



**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST**

FOIA — 96-408

RESPONSE TYPE

☒ FINAL (2nd) ☐ PARTIAL

DATE NOV 1 1996

DOCKET NUMBER(S) (If applicable)

REQUESTER
Darlene Calandra

PART I.—AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

No agency records subject to the request have been located.

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments section.

Agency records subject to the request that are identified in Appendix(es) _____ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request that are identified in Appendix(es) _____ are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.

The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.

Agency records subject to the request that are identified in Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.

Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

☒ Fees

☒ You billed by the NRC for _____ totaling \$ 118.70

You will receive a refund from the NRC in the amount of \$ _____

In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____

PART II. A—INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

☒

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

Copies of the releasable portions of the records identified on Appendix B are enclosed.

The fees for processing your request are:

1.5 hrs. professional review @ \$33.30 per hr. = \$50.10

Duplication of 343 pages @ \$0.20 per page = \$68.60

TOTAL = \$118.70

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

9611270074 961119
PDR FOIA
CALANDR96-408 PDR

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)**

FOIA NUMBER(S)

FOIA —96-408

DATE

NOV 19 1996

PART II.B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) B are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)

2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)

3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).

The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).

5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:

Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation.)

Attorney-client privilege. (Confidential communications between an attorney and his/her client.)

6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)

7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)

Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))

Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7(C))

The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))

OTHER

PART II. C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
Mr. Guy P. Caputo	Director, Office of Investigations	App. B	X		

PART II. D — APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX B
RECORDS BEING RELEASED IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	08/08/95	Exhibit 5 to ROI 2-94-036S, Transcript of Proceedings, Interview of Individual, (86 pp) EX. 7(C)
2.	08/31/95	Exhibit 6 to ROI 2-94-036S, Transcript of Proceedings, Interview of Individual, (130 pp) EX.7(C)
3.	08/31/95	Exhibit 7 to ROI 2-94-036S, Transcript of Proceedings, Interview of Individual, (75 pp) EX 7(C)

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October 11, 1996

FOI/PA REQUEST

Case No: 96-408
Date Rec'd: 10-16-98
Action Off: FOI
Related Case: _____

Mr. Russell Powell
Chief, FOIA/LPDR Branch
United States Nuclear Regulatory Commission
Mail Stop T6D8
Washington, DC 20555

**Re: Freedom of Information Act Request; Further Request Related to NRC
FOIA Request Number 96-330**

Dear Mr. Powell:

On behalf of Florida Power Corporation and Pursuant to the Freedom of Information Act (5 U.S.C. § 552), I hereby request copies of the listed exhibits from the following documents:

- Investigation Report No. 2-94-036
 - Exhibit 8: Transcribed Interview of individual, dated December 1, 1994
 - Exhibit 9: Transcribed Interview of individual, dated December 1, 1994
- Investigation Report 2-94-036S
 - Exhibit 5: Transcribed Interview of individual, dated August 8, 1995
 - Exhibit 6: Transcribed Interview of individual, dated August 31, 1995
 - Exhibit 7: Transcribed Interview of individual, dated August 31, 1995

For each and any requested item (or portion thereof) that you withhold pursuant to a Freedom of Information Act exemption, please provide an index itemizing and describing the items withheld and individually disclosing the specific basis for the withholding. Whatever expenses may be associated with this request will be acceptable, up to a maximum of \$1000.00 and for any fees or expenses incurred pursuant to this request, please forward the charges, along

9611140048

WINSTON & STRAWN

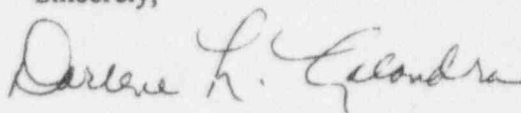
Mr. Russell Powell

October 11, 1996

Page 2

with the requested records and information, to my attention at the above address. In order to accelerate this process, please use the enclosed prepaid Federal Express manifest and send the requested documents to us via Federal Express Priority Overnight Service. If you have any questions, please contact me at the number indicated above.

Sincerely,

A handwritten signature in cursive script, reading "Darlene L. Calandra". The signature is written in dark ink and is positioned above the printed name and title.

Darlene L. Calandra
Legal Assistant

EXHIBIT 5

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 7C
FOIA- 96-408

Case No. 2-94-0365

9610010176

B1'

EXHIBIT 5

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Interview of Mark Van Sicklen

Docket Number: 2-94-036

Location: Crystal River, Florida

Date: Tuesday, August 8, 1995

Work Order No.: NRC-298

Pages 1-85

2-94-036

NEAL R. GROSS AND CO., INC.
Court Reporters and Transcribers
1323 Rhode Island Avenue, N.W.
Washington, D.C. 20005
(202) 234-4433

EXHIBIT 5
PAGE 1 OF 87 PAGE(S)

*Title page &
pgs 1-86*

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 + + + + +

4 OFFICE OF INVESTIGATIONS

5 INTERVIEW

6 -----X

7 IN THE MATTER OF:

:

8 INTERVIEW OF

:

Docket No.

9 MARK VAN SICKLEN

:

(2-94-036)

10 :

11 -----X

12 Tuesday, August 8, 1995

13 Conference Room - Second Floor

14 Florida Power Corp. Admin Bldg.

15 Crystal River Plant

16 5745 N. Tallahassee Road

17 Crystal River, Florida

18 The above-entitled interview was conducted at

19 1:54 p.m.

20 BEFORE:

21 JAMES DOCKERY

Senior Investigator

22 JIM VORSE

Senior Investigator

23 CURT RAPP

Reactor Engineer

24 NEAL R. GROSS

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WASHINGTON, D.C. 20005

1 APPEARANCES:

2 On Behalf of the Nuclear Regulatory Commission

3 JAMES DOCKERY, Senior Investigator

4 JAMES VORSE, Senior Investigator

5 Region II NRC Office of Investigations

6 401 Marietta Street

7 Atlanta, Georgia 30323

8

9 CURTIS RAPP

10 Reactor Engineer - NRC, Region II

11 6745 N. Tallahassee Road

12 Crystal River, Florida 32629

13

14

15 On Behalf of the Interviewee

16 BRUCE H. MORRIS, ESQUIRE

17 Finestone & Morris

18 Suite 2540 Tower Place

19 3340 Peachtree Road, N.E.

20 Atlanta, Georgia 30326

21

22

23

24

25

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P-R-O-C-E-E-D-I-N-G-S

MR. DOCKERY: For the record, my name is James D. Dockery. I'm a Senior Investigator for the Nuclear Regulatory Commission, Office of Investigation. The date is August 8th, 1995. The time is approximately 1:54 p.m. The location of this interview is the --

MR. VAN SICKLEN: Site Admin Building.

MR. DOCKERY: -- Site Admin Building --

MR. VAN SICKLEN: Crystal River.

MR. DOCKERY: -- for the Crystal River Nuclear Plant, Crystal River, Florida. The inquiries we're considering here -- or under consideration here today pertain to OI Investigation Number 2-94-036.

And I'd like to identify the other participants of this interview today, starting with Mr. Vorse.

MR. VORSE: My name is James Vorse, V-O-R-S-E. I'm with the Office of Investigations, U.S. NRC, Atlanta, Region II.

MR. DOCKERY: Mr. Rapp?

MR. RAPP: My name is Curtis W. Rapp. I'm a Reactor Inspector for Region II, NRC.

MR. DOCKERY: And Mr. Morris?

MR. MORRIS: I'm Bruce H. Morris and I'm here representing Mr. Van Sicklen.

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1 MR. DOCKERY: Mr. Van Sicklen, we'll have you
2 identify yourself further after I administer the oath.

3 MR. VAN SICKLEN: Yes, sir.

4 MR. DOCKERY: Will you stand and raise your
5 right hand, please.

6 MR. VAN SICKLEN: Yes, sir. (Complies.)

7 WHEREUPON,

8 MARK EDWARD VAN SICKLEN,
9 being first duly sworn by the Investigator, was examined
10 and testified as follows:

11 MR. DOCKERY: Thank you. Please be seated.

12 THE WITNESS: (Complies.)

13 MR. DOCKERY: Now, would you fully identify
14 yourself for the record and including the spelling of your
15 name.

16 THE WITNESS: Mark Edward Van Sicklen. M-A-
17 R-K E-D-W-A-R-D V-A-N S-I-C-K-L-E-N.

18 MR. DOCKERY: And, Mr. Van Sicklen, would you
19 give us your date of birth and Social Security number,
20 please.

21 THE WITNESS: Born [REDACTED] My
22 Social Security number is [REDACTED]

23 MR. DOCKERY: Mr. Van Sicklen, before we went
24 on the record today I provided you with a copy of the
25 wording of Title 18 of the United States Criminal Code,

1 license?

2 THE WITNESS: Since December 12th, 1990.

3 MR. VORSE: Would you describe your duties as
4 you use that license?

5 THE WITNESS: My duties as chief nuclear
6 operator are twofold. One is on the control board to
7 operate the control panel. The other is out on the
8 clearance desk writing clearances for the shops.

9 MR. VORSE: I want to you to give me a lot of
10 detail on this next question, as best you can remember.
11 Okay?

12 THE WITNESS: Yes, sir.

13 MR. VORSE: We need to know your involvement
14 in the makeup tank evolution that was conducted, we
15 understand, on September 4th and September 5th, 1994,
16 during the midnight shift. And we're talking about the
17 evolution for the makeup tank.

18 THE WITNESS: Yes, sir.

19 MR. VORSE: What do you recall about both of
20 those evolutions? We'll start with September 4th.

21 No. Let me back up. Let's go back to
22 September 2nd when Mr. -- I believe it was Mr. Bergstrom
23 told one of you people, it might have been you, that we're
24 going to close out the makeup tank curve issue.

25 THE WITNESS: They presented us that

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1 September 2nd letter. We actually received it that night,
2 I guess.

3 MR. VORSE: Would you describe all of the
4 events subsequent to that September -- You know, the
5 September 2nd letter dated -- was a letter dated September
6 2nd, and in detail just give me the story all the way up
7 through the 5th of September evolution. Can you do that
8 for me?

9 THE WITNESS: I will try. It's been hard to
10 remember all the facts. I will give you everything I
11 know.

12 MR. VORSE: The best you can. Best you can.

13 THE WITNESS: Best I can.

14 MR. VORSE: And when you use names, give me
15 last names, not first names. And I need to know what
16 interaction you had with other members of the shift, what
17 you looked at, what your discussions were. So just
18 picture in your mind the whole -- just like a movie, the
19 whole thing from start to finish.

20 THE WITNESS: The September 2nd letter came
21 out. We came in on watch. I believe the day was
22 September 3rd for our first midnight.

23 Since it was the midnight shift, I don't
24 suppose Carl Bergstrom specifically handed me the letter.
25 I think we got a copy of it. I think it was actually

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1 handed to Dave Fields, the shift supervisor, because he
2 had on the top of it write any comments and give them back
3 to me. And he'd made me a copy of the letter. And I
4 believe I received that on September 3rd.

5 We read the letter. I can't think of anything
6 specific that I remember from December 3rd. I know I
7 probably had -- The same problem now, I can't remember
8 specifics. I probably had some discussion with probably
9 Rob Weiss as he went in and out to get coffee. My desk is
10 right outside the Control Room as you go into our Break
11 Room where the coffee machine is.

12 I can't remember anything more on December
13 3rd.

14 I think it was December 4th --

15 MR. MORRIS: December or September?

16 THE WITNESS: September. I'm sorry.
17 September 4th that I caught Rob Weiss over in front of my
18 desk.

19 MR. VORSE: And Rob Weiss is?

20 THE WITNESS: The assistant shift supervisor
21 on the unit. And I was the one that brought it up to him.
22 I carried this concern, the concern that I've had over the
23 makeup tank level of pressure, for a while. And it --
24 What I did led up to the problem report 149 that got
25 issued from that May draft that I gave you last time on

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1 pump and it would always flow.

2 That wouldn't happen anymore now that we were
3 keeping somewhat pressure on the makeup tank head-wise.
4 It just -- You'd open up that suction valve and it would
5 just continue to suck off the makeup tank valve. So that
6 was our first concern that we thought about.

7 Bruce also --

8 MR. VORSE: Bruce Willms?

9 THE WITNESS: Yes, sir.

10 MR. VORSE: Please remember last names.

11 THE WITNESS: I'm sorry. Mr. Willms also had
12 an Appendix R concern, in case of a fire what would
13 happen. And he was trying to bring about the credibility
14 of having two accidents. I didn't much get involved in
15 his concern too much over that.

16 He was talking to the engineers, trying to
17 lump together both Appendix R and, I guess, Chapter 14,
18 FSAR, put accidents together where now you have an
19 accident with a fire. And he didn't get anywhere with
20 that.

21 And that concern went on. I kept bringing
22 that up. Mr. Halnon took over in January and we talked to
23 Mr. Halnon on that. And we were just starting to get into
24 -- on the curve itself just from operating the plant. It
25 wasn't following exactly like the curve.

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1 But it wasn't too -- The biggest concern to me
2 was the emergency boration, not being able to emergency
3 borate unless you started a second makeup pump. Unless
4 you have a problem with inventory, you're going to run out
5 of that right away.

6 And in May of 1994 we did SP-630 during the
7 outage. Our crew was on for that. I was the one reading
8 the procedure. I had two board operators, one operating
9 one ES panel makeup valves, and one operating the second
10 panel makeup valves. And we had at least half a dozen
11 SROs there with us.

12 And during that SP is when we found the
13 biggest differential. We started the SP. We had problems
14 with the fuel transfer canal water level, so we'd put
15 water into the fuel transfer canal, taking it out, put
16 water in, taking it out. And we'd started the SP at a
17 lower level than what the SP, from what I understand, was
18 normally run. It was normally run with 30 feet at BWST.
19 We started it with 20 feet and a BWST.

20 MR. VORSE: Did you say on the record what SP
21 stands for?

22 THE WITNESS: SP stands for surveillance
23 procedure.

24 MR. VORSE: What is a surveillance procedure?

25 THE WITNESS: It's a testing, I guess, would

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1 be the best name for it. A testing procedure. We surveil
2 equipment to make it operable.

3 If you took a pump and rebuilt it, before you
4 can exit your action statement on the pump there would be
5 a certain surveillance procedure you would do on that pump
6 to prove its operability.

7 And this surveillance procedure that I'm
8 talking about, SP-630, is one done on an 18-month to two-
9 year frequency and it surveils the full flow of the high
10 pressure injection pumps, the makeup pumps.

11 You bring the makeup pumps up to 540, their
12 rated flow, during the surveillance to show that they can
13 make it to their rated flow. And you do that with the
14 head off the core sucking from the BWST, the borate water
15 storage tank, and you flow at 540 gallons, and it just
16 comes out the head of the core into the transfer canal.

17 During that evolution I wrote four
18 discrepancies up. One of which was directly related to we
19 started with 70 inches in the makeup tank at approximately
20 12 pounds of hydrogen overpressure, way below the curve,
21 and it went right to the curve, a few dots over the curve.

22 And we thought that was very unusual. We
23 didn't expect that response. It took the makeup tank all
24 the way down to 18 inches because of how low the BWST was.
25 And all the time we were trying to feed to the makeup tank

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1 trying to gain level, but the best we could feed at was
2 150 gallons a minute. And we were taking out of it at 540
3 gallons a minute.

4 So it was a losing battle. By the time we got
5 to the third makeup pump we'd realized it and we stopped
6 feeding altogether and just let it go down to whatever it
7 was going to equalize between the makeup tank and the
8 BWST, because they both hooked to the suction of the pump.

9 And then --

10 MR. MORRIS: Give you a hundred bucks if you
11 understand that.

12 MR. VORSE: Go ahead.

13 THE WITNESS: If I'm getting in too much
14 detail, I don't mean to. I'm trying to let you know
15 everything I can. I'll try not to bore you.

16 During that evolution we noticed a big
17 discrepancy over what the curve shows and what's happening
18 on the plant. And we brought that back up to Halnon. And
19 Dave Jones was the administrative shift supervisor.
20 Halnon said, talk to Dave. And Dave arranged a meeting.

21 The first problem report 149 got written over
22 that. It was -- We also had to trip a pump during that
23 evolution because it cavitated. We had to back up and
24 flow and shut a pump off and then continue on.

25 And I forget what the fourth procedure

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1 discrepancy. I have them all that I wrote up that night.
2 And my shift supervisor signed it and we sent them over to
3 Dave Jones, who was in charge of the procedures, to say,
4 hey, you know, this one didn't run how we planned,
5 something is wrong here.

6 Dave Jones arranged a meeting. Again, I've
7 had

8 -- Between that time and the time he arranged the meeting
9 of July 19th the engineers had come and talked to me on
10 several different occasions, me and Bruce Willms, trying
11 to explain the response that we were getting.

12 And every time they'd come up with something,
13 me and Bruce would give them something -- me and Mr.
14 Willms would give them something more. And they'd go back
15 and they kept looking into it.

16 And we felt, okay, they're working on it.
17 We'll just keep letting them work on it.

18 July 19th Dave Jones set up a meeting between
19 Carl -- well, between me, Mr. Willms, Mr. Hinman, who was
20 a system engineer, and Mr. Steve Roe, who at the time, I
21 think, was an Operations engineer.

22 MR. VORSE: Who was the last name?

23 THE WITNESS: Roe, R-O-E.

24 MR. VORSE: Thank you.

25 THE WITNESS: Steve Roe. He'd spent some

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1 time as a shift technical advisor. And Carl Bergstrom sat
2 in as -- to lead the meeting. And we turned over
3 everything that we could to the two engineers there.

4 We had taken the graph that I'd given you back
5 in December, the May 10th graph, and we took OP-103. And
6 from all the makeup pump runs, we had to run the makeup
7 pumps because we tripped one four times. Three makeup
8 pumps, one got run twice because we had to trip it for
9 air.

10 And we plotted all those where it started and
11 where it finished on the OP-103, and we gave them to them
12 showing that we were starting way under here, but it
13 seemed to keep going to the curve, like it would cross
14 over the curve.

15 Out of that their action items that Carl
16 Bergstrom assigned the system engineers -- I say system
17 engineers. I don't know what Steve Roe's title at the
18 time. I think it was Operations engineer. Both of those
19 two were going to go back and independently review the
20 calculation that came up with the curve. And that's all
21 we got out of that. That's all. That ended and we went
22 on our separate ways.

23 I never got any feedback out of that back to
24 me. I went back to Carl Bergstrom and said, I haven't
25 heard anything over what's going on with this, what's the

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1 progress. And I did the same with Greg Halnon. I brought
2 him in there when I was getting off shift and showed him
3 that, hey, I'm still not getting any feedback here, can
4 you help me get some feedback.

5 And I still --

6 MR. DOCKERY: Excuse me. When did the
7 conversations with Mr. Bergstrom and Mr. Halnon that's
8 referred to take place?

9 THE WITNESS: Sometime between July 19th and
10 September 3rd. I don't have specific dates. That left us
11 up to the September 2nd letter that we got.

12 I think one comment that I think Carl -- but
13 I'm not even sure who told me the comment -- that the
14 engineers had reviewed the calculations. They didn't
15 independently redo the calculations, but they'd reviewed
16 them.

17 So when the September 2nd letter came,
18 somewhere between July 19th and September 2nd Mr. Willms,
19 who was on a different shift from me now, basically he'd
20 lost all concern. He just -- He was very frustrated. I
21 was frustrated. We were both frustrated that we kept
22 trying to bring it up. It didn't look like we were
23 getting anywhere.

24 He basically just dropped it and said, I'm
25 done, I don't want to pursue it anymore. I'm just going

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1 to operate the board.

2 MR. RAPP: Did Mr. Willms give a reason for
3 dropping it?

4 THE WITNESS: His words to me and other
5 operators was basically he was told, just shut up and
6 watch the board, it's not a big deal.

7 MR. DOCKERY: Did he say who told him that?

8 THE WITNESS: I don't think anybody
9 specifically. That's why I said those were Bruce Willms'
10 -- the feeling that Bruce Willms got from whichever, from
11 -- The last time we'd gotten together was July 19th and I
12 was on a different shift. And he just dropped it and felt
13 that we just do our job.

14 MR. DOCKERY: Was there an event that
15 occurred July 19th that caused it to be specific in your
16 mind? Was it the meeting you had?

17 THE WITNESS: It was just the meeting, the
18 E-mail that --

19 MR. DOCKERY: I see.

20 THE WITNESS: -- he'd gotten back to me that
21 I just remember it was July 19th that we had the meeting.
22 Carl Bergstrom had written his complaint also.

23 MR. VORSE: But he decided to drop the whole
24 matter much later on, right? Didn't he get involved in
25 some kind of -- not evolution, I guess evolution --

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1 THE WITNESS: Who is he?

2 MR. VORSE: Willms.

3 THE WITNESS: Mr. Willms?

4 MR. VORSE: Didn't he kind of get involved in
5 --Didn't he do some -- The reason that he dropped the
6 issue was because wasn't he kind of conducting some little
7 evolutions to --

8 THE WITNESS: I didn't know about any
9 evolution he'd done until he talked to me in December.
10 And that's when I found out that sometime in July he'd
11 conducted an evolution similar to what we did. And he had
12 brought that data back to Mr. Bergstrom and shown it to
13 Mr. Bergstrom.

14 MR. VORSE: When did he show that, do you
15 know? In July?

16 THE WITNESS: In July, I assume.

17 MR. VORSE: Okay. Did he show that data to
18 you?

19 THE WITNESS: He didn't show that data to me.
20 I had no idea. And even in what -- With me talking to him
21 I didn't get that from him. All I got was, I'm done, I'm
22 frustrated enough that I'm just going to shut up and watch
23 the board.

24 That was about where I was at when the July --
25 September 2nd letter came out. And like I told you in

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1 And all along Pat Beard, the president,
2 everybody, we'd just gone through empowerment training.
3 And they sit there and tell you, you know, if you think
4 you've got something and you're right, don't just let it
5 drop. That's the wrong thing to do. Keep -- Keep going
6 and keep trying to go through the channels to get it done
7 right.

8 And that's all I did. I tried. I talked to
9 Management. There was nothing done that -- I just kept
10 trying to go through my supervisors, it'd almost gotten
11 out of the shift supervisor realm and I was talking
12 directly with the manager, Frank Halnon.

13 MR. DOCKERY: I believe you used the term a
14 problem to the plant. What -- Could you be more specific
15 for us, why was it a problem for the plant, in your mind?

16 What could have been the outcome of the
17 problem?

18 THE WITNESS: The outcome of the problem, we
19 didn't know where that curve would end up. If it -- What
20 was presented to us was that curve was just a pressure
21 volume relationship, a P-1, V-1 equals P-2, V-2.

22 And it's just like you take the water level in
23 your cup and you bring it to a certain level with a
24 pressure and you drain the level down halfway, physics has
25 pressure goes to a certain value.

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1 And that's all that that tank should have been
2 doing. And if it doesn't follow that relationship, then
3 there's something wrong.

4 MR. VORSE: What are the consequences of that
5 something wrong?

6 THE WITNESS: The consequence if it's allowed
7 to cross over that curve, the end point we don't know
8 where it would be. And I -- We still don't know where the
9 end point will be.

10 We brought it down to 55 inches. And on the
11 worst case data, which is what we used for our problem
12 report, I think we used 1.7 pounds, the recorder showed
13 less than that.

14 And we tried to get -- Now I'm getting ahead
15 of the story. But we ended up writing a short term
16 instruction, the assistant. I say we. The assistant
17 shift supervisor -- I don't even know whether it was Rob
18 Weiss or Rob Stevens -- wrote one to state two pounds
19 under the curve. And then Engineering came back and said,
20 no, let's state two and a half pounds.

21 And we've written E-mail -- Rob Weiss wrote
22 E-mail, he sent me a copy, that somehow we've got to
23 interpolate this down to zero where you expect that tank
24 would go on an accident to see what kind of margin we have
25 there, because the end result would be if you don't have

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1 enough margin, that you'd get hydrogen into your pump and
2 the pump would break.

3 MR. VORSE: And if the pump broke, what would
4 happen?

5 THE WITNESS: You'd lose one-half of your ECS
6 train for your H valve. And that's not --

7 MR. MORRIS: In English what's the result or
8 the consequence of that happening?

9 THE WITNESS: You take your safety margin of
10 the plant where you have two trains and you cut it down to
11 just one. You take away 50 percent of your --

12 MR. DOCKERY: In your mind --

13 THE WITNESS: -- high pressure injection.

14 MR. DOCKERY: -- was the entire issue somehow
15 safety related?

16 THE WITNESS: Yes, sir. That pump there, we
17 didn't know -- if it didn't follow that curve, we weren't
18 assured of the end point. And if the end point was over
19 that curve and it surpassed -- I know from reading the
20 calculations we had a two-foot safety margin, which is
21 only a pound or something. Plus, they had other -- We'd
22 gotten the calculations that night, and I'll get into
23 that.

24 But from all the assumptions we didn't know
25 whether there would be enough safety margin to protect

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1 that pump. And that pump going away is a safety, because
2 that is a safety pump. That's its only function. It sits
3 there in standby.

4 MR. DOCKERY: Up until September the 2nd is
5 it fair to say that you felt you were encountering some
6 kind of resistance in going forward with the issue of the
7 curve?

8 THE WITNESS: I don't know whether it was a
9 resistance or just they were as frustrated as I.

10 MR. DOCKERY: Who is they?

11 THE WITNESS: Mainly, I think it was Pat
12 Hinman, the assistant engineer. He's the one I kept
13 talking to. It was his system for the makeup system. And
14 it was -- I don't even think it was his calculation. I
15 think it was a calculation we paid somebody to do.

16 MR. DOCKERY: That had been contracted for
17 outside of --

18 THE WITNESS: Of Florida Power, I believe.
19 And then I think -- And I don't even know who he is. I
20 know his name, Mr. Clauson. I can't even tell you who he
21 is. But his name -- He, I guess, reviews this calculation
22 when we get it.

23 But I kept bringing it to the system engineer,
24 Pat Hinman. And my manager, Halnon, you know, don't let
25 this thing drop, it's something that we're just not

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1 feeling very comfortable with. And that's where it was.

2 So on that I'll get back to my story of

3 September 4th.

4 MR. VORSE: All right. Yeah. You stopped.

5 You were having a meeting. I guess you were --

6 THE WITNESS: Rob Weiss.

7 MR. VORSE: -- talking it over with Mr.

8 Weiss. Yes.

9 THE WITNESS: And I mentioned, hey, let's --
10 can we put this right on the curve and bleed water out and
11 just see what the response is and give that as feedback
12 back to Engineering.

13 MR. VORSE: How would you do that?

14 THE WITNESS: We'd plot it and just give it
15 to them.

16 MR. VORSE: How would you plot it?

17 THE WITNESS: He was going to get it -- At
18 the time I wasn't sure. You're getting ahead on -- His
19 idea of the best way to do it was to get it from the plant
20 computer, the plant computer.

21 Rob at the time -- I still can't do it, but
22 there's a way to go into -- The plant computer looks at
23 all the data points and it puts it into this program
24 called REDAS. And I don't know what that stands for.
25 It's recall of data.

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1 And you go back in and you pull out that point
2 and say, well, what did that point do from this time to
3 this time.

4 And Rob Weiss was real good with it. He's a -
5 - He's very good with computers. He's able to take that
6 stuff and put it on graphs. And he was one of the best
7 that we had in the department. He was actually at the
8 time writing the manual for everybody to follow on how to
9 do that, how to take raw data and set up an excel
10 spreadsheet and come out with a graph.

11 So he went in and talked to the shift
12 supervisor, Dave Fields. Sometime they'd come back and I
13 think Rob was the one, Rob Weiss, come out and give it to
14 me and said, hey, let's go talk to Dave Fields what you
15 want to do, he's got the letter, too.

16 And I explained to Dave Fields -- You know, he
17 knew I was concerned over the makeup tank level pressure
18 and that I was talking with Halnon and other Management
19 and Engineering officials.

20 And he thought about my suggestion and he
21 decided that we could do it. And we looked at the OP.

22 MR. DOCKERY: OP being?

23 THE WITNESS: OP-402. That would give us the
24 guidance. That was the procedure we'd use. And he saw
25 nothing wrong with going from 86 to 55.

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1 I didn't even come up with values. You know,
2 I was -- I wanted to put it up and bleed it. And then
3 we'd go in there and talk in, you know, what are the
4 limits. He said, oh, well, 86 to 55. And that's where it
5 came out to be on 86 or 55, because those were their
6 limits on the procedure for the tank water level.

7 So we looked at OP-402. Jack and Christine
8 were the board operators.

9 MR. DOCKERY: Names, last names.

10 THE WITNESS: Jack Stewart and Christine
11 Smith, Rob Weiss, Dave Fields, and myself were all in the
12 Control Room. We pulled out OP-402 and looked at it. I
13 think Jack pulled out AR that goes with the makeup tank.

14 MR. VORSE: Would you explain AR. Explain
15 AR.

16 THE WITNESS: Annunciator response procedure.

17 MR. VORSE: And who pulled that?

18 THE WITNESS: I believe it was Jack Stewart.

19 And we looked to see whether or not we had
20 procedure guidance to do what we wanted to do.

21 And Dave determined that, hey, you know,
22 that's

23 -- we have a procedure, we can use the procedure. The
24 alarm, at the time there was two ways of putting hydrogen
25 into the tank to get the value that we'd been running with

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1 for the past 18 months. One -- Because the regulator was
2 limited. The regulator was limited to 19 pounds.

3 One was to bleed the water down in the makeup
4 tank, add hydrogen, and then compress it. And the other,
5 which they just changed the procedure because a lot of the
6 people were using, and they put in the procedure to cover
7 what they were doing, was to go up and bypass the
8 regulator so that now you'd have 50 pounds available to
9 you. And you'd bring it up to the curve.

10 And the alarm would sometimes be in and out.
11 The alarm wasn't a surprise. We've taken a watch before
12 with the alarm in. We do the same thing when you fill the
13 SW surge tank. When you fill the SW surge tank, you have
14 a 15-pound band. When you close the valve, sometimes it
15 takes ten pounds worth for that valve to go closed and the
16 alarm comes in.

17 The same with the emergency feed tank level
18 alarm. When you fill it, if you hit the high level alarm
19 at it, the alarm would stay in.

20 Nobody considered that if you did it during
21 the evolution to fill the tank, that you'd pick up the AR
22 and turn around and drain the tank back out. It would
23 just sit and go away by itself. That was within the power
24 of almost the board operators to make that determination,
25 followed by the shifter, because we have to call out every

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1 alarm that comes in. If he's got any question, you
2 explain it to him.

3 So the alarm being in before, it wasn't
4 questioned whether or not the alarm -- if we got the
5 alarm, we looked at what we needed to do. But having the
6 alarm in was basically a call for the shift supervisor.

7 And Dave Fields made that call that, hey, we
8 can go from 86 to 55, we'll gather the data between that
9 level and then we'll correct the alarm. If the alarm is
10 in at that point, we'll just raise the level back up and
11 see whether the alarm clears. I think that's what Jack
12 did on the 4th.

13 Getting into --

14 MR. VORSE: Jack?

15 THE WITNESS: Jack Stewart. Getting back to
16 what I remember of the 4th, we discussed what we were
17 going to do. Jack Stewart called the Aux Building
18 operator, let him know. And he added hydrogen.

19 And all I did was observe. I don't even know
20 whether I stayed in the Control Room the whole time. But
21 I observed. And Chris just -- she observed, too. It's a
22 one-man operation to do the bleed and feed.

23 MR. DOCKERY: Chris is Christine Smith?

24 THE WITNESS: Christine Smith. I'm sorry.
25 Rob Weiss and Dave Fields both observed. And I don't

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1 remember much else from the 4th. I don't recall Jack
2 having to vent at all. I think he just bled it down, fed
3 it back up, didn't need to vent.

4 And then Rob Weiss took over trying to get the
5 data. And he was going to put the data on a curve and
6 compare it to the OP.

7 I don't even recall ever seeing the data taken
8 from the 4th. I don't know whether it was something that
9 ever got saved or shown, or whether Rob Weiss took it home
10 and tried to finish. He was doing a lot of this at home
11 on his home computer.

12 The problem report, 267, that eventually got
13 written up, the graphs that he attached to that was all
14 done at home where he put the formula in.

15 Sometime during that weekend, and I believe it
16 was the 4th, and again, I believe -- It's so hard to try
17 and remember the details of that weekend at all. It just
18 goes together.

19 Rob Weiss had told me, you know, never once
20 did we go and look at the calculation itself that draws
21 that curve. But Rob Weiss had told me where I can go to
22 get it and to go get him a copy. And he told me exactly
23 what filing cabinet to go in the nuke Admin Building where
24 it was. So I was the chief. I was allowed to leave the
25 Control Room. I'm not assigned.

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1 So he sent me out. I got the security officer
2 to let me into the nuke Admin Building. And I went to the
3 file cabinet. I think I couldn't find it the first time.
4 And I called him up and he told me exactly where it was.

5 And I went and got the calculation. There's a
6 calculation that -- an inch thick. So they -- The
7 calculation that comes up with that curve. And I brought
8 that up to him. And I made me an extra copy so that I can
9 just sit over at the chief's desk and page through, trying
10 to make sense of it.

11 And he was looking through it. And I think
12 he, out of that, got the formula because he was able to
13 actually put the OP-103 curve on his spreadsheet.

14 But from what I understand, the data that he'd
15 used to do on the 4th was in one-second REDAS. You have
16 your option of taking it every so often. The best you can
17 get is one second and that's only available for a short
18 period of time. Then the computer dumps all the one
19 second because that's a huge file.

20 And he'd used one-second data. And from what
21 I understand, what he got on the 4th he wasn't happy. It
22 looked like scatter points because he had so much data
23 points all over from the computer while the tank was
24 lowering in level.

25 When it came in on the 5th, Rob's the one that

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1 wasn't convinced that what he'd gotten on the 4th was
2 anything conclusive to give to Engineering. So he wanted
3 to do it again. And that's where I came into play on the
4 5th.

5 The 4th, I don't recall doing anything except
6 for observing. I don't think I plotted. It's hard to
7 remember.

8 The 5th, I was specifically assigned to plot.
9 And I had two, one on the computer and one on the level
10 recorder that was in front of Jack.

11 And they decided to go ahead and do the same
12 as what we did on the 4th. We looked at OP-402. Jack got
13 it out and he got out the A.L. And I think Dave Fields
14 made the comment that, you know, now this time let's -- I
15 don't even know whether it was a different Aux Building
16 operator that prompted.

17 But he had Jim actually dress out, or
18 somebody. I don't think it was Jim that actually did the
19 dressing out. But somebody over in the Aux Building
20 actually dressed out to stand by to vent the tank at his
21 order, whenever he wanted to.

22 They pumped up. And we'd left the hydrogen
23 gas just a little bit below the curve, I believe, and let
24 it stabilize to come to the curve, or whatever he wanted.
25 And then they bled from 86 to 55. And he was calling out

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1 the data points for me to plot on the curve.

2 He went to 86 to 55. The alarm came in during
3 that. I think he waited there for a period of time to let
4 it stabilize so that when Rob would get his data this time
5 off the computer, it wouldn't be changing so much right
6 away, that he'd be able to say, okay, this is the data
7 from what we did, and not get any data from going back up
8 or coming back down.

9 So we did basically the same thing, go from 86
10 to 55. And then Jack restored the level and he had Jim
11 vent some of the gas off. And that was it on the 5th.

12 Rob Weiss had taken that data home again. I
13 don't know whether I saw any data, whether he had the
14 chart there at all on the 5th. The 5th was -- All this
15 was Saturday, Sunday, and the 5th was actually a Monday.
16 It was Labor Day. So it was a holiday, so it was still
17 like a weekend.

18 I don't recall when I first got the data back
19 from him, whether it was that night later, or whether it
20 had just been the next day. He'd gone home and put it on
21 his home computer, put it on a spreadsheet.

22 Sometime between the 5th and the 7th, the 7th
23 morning I know he had color graphs where he had actually
24 put the OP-103B curve on it and the system response, what
25 the system did as we bled.

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1 And he decided that, yeah, this is important
2 that -- not only to give this to Engineering, but we need
3 to write a problem report on this. This is -- This
4 doesn't look good.

5 So he decided to write -- Rob Weiss is the one
6 that wrote the problem report up. And he attached a copy
7 of that graph that he had made up to the problem report.

8 Yes, sir?

9 MR. DOCKERY: Mr. Van Sicklen, would it be
10 fair to say that the resulting graph, the data that you
11 all collected, somehow verified the basis for your
12 concerns?

13 THE WITNESS: I think it showed concern on
14 everybody now, that the whole point of that was to give
15 that back to Engineering, don't close this out, here's
16 more data. We think -- Not only does Mark think, now
17 everybody here on shift agrees that, you know, this is a
18 problem.

19 And, in fact, I think he talked to Paul
20 Fleming and --

21 MR. DOCKERY: Who is he?

22 THE WITNESS: Senior licensing engineer.

23 MR. DOCKERY: No, no, no. I'm sorry. You
24 said, I think he talked to Paul --

25 THE WITNESS: Rob Weiss.

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1 MR. DOCKERY: Okay.

2 THE WITNESS: On whether or not to attach
3 that to Problem Report 149, which is the one that they
4 were pending to close. He wanted to make it a separate
5 one. And I think Paul Fleming is the one that told Rob, I
6 think this is important enough to write its own separate
7 problem report.

8 So that's what we did. He wrote it up and he
9 submitted the problem report. I know the NRC resident
10 that morning was there. And he had even gotten a copy of
11 the problem report before the site manager.

12 Either the plant manager or the shift manager
13 was in the Control Room. I think it might have been the
14 shift manager, because I think he's got to review all the
15 problem reports.

16 I mean, everything we'd done we felt like we'd
17 done something good and something right. And his comment
18 back to -- I think it was Dave or Rob -- I -- Just
19 coincidence I was in the control room --

20 MR. VORSE: Dave Fields or Rob Weiss?

21 THE WITNESS: Right. The shift managers was,
22 it's good to challenge Engineering. You know, give them
23 the data. This is good.

24 MR. DOCKERY: Who said it's good to challenge
25 Engineering?

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1 THE WITNESS: The comment was made and I'm
2 not sure whether -- I think it was Larry Moffatt. It
3 might have been Bruce Hickie. I'm not sure.

4 But everything that we'd done we thought we
5 did right by the procedure, with the shift supervisor's
6 concurrence. And we thought it was within his power to do
7 everything that we did.

8 I know there has been newspaper articles
9 saying that I spearheaded this thing. And the motivation
10 has almost turned into something personal with me. And I
11 assure you it's not.

12 The only motivation here was to get the curve
13 corrected. And we thought what we'd done that day was
14 good. And we gave it to the plant. I mean, we turned it
15 right over.

16 And everything turned into the 5th over the --
17 What got stapled to the problem report was the data that
18 Rob had gathered from the 5th. And I think he used one-
19 minute REDAS to draw that curve.

20 MR. VORSE: Assuming that the -- Give you a
21 chance to catch your breath.

22 Assuming that the -- that this curve was not a
23 design basis curve. And I believe you recognized that it
24 is and that you all didn't know that.

25 But assuming this was just, in reality, an

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1 operational curve or an administrative curve -- I've heard
2 both terms used -- when you went into the unacceptable --
3 when you were plotting your data on the 5th and you were
4 going to the unacceptable region of the curve --

5 THE WITNESS: It's not labeled unacceptable
6 region. It's labeled acceptable and it wasn't labeled
7 anything on the other side, and it was just a curve.

8 MR. VORSE: So you had acceptable on the
9 right and nothing on the left.

10 THE WITNESS: That's correct, sir.

11 MR. VORSE: And you plot your data and you
12 see that you are on the left side of the curve. It is an
13 administrative procedure, operative procedure, not a
14 design basis.

15 And then a annunciator goes off. Are you in
16 violation of anything if you fail to take action to
17 correct the alarm and the fact that you are off the curve?

18 THE WITNESS: At September 5th, 4th time
19 frame, whichever -- I keep using the 5th because the 5th
20 is where we got all the data from -- that was totally up
21 to the shift supervisor.

22 Like I'd explained before, when we fill water
23 into the emergency feed tank or the SW surge tank, alarms
24 come in. And the annunciator response for them is to
25 drain the tank, vent the tank. The same with the makeup

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1 tank where it says vent the tank.

2 We thought that was well within. We didn't
3 even question the authority of the shifter because it's
4 within the shifter's authority over administrative
5 procedures. OP is just general procedures. AI-500 gives
6 him the power of determining what action we needed to
7 take.

8 So we call off the alarm. And because even
9 that particular alarm for the makeup tank pressure had
10 been in in the past. When this first started, it was in
11 for two solid months as we raised pressure before they
12 even got the alarm changed from a 15-pound alarm.

13 We were totally in agreement. Nobody
14 questioned. I mean, you asked me the day I signed my
15 interview, why didn't you get that shift manager in there.
16 And my only response back to you, even then, we didn't
17 think we needed the shift manager. We thought that was
18 totally within the power of the shift supervisor to make
19 that call as we were coming down.

20 MR. VORSE: Have you concluded your testimony
21 about September through the 5th evolution?

22 THE WITNESS: I can't think of anything more
23 I can tell you between the 3rd and the 5th.

24 MR. VORSE: All right. I have some canned
25 questions that I'm going to ask you. Okay?

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1 THE WITNESS: Yes.

2 MR. VORSE: Okay. And I asked you this last
3 time we talked, but I didn't ask you under oath. So I'm
4 going to do it under oath.

5 In either of these evolutions on 4 or 5
6 September, 1994, did anyone say, this is wrong or this is
7 not a good idea? I'm talking about anyone on the shift or
8 anyone that you know of, period.

9 THE WITNESS: No, sir.

10 MR. DOCKERY: To put it another way, was
11 there any resistance at all that you know of to going
12 ahead with this -- conducting this evolution?

13 THE WITNESS: No resistance whatsoever. We
14 brought it to the shift supervisor. That would have been
15 what we all do. And that was the shift supervisor's call.
16 I know of no resistance.

17 MR. VORSE: Did you think it was a good call?

18 THE WITNESS: I thought it was within his
19 power. I didn't question it. It's --

20 MR. VORSE: Do you think you would have done
21 the same thing if you were in his position?

22 I know this is not a good -- probably not a
23 good question. Let's drop that question. That's --
24 Because that's not within the scope of your license. So I
25 won't ask you that question. Okay?

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1 Did anyone on the shift say there may be some
2 procedural violations, this may be a procedural violation.

3 THE WITNESS: No, sir.

4 MR. VORSE: Something in the evolution
5 process, a procedural violation?

6 THE WITNESS: No, sir.

7 MR. VORSE: Did -- And once again, I'm going
8 to ask a repeat question from the last time we talked.

9 Prior to either evolution of the 4th or 5th of
10 September of 1994 did anyone say, we need to get advice
11 from another source, such as a shift technical advisor?

12 THE WITNESS: (No verbal response.)

13 MR. VORSE: Did anyone say that? Did anyone
14 say that, we need to get -- check with somebody else?

15 THE WITNESS: No, sir, as I just explained in
16 my last comment. And I know you asked me that even as I
17 left in January. And --

18 MR. VORSE: Okay.

19 THE WITNESS: -- even the shifter didn't
20 think that he needed to call the shift manager.

21 MR. VORSE: Okay. Did anyone say, Management
22 needs to know about these evolutions that we're going to
23 conduct? This is prior to your conduct -- prior to
24 conducting the 4th and 5th September evolutions.

25 THE WITNESS: Prior to doing the evolutions

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1 did anybody say, stop, we need Management to know?

2 MR. VORSE: Management. Yeah. We need
3 Management to know about this. We need to have somebody
4 check this.

5 THE WITNESS: The shift supervisor is part of
6 Management.

7 MR. VORSE: So in your view, the shift
8 supervisor was the manager. He was the manager of the
9 whole reactor that night.

10 THE WITNESS: Yes, sir.

11 MR. VORSE: On both nights.

12 THE WITNESS: Yes, sir.

13 MR. VORSE: Did anyone on the shift say,
14 wait, this is a design basis curve? Did anyone say
15 something like that?

16 THE WITNESS: No, sir.

17 MR. VORSE: Do you know what 10 CFR 50.59 is?

18 THE WITNESS: I know 50.54 is the -- you can
19 read tech specs 50.59. Oh, that's what's in front of all
20 our procedures, a 50.59 review. That's a review that you
21 do on procedures before they get issued. Somebody does a
22 50.59.

23 MR. VORSE: Was 10 CFR 50.59 ever discussed
24 prior to or during these 4th and 5th of September, 1994,
25 evolutions?

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1 THE WITNESS: No, sir.

2 MR. VORSE: Why didn't you tell us about the
3 September 4th evolution last time we talked?

4 THE WITNESS: If I had thought that it was
5 significant, that you even wanted to know, I would have
6 told you. I spent that whole time with you, I talked
7 almost the whole time about a safety concern. And I know
8 we started out the interview talking about whether it
9 could be confidential.

10 Even in my interview, my deposition, back on
11 one of the pages, and we must have been an hour into it, I
12 made the statement that, you know, I'm telling you a whole
13 bunch here on safety concern and it seems like all you
14 want to know is the 5th.

15 And your response is even in there. And we
16 just came right off of being off the record for a while.
17 But your response was you wanted to hear everything about
18 my safety concern. You were shaking your head that, yeah,
19 I'm interested in your safety concern.

20 And I remember Mr. Curt Rapp there and his
21 head was, no, just September 5th. And it never even -- I
22 was under -- When you came last time, I was trying to tell
23 you about a safety concern. And I spent that whole hour
24 and a half, or whatever time I spent with you, very open
25 and honest as I am now telling you everything that I know.

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1 And I didn't -- If I thought you wanted to
2 know about the 4th or any details, there's nothing in the
3 4th that's worth hiding. I would have told you, there's
4 nothing in there that I'm ashamed of. We did everything
5 on the 4th the way we did on the 5th.

6 And now the way Management has put it, I don't
7 think -- I think it's very clear to the shifters there
8 that they don't have that power anymore.

9 MR. DOCKERY: Mr. Van Sicklen, I'm going to
10 ask you basically the same question, but perhaps in a more
11 direct manner right now.

12 Prior to your meeting with and interview by
13 Mr. Vorse and Mr. Rapp did anyone in Florida Power,
14 Management or attorneys, tell you specifically not to
15 discuss the events of September 4th, 1994, with the NRC?

16 THE WITNESS: The only one we've talked to --
17 Well, there's two discussions I can bring up with that.
18 One of them was with me and Christine didn't get
19 interviewed when everybody else did. We were in Las
20 Vegas. We came back.

21 At the time the others got interviewed I think
22 Mr. Gerald Williams, the company lawyer, had met with them
23 all. Me and Christine only got to talk to him over the
24 phone. And his advice to us was to stick strictly --
25 answer any questions honestly and directly and stick to

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1 just the events that they're asking about.

2 And I think he brought up the 5th. The 5th
3 was

4 -- Everything turned into the 5th over that's the day the
5 data got used.

6 MR. DOCKERY: Do you recall him mentioning
7 September the 4th to you during that telephone call?

8 THE WITNESS: No, I do not. Also, I talked -
9 -

10 MR. DOCKERY: Can you say with any degree of
11 certainty that he did not mention September the 4th, 1994?

12 THE WITNESS: I am almost positive his words
13 were just stick to the event on the September 5th and just
14 answer their questions. That's all I can remember from
15 that point.

16 I had also talked to Greg Halnon and Christine
17 had it in her planner. It was December 5th we talked. We
18 had our interview on the 11th.

19 I had gone up when I had gotten back from Las
20 Vegas. I'd gotten with Bruce Willms to get -- Remember
21 when I came in, I had a whole briefcase full of
22 information for you. He had given me everything that he
23 had gotten.

24 And in that I saw something that was similar
25 to what we'd done. And it looked like some other shift

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1 had gone from 86 to 55.

2 And Halnon asked me and Christine to come up
3 to his office so that he can brief us on what was -- your
4 interviews with everybody else.

5 And during that he kept bringing up September
6 5th. And I tried to say, you know, this is not the only
7 time that this has been done, September 5th. And he
8 wasn't interested in any other time. I didn't even get to
9 show him the data that -- the graph that I'd been given by
10 Bruce.

11 Also --

12 MR. RAPP: Excuse me. Let me interject here
13 for one second. During that conversation with Mr. Halnon
14 did he come out and say, I only want to talk about the 5th
15 or I don't want to know --

16 THE WITNESS: That's the words he used. It
17 was, we're here just to talk about the 5th. That's what
18 you all are here for. And that all I want right now -- I
19 don't know what his exact words back. I know he used
20 September 5th, but I don't know what his exact words were.
21 He wasn't interested in what I had.

22 MR. VORSE: So what was your perception of
23 what he was trying to tell you? What was your perception
24 of what his words were?

25 THE WITNESS: That we're here just to go in,

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1 answer your questions that you ask us. And that's it.

2 MR. DOCKERY: At that time did Mr. Halnon
3 mention September the 4th to you?

4 THE WITNESS: No, sir. I know that Rob Weiss
5 --And that's why the September the 4th incident just went
6 out of my mind. Rob Weiss had told Licensing, Paul
7 Fleming, that it had happened both the 4th and the 5th.

8 And that was the last I ever heard of the 4th.
9 The 4th, to me, it was insignificant. Everything was
10 gathered around the data that we stapled to the problem
11 report, which was gained from the 5th.

12 And I didn't even have -- If I had even known
13 that you wanted to hear anything more about other
14 evolutions or anything else that I knew, I would have told
15 you.

16 I was trying to stick last time to a safety
17 concern that I had. And even my comment back again that,
18 you know, if you're here just for the 5th, I think my
19 comment back on that deposition was, I think you know
20 everything already about the 5th. I was your last
21 interview with you that I probably can't help you about
22 that.

23 MR. DOCKERY: Is it fair to say --

24 THE WITNESS: I'm just here on the safety
25 concern.

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1 MR. DOCKERY: Is it fair to say that the data
2 that was collected on the 4th, on September the 4th was
3 inconclusive?

4 THE WITNESS: I believe that's what Rob
5 Weiss' words -- What I've got in my memory was scatter
6 data. And whether that was his term or somebody else's
7 term, Rob Weiss' words was he wasn't convinced of what he
8 got from the 4th, that he wanted to do it again on the
9 5th.

10 MR. DOCKERY: Is that what caused September
11 the 4th to be insignificant to you, or to appear
12 insignificant?

13 THE WITNESS: It was insignificant that we'd
14 already told -- We wrote the problem report, Rob Weiss
15 did, and told everybody what we'd done.

16 The fact that we did it on the 4th and nothing
17 conclusive come out of it, as long as he told License
18 about it, you know, I didn't have any -- it meant nothing
19 to me after that. It really didn't.

20 What we focused on was the data that we had
21 gained from the 5th.

22 MR. VORSE: Did anyone ever discuss the data,
23 you know, let's not tell anybody about the 4th, or let's
24 just keep it kind of low key, the 4th of September issue,
25 because the data really wasn't -- you know, we looked good

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1 on the 5th, but we don't look so good on the 4th because
2 the data was scattered and it didn't really come out the
3 way we thought? Was that ever discussed?

4 THE WITNESS: No, sir. The data, what was
5 gained on the 4th, I believe that System Engineering had
6 already when he told License and they'd already pulled all
7 that data back up and looked at it. And I don't know what
8 they got off of the data on the 4th.

9 The only data I'd ever seen any time after
10 this was just the data from the 5th.

11 MR. VORSE: Are you familiar with 10 CFR
12 50.9, completeness of information?

13 MR. DOCKERY: That's completeness and
14 accuracy of information provided to the NRC.

15 MR. VORSE: Are you familiar with that?

16 THE WITNESS: Was that -- I don't know -- I
17 know the package that you sent me, I know it had 50.5 in
18 there. That's the deliberate misconduct.

19 MR. VORSE: 50.59 is -- If you didn't know
20 about it, then that's -- then you don't know what 50.59
21 is.

22 MR. DOCKERY: Now, let's make a distinction.
23 You said 50.59.

24 MR. VORSE: Yeah, I know. I caught myself.
25 It's 50.9, which is completeness and accuracy of

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1 information. You weren't familiar with that.

2 THE WITNESS: I wasn't even familiar with
3 50.5, deliberate misconduct, until --

4 MR. VORSE: Was 50.9 ever discussed amongst
5 members of the shift?

6 THE WITNESS: No, sir.

7 MR. DOCKERY: And again, since you've said
8 you weren't familiar with that, that's regarding the
9 completeness and accuracy of any information that is
10 provided to the NRC.

11 What you're saying is that was not a concern
12 at the time of --

13 MR. VORSE: Interview.

14 THE WITNESS: If I'd anywhere thought that
15 you were looking for data or information about the 4th or
16 any other time, I would have told you. I don't -- To me,
17 it was insignificant all the way up to when my law, ar come
18 up just before pre-decisional conference and we were just
19 rambling on and we -- and it came up.

20 MR. VORSE: You -- The last time we spoke you
21 mentioned something about telling the resident inspectors
22 about your concerns.

23 Can you go into a little more detail -- or a
24 lot more detail on that, tell me who it was you talked to
25 and exactly what was said, and how many times.

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1 THE WITNESS: I brought my concern up to Todd
2 Cooper. He was the one that come up to the Control Room
3 most.

4 MR. VORSE: When?

5 THE WITNESS: Before September 4th or 5th.
6 On four different occasions. I can't give you dates. I
7 can't give you specifics. I'd mention it to him that I
8 got this concern over this curve. And he put it on what
9 he called his hit list, that he was going to look into it.
10 And I guess I brought it up to him on the four
11 different occasions. And he was looking into it, looking
12 into it, looking into it, but I never got any results back
13 from him.

14 I think I told you last time that we had gone
15 off the record on one of those occasions with Todd.

16 MR. VORSE: Yeah. But then we got back on
17 the record and talked about it.

18 THE WITNESS: And then --

19 MR. DOCKERY: Well, now, I think you're
20 making reference to in your last transcript you and the
21 resident inspector went off the record --

22 THE WITNESS: Yes, sir.

23 MR. DOCKERY: -- to discuss concerns you had.

24 THE WITNESS: Yes, sir.

25 MR. DOCKERY: Actually, I kind of had a

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1 question about that. You were -- You considered it to be
2 off the record. What was said?

3 THE WITNESS: I don't -- I know the last time
4 we had our -- there was three different occasions that you
5 wanted to go off the record and go talk down on the
6 balcony. And I would see no need to do that.

7 MR. VORSE: Well, we were discussing
8 confidentiality.

9 MR. MORRIS: No. He's asking you now --

10 THE WITNESS: Okay.

11 MR. MORRIS: -- if you had an off-the-record
12 conversation with Todd Cooper regarding your concerns
13 about the curve.

14 THE WITNESS: Yes, sir.

15 MR. DOCKERY: And can you relate to us here
16 on the record what the --

17 THE WITNESS: Can I talk to my lawyer whether
18 or not I can talk about something I talked to --

19 MR. DOCKERY: Absolutely. As a matter of
20 fact, we've been at this for a long time.

21 MR. VORSE: Yes.

22 MR. DOCKERY: Let's take a short --

23 THE WITNESS: Okay.

24 MR. DOCKERY: We'll go off the record.

25 (Whereupon, a recess was taken at 3:00 p.m.,

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1 after which the proceedings resumed at 3:03 p.m., on tape
2 number three, as follows:)

3 MR. DOCKERY: We'll go back on the record.
4 It's now approximately 3:08 p.m.

5 Mr. Van Sicklen has had an opportunity to
6 confer with his counsel and it's my understanding we're
7 ready to proceed.

8 MR. MORRIS: Correct.

9 MR. DOCKERY: Mr. Van Sicklen, I have to
10 remind you that you continue to be under oath for this
11 proceeding.

12 THE WITNESS: Yes, sir.

13 MR. DOCKERY: Okay, let's get back to the
14 subject you were discussing.

15 THE WITNESS: I was talking to Todd Cooper.
16 And again, I remember all this on the clearance desk, with
17 the clearance chief, and he'd walked out of the Control
18 Room and come over and talked to me. And we got into
19 talking about the makeup tank again, what I'd talked to
20 him about on previous times.

21 And I guess I was just frustrated and he
22 sensed the frustration that I had. He hasn't been able to
23 do anything, I ain't been able to do anything that would
24 really clue them into, hey, you know, an operator has a
25 concern here that needs to be looked at.

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1 And then he went off the record. And what we
2 talked about off the record was what an option that I had.

3 What he told me off the record was you can
4 make an allegation. I'd never even heard what an
5 allegation was before. And he explained, you know, you
6 can make an allegation against the company over this. But
7 if you do that, then it goes directly to the Region.

8 MR. DOCKERY: The Region being?

9 THE WITNESS: Region II. And it's out of our
10 hands --

11 MR. DOCKERY: Of the --

12 THE WITNESS: -- it's out of his hands
13 anymore. He says that, I don't even get involved in
14 allegations. That the Region takes over all of that if
15 you make an allegation.

16 But we were -- he was still working on it and
17 I was still working on it, and I felt like, you know, no,
18 I'm not ready to take it out of our hands. I want to -- I
19 want to continue working on it with you.

20 MR. DOCKERY: For clarification, Mr. Van
21 Sicklen, Region II, reference to Region II, you understood
22 it to be Region II of the Nuclear Regulatory Commission,
23 right?

24 THE WITNESS: Region II of the Nuclear
25 Regulatory Commission. Region -- whatever department in

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1 the Region, it would be out of his hands, he said, and it
2 would be out of my hands. You make a -- basically, he
3 says, you make it against the company. You make an
4 allegation against the company. And then the Region steps
5 in and they handle it.

6 And so I said, well, I'd rather try to
7 continue through Management then. You know, let's try to
8 do it the way we're doing it, the right way. I'm not
9 ready to just make an allegation against the company and
10 give it to the NRC, I guess. As long as -- he was working
11 with me and we were both going to try to solve it.

12 And then we went back on the record and he
13 says, okay, now I'm an NRC, do you have -- do you want to
14 make an allegation? And I said no, I don't want to make
15 an allegation.

16 MR. DOCKERY: By off the record, I think what
17 you're referring to is he wanted to make it clear to you
18 you understood what your options were.

19 THE WITNESS: He wanted to -- he went off the
20 record to say, hey, you can make an allegation and it
21 would go directly to Region. And it would be out of our
22 hands -- his hands. He wouldn't be involved with it
23 anymore if that's what I did.

24 MR. DOCKERY: And there's nothing improper
25 about that. So please go ahead.

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1 THE WITNESS: That's -- He made it -- he
2 made me feel like, and I felt that way myself, that I'd
3 still like to work with my Management. I'd been talking
4 to them all the time with this. And that's what was
5 discussed. And he kept assuring me that, you know, it's
6 on top of the list of things. He was working on it with
7 me. We were both trying to get it done.

8 MR. DOCKERY: This might be a time for me to
9 interject a question I have here.

10 You -- you just earlier in your testimony and
11 just now you've used the term frustration. The
12 frustration that you felt. I think earlier I used the
13 term resistance in asking you were you feeling resistance
14 from some level of management or supervision that caused
15 you this frustration.

16 Was that the case? Is there somebody you felt
17 was not doing their job?

18 THE WITNESS: It wasn't -- It wasn't as much
19 as somebody as when I'd get together with the Engineers
20 and I'd get together with Greg Halnon. Me and Bruce
21 Willms, we both felt that nobody would ever come back and
22 tell us what was going on.

23 MR. DOCKERY: Did you get --

24 THE WITNESS: That was the most frustrating
25 part, you know. We'd bring it all up to them, we'd give

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1 them all these graphs and charts, and then we'd hear
2 nothing for a month, until I'd go back over to Greg. You
3 know, I'm not hearing nothing on the makeup tank. As you
4 know it's still a concern of mine. We're still operating
5 the plant. You know, I'm totally subordinate.

6 I mean, I had a conversation on the board with
7 one of the assistants. It was Mr. Gary Becker. He was
8 sitting in getting his seven days of quota on the board.
9 Some of the shifts would run, I mean, they'd open the
10 bypass and run it right on the curve. Some would stay a
11 little bit away. And it was varying. And it got to the
12 point where it was put in the shift supervisor's log. An
13 OSP entry was made on the shift supervisor's turnover
14 sheet.

15 Somewhere in upper Management they'd even
16 taken hydrogen cc's per kg, that they were trying to
17 achieve by making the hydrogen this high, and they'd put
18 in on the plan of the day, in the graph form. And you'd
19 see where sometimes there was dips and sometimes it was
20 right back up.

21 And there was an OSB entry that I got here
22 somewhere, that Dave Jones had come back and said, well,
23 you know, some of the perceived concerns of the operators
24 are so and so, but we need to maximize cc's per kg.

25 And I was on the board as the board chief.

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1 Mr. Becker was the assistant. And, you know, he was on
2 the shift supervisor's turnover sheet. He was the
3 assistant. You know, make sure you maximize it, put it
4 right on that curve. And we were maybe five counts off
5 the curve or so. And he'd come over to me and he asked me
6 to add the hydrogen, get it right back up on that curve.

7 And I immediately, I turned around and I
8 started adding the hydrogen. And then I turned back to
9 him and I said, okay, I'm going to do what you say. I'm
10 100 percent subordinate to you, but I have some concerns
11 that maybe you're not aware of since you don't normally
12 sit there. That it's not following this curve and I don't
13 like to stay right on the curve.

14 And his response to that, and I know Dave
15 Fields was sitting there as the shifter, and there was
16 Bill Marshall was sitting right behind him as the shift
17 manager. And he just pulled out his wallet with Pat
18 Beard's home phone number. Says, I'll call Pat Beard and
19 he can explain to you why he wants it right on the curve.
20 And he actually dials his home phone number, but nobody
21 answered.

22 And I made it real clear, you know, if that's
23 where you want it. The hydrogen's already going in, I'll
24 run it right there for you. I just wanted to tell you
25 what my concerns were. That's all. And that's where it

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1 ended.

2 MR. RAPP: Let me ask a question then. It
3 may be somewhat obvious.

4 Was this done -- Was this action done in a
5 manner to intimidate you into complying or was it done in
6 a manner to say --

7 THE WITNESS: I think he --

8 MR. RAPP: -- to say, let's explain what the
9 problem is here and let's get it all aired out and make
10 sure that everybody understands what everybody else is
11 doing?

12 THE WITNESS: I felt it was total
13 intimidation. He didn't even turn around to the shift
14 supervisor, which is his boss, and the shift manager, they
15 both sat there together. He just got out the senior vice-
16 president's phone number and said, well, you can talk
17 directly to him. And I was, I was going to feel free to
18 talk to him if he was home and, you know, I would have
19 explained that this is what I've got.

20 MR. RAPP: What was Mr. Fields' comment to
21 this, this action?

22 THE WITNESS: He thought that the assistant
23 was a big jerk. That's --

24 MR. RAPP: The assistant is subordinate to
25 Mr. Fields, correct?

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1 THE WITNESS: Yeah, the assistant is
2 subordinate to Mr. Fields, but Mr. Fields, you know, he,
3 okay, if they want it right on there it's on the shift sup
4 -- you know, go ahead. And Mark just, don't worry about
5 it.

6 And I put it right on the curve where they
7 wanted it. And that's -- And the frustration that I get
8 is not over any certain individual. It's just a matter of
9 I kept talking to -- from engineers to the administrative
10 shift supervisor to the manager. And it was just -- the
11 frustration was just no feedback, basically.

12 MR. DOCKERY: We try to make it as clear as
13 possible, because I'm trying to understand.

14 Did you feel that any individual was resisting
15 your attempts to have this issue dealt with?

16 THE WITNESS: I don't think I can point to --
17 if you wanted me to point to probably the most individual?
18 I'm not sure what you want.

19 MR. DOCKERY: I don't want you to point to
20 any individual unless you feel that they were somehow
21 actively trying to stifle your ability to put forward your
22 concerns.

23 THE WITNESS: System Engineering, I think,
24 was standing pretty firm on their calculation. And I
25 think the Management was just trying to play management.

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1 Look at the (unintelligible) operator having a concern,
2 and you got System Engineering saying, no, you ain't got
3 no concern.

4 And I just kept, just like Pat Beard had told
5 us to do, if you really feel, just don't let it drop. And
6 I thought that it was important enough that, you know, I
7 kept calling my manager. And he was pretty good about,
8 you know, he set up the meeting, but he never really fully
9 got engrossed. He's much too busy.

10 MR. DOCKERY: Okay. There's another way --
11 I'm trying to think of another way to possibly
12 characterize this. And tell me if this could be correct.

13 In any organization there's a certain degree
14 of what I'll term inertia. It's just hard sometimes to
15 get things rolling. Was that the problem you were facing
16 here? Or once you think you've gotten things rolling, to
17 continue that, that process?

18 THE WITNESS: Well, I'd started it rolling
19 and my manager seemed like he supported me. And never
20 once did my manager turn around and say, you know, shut
21 up, Mark.

22 MR. VORSE: Who was your manager, again?

23 THE WITNESS: Greg Halnon. But it seemed
24 like somewhere whether this whole thing started over a
25 quote that everybody's familiar with what Pat Beard says.

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1 Pat Beard, the reason why this hydrogen was put on the
2 curve and why we went away from our old alarm of 15
3 pounds, takes us up to 30 pounds, was for the cc's, an MPO
4 good practice.

5 And -- Now, this is going back probably of
6 August of '93, I went to a meeting. And we started
7 talking about emergency boration. I was invited, with
8 Ernie Gallion, one of the shift supervisors, to go down to
9 the nuke Admin Building and sit in on a meeting where they
10 discussed, okay, let's get Engineering together. And I
11 think it was Brian Murtaw was the one running the meeting.
12 And he basically had a dozen engineers in there, and we
13 talked about hydrogen overpressure.

14 MR. DOCKERY: You weren't being shut out
15 then, in your opinion, were you?

16 THE WITNESS: No, I never felt like I was
17 shut out. Nobody -- I kept feeling from my management,
18 which was Greg Halnon and even Dave Jones, it was almost
19 above the shifters that, all right, Mark, you know, we'll
20 get you with Engineering again and keep working on it.

21 And that's why I felt comfortable with, I got
22 time off, I'll keep working on it. I didn't want to just
23 drop it. And I thought that I was pursuing it. And that
24 was good. And I know it got turned into, and I don't why,
25 that's why you're asking that it -- by other people that

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1 look outside and look in, were thinking that it was a real
2 conflict between me and Engineering.

3 And it's not what the other people are
4 perceiving, that this whole thing was a personal thing.
5 You know, Phil Saltsman, one of the System Engineers, he
6 got hired the same time as me. Our wives do something
7 with our kids together. I have no problem with it. It's
8 not a personal thing.

9 MR. DOCKERY: Okay. But understand, you had
10 been the one who's used the term frustration several times
11 today.

12 THE WITNESS: Yeah.

13 MR. DOCKERY: All we're trying to do is to
14 the extent possible pinpoint the source of frustration --

15 THE WITNESS: What that frustration --

16 MR. DOCKERY: -- to be the cause of that
17 frustration, if that's possible.

18 THE WITNESS: The biggest cause is Pat Beard
19 said he wanted it on the curve. He made it so far as to
20 put it on the plan of the day so that he could show
21 everybody. Every day the plan of the day gets put up
22 there in the Control Room and they give it to all the
23 shops. And the only purpose of having hydrogen cc's per
24 kg was to see whether it was being maximized. And the
25 only way to maximize it was to -- to run right on the

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1 curve as much as we could.

2 And the engineers -- and this is something
3 that I started to bring up out of that meeting -- they
4 react a lot to what Pat Beard says. A Senior Vice-
5 President tells you to do something, you do it.

6 That pressure was never put on me as a plant
7 operator from my management. Nobody ever came down to me
8 and said, Mark, you shut up. And I, you know. They had
9 the -- the -- I think they were just trying to back what
10 Mr. Beard wanted. And they wanted to show that, hey, we
11 can get this cc to kg.

12 And half-way through that meeting we all got
13 to
14 -- you know, all the System Engineers down there, me and
15 one of the shift supervisors talking mostly then with the
16 emergency boration. And an hour into it we said, you
17 know, why are we trying to do this, you know, what's the
18 problem, why do we need some many cc's per kg.

19 Oxygen, as far as when they sample oxygen from
20 the RCS, is undetectable. It's less than. And hydrogen
21 goes in there to combine with the oxygen, that's water.

22 And that's where it came up in that meeting,
23 and it's just, Pat Beard wants it there, it's an MPO
24 recommendation to run there. I think a BMW water
25 chemistry manual, end up putting in 25 cc's per kg, and

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1 that's where we're going to run.

2 I hope I've -- I can't give you a pinpoint any
3 more than that, I don't think.

4 MR. DOCKERY: And I don't ask you to tell me
5 any more than what you can tell me.

6 THE WITNESS: I'm sorry if I'm being too
7 lengthy. I'm trying to answer as fullest, 100 percent
8 that I can.

9 MR. DOCKERY: And we appreciate that.

10 MR. VORSE: Curt, you got anything?

11 MR. RAPP: Yes, let me go over a couple of,
12 couple of items. Excuse me.

13 Back in July of '94, Mr. Willms had some
14 concerns about this curve as well, correct?

15 THE WITNESS: All the way through, from the
16 point back in '93, me and him were on the same shift. I
17 was the lead in, he was the junior. And we worked
18 together and we made little graphs of the emergency
19 boration. He had concerns over the regulated. That was a
20 violation that we got, whether the regular being set
21 wrong. And he was more on the appendix R, concerned over
22 trying to prevent two accidents.

23 MR. MORRIS: See if you can preface your
24 answer with yes or no and then explain.

25 THE WITNESS: Okay.

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1 MR. RAPP: All right. Then, going back to
2 the July of '94. Were you aware that Mr. Willms conducted
3 similar type tests?

4 THE WITNESS: No, sir.

5 MR. RAPP: Were you involved in a meeting
6 with Engineering where Mr. Willms presented this
7 information to Engineering?

8 THE WITNESS: When you say similar type
9 tests, do you mean going from 86 to 55?

10 MR. RAPP: Yes. Drain down the makeup tank.

11 THE WITNESS: No, sir, that was not presented
12 on the July 19th meeting. We presented data that we had
13 graphed from SP surveillance procedure 630. And he'd also
14 had graphs from doing normal makeup tank feeds and bleeds.
15 Where it was getting routine, and it still is today, when
16 somebody does a 200 gallon add, they'll mark where it
17 started and began. And that's what was plotted.

18 Does that answer your question?

19 MR. RAPP: Okay.

20 THE WITNESS: It was not presented on the
21 July 19th meeting. I found out in December when I'd come
22 back he'd given me a graph that he did sometime in July
23 after that meeting where he went from 86 to 55 on a
24 different shift.

25 MR. RAPP: But you were not involved with

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1 that, that activity?

2 THE WITNESS: No, sir.

3 MR. RAPP: You weren't on that shift either?

4 THE WITNESS: No, sir.

5 MR. RAPP: Well, all right. Let me get on to
6 a couple of other issues down here.

7 Do you know of any documents, procedures, or
8 administrative documents within Crystal River that
9 constitutes or defines what a test is?

10 THE WITNESS: No, sir.

11 MR. RAPP: Okay. What is your definition of
12 a test?

13 THE WITNESS: I've never even thought about
14 it until what happened, but our definition. We look when
15 we do something whether or not we have a procedure to do
16 it. If we have a procedure to do it, then it's within our
17 bounds. The shift supervisors always have the option on
18 OPs to even pick out pieces and parts to do certain items
19 that he wants to do. He would even go as far sometimes as
20 to take it out of surveillance procedures.

21 One of them that comes to mind is the
22 engineers wanted to know what the dp flow for the nuclear
23 services closed cycle cooling pumps is. And we don't have
24 any procedure to cut in the instrumentation to show them
25 that. But in the surveillance procedure, which actually

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1 tests that pump to make it operable, you cut in the valves
2 to do that. But we had no general operating procedure to
3 do that.

4 So the shifter would pick out of the -- even
5 the surveillance procedure the steps necessary to do that
6 and say, okay, now we have a procedure, you can go do
7 that.

8 MR. RAPP: Is the 50.59 review for the
9 procedure for each individual step within the procedure or
10 is it for the procedure as a whole unit?

11 THE WITNESS: I haven't done very many
12 procedure changes, but the 50.59 review that gets signed
13 off in the front is done for, I think, the whole
14 procedure. And even like when you do a rev to a
15 procedure, even that revision gets a 50.59 to make sure
16 that the changes done are still within the intent of the
17 procedure.

18 So, I don't know -- I don't know the exact
19 answer to your question whether or not -- there's only one
20 50.59 done with the procedure and that's done every time
21 even the procedure's changed, even if you change one spec.

22 So, you know, I don't -- we just look at is
23 there guidance to do what you want to do. And then OPs,
24 it's totally within the shifter if the shifter -- if
25 you're doing a valve lineup it's in a procedure. And the

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1 shifter says, no, I don't need these valves out of that
2 valve lineup done, he just NA's them, or tells you to NA
3 them, and you NA and you do just what you need to do to do
4 the job that you're trying to do.

5 MR. RAPP: Whenever there was a test, a
6 surveillance procedure going to be run and there was going
7 to be a change to the lineup for that procedure, would
8 they implement another procedure that may contain the
9 guidance to do that additional lineup, that alternate
10 lineup, or would they rev the procedure and conduct a
11 50.59 review?

12 THE WITNESS: Surveillance procedures were
13 kept at a higher level than the OPs. The shifter could
14 change anything he wants in the OP.

15 A surveillance procedure, like I used before,
16 they pulled pieces out to do certain things, but if you're
17 doing the surveillance procedure that's due, like when I
18 wanted to cut in the Barton for the SW pumps, the nuclear
19 services pump, the surveillance wasn't being done at that
20 time. We used portions of that surveillance to do what we
21 wanted to do.

22 Your question, from what I think you're
23 asking, is when surveillance procedure, whatever, is being
24 done for its surveillance. Say you want to test the
25 operability of the decay heat pump and you're doing that

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1 surveillance, and now you want to go outside the
2 surveillance, what we've done in the past is just make a
3 note and the shifter has to sign the note. And if it was
4 within the intent of the procedure, and this has changed
5 some now, he would just sign the note.

6 Now we're getting into, and I say now, post
7 September 5th, even some of it before September 5th,
8 depending on what shifter it was. Some shifters felt
9 comfortable, some felt like you needed to take the whole
10 procedure back. And now I think that's the general for
11 right now.

12 If you gave me today a surveillance procedure
13 to do and I couldn't do it step by step, line by line,
14 there was something that had to be changed about lineup or
15 something, you bring that back up to the shifter and he
16 will still make the determination. And most of them now
17 are leaning like some of the shifters did back then. That
18 now you send this whole thing back and you either make a
19 ITC, a temporary change to the procedure, or issue a new
20 rev.

21 We had a big thing the end of last year over
22 notes. We used to write a lot of notes. Like in our
23 surveillance procedure, our daily logs was a surveillance
24 procedure, SP-300. And you take your daily readings every
25 day. If an instrument is out of service, we'd just write

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1 out a service work request number and put a note, Comment
2 One, running, or secure due to maintenance, or something.
3 Even that has become under more scrutiny since
4 that is a surveillance procedure that you're doing for its
5 frequency. Our notes in that are scrutinized a lot now.
6 It might not be acceptable now if that meter's out of
7 service to just write Out of Service. It might be that,
8 hey, you know, the intent is you want a reading on that
9 you might have to go get it locally or do something to
10 fulfill that requirement, where before, in the past we
11 just put a note.

12 I hope I didn't go again into too much depth.

13 MR. RAPP: That's all I have right now, Jim.

14 THE WITNESS: I got one in this. Can we take
15 another brief recess right here for a minute? I'd like to
16 talk to --

17 MR. DOCKERY: We'll go off the record. Okay.

18 (Whereupon, a brief recess was taken at 3:30
19 p.m., after which the proceedings resumed at 3:35 p.m. as
20 follows:)

21 MR. DOCKERY: We're back on the record. The
22 time is approximately 3:35 p.m. We went off the record at
23 Mr. Van Sicklen's request to discuss some matter with his
24 counsel.

25 Mr. Van Sicklen, I'll remind you at this time

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1 that you continue to be under oath here.

2 THE WITNESS: Yes, sir.

3 MR. DOCKERY: And was there something that
4 you wanted to respond to?

5 THE WITNESS: No, sir.

6 MR. DOCKERY: Was there anything that you
7 wish to discuss or bring up --

8 MR. MORRIS: No, he just had a question for
9 me.

10 MR. DOCKERY: Oh, okay, fine.

11 MR. RAPP: I have nothing further right now.

12 MR. DOCKERY: I'd like to note that, Mr. Van
13 Sicklen, you've brought with you here today what appears
14 to be a sizable amount of documentation. Is that correct?

15 THE WITNESS: Yes, sir.

16 MR. DOCKERY: Without going into detail what
17 those documents are, is that the same documentation that
18 you had with you when you were previously interviewed by
19 the NRC?

20 THE WITNESS: Some data has been added to it.

21 MR. DOCKERY: I'd just like to know
22 specifically, is there any documentation that you have
23 here today that you also had at your previous meeting with
24 the Office of Investigations that pertain to September the
25 4th, 1994?

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1 THE WITNESS: I have no documentation on the
2 September 4th.

3 MR. DOCKERY: I see. And that includes
4 today?

5 THE WITNESS: That includes today.

6 MR. DOCKERY: Okay.

7 MR. VORSE: So, maybe the only person that
8 does have documentation would be Mr. Weiss, because he
9 took it home and did this on computer --

10 THE WITNESS: If anybody's got what happened
11 on September 4th it would probably be Mr. Weiss.

12 MR. DOCKERY: Let me ask you this, because
13 there was some apparent confusion earlier.

14 We've discussed your limited knowledge of an
15 evolution which occurred during July of 1994. You were
16 not part of the shift that conducted that evolution. My
17 understanding, you came to know about it after the fact.

18 THE WITNESS: Yes, sir.

19 MR. DOCKERY: Okay. We've discussed at some
20 length your knowledge of an involvement in evolutions that
21 were conducted during September the 4th and 5th of 1994.

22 THE WITNESS: Yes, sir.

23 MR. DOCKERY: Were there any other evolutions
24 that you're aware of or that you took part in that were
25 conducted to address the same issues that we've discussed

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1 here today?

2 THE WITNESS: No, sir. The only ones I know,
3 the 22nd, that I found after the fact. The 4th and the
4 5th. I've no --

5 MR. VORSE: Twenty-second of what?

6 THE WITNESS: The 22nd of July is what I
7 think Bruce Willms said that his data was taken out of.
8 And that date I'm not sure. That's the date that stuck in
9 my mind that he told me, but I don't know what date -- the
10 company should have all that now. I gave the company
11 everything that I knew about it. I turned over all the
12 original graphs that Bruce Willms gave me. I gave them
13 all to Hannon.

14 MR. DOCKERY: So that we're talking about as
15 far as your knowledge extends to one degree or another to
16 only three evolutions. July the -- on or about July the
17 22nd, September the 4th and September the 5th, all in the
18 year 1994?

19 THE WITNESS: Yes, sir. In doing a normal --
20 would you consider this part of your question that you're
21 asking me right now. If I did a normal 200 gallon add
22 because I needed to add 200 gallons of water to the makeup
23 tank, and I plotted where I started and where I ended?

24 MR. DOCKERY: Mr. Rapp, I think you'd be the
25 one to address that.

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1 MR. RAPP: I was reviewing some other
2 information. What --

3 THE WITNESS: He's asked me specifically over
4 I know of three different occasions where it was bled down
5 strictly to get data, I guess to give somebody, that he
6 calls a test, that went from 86 to 55 that I know of. Any
7 time that we did an add, I know I told you that when we
8 gave data to Engineering on the 19th, just from doing a
9 normal 200 gallon add because I need to add 200 gallons to
10 the makeup tank and I plot where I started and where I
11 ended, would that be within the scope of what he's asking?

12 MR. DOCKERY: I'm trying to determine --

13 THE WITNESS: Is there any other tests done,
14 I think.

15 MR. DOCKERY: Well, I wouldn't use the word
16 test because I'm not qualified --

17 THE WITNESS: Okay.

18 MR. DOCKERY: -- to make that determination
19 by any means. But just the confusion we had previously
20 over a September 4th evolution, that's all I know it by,
21 that occurred that was not addressed previously by OI
22 because we were unaware of it. Now we have since been
23 made aware of a September 4th as well as a September 5th,
24 1994, evolution. And --

25 THE WITNESS: And the July --

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1 MR. DOCKERY: Now a July. I'm just saying
2 are there any others we should be aware of. And you're
3 asking whether or not the scenario --

4 THE WITNESS: My answer is no. And what I
5 asked you is if I do put 200 gallons into the makeup tank
6 and I plot where I started --

7 MR. RAPP: Were there evolutions -- Were
8 there evolutions performed where it was specifically done
9 only to gather data?

10 THE WITNESS: No.

11 MR. RAPP: Besides the ones that we already
12 know about?

13 THE WITNESS: No, sir.

14 MR. DOCKERY: We just want to make sure we
15 have that question covered and answered.

16 MR. MORRIS: Done and done.

17 THE WITNESS: I agree.

18 MR. DOCKERY: We'll go off the record for a
19 minute, please.

20 (Whereupon, an off the record discussion was
21 had at 3:40 p.m., after which the proceedings resumed at
22 3:43 p.m. as follows;)

23 MR. DOCKERY: We're back on the record. The
24 time now is approximately 3:43. I remind you, Mr. Van
25 Sicklen, you continue to be under oath here. And if you'd

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1 acknowledge that verbally.

2 THE WITNESS: Yes, sir.

3 MR. DOCKERY: I noted just a minute ago that
4 Mr. Van Sicklen has brought with him today numerous
5 documents and records of his own. And while we were off
6 the record we discussed the fact that we certainly want to
7 afford Mr. Van Sicklen the opportunity to bring forth any
8 documentation that he feels important. And he understands
9 that he will have that opportunity. We don't feel we
10 necessarily have to do it here today on the record. And
11 Mr. Van Sicklen has agreed that any documentation that we
12 request of him that is in his possession will certainly be
13 provided.

14 MR. MORRIS: That's correct.

15 MR. DOCKERY: Mr. Morris, is --

16 MR. MORRIS: Okay. That's correct.

17 MR. DOCKERY: One further question at this
18 point.

19 Mr. Van Sicklen, from -- between September the
20 5th, 1994, until today, have you had an opportunity to or
21 been requested to tell your story, your version of events,
22 to Florida Power Company?

23 THE WITNESS: No, sir.

24 MR. DOCKERY: Okay.

25 MR. VORSE: Were you not interviewed by

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1 Florida Power before the pre-enforcement panel? Have you
2 been interviewed by FPC regarding the 4th and 5th
3 evolutions?

4 THE WITNESS: No, sir. The only -- only time
5 we came up, and that was me and Christine, came up to Greg
6 Halnon's office after you had already come and interviewed
7 the other four, and he basically told us, you know, this
8 is all I can recall from what the other four.

9 MR. VORSE: Are you telling me that you
10 haven't been interviewed by the special team, Mr. Poole
11 and Mr. Carter?

12 THE WITNESS: Oh, I misunderstood your
13 question. I thought you meant before I'd talked to you.

14 Yes, between today and the 5th, last week I
15 had interviews with Mr. Carter and I had Dave DeMontfort
16 sit in with mine. He's one of the guys on their team.
17 And I just wanted somebody else in there that -- like Mr.
18 Rapp. He's the simulator instructor. And we put him in
19 our joint defense agreement so that he could explain
20 everything to Mr. Carter. That was the time that I
21 explained it all to the company.

22 MR. DOCKERY: Okay. I just want to make sure
23 that I'm clear on that. When I said provide your version
24 of events to Florida Power Company I also would include,
25 of course, attorneys for Florida Power Company, either

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1 their counsel or outside counsel.

2 THE WITNESS: And when you say afford, I
3 requested of my attorney --

4 MR. MORRIS: Yes, let me object to the form of
5 the question.

6 If you could ask him -- I draw a distinction
7 between being interrogated about an event and giving --
8 being given an opportunity, as you phrased it, to give
9 your version. Okay.

10 MR. DOCKERY: That's a fair distinction.

11 MR. MORRIS: So if you could ask both of
12 those questions separately, you'd get different answers, I
13 believe.

14 THE WITNESS: And that's what I kept bringing
15 up to him here recently, that I'm welcoming -- I've made
16 it clear to him that I'd love to sit down with Pat Beard
17 and just tell my side of the story.

18 MR. DOCKERY: Mr. Van --

19 THE WITNESS: That hasn't been -- I've
20 answered questions from Mr. Carter, and that's what has so
21 far gone on.

22 MR. DOCKERY: Okay. You responded to
23 questions from Mr. Carter. Mr. Carter is who? I'm sorry.

24 THE WITNESS: He is corporate security. He
25 was put in charge of the investigation that the company is

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1 doing. It was Mr. Carter, Mr. Dan Poole, Mr. Dave
2 DeMontfort, and Mr. Vic Hernandez.

3 MR. DOCKERY: But that was on -- that was the
4 most recent discussion.

5 THE WITNESS: That was last week.

6 MR. DOCKERY: Oh, okay. Prior to that were
7 you ever interviewed by anybody from Florida Power Company
8 --

9 THE WITNESS: That's what I thought you were
10 asking the first time. And that answer is no.

11 MR. DOCKERY: So --

12 THE WITNESS: So between September 5th and we
13 were getting ready to come up to a pre-decisional
14 conference, and never once has the company ever talked to
15 any of us.

16 MR. VORSE: Did you -- Was Mr. Fields or Mr.
17 Weiss ever talked to by the Management Review Team
18 concerning the September 4th and 5th evolutions?

19 THE WITNESS: I don't know what went on. Mr.
20 Fields and Mr. Weiss were put on a Manager Review Board
21 and they got to talk to the managers of the company, but
22 none of the bargaining unit every did that.

23 MR. DOCKERY: Mr. Van Sicklen, you testified
24 much earlier today that you had discussions with an
25 attorney for Florida Power Company before meeting with Mr.

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1 -- and being interviewed by Mr. Vorse and Mr. Rapp. Am I
2 correct in my recollection?

3 THE WITNESS: We didn't discuss the details
4 of the event. All that we did was it was a phone
5 conversation from the lawyer down in St. Pete to me and
6 Christine we took in Carl Bergstrom's office. And he
7 basically said, you know, here NRC's going to just come
8 down and they're just going to ask you some questions.
9 Feel free to answer their questions to the best of your
10 knowledge. They're going to specifically ask you over
11 what went on your evolution of September 5th. And answer
12 freely anything that they ask but just try to stick to
13 what they ask. Don't -- Don't offer any -- and I'm not
14 trying to say this to -- offer might be a bad word. His
15 advice was just answer their questions. Don't get into an
16 elaborate --

17 MR. DOCKERY: Okay. I'm flirting with
18 privilege here again.

19 THE WITNESS: Okay.

20 MR. DOCKERY: But, is it fair to say you were
21 not asked at that time what your testimony to the NRC
22 would be?

23 THE WITNESS: No, sir.

24 MR. DOCKERY: All right. I don't have
25 anything else at this time.

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1 MR. VORSE: Mr. Van Sicklen, we've talked a
2 lot today and I'm going to give you an opportunity to tell
3 us anything else that's bothering you that you think is a
4 safety concern that you need to get on the table. You
5 know, just leave it open, leave it open to you.

6 THE WITNESS: (No response.)

7 MR. DOCKERY: Would you like to consult with
8 your counsel before bringing anything else up?

9 MR. MORRIS: You can say anything you want to
10 say, son.

11 THE WITNESS: I don't think I have anything
12 that pertains to what you're investigating right now. So.

13 MR. DOCKERY: How about it if we ask it this
14 way. Is there anything that you feel perhaps we should
15 have brought up that we didn't?

16 THE WITNESS: Let me talk to my counsel one
17 more time.

18 MR. DOCKERY: We'll go off the record.

19 (Whereupon, a brief recess was had at 3:50
20 p.m., after which the proceedings resumed at 3:53 p.m. as
21 follows:)

22 MR. DOCKERY: We're back on the record. The
23 time is approximately 3:53 p.m.

24 Mr. Van Sicklen, I remind you that you
25 continue to be under oath here?

1 THE WITNESS: Yes, sir.

2 MR. DOCKERY: And before we get to whatever
3 else you might want to ask, we also consulted among
4 ourselves and I -- Mr. Rapp, I think you have some
5 questions?

6 MR. RAPP: Yes. Back to reviewing my notes
7 here.

8 Previous interview, there was a statement made
9 that there was a training session that Mr. Halnon --

10 THE WITNESS: That's what I was just --

11 MR. MORRIS: We're all on the same line.

12 THE WITNESS: That's what I just went out to
13 ask him about.

14 MR. RAPP: Okay. Go ahead.

15 THE WITNESS: Because I didn't mention that.
16 Thought I might as well. That's what I thought something
17 else that you might want to know, but I didn't --

18 MR. RAPP: Go ahead.

19 THE WITNESS: Yes. In this here room, we got
20 in January talking about event free operations. And I was
21 sitting right where Mr. Vorse is. And there was two
22 shifts in here. It was after midnight for us. Mr. Halnon
23 brought some donuts in and he had the OSS shift come in.
24 And he was going over a presentation of event free
25 operation.

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1 And in that discussion the makeup tank got
2 brought up again. And he brought it up in a way like that
3 was a single event. And, I mean, I don't think anybody
4 else in the room would probably rer. it. It was just
5 something that after what's happened to me personally I
6 picked up on the way he worded the question, or the
7 answer, the discussion, whatever it was. And I brought
8 back up to him that, you know, that wasn't a single time
9 that that was done. It was done at other times. And his
10 replay back to me was, yeah, I'm aware of several other
11 times that it happened. And that was it. I shut up.

12 And that was what I just talked out there that
13 maybe that should be brought up here.

14 MR. VORSE: And the date again?
15 Approximately.

16 THE WITNESS: It was sometime in January I
17 think he was doing all his event free. He came out with
18 these free plant tags and brought all the shifts in.

19 MR. DOCKERY: When you say January, you're
20 talking --

21 THE WITNESS: 1995.

22 MR. VORSE: End of January, early February --

23 THE WITNESS: Yes, sir.

24 MR. VORSE: And these training records are
25 located where?

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1 MR. DOCKERY: To the extent that you know.

2 THE WITNESS: Mr. Halnon would probably be
3 able to answer that for you.

4 MR. RAPP: Was there an attendance sheet?

5 THE WITNESS: Yes, he had everybody in
6 Operations was required now. When you say there's an
7 attendance sheet, I cannot 100 percent for sure say I
8 signed one. I know we kept records so that everybody in
9 Operations attended it. It was a plant-wide. It wasn't a
10 formal, like a recall training session. It was something
11 new that he was getting into. He had these new tool bag
12 plant cards and he was bringing in all of Operations. Not
13 a required training though.

14 MR. RAPP: Yes. That was the only issue I
15 wanted -- area I wanted to go into further.

16 MR. VORSE: Anything else?

17 THE WITNESS: No, that's what I talked to my
18 lawyer about that I was --

19 MR. VORSE: Mr. Morris?

20 MR. MORRIS: Yes, I have one question.

21 Mr. Van Sicklen, I want you to assume that you
22 were interviewed by Jerry Carter on July 22nd, 1995,
23 regarding the September 4th evolution. I want you to
24 assume the date is July 22nd, 1995.

25 Between September 5th, 1994, and July 21,

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1 1995, has anyone at Florida Power Company ever offered you
2 the opportunity or asked you to explain the events of the
3 evolutions of September 1994?

4 THE WITNESS: No, sir.

5 MR. DOCKERY: Counselor, just for
6 clarification, is he assuming the date of July 22nd, '95,
7 or is he assuming that the interview or the meeting with
8 Mr. Carter took place? I wasn't clear.

9 MR. MORRIS: I'll rephrase it.

10 I want you to assume that you were interviewed
11 by Mr. Jerry Carter on July 22nd, 1995.

12 THE WITNESS: Okay. That's the time I talked
13 to him and explained what I --

14 MR. MORRIS: You were, in fact, interviewed
15 by Mr. Carter, correct?

16 THE WITNESS: Yes, sir.

17 MR. MORRIS: And the contents of that
18 interview were intended to be privileged, correct?

19 THE WITNESS: Yes, sir.

20 MR. MORRIS: Without getting into the content
21 of that interview, prior to that date had anyone from
22 Florida Power Company ever asked you to explain what
23 occurred regarding the evolutions performed on the makeup
24 tank?

25 THE WITNESS: No, sir.

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1 MR. MORRIS: Okay.

2 MR. DOCKERY: The fact that the meeting with
3 Mr. Carter is not an assumption on your part, you know
4 that happened?

5 THE WITNESS: Yes, sir.

6 MR. MORRIS: The only assumption was the
7 date.

8 MR. DOCKERY: That's what I thought we were
9 getting at. I wanted to be sure.

10 MR. MORRIS: Okay.

11 MR. DOCKERY: I have nothing else.

12 MR. VORSE: Okay. If no one else has
13 anything else, then we'll go ahead and conclude this
14 interview. And the time is 3:57 p.m. on August 8th, 1995.
15 Thank you.

16 (Whereupon, the proceedings were concluded at
17 3:57 o'clock p.m.)

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C E R T I F I C A T E

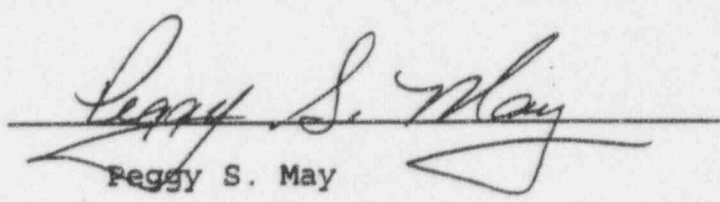
This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission in
the matter of:

Name of Proceeding: Interview of Mark Van
Sicklen,

Docket Number(s): 2-94-036

Place of Proceeding: Crystal River Nuclear Plant
Crystal River, Florida

were held as herein appears, and that this is the original
transcript thereof for the file of the United States
Nuclear Regulatory Commission taken by me and, thereafter
reduced to typewriting by me or under the direction of the
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and accurate record of the foregoing proceedings.



Peggy S. May

Official Reporter

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EXHIBIT 6

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Case No. 2-94-0365

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EXHIBIT 6

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: In the matter of
Interview of
David A. Fields

Docket Number: (not assigned)

Location: Atlanta, Georgia

Date: August 31, 1995

Work Order No.: NRC-319

Pages 1-128

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EXHIBIT 6
PAGE 1 OF 130 PAGE(S)

*Title page +
pgs 1-129*

BEFORE THE

U.S. NUCLEAR REGULATORY COMMISSION

In the Matter of:)
)
INVESTIGATIVE INTERVIEW OF:)
)
DAVID A. FIELDS)
)
(CONFIDENTIAL))

U.S. Nuclear Regulatory
Commission
101 Marietta Tower
Suite 2900
Atlanta, Georgia

Thursday, August 31, 1995

The above entitled matter convened for
INVESTIGATIVE INTERVIEW pursuant to notice at 1:05 P.M.

APPEARANCES:

On behalf of the U.S. NRC:

JAMES D. DOCKERY, Senior Investigator
JAMES Y. VORSE, Senior Investigator
CURT RAPP, Reactor Engineer Inspector
WILLIAM McNULTY, Field Office Director
U.S. Nuclear Regulatory Commission
Region II
101 Marietta Tower, Suite 2900
Atlanta, Georgia

On behalf of the Witness:

RICHARD W. HENDRIX, Attorney
Finch, McCranie, Brown & Thrash
225 Peachtree Street, NE
1700 South Tower
Atlanta, Georgia

P R O C E E D I N G S

MR. DOCKERY: For the record, today is August the 31st, 1995. The time now is approximately 1:05 P.M. My name is James D. Dockery. I'm a Senior Investigator with the Nuclear Regulatory Commission, Office of Investigations.

During this proceeding, which will be recorded for transcription, the Nuclear Regulatory Commission, Office of Investigations, will be conducting an interview of Mr. David Fields. This interview pertains to Office of Investigations' Case #2-94-036. The location of this interview is the NRC Regional Office, Region II, Atlanta, Georgia.

We have others in attendance here today, and I'm going to ask them to introduce themselves for the record, starting with Mr. McNulty.

MR. McNULTY: My name is William McNulty, M-c-N-u-l-t-y. I'm the Field Office Director for the Atlanta area field office, the Office of Investigations.

MR. VORSE: My name is James Y. Vorse. I'm a Senior Investigator with the Office of Investigations, Region II, Atlanta, Georgia.

MR. RAPP: My name is Curt Rapp, R-a-p-p. I'm a Reactor Engineer Inspector for Region II, U.S. NRC, Atlanta, Georgia.

MR. HENDRIX: I'm Richard Hendrix, and I'm

1 attorney and counsel for David Fields.

2 MR. DOCKERY: Mr. Fields, if you'd please stand
3 and raise your right hand.

4 Whereupon,

5 DAVID A. FIELDS

6 appeared as a witness, and having been duly sworn, was
7 examined and testified as follows:

8 EXAMINATION

9 BY MR. DOCKERY:

10 Q Would you state your full name, please, sir; date
11 of birth; and Social Security number, for the record.

12 A David A. Fields, F-i-e-l-d-s; date of birth,
13 (REDACTED) Social Security number (REDACTED) 7C

14 Q Mr. Fields, before we went on the record here
15 today I provided your counsel with a copy of Section 1001 of
16 Title 18 of the United States Criminal Code, and I asked
17 that he allow you to read that. Did you read that section?

18 A Yes, sir, I did.

19 Q Do you understand it?

20 A Yes, sir.

21 Q And do you understand that it does apply here
22 today in this proceeding?

23 A Yes, sir, I do.

24 MR. DOCKERY: Mr. Vorse?

25 BY MR. VORSE:

1 Q Mr. Fields, last time we talked, in December I
2 believe it was...

3 A Yes, sir.

4 Q ...of last year, we discussed the September 5th,
5 1994 evolution that your shift conducted.

6 A That is correct.

7 Q On the makeup tank. And then we've come to later
8 understand that a similar evolution was conducted on the 4th
9 of September. Can you describe exactly how that was done?

10 A Well, as you said, it was a similar evolution. We
11 -- we reviewed our procedures, we felt comfortable that we
12 were authorized to perform that evolution legally. We
13 filled the makeup tank -- well, we got together the shift
14 and discussed that, why we wanted to do it. And we filled
15 the makeup tank to 86 inches. And as the procedure OP 402
16 required, pressurized it to the maximum allowed by Curve 8,
17 OP 103B. And then we selected the bleed handle on the main
18 control board to the bleed position, and we bled the tank
19 down to 55 inches as allowed by OP 402.

20 At the time we were plotting data and watching the
21 control board analog instrument plus plotting the computer
22 points as they came up. As I recall, and in talking to the
23 board operator, as soon as we pressurized up to the level of
24 the curve, to the maximum allowed by the curve, we did get
25 the high pressure alarm. And we did the bleed, immediately

1 started the bleed, bled down to 55 inches. It was about ten
2 minutes, I recall. And we immediately selected the "off" to
3 stop the bleed, and then we raised level. And as -- in
4 later conversation with the reactor operators, they believe
5 that the alarm just cleared by adding water to the tank,
6 there was no requirement to bleed the pressure off of the
7 tank in the Auxiliary Building.

8 So it took about ten minutes. It was very similar
9 to the event performed on the 5th. And that -- that's about
10 it.

11 Q Can you tell me why you didn't tell us about this
12 last time when we talked?

13 A Well, the question wasn't asked. And I think the
14 data from the 4th was -- that's what we saw from the data
15 from the 4th, is when we delogged the computer it was very
16 erratic, it didn't show anything. It was -- it jumped
17 around. It didn't prove what we thought we would see. We
18 thought we would see a nice, smooth curve develop that would
19 show that -- that Curve 8 was -- was not correct, and it
20 didn't show that.

21 So -- so after that test was performed the chief
22 operator pulled the engineering calculation, he got with the
23 assistant shift supervisor and they reviewed it, you know,
24 for -- for some time, and then they came up with a reason
25 why they thought that the -- the previous test had been

1 inconclusive.

2 Now, why we didn't bring it up was, I would have
3 to say that we were counseled before -- before we talked to
4 you by Mr. Gerald Williams, the FPC corporate counsel, to
5 answer only the questions that you asked, answer truthfully,
6 but don't volunteer -- don't volunteer any information. He
7 was -- I had no reason to not believe what he -- what he
8 said in it. And in my mind it was an unimportant piece of
9 the puzzle because it was -- it was flawed data. The
10 important -- the important event was September 5th, where we
11 conclusively showed that Curve 8 was not accurate and a
12 valid safety concern existed.

13 So Mr. -- I'm not going to put all the blame on
14 Mr. Williams but, you know, he just said you guys are -- you
15 guys are coming up to talk to us. And you're not -- like
16 you say, you're not technical type people, you're policemen.
17 You know, and he made some -- some not-so-kind comments
18 about what he thought of you, but...

19 Q Well, I'm wanting to hear what he said.

20 A Well, basically it was, you know, "These guys are
21 just cops, you know. Well, they're not even cops, they're
22 just cop want-to-be's." And, you know, he talked about your
23 career with the NRC. And I -- I don't know what that had to
24 do with anything. But he -- basically it was, "I don't know
25 how these guys are going to react, you know. They're not

1 here to do -- they're not here to do you any favors, so just
2 answer their questions. Don't expound on anything, you
3 know, and let it go at that."

4 So that -- that was I guess my reason for it. You
5 didn't -- I reviewed my transcript yesterday, and no, you
6 didn't ask me that question.

7 Q That's true, we didn't ask.

8 When you did the September 4th evolution, did you
9 station anyone down in the Aux Building to vent the hydrogen
10 like you did on the 5th?

11 A I -- I can't say for sure. I know we had a
12 different operator on the 4th than we had on the 5th. On
13 the 5th we had a lot more -- a lot better understanding of
14 why the curve was wrong. We read the calculation, you know,
15 and it became obvious this is -- no wonder this darn thing
16 is wrong, you know. We could see the bad assumptions in it.
17 On the 4th we didn't really have that information; all we
18 had was we think it's wrong based upon some data we had
19 taken on performing SP 630 during the outage.

20 My board operator remembers, he says, "I know I
21 called the Auxiliary Building operator and had him -- said,
22 'We're going to be bleeding the tank. If I call you I want
23 you to get in there and vent the tank off.'" So I don't
24 believe we had a guy stationed, but we did notify the man in
25 the field. And -- and part of that is -- you just -- I just

1 don't remember because the 4th was really fairly
2 insignificant and it's been a year now. So -- so I'm not
3 trying to dodge any issues, but to the best of my
4 recollection the man was not dressed out like on the 5th,
5 but he was notified via the control board operator to stand
6 by and be ready to vent the tank if necessary.

7 Q When the enunciator on the 4th and the 5th -- when
8 the enunciator alarm came on did you -- did you feel a need
9 to get -- to take some corrective action?

10 A We had reviewed the enunciator response procedure
11 and knew what response was required, and knew that basically
12 it says to, you know, vent the pressure off or lower the
13 level, I believe is what it says. Nothing in our -- you
14 know, if it was going to come in we knew we expected the
15 alarm and why -- and there was a valid reason why the alarm
16 came in. So we, in our mind, decided that there was no
17 requirement to immediately clear this alarm. Our procedures
18 allow us to receive expected alarms because of manipulations
19 of the plant, and that's -- that's allowed by AI 500. So we
20 felt procedurally very comfortable with it.

21 And I know on previous procedure, previous times
22 in the past, you know, my shift has taken the watch and the
23 darn alarm is in. My shift was one of the shifts that
24 refused to operate the plant with that much pressure in the
25 makeup tank. You know, that's why they came to us with, "Do

1 you want to do something?" because we had been the most
2 vocal, we were involved with SP 630.

3 But I've come in -- I've come in to take the watch
4 and that alarm is in, and apparently these other shifts
5 didn't -- didn't think it was that significant. You know
6 why it's in. You can see that you're right on the curve.
7 You've got the alarm in, so they just wait till the next
8 shift comes in. So we would take the watch, my board
9 operator would ask me, says, "I don't want to operate here.
10 Can I bleed -- vent the tank down?"

11 I say, "Yes, go ahead and vent the tank down."
12 And we would vent it down. So I didn't feel at all
13 uncomfortable, and I know other shifts didn't feel
14 uncomfortable operating in alarm. You know, because
15 remember, it was -- it was an operating curve, it was not a
16 design basis curve, it should not have been a design basis
17 curve.

18 Q And as we discussed before, did you know at the
19 time that it was a design basis curve?

20 A Absolutely not.

21 Q The shift technical advisor was Mr. Marshall on
22 the 4th, is that -- do you remember?

23 A I don't remember. It -- it could have been. They
24 have a little bit different schedule -- schedule than I do.
25 I know it was Larry Moffatt on the 5th.

1 Q Did -- did you have a reason for not at least
2 consulting with the shift advisor, do you -- on the 4th or
3 the 5th?

4 A I didn't feel that I had a -- a reason to because
5 it was such a simple evolution. It was an evolution -- you
6 know, every day you bleed water from the makeup tank. We
7 had looked at it to see that, yeah, we're covered by
8 procedure on this. And it wasn't one of these things that
9 we saw it as a test in any way. So we looked at it, talked
10 among ourself, and no, I did not notify Mr. Marshall.

11 Q We've discussed, you know, test before. And I'd
12 like to once again ask you how you could consider that
13 routine when you put someone down on the Aux Building to
14 vent the makeup tank in the event of a LOCA.

15 A We were expecting the alarm the first night. And
16 we knew that that was the required procedural requirement to
17 clear the alarm. Plus we didn't -- you know, we didn't have
18 in our minds fully how it was -- how it was going to react,
19 being right on the curve and bleeding down. And when we
20 looked at it we said, "Well, if anything unusual comes out
21 we'll have a guy ready to -- to bleed it down."

22 Now, the second night, after we had reviewed the
23 calculation, we were a lot more familiar with, well, why was
24 this curve designed, and we saw that, yeah, during a loss of
25 coolant accident the amount of pressure in the makeup tank

1 has some significance. You know, it -- it said that if you
2 were supplying two makeup pumps on one suction line that you
3 would draw that tank down and you would still have 1.7 feet
4 of -- of head in the suction of the pumps.

5 BY MR. DOCKERY:

6 Q Let me interject something. Mr. Fields, for the
7 sake of clarity, you've -- you've used the term "we," the
8 word "we." Could you identify who you consider "we" to be
9 in this context.

10 A The shift operators involved were myself, the
11 shift supervisor; Rob Weiss, the assistant shift supervisor;
12 Mark Van Sicklen, chief nuclear operator; Jack Stewart,
13 chief nuclear operator; Christine Smith, reactor operator.
14 And on the night of the 5th I know we -- we got -- involved
15 the other -- the other reactor operator who was actually
16 standing the Auxiliary Building watch, Jim Atkinson. And
17 then on the night of the 11th, all I know is that my chief
18 operator said he talked to the Auxiliary Building operator,
19 who was Paul Tempesta that night.

20 Q Thank you.

21 BY MR. VORSE:

22 Q I forgot to ask you--I'd asked you last time, but
23 I -- I should do it this time, too--I need to know what kind
24 of a reactor operator license you had.

25 A I have a senior reactor operator's license. I --

1 I had; I don't anymore.

2 Q And you -- you -- once again, you were the shift
3 supervisor?

4 A That is correct.

5 Q When you're shift supervisor and you're operating
6 on let's say midnight shift, are you basically in charge of
7 that reactor?

8 A Decisions regarding the reactor, I am the final
9 decision.

10 Q So the shift technical advisor really isn't a
11 player in this or -- or...?

12 A During an accident he becomes my advisor.

13 Q And how long have you had your -- had you your SRO
14 license?

15 A January or February of 1983.

16 Q You've been at Crystal River the whole time?

17 A Yes, sir.

18 Q When -- when management started reacting to -- in
19 an adverse way to the September 5th evolution, was there any
20 discussion amongst the shift -- your shift not to tell
21 management about the September 4th evolution?

22 A Not at all.

23 Q Would you -- if they had asked you, would you have
24 told them?

25 A Absolutely. That's how they found out that it

1 happened.

2 Q How did -- how did they find out it happened?

3 A On July 19th Bruce Hickie called me down to the
4 office. We were getting ready to come to Atlanta for the
5 pre-decisional enforcement conference. And the day before I
6 was supposed to go—I was supposed to make my presentation
7 on the 21st—Bruce was going to present the operator action
8 section of the -- the company's presentation on July 25th.
9 And he just called me to his office and wanted to go over,
10 you know, "This is kind of going to be what my presentation
11 is going to look like." And he asked me, he says, "Now,
12 I've heard ground rumblings about some sort of data-taking
13 or even a previous evolution on the night before."

14 I -- I said, "Yes, we did do that the night
15 before." Said, "It was inconclusive," and I told him, you
16 know, the reasons we thought it was inconclusive. And I
17 told him basically the reason it didn't -- it didn't come up
18 to the Office of Investigation was that -- that we were
19 advised not to by Gerald Williams. But that's -- that was
20 their concrete source of information. I've heard that
21 there's been some sort of anonymous safety concerns given to
22 either Mr. Williams or somebody about, you know, "These
23 operators did something and they're withholding
24 information." But the confirmation came from me and I
25 didn't hesitate. I had no reason to lie.

1 MR. VORSE: You have something?

2 BY MR. DOCKERY:

3 Q Mr. Fields, did -- did you ever specifically
4 discuss the evolution of September 4th with Mr. Williams?
5 Did he bring it up with you?

6 A No. You know, I think -- I think it's important
7 to bring up also that, you know, the company should have
8 known about September the 4th. You know, I fully agreed
9 with that. But they -- they didn't -- we performed the
10 evolution; we presented the problem report to the company.
11 And, you know, we thought we were just doing something
12 fairly noble and saying, hey, this has been a nagging issue
13 for a long time. Here's some documented evidence to say
14 that this curve is not correct. And we issued it in the
15 form of a problem report.

16 Well, somehow it got turned around; the company
17 decided, "Oh, my God, you've done a -- an unauthorized test.
18 You violated a design basis curve." And we became--not part
19 of the solution--we became the problem. Rob and I were
20 brought up before a Management Review Board, and they
21 weren't asking questions about, "What did you do? What did
22 you see? What were your thought processes?" They were
23 there to fire me, they were there to fire Rob Weiss.

24 And basically all I did was sit there and say,
25 "Yes, sir. No, sir. I'll never do that again, sir." None

1 me. The only -- the only time I talked to anybody was
2 September 15th, which is the Management Review Board, and
3 then again whenever Mr. Gerald Williams talked to me in
4 April 25th of 1995. And his questions weren't -- and, you
5 know, by that time it had been a long time. It was -- the
6 important event was September the 5th. September 5th showed
7 clearly that the plant was operating outside design basis.
8 I didn't take the plant outside design basis; it was already
9 outside design basis just by operating where management
10 insisted we operate. And nobody investigated that with the
11 operators.

12 They would have told. Nobody -- you see, we had
13 -- we presented the problem report. We wanted management to
14 review it. We said, "Here's the data. This is what we did;
15 this is what we think's wrong." You know, we didn't feel
16 like the events of September 4th were -- were that
17 important, but we certainly didn't feel they were something
18 to conceal. It was just -- it was just -- in my -- in my
19 understanding or my opinion, it was just a piece of the
20 puzzle that we kind of used to fit together and say, "Ah,
21 that's why the September 4th didn't work. We -- we added
22 cold hydrogen, we added cold water, and we didn't let the
23 system stabilize." And that's what we did to correct it for
24 September 5th and the system response was a much smoother
25 curve.

1 But we had no reason to talk -- no reason to hide
 2 it. Nobody investigated it. The company didn't investigate
 3 it. When I talked to Gerald Williams on April 25th his
 4 questions weren't technical in nature. He was asking more
 5 questions about, "Well, how are we going to present this to
 6 the NRC?" and, "Well, why didn't you notify the shift
 7 manager," and he wanted to have that kind of an answer.
 8 And, "Well, why didn't you immediately respond to the...?"
 9 He -- he was looking for things like: This is how best to
 10 present the information so that the NRC would -- would look
 11 more kindly on it, I think. It was kind of second-guessing
 12 what the NRC wanted to see. But he wasn't asking technical
 13 questions.

14 BY MR. McNULTY:

15 Q Can I ask a question about the design basis. Your
 16 understanding of the curve, Curve 8, was that this was a
 17 operating (sic) limit?

18 A Yes, sir.

19 Q Yet you felt that the curve was non-conservative?

20 A That's correct.

21 Q Did you have any understanding of what the design
 22 basis should have been for that circumstance or that
 23 situation?

24 A I guess I just assumed that someplace to the left
 25 of it, left of that curve--excuse me--there would be a design

1 basis curve where there was no margin. That on one side of
2 the curve your high pressure injection system is good; on
3 the other side it's not.

4 Q So in preparing -- in preparing to do your
5 evolution--excuse me--you knew you were going to go outside
6 the administrative limit?

7 A I suspected that I might.

8 Q You suspected. Did you make any effort to try to
9 determine where the design basis was?

10 A No, I didn't. You know, I'm not really -- I'm not
11 really trained in that. You know, I'm not -- you know, we
12 had -- we had raised our concerns to engineering during the
13 outage and they didn't come back with any words about design
14 basis, you know. It's -- that's not -- you know, that's an
15 engineering type function as we, as operators, operate the
16 plant to operating limits.

17 Q Well, if -- if the operating limit curve, Curve 8
18 was accurate, and your actions would have taken it beyond
19 the administrative limit, weren't you afraid that there was
20 a point there that you might exceed the design basis curve
21 if it was a little further out there?

22 A I wouldn't say that that was my thought process,
23 but I know that we watched it carefully so that it would
24 come down. And we suspected it would follow the curve
25 fairly closely. I think what we had the guy stationed for

1 and everyone watching the information come down is if for
2 some reason it would take a sharp turn to give us something
3 really unexpected. So we were watching it fairly closely,
4 but I wasn't thinking, oh, there's a design basis curve over
5 here and we don't want to exceed that.

6 BY MR. DOCKERY:

7 Q Mr. Fields, would it be fair to say that or would
8 you be in agreement with the statement that engineering
9 somehow dropped the ball with respect to that Curve 8?

10 A I fully agree with that

11 Q To your knowledge, did anybody in engineering ever
12 undergo any negative employment consequence because of
13 errors that were made or failure to address -- adequately
14 address the issue?

15 A Not to my knowledge. I think engineering has --
16 has played a very important role as sort of guiding --
17 guiding the decision-making process here. They have spent
18 all their time casting negative light on the operators: How
19 dare these operators challenge us. And -- and I think
20 they've done the plant a disservice by -- by their actions.
21 They have focused their attention and management's attention
22 upon me and my integrity and my reasons for doing this I
23 think so that the NRC will not look at what group of idiots
24 could not see that this curve was -- was wrong.

25 They were tasked -- we wrote the problem report

1 during the outage: We think this curve is wrong. And
2 engineering was going through the -- the cause and the
3 corrective action, and their answer came up with: The curve
4 is accurate and reasonably conservative. In fact, we think
5 we can increase the pressure in the tank. Which was exactly
6 what management wanted. Management wanted more hydrogen in
7 the reactor coolant system.

8 But when we pulled that calculation it was
9 absolutely obvious that the curve was calculated based on
10 wrong assumptions and different -- different emergency
11 operating procedures. Engineering could not have pulled
12 that calculation to make that -- to have written that
13 letter. It was sloppy engineering. Before -- before they
14 came out with the September 2nd letter saying accurate and
15 reasonably conservative, my boss, Greg Halnon, asked two
16 engineers, Pat Hinman and Steve Rowe, "I want you guys to
17 independently work up a calculation to verify that -- that
18 Curve 8 is okay."

19 They came back to him, they said, "We can't do it.
20 We don't know how."

21 And then Pat Hinman wrote the letter that says,
22 "Well, it's -- it's accurate and reasonably conservative."
23 How could he say -- how could he have said that?

24 Q Who wrote that letter?

25 A Pat Hinman. He's a senior -- or a discipline

1 engineer for the makeup system.

2 Q Could you spell that for us, please.

3 A Hinman, H-i-n-m-a-n.

4 Q In your -- in your mind is there any single
5 individual or individuals in engineering or over engineering
6 who are responsible for what we now know was a -- was a
7 failing with respect to Curve 8?

8 A Well, I think the -- the engineers who were
9 involved, the two engineers who were -- they were
10 responsible for the makeup system, Mr. Hinman and Phil
11 Saltsman, I guess I -- in my opinion are guilty of just
12 incompetence. Now, how their organization works, you know,
13 they have a -- they have a supervisor; their supervisor has
14 a manager; their manager has a director; and the director
15 reports to the senior vice president. Well, how high do you
16 go? I don't know.

17 But I know that Mr. Beard, a senior vice
18 president, was very influential upon the engineers and their
19 decision making. He was demanding 25 cc's per kg, he was
20 monitoring it daily, he had the Chemistry Department
21 monitoring it hourly. And the only reason to monitor it
22 hourly is to find out which shifts -- which shifts operated
23 on the curve and which shifts didn't operate on the curve.
24 Pat Beard told Greg Halnon, said, "Greg," at 10:00 meeting,
25 "Greg, you go up there and get those operators straightened

1 out."

2 Q How do you know he said that?

3 A Because I heard that. I'll -- it's in my letter
4 as a "I heard that." I cannot say -- I was not in at the
5 meeting, but somebody who was at the meeting told me.

6 Q Do you identify that individual in...?

7 A I do not identify that individual, but I have
8 prepared a list of questions in an allegation that I have
9 attached here, requesting you guys -- you folks to ask
10 Mr. Beard that question, "Did you tell Greg Halnon, 'Go up
11 there and get these operators straightened out'?"

12 Q Would you right now identify the individual who
13 related that conversation to you?

14 A I would if I could remember, and I can't remember.
15 I'm not trying to withhold any information here. I -- it
16 was just one of those things when they said it, it stuck in
17 my mind. And it's stuck in my mind ever since. But I know
18 Mr. Beard, because -- I mean, I know he was having an
19 influence upon hydrogen concentration in the makeup tank.
20 I've submitted in previous letters to Mr. Ebnetter the E-mail
21 messages from my management. It was a hot topic of the day,
22 makeup tank hydrogen, you know, telling you how to do it and
23 telling you he wants it done. Two separate E-mail messages.
24 We knew -- we knew that that's what management wanted.

25 Q Okay, you stated just a few minutes ago that, if I

1 understand correctly, you or your operating people pulled
2 the calculations on which that curve was based, is that
3 correct?

4 A That's correct, I90 -- I've got a number if you
5 think that's important. Calculation I90-0024, Revision 5.

6 Q When you say you pulled it, did you go somewhere
7 in document control and obtain it?

8 A Yes, sir; that's right. Mark Van Sicklen went
9 over to document control. I remember that Mark went over
10 the night of the 4th to get it. Rob Weiss says, "I don't
11 know if he went over the night of the 4th or the night of
12 the 5th." So one of those two nights.

13 Q And if I understand you correctly, on its face,
14 that calculation or set of calculations appeared to you, at
15 least, and your peers in operations to be faulty or
16 incorrect?

17 A It's obvious that it's faulty or incorrect.

18 Q Should it have been obvious to an engineer,
19 somebody in engineering that it was faulty and/or incorrect?

20 A It was clearly -- clearly that way. You couldn't
21 have read it and said Curve 8 is conservative and accurate.
22 You just could not have done that.

23 Q Did you make any attempt to go to engineering, who
24 I assume is responsible for generating that calculation, and
25 say, "We feel you should look at this"?

1 A We felt that engineering had made their statement
2 in the 2nd -- September 2nd letter.

3 BY MR. VORSE:

4 Q Can you tell us what that September 2nd letter
5 said?

6 A Well, it's the one that...

7 MR. HENDRIX: Is it in our notebook?

8 THE WITNESS: Yes.

9 MR. DOCKERY: Counselor, if we may, let's -- let's
10 make reference to those again. And...

11 MR. HENDRIX: Okay.

12 MR. DOCKERY: ...I'd like to identify at this time
13 for the record by how they're...

14 MR. HENDRIX: Okay, we have -- we have -- we
15 discussed in Rob Weiss' testimony that we had prepared an
16 exhibit to be jointly referenced by both of my clients. And
17 it's -- we've entitled it, "In Re: David Fields Pre-Decision
18 Enforcement Conference," because this is what he intended to
19 produce at the pre-decision enforcement conference. And we
20 -- during one of our discussions with you gentlemen about
21 today, we thought it would be best to produce these
22 documents today, maybe, and we included in here 39 exhibits.

23

24 And we've already talked about #25 being slightly
25 in need of correction. But these 39 exhibits are the heart

1 of what happened. And in here is the September 2nd memo, I
2 believe, from engineering; is that correct, Dave?

3 THE WITNESS: That is correct.

4 MR. HENDRIX: You want to refer that?

5 MR. DOCKERY: Okay, I -- I just want to -- we
6 didn't really title...

7 MR. HENDRIX: Yeah, there's two notebooks, two
8 spiral notebooks with 39 exhibits. And again I would also
9 incorporate by reference the chronology of events memorandum
10 that I presented to Mr. Vorse on behalf of both of my
11 clients. I think that also is entitled, "In Re: David
12 Fields." And we had discussed among ourselves M. Fields
13 was the senior person and he wanted his names (sic) to be on
14 these documents because he feels responsible for the people
15 working underneath him.

16 MR. DOCKERY: Okay, and we'll acknowledge that
17 we're going to take receipt of those documents at the
18 conclusion of this testimony.

19 MR. HENDRIX: It was not included in there?

20 THE WITNESS: No, it's in here, but I...

21 MR. HENDRIX: Can't tell by the way it's
22 described? You might just have to flip through.

23 (The witness reviews certain material.)

24 MR. HENDRIX: Is that not it?

25 THE WITNESS: Here it is. Here it is, Exhibit 5.

1 All right, that would be Exhibit 5. It's a letter to Bruce
2 Hickie from Pat Hinman, Nuclear Project Engineer, and co-
3 signed by Jerry Campbell, Manager, Nuc Plant Tech Support.

4 MR. RAPP: What's the date of that letter?

5 THE WITNESS: That's September 2nd, 1994.

6 MR. RAPP: Is that the letter of memorandum where
7 it had been penciled on top, "Do you have anything further
8 to provide?" or something to that effect?

9 THE WITNESS: I can't read...

10 MR. HENDRIX: On our copy it's not fully legible.

11 MR. RAPP: It's not legible? Okay.

12 MR. HENDRIX: Yes.

13 BY MR. VORSE:

14 Q But that was engineering telling you that they
15 were going to close the -- that was the letter that
16 engineering used to tell -- tell you that they were going to
17 close that issue?

18 A That is correct. And my management -- my
19 management brought the letter to me; Carl Bergstrom, who's
20 the support shift manager in operations. And he says,
21 "Dave, I know your shift has been interested in this and
22 you've taken lead on this issue. Well, engineering's going
23 to close it out. You know, the final report's going to be
24 closed out. We're going to have to operate at -- on the
25 curve. Is there anything you want to do or respond to this

1 before it gets closed out?" And I -- and I felt that that
2 was my management coming to me and requesting that I take
3 action. And I thought that the action we took was
4 conservative and expected and useful.

5 BY MR. DOCKERY:

6 Q Let's be very clear here. When you say, "The
7 action we took," what are you referring to, Mr. Fields?

8 A The performance of the data-taking on September
9 4th and September 5th in preparation of filing Report 94-
10 267.

11 BY MR. VORSE:

12 Q Are you saying, Mr. Fields, that you felt, based
13 on that September 2nd letter telling you they're going to
14 close out -- or they're asking you for your final input on
15 that, did you think that that was giving you permission to
16 go ahead and do your evolutions?

17 A Yes. You know, I -- you know, I -- I feel like
18 explaining what the shift supervisor does out there, as long
19 as I'm operating to procedures I'm authorized to do these
20 sorts of things. One of the plates -- you know, and it's
21 expected of me. That's my job. You know, if operators have
22 concerns, a safety concern, I feel like, well, that's valid,
23 I better listen to the guy. Well, these -- these concerns
24 had been brought up to management and they had been brought
25 up to engineering and they were blown off. And I felt like

1 I did my job by listening to the guy.

2 And we said, "Well, what can we legally do to --
3 to show this, so it won't be closed out?" We reviewed our
4 procedure OP 402, we looked at the enunciator response
5 procedure, we took precautions to -- to make sure that it
6 was a controlled evolution, and we performed it and we
7 presented the problem report. I felt like I did everything
8 that a shift supervisor should do, that it was expected of
9 me.

10 Let me reference one plate in here, or I guess one
11 tab.

12 MR. HENDRIX: Didn't do a good job of putting them
13 in order, did I?

14 THE WITNESS: We'll find it, Pat and Gary's
15 expectations.

16 In the fall and winter of 1993 all the supervisors
17 were -- were given empowerment training. And Gary Bolt and
18 Pat Beard, the senior vice -- the vice presidents of -- of
19 nuclear operations, attended every one of these. It was a
20 one-week course. Under Pat and Gary's expectations in
21 writing, you know, he presents these expectations, but he --
22 he and Gary -- he and Pat presented these together. It
23 says, "Challenge the process." It says, "Be an innovator
24 and initiator of needed change. Avoid getting trapped by
25 bureaucratic policy and the status quo. It's okay to

1 question any requirement, including regulations and company
2 policy that doesn't make sense. Rigid and blind obedience
3 is not in the best interest of nuclear safety." And I
4 believed that.

5 MR. DOCKERY: Mr. Fields, would you identify which
6 exhibit, within your documentation, that is.

7 THE WITNESS: This is Exhibit 22.

8 MR. DOCKERY: Thank you.

9 THE WITNESS: And I -- I felt like, well, that's
10 my job. I'm a shift supervisor. And -- and they -- they're
11 kind of like I'm this rogue operator, by management; but I
12 am management at the plant. I was before I was fired. I --
13 I felt, you know, that was my responsibility, my authority
14 to do what I did. And I -- I'm very disappointed that my
15 senior management has turned their back upon me and -- and
16 somehow offered me as -- as the guilty party here, because I
17 don't feel like the guilty party. I think some other people
18 did a lot poorer job in their efforts than I did. And I
19 honestly feel fairly proud of what I did.

20 You know, I think it has to be emphasized over and
21 over again it was a safety concern. We had nothing to gain.
22 It was a safety concern, that we had brought the concern to
23 engineering; they blew us off. We brought the concern to
24 management; they blew us off. They were insisting operate
25 on that curve. In fact, we're going to raise the pressure

1 in that curve. My operators didn't feel comfortable with
2 that. They weren't sure why, but they said, "We don't like
3 this."

4 And we looked at what we could legally do, and we
5 did it, and we presented it as a problem report, says, "This
6 is a safety concern. This -- this affects the safety of the
7 plant." And we were right. And the things that have
8 happened to me, being fired over bringing up a valid safety
9 concern, this -- this just seemed like an injustice that I
10 -- I just am having a difficult time with.

11 BY MR. McNULTY:

12 Q What didn't the operators like about operating on
13 the curve?

14 A They knew that excessive pressure in the tank --
15 they weren't -- they weren't sure, but they felt like, well
16 -- you know, they knew that if that tank blew down in an
17 accident situation and you actually got hydrogen in the
18 suction of the -- of the high pressure injection pumps, the
19 pumps would fail. We knew that because we had burned up a
20 pump once before just by inadvertently... Not "we" as...

21 A group of operators inadvertently closed the
22 suction valve, and the pump destroyed itself in eight
23 seconds; pieces, parts every place. We knew that was a
24 concern.

25 My operators' first concern that they brought up

1 18 months prior to that was, well, if we have all this
2 pressure here and we need to shut down the reactor and we
3 want to inject -- we want to make sure that highly borated
4 water gets in, normally you would just open the suction of
5 the borated water storage tank and it would be the preferred
6 source to go in. But with all the pressure in the makeup
7 tank, that was still the preferred source and you wouldn't
8 get the highly borated water--I'm directing this to Mr. Rapp
9 right now--but you wouldn't get the highly borated water in,
10 you'd just get the RCS concentration in, and you wouldn't
11 get your - the shutdown that you -- that you wanted. That
12 was the initial concern.

13 And then shortly thereafter there were concerns
14 about Appendix R fire regulations, that with the regulator
15 set at such a high pressure and you had a fire and the
16 regulator failed in the open position you couldn't get to
17 the building and it would keep on injecting hydrogen and
18 causing you some problems there. And -- and it's still an
19 issue, it's still an open issue as far as emergency
20 boration. We've been tasked by the NRC to write an
21 emergency boration procedure.

22 The Appendix R concern that we just -- that we
23 brought up 18 months ago; four months -- three months ago
24 they came out with a letter that said keep that valve --
25 keep that valve isolated; only un-isolate it when you're

1 going to add hydrogen because of Appendix R. And then from
2 our problem report we showed that the excess hydrogen and
3 the hydrogen binding of the pumps is correct. So we as
4 operators were correct on all three -- all three of our
5 concerns have proved to be correct. And it's taken 18
6 months.

7 BY MR. RAPP:

8 Q So all these other issues were being pursued by
9 your shift or by the -- by the people on your shift, the
10 emergency boration and Appendix R?

11 A Eighteen (18) months prior to that I didn't have
12 the same shift members; but basically Mark Van Sicklen
13 probably on my shift took the lead. He was the original
14 group.

15 Q So he's the one that had the -- he had concerns
16 about emergency boration and Appendix R?

17 A That is correct.

18 Q No other operators?

19 A The only other operator I know, that he was --
20 when the -- when the curve first came out, raised a concern,
21 was Bruce Willms, who was on another shift. W-i-l-l-m-s.
22 But he -- he was not on my shift for the past year or so.

23 BY MR. VORSE:

24 Q Are you familiar with AI 500?

25 A Yes, sir.

1 Q Can you tell me basically what it says?

2 A Well, it's the administrative procedure that tells
3 -- title is, "Conduct of Operations," and it provides the
4 administration of how the -- how the Operations Department
5 works. The -- the operations manager, Manager of Nuclear
6 Plant Operations, puts out his: This is how we do this.
7 This is how we stand the watch. This is the reporting
8 requirements. You know, he implements a lot of things from
9 an administrative side. He doesn't implement, you know:
10 This is how you operate the -- the makeup and purification
11 system. But he implements how you use procedures, how you
12 use enunciator response procedures, how you use other type
13 things.

14 Q When -- when you went into the alarm mode during
15 these two evolutions and plotted the data, we were in the
16 unacceptable region of the curve, is that correct?

17 A Yes, sir.

18 Q When you're in the unacceptable region of the
19 curve is there something that you're supposed to do to -- to
20 fix it, to correct it?

21 A There are two -- I could find two places in AI 500
22 that related to that. And -- which...?

23 MR. HENDRIX: It's in the notebook, I know, on the
24 -- that second notebook, AI...

25 THE WITNESS: Okay. I've got it, AI 500, on July

1 19th, the presentation that I was going to make to
2 Mr. Ebnetter, which never happened. Well, anyway, it was...

3 I -- I included as attachments the AI 500. Under
4 Section 4.3.2.2, enunciator alarm response procedures of AI
5 500, "Enunciator response procedures, ARs, shall be used as
6 follows: Enunciator response procedures shall be used to
7 diagnose alarms not expected," in parentheses, "(not
8 directly related to intentional manipulation of plant
9 controls and for any alarm that the operators are not
10 explicitly familiar with.)"

11 And I read that to be if it's an expected alarm,
12 you know why it's in, you're not required to take immediate
13 action. That says nothing about the alarm comes in you've
14 got 30 minutes, you've got 20 minutes, you've got five
15 minutes to clear the alarm. They do give us some credit for
16 understanding, well, why is that alarm in. And we fully
17 understood why the alarm is. We could see it on the control
18 board. You know, it's right on the curve, it was just
19 inside the curve.

20 Q What -- what typically would be to -- I know
21 immediate action is -- this is, I understand, not a first-
22 tier alarm that requires your immediate response, it's kind
23 of about third down from the -- from the top of the
24 importance list. What's a reasonable amount of time to --
25 to get back on -- to take corrective action to get that

1 enunciator off the line in a -- in a situation such as this?

2 A In this situation we felt comfortable with drawing
3 the curve from 86 inches to 55 inches. We felt that we had
4 just given engineering, in a problem report, 94-149, it was
5 just a piece of it that didn't cross the line, and we said,
6 "It looks like it's going to cross the line." That's what
7 we wrote the problem report on.

8 Well, engineering rejected that. No, it's not
9 going to cross the line. Everything's going toward zero.
10 It's not going to happen. We felt compelled to say they're
11 not going to believe us if we don't provide a nice, smooth
12 curve to show them exactly, well, this is how the system
13 responds. And I think it's important to note we didn't...

14 You know, I read it in the newspaper at home about
15 how I drove the plant to the unacceptable side of the curve.
16 I didn't drive the plant any way. All I did was plot the
17 plant response. OP 402, in one case, says, "Establish
18 hydrogen pressure in the makeup tank if desired. Step 1:
19 Refer to Curve 8, OP 103B, for maximum makeup tank pressure
20 -- overpressure." And that's -- that's what you do on the
21 curve. You refer to the curve and you either raise level,
22 add hydrogen; but anyway, at 86 inches we did exactly that.

23 And then OP 402 doesn't refer to this curve ever
24 again. It's not in the limits and precautions. It just
25 tells you when you're pressurizing up to refer to it so you

1 don't go over the curve, and we didn't go over the curve.
2 And the reason that is--and a valid reason, there's
3 nothing wrong with the procedure--the reason it is, if you
4 pressurize here you should be able to lower level and come
5 down right on the curve, add water and raise level and come
6 right back on the curve. We didn't drive the plant any way.
7 We performed OP 402 and we simply lowered level, as allowed
8 by this procedure, and showed that the plant response wasn't
9 this curve, the plant response came inside a little bit.
10 And at 55 inches we could measure the difference.

11 And that was the most significant piece of
12 information we found: At 55 inches, if you converted that
13 pressure to a height of water, it was more than the
14 calculation I90-24 accounted for. We could see, my God,
15 you're sitting; unknowingly you're going to hydrogen-bind
16 your high pressure injection pump. We felt that was
17 significant, and I think it was significant.

18 BY MR. RAPP:

19 Q Would that have resulted in a loss of all high --
20 high pressure injection pumps?

21 A No, sir. One.

22 Q Just one pump?

23 A Yes, sir, your other pump is independently lined
24 up to the -- the borated water storage tank.

25 Q So you still would have had capability for high

1 pressure injection?

2 A You would have had your high -- half of your high
3 pressure injection system. But you were sitting there
4 unknowingly -- the shift would unknowingly know that if you
5 had an accident you're going to drain down and you're going
6 to blow up one of your pumps. We, as operators, don't need
7 that kind of distraction in an event. You know, it's --
8 it's significant, you know. A high pressure injection is a
9 significant event, by itself. But when your equipment
10 starts to fail on you, you're going to react, overreact, try
11 to cross-tie them, you might do something stupid and destroy
12 your second pump.

13 It was -- it was a significant safety issue, and
14 it hasn't been treated as a safety issue. Mr. Beard calls
15 it a technical concern. And it's not come out, you know.
16 Nobody has emphasized that if you were on this curve you
17 were outside design bases. Not if you were -- not if you
18 drain down and was where I was at 55 inches. If you were on
19 the curve you were outside design bases. And we had been
20 operating there for 18 months. My shift operated there for
21 35 minutes one night and ten minutes the next night, and we
22 knew what we were doing. We had people watching it closely.

23 Those other operators were sitting there for --
24 just doing what management wanted them to do. And they were
25 set up. Engineering set them up. They put a design basis

1 curve that they didn't understand into our operating
2 procedures, and management, given the opportunity -- given
3 the opportunity to respond to concerns, blew us off and
4 said, "Nah, your concerns aren't valid. You know, you're
5 just a bunch of stupid operators. And we're going to --
6 we're going to -- not only are we going to go with this
7 curve, we're going to raise the pressure in it."

8 Absolutely the response from engineering and the
9 response of management was inadequate. It was -- isn't what
10 you people in the NRC expect. It isn't what I expect as an
11 operator, you know. When my people come to me with a
12 concern, I at least owe them enough to listen to them, and I
13 did.

14 BY MR. VORSE:

15 Q Did you -- I've just got a couple more and then
16 I'm going to let Mr. Rapp talk to you for a little bit. But
17 did you log that September 4th evolution?

18 A No, sir, I did not.

19 Q There's nothing -- nothing -- there's no log
20 entry?

21 A No.

22 Q Did anybody log any entry?

23 A I don't know if they did or not. The board
24 operator should have logged the bleed. By AI 500 he should
25 have said bled so many gallons, added so many gallons. I

1 don't know if he did or not. I do know on the 4th, though,
2 that in talking to Paul Tempesta, that you had his log entry
3 from that night and it says, "Added hydrogen to the makeup
4 tank." So I know he logged that information.

5 Q What do you think of your ECP program, your
6 ECP...? Is it termed ECP, Employee Concerns Program at --
7 at Crystal River? Is that what the name of it is? Or is it
8 something else?

9 A Yes, sir, your Employee Concerns Program.

10 Q What do you think?

11 A Not good.

12 Q Why?

13 A In -- in my written submission today what I've
14 presented here is a letter written to you, Mr. McNulty.
15 It's about six pages long -- well, seven pages long
16 describing everything I know about September 4th. Attached
17 to that, I've attached three allegations. Allegation #3 is
18 titled, "Ineffective Employee Safety Concerns Program."
19 I'll just read the first paragraph.

20 "FPC Nuclear Operations instituted a program
21 several years ago to collect and address employee concerns.
22 The program is designed to allow employees to raise a
23 concern, even a suggestion when he/she thinks it is
24 detrimental to the nuclear plant. A dedicated
25 representative, Vic Hernandez, reports directly to Pat

1 Beard, Senior Vice President Nuclear Operations;
2 investigates and prepares a report for each concern
3 presented.

4 "The employees should have confidence that their
5 concerns are being raised to the highest level in the
6 organization and are being thoroughly investigated. Since
7 the program was instituted approximately three years ago, I
8 have submitted two safety concerns. These concerns are
9 discussed below to support my allegation. The safety
10 concerns program is ineffective."

11 So I have -- I have two events in my last three
12 years as a nuclear shift supervisor where I used the
13 Employee Concerns Program, and both times the response was
14 two months after I submitted it; both times the investigator
15 did not come to me and ask me, "What are you talking about
16 here?" He just wrote his response. And his response in
17 both cases was wrong. Says, "I have investigated. You have
18 no concern."

19 And I don't -- let me -- let me just say one
20 thing. And I can't understand. It's Pat Beard's program.
21 My first concern was a safety concern. I said, "Management
22 manipulated the clock on a shutdown order, shutdown tech
23 spec requirement." And I -- I fully expected within hours
24 or if not the next day to get a phone call from Pat Beard
25 saying

1 "How -- what are you talking about? You're a
2 shift supervisor and you're saying management manipulated a
3 clock?" I didn't get a response for two months back -- two
4 months later. He just says,

5 "You have no concern." In my -- in my two -- two
6 -- two uses of the program, I -- I just -- I have no faith
7 in the program. I don't think Mr. Beard is really that
8 interested.

9 BY MR. DOCKERY:

10 Q Did either of those two uses of the Employee
11 Concerns Program have any involvement with what we're
12 addressing here today?

13 A Only from the standpoint that at the Management
14 Review Board, which was conducted I believe September 15th
15 of 1994, Paul McKee, the Director of Quality Programs -- Vic
16 Hernandez works for him but reports direct to Pat Beard...

17 BY MR. VORSE:

18 Q Now, Mr. Hernandez is the ECP guy, right? He's
19 the head of the ECP?

20 A Yes. He asked me why I had not used the Employee
21 Concerns Program for resolving my shift safety concerns over
22 the makeup tank issue. And I know why I didn't, 'cause I
23 had seen -- I had seen two -- two employee concerns written
24 by both Mark Van Sicklen and Bruce Willms talking about this
25 emergency boration concern that they had. And they never

1 submitted them. I didn't tell them not to submit them, but
2 I didn't really encourage them to because I don't think -- I
3 didn't really have that much faith in the program.

4 My response to Mr. McAfee, when he asked me that,
5 was I just didn't -- I didn't -- I didn't include my
6 previous involvement in the program because, you know, I was
7 -- I was getting ready to get fired that day. You know, I
8 was -- they weren't -- they weren't here to -- there to hear
9 about my criticism of their program.

10 But my -- the Employee Concerns Program doesn't
11 work. You know, these -- these two examples are my
12 examples; you know, I think somebody in the future needs to
13 make an allegation concerning the emergency feed water
14 control system. That Employee Concerns Program has been on
15 the street for two years and they're doing nothing about it.
16 It's all driven by, "Well, parts will be available in Refuel
17 10 and Refuel 11," and stuff like that. The system is --
18 the concern program should address -- should be addressed
19 rapidly. If it's a valid concern, it's a valid concern. It
20 should be addressed. And that's not what the system is
21 being used for.

22 BY MR. VORSE:

23 Q So what you're saying is that you just did not
24 have confidence in the ECP?

25 A I had no confidence based on previous experience.

1 Q And that's the reason why you didn't tell them
2 about your concerns about the makeup tank?

3 A It never -- it entered my mind to -- to -- to give
4 a employee concern, but it was -- I guess I rejected it in
5 my mind because, well, this -- this program doesn't work. I
6 can legally do an OP 4 -- 402 draw-down of the makeup tank
7 and give them, you know, visual proof that the curve is
8 inaccurate, and that's what I chose to do rather than --
9 than this method. In both -- both these cases it's a two-
10 month turnaround.

11 BY MR. DOCKERY:

12 Q Mr. Fields, I want to paraphrase, if I may, what I
13 think you just said. You felt you had a -- a legal-lack of
14 a better term--way of proceeding without going to Employee
15 Concerns, is that fair?

16 A Yes, sir, absolutely.

17 Q And that is the course of action you undertook on
18 September -- basically September the 5th?

19 A Yes. You know, it -- when you asked the question
20 about the log entry; well, much more important than the log
21 entry was the preparation of the problem report. That was
22 the proper mechanism to identify the problem that existed.
23 And that's what we used. You know, that -- that goes
24 directly to management as soon as it's submitted.

25 BY MR. RAPP:

1 Q Why didn't you just write another problem report
2 when engineering said they were going to close out the first
3 one?

4 A Well, it would just be the same problem. I guess
5 I don't understand why I would do that. You know, they've
6 already closed it out, they're not going to accept the
7 second one.

8 Q Well, it just gives you another mechanism to keep
9 pushing the issue through -- through a...

10 A Well, you could. But, I mean, it would take --
11 it's a fairly quick turnaround. They've got -- they've got
12 their reasons for -- for closing out the first one; it
13 doesn't take them long to -- if someone comes up with the
14 same concern written on another piece of paper and say,
15 "We've already answered this question. Closed out." You
16 know, I don't -- I guess I don't understand why you would
17 think that would be effective. I don't -- because I don't
18 think it would have been.

19 BY MR. DOCKERY:

20 Q Mr. Fields, was -- are we dealing with a -- just a
21 difference of professional or technical opinions here?

22 A As far as -- I don't understand.

23 Q As far as operations, members of your operation
24 shift and yourself feel very strongly about what you
25 characterize as a safety issue. And yet, based on what I've

1 heard here, it appears you can't -- you were unable to get
2 it adequately addressed.

3 A That is correct. But I thought it was -- I
4 thought we'd used the proper method, was what we did. You
5 know, the -- the problem report, you know, they could look
6 at it and say, "Oh, yeah, this -- this curve is not
7 accurate. This is the real curve." You know, and I felt
8 like, well, that was -- I was responding to my operator's
9 concerns, and I said,

10 "Well, this is the way to do it. This is the most
11 -- this is the quickest, the most legal that I knew of, and
12 the way -- you know, the way to present the information."

13 Q It -- it sounds to me, though--I'm not putting
14 words -- creating testimony--but it almost sounds like a
15 last-ditch effort, after you'd tried other avenues.

16 A Well, I felt like the -- the September 2nd letter
17 was, you know, brought to me and said, you know, "They're
18 going to close it out. Do you have anything you want to do
19 or do you want to respond to this?" And I felt that was my
20 -- you know, what went through my mind, my operators came to
21 me and said,

22 "You know, if we used OP 402 we could really just
23 draw the system response, and we've got a procedure to do
24 that." And after we got the data, we -- we thought, well,
25 now, the best way to present this data is with a problem

1 report, and we did that. I mean, I don't -- I don't want to
2 give the impression that, you know, we're out there
3 screaming and nobody will listen to us. It was just a kind
4 of a routine, yeah, we go -- you know... I didn't feel like
5 it was anything out of the ordinary.

6 Yeah, we'd had a kind of a difference of opinion
7 with engineering and we felt like they had done kind of a
8 sloppy job. But we weren't mad at them, we just said,
9 "Well, don't close it out. It's not -- you know, that we
10 don't think this curve is accurate, and here we drew you the
11 real system response." You know, it -- was it a last-ditch
12 effort? It was -- I thought it was an effective way and the
13 proper way to present the data.

14 MR. HENDRIX: May I ask a question. When you
15 submitted that last problem report what is the standard
16 response to that? What -- what should be the standard
17 response?

18 THE WITNESS: Problem reports are submitted to the
19 shift manager. The shift manager evaluates it, you know,
20 initially just to say, well, what's the safety significant
21 (sic). And then he'll -- I think every problem report is
22 evaluated at the 7:30 meeting where the plant manager and
23 all the department heads talk about it, and they assign it
24 -- well, we're going to assign this one to engineering.
25 Engineering would get the problem report and they would need

1 to evaluate it, do -- what's the cause here.

2 Engineering should then get involved with the
3 people who ran the evolution and say, "What'd you do? You
4 know, where's your data? Let's take a look at it and see if
5 we see something that we missed in this September 2nd
6 letter." There shouldn't have been any conflict here, it
7 should have just been a problem report and two organizations
8 getting together to -- to resolve it.

9 BY MR. DOCKERY:

10 Q Why, in your opinion, was there a conflict?

11 A Well, I -- I'm not sure why, but engineering took
12 great offense at operators challenging their data. I guess
13 they had spent quite a bit of time coming up with the
14 September 2nd letter, and they had pretty much stated--I'm
15 just making this up; I mean, I'm -- I'm giving you an
16 opinion, I'm saying--that the curve is accurate and
17 reasonably conservative. And then a few days later it comes
18 up with: No, it's not. It's not accurate at all. In fact,
19 the margin that's described in the -- in the calculation is
20 not there. And I think they took great exception to -- to
21 us presenting that information. They felt somehow slighted
22 that we were challenging their calculations. You know,...

23 MR. VORSE: Go ahead.

24 A ...they -- you know, we were accused within days,
25 you know, of: You violated a design basis curve. I didn't

1 know it was a design basis curve.

2 But it took from September 5th -- or September
3 7th, when the problem report was submitted, to November 17th
4 before management even called in the NRC and said, "There's
5 a one-hour reportable. We exceeded design basis." Well,
6 what the heck were they doing in all that time? If they
7 knew it was a design basis on the day they started yelling
8 at me, they should have called the NRC within one hour of
9 that. They were spending the whole -- the whole time
10 between September 7th and November 17th trying to discredit
11 the data.

12 It wasn't -- it wasn't us working with operations
13 and trying to find out what's going on. They didn't come to
14 me, they didn't come to my assistant, they didn't come to
15 the four operators. They didn't care what we had done. It
16 was: They'll work independently, and you guys are in
17 trouble. And that's the way it's been since Day One.
18 Somehow, you know, it just flabbergasts me, because I've see
19 a lot of times operations issues a problem report, you work
20 together to get it solved, and that's the end of it. And in
21 this case the operators were -- were quickly branded as --
22 as rogue operators who -- well, I guess we'd done an
23 unauthorized test the -- test, and we had violated design
24 bases, and we were totally ostracized.

25 MR. HENDRIX: Can I ask a question. The

1 calculation that you referenced earlier that you went and
2 looked at, you say upon analysis it appears to be, from an
3 engineering standpoint, totally indefensible. Is that the
4 same calculation that was used to justify the plant being
5 operated all the time at 25 cc's per kg, to your knowledge?

6 THE WITNESS: That was -- that was the calculation
7 that gave us the curve, Curve 8. When they installed this
8 modification, basically the modification was to give us an
9 alarm -- that alarm on a sliding scale. It was a variable
10 alarm. When they did this modification they had the
11 calculation. The calculation had also been used, I believe,
12 because it's I90-1990--had also been used by engineering to
13 -- to evaluate I&E Notice 8823 which was back in 1988.

14 The NRC came out and said, "Well, are you going to
15 hydrogen bind your high pressure injection pumps?" And I
16 think I90, Rev 5 was one of the iterations that came up:
17 It's okay. You know, you won't hydrogen bind your -- your
18 high pressure injection pumps. So it was kind of a dual
19 calculation, you know. It was -- it was used initially to
20 answer this I&E notice, and it was used a second time to
21 justify this curve where they started increasing the
22 pressure.

23 BY MR. VORSE:

24 Q Do you feel that the engineering people were, even
25 though they -- do you think that they thought that that

1 curve might be inaccurate, but they were just following
2 orders and they -- that was why they weren't budging?

3 A It would be my opinion that they allowed Pat
4 Beard's desire for 25 cc's per kg to kind of influence them.
5 As far as their technical competence, they couldn't -- in my
6 opinion, they couldn't have reviewed the calculation and
7 come out with the September 2nd letter. They just -- they
8 just didn't do it. I don't know what they did, but they
9 didn't review that calculation.

10 BY MR. DOCKERY:

11 Q That troubles me right there, because if it was
12 that obvious, if the inadequacy of that calculation was that
13 obvious to you--not to impugn your abilities or knowledge--to
14 you and the other operators, is it possible that engineering
15 could have ignored it?

16 A Well, I think they -- I don't think they looked at
17 it.

18 Q If they had looked at it, in your opinion -- and
19 opinions are worth what you pay for them.

20 A Right.

21 Q In your opinion, if they had looked at it, is it
22 your belief they would have realized it was inadequate?

23 A It's my belief that they couldn't have looked at
24 it and -- and saw that it was accurate. Let me just --
25 Allegation 1, which you'll get or I guess you've got now,

1 basically it says, "FPC management misinformation and
2 manipulation of facts concerning the makeup tank evolution
3 in violation of 10 CFR 50.7." You know, I'm alleging that
4 my management, with a lot of help from engineering, has had
5 a campaign since Day One to focus all attention on me rather
6 than get to the real issue of -- of management oversight of
7 the activities at that plant. And what I've done, you know,
8 you can't just give you 19 different reasons for this. What
9 I've done is, I've prepared a list of questions to strategic
10 people within management and engineering that I'm requesting
11 you to ask.

12 Q Is it fair to say, before we go too deep into
13 this,...

14 A Okay.

15 Q ...since it is another allegation, is it fair to
16 say that the questions we're asking you here are also part
17 and parcel of this allegation?

18 A They are part and parcel. Let me just read
19 Question 11 that I've proposed for Pat Beard. "What has
20 been engineering's role in the makeup tank issue in which a
21 concern was first documented in Problem Report 94-149?"
22 "Have you been satisfied with their efforts to close out the
23 problem report?" "Have you ever heard of or read
24 Calculation I90-0024, Rev 5?" "Are you aware that the
25 calculation was only good through Refuel 8?" "Are you aware

1 that it assumes hydrogen acts as an ideal gas and does not
2 go into solution with the water in the makeup tank?"

3 "Were you aware that it was based upon engineering
4 procedures that direct operators to go to piggyback mode
5 based upon a reactor building level, not borated water
6 storage tank level which is currently used?" "Do you think
7 engineering reviewed this calculation when they issued the
8 letter to Bruce Hickie, the NPO on September 2nd, 1994, and
9 proclaimed that Curve 8 was reasonably conservative? Would
10 you have expected them to?"

11 That's the question I'm -- I'm asking you guys --
12 I guess I'm really asking you guys to do a lot. You know,
13 it's -- it was this -- this investigation comes down to a
14 close, it would be fairly easy just to kind of finish this
15 up and go to the pre-decisional and -- and go on with that.
16 But now I'm asking you to say: Wait a second. There's a
17 lot bigger issue here than my personal integrity. There's a
18 lot bigger issue than my shift taking some data and
19 presenting a problem report.

20 There's an issue here of other people's integrity,
21 that they have manipulated the information, they have given
22 you disinformation. And that's -- that's the allegation. I
23 think it's a serious allegation that I'm -- I'm asking you
24 guys to say, "Wait a second. Let's take -- let's step back
25 and take a little better look at this." And I think these

1 are valid questions. I don't think they're -- I don't think
2 they're unreasonable questions. I just don't think they've
3 been asked yet. And I think questions asked to these people
4 in management are important, because I think there's going
5 to be some answers in there they can't defend. Why would
6 they have given you these answers?

7 MR. DOCKERY: We'll go off the record, please.

8 (A discussion is held off the record.)

9 MR. DOCKERY: We'll go back on the record. The
10 time is approximately 2:27 P.M., and Mr. Fields, I remind
11 you that you continue to be under oath in this proceeding.
12 And if you'd acknowledge that verbally, please.

13 THE WITNESS: I acknowledge that.

14 BY MR. DOCKERY:

15 Q Okay, during the -- the break we went through with
16 the witness and his counsel, and discussed how we will
17 handle the written allegation--or allegations, I should say,
18 with attachments--that we have received from the witness.

19 We received two copies of this allegation. It's
20 basically a cover letter addressed to Mr. McNulty dated
21 August 31st, 1995. We have two copies of this. One copy
22 will be maintained for the Office of Investigation's use by
23 Mr. McNulty and those of us who are investigating the issue.
24 The other copy we intend to forward to the Region II Office
25 of the Allegation Coordinator. And the purpose for that, as

1 I explained off the record, is for them to log the
2 allegation, see that it's appropriately addressed from the
3 standpoint of technical issues. We will handle that via
4 cover letter by the Office of Investigations.

5 MR. VORSE: Okay, Curt, do you have any questions
6 you want to ask Mr. Fields?

7 MR. RAPP: Yes, I've got some here I'd like to go
8 through. I'm going to be referring back to the transcript,
9 and I understand you all don't have copies of that. Do you
10 have your copy, Jim, of Mr. Fields' transcript?

11 MR. VORSE: I believe I do.

12 MR. RAPP: That'd be easier. That way we can...
13 Okay, great. All right. There's that.

14 (The witness was handed certain material.)

15 BY MR. RAPP:

16 Q I want to go to Page 4, Line 14. This is just
17 basically to get some additional information that wasn't put
18 -- wasn't in the transcript when we first interviewed you.

19 Basically it says here, "I am responsible for safe
20 operation of the nuclear plant. I am a senior licensed
21 operator. I am the senior licensed person on site the back
22 shifts that supervise safe operation of the plant."

23 Is a shift manager also a licensed individual?

24 A No, he is not.

25 Q He's not licensed?

1 A He could have at a previous time had a license.

2 Q But it's not required for him to have a license?

3 A And none of them presently do have active license,
4 that I know of.

5 Q Okay. Do they manipulate controls, then, or
6 direct activities, licensed activities?

7 A No, they're not -- they're not allowed to do that.

8 Q Okay. Let's go to Page 10, Line 20, then. "We
9 said" -- let's see here. Yeah, "We said we think we can as
10 a shift, talking to management, we can demonstrate the curve
11 isn't accurate."

12 When did that conversation take place or that --
13 that interaction take place?

14 A Well, it initially happened on September the 4th,
15 and then I -- I'm sure it happened again on September the
16 5th, we kind of reiterated and -- you know, in fact we had a
17 better -- probably a better understanding on September the
18 5th. But on September the 4th we had basically a
19 discussion, also.

20 Q Okay. Nobody came earlier, like the 3rd or when
21 this engineering letter came out and said...?

22 A It didn't -- it didn't come to be. Now, Mark Van
23 Sicklen may have talked to Rob Weiss a couple of nights
24 before where they kind of -- they thought about it and they
25 -- well, can we do this, can we do this. They came to me on

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21 this engineering letter came out and said...?

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23 Sicklen may have talked to Rob Weiss a couple of nights
24 before where they kind of -- they thought about it and they
25 -- well, can we do this, can we do this. They came to me on

1 -- on that night, September the 4th. And, you know, it's
2 always easier to get the shift supervisor to do something if
3 you've got a proposed solution in your hand. And they had:
4 Dave, I think we can -- I think we can get some good data
5 here, and I think we've got a procedure that allows us to do
6 it. That was how it was presented to me.

7 Q Let's see here. Okay, Page 13, Line 11. The
8 question was asked, "What covered this evolution?"

9 "It was decided OP 402 provided adequate
10 guidance," etcetera, etcetera, basically down to Line 23.
11 Okay, how was that decision reached? What -- what was the
12 process that said that you had adequate guidance through OP
13 402?

14 A Well, when -- when they suggested that we think OP
15 402, we'll -- we'll look at it, well, I asked some questions
16 about, well, all right, what does it say? It says
17 pressurize the tank to the limit of Curve 8. And then --
18 then they showed me the section that said, "And then you
19 bleed down for this section," where it says bleed down from
20 86 inches to 55 inches. And we looked at the limits and
21 precautions and there was no -- nothing there that -- that
22 would prevent us from doing that evolution.

23 Q Okay. And who made the decision that these
24 procedures or this guidance was adequate?

25 A I did, and that -- that's my prerogative per --

1 per AI 500.

2 Q Are you familiar with NOD 12?

3 A Just vaguely. It's one of these -- one of these
4 NODs that's kind of come out of the wall just within the
5 last few months, and I -- I haven't read it in a long time.

6 Q Was NOD 12 in effect when -- when this
7 evolution...?

8 A I assume that it was. That's -- an NOD is a
9 higher tier of documents of -- of management expectations to
10 the personnel.

11 Q Is there any procedure, guidance out there that
12 would have assisted you in determining whether or not it was
13 appropriate to use OP 402 or that a special test procedure
14 was required?

15 A I -- I can't think of a document that would have
16 provided me that guidance. I looked at it from the
17 standpoint of OP 402 includes everything that I want to do.
18 And -- and OP 402, the operation of the makeup tank was not
19 an infrequently performed evolution. You know, it was
20 fairly -- it was familiar to all the operators, you know.
21 They do feeds -- feeds and bleeds in the makeup tank without
22 even referring to it, they know it that well.

23 Q Is it a common or accepted practice, then, to take
24 sections out of procedures to accomplish a certain task or a
25 certain evolution?

1 A Yes, sir, it is.

2 Q So I could take three different procedures and put
3 together certain sections or steps, as the case may be, to
4 accomplish an evolution that there's not a particular
5 specific procedure for?

6 A Yes, you could. But you have to rely upon the
7 shift's knowledge of those procedures to make sure that, you
8 know, ... It's difficult to write a procedure for every
9 evolution that they do, but if you have a piece of it that
10 works to bleed down the 55 inches, and another procedure
11 that would tell you to direct the water not to a bleed tank
12 but to some other tank, you could use those two sections
13 together, you know, as basically two -- performance of two
14 separate procedures to give you one common result.

15 Q Are you familiar with the 50-59 process?

16 A Yes, sir.

17 Q Would that 50-59 process for those procedures
18 still be valid, then, using them in combination or -- or
19 using subsections of them?

20 A I believe that they are. I think that you could
21 probably -- I'm not sure what examples -- come up with an
22 example that it would be inappropriate to do that. You
23 know, I can't -- you know, I can't see me stringing together
24 nine procedures to accomplish something that I want to do
25 with bits and pieces. But I -- but I saw in this evolution

1 basically all I did was OP 402.

2 Q Is -- I guess then let me ask this a different
3 way. Is the entire procedure 50-59, or is each section in
4 the procedure reviewed under 50-59?

5 A The -- the entire procedure is 50-59, but the
6 review -- the review process to get it to final approval,
7 you know, you have technical reviewers and you have other
8 department reviewers, you have interdepartment reviewers
9 reviewing the whole procedure to make sure that all the
10 changes are adequate. The 50-59 is for the procedure as a
11 whole.

12 Q All right. So in using the steps or the sections
13 out of procedure, then, to accomplish a particular task
14 would not present an unreviewed safety question?

15 A No, sir, it wouldn't. And OP 402 was designed in
16 different sections. It gives you a section on how to fill
17 and vent the makeup system, gives you a section on how to
18 swap makeup pumps, gives you a section on how to bleed water
19 from the makeup tank or add water to the makeup tank. It's
20 -- that procedure is designed to be used in discreet groups
21 or discreet steps.

22 Q Okay. Again, referring to Page 13, Line 24,
23 through Page 14, Line 6, or Line 5, actually, excuse me.
24 Okay, it says in here that there's -- no time was this
25 evolution considered a test. Do FPC procedures define what

1 a test is or an experiment?

2 A I believe AI 402B doesn't really define a test but
3 gives you a kind of a checklist if you're writing a
4 procedure, to kind of rule out a test. You know, if you
5 answer one of these questions "yes," then you need to look
6 at it from the standpoint if a test procedure is required.
7 I can't think of any document that says this is defined as a
8 test that I know, other than AI 402B, I believe.

9 Q Would this evolution be considered an infrequent
10 evolution defined by AI 400B?

11 A No. We perform bleeds daily.

12 Q So it wouldn't fit in that category?

13 A It wouldn't -- it wouldn't fit in that category at
14 all.

15 Q You said earlier you're familiar with AI 500,
16 conduct of operations. In there, in AI 500, it has some
17 guidance on when a pre-job briefing should be done.

18 A Uh-huh (affirmative).

19 Q And basically do you feel that there should have
20 been a pre-job briefing done by the shift manager prior to
21 this evolution?

22 A No, sir, I didn't at the time. And I -- I still
23 don't. We considered it a routine evolution and that's kind
24 of what we went on. We -- we gave it a pre-job briefing of,
25 well, why are we doing this; what do we need to look at;

1 what are you going to look at; what are you going to do.
2 You know, we felt like we gave it an adequate pre-job
3 briefing, but as an -- we didn't consider it an infrequently
4 performed evolution or a test that would have required a
5 special approved procedure or shift manager involvement.

6 Q Okay. Is -- basically AI 500's a pretty good-size
7 procedure. I mean, it goes on for...

8 A Very -- very big.

9 Q ...a hundred and some pages. Is it a useful
10 procedure?

11 A It -- it's a fairly cumbersome procedure. It
12 probably has a lot of things in it that needs to be removed
13 and it needs to be streamlined. But I've been a shift
14 supervisor -- I had been a shift supervisor for eight years.
15 You know, I pretty much knew when different sections were
16 added, why they were added. I felt pretty comfortable with
17 the procedure.

18 Q Does a...?

19 A You know, we referred to it a lot.

20 Q Excuse me. Does AI 500 contain conflicting or
21 contradictory guidance?

22 A I don't know.

23 Q You can't...?

24 A I can't think of a specific example of that.

25 Q Would you -- it be fair to say, then, that some of

1 the guidance in there is subject to interpretation?

2 A Yeah.

3 Q That you could read it one way and a person could
4 read it some other way?

5 A Right.

6 Q Come up with a different answer?

7 A I agree with that.

8 Q So it's not -- it's not clear in there as to what
9 the -- what the intent of a particular section is or...?

10 A Well, I'm -- I'm not -- I guess I don't understand
11 where you're going with this. One of the -- one of the
12 items that I referenced in -- in AI 500 was written
13 procedures. This is 432.3.2. "Written procedures are
14 needed for those evolutions that would affect a change in
15 system flow plant -- flow paths or operating parameters.
16 The boundary between an evolution and a task may not always
17 be clear, and as such it is expected that plant operators
18 will encounter situations where the adequacy of existing
19 procedures may be questioned. In these instances shift
20 supervision will make the determination as to what procedure
21 requirements are applicable."

22 And to me, I look at that and I'm not sure -- I'm
23 not sure what an evolution is and what a task is, but it
24 looked like it gave me clear guidance to determine that AI
25 -- OP 402 was adequate to perform the evolution that we were

1 going to do. And it gave me -- it authorized me to make
2 that decision.

3 Q Okay. But "shift management" could also be
4 interpreted to mean the shift manager?

5 A "In these instances shift supervision will make
6 the determination..."

7 Q Oh, excuse me.

8 A "...as to what procedural requirements are
9 applicable." I don't consider the shift manager part of
10 shift supervision.

11 Q Okay. Going on here, Page 14, Line 6, then. "We
12 expected a makeup pressure alarm to come in -- into alarm."
13 Basically the -- one thing is that's come up repeatedly, I
14 guess, is you didn't take immediate action on this
15 enunciator.

16 A That's correct.

17 Q And basically how long would you have had to take
18 action on this enunciator?

19 A We were prepared to take action immediately. We
20 didn't take action because we wanted to draw the curve from
21 86 inches to 55 inches.

22 Q So that was your sole reason for not addressing
23 the alarm, that you want to take your data?

24 A Yes. Yeah, we -- we didn't think a piece of
25 information was going to be adequate. Engineering had --

1 had rejected a piece of information before, and we felt like
2 the smooth curve would be, you know, like incontrovertible.
3 Hey, this is what the real curve -- this is what the real
4 system response looks like.

5 Q Do tech specs define any type of time limit or
6 actions for this enunciator?

7 A Not that I know of.

8 Q So this alarm or this particular curve is not
9 covered under tech specs?

10 A It's only covered under tech specs in that it's a
11 design basis curve. Being a design basis curve, it becomes
12 an NRC parameter.

13 Q But otherwise...

14 A And that's how it gets tied into that, you know.
15 And I can't -- I can't violate NRC parameters via the
16 administrative section of tech specs. But you've got to
17 remember, I -- I didn't know it was a design basis curve,
18 and I certainly didn't consider it NRC parameters.

19 Q But what I was asking is, there's -- is there a
20 tech spec that says, "Curve 8 is this, and if you're outside
21 of it these are the action statements that you have..."

22 A No, sir, there...

23 Q "...and these are the time limits you have for
24 those actions"?

25 A There is no -- there is nothing with respect on

1 Curve 8.

2 Q Okay. Was -- earlier you said that it was routine
3 or normal to have the makeup tank high pressure alarm or
4 enunciator in for extended periods or when you took...

5 A I wouldn't say it was routine, I would say on
6 occasions I have come in and taken a watch with the plant in
7 alarm.

8 Q Do you know how long it had been in alarm before
9 you came in?

10 A No.

11 Q Was that logged anywhere or should that have been
12 logged?

13 A No, do -- do not log.

14 Q Was the makeup tank high pressure alarm a high
15 priority alarm?

16 A It wasn't a red alarm, it's a white alarm which is
17 not -- you know, I guess that prioritizes alarms. I guess
18 by that previous statement I was saying I wasn't the only
19 shift that ever operated with that tank in alarm.

20 Q Was the high pressure alarm or having the makeup
21 tank pressure above the set point or the curve, was that
22 regarded as a significant operational problem, or was that
23 just kind of a nuisance that had to be addressed when --
24 whenever time permitted?

25 A I can't speak for everybody. We never -- we

1 didn't get the alarm because we actively stayed well below
2 the curve. We didn't -- we didn't think it was appropriate
3 to operate with that much pressure in the tank.

4 But other shifts did Their shift supervision
5 required that they operate on the curve. How they responded
6 to it, I'm not sure. All I can say is that I've taken the
7 watch before with the -- with the tank in alarm. You know,
8 to clear the alarm you can either drain the level in the
9 tank or you can send somebody down to the -- the valve alley
10 and dress out, go inside and open the valve and vent the
11 pressure off. Well, that's a -- that's kind of a time-
12 consuming evolution. If the guy sees it's just right at the
13 curve and he's in alarm he may say -- tell the Aux Building
14 operator, "When you get around to it go ahead and vent the
15 pressure off the tank."

16 Q Are there other normal evolutions that result in
17 exceeding administrative limits or alarm set points when
18 you're performing them?

19 A Yes.

20 Q So it's not uncommon, then, that you would pick
21 up...?

22 A No. You go into the control room and there are
23 several enunciators lit. You know, if you know why it's in,
24 you know, that's kind of like you know the abnormal
25 condition, you know why it's in. Every night on the

1 midnight shift you're required to review all the lit
2 enunciators and -- and be able to explain in your mind why
3 you have those enunciators in. You know, the emergency feed
4 water tank level is in low, you know, and it's a 35 foot
5 tank, and if it's reading 34-9 you're in -- in alarm or
6 whatever, you know why it's in, it's just barely in. When
7 your Turbine Building operator goes outside for his outside
8 reading you'll contact Unit 2, ask them to send over some
9 water, he'll manipulate the valves. It's -- it's one of
10 those things, you'll take care of it when you get to it.

11 Q Okay.

12 BY MR. DOCKERY:

13 Q Mr. Fields, you say you have taken over a shift
14 and an enunciator has been in. Is that something that you
15 log?

16 A No, sir, we don't -- we don't -- do not log
17 enunciator alarms.

18 Q One other question on that. When you -- when you
19 say you have taken over a shift and enunciators have been
20 actuated or in, are you referring to that particular
21 enunciator?

22 A I -- I'm referring to that particular enunciator.
23 Every night you come in, every shift you come in there are
24 enunciators lit. I mean, every -- every once in awhile
25 we'll have a black board with nothing lit. But those days

1 are very seldom.

2 BY MR. RAPP:

3 Q Did operations have any input or say if this high
4 makeup tank pressure was a reasonable operating value that
5 was reasonable for plant operations?

6 A Well, we -- we had the input as far as we
7 initiated Problem Report 94-149 where we questioned it. My
8 operators had raised concerns with other people in our
9 management; my boss, Greg Halnon, had asked engineers,
10 "Would you please validate this curve?"

11 Yeah, I think -- I think we had raised our
12 concerns to -- to several people. And my shift was pretty
13 much known as: This -- this is the issue that we had. All
14 -- every shift -- there's six shifts out there. You know,
15 this shift'll have one issue that they're working on; this
16 shift will have an issue that they're working on. Our issue
17 just happened to be the -- the Curve 8 and operating the
18 makeup tank with that much hydrogen pressure.

19 Q Do you have any, like, knowledge before that when
20 this issue first came up of maintaining 25 kg's -- cc's per
21 kg, as to whether or not operations said that, "Wait a
22 minute. This -- this high makeup tank pressure you're
23 wanting to run is -- is...?"

24 A Right, we -- that came about on my shift. That
25 was my shift's first involvement. Both Mark Van Sicklen and

1 Bruce Willms expressed their concerns at that time, said,
2 "We don't feel comfortable with this at all."

3 Q This is before it was implemented?

4 A This was after it was implemented.

5 Q Oh, after it was... I'm talking about before it
6 was implemented.

7 A I don't know what input we had on the review
8 process. I don't know.

9 Q All right. Is -- is "unacceptable time frame"
10 defined by FPC procedures?

11 A I don't know. I don't think so.

12 Q What would be an unacceptable time frame?

13 A Well, if you lose subcooling margin and you don't
14 trip your reactor coolant pumps within two minutes, that's
15 unacceptable.

16 Q What about on normal administrative limits?

17 A I would think it would be unacceptable if you had
18 an alarm condition in and you didn't recognize it. You have
19 a -- if you had a -- one of your control rod drives static
20 temperatures (phonetic) high, and that's a computer alarm,
21 if you -- if you didn't recognize that it was a high
22 temperature condition and you didn't know how long it had
23 been in, I think that would be unacceptable.

24 Q So it would just depend on what's -- what's
25 happening in the plant and what evolutions are in progress

1 and how you would...?

2 A I think so. I think -- I think if you -- you have
3 an alarm condition in and you know why it's in and you know
4 where the plant is, I don't -- I can't give you a time frame
5 to say that it would be unacceptable to not take action.
6 And that's not specified in any procedure that I know of.

7 Q Did engineering take operator or operations'
8 concerns seriously? I mean, not just this particular issue,
9 but I mean in general?

10 A Well, a lot of it sort of depended on the
11 engineer. You know, operations sort of had some favorite
12 engineers that they felt, well, that that engineer that had
13 that system was really responsive and if you called that guy
14 you got a quick answer back. I can't -- I don't want to
15 characterize the whole department. I think in this instance
16 I don't think they were very responsive. I think their --
17 the efforts that they made were very shallow and not
18 correct.

19 Q Were there issues you had or where other people on
20 your shift had with engineering that weren't adequately
21 resolved?

22 A I would say that the emergency feed water control
23 system is an issue that's been going on for four or five
24 years that operators are not -- are not happy with the
25 response that they've gotten.

1 Q Did engineering explain the basis or limitation of
2 operating limits or curves they provided to operations?

3 A Not in this case.

4 Q In general?

5 A Only -- only if -- if somehow they would transmit
6 the -- the information to the Training Department. You
7 know, and it's all a new system and -- or a new component or
8 something like that, and then in the training phase the
9 trainers would present, well, this is -- this is the limits
10 and this is why the -- the limit is there and stuff like
11 that. You know, in this case I don't remember any training
12 on the new curve, it was just instituted: Here, use this
13 curve.

14 Q Were you aware that during an ESF actuation that
15 makeup tank level would go below indication?

16 A I knew it was a concern. It was a concern that I
17 had personally with -- with the makeup tank issue of: If I
18 lose level what action am I going to take? Am I going to
19 believe my indication and immediately trip that high
20 pressure injection pump? Or am I going to believe that
21 there is water someplace in the pipe below the indication
22 range and that that pump is safe? And I included that in my
23 submittal for the previously scheduled pre-decisional
24 enforcement conference, that that was my personal concern
25 with it, was losing indication in the makeup tank. And --

1 and that shouldn't be the way we operate.

2 You know, I -- I knew what I was going to do. I
3 had it in my mind the action I was going to take if I lost
4 level. But I don't know if the other shift supervisors had
5 made that -- that decision on their own. And I think a
6 decision like that needed to be firmly in place: This is
7 what you'll do. And as far as I know, that -- that
8 guidance, management direction has not been presented.

9 Q When you talked to management about these issues,
10 the overpressure in the makeup tank, gas binding, the
11 Appendix A, emergency boration, did they take these
12 concerns seriously or did they just take them and say,
13 "Okay, fine. Go on back. We understand your concerns. Get
14 makeup tank pressure up"?

15 A That was the end result. Maybe engineering felt
16 like they did a good job with the evaluation when they said
17 accurate and reasonably conservative.

18 Q I'm not necessarily talking about engineering
19 management, I'm talking about your management, operations
20 management.

21 A I -- I can't say that I -- I was pleased with the
22 way Greg Halnon handled it. He didn't -- he didn't seem to
23 fight as much as I thought he should have. You know, it was
24 just like, "Here, they're going to close it out. You want
25 to do something?" You know, it wasn't -- he didn't take the

1 ball and roll with it, he didn't go over to engineering and
2 say, "Now, why -- why did you come back and say that the --
3 the pressure is okay here?" He pretty much -- it was just
4 thrown back to me.

5 And he had asked engineers to do independent
6 calculations and they didn't do them. They said, "We can't
7 do that. It's too hard." I think that was their response.

8 BY MR. DOCKERY:

9 Q Excuse me. Do you know that was their response?
10 Did they respond that way in your presence?

11 A No.

12 Q Was that related -- that response related...?

13 A That was related to me, that they were requested
14 to do independent calculations and they didn't do them.

15 Q Who related it to you?

16 A I believe that came from Rob Weiss. Once again,
17 that's in Allegation 1 in my list of questions to Greg
18 Halnon: Did you ask these individuals to perform an
19 independent evaluation and did they do it?

20 BY MR. RAPP:

21 Q Were you -- were you ever told that there was
22 going to be a special test ran during the next refueling
23 outage to validate the either acceptability or
24 unacceptability of Curve 8?

25 A I was told that it was planned. Greg Halnon had

1 requested I believe Garrett Hebb to -- "Garrett, make sure
2 we re-run SP 630 during the outage." There was no specific
3 "to validate Curve 8," but I think we would have used that.
4 After this event was over I was at a strategy meeting where
5 Pat Beard was there, and I -- I insisted that during the
6 upcoming refueling outage we re-run this -- that we re-run
7 SP 630 with the same conditions that we had on September
8 5th, and that would be Action Item 8 added to Problem Report
9 94-149, and then Item 9 would be validate the validity of
10 Curve 8 using that test data. As far as I know, that is
11 still planned to be -- to be done.

12 Q Is it common to run SP 630 following each
13 refueling outage?

14 A No, it's -- I don't know what the frequency is,
15 whether it's every two years, every... I don't -- I think
16 to be scheduled -- I think for SP 630 to be scheduled for
17 this outage would be out of sequence and only scheduled for
18 that one -- for that reason.

19 Q But it's not a refueling outage test?

20 A It is a refueling outage test, but is it required
21 every refueling; I don't think so.

22 Q Okay. Where in -- where in FPC procedures does it
23 define or describe what constitutes an authorized evolution?

24 A I don't know what specific document that would be.
25 An authorized or unauthorized?

1 Q Authorized.

2 A An authorized evolution? I don't -- I can't think
3 of a document that talks about an authorized evolution.

4 Q What in your mind are authorized evolutions?

5 A If it's a operating (sic) procedure which has been
6 through an approved operating procedure, that's an
7 authorized evolution. I can perform the evolutions within
8 that procedure.

9 Q When you went through requal you talk about
10 industry events; correct?

11 A Yes, sir.

12 Q Was there any discussion of similar type industry
13 events where unauthorized tests or evolutions had taken
14 place? Was that ever discussed?

15 A There was a requal cycle sometime in the -- in the
16 first part of -- first quarter, second quarter of 1995 that
17 they talked about -- I don't know if they were unauthorized
18 evolutions or what they were, but the makeup tank evolution
19 was brought up, and as one of the example (sic).

20 Q Prior to this test, prior to this evolution?

21 A I can't think of any, but I'm not saying that
22 there wasn't. There probably were in the past. I can't
23 think of any specific examples.

24 Q Has FPC management ever came out and said, "You
25 know, we know in the past that you folks -- the shift

1 supervisors had these allowances, but now here's a new box,
2 and you're supposed to stay within this new box"?

3 A Yes. You know, that -- that, I believe, is Greg
4 Halnon -- could be defined as Greg Halnon's event-free
5 operations program where he's kind of just defined if you're
6 inside the box you're okay; if you're outside the box you're
7 not. That came -- that came out in 1995. There's been --
8 since this evolution there's been a lot of stuff coming out
9 from management saying everything performed at the plant
10 will be performed per procedure. If the procedure doesn't
11 work, get it changed.

12 Q What about prior to that?

13 A I can't -- I guess I can just kind of recall the
14 most recent stuff. I know -- I know, years gone by, you had
15 a lot more leeway as far as fairly simple stuff, you could
16 do that. There are not procedures written for every
17 evolution at that plant. And now the focus of the -- you
18 know, it's more the requirement now to have a procedure for
19 everything you do at the plant.

20 Q Did -- did operations management or did FPC
21 management come back after the fact in certain cases and
22 say, "No, you're not allowed to do that, that that was not
23 within your allowed authority to perform this..."? I'm not
24 talking specifically about this makeup tank issue, but I'm
25 saying before did they ever come back and do that to

1 somebody that you're aware of?

2 A I'm not -- I know in -- in the context of
3 installing modifications on the plant, you know, some --
4 somebody would think, well, this would be easy to do. I'll
5 just string some PVC pipe from here to here and I've -- I've
6 got a new drain on this system. They go, "You can't do
7 that. That's not within your authority."

8 This makeup tank evolution, I was absolutely
9 shocked that my management came down as hard on me as they
10 did with this, like, self-righteous, "How dare you do such a
11 thing," when they knew that I was well within my authority
12 and well within what they wanted me to do, to do what I did.
13 You know, they -- they just turned their back on me. You
14 know, I'm not sure why, but, you know, it -- it was clearly
15 in my mind something that I was authorized to do, empowered
16 to do, and it was the right thing to do. I don't understand
17 why they didn't just say, "Thanks." But that's not the way
18 it happened.

19 MR. RAPP: That's all the questions I have.

20 BY MR. VORSE:

21 Q I may have asked this already, but just in case I
22 didn't I'm going to ask it again, maybe. Did you or any
23 other member of your shift on the 4th or 5th of September of
24 '94, you know, after the evolution, discuss amongst one
25 another not to talk about the September 4th evolution?

1 A I can't say that -- well, what I want to say is
2 that there was no conspiracy. I think that -- I know that
3 we've had a discussion on how valid is September the 4th or
4 what -- what's the significance of September the 4th. And
5 we said, well, it has no significance. You know, for -- the
6 real data that we presented was September the 5th. There's
7 no reason to talk about -- you know, there's no reason to,
8 at this late date, bring in September the 4th, you know. I
9 know I had one discussion with Rob Weiss where -- where is
10 it a -- you know, I'm not afraid to bring it up. You know,
11 it was no different from September the 5th.

12 Because it -- you've got to remember, I'm the guy
13 that -- that told Bruce Hickie, "Well, Bruce, I think we
14 ought to bring it up." He was -- he was still debating in
15 his mind: Do you think we ought to bring it up? I said,
16 "Bruce, I think we ought to bring it up," you know.

17 Q When was this?

18 A This was September -- July 19th.

19 Q This July, this -- of '95?

20 A Right.

21 Q Okay. So do you -- did you think that because the
22 data that was plotted on the -- on the 4th of September was
23 -- would have hurt your case as far as, you know, your --
24 your presentation in the PEK, you know, with engineering to
25 change the curve, the fact that you -- you got one -- one

1 data base that wasn't necessarily accurate, then you had
2 another base that you thought was -- was accurate and told
3 you the story? But did you think that maybe that 4th of
4 September, you know, if you told everybody about it...?

5 Because there's a lot of documentation, I mean, a
6 lot of, you know, PERs and letters and -- and no mention of
7 the 4th of September. And -- and I'm -- I'm just concerned
8 that, you know, well, why? You know, why?

9 A Well, we thought we had a good reason for why the
10 data was erratic on the 4th. But I -- if engineering had
11 just evaluated the problem report, you know, if we hadn't
12 been ostracized from the whole discussion, if they had come
13 up and said, "Well, what did you do? What kind of data did
14 you take? Let's -- let's work together to get -- to get the
15 right curve on the street," it would have been obvious to
16 the -- well, here's the REDAS data, here's the REDAS data
17 from the 4th. Now you can see that this data is really
18 erratic. And it would have come up. But it was never done
19 that way.

20 You know, Rob and I were just interviewed in -- in
21 the forum of a Management Review Board. That was: You're
22 going to lose your job today if you don't wave your head
23 "yes." The reactor operators were never interviewed.
24 Nobody asked them anything.

25 MR. VORSE: Does anybody have anything else?

1 MR. DOCKERY: Yeah.

2 BY MR. DOCKERY:

3 Q Mr. Fields, during the course of this
4 investigation if we became aware that a similar evolution to
5 that of September 4th or 5th occurred approximately July
6 21st, 22nd, in that area, of 1994, do you have any firsthand
7 knowledge of that incident?

8 A I have only secondhand knowledge of that incident.

9 MR. HENDRIX: We do have the graph.

10 A This graph is the -- the plotted data, and this
11 would be -- well, let's just say it's one of the -- one of
12 the enclosures in the book, you know. And I didn't realize
13 it at the time, but this was -- this was the plotted data of
14 that evolution, and I've heard just within the past three
15 weeks that it was performed on the 21st and the 22nd. But,
16 you know, this is the plot of MU14LIR1, which is the --
17 which is the control board analog instrument, and this is
18 the plot of the computer point. And it was given to Carl
19 Bergstrom and he put it in his file.

20 MR. HENDRIX: Can I ask a question on this. If
21 someone suggests that based on review of that data, that
22 whoever did that evolution on July 22nd did not go past the
23 curve, what would be your response to that?

24 THE WITNESS: By the plotted data of the computer
25 point they clearly went to the unacceptable side of this

1 curve. I don't understand -- I know -- see, the company had
2 their internal investigation and this was brought up. But,
3 see, I wasn't part of the internal investigation. All I
4 got, I got called in one day and it took ten minutes to fire
5 me.

6 But it's my understanding that the company is
7 saying, "Well, the 21st and the 22nd of July, that -- that's
8 insignificant because they didn't cross the line." This is
9 the plotted data. They did cross the line.

10 MR. DOCKERY: Okay, we need to, for the record,
11 make sure that we characterize exactly what this document
12 is.

13 MR. HENDRIX: This would be -- what exhibit number
14 are we looking at?

15 MR. VORSE: Did you -- did you talk about that in
16 your -- your allegations? Or in your...?

17 THE WITNESS: I talked about it from the
18 standpoint of in the first six page -- seven pages of this
19 letter about my conversations with Greg Halnon about the
20 21st and the 22nd, July 22nd. You know, and Greg Halnon
21 told me, "Erase that date from your mind." You know, I
22 think there was a conscious effort to exclude any other;
23 "Let's just base this on what happened September the 5th."

24 MR. HENDRIX: Exhibit #16 in our notebook is a
25 copy of what he's been referring to. Exhibit #16.

1 MR. DOCKERY: Okay. And I want to make sure I
2 understand how that was generated.

3 BY MR. DOCKERY:

4 Q Who -- who created that document?

5 A I don't -- I don't know which shift did it. I
6 know that OI interviewed Garrett Hebb, Ed McLeod, Bruce
7 Willms, Mark -- Mike Schirochman, and Carl Bergstrom, I
8 believe. And I would assume that that was the shift that --
9 that did it. And -- and it looks to me like they took the
10 plant to about 83 inches, 82 inches, or the make-up tank to
11 82 inches, and they pressurized up where the computer point
12 was just below the curve and they bled down to -- looks like
13 they bled down to about 53 inches.

14 Q Mr. Fields, may I look at the copy that you're --
15 you're holding there.

16 (Mr. Dockery was handed certain material.)

17 Q Okay, this doesn't appear to be dated.

18 A No, it doesn't.

19 Q But am I correct that this -- this graph pertains
20 only to data that was collected on July -- either 21st or
21 22nd?

22 A That's my understanding.

23 Q How did you obtain this?

24 A It was in Carl Bergstrom's file. And Carl
25 Bergstrom's file got given to Gerald Williams, and Gerald

1 Williams mailed a copy to my attorney. It was just kind of
2 there. It's just kind of been there for a long time. And,
3 you know, I know it was given to Carl Bergstrom because you
4 can't read it, but the writing on the bottom, that's his
5 handwriting. And I know that he had a file on the makeup
6 tank issue.

7 Q And your interpretation of this graph is that
8 during that evolution the curve was exceeded?

9 A Absolutely.

10 BY MR. VORSE:

11 Q And by that you mean that they went into the
12 unacceptable region of the curve because it's over -- it's
13 to the -- to the right?

14 A Well, to the left.

15 Q To the left, rather. Okay, to the left.

16 A Yes.

17 Q Okay.

18 A And see, I don't have access to the company's
19 internal investigation. In fact, the company told me, when
20 they fired me, was that they weren't going to give it to
21 you. They were going to give you the conclusions and they
22 weren't going to let you see the investigation.

23 But -- but I -- you know, it's my understanding
24 that the company is taking no action, pursuing nothing to do
25 with July 21st and 22nd because they didn't cross the curve.

1 You know, looks to me like they're manipulating the
2 information to say, well, they didn't cross the curve with
3 the control board instrument. But it's clear to me that the
4 computer point crossed the line, and we have a letter from
5 engineering that says the computer point is more accurate
6 and they requested us to use it.

7 BY MR. DOCKERY:

8 Q And that -- that data there, the graph we've been
9 referring to tells you that the computer point did cross the
10 curve?

11 A Yes, sir.

12 Q Okay.

13 A And I -- I think that's a -- you know, that, to
14 me, is a -- if that's true... You know, I can't -- I can't
15 go out and take depositions from these people at the plant.
16 If that's true, that to me is a clear example of
17 manipulating information. If they're just going to say,
18 "Well, MU14LIR1 didn't cross the line; therefore there's no
19 problem," knowing that the computer point did, then I think
20 they're manipulating information. And they've got the REDAS
21 data, I don't have access to it. It's available to you.

22 MR. McNULTY: We are conducting an investigation
23 on the July 21st and 22nd, separate from this.

24 BY MR. DOCKERY:

25 Q Mr. Fields, during -- leading up to the events of

1 September 4th and September 5th, did you ever consider going
2 to the NRC as a viable option with respect to getting your
3 concern addressed?

4 A My operator, Mark Van Sicklen, did go to the
5 resident inspector on four different occasions. I remember
6 -- I remember the last occasion that he talked to the NRC
7 was he had -- it was before turnover. I saw him talking to
8 Todd Cooper. After turnover was over he came over to me and
9 said, "The NRC's not going to help us with this. He just
10 told me how to write an allegation."

11 Q Did Mr. Van Sicklen take that action with your
12 knowledge? Did you suggest it to him?

13 A No, I did not.

14 Q Did he ask you about it beforehand?

15 A He had told me beforehand on a previous occasion
16 that he had talked to Todd, and Todd was going to look into
17 it.

18 Q Did you concur with him doing that?

19 A Oh, he's -- he's got that right.

20 Q Oh, absolutely. I understand that. But, I
21 mean,...

22 A I didn't -- I felt -- you know, I didn't disagree
23 with him. Sometimes -- sometimes you have more
24 communication with the NRC resident inspector than you do
25 with your own management. You know, they have a lot more

1 horsepower than -- than you, individually. If the resident
2 inspector takes an interest in -- in something, you know, he
3 can make some things happen. And I think that was what
4 Mark's hope was, but Todd just kind of left it, "If you want
5 to make an allegation, write an allegation," and that was a
6 lot more than Mark Van Sicklen wanted to get involved with.

7 MR. DOCKERY: Okay, I think we're -- we appear to
8 be coming to the end of the questions. Curt, do you have
9 anything specifically?

10 MR. RAPP: No, I do not.

11 MR. DOCKERY: Jim?

12 MR. VORSE: No.

13 MR. DOCKERY: Mr. Fields, at this time, before we
14 close out the record, I'd like to give you the opportunity
15 to make any kind of statement you feel is appropriate.
16 Given that we have here in writing your documented
17 allegations...

18 THE WITNESS: You don't want me to read this to
19 you?

20 MR. DOCKERY: I'd really rather you didn't.

21 THE WITNESS: All right.

22 MR. DOCKERY: We won't prohibit you from doing
23 that, but we do again acknowledge the fact that you have
24 documented various concerns and opinions on this matter and
25 we -- we have a copy of that.

1 MR. HENDRIX: I would want to say one thing. The
2 cover letter, itself, is not an exposition on the
3 allegations. The cover letter was his effort to give you
4 everything he knows about September 4th in a concise matter
5 so you have -- have it all right there in front of you.
6 Then the allegations are sort of attached to that. So
7 they're not really, you know, intertwined within his cover
8 letter, for whatever that's worth to you.

9 BY MR. VORSE:

10 Q There's one other question I forgot to ask, just
11 for the record. Besides the 4th and the 5th of September of
12 1994, were there any other similar evolutions conducted by
13 you or anyone on your shift that you know of?

14 A Not that I know of.

15 Q Thank you.

16 A I know I didn't authorize any.

17 MR. DOCKERY: Okay, Mr. Fields, inevitably in a
18 situation like this there are -- there are questions that
19 perhaps we don't ask, that you feel should have been asked.
20 Or there are issues that aren't raise, that we don't raise,
21 that you feel should be raised. Like to afford you the
22 opportunity now to -- to address those issues, and please do
23 so.

24 THE WITNESS: Well, I don't really have a whole
25 lot prepared here. I guess I'm trying to present to you

1 that -- that this whole issue is not about me. You know,
2 I'm not the problem. You know, I'm not -- I wasn't some
3 sort of rogue operator who tried to pull a fast one and do
4 something that was unauthorized or illegal on the 4th or the
5 5th. But -- but I feel like I did my job correctly, I did
6 what was expected of me. And for what -- whatever reason, I
7 believe that my management, my former management has used me
8 as the scapegoat to I guess keep the real issue of
9 management oversight and the lack thereof, incompetent
10 engineering and the lack thereof, and -- and employee
11 concerns and how those are resolved and the lack thereof.

12 They've -- they've manipulated the information
13 that has gone to the NRC. They've used me as: You did an
14 unauthorized test. When the NRC came out with an apparent
15 violation, that, "No, you -- you violated procedures," then
16 you -- then my company says,

17 "Yes, you violated procedures." You know, they're
18 -- they're spending more of their time trying to tell you --
19 or trying to react to what they think you're going looking
20 for, to keep me in focus, to keep me the bad guy, to shield
21 themselves their own liability. And I'm hoping that the
22 allegations that I'm presenting will give you the
23 opportunity to see that. If the questions are asked and
24 they ask -- answer them truthfully, I think it will become,
25 in my opinion, fairly obvious that that's what they're

1 attempting to do.

2 You know, to me why was the pre-decisional
3 enforcement conference canceled? You know, it was -- they
4 called you guys on the night of July 19th with this panicky
5 call. It was like, "Oh, my God, we've uncovered something."
6 Well, they didn't uncover anything. The plant manager and I
7 had talked about it several hours before and said,

8 "Well, I guess it wasn't that significant, but I
9 think we ought to bring it up. And I'll bring it up in my
10 presentation, the company will bring it up in their
11 presentation on the following Tuesday." I -- I firmly
12 believe that they saw me going in first and saying, "This
13 data was taken on September 4th, you know, that hasn't been
14 reported before, but -- but I did take it. And, you know,
15 it had no significant bearing." They felt like that -- in
16 my opinion, it was their concern then that it was going to
17 show what a crummy job they did evaluating the problem
18 report. They didn't evaluate the problem report. They
19 spent all their time crucifying me, my assistant, the four
20 operators that reported to me.

21 It was -- it was spin control, it was manipulation
22 of how you were going to react, how they thought you were
23 going to react. And I think that's -- I don't understand
24 why they're doing that. I think the utility needs to be
25 just up front. If something's wrong, if something's not

1 working you fix the problem. You don't try to make Dave
2 Fields and his shift the bad guys, fire them, and then come
3 back to you and say, "Well, we've solved our problem."
4 Well, they haven't solved their problem.

5 BY MR. DOCKERY:

6 Q Mr. Fields, do you believe something's being
7 covered up here?

8 A Yes. I think if -- if they tell you that they
9 didn't cross the line and this is the actual plot of the
10 data taken on July 21st or 22nd. they're lying to you. If
11 this -- if -- I don't even know who the operator was that
12 plotted this. If he plots this as the -- as the computer
13 point and you verify it with the REDAS data of that computer
14 point and you've got the company report in your hand that
15 says, "July 22nd is not significant because they didn't
16 cross the curve," to me that's -- that's evidence that
17 they're covering up something.

18 MR. DOCKERY: Go on with your statement.

19 THE WITNESS: The licensee event report, which was
20 sent on I believe 31 days after November 16th, they talk
21 about -- says, "Each time the operating point was..." This
22 is under the "Cause" section. "Each time the operating
23 point was deduced to be on or near the curve, as indicated
24 by the main control board instrument, the makeup tank may
25 have been operating outside the design bases." That

1 statement right there is a -- it may not be false, but it's
2 a manipulation. Because if you were on the curve you were
3 outside design bases. It's not "may have been."

4 And they used the word "main control board
5 instrument." If you were using the main control board
6 instrument you would clearly -- by the computer points you'd
7 clearly be inside the curve and outside design bases. But
8 the important issue is that for 18 months we operated on the
9 curve. Management insisted we operate on the curve. We
10 were outside design bases unknowingly for that length of
11 time.

12 And my shift performed a simple little evolution
13 to show that the curve -- the plant response was not that
14 way, and we learned that it was a design basis curve, and we
15 learned that it was an incorrect design basis curve, and we
16 learned that operating in that situation you unknowingly
17 could have lost half of your high pressure injection system.

18 This statement in this licensee event report is
19 not -- it's not up front, it's not... Why didn't they just
20 come out and say, "Every time a shift operated on that curve
21 by any instrument the plant was outside design bases and
22 half the HPI system was compromised"? And that's the
23 significance of this whole thing. It was a simple safety
24 concern. My guys wouldn't let it go, they felt strongly
25 about it, they brought it to me, they brought a way to

1 demonstrate it which I determined was an appropriate way, a
2 legal way. I felt empowered by my own management to make
3 that decision, and I did it.

4 And we didn't have anything to gain under -- other
5 than operating the plant safely. And what's happened to me
6 and what's happened to my assistant, what's happened to the
7 two chief operators, their careers were over. Their -- they
8 might as well have gotten fired; their careers are over.
9 Over this incident is a crime. You know, and I -- I don't
10 know.

11 I -- in one of the letters I wrote to Mr Ebnetter
12 I took responsibility for some of the decisions " made were
13 incorrect. I should have notified the shift manager. I
14 should have -- I'm the one -- I have an engineering degree,
15 and I said I -- I should have been the one that could have
16 looked at that calculation and said, "Boy, this looks like a
17 design basis here." You know, I -- I might have had that
18 ability if I'd really looked at it closely.

19 And I also admitted that my chief operator had
20 concerns when he was working with engineering, he was
21 working with Greg Halnon. I should have got more involved
22 with him and helped him out, you know, because I know how to
23 write -- write letters better than he does and I know how to
24 get a point across a little better than he does, and I
25 didn't do that. So I -- I took responsibility for what I

1 did wrong. But the company is not taking responsibility for
2 what they did wrong.

3 The company is -- has gone beyond that. I mean,
4 what they're doing is unethical and immoral to -- to fire
5 people because they have a safety concern, to send them down
6 the road. What kind of a message is that sending to the
7 rest of the people at the plant? People won't do anything.
8 You raise your hand and say, "I don't think that's right,"
9 they're not going to do that anymore.

10 You know, I -- I have never seen management take
11 an action like this before. The operators at Peach Bottom
12 didn't get fired over it, you know; the people at the
13 Limerick Plant didn't get fired over it. It -- this is --
14 this is incredible. I'm just -- I guess I'm trying to use
15 this as a forum to say, "This shouldn't be over yet."

16 MR. DOCKERY: And I think you've said that.

17 THE WITNESS: And I -- I just -- you know, my
18 integrity has been attacked over this, and I -- in my mind
19 and in my heart I don't think I did anything wrong. And --
20 and -- but I can't say that of the people that -- that
21 manage me right now. I think what they're doing is wrong
22 and they know it. They're -- they're manipulating what they
23 think you're going to do. They're giving you bits and
24 pieces of information. They're focusing all their attention
25 on -- they're going to try to convince you that firing me is

1 -- is the solution to their problem. Strong management
2 oversight. Well, it's not.

3 Have I left anything out, Richard?

4 MR. HENDRIX: No. The -- if I just... You don't
5 have the answer to the question as to: Did engineering --
6 were they under any pressure from Mr. Beard to sort of go
7 along with the 25 cc's per kg? You don't know that. But
8 they didn't do anything, I mean, to prohibit it or to review
9 it. So we're not making allegations about things we don't
10 know, but there are some interesting questions here that are
11 out there, and we put those in the allegations.

12 Do you feel like you've covered your allegations,
13 just the parameters of it? I know you don't want it
14 repeated, but there's one in there that you -- I don't think
15 we've really discussed it.

16 THE WITNESS: Allegation 2, I talked about
17 previously performed tests at the plant. And I -- and
18 that's why I said I was just flabbergasted that they came
19 back on me and said, "How dare you perform this -- this
20 unauthorized test," when they knew that they -- it was
21 fairly routine, you know. That's how most of the procedure
22 steps were written, people do something and say, "Well, this
23 works. Let's put this in a procedure," and stuff like that.

24

25 And I've seen my own boss three months, four

1 months before I did this evolution running around with a
2 relay tech, and he's got a jumper in his hand, doing stuff
3 without a test procedure. And he's -- he's looking down at
4 me and saying, "How could you dare -- how could you possibly
5 perform an unauthorized test." You know, so all I did was
6 list four -- four tests that I know of that were fairly
7 recent that were performed without a procedure, without a
8 50-59 evaluation. And -- and I guess in all cases
9 management knew about them. Management didn't do anything
10 about it; they encouraged it.

11 MR. HENDRIX: The only other thing I think that
12 you might want to address is, now, Mr. Saltsman's with
13 engineering. And Mr. Saltsman, we understand, had a large
14 hand in the development of the LER. And it's his department
15 that is responsible for approval of the curve, it's his
16 department that would be protected from that. And
17 therefore, the LER is written in such a way to totally
18 remove the focus from his department and place it all on
19 these people who exposed engineering's problems. Do you
20 know anything about that or...? We've heard about the
21 racquetball game or...

22 THE WITNESS: Well, I know that he -- I know that
23 he was part of the review process for the... You know, that
24 LER went through six iterations, and he was in the process
25 for all six of them. In fact, on the sixth one he and Pat

1 Beard went off into an office--secondhand information--and
2 wrote the final draft, and nobody else reviewed it, and they
3 sent it off.

4 MR. DOCKERY: Do you have anything else,
5 Counselor?

6 MR. HENDRIX: That's it.

7 THE WITNESS: I have one more thing.

8 MR. DOCKERY: Okay.

9 THE WITNESS: And that's just a... As I read my
10 letter today, Allegation 3 has a list of attachments.
11 Unfortunately it doesn't attach one of the two employee
12 concerns that I talk about, that I need to mail you that
13 concern to be part of the package.

14 MR. VORSE: Do it through him.

15 MR. HENDRIX: Just give it to me and I'll give it
16 to them.

17 THE WITNESS: Okay. And if -- if you go to the
18 section in Pat Beard of his list of questions, okay, that
19 would be Page 2 of Allegation 1,... Well, that's -- that's
20 correct. In one of the places I refer -- there's one curve,
21 OP 103A, Curve 22, that we're operating above the maximum
22 limit right now. I presented this to Mr. Ebnetter on July
23 19th. It's in his package.

24 I'm asking Mr. Beard and Mr. Hickie and Mr. Halnon
25 the question in here: Are you aware that we're operating

1 above the maximum limit of OP 103A, Curve 22, at this -- at
2 this very moment? I think in one of the -- one of the --
3 one of the list of questions I list that as Curve 8 and that
4 really should be Curve 22, but...

5 MR. McNULTY: Page 3, Line 16 you have it listed
6 as Curve 22, is that...?

7 THE WITNESS: Right, and that's the correct one
8 because... Well, wait a second. All right, here's the
9 correct information. It is Curve 8, OP 103A. This is the
10 expected value; this is the maximum value; this is the
11 plotted point, which is clearly above the maximum level
12 right now.

13 MR. McNULTY: So instead of Curve 22 it should be
14 Curve 8?

15 THE WITNESS: It should be Curve 8. And I don't
16 -- and, you know -- you know, they talk about where you
17 can't violate these curves and you can't do this. Well,
18 here they're clearly violating it. You know, and Greg
19 Halnon -- you can see they all end at 24-72 megawatts. The
20 plant's licensed at 25-44 since 1981. All the curves are --
21 they haven't been revised since 1981. You know, to me that
22 tells me a little bit about engineering and management
23 oversight, that you would operate the plant off the curve
24 for 15 years, 14 years, and in this one case you're
25 operating above the maximum limit.

1 And Greg Halnon, when we -- after we did this OP
2 103 -- after we learned this curve was a design basis curve
3 they said let's look at all the other curves. And they
4 evaluated and said, well, we're all -- they're all bad
5 because they haven't been updated. So Greg Halnon, he just
6 dispositioned it with an E-mail message that says we
7 recognize that they're not -- haven't been revised since 24-
8 72. Go ahead and use them.

9 You know, and that -- that's not the way you do
10 business. You evaluate each one individually, you write a
11 problem -- you write a procedure change, and you evaluate it
12 with a 50-59 process and a review process. You know, but --
13 but if I make a decision to use OP 402 to demonstrate that
14 Curve 8 of 103B is incorrect, I get fired. Greg Halnon
15 writes an E-mail message and says, "This whole family of
16 curves is incorrect, but go ahead and use them anyway." I
17 -- I don't see the difference -- you know, what's the
18 difference there? He's one level above me. You know, but
19 they're not -- they're not going to -- there's no
20 consistency there.

21 MR. DOCKERY: Anything else?

22 THE WITNESS: I have nothing else.

23 MR. DOCKERY: Okay, if I may, then, I'd like to
24 try and summarize something that I believe you testified to
25 here during the course of the afternoon. But I want you to

1 listen very carefully and make sure that I'm getting this
2 correct.

3 BY MR. DOCKERY:

4 Q The night of September 5th you were the senior
5 manager, operations manager responsibility for conducting
6 that evolution, is that correct?

7 A I was the senior licensed person on the site. My
8 responsibility as a reactor -- I -- I report to the shift
9 manager. But I make all decisions concerning the operation
10 of the reactor.

11 Q Was it your decision to conduct that evolution?

12 A Absolutely.

13 Q Is it fair to say that you made the decision to
14 deliberately go beyond the bounds--whatever is technically
15 correct to say--of Curve 8?

16 A I suspected that we would go -- that the plant
17 response would go to the left of Curve 3. I suspected that
18 that would happen, and as we watched the drain-down occur it
19 did draw a curve on the inside of that curve, and I allowed
20 that to continue. I made that decision that I was
21 authorized and empowered to do that.

22 Q At that time what did you believe that Curve 8
23 constituted?

24 A Curve 8 was an operating limit on how you operated
25 the makeup tank. On the night of September 5th I knew that

1 -- after having read the calculation, I knew that if you had
2 a high pressure injection signal and you operated two HPI
3 pumps off of a single suction and you were on that curve,
4 you would always have at least 1.7 feet of water at the
5 suction of the pump.

6 Q Is it fair to say what you did or caused to happen
7 was done intentionally?

8 A Yes.

9 Q Did you know at the time that Curve #8 was a
10 design basis curve?

11 A I did not know Curve 8 was a design basis curve.

12 Q When did you find out Curve 8 was a design basis
13 curve?

14 A It was probably September 8th. And nobody came up
15 and -- you know, it first came up from -- a senior licensing
16 engineer came and kind of said, "You can't do that. It's a
17 design basis curve." You know, and -- and then it wasn't
18 confirmed -- well, the company didn't confirm that it was a
19 design basis curve until November the 16th. But at the
20 September 15th Management Review Board meeting I was being
21 admonished for violating a design basis curve.

22 Q If you had known on September the 5th that that
23 was a design basis curve, would you have taken the same
24 action that you did?

25 A Absolutely not; nor September 4th.

1 Q Have you ever exceeded a design basis curve
2 intentionally?

3 A No, absolute not.

4 Q If you had intentionally exceeded a design basis
5 curve, do you -- in your opinion, would what has happened to
6 you have been justified, as far as being terminated?

7 A No.

8 Q It would not have been?

9 A Well, I mean...

10 MR. HENDRIX: Do you understand his question?

11 THE WITNESS: Well,...

12 MR. DOCKERY: I phrased it badly.

13 THE WITNESS: ...if I -- if I knew it were a
14 design basis curve I absolutely would not have done the
15 test. If I had inadvertently violated a design basis curve,
16 I would have taken the proper action and notified the NRC
17 within one hour under 50-72. I would never have gotten
18 myself into a situation of getting myself fired. You know,
19 I didn't -- I don't lie, cheat, or steal when I'm in a
20 control room. You know, I take my -- I took my
21 responsibility fairly seriously, is why I was there in my
22 authority to do what I did.

23 BY MR. DOCKERY:

24 Q Mr. Fields, do you believe that you have in some
25 way been retaliated against by your former employer?

1 A Absolutely.

2 Q Do you feel it was in response to your raising
3 health and safety concerns?

4 A I think partially; I think the letter that I wrote
5 to Mr. Ebnetter in June was probably the -- that -- that kind
6 of broke the back. It says they're not going to take
7 anymore of this. You know, basically the company wrote a
8 letter to Mr. Ebnetter saying that we were guilty, we've
9 taken strong action against these guys, and I was told that
10 I would never be a shift supervisor again. And I told
11 Mr. Pat Beard, I said, "I don't agree with this. I'm going
12 to send my own letter." And after I sent that letter, I
13 think I became expendable.

14 MR. DOCKERY: Are you familiar, Mr. Fields, with
15 the recourse that you have under -- going through the
16 Department of Labor in this...?

17 THE WITNESS: I would appreciate it if you would
18 give me a quick summary.

19 MR. DOCKERY: Okay. Section 2-11 of the Energy
20 Reorganization Act prohibits a licensee from adversely
21 affecting the employment conditions of any employee who
22 brings forth health and safety issues regarding regulated
23 activity.

24 THE WITNESS: I have read bits and pieces of 2-11.

25 MR. DOCKERY: Okay. The procedure that you have

1 available is to file a complaint with the Department of
2 Labor, Wage and Hour Division. Now, that complaint can be
3 as simple as a letter to the Wage and Hour Division--or it
4 can be addressed to the Secretary of Labor--but notifying
5 them that you feel that you have a cause of action under
6 Section 2-11 of the Energy Reorganization Act.

7 You have 180 days from the date that you were
8 negatively impacted to file that complaint. Now, the
9 Secretary of Labor is the only form of recourse, personal
10 recourse that you have. The NRC can't provide you -- we
11 can't restore your job directly. Our interest in your
12 complaint is regulatory, to see to it that the -- the
13 licensee takes the correct action. But I just want to make
14 sure you understand that you have that recourse.

15 THE WITNESS: And I -- and I have been working
16 with Mr. Bruno Urich (phonetic). And the Department of
17 Labor is a big -- big organization. I've been bounced from
18 Wage and Hour to EEOC to NLRB. And I finally went back to
19 Mr. Urich and said, "I -- I don't know who to call here."

20 And he said, "I'll find you a name and a phone
21 number to call," and supposedly he's done that.

22 MR. McNULTY: Wage and Hour.

23 MR. DOCKERY: Wage and Hour, yeah. And I -- the
24 thing I'm not sure of, whether it's in Tampa or Orlando, but
25 it really doesn't matter.

1 MR. HENDRIX: Well, Wage and Hour didn't know
2 anything about it. They sent him to the EEOC.

3 MR. VORSE: Sometimes people will attach documents
4 like you gave to -- you know, with a cover letter, just so
5 they don't have to read -- do the whole -- whole thing. But
6 Wage and Hour is where you want to be.

7 MR. McNULTY: When you're talking to Wage and Hour
8 you need to make sure you tell them that -- that you want --
9 if you say ERA they might get you confused and put you into
10 the EEOC.

11 THE WITNESS: Talked to one lady in NLRB and she
12 said, "I'll file a complaint and an investigator will get
13 with you in about two months." So anyway, I'm working with
14 Mr. Urich to try to find the right person to actually talk
15 to.

16 BY MR. VORSE:

17 Q I have a very important question for you,
18 Mr. Fields. Do you know what our conclusion was on the
19 deliberate violation? Do you know what the conclusion was?
20 Did you ever hear about what that was?

21 A I read the -- yes, I read -- I read the
22 conclusion. I -- I disagreed with it. I was flabbergasted
23 as he wrote it.

24 Q Did you see -- did you see our report of
25 investigation?

1 A No, I did not. Only the conclusion.

2 Q Here's what we say: That -- that you, Weiss, Van
3 Sicklen, and Stewart deliberately violated plant procedure
4 when they exceeded the allowable makeup tank overpressure--
5 was when you were plotting the data, right?--and failed to
6 take appropriate action to reduce makeup tank overpressure.

7 Can you convince me that I'm wrong?

8 A Well, the way I read the apparent violation, which
9 was a document that said I had violated AI 500 and that I
10 violated OP 402, and I had violated AI 500 in that I had not
11 taken prompt action to the enunciator response.

12 Q That's not -- that's not what our conclusion was.
13 Our conclusion was that you violated plant procedure when
14 you exceeded the allowable makeup tank overpressure and
15 failed to take appropriate action to reduce makeup tank
16 overpressure.

17 MR HENDRIX: What plant procedure are you
18 referencing?

19 MR. VORSE: We're referencing AI 500, "Conduct of
20 Operation," Paragraph 4.2.1, "Procedural compliance." It
21 states, "It's the duty of every member of the Crystal River
22 Plant work force to comply with procedures."

23 THE WITNESS: And that's all it says. It also
24 says that, "Written procedures are also needed for those
25 evolutions that would affect a change in the system flow

1 paths or operating parameters. The top boundary between an
2 evolution and a task may not always be clear, and it is
3 expected that plant operators will encounter situations
4 where the adequacy of existing procedures may be questioned.
5 In these instances shift supervision will make the
6 determination as to what procedural requirements are
7 applicable."

8 And you're -- and we've got Curve 22 right here.
9 Every operator right now that's operating the plant is in
10 violation of this curve.

11 MR. HENDRIX: Curve 8?

12 THE WITNESS: Curve 8, OP 103A. So does it --
13 does that mean every operator should be fired? I don't
14 understand. You know, I'm the shift supervisor. I wasn't
15 -- I wasn't violating a curve to be violating a curve. I
16 took the plant to on the curve where management demanded
17 that it be, and I performed the evolution and plotted the
18 plant response and showed that the plant response was not
19 correct by that curve.

20 If you were on the curve you were outside design
21 bases. For 18 months the plant had been outside design
22 bases. I was outside for 35 minutes. And I reported my
23 results to management.

24 MR. HENDRIX: So if you re-read your -- the basis
25 of the procedure, he does deny that he violated plant

1 procedure. The procedure -- everything he did was bounded
2 within plant procedure. Now, if the procedure is sloppily
3 drafted or there should have been more precise procedures,
4 that's another matter. But everything he did is bounded by
5 plant procedure. Everything. Hopefully we've communicated
6 that message in the procedures.

7 MR. VORSE: Do you agree with that?

8 MR. HENDRIX: If not, we need to debate it
9 further, because he very strongly feels that that is the
10 case.

11 MR. RAPP: Let me interject at this point. I
12 don't disagree that what you did was bounded by OP 402. All
13 right? I think that technically you were working within the
14 plant operating procedures. The issue becomes, in AI 500
15 "Conduct of Operations," in there it says that you will
16 operate the plant within the administrative limits. And in
17 taking the plant outside of the Curve 8 and plotting the --
18 in order to plot your data, that becomes the action that was
19 in violation of AI 500. And therefore we could reach no --
20 no other conclusion than that it was a willful act and that
21 you continued to do it, even though you recognized you were
22 outside that administrative limit.

23 THE WITNESS: Plant operating curves are only
24 referred to within procedures. OP 402 refers you to
25 Curve 8. It refers you there when you fill the tank with

1 hydrogen.

2 MR. RAPP: I understand.

3 THE WITNESS: There is no limit and precaution at
4 the beginning of the procedure that says, "Thou shalt never
5 violate this procedure," it's only referred to by this
6 procedure, and that's what we did. It doesn't say that when
7 you drain down, oh, make sure that you don't exceed Curve 8.
8 They're only refer -- and that -- Curve 8 of OP 103A,
9 they're already above the max. How do you handle that?
10 What -- what are you going to do? I don't understand what I
11 did wrong. I really don't see it. I didn't violate
12 anything.

13 MR. HENDRIX: He's getting ready to connect it up
14 for you. Now, listen to him so you can respond.

15 MR. RAPP: We're not -- we're not taking issue
16 with the fact that OP 402 did not reference Curve 8 in
17 precautions limitations, and it was only referenced in the
18 -- in the fill procedure, on the section where you fill with
19 hydrogen. That was not included in the OI report. The part
20 that we do have the problem with is in where AI 500 it says
21 that the plant shall be operated within the administrative
22 limits.

23 THE WITNESS: Read that -- could you read that to
24 me in AI 500.

25 MR. RAPP: I knew you were going to ask me that.

1 We didn't reference that part, did we? We referenced 403,
2 right? 431.

3 THE WITNESS: Now, I've read 431.

4 MR. RAPP: Right.

5 THE WITNESS: That's...

6 MR. McNULTY: I mean, I would -- I would think
7 there's a reason why they refer to it as an operating limit.
8 I mean, the idea is that you're supposed to stay within the
9 limit, wouldn't you agree with that?

10 THE WITNESS: We had a concern with this curve for
11 18 months. We voiced our concern to management, to
12 engineering, and the response was the curve is accurate and
13 reasonably conservative. I made the decision that I was
14 empowered to perform OP 402 to demonstrate -- I didn't drive
15 the plant to the left of the curve, I just let the plant
16 response show that it was different than Curve 8. The
17 operating curves -- as you can see, they haven't even been
18 revised since 1981, in most cases. It's not something that
19 we look upon as -- or management came out with, "Oh, you
20 never violate one of these curves." Well, we're violating
21 half of them right now. You know, we're -- we're off the
22 page. Curve 8 of OP 103A, we're clearly above the maximum
23 level.

24 You know, I -- I don't -- I don't see your
25 argument that I wasn't authorized, empowered to do that.

1 Gary Bolt, Pat Beard comes to me and says, "Don't live with
2 something that's wrong. You're empowered to change it if
3 it's not in the best interest of nuclear safety."

4 My management came to me and said, "Dave, is there
5 anything you want to do, because the issue is going to be
6 closed out?" I certainly felt within my authority and my
7 responsibility to do this. And my management cannot come up
8 with any time that they told me, "Thou shalt never violate
9 one of our operating curves." It's just not there; the
10 expectation wasn't there.

11 But my -- their expectation with me is to make
12 good decisions on how to operate the plant. I felt like
13 that I made a good decision to present important safety
14 information to my management. And if they came back -- and
15 they came back and said, "All right, you did something
16 wrong. You can't do that." That's fine. And that's what
17 they did. That's what Greg Halnon's memo said in his E-
18 mail, and I concluded that several times. It says, "The
19 controls on the evolution were excellent. The thought
20 process was excellent. This was excellent." Used the word
21 "excellent" five times. He said the place that we let
22 ourselves down--and he said "we," management, engineering,
23 operations--is that we didn't clearly define the
24 expectations.

25 That was an honest assessment of where we were.

1 If that was what their expectations were after I did it,
2 that's fine. And then from that point on I would know,
3 "Dave, you're not authorized to do that." But to set their
4 expectations up after I did it, after I showed that the
5 plant was in a -- a situation where half of their safety
6 injection system was inoperable, and get fired over it, I
7 don't see how you make this conclusion.

8 MR. HENDRIX: The accurate -- the characterization
9 of deliberate misconduct implies a knowing and willful
10 breach of a standard that is known to be a line, a
11 demarcation line where beyond which you shall not
12 transgress. And that's not what happened here. So to
13 characterize it as deliberate misconduct is what's so
14 damaging. We still contend vociferously that he -- he
15 hasn't engaged in any misconduct and everything he did was
16 within bounded procedure.

17 THE WITNESS: You know, and Greg Halnon freely
18 admitted management, operations, engineering didn't have the
19 expectation out there. But you're not investigating any
20 managers and you're not investigating any engineers.

21 MR. McNULTY: So we're at the point where all the
22 operating curves should have like little asterisks, then,
23 and -- that says, "Well, if you agree with this stay within
24 the boundaries. But if you don't, you can go right ahead
25 and go outside."

1 THE WITNESS: Absolutely not. The expectation was
2 not there; Greg Halnon said the expectation wasn't there.
3 Management failed; operations failed; engineering failed.
4 And he, in that memo, put out the expectation. When they
5 give me the expectation and they reinforce it, then I
6 understand. But up until that point I've got Gary Bolt, Pat
7 Beard saying, "Don't live with something that's wrong, you
8 know. You're empowered to take actions that are reasonable
9 to do this, this, and this, you know. It's part of your
10 job."

11 I'm not -- I'm not trying to tell you that I have
12 permission to make decisions on what's safe and what's not
13 unsafe, when I can -- when I can use procedures and when I
14 cannot use procedures. In my mind on September 4th and
15 September 5th I was absolutely within my authority and my
16 responsibility to make that decision.

17 And -- and I want to get one more time: I made
18 the decision. My assistant shift supervisor works for me,
19 my chief operators work for me; my reactor operators work
20 for me. I made the decision. If anybody goes down, I'll go
21 down, but I don't want these guys losing their jobs over it,
22 and they have. You know, what...

23 MR. HENDRIX: Plus, as I cite, if you're in the
24 position as a result of management failures... In other
25 words, the position he was in was as a result of management

1 and engineering failures. He was there. And under your own
2 operating rules and procedures there cannot be a finding of
3 deliberate misconduct against the individual who has tried
4 to correct it. Which he tried and his shift tried. That's
5 why we -- it's the "deliberate misconduct" in the context we
6 just feel is very, very unfair. And, 'cause he -- they did
7 everything they possibly could do. And he was put in the
8 position.

9 And again, he did not drive the plant outside. He
10 didn't drive it, he didn't go over it, he just did what they
11 told him was accurate. They're the ones that say it was
12 accurate. He just tested it.

13 MR. McNULTY: He just -- he just forgot to bring
14 it back within the boundary when he should have by the
15 procedures.

16 THE WITNESS: I didn't forget. I knew to do it.
17 I had my man stationed to do it.

18 MR. McNULTY: You just waited 32 minutes so you
19 could get your test data.

20 THE WITNESS: I felt that a smooth curve for the
21 full length would be incontrovertible. That would be the
22 proof that engineering needed, because they had rejected
23 bits and pieces. I didn't knowingly violate anything.
24 There was no misconduct on my part. If I -- if I -- I don't
25 know how to convince you that -- that I didn't do that. But

1 at the time I felt justified to do what I did. After the
2 fact they said, "You can't do that."

3 MR. RAPP: Mr. Fields, I -- I know full good and
4 well there was no malice involved in that action; that your
5 intentions were to get this issue resolved. But whenever
6 you put the plant in a situation in which it's going to be
7 outside of its administrative limits and you're going to
8 continue to operate in that vein, then there becomes the
9 issue of willfulness. Am I misstating anything?

10 MR. HENDRIX: What about Florida Power? What
11 about Florida Power? They've been doing that for years.

12 MR. RAPP: All I can say is that issue is going to
13 be addressed.

14 MR. HENDRIX: On many of the so-called
15 administrative limits. On maybe the majority of them. And
16 to take this issue, given the fact that he had tried to
17 correct it on many occasions and failed, and had been told,
18 "Last time. It's over. Last time."

19 MR. VORSE: See, we don't -- we don't feel it was
20 a malicious act, it was just a Catch 22. You know, you had
21 to -- in order to plot the data you had to -- to violate the
22 procedure. I mean, it's that simple. I mean,...

23 THE WITNESS: I didn't violate the expectation.
24 That was clearly presented by Greg Halnon. Management
25 failed; engineering failed; we as operations failed. He

1 said, "I personally failed because I didn't present the
2 expectation that I -- that is now required by the NRC."

3 You know, if I had knowingly done it, I said, "By
4 God, I'll just do whatever I want," I'd be guilty. But if I
5 thought that I was authorized to allow the system response
6 to draw the real system response to show these people that
7 the curve they presented was not correct, then I didn't
8 willfully do anything, any misconduct. I willfully tried to
9 present a safety concern, and as a result of that found out
10 that for 18 months if you operated on the curve you were
11 outside design bases. And we've got examples right here,
12 Curve 8 of OP 103A. Everybody's operating outside the
13 maximum.

14 MR. HENDRIX: And we're wondering...

15 THE WITNESS: The expectation is not there.

16 MR. McNULTY: That doesn't affect your activity,
17 though.

18 MR. HENDRIX: Well, we're wondering whether
19 engineering may have known that anybody operating on the
20 limit would have been in this situation, anyway, and would
21 have known that if you're on the limit you're going to
22 potentially...

23 MR. McNULTY: That still remains for us to
24 discover.

25 MR. HENDRIX: And if they knew that, then they put

1 him in this situation, because he was operating within -- on
2 the curve, as they wanted him... They wanted him to operate
3 on the curve.

4 MR. RAPP: One thing to keep in mind is that
5 whenever we -- and NRC is a regulation body. We look at
6 procedures and what is approved plant documents. We can't
7 go to the expectations that they give you at some
8 empowerment training.

9 THE WITNESS: You can't?

10 MR. RAPP: No, we cannot go to those expectations.
11 We can say that's a mitigating factor. Okay? We can say
12 that that may have factored into the mind set or into the --
13 the dynamics that went on here, but here's a concrete
14 document that says this is what was violated. Okay, we
15 can't -- we can't take those expectations and say, "Well,
16 we'll just ignore this violation because these expectations
17 were out there floating around."

18 THE WITNESS: But you've put me in a situation
19 where I've been fired, and then you've told me my rights
20 under the Department of Labor. They're going to throw it
21 out. Because you folks said that it was willful misconduct.
22 It wasn't willful misconduct. I didn't violate anything
23 knowingly. You know, I -- I presented -- they came to me
24 and said, "Do something. If you're -- if you -- if you
25 still have a concern you got to do something because this is

1 going to be closed out." My management came to me and told
2 me to do that. I used my procedure to do that.

3 Did I willfully violate anything? I did not. And
4 if you say that I did, it's over. The company wins. I've
5 lost everything. My assistant has lost everything. My
6 chief operators have lost their careers.

7 For willful misconduct? They didn't willfully
8 misconduct. They -- they had a safety concern. They didn't
9 try to hide it. They presented it to management. They had
10 nothing to gain by doing it. It's...

11 MR. HENDRIX: If he had engaged in deliberate
12 misconduct he's not going to write a problem report about
13 it. Because if you engage in deliberate misconduct you're
14 not going to take credit for it and point it out as, "Look
15 what we did here." If you know it's deliberate misconduct
16 you're not going to do that. So clearly, I mean, the best
17 evidence we can offer to you is the fact that they prepared
18 a problem report and went in to management. They were proud
19 of the work they had done, and thought that they were doing
20 a good job.

21 Now, on hindsight it's easy to say, "Well, you
22 know,..." But if you get into the dynamics, again, if you
23 find -- and we hope that you will find deliberate conduct
24 that may have arguably transgressed some very ambiguous,
25 poorly drafted procedures, and that were created under a

1 situation that he had -- and his shift had tried to correct
2 on several occasions. So he engaged in deliberate conduct.

3 But to say deliberate misconduct is the damning --
4 that's it. It's over forever. His career, his reputation,
5 his integrity. Deliberate misconduct implies willful, bad
6 intention. And that's what we really are trying to get
7 reversed.

8 THE WITNESS: And we've given you examples of
9 other curves that are being violated right now. Is that
10 willful misconduct? I mean, I'm not -- I see you chuckling
11 over there. I don't understand. You know, these other
12 curves are important curves that we operate to. This curve
13 just happened to be a design basis curve. It shouldn't have
14 been inserted into our operating procedures. It shouldn't
15 have been there. Engineering shouldn't have let that
16 happen. It should have been an accurate design basis curve.
17 But that's -- that's its only special -- that's the only
18 thing special about this curve. And if I hadn't taken my
19 action we'd be still operating outside design bases,
20 unknowingly, ready to destroy half your high pressure
21 injection system.

22 The significance of these other curves? I don't
23 know. But they're curves or operating limits and the
24 operators are violating them. I think that's... If that's
25 what I'm being charged with and that's the final conclusion,

1 what about these other curves, what about these other
2 operators? I don't -- I don't see where you draw the line
3 that says deliberate misconduct here; oh, we don't care
4 about these curves over here.

5 MR. McNULTY: Well, you're the first one who's
6 told us that there are other limits that other operates at
7 Crystal are exceeding right now. That's the first time
8 we've heard this in this investigation. Maybe you could
9 have brought that up to us when we talked to you in
10 December.

11 THE WITNESS: I wasn't aware of Curve 8 until like
12 a week before the pre-enforcement conference.

13 MR. McNULTY: So how does their -- how does that
14 activity now justify what you did on September the 4th and
15 5th? I don't understand that analogy.

16 THE WITNESS: I guess I'm trying to tell you that
17 there are many -- there are many operating curves that are
18 being exceeded. You've chosen one curve to make
19 significant; me.

20 MR. McNULTY: Were you aware on September 4th and
21 5th that people violated operating curves all the time?

22 THE WITNESS: I was aware that they were not very
23 well written; that they were very old. I was aware that
24 they were -- they maxed out at 25-40 -- 24-72 megawatts,
25 most of them.

1 MR. McNULTY: Did that mean, then, in your mind,
2 it was okay to go ahead and operate outside of one?

3 THE WITNESS: It didn't -- it didn't -- it didn't
4 key me in to think that I was violating an NRC parameter or
5 a design bases in any way, shape, or form.

6 MR. McNULTY: I'm trying to understand what you're
7 -- I hear your rationale. And your rationale says that when
8 you found out later on that people operated outside the
9 curves; well, that doesn't affect your decision to operate
10 on September 4th and 5th. That's later on. That's an
11 excuse as opposed to reason. I'm trying to understand what
12 your reason was that you thought that you could operate
13 outside the curve on September 4th and 5th.

14 MR. HENDRIX: It's not a -- I want to say I don't
15 think he's offering it as an excuse. I think what he's
16 really trying to do is offer it as an example of following
17 his logic on it, not...

18 MR. McNULTY: It's after the fact. It doesn't go
19 to the logic of making the decision on the 4th and 5th, and
20 that's what we're trying to get to. That's what we say was
21 an intentional, willful act.

22 MR. HENDRIX: Well, we agree with that;
23 intentional, willful act. It's the intentional, willful act
24 of misconduct, a bad act, that we disagree with.

25 MR. VORSE: We don't -- we don't say misconduct.

1 MR. McNULTY: We don't make that call. That's
2 something enforcement brings to us in a package.

3 MR. HENDRIX: Well, we -- we need you to make
4 the...

5 MR. VORSE: We say we have a -- we have a
6 violation of procedure that is willful.

7 MR. McNULTY: Our call is intentional and
8 deliberate call. When you get to the enforcement panel
9 that's where the...

10 MR. RAPP: Misconduct.

11 MR. McNULTY: ...deliberate misconduct issue comes
12 in. Not with us. And again, what I'm trying to say is that
13 what -- what's happening now doesn't justify the action that
14 you did on September 4th and 5th. Now, if you had something
15 that occurred before that, that led you to believe that you
16 can operate outside an operating limit because of whatever,
17 we'd certainly be interested in hearing that.

18 THE WITNESS: Well, let me just go over it one
19 more time. We raised the concern, we initiated Problem
20 Report 94-149. It was evaluated by engineering as, "It's
21 all right. We're going to close out the issue." We had
22 management demanding that we operate on the curve. They
23 were monitoring it hourly. It was brought to me, after the
24 September 2nd letter was written, "Do something or it's
25 going to be closed out."

1 MR. McNULTY: Now, you would think, with
2 management monitoring this and checking it every hour, that
3 operating -- that that curve was pretty important to them.

4 THE WITNESS: Only the maximum pressure was
5 important. You know, I'm sure they would have been happy to
6 see us operate above it if we got the 25 cc's per kg. It
7 wasn't -- they were not concerned that we wanted to operate
8 five or ten pounds below the maximum. That was -- that was
9 disregarded. Our concerns were not looked at. Our concerns
10 were poorly evaluated and rejected, and we were -- and we
11 were right. And the health and safety of the public in
12 Crystal River, in Citrus County is better because of it.

13 MR. McNULTY: And what if you're wrong? What if
14 it turned out the curve was accurate?

15 THE WITNESS: If it's what? Turned out...

16 MR. McNULTY: What if you were wrong? What if it
17 was accurate?

18 MR. HENDRIX: If it was accurate...

19 THE WITNESS: If it was accurate I would have
20 followed the curve right down, it would have followed -- the
21 plant response would have followed the curve.

22 MR. McNULTY: Would that have justified your
23 activity if you were wrong?

24 MR. HENDRIX: He was following the curve.

25 THE WITNESS: It was my procedure. I followed my

1 procedure. If I had driven the plant somewhere...

2 MR. DOCKERY: If I may paraphrase: If the curve
3 had been correct you could not have been wrong in what you
4 did, is that correct?

5 THE WITNESS: That's right. I would -- I would
6 have concluded that, well, looks like the plant response is
7 -- is with that curve. I guess I'll have to agree that
8 engineering is correct.

9 MR. HENDRIX: See, what he did was follow the
10 curve. He didn't go beyond the curve, he followed the curve
11 and then plotted it to show that the curve that I'm
12 following is not accurate. But he followed the procedure;
13 he didn't violate the procedure. He did not transgress the
14 administrative operating limits. He put it on it and
15 watched it.

16 MR. McNULTY: And started it. And started. But
17 when it went beyond the limits he didn't take actions to
18 bring it back.

19 MR. HENDRIX: He's not required to under the
20 procedure. Because when the enunciator alarm comes in and
21 you're expecting it and you've looked into it, then it gives
22 him the discretion, as the senior shift supervisor.

23 MR. RAPP: And I do not disagree. That's why in
24 the OI report we did not reference OP 402 or the alarm
25 response; okay? Because my -- my evaluation of that with

1 the plant procedures, the administrative procedures, those
2 were not valid issues.

3 MR. HENDRIX: But I think that those should be
4 referenced as the basis for his acting within procedures.
5 That was the -- his basis. In other words, he did not go
6 beyond the curve. I think that's what -- if I understand
7 your finding, the finding is -- is that he transgressed...

8 MR. McNULTY: No.

9 MR. RAPP: No.

10 MR. McNULTY: The finding is that he allowed the
11 plant to operate... Why don't -- and we get pretty confused
12 here with at what point this happened and what point he
13 crossed the line. I -- in my mind, one, you don't conduct
14 evolutions to collect data. When you do that you're
15 conducting a test.

16 MR. HENDRIX: There's no definition for a test.

17 MR. McNULTY: I know that. That's why it's not
18 cited; okay? But what's cited is that -- what's cited is
19 that he didn't follow the appropriate procedure as far as
20 safe operation of the plant by allowing the plant to go
21 outside an operating limit and not -- and that's the bottom
22 line. The bottom line is that he started off, he set out
23 with the idea that we're going to spin this line, because
24 outside the limit we're not going to do anything till we get
25 our data. And that to us is -- that's not acceptable. The

1 agency doesn't view that as acceptable.

2 THE WITNESS: And the apparent violation, I...

3 MR. McNULTY: Well, that's -- those are more
4 important to be addressed in an enforcement conference.
5 That's...

6 MR. VORSE: That's not ours.

7 THE WITNESS: So you don't -- you don't have
8 anything to do -- you don't do that?

9 MR. McNULTY: No. That's...

10 MR. VORSE: That's not ours.

11 MR. McNULTY: We -- we report what we feel is in
12 our report, which you don't get to see. You get -- you
13 maybe get to see the synopsis. And then they look at our
14 report, the interviews, they look at all the technical
15 input, and the agency arrives at their enforcement package.
16 So the enforcement package is -- may be somewhat based on
17 our report. There are times when the agency disagrees with
18 us and they'll choose to disregard our investigative report
19 and write their own.

20 THE WITNESS: But you -- you have no problem with
21 the crew that...

22 MR. McNULTY: Do we? No, but we have an inspector
23 general, I guess, who on occasion may decide that what
24 happened here wasn't right.

25 THE WITNESS: No, I mean -- I mean, about the --

1 the events on July 21st and 22nd.

2 MR. McNULTY: We're investigating those. In fact,
3 Mr. Dockery is the case agent for that investigation, so
4 it'll be separate.

5 MR. VORSE: We're just getting started.

6 MR. DOCKERY: Which is a very recent
7 investigation, that's why it's difficult to address any
8 question you might have about it, and be premature, because
9 it's under investigation. Although we appreciate the input
10 that you have, that you've provided on it.

11 MR. HENDRIX: Well, again, all we can ask you to
12 do, you got to call it like you see it.

13 MR. McNULTY: Well, we weren't aware of that one
14 until...

15 MR. HENDRIX: And we want you to do that, but I
16 don't know how else -- how much else explaining we can do.
17 I think you know what our position is, and hopefully you
18 appreciate the situation he was in as a result of factors
19 over which he had no control. It's very harsh to -- to be
20 alleged to be guilty of willful misconduct and for the
21 company to be going, "That's right. That's right. Get him
22 out of here."

23 MR. McNULTY: Well, we're -- we've reopened this.
24 We're looking; we can change our conclusion if we feel that
25 it wasn't correct the first time or additional information

1 has a different... So we have reopened the September 5th
2 incident and we're looking at the September 4th incident in
3 conjunction with that.

4 But besides that, we're conducting a separate
5 investigation on the July 21st-22nd incident. And I -- I
6 suspect that once your allegations reach the allegation
7 floor, that we'll be opening an additional investigation.

8 MR. HENDRIX: Of course, as to the allegations, we
9 still contend that this report, your final report on this
10 incident, should not be issued until you have actually
11 reviewed the entire situation. Then maybe you need to be...

12 MR. McNULTY: I think that's probably the way
13 it'll go. We're going to be looking at this for some time.
14 I don't think anything's going to happen for at least six
15 months; three to six months.

16 MR. VORSE: Does anybody have anything else?

17 MR. DOCKERY: Just want to ask -- want to make
18 sure that we've afforded you the opportunity here today to
19 -- to address the issues you wanted to address. We don't
20 want to cut you short here, but just want to make sure that
21 you were satisfied that you were given the opportunity
22 today.

23 THE WITNESS: I think that I have. If I forgot to
24 bring something up, that's my fault.

25 MR. VORSE: Well, if you do remember something

1 else, contact Mr. Hendrix here and...

2 THE WITNESS: And I -- and I -- you see, I -- this
3 is the first time I've talked to anybody about the events of
4 the 4th, you know. I didn't participate in the company's
5 internal investigation. They came to their conclusions and
6 took it to the board of directors and they fired me.

7 MR. McNULTY: I'd just like to say, just like you
8 to know that as we get into this we may need to talk to you
9 again, and we'll certainly contact Mr. Hendrix.

10 MR. HENDRIX: We're happy to talk to you.

11 THE WITNESS: See, the government pulled the plug
12 on my lawyer. Today is his last day. I don't have a
13 lawyer. I don't have a job, I don't have a lawyer, I don't
14 have -- don't have any money. Be sure you get that in.

15 MR. VORSE: Thank you.

16 (Whereupon, the hearing was concluded at 3:25
17 P.M.)

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C E R T I F I C A T E

This is to certify that the attached proceedings before the
U. S. Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Interview of David A. Fields

Docket Number:

Place of Proceeding: Atlanta, GA

Date: August 31, 1995

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission taken by me and, thereafter reduced to
typewriting by me or under the direction of the court
reporting company, and that the transcript is a true and
accurate record of the foregoing proceedings.

Melanie Schallock

MELANIE L. SCHALLOCK
Official Reporter

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Case No. 2-94-036S

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EXHIBIT 7

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: In the matter of
Interview of
Robert P. Weiss

Docket Number: (not assigned)

Location: Atlanta, Georgia

Date: August 31, 1995

Work Order No.: NRC-319

Pages 1-73

2-94-036

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EXHIBIT 7
PAGE 1 OF 75 PAGE(S)

*Title page &
pgs 1-74*

BEFORE THE

U.S. NUCLEAR REGULATORY COMMISSION

In the Matter of:)
)
INVESTIGATIVE INTERVIEW OF:)
)
ROBERT P. WEISS)
)
(CONFIDENTIAL))

U.S. Nuclear Regulatory
Commission
101 Marietta Tower
Suite 2900
Atlanta, Georgia

Thursday, August 31, 1995

The above entitled matter convened for
INVESTIGATIVE INTERVIEW pursuant to notice at 10:30 A.M.

APPEARANCES:

On behalf of the U.S. NRC:

JAMES D. DOCKERY, Senior Investigator
JAMES Y. VORSE, Senior Investigator
CURT RAPP, Reactor Engineer Inspector
WILLIAM McNULTY, Field Office Director
U.S. Nuclear Regulatory Commission
Region II
101 Marietta Tower, Suite 2900
Atlanta, Georgia

On behalf of the Witness:

RICHARD W. HENDRIX, Attorney
Finch, McCranie, Brown & Thrash
225 Peachtree Street, NE
1700 South Tower
Atlanta, Georgia

P R O C E E D I N G S

MR. DOCKERY: For the record, the date is August 31st, 1995. The time is approximately 10:30 A.M. My name is James D. Dockery, Senior Investigator, Nuclear Regulatory Commission, Office of Investigations.

During this proceeding, which will be recorded for transcription, the NRC Office of Investigations will conduct an interview of Mr. Rob Weiss. The interview pertains to OI Investigation #2-94-036. Location of this interview is the NRC Regional Office, Region II, Atlanta, Georgia.

Several others are in attendance at this interview, and I'd like to ask them to identify themselves for the record, starting with Mr. Vorse.

MR. VORSE: My name is James Y. Vorse, and that's V-as in Victor-o-r-s-e. I'm a Senior Investigator, U.S. Nuclear Regulatory Commission Office of Investigations, Region II, Atlanta, Georgia.

MR. DOCKERY: Mr. Rapp?

MR. RAPP: My name is Curtis Rapp, R-a-p-p. I'm a Reactor Inspector for Region II, NRC, in Atlanta, Georgia.

MR. DOCKERY: Mr. Hendrix?

MR. HENDRIX: My name is Richard Hendrix. I'm an attorney here in Atlanta, representing my client, Rob Weiss.

MR. DOCKERY: And if the witness would stand and raise his right hand, please.

1 Whereupon,

2 ROBERT P. WEISS

3 appeared as a witness, and having been duly sworn, was
4 examined and testified as follows:

5 EXAMINATION

6 BY MR. DOCKERY:

7 Q Would you please state your full name; date of
8 birth; and Social Security number for the record, please.

9 A My name is Robert P. Weiss. I was born [REDACTED]
10 [REDACTED] My Social Security number is [REDACTED]

11 Q Mr. Weiss, before we went on the record today we
12 provided you and your counsel with a copy of the verblage
13 from Section 1001, Title 18 of the United States Criminal
14 Code; is that correct?

15 A That is correct.

16 Q And have you read that section?

17 A Yes, I have.

18 Q Do you understand how it applies here today?

19 A Yes.

20 Q You seem reluctant. If you have any questions,
21 please ask your counsel, or if you have questions of us
22 we'll answer them.

23 This is considered an official proceeding, and
24 consequently it is subject to the provisions of 18 USC 1001
25 and/or the federal laws pertaining to perjury. The point

1 being, we just want you to tell the truth.

2 A No problem.

3 Q Good.

4 Mr. Vorse?

5 BY MR. VORSE:

6 Q Okay, Mr. Weiss, what type of license do you have?

7 A I don't have a license at this time.

8 Q Okay. When you were employed by FPC what license
9 did you have?

10 A A senior reactor operator's license.

11 Q And how long had you had that senior reactor
12 operator license?

13 A I believe it was since 1989.

14 Q Okay. And how long were you employed by FPC in an
15 operator capacity?

16 A Approximately 15 years.

17 Q And before that what did you do?

18 A Before I worked for Florida Power Corporation I
19 managed a drug store.

20 Q We last talked about the September 5th, 1994 and
21 we got some detail. We're probably going to go into it a
22 little bit more today. But we also understand there was a
23 somewhat similar evolution conducted on the 4th of September
24 1994, the night before the 5th—obviously—evolution. Can
25 you describe in detail what led up to that and how it was conducted?

1 A Well, basically we did the same thing on the 4th
2 that we did on the 5th with one exception. We didn't -- we
3 didn't wait a half hour for the temperatures to stabilize
4 after we added the gas. We had not seen the calculation at
5 that point and we were having some trouble calculating what
6 the limit was accurately enough to plot on a computer graph.
7 And when we looked at the data it appeared inconsistent, and
8 we decided we needed to find out more. So we came in the
9 next night and we pulled the calc and we did some research
10 on it and decided to try again.

11 Q When you conducted the September 4th evolution can
12 you tell me how you plotted the data?

13 A Well, you can plot the data off of the recorder,
14 which isn't very accurate; or you can use the read-off
15 system to pull the computer point history out of the plant
16 computer. You can do it either way. We tried to do it with
17 the plant computer, and when you do that you get an accurate
18 representation on the computer points, but you have to try
19 and read a graph to get the limit curve and put that in, and
20 it wasn't working very well.

21 Q Did you do an analysis of this before the
22 September 5th evolution? Did you look at this data and then
23 come back and discussed that you needed to do more?

24 A Yes.

25 Q When you -- when you reviewed all the procedures

1 on the 4th did you do it again on the 5th just to be sure
2 you were okay; or were the procedures done on the 4th, they
3 just went right into the evolution on the 5th? Do you
4 remember which way it was done?

5 A I don't recall specifically. I know that we were
6 checking the procedures. We had procedures for what we did.

7 Q On the 5th of September you posted one reactor
8 operator in the Auxiliary Building and I guess a nuclear
9 operator—is that what they call him?—auxiliary operator in
10 an anti-C gear to -- to vent the hydrogen, just in the event
11 of a LOCA. Did you do that same thing on the -- or the 4th
12 of September?

13 A I don't recall if we actually had a guy dressed
14 out in the valve alley. We had discussed I think with the
15 Aux Building operator venting the makeup tank if we had to,
16 but I can't remember now whether we actually had the guy
17 dressed out in there or not. It's been quite a while.

18 MR. DOCKERY: For the record, I think we should
19 just reflect that the Field Office Director of the Region
20 II, NRC Office of Investigations, Mr. William McNulty, has
21 just joined this interview.

22 BY MR. VORSE:

23 Q Mr. Weiss, did you all make a logbook entry on the
24 evolution of the 4th of September?

25 A I don't think that there was a log entry made on

1 it.

2 Q Would that normally -- would you normally make a
3 log entry for something like that?

4 A Well, in -- in my position I don't have a logbook;
5 okay? The shift supervisor has a logbook, and the nuclear
6 operators have logbooks. Normally the nuclear operator
7 would log additions and removals from makeup tank.

8 Q All right. When you -- when you did the evolution
9 on the 4th September, did you ever go across -- did you ever
10 get into the unacceptable region of the curve?

11 A I believe we did because the alarm came in.

12 Q What'd you all do when the alarm come in?

13 A Well, once we'd gotten down to our 55 inches we
14 added water. I believe that the alarm cleared when we added
15 the water, but I'm not sure. And I -- remember, I'm trying
16 to remember something that happened, what, 11 months ago,
17 that I didn't think was very important at the time. I think
18 that we did vent the makeup tank after that, as I recall.

19 Q Why didn't you tell us about the 4th of September
20 1994 when we interviewed you last time?

21 A Well, first of all, I didn't think it was
22 important; okay? I didn't think I'd done anything wrong
23 that night or the 5th. When we were talked to by the
24 corporate counsel, Gerald Williams, in preparation for the
25 interview, the -- when I talked to you earlier, he -- he had

1 a lot to say about you guys. Basically, he said that you
 2 were cop want-to-be's, and that you personally had just
 3 screwed up and gotten demoted and probably were going to
 4 have a real attitude. He said, "These guys are just out to
 5 make their case, you know. They don't care about you."
 6 Said, "Don't volunteer anything." He said, "Answer the
 7 questions truthfully that you're asked, but don't volunteer
 8 anything." And I -- you know, I hadn't read all these laws
 9 or the enforcement policy at that time, I was going on the
 10 advice of the counsel. And you didn't ask me about the 4th.

11 Q Okay. When -- when Mr. Halnon approached you and
 12 asked you about the 4th evolution on -- the September 4th
 13 evolution, you said you didn't want to muddy the water.
 14 Who's "we"?

15 A Didn't want to muddy the water? What was that?

16 Q Didn't want to muddy the water. That was your
 17 response, according to Mr. Halnon, when he asked you about
 18 the 4th of September evolution.

19 A He called me on the telephone and asked me if we
 20 had run the evolution on the 4th and I said yes, we had.
 21 And then he asked me, "Well, why didn't you say anything
 22 about it?" And I told him, well, at first I hardly even
 23 thought about it 'cause I didn't think it was important.
 24 And then, you know, it had gone on long enough that -- that
 25 I felt that to bring it out then would be ridiculous, that

1 I'd get fired for -- for nothing, you know.

2 Basically they took actions we took trying to
3 resolve a nuclear safety concern and they stuck a bad label
4 on it and notified the NRC that we had done something wrong.
5 And -- and you guys have just bought right into it, you
6 know. Basically I was in a situation where I was being
7 threatened with being fired for bringing up a nuclear safety
8 concern.

9 BY MR. DOCKERY:

10 Q Can you go into that in great detail, please, the
11 statement you just made.

12 A Okay. Basically we performed an evolution that we
13 were authorized to perform, we weren't doing anything that
14 unusual. We had procedures for what we did. Okay?

15 You got to realize that the response of the makeup
16 tank to a LOCA is a rapid drop in level; okay? You put
17 pressure on the curve. Well, whether you drain down the
18 makeup tank by using a let-down system or you drain the
19 makeup tank with a LOCA, it really doesn't matter; okay?
20 Tank level's going to drop and your pressure response is
21 going to draw the curve. So the fact that that pressure
22 response pulled above the line as we drained the -- drained
23 the tank level down, that's what it would do in a LOCA.
24 Anytime you put pressure on the curve, you were there. It
25 made no difference whether you were where I was during that

1 30 minutes, or sitting there on a curve like we had been
2 for--what?--18 months. You know, we'd been trying to get
3 this thing resolved for a while, the operators on my shift
4 had, and they'd been pretty much been consistently shut down
5 by engineering. Engineering wasn't listening to what they
6 had to say, they weren't doing any kind of thorough analysis
7 on it.

8 If you look at the calc that was the basis of the
9 curve, it says clearly, in the design assumptions, that the
10 calc was only good through Refuel 8. And yet engineering
11 didn't find that out; okay? Through this whole time of
12 operator concerns and their resolution of it, they had never
13 even looked at the calc. Either that, or the only other
14 option would be that they realized it and covered it up.
15 I'm not going to accuse them of that. But I think they just
16 never even pulled the calc to look at it.

17 So we wrote this problem up; okay? And, you know,
18 initially the response from the plant manager was, you know,
19 "Good job, you've challenged engineering on it." But I
20 think that they started to realize that it said some pretty
21 bad things about their Engineering Department, about their
22 management. And I know for a fact that one of the system
23 engineers, Phil Saltsman, got together with Bruce Hickie in
24 a racquetball meeting and suggested this thing be portrayed
25 as a test. And the next thing I know, they're threatening

1 to fire me; they pulled me into something they called a
2 Management Review Board that they made up for the occasion,
3 which basically was a very intimidating session; and then
4 they reported to the NRC as an illegal test.

5 Well, all this -- this whole thing has been I
6 think a deliberate effort to shift the focus from the
7 failings of FPC's management and Engineering Departments by
8 putting us in a spotlight and making it look like -- like we
9 had done the bad thing, and it seems to have been working
10 pretty good.

11 Q Mr. Weiss, when you use the word "threaten" and
12 "safety concern" in the same sentence or context we become
13 very concerned. Who -- who do you feel was threatening you?

14 A Well, I was told that Bruce Hickie had my pink
15 slips in his back pocket.

16 Q Who told you that?

17 A I think that was Greg Halnon. It was prior to the
18 Management Review Board. It was a very tense time.

19 Q Can you amplify that any further? Did you feel
20 threatened in that regard by anybody else?

21 A Well, look, there was a curve that a lot of
22 licensed operators out there felt was bad. No one could get
23 it listened to. I'm the one that listened to my people
24 enough to follow up on it and to get something done about
25 it. And we were right; okay? The curve was bad. Now, I'm

1 the one with my integrity being questioned, and I'm the one
2 who got fired by Florida Power. I think I'm the only one --
3 me and the guys on my shift are the only one in this entire
4 affair that's shown any concern, any real concern with
5 nuclear safety.

6 You know, look at motives. I -- I wasn't going to
7 get a raise out of this, I wasn't going to get a promotion.
8 I expected to get some flack because the issue had become
9 pretty political with Pat Beard wanting his 25 cc's per kg
10 and the Engineering Department doing anything they could to
11 give it to him. I thought anymore flack on this issue, that
12 I was going to take some heat on it. And I was willing to
13 do that, in part from the ethical standards that I've heard
14 from you guys by what you expect from a senior licensed
15 operator. Well, I stood up for nuclear safety and I'm
16 fired. And I've got to worry about feeding my kids now.

17 And I'll tell you something else, I'm -- I'm still
18 in touch with some people out there. I don't think you're
19 going to see anybody coming up with a safety concern at that
20 plant for a long, long time.

21 Q Where do you think that the reluctance to address
22 the issues that you were concerned about emanated from?

23 A I think it came from the Engineering Department.

24 Q Well, that -- that's kind of an amorphous being.

25 A The system engineers Phil Saltsman and Pat Hinman

1 were the ones primarily involved. But their management
2 chain must be involved, too, because they signed off on the
3 letter saying that they believed the curve was accurate and
4 conservative.

5 Q Who's covering their ass here? If you'll pardon
6 my -- my French.

7 A Well, my perception is that engineering is
8 covering its ass for doing a totally incompetent job, you
9 know. And if you take a look at some of the other things
10 going on in engineering you'll understand this is not an
11 isolated incident. They're already feeling the heat from
12 that. And I think that management's covering its butt,
13 because I know that they've been in some kind of trouble
14 with you guys for a while now. I believe you phrase it as a
15 lack of program commitment.

16 Well, you know, look at this: You had numerous
17 operators with a safety concern that got shut down by
18 management, that let engineering do a shoddy job. It didn't
19 look good for them, but they've shifted all the focus to us.

20 MR. DOCKERY: Before I go any further,
21 Mr. Hendrix, when you decide it would be a good time to
22 introduce this material, go ahead and do so.

23 MR. HENDRIX: Well, maybe this might not be a bad
24 time because, for the record, we had brought today--and I
25 think I discussed it with Mr. Vorse; maybe it was with

1 Mr. McNulty way back when--that we would bring source
2 documents to help elaborate on and amplify on any questions
3 you had. So we tried to identify the main documents that
4 sort of help explain what happened during this evolution and
5 how it came to even be performed. And so we've identified
6 two spiral notebooks.

7 We've also produced to Mr. Vorse a chronology of
8 events, which I'd like to have that made part of the record
9 here today, as well, which sort of sets forth what the
10 position of both Mr. Weiss and Mr. Fields--who I jointly
11 represent--are relative to the chronology of the events and
12 our -- our view of the -- of those events. And so I would
13 like both the spiral notebook and our chronology of events
14 paper, if you will, to be marked as exhibits to -- to this
15 transcript and to be afforded the protections of the -- this
16 proceeding, as well, which I understand is confidential. So
17 we would like to tender those into the record.

18 I would also like to ask whether I can ask
19 questions of my client from time to time which I think might
20 amplify something he's being questioned about?

21 MR. DOCKERY: I think, on a case-by-case basis,
22 certainly if it amplifies -- if in your belief it amplifies
23 the -- his response, by all means.

24 MR. HENDRIX: I would -- I would like to do that
25 now because I think this is important to understanding some

1 of the things that Mr. Weiss is saying.

2 But let me just ask you now, Rob, the evolution
3 that you performed you found out later was a design basis
4 issue, did you not?

5 THE WITNESS: Right.

6 MR. HENDRIX: Now, based on the evolution and the
7 data that you collected on the 5th, could you tell these
8 gentlemen your opinion about the design basis for the plant
9 for 18 months and how that pertains to what you did for 30
10 minutes on the 5th.

11 THE WITNESS: Well, the plant had been outside the
12 design basis every time we operated on the curve. That's
13 pretty obvious, especially when you look at the new curve.
14 It's well under the old curve.

15 So we had been being pushed by management to
16 operate right on the curve 'cause they wanted to maximize
17 hydrogen pressure; okay? Those shifts that were complying
18 with that directive were operating outside the design basis,
19 and this had been going on ever since we came up from
20 refuel.

21 Now, when you look at the trace that we drew it
22 looks bad because you look at it and you say, "Well, look,
23 that line goes above the other curve, goes above the limit
24 curve." Well, that's the line you're going to draw in a
25 LOCA every time you're sitting there. So what I did really

1 had no significance; I didn't drive the plant farther (sic)
2 outside design basis than it already was all the time. And
3 yet, you know, Florida Power, when they write their LERs, it
4 sort of implies that, you know, we were -- you know, we
5 drove it outside design basis. You know, that's not true.
6 They had been continuously outside design basis on this
7 thing.

8 MR. DOCKERY: If we can step back for just a
9 second, I think we should note for the record -- acknowledge
10 receipt of the -- the two spiral notebooks, each containing
11 about an inch to an inch and a quarter of documentation.
12 And as we refer to this documentation, we'll identify it by
13 the record, rather than make this an exhibit.

14 BY MR. VORSE:

15 Q You're familiar with AI 500; Administrative
16 Instruction 500?

17 A Yes.

18 Q Okay. When -- when you conducted the evolutions
19 on the 4th and the 5th September of 1994 and you went into
20 the alarm mode was there -- do you all have a reason why you
21 didn't violate AI 500?

22 A AI 500 does not set standards on how quick you
23 have to respond to an alarm. That's left up to the
24 operator's judgment. I don't think that it was an excessive
25 amount of time. I think AI 500 says that you should pull

1 the alarm response procedure for those alarms that aren't a
2 result of activities in progress. Well, you know,
3 technically you didn't even have to pull the AR because it
4 was a result of what we were doing. We expected to get the
5 alarm because we expected that the curve was bad; okay?

6 And we -- we took the actions in the alarm
7 response procedure. We didn't take them right away. We --
8 we waited till we dropped level down to 55 inches. But
9 there's no standard set in AI 500 for that. There's nothing
10 that says, hey, you have to do it within one minute of the
11 alarm coming in or ten seconds. If there's no standard, you
12 know, how are you saying I violated anything?

13 MR. VORSE: Curt, have you got some questions?

14 MR. RAPP: Yes, I do. Do you have the transcript
15 from the earlier interviews with you?

16 MR. HENDRIX: We've asked for a copy but we didn't
17 get a copy.

18 MR. RAPP: No? Okay.

19 MR. HENDRIX: We reviewed them yesterday.

20 MR. RAPP: You reviewed them yesterday?

21 MR. HENDRIX: Yes.

22 MR. RAPP: Okay.

23 BY MR. RAPP:

24 Q I have a couple of questions relative to the
25 transcripts from the first interviews. On Page 5, Line 15,

1 it states in here that there was a question asked, "Before
2 you did this was there some discussion about this test? Can
3 you recall the discussion and who was there?"

4 You said, "And we discussed what we planned to do,
5 to put makeup tank level at the high end normal operating
6 curve -- normal operating event and put makeup tank pressure
7 to the curve, then bleed the tank down to 55 inches, which
8 is the lower limits of the operating curve." Can you recall
9 when that discussion took place? Was that on the 5th, was
10 it on the 4th?

11 A We had that discussion on both days.

12 Q On both days?

13 A Yeah.

14 Q Okay. Was that during shift turnover?

15 A No.

16 Q Was that part of the shift turnover?

17 A No, because the first day Mark came to me during
18 the shift to discuss what he wanted to do; okay? And we
19 talked about it. We decided that we were covered by OP 402
20 to do the evolution, and we basically just had an informal
21 pre-job briefing, you know, where we got everyone together
22 and we talked about it.

23 Q Okay.

24 A And when we came in on the 5th, you know, we did
25 not originally plan to redo it that night. We pulled the

1 calc and we saw some things and figured out how to do it,
2 and decided to go ahead and do it again.

3 Q Okay. When you had this discussion was the shift
4 manager present in the control room?

5 A No.

6 Q Or was the shift...?

7 A I don't think he was.

8 Q Was the shift manager available?

9 A Yes, he's available.

10 Q Okay. My question is really, then: Why wasn't
11 the shift manager included in that discussion either on the
12 4th or the 5th?

13 A It just didn't seem like a big deal, honestly, you
14 know. We were going to put -- put water in the makeup tank
15 and lower level back down on the makeup tank and then apply
16 pressure. It did not seem like anything that bad.
17 Obviously, in retrospect, maybe we should have called the
18 shift manager. But that's up to the shift supervisor's
19 judgment.

20 Q Did anyone suggest that the shift manager might
21 need to be involved?

22 A No.

23 Q No? Okay. And going back to the transcript, I'll
24 probably -- just be easier for me to give this to you.

25 Page 7, Line 16, if you could just read that. And could you

1 tell me when -- when this discussion occurred.

2 (The witness reviews certain material.)

3 A I'd say it happened both nights.

4 Q Okay. Was that the only time that you discussed
5 using OP 402 for the test or for this evolution?

6 A Could you restate the question.

7 Q Was that the only occasion in which you discussed
8 whether 402 was adequate to cover the evolution?

9 A I think both times before we did it, we talked
10 about the fact that we were going to be doing it per OP 402.
11 It's -- I guess I don't understand what you're looking for.

12 Q What I'm trying to find out here is, is that: Was
13 -- was there a discussion, prior to either the 4th or the
14 5th, where somebody said, "Hey, we got OP 402 here. This'll
15 tell us how to do it. We can just use OP 402, put hydrogen
16 pressure on the curve, bleed the tank down, take the data,
17 and then refill it." Was there any discussion prior to the
18 4th or the 5th about how to do this evolution?

19 A Well, on the 4th and the 5th we talked about it.

20 Q Okay, but what...?

21 A Prior to?

22 Q Prior to that?

23 A No, not that I know of. This didn't
24 -- till the 4th, you know, the first time we did

25 Q Okay. Then if you can go to Page 10,

1 MR. HENDRIX: If I might, on that last one, I
2 believe that the engineering response to their problem
3 before closing it out, wasn't that September 2nd that sort
4 of came back saying that they had...

5 THE WITNESS: That letter?

6 MR. HENDRIX: Yeah, that they were closing it out,
7 it was over. It wasn't too many days before you all had
8 this discussion.

9 THE WITNESS: Right.

10 MR. VORSE: It was -- it was my -- to the best of
11 my recollection, it was September 2nd.

12 THE WITNESS: I believe it was September 2nd,
13 so...

14 MR. HENDRIX: He would have had occasion to --
15 after being asked, "Do you all have anything further to say
16 about it?" on the 4th is when you all first started talking
17 about it, is that right?

18 THE WITNESS: Right, on the 4th is -- you know,
19 Mark came to me and said, "Let's try this," you know.

20 MR. RAPP: Okay.

21 BY MR. RAPP:

22 Q Then on Page 10, Line 13 through Line 20, if you
23 could just read that section.

24 (The witness reviews certain material.)

25 A Okay.

1 Q Okay. Is a shift manager considered to be part of
2 that operating crew or is it just another person that
3 happens to be there at the same time?

4 A The shift manager is in charge of all the
5 departments out there on the back shift. So he's not only a
6 member of the operating crew, he's got other functions. And
7 he also functions usually as the STA, you know.

8 Q Okay.

9 A Does that answer your question?

10 Q You earlier said the shift manager was not
11 included in the discussions or the pre-job briefing on
12 either the 4th or the 5th. Was there any discussion with
13 the shift manager about this before that, say like on the
14 2nd or the 3rd when you -- when you got this letter?

15 A No.

16 Q When you were made aware of this letter?

17 A Not that I know of.

18 Q No? Okay. Okay, thank you. If I can get that
19 back.

20 (Mr. Rapp was handed certain material.)

21 Q Just some general questions, then. Earlier you
22 said that there -- there was a decision made at management
23 levels to have 25 cc's per kg hydrogen in the retro cool
24 system. And who made that decision?

25 A Well, it was coming down from Pat Beard, is my

1 understanding. Pat wanted to achieve the -- I guess it's
2 recommended by EPRI and INPO to have 25 cc's per kg.

3 Q Okay. Is it kind of typical or common that --
4 that other organizations would come to operations and say,
5 "Here's how you're supposed to operate"?

6 A Well, in the case of chemistry, yeah, they -- we
7 generally follow chemistry's recommendations as far as, you
8 know, when to add lithium hydroxide, whatever, you know.
9 This is kind of in the chemistry area. And, you know, they
10 don't specifically tell us how to operate; they'll request
11 that we keep a higher pressure in the tank. Then they start
12 trending it. And if they weren't getting their 25 cc's per
13 kg, you know, we get pressure from above to -- "Hey, you
14 guys need to keep that pressure up there so we can make
15 this," you know.

16 Q "Pressure from above" meaning who?

17 A Line management, from the -- the NPO and the
18 manager of Nuclear Plant Operations.

19 Q Those would be who?

20 A Greg Halnon, Bruce Hickie, Pat Beard.

21 Q Did operations have any input into -- or say that
22 this overpressure or this high hydrogen pressure was a
23 reasonable operating parameter?

24 A No, we were just told to do it. Like I said, a
25 lot of people had concerns about keeping that high a

1 pressure in there. We had concerns that the curve wasn't
2 right. We were told to go ahead and put pressure up on the
3 curve.

4 There was one licensed operator, he used to be on
5 my shift and I -- and I knew him well. He's a real good,
6 dedicated man. And he'd been having a lot of concerns with
7 the hydrogen pressure and keeping the pressure on the curve.
8 And he was just beating his head out against engineering and
9 he kept getting told to go ahead and put the pressure up,
10 and he didn't want to do it because he had -- he had
11 concerns about it.

12 And they finally just beat him down to where he's
13 gone around saying, "Well, I don't care, I'll put 1000
14 pounds in the tank if you want me to." And -- and I heard
15 that, you know, and I just felt ashamed of our management
16 that we had shut him down like that. And I think that may
17 have had something to do with my decision to follow up a
18 little more aggressively when Mark came to me.

19 MR. HENDRIX: We have included as exhibits E-mail
20 from management saying, "Stay on the curve. You are to stay
21 on the curve." That's -- is that right? I mean, is that
22 what was happening?

23 THE WITNESS: Right.

24 BY MR. DOCKERY:

25 Q Who in management was -- was saying that, if you

1 recall? We can certainly refer to the exhibit, but if you
2 recall off the top of your head.

3 A Well, we would get the direction from our
4 management, which would be Greg Halnon. Now, he'd be
5 getting told from -- from above him, Bruce Hickie, you know.
6 I don't have personal knowledge of when they originate, but
7 you hear stories. And the impression I got from what I'd
8 heard was that Pat Beard himself was very concerned about
9 achieving a 25 cc's per kg.

10 Q Why, in your opinion--and I understand this would
11 be hearsay, but we would like your opinion on it--why would
12 that be important to Mr. Beard?

13 A Because they take INPO requirements very
14 seriously. They -- they want to look good to INPO and they
15 want to look good to the NRC.

16 Q Since I'm a layman, can you tell me what the
17 significance is, why -- what does it save or how does it
18 improve the operation of that plant to stay on that curve?

19 A Well, we dissolve hydrogen in the water, and the
20 RCS is an oxygen scavenger. My understanding is that EPRI
21 did a study and figured, well, you can't directly measure
22 how much oxygen you actually have in the -- in the reactor.
23 And I think that their theory was that if you drive up the
24 dissolved hydrogen enough that it'll cut down the amount of
25 free oxygen and that'll help you with your life extension

1 and control of corrosion and stuff. You know, we weren't
2 having problems with oxygen control at our -- at our lower
3 pressures. But this is dealing with a concern where you
4 can't measure it. It's all theoretical stuff, I think.

5 Q Is there a financial benefit in any way in any of
6 all this?

7 A To Florida Power?

8 Q Yes.

9 A There's a financial benefit if it affects life
10 extension. I suppose. Anytime you cut down on the
11 corrosion, yeah, there's a financial benefit. But I think
12 it's more -- when you start dealing with -- with INPO, my
13 understanding is that if you get a good INPO rating it
14 directly affects your stock ratings, your bond ratings. So
15 complying with all this INPO directives is business.

16 Q In your opinion, is that what -- what drove this?

17 A My opinion is that Pat Beard directed that we
18 achieve the 25 cc's per kg. I think there was a lot of
19 pressure put on the Engineering Department to achieve that.
20 Now, you know, I think that it started getting political,
21 that there started to be a lot of pressure going on down
22 there; there were all these concerns coming in; and -- and
23 the engineers are kind of caught in the middle, you know.
24 They were trying to do what their boss is telling them to do
25 and, you know, we kept coming up with concerns about it.

1 And I think they started getting pretty frustrated with the
2 whole thing.

3 Q Mr. Weiss, is it fair to say that you were
4 frustrated?

5 A I -- I don't think "frustrated" would be the right
6 word. I was very concerned about the pattern I saw of
7 licensed operator safety concerns being shut down. I was
8 very concerned about that, and I did what I felt ethically
9 was the right thing to do. I stood up for the guys with the
10 concern. We got the problem fixed, but we've paid the price
11 for it.

12 Q Well, when you say "stood up," are you saying that
13 euphemistically, or are you referring to some meeting that
14 you -- where you raised the issue? What do you mean when
15 you say you stood up?

16 A I'm saying that we went ahead and took the data
17 that showed the curve was bad, and we -- I wrote the problem
18 report. You know, I was willing to take the heat for, you
19 know, picking the scab off of this thing one more time, and
20 I expected to take some heat for it.

21 Q In retrospect, was there any other course of
22 action you felt you could have taken short of conducting the
23 evolution?

24 A The problem was, is we had data taken under the
25 curve during SP 630. That data was clearly approaching the

1 curve; it looked like it was going to cross it. And that --
2 that was documented in the problem report, 94-149. And you
3 look at the response to that, and it was basically closed
4 out by engineering with a statement that boils down to,
5 "Well, it looks to us like they're getting closer 'cause
6 they're both approaching zero." Well, that's -- that's just
7 sophomoric. That's shallow engineering.

8 There's no analysis going into it; they obviously
9 didn't pull the calc and look at it, did they? Or they
10 would have known it was only good through Refuel 8. They
11 just looked at it and wrote it off with appearances. You
12 know, the question wasn't: Are the pressures both
13 approaching zero? You know, the question is: Hey, what's
14 the level going to be in the pipe when they get to zero, you
15 know? I don't think they put any serious analysis into
16 dispositioning that.

17 So I felt that any data taken under the curve was
18 going to be ignored. Now, you know, I could have gone to
19 meetings and stuff, but we weren't having much luck, you
20 know, getting anything done. We were being told -- you
21 know, engineering would tell us in their judgment the curve
22 is good and accurate, you know.

23 Q Okay, if I didn't use the term before let me use
24 it this time and ask the question a different way. Did you
25 -- was running that evolution in your mind a last resort?

1 A Yes.

2 Q Had you considered going to the NRC with your
3 concern?

4 A Well, you know, Mark had talked to the residents a
5 few times and nothing happened, you know. There was no big
6 pressure put on engineering to take a good look at it or
7 anything. You know, and -- and I think they told him, you
8 know, "Well, you know, you need to call in an allegation,"
9 you know, and give him some number for calling in an
10 allegation. Well, you know, that's viewed as kind of a
11 serious thing to do. And...

12 Q Would you identify Mark for me, please.

13 A ...we were kind of hoping that we could work it
14 out. Mark Van Sicklen. We were hoping that -- that...

15 You know, I -- I was a loyal company employee. I
16 wanted to work it out within the system, you know. I said,
17 "Well, if we just get some -- some data that clearly shows
18 the problem and give that to engineering, then they'll have
19 something to work with. They'll have to realize that there
20 is a problem here, you know."

21 BY MR. VORSE:

22 Q Whenever you do something that's unusual--and I
23 think that we can say that the September 5th was non-routine
24 'cause you did the -- you were in alarm status and you were
25 plotting data--do you -- do you have avenues -- let's --

1 could you have held a safety meeting or gone to management
2 and said, "Hey, we want -- we want to do this. Let's have a
3 safety analysis," or whatever? Do you think that you had
4 that avenue if you had wanted to pursue it?

5 A Well, you know, in retrospect I'd be a lot better
6 off if I had said, "Okay, let's write a test procedure to do
7 this." I didn't think one was needed because I thought I
8 had approved procedures. I also think that if I had sat
9 down and wrote up a test procedure, that it would have gone
10 to engineering for a review and it would have been shot
11 down. I don't think they would have done it.

12 Q Do you think the reason you didn't do something
13 like that was because you just felt that -- that that wasn't
14 going to get through the bureaucracy?

15 A No, I didn't think that we needed a test
16 procedure. We had approved operating procedures to do every
17 step of what we did.

18 BY MR. McNULTY:

19 Q Maybe we're missing something here, then. What
20 procedure says that you can exceed the operating limit,
21 place the plant in alarm status, and gather data for half an
22 hour, just out of curiosity?

23 A The curves are referential in nature; okay? They
24 are referenced by operating procedures. Curves that are
25 continuously applicable, you'll find them referenced in the

1 limits and precautions of the procedures. They say stay --
2 stay within the bounds of this curve or that curve, you
3 know. Well, you look at OP 402, there's no reference to
4 Curve 8 in the limits and precautions. It's only referenced
5 in the section where you do hydrogen addition and I think
6 venting; okay?

7 Obviously because the assumption is made that when
8 you add gas you stay under the curve, then from that point
9 on it's -- it's never going to go over the curve, I guess is
10 the assumption, because assume that the curve is right. You
11 know, I -- I had a procedure to put pressure on the curve, I
12 had a procedure to drain down the makeup tank. And, you
13 know, the only part of the evolution that -- that references
14 Curve 8 is when you actually add the gas. And we did not go
15 over the curve while we added the gas, we complied with it.

16 Q So you -- you didn't have to do any additional
17 manipulations that weren't covered in the procedure to get
18 outside the curve?

19 A No, that's the whole point. The system pulled the
20 pressure above the curve. That's -- we drew the actual
21 response of the system. If you had a LOCA, just sitting on
22 the curve, you would draw that same thing. We didn't add
23 gas to drive it over the curve, we put it to the curve and
24 we reduced level, and the pressure response of the system
25 pulled it up.

1 In other words, pressure didn't drop off quick
2 enough, as quickly as the curve predicted it would. Which
3 sort of makes sense, because you look at the calc and they
4 assume that they've got an ideal gas loss situation going
5 there when they've got a system designed to drive hydrogen
6 gas into solution, you know. And -- and they didn't look at
7 the gas coming out of solution. And once again, I consider
8 that pretty shallow engineering.

9 Q You mentioned the other licensed operator who had
10 a concern about taking the tank to the limit, the operating
11 curve limit.

12 A Right.

13 Q Was there -- was there a shift that just refused
14 to bring it to that limit, and stayed well on the acceptable
15 range, that you're aware of?

16 A Well, our shift would tend to run well below the
17 curve. And I've heard other shifts would. I think it was
18 about half and half about the shifts that would bring it to
19 the curve, and then others would -- would come in and drop
20 pressure down because they just didn't believe in it.

21 Q And -- and did you receive any questioning by
22 management about that?

23 A Yes, there was a lot of flack about that. And,
24 you know, they were starting to send these E-mails out
25 saying, "Hey, you -- you need to operate on the curve, you

1 know. Chemistry's going to start trending this hourly, you
2 know." And -- and I've heard, you know, that it was getting
3 to the point where Pat Beard was -- now, I -- I've just
4 heard this, this is just hearsay. But I've heard he was
5 saying, "Hey, if they won't operate on the curve then fire
6 them," you know.

7 BY MR. DOCKERY:

8 Q Do you know who you heard that from?

9 A That was -- I might have heard that from -- from
10 Dave who heard it from Mark, something like that I'm not
11 sure.

12 Q Identify Dave and Mark fully, please.

13 A Dave Fields. You'll be talking to him shortly.
14 And Mark Van Sicklen. But there was definitely pressure to
15 operate on the curve.

16 BY MR. McNULTY:

17 Q So wouldn't you think that there'd be a similar
18 action taken for someone who operated beyond the curve?

19 A I don't think that -- if I had added hydrogen,
20 taken it up past the curve and willingly operated up there,
21 then I -- I'd say that I violated the procedure, because
22 when I added the gas I -- I took it up past the curve. You
23 know, I -- I think that this thing has been pretty unfairly
24 characterized right from the very start. We challenged the
25 curve, we didn't violate the curve. We placed the system in

1 a legal position and challenged the response to match the
2 assumed response, to match the curve, and it didn't.

3 Q So I guess based -- I want to make -- I want to
4 make -- get clear on this. You didn't do anything different
5 than a normal evolution, is that what you're saying? You
6 didn't -- you didn't do any additional manipulations or
7 anything to insure that -- that it continued to drop or --
8 or anything like that, the water level?

9 A Well, we -- we diverted the -- you know, you
10 divert let-down to a bleed tank to drop makeup tank level.
11 You have a procedure to do that. No, there was nothing --
12 we forced the water level to drop, but we didn't force the
13 pressure to do anything.

14 BY MR. RAPP:

15 Q Let me -- let me clarify. I think what
16 Mr. McNulty is asking is: Did you do anything that was out
17 of the norm with the way the system was normally operated in
18 order to accomplish this evolution?

19 A No.

20 Q Is that -- is that it?

21 MR. HENDRIX: And what -- and if I might
22 interject, I mean, what they established was that if you
23 operate on the curve, which they had been compelled or asked
24 to do for -- and had been done for 18 months, you're outside
25 the design basis. They established that. But they,

1 themselves, did nothing other than operate on the curve, is
2 that -- that correct? In other words, you did not do
3 anything that was not bounded by existing procedure?

4 THE WITNESS: That is correct. You know, it's...

5 MR. RAPP: But you've -- but you've also
6 maintained you didn't know that was a design basis curve.

7 MR. HENDRIX: No one did.

8 THE WITNESS: No, it took the plant--what?--two
9 months to figure that out, didn't it? You know,...

10 MR. HENDRIX: But he's been terminated allegedly
11 for operating the plant outside of the design basis for 30
12 minutes, and it'd been operated outside the design basis for
13 18 months because of engineering incompetence.

14 THE WITNESS: Is it the position of the NRC that
15 they would rather the plant was still operating design
16 basis, that this hadn't happened, that I just shut up?

17 MR. DOCKERY: It's not appropriate for us to
18 comment on what the position of the NRC is. You have to
19 understand, we -- with the exception of Curt here, we're
20 with the Office of Investigation.

21 THE WITNESS: I understand.

22 MR. DOCKERY: So we really can't make a statement
23 regarding that.

24 MR. VORSE: Any other questions?

25 MR. McNULTY: You'd have -- an appropriate time to

1 ask that question would probably be at the enforcement
2 conference. This is mainly -- for us it's a fact-gathering.

3 THE WITNESS: Very well.

4 BY MR. RAPP:

5 Q You said earlier that there was no special
6 procedures required for this, that you thought the plant
7 procedures you had in hand were adequate.

8 A Correct.

9 Q Are you familiar with NOD 12?

10 A Which one is that?

11 Q Well, NOD 12 is a -- is a nuclear operations
12 directive—I guess is what it's called—that details when
13 procedures are required and how to go about evaluating to
14 determine if a procedure's required, Reg Guide 1.33
15 activities.

16 A Okay.

17 Q Have you ever used NOD 12?

18 A I don't recall using it for anything.

19 Q Is there -- is there an understood practice or a
20 -- a common practice that is used to determining (sic) when
21 procedures are required?

22 A Well, procedures are required for almost anything
23 you do in a nuclear plant. But if you already have approved
24 normal operating procedures that'll do the job, you wouldn't
25 normally have to go and write a new procedure.

1 Q Well, let me -- let me ask this question, then.
2 Is it a common practice or an understood practice that if I
3 want to accomplish a task, that I can go to Procedure Y and
4 pull out steps from that, and Procedure Z and pull out steps
5 from that, and Procedure Q and pull out steps from that to
6 accomplish this task?

7 A If your task can be broken down into a series of
8 normal operations and you have a section of the procedure
9 dealing with each of those operations, then you can use
10 those sections in the procedure. Now, you can't pick and
11 choose steps to do, you do the procedure.

12 Q Okay, so you can pull sections out of -- out of
13 particular procedures?

14 A You know, there -- there's a section in OP 402 for
15 adding the gas; you follow that. There's a -- there's a
16 section in OP 402 for reducing makeup tank level, and you
17 follow that; another section for putting water back in.
18 You're using the procedures the way they were designed to be
19 used.

20 Q Do FPC procedures define what a test or experiment
21 is?

22 A No, I haven't been able to find any definition of
23 that, even in, you know, what I've seen of the CFR.

24 Q Do FPC procedures define what an infrequent
25 evolution is?

1 A Yeah, they do talk about infrequent evolutions, I
2 believe, the AI 500.

3 Q Are you familiar with AI 400B?

4 A Vaguely.

5 Q Vaguely? Okay. This is a copy of AI 400B, and
6 Definition 3-1-4 there for infrequent evolutions. Would the
7 evolution you performed fall into that definition?

8 (The witness reviews certain material.)

9 MR. HENDRIX: Well, if I might interject, the
10 definition is "any test or operational sequence." And I
11 don't know that the term "test" is defined anywhere, but...
12 BY MR. RAPP:

13 Q Well, it -- it lists several categories in that
14 definition. Does your evolution fall into any of those
15 categories?

16 A First of all,...

17 Q Those activities?

18 A ...this is "infrequently performed." Adding gas
19 to the makeup tank is not an infrequently performed
20 evolution.

21 Q Okay.

22 A Reducing makeup tank level is not an infrequently
23 performed evolution.

24 Q Okay.

25 A This is -- this is intended basically for, you

1 know, big tests that you -- surveillance procedures and
2 stuff that are hardly ever done, you know. It's -- it's not
3 -- this is kind of out of context.

4 Q Okay. So then what you're telling is that this
5 evolution would not fall under that definition?

6 A No.

7 Q Okay. Thank you.

8 A Basically, the -- the rule of thumb we use for a
9 test, I think, is you ask yourself: Do I have procedures to
10 do what I want to do? If you have procedures, then it's
11 already been through a 50-59 review. If you don't have
12 procedures, then you need one. And at that point you'd
13 write a test procedure. But we had procedures for
14 everything we did.

15 BY MR. VORSE:

16 Q Did you feel that -- that you were -- that you
17 were adequately covered under 50-59 to -- to do the
18 evolution?

19 A Yes, because we were using approved procedures.

20 BY MR. RAPP:

21 Q Okay. Are you aware of any other evolutions that
22 have been performed solely for the purposes of gathering
23 data to verify plant response?

24 A I have heard that it had been done before. I
25 don't know to my personal knowledge.

1 Q I'm -- I'm not talking about the makeup tank, I'm
2 talking in general. Is it a common practice that people
3 will manipulate systems to take plant data or to verify
4 plant response?

5 A Yeah, I -- I'd say that -- that's an accepted
6 practice out there. They -- they do things like -- they
7 want to take the spent fuel system out of service, they'll
8 go ahead and shut down all spent fuel cooling and plot a
9 heat-up rate on it so they can figure out how long -- how
10 long they'd have to have it out of service. You know,
11 there's -- there's no specific procedure to do that.

12 Q Okay.

13 BY MR. DOCKERY:

14 Q Mr. Weiss, for my clarification on that, if -- had
15 you ever had occasion to perform any similar evolutions to
16 the one we're discussing here today?

17 A No, none that I can think of.

18 Q To plot data?

19 A This is kind of an unusual circumstance. Normally
20 you're not in the position of doubting the validity of your
21 curves.

22 BY MR. VORSE:

23 Q Are you aware of any similar evolutions that were
24 conducted in July of '94? Were you familiar with those?

25 A I have heard that that happened, but I don't know

1 any details about it. I know I've -- I've seen some -- some
2 hand-plotted data that was purported to come from that, but
3 I don't know...

4 THE WITNESS: Do we have that in the book?

5 MR. HENDRIX: That may be in the book, some hand-
6 plotted data of an earlier procedure.

7 BY MR. VORSE:

8 Q You answered the question earlier, but I just need
9 to ask you one more time. There was a lot of
10 correspondence, you had a problem evaluation report on the
11 evolution, you had a lot of correspondence such as went to
12 the evolution, and everything -- and of course when we
13 talked everything pointed toward the 5th. And the 4th was
14 never mentioned. Can you once again tell me why the 4th was
15 never mentioned?

16 A First of all, I felt it was invalid data; okay? I
17 wanted to make sure in my mind that there was a real problem
18 before I got the Engineering Department all stirred up about
19 this thing. And we got a thing and said, hey, we just put
20 cold gas in here. Maybe that cold gas was just heating up
21 and that drove the pressure higher, you know. I considered
22 it an invalid test because we didn't let the temperature
23 stabilize. I wasn't trying to hide it. You know, if I was
24 trying to hide it or cover it up, why did I write a problem
25 report on what I did on the 5th? I didn't think there was

1 anything wrong with what I did. I went ahead and identified
2 it. I forgot -- your question again?

3 Q Okay. There was a lot of correspondence after the
4 5th evolution.

5 A Yeah.

6 Q You know, you talked about the 5th evolution, but
7 you never talked about the 4th evolution, which you think
8 would be a logical thing to talk about the 4th and then lead
9 up to the 5th and -- you know, and then you've got the whole
10 story of how you collected the data. And then on the 4th
11 and then what you did and... And that probably would have,
12 you know, been information that -- that I would think that
13 -- that you would want to present, but you didn't.

14 A Well, I -- I didn't think, like I said, that the
15 data was valid. We wrote the problem report on the 5th, and
16 everything past that all -- everything focused on the 5th
17 from that point on, you know.

18 Q Let me ask you this: If you had told them about
19 the 4th--if you'd told "them," I mean management,
20 engineering --about the 4th because the data was
21 inconclusive, do you think that they would have used that to
22 -- to disprove what you came up with on the 5th?

23 A Well, I don't think they could do that. I don't
24 think that would be a valid argument. But, you know, I
25 think engineering knew about the data from the 4th right

1 from the start. They were all over the REDAS data. I don't
2 think that was any surprise to them. When I first brought
3 the problem report to licensing I told Paul Fleming that we
4 had done it both days. I didn't think it was any big deal.

5 BY MR. McNULTY:

6 Q Is there anybody else you can think of that you
7 told that you'd done it on both days, Mr. Weiss?

8 A No. My impression was that Greg Halnon knew about
9 it from things I had heard that he said. I thought it was
10 one of those situations where he -- he knew about it and
11 didn't want to talk about it, I guess.

12 Q Do you know who brought it up to him, the person?

13 A Not specifically.

14 BY MR. DOCKERY:

15 Q When did all of this become a problem for you,
16 Mr. Weiss?

17 A Well, you know, define "problem." It's been 11
18 months of hell ever since, you know, the Management Review
19 Board; you guys got involved in it. You know, they've --
20 they've been playing you guys like a banjo, you know.
21 They're -- they're sitting back there laughing right now.

22 Q Who's "they"?

23 A Management.

24 Q Anybody in particular?

25 A Well, you know, you've got Gerald Williams, who's

1 the counsel, and -- and he's -- he's advising, you know, Pat
2 Beard and those guys. And, you know, they've come up with a
3 strategy and it's worked just great, you know.

4 Q Maybe I need to clarify my question. When I say
5 "problem for you," I mean a -- when -- at what point did
6 that evolution of September 5th begin to have a negative
7 impact on your employment circumstances with FNL?

8 A FPC?

9 Q FPC, I'm sorry.

10 A Well, after Phil Saltsman had his talk with Bruce
11 Hickie on the racquetball court and they came -- they came
12 in, at that point things started going downhill. They had
13 this Management Review Board.

14 BY MR. McNULTY:

15 Q Excuse me. Do you know when that was, what time
16 frame that was?

17 A I don't know the exact date. It was sometime
18 between when the problem -- problem report was issued and
19 the Management Review Board, which happened, I don't know,
20 something like the 14th or 12th or something, I'm not sure.

21 BY MR. DOCKERY:

22 Q 14th or 12th of September?

23 A I don't know the exact date. It seemed like it
24 was a couple of weeks after the problem report was issued.

25 Q Are we in the month of September of 1994?

1 A Yeah.

2 MR. McNULTY: Could be October.

3 A And there may be something in there with the date
4 on, the minutes of the review board, I'm not sure. But
5 right away, you know, we were basically severely counseled,
6 you know. They said that -- said that they weren't happy
7 with us.

8 Q Let me ask you to be specific. When you say
9 "they," we'd like to know who "they" is.

10 A We were counseled -- the Management Review Board
11 was supposed to look at all the issues, is what we heard.
12 But they basically sat us down in there and accused us of
13 performing a test, an unauthorized test. And that had a lot
14 of the senior managers -- you know, you had Bruce Hickie and
15 Ron Davis and... I can't remember everybody that was there,
16 but they were all manager-level people. Greg Halnon was
17 there. And all -- all they really looked into was our
18 actions, you know. No one's ever looked into engineering's
19 handling of this whole thing, you know. I don't think any
20 engineers have suffered any consequences for their
21 incompetence. It's just all been focused on us from the
22 start.

23 Then they -- just before all this stuff started
24 happening I had been moved into the EOP coordinator job. So
25 I was already off shift. I think some point they wrote a

1 letter and said -- they wrote a letter I think to Ebnetter
2 and said we had been restricted from licensed duties. Well,
3 that was the first I'd heard of that. I hadn't been told
4 I'd been restricted from licensed duties.

5 Q When did you become aware that you'd been
6 restricted from licensed duties?

7 A When I read the letter Pat Beard wrote to Ebnetter.

8 Q How long after the fact was that?

9 A I'm not sure.

10 Q I mean, that letter would have a date on it.

11 A Yeah, but I don't know the date of the letter. It
12 was -- I'm not sure.

13 Q Are you testifying that -- that you were never
14 formally advised, or even informally advised by your
15 management that you had been removed from licensed duties?

16 A That's correct. I -- I wasn't told that until
17 they wrote the letter to Ebnetter, you know.

18 MR. HENDRIX: Is that the same letter that says
19 that the operators on your shift were counseled?

20 THE WITNESS: Oh, I'm not sure if it's the same
21 one. But, you know, in one of the letters they -- they
22 wrote that they were going to counsel all the licensed
23 operators on my shift, and I don't believe they ever talked
24 to anyone on my shift.

25 MR. RAPP: Anything else? Okay.

1 BY MR. RAPP:

2 Q Back to the questions I have here. Did
3 engineering explain the basis or limitations of the
4 operating curves or limits they gave you, or did they just
5 say, "Here's this. Use it"?

6 A Just, "Here's the curve. Use it."

7 Q Okay. Were you aware that during an ESF actuation
8 that makeup tank level would go below indicated?

9 A No, we had no idea that, you know, this calc was
10 going to let it go down to two feet in the pipe where you
11 couldn't even see it.

12 Q As a licensed operator what would have been your
13 actions if makeup tank level had gone below indication?

14 A Probably would have shut down the pumps rather
15 than lose them. It'd -- it'd be a real tough choice to
16 make, 'cause if -- if you've got an ESF you don't want to be
17 shutting down your HPI pumps. But if you see your makeup
18 tank level go down, I don't know, you'd -- you'd be sitting
19 there watching the amps, ready to trip them off, I guess. I
20 think it would be a case-by-case basis, just how they
21 reacted.

22 Q Was -- now, you talked about the hydrogen gas
23 binding of the HPI pumps. Was that the only concern with
24 this curve?

25 A That was the concern that -- that we were

1 specifically involved in. The -- the other licensed
2 operator that had a concerns (sic) was looking into like the
3 Appendix R aspects of it, things like that.

4 Q Who was that operator.

5 A That was Bruce Willms.

6 Q Okay. Did operations management take all these
7 concerns--the gas binding of the HPI pumps and the
8 Appendix R concerns--seriously?

9 A Well, I don't know. From my perspective, the
10 operators were getting shut down on the concerns of hydrogen
11 gas binding or -- you know. They -- they were accepting
12 engineering's word that, "Hey, we think this is a good
13 curve." I guess I'm not sure what you're looking for.

14 Q What my -- my question relates to is: Was
15 operations management just saying, "Go back and watch the
16 boards and -- and this is okay, and let's get our 25 cc's
17 per kg and -- and meet the Pat Beard goals and -- and go
18 on"? Or -- or were they saying, "Well, we'll go run this by
19 engineering and get engineering to reevaluate this"?

20 A Well, they were being told to have us operate on
21 the curve; okay? I think that, you know, our -- I think
22 probably Greg Halnon, you know, would have a different
23 perspective on it than Pat Beard would, and he would want us
24 to go ahead and follow up on it. But when you follow up on
25 it and you run into a brick wall and nothing happens, then

1 someone's got to do something at that point.

2 Q Well, where was this brick wall coming from?

3 A Well, from engineering. When you -- when you show
4 them -- when you give them your concerns and -- and they
5 blow them off, you know, apparently without even looking at
6 the calc, I just think that there was a real resistance
7 there to anything that could make this thing more
8 complicated than it already was. They didn't want to get
9 into it 'cause they were trying to meet their 25 cc's goal.

10 MR. HENDRIX: Can I ask a question here?

11 MR. VORSE: Sure.

12 MR. HENDRIX: When the LER is written, is it your
13 understanding that engineering--Mr. Saltsman--had a voice in
14 the drafting of the LER?

15 THE WITNESS: Yes, I think so.

16 MR. HENDRIX: And the LER was not written to say
17 that as a result of engineering calculation --
18 miscalculations, this plant has been outside design basis
19 for 18 months. They didn't write it up that way, did they?

20 THE WITNESS: Originally, you know, Draft 0 of the
21 LER was pretty straight-forward. "We've been outside design
22 basis 'cause we had some faulty calculations." Draft 1
23 comes back, after some engineering input, and it's, you
24 know, "Makeup system evolution causes the plant to be
25 operated outside design basis." And it was very deliberate

1 spin control going on there. It's, you know -- the thing
2 went through about six revs. And I think, you know, there's
3 -- there's been a lot of spin control going on in this whole
4 thing. It's -- it's all a deliberate attempt to put all the
5 blame on the operators and shift all the attention away from
6 the -- the management failures, the engineering problems.

7 BY MR. RAPP:

8 Q Earlier on you said that you had -- you had not
9 talked to the NRC resident inspectors personally.

10 A That's correct.

11 Q Did you ever represent this as a safety concern to
12 plant management? Did you ever come up and say, "This is a
13 safety concern"?

14 A Well, as far as -- no, you know, I don't think I
15 ever went to management. See, this had been going on for a
16 long time; okay? It had been going on with -- with Bruce
17 Willms for quite a while before they got him shut down; and
18 then Mark kind of picked up the ball and he'd been going and
19 talking to engineering and everything. I think it was
20 pretty well perceived that -- that it was a safety concern.
21 That's pretty obvious if you're questioning, you know, this
22 calc. But I think that the first time I ever specifically
23 said to management, "Hey, this is a nuclear safety concern,"
24 was in the Management Review Board.

25 Q Did you ever consider contacting the Employee

1 Concerns Program and -- and taking that route to get this --
2 this issue addressed?

3 A No, that thing's a joke. They don't take those
4 seriously. Dave Fields had run a couple of concerns through
5 that program, and they basically just blew his concerns off.

6 Q So the Employee Concerns Program was perceived as
7 being ineffective?

8 A Yes.

9 Q Okay. Going back to this makeup tank high
10 pressure enunciator, is -- is that enunciator covered in
11 technical specifications?

12 A No.

13 Q Is there a technical specification that would
14 relate to the time limit that you have to respond to this
15 alarm?

16 A No.

17 Q Is that high pressure enunciator set up to be like
18 an "immediate action required" type alarm?

19 A No.

20 Q Was it routine or normal to have the high pressure
21 alarm in for extended periods?

22 A I think that sometimes, you know, people would add
23 gas, and if the alarm came in they -- they might wait a
24 little while to let pressure drift down, and it would clear.
25 It had come in before when people were adding gas.

1 Sometimes they go ahead and vent the pressure down. I mean,
2 it -- you know, even if you just got the alarm and say,
3 "Okay, I'm going to vent the pressure off," by the time
4 that, you know, you get geared up, get people in -- in the
5 valve alley and everything you've probably been -- you've
6 probably had it in as long as we had it in that night. It's
7 not a real quick thing to go vent the makeup tank.

8 Q Especially when you have to dress out for a
9 contaminated area.

10 A Right.

11 Q Was the makeup tank high pressure enunciator
12 regarded as a significant operational problem?

13 A Significant operational problem?

14 Q Yeah. Was this -- was this alarm regarded that
15 when it came in the plant's in a significant condition here
16 that we have to take some action on right away?

17 A No, it was just -- just an alarm saying, "Okay,
18 you've hit the limit of your curve. You need to get back
19 below the curve." Curve wasn't perceived as a design basis
20 curve or, you know, being right at a design basis limit.
21 That's nuts, you know. We don't normally have curves that
22 as soon as the alarm comes in you should run over and make a
23 one hour report to the NRC.

24 BY MR. DOCKERY:

25 Q If you had known it was -- that curve was design

1 basis would your reactions have been any different on the
2 evening of September 5th?

3 A Well, probably. I probably would have taken it a
4 lot more seriously when that alarm came in, would
5 immediately stopped, I think. But I didn't know it was
6 design basis. And it -- you know, when you're on the curve
7 you were there; okay? Stopping and getting back to the
8 curve does not buy you any safety.

9 MR. HENDRIX: Can you elaborate on that, when you
10 say, "When you're on the curve you're there," so that they
11 understand what...

12 THE WITNESS: If the response to a drop in the
13 tank level is as shown by our evolution, that's the response
14 you're going to have in a LOCA. So anytime you're on the
15 curve you were at the same place we were. To stop and go
16 back to the curve, have you made yourself safe? No. You've
17 just put yourself back to the initial condition for binding
18 your pumps in a LOCA because your curve is no good.

19 BY MR. DOCKERY:

20 Q Okay, when you say your curve is no good, are you
21 saying that curve was no good?

22 A Right, the old Curve 8.

23 Q The Curve 8 as it existed on September the 5th?

24 A Correct.

25 Q It's now known that that curve was no good. Would

1 it be fair to say you were certain it was no good on
2 September the 5th?

3 A I'd have to say that we strongly suspected it was
4 no good when we started dropping level and the alarm came
5 in.

6 Q Would you ever intentionally violate a design
7 basis curve?

8 A No

9 MR. DOCKERY: I'm going to suggest that--we've
10 been at this a little over an hour now--that we go off the
11 record for a few minutes so that we can talk; and,
12 Mr. Hendrix, if you need to talk to your client. We'll go
13 off the record.

14 (A short recess was taken.)

15 MR. DOCKERY: Okay, we're back on the record. The
16 time is approximately 11:53 A.M. -- or P -- yes, A.M. The
17 -- the people present are the same as at the beginning of
18 this record, with the exception that Mr. McNulty has left.
19 And, Mr. Weiss, I'd like to remind you that you continue to
20 be under oath here, if you'd acknowledge that verbally.

21 THE WITNESS: I understand.

22 MR. DOCKERY: Curt, I believe you had...

23 MR. RAPP: Okay, I'll go ahead, continue with me
24 -- finish up with my questions here.

25 BY MR. RAPP:

1 Q We were discussing the makeup tank high pressure
2 alarm. Are there any other normal evolutions, plant
3 evolutions that would cause alarm set points or
4 administrative limits to be exceeded that you can think of
5 or that you remember?

6 A Well, sure, it's pretty -- pretty routine that you
7 generate alarms when you perform evolutions. That's --
8 that's not that unusual.

9 Q And when that occurs are you required to take
10 immediate action for those alarms, or -- or what's the
11 response?

12 A Immediate action is not required. Now, I think if
13 you look in 500 it'll tell you that you should pull the AR
14 if the alarm's not as a result of an evolution that you're
15 performing, some -- or words to that effect. You pull the
16 AR and you look at the required actions. You know, if it's
17 an expected alarm, if you know why it came in and -- and
18 it's not a problem then -- then it's not a problem.

19 Q Okay. Are you familiar with AI 500, context of
20 operations?

21 A Yeah.

22 Q Is AI 500 a usable procedure?

23 A It's very difficult to read, you know. You follow
24 the requirements in it, but...

25 Q Could it be interpreted in many different ways?

1 A I don't know. You'd have to, you know,
2 specifically look at something and then look at AI 500 to
3 see if there's any doubt about it. I don't know.

4 Q Well, in particular there's directions in AI 500
5 that says when procedures are required for activities.

6 A Okay.

7 Q Is -- is there interpretation on -- on how that --
8 how that can be applied?

9 A Can I look at the actual section and see?

10 Q Sure. Do you have AI 500?

11 A Yeah, I think we've got an AI 500 in here
12 somewhere.

13 MR. HENDRIX: Here it is. It's obsolete now.

14 THE WITNESS: Well, that's the one that was in
15 effect at the time that we did it.

16 MR. RAPP: You got it there?

17 BY MR. RAPP:

18 Q All right, it's Section 4-3-2-3-1. I mean, excuse
19 me, 4-3-2.

20 (The witness reviews certain material.)

21 A 4-3-2-3?

22 Q Right.

23 MR. HENDRIX: What page?

24 MR. RAPP: Yeah, the next one down from that.
25 It's Page 45. That may not coincide with your copy.

1 THE WITNESS: 45?

2 MR. HENDRIX: And the number again? 4-3..

3 THE WITNESS: Section 4-3-2-3 is "General
4 Practices for Procedure Implementation," is that what you're
5 looking at?

6 MR. RAPP: Yes.

7 THE WITNESS: Okay.

8 BY MR. RAPP:

9 Q And so the Paragraph 2, "Written procedures are
10 also needed for evolutions that would affect a change of
11 flow paths or operating parameters."

12 A Okay.

13 Q All right. Could that be interpreted that a
14 special test procedure was needed for this evolution, or
15 could that be interpreted that the administrative -- the
16 approved operating procedures you had in hand were adequate?

17 A If you have written procedures you're meeting the
18 requirements of that. If you've got a normal operating
19 procedure to do what you're doing, then you are meeting
20 that. And if -- you know, look -- look down at "A," you
21 know. The shift supervisor is the guy that decides what
22 requirements are applicable. Well, Dave did that. He
23 looked at it, said, "Okay, OP 402 covers us." You know, we
24 didn't violate AI 500.

25 Q Okay. Is there anything in FPC procedures that

1 define and describe what constitutes an approved or
2 authorized evolution, that you're aware of?

3 A Well, anything that you have an approved procedure
4 for, obviously it's been approved and authorized; right?
5 Because it has to go through the 50-59 process.

6 Q Okay, but there's not a -- a statement that says,
7 "This is an authorized evolution," and -- and describes that
8 activity or those activities?

9 A Not that I know of. I can't think of anything.

10 Q All right.

11 A AI 500 talks about evolutions and tasks probably
12 pretty much where we were just looking, but that's the only
13 thing I know of.

14 Q All right. During your requal training you go
15 over industry events; correct?

16 A Uh-huh (affirmative).

17 Q Was there any -- any type of industry events
18 discussed with you where people had performed unauthorized
19 evolutions and you were told that this was not within your
20 license or within your -- your authority to do this?

21 A Not that I recall.

22 Q Similar industry events?

23 A Not that I remember.

24 Q Okay. Did you attend any meetings with
25 engineering on this matter, like the HPI pump binding issue

1 or the Appendix R where this makeup tank curve was
2 discussed?

3 A Well, I was there at the design basis
4 determination meeting. That was after the 4th and the 5th.

5 Q Prior to that?

6 A Prior to that? No, Mark Van Sicklen was pretty
7 much interfacing with engineering on that.

8 Q Are you aware or did anyone ever tell you from
9 engineering that the HPI pumps were not important during a
10 LOCA, so that gas binding was not a problem?

11 A Engineering stated—I think this was after the
12 event, though—that no credit is taken for HPI in the large
13 break LOCA analysis, which is a correct statement. The
14 reason it's a design basis issue is the -- specifically the
15 core flood line break.

16 Q Were you ever told that there was a special test
17 planned for the next refueling outage to verify this curve,
18 to check the response of the plant against this curve?

19 A No, they -- that letter, I think, that starts out
20 at the top, it says, "There are no plans to change Curve 8.
21 We believe it's accurate and reasonably conservative," okay?

22 Q You're referring to September 2nd letter that
23 engineering sent out?

24 A Is that September 2nd letter? Yeah. I think it
25 had some reference to doing something in the next refueling

1 outage down toward the bottom. You know, I don't think it's
2 acceptable to wait until refuel, operate with a bad curve
3 until refuel.

4 Q I mean, if you operated for 18 months, why not
5 wait another--what?--six months or eight months?

6 A Do you think that's acceptable, you know, to -- to
7 say, well, you know, we just found out that we're outside
8 design basis, but since we've already been there 18 months
9 we can go another six months, you know. If the core flood
10 line drops off we'll melt the core, but...

11 Q The point is nobody knew that was the design basis
12 at that point.

13 A Right. Correct.

14 Q Did you think that engineering would actually do
15 this test?

16 A I -- I don't know of any real detailed plans to do
17 a test. There was some reference in the letter but...

18 Q Well, just a vague allusion to it.

19 A Yeah.

20 Q There wasn't anything like, "We've planned this or
21 scheduled this."

22 A Right. They pretty firmly say at the top that
23 Curve 8's accurate and reasonably conservative.

24 Q Okay.

25 A And they had no plans to change it.

1 Q All right, that's all I have. Thank you.

2 BY MR. VORSE:

3 Q Going back once again to the September 4th, after
4 you -- you and Mr. Fields and the other shift members found
5 out that -- that management was getting agitated—I think
6 that's a good word—about the evolution of the 5th, did
7 anyone discuss not telling anyone about the 4th based on the
8 fact that management was getting stirred up, and it was just
9 kind of, "Don't -- unless you're asked, don't -- don't --
10 don't tell anybody"?

11 A No. No, there was no effort or intent to cover
12 this thing up. I've -- I've answered truthfully when I'm
13 asked about it. I didn't volunteer it; I didn't think it
14 was that important.

15 Q Okay. That's all I have.

16 BY MR. DOCKERY:

17 Q One last point I'd like to bring up. I'd like to
18 revisit something, Mr. Weiss, that you mentioned early in
19 your testimony, and that was that you at some point began to
20 feel threatened, threatened from a -- an employment
21 standpoint; is that correct?

22 A Yes.

23 Q And that you felt that that threat emanated from
24 management?

25 A Yes.

1 Q Assuming that you felt that way at that time, do
2 you now feel that you have been in any way retaliated
3 against by your management?

4 A Yes, I do.

5 Q Do you feel that that retaliation results from
6 your having raised health and/or safety issues related to
7 the operation of the plant?

8 A Yes.

9 Q Okay, I don't mean to -- I know you're very ably
10 counseled here by an attorney, but it's necessary for us to
11 mention to you on the record that you have the ability to
12 seek redress for any retaliation against you through the
13 Department of Labor. Let me ask you, are you familiar with
14 that -- that path?

15 A Yeah. Department of Labor's not that easy to get
16 a hold of, but...

17 Q Do you understand that all you have to do is file
18 a complaint with the Department of Labor, and that complaint
19 is really nothing more than a letter stating briefly what
20 has happened to you and why you feel it has happened?

21 A Yes.

22 Q Okay, I just want to make sure that -- that you're
23 aware of that option.

24 A I would like to get the address and who to send it
25 to.

1 Q Okay, I think if you check in Tampa under
2 Department of Labor, Wage and Hour Division, you'll --
3 you'll find the address that you need. I don't know it off
4 the top of my head, that's all I'm saying.

5 A Okay.

6 Q And the action is -- is taken under Section 2-11
7 of the Energy Reorganization Act. If you were to call the
8 Wage and Hour Division they could -- could give you any
9 additional information you might be...

10 MR. VORSE: And you -- you need to understand it
11 has to be done with -- it has to be filed within six months
12 of the incident.

13 THE WITNESS: I understand that. Of course, you
14 know, the problem I've got here is the company has
15 characterized what we did as a bad thing to do. They said
16 we did an unauthorized test. Well, you know, I guess that
17 the NRC couldn't support that 'cause they didn't charge us
18 with an unauthorized test, they said we violated procedures.
19 Didn't violate any procedures.

20 But basically, you know, the company has got you
21 guys cocked and going on a wrongdoing charge against us and
22 it sort of chills any chance I think that I have to get
23 redress, you know.

24 MR. DOCKERY: Let me clarify something right there
25 that I should have mentioned earlier. The NRC, I want you

1 to understand, can offer you no form of redress.

2 THE WITNESS: Yes, I understand that.

3 MR. DOCKERY: And your complaint, if you decide to
4 make one, is purely regulatory. The only redress -- method
5 of obtaining redress that you have is through the Department
6 of Labor; or I assume there may be -- there may be civil
7 statutes, state -- state of Florida statutes that you can
8 pursue. I wouldn't be familiar with those.

9 THE WITNESS: Well, what I want to know...

10 MR. HENDRIX: Of course, we think -- we think that
11 the NRC can offer him redress by vindicating his integrity
12 and his professionalism by finding that he did not engage in
13 deliberate misconduct. And the company is hoping and
14 praying that you will find that he engaged in deliberate
15 misconduct, because if you do that will obviate any chance
16 he has of redress before the Secretary of Labor, because
17 then his termination would have been for cause.

18 So they're hoping that you'll find he's a liar,
19 that he's not credible, that you can't believe him, and that
20 he's given misinformation to you about whether he believed
21 what he was doing was authorized, and whether he believed
22 that this was a valid safety concern. And also on the red
23 herring issue of whether he, you know, withheld information
24 from the NRC or the company, which is bogus.

25 And so we do believe that you can do something to

1 help redress him by simply saying you find him credible and
2 believable, and that will go a long way towards affording
3 him the right to get redress.

4 THE WITNESS: I guess what I'd like to know, you
5 know: You guys are an office of investigation. Well, so
6 far all you've done is investigate us. You haven't really
7 taken a good, serious look at the situation that we were
8 struggling against down there.

9 MR. DOCKERY: Would you like to make a very clear
10 allegation regarding that situation at this time?

11 MR. HENDRIX: We do have an allegation to make at
12 the conclusion.

13 THE WITNESS: Yes.

14 MR. HENDRIX: We're going to furnish you with that
15 allegation and ask you to pursue it, and we have put it in
16 writing and we're going to give it to you at the end of the
17 day. Mr. Fields has addressed the letter because he feels,
18 as being the -- the senior manager responsible for his
19 shift, that he wants to be the one to bring it, so Mr. Weiss
20 did not sign this letter. And we address this at our second
21 interview where we -- we do make specific allegations and we
22 will present it to you during his testimony. But he wanted
23 to be the one to bring it, not Mr. Weiss. He feels
24 responsible for the people working underneath him, and so he
25 wants to be the one to put it in writing.

1 MR. DOCKERY: That's fine. And just so you
2 understand procedurally, we -- we'd be happy to -- to accept
3 that allegation from you; however, for the time being we're
4 just a conduit to our allegation people.

5 MR. HENDRIX: I understand.

6 MR. DOCKERY: And we'll -- we'll be happy to
7 handle that for you.

8 MR. HENDRIX: We will furnish it to you today.

9 THE WITNESS: I guess it just bothers me that the
10 NRC took the company's word, you know, that -- that we had
11 done a bad thing, and didn't look into any of the
12 circumstances around it, any of the problems in the
13 Engineering Department that we were hitting. And they
14 basically took the company's word that we were bad guys, and
15 started taking action against us. And I tell you something,
16 you let them get away with this and there will be no safety
17 culture at CR-3. People are watching this. They all know
18 it could have been them just as easy.

19 MR. DOCKERY: Mr. Weiss, let me interrupt you just
20 a second, because we want to afford you an opportunity at
21 the end of this to make any final statement you might wish
22 to make.

23 THE WITNESS: Very well.

24 MR. DOCKERY: And we may have reached that point
25 where it's time to do that. Are there any other questions?

1 MR. VORSE: No, no further questions.

2 MR. DOCKERY: Then, Mr. Weiss, if you would, go
3 ahead and make any comments you wish to make. And
4 particularly if there is any questions that you felt we
5 should have asked you and didn't, please feel free to go
6 ahead and address that.

7 THE WITNESS: Well, I'd like to state, first of
8 all, that the actions I took, I took not out of any desire
9 for personal gain. I took the actions I took because I had
10 a concern for nuclear safety; because I believed in the
11 professional ethics associated with having a senior reactor
12 operator's license, all the responsibilities that go along
13 with that. And I don't think that those responsibilities
14 can be nailed down in a little box and say, "Well, you know,
15 you only have to be worried if you're here." It's -- you
16 look at the big picture of nuclear safety.

17 And I stood up for the guys who had nuclear safety
18 concerns. The concerns were valid, they were correct. I
19 think that the company deliberately characterized what we
20 did as an unauthorized test to mislead the NRC and to keep
21 the focus off the management and engineering failures
22 associated with the event. And I just think that you really
23 ought to look at a wider picture than just taking the
24 company's word for what happened. They're the ones with
25 something to gain from this. I didn't have anything to gain

1 from it. I acted in good faith, I tried to do what was
2 right, and I've been severely punished for that. My
3 professional reputation's been ruined. I doubt I'll be able
4 to get another job in the nuclear industry with that kind of
5 a reference hanging over my head. So I'm -- I'm probably
6 leaving the industry behind.

7 The NRC is charged with maintaining the industry's
8 safe. And if they let people get fired for taking action on
9 a nuclear action concern, then they've just pulled the
10 cornerstone out of the safety culture. Because nobody's
11 going to risk what happened to me for a safety concern. Not
12 if you let them fire people for it.

13 And if all they got to do is stick a bad label on
14 it and call up the NRC and say, "Hey, we got a couple of bad
15 guys," if that's all it takes, you know, ... People are
16 watching this, people know that it could have been them
17 going down the road.

18 You need to realize that anytime you were on the
19 curve you were where we were that night. That we had been
20 outside design basis for 18 months, and that what we did
21 didn't drive the plant outside design basis, it was already
22 there. I can't think of anything else I really need to say.

23 MR. HENDRIX: I would like to ask you a question
24 or two. The -- did you -- were you asked to review or sign
25 for accuracy the very last LER that was submitted to the NRC

1 on this?

2 THE WITNESS: No, that came straight from Pat
3 Beard.

4 MR. HENDRIX: And have you read it where it talks
5 about whether the plant, as a result of the work that you
6 all did, your shift did, and the -- and the determination
7 that the curve was invalid and non-conservative, have you
8 read the LER when he references where the plant was or was
9 not outside the design basis?

10 THE WITNESS: I don't remember exactly how they
11 put that. I think they -- didn't they phrase it that the
12 plant may have been outside the design basis from time to
13 time?

14 MR. HENDRIX: From time to time? Do you agree
15 with that statement?

16 THE WITNESS: I think we were outside design basis
17 all the time as long as we were operating on the curve.
18 Now, you know, if one of these crews that was dropping
19 pressure, maybe they dropped it far enough. I think we were
20 basically outside the design basis all the time. Anyone
21 operating on the curve was, and they were being told to and
22 threatened if they didn't, so...

23 MR. HENDRIX: And management knew that everyone
24 was being requested to operate on the curve, and yet they
25 report to the NRC that maybe from time to time the plant was

1 outside the design basis. And the focus of the report is
2 that you guys for 30 minutes were outside the design basis,
3 is that right?

4 THE WITNESS: Yes, they rewrote the LER to
5 maintain the focus on the actions of the operators. And the
6 intent all along has been the NRC -- keep the NRC focused on
7 the actions of the operators.

8 MR. HENDRIX: That sums it up. Anything else?

9 THE WITNESS: No.

10 BY MR. DOCKERY:

11 Q Mr. Weiss, one other comment that you made during
12 your testimony here today was in response to a question
13 about whether or not you considered availing yourself of the
14 Employee Concerns Program. And I believe your response was,
15 quote, "That thing's a joke," unquote.

16 A That's correct.

17 Q Is that correct?

18 A I had never put in a concern through that program
19 myself, but my supervisor, Dave Fields, had put two of them
20 through and was very unhappy with the kind of responses that
21 he got. And he could probably tell you a lot more about
22 that.

23 Q Had the Employee Concerns Program not been a,
24 quote, "joke," unquote, would you have considered using --
25 using that to address your issue?

1 A Yes. You know, if they had a -- a real serious
2 program that would force an investigation into things when
3 there was a safety concern not getting resolved, then yeah,
4 if it'd have been a good tool I'd have used it.

5 Q Did you feel it would have been an appropriate
6 means for you to seek action on -- on what you felt was a
7 safety issue?

8 A You mean as it stands now?

9 Q No, sir, if -- if it had been -- if in your
10 opinion it was an effective program?

11 A Right. What was needed is some oversight there.
12 I mean, you know, someone that would come in and not just
13 sit down with the engineers, go, "Hey, is this curve any
14 good?" the engineer nods, and they go away. That's --
15 that's not what's needed. You need someone that's going to
16 go in there and find out all the sides of the story, go back
17 and look at the calcs, you know, look at the whole
18 situation, you know. Someone that has some authority, I
19 mean. All anyone had to do was -- was walk down the hall
20 and open up a filing cabinet and pull that calc and they
21 would have seen, "Only valid through Refuel 8."

22 Q Specifically regarding the Employee Concerns
23 Program, in your opinion is that -- is that program
24 something that, from a regulatory standpoint, that the NRC
25 needs to take a look at?

1 A Yes, I think so.

2 MR. DOCKERY: I don't have any further questions.

3 MR. VORSE: All right, then, Mr. Weiss, if you
4 have nothing additional to add...

5 MR. HENDRIX: Well, we do here. We have talked
6 about it, but we've never really did it.

7 MR. VORSE: #25?

8 MR. HENDRIX: #25 on the record. We got these
9 together and then we realized that we needed to change that.
10 Why don't you tell them why -- what that exhibit is. number
11 one, and -- and what changes need to be made to it.

12 THE WITNESS: Well, basically this was -- this was
13 a curve that I was trying to put together for my
14 presentation at the enforcement conference. And part of my
15 presentation I was going to talk -- you know, I wanted to
16 show where the two foot of water line was if you took that
17 two feet away. And the problem is, is that I just made a
18 mistake in how I did that, so that one line on this curve
19 you should disregard. That'd be the line labeled, "New
20 Curve 8 plus two feet of water."

21 MR. HENDRIX: We can get that corrected, but he
22 just didn't have a chance, when he came up, to get it
23 corrected before we gave it to you today. Not that it's all
24 that material I guess today, because -- I mean, can you
25 explain...?

1 THE WITNESS: Well, the other data on it is valid,
2 you know. You -- you've got the old Curve 8, and you've got
3 the test data from the 5th, and you have the new Curve 8.
4 And it's pretty clear if you compare the old Curve 8 and the
5 new Curve 8, the new Curve 8 is below the old Curve 8, and
6 they never cross. And they're -- that's really called the
7 design basis. So anytime you were -- they were near the
8 curve you were outside the design basis. So anyway, I'll
9 just ask you to just disregard the line labeled, "New Curve
10 8 plus two feet of water." That's incorrect.

11 MR. VORSE: We don't have anything else,
12 Mr. Weiss, so we'll go ahead and conclude this interview at
13 12:20, August 31st, 1995. Thank you.

14 (Whereupon, the interview was concluded at 12:20
15 P.M.)
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C E R T I F I C A T E

This is to certify that the attached proceedings before the
U. S. Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Interview of Robert P. Weiss

Docket Number:

Place of Proceeding: Atlanta, GA

Date: August 31, 1995

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission taken by me and, thereafter reduced to
typewriting by me or under the direction of the court
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accurate record of the foregoing proceedings.

Melanie Schallock

MELANIE L. SCHALLOCK
Official Reporter

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