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NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

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In the Matter of: PUBLIC MEETING

DISCUSSION OF INFORMATION FLOW DURING  
TMI ACCIDENT

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING: DISCUSSION OF  
INFORMATION FLOW DURING TMI ACCIDENT

Room 1130  
1717 H Street, N. W.  
Washington, D. C.

Monday, December 21, 1981

The Commission meeting was convened, pursuant to  
notice, at 9:35 a.m., NUNZIO PALLADINO, Chairman of the  
Commission, presiding.

PRESENT:

COMMISSIONERS:

NUNZIO PALLADINO, Chairman  
JOHN AHEARNE  
PETER BRADFORD  
VICTOR GILINSKY  
THOMAS ROBERTS

SAMUEL CHILK, Secretary  
LEONARD BICKWIT, General Counsel  
FORREST REMICK  
VICTOR STELLO

N. MOSELEY  
J. CRAIG  
T. HARPSTER  
R. DE YOUNG

DISCLAIMER

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P R O C E E D I N G S

1  
2 CHAIRMAN PALLADINO: The meeting will please come  
3 to order. The subject of today's meeting, this morning's  
4 meeting, is a discussion of information flow during the TMI  
5 accident, with specific emphasis on remarks by Mr. Victor  
6 Stello, who was then Director of Inspection and  
7 Enforcement.

8 This meeting grew out of an earlier meeting on  
9 October 14th in which there was discussion concerning the  
10 conclusion of the I&E investigation and the report by the  
11 majority staff for the Committee of Interior and Insular  
12 Affairs. And at that time it was agreed by the Commission  
13 that we ought to hear Mr. Stello directly rather than get  
14 his opinions transmitted via other representatives who were  
15 here at the October 14th meeting.

16 But prior to getting into the meeting, we did have  
17 a request by Louise Bradford of the TMI Alert -- an  
18 objection, rather, from Louise Bradford at TMI Alert, to  
19 having this meeting. And I would ask General Counsel to  
20 comment on the objection.

21 MR. BICKWIT: Ms. Bradford objects to this meeting  
22 on the grounds that it violates the Commission's ex parte  
23 rule and notions of due process. With respect to the ex  
24 parte rule, it's our view that as a strict legal matter the  
25 ex parte rule is not applicable here. The Commission is

1 functioning in effect in an enforcement capacity and not in  
2 an adjudicatory capacity.

3           The Commission issued an order in August of 1979  
4 which it made immediately effective, that TMI-1 should be  
5 shut down pending certain actions, among them an  
6 adjudicatory hearing. The Commission is now in the process  
7 as it reviews the record of the Licensing Board of deciding  
8 whether to lift the immediately effectiveness of that  
9 original enforcement action.

10           As a result, I think the Commission's activities  
11 are most readily characterized as that of an enforcement  
12 agency in this case, rather than an adjudicatory agency.  
13 However, with respect to due process, there is something  
14 very close to the ex parte rule which is in effect, and that  
15 is whatever administrative due process requirements are  
16 found in the Constitution. As a result, it would be  
17 improper in our view to receive comments from one of the  
18 parties in private without an opportunity for the other  
19 parties to hear those comments and to respond to those  
20 comments.

21           As a result, the Commission has scheduled this  
22 meeting in open session. All the parties have been notified  
23 with respect to the meeting. They will all be furnished a  
24 transcript of the meeting and will be given an opportunity  
25 to comment on anything that is said during the course of the

1 meeting before the Commission makes any decisions which  
2 might be based on what it hears during this meeting.

3 We believe that satisfies constitutional due  
4 process.

5 COMMISSIONER AHEARNE: Could I ask Len a  
6 question? In reading the letter that was sent in, I gather  
7 that the concerns go not just to this first meeting, but  
8 also to the second and third meeting.

9 CHAIRMAN PALLADINO: I had intended to bring up  
10 the objections to the second and third meeting as we got  
11 into those items.

12 COMMISSIONER AHEARNE: Okay.

13 CHAIRMAN PALLADINO: I should point out, I don't  
14 believe that our intent here is to make any decision, but  
15 rather to make sure that each Commission has the opportunity  
16 to explore with Mr. Stello what his views were and to use  
17 that information in such way as each Commissioner feels is  
18 appropriate in making the decision.

19 MR. BICKWIT: We have assumed that different  
20 Commissioners may have different purposes here in hearing  
21 Mr. Stello. But if there are any adjudicatory purposes, we  
22 feel that the procedural protections built in this meeting  
23 suffice to accommodate them.

24 CHAIRMAN PALLADINO: Any other comments by members  
25 of the Commission?

1 (No response.)

2 Well, Mr. Stello, on October 16th you wrote to the  
3 Commission referring to the October 14th meeting discussion,  
4 and in that memo that you wrote to the Commission you  
5 attempted to clarify your views with regard to the report of  
6 the investigation made by the Commission on the flow of  
7 information on Three Mile Island. And there were a number  
8 of questions with regard to what you meant in that report,  
9 so that we hope that by your presence we could clear up some  
10 of those questions.

11 Now, we could begin with the specific question  
12 that Commissioner Gilinsky raised. But I thought perhaps it  
13 might be best to give you an opportunity to present your  
14 views, and then if there are any follow-up questions.

15 (At 9:43 a.m., Commissioner Bradford entered the  
16 room.)

17 MR. STELLO: Thank you, Mr. Chairman.

18 I guess the best place to begin is with respect to  
19 what my views are regarding the conclusions stated in the  
20 House report, which were also discussed along with our  
21 conclusions. I indicated in the memorandum that I sent to  
22 you that I believed that the conclusions of the House report  
23 and the I&E conclusions are in fact consistent and we are in  
24 substantive agreement with them.

25 I thought perhaps to make sure that it is clear

1 that there appears to be a suggestion that the House  
2 conclusion has in it "intent" with respect to the issue of  
3 was information intentionally withheld. What I did is, I  
4 reviewed and reread all the transcripts of the previous  
5 meetings on the subject. In reading them, I recall, and had  
6 attached to my October 16th memo several transcript pages,  
7 both before the Commission and the ACRS, speaking to this  
8 issue.

9           If I might, I would like to pass out the first  
10 conclusion, since it is not contained in the transcript  
11 pages that I passed out, which was an earlier conclusion  
12 that was in the House report, with which I could not agree  
13 and would not agree. I had long discussions with the  
14 principal author of those conclusions, Dr. Meyers, and made  
15 it clear that I could not agree with the conclusions as  
16 stated in the piece of paper that I handed out.

17           The House report, which I hope you have a copy of,  
18 states the conclusions that were revised as a result of  
19 those discussions. And I did not agree to the conclusions  
20 until they were changed in such a way that I felt that they  
21 represented what I thought was a correct characterization of  
22 what happened to the flow of information.

23           I guess one key sentence, certainly with respect  
24 to the first draft of these conclusions, which I will read  
25 -- and I am reading out of context -- is the second sentence

1 -- I need to do this to emphasize the point I'm making. I'm  
2 going to read from the piece of paper I just handed out.

3 CHAIRMAN PALLADINO: And what is this piece of  
4 paper again?

5 MR. STELLO: The draft of the conclusions prior to  
6 their present evolution, which I indicated I had significant  
7 discussion with Dr. Meyers before those conclusions reached  
8 the form that they are now in, which is in -- I guess it's  
9 --

10 COMMISSIONER GILINSKY: What's the relevance of  
11 these earlier drafts and conclusions?

12 MR. STELLO: I'm going to get to that right now.

13 The sentence that I'm reading, the second line --  
14 and I am reading out of context to make a point -- "The  
15 preponderance of the evidence indicates that such  
16 information was intentionally withheld by TMI management  
17 from state and federal officials."

18 It is this thought, this notion, that I disagree  
19 with. I do not believe that, based on everything that I  
20 have seen, I can come to the judgment that the "information  
21 was intentionally withheld" by the TMI managers. That  
22 conclusion does not now appear in the final report, and I  
23 recognize others who might read that might read the intent  
24 in it. I do not, because I was a party to the words as they  
25 are now written and therefore I read them the way I intended

1 when I discussed this with Dr. Meyers.

2 I do not believe that his report or any other  
3 report that I have read justifies a conclusion of  
4 preponderance of evidence that information was intentionally  
5 withheld. To the contrary, all of the other reports that I  
6 have read, while I recognize an argument could be made with  
7 conflicts that are in the record, I do not and cannot come  
8 to the conclusion that those conflicts are best explained by  
9 intent, that is intentionally and knowingly withholding them  
10 or that anyone lied.

11 I cannot reach that judgment, although I do  
12 recognize that if you take all of these conflicts and put  
13 them side by side you might choose to make the argument. I  
14 have spent a number of hours personally, and there are a lot  
15 of other investigations I have also spent a large number of  
16 hours on, and to the best of my knowledge I do not know of  
17 any of these investigators who has come to the conclusion in  
18 writing that say information was intentionally withheld.

19 I remarked at the meeting when we presented these  
20 conclusions that I believe that that is Dr. Meyers' view. I  
21 still believe that is his view, that information was  
22 intentionally withheld. But the conclusions in the report  
23 do not say that, in my opinion.

24 That's the explanation of my October 16th  
25 memorandum, and I reiterate again that I agree with the

1 conclusions in the House report.

2 COMMISSIONER GILINSKY: Entirely?

3 MR. STELLO: Entirely.

4 COMMISSIONER GILINSKY: Could we just take them --  
5 well, I guess we don't have to take them a sentence at a  
6 time. Let me ask you, is there any question that that  
7 conclusion states that the company knowingly withheld  
8 information that was important for assessing the state of  
9 the accident by the state?

10 MR. STELLO: I don't think this conclusion says  
11 that, no.

12 COMMISSIONER GILINSKY: Well, let's go back and  
13 --

14 MR. STELLO: I'm sorry to interrupt, but again, I  
15 need to emphasize, the original conclusion did. It was that  
16 that I did not agree with.

17 COMMISSIONER GILINSKY: Well, at that time we  
18 talked about this too. Let's just forget about the word  
19 "intent."

20 MR. STELLO: If we take away the word "intent," I  
21 have no problem.

22 COMMISSIONER GILINSKY: Do you accept the word  
23 "knowingly"?

24 MR. STELLO: Minus "intent," as long as intent is  
25 not implied. I need to say that because I have also read

1 the recent transcript, and I was particularly interested in  
2 the dialogue that you were having where you were using the  
3 words "knowingly" and "intentionally" kind of  
4 interchangeably in the questions you were asking. And I  
5 don't know whether you have in mind using "knowingly  
6 intent."

7           COMMISSIONER GILINSKY: This gets back to the  
8 board comment that somehow, to some people, the word  
9 "intent" seems to have the sense malicious about it. It  
10 seems to bring out pictures of the company deliberately  
11 wanting to irradiate women and children.

12           That isn't what's at issue here. The question is  
13 were people too weak to tell the truth, and the House  
14 Committee report it seems to me fairly clearly says -- in  
15 fact, let's go through it sentence by sentence:

16           "The record indicates that, reporting to state and  
17 federal officials on March 28th, 1979, TMI managers did not  
18 communicate information in their possession that they  
19 understood to be related to the severity of the situation.  
20 The lack of such information prevented state and federal  
21 officials from accurately assessing the condition of the  
22 plant. The record indicates that TMI managers presented  
23 state and federal officials with misleading statements,  
24 i.e., statements that were inaccurate and incomplete, that  
25 conveyed the impression the accident was substantially less

1 severe and the situation more under control than the  
2 managers themselves believed and what was in fact the case."

3 Do you agree with that?

4 MR. STELLO: Absolutely. In fact, I have  
5 difficulty finding -- because in agreeing with the rewrite  
6 and redrafting of these words I had in front of me, our  
7 conclusion was Met Ed was not fully forthcoming on March  
8 28th, 1979, and that they did not apprise the Commonwealth  
9 of Pennsylvania of either the uncertainty concerning  
10 adequacy of core cooling or the potential for plant  
11 degradation.

12 COMMISSIONER GILINSKY: Let me paraphrase this. I  
13 asked Mr. Dieckamp, did the company level with the state.  
14 And he said in effect -- I think I'm doing justice to him --  
15 that while he acknowledged there were deficiencies in  
16 communication, he felt on the whole that the information  
17 that was transmitted was a fair representation of what  
18 people understood.

19 I asked Mr. De Young that. I said, did the  
20 company level with the state. And the response I got, he  
21 wasn't sure what I meant by "the company." We never did get  
22 an answer to that.

23 What is your conclusion on that? I take it if you  
24 accept the House Committee report that you're concluding the  
25 company did not level with the state?

1           MR. STELLO: I don't know why I need to use the  
2 House Committee report when your own report of your staff  
3 reached the same conclusion, that they were not fully  
4 forthcoming, that at times during the day they should have  
5 picked up the phone and let certainly the State of  
6 Pennsylvania know that there was considerable uncertainty  
7 concerning the adequacy of core cooling and the seriousness  
8 of the accident, for which in retrospect now, looking at the  
9 record, we have spent a great deal of time talking about the  
10 meeting at 2:00 o'clock on the afternoon of the accident as  
11 though that were the only time for which this responsibility  
12 applies.

13           In my view it applied throughout the day and there  
14 were times throughout the day when simply picking up the  
15 phone and letting people know the seriousness -- there were  
16 reasons that were offered as to, well, they finally saw the  
17 temperatures starting to come on scale and they believed  
18 they had achieved a level of stability, and those were the  
19 reasons, such as those, being given for having a more  
20 cheerful view than I think was warranted.

21           COMMISSIONER GILINSKY: Not warranted, than they  
22 had themselves. That's really the important point.

23           MR. STELLO: I think that changed throughout the  
24 day. I don't believe --

25           COMMISSIONER GILINSKY: You've accepted a

1 conclusion here that they conveyed the impression the  
2 accident was substantially less severe and the situation  
3 more under control than the managers themselves believed,  
4 and what was in fact the case. I think the important part  
5 was "than the managers themselves believed."

6 We can understand not conveying information that  
7 you don't yourself have or comprehend. But it's quite  
8 another thing not to convey information that you do have,  
9 fragmentary as it is.

10 MR. STELLO: I clearly understand that. It is  
11 clear also that if you look at the record there were times  
12 in the day, throughout the day, when I think the managers  
13 were quite concerned over whether or not they had adequate  
14 core cooling. Witness the number of times they decided to  
15 change the process they were on, because they were in fact  
16 unsure. But then they would make the change, they would see  
17 something. I think that also influenced them.

18 COMMISSIONER GILINSKY: Well, I think we're not  
19 far apart in our view of the situation. There are some  
20 differences about semantics, but the question here isn't  
21 whether it is natural or human to hold back; it is was  
22 information held back. And what I understand you to be  
23 saying is, yes, it was.

24 MR. STELLO: As long as it is equally clear that  
25 the conversation we just had started with, let's put aside

1 "intent," let's put aside the issue of willfulness, lying  
2 and intentionally withholding, yes.

3 COMMISSIONER GILINSKY: The board did understand  
4 this, when you said "not fully forthcoming," that that had  
5 an element of intent associated with it.

6 MR. STELLO: If the board reached that conclusion  
7 --

8 COMMISSIONER GILINSKY: Do you disagree with  
9 that?

10 MR. STELLO: Absolutely. I made it very clear at  
11 the outset that that was the primary reason I wouldn't agree  
12 with the original conclusions, because they had the word in  
13 it. They had "preponderance of evidence showed  
14 intentionally withholding," and I cannot agree with that.  
15 It is my view it is --

16 COMMISSIONER GILINSKY: Well, you're saying they  
17 had information, they were aware that they were not  
18 transmitting it?

19 MR. STELLO: I wouldn't go -- I think they were  
20 aware they weren't transmitting that the accident was more  
21 serious, yes.

22 COMMISSIONER GILINSKY: And they were aware they  
23 were not conveying that impression.

24 MR. STELLO: I'm putting in somebody's mind to say  
25 they were. I don't know what impression everyone had on the

1 other side.

2           COMMISSIONER GILINSKY: They conveyed the  
3 impression that the accident was substantially less severe  
4 and the situation more under control than the managers  
5 themselves believed.

6           MR. STELLO: That's exactly the conclusion we came  
7 to in our report.

8           CHAIRMAN PALLADINO: I wonder if I might pick up a  
9 couple of questions. Did the I&E investigation uncover any  
10 evidence that indicated that Met Ed officials on the date of  
11 the accident deliberately misled NRC or state officials  
12 about the severity of the accident?

13          MR. STELLO: I think there are conflicts in the  
14 record as it now exists which could be argued, and  
15 individual Commissioners have made that observation in their  
16 reply. It could be argued to be evidence that shows  
17 deliberate -- in the judgment of the people that have  
18 investigated the accident on behalf of I&E and all of the  
19 previous investigators, their evaluation of the evidence  
20 caused them to conclude that they did not see that evidence  
21 as an indication of deliberateness.

22          CHAIRMAN PALLADINO: Are you saying, then, the I&E  
23 investigation concludes that on the basis of all the  
24 evidence that the people examined, you are concluding that  
25 Met Ed on the day of the accident did not deliberately

1 mislead NRC and state officials about the severity of the  
2 accident?

3 MR. STELLO: That's correct. There are three  
4 conclusions in the report, in the IE report, that deal  
5 specifically with it. There were issues that we were  
6 specifically asked to come to a judgment on in this  
7 investigation, and we did come to the judgment that  
8 information was not intentionally withheld.

9 CHAIRMAN PALLADINO: But now you're saying that  
10 you reached the conclusion that they did not deliberately  
11 mislead, and are you hanging on the word "deliberately"?

12 MR. STELLO: Absolutely. They weren't misled --

13 CHAIRMAN PALLADINO: I'm trying to compare what  
14 your conclusion is with what the conclusion of the House  
15 Committee report is.

16 COMMISSIONER AHEARNE: We agreed on "misleading."  
17 We agreed on "misleading," "deliberate misleading."

18 CHAIRMAN PALLADINO: I'm just trying to clarify  
19 it, because the word "deliberately" is not as I see it in  
20 the House Committee report.

21 MR. STELLO: In the present -- I think it's very  
22 important, because a previous conclusion had the word  
23 "intention" in it.

24 CHAIRMAN PALLADINO: The reason I'm dwelling on  
25 that is because you made a response that I believe referred

1 to the report as published. Is that right?

2 MR. STELLO: Yes, that's correct.

3 CHAIRMAN PALLADINO: And that's why I was trying  
4 to make sure I understood the differences between your  
5 report and the House Committee report. And it is on that  
6 word "deliberately"?

7 MR. STELLO: Right.

8 CHAIRMAN PALLADINO: Well now, can I ask you  
9 another question. Did the I&E investigation uncover any  
10 evidence that Met Ed officials on the day of the accident  
11 misled, whether intentional or unintentional, NRC or state  
12 officials about the severity of the accident?

13 MR. STELLO: Yes.

14 CHAIRMAN PALLADINO: I'm leaving out the word  
15 "deliberately" and I'm going to whether it was intentional  
16 or unintentional.

17 MR. STELLO: Yes. That is the fourth conclusion  
18 which I read a moment ago, that I indicated we concluded  
19 they were not fully forthcoming, and to me that means  
20 misleading.

21 CHAIRMAN PALLADINO: So you do agree that you had  
22 evidence, and you so concluded?

23 MR. STELLO: That's correct. It was our judgment  
24 that it resulted in being misled. I'm saying that that is  
25 my view. There were other authors of this report. They are

1 present. If I might, Mr. Chairman, I would ask them to  
2 listen very carefully to what I said and if any of them  
3 disagree I would appreciate it if they would take the  
4 opportunity to make sure the Commission was aware that they  
5 had a different view.

6           COMMISSIONER GILINSKY: What is the difference  
7 between deliberately misleading and being aware that you're  
8 misleading? Do you see a difference?

9           CHAIRMAN PALLADINO: Did you say they were aware  
10 they were misleading?

11           COMMISSIONER GILINSKY: That's what I thought Mr.  
12 Stello agreed to.

13           CHAIRMAN PALLADINO: I asked him two questions:  
14 One, did they deliberately mislead? Was there evidence and  
15 did you conclude that they deliberately misled? And he  
16 said, on the word "deliberately," the answer to that was  
17 no.

18           Then I asked whether they misled, whether  
19 intentional or unintentional, and the answer was yes. Now,  
20 maybe you want to press a different point.

21           COMMISSIONER GILINSKY: But the conclusion here is  
22 stronger. It says "than the managers themselves believed."  
23 So it's just a matter of conveying facts that were  
24 deficient. We all understand that. That's not what is at  
25 issue.

1           It is, were important facts not conveyed or  
2 impressions or conclusions that the managers themselves had  
3 come to and --

4           CHAIRMAN PALLADINO: It doesn't quite read that  
5 way. Do you mind reading the sentence, Vic?

6           COMMISSIONER GILINSKY: "The record indicates that  
7 TMI managers presented state and federal officials with  
8 misleading statements, i.e., statements that were inaccurate  
9 and incomplete, that conveyed the impression that the  
10 accident was substantially less severe and the situation  
11 more under control than the managers themselves believed and  
12 what was in fact the case."

13           It is the "than the managers themselves believed"  
14 that is important. And if they believed it, they were aware  
15 they weren't conveying it, unless they were just out of  
16 control in talking to the state. And I took you to be  
17 saying that they had not shared this information with the  
18 state and were aware that they had not.

19           Am I wrong?

20           MR. STELLO: That's conclusion four of our  
21 report.

22           COMMISSIONER GILINSKY: Well, could you explain --  
23 the reason I said let's put aside -- it seems to me that we  
24 don't need to go any further, but the reason I said to put  
25 aside the word "intent" is because we seem to have rather

1 different definitions of that word.

2           But I wonder if you could explain what difference  
3 you see between being aware that you're not conveying  
4 information which you know to be important and deliberately  
5 not conveying that information. It seems to me it's a  
6 deliberate act if you are aware of it.

7           MR. STELLO: It seems to me we're having a meeting  
8 we had some time ago.

9           COMMISSIONER GILINSKY: I'm not touching  
10 "malicious intent" here. I don't think anybody there wanted  
11 to harm the population or anything like that. But  
12 nevertheless, for reasons which I said were understandable  
13 but conflicted with the responsibilities, they didn't share  
14 with the state information they should have shared with  
15 them.

16           MR. STELLO: I believe they should have told the  
17 state the accident was serious. I believe they should have  
18 made the state understand the uncertainty with respect to  
19 the adequacy of core cooling. Throughout the day, however,  
20 they were informing people, the state and us, of what they  
21 were doing. They were reducing the pressure to attempt to  
22 go on the core flood tanks. They were going to reduce the  
23 pressure or lower it in an attempt to go on the RHR system.  
24 They were vascillating with the system.

25           Clearly, the reason they were doing this is

1 because they were not establishing an adequate core  
2 cooling. Did they think they had given people enough  
3 information for them to draw their own conclusions or not?  
4 I'm getting inside someone's mind. That's what "intent"  
5 does.

6           Could we find, in all of what we looked at,  
7 something that would allow us to get behind intent? We  
8 failed to be able to establish intent. In fact, I find it  
9 astounding that if there really was any intent, with the  
10 number of people, including NRC people, how this intent  
11 would have escaped the process.

12           COMMISSIONER GILINSKY: I'm happy to put that word  
13 aside. It seems to convey conspiracy and so on. What is  
14 important to me is that the company did not share  
15 information about the seriousness of the accident which it  
16 knew to be important and allowed the state, for example, in  
17 the morning to put out a statement that everything is under  
18 control, there is and was no danger. It's hard to  
19 understand how that could have been allowed to happen, even  
20 knowing --

21           MR. STELLO: No, it's not really that hard to  
22 understand how it happened. We had information, I recall,  
23 coming to the observation that the core was uncovered. I  
24 know I discussed that with you. There is nothing more  
25 serious in a reactor than a core being uncovered. And our

1 ability to deal effectively with that situation is yet  
2 another, to me, clear example that the state of confusion  
3 both here and there was high.

4           COMMISSIONER GILINSKY: But they knew they were  
5 beyond their training, beyond their experience, beyond the  
6 written procedures. They had reports of core temperatures  
7 in the thousands of degrees. They then communicated with  
8 the state and the state put out a statement, everything is  
9 under control, there is and was no danger.

10           MR. STELLO: I agree with everything you said,  
11 when you start the preamble, putting intent aside.

12           COMMISSIONER GILINSKY: Oh, I put it aside really  
13 for conversation, because --

14           MR. STELLO: Well, let me make it clear --

15           COMMISSIONER GILINSKY: If you're in complete  
16 agreement with the House Committee report, there is really  
17 no conclusion to --

18           MR. STELLO: I'm clear from my reading of it. I'm  
19 not sure if you're reading it with the word "intent" in that  
20 I agree with your reading. I have stated my reading.

21           CHAIRMAN PALLADINO: I think you have clarified  
22 for me what the difference is between the two reports. I  
23 don't know if you satisfied all the members of the  
24 Commission.

25           Peter, do you have any questions?

1           COMMISSIONER BRADFORD: I just have one area that  
2 remains a difficult one for me. Do you draw a distinction,  
3 then, Vic, between knowingly doing something and  
4 intentionally doing it?

5           MR. STELLO: I didn't use to, until I went through  
6 the transcripts again. And it seems the word is being used  
7 interchangeably, and anyone who uses it, I'll have to ask,  
8 when they use the word "knowingly" do they mean to add "with  
9 knowing intent"? If they do, then that's where I'll  
10 depart.

11           They knew that there was uncertainty with regard  
12 to core cooling, in our judgment. They knew it. They  
13 didn't pass it on. Now, if you bring in intent again, I  
14 can't back it up, but it depends on how you use the word  
15 "knowing."

16           COMMISSIONER GILINSKY: What would have to be true  
17 for there to be intent? I guess I really don't understand  
18 what you're talking about.

19           MR. STELLO: Some indication, some corroboration  
20 that allows us to reach that explanation versus the others  
21 that were offered.

22           COMMISSIONER GILINSKY: What would it mean that  
23 they were intentionally doing something?

24           MR. STELLO: Let me give you an example. Right  
25 before they left for the state, you recall that they had

1 gotten a rather cheerful sign in what they were looking at  
2 in terms of plant parameters. Before they left, they  
3 started to see some indications that the temperatures were  
4 coming down, and they thought that they had now approached a  
5 mode of cooling that was getting to be stable.

6 At that point, I believe that they believed they  
7 had a basis to be more cheerful about how things looked.

8 CHAIRMAN PALLADINO: At that time they had closed  
9 the PORV, had they?

10 MR. STELLO: Oh, yes. They closed that about  
11 6:00, 6:20 or something like that.

12 COMMISSIONER GILINSKY: You seem to be going back  
13 and forth. You say they were cheerful, so then they gave a  
14 cheerful report. But that isn't what this conclusion says.  
15 It says substantial -- "the impression the accident was  
16 substantially less severe and the situation more under  
17 control than the managers themselves believed."

18 MR. STELLO: Now let me step it back until 11:00  
19 o'clock that morning. Why didn't they call up the state and  
20 say, we've got a great deal of uncertainty about whether  
21 we're adequately cooling the core?

22 CHAIRMAN PALLADINO: We're talking about different  
23 times of day.

24 I think Mr. Ahearne had a comment.

25 COMMISSIONER AHEARNE: My comment there is, we

1 have been through this subject many times and many reports,  
2 and we are going back over the same things. The Commission  
3 once again is trying to fine-tune the English language so we  
4 can reach a conclusion that we want to reach independent of  
5 how many times people say something.

6 I for myself don't see any reason to continue to  
7 browbeat our senior official.

8 CHAIRMAN PALLADINO: Well, that's why I said I had  
9 gotten a better understanding of what you meant by your  
10 memo. The major item has to do with whether they  
11 deliberately misled or did not deliberately mislead, and I  
12 gather you are claiming that the conclusion, based on the  
13 evidence at hand, was that they did not deliberately  
14 mislead, but that they did mislead. And even though -- you  
15 don't know whether it was intentional or unintentional.

16 COMMISSIONER GILINSKY: And they were aware that  
17 they were doing so.

18 CHAIRMAN PALLADINO: Well, it depends on how you  
19 want to read that.

20 COMMISSIONER GILINSKY: Well, I thought that  
21 Victor had agreed to that earlier. If I'm wrong, say so.

22 MR. STELLO: I'm trying to back up to decide  
23 whether that was with putting "intent" aside or not. As I  
24 recall, you did put "intent" aside. With "intent" aside,  
25 yes.

1           If you bring in "intent" again and suggest that  
2 what they were doing was intentionally misleading -- as long  
3 as you dismiss "intent," yes.

4           COMMISSIONER GILINSKY: I put it aside because  
5 it's a word we don't have to use. It's sufficient to say  
6 that the company misled the civil authorities and was aware  
7 that it was misleading the civil authorities.

8           COMMISSIONER BRADFORD: I wonder if I could finish  
9 with the area that I started with a minute or two ago. Vic,  
10 when you use the word "knowingly," or at least to come back  
11 to the House Committee conclusion, the phrase "what the  
12 managers themselves believed," what you're talking about  
13 there is that the managers themselves believed that the  
14 situation was more out of control --

15           MR. STELLO: Serious.

16           COMMISSIONER BRADFORD: -- than had been conveyed  
17 to external bodies, be it us or the state, or simply that  
18 the situation was serious?

19           MR. STELLO: Serious, in that there were clearly  
20 uncertainties regarding the adequacy of core cooling. More  
21 out of control -- if you will allow me to use adequacy of  
22 core cooling and seriousness of the accident to convey a  
23 state of control or stability.

24           COMMISSIONER BRADFORD: Let me give you two  
25 different situations and see which one you think better fits

1 the conditions that actually existed. If I know a fact that  
2 is important to you and you and I are in at least general  
3 communication, or at least I believe that fact to be true,  
4 in situation A I don't feel that I have any particular duty  
5 to tell it to you, and so, though we talk about a number of  
6 things surrounding the situation, I don't tell it to you.  
7 In situation B I do believe I have a duty to tell it to you  
8 and I don't tell it to you.

9           Which of those seems closer to what you believe  
10 existed that day?

11           MR. STELLO: Can I try a C?

12           (Laughter.)

13           COMMISSIONER BRADFORD: Try to describe what you  
14 think the information --

15           MR. STELLO: We had information that at least  
16 clearly to me, to the point where I thought the core was  
17 uncovered. They passed this information on relating to the  
18 activities, things that they were trying. They never, to  
19 the best of my recollection, ever got on the phone and said,  
20 we've got a situation for which there is great uncertainty  
21 regarding the adequacy of core cooling.

22           So maybe the C is that the information that they  
23 gave us at least provided an explanation in their minds.  
24 Well, gee, we kind of told you everything we're doing. You  
25 ought to be able to know this is serious. I don't think

1 that's enough. I think that they should have come out,  
2 since they were there, and told us of the uncertainty that  
3 they felt regarding the adequacy of core cooling or the  
4 potential for degradation.

5           COMMISSIONER BRADFORD: Your situation C, then, is  
6 one in which I tell you all the facts that lead me to my  
7 conclusion and I don't tell you the conclusion itself?

8           MR. STELLO: Right. And that is in fact as I see  
9 the situation. In fact, let me make clear that you recall  
10 that as one of the reasons that I argued so strongly in the  
11 enforcement action that we find a way in which to identify  
12 what I felt was a major shortcoming in the whole process,  
13 and that is that they did not have a system to collect and  
14 analyze, synthesize and understand. And we called that a  
15 violation, and I wanted a way in which to have lesser  
16 significance to the passing of information.

17           I think clearly the most important thing -- and  
18 they were missing it, they clearly were missing it -- is a  
19 system where they pulled it all together. Had they had a  
20 way in which in one place there was discussion of the  
21 thermocouple measurements in the morning, the hot leg  
22 temperatures, some superheat, and a discussion of the  
23 in-core nuclear instruments, which showed voiding, the  
24 quench tank rupturing, the relief valve being open -- if all  
25 those were being synthesized in one place, I think the

1 information flow would have come naturally.

2 I think that is the major impediment to the proper  
3 flow, was the fact that that system wasn't there, and that's  
4 why I felt strongly about the enforcement action, separating  
5 and making clear that that was the larger shortcoming.

6 CHAIRMAN PALLADINO: Well, I believe we have  
7 gotten as much information as we are going to be able to use  
8 or get regarding your opinion. And unless there is any  
9 other burning question, I suggest that we adjourn this  
10 meeting and reconvene at 10:30 for the next meeting.

11 (Whereupon, at 10:19 a.m., the meeting was  
12 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the  
COMMISSION MEETING

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in the matter of: PUBLIC MEETING - DISCUSSION OF INFORMATION FLOW DURING  
TMI ACCIDENT

Date of Proceeding: December 21, 1981

Docket Number: \_\_\_\_\_

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript  
thereof for the file of the Commission.

Ann Riley

Official Reporter (Typed)



Official Reporter (Signature)