

1 qualified or the unqualified ones?

2 MR. LICKUS: These are the ones
3 that you identified as being qualified.

4 MS. SPAULDING: No, you identified
5 them. I didn't write the report.

6 MR. LICKUS: I'm sorry. You're
7 right. This is the ones that we said were qualified
8 based upon our recent inspection. This is after --

9 MS. SPAULDING: Okay, so how --

10 MR. LICKUS: Ma'am, can I finish,
11 please? This was after --

12 MS. SPAULDING: As soon as you start.

13 MR. LICKUS: Ma'am, this was after
14 the degradation was found, so this is looking at the
15 people who were doing work inside the containment
16 after the degradation was found to determine if other
17 systems or components were affected by the
18 degradation, so we were looking at the qualifications
19 of those individuals.

20 MS. SPAULDING: Oh. So who are the
21 unqualified ones then?

22 MR. LICKUS: That was a result of
23 an earlier inspection that was done, I believe, in
24 the July time frame.

25 MS. SPAULDING: That was --

1 MR. LICKUS: We looked at
2 individuals who were doing work at that time.

3 MS. SPAULDING: Those were the ones
4 that you gave the award to.

5 MR. LICKUS: No.

6 MS. SPAULDING: Pick one.

7 MR. LICKUS: First of all, NRC
8 doesn't give awards, so I don't know where you're
9 getting that information from, but we've never given
10 an award to a licensee that I'm aware of.

11 MS. SPAULDING: Gee, I wish I would
12 have brought the copy of The News Herald that was
13 right afterwards where you all were pictured handing
14 out the award to the management team, but
15 unfortunately I didn't.

16 MR. LICKUS: When you talk about
17 hours of work that have been performed for -- without
18 injury, that may have to do with an area that we're
19 not involved in. That may have to do with
20 industrial safety issues, not nuclear safety issues,
21 so --

22 MS. SPAULDING: Since the little board
23 doesn't specify, it simply says, no lost time. That
24 same message was up the entire time the plant was
25 shut down. That's pretty lost time.

1 Why was there no independent review? Why
2 should there be not duplication?

3 MR. HOWELL: I'm sorry, ma'am?

4 MS. SPAULDING: You said that you
5 denied the petition for independent review because it
6 would duplicate your efforts. I think that a review
7 of the reviewers, given the record over the years
8 that Davis-Besse has been in operation, would
9 certainly be appropriate, so the fact that somebody
10 else might look where you look, was it denied because
11 you were afraid they might find something that you
12 didn't report?

13 MR. HOWELL: Again, we're here to
14 address the efforts of the Lessons Learned Task
15 Force. Now, in this particular case, I believe
16 you're referring to the petition that requested an
17 independent review that was answered.

18 MS. SPAULDING: Yes, 2.206.

19 MR. HOWELL: Yes, and as noted in
20 the response, the agency indicated that the review
21 efforts of the Region III Augmented Inspection Team
22 and the follow up inspection, as well as the
23 intensely focused efforts of the 0350 Panel review
24 activities which brings to bear the entire resources
25 of the agency as well as our efforts have -- in our

1 estimation have been sufficient to identify the range
2 of issues as they relate to Davis-Besse. Now,
3 having said that, if new issues are brought forward
4 during this process which has already been in place
5 for a number of months, the agency is open to
6 revisiting that decision.

7 MS. SPAULDING: That's nice of them.

8 Could you please -- I would like --

9 MR. BORCHARDT: Excuse me, ma'am. Can
10 I try to answer the issue about oversight of NRC? My
11 name is Bill Borchardt. I'm with the Office of
12 Nuclear Reactor Regulation in headquarters. There
13 is really three activities that are either ongoing or
14 possible that will provide additional oversight of
15 NRC activities and our performance.

16 The first one which is ongoing is the
17 Inspector General of the NRC which is a group
18 separate from the NRC staff, although they do report
19 to the five commissioners that has -- has a review
20 underway.

21 The second is the GAO, which is a Government
22 agency completely separate --

23 MS. SPAULDING: I'm aware of what it
24 is.

25 MR. BORCHARDT: -- from the NRC, and

1 then the third --

2 MS. SPAULDING: The accounting office.

3 MR. BORCHARDT: -- is always the
4 possibility of a congressional hearing, which there
5 has been discussion of, but I'm not aware at this
6 time of whether or not there is any planned.

7 MS. SPAULDING: The election is just
8 over. They're not going to have hearings now. I
9 seriously doubt that.

10 Why, given the admitted inadequacy, even
11 though you've had another management group inside the
12 NRC to review you, what is the process that's going
13 to occur before Davis-Besse is restarted that will
14 assure us that we won't have more or perhaps worse
15 happenings?

16 MR. HOWELL: I'm sorry, I didn't
17 fully appreciate that question.

18 MS. SPAULDING: I'm sure you didn't.
19 What is the process that will happen before this
20 plant is restarted to be sure that there will be no
21 further happenings considering the past record?

22 MR. HOWELL: Again, our efforts
23 were focused at what happened at Davis-Besse relative
24 to that reactor vessel degradation.

25 As I indicated there is an 0350 Panel process

1 that meets regularly that is governed by a high level
2 guidance documents that brings to bear the entire
3 resources of the agency. That membership is
4 comprised of folks from the regional office and
5 headquarters, and the activities that govern that
6 panel are described in detail in publicly available
7 documents, and as part of that process, detailed
8 review lists are developed. Inspections are
9 conducted. They are assessed by the panel, and then
10 decisions are made about the adequacy of the
11 licensee's effort, that's all part of the process,
12 and it's ongoing and has been ongoing.

13 MS. SPAULDING: Hasn't worked real
14 well so far, has it?

15 MR. HOWELL: In what respect,
16 ma'am?

17 MS. SPAULDING: Would you have this
18 hole?

19 MR. HOWELL: Yes, but, again, the
20 purpose of the 0350 Panel is to bring to bear the
21 resources of the agency in an efficient and effective
22 manner to communicate with the public and to make
23 sure that the issues, both technical, programmatic
24 management, other issues that are identified that
25 bear on the resolution of that problem are addressed

1 before the plant restarts. That effort has been
2 ongoing and will continue to be implemented through
3 and until such time that the decision is made in the
4 NRC's view that the problems have been addressed.

5 MS. SPAULDING: So that's your PR arm?

6 MR. HOWELL: Again, that is how the
7 process works.

8 MS. SPAULDING: That's what I said, it
9 hasn't worked too well so far. Thank you.

10 MR. HOWELL: Thank you, ma'am.

11 Any other folks that have questions or
12 comments?

13 MS. (PAM) STEELE: My husband works in
14 the petroleum industry. He's a metallurgical
15 engineer, and my question as a resident of Oak Harbor
16 is, they knew about the possibility of corrosion with
17 the nozzle beforehand, and it wasn't followed through
18 or inspected significantly before the problem
19 occurred. My husband, as a metallurgical engineer,
20 is held to specific standards in the petroleum
21 industry and the safety of the community.

22 My question is, being that they did not
23 follow through with this problem beforehand, how as a
24 resident here, do you plan to increase our trust
25 towards the NRC as well as FirstEnergy to believe

1 that you have the protection of not only your behinds
2 and FirstEnergy's financial revenue, but the aspect
3 that there is young children and others in the area?
4 How are you working if you say one of the problems in
5 the report was the instability of the changeover in
6 the management as -- as often has there has been
7 changeover, there has been new changeovers in
8 management, and how do you ensure with the new
9 personnel that there will be a stability because
10 knowing industry, people in the industry, and how do
11 you keep that stability?

12 The other question I would like to have
13 addressed is being that the metal in the nozzle head
14 corrosion, what differences have you made in new
15 nozzles, or how are you going to address this problem
16 so that it doesn't happen again for the future of our
17 children in the area?

18 And I think the last question I have is if
19 this was known beforehand, how are we supposed to
20 trust that there is not other problems that have not
21 been addressed as individual as stated, I mean, my
22 husband and I just have moved into the area at the
23 time that the thing shut down, how do we know that
24 the things have been addressed correctly if this
25 particular issue hasn't been addressed correctly, and

1 how are you looking at assuring that the thing will
2 be addressed in a more -- with more integrity than it
3 has been in the past?

4 MR. HOWELL: Before I answer the
5 questions, could you provide some clarification on
6 the first question? Were you referring to the
7 changeover in the plant's management or the NRC --

8 MS. STEELE: Both. I know that
9 there has been changeovers in different management
10 teams. I know specifically for Davis-Besse there's
11 been changeover and being that they're the first ones
12 in contact with this stuff, I want to know how are
13 you guys planning on giving some stability here being
14 that part of the supposedly findings was that part of
15 the changeover in staff and management teams have
16 been part of the problem, plus, if the training was
17 supposed to be there for them, how are you guys
18 updating the training for the personnel working in
19 the systems so that they deal more specifically with
20 some of these issues?

21 MR. HOWELL: Yeah, just in a
22 general sense, a number of the issues that you raise
23 are all issues that -- are issues that are being
24 addressed by the Oversight Panel for Davis-Besse.
25 With regard to our report, in two respects we touched

1 on staffing. On one hand, the licensee staffing and
2 on the other hand our own staffing, and primarily
3 that was focused on the effects of turnover amongst
4 the engineers, for example, with the licensee who
5 were doing the work and not so much management
6 because at the time period in question that we looked
7 at, there really wasn't much management turnover.
8 There was a fair amount of turnover amongst some of
9 the engineers involved with the inspection of the
10 reactor vessel, and in our estimation that was a
11 contributing factor in the lack or timing of the
12 identification of the problem. Issues such as that
13 have also been reviewed by the licensee as part of
14 their own in-depth evaluation, and they have made a
15 number of changes in management, and I really can't
16 speak to what changes they have in terms of staffing
17 levels.

18 Now, folks from Region III may need to help
19 me out because I'm not fully aware of the -- every
20 detail of all the -- of all the review activities of
21 the 0350 Panel, but certainly to the extent that
22 there are issues involved with staffing, that would
23 be reviewed as part of -- if not in a short-term the
24 longer term effects.

25 Now, having said that, we also looked at the

1 effect of NRC vacancies relative to the NRC staffing
2 at Davis-Besse, and there were some vacancies, and
3 the reason for those vacancies are the same reasons
4 that occur in any large organization. Folks decide
5 they want to go to another more -- have a better
6 opportunity in another part of the agency or they
7 want to leave. We're always going to be faced with
8 that. In recent years, we -- and it's been a
9 challenge and a struggle, and in recent years, the
10 agency as a whole has taken to heart a recognition
11 that we needed to do a lot more to recruit and retain
12 folks and we've placed a lot of emphasis on that as
13 an agency and I may be a little bit off on the
14 numbers, but we hired a lot of new folks over the
15 last -- just in the last year, I believe, on the
16 order of a hundred, which is three or four percent of
17 the entire agency. In terms of the specific
18 vacancies that were in question at the time that the
19 problem manifested itself, those vacancies have been
20 filled and they have been filled for quite some time.
21 The task force did make a number of recommendations
22 to understand the impact of those vacancies and make
23 them more visible such that in the case of
24 Davis-Besse that critical positions are not gapped
25 for long periods of time, so we did make a

1 recommendation to do that.

2 We also made a recommendation to provide
3 guidance to primarily the folks in -- and not just
4 Region III, all four NRC regions that when a region
5 is faced with the resource impact of a plant that's
6 in an similar situation, not necessarily for the same
7 technical problem, but in an extended shut down in
8 which there is an oversight, increased agency
9 oversight, that the agency provide guidance on how to
10 better manage that so the proper resources are
11 brought to bear.

12 In terms of your second issue about what's
13 being done technically to improve the material that
14 was involved and in this case it's a nickel based
15 alloy, Dr. Hackett, do you want to come and address
16 that part?

17 MR. HACKETT: Thanks, Art. I'm
18 also a metallurgist, so I share the same concerns.
19 The new heads that are being fabricated are being
20 fabricated differently and with different materials
21 that are more resistant to these degradation
22 mechanisms, or, in particular, I should restrict the
23 comments to the stress corrosion mechanism. There's
24 a new alloy, different alloy, called Inconel 690,
25 which is a lot less susceptible to the stress

1 corrosion phenomenon that occurred here and that has
2 occurred at other plants with regard to the cracking.
3 With regard to the head, the head is fabricated from
4 the same materials, so it will continue to be
5 susceptible to -- it is carbon steel. It will
6 continue to be susceptible to boric acid attack is
7 conditions such as these found at Davis-Besse were to
8 happen again. The hope in this case is that would
9 not -- the conditions that existed there would not be
10 duplicated again particularly with regard to
11 minimizing the potential of this cracking -- this
12 cracking through the wall. I guess one thing to
13 annotate these comments, the head at Davis-Besse is
14 not the -- the replacement head at Davis-Besse now is
15 not one of these new heads. It is, as most of you
16 know, it came from the Midland plant so it was
17 fabricated in a very similar manner to the head that
18 was there, so its susceptibility will be in the same
19 category. The good news about that is that these
20 phenomena are aging related phenomena and that they
21 have an incubation period. It takes quite a while to
22 develop that kind of degradation and during that time
23 frame, I don't know this for a fact, but I believe
24 the licensee has a long-term plan to replace that
25 head with the new head that will have this new

1 material in it. I see Mr. Myers shaking his head,
2 so I believe that's the case.

3 MS. STEELE: Well, I guess my other
4 question here then is not -- I think it was 60
5 Minutes had a thing on, I think about Midland or one
6 of the newer power plants that has never been started
7 up because they, as they were building it, it never
8 came to NRC's standards so the power plant never went
9 into production and right now they're trying to
10 figure out what to do with that power plant.

11 If that's the case that there's that problem
12 with the corrosion and they did not link the
13 corrosion from the boric acid to it, you know, what's
14 to protect the citizens in this area? I mean, are
15 you going to be doing more regularly follow through
16 checks and -- follow through here, I mean, because
17 here is another power plant that was a brand new one
18 that was not even up and running because by the time
19 it was built, it wasn't up to standard and, you know,
20 I don't know if that's where this head came from, you
21 know, but I also, like I said, I have children, and,
22 yeah, there may be a long period of time, but I have
23 my children and grandchildren and hopefully one day
24 great grandchildren to consider and being that we're
25 in this area -- but for the inspection of the

1 materials, have you done long-term studies on this
2 material, and what tests have been performed on this
3 material for the nozzles that you are talking about
4 for the head?

5 MR. HACKETT: These is are very good
6 questions. There have been long-term tests
7 performed on a lot of these materials; Inconel 600,
8 also the newer alloy, Inconel 690 is now being used
9 in steam generator tubes. In the NRC and the
10 industries experience, its performance in steam
11 generators has been similar to Inconel 600, so there
12 have been studies that have indicated there are
13 improvements here, but that's not the end of the
14 story either. I'm not going to stand here as a
15 metallurgist and tell you there's a stress corrosion
16 immune material. There probably isn't. Given
17 enough time and the right conditions you can crack
18 these things environmentally, and so hence the
19 importance of the inspection activities, both the
20 licensees primary line of defense and then the NRC's
21 sampling or check functions as Art has been talking
22 about. In that regard we do have recommendations in
23 the report that go towards focusing training and
24 inspection guidance in this area, in particular the
25 stress corrosion cracking area and boric acid attack,

1 and we have previously been through this type of
2 thing with regard to steam generator degradation
3 where the tubes are smaller, but the degradations are
4 very similar.

5 MR. HOWELL: And then a follow up
6 here to your third question, that's also a very good
7 question. It's a question that is at the forefront
8 of our every day, day in and day out duties, and that
9 is if you find a problem in one area, are you going
10 to find problems in other areas, and first and
11 foremost the primary responsibility obviously is with
12 the plant itself. It's their plant. They have an
13 obligation to comply with our regulations and to
14 address safety issues when they're identified. Now,
15 obviously, there were some break downs here. The
16 question is, to what extent did those break downs
17 occur? Are there break downs in other areas, and
18 their reviews are focused on trying to figure that
19 out, and they have taken a number of actions. In
20 parallel with that, although it's outside of the
21 scope of our effort, the NRC oversight panel that I
22 did mention earlier, also has that as one of their
23 primary areas of focus, is to understand the extent
24 and condition so that other issues that may be
25 related or even not terribly technically related are

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1 understood so that at least some of the common causal
2 factors are addressed, and then, finally, as Ed
3 indicated, we did make a number of recommendations
4 relative to our review about performing some other
5 assessments in other technical areas to understand
6 whether or not problems that we thought had been
7 solved by us and the industry a number of years ago
8 have, in fact, been addressed.

9 MS. STEELE: Thank you.

10 MR. HOWELL: Other questions,
11 comments?

12 MS. (DONNA) LUEKE: Hi.

13 MR. HOWELL: Good evening.

14 MS. LUEKE: I just have a couple
15 of specific questions which may or may not be in your
16 area of purview. One is, is your work down now? I
17 mean, are you all finished as a group?

18 MR. HOWELL: Yes, and no. We have
19 issued our report, and we have a number of other
20 meetings that we plan to hold. Many of those or most
21 of those other meetings are internal. One of the
22 high priority items actually is to share the results
23 of our review with the entire NRC so that the folks
24 that work in the NRC understand what it is that we
25 found, what it is that we recommended to address the

1 problems and then ultimately, once the
2 recommendations have been reviewed and assessed, what
3 it is that the agency is going to do to address those
4 issues, so that's the next phase, and then we also
5 have another meeting, Dr. Hackett mentioned, the
6 Advisory Committee on Reactor Safeguards a standing
7 committee of independent nuclear safety experts and
8 we'll be conducting a briefing for them on December
9 5th, so those are the near future activities, and
10 after that, I expect that we'll have other
11 opportunities to share with various forums what we
12 found.

13 MS. LUEKE: How do you follow up
14 whether your recommendations have been taken?

15 MR. HOWELL: Again, it's a two step
16 process. Our effort was to make the
17 recommendations, if you will, and then there's a
18 senior executive review team. These are managers,
19 the highest level of the agency, then they are going
20 to address the recommendations, and then depending on
21 the review effort that they conduct, I would
22 anticipate that action plans would be developed and
23 that these action plans would be translated into what
24 we in the NRC call operating plans. These operating
25 plans have resource impacts. They have metrics to

1 track implementation effectiveness, completion
2 schedules and that will all be part of the process,
3 and that's consistent with what we have done for
4 other past lessons learned review?

5 MS. LUEKE: It would nice if you
6 never had to do it again.

7 MR. HOWELL: Well, actually, I
8 understand your point, if the point is -- obviously,
9 we don't want to have this problem again. This
10 is -- it's unsatisfactory, it's completely
11 unacceptable and we need to do whatever it takes to
12 prevent this from happening, not only us, but the
13 industry as a whole and Davis-Besse obviously, but in
14 terms of conducting self-critical assessments, that's
15 how one gets better, you learn from mistakes and
16 problems, and, obviously, as I stated, we don't want
17 to have this same problem, but that's not to say
18 that, you know, we're all human, and there's going to
19 be other issues, hopefully not as significant, but we
20 want to learn from that, so, you know, we will likely
21 conduct future lessons learned reviews for other
22 issues in the future and hopefully address those --
23 address those problems.

24 MS. LUEKE: That's always a good
25 thing to learn, lessons, but, of course, the margin

1 for error in your industry isn't as wide as it is in
2 some, and that is what concerns those of us that live
3 around here, of course.

4 MR. HOWELL: Yes.

5 MS. LUEKE: We're grateful for the
6 lessons learned from the NRC and from FirstEnergy,
7 but we just are a little weary of being in the
8 classroom right now for those lessons.

9 MR. HOWELL: Right, and I
10 understand your concern, and the agency takes it very
11 seriously, and that's why there is a considerable
12 amount of agency resources that are being focused on
13 addressing this. This problems has gotten worldwide
14 attention not just nationwide attention, and there is
15 a lot of eyes focused on it, and the agency plans to
16 do what it takes to -- from its contribution to the
17 process, ensure that these types of issues that were
18 identified don't result in future similar problems.

19 MS. LUEKE: All right. Have the
20 five commissioners decided if they are going to -- I
21 forget what the term is -- convene an official
22 fact-finding? That was pending the last I had heard.

23 MR. HOWELL: I'm not entirely
24 certain to what you're referring to, but what I can
25 tell you is the commission -- a meeting by the full

1 commission, a public meeting is under consideration
2 for -- not just our effort, but other ongoing NRC
3 reviews related to the Davis-Besse plant.

4 MS. LUEKE: Obviously, we feel
5 like the woman stated before, the more eyes the
6 better on this and any of those -- it was good to
7 hear that you had somebody from outside the agency,
8 you know, at your meetings also, but we feel that --
9 I think a lot of people I've talked to, feel that the
10 more of that happens, because we all develop tunnel
11 vision with our own lives and our own jobs, and
12 perhaps some of those lessons and some of that
13 objectivity could be expanded by inviting others.

14 MR. HOWELL: Yes, and depending on
15 the circumstances, in general, I agree with that
16 notion. Independence, fresh eyes are always a good
17 thing.

18 MS. LUEKE: Although the technical
19 aspects are really hard to follow for those of us --

20 MR. HOWELL: Yes, they can be, yes.

21 MS. LUEKE: In fact, one of the
22 technical aspects that you refer to is talking about
23 Davis-Besse already scheduling a second replacement
24 head, a new head to replace this. I guess, my
25 understanding and its -- I don't have the specifics

1 was that there was an end point to the licensing of
2 any nuclear power plant, and I thought it was not too
3 far from now.

4 When is the current date for Davis-Besse to
5 be decommissioned or shut down? That is written
6 somewhere, but I haven't been able to find it.

7 MR. HACKETT: I have a couple things
8 I could say. The first answer is I don't know that
9 day -- is this microphone on?

10 MR. HOWELL: Yeah, there it goes.

11 MR. HACKETT: It is?

12 MR. HOWELL: Yes, it's working.

13 MR. HACKETT: Okay, there are
14 license periods, the plants are licensed to operate
15 over a specific 40 year life, and you may have seen
16 that the NRC has embarked upon relicensing of the
17 plants or license renewal for a 20 year additional
18 period, so your comments do go to -- to that issue.
19 I can't speak for FENOC on -- and I don't know the
20 status of what would be the case for Davis-Besse
21 either in terms of the expiration date, I'm sure Mr.
22 Myers knows and with regard to the seeking license
23 renewal. Obviously, if you're going to make this
24 kind of investment in the plant, I'd be thinking that
25 you would be looking at applying for a license

1 renewal in that case.

2 MS. LUEKE: Is that happening? I
3 mean, you all being involved in that.

4 MR. HOWELL: We don't know that
5 status, it's really outside our -- we can get back to
6 you. Get the right person in touch with you.

7 MS. LUEKE: Yeah, I think we would
8 like to know that because when Davis-Besse was first
9 opened from those I know that were around here and
10 living here at the time, it was scheduled for a shut
11 down and not too far from now, and that was sort of,
12 I don't know, I think it was like the Turnpike
13 analysis, like, the fees were supposed to come off of
14 the Turnpike at a fixed time, and we want to know if
15 this is going to be another Turnpike situation.

16 MR. HOWELL: Right, right.

17 MS. LUEKE: The fees never go.
18 Does Davis-Besse never go away?

19 MR. HOWELL: We're not the right
20 folks, and if we can get the contact information,
21 we'll put you in touch with the right folks.

22 MS. LUEKE: Yeah, okay. Thank
23 you. And the other question may also be outside of
24 your area of expertise.

25 Are there any results yet from the test on

1 the old reactor that they are doing and are gone, I
2 believe, for corrosion growth and at Oak Ridge for
3 the stainless steel liner? In other words, the parts
4 of this old reactor have gone to these places to be
5 tested, and I haven't known if any of those are back
6 yet?

7 MR. HACKETT: I think the way I
8 would answer that is a lot of that work is ongoing.
9 Some of the work is supported by the NRC research
10 office, particularly with regard to the -- as you
11 mentioned, the testing and analyses on the stainless
12 steel liner, mostly going towards feeding material
13 models to get to the significance determination
14 that's one of the reasons that that risk
15 determination process takes so long in a case like
16 this. I believe there are other activities, and,
17 again, as Art said, we're the wrong group to be
18 asking at this point.

19 MS. LUEKE: Okay.

20 MR. HACKETT: I'm just transitioning
21 back to my normal job, and I'll become more aware of
22 these things hopefully over time here. What I can
23 say is the NRC research office has spent a lot of
24 money analyzing the structural integrity of the as
25 found situation at Davis-Besse and a lot of that

1 relates to the integrity of the stainless steel
2 liner. A lot of that is by some world class experts
3 at the Oak Ridge laboratory that do, what they call
4 fine element analysis, and basically mathematical
5 modeling of the head, so it's not exactly testing of
6 the materials, but I believe some of that is planned
7 and some of it may even be joint with the industry
8 and sponsored also by the Electric Power Research
9 Institute and some others, so there is work underway
10 in that area.

11 MS. LUEKE: I guess just one more
12 comment, and that is with investigations still
13 pending and with tests still pending on the old
14 problem because it doesn't seem like all that work is
15 done yet, and we're hearing start-up dates about
16 February, and the NRC passed on the comments on the
17 time table at the last meeting that we had last week,
18 and they continually say, it will only restart if we
19 say it's all okay, and that's of some comfort, but to
20 not even have any comment on that, I think is an
21 example of the information gap that we feel a lot of
22 times, and we understand caution, certainly that's
23 important in this business that you're in, but in
24 lack of information is where a lot of misinformation
25 comes and, I don't know, so I guess that's one point.

1 Okay?

2 MR. HOWELL: Right, and I
3 appreciate that concern, and, again, if there is some
4 specific questions about the desire to know, you
5 know, about the schedules and that, we can put you in
6 touch with Jack Grobe. I don't know if you have met
7 Jack.

8 MS. LUEKE: And they passed on
9 that, so that's what we learned is that no comment on
10 the time line, and so that's why I'm addressing it to
11 you, because if this is a lesson to be learned, then
12 so what we read is that February we're going to
13 restart Davis-Besse. Meantime, all the
14 investigations aren't in, all the data isn't there.
15 A new information document came out from INPO, are
16 you familiar with that document that just came out?

17 MR. HOWELL: No, I'm not, but --

18 MS. LUEKE: Yeah, it slipped out,
19 I heard.

20 MR. HOWELL: -- I'm aware of The
21 New York Times article today.

22 MS. LUEKE: Yes, that's the one
23 I'm talking about.

24 MR. HOWELL: Right, and, you know,
25 I know it's not fully satisfactory or not

1 satisfactory at all, but we can't comment on the new
2 line investigation that you're referring to, but I
3 think I misunderstood your question. I thought you
4 had some questions about the schedule, whether the
5 schedule was -- you know, what's going to be made
6 available by the time the plant restarts, and, again,
7 not satisfactory, not satisfying to you, but we're
8 not in a position to address schedule issues, we're
9 just not.

10 MS. LUEKE: Yeah, I understand
11 that. My comment was this is how it comes to us and
12 this is a part of the lessons learned, we feel, that
13 this information needs to have some, I mean, we don't
14 know anything about penalties yet, we don't know
15 anything about any hand-slapping that's going to be
16 happening, you know, more investigations is all
17 that's coming to us, and we're saying, okay, when is
18 somebody going to get their hand slapped for being
19 bad, and that's part of what you did within your own
20 agency, and it seems a little slower coming in
21 FirstEnergy, so -- I don't know, that's what I'm
22 asking.

23 MR. BORCHARDT: I think I can
24 contribute a few things. First of all, I think the
25 reason we're hesitant to comment on the schedule is

1 because we're not driven by the schedule. Our only
2 concern is that if and when this plant starts up,
3 that it's done safely, so we're not driven to make
4 sure that the plant is ready to start up in February.
5 If the plant is ready, we will have done the
6 inspections and provided the oversight through this
7 0350 Panel to verify that we're confident that that
8 plant can operate safely, so that's why we -- we
9 don't have a schedule. I think is the short answer.
10 I would ask FirstEnergy to provide to the public, I
11 think would be in their best interest and in yours to
12 provide a meaningful schedule to let you know what
13 their plans are, but that's why I don't think you'll
14 ever get a schedule from the NRC.

15 MS. LUEKE: Yeah, the pieces are
16 just not coming together. The NRC is investigating
17 this. Somebody else is looking at the head and the
18 liner and doing their studies on that. INPO is doing
19 whatever they do, and we can't even keep the initials
20 straight most of us, so it's just a matter of, okay,
21 is there one place we can go and say -- and I felt it
22 was the NRC, and is it the 0350 Panel that is
23 ultimately the one that is responsible for answering
24 all our questions, I guess is my question?

25 MR. BORCHARDT: Yes, the 0350

1 Panel is the group that makes the recommendation and
2 the decision to allow start up, okay? As far as --
3 you had raised the subject of enforcement -- that is
4 still in process, but the one thing you need to keep
5 in mind is one of the reasons that the new reactor
6 oversight process has the assessments that it does
7 and goes through the enforcement process is to decide
8 what additional inspections need to be performed.
9 We're all ready with this plant at the highest level
10 of inspection oversight we can get to. The 0350
11 Panel is high a level of inspection that you can get,
12 so we have supplemented with all the inspection that
13 we believe is appropriate and necessary for this
14 plant. Ultimately, enforcement decisions will be
15 made, and, I mean, those things are in process, but
16 it's not that it's -- the fact that it hasn't been
17 made yet is not delaying inspection that's necessary.
18 We've already decided that we're going to allocate
19 all the resources we need to provide adequate
20 oversight, okay.

21 MS. LUEKE: Thank you.

22 MR. BORCHARDT: Sure.

23 MR. STRASMA: I'm Jan Strasma. I'm
24 the Public Affairs officer from the region and just
25 to follow up, the place where all this comes

1 together, where the pieces comes together that we're
2 talking about is the NRC Oversight Panel which meets
3 here monthly. The next meeting will be December
4 10th. It will be -- I think, Roland, is it going to
5 be at Camp Perry next time?

6 MR. LICKUS: Yes, Camp Perry.

7 MR. STRASMA: Yeah, December 10th,
8 the meeting will be at Camp Perry. There's an
9 afternoon at 2:00 between the NRC and the Utility and
10 then a 7:00 meeting with the public much like this
11 and that's the place where you not only follow what
12 the various steps are, but the people who are making
13 those types of decisions will be here, so unlike this
14 panel that's been looking historically at how we got
15 to this position, it's the Oversight Panel that is
16 coordinating the NRC's efforts going forward, so come
17 join us on December 10th, and you'll probably get
18 some answers, not all answers because, you're right,
19 there's a lot of pieces that's going on at the same
20 time, and they won't come together until they come
21 together, and it's at that point where a decision can
22 be made, not earlier.

23 MS. LUEKE: We would just like to
24 say that we hope all these pieces come together
25 before the plant opens for the comfort of the public

1 here.

2 MR. STRASMA: I understand that.
3 They will.

4 MR. HOWELL: Thank you. Just
5 checking, in terms of the schedule, we have about
6 eight minutes remaining. Are there other questions?
7 Yes, sir?

8 UNIDENTIFIED: Just a local resident,
9 and I have been coming to these meetings since they
10 started and it's amazing with the amount of words and
11 letters that are spoken without saying anything.
12 You know, I guess I'm ignorant, I don't know. The
13 thing I don't understand, I asked at the last
14 meeting, what happened to the management of
15 FirstEnergy that supposedly was fired or moved or put
16 into other jobs. They said they would get back to
17 us on that answer. There's been many, many, many,
18 many questions asked and there's no answers.
19 Everyone points their finger in another direction.
20 Ask this committee, ask that committee, look for so
21 and so, there's no answers, and I really think it's
22 disgusting that people are interested and want to
23 know the answers and you guys sit up there and wish
24 wash around. There's no answers.

25 MR. HOWELL: I understand your

1 frustration, sir, but, again, we're looking
2 historically at what happened relative to this event
3 and the actions that FirstEnergy took regarding
4 personnel actions involving individuals was not
5 central to our review, so we're not in a position to
6 provide any detail on that question.

7 UNIDENTIFIED: I understand that, who
8 is? I see -- I guess the thing I don't understand,
9 there is a whole lot of questions that people want to
10 ask FirstEnergy, and I think the people here feel
11 that you people are a buffer in between the two. I
12 don't understand why FirstEnergy isn't here.

13 MR. HOWELL: There are FirstEnergy
14 representatives in the audience, and you have a very
15 good question. Many of the questions that you
16 have -- that are of interest and of concern to you
17 are questions that should be put directly to them,
18 and it's up to FirstEnergy to provide the forum to do
19 that.

20 UNIDENTIFIED: Okay. Also, maybe
21 you can help me on a couple of these. First of all,
22 who is licensed on a nuclear power plant, is that the
23 management? The operators?

24 MR. HOWELL: The operators who
25 manipulate the controls that has a specified

1 definition in the regulation, so there's a number of
2 plant operators, and some operate equipment outside
3 of control room, and I'm just generalizing here, but
4 it's a very small subset of the total staff that
5 actually has an NRC license to manipulate the
6 reactivity of the reactor.

7 UNIDENTIFIED: What is the reason for
8 the license?

9 MR. HOWELL: The reason for the
10 license is to ensure that the operators are qualified
11 to perform their duties in accordance with the
12 regulations and to perform the duty safely.

13 UNIDENTIFIED: Has a license ever
14 been pulled?

15 MR. HOWELL: I don't know, I don't
16 know that it has. We could get you in touch with
17 the folks that could answer that question.

18 MR. (PAUL) GUNTER: How about a nuclear
19 power plant?

20 MR. HOWELL: Are you talking about
21 an individual license or --

22 UNIDENTIFIED: Or as of all, yeah.
23 As an individual license or as a -- when a plant is
24 shut down, what happens to them? Has a plant ever
25 been shut down?

1 MR. HOWELL: There have been many
2 plants shut downs for a variety of circumstances
3 including this one. Some plants --

4 UNIDENTIFIED: I mean, has there ever
5 been a plant closed permanently?

6 MR. HOWELL: Yes, yes, but, again,
7 that's outside the scope of our review, but the
8 answer is, yes, there's been several.

9 UNIDENTIFIED: May I ask then, who is
10 being held responsible? You know, I keep hearing of
11 all these inspections and all these inspections and
12 all these inspections. I don't think there is any
13 inspections being done. I think there's a lot of
14 paperwork, and it goes to someone else's office and
15 someone else -- evidently real human beings ain't
16 looking at some of this stuff. I mean, you can go
17 back 30 years and they recommended to put mouse holes
18 and stuff like this in there, so you could see the
19 mechanisms and stuff and none of that has ever been
20 done.

21 You fellows admit repeatedly how inspections
22 failed, but now we're going to have more inspections
23 and more inspections. I don't understand how this
24 going to help anything if none of the rules or
25 enforcements were put in place before this.

1 MR. HOWELL: Well, again, you know,
2 there were problems clearly, many problems, and that
3 was why we looked at it, and we made some
4 recommendations, and the recommendations are intended
5 at least in the view of the task force to address
6 those problems and as a result of further reviews
7 there may be other actions identified, but it's a
8 valid concern. I mean, if an inspector looks at
9 something and doesn't have, for example, the
10 technical background to fully appreciate what he or
11 she is inspecting, then that needs to be addressed
12 through training and through other activities and
13 that's why we made a number of recommendations in
14 those areas to address those deficiencies.

15 UNIDENTIFIED: Don't you think that's
16 rather scary to have people over power plants,
17 nuclear power plants, that are not capable of doing
18 the job?

19 MR. HOWELL: Well, let's be clear,
20 we're talking about a very narrowly defined technical
21 area that some folks may know more about than others,
22 and in this particular case there were a number of
23 inspections in which the symptoms and the indications
24 weren't integrated in such a manner that ultimately
25 lead to the NRC to discover the problem, and so all

1 of those issues need to be addressed, all of them.

2 UNIDENTIFIED: May I ask then, what
3 is the NRC's basic job?

4 MR. HOWELL: Our basic function is
5 to regulate the users of nuclear energy, and that's
6 not only nuclear power plants, but users of nuclear
7 materials and industrial applications to ensure the
8 public health and safety.

9 UNIDENTIFIED: Don't you find it very
10 peculiar that even as all the inspections and the
11 eyes are looking at Davis-Besse, that they allow
12 workers to go in and be contaminated? How did that
13 happen?

14 MR. HOWELL: Again, we did not
15 review that activity, I can't speak for that
16 activity. I can put you in touch with the folks
17 that did review that, and if, sir, after the meeting
18 if we can get some contact information we can do
19 that.

20 UNIDENTIFIED: Okay. There is just
21 one more issue I'd like to bring up or ask and this
22 was in The Plain Dealer. The agency prepared a shut
23 down order as a bluff -- excuse me, as a bluff, I
24 don't understand why you would have a shut down order
25 for a bluff and also as a back up in case FirstEnergy

1 played hardball. I'm really lost. I don't
2 understand what that's about.

3 MR. HOWELL: Bill?

4 MR. BORCHARDT: Maybe I can go back to
5 a couple of your comments earlier, and then we'll get
6 to the one about the shut down order. I just want
7 to make sure you understand -- and I apologize if you
8 already know this. I'd like to describe for a
9 second the NRC inspection program whose sole focus is
10 public health and safety. There are two resident
11 inspectors assigned to Davis-Besse full-time. They
12 live in the area. They report to work at the plant
13 every day, and they perform inspections. They are
14 supplemented by inspectors out of Region III in the
15 case of Davis-Besse by inspectors who have expertise
16 in particular technical areas, so there are
17 significant inspection hours going on every week at
18 Davis-Besse, and now under the 0350 process, even
19 supplemented even more, and they looked at all
20 different kinds of engineering, radiological
21 protection activities throughout the plant.

22 Regarding the preparation of an order, back
23 when the original bulletin was issued at the end of
24 last year and there were concerns raised or
25 questioned raised about when Davis-Besse would shut

1 down and do the inspections that were required by the
2 bulletin, we were operating as we do every single day
3 on the best information you have available at the
4 time. We saw at that time that there were a number
5 of scenarios that could possibly have played out
6 based on the incomplete information we had and based
7 upon that, we worked in several parallel paths. One
8 of those paths was the preparation of an order
9 requiring Davis-Besse to shut down and perform the
10 inspections. Ultimately that order was not utilized
11 because based upon the information we had available
12 at that time, we agreed to allow Davis-Besse to
13 operate until the date that they had proposed and
14 then they would shut down and do the inspections.
15 Had we known then what we know today, clearly we
16 would have issued that order.

17 UNIDENTIFIED: But even though what
18 you do know today, I have read where you made the
19 statement where you didn't feel that it put the
20 public in anymore danger by running that extra few
21 weeks, I find that appalling.

22 MR. BORCHARDT: I can understand your
23 point. If we had known that there was that
24 degradation in that vessel head at that point,
25 without hesitation, we would have issued that order.

1 UNIDENTIFIED: Like again, the other
2 thing I don't understand, like you keep saying how
3 many inspections are done how did all this come about
4 if all these inspections are being done? I don't
5 understand that. Maybe you can help me with this.

6 MR. BORCHARDT: Well, we're very
7 disappointed about it also. That's why we have a lot
8 of significant --

9 UNIDENTIFIED: I'm more than
10 disappointed because for the simple reason, you know
11 if things goes to hell here, we're talking all the
12 Great Lakes, thousands of people's lives. You know,
13 I don't understand why no one is being held
14 accountable for some of the things that's went on
15 here. There's been time after time after time that
16 FirstEnergy has lied to you people or you people have
17 not told us the truth. No one is being held
18 accountable for anything. Therefore, I guess, if no
19 one is held accountable for anything, what would make
20 me think that you guys are going to change anything
21 that's going on now?

22 MR. BORCHARDT: Well, I think you're
23 premature saying no one is being held accountable.

24 UNIDENTIFIED: Well, we're going
25 almost a year and all these questions have been asked

1 and everyone we have talked to no one can answer one
2 single question.

3 MR. BORCHARDT: Well, there are
4 ongoing investigations separate from the staff that
5 are looking at staff performance. There have
6 been -- there's investigations looking at the
7 performance of Davis-Besse individuals. Those --
8 these activities are formal investigations that don't
9 happen overnight, they're in process, and you will
10 know about the final conclusions when they're issued.

11 UNIDENTIFIED: I realize these things
12 don't happen overnight, but if that place lights up
13 it's going to be quicker than overnight. Thank you.

14 MR. HOWELL: Thank you, sir.

15 MS. RYDER: My name is Amy Ryder.
16 I'm with Ohio Citizens Action.

17 MR. HOWELL: Good evening, Amy.

18 MS. RYDER: I just have a brief
19 comments. I think what stood out to me most this
20 evening was when Dr. Hackett stated that this was a
21 preventable event. FirstEnergy has a massive
22 responsibility of operating this plant and two other
23 safely, and it's clear that they failed with
24 Davis-Besse, and I understand that this group's job
25 was to identify what can be learned from all this,

1 and I think you came up with 51 recommendations.

2 MR. HOWELL: Yes.

3 MS. RYDER: But I think you forgot
4 very one important recommendation. The one
5 recommendation that I think would prevent this from
6 happening at any other facility would be for the
7 Nuclear Regulatory Commission to revoke FirstEnergy's
8 license to operate Davis-Besse. If FirstEnergy
9 thought for a minute that this agency would revoke
10 their license, they would have never allowed this
11 degradation to happen. If this agency revoked the
12 Davis-Besse operating license as a result of this, I
13 think we could be confident that other plant
14 operators would take much more caution in the way
15 they operate their facilities. Recommending a
16 revocation of a license, that is a recommendation
17 with some meaning, and I think you're missing that.
18 Nuclear power is unforgiving technology and you have
19 never had more justification for revoking a license
20 than you've had in the last nine months, and like
21 FirstEnergy you have failed at your job. You're a
22 regulatory agency. I mean, earlier this evening
23 somebody asked what your job is and your job is to
24 make sure that FirstEnergy does their job, and I
25 don't understand how you think you can be effective

1 if you refuse to exert your most powerful authority
2 of revoking or suspending a license. I have
3 unfortunately zero confidence that the NRC is willing
4 to do its job, and I've think if you continue to do
5 things the way that you have been, either this
6 community or some other, God forbid, is likely to
7 suffer the catastrophic consequences. Thank you.

8 MR. HOWELL: Thank you. And all of
9 us here agree that what happened is unacceptable and
10 that it needs not to happen again and we need to make
11 sure that we take those steps to ensure that it
12 doesn't.

13 MR. GUNTER: Thank you. Paul
14 Gunter.

15 MR. HOWELL: Good evening, sir.

16 MR. GUNTER: I'm with Nuclear
17 Information and Resource Service. Actually, I'm out
18 of Washington, so I would ask if we could provide an
19 extension to this so that other people, local, would
20 like to speak before me, I would certainly relinquish
21 the microphone here.

22 MR. HOWELL: I think we have -- how
23 much time? Maybe another 30 minutes, are there other
24 folks, local folks, that have questions or comments?

25 (No response).

1 MR. HOWELL: Okay, please.

2 MR. GUNTER: Thank you. Again, my
3 name is Paul Gunter, I'm with Nuclear Information and
4 Resource Service out of Washington, and we've
5 provided the agency with our formal comments tonight
6 on the Lessons Learned Task Force final report, and
7 anybody in the audience who would like a copy, we do
8 have enough here to provide folks with copies. I'm
9 not going to go verbatim through our comments, but I
10 would like to touch on a few points given the hour
11 and a few questions. I think it's clear that the --
12 to the agency, that more than a hole at the reactor
13 was recreated by Davis-Besse's malpractice, and what
14 you've heard tonight is that a significant hole in
15 public confidence, and that's going to be a hole more
16 difficult to repair than just bringing in a
17 replacement part, but we need to look at the issues,
18 not only from Davis-Besse management point, but from
19 NRC management point, and I understand that's your
20 responsibility, and I appreciate the fact that has --
21 it's a rare opportunity that we do get the NRC out on
22 the carpet, so to speak. Unfortunately, we don't
23 have your senior management on the carpet tonight and
24 I think that tonight is the appropriate night for Sam
25 Collins, Dr. Brian Sheron, and others who play

1 critical roles in management decisions on the
2 Davis-Besse degradation, they should be here tonight,
3 and I'm disappointed that they're not, but the fact
4 is that you not only have this significance lack of
5 public confidence, but the NRC is significantly
6 undermined the confidence of its own staff by the --
7 in the current regulatory decision-making process,
8 and that was most evident at a meeting in Washington
9 on October 30th, 2002 where Dr. George Apostolakis,
10 who is with Massachusetts Institute of Technology and
11 also Chair of the Advisory Committee on Reactor
12 Safeguards for the U.S. NRC in a conference, and as a
13 panel, panelist, basically said that recent events
14 have shaken our confidence in our assumptions. These
15 being the regulatory assumptions that govern safety
16 issues for U.S. nuclear power plants, and that he
17 basically was left with the question, what is the
18 appropriate consideration of uncertainties in this
19 regulatory process, and, frankly, I don't know, at
20 this time. That is a significant admission and
21 worrisome to those of us who realize that the only
22 mission of the NRC is to uphold public health and
23 safety, but to specifically address the task force
24 report, I'm here tonight to say that the task force
25 final report did not fully address and fulfill it's

1 charter. For one, the task force failed to interview
2 appropriate external stakeholders for all of the
3 germane issues, and -- that were related to the lack
4 of NRC oversight and enforcement actions at
5 Davis-Besse.

6 Nuclear Information Resource Service and the
7 Union of Concerned Scientists have played critical
8 roles in addressing the issues in researching in
9 providing through the Freedom of Information Act
10 internal documents that pointed to the mechanics or
11 the breakdown of the process that contributed to the
12 degradation, and, yet, while NRC went out to industry
13 trade groups and owners groups, they never contacted
14 the public, and, particularly, the recognized public.
15 Stakeholders that have come to you tonight and that
16 have been before you numerous times, were never
17 brought into the review process, and I understand you
18 had a couple of meetings, but it's my understanding
19 that those were scoping meetings and were not really
20 conducted as interviews to pull out germane issues as
21 you conducted with foreign reactor operators and with
22 the B&W owners group, so I think that that was --
23 that was a significant shortcoming, but, more
24 importantly, I'd like to focus on the fact that the
25 task force did not provide a complete review of all

1 the significant germane regulatory issues that might
2 have come forward if you had contacted all of the
3 stakeholders.

4 One issue, is The Abandonment of Your
5 Regulatory Guide 1.174, and nowhere in the report is
6 it mentioned, and it seems to us to be a -- a very
7 conspicuous omission. It gets arcane very quickly
8 here, but just to try to explain regulatory guide
9 1.174 is the agency's own analysis technique to
10 improve safety decision-making at U.S. reactors by
11 using Probabilistic Risk Assessments, and it was used
12 as part of the agency's review of FirstEnergy's
13 request to blow off your bulletin and the reporting
14 requirement and the deadline, and that requirement
15 basically provided staff and the licensee with
16 clearly established governing safety policies and
17 principles and procedures to -- to understand if this
18 requested waiver was -- was appropriate, and to make
19 a long story short, the five criteria that the agency
20 used, the NRC staff had concluded that -- that if the
21 inspections were conducted at Davis-Besse in the fall
22 of 2001, that the current regulations would not be
23 met for that facility with request -- or with regard
24 to its own technical specifications. With your
25 requirements under code of Federal regulation, it

1 would have found that it was likely that barriers in
2 the defense and depth strategy that's much touted by
3 the agency were degraded, and the agency knew that at
4 the time. It also stated that -- and these were
5 revelations that were coming out on September 9th,
6 well -- just after this August bulletin had been
7 issued and Davis-Besse's request for the deferral.
8 Staff realized that it was likely safety margins were
9 reduced at Davis-Besse. Staff recognized that
10 operation in this condition could result in a higher
11 core damage frequency than -- than is normally
12 accepted under the regulatory guides, and that the
13 only way that you could measure this would be to
14 inspect, and that was the reason for the order, to
15 inspect, and when NRC provided Davis-Besse with the
16 waiver to operate until February 16th in spite of the
17 staff's consideration and determination that it was
18 unsafe to operate beyond December 31st, the staff --
19 the staff in reviewing 1. -- Reg Guide 1.174 again
20 determined that five of the criteria were not met,
21 and this was your own guidance talking, so I guess my
22 first question is, why did the task force not review
23 this fundamental tool that led to the abandonment of
24 your own order that would have brought about an
25 inspection at an albeit -- at a late date, at a much

1 earlier date given the significance of the damage?

2 MR. HOWELL: Yes, first of all, as
3 I mentioned earlier, the task force sought to
4 understand why the event was not prevented, and as
5 you indicated, the issue about whether or not the
6 plant operated whether you're talking in the time
7 frame of the fall of 2001 or for some point for six
8 or seven weeks after December 31st, 2001, as you
9 know, at that late stage the damage was already done,
10 and so, in the sense of our question that we're
11 attempting to answer why the event was not prevented,
12 although there are a number of important issues
13 there, they were not central to answering that
14 question. Having said that, however, we did review
15 this matter, although -- and, quite frankly, we
16 identified a number of issues that touch on some of
17 your concerns. Basically the bottom line is that had
18 more review been done to confirm the information that
19 was provided through meetings and letters, in all
20 likelihood, this would have been brought to light in
21 the fall of 2001, simple as that, and I think we do
22 make that point in the report.

23 Now, I agree, we did not review in detail Reg
24 Guide 1.174, as you noted.

25 MR. GUNTER: And this is my concern

1 that if there's one central lesson we believe that
2 needs to be learned, is that you uphold your own
3 principles of guidance in the safety of the operation
4 of these reactors, and the fact that that guidance
5 was abandoned, does not restore public confidence,
6 particularly in light that it's not being addressed
7 in your final report.

8 MR. HOWELL: Well, again, one of
9 the other issues in the report was that since the
10 basis for the decision was not documented in detail,
11 that was a finding, and so it becomes difficult to
12 understand ultimately what the basis was. Now, in a
13 general sense, we know that risk information was
14 provided by the licensee and was considered by the
15 staff. We also know that information clearly in
16 response to the bulletin was provided by the licensee
17 in terms of the scope of past inspections of the
18 nozzles, as well as a review of operating experience
19 involving other B&W plants, and so beyond that, it
20 becomes a little bit difficult to piece together the
21 story since there's a lack of documentation for the
22 ultimate decision. Bill -- and that is addressed in
23 the report.

24 MR. GUNTER: But there is, there is
25 lots of documentations that was produced through the

1 Freedom of Information Act that indicated that the
2 bulk of the staff determination was that this plant
3 was not fit to operate beyond December 31st and that
4 was determined through your on own guidance
5 principles that were then put to the side, and
6 that's -- that's the concern. I just want that to
7 be clear to you, that if you -- if anything is to be
8 understood here tonight from our organization, it is
9 that when you abandon your principles, what can you
10 expect when -- for the industry, they serve two
11 masters; to keep their profit up and to run the plant
12 safely. You serve one master, supposedly, and that
13 is to keep these plants safe. When you abandon your
14 principles, that leaves the plants open to running
15 wild with production over safety.

16 The other -- the other concern is that -- and
17 I believe that we hear this time and time again, it
18 was only last week, I believe, that Mr. Collins of --
19 the Director of NRR, Nuclear Reactor Regulation,
20 stated that the waiver was conducted on new
21 information, that justified with reasonable assurance
22 that the reactor was safe to operate. The one thing
23 that I also noticed the final report does not address
24 is that there was significant known confidence on the
25 part of staff in the new information that Davis-Besse

1 was providing to push the -- forward with the
2 extension.

3 MR. HOWELL: The report does
4 address the range of views expressed during the
5 discussions on this matter.

6 MR. GUNTER: The range of views,
7 though, I think would have been -- it would have been
8 worthwhile to note that the staff involved in the
9 decision-making process had determined that the
10 compensatory actions that FirstEnergy was offering
11 such as a dedicated operator was a ruse, that there
12 was no dedicated operator, and the staff realized
13 that, that this person was not going to be dedicated
14 to particular activities that would have made that
15 plant safer, but, in fact, had all other sorts of
16 duties and that to operate the reactor at a lower
17 temperature, staff recognized that technically that
18 was not significant over the time frame, so the --
19 the fact that the reactor operator was able to push
20 beyond the shut down date, beyond what you were
21 suggesting was the enforcement date, again, does not
22 set you up as an example of a -- of a regulator, but
23 an accommodator, and that's what we need to hear from
24 this Lessons Learned Task Force is that you are no
25 longer willing to accommodate the financial interest

1 of the utility over the public health and safety.

2 MR. HOWELL: Again, the central
3 focus of the task force was to understand why the
4 event was not prevented and these are all important
5 issues and they're being reviewed by other agency
6 review organizations and -- but I have to emphasize
7 that by the time of the fall of 2001, there was
8 already significant degradation to the reactor vessel
9 head.

10 MR. GUNTER: But also you knew at
11 that time that the plant was highly likely to be
12 operating outside of its own technical specification
13 and code of Federal regulations, and yet those
14 considerations were set aside that it was operating
15 outside of its own license that you are mandated to
16 uphold and regulate, and that's what -- that's why
17 you're not going to fix the hole in the public
18 confidence if you don't recognize that your actions
19 or lack of actions continue to a widening hole.

20 MR. HOWELL: And I don't disagree
21 with the notion that operating experience at other
22 similar plants would have indicated the high
23 likelihood of cracking of nozzles at Davis-Besse,
24 and, in fact, the task force independently concluded
25 that by an independent review of the operating

1 experience that's available and reported -- that's
2 available to everybody to review, so we agree with
3 that conclusion, that there was a high likelihood
4 that the nozzles were cracked.

5 MR. GUNTER: And that was -- and
6 that was in violation of its license.

7 MR. HOWELL: If, in fact, it were
8 known with certainty, yes.

9 MR. GUNTER: And that your own
10 internal documents indicate that FirstEnergy Vice
11 President of Operations, Guy Campbell, admitted that
12 it was also -- he agreed that it was highly likely
13 that they were operating outside of their own tech
14 specs.

15 MR. HOWELL: I'm not familiar --

16 MR. GUNTER: I can assure you that
17 the document is available, and it was established
18 that both the NRC and FirstEnergy came to the
19 agreement that the plant was operating outside of its
20 own technical specifications and your law and
21 governance over safety, and that's, see, again, you
22 don't fix the hole in the public confidence until the
23 agency sets about a course of action to guarantee
24 that it will uphold its own guidance and regulation.

25 The other concern, of course, is that the

1 task force fails to address the agency's own
2 avoidance of regulatory management changes and the
3 admission of future agency oversight as necessary
4 lessons to be learned. In your Appendix, you
5 acknowledge the lessons learned from South Texas
6 project in 1995, Millstone in 1997, Indian Point 2 in
7 2000. In all three of these cases and in the current
8 case at Davis-Besse, there were numerous utility
9 management changes made to accelerate the pace of
10 corrective actions. These management changes
11 contrast sharply with the very limited, if any,
12 management changes within the NRC due to these cases.
13 If corporate management changes are an integral,
14 essential part of the overall reform program at
15 troubled nuclear power plants, what basis does the
16 task force have for believing, and the public have
17 for accepting, the notion that no management change
18 at NRC is warranted as part of the regulatory reform?

19 MR. HOWELL: The focus of the task
20 force was to look at our regulatory processes. We
21 did that. Where we found gaps in the processes we
22 made recommendations to address those. Where we
23 found implementation problems with an otherwise
24 suitable process, we sought to understand why was it
25 we didn't provide the tools to management and staff

1 to help them be successful in their job and we made a
2 number of recommendations to address those areas, and
3 those recommendations are under review, and I would
4 point out there are other ongoing reviews in which we
5 don't know what the findings are yet, so, again,
6 you're right, if your point is that we didn't make
7 any recommendations about specific organizational
8 management changes, we did not. We focused on those
9 process issues that we found deficiencies with and
10 those are being reviewed by senior managers at this
11 time.

12 MR. GUNTER: The task force report
13 does not address NRC's role in placing production of
14 electricity at Davis-Besse over public safety
15 requirements, and I think that, you know, in the
16 FirstEnergy's Management Human Performance Root Cause
17 Analysis, they admitted that they placed production
18 ahead of public safety.

19 MR. HOWELL: There is a section in
20 our report that clearly articulates an overemphasis
21 on production --

22 MR. GUNTER: By FirstEnergy.

23 MR. HOWELL: Correct, correct.

24 MR. GUNTER: But what does the task
25 force have to say about the acknowledgment that staff

1 agreed that FirstEnergy Vice President of Operation,
2 Guy Campbell, agreed that the plant was operating
3 outside of its technical specifications identified as
4 early as October 2001?

5 MR. HOWELL: Again, I'm not
6 familiar with the document you're referring to.

7 MR. GUNTER: But you probably are
8 familiar with the fact that NRC manager Dr. Brian
9 Sheron as early as November 15 in correspondence to
10 the commission stated as Larry Chandler and Sam
11 Collins also said, we could have made an argument for
12 immediate shut down, but we're exercising discretion
13 in allowing them to go to December 31st, and what
14 he's referencing there is that your own requirements,
15 that Davis-Besse's own licensing document established
16 that they -- that once you all came to agreement with
17 FirstEnergy that you had leakage on the reactor -- of
18 reactor coolant from the nozzles that that enacted a
19 six hour limited condition of operation, the reactor
20 was, by its own license, required to shut down within
21 six hours and that -- that was ignored as --

22 MR. HOWELL: We uncovered no
23 information to suggest that anybody on the NRC side
24 was aware with certainty that those nozzles were
25 leaking at the location that would have mandated a

1 tech spec required shut down, and that, in effect, is
2 part of the problem because had more independent
3 verification of the circumstances been conducted --

4 MR. GUNTER: Right.

5 MR. HOWELL: -- then in all
6 likelihood or strong likelihood that it would have
7 been identified in the fall, but I must emphasize, by
8 that point the damage had already been done, the
9 damage had already been done by that point and that's
10 not to say that those issues are not important,
11 because they are very important.

12 MR. GUNTER: But the cracking at
13 Oconee was, in fact, a blessing because it identified
14 the issue that uncovered this gross damage at
15 Davis-Besse and had we not -- had you not seen the
16 cracking at Oconee, we may have allowed Davis-Besse
17 to go into another two year operating cycle where the
18 corrosion rates very well could have failed that
19 vessel. I mean, the damage was ongoing. It wasn't
20 that it had occurred. It was ongoing. It was not a
21 stagnant issue. It was aggressive, aggressive
22 corrosion.

23 MR. HOWELL: Correct, and I would
24 agree with that notion, and, clearly, there were
25 other missed opportunities in the past that -- that

1 in the realm of the review involved in the operating
2 experience that were also problematic that need to be
3 addressed.

4 MR. GUNTER: But let me just
5 conclude by saying that also in that the task force
6 failed to recognize and articulate that the NRC
7 wields a two edge sword. One side of -- one blade
8 of the sword is razor sharp, and that is the blade
9 that cuts safety requirements, cuts the obligation of
10 the utility for expediting practices, procedures that
11 benefit the utility, and the other edge is that would
12 protect public health and safety, has a nerf-like
13 quality to it and that it's used rarely, and if
14 Probabilistic Risk Assessments that could have --
15 that were indicating to the staff that six of seven
16 Babcock & Wilcox reactors had cracks and Davis-Besse
17 was the only one of those seven that had not
18 inspected and that three of those Babcock & Wilcox
19 reactors had circumferential cracks and those are
20 what we are to believe and would have hoped that the
21 agency would have articulated to be part of a
22 Probabilistic Risk Assessment that would have cut in
23 favor of public health and safety and shut that
24 reactor down at appropriate time for the appropriate
25 inspections, yet the blade that wielded against the

1 utility had no cutting edge, and that was most
2 clearly demonstrated by the fact that the order, that
3 the staff had ardently worked on was never wielded
4 and, in fact, the utility was provided with the
5 waiver that was production oriented, and this is
6 where we believe that the task force has failed to
7 address a -- perhaps the most dangerous part of this
8 is that if these utilities are left to their own
9 devices to self-assessment, that we can only expect
10 more Davis-Besse's, not less, and so we look to you
11 as a regulator to wielded a double-edge sword that
12 cuts fairly, and we don't see that happening and the
13 task force has failed to recognize that, and, believe
14 me, this is not just coming from your critics that
15 are the watchdogs in the Washington -- in the D.C.
16 area, but that it's -- it's becoming clearer to
17 editorial boards, to the public that's here tonight,
18 that the agency is unwilling to fairly exercise
19 regulation that cuts both ways, and that what we're
20 seeing more and more of is -- is the side that allows
21 more self-assessment and less prescriptive oversight,
22 and I can only say with fear that that course is a
23 collision course, and we expect you to at least
24 acknowledge it and put forward the recommendations
25 that would alter us from that collision course.

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1 Thank you.

2 MR. HOWELL: Thank you, sir, and
3 just one final point, you raised a number of issues,
4 and we do thank you for putting those in writing so
5 that we can look at them in further detail. Thank
6 you, sir.

7 We're at about 35 minutes over the schedule.
8 I don't know how much longer the auditorium is
9 available. I think we're actually out of time.

10 Are there any other folks that had a question
11 that didn't have an opportunity to ask it that
12 perhaps there may be some opportunity for us to get
13 with you after the meeting is formally adjourned?

14 (No response).

15 MR. HOWELL: No? Okay. Well,
16 again, I want to thank all you folks for taking time
17 out of your busy schedule to participate in this
18 meeting. Again, I encourage you all to fill out the
19 feedback forms and provide those, mail those in, and
20 I just want to say that all of the materials that
21 were provided will be made publicly available in the
22 form of a meeting summary, and with that, the meeting
23 is adjourned. Thank you.

24 THEREUPON, the meeting was adjourned.

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CERTIFICATE

STATE OF OHIO)
)
COUNTY OF HURON) ss.

I, Marlene S. Rogers-Lewis, Stenotype Reporter and Notary Public, within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the foregoing, consisting of 110 pages, was taken by me in stenotype and was reduced to writing by me by means of Computer-Aided Transcription; that the foregoing is a true and complete transcript of the proceedings held in that room on the 20th day of November, 2002 before the Lessons Learned Task Force.

I also further certify that I was present in the room during all of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Wakeman, Ohio this 21st day of January, 2003

Marlene S. Rogers-Lewis
Marlene S. Rogers-Lewis
Notary Public
3922 Court Road
Wakeman, OH 44889

My commission expires 4/29/04