.

1  
2 Relative to seeing my name on such  
3 an attachment as this, I believe this would be  
4 good evidence that I attended such a meeting.

5 Q Would you take a minute and look at  
6 the names of the the other people who attended  
7 the meeting.

8 Had you had any previous communication  
9 with Terry Murray who by November '78 was the  
10 Station Manager at the Davis-Besse plant?

11 A I don't know.

12 Q Did you know that Terry Murray had been  
13 the Assistant Station Superintendent at the time  
14 of the September 1977 transient?

15 A I don't believe so.

16 Q Had you ever had any prior communication  
17 with Fred Miller or Chuck Domeck?

18 A Yes.

19 Q Which of those had you had prior  
20 contact with?

21 A I know that I have had prior contact at this  
22 time with Fred Miller.

23 Q What was the circumstance under  
24 which you previously contacted Miller?

25 A Issues concerning licensing at the Davis-Besse



1  
2 plant.

3 MR. SELTZER: Could you read back the  
4 last answer, please.

5 (Record read.)

6 A I meant "of."

7 Q What did you just say?

8 A Issues concerning licensing of the  
9 Davis-Besse plant as opposed to the "at."

10 Q Had you ever talked with any of the  
11 people from Toledo Edison about the September  
12 24, 1977 transient?

13 MR. FISKE: You mean between the  
14 transient and the date of this meeting, is  
15 that your question?

16 MR. SELTZER: No, ever. Let's do it  
17 in steps. I will take your suggestion.

18 Q Did you ever talk to any Davis-Besse  
19 employee or Toledo Edison employee prior to  
20 November 27, 1978 about any aspects of the  
21 September 24, 1977 transient?

22 A Not that I recall.

23 Q At the November 27, 1978 meeting  
24 did you seize this specific opportunity to  
25 discuss with any of these three people the



September 24, 1977 transient?

MR. FISKE: I will object to the form of the question.

Q You may answer.

A Not that I recall.

Q At any time up to the present have you ever talked to anybody from Toledo Edison about the September 24, 1977 transient?

A I don't know.

Q Do you have any recollection that you did so?

A No.

Q At the November 27, 1978 meeting that you attended, did you raise with anybody for discussion the problem of termination of high pressure injection?

MR. FISKE: I will object to the form of the question.

Q You may answer.

THE WITNESS: Let me have that question again, please.

(Record read.)

A I don't want to be on the record as admitting that I attended the 11/27/78 meeting other than

1  
2 as we have previously established in the  
3 deposition.

4 Q Wait a second. Seeing your name on  
5 the list, do you presently have any doubt that you  
6 attended the meeting?

7 A No.

8 Q Now will you answer the question.

9 A I don't believe I raised issues, the issue  
10 of terminating high-pressure injection with  
11 Toledo personnel.

12 Q Did you raise with them any issue  
13 relating to rising pressurizer water level?

14 A At any time?

15 MR. FISKE: I think he is asking  
16 about this meeting.

17 Isn't that the question?

18 MR. SELTZER: Yes.

19 A Not recalling being at the meeting, or the  
20 meeting, I don't know.

21 Q When you attend a meeting such as this  
22 11/27 meeting, and when I say "such a meeting,"  
23 I mean as described in the agenda which is  
24 Attachment 2 and which we have also previously  
25 marked as GPU Exhibit 81, do you normally take

1  
2 notes at such a meeting?

3 A Yes.

4 Q Where would you look if you wanted to  
5 find your notes of the November 27, 1978 meeting?

6 A I don't believe I would try.

7 Q Why?

8 A I think it's unlikely that I would succeed.

9 Q What is your normal practice with  
10 regard to what you do with notes that you have  
11 taken at a meeting such as this?

12 A To use those notes while the issue is present  
13 and to discard them thereafter.

14 Q Would you take a look at page 3 of  
15 GPU Exhibit 82.

16 MR. FISKE: Page 3, did you say?

17 MR. SELTZER: Page 3.

18 Q Under the heading "Section III" it  
19 states that "The need to maintain pressurizer level  
20 during normal accident conditions was discussed at  
21 length."

22 Does that refresh your recollection  
23 as to whether there was any discussion of rising  
24 pressurizer level during the November 27 meeting?

25 A No.

1  
2 Q Would you take a look at Table 2 under  
3 the center, "Condition II Events."

4 MR. FISKE: What is the number of that  
5 page?

6 MR. SELTZER: Off the record.

7 (Discussion off the record.)

8 MR. SELTZER: I am going to show the  
9 witness a slightly clearer copy just because  
10 it's an earlier generation of photocopying.

11 MR. FISKE: Fine.

12 BY MR. SELTZER:

13 Q It is the same document, but produced  
14 from somebody else's file, I believe.

15 Do you see what the center column is  
16 under "Condition II Events"?

17 A Yes.

18 Q What does it say there?

19 A I am not sure.

20 Q Does it look like it's "stuck open  
21 relief valve"?

22 A That's part of it.

23 MR. FISKE: Where?

24 THE WITNESS: (Indicating)

25 Q Was there any discussion that you can

2 recall at the November 27th meeting with  
3 Davis-Besse personnel about a stuck-open relief  
4 valve on the pressurizer?

5 A I don't know.

6 Q Is there any reason that you can  
7 recall why you would have been reluctant to raise  
8 at this November 27th meeting issues of rising  
9 pressurizer level, stuck-open relief valve,  
10 premature termination of high-pressure injection?

11 MR. FISKE: You mean would he have had  
12 a positive reason not to bring it up?

13 MR. SELTZER: Right.

14 A I think the answer to the question requires  
15 speculation.

16 MR. FISKE: Well, the only question  
17 that Mr. Seltzer is asking you is whether  
18 you recall at the time whether you had a  
19 reason not to bring this up.

20 A I do not recall at the time whether I had a  
21 reason not to bring this up.

22 Q Before you go into meetings with  
23 customers, do others from B&W come up to you  
24 sometimes and say, "Now, let's remember not to  
25 discuss such-and-such with the customer"?

1

2

A Yes.

3

4

5

6

7

A No, I do not recall.

8

9

10

11

Q Did you know that Terry Murray was  
in the control room at the Davis-Besse plant  
during the September 24, 1977 transient?

12

MR. FISKE: You mean did he know it  
on November 27, 1978?

13

14

MR. SELTZER: No. Has he ever known  
that.

15

MR. FISKE: All right.

16

A I don't believe so.

17

MR. SELTZER: Off the record.

18

(Discussion off the record.)

19

(Recess taken.)

20

BY MR. SELTZER:

21

22

23

24

Q Between the Davis-Besse event and the  
Three Mile Island accident, what other meetings  
did you have with Davis-Besse personnel other than  
the November 27, 1978 meeting?

25

A Was the question qualified by "other than



2 the" --

3 MR. FISKE: Yes.

4 A In view of the date of this exhibit, 82,  
5 and subject to the accuracy of that date, I recall  
6 one other meeting between B&W and Davis-Besse  
7 personnel in that time frame.

8 Q When was that and whom did you meet  
9 from Davis-Besse?

10 A I can't tell you exactly when that was or  
11 who the Davis-Besse representatives were,  
12 definitively.

13 Q What was that?

14 A I cannot tell you when exactly that was  
15 and definitively who the Davis-Besse  
16 representatives were.

17 Q Who do you believe the Davis-Besse  
18 representatives were?

19 MR. FISKE: You mean based on a  
20 recollection?

21 MR. SELTZER: No, I would like it to  
22 be a pure figment of his imagination.

23 Obviously I want it to be something  
24 that he recalled.

25 A I don't recall. It would have to be an



1  
2 expectation.

3 Q Whom would you expect attended?

4 MR. FISKE: I don't think that will  
5 get us very far.

6 Q From what would you have an  
7 expectation of who from Davis-Besse would attend?

8 A From my general interaction with Davis-Besse,  
9 knowing who they would typically send to these  
10 types of meetings.

11 Q What type of meeting are you  
12 referring to?

13 A It was a meeting between B&W, Davis-Besse,  
14 other utility representatives, and I believe Region  
15 3 inspectors, although I am not sure of the title  
16 of the NRC representatives.

17 Q Is that the meeting that Sushil Jain  
18 attended for Toledo Edison?

19 A I have no idea.

20 MR. SELTZER: I would like to mark as  
21 GPU Exhibit 83 a memo from Womack to Cartin,  
22 with an attached letter from the NRC to  
23 Taylor, dated February 6, 1979.

24 (Memo dated February 6, 1979 from  
25 Womack to Cartin, with an attached letter

1  
2 from the NRC to Taylor, was marked GPU  
3 Exhibit 84 for identification, as of this  
4 date.)

5 MR. SELTZER: I would also like to  
6 mark as GPU Exhibit 84 a memo from Willse  
7 to Distribution dated March 9, 1979,  
8 subject: Loss of Pressurizer Level  
9 Indication.

10 (Memo from Willse to Distribution  
11 dated March 9, 1979, subject: "Loss of  
12 Pressurizer Level Indication, was marked  
13 GPU Exhibit 84 for identification, as of  
14 this date.)

15 BY MR. SELTZER:

16 Q GPU Exhibit 84 states in its first  
17 paragraph, "A meeting to discuss the loss of  
18 pressurizer level indication at Davis-Besse-1  
19 was convened on February 14, 1979 at the B&W  
20 offices in Lynchburg. Those in attendance were:"  
21 and it lists a covey of people. You are listed as  
22 an attendee on behalf of B&W.

23 Is it correct that you attended a  
24 meeting on or about February 14, 1979 at B&W's  
25 offices to discuss loss of pressurizer level

1  
2 indication at Davis-Besse?

3 A It is true that I attended part of the  
4 meeting.

5 Q Approximately how long were you in  
6 attendance?

7 A I believe two to three hours.

8 Q In GPU Exhibit 83 Allen Womack writes  
9 in the second paragraph, "I understand that you  
10 will be prepared to recommend a B&W position on  
11 these matters to an in-house meeting on February 9.  
12 I will look forward to a full review of this  
13 important subject at that time."

14 Did you attend the in-house February  
15 9th meeting?

16 A I don't know.

17 Q In the two to three hours that you  
18 attended the meeting on February 14th, was there  
19 any discussion of pressurizer water level rising?

20 A I don't know.

21 Q Do you have a sense that you were  
22 in enough hot water on the issue of the level  
23 dropping that you didn't want to get into the  
24 level rising?

25 MR. FISKE: I object to that question,

1  
2 the form of that question.

3 MR. SELTZER: I am just referring to  
4 the temperature of the pressurizer water.

5 MR. FISKE: What is the question?

6 MR. SELTZER: Please repeat the  
7 question.

8 (Question read.)

9 MR. FISKE: Are you asking him again  
10 did he have a reason not to bring that  
11 subject up? Is that what you are getting at?

12 MR. SELTZER: Yes.

13 Q You may answer.

14 MR. FISKE: I think he was about to.

15 MR. SELTZER: Oh.

16 A No.

17 BY MR. SELTZER:

18 Q Does this refresh your recollection,  
19 looking at the attendance list from the meeting,  
20 that Sushil Jain was the Toledo Edison  
21 representative at the meeting?

22 A No.

23 Q I asked you a moment ago whether you  
24 had attended the February 9th meeting that was  
25 referred to in Womack's memo, GPU Exhibit 83, and

1

2

you said you didn't recall attending it.

3

A I believe I said I didn't know.

4

Q O.K.

5

6

Did you say you didn't know because  
you didn't recall attending it?

7

A I do not recall attending it.

8

9

10

Q Let me see if I can refresh your  
recollection by reading to you from testimony you  
gave under oath to the President's Commission.

11

MR. FISKE: Is that a deposition?

12

MR. SELTZER: It is the deposition on

13

page 205.

14

15

16

17

18

Q At line 22, you were asked, "Did you  
attend a preparation meeting on February 9,  
1979 here at the Nuclear Power Generation Division  
to prepare B&W's position for the meeting that  
ultimately occurred on February 14, 1979?"

19

20

21

22

23

The answer that you gave then was, "I  
attended a preparation meeting for the February  
14th meeting. As to whether it was on February  
9th or not, I can't recall, but I attended that  
meeting."

24

Does that refresh your recollection?

25

A To the point that I attended preparation

1  
2 meetings for the February 14th meeting, I can  
3 testify yes, I attended such a meeting. As to  
4 whether it was the February 9th meeting or not, I  
5 stand on my testimony.

6 Q Do you mean when I asked you,  
7 referring to this sentence in GPU Exhibit 83,  
8 whether you had attended the preparation meeting  
9 referred to there as taking place in-house on  
10 February 9th, you recalled as you were thinking  
11 about your answer that you had attended a  
12 preparation meeting but you couldn't recall  
13 whether it was on February 9th?

14 A I believe that's a fair statement.

15 Q Well, I don't mind telling you I think  
16 that is playing the cards a little bit close to  
17 the vest.

18 MR. FISKE: Mr. Seltzer, if you want  
19 to go back and have the question reread,  
20 then you can make whatever judgment you  
21 want, but I think the record will stand for  
22 itself on what the question was and what the  
23 answer was.

24 MR. SELTZER: Let's go back and see  
25 what the question was, please.



(Record read.)

MR. FISKE: So what's your next

question?

BY MR. SELTZER:

Q So it is now your recollection that

you do recall attending a meeting on or about

February 9th to prepare for the February 14th

meeting with the NRC?

A On or about February 9th, or rather I recall

attending a preparation meeting for the meeting of

the 14th.

Q And you don't know one way or the

other whether that meeting was on February 9th

or some other day in advance of the 14th, do you?

A That's true.

MR. FISKE: Off the record.

(Discussion off the record.)

Q Where was the preparation meeting held?

A In the B&W office building on Old Forest

Road.

Q How long was the preparation meeting?

A Several hours.

Q Did you talk at that meeting?

A Yes.

1

2

Q Did you talk at the February 14th  
meeting?

3

4

A Today I am not sure. I was prepared to talk.

5

6

Q At the preparation meeting did you  
discuss rise in pressurizer level?

7

A I don't know.

8

9

10

11

Q Do you have any recollection of rising  
pressurizer level or premature termination of  
high-pressure injection being discussed at the  
preparation meeting?

12

13

A I have no recollection one way or the other  
about rising pressurizer level.

14

15

16

I do not believe premature  
termination of high-pressure injection was  
discussed.

17

(Continued on next page.)

18

19

20

21

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25

1  
2 Q With respect to the November 27,  
3 1978 meeting, which you testified you didn't  
4 recall attending, since we seem to be covering  
5 a semantic difficulty that I hadn't anticipated  
6 do you recall attending any meeting in or about  
7 November 1978 at which Toledo Edison pressurizer  
8 level was discussed?

9 A I recall attending several meetings in  
10 this overall time frame at which discussions on  
11 the subject were held.

12 Q Do you recall attending a meeting in  
13 or about November 1978 which was attended by  
14 any of the three gentlemen from Toledo Edison  
15 who also signed the same attendance sheet that  
16 you signed?

17 MR. FISKE: That's Domer --

18 MR. SELTZER: Domeck.

19 MR. FISKE: -- Domeck, Miller and  
20 Murray?

21 THE WITNESS: I would like to have that  
22 question re-read for detail.

23 (Record read.)

24 A No.

25 Q Do you remember attending any meeting

1  
2 with any of those people to discuss pressurizer  
3 level?

4 A I do not remember.

5 Q You said you remembered attending  
6 several meetings in this time frame to discuss  
7 pressurizer level, is that right?

8 A Yes.

9 Q Do you remember --

10 A Excuse me. I remember attending several  
11 meetings during this time frame on the general  
12 subject dealing with these memos. You put in  
13 pressurizer level and I responded too quickly.

14 Q What subjects other than pressurizer  
15 level were discussed at these meetings?

16 A The meetings generally refer to pressurizer  
17 level going low and the consequences of such an  
18 event.

19 Q Did you have any discussions with  
20 anybody before these meetings with people from  
21 outside B&W regarding whether you should raise  
22 concerns about rising pressurizer level at either  
23 the meetings with Toledo Edison or the meetings  
24 with the NRC?

25 A Different discussion with people outside

1  
2 of B&W --

3 MR. FISKE: Inside, inside B&W.

4 A Inside B&W about whether I should raise  
5 questions concerning the pressurizer level going  
6 high? I don't believe so.

7 Q Womack had taken over from Roy as  
8 the head of the Plant Design Section by the time  
9 these meetings rolled around.

10 Did you ever tell Alan Womack that you  
11 thought the issue of rising pressurizer level  
12 and termination of high-pressure injection ought  
13 to be given a forum either with Toledo Edison or  
14 with the NRC?

15 A No.

16 MR. SELTZER: I would like to mark as  
17 GPU Exhibit 85 a memo from Fairburn to  
18 Distribution, April 4, 1979, Supplementary  
19 Operating Instructions for High Pressure  
20 Injection System.

21 (Memo from Fairburn to Distribution,  
22 April 4, 1979, Supplementary Operating  
23 Instructions for High Pressure Injection  
24 System, marked GPU Exhibit 85 for  
25 identification, as of this date.)

1  
2 BY MR. SELTZER:

3 Q Are you aware that GPU Exhibit 85  
4 marked for identification is a copy of the  
5 supplementary operating instructions for the high  
6 pressure injection system which B&W issued to its  
7 customers shortly after the Three Mile Island  
8 accident?

9 A No.

10 Q What information do you have about  
11 the instructions that B&W sent out on operation  
12 of high-pressure injection immediately after  
13 the Three Mile Island accident?

14 A I believe information was sent out which  
15 contained the prescription described in this  
16 document on management of the high-pressure  
17 injection system during an accident, and I believe  
18 that this document is a copy of that instruction.

19 Q What, if any, role did you have in  
20 the preparation of the contents of GPU Exhibit 85?

21 A I participated in a meeting prior to the  
22 issuance of information on the subject to our  
23 customers to decide what the technical content  
24 of that information should be.

25 Q When was that meeting held?



2 A I don't recall the exact date.

3 Q Where was the meeting?

4 A In my office.

5 Q Who attended?

6 A Mr. Jim Taylor and Mr. Norm Elliott.

7 Q That was a meeting sometime after  
8 March 28th and before April 4th?

9 A Yes.

10 Q How long did that meeting last?

11 A I am not sure. One to two hours.

12 Q Who convened the meeting?

13 A I am not sure that I can respond positively  
14 to that.

15 Q Do you have a belief, a best  
16 recollection, as to who convened it and, if so,  
17 who?

18 A I was informed that there would be such a  
19 meeting by Alan Womack and who the participants  
20 would be.

21 Q Did Al Womack attend any part of the  
22 meeting?

23 A Not that I recall.

24 Q Was this the first time that you  
25 discussed with Norm Elliott the occurrence of

1  
2 operators prematurely terminating high pressure  
3 injection?

4 A To my knowledge, yes.

5 Q What was Elliott's participation in  
6 the meeting in your office?

7 Let me back up and take it more  
8 logically.

9 How did the meeting get started? Who  
10 said what to whom at the start of the meeting?

11 A At present, I don't really recall the details  
12 of the meeting, the first subject addressed was  
13 an exploration of why we were meeting.

14 Q Who participated in that exploration?

15 A I believe all of us did.

16 Q What was said on that subject in  
17 words or substance?

18 A In substance, I believe we said that the  
19 NRC had requested that we provide them our opinion  
20 on what guidance should be given operators to  
21 prevent the reoccurrence of accidents similar to  
22 Three Mile Island and that we should also issue  
23 guidance to that extent directly to our customers.

24 Q What was Norm Elliott's contribution  
25 to the meeting?

1  
2 A We all participated in a review of my  
3 earlier March 16th memorandum --

4 MR. FISKE: February 16th.

5 THE WITNESS: February 16th, excuse  
6 me.

7 A Memorandum and explored whether it was  
8 sufficient for the purposes of preventing  
9 occurrences similar to Three Mile Island and  
10 to some extent possible problems that would be  
11 created by the issuance of such instructions  
12 and jointly concluded that very similar instructions  
13 should be issued.

14 Q Very similar to the instructions you  
15 drafted and sent to Taylor on February 16, 1978?

16 A Yes.

17 Q And you felt that the dissemination  
18 of instructions very similar to those which you  
19 had sent around on February 6, 1978 would help  
20 prevent a recurrence of an accident such as the  
21 Three Mile Island accident?

22 A Yes.

23 Q Did Norman Elliott tell you in words  
24 or substance that he didn't think the revised  
25 instructions made a useful contribution?

1

2

A No.

3

4

5

Q Did Norman Elliott tell you in words or substance that he thought the existing procedures which plant operators had were sufficient?

6

7

MR. FISKE: You mean did he say that, is that the question?

8

9

MR. SELTZER: In words or substance, yes.

10

A I don't recall.

11

12

13

14

15

Q Did Norm Elliott ask you or Taylor to take a look at the existing procedures which plant operators had to see if those procedures were sufficient to avoid an accident such as the Three Mile Island accident?

16

A I don't believe so.

17

18

19

20

Q At the meeting that you had with Elliott and Taylor, did you examine the procedures drafted by B&W for use on the Lynchburg simulator?

21

A No.

22

23

24

25

Q At the meeting that you had with Taylor and Elliott, did you discuss any of the procedures which B&W had previously drafted and disseminated to operators for handling small

break loss of coolant accidents?

A No.

Q Did you discuss with Norm Elliott at the meeting what kind of training the B&W Training Services Group had been giving to operators for dealing with small break loss of coolant accidents?

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

Q Did you discuss with Norm Elliott the fact that the prescription that you had made in February 1978 and which was going to be released in substantially identical form in April of 1979 would be a change from the procedures previously issued by B&W?

MR. FISKE: Could I hear the question again, please? I am sorry.

(Record read.)

A I don't believe B&W issues procedures. Procedures for handling accidents for operating nuclear power plants are, I believe, the responsibility of the utilities.

Q I won't quibble with you about legalisms.

It's a fact, isn't it, that B&W, to

2 your knowledge, has drafted procedures and sent  
3 drafts of procedures to operating utilities, isn't  
4 that a fact?

5 A I have been told that under contract B&W  
6 has at times participated in the drafting of  
7 procedures.

8 Q Have you been told that B&W has  
9 sent drafts of procedures to operating utilities?

10 A Subject to legal connotation, I think the  
11 answer is yes.

12 Q Were you aware at the time that you  
13 meet with Taylor and Elliott after the Three  
14 Mile Island accident and before April 4, 1978,  
15 that the prescription for operating the high  
16 pressure injection system which you were  
17 promulgating was different from the procedures  
18 which B&W had previously drafted and sent to  
19 operating utilities?

20 A No.

21 Q Did you have any belief about  
22 whether what is contained in GPU Exhibit 85 was  
23 the same or different from the procedures  
24 that had previously been drafted by B&W and sent  
25 to operating utilities?



2 A I have an assumption.

3 Q What is that?

4 A I had assumed that draft procedures or  
5 guidelines for draft procedures issued by B&W  
6 prior to March 28th, 1979 or April 4th did not  
7 deal with the termination of high-pressure  
8 injection in the manner that I was proposing  
9 in my February 16th memo.

10 Q What was that assumption based on?

11 MR. FISKE: This is the assumption  
12 that he had on or about April 4th when  
13 these procedures were being drafted.

14 Q Is that when you had the assumption?

15 MR. FISKE: That's the time period you  
16 have been asking him about.

17 MR. SELTZER: All right. If he wants  
18 to say that's the period of his assumption,  
19 that's fine. I am not quarreling.

20 Q Is this an assumption that you had  
21 at the time that GPU Exhibit 85 was being developed?

22 A Not exactly.

23 Q When did you develop this assumption?

24 A Much later.

25 Q What was the assumption based on?

2 A The assumption that the communication to  
3 the customer does not contain these type of  
4 recipes was based on the fact that the operator  
5 at Davis-Besse and later at Three Mile Island  
6 had not behaved in a manner consistent with such  
7 a recipe. The reason for my statement "not  
8 exactly" is that I don't recall when I became aware  
9 of the nature in which we communicated information  
10 on operations to the customers.

11 Q At the meeting that you have just  
12 described or at any subsequent meeting, have you  
13 discussed with Norm Elliott modifications in  
14 training to embrace the new Bert Dunn prescription  
15 on how to operate high-pressure injection?

16 A I don't know.

17 Q Have you ever participated in any  
18 training program or developments of training  
19 programs to teach operators how to respond in the  
20 manner prescribed by you on February 16th and by  
21 B&W on April 4th?

22 A I have participated in a mock instruction  
23 of operators at a time frame following March  
24 28th, 1979 in which part of the subject matter  
25 dealt with operation under these guidelines.

Q Do you know whether B&W's training of operators has been modified as a result of these guidelines?

A I believe it has.

Q Between the date of the Three Mile Island accident and April 4, 1979, did you have any conversations with Hallman or any representative of Hallman's group regarding the Hallman going solid concern?

A This was between the time of the Three Mile Island accident and April 4th, 1979?

Q Right.

A I don't know.

Q Did you have any discussions with anybody during that period in which the going solid concern was raised?

A I don't know.

(Continued on following page.)

2 Q Did you have any discussions in that  
3 time period in which anybody expressed any  
4 reservations about issuing the prescription which  
5 you had developed in February 1978?

6 A I don't know.

7 Q I don't mean to inhibit your answer by  
8 giving you artificial time constraints that you  
9 may have difficulty with.

10 Did you have any --

11 MR. FISKE: Your questions include  
12 the meeting that he had with Hallman -- I'm  
13 sorry, with Elliott and Taylor?

14 MR. SELTZER: Right.

15 MR. FISKE: They are not limited to  
16 conversations outside that?

17 MR. SELTZER: No.

18 Q You understood I was including the  
19 Taylor/Elliott conversation, did you not?

20 A Yes, I did.

21 Q At any time after the Three Mile  
22 Island accident and for the next two months  
23 thereafter, did anybody discuss with you the  
24 going solid concern as an impediment to issuing the  
25 Bert Dunn prescription for how to handle high-pressure

2 injection?

3 A Maybe.

4 Q What does that mean?

5 A Excuse me.

6 The answer is yes.

7 Q Who?

8 A I don't know that I can respond to the  
9 question.

10 Q In what context?

11 A In the context that the subject matter was  
12 at least raised in discussions with counsel.

13 Q Do you know who raised the concern about  
14 going solid?

15 A Your questions were to the effect that  
16 had the subject been raised relative to it being  
17 an impediment to the issuance of my recipe or  
18 prescription.

19 Q O.K. Let me try and clear away some  
20 of the dead wood as they say in bowling.

21 I am talking about discussions with  
22 you about reservations that are being raised by  
23 people for the first time after the Three Mile  
24 Island accident; I am not talking about your  
25 learning for the first time about reservations

2 that had been raised before the Three Mile Island  
3 accident. I am asking you after the accident,  
4 a great tragedy on the banks of the Susquehanna,  
5 B&W is preparing to issue GPU Exhibit 85 so  
6 that people will know how to avoid great tragedies  
7 like that in the future.

8 Did anybody raise with you at that  
9 time any reservations about the wisdom of issuing  
10 instructions like this because they were concerned  
11 that it would lead to taking the reactor coolant  
12 system solid?

13 MR. FISKE: Could I just make a  
14 suggestion which might also eliminate some  
15 of the other objections to that question.

16 Are you basically asking him whether,  
17 during this period of time, March 28th,  
18 April 4, while they were in the process of  
19 drafting these instructions, was there,  
20 did he have any discussions with anybody on  
21 the subject of going solid; is that the  
22 question?

23 MR. SELTZER: Well, that confines it  
24 more in time period than I want to. I don't  
25 mind taking that as a first time period.



2

MR. FISKE: Mr. Dunn's last answer

3

indicated that he had construed earlier

4

questions in terms of whether the going

5

solid concern was an impediment to issuing

6

the instructions which sort of builds a

7

conclusion in the answer, and it seems to

8

me what you are basically trying to find out

9

is were there conversations about

10

whether there is a problem here possibly

11

about going solid.

12

MR. SELTZER: That's what I am focusing

13

on.

14

Q Was there anybody who, after the

15

accident at Three Mile Island, believed that

16

going solid was an impediment or should be an

17

impediment to B&W issuing the instructions

18

in GPU Exhibit 85?

19

A At B&W?

20

Q Right.

21

A Not relative to their basic intent or

22

purpose.

23

Q Their basic and what?

24

A Intent or purpose.

25

Q What was their basic intent or purpose?

2 A To assure that the reactor coolant system was in  
3 a sub-cooled state to the best of our capability  
4 of measurement prior to terminating high-pressure  
5 injection.

6 Q Have you heard anyone within B&W  
7 express the opinion since the accident that they  
8 believed B&W should not have issued the Bert Dunn  
9 prescription for how to operate high-pressure  
10 injection?

11 A No.

12 Q Have you talked with Mr. Hallman about  
13 it?

14 A Yes.

15 Q Was he in agreement that the Bert  
16 Dunn prescription should be issued?

17 A I don't know.

18 Q Did he say anything about his previously  
19 expressed concern over going solid?

20 A Maybe.

21 Q Why do you say that?

22 A Because at some time Don had indicated to me that  
23 he had written, I believe, the August 3rd memo, and  
24 I don't recall whether or not he indicated what his  
25 concerns were.

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Q In that conversation between you and Don, that took place after the Three Mile Island accident, right?

A Yes.

Q What was Taylor's contribution to the meeting that you had with him and Norm Elliott which led to drafting GPU Exhibit 85 or the prescription in GPU Exhibit 85?

A It was a general comment, contribution, reviewing the instructions we finally decided to issue and participating in the decision to remove the instrument error wording in my original draft and use 20 minutes as a delay time as opposed to ten minutes.

Q Did you have in front of you at the meeting with Taylor and Elliott your February 16 memorandum?

A Yes.

Q What, if any, comments did Mr. Taylor make about the fact that you had in front of you this same memorandum that he had received more than a year earlier?

A I don't remember.

Q Did he display any remorse at not

2           having acted more positively in respond to your  
3           February 16 memorandum?

4                   MR. FISKE: I am going to object to  
5                   that question. I don't mind if you ask him  
6                   what Mr. Taylor said.

7                   Q       Did he say anything which in words  
8                   or substance conveyed regret over not having  
9                   taken a more positive action in response to your  
10                  February 16 memorandum?

11                  A       I don't know.

12                  Q       Did he say anything to excuse his  
13                  not having taken more positive action in response  
14                  to your February memoranda?

15                   MR. FISKE: I object to the form of that  
16                   question.

17                   You may answer it.

18                  A       I don't know.

19                  Q       Did he apologize to you for not  
20                  having taken a more positive action in response  
21                  to your February memoranda?

22                  A       I do not believe so.

23                   MR. FISKE: I would like to note  
24                   retroactively an objection to the form  
25                   of the last question which I think is a classic

2 "Have you stopped bearing your wife?"  
3 question.

4 Q Did you say anything to Mr. Taylor at  
5 the meeting about the fact that no final action  
6 to notify customers had ensued from your  
7 February memoranda?

8 A I don't believe so.

9 Q Did you not want to hurt his feelings?

10 MR. FISKE: I object to that question.

11 Q You may answer.

12 A No, that was not a consideration.

13 Q Have you ever discussed with Jim Taylor  
14 that he blew it in not taking more positive  
15 action in response to your February memoranda?

16 MR. FISKE: You mean has he ever said  
17 that to Taylor?

18 MR. SELTZER: Yes, in words or substance.

19 A No.

20 Q Have you ever said to anyone that you  
21 think B&W blew it in not responding more  
22 positively to your February memoranda?

23 MR. FISKE: I am going to object to  
24 at least the form of that question.

25 Q You may answer.

2

MR. FISKE: Well, maybe you better

3

characterize what you mean by "blow it"

4

unless you are asking him did he use those

5

precise words.

6

MR. SELTZER: No, I mean words or

7

substance.

8

MR. FISKE: I would like to know what

9

you mean on the substance of "blow it,"

10

what "blow it" connotes.

11

Q B&W made a mistake.

12

Have you ever said to anyone in words

13

or substance that you believed B&W made a mistake

14

in not taking more positive action prior to the

15

Three Mile Island accident to issue the

16

prescriptions contained in your February 16, 1978

17

memorandum?

18

MR. FISKE: I think I am going to

19

object to that question, Mr. Seltzer, because,

20

again, I think it involves a characterization

21

that we may not all be in complete agreement

22

on on what you mean by "made a mistake."

23

MR. SELTZER: I can't be more

24

explicit.

25

MR. FISKE: Mr. Seltzer is asking you



2           whether you ever told anybody that  
3           B&W made a mistake in not issuing those  
4           instructions earlier.

5           I will allow Mr. Dunn to answer  
6           the question, if he ever said that to  
7           anybody.

8           MR. SELTZER: Yes, in words or  
9           substance.

10          MR. FISKE: The substance business --

11          MR. SELTZER: I am not requiring that he  
12          use the word "mistake." He might have said  
13          "error" --

14          MR. FISKE: This is exactly what I am  
15          objecting to because you start getting these  
16          synonyms and they have different meanings  
17          to different people.

18          MR. SELTZER: Fine. Let's start with  
19          "mistake."

20          MR. FISKE: I think what we ought to  
21          do is go to lunch and think about this and  
22          cool down, because I think you are now going  
23          into an area where the words have a very  
24          important connotation one way or the other,  
25          or may, and I don't think this is an area

2 where you can say "Did you ever say anything  
3 like this to somebody" or "Did you ever say  
4 anything like this in substance" and get an  
5 answer that is going to be useful or valid  
6 later on.

7 MR. SELTZER: I promise that I would  
8 ask him what exact words he used.

9 MR. FISKE: My suggestion is that it is  
10 12:35. I think this is as good a time as  
11 any to break and reflect on this.

12 MR. SELTZER: Let me get the pre-lunch  
13 answer and then --

14 MR. FISKE: I will not let him answer  
15 the question.

16 Q Forget the words "or substance." I will  
17 reframe the question.

18 Did you ever indicate to anyone  
19 after the Three Mile Island accident that you  
20 believe Babcock & Wilcox was in error in not  
21 having issued your February 16 prescription to  
22 customers before the Three Mile Island accident?

23 MR. FISKE: I will object to that,  
24 Mr. Seltzer.

25 MR. SELTZER: O.K.

1  
2 MR. FISKE: I will not let him answer  
3 that question unless you are asking him if  
4 this is a specific conversation he had and  
5 what he said.

6 MR. SELTZER: I will certainly ask him  
7 that. First I want to establish a foundation  
8 that he had such a conversation, and then we  
9 will get to the conversation.

10 MR. FISKE: I understand, but you are  
11 asking him to draw some sort of a legal  
12 conclusion when you use the words like  
13 mistake or error. All of those words -- there  
14 is the same problem in all of those words.  
15 "Blew it" was the worst.

16 MR. SELTZER: I was trying to use a  
17 colloquial phrase that I think 99 44/100ths  
18 of the people in the world understand, but  
19 I don't mind rephrasing it to say "Did you  
20 ever indicate that you believed B&W made  
21 an error," if you are more comfortable  
22 with my using more formal language, but  
23 I am entitled to that answer and I think we  
24 can reconvene in the Judge's chambers this  
25 afternoon if you are not going to let

1  
2 the witness answer that question, did he  
3 ever indicate to anyone that that was his  
4 belief.

5 MR. FISKE: Well, I will object  
6 unless you put the question in terms of  
7 what did Mr. Dunn say with respect to the  
8 non-issuance of these instructions, and  
9 if you want to ask him those questions, who  
10 he discussed that with and what he said  
11 to them, that's fine.

12 My only concern is that you are building  
13 into your questions conclusory words which  
14 different people may interpret differently,  
15 and I am not in any way preventing you from  
16 going into this area asking Mr. Dunn all  
17 the appropriate questions in the world with  
18 respect to this.

19 If you want to ask him with whom he  
20 discussed after the accident the fact that  
21 instructions had not gone out and what did  
22 he say to them about that fact, fine, I won't  
23 have any objections to that, but you put the  
24 question in a conclusion first, and you put it  
25 in a way where the conclusion is one that

different people would construe differently.

MR. SELTZER: I am not talking about how I would construe it, and I am not talking about how Mr. Fiske would construe it. I am not talking about how Mr. Shapiro, our court reporter, would construe it. I am not even talking about how Judge Owen would construe it.

I am talking about how Mr. Bert M. Dunn construes it, and I am asking in the sense in which he construes error: Did he ever indicate to anyone that he believed in the sense that Bert M. Dunn construes the word "error" that B&W had been in error in not issuing to customers the prescription that he had set forth in his February 16, 1978 memorandum.

MR. FISKE: Well, again, I mean, we are both repeating ourselves, but I have no objection to him testifying about all of the conversations that he had with anybody you want to ask about with respect to the fact that the instructions had not gone out, but when you start using words

1  
2 like "error, mistake," those all have legal  
3 connotations. They all have conclusions  
4 in them that make that question -- and it seems  
5 to me very inappropriate particularly when  
6 you are asking Mr. Dunn not did he use those  
7 words but did he say something in substance  
8 that connoted that impression or did he  
9 indicate that impression to somebody.

10 Why don't you just ask him about  
11 the conversations. We all know what we  
12 are talking about, and you can get the  
13 conversations by asking him about the  
14 conversations and without putting these  
15 conclusory words into it. It just confuses  
16 it and I am perfectly willing to let him  
17 answer all of the questions you want to ask  
18 about who he discussed this with and what  
19 he said.

20 MR. SELTZER: You just want to take him  
21 to lunch first before you let him answer  
22 these.

23 MR. FISKE: No, I will represent to you that  
24 I will not even discuss that subject with him  
25 at lunch, and if you want to do it all now



1  
2 before lunch, we will do it all right now.

3 MR. SELTZER: Are you instructing  
4 him not to answer the pending question?

5 MR. FISKE: Yes, in light of my  
6 suggestion of the alternate procedure for  
7 getting the information, and I would at least  
8 suggest that you ask him those other  
9 questions first.

10 MR. SELTZER: I will accept your offer  
11 not to discuss with him this topic over  
12 lunch.

13 MR. FISKE: O.K.

14 MR. SELTZER: And I will consider  
15 over lunch whether I am sufficiently  
16 in need of asking it the way I want to ask it.

17 MR. FISKE: Fair enough.

18 MR. SELTZER: Why don't we go have  
19 lunch.

20 (Whereupon, at 12:40 o'clock p.m. a  
21 lunch recess was taken.)  
22  
23  
24  
25

2

conversations and what was said?

3

MR. FISKE: Well, maybe you could

4

make it a little clearer.

5

Q On the subject of my last question.

6

MR. FISKE: Well, what conversation,

7

what subject are you asking him?

8

Q Whether it was a mistake not to issue

9

the February 16, 1978 prescription.

10

Do you understand that?

11

MR. FISKE: I am not sure I do.

12

In other words --

13

Q I want to find out what was the first

14

conversation that you had with anybody in which

15

that subject matter was discussed.

16

MR. FISKE: How about just so we

17

don't have any problem with this, at all,

18

if you ask him about conversations

19

where the subject matter was the fact that

20

the instructions had not gone out and ask him

21

the full text of it, you know, the

22

conversation on that subject. It seems

23

to me that will get everything you want

24

and everything you are entitled to.

25

MR. SELTZER: Are you instructing him

2

not to answer the prior question?

3

MR. FISKE: I think so, in preference

4

to the one -- yes. Again I invite you to

5

ask the other one.

6

MR. SELTZER: I think that's very sweet

7

of you to invite me to ask your question,

8

Mr. Fiske, but all I am asking is if you

9

are directing the witness not to answer my

10

question.

11

MR. FISKE: Yes, I am.

12

Just so we don't have any characterizations

13

in the question, that's the only reason. It

14

has nothing to do with any objection to the

15

conversations themselves. The only

16

objection is to the characterization in

17

the question.

18

Q Did you have conversations after

19

the Three Mile Island accident in which you said

20

anything to anybody else or anyone else said

21

something to you referring to the failure of B&W

22

to have previously issued your February 16, 1978

23

prescription on termination of high-pressure

24

injection?

25

MR. FISKE: My only objection to that

question is as to the form.

You may answer.

A The words "with regard," is that correct?

Q Yes.

MR. FISKE: On that subject.

A Yes.

Q Anything that related or referred to.

A Yes.

Q What was the first occasion on which you had any conversation that in any way related or referred to the failure of B&W to have sent out your February 16th, 1978 prescription?

A The conversations I recall related to whether or not the instruction or a similar instruction had been issued by B&W, and I may not necessarily pick up the intonation of the word "failure."

Q With whom did you have that conversation? and when?

A I recall having that conversation or conversations like that with more than one individual but I believe I could only identify Don Hallman as a particular individual.

The conversations in question were

2

shortly after the accident at Three Mile Island.

3

Q Were there other people whom you

4

can identify that you believe you had this

5

conversation with other than Hallman?

6

MR. FISKE: Again, I assume by "believe"

7

you mean recall?

8

Q Yes, recall, to any extent, to whatever

9

your recollection is today, even if it is not a

10

crystal clear recollection.

11

A Yes.

12

Q Who?

13

A I believe it would involve privileged

14

information, conversations with Mr. Edgar.

15

(Continued on next page.)

16

17

18

19

20

21

22

23

24

25

2 Q Did you have any conversations with  
3 anybody else on this subject other than Mr.  
4 Edgar and Mr. Hallman?

5 A Yes.

6 Q Who?

7 A I testified earlier that I cannot recall  
8 who the individuals were.

9 Q Do you have any recollection at all  
10 who you believe they were?

11 A Not that I could term recollection.

12 Q What would you term it?

13 A Guessing.

14 Q These are conversations shortly after  
15 the Three Mile Island accident you are referring  
16 to?

17 A Yes.

18 Q By "shortly after," how soon after  
19 the accident do you mean?

20 A Within four or five days.

21 Q Subsequent to five days after the  
22 accident, did you have conversations, any  
23 conversation with anyone that related in any way  
24 or referred in any way to B&W's not having sent  
25 out your February 16, 1978 prescription prior to



2 the Three Mile Island accident?

3 A Yes.

4 Q With whom?

5 A Again I believe that to be privileged.

6 Q You are still allowed to tell me the  
7 name of the person.

8 A Mr. Edgar, and I don't recall if others  
9 were present or if not.

10 Q What other conversation with anyone  
11 have you had since the accident that related in  
12 any way or referred in any way to B&W not having  
13 sent out your February 1978 prescription prior to  
14 the accident?

15 A A conversation with Mr. Allen Womack.

16 Q What other conversation have you had  
17 with anyone since the accident relating or  
18 referring to B&W's not having sent out the  
19 February prescription prior to the accident?

20 A Right now I believe the only other  
21 conversation that would in any way qualify which  
22 I recall would be the one with Bruce Karrasch,  
23 which I testified to earlier.

24 Q Have you ever said any word on the  
25 subject of B&W's failure to send out the February

2 prescription prior to the Three Mile Island  
3 accident to anybody employed by, associated with  
4 or affiliated with the NRC?

5 A Not that I recall at this time.

6 Q Have you had a conversation on this  
7 subject with any utility company employee; in  
8 other words, I am asking, have you had any words  
9 whatsoever with anybody employed by a utility  
10 about the fact that B&W had not sent out your  
11 February prescription prior to the accident?

12 A Yes, I think I understand the question, but  
13 it's a long period of time and there were many  
14 interactions.

15 I don't believe so.

16 Q Have you met with utility company  
17 personnel since the accident?

18 A Yes.

19 Q Have you ever been introduced to any  
20 utility company personnel as "This is Bert Dunn,  
21 who wrote the February memoranda" or words to that  
22 effect?

23 A I can't recall that occurring.

24 Q Have you ever said anything to any  
25 social friends about the Three Mile Island

1  
2 accident?

3 A Yes.

4 Q Have you ever discussed with them the  
5 fact that you had written procedures more than a  
6 year before the accident that could have averted  
7 the accident?

8 A Not that I can recall.

9 Q Where did your conversation with  
10 Hallman take place in which you discussed the  
11 fact that B&W had not sent out your February 1978  
12 prescription before the Three Mile Island accident?

13 A I do not recall the location.

14 Q How long a conversation was it?

15 A A few minutes.

16 Q As best you can recall, what did you  
17 say to him and what did Don Hallman say to you?

18 A In substance, I was asking whether or not  
19 the instructions that I issued in -- "issued" is  
20 wrong -- wrote, tried to get issued in February  
21 had been released to the customers.

22 In substance, the response at that  
23 time was that Don wasn't sure one way or the  
24 other whether or not such instructions had been  
25 released.

2 Q What did you respond when he told you  
3 that?

4 A I don't believe I responded with anything.

5 Q From whom did you first learn that the  
6 instructions had not been released?

7 A I don't know that I have ever actually  
8 learned that in the fashion of a fact. I have  
9 been told that.

10 Q You have been told that?

11 A Yes.

12 Q My question was, who told you?

13 A That I believe would be privileged.

14 Q Why?

15 A I was told that in sessions involving  
16 preparation for the Kemeny Commission.

17 Q Was this information imparted to you  
18 be a lawyer or by a non-lawyer?

19 A By a lawyer.

20 Q This is sometime after April 4, 1979;  
21 right?

22 A That is correct.

23 Q Didn't you know or at least assume  
24 that your February 16, 1978 prescription had not  
25 gone out when you were working with Norm Elliott

1  
2 and Jim Taylor to draft what was sent out on  
3 April 4, 1979 as GPU Exhibit 85?

4 A By the time we were working on that  
5 instruction, we had been unable to obtain any  
6 evidence or find any individual who indicated  
7 that the instruction had gone out, and I at least  
8 operated under the assumption at that time that  
9 they had not, or presumption.

10 Q Have you ever expressed an opinion to  
11 anyone about the correctness of B&W's actions  
12 in not having apparently sent out your February  
13 1978 prescription to customers?

14 A No.

15 Q Have you ever expressed your views  
16 or sentiments about B&W's not having or apparently  
17 not having sent out your February 1978  
18 prescription to customers?

19 A Yes.

20 Q To whom?

21 A To Allen Womack and to Jim Taylor.

22 Q Did you express your views or  
23 sentiments to them together or on two separate  
24 occasions, two or more separate occasions?

25 A On separate occasions.

2 Q To whom did you express your views or  
3 sentiments first?

4 A I don't recall.

5 Q Taking them in the order in which you  
6 listed them, Allen Womack first, what did you  
7 say to him and what did he say to you, in words  
8 or substance, on this occasion?

9 A I indicated a regret or that I was sorry  
10 that the instructions, which I felt at the time  
11 may have assisted the personnel at Three Mile  
12 Island, had apparently not gone out from B&W.

13 Q What else did you say on that subject  
14 to Al Womack?

15 A In terms of my sentiments, I believe that  
16 was about all.

17 Q What else on the subject of B&W's  
18 not having, apparently not having sent out the  
19 February prescription did you say to Al Womack?

20 A At the time that I indicated those  
21 sentiments to Allen, I don't recall whether I said  
22 anything else at all.

23 Q Did you have any other conversation  
24 with Allen Womack after the accident in which you  
25 discussed B&W's apparently not having sent out or



2 not having sent out the February prescription?

3 A Yes.

4 Q On that occasion what did you say to  
5 him, in words or substance?

6 A On that occasion I showed him my memos.

7 Q What did Allen Womack say to you on  
8 the first occasion when you were discussing this  
9 after the Three Mile Island accident?

10 A Other than describing or telling me that a  
11 meeting that evening would occur between Jim  
12 Taylor and Norm Elliott and myself to identify  
13 an instruction to prevent it or assist in the  
14 prevention of a recurrence of a Three Mile Island  
15 accident, Allen did ask me if I had any thoughts  
16 on what such an instruction might look like.

17 Q What did you tell him in response?

18 A I asked him to wait a few minutes, and I  
19 obtained copies of my February 16th memo and  
20 showed them to him.

21 Q What did he say to you, as best you  
22 can recall, when you showed him your February 16th  
23 memorandum?

24 Let me ask you first, did you also  
25 show him your February 9th memorandum on that same

1

2

occasion?

3

A I am not sure.

4

5

6

7

Q So you know you showed him the February 16th memorandum and you are not sure whether you showed him the February 9th memorandum at the same time, is that right?

8

A That's correct.

9

10

11

12

Q What did Allen Womack say when you showed him the February 16th memorandum and possibly also the February 9th memorandum? Did his mouth drop open, did his eyes glaze over?

13

14

MR. FISKE: The question is, what did he say, right?

15

MR. SELTZER: Yes.

16

17

A I am not sure. I do not recall exactly what he said.

18

Q What did he say in substance?

19

20

21

22

A I think what I recall from the meeting is highly interpretive and not something I should testify to relative to what he did say in either words or substance.

23

Q What do you mean, highly interpretive?

24

A A reaction I obtained.

25

Q That is your reaction to what he said?

Dunn

1

2 A No.

3 Q What was it a reaction to? You said

4 "It was the reaction I retained."

5 To what were you reacting?

6 A I was not reacting.

7 Q What generated your reaction?

8 A Let us substitute "impression" for "reaction."

9 Q What was making an impression on you  
10 at that time?

11 A Allen.

12 Q What he was saying, what he was  
13 showing on his face?

14 A Together.

15 Q What impression did what he was saying  
16 and what he was showing on his face create in you?

17 MR. FISKE: I will object to that.

18 MR. SELTZER: Since he can't remember  
19 exactly what the man said in words or  
20 substance, I would now like to find out  
21 what impression it created.22 MR. FISKE: I am not sure that Mr.  
23 Dunn said he can't recall what Mr. Womack  
24 said in substance.

25 MR. SELTZER: I give him another

1

2

chance. I thought that was what he had  
said.

3

4

BY MR. SELTZER:

5

6

7

8

Q Do you remember, in words or  
substance, what Allen Womack said when you showed  
him the February 16th memorandum and possibly  
also the February 9th memorandum?

9

10

A Not other than what I have already put  
on the record.

11

12

13

14

15

Q What was that?

A That he had asked me -- excuse me, after I  
showed him the memos, that he had indicated that  
a meeting following this one between myself and  
Mr. Taylor and and Mr. Elliott --

16

17

Q I am sorry, I am one piece of  
dialogue behind you.

18

19

20

21

22

You meant after you had said that you  
regretted that the instruction had not gone out  
and you were sorry that the company hadn't issued  
your prescription, what in words or substance was  
Mr. or Dr. Allen Womack's response?

23

MR. FISKE: You can answer that.

24

A I don't recall his response at that time.

25

Q That's the point at which I asked you

1  
2 and you said you had an impression created by  
3 his words and his expression.

4 Since you can't remember exactly what  
5 his words were or in substance, I would like to  
6 know your impression as to what he was saying.

7 MR. FISKE: I don't think Mr. Dunn  
8 should have to answer that question. You  
9 are simply asking him for a characterization,  
10 particularly now when he said he can't even  
11 remember what was said.

12 MR. SELTZER: Yes, but he has an  
13 impression of what was said.

14 MR. FISKE: Yes.

15 BY MR. SELTZER:

16 Q I would like to have your impression  
17 of what was said to you at this very critical  
18 point in the history of the world.

19 MR. FISKE: I think you are  
20 overstating it, Mr. Seltzer. I don't think  
21 that really helps the events that caused it.

22 If you want to ask Mr. Dunn what his  
23 recollection is based on, whatever it may  
24 be based on, the impression he had or  
25 anything else as long as it is a

1  
2 recollection of what Dr. Womack said, I  
3 don't have any problem with it, but if you  
4 are just asking him for a general  
5 impression of what Dr. Womack's reaction  
6 was, then I think that's something  
7 different and I think he should answer, and  
8 I encourage him to answer, if he has any kind  
9 of a recollection as to what Womack said.

10 BY MR. SELTZER:

11 Q What was the import of what he was  
12 saying, what was the general tone of what he was  
13 saying, if you can't recall the exact words he  
14 was using?

15 You had just finished saying that you  
16 are sorry the company didn't issue the  
17 prescription. What was the tone and the import  
18 of what Allen Womack's response was to that?

19 A I do not recall.

20 Q Did he agree with you that it was  
21 regrettable?

22 A I do not recall.

23 Q Did he tell you, "Oh, don't be so  
24 sentimental about it"?

25 A No.



2

Q Did he say, "Oh, it's only a nuclear

3

plant"?

4

MR. FISKE: I am going to object to

5

this. I don't think your being sarcastic

6

helps.

7

Q Did he say that?

8

MR. FISKE: You can answer the

9

question, Mr. Dunn.

10

A No.

11

Q As you sit here, you do have an

12

impression of what he said, though, or what his

13

reaction was to your statement of regret, is that

14

right?

15

A No.

16

Q What was it that you had an impression

17

of when you testified seven or eight minutes ago

18

that you had an impression created by Allen

19

Womack's words and facial expression?

20

A Allen's reaction at the time I showed him

21

my memos.

22

Q What was his reaction?

23

MR. FISKE: Well, I think we ought to

24

exhaust -- that's fine as long as that's

25

directed at what Dr. Womack said.



2

MR. SELTZER: I did.

3

MR. FISKE: In words or substance,

4

import, that's fine.

5

MR. SELTZER: Actions.

6

BY MR. SELTZER:

7

Q What was Dr. Allen Womack's reaction

8

to seeing your memo?

9

MR. FISKE: I will object to the form

10

of the question and let you answer it with

11

that objection as long as the answer is

12

based on what Dr. Womack said.

13

A I can't base or be sure I am basing the

14

answer on what he said.

15

Q What do you recall of Dr. Womack's

16

response to seeing your memorandum?

17

MR. FISKE: I will just note the same

18

objection to the form.

19

MR. SELTZER: All right. You objected

20

to form.

21

Q You may answer.

22

A That I felt he was surprised.

23

Q How did he evidence that surprise?

24

A I don't recall at this time.

25

Q You testified at page 86 of the NRC

Special Inquiry deposition to actions and conversations on the day of the accident, and at line 21 you said --

MR. FISKE: One second while I get it.

MR. SELTZER: Page 86, line 21.

MR. FISKE: O.K.

Q You said, "In about that same time frame Allen came back and said 'Hey, the NRC is going to call. They want to know what we can do to prevent this from happening to any other plant.'"

Do you see that?

A Yes.

Q "And I handed him the February 16th memorandum and said, 'That's what you do.'"

Did you give that testimony in a deposition taken by the NRC Special Inquiry?

A Yes.

Q Is it at the point after you handed Allen Womack your February 16th memorandum and said to him "That's what you do" that he registered surprise?

A Yes.

Q Did you have any reason to believe that he had seen the February 16th memorandum

1  
2 before that moment?

3 A No.

4 Q Did you conclude from his reaction  
5 that he had not previously seen the February  
6 16th memorandum?

7 MR. FISKE: Well, I will object to  
8 that. We are back to Reggie Jackson.

9 MR. SELTZER: I think so.

10 MR. FISKE: I will object to the form.  
11 Go ahead, Mr. Dunn.

12 A I don't know.

13 Q Did he say anything to you which you  
14 understood to mean that he had not previously  
15 seen your February 16th memorandum?

16 A I don't recall.

17 (Recess taken.)

18 (Continued on next page.)  
19  
20  
21  
22  
23  
24  
25

2 BY MR. SELTZER:

3 Q After the second conversation that  
4 you had with Allen Womack regarding B&W's not  
5 having sent out your February prescription, did  
6 you have any other conversation with Allen Womack  
7 about B&W not having sent out the February  
8 prescription?

9 A At this time I don't recall one way or the  
10 other.

11 Q Was your February prescription or  
12 the subsequent issuance of instructions to  
13 operating utilities after the Three Mile Island  
14 accident discussed at any of the Design Section  
15 staff meetings after the accident?

16 A Not that I recall.

17 Q You said that you had a conversation  
18 or more than one conversation perhaps with Jim  
19 Taylor after the accident regarding the fact that  
20 B&W had apparently not sent out your February  
21 prescription until after the Three Mile Island  
22 accident.

23 Where did that conversation take  
24 place?

25 A I said that I had had a conversation with

2

Mr. Taylor in which I indicated my feelings about B&W's apparently not sending out the February 6th instructions.

4

5

Q Where did that conversation take place?

6

7

A I don't recall.

8

Q Was anyone else present?

9

A I do not believe so.

10

Q How long a conversation was that?

11

A A few minutes.

12

Q As best you can recall, what did you say to him?

13

14

A Very much the same thing I had said to Allen, a feeling of regret that the instructions had not gotten issued, being sorry that they had not been issued.

16

17

18

Q Did you say anything else to him about your views, your feelings on the instructions not having been issued?

19

20

21

A Not that I can recall.

22

Q Did you say anything else to him

23

that related or referred to the instructions not having been issued?

24

25

A Not in that conversation.

2

Q Did you at a subsequent conversation?

3

A I think the only subsequent conversations Jim Taylor and myself had on the subject were again in preparation for the depositions given to the Kemeny Commission.

6

7

Q These were conversations that you and he were having with each other?

8

9

A In the presence of counsel.

10

Q Were you engaging in the conversation

11

on this subject with Jim Taylor in order to secure

12

advice from counsel? In other words, was the

13

purpose of the conversation to obtain advice from

14

counsel?

15

MR. FISKE: Well, I am not sure that

16

the issue is that narrow, Mr. Seltzer.

17

MR. SELTZER: No, that's just the

18

start. I am not saying that that is

19

dispositive.

20

A I don't know whether that would be the way to phrase it or not.

21

22

Q What did you understand was the

23

purpose of the conversation?

24

A Preparation for the depositions and hearing of the Kemeny Commission.

25

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Q Was counsel participating in the discussion that you were having or just listening to it?

A Participating.

Q In the first conversation that you had with Taylor where counsel was not present and I am referring to the first conversation after the accident where you discussed your feelings with B&W not having sent out the instruction, you expressed regret and sorrow.

What was Jim Taylor's response in words or substance?

A I do not recall.

Q Did his response make any impression on you?

A Not that I can recall.

Q Within the first four to five days after the accident, you said that you had discussed the apparent failure of B&W to send out the February prescription with Hallman and with others but you couldn't remember specifically who the others were.

What is your best recollection about what you said to any of these others?



2

A I was asking whether or not the instructions that I had written in the February 16th memo had been issued.

4

5

Q Is that how you determined that apparently they had not been issued?

6

7

A That was the basis for the early presumption that they had not been issued.

8

9

Q In the aftermath of the Three Mile Island accident, has anyone ever told you that they had read your February 8th and 16th memoranda but frankly didn't understand what you were talking about in those memoranda?

10

11

12

13

14

A No.

15

16

17

Q Did anyone say that they did not understand what the basis of your concern was having read your memoranda?

18

19

20

21

Q Did anyone say they didn't understand that you were conveying a sense of urgency in your memoranda?

22

A No.

23

(Continued on the following page.)

24

25

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2

Dunn

2

Q Did anyone express to you their

3

or sentiments on B&amp;W's apparently not having sent

4

out the February prescriptions prior to the Three

5

Mile Island incident?

6

A Yes.

7

Q Who?

8

A Mr. Taylor and Mr. MacMillan, as I recall.

9

Q That's John MacMillan, the head of the

10

NPGD?

11

A Yes.

12

Q What do you call him, John Mac

13

or Mister?

14

MR. FISKE: You mean how does Mr. Dunn

15

refer to him?

16

MR. SELTZER: Yes.

17

Q When you are talking with him.

18

A John.

19

Q When did you have a conversation

20

with Mr. MacMillan in which he expressed his

21

views to you?

22

A A few weeks following the conclusion of

23

our testimony in front of the Kemeny Commission.

24

Q Where did you confer with him or

25

converse with him?

1 3 Dunn

2 A He came to my office.

3 Q Was anyone else present?

4 A No.

5 Q How long did you and he converse?

6 A About fifteen minutes.

7 Q What did he say to you regarding his  
8 views or feeling about B&W's apparently not  
9 having sent out your February prescription?

10 A That he regretted that the instructions had  
11 not been -- we had not been able to release the  
12 instructions prior to the incident at Three Mile  
13 Island.

14 Q What else, if anything, did he say on  
15 the subject?

16 A In substance he indicated that I was correct  
17 in issuing my memos and that he wanted to reassure  
18 me relative to the issuance of the memos and the  
19 general perception held of me within B&W following  
20 the Kemeny Commission.

21 Q What did he say to you about the  
22 general perception within the B&W company about  
23 you?

24 A That it was perceived that the memos should  
25 have been issued and that I was acting properly.

1

4

Dunn

2

Q That you were acting properly in

3

doing what?

4

A In issuing the memos and then trying to pursue a line that would lead to communications to the customers if that was necessary.

6

7

Q You said that Mr. MacMillan alone

8

had indicated he regretted that the company had not issued your prescriptions prior to the Three Mile Island incident, is that right?

10

11

A Yes.

12

Q What, as best you can recall, were

13

the exact words that Mr. MacMillan used in expressing that to you?

14

15

A I can't recall his exact words.

16

Q What is the closest you can come?

17

A I believe he did use the word "regret."

18

Q What did you say to him in response?

19

A That I felt the same way he did relative to the issuance of the memos and that I wished in addition that I had not assumed closure of the issue following the documentation of my February 16th memo.

20

21

22

23

24

Q What do you mean by the phrase

25

"assumed closure"? To broaden it? What do you

5 Dunn

mean, you wished you had not assumed closure?

A I assumed that with the writing of the February 16th memo that information would be provided to the operating plants.

In a circumstance such as this I believe providing that information to the operating plants or documenting that they already have such information so that providing it wouldn't be necessary would be proper closure.

Q And you were telling John MacMillan that you regretted that you had incorrectly assumed that such closure had taken place, is that right?

A I regretted that I assumed that such closure had taken place or would take place shortly after the issuance of the memo.

Q What, if anything, did MacMillan respond?

A To that point I don't presently recall what he responded.

Q What else did Mr. MacMillan state to you in words or substance during that quarter of an hour meeting?

A As I recall it, I believe I had

6

Dunn

communicated the substance.

Q What else, if anything, did you say to him during that quarter of an hour conversation?

A I indicated further my regrets that I had been party to a chain of events, that it caused him to have to appear in front of the Kemeny Commission in the light that he did appear before the Kemeny Commission.

Q What did you mean by that?

A Exactly what I said.

Q What had you done that had caused him to appear in any particular light?

A Having identified my concerns, having written my memo of February 9th and February 16th, what I did to cause him to have to appear in at least part was to have reached an assumption that the issue had achieved closure as of the February 16th memo.

Q You mean you were blaming yourself for believing the issue had reached closure and that because you had held that belief you ended up putting Mr. MacMillan in the light he was in at the Kemeny Commission hearings?

MR. FISKE: I will object to the form

1 7 Dunn

2 of the question.

3 MR. SELTZER: Let me ask it differently.

4 Q What was there about your belief  
5 regarding closure that affected the light in  
6 which Mr. MacMillan was put at the Kemeny  
7 Commission hearings?

8 MR. FISKE: I think he just answered  
9 that.

10 You can answer it again if you want.

11 A In terms of affecting the -- John's  
12 appearance before the Kemeny Commission, had I  
13 not reached an assumption of closure as of the  
14 February 16th memorandum, I felt that I would have  
15 had the opportunity to effect closure thereafter.

16 Q How would that have affected it? What  
17 would the relationship be between your having  
18 affected closure after February 16th and the light  
19 that John MacMillan was in to use your phrase at  
20 the Kemeny Commission hearings?

21 MR. FISKE: Mr. Seltzer, I think you  
22 are getting way beyond the conversation that  
23 Mr. Dunn had with John MacMillan, I think  
24 he has described the conversation.

25 Now, what you are asking him to do



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Dunn

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is speculate or give you his conclusions as to certain feelings and I don't see how that is relevant. He has told you what the conversation was.

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Q What was John MacMillan's response, if any, to your expression that you were sorry that your actions had caused him to appear in the light in which he did at the Kemeny Commission hearings?

A I can't definitively to that -- to respond to that particular statement by me.

Q What recollection do you have at all of his response?

A An impression.

Q Will you tell me that.

MR. FISKE: I am going to object.

MR. SELTZER: This is the Reggie Jackson point. We have gone through that he doesn't remember the words, the words created an impression.

MR. FISKE: I am not sure you have exhausted whether he remembers the words.

MR. SELTZER: We did the last time, we will do it again.

(Continued on following page.)

2

Q I will ask you again for the benefit of

3

your counsel.

4

Could you recall what Mr. MacMillan

5

said, in words or substance, in response to your

6

statement that you were sorry about the light that

7

he had appeared in at the Kemeny Commission hearings?

8

A No.

9

Q What is the impression that he left you

10

with?

11

MR. FISKE: I will object to the form

12

of that question. In fact, I think I will do

13

more than that.

14

I don't see how this is relevant at

15

all, the impression that Mr. Dunn had of

16

what Mr. MacMillan said when he can't recall

17

what it was.

18

MR. SELTZER: He has an understanding

19

and impression of what he said even though he

20

can't recall the words.

21

BY MR. SELTZER:

22

Q Isn't that what you have said?

23

Isn't that what you said, Mr. Dunn?

24

A I said I have an impression.

25

Q That is an impression drawn from the

2 words that Mr. MacMillan spoke in response to what  
3 you had just said, is that right?

4 A Or an impression drawn from the entire meeting.

5 Q All right.

6 What was your impression drawn from,  
7 the entire meeting or from this statement by Mr.  
8 MacMillan, the head of the Nuclear Power Generation  
9 Division?

10 MR. FISKE: I am not going to let Mr.  
11 Dunn answer that question.

12 MR. SELTZER: Why?

13 MR. FISKE: Because I don't see how  
14 this is in any way proper evidence, what Mr.  
15 Dunn's impression was of something of an entire  
16 meeting or even of what Mr. MacMillan said. I  
17 am perfectly willing to have you ask him what  
18 he said, but his impression of it is, at least  
19 in my understanding of the Federal Rules, is  
20 not admissible.

21 MR. SELTZER: Which rule?

22 MR. FISKE: Well, I will quote you the  
23 rule later, if you want, but I don't think  
24 that is --

25 MR. SELTZER: You are talking about the

1  
2 Rules of Evidence or the Rules of Civil  
3 Procedure?

4 MR. FISKE: I am talking about the Rules  
5 of Evidence.

6 MR. SELTZER: You think there is a --  
7 Andy, do you want to get my copy?

8 Do you think there is a Rule of Evidence?

9 MR. FISKE: I have heard judges say it.

10 MR. SELTZER: O.K., I want to see it.

11 MR. FISKE: Which is usually  
12 dispositive.

13 (Mr. MacDonald left the deposition  
14 room.)

15 BY MR. SELTZER:

16 Q You referred to the light in which John  
17 MacMillan appeared at the Kemeny Commission.

18 In what light were you referring?

19 MR. FISKE: Well, again, Mr. Seltzer,  
20 I think you have got the conversation with Mr.  
21 MacMillan.

22 MR. SELTZER: Yes, I am just trying to  
23 understand what the witness' speech meant  
24 where he used certain words.

25 MR. FISKE: He said what words he used.

2

MR. SELTZER: I don't understand the  
phrase "in the light."

3

4

MR. FISKE: You mean what did Mr. Dunn  
mean by the testimony that he gave?

5

6

MR. SELTZER: Yes.

7

MR. FISKE: When he used that phrase?

8

MR. SELTZER: Yes.

9

BY MR. SELTZER:

10

Q In what light were you referring to

11

when you used that phrase in talking to John

12

MacMillan?

13

A The Kemeny Commission was, of course, a

14

presidential chartered commission investigating the

15

causes and other aspects of the accident at Three

16

Mile Island.

17

John had to appear before that

18

Commission after several B&W employees had given

19

testimony that a concern over operators' management

20

of the high-pressure injection system had been raised

21

prior to Three Mile Island and that B&W had not

22

communicated that concern to its customers or

23

communicated instructions relative to the management

24

of the high-pressure injection to its customers.

25

I believe that under those

2 circumstances -- believed that those circumstances  
3 were not as good as they would have been had we  
4 been able to communicate such information to our  
5 customers.

6 Q Weren't as good for whom or for what?

7 MR. FISKE: I am going to object to this,  
8 Mr. Seltzer. I think this is going way beyond  
9 the conversation with Mr. MacMillan, and now  
10 you are just asking Mr. Dunn for some personal  
11 thoughts.

12 MR. SELTZER: I am absolutely not. I  
13 am asking --

14 MR. FISKE: You have got what he said  
15 to Mr. MacMillan and what Mr. MacMillan said  
16 to him. You have got the conversation. I  
17 think that is all you are entitled to.

18 What you have just asked him now and  
19 the answer he just gave, quite obviously,  
20 isn't something that he said to Mr. MacMillan  
21 at the time. I think that is all you are  
22 entitled to. I mean, I have let you develop  
23 this, but it seems to me this is as far as  
24 it should go.

25 MR. SELTZER: I think every Federal

2 judge that I have been before would permit  
3 examination of a witness into the meaning of  
4 words that were uttered or written. And just  
5 so that you know exactly what I am examining  
6 on, I am examining on words that were spoken  
7 between the manager of the ECCS Analysis Unit  
8 to the head of the Nuclear Power Generation  
9 Division, and I am examining on a phrase that  
10 is not clear without some exposition into the  
11 meaning of the phrase. I am partway into an  
12 examination of the meaning of the phrase, and  
13 I intend to proceed.

14 MR. FISKE: Well, I don't see that  
15 this is proper.

16 MR. SELTZER: To examine somebody  
17 about the meaning of words spoken in a  
18 relevant conversation?

19 MR. FISKE: You have the conversation.

20 MR. SELTZER: I want to understand the  
21 meaning of the conversation. I think the jury  
22 is entitled to understand the meaning of the  
23 conversation.

24 MR. FISKE: I am sure the jury will  
25 ever hear this conversation, Mr. Seltzer.



2

That is a totally different question.

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MR. SELTZER: I am conducting this examination to lay a foundation for a jury so that a jury can understand conversations. I don't know whether Mr. Dunn will be within the jurisdiction at the time of trial. He may not be employed by B&W at the time of trial and, therefore, may be beyond the subpoena power of the Court at the time of trial.

12

13

14

15

16

17

This deposition may very well be a trial deposition. I am assuming, as I take this deposition, that every question and answer will be read to the jury. I would not be wasting the witness' time or your time or my time if I did not believe that.

18

19

20

21

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23

24

25

MR. FISKE: Well, I don't believe you can possibly believe that, Mr. Seltzer, and in the light of a lot of the questions that have been asked which could not possibly be admissible evidence under any circumstances, which has been pointed out on numerous occasions, I think now you are going way beyond this conversation with Mr. MacMillan

2 and you are just going into sort of Mr. Dunn's  
3 stream of consciousness, and I don't see that  
4 that is a proper procedure.

5 MR. SELTZER: I am explicitly seeking  
6 the understanding of words that were spoken  
7 that are in a very relevant and admissible  
8 conversation, and the words are not so clear  
9 and unambiguous that amplification is not  
10 desired and, in fact, I think the amplification  
11 has lent a great deal of meaning to the words  
12 that neither you nor I would have been smart  
13 enough to divine without the speaker's  
14 explanation.

15 MR. FISKE: Well, if you --

16 MR. SELTZER: And I don't mean to  
17 deprecate your intelligence in saying that.  
18 I just don't think that you can psychoanalyze  
19 a witness or psychoanalyze spoken words and  
20 understand their meaning as clearly as the  
21 author can.

22 MR. FISKE: It is quite obvious what  
23 you are asking for here is not what Mr. Dunn  
24 said to Mr. MacMillan, but what thoughts Mr.  
25 Dunn had in his mind at the time the

1 conversation was going on.

2 The conversation itself may or may not  
3 be relevant evidence, depending on a lot of  
4 different factors, many of which might end up  
5 with a conclusion that the conversation itself  
6 is not admissible; but I certainly don't see  
7 why what was going on in Mr. Dunn's mind while  
8 he was having this conversation is admissible  
9 under any circumstances, and I simply am not  
10 going to let him answer the question.  
11

12 MR. SELTZER: Are you stating that part  
13 of your objection is you do not believe the  
14 conversation between Mr. Dunn and Mr.  
15 MacMillan is admissible?

16 MR. FISKE: I think that is a very  
17 likely possibility that it will not be.

18 MR. SELTZER: On what grounds?

19 MR. FISKE: Well, I have allowed you  
20 to ask about the conversation, so we don't  
21 have to cross that bridge.

22 MR. SELTZER: Then why are you raising  
23 it now?

24 MR. FISKE: Because you are going  
25 beyond the conversation. I say it is

2 debatable whether --

3 MR. SELTZER: Let's hear the ground.

4 MR. FISKE: -- whether the conversation  
5 is admissible, and you are going beyond that  
6 to ask him what was in his mind at the time he  
7 had the conversation.

8 MR. SELTZER: You think it is a leg to  
9 the stool that the conversation might not be  
10 admissible. If that is part of your grounds  
11 for the objection, I would like you to state  
12 it.

13 MR. FISKE: I don't have to take a  
14 position on that at this time other than to  
15 say I don't think that there is a very good  
16 likelihood that this would be admissible and  
17 certainly what is going on in his mind at the  
18 time he is having the conversation is not  
19 admissible, and that is what you are asking  
20 about now.

21 I don't object to the conversation  
22 itself because you probably may be entitled  
23 to that for discovery reasons.

24 MR. SELTZER: Well, I could not disagree  
25 with you more on the admissibility of the

1 conversation between Mr. Dunn and Mr.  
2 MacMillan.

3 MR. FICKE: I am not asking you to  
4 agree.

5 MR. SELTZER: I also could not disagree  
6 with you more on the admissibility of the  
7 author's understanding of what he was saying  
8 and the meaning of what he was saying, so I  
9 will press the question.

10 MR. FISKE: I will object to it and  
11 instruct Mr. Dunn not to answer, at least at  
12 this time. I will give it further thought,  
13 but right now I am not going to let him answer.

14 MR. SELTZER: Maybe the next time you  
15 resume, you can also let me know which of the  
16 Federal Rules of Evidence preclude asking a  
17 witness about his impressions where he could  
18 not recall the exact words that somebody had  
19 spoken.

20 MR. FISKE: O.K.

21 BY MR. SELTZER:

22 Q Is there anything else that you recall  
23 saying to Mr. MacMillan in either words or in  
24 substance in that conversation?

25 A No.

2

Q Is there anything else which you

3

recall him saying to you?

4

A No.

5

Q You said that in addition to

6

M. MacMillan, Jim Taylor had spoken to you since

7

the Three Mile Island accident and had expressed

8

his views or sentiments regarding the apparent

9

failure of B&W to send out the February

10

prescription before the Three Mile Island accident.

11

Where did that conversation take

12

place?

13

A I don't believe I used the word "failure."

14

Q I think he expressed his views or

15

sentiments on the fact that B&W had apparently

16

not sent out the February 1978 prescription prior

17

to the Three Mile Island accident.

18

A Yes.

19

Q I am not quite sure that a semanticist

20

would see much difference.

21

A I believe that communication was again in

22

the presence of counsel in the process of getting

23

prepared for the Kemeny Commission depositions

24

and/or hearings.

25

Q Did Taylor express his views on

2 that subject to you at any other time?

3 A Not that I presently recall.

4 Q Did counsel participate in that  
5 conversation that you were having with Jim Taylor?

6 A Yes.

7 Q By "participate," did counsel  
8 participate more than just providing a room in  
9 which the conversation took place?

10 A Yes.

11 Q Was counsel asking questions?

12 A Yes.

13 Q Was Taylor's statement to you in  
14 response to a question from counsel?

15 A I don't recall.

16 Q Have you ever seen anything in  
17 writing in which someone has expressed their view  
18 with regard to B&W's apparently not having sent  
19 the February prescription out to customers prior  
20 to the Three Mile Island accident?

21 A Yes.

22 Q In what writings?

23 A My communication to -- of my views to Alan  
24 Womack was in writing.

25 Q Which communication of yours is that?



2 A That I felt regret or was sorry that we had  
3 not been able to issue the instructions contained  
4 in my February 16th memo to the customers or  
5 instructions to that extent.

6 Q I am not sure I have seen that  
7 memorandum.

8 Did you keep a copy in your files?

9 A I don't recall.

10 Q Was it one that was typed by your  
11 secretary?

12 A No.

13 Q Was it handwritten by you?

14 A Yes.

15 Q I would like to show you what has  
16 previously been marked as GPU Exhibit 12 for  
17 identification which is your handwritten memo  
18 to Alan Womack, subject "Ideas from Three Mile  
19 Island," received June 7, 1979.

20 Is what has previously been marked  
21 as GPU Exhibit 12 a copy of a memorandum which  
22 you sent to Alan Womack on or about June 7, 1979?

23 A Yes.

24 Q Is the memo that you sent to him  
25 describing your regret and sorry over the fact

2 that B&W had apparently not issued your February  
3 prescription prior to the accident something that  
4 you wrote in a different memo to Alan Womack?

5 A No. This is what I had in mind.

6 Q Could you turn to page 2 of the  
7 memo, please.

8 Do you see the last sentence of  
9 the first item beginning with the word "I"?

10 A No.

11 Q (Indicating)

12 A Oh. Yes.

13 Q Could you read that sentence, please,  
14 for the record?

15 A "I still do not perceive a feeling of guilt  
16 in B&W over TMI and I think there should be one."

17 Q Why did you think that there should  
18 be a feeling of guilt in B&W over Three Mile  
19 Island?

20 MR. FISKE: That seems to me,  
21 Mr. Seltzer, that is the same question we  
22 have in the conversation with Mr. MacMillan.  
23 This is the memo he wrote. Now you are  
24 just asking him his feelings at the time.

25 Q Is the reference to TMI a reference

2 to the Three Mile Island accident?

3 A Yes.

4 Q What did you mean by "a feeling of  
5 guilt"?

6 MR. FISKE: I think that is the  
7 same question.

8 MR. SELTZER: No, I am entitled to  
9 know what he meant by "a feeling of guilt."

10 MR. FISKE: It seems to me that's  
11 exactly the same question we had --

12 MR. SELTZER: All right, go ahead.  
13 State an instruction not to answer if you  
14 are going to. Let's make a clear record  
15 of this.

16 MR. FISKE: Well --

17 Q What do you mean by "a feeling of  
18 guilt"?

19 MR. FISKE: I will instruct him not  
20 to answer that.

21 MR. SELTZER: O.K.

22 MR. FISKE: On the understanding, as  
23 I said to you, that this I think is the  
24 same question or very close to the same  
25 question that we have with respect to John

2 MacMillan's, the conversation with John  
3 MacMillan, and I want to think about that  
4 and I may let him answer but I will not let  
5 him answer today until I think about it some  
6 more.

7 MR. SELTZER: I would say that I  
8 have taken depositions against many very  
9 respectable counsel, I have defended many  
10 depositions and I have never heard an  
11 objection and instruction not to answer a  
12 question which inquired "what did you mean  
13 by a word that you spoke or a word that you  
14 wrote."

15 I would say this is precedent  
16 setting. I have never heard counsel direct  
17 a witness not to answer that kind of  
18 question.

19 MR. FISKE: Well --

20 MR. SELTZER: I also think that it  
21 is extremely disruptive not to be able to  
22 pursue these questions at this time and  
23 have you be able to call a time out which  
24 is going to be of indefinite duration since  
25 we are not resuming tomorrow while you think

2 and the witness thinks about what his  
3 answer should be to this question.

4 MR. FISKE: Well, Mr. Seltzer, I  
5 think you can assume that this is not the  
6 first time that the witness has been provided  
7 with an opportunity to think about this  
8 memorandum or think about the questions so  
9 I think your conclusion is totally wrong  
10 with respect to the remark that you made at  
11 the end.

12 MR. SELTZER: I also think you know  
13 that asking a witness "what did you mean  
14 by words" is something that just about every  
15 Federal judge in the land who has sat on  
16 the bench more than half a day would permit  
17 a witness to answer over objection, including  
18 Richard Owens.

19 MR. FISKE: I have stated my position.  
20 And my suggestion is, frankly, it is late  
21 in the day, I think we ought to just adjourn  
22 this deposition and resume it next week.

23 MR. SELTZER: When next week?  
24 Monday?

25 MR. FISKE: Thursday. Mr. Dunn has

2 an engagement -- well, we can go off the  
3 record on the timing of it.

4 Off the record.

5 (Discussion off the record.)

6 Q You referred on the first page to  
7 "middle to top management" in the fourth line from  
8 the bottom. Do you see that, "With our present  
9 attitude, I would fault middle to top management  
10 most"?

11 A Yes.

12 Q Who were you including in the phrase  
13 "middle to top management"?

14 MR. FISKE: I will let him answer that.

15 A People in the management chain at B&W from  
16 somewhere around my level and above.

17 Q All the way to the top?

18 A No.

19 Q Up through John MacMillan?

20 A I am not sure I thought at the time about  
21 what the top side of who I was including would be.

22 Q It started at your level, is that what  
23 you are saying, and it went to some level above  
24 you?

25 A I would categorize myself as somewhere

2 between first line and middle. And then it went  
3 up.

4 (Continued on the following page.)

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2 Q You were faulting top to middle  
3 management for what as you used the word "fault"  
4 in here?

5 MR. FISKE: That's exactly the same  
6 question, Mr. Seltzer, as the one before.

7 MR. SELTZER: Are you directing him  
8 not to answer?

9 MR. FISKE: On exactly the same grounds.  
10 It seems to me, just to make this very simple,  
11 there are probably a whole series of these  
12 questions that present exactly the same  
13 issue and I will let you know one way or the  
14 other.

15 MR. SELTZER: I think it is useful  
16 for Judge Owen to have a clear record of  
17 the types of questions I want to ask and your  
18 instructions not to answer so that we  
19 are not debating hypothetical questions in  
20 front of him.

21 MR. FISKE: Fine. But that is the  
22 same --

23 MR. SELTZER: I understand.

24 MR. FISKE: O.K.

25 MR. SELTZER: I don't agree with it,

2 but I understand.

3 Q When you said "with our present  
4 attitude," what present attitude were you referring  
5 to?

6 MR. FISKE: The same question or  
7 the same objection, the same principle.

8 MR. SELTZER: The same instruction?

9 MR. FISKE: Yes.

10 MR. SELTZER: You are instructing him  
11 not to answer that question?

12 MR. FISKE: Yes, the same grounds.

13 MR. SELTZER: You are instructing him  
14 not to answer the question?

15 MR. FISKE: Yes.

16 BY MR. SELTZER:

17 Q You said that "I believe a fundamental  
18 change in approach is needed," at the bottom of  
19 page 1.

20 Do you see that?

21 A Yes.

22 Q What was the fundamental change in  
23 approach that you were referring to?

24 MR. FISKE: The same instruction.

25 Q Did you ever have any conversations

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with Alan Womack regarding the contents of GPU  
Exhibit 12 marked for identification?

A Not that I recall.

Q Would it surprise you that Alan  
Womack testified that he had conversation with  
you regarding the contents of this?

A No.

MR. SELTZER: Off the record.

(Discussion off the record.)

MR. SELTZER: Why don't we resume next  
Thursday morning at 9:30 a.m. to be continue  
on Friday and on the succeeding Monday.

MR. FISKE: Off the record.

(Discussion off the record.)

MR. SELTZER: The witness is available  
also the succeeding Tuesday if we need that  
to finish the deposition.

MR. FISKE: Yes. I will talk to him  
and I will call you Monday and if he  
decides, if it's for real that we would  
finish in three days, Wednesday, Thursday  
and Friday, if he opts for that rather than,  
you know, running the risk of four days and  
he is ready to give up the Wednesday in the

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office we may take you up on that but  
literally he told me that's the only  
day he will have in his office in the last  
two and a half weeks. If he came back here  
Wednesday because he has this other personal  
business on Monday.

MR. SELTZER: Off the record.

(Discussion off the record.)

MR. SELTZER: We are adjourning for the  
day.

(Time noted: 4:30 p.m.)

*Bert M. Dunn*  
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Subscribed and sworn to before me  
this 29 day of October, 1982.

*Danita R. Kidel - Notary*  
*Commissioned Notary as Danita D. Robertson*  
*Commission Expires: July 1, 1983*

CERTIFICATE

STATE OF NEW YORK     )  
                              : SS.:  
COUNTY OF NEW YORK    )

I, CHARLES SHAPIRO, C.S.R., a Notary  
Public of the State of New York, do hereby  
certify that the continued deposition of  
BERT MERRIT DJNN was taken before  
me on FRIDAY, MARCH 13, 1981 consisting  
of pages 262 through 382; e

I further certify that the witness had  
been previously sworn and that the within  
transcript is a true record of said testimony;

That I am not connected by blood or  
marriage with any of the said parties nor  
interested directly or indirectly in the matter  
in controversy, nor am I in the employ of any  
of the counsel.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 29<sup>th</sup> day of MARCH, 1981

Charles Shapiro  
CHARLES SHAPIRO, C.S.R.

## I N D E X

## WITNESS

## PAGE

Bert Merrit Dunn (resumed)

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## E X H I B I T S

## GPU

## FOR IDENTIFICATION

81	Memo from Eric Swanton to Bert Dunn and others dated November 22, 1978, subject Toledo Edison Company Pressurizer Level Meeting	279
82	Memorandum from L. R. Cartin to Bruce Karrasch with a copy to Bert Dunn dated November 29, 1978, subject Toledo Edison - B&W Meeting Minutes	282
82	Memo dated February 6, 1979 from Womack to Cartin, with an attached letter from the NRC to Taylor	294
84	Memo from Willse to Distribution dated March 9, 1979, subject: Loss of Pressurizer Level Indication	295
85	Memo from Fairburn to Distribution, April 4, 1979, Supplementary Operating Instructions for High Pressure Injection System	304



Dunn Vol. 3

277-304 - Loss of Per Level Low

- 288- 11/27/78 mty on this issue; Dunn doesn't recall it or mentioning of rising per level problem
- 290-91- doesn't know whether any discussion w/ DB personnel at mty about stuck open per relief valve
- 295-96 - Dunn also attended part of 2/14/79 mty w/ DB & NRC about per level loss low; doesn't know if any discussion of per level rising
- 300-01 - recalls attending prep mty, but doesn't recall any discussion of rising per level

304-340 Post-accident instruction

- 306- mty after accident; this was first discussion of issue w/ Norm Elliott
- 307-08 - Dunn's 2/16/78 memo was reviewed
- 312-13 - Dunn "assumes" prior B&W instruction didn't contain his "recipe"
- 318-19 - basically no obj'n to issuing instructions after accident on basis of going solid concern -

340 - Failure to send out instructions

- 341 - on 4/4/79, assumed his guideline had to be sent
- 342 - told Womack he regretted instructions hadn't gone out
- 343 - after acc, Womack asked Dunn about possible instructions to prevent recurrence of accident; Dunn showed 2/16 memo
- 353 - Dunn thought Womack was surprised by 2/16 memo
- 354 - Dunn also told Taylor he regretted instructions not going out
- 359 - Mac Miller told Dunn he regretted B&W hadn't been able to release instructions prior to 741; Mac M said it was perceived memos should have gone out & Dunn was acting properly
- 360 - Dunn replied that he wished he hadn't assumed closure of the issue
- 363 - Dunn felt that if he hadn't assumed closure, and have been able to prevent Mac M having to testify, etc.



377-78: Durn put his feelings of regret into writing to  
Womack

400-12  
383-

Durn not sure how far up with chain he meant to  
find fault.