

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the matter of:

COMMISSION MEETING

**Briefing by TVA on
Status, Plans and
Schedules**

(Public Meeting)

Docket No.

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D I S C L A I M E R

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2 NUCLEAR REGULATORY COMMISSION
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8 PUBLIC MEETING
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10 1717 H Street, N.W.

11 Room 1130

12 Washington, D.C.

13 Tuesday, March 11, 1986
14

15 The NRC Commission met in public session at 9:35
16 a.m., pursuant to notice, the Honorable Nunzio J. Palladino,
17 Chairman of the Commission, presiding.

18 COMMISSIONERS PRESENT:

19 Nunzio J. Palladino, Chairman

20 James K. Asselstine, Commissioner

21 Frederick M. Bernthal, Commissioner

22 Thomas M. Roberts, Commissioner

23 Lando W. Zech, Jr., Commissioner
24
25

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

S. Chilk
H. Plaine
S. White
J. Waters
C. Dean

AUDIENCE SPEAKERS:

N. Zigrossi
H. Sanger
E. Sliger
H. Abercrombie

P R O C E E D I N G S

CHAIRMAN PALLADINO: Good morning, ladies and gentlemen.

This morning TVA will brief the Commission on status of activities presently in progress. The Commission last met with TVA on January 9th, 1986.

My understanding is that TVA intends to discuss the following topics: history and background, organization and people, employee concerns, quality assurance, and the matter of engineering.

The Commission recognizes that TVA has a significant amount of work underway. The Commission also recognizes that it wasn't until January this year the significant management changes at TVA were approved and implemented.

When today's meeting was originally scheduled, it was believed that the update of Volume I of the TVA Corporate Plan would have been available. However, the plan has not yet been received. Nevertheless, the Commission feels that today's meeting is valuable, and that a follow-up meeting next Monday may be necessary, given that TVA will finalize its corporate plan within the next day or so.

I understand that TVA would like to discuss the need for the next meeting next Monday. Therefore, at the end of today's meeting, I intend to discuss with my fellow Commissioners if a follow-up meeting should be scheduled for

1 March 17th.

2 I understand that members from Regions II and V and
3 the Sequoyah resident inspector are listening in on the
4 telephone.

5 Let me ask if my fellow Commissioners have any
6 additional remarks.

7 COMMISSIONER ZECH: No.

8 CHAIRMAN PALLADINO: All right. Then I will turn
9 the meeting over to Charles Dean, Chairman of the TVA Board of
10 Directors.

11 MR. DEAN: Good morning, Mr. Chairman and members of
12 the Commission. I am Charles Dean, Chairman of the Board of
13 Directors of Tennessee Valley Authority. With me here today
14 is my colleague on the board, Director John B. Waters, and our
15 Manager of Nuclear Power, Steven A. White. I would also like
16 to introduce our General Manager, William Willis; our General
17 Counsel, Herbert Sanger, Jr.; and our Inspector General,
18 Norman Zigrossi.

19 We are here today to present the NRC TVA's plan for
20 the proper operation of our nuclear program as we discussed it
21 with the Commission during our meeting on January the 9th.

22 When we last met with you, we told you that we had
23 arranged for the services of retired Admiral Steven A. White
24 to address the management problems in TVA's nuclear program.
25 Since that time Mr. White has taken firm control of TVA's

1 Office of Nuclear Power. ,'

2 Before he came to work for TVA, we agreed with
3 Mr. White that he would have the resources and the authority
4 he needs to correct the problems within TVA's nuclear
5 program. In his first few weeks he has made a good
6 beginning. He has brought in many capable people to help him
7 in his efforts. He has made some changes and he is in the
8 process of making more.

9 The TVA Board's actions in bringing Mr. White to TVA
10 were unprecedented, absolutely unprecedented. However, the
11 Board firmly believes that it did what had to be done to be
12 true to our top priority at TVA, which is the safe operation
13 of these nuclear plants.

14 TVA is committed to that priority. The current
15 shutdown of our nuclear plants today is grim testimony to the
16 need for that commitment. None of TVA's nuclear plants will
17 be operated until the Board is satisfied that each plant can
18 and will be operated safely and in accordance with TVA's
19 standards and commitments.

20 Mr. White is vigorously engaged in the effort to
21 bring TVA's nuclear program up to these standards and to
22 regain confidence in that program. He is prepared to report
23 to you on his efforts. But before he gives his report, I
24 would like to give Director Waters an opportunity to say a few
25 words.

1 MR. WATERS: Thank' you very much.

2 Good morning, Mr. Chairman and members of the
3 Commission. I appreciate the opportunity to again be with you
4 this morning.

5 I want to emphasize to you this morning that in my
6 opinion what we have now at TVA in our nuclear program is more
7 than just a new plan or a new organization. It's a
8 far-reaching reestablishment, restudy of principles,
9 objectives and goals. We think we have been through the
10 entire process. We think that was absolutely necessary. And
11 I want to emphasize to you this morning that I think that's
12 what you are going to hear, an absolutely new approach from
13 TVA's standpoint of view.

14 We think that Admiral White has made a good
15 beginning, and we would hope that all of us will give him an
16 opportunity, which basically what is needed is going to be
17 time to do the work that I am firmly convinced that he and his
18 people that he now has in TVA and will bring into TVA can do.

19 I intend to support him fully, and I hope that this
20 Commission and the public in general will let us earn the
21 confidence that we now, I think, we are able to do in our
22 nuclear system.

23 With your permission now, Mr. White will give you
24 his assessment of our program and what he is doing to bring it
25 back to where it should be, where you know it should be and

1 where we know it should be:

2 Thank you, sir.

3 MR. WHITE: Commissioners, gentlemen.

4 First of all, I am happy to be here this morning to
5 give you my first report on the situation at TVA as I see it.

6 I have been in the job now, as you know, for about
7 two months, and I think you will all recall that shortly
8 before I took the job, I stopped by to see each of you, and at
9 that time I told you that I felt I could come back within a
10 month, approximately a month, and at that time be able to tell
11 you the major problems as I saw them, and perhaps some
12 outlines of plans of action.

13 I very much appreciated the additional three weeks
14 which, Mr. Chairman, you and the members, the Commissioners,
15 gave me, to get my arms really around our major problem. So
16 what you are going to hear this morning is my view of our
17 major problems, some plans of action that we intend to take,
18 and some of the things that we have already accomplished in
19 this first two months.

20 Let me also say I do not know all of the problems.
21 I do not know all of the problems, nor do I have all the
22 answers.

23 Go to the topic slide.

24 [Slide.]

25 Here are the subjects we will be covering this

1 Mr. Zigrossi was with the Washington office of the Federal
2 Bureau of Investigation and supervised about 1000 people
3 here. Quite frankly, we felt like that anybody that could run
4 the Washington office of the FBI could do the job of Inspector
5 General at TVA, and we are very proud to have him, and we are
6 very proud of the way he's taking hold of his office and the
7 support he's giving Steve White.

8 COMMISSIONER ZECH: Before you move off of
9 intimidation and harassment, how do you follow up on
10 discrimination and harassment, and how do you plan to follow
11 up on it in your Inspector General's office or your Office of
12 General Counsel? Now as far as the categories of, first of
13 all, of the discrimination type charge, and then the safety
14 concerns, and they're a little different sometimes, and how do
15 you reach closure on both of those things? Have you got into
16 that from the point --

17 MR. WHITE: Yes, and I'll let the General Counsel
18 speak to part of this, because his office has been doing the
19 investigations. But in essence there have been about 106
20 allegations. His office has investigated 28. Of those, there
21 was one case of harassment and intimidation, which involved
22 three concerns, and I discharged that person.

23 Now do you want to add anything, Mr. Sanger?

24 MR. SANGER: No, I think that describes it. I
25 reported on it the last time I was here. I would be glad to

1 respond to any specific questions.

2 COMMISSIONER ZECH: Well, my concern is twofold:

3 First of all, if the discrimination part shows some
4 kind of management weakness, that could be pervasive. That's
5 important.

6 And the second thing is, if it shows any kind of
7 safety concern, we at the NRC have got to know about it, and
8 you have got to have some kind of a system, in my judgment, of
9 making sure that our staff, the Commission, we know about any
10 safety concern, even if you have solved it or you have gotten
11 into it to the extent that you think you've solved it. We've
12 got to know, to be sure ourselves that you've solved it.

13 So, again, the intimidation and harassment has those
14 two concerns for me. One of them to see whether it's a
15 management pervasive thing that could bear on other fields;
16 and two, if it's a safety concern, then we must be able to
17 assure ourselves that the problem has been resolved.

18 Now how do you come to closure especially on the
19 safety concern, and how are we assured that we're informed
20 when you are investigating these type charges?

21 MR. SANGER: My practice has been to report, both to
22 the Board and to the line manager, the personnel issues
23 involved. If there has been harassment, the individuals
24 involved. I tell the Board and the management what type of
25 action they can take that I think I can support legally.

1 Termination, for example.,

2 If there is any sort of criminal activity involved,
3 I report that to the United States Attorney. In several
4 instances where I did not find harassment, I did report to
5 Steve, for example, that I thought some of his managers had
6 failed in enforcing the policy throughout TVA, and Steve has
7 also taken action on that.

8 Those reports, as I indicate, go both to the Board
9 and to the manager. They are required, the manager is
10 required within a certain number of days to report back to the
11 Board and to inform me what action has been taken.

12 Then I have been very free about making that
13 information available to the NRC Staff people. I have made
14 available all of my reports to them.

15 And on the safety aspects, to the extent that they
16 are involved in my report, that would be the function of our
17 -- Steve's people to coordinate that with the NRC.

18 CHAIRMAN PALLADINO: I want the record to make sure
19 we have your name.

20 MR. SANGER: I am Herbert Sanger, General Counsel
21 with TVA.

22 COMMISSIONER ZECH: Well, the only comment I would
23 like to make is I'd like to make sure that we are informed
24 about how you are handling these intimidation and harassment
25 charges, so that we can carry out our responsibilities for

1 public health and safety, as you are carrying out your
2 responsibilities for public health and safety. We jointly
3 come together on this issue, and we simply must be able to
4 have the confidence that you are doing -- you are making the
5 proper decisions, and we are going to look over your shoulder
6 to make sure you are, at least to our satisfaction.

7 But it's important that we follow through and can
8 also agree that the decisions you've made that might come out
9 of these intimidation and harassment charges are indeed
10 sufficient -- the decisions you've made are proper ones, so
11 that we can also agree that public health and safety is being
12 protected. It's the safety concern across the board that I'm
13 mostly interested in, and I'm interested to make sure that you
14 inform us of those things so we can indeed review what you're
15 doing and therefore assure ourselves that public health and
16 safety is being protected.

17 MR. WHITE: I understand the point, and with regard
18 to safety, let me clarify. You mentioned management, and if I
19 can take just a second to go through under our new program,
20 which I'll discuss in a minute here.

21 We have into that program -- either I personally or
22 my staff -- have received 14 allegations of harassment and
23 intimidation. We have completed an investigation of two of
24 those.

25 In the first case -- and let me just call the

1 complainant "Smith" for these purposes. Smith said there are
2 some bad things going on in the office. So we started an
3 investigation.

4 During the investigation one of Smith's supervisors
5 came to Smith and said, "I hope you slept well last night." I
6 gave that person three days suspension, and that's a couple
7 hundred dollars fine, because the manager -- if that isn't
8 really intimidation or harassment, it's sure as heck poor
9 management.

10 Smith's second level supervisor, believe it or not,
11 came in the following day and told not just Smith but the
12 entire office, "When this thing is over," meaning the
13 investigation, "when this thing is over, there are going to be
14 new rules in this office and nobody is going to like them."
15 That person I gave two weeks suspension to, and that's about
16 \$1000.

17 In the third level, the manager, who didn't know the
18 problems he was having, but should have, I reprimanded him
19 with a formal letter and told him he has one week to get his
20 act together.

21 Now those are not in the specific -- none of them
22 dealt with safety. As a matter of fact, they dealt with paint
23 and some other things not associated in any regard to safety.
24 Those I frankly would not think you'd expect me to report.
25 But certainly any safety-related ones, we will ensure that you

1 are fully cognizant of them. Because I feel the same as you
2 do in terms of the public health and safety responsibilities.

3 COMMISSIONER ZECH: And also -- the safety-related
4 are important and I appreciate that you will inform us of all
5 those. But it is also important that at least we be informed
6 even of some of your management problems, because then what it
7 really means is that certainly it sounds like in that case you
8 handled it very promptly and very effectively. But if you had
9 not, or even knowing you do that is important for us to know,
10 because then it gives us the confidence that you are handling
11 it.

12 For example, if you didn't handle them that way, or
13 if you handled them a lot less effectively, it might concern
14 us as to how other management decisions are being reviewed and
15 handled. But I think it's important that we figure out a way
16 that at least we are informed of those management actions that
17 perhaps even aren't safety-related.

18 I'm not exactly sure how to do that myself, but I
19 think it's important.

20 MR. WHITE: Let me ask Mr. Abercrombie. Some of
21 those cases were at your site. Was the NRC resident cognizant
22 of --

23 CHAIRMAN PALLADINO: Maybe if you picked a couple of
24 examples also in the nuclear area, it might help us.

25 MR. ABERCROMBIE: Edward Abercrombie, Site Director,

1 Sequoyah.

2 In that case he was not aware of the situation.

3 MR. WHITE: We will make sure that he's aware.

4 COMMISSIONER ZECH: Very good. Thank you.

5 CHAIRMAN PALLADINO: Let me ask a couple of
6 follow-on questions, if I may.

7 The fact that you are taking strong action, I think,
8 will help the situation, but I was wondering, have there been
9 continuing intimidation and harassment events, even though
10 you've taken this kind of action? Do they still continue to
11 arise, the allegations?

12 MR. WHITE: The allegations continue to arise. Let
13 me say this, Mr. Chairman:

14 First of all, these are symptoms of a problem.

15 CHAIRMAN PALLADINO: Yes.

16 MR. WHITE: The problem has existed, in my opinion
17 -- I don't know for how long, probably 53 years. Steve White,
18 when he walked in the door, did not bring a magic wand to say,
19 "I can correct all the past injustices and make everything in
20 the past right."

21 What I did was to come in and say, look, here's the
22 standard -- as I said, I personally talked to 10,000 people
23 and told them the standard, in addition to various writing
24 means of telling them -- here's the standard, and I'll punish
25 anybody that crosses that line.

1 Now their allegations are being investigated. If
2 people cross that line, they will be swiftly and appropriately
3 dealt with.

4 So the allegations -- yes, the allegations
5 continue. I don't expect them --

6 CHAIRMAN PALLADINO: But have they slowed --

7 MR. WHITE: -- to stop for some time.

8 CHAIRMAN PALLADINO: Have they slowed down?

9 MR. WHITE: Number one, I don't think even if they
10 had -- and I think they probably have, but I wouldn't depend
11 on that. I think it's too early. I've only been there two
12 months, and if I in fact am trying to correct a 53 year old
13 problem, then it's going to take -- they're going to continue,
14 I would suspect, for a period of time, until people gain trust
15 and confidence.

16 The real answer to your question is I'm getting
17 very, very positive response from the people. I've got lots
18 of sources of information, and those responses uniformly are
19 positive to things we are doing.

20 But I'm a very skeptical person. I say fine,
21 they're all positive from some pretty meaningful sources,
22 they're all positive, but I'm going to wait and see, I'm going
23 to wait and see.

24 So I'm not in a position to -- I think they are
25 decreasing, but I am not in a position to guarantee at this

1 point that they won't last, for months. I hope they don't. I
2 hope a few cases will perhaps put the right rigor in the
3 organization. But understand, I'm trying to change a
4 culture. You've got a culture I'm trying to change. And I
5 may exaggerate when I say 53 years. I don't know how old it
6 is. Maybe as old as TVA. I will discuss some of that later
7 on.

8 CHAIRMAN PALLADINO: Well, I was really asking the
9 question to lead into the assurance that at least you have
10 gotten the message across to all your managers that you are
11 not going to tolerate intimidation and harassment.

12 MR. WHITE: No. In fact -- I'm, of course, being
13 very open with you. Of one of the cases that came up about a
14 week ago, which wasn't harassment and intimidation, it turned
15 out, it was closer to mismanagement of a number of factors
16 involved. And based on that, I wrote another letter to my
17 head people and said, "You think you've got the message out,
18 but I want you to redouble your efforts. I am not convinced
19 that everybody in the organization knows yet, despite the fact
20 I've told them and written it and we've posted it. I'm not
21 comfortable that everyone in the organization knows it." And
22 I'm skeptical.

23 But that doesn't mean I'm not going to keep trying
24 to get the word to everybody. I think we'd better move on.

25 CHAIRMAN PALLADINO: Well, this is an area that I

1 figured we were going to dwell on.

2 MR. WHITE: Well, I've got a lot left to go.

3 COMMISSIONER ASSELSTINE: I realize that, but I
4 guess I've got a couple of questions on the I&H area. And I
5 want to go back, Steve, to a couple of points you made earlier
6 about your recognition that you have to have the facts and
7 that problems have to be surfaced up to your level.

8 While I am encouraged and pleased to hear the things
9 you said just now about your efforts to get the message out
10 and also the discussion we had at the last meeting where,
11 Charlie, you and Steve both said that's a high priority item.
12 As you well know, I am quite troubled by at least a few of the
13 intimidation and harassment allegations that have cropped up
14 since that last meeting, including the ones that have to do
15 with the briefing I received in December.

16 And quite frankly, I think my view is that all the
17 words in the world aren't going to overcome the chilling
18 effect that continuing discrimination and intimidation and
19 harassment actions will have, if those actions are still
20 occurring.

21 And I had a couple of questions about how you are
22 handling those specific allegations.

23 Now as I understand it, you've gotten three
24 allegations of intimidation and harassment. People have gone
25 to the Department of Labor, based upon the briefing I received

1 from NSRS.

2 I was told yesterday that you have now gotten three
3 letters back from the Department of Labor, including two of
4 them involving that briefing, the other case being Mansour
5 Guity, in which Labor has found that there was intimidation
6 and harassment, and in which the Department of Labor has
7 directed certain actions.

8 One of the questions I have is I understand you have
9 asked for a hearing in one of those cases, the case of Mansour
10 Guity, and I wonder why you felt that it was necessary to go
11 that route, and in essence put the burden back on this
12 employee to have to prove once again, now having convinced the
13 Department of Labor staff that he was discriminated against,
14 that now he's got to prove it again in a hearing.

15 I mean it smacks a bit, if you will forgive me for
16 saying so, of the way TVA handled the Dan DeFord case.

17 MR. WHITE: I'm going to let the General Counsel,
18 Mr. Herb Sanger, deal with the reason for the appeal.

19 MR. SANGER: We discussed that amongst the Board and ✓
20 the management. In some cases -- for example with the Doka
21 and Thomas case, where Steve dismissed Thomas, we were able to
22 conduct a parallel investigation and find out what TVA
23 employees were involved.

24 With these three cases, TVA really doesn't know what
25 was involved. The people -- the three individuals you are

1 talking about have not given TVA the information. The ✓
2 Department of Labor decisions are merely conclusory
3 decisions. They do not tell us what information they have.
4 We don't know what the evidence is.

5 If Steve had those decisions, he doesn't know the
6 people involved in them, and we thought -- it was the Board's
7 and Steve and my discussion, that if we asked for hearings, we
8 could use that as a way to fully determine what TVA employees
9 were involved in it, and what actually occurred, so that we
10 can act on it. That was the reason for that.

11 COMMISSIONER ASSELSTINE: What other options do you
12 have available for obtaining information about what happened?
13 Why can't you sit down with those guys?

14 MR. WHITE: Well, let me -- can I answer this?

15 COMMISSIONER ASSELSTINE: Sure.

16 MR. WHITE: Let me just say this, let me tell you,
17 you asked several questions, and that's the one that I wanted
18 OGC to answer.

19 Obviously we need to get the facts. The first thing
20 that I did -- I did really two things in parallel. I asked my
21 management, give me your side of what happened.

22 I then immediately, before even receiving that, ✓
23 turned those over to the Inspector General, and a few days
24 after turning them over, I asked the Inspector General, put
25 those at the top of your list and start investigating beneath

1 the facts.

2 And then --

3 COMMISSIONER ASSELSTINE: Apparently he didn't do
4 that; right?

5 MR. WHITE: No, he's in the process of doing that.
6 He's in the process of making those investigations right now.

7 And the third thing I did was I sat down with the
8 two Department of Labor investigators who had investigated the
9 DD case and were looking at the Sauer and Smith cases and said
10 to them, "You've given me a report, and you say your
11 conclusions are harassment and intimidation. I need the names
12 of the people so I can discharge them."

13 And we had two meetings -- I've had two meetings
14 with the Department of Labor people directly, I have another
15 one scheduled this week, because we have to, I think, simply
16 get out of this mode that we're operating in. I would like
17 those people to come to me and tell me that they have the
18 problem and get us to investigate it. But as long as they've
19 gone to the Department of Labor, I'm going to try to get
20 whatever I can from those people.

21 CHAIRMAN PALLADINO: Have you been successful --

22 MR. WHITE: But I also --

23 CHAIRMAN PALLADINO: Have you gotten names from
24 them?

25 MR. WHITE: No, I have not. We're having another

1 meeting this week. But I'd also caution all the members
2 of the Commission, an allegation is an allegation only.

3 In the case of Smith, for example, on the surface it
4 appears that a couple of his allegations are frankly frivolous
5 and superficial. He alleges that the Board of Directors
6 doesn't have the authority to change the organization. He
7 alleges he's being intimidated just because they've been
8 transferred to me, just the act of transferring. To me, those
9 are frivolous and superficial.

10 Nevertheless, he says other things, and I have asked
11 the Inspector General to look into those.

12 So I want to assure you that I intend to get to the
13 truth, and when I get to the truth, I'm going to take
14 appropriate action.

15 COMMISSIONER ASSELSTINE: I guess my question still
16 is, though, if the Office of General Counsel, the Office of
17 Inspector General can conduct their own investigations, if you
18 can obtain at least some information from Labor about not only
19 their conclusion, but also the basis for their conclusion, why
20 in the world do you need to put Mansour Guity and perhaps the
21 others through the burden of having to go through a hearing
22 before an Administrative Law Judge at the Department of Labor
23 and once again prove their case? Why can't you take the
24 burden and say, "We'll do the investigation. By golly, we
25 really do take this matter seriously. We're going to do the

1 investigation ourselves. We're going to find out if there was
2 wrongdoing here. We're going to identify the people
3 responsible, and we are going to make examples of them to back
4 up our words with concrete actions, so that everyone
5 throughout the TVA organization will know that this attitude
6 of doing business in the past the way that TVA handled the
7 DeFord case is not going to be tolerated in the future"?

8 And the reason why I think it's important is if you
9 don't do that, you're not going to be able to get the
10 information you need about whether there are problems in the
11 organization, and we aren't going to be able to get the
12 information that we need about whether there are safety
13 problems in the organization.

14 I can't conceive of why a TVA employee down in the
15 line would, looking at what happened to DeFord -- and if the
16 same thing happens again for these people -- why he'd be
17 willing to stick his neck out, or she would be willing to
18 stick her neck out and come forward with concerns. They'd
19 say, well, whatever they say, let's look at what they do and
20 let's look at what happened to these poor people when they
21 tried to raise concerns.

22 MR. WHITE: And I agree with the thrust of what
23 you're saying. But let me answer that in three ways:

24 First of all, the Inspector General, you've heard
25 he's only recently come aboard. He's building up his staff,

1 and so I can't have expected in retrospect to say, well, why
2 weren't you here in October to investigate that case. He's
3 now doing it.

4 The second point is that what I'm doing now with the
5 Department of Labor is plowing new ground. We've not done
6 this before. I'm also looking for a better way. It's plowing
7 new ground.

8 Meanwhile, I'll let the IG speak to the legal reason
9 where the facts have to come out. Hopefully, from all of
10 this, Mr. Commissioner, we'll come up with something. But let
11 me change the thrust of this thing, because one of the things
12 you said that disturbs me, you said if we have these
13 problems. These are not the problems, they are the symptoms
14 of the problem. I will get those people to come to line
15 management when they feel they can do it freely. I have to
16 promote that trust. I didn't come in one day, as I said, with
17 a magic wand. I didn't walk in the door and they say, "We
18 trust him." Although, as I say, the indications are very
19 positive that they have -- that the trust has increased. All
20 the signals indicate that.

21 And by all the signals, I'm not just referring to
22 the people I've talked to. I've talked, not at my request, to
23 labor union leaders who are the leaders for over or almost 50
24 percent of my people, came to me individually, voluntarily, to
25 tell me what they were getting out of their people.

1 And let me tell you, they were bubbling
2 enthusiastically, because when the people are happy, so are
3 the labor leaders happy. And they went through a list of
4 things. They said workers down there, our people tell us that
5 for once it's no longer lip service. They've seen management
6 changes and they agree with it. They've seen reorganizations
7 and they agree with it. They even agree with the drug
8 program, and the employee concern program. They think it's
9 good and it's a direction we have to go.

10 Those are two union people who have almost half of
11 my people.

12 I get the same signals from other places, and so --
13 but I remain skeptical still. But I have to correct -- I am
14 draining the swamp, and the swamp is full of alligators.

15 COMMISSIONER ASSELSTINE: That's right.

16 MR. WHITE: Okay?

17 COMMISSIONER ASSELSTINE: Got to shoot a few
18 alligators.

19 MR. WHITE: And you want me perhaps to shoot some
20 alligators, and I agree --

21 COMMISSIONER ASSELSTINE: That's exactly what I
22 want.

23 MR. WHITE: But I don't want to get off the basic
24 thing, which is draining the darned swamp. Because when I
25 drain the swamp, I'll get rid of a lot of symptoms. So I

1 don't mind shooting some alligators when it happens -- and by
2 that I mean getting rid of problems -- but I got to keep my
3 direction to draining the swamp. And when I do that, these
4 other things will fall into place, and that's the secret.

5 COMMISSIONER BERNTHAL: Let me see if I can get the
6 record straight, though, on this specific issue that
7 Commissioner Asselstine raises and what is happening.

8 I gather that you have no access to the DOL record
9 in this case; is that correct? You only get the decision?

10 MR. WHITE: Only get the report. Get the decision.

11 COMMISSIONER BERNTHAL: You only get the report, you
12 only get the decision, you don't get the record.

13 COMMISSIONER ASSELSTINE: Are you saying you have no
14 means of obtaining the record?

15 MR. WATERS: The only way we can get their evidence ✓
16 is to appeal. Is that right?

17 MR. WHITE: I'll leave it to the OGC.

18 COMMISSIONER ASSFLSTINE: You can't file a Freedom
19 of Information Act with the Department of Labor and obtain
20 everything in the file other than specific indicators of
21 employees who have asked for confidentiality?

22 MR. SANGER: Up to this point they have been willing
23 to give us only their decisions.

24 COMMISSIONER ASSELSTINE: That's because the file
25 was not closed; isn't that right? My understanding from Labor

1 --

2 MR. SANGER: If you've read that, you know more than
3 I do.

4 COMMISSIONER ASSELSTINE: Okay. Well, I talked to

5 --

6 MR. SANGER: Because that is not their response to
7 us.

8 COMMISSIONER ASSELSTINE: I talked with the guy from
9 Labor that signed the letter to you, and what he told me
10 yesterday was when they send a letter out, they close the
11 file. When they close the file, they are prepared to respond
12 to Freedom of Information Act requests from TVA. In response
13 to a FOIA request, they will provide you with everything
14 they've got, the file, their underlying report, except that
15 they will remove identifiers of individuals where people have
16 requested confidentiality. That's what I was told yesterday.

17 MR. SANGER: Well, I think that would be very
18 helpful, and it would be a new step for them. Of course, it's
19 a very unusual thing for one government agency to use the FOIA
20 on another one, but --

21 COMMISSIONER ASSELSTINE: Well, I grant you it
22 struck me as kind of strange, too, but --

23 MR. SANGER: I would have hoped that they would have
24 just come forward with that information.

25 MR. WHITE: Understand, Commissioner Asselstine,

1 these are all legal things that you are discussing. I have
2 gone to the Department of Labor and sat down with them twice,
3 and I am trying to find a way to get those facts. If I can do
4 it legally, certainly I want to.

5 COMMISSIONER BERNTHAL: If I may follow up on my own
6 question here, and could I inquire of the General Counsel
7 what happens to this agency in similar circumstances with
8 respect to the DOL?

9 MR. PLAINE: Are you talking about obtaining their
10 records?

11 COMMISSIONER BERNTHAL: The record of a complaint.
12 I think the situation is somewhat analogous. We are another
13 federal agency. DOL, in some cases, investigates harassment
14 and intimidation of employees.

15 How do we stand with respect to access to the
16 records?

17 PLAINE: Well, they report to us on what they
18 have done and that they are dealing with a complaint and that
19 they have made an investigation within 30 days after the
20 complaint has been filed.

21 COMMISSIONER ASSELSTINE: I'll answer that question
22 for you, too, Fred. The answer is, we have full and complete
23 access to the file from Department of Labor, subject only to
24 the limitation that if we get a Freedom of Information Act
25 request for that information, we have to refer it to Labor.

1 We have full access to the file.

2 COMMISSIONER BERNTHAL: But then why are you
3 suggesting that TVA should need to resort to the Freedom of
4 Information Act to get the information in their case?

5 COMMISSIONER ASSELSTINE: Because Labor won't give
6 it to them completely the way they will to us, because they
7 are the subject of the investigation.

8 COMMISSIONER BERNTHAL: But they will under FOIA?

9 COMMISSIONER ASSELSTINE: That's right.

10 COMMISSIONER BERNTHAL: Okay. Well, maybe that's
11 something the lawyers understand.

12 MR. WHITE: You know, I've got a lot of ground to
13 cover, and I know this is important, but there are some other
14 very important things that I want to tell you this morning....

15 COMMISSIONER ASSELSTINE: Maybe we can stop now. I
16 still have a number of questions.

17 MR. WHITE: Can we? And then at the end --

18 COMMISSIONER BERNTHAL: Look, I want to finish the
19 comment. The point is that apparently there is a way for you
20 to get access to the record of the Department of Labor. And
21 the other point that needs to be made here, as I understand
22 it, you have asked your Inspector General to investigate on
23 your own these allegations, and as you point out, I don't know
24 how many of us have been in his office recently -- I was not
25 long ago, and I think he just about had furniture there a

1 month or so ago, but I take it that you are proceeding with
2 your own investigation.

3 MR. ZIGROSSI: The investigators I have are
4 reviewing the documents to date.

5 CHAIRMAN PALLADINO: Mr. White, did you want to
6 break for a minute?

7 MR. WHITE: I can go a few more minutes.

8 CHAIRMAN PALLADINO: Okay.

9 MR. WHITE: My voice is holding up pretty well, but
10 the rest of me isn't.

11 CHAIRMAN PALLADINO: Just let me know.

12 MR. WHITE: Moving right along, leave that slide up
13 a second, because it's important for you to understand that I
14 expect from this system to get the correct technical judgments
15 in a timely fashion with a satisfactory resolution. But you
16 were going to ask how I ensure that happens. Go to the next
17 slide.

18 [Slide.]

19 We have overviews provided. First of all, the
20 Senior Board -- and I have already selected three of the
21 people on that Board, and I'd like to go over them with you
22 now, because I think this is an important question that you
23 may have.

24 First, Mike Bender. Mike Bender had fourteen years
25 as the Director of Engineering at the Oak Ridge National

1 record, you should have it by the end of the month.

2 CHAIRMAN PALLADINO: All right. Thank you.

3 Let me suggest that before you start on quality
4 assurance, maybe we ought to take a break.

5 MR. WHITE: I want to very badly.

6 CHAIRMAN PALLADINO: Okay, fine. Let's take at
7 least a ten-minute break.

8 [Brief recess.]

9 Please come to order. We would like to continue.

10 Before we start with QA, I still have a question. I
11 understand your general counsel is prepared to clarify the
12 situation, and that is a better understanding of why you feel
13 you have to go to hearings on these most recent intimidation
14 and harassment allegations because if you go to hearings, this
15 in itself is an inhibitor in getting the results you would
16 like. I gather general counsel of TVA has some comment on
17 that.

18 MR. SANGER: I appreciate the opportunity to respond
19 to that further.

20 TVA's practice has been that whenever there was a
21 complaint, even if it went to the Department of Labor, TVA
22 would begin its own investigation. We did that in the Doka
23 matter, for example. The Department of Labor went a certain
24 way in investigating that, threw the claim out as being time
25 barred, filed too late. TVA nevertheless continued with that

1 investigation and made its own determination, and Steve White
2 then took action against the person involved in the
3 retaliation.

4 Now, with the Smith, Getty and Sauer matters, I
5 think because of the problem that Steve identified as those
6 people being somewhat suspect of line management, they have
7 not been willing to talk with TVA once their complaint was
8 filed. So TVA does not have the capability of doing the same
9 thing in those three cases as we did in the Doka and Thomas
10 case.

11 CHAIRMAN PALLADINO: Why couldn't they be encouraged
12 to go to QTC or the Nuclear Safety Review staff or some other
13 part of TVA where they can get a feeling of confidence and
14 thereby provide management with enough so they can do the job
15 that they feel needs to be done?

16 MR. SANGER: I guess all of that is theoretically
17 possible. There are a lot of time limits involved here. Labor
18 issues -- they have a 30-day period, and then TVA gets what
19 is, in effect, is a one-line decision from Labor that says you
20 did it or you didn't do it. Then TVA has five days in which
21 it either has to accept it and move with it or ask for a
22 hearing. You know, in the most perfect of worlds, we would
23 have all that information. We have not had it, and we
24 were searching. If those are ways of getting the same kind of
25 information that Steve wants out of a hearing, certainly I

1 think that would be satisfactory, whatever way we can get the
2 information.

3 CHAIRMAN PALLADINO: I certainly would encourage
4 seeking other ways of getting the information because a
5 hearing could take a while, and meanwhile these people don't
6 know where they stand, and I'm not sure you are getting the
7 message across that you want to get.

8 MR. SANGER: I might indicate that in the one
9 hearing TVA just had, and Commissioner Asselstine, the DeFord
10 case, I think I would like to point out that Mr. DeFord
11 himself has pointed out that the problem was with the line
12 management. In the hearing he felt that that was handled by
13 TVA in a fair way.

14 COMMISSIONER ASSELSTINE: I appreciate that, Herb,
15 but at the same time, I think the perception has to be, and
16 particularly your role and the role of your office as the
17 defender of the Agency's position had to be that throughout
18 the DeFord matter, here was TVA marching right down this line,
19 fighting every step of the way, fighting the Labor staff's
20 findings, fighting the administrative law judge's
21 determination, fighting the Secretary of Labor's
22 determination, fighting all the way through the Sixth
23 Circuit. I think you have got to get out of that mode.

24 MR. SANGER: It is always a management judgment as
25 to whether an appeal or a hearing is taken. It is not the

1 lawyer's judgment.

2 COMMISSIONER ASSELSTINE: That is true, although ✓
3 when I look at a page from the February 5, 1981 Nucleonics
4 Week, you are the one that got stuck with having to make the
5 argument.

6 MR. SANGER: Oh, yes.

7 COMMISSIONER ASSELSTINE: I mean here you were
8 quoted as saying, well, it is the TVA's judgment that there
9 wasn't any intimation and harassment here; this was a
10 necessary management action to take away this guy's staff and
11 to take away his office and to take away his phone and to put
12 him in a room with a desk all by himself. You get stuck with
13 that label, and I think it is something that you and the Board
14 and Steve, you need to think about in terms of the message
15 that you are sending. There have to be alternative ways, ways
16 that provide both the incentive for employees to come forward
17 and the assurance that they are going to be protected if they
18 do.

19 MR. SANGER: I think you correctly point out that it
20 is one of the difficult problems. We have struggled with this
21 immensely. The Board has supported it. They have supported me
22 in those investigations. We have done those fairly. It is an
23 enormous perception problem. I couldn't agree with you more.

24 COMMISSIONER ASSELSTINE: How many TVA employees
25 have been disciplined or fired as a result of the intimidation

1 and harassment cases, starting with DeFord and moving up to
2 the present time?

3 CHAIRMAN PALLADINO: Starting from when, Jim?

4 COMMISSIONER ASSELSTINE: With DeFord. How many in
5 the Deford case, how many employees were disciplined or fired
6 as a result of that case, and how many have been disciplined
7 or fired in other intimidation and harassment cases that you
8 have done so far?

9 MR. SANGER: I think the DeFord case as it relates
10 to nuclear matters -- there have been other intimidation
11 matters on which TVA has acted -- the DeFord case was the
12 first case we had. I think the report shows that none of
13 those people that were involved in the DeFord matter are with
14 TVA. I don't want to imply that it was some TVA action that
15 resulted in that because it wasn't.

16 COMMISSIONER ASSELSTINE: They retired or left on
17 their own.

18 MR. SANGER: Yes.

19 COMMISSIONER ASSELSTINE: We found harassment in the
20 Doka case, and the harassing individual was dismissed. We
21 found management problems in other cases, and various actions
22 were taken with regard to those managers. In two Department
23 of Labor investigations -- you see, the action that was
24 proposed of asking for hearing is not done automatically. In
25 two of those cases that were related to DeFord, and that is

1 Mindel and Blevins, they raised complaints recently that as a
2 result of their support of DeFord, adverse action was taken
3 against them. They came to us. We had those facts, and they
4 were correct.

5 MR. WHITE: Let me interrupt you for a second. What
6 we are doing is we are talking about history. I really need
7 to get on with the presentation. We have to answer your
8 question, which is what punishment, and I will tell you. One
9 person for harassment and intimidation we fired; three others
10 for misconduct, two of those being for falsification of
11 records, and the third for racial slurs, and I fired those
12 three, and those are the numbers you want. So since I have
13 been there, we fired four people for those causes.

14 CHAIRMAN PALLADINO: I'm not looking at history.
15 I'm looking --

16 MR. WHITE: Well, we were getting into a lot of
17 history.

18 CHAIRMAN PALLADINO: I want to make sure of two
19 things: one, that you do explore other ways of getting the
20 information you need, and --

21 MR. WHITE: We are doing that.

22 CHAIRMAN PALLADINO: And there may be ways of
23 getting it from the employees, and there may be other ways of
24 getting it from the Department of Labor.

25 The other thing is that between now and the time

1 that your IG is up to speed, you are going to have a number of
2 these cases to look at, and I think you need to look at how
3 they are going to be handled in the interim so that you --

4 MR. WHITE: We are doing that. Let me explain.

5 CHAIRMAN PALLADINO: Well, I'm not quite sure that I
6 understand. It seems to me that on the cases of intimidation
7 and harassment, that we don't really have the vehicle yet to
8 explore those.

9 MR. WHITE: No. The intimidation and harassment
10 cases which are now coming in, either directly to me or the
11 system, there have been 14 of those. The IG was not yet
12 staffed up, but I am in very close coordination with him. We
13 are inspecting those, investigating those cases, and I am
14 keeping him apprised, and we have investigated, as I said, a
15 couple, and have punished four people. None of them were
16 safety-related. They are all management things. And we have
17 punished those four people from the new system.

18 There has been no bona fide harassment and
19 intimidation, and if we come across one, it is now going right
20 to the IG.

21 CHAIRMAN PALLADINO: But he has got a problem
22 because he is not quite staffed up.

23 MR. WHITE: Until the end of this month. In the
24 meantime, I'm not letting any grass grow under my feet. I
25 have got to investigate these things, and that is what we are

1 doing, Mr. Chairman.

2 COMMISSIONER BERNTHAL: Can I just cut through the
3 junk here for a minute on a question, the question of getting
4 information? I think Commissioner Asselstine uttered four
5 letters that we often use around here. They are FOIA. It
6 strikes me as bizarre that one Federal agency has to resort to
7 FOIA to get information. It does seem like you can get that
8 information from the Department of Labor. I don't know in
9 cases like this whether it might also help to have a
10 memorandum of understanding like we do. I don't know. But it
11 is clear that you can get some information. There is a pretty
12 simple mechanism to get it. I think that is a point that
13 should not be lost.

14 MR. WHITE: And it's a very valid point,
15 Mr. Bernthal. That is what I'm trying to do, as I say, find
16 new ground. I want to meet with those people. Two meetings
17 so far, and I haven't gotten the information, and I'm meeting
18 with them again this week. I hope we will be able to develop
19 something.

20 COMMISSIONER BERNTHAL: But that is for the DOL
21 record now, and that may assist you in resolving this question
22 of need to go to hearing and whatnot that the Chairman brought
23 up.

24 MR. WHITE: In the future it may. I will wait and
25 see. That's all I can say.

1 CHAIRMAN PALLADINO: I want to get one other thing
2 on the record and then we will go on. I don't know if the
3 staff has made you aware of the fact that I have asked our
4 Office of Investigation and our staff to develop a plan for
5 our identifying safety issues associated with the intimidation
6 and harassment allegations, and the plan calls generally for
7 review of each allegation and concern by a multidiscipline
8 team of NRC headquarters personnel and a determination of
9 whether the allegation or concern, if substantiated, would
10 have a significant health and safety issue.

11 You will probably get brought up to date more on
12 this with the staff, but I thought you ought to know it.

13 Why don't we go on to quality assurance.

14 MR. WHITE: Quality assurance. Speeding right along
15 with QA.

16 I am now going to discuss QA and then engineering,
17 two other areas where we have found significant problems.

18 CHAIRMAN PALLADINO: Let me ask the Commissioners if
19 they have any problem going to 12:15, and then I will ask
20 going to 12:30.

21 COMMISSIONER ZECH: Fine. Let's go.

22 COMMISSIONER ASSELSTINE: As long as it takes.

23 CHAIRMAN PALLADINO: We will go to at least 12:30.

24 [Slide.]

25 MR. WHITE: This slide is pretty self-explanatory.