

In The Matter Of:

IN RE:

PREDECISIONAL ENFORCEMENT CONFERENCE

PROCEEDINGS BEFORE LUIS REYES, CHAIRMAN

March 28, 1996

BROWN REPORTING, INC.

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[1] UNITED STATES NUCLEAR REGULATORY COMMISSION
[2] REGION II
[3]
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[5] IN RE: PREDECISIONAL)
[6] ENFORCEMENT CONFERENCE,)
[7] CRYSTAL RIVER.)
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[10] PROCEEDINGS BEFORE
[11] LUIS REYES, CHAIRMAN
[12]
[13] March 28, 1996
[14] 3:15 p.m.
[15] 29th Floor
[16] 101 Marietta Street
[17] Atlanta, Georgia
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[14] D. Dickey, Esq.
[15] Also Present:
[16] R. Weiss
[17] D. Fields
[18]
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[1] MR. REYES: Good afternoon. My name is
[2] Luis Reyes, and I'm the Deputy Regional
[3] Administrator for the Nuclear Regulatory Commission,
[4] the Region II office. This morning we're conducting
[5] a predecisional enforcement conference between the
[6] NRC and Mr. David Fields which is closed to public
[7] observation. In discussion with Mr. Fields and his
[8] counselor, who were also present during the previous
[9] predecisional enforcement conference, they have
[10] heard the introductory remarks from the NRC, they
[11] understand them, and at their request we will
[12] dispense with the introductions.
[13] Is that agreeable to you?
[14] MR. HENDRIX: Yes. And it would be
[15] agreeable as well if you wish to include them in the
[16] record by stipulation in the exact manner in which
[17] they appeared in Mr. Weiss's deposition.
[18] MR. REYES: We'll do that.
[19] With those preliminary matters taken care
[20] of, I'll turn the meeting over to Mr. Al Gibson, the
[21] Director of the Division of Reactor Safety, to
[22] present to Mr. Fields the proposed apparent
[23] violations.
[24] MR. GIBSON: Good afternoon, Mr. Fields.
[25] MR. REYES: Do you want us to also

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[1] dispense with those?

[2] **MR. HENDRIX:** Yes. We have received a
[3] written copy.

[4] **MR. GIBSON:** The proposed violations are
[5] the same as you heard in the conference we just had
[6] with Rob Weiss, the only exception being, if my
[7] understanding is correct, that you were the shift
[8] supervisor the evening of September 4th and 5th.

[9] **MR. FIELDS:** That is correct.

[10] **MR. GIBSON:** And as such, Mr. Weiss
[11] reported to you.

[12] **MR. FIELDS:** That is correct.

[13] **MR. GIBSON:** Having said that, it appears
[14] to us that a violation of 10 CFR 50.59 and
[15] procedures OP-402, OP-103B and AR-403 occurred, and
[16] we would welcome any comments you might have in
[17] response to that.

[18] **MR. FIELDS:** Well, I appreciate the
[19] opportunity to be here. It's been quite a long time
[20] since September 4th and September 5th, 1994. We
[21] submitted a lot of data, but I think this is my
[22] opportunity to speak to the people who are actually
[23] going to make the decision, so I appreciate you
[24] hearing my concerns. I think you are taking this
[25] issue very seriously, and I think it's the most

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[1] significant thing that's ever happened in my
[2] professional life.

[3] Let me give you a little bit of my
[4] background. I've been in this industry 23 years. I
[5] was an officer in the United States Nuclear Navy.
[6] I've worked for Florida Power for the last 15
[7] years. I'm not new to this. I wasn't a new shift
[8] supervisor. I had been a shift supervisor for eight
[9] years. The decisions that I made I take full
[10] responsibility for.

[11] I was the shift supervisor. My people
[12] came to me with a safety concern that had been
[13] nagging and nagging them for a long time, and they
[14] asked me, Can we do this evolution. They had done
[15] their homework and they said, Look, all we want to
[16] do is use OP-402, this section where we add hydrogen
[17] and this section where we drain down. We looked at
[18] the annunciator response procedure. That's why we
[19] said, Well, we don't know if the curve is going to
[20] be wrong or right, but if we do go to the
[21] unacceptable region we'll want to have somebody
[22] alerted in the ops building to take action.

[23] At the time I personally felt very
[24] comfortable with making the decision to proceed on.
[25] I felt very comfortable that that was my authority.

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[1] I was the senior person, the senior licensed reactor
[2] operator on site to make that decision. I felt real
[3] good about it. It felt like the next logical thing
[4] to do to resolve this safety concern, because my
[5] operator, Mark van Sicklen, came to me and said,
[6] Dave, I want to do this, we've been shut down by
[7] everybody, engineering won't listen to us, we didn't
[8] have any luck with the NRC management that is
[9] pursuing this. He said, Just let me do this and if
[10] the curve is right then it's right and I'll drop it
[11] forever.

[12] That was my job, to respond to what - I
[13] knew that an operator was really concerned about
[14] it. As far as what we did, we intentionally did not
[15] violate any procedure, not AI-500, not OP-402 and
[16] not the annunciator response procedure 403. The
[17] 50.59, last July, right before we did this, we
[18] weren't being charged with violating 50.59. Since
[19] that time there is a definition on the street, a new
[20] interpretation, but at the time in 1994 I honestly
[21] didn't think that we were doing anything even
[22] approaching a test or experiment that needed a 50.59
[23] review. I thought we were procedurally covered by
[24] exactly what we were going to do, and that procedure
[25] had received the safety evaluation.

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[1] The e-mails that came out in July
[2] basically told us, This is your OP and these are the
[3] sections of the OP you need to use to maintain
[4] hydrogen where management wants it maintained. We
[5] were using what management told us to use to operate
[6] to the curve, and we just expanded it out to once
[7] and for all let's draw the real plant response and
[8] Curve 8 will be either right or wrong.

[9] Did I answer that question? That was a
[10] long answer.

[11] **MR. GIBSON:** And we appreciate the long
[12] answer. We really want to hear your perspective on
[13] things.

[14] When did your crew members first approach
[15] you with the idea of a test?

[16] **MR. FIELDS:** I think on the night of
[17] September 4th Rob and Mark came to me and said, Hey,
[18] Dave, we want to try something, and that's when we
[19] started talking about using OP-402. Now, either
[20] September 2nd or September 3rd Carl Bergstrom came
[21] to me and showed me the September 2nd letter and
[22] said, Dave, I know your crew is really interested in
[23] this, your crew has taken the lead on this, is there
[24] anything you want to do or respond to this because
[25] the issue is going to be closed out.

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(1) **MR. GIBSON:** Did Carl personally deliver
(2) that letter to you?
(3) **MR. FIELDS:** Yes, he did.
(4) **MR. GIBSON:** Were you working day shift?
(5) **MR. FIELDS:** I was working midnight shift
(6) on September 4th and 5th, so what was I working -
(7) **MR. GIBSON:** On September 2nd?
(8) **MR. FIELDS:** Did I hold over in the
(9) morning and he talked to me? I don't remember.
(10) **MR. GIBSON:** We were trying to understand
(11) what Carl conveyed to you when he gave you the
(12) letter but, frankly, we had concluded that he must
(13) not have given you the letter because he was working
(14) day shift and you were working graveyard shift.
(15) That's what I was trying to understand.
(16) **MR. FIELDS:** Did I hold over until noon
(17) some day? I don't know.
(18) **MR. GIBSON:** But you clearly remember him
(19) giving you the letter?
(20) **MR. FIELDS:** I certainly do. I don't
(21) remember it now. In my mind I don't remember the
(22) meeting right now, but a lot of the stuff that I've
(23) written was written ten, twelve months ago, eighteen
(24) months ago, however long ago it was. I wrote it
(25) down then so my memory was much fresher then.

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(1) **MR. REYES:** Mr. Hendrix, if you want to
(2) take a break or caucus, we can do that at any time.
(3) I'm just saying if you find anything that you need
(4) to stop the proceeding for to talk to your clients,
(5) that's acceptable.
(6) **MR. FIELDS:** I have a note here that the
(7) 4th was the first night of mids and we were on swing
(8) shift. You work swing shift and then you get one
(9) day off and then you go midshift. Maybe the last
(10) night of the swing shift was September 2nd. I'm not
(11) sure.
(12) **MR. GIBSON:** But at this point you do
(13) recall being handed -
(14) **MR. FIELDS:** Very much so.
(15) **MR. GIBSON:** And do you recall what
(16) message was conveyed as it was handed to you?
(17) **MR. FIELDS:** Basically, that the issue
(18) was going to be closed out, that engineering had
(19) determined that the curve was accurate and
(20) reasonably conservative.
(21) **MR. GIBSON:** So did you discuss your
(22) plans to conduct this test with the shift manager?
(23) **MR. FIELDS:** No, sir, I did not.
(24) **MR. GIBSON:** What is the role of the
(25) shift manager?

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(1) **MR. FIELDS:** He's like the plant
(2) manager's representative on the back shift, and even
(3) during the day shift he is the guy that
(4) coordinates. If a piece of equipment failed, he
(5) would coordinate with the shops, with operations to
(6) get the clearance on it. He served as an adviser.
(7) He showed up at the turnover meetings. He was a
(8) person that I didn't refer to for decisions
(9) regarding a reactor, but he was certainly a person
(10) that I respected, and in hindsight I wish I had
(11) talked to him about it.
(12) In a letter I wrote to Mr. Ebnetter in May
(13) of '95 I think I fairly clearly laid out my
(14) failings. I don't want to attack anyone, but I
(15) don't think Mr. Beard ever sent you a letter
(16) describing where he could have done things a little
(17) better.
(18) **MR. LIEBERMAN:** Could we go back to the
(19) September 2nd letter? I want to make sure I
(20) understand the dialogue that occurred. Do you have
(21) that in front of you?
(22) **MR. FIELDS:** Yes, sir, I have it.
(23) **MR. LIEBERMAN:** You related the
(24) conversation that you heard that engineering was
(25) going to close this out, I believe you said, without

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(1) changing the curve. I'm wondering if you read the
(2) last two sentences of the first paragraph that
(3) said: During this analysis make-up tank
(4) overpressure per Curve No. 8 will be reevaluated.
(5) This action to be completed by September 30, 1994.
(6) Did you discuss those two sentences?
(7) **MR. FIELDS:** We did not. The overriding
(8) message that the letter sent was it's accurate,
(9) reasonably conservative. Basically the issue of
(10) whether we were going to operate to that pressure or
(11) not was closed out.
(12) Now, the way I read this last couple of
(13) sentences, and this is only me looking, my opinion,
(14) but to me it tells me that engineering had read the
(15) calculation. Engineering realized that the BWST
(16) swapover point for that calculation was incorrect.
(17) It was based upon an RV sump level, not a BWST
(18) level, and they needed to do some additional study
(19) on this issue. But rather than do the additional
(20) study they just said, Well, the curve is probably
(21) okay, operate where Mr. Beard wants you to and we'll
(22) pick up on this BWST swapover later on.
(23) That's only an opinion, but it was
(24) brought to me that the issue was going to be closed
(25) out and if I didn't do something that Mr. Beard and

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[1] Greg Halnon would expect the operators to operate to
[2] the curve.

[3] MR. LIEBERMAN: When it was brought to
[4] your attention did you discuss the letter or did you
[5] just have the conversation concerning the letter?

[6] MR. FIELDS: I think we had the letter in
[7] hand.

[8] MR. LIEBERMAN: Did you read it and
[9] discuss the letter with him?

[10] MR. FIELDS: Yes.

[11] MR. GIBSON: We asked Mr. Weiss some
[12] questions earlier, and we'd like to hear your
[13] personal views regarding other options that might
[14] have been available to you to resolve this matter.
[15] As we stated earlier, we understand and appreciate
[16] that you and members of your crew had taken a number
[17] of steps to try to bring the matter to resolution
[18] and that you were frustrated with the lack of
[19] progress that had been made.

[20] But it appears to us that other things
[21] might have been done. For example, you might have
[22] taken it to a higher level of management, and that
[23] would seem to be an appropriate question for you as
[24] the shift supervisor. Could you comment on that?

[25] MR. FIELDS: Well, I was aware that it

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[1] was - the issue was raised to the highest level. A
[2] lot of it was based on hearsay, the highest FPC
[3] level. Mr. Beard was demanding that operators
[4] operate on that curve to maintain 25 cc's per kg. I
[5] wasn't at the morning management meetings when Mr.
[6] Beard dispatched Greg Halnon to go there and get
[7] those operators straightened out or talked about
[8] firing Mark van Sicklen. I wasn't out there but I
[9] heard about them.

[10] Mr. Becker was my assistant shift
[11] supervisor one night, and he got on Mark. He said,
[12] Mark, you're not maintaining the make-up tank
[13] pressure where Mr. Beard wants it, and Mark said, I
[14] don't like operating there. And Gary just kind of
[15] blew up, and he said, I'll call Mr. Beard at home
[16] right now. And he raced over to the phone and
[17] dialed it, and Mr. Beard wasn't there.

[18] To me it was very clear that Gary Becker
[19] and Pat Beard were very interested in operating high
[20] on that curve. I don't like blow-ups like that in
[21] the control room, so I got Gary straightened out.
[22] And I said, Gary, I'll take care of this. And I
[23] told Mark, Mark, just put it where you want it to
[24] be, we'll work this out some other way. But I knew
[25] Mr. Beard was aware of it and I knew that Greg

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[1] Halnon was aware of it, because Greg's memo asked
[2] for input, and he said he didn't get any.

[3] Well, I checked with Mark van Sicklen
[4] when that memo came out, and I said, Mark, you're
[5] working directly with Greg on this, aren't you, and
[6] he said, Yes, I talk with Greg about every day on
[7] this issue, I should have written something up, but
[8] I didn't.

[9] But Greg Halnon felt a lot more
[10] comfortable talking directly to Mark van Sicklen
[11] than he did to me. I don't know if he was
[12] intimidated by me because I was so much older, but
[13] he felt very comfortable talking to Mark, and Mark
[14] talked to him on an almost daily basis when he was
[15] available, saying, Greg, what's going on with this
[16] make-up tank. Greg was very much aware of it. Carl
[17] Bergstrom was aware of it. Chemistry was aware of
[18] it. Pat Beard was aware of it. Pat Beard was
[19] driving the show. He was making the decisions that
[20] we will operate high on that curve and we will get
[21] 25 cc's per kg.

[22] I know everybody in Florida Power was
[23] aware, and we made some contact. I was in the
[24] control room and Mark had talked to Mr. Cooper on a
[25] couple of occasions, and after the last occasion

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[1] Mark came over to my desk and said, I don't think
[2] the NRC's going to help us on this, and he suggested
[3] writing an allegation.

[4] MR. DICKEY: If I could follow up on that
[5] point, and I don't know how familiar the committee
[6] is with this memo that is Exhibit 8 to the
[7] Department of Labor complaint. It was signed by Mr.
[8] Pat Hinman on 10-15-92.

[9] MR. GIBSON: We've read that.

[10] MR. DICKEY: They identify the exact
[11] concern that Mr. Fields's shift had with regard to
[12] the HPI pump, so this memo is clear that management
[13] was very well aware of this situation two years
[14] prior to this shift's concerns. They did not know
[15] this at this time, of course. This information was
[16] not revealed until we did our Department of Labor
[17] investigation and found this memo. But I don't
[18] think Florida Power turned that memo over to the
[19] NRC.

[20] MR. FIELDS: So Mark talked to Mr.
[21] Cooper, and he said to do an allegation form. I
[22] didn't recommend that Mark make an allegation. That
[23] seems totally inappropriate. I really felt that we
[24] could handle this within the company. I was - I'm
[25] part of management and I felt like I was - he was

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[1] funneling his concerns to me and I was trying to get
[2] them resolved. He was doing a lot of independent
[3] things, and if I could have it do over again in the
[4] letter I wrote in May - I let him down when I
[5] didn't take a more active role in it, because I'm
[6] probably a better speaker and a better writer than
[7] he is and I have more access to senior management
[8] than he did.

[9] But he took the issue up and he was
[10] running with it and he was doing a real good job of
[11] it, and he was keeping me informed of where he was
[12] going. And it finally just pretty much collapsed to
[13] where the next logical step was that the issue was
[14] going to be closed out, so what can we do to show
[15] that the curve isn't correct. That's how we came to
[16] the conclusion of well, we've got a procedure, it's
[17] not a test, we'll take this data, and if we do cross
[18] the curve we'll have somebody available to vent the
[19] make-up tank.

[20] Other things I could have done? In
[21] hindsight I'm sure there's a lot of things. I could
[22] have talked to the senior resident, but I didn't
[23] think to do that.

[24] **MR. LIEBERMAN:** What was your concern in
[25] filing an allegation?

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[1] **MR. FIELDS:** Once an employee does that
[2] he's gone. That's the way I felt. And I felt that
[3] the organization was designed to solicit
[4] information. The organization should work. When an
[5] operator with as many years experience as Mark van
[6] Sicklen raises what he considers is a safety
[7] concern, somebody ought to listen to him, and I
[8] did. I listened to him.

[9] **MR. RICHARDS:** Do you have any previous
[10] experiences with people who raised an allegation to
[11] the NRC and then they were terminated?

[12] **MR. FIELDS:** Most of the time people are
[13] terminated and all of a sudden they come up with
[14] some allegations after the fact. I don't know of
[15] any active employee that's ever raised an
[16] allegation. I just don't know of any.

[17] **MR. LIEBERMAN:** Mr. Fields, were you ever
[18] criticized for not having your crew have more
[19] hydrogen in the system?

[20] **MR. FIELDS:** Not so much me personally as
[21] I knew Mark was being criticized via hearsay. I'm
[22] not sure why they didn't come to me, but it was
[23] Mark's issue, and if Pat's going to fire Mark van
[24] Sicklen he should have come to me. I think when the
[25] other operators come up here next week they're going

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[1] to talk about a time when he stood behind Bruce
[2] Williams's shift and ordered him to raise pressure.
[3] It was being directed, it was clear, that that was
[4] what senior management wanted done, and that blow-up
[5] in the control room with Gary Becker and Mark van
[6] Sicklen, that's not hearsay, that happened. He
[7] definitely came across with, This is what Mr. Beard
[8] wants, and Gary Becker is a lot closer to Pat Beard
[9] than I am.

[10] **MR. LIEBERMAN:** But after that event no
[11] one spoke to you directly that suggested you
[12] overruling Mr. Becker in letting Mr. Van Sicklen
[13] operate where he was comfortable?

[14] **MR. FIELDS:** No, he didn't. Gary didn't
[15] come back and say, I've talked to Mr. Beard and he
[16] wants to talk to you tomorrow morning. That didn't
[17] happen. But the September 2nd memo, when it came
[18] out, when Carl brought it to me, it was clear that
[19] this issue's going to be closed out and the
[20] operators will be expected to operate to the curve.

[21] **MR. RICHARDS:** What's Mr. Becker's job
[22] normally?

[23] **MR. FIELDS:** He was the former manager of
[24] engineering, and then they decided that he needed
[25] some operations experience so they sent him to SRO

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[1] class. He got his license and they decided he
[2] needed more operations experience, so they made him
[3] the peer evaluator, and as a peer evaluator with an
[4] active license he had to maintain so many days per
[5] quarter on shift. He just would periodically stand
[6] a watch as assistant shift supervisor, but he was a
[7] pretty senior guy. He didn't come up through the
[8] ranks to become assistant shift supervisor, he came
[9] down from manager of engineering to assume that
[10] position every once in a while.

[11] **MR. GIBSON:** Did you ever consider using
[12] the employee concerns program?

[13] **MR. FIELDS:** No, and I've made my
[14] allegation concerning the employee concerns
[15] program. It does not work. It did not work in the
[16] two instances that I used it.

[17] **MR. GIBSON:** I understand you've written
[18] us about that, but could you just tell us about why
[19] you didn't have confidence in that program?

[20] **MR. FIELDS:** Well, I think the first
[21] employee concern that I had dealt with manipulating
[22] the clock on a one hour tech spec shutdown. They
[23] knew they had the wrong breakers installed or the
[24] breaker heaters or whatever on two of the HPI
[25] pumps. They were going to manipulate the clock, and

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(1) they said, We'll determine that this one's out of
(2) service and give ourselves an hour per tech spec and
(3) then we're waiting on engineering to tell us if the
(4) other one's out of service, they're still doing
(5) their analysis, and if it is, we'll take it out of
(6) service.

(7) I went to the shift manager and I said,
(8) Now, let me get real clear on this. We're waiting
(9) on engineering to finish evaluating the second set
(10) of breakers because, if they're both out of service,
(11) that's a one hour shut down. We can't manipulate
(12) the clock. If they're both out of service I have to
(13) start shutting down. He said, Dave, we already know
(14) they're both out of service, we'll get one fixed and
(15) then we'll get the other one fixed. And I go, Man,
(16) this isn't right.

(17) I was so mad after that and so upset that
(18) I wrote my employee concern. It was a new program
(19) on the street. I said I'll try this program. These
(20) go directly to Mr. Beard. I said management
(21) manipulated the clock, I handed it in, and I didn't
(22) get an answer back for over two months, and it was
(23) written by Mr. Hernandez, who used to be an HP
(24) tech. To me, when the senior SRO on site tells
(25) management that you're manipulating the tech spec

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(1) clock, you're violating the law, and the senior vice
(2) president who is in charge of that program should
(3) have called me.

(4) MR. GIBSON: When did that occur, Dave?

(5) MR. FIELDS: I'll have to give you an
(6) answer on that. It must have been two years ago.

(7) [REDACTED]
(8) [REDACTED] But I consider that very significant,
(9) and that put me on notice that Mr. Beard doesn't
(10) really care what a shift supervisor - I mean, in
(11) that particular instance Mr. Beard didn't care that
(12) a shift supervisor would write such a thing. To me
(13) that was very significant.

(14) MR. GIBSON: And you had a second bad
(15) experience with this program?

(16) MR. FIELDS: Yes, not at dramatic but
(17) similar.

(18) MR. LIEBERMAN: Before you go to the
(19) second one, did anyone from operations management
(20) speak to you about the first concern you just
(21) discussed?

(22) MR. FIELDS: No. I put myself as being
(23) anonymous. I did talk to the STA about it, and she
(24) said, This really stinks. That's all I remember of
(25) what she said, and I guess it happened on September

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(1) 14th, 1992.

(2) MR. RICHARDS: Did you pursue the issue
(3) through, I guess, your immediate supervisor, Mr.
(4) Halnon?

(5) MR. FIELDS: I had talked to him on
(6) various occasions basically to say, Are you and Mark
(7) getting together on this make-up tank thing, and he
(8) was very clear to me that Mark was hounding him
(9) about every day on the issue. Then I would see Greg
(10) come in the control room and talk to Mark for ten or
(11) fifteen minutes at a time.

(12) MR. RICHARDS: Why at the point of
(13) September the 4th did you decide, I guess, that Mr.
(14) Halnon was no longer going to pursue the issue, that
(15) he wasn't a viable way to go? *

(16) MR. FIELDS: Well, Carl Bergstrom works
(17) for Greg Halnon. Carl Bergstrom brought me the
(18) engineering letter and I assumed he was speaking for
(19) Greg. I think the words he used was, Is there
(20) anything you want to do or respond because the issue
(21) is going to be closed out and unless you do
(22) something operations is going to have to just buckle
(23) under and operate to the curve. It was basically
(24) the end of the line as far as Greg Halnon's
(25) involvement and Carl Bergstrom's involvement. It

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(1) was, Here's the issue, Dave, if you want to do
(2) something, go ahead, if you don't it's going to be
(3) closed out.

(4) MR. RICHARDS: But you didn't think it
(5) was appropriate at that time to have a face-to-face
(6) meeting about the issue with Mr. Halnon?

(7) MR. FIELDS: In hindsight it would have
(8) been a great idea. I thought Carl was speaking for
(9) Greg. I felt that Greg was well aware of our
(10) concern and had been briefed thoroughly by Mark.

(11) MR. RICHARDS: If I'm not mistaken, you
(12) were in the engineering department at one time.

(13) MR. FIELDS: Yes.

(14) MR. RICHARDS: Did you participate in any
(15) of the meetings with engineering prior to September
(16) the 4th to discuss the issue?

(17) MR. FIELDS: I don't think so. I
(18) remember just that the curve was put in the
(19) procedure in 1993, and after the startups for refuel
(20) nine in June or July of '94 did it become a really
(21) pretty hot issue.

(22) MR. HENDRIX: By the way, why was the
(23) curve put in the procedure in 1993?

(24) MR. FIELDS: Well, the curve was put in
(25) to allow adding increased hydrogen to the make-up

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[1] tank. That's this letter from Pat Hinman, a summary
[2] of actions required to implement the new make-up
[3] tank hydrogen cover gas limits such that 25 cc's per
[4] kg hydrogen concentration can be maintained in the
[5] RCS.

[6] **MR. RICHARDS:** Getting back to the
[7] discussions we've been hearing about, it sounds like
[8] Mark van Sicklen is the person who attended these
[9] meetings and you didn't participate so you wouldn't
[10] have direct knowledge of the discussions.

[11] **MR. FIELDS:** Not of all of them. I would
[12] see him come into the control room, and he and Mark
[13] would sit down and go over stuff for an hour. I did
[14] have some direct communications with engineering
[15] during the outage when we ran SP-630, which was the
[16] full flow test, and we nearly broke the equipment.
[17] That was such a dramatic surveillance procedure, if
[18] it hadn't been for Mark van Sicklen and Rob standing
[19] right behind him: we would have destroyed two make-up
[20] pumps. But their quick action to in one case trip
[21] the pump and in the second case to reduce flow
[22] immediately saved those pumps.

[23] During that night we spent all night
[24] getting with engineering to try to find out why it
[25] didn't work correctly and what do we think about

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[1] this. That was also the night that Mark had plotted
[2] the data that showed that the draindown of the
[3] make-up tank didn't look - it looked like it was
[4] going to cross Curve 8. Maybe that was an
[5] unauthorized test, you know. He just did it on his
[6] own. He plotted some data, but he didn't think so.
[7] He thought he was just providing good information,
[8] and he put that in, and I helped him get it in there
[9] to ensure that that piece of information got into
[10] that problem report, 94-149.

[11] **MR. RICHARDS:** Back to the discussions
[12] with engineering. Do you know from your discussions
[13] with Mark or anybody else what level of engineering
[14] management had been directly involved in the
[15] discussions with van Sicklen to try and address the
[16] issue? This is from May until September the 4th.

[17] **MR. FIELDS:** I know that he talked to
[18] Terry Austin, I know that he talked to Phil Salzman
[19] and I know he talked to Pat Hinman.

[20] **MR. RICHARDS:** What was the first name?

[21] **MR. FIELDS:** Terry Austin. I don't know
[22] if he's a supervisor or not, but he's one of the
[23] best engineers Florida Power has.

[24] **MR. RICHARDS:** The other two were not
[25] supervisors.

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[1] **MR. FIELDS:** No, they were make-up system
[2] engineering. And Pat wrote the letter, this letter
[3] of '92, and he'd been the make-up system engineer
[4] for quite a while. He was a good engineer. The
[5] night that we ran SP-630 he came out in the middle
[6] of the night to help us out.

[7] I want to get across that the midnight
[8] shift is the same as day shift is the same as swing
[9] shift. It makes no difference to us. We work it
[10] year in, year out. It's just another working day.
[11] But Pat came out that night and we worked with him
[12] to say why didn't these pumps perform like they
[13] should have. Maybe they were air bound or maybe it
[14] was hydrogen or maybe a valve was stuck. So there
[15] were a lot of problems that were brought out that
[16] night that I remember I was directly involved with
[17] with Mark in getting his accuracy about Curve 8 in
[18] that problem report.

[19] **MR. DICKEY:** Just for the record, he's
[20] referred to attachment three which eventually
[21] plotted the data at that point.

[22] **MR. URYC:** That's attachment three to the
[23] DOL complaint?

[24] **MR. DICKEY:** Yes, sir.

[25] **MS. CLARK:** When you were considering

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[1] doing these evolutions on the 4th and 5th did you
[2] expect to see it go into the unacceptable region?

[3] **MR. FIELDS:** Based upon the SP-630 data
[4] we suspected that it would. We didn't know it
[5] would. Mark came to me and said, If it follows it
[6] I'll drop this forever; Dave, just let me run this
[7] little evolution using OP-103 and if the curve is
[8] correct I'll drop it forever. But based on SP-630
[9] it looked to me like the night of the 4th - you
[10] know, that was the night that we didn't know. The
[11] night of the 5th we fully knew that it wasn't going
[12] to because it hadn't on the night of the 4th.

[13] **MR. LANDIS:** You fully knew what on the
[14] 5th?

[15] **MR. FIELDS:** That the alarm would come in
[16] and he would draw the actual system response and it
[17] would be different from Curve 8 and be in the
[18] unacceptable region.

[19] **MS. CLARK:** In light of that expectation,
[20] how did you conclude that the evolution was
[21] permitted by your operating procedures?

[22] **MR. FIELDS:** Can I use the board just
[23] once? It's just an operating curve, 86 inches down
[24] to 55 inches. Or is it 55 inches and 86 above?

[25] **MR. RICHARDS:** The level goes across the

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[1] bottom.

[2] **MR. FIELDS:** 55 inches, 86 inches. This
[3] will be about 30 pounds, and this is whatever
[4] pressure it was. I don't know what that was. The
[5] OP section that we referred to in doing the
[6] procedure, and we would be operating down here some
[7] place, said to pressurize up to the maximum allowed
[8] by Curve 8, and we did that. On September 4th you
[9] could see that we went above the curve, and it
[10] looked like, Oh, these guys violated the curve. But
[11] in reality, we were using the control board
[12] instrument. It's not as accurate as the computer
[13] point. I don't know which one is the most
[14] important.

[15] **MS. CLARK:** The strip sheet or strip
[16] chart?

[17] **MR. FIELDS:** Yes, ma'am. In our mind we
[18] didn't have this curve. In looking at the plot th.
[19] Rob provided later on, it looks like we went above
[20] it, but at the time we went to Curve 8 using the
[21] strip chart information. That's what we did. So we
[22] didn't go across it. We pressurized up to it, refer
[23] to Curve 8, and we did that.

[24] The other section of the procedure says
[25] bleed to an appropriate tank from 86 inches to 55

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[1] inches, and we did that, and we stopped at 55
[2] inches. Then when we added water the alarm cleared,
[3] and we didn't have to vent the tank because the
[4] alarm cleared by just adding water to it. In my
[5] mind at the time we used one section to pressurize
[6] up to Curve 8, another section to drain down, and
[7] then we essentially took - we were standing by to
[8] take the appropriate annunciator response procedure
[9] required, action required. As soon as we added
[10] water it went over to the acceptable side and then
[11] we didn't need to.

[12] **MR. RICHARDS:** Is it your view that Curve
[13] 8 did not apply to the procedure that you used to
[14] draw the tank down?

[15] **MR. FIELDS:** No. We made sure that it
[16] was a limit in precaution. If it had been a limit
[17] in precaution at the beginning of the procedure like
[18] 86 to 55 inches, we would have never performed the
[19] procedure. If we had known it was a design basis
[20] curve we would never have done the procedure.

[21] **MR. RICHARDS:** Knowing that the curve
[22] applied as stated in the procedure to add hydrogen,
[23] does it make sense that the curve wouldn't apply to
[24] the procedure to drain the tank down?

[25] **MR. FIELDS:** No. It's my opinion that

[1] the procedure was written, assuming that the curve
[2] was correct, and that once you got on the curve and
[3] you manipulated the level up and down it would just
[4] go up and down that curve, or if you're over here it
[5] would just go up and down following the curve. But
[6] we were asked to do something by Carl Bergstrom. He
[7] said, Do you want to do anything or respond to this
[8] because the issue's going to be closed out.
[9] Management had come to me and asked me to do
[10] something, and I felt very comfortable that my
[11] procedures allowed me to do that. If anything told
[12] me you can't do that we wouldn't have done it.

[13] **MR. RICHARDS:** Let me back up. I
[14] understand your perception of management's view on
[15] the issue on September the 4th. Let's back up to
[16] this question I just asked. Does it make sense that
[17] the curve would not apply to the procedure to drain
[18] down the tank if it applies to the procedure that
[19] has you put hydrogen in?

[20] **MR. FIELDS:** I don't think I was looking
[21] for a loophole, but I think I was looking to make
[22] sure that what I was doing was okay. It wasn't some
[23] kind of a sneaky evolution. The whole purpose was
[24] to show that the curve was correct or not correct.

[25] **MR. RICHARDS:** I understand. But back

[1] up. You have your engineering background. Does it
[2] make sense that the curve would apply to the
[3] hydrogen addition but not to the part of the
[4] procedure that you use to drain down the tank?
[5] **MR. FIELDS:** In hindsight I'd have to say
[6] yes, but certainly at the time that I performed it I
[7] did not feel bound by that curve. The logical
[8] resolution to this safety concern that had been
[9] going on for months was to either show that the
[10] curve was correct or show that the curve was not
[11] correct, and we felt like we had pre-approved
[12] procedures to do exactly that. It wasn't like we
[13] were sneaking to do this. We put it in a problem
[14] report.

[15] **MR. RICHARDS:** I understand that. Let me
[16] make sure I understand what you first said. You
[17] said yes. Yes, it would make sense for the curve to
[18] apply to the procedure to drain down, or is that a
[19] yes, it doesn't make sense, it doesn't have to
[20] apply?

[21] **MR. FIELDS:** The only answer you're going
[22] to want to hear is yes, I knew that it should be.

[23] **MR. RICHARDS:** I'm not asking you what
[24] you knew or what you thought. You've told us what
[25] you were thinking. I'm asking you if it makes sense

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(1) that that curve would not apply to the procedure to
(2) drain down the tank.
(3) **MR. FIELDS:** In hindsight it makes
(4) sense. At the time I didn't get the connection.
(5) **MR. GIBSON:** Dave, let me try a question
(6) or two along the same lines in an effort to
(7) understand your perception. The curve represented
(8) what you understood to be engineering's calculation
(9) of how the level and pressure would behave following
(10) a LOCA.
(11) **MR. FIELDS:** It was a system response
(12) curve.
(13) **MR. GIBSON:** And if the curve had been
(14) correct and you were operating the plant above the
(15) curve, then your understanding would have been there
(16) would have been a potential for damaging the make-up
(17) pumps due to hydrogen entrainment in the make-up
(18) pumps and if the curve had been correct and plant
(19) conditions were to the left or above the curve, then
(20) there would have been a potential for damaging the
(21) pumps. Is that your understanding?
(22) **MR. FIELDS:** I knew that there was a
(23) tie-in to that, but I knew that it was a plant
(24) response curve. We plotted plant response, and it
(25) showed that the curve was not correct. And really,

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(1) the real significant information was on September
(2) the 5th after we threw out what we considered to be
(3) bad data, this end point right here. This level
(4) difference or this pressure difference converted to
(5) a pressure going back to the calculation showed that
(6) the margin of conservancy or whatever in the
(7) calculation wasn't enough. It wasn't until the
(8) morning of September the 5th that we knew that this
(9) was a bigger safety concern than we ever thought it
(10) was, that in fact you could have damaged your
(11) make-up pumps.
(12) **MR. GIBSON:** There's something you said a
(13) few minutes ago, and you've said the same thing in
(14) letters to us that I don't fully understand, and
(15) that is if you had known that the curve was a safety
(16) limit you definitely would have followed it, you
(17) would not have operated in the unacceptable region
(18) if you had known.
(19) **MR. FIELDS:** I wouldn't have operated any
(20) place close to it.
(21) **MR. GIBSON:** And I think that what you
(22) have said is you believe the curve to be an
(23) administrative limit, not a design basis curve.
(24) **MR. FIELDS:** Absolutely.
(25) **MR. GIBSON:** Is there a difference in the

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(1) way you comply or the degree to which you comply
(2) with the administrative limits as opposed to design
(3) basis limits?
(4) **MR. FIELDS:** I don't actively not comply
(5) with anything. I think I was one of the most
(6) conservative shift supervisors they had at Crystal
(7) River Unit 3. We have to operate to procedures, we
(8) have to do this, we have to do that, we have a
(9) climbing policy, and no matter what the requirement
(10) was I did my very best to do it, and I think I did
(11) it better than most of the shift supervisors out
(12) there.
(13) In this one particular instance we felt
(14) that there was a safety concern here. We felt that
(15) engineering had not provided a really good answer.
(16) We felt that management had turned the issue over to
(17) us. We felt that we had brought it to the attention
(18) of the NRC and they hadn't exactly jumped on our
(19) side. We looked upon it as the next logical step,
(20) Well, what can we legally do, and legally - maybe I
(21) was splitting hairs to use this procedure, this
(22) section of the procedure and then use that section,
(23) where this section of the procedure pressurized up
(24) where the curve applied and this section where the
(25) curve didn't apply. Maybe I did. I don't know what

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(1) my exact thoughts were.
(2) **MR. GIBSON:** But you would not have done
(3) it if you had known it was a design basis curve?
(4) **MR. FIELDS:** Absolutely not. Mr. Beard
(5) wouldn't have demanded that we operate had he known
(6) it was a design basis. Engineering wouldn't have
(7) come up with that letter of accurate and reasonably
(8) conservative if they knew it.
(9) **MR. LIEBERMAN:** Can I clarify one point?
(10) In response to Mr. Gibson's question concerning the
(11) distinction between a design basis curve and an
(12) administrative limit, the impression I'm getting is
(13) after you added hydrogen up to the point of the
(14) curve, and that's the administrative limit, after
(15) that point that curve was really not applicable.
(16) **MR. FIELDS:** Yes.
(17) **MR. LIEBERMAN:** Now, if the procedure
(18) that's a design curve to add hydrogen to the system
(19) and you'd stopped there and said nothing about it
(20) afterwards such that there was still no limit
(21) thereafter, would you have done this?
(22) **MR. FIELDS:** I don't think so. It's hard
(23) to say what I would have or wouldn't have done. The
(24) words design basis, that's one of those red flags
(25) that you don't go any place near that.

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[1] MR. LANDIS: David, in the same vein, how
[2] do you know whether a curve is or is not a design
[3] basis that you use for operating the plant, that's
[4] in the OPs?

[5] MR. FIELDS: I don't know of any design
[6] basis curves in the OP. Now, the salt margin curve
[7] that we use to operate our EPs and APs, that one
[8] might be a design basis curve, I don't know. But as
[9] far as I know, there's no design basis curves in
[10] OP-103.

[11] MR. LANDIS: How about in any other
[12] procedures?

[13] MR. FIELDS: I can't say that I do.
[14] They're not flagged as "this is a design basis."
[15] We've gotten a lot better. The new OP-103 8 is a
[16] good curve. It gives the operator all the
[17] information he needs to operate safely and
[18] correctly. It didn't exist when we had it.

[19] MR. RICHARDS: You've got a large number
[20] of years of nuclear experience and had time in the
[21] nuclear navy. One of the principles that I think
[22] anybody with that experience would agree to is that
[23] the way these plants are operated is that an
[24] operating envelope is defined and the operators stay
[25] within that envelope.

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[1] MR. FIELDS: I wouldn't disagree with
[2] that, but I would want -

[3] MR. RICHARDS: You can see where I'm
[4] heading. You operated inside the envelope during
[5] the draindown event, and it appears to us that the
[6] plant exited that defined envelope. Whether it was
[7] right or wrong at the time, that was the envelope
[8] available to the shift. The evolution took you
[9] outside the envelope and the crew did not terminate
[10] the event when it was clear you were exiting the
[11] envelope. We're trying to understand why with your
[12] training and background you saw that to be
[13] acceptable.

[14] MR. FIELDS: Well, the nuclear navy is
[15] very rigid. You're an engineering officer of the
[16] watch, and if it doesn't say do this, do this, do
[17] this, you don't do it. The only thing you do is
[18] what's written in that reactor plant manual. That's
[19] it. Civilian nuclear power is a lot more complex, a
[20] lot more systems, a lot less rigid, and the envelope
[21] is huge. The envelope gives me the discretion to
[22] make decisions. It takes some credit that I
[23] understand what I'm doing and my crew understands
[24] what they're doing and we understand how the systems
[25] operate.

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[1] I do not think that I went across the
[2] envelope established by my management. I think I
[3] did exactly what my management would have expected
[4] me to have done, and I'm really disappointed -
[5] they've just, rather than take the heat for not
[6] clearly establishing what needed to be established,
[7] they're just saying, Oh, we're just aghast that this
[8] guy would do such a thing. And then some guy that
[9] works in a convenience store three months later
[10] mails them the data and says, Oh, by the way, all
[11] your operators operated on the wrong side of the
[12] curve.

[13] MR. RICHARDS: Again, getting back to
[14] exiting the envelope, how far past that curve would
[15] you have gone?

[16] MR. FIELDS: We felt that by having one
[17] operator dedicated to the balance of the plant and
[18] one operator performing the evolution and one
[19] operator plotting the data, the computer data and
[20] strip chart data on to a copy of the curve that we
[21] were following plant response, and if anything
[22] unexpected happened or took a jump we didn't
[23] understand I would have immediately terminated it.
[24] But we knew exactly where we were, and it was
[25] following down, and all it was was showing that the

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[1] plant response as defined by Curve 8 was incorrect.
[2] And we were gathering data to show that Curve 8 was
[3] incorrect and it was what I thought would be enough
[4] to keep the issue open. It was what I thought Carl
[5] Bergstrom asked me to do.

[6] MR. RICHARDS: Again, I think that's
[7] getting back to the motivation.

[8] MR. FIELDS: I never went outside the
[9] envelope that I felt in my mind was governing this
[10] evolution that I ran, and I don't think I went
[11] outside the envelope established by my management or
[12] Mr. Beard.

[13] MR. RICHARDS: I take that comment to be
[14] that there is no envelope to the left, that if the
[15] curve would have tracked far to the left -

[16] MR. FIELDS: It would never have gone
[17] that far. I would have stopped the test.

[18] MR. DICKEY: I think people have tried to
[19] draw on that Curve 8 as a hard and fast envelope.

[20] MR. RICHARDS: The first question I asked
[21] was what was the envelope that you were going to
[22] operate within. The plant went across that curve.

[23] MR. FIELDS: Yes.

[24] MR. RICHARDS: Where would you have
[25] terminated the event? How far were you willing to

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[1] go? Where was the envelope drawn?
 [2] **MR. FIELDS:** If we started taking data
 [3] points further to the left than we expected, but it
 [4] started right on the curve and it just kind of
 [5] peeled off and as expected drew a plant response
 [6] kind of like Curve 8 but showed that Curve 8 was
 [7] non-conservative. If it had started taking data
 [8] points further I would have said, Stop, we don't
 [9] know what we're doing, either drain pressure or add
 [10] water or whatever to cure the alarm. Rob Weiss
 [11] would have done it, and the board operator would
 [12] have done it on his own.
 [13] **MR. LIEBERMAN:** Based on your judgment.
 [14] **MR. FIELDS:** Yes, sir
 [15] **MR. HENDRIX:** Well, I might add that the
 [16] AI-500 specifically states that when the adequacy of
 [17] existing procedures is questioned shift supervision
 [18] will make the determination, that shift supervision,
 [19] David Fields, will make the determination as to
 [20] which procedural requirements are applicable. And
 [21] he made the determination that, Well, I can go up
 [22] and I can come down.
 [23] **MR. LIEBERMAN:** What procedure are you
 [24] reading from?
 [25] **MR. HENDRIX:** AI-500.

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[1] **MR. LIEBERMAN:** What's the title of that
 [2] section.
 [3] **MR. HENDRIX:** It's AI-500.
 [4] **MR. LANDIS:** David, while we're looking
 [5] at that -
 [6] **MR. HENDRIX:** What I was saying is it
 [7] doesn't say STA, it doesn't say shift supervisor.
 [8] That's part of the envelope.
 [9] **MR. RICHARDS:** The question for Mr.
 [10] **Fields is:** Do you read that procedure to say that
 [11] you can interpret the procedure in a conservative
 [12] manner or in a less conservative or more liberal
 [13] manner? There's two ways to look at that. You can
 [14] say, This procedure as written is not conservative
 [15] and for that reason I'm not going to operate on that
 [16] curve, I'm going to stay down because I don't think
 [17] this procedure's accomplishing what it's set out to
 [18] do and the way it should have done it. Or does that
 [19] statement say, I have the latitude to expand the
 [20] defined envelope, for whatever motivation?
 [21] **MR. FIELDS:** To me it was obvious at the
 [22] time. On the night of September 4th I reviewed my
 [23] procedures and I felt very confident that they were
 [24] adequate to do exactly what we did. We had been
 [25] tasked with challenging that curve. It was a safety

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[1] issue that had been ongoing, that was going to be
 [2] closed out, and we felt like we had procedural
 [3] guidance to do exactly what we did.
 [4] I can easily agree with you a year and a
 [5] half later that to do that would have been wrong and
 [6] I should have gone to this guy and we should have
 [7] written a special test procedure. I should have
 [8] done a lot of things differently, but at the time I
 [9] felt very comfortable that what I was doing was
 [10] exactly correct and exactly within my authority and
 [11] exactly what I had seen of how other people operated
 [12] the plant.
 [13] **MR. LIEBERMAN:** Looking back in
 [14] hindsight, if you were the operations manager would
 [15] you want your shift supervisors to decide for
 [16] themselves how far they should depart from the
 [17] curve?
 [18] **MR. FIELDS:** I would hope that as an
 [19] operations manager I would trust my people to do
 [20] what was the right thing to do, that if they were
 [21] faced with a situation where they didn't think
 [22] something was correct that they were allowed to use
 [23] some discretion, and that discretion is given to me
 [24] in AI-500.
 [25] **MR. LIEBERMAN:** Who tasked you to do

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[1] this?
 [2] **MR. FIELDS:** Carl Bergstrom. He didn't
 [3] say, I want you to take over OP-402 and do this
 [4] section and this section and this section. He said,
 [5] This issue is going to be closed out, is there
 [6] anything you want to do in response to that because
 [7] the issue is going to be closed out. It didn't seem
 [8] like anything bizarre, it didn't seem like anything
 [9] unusual or experimental. It just seemed like an
 [10] easy, procedurally approved way to show what we had
 [11] been having concern over.
 [12] The enforcement policy talks about that I
 [13] knew or should have known. To me the inspection
 [14] report 95-22 talks about the inadequacies of
 [15] procedures and no training, and everything was left
 [16] up to the shift supervisor. Well, it was left up to
 [17] me, and that was the decision I made, and it wasn't
 [18] made in the middle of the night. In my opinion, it
 [19] was made as an honest effort to work within the
 [20] Florida Power management system to resolve an
 [21] issue. And that was all there was to it. We
 [22] reported our findings in the problem report, and
 [23] Crystal River operates a lot safer now than it did
 [24] then.
 [25] **MS. CLARK:** Was it your understanding

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[1] that you would have been required to get approval to
[2] perform an unusual evolution?

[3] **MR. FIELDS:** We looked at that on the
[4] night we did it. One of the operators suggested,
[5] Well, why don't we drain down lower to 55 inches,
[6] and Rob said, No, that would be a test. We'd have
[7] to write a special procedure if we did that.

[8] **MS. CLARK:** So your understanding of a
[9] test would be what?

[10] **MR. FIELDS:** If it's not covered by
[11] approved procedures, then it would require a
[12] procedure to be written, either a procedure change
[13] or a special task procedure to be written.

[14] **MS. CLARK:** And if it was covered by
[15] procedures but was an unusual evolution, would that
[16] require you to get approval?

[17] **MR. FIELDS:** I don't know. I'm learning
[18] an awful lot about tests long after they happened.

[19] **MS. EVANS:** Would you consider what you
[20] did an unusual evolution, though?

[21] **MR. DICKEY:** Are you talking about
[22] draining the tank?

[23] **MR. FIELDS:** Inspection report number
[24] 95-22 says this was done 600 and some times during a
[25] five month period.

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[1] **MR. LANDIS:** Let's say you continued
[2] draining, not an unusual evolution. What tells you
[3] that crossing that boundary of 55 means that that is
[4] now a test and requires -

[5] **MR. FIELDS:** It's outside the bounds of
[6] procedure. Rob used the word test that night. I
[7] don't know why he chose that, but it's outside the
[8] bounds of the procedure, and I can't violate the
[9] procedures.

[10] **MR. LANDIS:** And an evaluation would have
[11] been required at less than 55 doing a normal
[12] evolution of draining. What told you that 55 was
[13] that boundary?

[14] **MR. FIELDS:** It was a built-in precaution
[15] of the procedure. Thou shalt maintain the make-up
[16] tank between 86 and 55 inches. And if you look at
[17] all the people who violated it, a hundred percent of
[18] all the operators that violated Curve 8, all of them
[19] maintained between 86 and 55 inches.

[20] **MR. LANDIS:** So there is a recognition
[21] that 55 and 86 is a hard boundary and requires a
[22] 50.59 to require going outside the bounds?

[23] **MR. FIELDS:** Which would require a
[24] procedure change which would require a 50.59.

[25] **MR. LANDIS:** Curve 8 was not recognized

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[1] as that. It was not recognized as a hard boundary,
[2] that going on the other side of that required a
[3] 50.59.

[4] **MR. FIELDS:** If I pressurized the tank,
[5] knowingly pressurized the tank above that curve and
[6] I drove the pressure above that curve in that
[7] section of the procedure for adding hydrogen, then I
[8] violated the procedure.

[9] **MR. LANDIS:** And if you were going to
[10] stand in the middle of that and pressurize hydrogen
[11] up above Curve 8, would that have required a 50.59?

[12] **MR. FIELDS:** I couldn't do that. When
[13] you add hydrogen, refer to Curve 8, and if I wanted
[14] to exceed it I'd say, Well, I need to write a
[15] procedure change, and that would require a 50.59
[16] review.

[17] **MR. LANDIS:** And what I just described
[18] would have gotten you to the exact same point. That
[19] could have gotten you to the same point that the
[20] draindown would have. The draindown takes you down
[21] to some point above Curve 8. If I had done
[22] something different, pressurized, using hydrogen,
[23] just pressurized up to that same point above Curve
[24] 8, you're saying I would have needed a 50.59. In
[25] both cases I ended up at the same point.

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[1] **MR. FIELDS:** I hear what you're saying
[2] and I know what you want me to respond, but the
[3] curve was presented as a system response. A lot of
[4] operators had a concern with the accuracy of that
[5] curve. My management came to me and asked me to do
[6] something, and we procedurally used our procedures
[7] to show that it was not the correct plant response.

[8] **MR. GIBSON:** Dave, we don't want you to
[9] respond in any particular way. We just want to hear
[10] what your thoughts were that evening. But we keep
[11] asking the same question, When was the limit I
[12] wouldn't have crossed.

[13] **MR. DICKEY:** I just want to follow up on
[14] the requirement for a 50.59. If you raise pressure
[15] above the level, was that question presented to
[16] Florida Power when it performed a number of these
[17] procedures with operations, Greg Halnon and other
[18] people on the floor, when they raised level
[19] intentionally above Curve 8 and then added pressure
[20] to squeeze the bubble? Now, they went above and
[21] nobody thought to do a 50.59 there, and that's
[22] management directing them to do that. Then they
[23] write these e-mails and send them out to the other
[24] operators telling them how to do it, and they act
[25] like it wasn't a big concern to run a little bit

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(1) over Curve 8.

(2) There was no indication anywhere before
(3) that there was a major concern in these operators'
(4) minds on September 4th and 5th that if you crossed a
(5) little bit over Curve 8 you took the plant out of
(6) the envelope. There was no indication of that.
(7) This is an operating curve. It was not a hard and
(8) fast redline curve.

(9) **MR. RICHARDS:** We have the correspondence
(10) from Florida Power & Light that's a public record
(11) that I'm sure you have also that has stated
(12) something to that effect. It's a public record.

(13) **MR. DICKEY:** What is that, sir?

(14) **MR. RICHARDS:** I think the LER says that
(15) this was an administrative limit or curve, whatever
(16) term they used.

(17) **MR. DICKEY:** Was there a procedure in
(18) effect on September 4th and 5th that identified it
(19) to those operators that that was an administrative
(20) limit? I think the question you asked was what was
(21) the envelope that Mr. Fields felt comfortable in
(22) operating the plant at that night. He knew that
(23) that envelope was close, but he had no idea that's a
(24) redline envelope, that you're totally outside of the
(25) plant when you cross that line.

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(1) There's usually a ten or fifteen degree
(2) of margin between an operating curve and a design
(3) basis curve, so if you normally in your mind said
(4) that's where you are and if you cross over the curve
(5) by three percent or so, you think oh, I'm okay, I'm
(6) watching my dials, I know where we're reacting, we
(7) pushed the envelope, and we pushed the envelope for
(8) what we understood was a good reason, but we didn't
(9) have a hard envelope that we intentionally took it
(10) outside of.

(11) **MR. LIEBERMAN:** I realize you're not the
(12) client here. I heard before that it wasn't
(13) perceived there was an operating limit after the
(14) hydrogen was added. Now you're saying that there
(15) was an operating limit but it just wasn't a redline
(16) limit.

(17) **MR. DICKEY:** Ask Mr. Fields.

(18) **MR. RICHARDS:** We pursued that already.
(19) Let me ask one more follow-up question. What
(20) training was provided to the crews on this curve
(21) when it came into being?

(22) **MR. FIELDS:** None. The procedure came
(23) out with the curve in it.

(24) **MR. RICHARDS:** So how were the crews to
(25) understand whether it was an administrative limit or

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(1) whatever title you want to put on it? How did it
(2) develop that people came to view this curve as an
(3) administrative curve?

(4) **MR. FIELDS:** Well, it was a new curve.

(5) It was a change to the procedure. The sliding
(6) alarm, the variable alarm was input as a
(7) modification to the plant. I don't remember, but
(8) there was probably training when people went down
(9) for requal training and the operators were told, Oh,
(10) yes, OP-103 has been changed and OP-103B has been
(11) added to now add a variable limit to the make-up
(12) tank, and the reason is so we can increase hydrogen
(13) concentration. I guess that was the kind of
(14) training that we probably had. I don't remember.

(15) **MR. RICHARDS:** Previous to that the limit
(16) was what, 15 pounds?

(17) **MR. FIELDS:** 12 or 15 pounds. I don't
(18) remember.

(19) **MR. RICHARDS:** Was that considered a hard
(20) limit?

(21) **MR. FIELDS:** I can tell you that there
(22) have been many an operator that has left the
(23) regulator open and lifted the relief valve at a
(24) hundred pounds in that tank. This has been ten
(25) years ago, just sloppy operating. They weren't

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(1) design basis violations back then. Our requirements
(2) keep getting tighter and tighter as the years go
(3) by. We keep getting smarter and smarter.
(4) **MR. RICHARDS:** Do you recollect any
(5) training where they specifically discussed the
(6) curve, how it was generated, how it was represented,
(7) how it should be used by operators?

(8) **MR. FIELDS:** No. I think what I
(9) described to you was probably the kind of training
(10) we got, but I can't swear to it, the exact training.

(11) **MR. LIEBERMAN:** Let me switch the
(12) subject. Just to clarify one point on September 4th
(13) versus September 5th, in your view did you take the
(14) same precautions on both the 4th and the 5th?

(15) **MR. FIELDS:** I would have to say yes, but
(16) qualified. By the second night we were a little bit
(17) smarter because we had read the engineering
(18) calculation and we had a little bit better feel for
(19) the significance of the curve. I remember it talked
(20) about a 1.7 foot margin if you had an HPI actuation,
(21) a failure of one train or one section line to one of
(22) your make-up pumps.

(23) **MR. LIEBERMAN:** And you were giving the
(24) same guidance to the auxiliary operator on both
(25) occasions?

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[1] MR. FIELDS: The first night, I believe,
[2] and this is just recollection in talking to people.
[3] I believe we called the board operator and said
[4] we'll be adding hydrogen to the make-up tank, make
[5] yourself available in case it needs to be
[6] available. The second night Jim Atkinson was the
[7] auxiliary operator. We called him and had him dress
[8] out, and he stayed near the phone and had his
[9] trainee dress out actually. That was about the only
[10] difference, if I remember.

[11] MR. LIEBERMAN: Going back to the LER, I
[12] know you had some questions concerning the LER, and
[13] I believe you wrote a memo on December 6th
[14] concerning some of your concerns with the LER. I
[15] was wondering why in describing the event in the LER
[16] you didn't insist that they discuss September 4th in
[17] the LER.

[18] MR. FIELDS: I wrote this letter not
[19] because I was a part of writing the LER. No one had
[20] ever come to me. Engineering apparently went
[21] ballistic after we submitted our September 7th
[22] problem report, and we were just kind of out of it.
[23] They went to Bruce Hickie and convinced him we had
[24] violated a design basis and we were kind of totally
[25] out of it. But Jim Frieauff, just based on previous

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[1] discussions with him, I said, Hey, if you're ever
[2] writing an LER that has anything to do with my
[3] shift, how about sending me a copy of it. He mailed
[4] me a copy of it, and he mailed me a copy of Draft
[5] 1.

[6] I could realize where this thing was
[7] going, from not too serious to a group of operators
[8] had purposely done something wrong, and I felt that
[9] I needed to write a letter to him. I'll read it
[10] slowly. On the second page I say: I realize that
[11] the company is in a sensitive position due to
[12] possible NRC enforcement action. However, we should
[13] not present misinformation. There are two issues
[14] which should not be confused. First, control room
[15] personnel performed an evolution in which we
[16] unknowingly violated a design basis curve without
[17] the proper procedure review. This evolution is
[18] being investigated thoroughly. Secondly, the entire
[19] make-up tank overpressure issue needs to be
[20] addressed. The performance of the evolution
[21] provided proof that Curve 8 of OP-103B was
[22] non-conservative. Operator safety concerns
[23] previously documented in PR 94-149 were shown to be
[24] valid when actual plant response was plotted. These
[25] other issues need to be pursued in the corrective

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[1] action of 94-267 and accurately reported by LER
[2] 94-009. Then I say: Please carefully consider my
[3] comments for inclusion in LER 94-009.
[4] And I purposefully sent a copy to Pat
[5] Beard, Bruce Hickie and Greg Halnon. I wasn't going
[6] to be a part of misinformation to the NRC. I was
[7] not going to limit the discussion of one violation
[8] in that make-up tank, one time we went across the
[9] curve, because I know that in the design basis
[10] determination meetings which Rob attended and Mr.
[11] Beard stated that, Well, to have operated on the
[12] curve or even near the curve was outside design
[13] basis, let's not report all these other events,
[14] let's just report that from time to time the plant
[15] had been outside the design basis due to errors in
[16] the curve. That was how Mr. Beard decided to report
[17] all of the times that we were outside design basis.
[18] September 5th showed what we did, and
[19] from time to time the plant had been operated
[20] outside design basis. In my mind, September 4th was
[21] insignificant, and it just became even more
[22] insignificant because it was just being lumped in
[23] with all the other times the plant was outside the
[24] design basis.
[25] And I guess I need to ask a question. Am

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[1] I being charged with a violation of any NRC
[2] regulation? I don't read anything about lying to
[3] the NRC. I know I got fired from FPC because Mr.
[4] Beard was not personally made aware of September
[5] 4th, but what's the NRC's position on this?
[6] MR. LIEBERMAN: We just want to
[7] understand what happened. We're curious as to why
[8] we didn't know about September 4th, and we've made
[9] no decisions as to whether that should be a focus of
[10] our actions or not.
[11] MR. FIELDS: So it's still undecided?
[12] MR. LIEBERMAN: Completely undecided.
[13] MR. DICKEY: Why did OI investigate that,
[14] whether or not there was misinformation made to Mr.
[15] Fields or Mr. Weiss?
[16] MR. GIBSON: To my knowledge they did
[17] not.
[18] MR. DICKEY: But they did ask questions
[19] of them.
[20] MR. FIELDS: I felt like I was thoroughly
[21] asked that question about September 4th. I provided
[22] the letter to Mr. McNulty.
[23] MR. HENDRIX: We have addressed that ad
[24] nauseam. It's a red herring. I think our position
[25] is well known on that.

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[1] MR. FIELDS: Exhibit No. 46. We
[2] discussed it at length with OI. I don't mind
[3] talking about it. If we want to continue talking
[4] about it, I'd like to bring out a few other things
[5] about September 4th and other things. I was just
[6] curious if I'm being charged.

[7] MR. REYES: We need to caucus for a
[8] minute.

[9] (Discussion ensued off the record.)

[10] MR. LIEBERMAN: You're not being charged.
[11] at this time on that issue. All we want to
[12] understand is what happened. I have another
[13] question. In the May 23rd letter to Mr. Ebnetter
[14] you're describing what happened and you're
[15] describing the September 2nd letter. I'll let you
[16] get the May 23rd letter out. On the second page of
[17] that letter, the first full paragraph, it begins:
[18] Our response was to perform the drawdown evolution
[19] on September 5.

[20] I was wondering why, since this appears
[21] to be in chronological order, you go from September
[22] 2nd describing your responses to September 5th and
[23] you left out September 4th.

[24] MR. FIELDS: I'm not sure. When I wrote
[25] this letter I clearly had broken ranks with my

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[1] company. I realized that the significance of me
[2] going outside of my company and writing a letter
[3] directly to Mr. Ebnetter was the end of my career. I
[4] just felt like the company had twisted the facts and
[5] provided so much misinformation to the NRC, my
[6] career was over, and I felt like, Well, let me just
[7] try to get my side of the story across, let me tell
[8] Mr. Ebnetter what I felt my responsibility was on
[9] that night, and I'll even tell Mr. Ebnetter what I
[10] thought I did wrong on the night of September 5th.

[11] But I guess I was still of the mindset
[12] that the significant event was September 5th. The
[13] significant event of September 5th is we provided
[14] good data to show that the plant was not being
[15] operated safely, and we reported that. The
[16] significance of September 4th wasn't very high in my
[17] mind because it was flawed data. We couldn't use it
[18] to prove or disprove anything, and it certainly was
[19] diminished when Mr. Beard recognized that, Well, if
[20] you operated on or near the curve you're outside the
[21] design basis.

[22] It wasn't a numbers game. We knew we
[23] operated outside of design basis from time to time
[24] for over a year, so the significance of September
[25] 4th was tremendously diminished.

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[1] I'd like to spend some time talking about
[2] what that shift of operators did on the week of July
[3] 20th. The e-mail messages from Dave Jones and Greg
[4] Halnon talk about this. This was during the day
[5] shift. Halnon, Bergstrom, Dave Jones, the shift
[6] supervisor, the whole shift for a week spent going
[7] up, going down, going up, going down validating the
[8] procedure, OP-402 for maintaining pressure, the same
[9] procedure steps we used.

[10] As we have known after the fact, they
[11] pushed it up into alarm and they drove it up for the
[12] whole time being outside the unacceptable region of
[13] the curve. Everyone knew how much trouble my shift
[14] was in, how much trouble I was in, and none of those
[15] people came forward and said, You know, we operated
[16] back in July all week long, it was in alarm the
[17] whole time. The plant manager walks into the
[18] control board periodically, the shift manager is in
[19] there a lot. A lot of people were aware that that
[20] alarm was in. And that wasn't required by plant
[21] conditions, to every day up and down, up and down.
[22] It was not required by plant conditions, and they
[23] took data.

[24] Bruce Williams hand-plotted it, and he
[25] took this data on the make-up tank and gave it to

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[1] Carl Bergstrom and said, Here, your curve is no
[2] good, you could put it at a thousand pounds, that's
[3] fine with me, your curve is no good. It's
[4] significant that - not that these other people are
[5] lying. I'm not trying to get another shift of
[6] operators in trouble, but a whole bunch of people
[7] were aware that the plant was operated in alarm for
[8] a whole week back in July. Data had been taken and
[9] given to Carl Bergstrom. That's Carl's writing on
[10] the bottom of the curve.

[11] MR. DICKEY: For the record, that's
[12] Exhibit 48, a Department of Labor exhibit.

[13] MR. FIELDS: Carl Bergstrom had that, but
[14] he didn't bring it to me on the night of September
[15] 4th.

[16] MR. HENDRIX: Ironically, had these guys
[17] had that data themselves they could have issued a
[18] problem report based on that to continue to
[19] pursue their issue.

[20] MR. FIELDS: Rob could have got the
[21] readout data from that date and made up a pretty
[22] curve just like he provided for September 5th. I'm
[23] not saying that's exactly what we would have done,
[24] but we would have been given the opportunity if Carl
[25] had given it to us.

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[1] MR. GIBSON: Dave, let me pursue
[2] something for a moment.
[3] MR. REYES: Dave, have you seen our
[4] inspection report of February 5th of '96?
[5] MR. HENDRIX: What's the number of it?
[6] MR. DICKEY: 95-22.
[7] MR. FIELDS: Yes.
[8] MR. REYES: There's a description of all
[9] the times that the curve was either approached or
[10] exceeded in the summer. Do you think our report is
[11] accurate?

[12] MR. FIELDS: We provided you with the
[13] data.

[14] MR. REYES: I know, but there are some
[15] opinions here. We went to the site based on that
[16] and made several conclusions. I'm looking for the
[17] table. Do you agree with the conclusions in the
[18] report?

[19] MR. FIELDS: I do. But see, you only
[20] limited it to greater than half a pound for greater
[21] than 30 minutes. In fact, if you had narrowed your
[22] scope down a little bit there would have been a lot
[23] more evolutions the week of July 20th.

[24] MR. REYES: That's what I was trying to
[25] pursue. I was trying to pursue that particular

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[1] information.

[2] MR. HENDRIX: Moreover, you only looked
[3] at a three month period. If you had gone back
[4] months before -

[5] MR. REYES: I understand that. But our
[6] conclusions were based on the band that we
[7] selected. And you made a point, a different
[8] perspective on information that would be different
[9] because of what we selected, and I wanted to explore
[10] that.

[11] MR. FIELDS: I don't disagree with how
[12] you selected your criteria. I'm just trying to make
[13] the point that a lot of managers, a lot of
[14] operators, operations management, possibly the NRC
[15] resident inspectors were in the control room during
[16] day shift that week when the plant was being
[17] manipulated up and down. Data was being taken.

[18] MR. GIBSON: Dave, how do you know the
[19] purpose of the manipulations in July?

[20] MR. FIELDS: The e-mail messages. And I
[21] didn't even figure it out until after I'd been
[22] fired. The e-mail messages and their dates just
[23] happened to correspond with what Rob found out was
[24] the week's worth of work in July. I knew before I
[25] was fired that some data had been taken July 20th,

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[1] and I went to Greg Halnon and I said, I don't want
[2] to look it up or get anybody else in trouble, but I
[3] understand some data was taken around July 20th. He
[4] said, Dave, erase that date from your mind. That
[5] told me management wanted to keep the make-up tank
[6] issue just confined to the LER that was written, and
[7] they didn't want to expand it out.

[8] The important lesson I thought was if you
[9] were on the curve you were outside the design basis,
[10] and I don't think that came out very clearly in the
[11] LER, but it did, you know, and the curve got
[12] changed, so I felt good about that. But I guess I
[13] feel like I got fired over the September 4th issue,
[14] and additional NRC sanctions possibly connected to
[15] September 4th, and I really don't feel guilty about
[16] it. Apparently the company has written you this
[17] "points of light" letter. All that's based on is
[18] our DOL submittal.

[19] The company has nothing. The company
[20] hasn't provided you with anything. Everything
[21] germane or dealing with this make-up tank issue from
[22] safety to the details to anything has come from us,
[23] from Rob and me and my operators. And they hired
[24] some lawyers to go through there and say, Well, he
[25] could have written it there and he could have

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[1] written it there or there, and he mailed it to you
[2] so we couldn't see it. The DOL can't reveal that
[3] letter to me now because they mailed it to you.
[4] They're playing a legal game here. Is that
[5] correct?

[6] MR. DICKEY: Those points of light
[7] weren't there on August 23rd, 1995. They came there
[8] after they received the Department of Labor
[9] complaint and the exhibits.

[10] MR. GIBSON: I'd like to get back to the
[11] July manipulations for a moment and to what causes
[12] you to believe that they were conducted for the
[13] purpose of validating the procedure, I believe you
[14] said.

[15] MR. FIELDS: The e-mail messages.

[16] MR. GIBSON: There were three e-mail
[17] messages, I believe, that provided direction to
[18] operators to maintain hydrogen pressure in the
[19] make-up tank as high as permitted by the curve, and
[20] you believe that in developing that position
[21] management directed another shift or maybe more than
[22] one other shift to manipulate pressure and level in
[23] the tanks?

[24] MR. FIELDS: Yes, sir.

[25] MR. GIBSON: And is that speculative on

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(1) your part, just based upon the dates of the memos?

(2) **MR. FIELDS:** Well, it's sort of
(3) speculative. But let's read this one on 7-25-94
(4) from Greg Halnon. It says it's to me but it's to
(5) all the shift supervisors: This message is from
(6) work Dave Jones did with Gary. Let's all try and
(7) maintain hydrogen concentration in the acceptable
(8) region. Here is a method to correct if it is
(9) necessary. Then they go on to talk about squeezing
(10) the bubble and stuff like that, and that was what
(11) they did the week of July 20th.

(12) **MR. GIBSON:** So the week of July 20th
(13) they manipulated level for the purposes of
(14) developing this squeezing technique?

(15) **MR. FIELDS:** That's correct, and they
(16) violated the curve nearly every day they did it and
(17) they took data, and it wasn't required by plant
(18) conditions. Hydrogen was already up because they
(19) would bleed down and press up, bleed down and press
(20) up. They violated the definition of a test. And
(21) just because Greg Halnon and Dave Jones and Carl
(22) Bergstrom said it's okay, they're managers, and
(23) managers cannot authorize violations of NRC policy.
(24) They can't do it no more than I can do it. It just
(25) seems to me like if everyone thought this September

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(1) 4th thing was such a big deal somebody would have
(2) come forward and said, You know, we operated for a
(3) long time on the wrong side of that curve.

(4) Now, I didn't know it until after I'd
(5) been fired, but I don't believe anybody wrote you a
(6) letter saying, Hey, I operated for up to four hours
(7) in alarm one time. It took Jiffy-Store operator
(8) over here to bring that to your attention. That's
(9) just the way it happened. The company has not been
(10) very honest with you, and they're trying to convince
(11) you that September 4th was this deviant behavior on
(12) my part. They made it an integrity issue. My
(13) integrity was just not good enough, didn't meet
(14) their standard, and it's not true.

(15) They know that they operated on the wrong
(16) side of the curve, and they know that what I did was
(17) an expected action by a shift supervisor. That's
(18) why Greg Halnon told me when he was talking about my
(19) performance appraisal, which was the worst I'd ever
(20) gotten in my life, he said, You know, Dave, it's
(21) just like a line of speeding traffic and you just
(22) happened to get pulled over.

(23) That statement told me, and I knew for a
(24) fact - I've seen Greg Halnon run around the control
(25) room with a set of jumpers around his neck

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(1) performing tests with no procedure whatsoever, and I
(2) made that an allegation too in August of 1995. Have
(3) Greg Halnon explain what he was doing with a diesel
(4) generator and that set of jumpers. He had no
(5) procedure whatsoever, and now he's telling Mr.
(6) Beard, Oh, we don't condone this and we don't
(7) condone that. He was just basically telling me, You
(8) just got pulled over.

(9) The other part was I felt I was perfectly
(10) bounded by procedure. I knew of other instances
(11) where people weren't using procedures, but I was
(12) using the procedures. My interpretation was that I
(13) was exactly doing what I should be doing per
(14) approved procedure.

(15) **MR. HENDRIX:** The only reason we even
(16) raise this, by the way, is not to make allegations
(17) and all that of other people, but when the company
(18) suggests that they were shocked, shocked to find out
(19) about this September 4th major integrity issue and
(20) so on and so forth, it's total garbage. Again,
(21) their strategy, as a layman and sort of new to all
(22) this, is that management is so unbelievably
(23) concerned about the NRC's perception, and they tried
(24) to figure out in advance what your perception's
(25) going to be rather than putting the cards out and

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(1) talking about them.

(2) They're very concerned, and they attempt
(3) in advance to figure out how you will perceive an
(4) event so that they can then very carefully review it
(5) with you in that manner. That's the only reason we
(6) bring all this up, because they cast aspersions on
(7) these men's integrity, which is just totally
(8) uncalled for.

(9) And they do that why? To poison the
(10) well. I mean, they knew that they were going to say
(11) that before we came here today so that maybe you
(12) would have a jaundiced view of anything this man
(13) told you today, so maybe you wouldn't believe him
(14) because there's an integrity issue, and I think
(15) that's very purposeful, slick. It's very slick, and
(16) they've got good lawyers, but it misses the big
(17) picture of discussing things with candor and
(18) discussing all issues rather than making this sound
(19) like isolated rogue operators who are just off the
(20) reservation doing their own thing and they deserve
(21) to be fired. We would just reject that
(22) emphatically.

(23) What we are concerned about from our
(24) selfish issue is you may allow them to validate if
(25) you find deliberate misconduct by these gentlemen.

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[1] You will validate that. The reason they're pushing
[2] the 4th in all this is that's their fall-back
[3] position on the DOL complaint. If they lose on this
[4] issue, that's their fall-back position to justify.
[5] They fired them in retaliation for speaking out
[6] against management. Let's face it. That's why
[7] these men are fired.

[8] (A recess was taken.)

[9] MR. REYES: We're back on the record.
[10] Dave, we have a couple more questions. I want to
[11] make sure we get everything clear before we lose the
[12] opportunity to talk to you this afternoon.

[13] MR. LANDIS: Dave, you referred to Curve
[14] 8 as a plant response curve as opposed to it's
[15] called on its title a maximum make-up tank
[16] overpressure curve. What I'm trying to ask is why
[17] did you consider it a plant response curve.

[18] MR. FIELDS: I believe we probably
[19] invented that term because we performed SP-630 and
[20] we could see plant response to a draindown and
[21] hand-plotted the level on the pressure. It was kind
[22] of like Curve 8 but it gave us the indication that
[23] Curve 8 was not accurate, but it was clearly plant
[24] response. The plant was responding to a draining of
[25] the make-up tank, and that was the resulting curve

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[1] that you would get. That's why I referred to it as
[2] a plant response curve, and I think that's
[3] accurate.

[4] The company could call it whatever they
[5] want, but in reality it was what the make-up tank
[6] would do on a lowering level. We thought it looked
[7] like a loss of coolant, where you have an HPI
[8] initiation and the level would drain down during a
[9] real LOCA with an HPI pump in full flow conditions.
[10] It would go down a lot faster. But we just felt
[11] that our evolution would show them that the curve's
[12] not correct and we'd keep the safety issue open.

[13] MR. LIEBERMAN: I guess I have the last
[14] question. In your DOL submittal, the complaint of
[15] February 14th, '96, paragraph 59, I don't know if
[16] you have a copy of that with you.

[17] MR. FIELDS: Yes, I do.

[18] MR. LIEBERMAN: It says Fields had a
[19] legal responsibility for the public safety to pursue
[20] his concerns with his license as a senior reactor
[21] supervisor and position as a shift supervisor.
[22] Fields had the necessary data gathered of an issue
[23] of safety concern. My question is are there any
[24] limits on that.

[25] MR. FIELDS: Absolutely.

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[1] MR. LIEBERMAN: Could you explain what
[2] those limits are?

[3] MR. FIELDS: I can't violate company
[4] policy, company procedures. I can't do anything
[5] just on my own, and at the time of September 4th and
[6] September 5th I felt honestly bounded by the
[7] procedural guidance that I had. AI-500 gave me a
[8] little bit of leeway for making some decisions, but
[9] I certainly fell within the envelope that I had as a
[10] shift supervisor. I really felt like I was part of
[11] management. The concerns were coming up to me and
[12] the pressure was coming down to me and it kind of
[13] stopped at my level, and I felt like, Well, I'll get
[14] involved with this, I haven't helped Mark out too
[15] much on this and I can see how frustrated he is.

[16] He came to me and said, Dave, can we do
[17] this, if it's accurate I'll keep my mouth shut. I
[18] looked at the procedures and I made the decision.
[19] Weiss didn't make the decision, Mark van Sicklen,
[20] Christine Smith, Jim Atkinson, they didn't make the
[21] decision. I made the decision. They shouldn't be
[22] here other than to provide you folks with
[23] information. And I guess - well, let's leave it at
[24] that.

[25] I've made this argument before that I'm

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[1] the guy that made the decision, but I thought I made
[2] the right decision, and if I thought at any time I
[3] was going to be violating what was expected of me by
[4] Mr. Beard or Mr. Halnon or what was expected of me
[5] by the procedures that bound me on how to operate
[6] the plant, I wouldn't have done it. I sincerely
[7] would not have done it. We'd just try something
[8] else and not do that.

[9] MR. LIEBERMAN: Thank you.

[10] MR. REYES: Do you or your counsel want
[11] to make any closing remarks or statements or
[12] information that we didn't pursue?

[13] MR. FIELDS: I've got a couple of items
[14] I'd like to speak to. The company has done a really
[15] good job of describing me to you. I don't know what
[16] it is, but I've lost my job over this issue. Before
[17] I lost my job, as I was writing some of these
[18] letters, I knew my job was on the line, my career
[19] was over, but I felt really concerned, it was an
[20] important issue, it was things that I felt the NRC
[21] should be concerned about. Safety concerns
[22] shouldn't be brushed under the rug or dismissed out
[23] of hand.

[24] When people do things that they believe
[25] are correct and they present you with information,

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(1) they present the company with information, that is,
(2) that shows that the plant is operating outside
(3) design basis or whatever, I think that's important.
(4) But for the company to come back and make
(5) disparaging remarks about me and to pull me off
(6) shift and to pull him off shift and to totally
(7) dissolve my former shift and make misstatements to
(8) you, I felt okay, my career's over, I'm going to
(9) write a letter and tell Mr. Ebnetter the way I feel
(10) about these things.

(11) In one of these letters, and I forget
(12) which one it was, I was told, If you send this
(13) letter we're going to fire you. And I made the
(14) decision, okay, I still feel strongly about this.

(15) MR. RICHARDS: Did someone in company
(16) management tell you you'd be fired?

(17) MR. FIELDS: Before I sent the letter to
(18) - the company had written a letter on May 5th, and
(19) before they sent it Mr. Beard called me into his
(20) office, and he called Rob into his office
(21) separately. And he said basically, This is the
(22) letter we're going to send, and it removed me as
(23) being a shift supervisor or ever even any hope of
(24) ever being a shift supervisor. It confirmed that in
(25) the eyes of the company I had done something so

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(1) terrible that the company was taking very strong
(2) action and they wouldn't hesitate to fire me if the
(3) NRC gave them the go-ahead, and I said I couldn't
(4) live with that. I said I'll write my own letter.

(5) And Mr. Beard told me, he says, Don't do
(6) that, the NRC will eat you up. And I said, Well, I
(7) need to write it anyway. So I wrote my letter on
(8) May 23rd, that's Exhibit 35, and I gave it to Mr.
(9) Beard. I gave him an advance copy.

(10) MR. REYES: Say that again.

(11) MR. FIELDS: I gave Mr. Beard an advance
(12) copy.

(13) MR. REYES: Before May 23rd?

(14) MR. FIELDS: Yes, to review.

(15) MR. REYES: Before it was sent to us, to
(16) the NRC?

(17) MR. FIELDS: Correct. I said, This is
(18) what I planned to send to the NRC. And from Gerald
(19) Williams to Mr. Hendrix, it was, Mr. Fields, do not
(20) send that letter, if the NRC finds that Mr. Fields
(21) is guilty we won't hesitate to fire Mr. Fields. It
(22) was second-hand information, but that's the word
(23) that came to me, that if you're going to go outside
(24) management that far you'll be fired, maybe not on
(25) the spot, but eventually you will be fired.

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(1) MR. LIEBERMAN: If the letter is sent or
(2) if the NRC finds you guilty?

(3) MR. FIELDS: If the letter is sent and
(4) the NRC finds me guilty.

(5) MR. LIEBERMAN: Both has to happen?

(6) MR. FIELDS: That was what was related to
(7) me from Mr. Hendrix from Mr. Williams.

(8) MR. URYC: You were told that if you sent
(9) the letter and the NRC finds you guilty you will be
(10) fired? Is that what you were told?

(11) MR. FIELDS: That we will not hesitate to
(12) fire you.

(13) MR. RICHARDS: You were told that by your
(14) counsel?

(15) MR. FIELDS: Is that correct?

(16) MR. HENDRIX: Yes.

(17) MR. FIELDS: I don't think he can tell
(18) attorney to attorney information.

(19) MR. LIEBERMAN: Can you, Mr. Hendrix,
(20) confirm that?

(21) MR. HENDRIX: Only with his permission,
(22) and I wouldn't want to do it in such a way as to
(23) waive any privilege to the entire subject matter. I
(24) can go back to the very beginning of my discussion
(25) with Mr. Williams. You have to understand this goes

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(1) back to the joint defense things.

(2) The company position was that these guys
(3) did bad, they deserve to be sanctioned, and the
(4) company wanted to focus everything on these guys and
(5) offer them the bone that, Look, we'll take you off
(6) the shift, we'll do this, we'll do this, but at
(7) least you'll have your job, at least you'll have
(8) your job, sign here on the joint defense agreement,
(9) sign on the dotted line and be good boys and you'll
(10) have your job, with the implicit statement that if
(11) you go against the company you're making a bad
(12) decision because our approach will save your job,
(13) and our approach will save your job because we're
(14) going to say that there are mitigating factors and
(15) technical issues and so on and so forth, but if you
(16) go off the reservation and you pursue it and it's
(17) not accepted by the NRC, you're gone, so you need to
(18) stay on board, stay on the reservation, don't leave,
(19) because if you do you're gone.

(20) And so they vigorously objected to our
(21) willingness to discuss all issues that did not go
(22) along with this sort of one happy family, we all
(23) have this sort of joint view of the universe. So
(24) when we broke ranks it was understood that okay, not
(25) only are you making a mistake strategically

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[1] vis-a-vis the NRC because by not going with us and
[2] by going off the reservation you're more or less
[3] guaranteeing that the NRC is going to find
[4] deliberate misconduct, and when they do you're
[5] gone.
[6] But of course they did it earlier when
[7] they began to hear the allegations we were making.
[8] They got us gone in advance so that they would be
[9] discredited before they even got here. That's why
[10] we never got to our last predecisional enforcement
[11] conference. And what made me so upset is they used
[12] an anonymous allegation the night before by probably
[13] someone in engineering to not allow us to come up
[14] here and discuss these issues in advance. The
[15] company always wants to come first. They wanted to
[16] always come first so they could dump on us.
[17] They didn't want us up here talking about
[18] things that they had not disclosed to the NRC, that
[19] the NRC had not been provided information about.
[20] They didn't want us up here, and they succeeded.
[21] All along it's been, Are you with us or are you
[22] against us, and if you pursue this strategy it's
[23] wrong and you're going to lose and we're going to
[24] fire you. That was from day one. That's what the
[25] joint defense discussion was all about.

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[1] And they tried to intimidate them into
[2] saying they wouldn't even give them an attorney
[3] unless they went along with that strategy. I was
[4] there. I'm not providing testimony, but I'm just -
[5] they've had an opinion from day one that they're
[6] going to protect management first, and that's all
[7] they're concerned about.
[8] MR. LIEBERMAN: I presume, Mr. Hendrix,
[9] that as an attorney you wouldn't let your client say
[10] anything that was inaccurate on a material matter.
[11] MR. HENDRIX: To my knowledge I would
[12] not, that's correct.
[13] MR. LIEBERMAN: And Mr. Fields has
[14] described what you told him?
[15] MR. HENDRIX: Yes, sir.
[16] MR. LIEBERMAN: When you said, Mr.
[17] Fields, that if they found you guilty, guilty of
[18] what.
[19] MR. FIELDS: I'm not sure. At the same
[20] time I told Richard. I said, Just negotiate me out,
[21] see if you can get some sort of a separation
[22] package, I can't put up with any more demotions,
[23] it's not good for my family life, just get me out.
[24] Basically the letter was written in draft form
[25] saying, If you want to negotiate me out and get rid

[1] of me, that's fine, and I guess the terms of my
[2] getting rid of was the usual separation package. I
[3] didn't want any action taken against the people who
[4] reported to me, and if there was any civil penalty
[5] involved I wanted the company to pay it.
[6] I felt very strongly about the issue. I
[7] wanted the NRC to hear my side of the story and not
[8] some letter that Mr. Beard invented. Mr. Beard
[9] presented me and Rob in a very bad light that wasn't
[10] true. I guess I feel like it's okay, I lost my job
[11] on this issue, but I don't really want to give up my
[12] integrity over it. I would like to have that back.
[13] I would like for you people to basically
[14] vindicate me, to say, This guy may have made some
[15] mistakes but there was no deliberate or willful
[16] anything on his part, he sincerely thought he was
[17] doing a halfway decent job. I think it's important
[18] that you have shift supervisors, that you have
[19] managers of operation and everyone interested in
[20] those sorts of issues. I think that's important to
[21] the whole nuclear industry. But I think when people
[22] like me get fired and get sent down the road and
[23] what happens to my assistant and to the other
[24] operators on the shift, that message is just
[25] unbelievably bad to send to the industry.

[1] Everybody at Crystal River 3 knows our
[2] situation. They know that Rob works at a
[3] convenience store. They know all about us. And
[4] they're not going to come forward and say, Well, I
[5] operated on the wrong side of the make-up tank,
[6] well, I talked to Dave Fields about this. They're
[7] not going to come out of the woodwork now. They
[8] know that they have to stay in line with the
[9] company. To deviate from that line, the
[10] consequences are severe.
[11] Kerry, I know you're familiar with the
[12] condenser tube leak that they had about two months
[13] ago. They had salt water coming into the condenser
[14] and it was going forward and it broke through and
[15] they were sending chlorides to the steam
[16] generators. And the shift supervisor and the shift
[17] manager were just frozen, unable to make a
[18] decision. Well, we don't have a procedure to
[19] initiate to initiate. So they did a controlled
[20] shutdown and just kept feeding the salt water into
[21] the steam generators.
[22] That's the kind of decision-making you
[23] can't tolerate in the industry. You need people to
[24] make a decision and not fear for the consequences,
[25] not fear that they made the wrong decision and

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(1) because they made the wrong decision they're going
(2) to get fired because of it. You make split-second
(3) decisions as a shift supervisor, and they have to be
(4) correct to the best of your knowledge, and after the
(5) fact you expect people to come out of the woodwork
(6) and say, You could have done this, you could have
(7) done that. That comes with the territory.

(8) But that tube leak, in my mind that's a
(9) significant event in the history of CR 3. From now
(10) on the steam generators are compromised. They're
(11) going to be nursing tube leaks, and one of these
(12) days there's going to be a tube leak. And you can
(13) probably bring it back to that shutdown two months
(14) ago when a shift manager and shift supervisor
(15) decided, rather than initiate emergency feed water
(16) because they didn't have a procedure to do it, they
(17) would just do a controlled shutdown and feed salt
(18) water into the steam generators.

(19) It only takes four buttons. You push
(20) four buttons and you've got it. Trip the plant,
(21) push the buttons and you've isolated the secondary
(22) silo. You've got good water going to your steam
(23) generators. But I'm just an outsider. I don't work
(24) there. That's just what I hear from people that
(25) still work out there, that some bad decisions were

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(1) made, and I think that's a chilling effect we see at
(2) Crystal River and any other power plant where we
(3) start hanging operators.

(4) Let's not hang the messenger, let's not
(5) shoot the messenger. If the guy thought he was
(6) doing a good job, if he used his professional
(7) opinions and all his background and he thought his
(8) decision was correct, let's not do that. Let's not
(9) shoot the messenger. That's what I'm asking. If
(10) you're going to shoot somebody, shoot me, leave him
(11) alone and leave my other operators alone. I can
(12) survive without a job but these other guys can't,
(13) and it wasn't their responsibility to make those
(14) decisions. That concludes my statement.

(15) **MR. LIEBERMAN:** Would you lawyers like to
(16) say anything?

(17) **MR. HENDRIX:** Just one thing I'd like to
(18) put in the record is that I did send to Mr. Gibson
(19) today a letter dated March 28th, '96, and I would
(20) like for that to be considered part of our
(21) presentation. Also, we had hoped to have a possible
(22) affidavit to include in the record today, but we
(23) don't have it, and I'd like to have permission to
(24) have about a week to submit an additional affidavit
(25) on some of the technical issues that have been

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(1) raised as to whether it was reasonable at the time
(2) for these gentlemen to interpret the guidance that
(3) they had in the manner that they interpreted it.

(4) I think that's an important issue, the
(5) reasonableness of their interpretation of the
(6) guidance, such as it was, that they had at the time
(7) under the procedures they were working with at the
(8) time. And I'd like to have about a week or so to
(9) submit an affidavit. I don't require any testimony
(10) or anything, just to include that in the record.

(11) **MR. LIEBERMAN:** Can I ask who would be
(12) preparing or submitting that affidavit for you?

(13) **MR. HENDRIX:** Well, I have not gotten a
(14) final commitment so I cannot answer, but when I can
(15) get the commitment I'll give it to you in a week.
(16) If I can't, you won't get it.

(17) The other thing is I would like to echo
(18) the chilling effect argument. We recognize that
(19) you're concerned about a message that would be sent
(20) if an operator feels like you can do what you want,
(21) what kind of message does that send, so maybe you
(22) should come down on these people, versus, Well, if
(23) they're frozen and paralyzed they won't be human
(24) beings and they won't react, which is the main
(25) reason they're there.

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(1) As Dave was saying, I don't believe it's
(2) escaped notice out at Crystal River that Rob Weiss
(3) has been employed at a convenience store and now is
(4) unemployed. I don't think it's escaped notice as to
(5) what effect this has had on these men's lives and
(6) their families. It's a big chilling effect. Again,
(7) our people were put in this position, put in this
(8) position by a host of management failures. They
(9) were caught in this position.

(10) The fact that they had to make these
(11) kinds of decisions at all, they would never have
(12) been in that position had management reacted
(13) properly. So I think that has to be considered,
(14) too, when you step back, particularly when you look
(15) at a possible enforcement action against an
(16) individual. I mean, that's a big, a big item under
(17) your own rules of practice, were they there because
(18) of management failures.

(19) There's no question in this case that's
(20) why they were there, which is why there should be
(21) absolutely no enforcement action against these
(22) individuals, because management failures is what
(23) caused the situation to exist on September the 5th.
(24) The actions he took were caused by the lack of
(25) procedural guidance and the ambiguities as to where

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[1] that envelope was at that time and whether he did

[2] have the discretion or didn't have the discretion.

[3] And what was the training? What were

[4] they supposed to do with it? All that was caused by

[5] management, and they were caught in this situation.

[6] They could have done things differently, maybe they

[7] should have done things differently, but what they

[8] did at the time was reasonable. And they weren't

[9] just off the reservation, they had safety in mind,

[10] and as a result there's no title on that card

[11] today. I hope that y'all will consider that when

[12] you make your final decision. That's all I have.

[13] MR. DICKEY: The only point I wanted to

[14] add with regard to mitigation is that the source of

[15] a lot of this information came from these men and

[16] that they fully wanted to cooperate with the NRC all

[17] along. By Dave Fields writing this May 23rd letter

[18] he went out on a limb. When they were terminated

[19] they knew there were a lot of additional areas to

[20] look that Florida Power never told you to look, and

[21] they knew it all along, and there was serious motive

[22] for Florida Power not providing that information,

[23] but there's no motive here. It's just an area of

[24] mitigation to consider how they wanted to cooperate

[25] with the NRC all along and how they cared about

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[1] their positions and they cared about their

[2] responsibilities to the nuclear industry and nuclear

[3] safety.

[4] MR. REYES: Before I close the

[5] proceedings, I want to mention, Mr. Fields, after we

[6] close today, if you want to talk in private to the

[7] NRC on this or other matters, we're available.

[8] With that, I'm going to terminate the

[9] meeting today. Thank you.

[10] (Proceedings concluded at 4:45 p.m.)

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[4] CERTIFICATE

[5]

[6] STATE OF GEORGIA:

[7] COUNTY OF FULTON:

[8] I hereby certify that the foregoing

[9] proceedings were taken down, as stated in

[10] the caption, and reduced to typewriting under

[11] my direction, and that the foregoing pages 1

[12] through 85 represent a true, complete,

[13] and correct transcript of said proceedings.

[14] This, the 8th day of April 1996.

[15]

[16]

[17] Keith A. Wilkerson, CCR-B-1381

[18] My commission expires on the

[19] 30th day of May, 1999.

[20]

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