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EXHIBIT 6

Case No. 2-94-0365
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Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

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

Docket Number: (not assigned)

Location: Atlanta, Georgia

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EXHIBIT 6
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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 1th, 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 Hickle 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 didn't go over the curve.
 2 And the reason that is--and it's 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. Mcree, 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

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 come 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 PER, 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 I 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 8. 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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