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NUCLEAR REGULATORY COMMISSION

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BRIEFING ON DESIGN BASIS
THREAT REEVALUATION

- - - -

PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Thursday, April 22, 1993

The Commission met in open session,
pursuant to notice, at 2:35 p.m., Ivan Selin,
Chairman, presiding.

COMMISSIONERS PRESENT:

IVAN SELIN, Chairman of the Commission
KENNETH C. ROGERS, Commissioner
JAMES R. CURTISS, Commissioner
FORREST J. REMICK, Commissioner
E. GAIL de PLANQUE, Commissioner

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STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

WILLIAM C. PARLER, General Counsel

JAMES TAYLOR, Executive Director for Operations

ROBERT BERNERO, Director, NMSS

FRANK MIRAGLIA, Deputy Director, NRR

ROBERT BURNETT, Director, Division of Safeguards &
Transportation, NMSS

FRANK CONGEL, Director, Division of Radiation
Protection and Emergency Preparedness, NRR

PAUL LEVENTHAL, President and Executive Director,
Nuclear Control Institute

DAN HORNER, Deputy Director, Nuclear Control Institute

ELDON V.C. GREENBERG, Counsel to Nuclear Control
Institute

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

2:35 p.m.

1
2
3 CHAIRMAN SELIN: Good afternoon, ladies
4 and gentlemen. The Commission is meeting at this time
5 to receive a briefing on the reevaluation of the
6 design basis threat.

7 Mr. Leventhal, please have a seat.

8 Following the intrusion at the Three Mile
9 Island facility and the bombing of the World Trade
10 Center, the Commission requested the staff reevaluate
11 and update if necessary the design basis threat for a
12 vehicle intrusion and the use of vehicular bombs.

13 The briefing this afternoon will occur in
14 two sections. First there will be a public meeting
15 and after that a closed meeting where more specific
16 security information will be discussed.

17 I wish to assure the crowd that the closed
18 meeting really does go into more specific information
19 and nothing more than that. The essence of the staff
20 presentation will be given at the public meeting.

21 This is a means, first, for our invited
22 witnesses, the NCI, to discuss their views and then
23 for the staff to explain directly to the Commission
24 what options are being considered. By this means the
25 Commission hopes to gain a better understanding of the

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1 staff recommendations.

2 The Nuclear Control Institute, which has
3 requested to address the Commission, will present to
4 us their views first. I understand copies of the
5 viewgraphs are available at the entrance to this room.

6 Do any of the other Commissioners have any
7 opening remarks?

8 Mr. Leventhal, we welcome you and your
9 colleagues here and you may proceed.

10 MR. LEVENTHAL: Thank you very much, Mr.
11 Chairman, and also the members of the Commission.

12 We thank you for this opportunity to
13 present the views of both the Nuclear Control
14 Institute and the Committee to Bridge the Gap on the
15 need, as we see it, to require protection of nuclear
16 power plants against truck bombs and other forms of
17 vehicular attack.

18 As you know, we've been petitioning the
19 Commission to take such action over the better part of
20 the past decade and we do appreciate your willingness
21 to hear our views today and we hope to seriously
22 consider our appeal to take the requested action now.

23 As I said, we have been making these
24 appeals to the Commission on a pretty regular basis
25 since 1985 actually and my Institute established a --

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1 first held an international conference on prevention
2 of nuclear terrorism and then convened a task force
3 with representatives of over nine countries looking at
4 various aspects of this rather troublesome problem.
5 One of the issues looked at was the importance of
6 establishing denial of access at nuclear power
7 facilities, denial of access being the best defense.
8 We've consistently over the years with the Committee
9 to Bridge the Gap, in their testimony before the
10 Advisory Committee on Reactor Safeguards and our
11 letter to the Commission at the time of a specific
12 nuclear threat made over Radio Tehran at the time when
13 the U.S. was possibly prepared to knock out the
14 Stuttgart missile batteries to the time of the Gulf
15 War when again we perceived a possible threat to
16 nuclear facilities. We've just been doing this for
17 some time and we hope, as I will testify now, that
18 recent events will make it clear that such action is
19 indeed warranted.

20 As we stated in our recent communications
21 with Chairman Selin, as well as in Senate testimony on
22 March 19, our position is as follows:

23 One, current security requirements at
24 nuclear power plants are inadequate to protect against
25 vehicle bombs because vehicular attack is not included

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1 in the design basis threat for radiological sabotage.

2 Second, recent events have made clear that
3 such attacks are credible and that the Commission
4 cannot rely on sufficient advance warning to put
5 protective measures in place.

6 Third, the Commission must therefore
7 promptly mandate permanent measures to upgrade
8 security at licensed reactors.

9 We're encouraged by the Commission's March
10 1 directive on reevaluation of a design basis threat
11 and the staff's March 11 action plan is encouraging,
12 but in our view they do too little, too slowly and
13 provide no assurance of real reform at the end of the
14 process. We think that the one year time line built
15 into the plan is excessive given the potentially
16 catastrophic consequences of a truck bomb attack and
17 the feasible and relatively inexpensive measures that
18 can be put into place quickly to prevent such an
19 attack.

20 The issue has been before the Commission
21 for a decade, since the truck bombings of the U.S.
22 Embassy and the military compound in Beirut. There is
23 no reason after the TMI and the World Trade Center
24 incidents here in this country for further delay in
25 acting to protect our reactors against vehicular

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1 attacks. We emphasize and wish to stress that the
2 action plan you have before you does not preclude the
3 Commission's acting more expeditiously than within the
4 one year time frame that's laid out in that plan and
5 we ask the Commission to seize the opportunity today
6 to issue an immediately effective rule modifying the
7 design basis threat to include vehicular attack in
8 ordering utilities to proceed immediately with
9 installation of permanent roadway barrier and
10 perimeter denial systems.

11 The other elements of upgrading the design
12 basis threat, namely increasing the number of presumed
13 attackers, the capability of their armaments and the
14 level of insider assistance to be protected against,
15 all of those can be considered in accordance with the
16 time line of the March 11 action plan. But we wish to
17 emphasize the importance that we place on immediately
18 effective rule to first of all acknowledge that
19 nuclear power plants can be attacked with a vehicle
20 and, secondly, to require utilities to put in the
21 basic defenses that would make such attacks virtually
22 impossible. Talk about simple physical barriers that
23 have been costed out for the Commission on previous
24 occasions.

25 You're familiar with the Sandia National

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1 Laboratory's report that was commissioned by the NRC
2 in 1984 after the Beirut bombings and the non-
3 classified summary of that report which states that
4 the results show that unacceptable damage to vital
5 reactor systems could occur from a relatively small
6 charge at close distances and also from larger but
7 still reasonable sized charges at large setback
8 distances greater than the protected area of most
9 plants. A second report from Sandia was prepared on
10 the variety of counter measures that could be used and
11 SECY-86-101 that same year estimated that a vehicle
12 denial system for roadway access would cost about
13 \$100,000.00 to \$200,000.00 for a facility and
14 \$10,000.00 to \$20,000.00 annual to maintain while a
15 perimeter access denial system would only cost
16 \$500,000.00 to \$1 million to install and \$25,000.00 to
17 \$50,000.00 annually to maintain.

18 Chairman Selin, you cited similar figures
19 in your Senate testimony of March 19.

20 Now, past Commissions have chosen not to
21 upgrade the design basis threat on the grounds that a
22 truck bomb attack in the United States was not
23 credible, that there was no specific credible threat
24 against nuclear facilities and if such a threat
25 materialized there would be sufficient advance warning

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1 to take appropriate preventive measures.

2 We believe that these claims were
3 dramatically debunked by the surprise truck bomb
4 attack on the World Trade Center on February 26th and
5 by the letter received by the New York Times which,
6 according to published reports, has been linked by
7 federal investigators to defendants in the case. As
8 you know, that letter, in the name of the Liberation
9 Army 5th Battalion, included a threat against "nuclear
10 targets" and claimed "more than 150 suicidal
11 soldiers."

12 This incident, on top of the Three Mile
13 Island incident in which a demented terrorist
14 successfully penetrated a plant and brought his
15 vehicle within the "close distances" required to
16 conflict "unacceptable damage" with a "relatively
17 small charge," to use the terms of the 1984 Sandia
18 study. We believe that this event, in combination
19 with the TMI event, should make the required action by
20 the Commission quite clear and we remain puzzled as to
21 why the Commission will not act more promptly to close
22 what we regard to be an obvious vulnerability.

23 Chairman Selin, you yourself indicated
24 that had the motorist been transporting explosives,
25 that he could have damaged safety and emergency

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1 systems and, to use your words, and then you're
2 skating on very thin ice. We submit that the
3 Commission really does not know just how thin the ice
4 was at TMI or is at other reactors, or to put it
5 another way, how deep is defense in depth without
6 applying the IPEEE program to apply to radiological
7 sabotage.

8 For this reason, we believe that an
9 enhanced implementation of the IPEEE program, one that
10 examines the ability of vital systems to withstand
11 credible explosions, should be among the items in the
12 ongoing reevaluation of the design basis threat.
13 Because a single explosion could destroy multiple
14 safety systems, examples of which we specified in the
15 annex to our original request for action for an IPEEE
16 program applying to this particular danger, we believe
17 that IPEEE is an essential corollary to upgrading the
18 design basis threat.

19 My testimony goes on to cite the
20 chronology laid out in the Incident Investigation
21 Team's report on the TMI intrusion and to point out
22 that -- what should be obvious in the report, which is
23 that both TMI and NRC personnel failed to considered
24 promptly the possibility of radiological sabotage.
25 But, of course, we note that they were not required to

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1 consider the possibility of a vehicle bomb since that
2 possibility is not included in the design basis
3 threat.

4 In short, personnel were not prepared for
5 the possibility of radiological sabotage and more than
6 two hours elapsed before they even checked for a bomb
7 and a total of four and a half hours passed before
8 explosives were finally ruled out by the experts.

9 We support the action taken by General
10 Public Utilities. They obviously read the writing on
11 the wall, realized the extent to which their plant was
12 vulnerable or, to put it another way, how lucky they
13 are that Mr. Nye did not carry explosives in his car.
14 We believe the NRC should take its cue from GPU and
15 promptly upgrade the design basis threat to protect
16 against such attacks without waiting to see whether
17 one materializes, whether a truck bomb attack
18 materializes at a domestic nuclear power plant.

19 None of the Commission's past reasons for
20 refusing to act can be plausibly defended by this
21 Commission today. A vehicular intrusion has occurred
22 at an operating nuclear power plant. A successful
23 truck bomb attack has taken place in the United
24 States. There was no advance warning in either case
25 and there is now a specific and credible threat

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1 against nuclear facilities. Under such compelling
2 circumstances, continued inaction by the NRC would be
3 imprudent and would endanger the public health and
4 safety and the common defense and security of the
5 United States, both of which it is your mission to
6 protect under the Atomic Energy Act.

7 So, we asked the Commission today to adopt
8 an immediately effective rule upgrading the design
9 basis threat to include attacks with a vehicle. We
10 asked the Commission to order licensees to immediately
11 erect roadway barrier and perimeter denial systems.
12 We asked the Commission to implement an IPEEE program
13 to determine the ability of vital systems to withstand
14 credible explosions, and we asked that you vote to
15 take these actions today before the conclusion of this
16 meeting.

17 There's no question that the NRC's own
18 rulemaking procedures permit the Commission to take
19 such action by means of an immediately effective rule
20 if it finds that for good cause the usual notice and
21 comment are "impractical or impracticable or contrary
22 to the public interest." We submit that to delay any
23 longer taking the basic measures needed to address the
24 obvious vulnerability of nuclear power plants to truck
25 bomb attacks is both impracticable and contrary to the

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1 public interest.

2 We thank you again for this opportunity to
3 express our views and I and my associates, Eldon
4 Greenberg, our counsel, and Daniel Horner, our Deputy
5 Director, would be pleased to answer any questions you
6 might have.

7 CHAIRMAN SELIN: Thank you for your
8 presentation. Thank you for a well prepared
9 presentation. You stayed within the time limits. You
10 even quoted me accurately. I thank you for that.

11 I'll turn to Commission Rogers first. Do
12 you have questions for the witnesses?

13 COMMISSIONER ROGERS: Well, do you have
14 any knowledge of what's happening in any other Western
15 countries that have commercial nuclear power programs
16 that perceive a growing and credible threat of this
17 sort? What is your information with request to other
18 situations in other countries?

19 MR. LEVENTHAL: I do not know what they're
20 doing in the current circumstances. There have been
21 threats made by the Serbs actually, a couple of
22 threats made by the Serbs to attack European nuclear
23 power plants in the event that there were military
24 intervention in the former Yugoslavia. But it is my
25 understanding that use of a vehicle is contemplated in

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1 preparing the defenses for those plants. I visited
2 plants in Germany and in Japan, two nations that come
3 to mind, and it's obvious that they have the kinds of
4 barriers in place that have attacked by vehicle rather
5 than attacked with sneakers in mind. Whether they're
6 on a heightened state of alert today because of this
7 situation in the U.S. with the World Trade Center or
8 because of the Serbian situation, I don't know, but I
9 think the point is that those plants are better
10 protected against vehicular attack than U.S. plants.

11 COMMISSIONER ROGERS: Thank you.

12 COMMISSIONER REMICK: If you have any
13 specific information on what you just stated, I would
14 appreciate receiving it.

15 MR. LEVENTHAL: Okay. Thank you.

16 COMMISSIONER CURTISS: I just have two or
17 three areas I'd like to explore.

18 I take it from your recommendation that we
19 move forward with immediate action, an immediately
20 effective rulemaking to a rule to address what you see
21 as the problem. Do I correctly infer from that that
22 in the context of the procedures that we've
23 established for backfits, if you applied those here,
24 that you would view this as an adequate protection
25 question, action ought to be taken to protect the

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1 public health and safety today immediately and it
2 ought to be done irrespective of the cost?

3 MR. LEVENTHAL: In other words, taking the
4 cost effective factor into consideration? Is that the
5 thrust of your question?

6 COMMISSIONER CURTISS: Let me phrase it
7 differently. Under the regime that we have, we were
8 able to take action without regard to cost when
9 necessary to protect the public health and safety. To
10 go beyond that, the regulation requires that we
11 evaluate the costs associated with those actions.

12 MR. LEVENTHAL: Yes. I'm sorry. Now I
13 understand the question. I would say that the
14 circumstances in this case clearly would justify that.
15 I think the TMI intrusion which was recaptured on
16 video tape on sort of a delayed replay basis,
17 indicated that this was not a hard target, this was a
18 soft target. He drove through an open gate, he
19 crashed through two protected area fences and through
20 the aluminum door of the turbine building and 60 feet
21 into the plant, close enough so that had the car had
22 explosives, it would have affected vital systems.
23 That suggests a vulnerability that if someone was
24 determined to engage in this kind of an attack today,
25 he might well be able to be successful. I don't

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1 understand why U.S. plants should be vulnerable in
2 that way when other buildings that are important to
3 the public, not only in health and safety terms but in
4 governmental terms, are protected.

5 COMMISSIONER CURTISS: I asked the
6 question because the written statement and your
7 presentation here does include some discussion of what
8 the costs are of the various options. Just to be
9 clear here, what you're proposing is that we take this
10 action as an action necessary to protect the public
11 health and safety, to maintain adequate protection and
12 it should be taken irrespective of what the cost is.

13 MR. LEVENTHAL: That's correct.

14 COMMISSIONER CURTISS: Okay. Secondly, I
15 take it your organization's respective positions
16 throughout this discussion, going back to 1985, I
17 think you said, have consistently been that the
18 vehicle threat, even though we hadn't had one prior to
19 TMI, was sufficiently credible in your view, given
20 what was going on in the world generally, that we
21 ought to modify the design basis threat to account for
22 at least prior to TMI a yet to be demonstrated vehicle
23 bomb threat. Is that an accurate statement for you?

24 MR. LEVENTHAL: That's correct. We
25 considered the threat credible even before the TMI

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1 intrusion and the World Trade Center explosion.

2 COMMISSIONER CURTISS: Okay. All right.
3 Now, recognizing that your testimony here is focused
4 on the vehicle bomb threat, taking those two points,
5 as we've just discussed them, that this action is
6 necessary to protect the public health and safety and
7 hence cost ought to be irrelevant in what we do, and
8 secondly it doesn't take an actual vehicle threat as
9 we had with the TMI, you could know that beforehand,
10 the logic of your argument would suggest, and here I
11 want to explore how far you would carry the argument,
12 would suggest that we ought to do the same thing for
13 waterborne bombs or for airplanes. You're not
14 suggesting that here at least today. How do you
15 distinguish, given the logic of your argument, why we
16 should address vehicle bombs and not, if in fact
17 that's your position, go beyond that to address
18 waterborne bombs or airplane attacks or what have you?
19 What is the basis for distinguishing the two?

20 MR. LEVENTHAL: Well, we don't really make
21 that distinction, at least not in our petition for
22 rulemaking which was, as you know, rejected by the
23 Commission. There we included all surface vehicle
24 bombs, both boat borne and truck or car borne bombs.
25 We did not deal with -- I believe we specifically

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1 excluded at the time reference to bombs borne by
2 aircraft simply because we realized that that was a
3 different type of a problem, one that would be more
4 difficult to defend against and our logic was that if
5 you have the opportunity to defend against one type of
6 an attack on a pretty effective basis, that you
7 perhaps should move promptly to deal with that and
8 ponder further the more difficult form of attack and
9 one that would probably be less likely to occur, since
10 one has to assume that it's easier and more feasible
11 to attack by boat or by car or truck than it is by
12 plane.

13 COMMISSIONER CURTISS: Is your argument
14 there that it is less likely to occur because they
15 don't rent airplanes at U-Haul centers or what have
16 you, that they're less able to obtain that form of
17 transport or that it's more difficult, read more
18 costly and perhaps impossible to protect against that
19 kind of threat?

20 MR. LEVENTHAL: Well, it's surely easier
21 to rent a truck than it is to rent a plane. So, I
22 guess one has to assume on that basis that it's
23 somewhat less probable that an attack would come by
24 plane.

25 MR. GREENBERG: If I could interject here

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1 for a moment.

2 COMMISSIONER CURTISS: Yes, please.

3 MR. GREENBERG: We were looking at a
4 situation where there was substantial evidence that
5 truck bombs were weapons of choice by terrorists. We
6 had the Beirut incidents in 1983 that really
7 stimulated the whole U.S. government to look at the
8 particular problem of land borne vehicles carrying
9 explosives. When you start looking at something like
10 an airplane, that's a hypothetical possibility but we
11 don't have any experience, at least none that I'm
12 aware of.

13 COMMISSIONER CURTISS: Yes. Would it be
14 fair to say that airplanes and boats are not credible
15 threats?

16 MR. LEVENTHAL: No, I think attack by boat
17 is a credible threat and I also understand that there
18 has been some attention paid to that in terms of the
19 design of the plants themselves. There appears to be
20 no attention paid to penetration by cars or trucks.
21 Surely it's not included in the design basis threat
22 and the TMI intrusion is proof positive that the plant
23 was highly vulnerable.

24 COMMISSIONER CURTISS: An airplane threat,
25 I guess, would be a not credible event then. Is that

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1 what I should infer?

2 MR. LEVENTHAL: No, it could be credible,
3 but it's also harder to defend against. What I'm
4 trying to argue here is that simply because there's
5 another type of threat that's harder to defend
6 against, that's not a reason for not defending against
7 a threat that you can more readily defend against.

8 COMMISSIONER CURTISS: Logically I think
9 you make a persuasive argument, a compelling argument
10 and in some respects I agree with the points that you
11 make. But from the standpoint of the framework within
12 which we have to render a decision on this, the logic
13 of the argument that when one makes the case that it's
14 an adequate protection issue, that is to say you
15 assume that this is necessary to protect the public
16 health and safety and that you don't need an intrusion
17 to be demonstrated, as you've maintained since 1985
18 that vehicle borne threats are, in fact, credible long
19 before we had the TMI event. The logic does cause you
20 to ask the question, "How far would you carry that?
21 Would you carry that to waterborne bombs or airplane
22 threats to the plant or what have you?"

23 MR. LEVENTHAL: We'd definitely include
24 waterborne bombs. There are ways to assure a setback
25 distance in that given situation. We are here talking

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1 essentially about setback distances. We're talking
2 about denial of access. With a plane, it's obviously
3 a very different type of a situation and it's a very
4 difficult situation. Some plants are better equipped
5 to defend against it than others. In fact, TMI, as it
6 turns out, is better defended against an airborne
7 attack because of this special containment because the
8 plant is close to an airport.

9 COMMISSIONER CURTISS: Okay.

10 MR. LEVENTHAL: I think what the
11 Commission has to look at is in the worst case how are
12 you going to defend not having taken action if there
13 is an attack against a plant? On what basis are you
14 going to explain to the public why, after TMI-1, after
15 the World Trade Center it was still felt that there
16 was not an urgent enough situation to take the most
17 fundamental kind of defense here and the one that is
18 the least costly to implement, namely physical
19 barriers.

20 COMMISSIONER CURTISS: Okay. Let me pick
21 up on that point because I have two other quick areas
22 I'd like to pursue with you.

23 In your testimony in 1988 before the
24 Gejdenson Subcommittee, at the time what you described
25 in terms of the physical protections that you would

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1 recommend be taken and described in the public record
2 was a double chain link fence with an aircraft cable
3 between the fence with a standoff distance of 100
4 yards, assuming a five ton truck and I think that was
5 the gist of the steps that you suggested be taken. Is
6 that your position today, that action if taken would
7 be sufficient to address the problem?

8 MR. LEVENTHAL: Those types of defenses,
9 I believe that was on the basis of some expert advice
10 we got at the time as to what would work best. There
11 may, in fact, have been improvements in the
12 technology. But basically aircraft cable to prevent
13 penetration of the perimeter fence and hydraulically
14 lifted gates to prevent access through the main
15 driveways as well as perhaps concrete flower pots to
16 require a zigzag route into the plant. These are
17 methods and technologies that are well known,
18 relatively inexpensive and can be installed fairly
19 quickly.

20 COMMISSIONER CURTISS: Okay. If one were
21 to take those steps that you've just outlined and
22 emphasizing here that that would include the requisite
23 standoff distance, which you defined at the time as
24 100 yards, would that moot the question of whether we
25 should address this issue in the context of IPEEE?

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1 What's left to address in IPEEE if you take steps that
2 essentially eliminate the threat?

3 MR. LEVENTHAL: I guess what's left is the
4 question if there were an explosion at that point
5 because the truck couldn't get any further in. Are
6 there any systems on the plant grounds or within the
7 plants that could be affected by a blast, a credible
8 explosion that could be achieved at that distance?

9 COMMISSIONER CURTISS: Yes. I'm taking
10 your proposed standoff distance of 100 yards as the
11 assumption here. Let's assume for the sake of
12 argument that that would be sufficient to counter the
13 effects of the blast.

14 MR. LEVENTHAL: I don't know the answer to
15 that question. I think that's what you need an IPEEE
16 program to find out and that's a very good example of
17 why the program makes sense. We don't know how great
18 the defense in depth is when it comes to redundant
19 systems that could be knocked out with a single
20 explosion. We did submit, as I mentioned in my
21 testimony, a list that we wanted to submit under seal.
22 The Commission advised us we did not have to submit it
23 under seal, even though it was our preference to do
24 so. We were advised by experts that those are
25 examples of potentially vulnerable systems that you

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1 want to check out and would be appropriate to be
2 checked out with an IPEEE program.

3 COMMISSIONER CURTISS: Okay. I don't have
4 any other questions.

5 CHAIRMAN SELIN: Commissioner Remick?

6 COMMISSIONER REMICK: Just following up on
7 your answer to one of the Commissioner Curtiss'
8 questions, you indicated that you thought the boat
9 bomb and aircraft bomb were less likely. But it seems
10 if you had --

11 MR. LEVENTHAL: Not the boat bomb.

12 COMMISSIONER REMICK: Oh, I'm sorry.

13 MR. LEVENTHAL: I didn't say the boat
14 bomb. Aircraft.

15 COMMISSIONER REMICK: Okay. Aircraft
16 bomb. But if you had determined terrorists and you
17 were able to prevent vehicle bombs and prevent against
18 boat bombs, I would think the aircraft bomb approach
19 would become more likely then if you had determined
20 terrorists.

21 MR. LEVENTHAL: It might well, and then I
22 think you'd also have to think through how you can
23 best defend against that. I wouldn't deny that, but
24 I would argue, as I did before, that if there are
25 vulnerabilities that you can effectively close at

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1 relatively little cost and do it quickly, that you
2 should do that even if there are other forms of attack
3 that are still possible.

4 COMMISSIONER REMICK: You indicated both
5 in your written testimony and your oral presentation,
6 "And there is now a specific and credible threat
7 against nuclear facilities." What specifically are
8 you referring to there?

9 MR. LEVENTHAL: I was referring to that
10 letter received by the New York Times and that we
11 understand has been linked to the defendants in the
12 World Trade Center case.

13 COMMISSIONER REMICK: And you view that as
14 a credible threat?

15 MR. LEVENTHAL: Well, we don't have full
16 access to the intelligence available and to the
17 investigation itself, as I assume the Commission does
18 and as I assume you may be briefed on this afternoon.
19 I guess I would say this. If there's any uncertainty
20 in the minds of the federal investigators as to
21 whether this group has links with other groups or
22 whether it is presenting the views of others who are
23 still at large and have the same kinds of capabilities
24 that were employed at the World Trade Center, if I
25 were in your position I'd be very nervous about that

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1 and I wouldn't want to hang my hat on assurances by
2 the same agencies that missed the World Trade Center
3 attack entirely that you have nothing to fear right
4 now.

5 I think if you can take prudent action to
6 close existing vulnerabilities, you can breathe a lot
7 easier about the possibility that intelligence
8 agencies might miss the next threat and that the next
9 threat might be directed to a nuclear facility.

10 COMMISSIONER REMICK: Do you happen to
11 know in that letter what they were referring to when
12 they said nuclear targets?

13 MR. LEVENTHAL: No. They spelled nuclear
14 with a capital N. I don't know what that suggests.
15 But we are aware of what the potential nuclear targets
16 are in the United States and one of them is the more
17 than 100 operating nuclear power plants. Those are in
18 your charge. They may mean defense establishments,
19 they may mean transports. Some of the transports are
20 in your charge, others are not. But what's clearly in
21 your charge I think you should attend to.

22 COMMISSIONER REMICK: Well, in your
23 proposal, are you proposing that we address just
24 nuclear power plants of the various facilities under
25 our jurisdiction?

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1 MR. LEVENTHAL: Well, you're aware that
2 nuclear fuel facilities -- there was a review of the
3 design basis threat there to make it comparable to the
4 requirements that DOE applies to its facilities, and
5 the Commission took an interesting action at that
6 time. They said, "Well, DOE doesn't have any nuclear
7 power plants. We do. They're not -- so, whatever
8 applies to their reactors doesn't necessarily apply to
9 us. With their nuclear fuel facilities, since there
10 was a comparability question involved there, the
11 Commission did upgrade to the design basis threat to
12 contemplate attack with a vehicle. We don't
13 understand why an attack with a vehicle is credible at
14 a nuclear fuel facility licensed by the NRC, but is
15 not credible with regard to a reactor licensed by the
16 NRC and we think it's that kind of inconsistency that
17 you should address realistically, not legalistically,
18 although realistic and legalistic are not necessarily
19 in conflict. But one can often get in the way of the
20 other.

21 I think you've got a real world situation
22 on your hands here today. You've got an immediately
23 effective way to deal with it and we're urging you to
24 please do it.

25 COMMISSIONER REMICK: Yes. But you are

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1 addressing nuclear power plants strictly.

2 MR. LEVENTHAL: In this testimony, yes.

3 COMMISSIONER REMICK: In this testimony,
4 okay.

5 MR. LEVENTHAL: That's correct.

6 COMMISSIONER REMICK: Now, I assume that--
7 it's not clear, but I'm assuming that your interest is
8 preventing radiological sabotage and not diversion or
9 economic loss to the plant. Am I correct?

10 MR. LEVENTHAL: I think if there were an
11 explosion, there would probably be all of the above,
12 but we are dealing specifically with radiological
13 consequences, that's correct.

14 COMMISSIONER REMICK: Does the Institute's
15 interest include facilities other than nuclear
16 facilities that might be subject to terrorist threats
17 also?

18 MR. LEVENTHAL: Well, we are the Nuclear
19 Control Institute, so our assigned interest is that of
20 nuclear facilities. I guess I would like to
21 concentrate my testimony on that question. There are
22 a lot of facilities to worry about. Some of them are
23 already protected in ways that we think nuclear power
24 plants should be protected.

25 COMMISSIONER REMICK: But you're not

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1 proposing all public buildings or all reservoirs or
2 chemical plants or anything like that? It's not your
3 purview?

4 MR. LEVENTHAL: It's not part of our
5 proposal, but I would say logic would dictate that
6 there ought to be a lot of different types of
7 facilities in buildings where security should be
8 addressed as a consequence of the World Trade Center
9 explosion. But in our testimony and because of our
10 particular mission, we deal with nuclear facilities.

11 COMMISSIONER REMICK: Would that
12 protection include vehicle bomb barriers, vehicle
13 access barriers and so forth, those various other
14 potential targets?

15 MR. LEVENTHAL: In non-nuclear facilities?

16 COMMISSIONER REMICK: Yes.

17 MR. LEVENTHAL: Yes, to the extent it can
18 be practically and feasibly applied.

19 COMMISSIONER REMICK: Okay. I think that
20 answers my question.

21 CHAIRMAN SELIN: Thank you, Commissioner.
22 Commissioner de Planque?

23 COMMISSIONER de PLANQUE: I have no
24 further questions.

25 CHAIRMAN SELIN: Fine.

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1 COMMISSIONER CURTISS: Just one question.

2 CHAIRMAN SELIN: I'm sorry. Go on,
3 Commissioner Curtiss.

4 COMMISSIONER CURTISS: I'll plead guilty
5 to being legalistic, I guess, since I'm the lawyer on
6 the Commission. I do think it's important though that
7 as we hear your appeal and there is some logic to it,
8 but as we hear your appeal whatever action we take is
9 one that is based upon what we've seen to date that is
10 consistent with the decisions that we've taken in
11 other contexts and that can be defended as such when
12 it comes to future circumstances that might arise.
13 You pointed to a question on your part as to why
14 category 1 fuel facilities and reactors were treated
15 differently, what you perceived to be an
16 inconsistency. I actually think there is an answer to
17 that and that is that there's material at category 1
18 facilities that might be quite attractive to a
19 potential terrorist and maybe more attractive and
20 hence there is a logic to that.

21 Similarly in asking the questions that I
22 did about whether you view this as a backfit, an
23 adequate protection issue, how you would propose to
24 treat waterborne and airborne threats, one ought to
25 ask the question if we move forward in a particular

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1 way in this context, is there a basis for it, will
2 people come in and argue at some future point based
3 upon the action we take here? The logic of that
4 action dictates that we ought to protect against
5 waterborne or airborne bombs or what have you
6 irrespective of the cost.

7 So, if that's a legalistic view, I plead
8 guilty to that. I think it is a question that goes to
9 the logic of whatever we do and I think that is an
10 important consideration here.

11 MR. LEVENTHAL: I guess I sort of
12 subscribe to the logic of someone we know in common,
13 Big Al Simpson, which would be to say if there's
14 something you can do easily and practically, why not
15 do it and be done with it and not belabor it? That
16 was the philosophy he expounded upon when I was co-
17 chairing the TMI investigation with Jim Asselstine and
18 I think it's a pretty good logic to apply here.

19 COMMISSIONER CURTISS: I came to know it
20 well.

21 CHAIRMAN SELIN: Yes. I would like to
22 make a couple of comments. It's really for the
23 record.

24 Our view on those fuel facilities which
25 handle enriched uranium, more highly enriched uranium,

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1 is not to protect them against the vehicle bomb threat
2 but to protect them against vehicle penetration that
3 might lead to the special nuclear materials being
4 carted away. Right or wrong, it's a different logic.
5 I don't think there's an inconsistency that we handle
6 those facilities different --

7 MR. LEVENTHAL: But if I may respond to
8 that, those facilities have, because of those
9 defenses, built in protection against radiological
10 sabotage that might be affected by a vehicle.

11 CHAIRMAN SELIN: Could be, but the design
12 threat does not include a vehicular bomb, it includes
13 vehicular penetration.

14 MR. LEVENTHAL: But that's how vehicular
15 bombs are executed. They get in as close as they can
16 and then they explode. So, the point I'm making is
17 that you do have implicitly protection --

18 CHAIRMAN SELIN: Mr. Leventhal, you're
19 arguing we were handling them inconsistently. I'm
20 debating that. I'm not saying that inadvertently we
21 might actually have satisfied you on the facilities
22 that may have happened.

23 The second is that the ground rules for
24 our review are limited to radiological damage. Our
25 charter is to radiological protection of the general

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1 public, that if in so doing we manage to protect the
2 economic investment or the people who work in the
3 plant, that would be so much better, but that's not in
4 our ground rules. Our ground rules are should we
5 reconsider the threat of what -- the design threat
6 that would lead to radiological damage.

7 The third is I really do have to -- as
8 plausible and as interesting as your testimony is, I
9 guess I can't quite say that I'm the realistic on the
10 Commission, to go with Commissioner Curtiss being the
11 lawyer on the Commission, but realistic or not, if we
12 say that this threat is plausible enough that it
13 should be fixed immediately, then we don't have to
14 look at our backfit rule. If we argue that the threat
15 is reasonably plausible, no more nor less than other
16 threats but the defenses are so easy we should do
17 them, then we do have to go through our backfit rule
18 and say, "Are the defenses -- the costs commensurate?"
19 because if it really is a threat to health and safety,
20 then we're not supposed to take the degree of defense
21 in hand.

22 I will also say, in my opinion the
23 waterborne threat is considerably less plausible than
24 the bomb threat, particularly because of the amount of
25 -- of the vehicular threat partly because of

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1 experience with vehicular threats and partly because
2 of the difficulty of getting a waterborne vehicle to
3 a place where you have reasonably high confidence that
4 you would do severe damage to the plant.

5 You're a very good witness. I noticed no
6 matter what the question is your answer is always the
7 same, and that's a sign of sophistication.

8 MR. LEVENTHAL: Could I say at one point
9 on the economic aspect, I wonder if there is a single
10 public utility commission in this country that would
11 object to a \$1 million or so cost being folded into
12 the rate base to provide the kind of protection that
13 could be affected here today by simply voting aye on
14 the question of the immediately effective rule and the
15 required installation of those barriers.

16 CHAIRMAN SELIN: Sure. But we don't have
17 the authority to issue an immediately effective rule
18 on the grounds that it's only \$1 million. It would
19 have to be on the grounds that the threat calls for it
20 from the point of view of the protection of --

21 MR. LEVENTHAL: I understand that.

22 CHAIRMAN SELIN: Otherwise we -- whether
23 we get comment or not, we need to go through the
24 backfit calculations, et cetera.

25 MR. LEVENTHAL: We think the health and

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1 safety arguments are quite plausible and quite
2 compelling.

3 CHAIRMAN SELIN: Okay. Thank you --

4 COMMISSIONER ROGERS: I'd like to just say
5 one -- make one little point on cost. The costs that
6 you've alluded to here are financial costs, dollars.
7 Our concerns are not only with those kinds of costs,
8 but the costs that come about in perhaps diverting
9 attention or making it more difficult to carry out the
10 operation of the plant itself in the safest possible
11 way. We've seen already from the TMI experience that
12 the physical security requirements do interfere with
13 the safe operation of the plant under normal
14 circumstances. That's a cost in my view and it's a
15 very high cost and probably a much higher cost than
16 the dollar cost that one talks about here.

17 So, I think that when one talks about
18 cost, the costs have to be not only in purely economic
19 terms, but the overall cost in the safe operation of
20 the plant, whether that is improved or perhaps in some
21 way reduced as a result of improving -- responding to
22 another possible threat. I think you must take into
23 account that this Commission considers all of these
24 matters and we certainly are not dictating or not
25 directing our attention solely to dollar costs of

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1 installing some kind of physical barrier. I think
2 we're concerned in moving into this domain with what
3 the operational difficulties are that may come about.

4 For example -- I'm not giving this as
5 something that we really have studied, but for example
6 the access of fire equipment to respond to something
7 going on in the protected area. To what extent would
8 these kinds of barriers interfere with that in a way
9 that might possibly cause a much more serious problem
10 that we know about that can happen. So, these are
11 other matters that must be taken into account as we
12 view introducing new additional impediments to the
13 operation of the plant.

14 MR. LEVENTHAL: I would just respond very
15 briefly that I'm familiar with what some of those
16 impediments are when it comes to dealing with the
17 insider threat and the pat-down rule and that sort of
18 thing. I think putting cable up around the perimeter
19 of the protected area to prevent unauthorized
20 penetration and installing hydraulically lifted gates
21 that can be immediately lifted when there is a
22 perceived threat, I don't think those should interfere
23 too severely with the safe operation of the plant. In
24 fact, I would argue that's a further reason for
25 proceeding along the lines that we recommend today.

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1 MR. GREENBERG: I think we pointed out in
2 our testimony as well, Commissioner Rogers, that there
3 are a number of plants, not a large number, but
4 several at least, that do have these kinds of
5 vehicular protections. To my knowledge, no one has
6 suggested that those compromise the safe operations
7 of --

8 COMMISSIONER ROGERS: But every single
9 plant in this country is different from every other
10 plant. The physical layouts are different. They're
11 very, very different and you cannot argue that
12 something that doesn't interfere with safe operation
13 at one plant would automatically not interfere at
14 another plant. It could very well -- it very well
15 might.

16 MR. LEVENTHAL: But where is the greater
17 danger? Is the greater danger that tomorrow or the
18 day after someone might actually attempt to explode a
19 bomb inside the plant grounds, or is the greater
20 danger that by putting in these barriers you're
21 somehow going to interfere with fire fighting
22 equipment arriving for an entirely different matter?

23 CHAIRMAN SELIN: That's exactly the
24 question --

25 COMMISSIONER ROGERS: That's exactly the

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1 question.

2 CHAIRMAN SELIN: -- that we're going to
3 have to look at.

4 COMMISSIONER ROGERS: That's exactly the
5 question.

6 MR. LEVENTHAL: Well, my answer to that is
7 that, at least to my mind, it's pretty obvious what
8 the answer is.

9 COMMISSIONER ROGERS: Well, it's not at
10 all obvious to this mind.

11 CHAIRMAN SELIN: Fair enough. At the risk
12 of not letting you get in the very last word, Mr.
13 Leventhal, remember the Hebrews had to wander around
14 40 years in the wilderness. Eight isn't that long.

15 Thank you very much for having been
16 witnesses and we call the staff at this point.

17 MR. LEVENTHAL: I'd like to leave with you
18 also our counsel, Eldon Greenberg's testimony before
19 the Senate Subcommittee. It does lay out the
20 chronology of the various efforts and I alluded to
21 those.

22 CHAIRMAN SELIN: Would you give it to the
23 Secretary? Fine.

24 MR. LEVENTHAL: Thank you again.

25 CHAIRMAN SELIN: Thank you.

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1 COMMISSIONER CURTISS: Thanks, Paul.

2 CHAIRMAN SELIN: I think without further
3 adieu, we'll welcome you, Mr. Taylor and the staff,
4 and ask you to go ahead with your presentation.

5 MR. TAYLOR: We're here in response to the
6 Commission's request that staff reevaluate the current
7 design basis threat for radiological sabotage. Our
8 briefing today represents the first phase of that
9 reevaluation in which we will briefly describe the
10 Commission's previous deliberations on vehicle threats
11 and then identify an updated list of physical security
12 options for consideration.

13 I note that in the interest of an open and
14 thorough review of the design basis threat, the staff
15 will conduct a subsequent public meeting to obtain
16 information from all interested parties and that
17 meeting is scheduled for May 10th at the Crown Plaza.
18 Thus, the staff will not provide specific
19 recommendations to the Commission today, but will do
20 so after the public meeting so that the results of it
21 can be considered by the staff and used appropriately
22 for its recommendations.

23 I'll now ask Bob Burnett to commence the
24 presentation.

25 MR. BURNETT: Good afternoon.

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1 You'll have to bear with me a little bit
2 today. Today's briefing is going to be somewhat
3 difficult. Some of the supportive details, Mr.
4 Chairman, that you already referred to are classified
5 and it makes the job of asking questions and answering
6 them somewhat difficult. But we are going to try our
7 very, very best to be candid and as open as possible
8 within the security boundaries.

9 Also, another difficulty that we incurred,
10 the World Trade Center incident, which we all know
11 happened in February, we had hoped that we would have
12 additional data available for today. But because of
13 a gag order that has been put in place in the State of
14 New York, no additional information has been made
15 available to our Agency.

16 As the EDO mentioned, the public meeting
17 is now scheduled for May the 10th at the Holiday Inn
18 in Rockville. We have put out a news release and a
19 Federal Register notice and copies of those were
20 provided at your desk when you showed up. They are at
21 both doors.

22 Now, with all of those caveats, what are
23 we going to cover today? Well, we hope to give the
24 Commission some background on how this issue was dealt
25 within the past, what the staff actions were in the

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1 past and outline the options that staff have currently
2 under consideration, and then sometime after the
3 public meeting we will come back to the Commission
4 with an analysis of the public meeting, a more
5 detailed presentation of staff analysis and
6 recommendations from the staff.

7 (Slide) Slide 2, please.

8 All right. Why are we here today? I
9 think we've all said it several times. It's because
10 of recent incidents, the Three Mile Island intrusion
11 and the World Trade Center bombing. Both of these
12 incidents has caused the Commission, as well as the
13 staff, to reconsider the design basis threat and the
14 subsequent protection that is afforded to nuclear
15 facilities in this country.

16 During the review, I think it is important
17 that we mention the relevant petitions submitted by
18 the Nuclear Control Institute and the Committee to
19 Bridge the Gap. It was originally submitted 1/11/91
20 and it did suggest that vehicle protections be
21 immediately put into place, increase the number of
22 attackers that should be protected against, also
23 increase the weaponry employed by those adversaries
24 and, in addition, ask for an immediate remedy in the
25 form of an action to put the contingency plans that

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1 are required by the generic letter in place
2 immediately.

3 Both the action plan and the petition was
4 subsequently denied. The action was denied in the
5 same month of January and the petition later in June
6 of that year.

7 Further, recently, the FBI and the DOE and
8 the CIA have met with the Commission and provided
9 relative information. Again, it's not possible to go
10 into that, but we will look into it in greater depth
11 in the meeting to follow.

12 Also, the recently held Lieberman hearing.
13 Basically, Mr. Lieberman, Senator Lieberman suggested
14 that the Commission move as fast as possible on this
15 issue.

16 Also in response to the Commission
17 direction, the staff has forwarded up a multi-phased
18 work place, promising to give a fresh look at the
19 complete design basis threat, including soliciting
20 public opinion. As I've said earlier, current plans
21 are to get back to the Commission as soon as possible
22 after that public meeting.

23 (Slide) Next slide, 3, please.

24 Turning now to past deliberations,
25 alternatives were developed in SECY-88-127 based on

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1 staff analysis and interaction with the intelligence
2 community. Basically that paper presented three
3 options for contingency planning and three options for
4 physical security. I'd like to cover first the
5 contingency planning.

6 The first alternative was for the NRC
7 itself to complete and develop a contingency plan in
8 the event that information was received that a
9 licensed facility was targeted by a vehicle or a
10 vehicle bomb. Basically we were asked to do
11 prethinking and get all documentation prepared that
12 would be necessary to order the licensee to respond.

13 The second alternative, which we labeled
14 short-term contingency planning, required the licensee
15 to review his sites for land vehicle approaches and
16 device a contingency plan to intercept a would be
17 design basis vehicle. This contingency plan had to be
18 operational within 12 hours of notification by the
19 NRC.

20 The third alternative, long-range
21 contingency planning, would require the licensee to go
22 through all of the necessary designs to install a
23 permanent vehicle protection system, but not install
24 it. In essence, get ahead of the power curve. In all
25 cases, adequate standoff distances would be required

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1 for a design basis vehicle that would be yet
2 developed.

3 Now, turning to the physical security
4 alternatives. The licensee in alternative 1 would
5 install a vehicle protection roadway system only.
6 Alternative 2, he would extend the vehicle protection
7 system all the way around the perimeter. Both of
8 those cases would be required to protect against a
9 design basis vehicle. The third alternative would do
10 all of the above except would assume the presence of
11 a design basis explosive on the vehicle. Therefore,
12 added standoff ranges, where necessary, would have to
13 be provided. The design basis vehicle and the
14 explosive was considered safeguard information and
15 would be provided under separate cover.

16 (Slide) Next slide, please.

17 During the 1985 through 1988 time period,
18 the Commission met with the CIA, the FBI, the DOE and
19 the National Security Council. In particular, the
20 National Security Council was solicited for their view
21 of the status or the existence of a vehicular design,
22 a vehicular threat or vehicular bomb threat in
23 America. The Agency views and resulting data will be
24 briefed in the follow-on meeting and are considered
25 classified. However, I can note at this point that

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1 during the Lieberman hearings recently held, that the
2 FBI said that they knew of no credible threat directed
3 towards the nuclear community.

4 (Slide) Next slide, please.

5 After the Commission received several
6 staff papers and briefings and data from the
7 intelligence community, the Commission issued their
8 staff requirements memorandum in June, on June the
9 16th, 1988. It directed the staff to develop the
10 Headquarters contingency plan previously briefed, and
11 to require the licensee to develop contingency plans
12 to protect against the design basis vehicle alone. No
13 explosives were to be presumed aboard.

14 The staff issued Generic Letter 89-07,
15 April 28th, 1989 requiring licensees to create a
16 contingency plan within six months. That plan would
17 be available on-site for review by NRC inspectors.
18 Indeed, the specifications of the design basis vehicle
19 was provided under safeguarded information, separate
20 cover.

21 COMMISSIONER REMICK: Bob, before leaving
22 that slide, what classes of our licensees have some
23 form of contingency plan, not only for vehicles but
24 requirement of having security contingency plan or
25 safeguards?

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1 MR. BURNETT: Okay. Both reactors and
2 category 1 plants have contingency plans. Contingency
3 plans, however, come in two major colors, should I
4 say, the vehicular denial system, which is at the
5 power reactors, and at category 1. In addition, both
6 of those facilities have what I call safeguards
7 contingency plans to address such things as hoax bomb
8 threats when they're received, standoff firing
9 attacks, fires that could start on-site that you would
10 have to move, in the case of a category 1 site, people
11 into a holding pen area to make sure we didn't lose
12 special nuclear material. And, in fact, all forms of
13 contingencies, if a weapon was discovered on site, if
14 a weapon was discovered on a person, almost every form
15 of contingency you can think of.

16 COMMISSIONER REMICK: When you say
17 reactors, you mean power reactors only?

18 MR. BURNETT: Yes, power reactors only.

19 COMMISSIONER REMICK: Don't non-power
20 reactors also have contingency plans of some type, not
21 talking about vehicular?

22 MR. BURNETT: I'll yield to Mr. Frank
23 Miraglia on that one.

24 MR. MIRAGLIA: I don't believe that they
25 have security contingency plans. The requirements are

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1 established in Part 73 of the regulations and I think
2 it's an Appendix E or Annex E to that that talks to
3 the general outline of a requirement contingency plan.
4 As Mr. Burnett said, it establishes planning criteria
5 to respond to a whole range of contingencies, from
6 bomb hoax to degraded security features to say what
7 steps would be taken and how would they be implemented
8 under those various contingencies.

9 COMMISSIONER REMICK: What level of staff
10 review have contingency plans received? I'm referring
11 mostly to reactors now. Have all of the contingency
12 plans been subject to staff review and to what extent?

13 MR. MIRAGLIA: To use Bob's phrase, they
14 come in different colors. The broad requirement for
15 contingency planning that was required under Part 73
16 was reviewed in the licensing context for Part 73, did
17 they have contingency plans and what contingencies
18 would be covered. Those were reviewed in the
19 licensing context and then they would be reviewed by
20 inspection and the like.

21 The generic letter expanded the
22 contingency plan to say that there should be
23 contingency planning for protection against surface
24 vehicle bombs that could be implemented in 12 hours.
25 Those contingency plans in that generic letter said

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1 that that did not require it to be submitted to
2 Headquarters for review in a licensing context and
3 should be made available in the field and would be
4 looked at in the inspection process. We have examined
5 that on at least two occasions via the resident
6 inspectors and reasonable base inspectors.

7 COMMISSIONER REMICK: Two occasions
8 meaning two different times --

9 MR. MIRAGLIA: Two different times.

10 COMMISSIONER REMICK: -- or two different
11 plants?

12 MR. MIRAGLIA: Two different times at the
13 facilities. I believe shortly after the
14 implementation date, the effective implementation date
15 of the regulations there was some looking. I think we
16 did something at the Persian Gulf time and there's
17 just recently, after the World Trade Center, we had
18 licensees and resident inspectors to look down.

19 I think I should emphasize that these
20 plants have never been exercised, so we have not
21 inspected them from the point of view of total
22 effectiveness. But, number one, were there plans in
23 place, were there vehicles or appropriate instruments
24 by which they could get vehicles or if they had said
25 that they were going to have ditches or whatever the

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1 things are, that those things were there and they
2 appeared to be implemented in the 12 hour time frame.

3 COMMISSIONER ROGERS: Excuse me. Do we
4 actually go and look to see or do we get letters from
5 people telling us they had these?

6 MR. MIRAGLIA: The inspectors looked at
7 the plans and verified to what they could. I wouldn't
8 go as far, Mr. Rogers, to say that they looked at the
9 -- if there was a letter and agreement to say where
10 they would get vehicles if vehicles were going to be
11 used to provide a standoff distance, whether those
12 contracts -- there was documents to say that that was
13 in their plan and there was letters of agreement.
14 Whether they could actually pull those number of
15 vehicles in at a time, we didn't check that kind of a
16 factor. So, it was that type of review.

17 COMMISSIONER REMICK: Frank, when you say
18 that they were never exercised, am I correct that
19 you're talking about for vehicle threat? Have
20 contingency plans in general --

21 MR. MIRAGLIA: Yes.

22 COMMISSIONER REMICK: -- ever been
23 exercised or activated?

24 MR. MIRAGLIA: In the normal safeguards
25 program, they are required to conduct contingency

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1 drills and exams.

2 CHAIRMAN SELIN: Are they contingencies or
3 are those just regular security plans?

4 MR. MIRAGLIA: They exercise the
5 contingency plan. They would presume a fire or they
6 would presume a protected area intrusion and the
7 guards would --

8 CHAIRMAN SELIN: The reason I'm drawing
9 the difference is that the protection against
10 vehicular threat is not --

11 MR. MIRAGLIA: That's correct.

12 CHAIRMAN SELIN: I mean first you have to
13 say, "Assume that we give you warning," and then in
14 the case of that warning, wherein as in the other
15 cases they're supposed to be able to do that from a
16 standing start.

17 MR. MIRAGLIA: You're absolutely correct,
18 Mr. Chairman. I was addressing Commissioner Remick's
19 concern. We're talking about contingency plans of two
20 different colors. I'm not talking about the vehicle
21 contingency plan, I'm talking about the contingency
22 plans that are developed in concern with Part 73 that
23 said there should be contingency planning for certain
24 security events, those that would be consistent with
25 the existing design basis threat other than the

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1 vehicle threats. Those contingency plans are
2 exercised.

3 COMMISSIONER REMICK: Have they ever been
4 activated for cause? I mean either by us or by
5 licensees other than an exercise, have there been
6 any --

7 MR. MIRAGLIA: You're talking of either
8 type?

9 COMMISSIONER REMICK: Any type, yes.

10 MR. MIRAGLIA: To the best of my
11 knowledge, I don't believe the vehicle ones have been
12 in place in toto. I believe that during the Persian
13 Gulf crisis some licensees elected as a matter of
14 prudence to implement at least parts of those plans.
15 To the other licensees, there may have been some
16 instances under bomb threats and these kind of things
17 where they have exercised those parts of the plan.
18 That's the best answer I can give you. We can give
19 you a more definitive answer --

20 MR. BURNETT: Contingency plans address so
21 many different contingencies. The lower level
22 contingencies are being not really exercised, but
23 being reacted to more often than you might think. If
24 you look at the incidents that we report where
25 somebody accidentally came through the detectors with a

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1 weapon because he had come from a shooting range, they
2 have a contingency on how to deal with that and you
3 know that that's happening all the time. You know
4 that there are fires that have happened, so they have
5 used their contingency plan there. You've heard of
6 people having medical demands on site. So, there are
7 always different levels of a contingency plan.

8 COMMISSIONER REMICK: Thank you. You made
9 the point I was trying to make, is that there's
10 nothing new about contingency plans or are they unique
11 to vehicle threats? It's a part of our safeguards and
12 security apparatus in Part 73, right? It was not
13 specifically designed to answer vehicle threats, it's
14 to handle all kind of contingencies at facilities.

15 I would like you to check because my
16 memory tells me that at least some non-power reactors
17 at least one time had to develop contingency plans.
18 Maybe I'm getting old, but I would appreciate it if at
19 a later date you let me know if I'm incorrect on that.

20 MR. MIRAGLIA: We can do that.

21 CHAIRMAN SELIN: Commissioner Curtiss?

22 COMMISSIONER CURTISS: Yes. Do you have
23 any more, Forrest?

24 COMMISSIONER REMICK: No.

25 COMMISSIONER CURTISS: At the risk of

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1 sounding legalistic, let me turn back to the subject
2 of the backfit issue because the question has come up,
3 as I look at the history, at every juncture when we've
4 looked at what the options are in this area, beginning
5 in 1986.

6 The SECY paper, Bob, that you're referring
7 to now, the 1988 SECY paper which led to the decision
8 to require contingency plans discusses in some terse
9 detail, I guess, the backfit question and in
10 particular expressed the staff's view at the time that
11 the contingency plan options, both short-term and
12 long-term, as well as the two options that you laid
13 out there, two additional options, each of which would
14 have led to a modification of the design basis threat,
15 and I'll read here, "May present difficulties in
16 justifying backfitting. Based upon staff opinion,
17 change to the regulatory base is unwarranted because
18 no change to the threat environment has occurred.
19 Under these circumstances, it may be difficult to
20 satisfy the substantial additional safety requirements
21 for the regulatory analysis portion of a backfit
22 analysis."

23 Now, from the standpoint of the relevant
24 regulatory provisions, 50.109, we've essentially got
25 today the very same -- in fact, we do have the

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1 identical backfitting framework that we had back in
2 1988 and that led the staff to this conclusion. I
3 have two questions here. One is more of a historical
4 one.

5 When we have modified the design basis
6 threat, or if we were to modify the design basis
7 threat to account for some form of action, does that
8 action itself mean that the steps that have to be
9 taken to respond to that threat are themselves
10 adequate protection measures? That is to say they
11 need not be justified based upon the backfit. That's
12 the first question.

13 The second question is do I -- should I
14 infer from this paragraph, and in particular the
15 language that says, "Based upon staff opinion, change
16 to the regulatory base is unwarranted because no
17 change to the threat environment has occurred," that
18 if a change in the threat environment has occurred, in
19 this case perhaps TMI and the World Trade Center
20 together, that that fact is relevant from the
21 standpoint of the backfit analysis, and if so, how?
22 Does it mean that the potential benefits that would
23 accrue from protecting against that threat would be
24 significant? Does it mean that it's an adequate
25 protection issue? How should I view the application

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1 of the backfit provision in this context and what
2 you've said to date on this issue?

3 MR. TAYLOR: We may have to answer that
4 when we actually come forward with recommendations.
5 I don't know that we -- are you prepared to answer
6 that today?

7 MR. BURNETT: Only partially. We have
8 started thinking about the issue, Mr. Commissioner.
9 If we modify the design basis threat under prudence,
10 in other words we're seeing a trend in this country
11 and therefore it would be prudent to do that, then
12 it's very hard for us then to say that it's not
13 subject to backfit. That's one of the statements that
14 I've received from the lawyers in preparing for really
15 the final determination that we have to present after
16 the open meeting.

17 COMMISSIONER CURTISS: Can I expand on
18 that? Historically we've taken what appear to be two
19 kinds of actions. We have taken some steps that we
20 believe would be prudent to take even though the
21 design basis threat itself need not be modified. That
22 was the gist of the contingency plans that the
23 Commission approved in 1988. In that context, I think
24 one might argue that a cost benefit justification
25 ought to be applied there. You're not changing the

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1 design basis threat, you are not perhaps therefore
2 arguing that it's necessary to protect the public
3 health and safety. But we have taken that kind of
4 action.

5 The other kind that comes to mind is a
6 change to the design basis threat itself. There the
7 question that I have, and I'll be as clear as I can,
8 when we modify the design basis threat, are the
9 actions that a licensee has to take as a result of
10 that action on our part actions necessary to protect
11 the public health and safety and hence ones that can
12 be taken irrespective of cost? It's important
13 because, as you point out in your SECY paper,
14 depending upon how we come out on the standoff
15 distances, the costs may be much more substantial than
16 simply putting in an aircraft cable or delta barriers
17 or what have you, and depending, of course, on the
18 recommendation that is taken. So, if you're prepared
19 to speak to it now, I'd be interested in your
20 response. If you'd like to reflect on that more
21 carefully, I'd like to hear your response at some
22 point.

23 MR. TAYLOR: I think we'd prefer it.

24 MR. MIRAGLIA: One reason for that is the
25 original Part 73 I think preceded some of the backfit

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1 considerations. I think we need to go back and look
2 at that.

3 CHAIRMAN SELIN: When you're looking at
4 that, if I may add something to that, Commissioner?

5 COMMISSIONER CURTISS: Yes, go ahead.

6 CHAIRMAN SELIN: By definition, a design
7 basis threat is not intelligence. It may be affected
8 by intelligence, et cetera, as the Commission said in
9 its testimony, the testimony I gave that the
10 Commission went through. We take a look at
11 intelligence, we take a look at a range of threats, we
12 take a look at the costs to counter them. So, it's
13 not a linear process where one set of people get
14 together and say, "What is the threat?" and then
15 another set of people say, "How can we best respond to
16 it?" There is a back and forth here. So, this is a
17 much trickier question than the normal one you get
18 into about how likely is it a pressure vessel will
19 fail under certain kinds of pieces. So, it's a very,
20 very important question. I don't think I know the
21 answer and I don't think it's an easy answer to come
22 up with.

23 MR. TAYLOR: We'll try to be prepared.

24 CHAIRMAN SELIN: Fine.

25 MR. BURNETT: (Slide) All right. I was

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1 on slide 6.

2 The Commission directed in their March 1
3 direction to staff that we take into account any
4 deficiencies or lessons learned or articulated by the
5 incident investigation team looking into the Three
6 Mile Island incident. The findings that do concern
7 the design basis threat are: one, vehicles are not
8 currently addressed in the design basis threat, and
9 specifically what should the licensee response be to
10 a vehicle intrusion? That was one of their findings.
11 A second finding was licensee response can be
12 significantly affected by the mode of transport
13 utilized by the adversary. We are integrating their
14 findings into our analysis, just to let you know that
15 we are doing that.

16 (Slide) Slide 7.

17 This particular slide was created
18 hopefully to pass on as much information as we could
19 about the Trade Center bombing. However, as I've
20 said, the gag order is in effect and it does address
21 and does affect all federal agencies. So, I'm sort of
22 hung up there. But the motivation of the adversaries
23 is still unknown, nor do we know the exact composition
24 of the explosive.

25 (Slide) Next slide, please, slide 8.

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1 I would like to get into the current
2 options that the staff have under consideration and
3 have it included in the staff paper that supports this
4 meeting. I would also like to remind you that the
5 current contingency planning that exists at all the
6 reactors does use a design basis vehicle, and we will
7 brief more detailed on what that vehicle is. Just
8 keep in mind that all of the contingency planning is
9 premised on the fact that we have advanced information
10 of pending attack.

11 CHAIRMAN SELIN: Mr. Burnett, would you go
12 back to the previous chart for a moment, please?
13 Let's see if we can get the screen to go back to the
14 previous chart also.

15 When you say 500 to 1500 pounds of
16 explosive, that's sort of straightforward,
17 nitroglycerine type --

18 MR. BURNETT: Well, that's what I said.
19 The exact composition is not known and if I refer
20 strictly to media reports, I have heard it go from
21 everywhere to a mixed composition, which would be
22 dynamites and high explosives, including ANFO, but I
23 do not know --

24 CHAIRMAN SELIN: But it's stuff you could
25 pick up at a construction site? We're not talking

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1 about Semex or some sophisticated -- as far as the
2 media are concerned, et cetera?

3 MR. BURNETT: I wish I could tell you.
4 We're not. I don't know. I literally have not been
5 privy to the information.

6 CHAIRMAN SELIN: I'm not that concerned
7 with what happened at Three Mile Island -- I mean at
8 the World Trade Center. I am concerned in the design
9 basis whether we end up talking about stuff that's
10 readily available or some of the much more
11 sophisticated explosives that have been found with
12 terrorists later on.

13 MR. BURNETT: When we talk about
14 explosives in the design basis, we will talk in
15 equivalent terms of TNT.

16 CHAIRMAN SELIN: Okay.

17 MR. BURNETT: So, we will make that
18 transition during the process.

19 CHAIRMAN SELIN: Thank you.

20 MR. BERNERO: And we can give you some
21 equivalences of these lesser or better high explosives
22 to relate to that.

23 MR. BURNETT: Okay. The first option that
24 I would like to address, of course, is the edge of the
25 envelope and that is no change. There are some people

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1 that could argue that that is applicable because
2 intelligence sources still have not reported any
3 targeting of nuclear facility, and the official words
4 used by the FBI is that the chance of nuclear
5 terrorism is low. Okay? However, on the con side,
6 there has been now the intrusion in TMI and the
7 incident at the World Trade Center and in neither did
8 we receive any advanced warning. So, we certainly are
9 acknowledging that.

10 As for the cost, I would like to say it's
11 not specifically addressed on this slide, but the cost
12 of implementing the contingency plans that now exist
13 when they say, "Let's do it." It cost them something
14 between \$25,000.00 and \$150,000.00 to create the
15 documents and the necessary systems and it's estimated
16 that to put it into action will cost \$4,000.00 a day.

17 (Slide) Next slide, please, slide 9.

18 CHAIRMAN SELIN: I'm sorry. Just one
19 other question. If the contingency plan, in this case
20 it's really based on some intelligence --

21 MR. BURNETT: Yes.

22 CHAIRMAN SELIN: -- as opposed to an event
23 that happens on the plant, the contingency plan is
24 implemented, kept up for say two months just to be
25 arbitrary. At the end of that time, is there any

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1 deleterious effect on the security of the plant? In
2 other words, having implemented the plant and then
3 coming back from it, obviously there are operational
4 problems while the plant is implemented. But at the
5 end of the two months, does the licensee ability to
6 then react to a second contingency, is that negatively
7 effected or would these things be contingencies such
8 that once they've been done, other than the cost and
9 the inconvenience of having done them --

10 MR. BURNETT: Hopefully he could call on
11 them a second time.

12 CHAIRMAN SELIN: Yes, that's what I was
13 trying to say. Thank you.

14 MR. BURNETT: Do keep in mind that
15 sometimes they are staff intensive. Guard forces do
16 get burned out. They may have to bring in second
17 sources of guards and implement that way. But it's my
18 understanding that they could implement it a second
19 time.

20 Slide 9.

21 The second option, which is roadway
22 protection only, that again was one mentioned in 1988.
23 In this case, however, we've extended it slightly to
24 give some protection on either side of the roadway so
25 that a car could not easily circumvent the gate. If

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1 the vehicle did get captured or engaged a roadway
2 protection system, keep in mind that some explosive
3 protection would result being caught at that position
4 rather than being able to penetrate and nestle into
5 some vital equipment. Of course the remainder of the
6 perimeter would still be vulnerable and if an
7 adversary did a reconnaissance of his targets, he
8 could certainly see the most vulnerable portions of
9 the perimeter.

10 Option 3 --

11 COMMISSIONER de PLANQUE: Before you go on
12 to that, I'd like to understand how you would
13 implement this in a practical situation. For example,
14 at a shift change. If the barrier is not raised and
15 lowered for every vehicle entering, then how would you
16 protect against the TMI type intrusion?

17 MR. BURNETT: There are many ways to put
18 in a vehicle denial system. There is a possible
19 utilization of double barriers where the cars go
20 through one, one remains up and then it Xs out the
21 second one.

22 COMMISSIONER de PLANQUE: The air lock
23 equivalent, yes.

24 MR. BURNETT: Yes. Okay. So, that would
25 counter what you just said there.

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1 COMMISSIONER de PLANQUE: Except it would
2 also be a rather tedious process.

3 MR. BURNETT: It would add time and tedium
4 to the process.

5 MR. MIRAGLIA: Or they can remove it to a
6 vehicle control access further out. In other words,
7 move the vehicle access --

8 COMMISSIONER de PLANQUE: Providing --

9 MR. BURNETT: Away from the protected
10 area.

11 MR. MIRAGLIA: Away from the protected
12 area.

13 COMMISSIONER de PLANQUE: But you would
14 only see it as being effective either that way -- or
15 in that way against a TMI type intrusion?

16 MR. BURNETT: Yes, because if there was a
17 spacing in your exiting vehicles, then obviously
18 somebody could exploit that spacing. Generally we
19 discourage vehicles coming into the protected area
20 except for those that are doing maintenance type work.
21 The parking lots generally, in fact in all cases, are
22 outside of the protected areas. So, during shift
23 changes, you really don't get that much of these gates
24 being opened and closed.

25 COMMISSIONER de PLANQUE: Is that true for

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1 every plant?

2 MR. MIRAGLIA: We're talking about -- go
3 back to the TMI analogy. It was the second gate. The
4 first gate is owner controlled property and was not
5 the protected area. This would be defending the
6 protected area perimeter with those kinds of gates.
7 There's not a large number. It's usually the egress
8 of personnel to the parking lot and then out.

9 MR. BURNETT: And I'm not aware of any
10 large scale parking that is within the protected area
11 boundaries.

12 MR. MIRAGLIA: Most security plans have
13 vehicle control. Only certain vehicles can get access
14 to within the protected area. They, in most cases,
15 they only be driven by certain authorized people.

16 MR. BURNETT: Absolutely.

17 MR. MIRAGLIA: So, it's that access that's
18 being talked about here.

19 MR. BERNERO: I think the Commissioner may
20 be thinking that if you did adopt this roadway
21 protection option at a site like TMI, you would be
22 drawn toward the bridges as the most effective place
23 to put them and then that would give you the problem
24 of shift change.

25 COMMISSIONER de PLANQUE: Right.

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1 MR. BERNERO: But in general, this kind of
2 barrier would be for the protected area, not for the
3 owner controlled area, for the very reason of that
4 shift change burden.

5 MR. BURNETT: And the recommendation would
6 actually be at the existing protected area barrier,
7 not in the case of TMI out at that bridge that's
8 three-quarters of a mile --

9 CHAIRMAN SELIN: It just happens that
10 they're not putting their protection at the bridge,
11 they're putting their protection at the --

12 MR. BURNETT: That's correct.

13 MR. BERNERO: Protected area.

14 CHAIRMAN SELIN: They have seven egress
15 points instead of the two bridges that lead to the
16 island.

17 MR. BURNETT: Yes, sir.

18 COMMISSIONER de PLANQUE: Okay.

19 MR. BURNETT: Let's see. I was on --
20 okay, I was on option 3. In this option, the complete
21 perimeter would be protected, thereby negating the
22 advantages of doing reconnaissance by the attackers
23 and hitting the weak point. They would be required to
24 protect the entire perimeter against a design basis
25 vehicle. Again, some explosive protection would

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1 result, but it would result in a varying degree of
2 protection and very unique on a site basis. Some
3 sites have vital equipments located relatively close
4 to the protected area and I will talk more
5 specifically about that in the classified section, and
6 that even engagement of the truck at that existing PA
7 could endanger those vital equipments. While others,
8 the vital areas are much more internally located and
9 you might get a high level of protection even at the
10 existing fence lines. So, it is a variable.

11 In this case, call your attention to the
12 fact that in addition to the costs show for larger
13 perimeters, more access points, staff estimates could
14 go as high as \$.3 million.

15 CHAIRMAN SELIN: Could you stop for a
16 second?

17 MR. BURNETT: Yes, sir.

18 CHAIRMAN SELIN: I have to tell you I'm
19 really struck by how low the estimates are to carry
20 out these options. Do we have a way of -- have we
21 communicated with the licensees in doing this already
22 or do we have a way to test these against reality or
23 are they sort of so much per linear foot and so much
24 per barrier?

25 MR. MIRAGLIA: Most of the cost estimates

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1 are based upon vendor supplied information and then we
2 have had -- we did talk with TMI in trying to get a
3 feel for the cost estimates that they have generated
4 for their fixes and what was involved in those kinds
5 of activities. So, I think the public meeting --

6 CHAIRMAN SELIN: Will we smoke these out
7 there because it would be very unfortunate if we made
8 a set of decisions and then found that there's an
9 order of magnitude difference with the --

10 MR. MIRAGLIA: We've tried to look at
11 that. As Mr. Burnett just said, there's a range.
12 We've tried to give you averages. The sites are very,
13 very different. The site perimeters go from 1,000
14 feet to 9,000 or 10,000 feet. Various number of
15 access gates. It's a very variable. We try to come
16 up with some kind of a median estimate and then
17 there's --

18 CHAIRMAN SELIN: I'm not questioning the
19 way the estimate was done.

20 MR. TAYLOR: No, we hope to get input on
21 this.

22 CHAIRMAN SELIN: The question is can we
23 get some corroboration from the licensees.

24 MR. MIRAGLIA: Yes, sir. I think that
25 would be one of the things we would focus on on the

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1 public meeting, is to try to get comments and
2 realistic estimates.

3 COMMISSIONER ROGERS: And really try to
4 find the extremes, really clearly the most expensive
5 and clearly the least.

6 MR. MIRAGLIA: Yes, sir.

7 COMMISSIONER CURTISS: Now, in that
8 regard, I'm looking for it in your paper, but
9 somewhere in your paper you note that you've detected
10 already an increased demand for --

11 MR. BURNETT: Yes, sir. It could affect
12 availability.

13 MR. MIRAGLIA: Yes, sir. It's been noted
14 because we tried to make some estimates of how long
15 would it take and we got the response back depending
16 on availability and the demand is high right now.

17 COMMISSIONER CURTISS: There are really
18 two points here. One, as you point out in the paper,
19 it affects the schedule, the pace with which, if that
20 option is pursued, the licensee can move forward.

21 To the Chairman's point, when you get to
22 the meeting it may well be that you have some real
23 life experience with people who are now engaged in
24 procuring this kind of equipment.

25 MR. BURNETT: Yes, sir. Okay, sir.

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1 (Slide) Moving to slide 11, option 4
2 would require the licensee to protect against a design
3 basis vehicle and a design basis explosive. The big
4 advantage of this option, it would make all sites
5 consistent in their level of protection to both
6 vehicles and explosives. Some sites we believe would
7 be able to provide this protection at their existing
8 protected area fences while others would have to
9 modify their protected area of fence line. This could
10 be done in two methods: one, actually moving the fence
11 line and the vehicle protection systems out to the
12 correct standoff distances, or leave the current
13 personnel detection fences where they are and just
14 kind of put a hump on the outside of the fence with
15 Jersey bounces or some other physical denial technique
16 to engage the vehicle only and not the people.

17 CHAIRMAN SELIN: This one would be truly
18 a performance rule that you'd be talking about.

19 MR. BURNETT: Yes, sir.

20 CHAIRMAN SELIN: As opposed to the others,
21 which are really very much prescriptive rules, do take
22 these steps as opposed to get these results.

23 MR. BURNETT: And of course, this is the
24 most expensive option.

25 MR. MIRAGLIA: And again, going to your

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1 previous comment, Mr. Chairman, the cost here would be
2 very variable. It would be very site-dependant
3 depending on the analysis and how fine -- and how
4 complete the analysis would be. This could be a very
5 costly one. And again, this is just a best estimate
6 on our part and I think we could perhaps flesh that
7 issue out also during the public meeting.

8 MR. BURNETT: I would add, however,
9 depending on the size of the explosive which then
10 drives the size of the vehicle, this particular option
11 really has a very wide range totally dependant upon
12 those two factors.

13 COMMISSIONER CURTISS: Let me just refer
14 back to Mr. Leventhal's testimony in 1988, because he
15 addresses this point specifically, and I'll just read
16 the short sentence.

17 "The fencing would have to be at least 100
18 yards away." Now we can pursue the question of
19 whether 100 yards is an appropriate standoff distance
20 in the closed session, but he goes on to say, "and
21 that perhaps may be the most troublesome aspect of
22 this from the perspective of the utilities because
23 some plant sites may not be large enough to allow
24 that."

25 As we get into the follow-on discussion,

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1 I'd like to pursue the question of what the
2 implications are in terms of the standoff distance,
3 how it's calculated for individual sites and what the
4 implications are for individual sites, but I raise
5 that question now because, as I alluded to earlier,
6 that cost consideration of option number 4 is the one
7 that I think drives that option, if I understand what
8 you've outlined.

9 MR. MIRAGLIA: And there may be some
10 substantial outliers in that regard.

11 MR. BURNETT: That's true. We are
12 prepared, however, to talk about standoff distances
13 versus explosive sizes in the classified meeting.

14 CHAIRMAN SELIN: That's not really the
15 issue. The question comes, if 95 percent of the
16 plants could easily meet, say, this 100 yard measure
17 and five percent would have to spend \$20 million to do
18 it, would we really stick to the 100 yards? Is the
19 differential between 80 yards and 100 enough? Which
20 really gets to the point about how you do design basis
21 threats versus what we mean by these different terms,
22 you know, what needs to be in backfit and what
23 doesn't.

24 MR. BURNETT: And we've run preliminary
25 analyses on a few number of sites, like 26, that by

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1 putting a barrier at the existing fence what effective
2 explosive protection would you get, and that's where
3 you're coming from.

4 CHAIRMAN SELIN: But you have the same --
5 I mean, you have really two variables and one is the
6 size of the explosive and the second is the standoff
7 distance.

8 MR. BURNETT: Yes, sir.

9 CHAIRMAN SELIN: Even if you get
10 comfortable with the standoff distance, then the next
11 question comes, how large a design basis threat? Now
12 10,000 pounds is going to war, so we're probably not
13 going to talk about 10,000 pounds of explosives, but
14 when you're talking between 2,000 and 2,500 you're
15 going to do the same calculations. They're at the
16 point of rapidly diminishing return.

17 MR. BURNETT: I think we have some data
18 that we can make available in the closed meeting.

19 CHAIRMAN SELIN: Okay.

20 MR. BURNETT: That's the end of this
21 portion of the briefing.

22 CHAIRMAN SELIN: I believe we need a fifth
23 option and I would like to try to sketch out why I
24 think this. Until there's an SRM there's no
25 requirement for it, but I'd like you to think about

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1 what would be involved in this. It's sort of a long
2 discussion. I apologize in advance, but I don't mean
3 it because I'm going to do it anyway. I mean, I feel
4 bad but I'm not --

5 MR. BURNETT: Not that bad.

6 CHAIRMAN SELIN: Yes, exactly. We can't
7 go to intelligence, we can't go to some particular
8 development in either doctrine in a document we've
9 picked up or in explosives and say, "Here's the threat
10 that everybody has to be defended against." No matter
11 how you do it, we are talking about design basis in
12 the same way that the Commission talked about in its
13 testimony before Senator Lieberman's subcommittee,
14 namely take a look at a range of threats and take a
15 look at a range of responses and see what makes sense.
16 Really, although I don't agree with -- I far from
17 agree with everything that Mr. Leventhal said, his
18 basic concept says, "Look, you can do something about
19 this. Why don't you do about it?" is really not very
20 far from a reasonable logic. Different people will
21 come to different conclusions, but how tough is it to
22 fix and how much of a range of things can we fix is a
23 reasonable set of questions.

24 It doesn't fit in very well with our logic
25 that says this is the kind of risk to a power plant

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1 that everybody has to fix regardless of the cost and
2 here's what we have to do, some tradeoffs. One power
3 plant will turn out it's going to cost them
4 \$300,000.00 and they should do it, another one is at
5 \$500,000.00. Does that mean they shouldn't do it?
6 We're not really set up for the formal process of
7 setting up -- saying, "This must be done and this will
8 depend on the cost with this move continue."

9 So, I would like you to consider another
10 option which is a little different from these, which
11 basically says something like the following. We
12 really are concerned. We'd like the plants to take a
13 look at what it would cost to -- I'll make up some
14 numbers -- to handle 2,000 pounds at 100 yards from a
15 vehicle going no faster than 50 miles an hour and use
16 some common sense, taking into account your geography,
17 et cetera. We basically ask the plants if they'll do
18 this without going to the point of passing a rule that
19 says you must do this and see what the results are and
20 after you get the results and then we go and say, "Do
21 we have to take further action?"

22 Now, that's not exactly what I'm calling
23 for, but my point is that each of the Commissioners
24 one way or another has said there are huge differences
25 from plant to plant. One thing that seems to me that

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1 is not unreasonable may turn out to be a bad idea. It
2 may turn out it's too hard to do and I'd sort of like
3 your reaction about whether you could do something
4 like this before we do the SRM, not afterwards,
5 because I don't want to ask for something that's
6 impossible. But maybe the status quo ante shouldn't
7 be -- in other words, a situation which would have to
8 be remedied by the rule needn't be what we have today,
9 but could be something where the Commission as a
10 matter of policy expressed an interest in having the
11 plants do what they reasonably can do to respond to
12 this, see what the licensees would say they would do
13 and then see if we need to go further than that with
14 a rule. This is something where you have to speak
15 very closely to the general counsel and say do we have
16 the authority to do something like this, would this be
17 an undesirable precedent? But, in effect, it would be
18 to bring the licensees in to looking at what the
19 design basis threat should be and what the response
20 should be and give it a chance to see if it turns out
21 that the Commission feels there's a question of
22 policy, there should be some response to a vehicular
23 bomb, and it's a big if, what the licensees could do,
24 what they'd be willing to do without being mandated to
25 do it and see, after we went through that cycle, how

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1 much more we would require in a rule.

2 Now, it may turn out that the Commission
3 doesn't want to do this, but I think you have to look
4 at a wider range of options than just we have these
5 kind of mandates we can put out, because this is
6 really a peculiar situation. It just doesn't fit into
7 the normal pieces, both because it's hard to say, "Is
8 this something everybody must do, or is it a cost
9 benefit analysis?" and also because the situations are
10 just so different.

11 I would almost consider a rule that says
12 every licensee must spend \$300,000.00 to defend
13 against a vehicular -- let's see what we get for it.
14 I'm exaggerating. I don't mean that literally, but
15 what I'm saying is that --

16 COMMISSIONER ROGERS: Mr. Parler would be
17 very uncomfortable. You got his attention.

18 CHAIRMAN SELIN: In other words, the
19 resources are central to this. If you can do it
20 easily, why don't you do it without forcing us to
21 order you to do it? And if it's really hard, tell us
22 about it and let's see if there's a problem between
23 the two. There may or may not be a way to come up
24 with an option that counts for something like that.
25 We have to live within our own rules. We can't set a

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1 whole new legal framework for a situation. But I
2 don't believe that this type of situation was really
3 foreseen when we set up the sharp distinction between
4 this is what's required and this is a cost benefit
5 analysis.

6 MR. TAYLOR: We'll mull on that one, Mr.
7 Chairman. That's about as far as I can go.

8 CHAIRMAN SELIN: Well, I mean we need some
9 interaction. I don't want to --

10 MR. TAYLOR: I understand.

11 CHAIRMAN SELIN: But if there is an
12 approach that would be followable --

13 MR. TAYLOR: Let us think through that.

14 CHAIRMAN SELIN: -- I would like to know
15 that before we end up giving you the instructions on
16 how to respond to this piece.

17 Commissioner Rogers?

18 COMMISSIONER ROGERS: Yes. I'd just like
19 to say that I find the Chairman's remarks very
20 interesting and somewhat appealing, but they also
21 bring to mind the other side of that coin and that is
22 one that was pointed out to us I think by the
23 Administrative Conference of Paper, I think it was, on
24 nonprescriptive regulation, the enormous costs that
25 come about when there is too much freedom left in the

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1 system without enough specificity. I think the
2 question was how high to put a fire extinguisher, you
3 know, and if you leave it to the licensee to decide
4 the proper height of the fire extinguisher to meet all
5 the possible situations, handicapped and various other
6 needs that might have to be addressed, the cost of
7 trying to implement that is enormously greater than
8 saying "the fire extinguisher should be a height at
9 three and a half feet off the floor," period, just put
10 it there.

11 And I think that that's another aspect of
12 this that one has to take into account, because I can
13 see the difficulties that licensees might have in
14 grappling with these things. "What should we do?"
15 Not "What can we do?" but "What should we do?" And so
16 I think that while I agree that somehow we have to --
17 I like the idea that there's yet another way of
18 looking at this than just the options that have been
19 offered to us, because I think there has to be more
20 practicality interjected into this.

21 I do think at some point we may have to
22 say "This is what you must do," if we can. Now I know
23 there's the legal aspects of that, but I think that
24 somehow we've got -- we can't just dump it back on the
25 licensees. I think we'll have to give guidance in

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1 some way. Now whether it's a legal requirement or
2 not, I don't know. These are things that will have to
3 emerge. But I do think it is important to keep in
4 mind that when too much freedom is left, that that's
5 also a very difficult situation to deal with. It
6 doesn't necessarily simplify it for the licensee.

7 CHAIRMAN SELIN: Do you have other points
8 you want to --

9 COMMISSIONER ROGERS: No.

10 CHAIRMAN SELIN: Commissioner Curtiss?
11 You're not struck dumb by all this?

12 COMMISSIONER CURTISS: Well, I'm struck.
13 I'm not sure I'm struck dumb.

14 CHAIRMAN SELIN: Speechless.

15 COMMISSIONER CURTISS: Speechless.

16 CHAIRMAN SELIN: Commissioner Remick?

17 COMMISSIONER REMICK: Just a couple
18 questions. What do we know about what other countries
19 are doing from the vehicle threat standpoint?

20 MR. BURNETT: I have some general data my
21 staff was putting together knowing this question was
22 coming, but I can also start. For instance, some
23 countries, in particular the U.K. -- yes, that's
24 right. Be careful with classified, he just warned me.

25 COMMISSIONER REMICK: You can provide it

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1 later.

2 MR. BURNETT: Can I better discuss this in
3 the classified section?

4 COMMISSIONER REMICK: Or provide it later,
5 that's fine. Just curious.

6 MR. TAYLOR: I think we better.

7 COMMISSIONER REMICK: Has the staff as of
8 this afternoon decided that public health and safety
9 is not being adequately protected from the vehicle as
10 a result of not --

11 MR. TAYLOR: We're not ready --

12 COMMISSIONER REMICK: You're not prepared
13 to yet.

14 MR. TAYLOR: -- to answer that today.

15 COMMISSIONER REMICK: I'm thinking about
16 what was requested of us by Mr. Leventhal.

17 The other thing, if the Commission should
18 decide to require permanent vehicle barriers -- I'm
19 looking at the General Counsel at the moment -- and if
20 I read 50.13 as a Philadelphia lawyer, how do I
21 reconcile the wording there?

22 MR. PARLER: Well, you would have to go to
23 the background of 50.13 and not just stop with the
24 wording itself. Obviously there would have to be
25 reconciliation, at least in my judgment, someplace,

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1 either in the rule that may come out of this subject,
2 this discussion, the follow-up meetings, et cetera.
3 That would probably be the way to do it.

4 If you look at the background of 50.13, it
5 was the result of an issue that was raised in the '60s
6 in the Turkey Point proceeding by a lawyer that used
7 to work with us that went down to Florida to practice
8 law, and the focus there was on attacks from enemies
9 of the United States, specifically in that case
10 because of the situation in Cuba. If you forget about
11 that background and just look at the words themselves
12 in the regulation -- it talks about design features,
13 et cetera, et cetera -- there would be perhaps some
14 lack of clarity at least on the part of those that are
15 not familiar with the origins of the 50.13.

16 So there should be, to repeat, some
17 putting of the 50.13 in perspective in whatever
18 change, if any, might come out of this exercise.

19 COMMISSIONER REMICK: Would that include
20 possibly needing to revise 50.13?

21 MR. PARLER: I wouldn't think so.

22 COMMISSIONER REMICK: You would not think
23 so?

24 MR. PARLER: No, sir.

25 COMMISSIONER REMICK: Okay. Thank you.

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CHAIRMAN SELIN: Anything else?

COMMISSIONER REMICK: No, thank you.

CHAIRMAN SELIN: Commissioner de Planque?

COMMISSIONER de PLANQUE: No.

CHAIRMAN SELIN: Did you care to say anything else before we go to the closed session?

MR. TAYLOR: We have nothing else.

CHAIRMAN SELIN: Fine. Why don't we take a short break in which the room will be cleared?

(Whereupon, at 4:15 p.m., the above-entitled matter was concluded.)

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DATE OF MEETING: APRIL 22, 1993

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OPEN COMMISSION MEETING - APRIL 22, 1992

VEHICLE THREATS

- O BACKGROUND OF CURRENT ACTIVITIES
- O PAST COMMISSION DELIBERATIONS
- O CURRENT OPTIONS FOR CONSIDERATION
- O STAFF CONCLUSION

BACKGROUND

- O Current Reconsideration Reflects Concerns Raised by TMI Intrusion and World Trade Center Bombing
- O Nuclear Control Institute Request to Reopen Petition for Rulemaking and Request for Action, February 19, 1993
- O Commission Meeting, March 5, 1993, Included Presentations by CIA and FBI
- O Senate Hearing on Nuclear Power Plant Security, March 19, 1993
- O Staff Two Phase Plan to Revisit Design Basis Threat
 - Phase 1 - Revisit 1985 through 1988 Commission Deliberation
 - Phase 2 - Multimonth effort to examine design basis threat

PAST COMMISSION DELIBERATION - THE OPTIONS

- O SECY-88-127, dated May 10, 1988, provides finalized list of six options

- O Contingency Planning (3 options)
 - NRC HQ Contingency Plan
 - Licensee Short-Range Contingency Planning
 - Licensee Long-Range Contingency Planning

- O Physical Security Measures (3 options)
 - Roadway Access Denial
 - Protected Area Denial
 - Vehicle Bomb Protection

SUMMARY OF ASSESSMENTS AND GUIDANCE

- O Other Agencies Providing Threat-Related Information, Assessments, Participation in Commission Meetings
 - Central Intelligence Agency
 - Federal Bureau of Investigation
 - Department of Energy

- O Guidance Solicited from NSC (DOD, DOE)

1988 DECISION

- O Commission Decision
 - Generic NRC HQ contingency plan for use in event vehicle bomb threat arises
 - Licensee short-range contingency plan
- O Staff Issues Generic Letter 89-07, "Power Reactor Safeguards Contingency Planning for Surface Vehicle Bombs," dated April 28, 1989
- O Staff Specifies A Conservative Design Basis Vehicle (SGI) for Planning Purposes

BACKDROP FOR CURRENT LIST OF OPTIONS

O Intrusion at Three Mile Island, February 7, 1993

Incident Investigation Team Findings

1. Performance objectives of 10 CFR Part 73 for establishing and maintaining a physical protection system do not effectively address the use of a vehicle for entering the protected area.
2. Method of entry into the protected area significantly affected the security program response strategy toward protecting the vital areas and protecting against radiological sabotage.

BACKDROP FOR CURRENT LIST OF OPTIONS - continued

O World Trade Center Bombing, February 26, 1993

Tentative Information

1. Initial media reports indicate a van, loaded with between 500 and 1,500 pounds of explosive, was used in the attack in a public parking garage under the Vista hotel.
2. Motivation unknown.

CURRENT OPTIONS FOR CONSIDERATION

O OPTION 1 - No Change

Pro: Procedures established for temporary measures within 12 hours after notification by NRC to establish safe standoff distances. A Safeguards Information addendum characterized a design basis truck bomb.

Available threat-related information suggests that the threat to nuclear facilities is low.

Con: Experience of TMI intrusion into protected areas not addressed.

Relies on advanced warning from the Intelligence Community, but the World Trade Center bombing demonstrated that a threat could materialize in the United States without being detected.

Costs: None

CURRENT OPTIONS FOR CONSIDERATION - CONTINUED

O OPTION 2 - Road Protection - On existing roadways and some distance on either side of the vehicle control points into protected areas.

Pro: Would protect against a Three Mile Island type intrusion.

Con: Remainder of the protected area perimeter vulnerable.

Cost to Licensee: For four protected area access points with 4 active barriers and 400 feet of concrete barriers, the total initial capital cost would range between \$200,000 and \$300,000. Costs would vary would vary by site.

Cost to NRC: A one-half FTE to conduct licensing reviews and .5 FTE to inspect systems.

Schedule: If barriers are available, staff estimates that it would take 6 months for licensees to implement this option.

CURRENT OPTIONS FOR CONSIDERATION - Continued

O OPTION 3 - Protected Area Perimeter Protection - Against vehicular intrusions PA. Varying degrees of protection against a vehicle bomb.

Pro: Enhanced, but varying, degrees of protection against vehicle attempting to rapidly approach vital areas, through the protected area, to cause radiological sabotage.

Con: Protection against a vehicle bomb would be highly site specific and could be low at some sites.

Cost to Licensee: Estimated typical initial capital cost between \$300,000 and \$400,000. Actual costs are site & measure specific.

Cost to NRC: A one-half FTE for licensing reviews and 1 FTE inspect systems.

Schedule: 6 months to implement, if active barriers available.

CURRENT OPTIONS FOR CONSIDERATION - Continued

O **OPTION 4 - Vehicle bomb protection derived from within a range of postulated threats - Protection against vehicle intrusions and design basis vehicle and explosive device.**

Pro: All licensees would provide at least a known, consistent level of protection against vehicle intrusions and a land-vehicle bomb.

Con: Some sites may require either an additional layer of security and a commitment of additional security officers for the life of the plant or significant modifications to existing protected areas.

Cost to Licensee: Estimated initial capital cost between \$500,000 and \$800,000. Actual costs are site and measure specific.

Cost to NRC: Four FTE to confirm licensee analyses, 1 FTE licensing reviews, and 1.5 FTE inspect systems.

Schedule: Nine months to implement if barriers available.

STAFF CONCLUSION

- O That staff recommendation be delayed until after the May 10, 1993, public meeting on the DBT for radiological sabotage to allow for staff consideration of public input.