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NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

PUBLIC MEETING

DISCUSSION OF OPTIONS REGARDING

DEFERRAL OF LICENSES

Place - Washington, D. C.

Date - Wednesday, 30 May 1979

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING
DISCUSSION OF OPTIONS REGARDING
DEFERRAL OF LICENSES

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

Wednesday, 30 May 1979

The Commission met, pursuant to notice, at 9:45 a.m.

BEFORE:

- DR. JOSEPH M. HENDRIE, Chairman
- VICTOR GILINSKY, Commissioner
- RICHARD T. KENNEDY, Commissioner
- PETER A. BRADFORD, Commissioner

ALSO PRESENT:

Messrs. Bickwit, Ostrach, Shapar, Denton, Crane, Gossick,
Carr, and Christenberg.

gsh 1 CHAIRMAN HENDRIE: Perhaps we could come to order
2 this morning. Let's see. The commission met last week, I
3 believe on Monday afternoon, to discuss resources and where
4 it was heading; in particular, what the staff was able to do
5 in view of the burdens on it from Three Mile Island-related
6 activities.

7 Out of that meeting, there was discussion of not
8 being able to get some licensing matters, further consideration
9 of that, including an options paper by the general counsel,
10 whose premise is that if it were the commission's desire to
11 establish a more formal freeze or delay or suspension of
12 licensing, here are a set of options by which one might do
13 that on a general basis.

14 (At 9:47, Commissioner Bradford leaves the room.)

15 CHAIRMAN HENDRIE: The discussion this morning can
16 cover those matters. But it seems to me that that's a fairly
17 narrow part of the field of discussion which lies before us.

18 (At 9:48, Commissioner Bradford returns.)

19 CHAIRMAN HENDRIE: I think continued discussion
20 with the staff about the Three Mile Island-related activities,
21 the staff resources that have to go into those and the
22 resulting impacts on the other ongoing work of the agency and
23 how best we might gather additional resources or regroup the
24 resources the agency has to minimize those impacts appears to
25 be a more central issue than whatever particular form we might

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1 decide to cast a suspension or deferral of licensing, if
2 indeed we wanted to take that formal step and do that on a
3 general basis.

4 Why don't, if we may, why don't we start this
5 morning by my asking Lee and Harold Denton if there are
6 further additions to last week's discussion?

7 I guess I should say that in fact, there are and
8 let me outline some that I know about.

9 There is apparently considerable interest, at least
10 in some quarters of the Congress, in seeing what the commission
11 might do to gather and reprogram its resources and to gather
12 other resources; in fact, to minimize the impact of Three
13 Mile Island activities on other work.

14 It appears to me from conversations with Lee and
15 Harold that somewhere between 70 and 100 people, probably
16 closer, I guess, to 70 in the licensing, the reactor licensing
17 area, but maybe as many as 100 across the agency, 100 people
18 are engaged in Three Mile Island-related activities.

19 Now those are clearly important and have to go
20 forward. And now the question is what of the things those
21 hundred people would have done if Three Mile Island hadn't
22 occurred? What of those things can be deferred? For which
23 of those things do we need to try to gather additional
24 resources from some place in order to carry them forward? And
25 how do we go about all of that?

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1 I've had some discussions with at least the
2 appropriations committee side in the Congress and with OMB.
3 There is a willingness to recognize our needs, I must say,
4 and to help.

5 Lee or Harold, why don't you sketch where we stand
6 with regard to looking at the impacts, the dollar, what appear
7 to be the dollar conditions. Do we need more money? Are we
8 broke and can't get additional people, if we can find them,
9 or -- and so on.

10 COMMISSIONER GILINSKY: Let me ask a question here.
11 Do you propose to discuss how the commission ought to handle
12 licenses which would normally issue in the relatively near
13 future?

14 CHAIRMAN HENDRIE: I think that flows on. We've got
15 the whole morning set aside here.

16 COMMISSIONER GILINSKY: Because it seems to me that
17 there are two kinds of questions. One is a resource question.
18 It goes into other activities impacted. That strikes me as
19 the lesser of the factors that come into play here.

20 The more important one is: Do we think that we need
21 to take a different view of what conditions have to be met
22 for those licenses to issue as a result of what we learned
23 or may learn?

24 And it seems to me that an important thing for the
25 commission to address.

gsh 1 CHAIRMAN HENDRIE: I think it's also helpful for us
2 to know in that context what, in fact, we reasonably can do.

3 COMMISSIONER GILINSKY: Oh, sure, yes. I just want
4 to lay out that other side of it.

5 MR. GOSSICK: Where we are, in continuing on from
6 the discussion of last week and prior to that, in identifying
7 the dislocations, if you will, that have already occurred in
8 the staff by putting people into different things, such as
9 Harold outlined last week, we've got in from all of the office
10 now statement of their situation with regard to t.
11 conversions that have been made during the incident itself of
12 money. It's mostly a money problem.

13 But BRG is currently reviewing this. I'm going to
14 review it on Friday with the staff.

15 COMMISSIONER KENNEDY: Did you say that this was
16 principally a money problem?

17 MR. GOSSICK: Principally a movement of money problem
18 at this point, setting aside the issue of do we try to find
19 additional people to augment NRR to take care of the impact
20 that's already been created by Three Mile Island, assuming
21 that we want to go ahead with licensing activities on, you
22 know, as early a basis as possible.

23 But the main personnel impact is lack of 100 people,
24 or thereabouts, that have been literally taken out of their
25 jobs in NRR, which Harold will describe more fully.

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From the standpoint of the money, it looks like it's somewhere in the neighborhood of \$15 to \$20 million, in that ballpark of money that will be used differently if you approve what we propose in the way of readjustment of resources.

COMMISSIONER KENNEDY: \$15 million is not related to the 100 people.

MR. GOSSICK: No, not at all. It's purely programmatic changes.

I must say that a part of that bill is also a pay raise supplemental that takes care of it.

But to answer your question, Mr. Chairman, we think that we can go on through FY '79 with the money that we have in hand by certain reprogramming which we'll come to you next week on if we get your concurrence or approval and other guidance with regard to not doing some of the things that we had planned to do in deference to the tasks that are now with us as a result of Three Mile Island.

We should be in a position to come down in the middle of next week to let this all out for comments on it.

We're currently looking — we've also got the BRG looking at the question of if we were to move somewhere between 70 and 100 people from other tasks, it would be primarily standards, I think, that we turn to. What would be the impact on other things that they're currently doing? What would be set aside literally if we were to bring up these

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1 people? And it's not just a body because it's special skills,
2 obviously, that we're looking for, and they're only in certain
3 places within the staff.

4 It would be useful to do the kind of task NRR has
5 to cope with.

6 That, in a nutshell, is where we presently stand.

7 CHAIRMAN HENDRIE: Okay. Let's see, you had a list
8 of the casework and nearly finished the OL stage plans and
9 were going on to others.

10 The closest in OL, I guess, is Salem II, which is,
11 let's see, did the board issue a final decision in Salem II?

12 MR. BOYD: There is no hearing, Mr. Chairman, pending
13 on Salem II.

14 CHAIRMAN HENDRIE: I see.

15 COMMISSIONER BRADFORD: One question about that list.
16 Harold, are there any plants that you know of that may actually
17 have OLs, but have not started up yet?

18 It occurred to me if there were, if you were going
19 to require things like better indications of water level in
20 the core, we need to get into touch with them quickly.

21 Some people have suggested that Arkansas II might be
22 such a circumstance. I don't know whether they are or whether
23 there are any.

24 MR. DENTON: None come to mind. Let me ask Roger if
25 he recalled any recent OL in the very near-term.

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1 MR. BOYD: No, Commissioner, there are no OLs in that
2 category. The Arkansas II situation is such that the plant
3 has been in its power operation test program. It has not
4 yet reached full power. It has been down for minor repairs.
5 It's perhaps been 20, 50 percent, something like that, but it's
6 still in the middle of its power operation test program.

7 CHAIRMAN HENDRIE: As I recall, that was an OL about,
8 what, September last?

9 MR. BOYD: Yes, sir.

10 CHAIRMAN HENDRIE: Well, you know, the core inventory
11 certainly won't be at equilibrium. But it's also not
12 radiation free.

13 COMMISSIONER BRADFORD: The point had been made last
14 week that if the core were radiation free, it might be due
15 to make changes. But there aren't any reactors in that
16 condition yet.

17 CHAIRMAN HENDRIE: The next one comes along almost
18 immediately. Let's see, now -- North Anna, Diablo, and
19 Sequoyah close behind.

20 Since I didn't manage to be here for last week's
21 discussion about these things, could we cover a little bit of
22 that ground?

23 MR. DENTON: Let me summarize what I proposed last
24 time. Incidentally, we have implemented the organization that
25 was approved at that time. There are still some individual

1 assignments to be made, but it is functioning.

2 You mentioned the need to have three task forces --
3 one with the TMI on-board support and review of modifications,
4 and questions such as the release of water into the Susquehanna

5 The task force is on the order of 15 to 20 people.
6 The second one was the task force in developing the borders.
7 That task force is working. It's about 40 professionals.
8 There are ones that review the Oconee response and would be
9 reviewing further B&W responses and they're meeting with
10 Combustion Engineering and Westinghouse and GE.

11 The third group was the lessons learned task force.
12 That group has been put together. They're the ones I'm
13 looking for to come up with the recommendations as to what
14 we should do differently on new plants as the result of the
15 TMI accident.

16 These are recommendations in the near-term as opposed
17 to the longer term investigations that are going on. We
18 kept all the effort going on unresolved safety issues. And
19 Steve Hanauer was made chief domo for reviewing that effort.
20 We kept all the operating reactor effort going -- license
21 changes, tech specs, systematic evaluations program. And
22 then the resources that were left in NRR we put on the case
23 review.

24 We found that the effort to keep those near-term
25 cases moving in all of those areas that weren't affected by

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1 Three Mile and the cases we proposed to keep staff assigned
2 to were on the first two pages, in fact, the last two pages,
3 of last week's handout by Roger Boyd.

4 These were all cases that we're hearing in CP
5 stage. They were essentially completed through next year by
6 the end of '81, and we'd be ready otherwise for an operating
7 license.

8 COMMISSIONER KENNEDY: By the end of '81. You mean
9 the end of '80.

10 MR. DENTON: No, sir. Well, it looks like the ones
11 that are on the list are toward the end of '80, with WPPS
12 moving into '81 a little bit. So that's correct. But since
13 we had diverted 70 professionals, we were not able to
14 assign resources to the applications on the last page of
15 Roger's handout. The number of construction permit applications
16 and about a dozen operating license applications that were
17 docketed fairly recently were in the Q-1 process.

18 So I proposed then that they suspend activity on
19 those applications shown on the last page for approximately
20 six months until we had worked through the bulletin of orders
21 and responded to the TMI accident.

22 Also, I indicated that we weren't ready to proceed
23 with issuing operating licenses or CPs for those plants that
24 were on the first two pages until that had an assessment
25 from the lessons learned group as to what we should do

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gsh 1 differently, if any, for those particular plants.

2 I then stated that I hoped to have a letter to send
3 to Salem in approximately a month outlining whatever the
4 lessons learned from the Three Mile accident were, and that it
5 was estimated that it would take them perhaps a month to
6 respond and us a month to review the response, so it might
7 be as much as a three-month delay for Salem, which is
8 otherwise about ready to go.

9 Since we'd be sending essentially the same letter
10 to the first five plants -- they're all Westinghouse -- its
11 front-end time and plants such as McGuire that won't be
12 completed within three months, there should be no significant
13 impact on them as a result of the lessons learned -- look,
14 and the plants such as LaSalle that are further down would even
15 be less impacted.

16 So the impact would be in terms of reviewing the
17 TMI accident and it would be on just the first few plants in
18 terms of the impact today, but it would be a significant impact
19 on the plants on the last page if we really suspended all those
20 plants for six months and then tried to pick up again next
21 year.

22 CHAIRMAN HENDRIE: For those plants, then, these
23 resource questions become very important. It seems to me that
24 there are ways to try to supplement the resources and to try
25 to avoid the worst of those impacts.

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1 COMMISSIONER KENNEDY: When you say a serious
2 impact, what's that mean?

3 MR. DENTON: If you just take -- assume all these
4 plants on the last page that are OL applications are going to
5 be completed on schedule.

6 CHAIRMAN HENDRIE: Is that essentially this?

7 MR. DENTON: Yes. That's approximately 12 plants
8 that we would not finish our review on by the time they were
9 otherwise ready unless we did something differently in
10 resources.

11 So the maximum impact would be the 12 plants delayed
12 six months after they were otherwise ready.

13 COMMISSIONER KENNEDY: 6 months.

14 MR. SHAPAR: Unless the lessons learned required
15 changes from the mode of operation proposed in the FEA.

16 COMMISSIONER GILINSKY: Or there were more lessons
17 learned.

18 MR. DENTON: Yes.

19 COMMISSIONER GILINSKY: At this point, your best
20 estimate of how the process is going to turn out --

21 MR. DENTON: Six months assumed that we didn't
22 otherwise greatly perturb the schedule from the TMI lessons
23 learned.

24 CHAIRMAN HENDRIE: Now let's see --

25 MR. DENTON: I was counting Byron and Braidwood as

1 two different plants.

2 CHAIRMAN HENDRIE: But it's that list from Grand
3 Gulf to South Texas.

4 MR. DENTON: Yes, sir, plus whatever applications
5 might come in between now and the end of the year, roughly.

6 CHAIRMAN HENDRIE: Let's go back and talk a minute
7 about the close in plants that are almost completed or are
8 completed — Salem, North Anna, Diablo, Sequoyah, McGuire,
9 Zimmer, and LaSalle.

10 You've estimated that for Salem, which is
11 essentially ready now, I guess, let's see -- is it a month
12 off?

13 MR. DENTON: Let me ask Roger if he knows the
14 current schedule. There were the normal open items, 9 open
15 items about a month ago, and I kind of doubt if we've made a
16 lot of progress in closing some of those non-TMI related
17 items.

18 MR. BOYD: Did you want the construction schedules,
19 Mr. Chairman, or our previous review schedules?

20 I assumed you wanted the construction schedules.

21 CHAIRMAN HENDRIE: No, I just wanted to know whether
22 Salem II is, in fact, ready to go at this moment or whether
23 there are still open items that need checking out.

24 MR. BOYD: The plant itself is ready to go. We have
25 about 10 relatively minor open items that we're beginning to

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1 work on.

2 CHAIRMAN HENDRIE: Which are likely to take how long
3 to clear away?

4 MR. BOYD: My guess would be probably on the order of
5 a month. Whether this would take care of all ten, perhaps
6 not. But certainly, the bulk of them would be done. And
7 otherwise, we'd probably be able to consider fuel loading,
8 in any event.

9 CHAIRMAN HENDRIE: In a month?

10 MR. BOYD: Yes.

11 CHAIRMAN HENDRIE: In normal circumstances?

12 MR. BOYD: Yes, exactly.

13 CHAIRMAN HENDRIE: Okay. So first of June, end of
14 June.

15 MR. BOYD: Yes.

16 CHAIRMAN HENDRIE: Latter part of June. Do you know
17 what they were hoping?

18 MR. BOYD: That plant, I understand from discussing
19 it with them as late as just a few days ago, is complete.

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1 Their view, of course, at this point is they would like
2 to begin to operate as soon as they possibly can.

3 CHAIRMAN HENDRIE: Or at least get started on the work
4 of -- it looks like they aren't going to make the summer peak.
5 Would not make the summer peak anyway.

6 MR. BOYD: At least not as things are going now.

7 COMMISSIONER GILINSKY: How long a testing period
8 would it normally go through?

9 MR. BOYD: Utilities in general fix something as a
10 target between three to six months. Their load needs are very
11 important, and it depends on the time of year.

12 For example, if 50 percent power is important to them
13 for the summer peak, for example, they would come to 50 percent
14 testing and stay there for a while before going on. If it
15 weren't critical, they would go all the way through the entire
16 program to declare commercial operation and go into whatever the
17 mode of operation is. It really does depend on the utility, the
18 time of year, and their needs and things like that.

19 CHAIRMAN HENDRIE: But I think a rock-bottom workup
20 time that we've seen is between two and three months.

21 MR. BOYD: Yes.

22 CHAIRMAN HENDRIE: I can't remember who made that, but
23 somebody, I can recall.

24 MR. BOYD: My rock-bottom number has always been three
25 months.

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1 COMMISSIONER BRADFORD: Roger, what is the significance
2 of declaring commercial operations?

3 MR. BOYD: The significance of that usually rests with
4 the utility. In some cases, it means things from a contractual
5 point of view; in other things, it has implications with regard
6 to state public service commissions; in other cases, it might
7 relate to their financial situation.

8 CHAIRMAN HENDRIE: We don't for instance, after they've
9 done some test running, got to a hundred percent, done some test
10 running. We don't go in and -- I don't know -- make some kind
11 of a review inspection and then declare, "Yeah, you're ready
12 for a hundred percent operation," do we?

13 MR. BOYD: No.

14 MR. DENTON: We could actually have issued licenses
15 for full-power operation, but the plant would be unable to oper-
16 ate because of turbine generator problems or something of that
17 sort, unrelated to the reactor.

18 CHAIRMAN HENDRIE: Okay. Thank you, Roger.

19 What I was going to talk about was, let's take the
20 close-in plant, Salem II. The speculation is that it might take
21 something like a month to get a letter out to them suggesting
22 the near-term things that one would want to see in that plant.
23 that derive from Three Mile Island, and then some type of a
24 response from them in time for the staff to review. That time
25 depends, of course, on what the items are and how rapidly the

1 response goes, it depends on what the items are, in several ways.
2 Among them there may be measures which one would want to work in
3 which could just as well as not be designed and installed during
4 the front end of the workup period before the machines got into
5 any substantial power. They do have to go from some weeks of
6 relatively low-power testing for physics sorts of parameters,
7 measurements. So, it might be several months, and it might be
8 shorter.

9 Now, what one is looking at here are things that I have
10 characterized as follows:

11 Near-term lessons-learned items that one would prefer
12 to try to implement on the plant before it got into substantial
13 power operation. I don't know if -- for instance, there was an
14 item which we wanted done which was going to take some time and
15 it didn't make a great deal of difference whether the plant had
16 been in power or not, for myself I don't see a great deal of
17 difference between Salem II and Salem I. That is, they are both
18 completed plants sitting out there, and, unless there is some
19 clear and present danger sort of condition that is determined,
20 I don't see much reason just to say, "Well, we won't let Salem
21 II operate because of this longer-term item that we're going to
22 implement on both units, but we'll let Salem I continue to oper-
23 ate."

24 MR. DENTON: Let me explain my rationale for that one.

25 CHAIRMAN HENDRIE: Well, as I say, where there are

1 items that you would really like to see in place before the
2 machine either loads fuel at all or begins to accumulate a sub-
3 stantial power history so that there is some buildup of radio-
4 activity in some of the areas, why, then, that makes sense. If
5 you do it before you get into that situation, you avoid having
6 to make changes in the radioactive environment.

7 COMMISSIONER GILINSKY: We can see the logic of doing
8 it that way if it has been the way the agency has operated.

9 CHAIRMAN HENDRIE: I think probably typically, yes.

10 COMMISSIONER KENNEDY: Is that to assume there was no
11 logic? What, if any, was the logic of operating that way?

12 COMMISSIONER BRADFORD: If we can't answer that, no
13 one else can.

14 CHAIRMAN HENDRIE: Clearly --

15 COMMISSIONER KENNEDY: Well, can we?

16 COMMISSIONER GILINSKY: There has only been a higher
17 threshold for turning a plant on and for causing the plant to
18 stop operating.

19 COMMISSIONER KENNEDY: Well, that's a fact, but not
20 the logic. I mean, what's the logic?

21 MR. DENTON: In order to issue the license, I have to
22 make certain findings regarding health and safety. I have to
23 make a different sort of finding to revoke licenses that are
24 already issued. There is a little bit of a difference in the
25 two. And I hope to have in hand the lessons from the TMI

1 accident.

2 Before I have to make the findings regarding Salem, I
3 expected the group to come up with some immediate fixes, some
4 perhaps short-term and perhaps some long-term fixes. There are
5 fixes that we have in mind, such as the vessel level indication,
6 perhaps venting the primary system, perhaps doing something with
7 pressurizer relief valve reliability or indications that would
8 involve radiation exposure, that could be eliminated if you make
9 these fixes prior to operation as opposed to post-operation.

10 And I set up this group to make these recommendations
11 back to me as to what should we do differently on Westinghouse
12 reactors, for example, which Salem is. And I don't think I am in a
13 position today to say that this present Salem design reflects
14 adequately all the lessons we've learned from Three Mile until
15 this group has a chance to report back.

16 MR. BICKWIT: I might add, Mr. Chairman, that under
17 556 of the APA, the proponent of a rule or order has the burden
18 of proof. Moreover, under 558 of the APA, to close down a plant
19 immediately requires a specific safety finding.

20 COMMISSIONER KENNEDY: That's exactly what I wanted to
21 elicit. It seems to be the logic -- and it's not just an arbi-
22 trary decision -- that that's the way we've operated. There's
23 a fundamental logic underlying it. It seems to me it's worth-
24 while getting that out in the air for understanding what it is.

25 MR. DENTON: Now, the plants on this list are not going

1 to wait for us to send in the list, but are going to send in
2 their own. What lessons have they learned or has Westinghouse
3 learned, what they propose to do differently and in what time
4 frame. There is a possibility for shortening the time if they
5 really show a little initiative on their own part.

6 CHAIRMAN HENDRIE: And also, I think, once you begin
7 to develop that list, recognizing always that it's the near-term
8 lessons-learned list, then for a given plant, I think, one would
9 look at the items on it and see how they fit in.

10 For instance, if one is going to save -- I don't know
11 -- one person-rem of occupational exposure by keeping a com-
12 pleted unit down for some months, why, I expect that gets to be
13 a little higher than a thousand dollars a person-rem which was
14 used in one other place as a very conservative and high estimate
15 of the worth of an element of radiation exposure.

16 So, I would conclude in that case you wouldn't say one
17 would not hold to the argument of "we've got radiation exposure,
18 so don't let's start it up." On the other hand, if you've got
19 to go into the reactor pit, that's rather a different proposi-
20 tion. You would just as soon do that before the machine developed
21 very much power history at all.

22 So, I think these things, you know, have to get looked
23 at in some detail.

24 Now, I must say that for myself that would be the
25 reasonable and rational way to go about the process, to see on

1 these cases what the yield is from Dr. Mattson's group and what
2 are the considerations the licensing office has and see how these
3 apply to the particular plants and sort of work them on a case-
4 by-case basis and do what is rational and reasonable and prudent
5 by way of getting these things implemented.

6 That may, indeed, mean some stretchout of the startup
7 times, particularly for a unit that's practically ready now. For
8 other units, some that were scheduled for the fall, why, it might
9 not make very much change.

10 Now, I would attack the question of continued licensing
11 at least for this group of fairly well completed plants in that
12 sense, rather than bringing away and saying "Never mind the
13 details, what we might reasonably want to implement on any one
14 of these given plants; let's just declare a generic and across-
15 the-board cessation of licensing."

16 It would seem to me that these plants, these units, do
17 have, because they are constructed, they stand out there with,
18 in essence, the public's money in them, pretty well completed,
19 that they have a character which is in many ways closer to an
20 operating plant in this sort of consideration than do, for
21 instance, a thing which is still a paper object and is perhaps
22 in the construction review stage.

23 We might say, "Well, why don't we slow down on this
24 until we see some of the longer-term lessons come in?"

1 to come and present the lessons learned, the results to the Com-
2 mission; when Roger comes up with a report, then we come up with
3 a formal report?

4 MR. DENTON: Last time, we indicated we would brief
5 the Commission when we got our arms around the problem. Perhaps
6 after they've done three weeks of work, see what the scope is.
7 We've got the advice of the NCRS. We have a bulletin in order.
8 But we would be happy to come back and brief the Commission.

9 I am asking them to look at the problem, what we've
10 learned from Three Mile about the licensing process. And the
11 Chairman is correct, in that the implications for those for
12 Westinghouse reactors and these particular AEs and designs may
13 not have all of the lessons applied; they may apply more to B&W
14 plants.

15 CHAIRMAN HENDRIE: In any event, I would think that
16 Harold would want to come and talk to us about at least at the
17 stage in which he's beginning to get a draft letter together.

18 COMMISSIONER GILINSKY: To the Applicant?

19 CHAIRMAN HENDRIE: To the Applicant, or the Applicants
20 -- plural -- because it may be a very similar letter to the whole
21 group here, or at least to the Westinghouse plants in the group.
22 So that one could discuss with Harold and Roger and their group
23 the sort of thinking that went into those things, how they ranked
24 the nearer-term and longer-term aspects, and also how in their
25 view what some of the implementation elements are and how these

1 might be worked in.

2 So, I would think, at any rate, at that stage we ought
3 to hear. Now, if it's useful for Harold to come earlier than
4 that on a sort of mid-study basis to brief on progress, why,
5 that's fine. We can always make room for that.

6 But I would certainly suggest, by the time we get to
7 talking about specific -- about draft letters, that we will want
8 to hear, I would assume.

9 COMMISSIONER KENNEDY: I would want to see him.

10 COMMISSIONER BRADFORD: It sounds, Joe, as though the
11 regimen that you've described, in contrast to the fixed-period
12 freeze of some sort, is somewhat the classic half-empty, half-
13 full sort of question; that is, what I think needs to be said is:
14 I wouldn't want to issue further licenses unless or until such
15 time as one could state clearly why the lessons of Three Mile
16 Island have no further application to that particular case.

17 COMMISSIONER KENNEDY: I don't think we'd be able to
18 say that for a matter of several years.

19 COMMISSIONER BRADFORD: At least for purposes of issu-
20 ing a license, though. There may be ongoing lessons for all
21 plants throughout the decade. But in terms of there is also some
22 threshold of things that one would want to have clear before
23 setting another plant in motion. It may be different thresholds
24 for each one of us, but there is certainly a threshold of some
25 sort.

1 What I had understood the staff to be saying last time
2 was that in their estimate a minimum period for putting that
3 principle or something -- at least their version of it -- to work
4 was something on the order of three months. It may turn out, on
5 a closer look, to be somewhat longer or somewhat less. I have
6 resisted using the word "moratorium," because that didn't seem
7 to me to describe at least what I had in mind. So, it may be
8 that what we're saying is really very similar.

9 I would rather approach it, I think, in terms of what
10 was the generally agreed-upon agency policy is with regard to
11 what guidance we should give the staff of the licensing board,
12 and then adapt that policy to particular plants. We want to all
13 come out in a fairly similar position on the individual plants
14 as we work them through. That is, I wouldn't start out by say-
15 ing I wouldn't expect to license Salem or Diablo Canyon at this
16 particular point in time. I would rather start out by saying
17 here is the principle I would like to follow and see how it
18 drapes itself around particular cases.

19 COMMISSIONER GILINSKY: I think what I would say at
20 this point is that licenses should issue only with the approval
21 of the Commission during this post-accident period. In effect,
22 that's what is being proposed here. But I guess I would state
23 that.

24 There also remains the question of what sort of con-
25 structions you give boards. I think one needs to tell them

1 whether they ought to be going fullspeed ahead or waiting or
2 whatever.

3 CHAIRMAN HENDRIE: Let's find out what is the proceed-
4 ings status on the group of plants from Salem II to LaSalle I.

5 MR. BOYD: May I answer that. In the case of Salem II,
6 there is no proceeding. In the case of North Anna II, there was
7 a hearing on North Anna I and II that was completed, so there is
8 no pending proceeding. Diablo Canyon I, the record of that pro-
9 ceeding is closed, but there has been a motion to reopen. I
10 don't believe it's been acted on yet. Sequoyah, there is no
11 proceeding involved. McGuire, there is a proceeding. There has
12 been an initial decision on the matters placed in controversy,
13 written by the ASIB; however, in that decision the ASLB retains
14 jurisdiction in the proceeding to the point that it's a decision
15 that could not be implemented.

16 In the case of Zimmer, there was a prehearing con-
17 ference last week, getting ready to go into the hearing process.
18 I believe the hearing has been scheduled, I think, sometime in
19 June, June 19. It is scheduled then for June 19.

20 LaSalle, there is no proceeding.

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1 CHAIRMAN HENDRIE: So in three out of the seven
2 cases, there are proceedings at some stage or other.

3 MR. BOYD: Yes, sir.

4 CHAIRMAN HENDRIE: Well, I think instructions that
5 one might issue to boards might be different for these CPs
6 where there are slightly different rules, where the immediate
7 effectiveness rule appears to be something one wants to think
8 about how that works in this period. But for the OLs, since
9 Harold makes the final determination, as I understand counsel's
10 description, there is not some sort of mindless machine which
11 spews a license out willy-nilly.

12 COMMISSIONER GILINSKY: No. The point is not whether
13 the license will be issued. Obviously, we'd be in agreement.
14 Harold on his own is going to decide. He's going to approach
15 it.

16 Licenses are not being issued automatically. But
17 it seems to me the boards act in our stead, and we have to ask
18 ourselves, what would we do if we were in their place, what
19 would we want them to do. It seems an odd way to hold them
20 at the finish line, by not having the record on our assignment
21 of the license. Since the effect of the issuance of a license
22 may be the same, it doesn't seem to be a proper one.

23 COMMISSIONER KENNEDY: Do we ever require that the
24 Board should be furnished all relevant information, which would
25 be implemented rigorously?

1 MR. SHAPAR: Yes.

2 COMMISSIONER KENNEDY: And therefore the board is
3 not already advised that you would have this matter under
4 advisement, and that therefore you may well be coming out with
5 views on matters which could be considered in the safety
6 determinations the boards are about to make. I mean, are we
7 tilting at a windmill that doesn't even exist here, or what
8 are we doing?

9 COMMISSIONER GILINSKY: Well, let me say --

10 COMMISSIONER KENNEDY: Wait. I'm just wondering
11 what Harold's answer might be.

12 MR. DENTON: The boards have been informed of the
13 information we've learned from Three Mile. We've not yet
14 moved to reopen the specific areas because we're not yet sure
15 what areas we want to reopen. So they know what we know about
16 what happened at Three Mile.

17 COMMISSIONER KENNEDY: Then they also know that you
18 have the lessons learned exercise, which is aimed at deter-
19 mining what specific steps should be taken as to new plants.

20 MR. DENTON: I think the board chairmen know that.
21 I don't know if we've sent that memo last week to the board
22 chairmen.

23 MR. SHAPAR: The boards have been told the staff is
24 studying Three Mile, is that correct?

25 VOICE: Those where a motion has been filed.

1 MR. SHAPAR: There's something else that's relevant,
2 too. I asked Harold to review evidence which the staff has
3 submitted in each case to see whether or not that's still
4 correct and whether it needs to be supplemented or changed in
5 view of the Three Mile Island situation.

6 COMMISSIONER KENNEDY: Right. And what I realize
7 has come to be a pejorative term, in the normal course of doing
8 our business, the boards would be apprised.

9 MR. DENTON: Yes.

10 COMMISSIONER KENNEDY: And presumably then, again
11 under our rules, the boards are not expected to stand mute
12 and oblivious to their surroundings and their knowledge. They
13 are expected to act in light of that knowledge, and if that
14 requires them to reopen an issue they would do so.

15 Is my understanding of the way this process works
16 correct?

17 MR. SHAPAR: That's generally correct. But I would
18 add that the parties and particularly the staff has certain
19 obligations. To the extent that the staff believes the record
20 should be reopened, the staff is going to reopen it.

21 COMMISSIONER KENNEDY: It would?

22 MR. SHAPAR: No matter what the status of the record,
23 correct.

24 MR. DENTON: So I think it's a near-term problem,
25 while we try to develop what areas, what lessons we have learned

1 from Three Mile. Until we do that we can't inform the boards
2 as to which areas we think may have to be reopened. So in
3 only those cases where decisions might be pending imminently;
4 one far down the list, we can certainly have plenty of time to
5 inform the boards that we want to relook at the whole question
6 of instrumentation and the water level instrumentation, and
7 that's been a contention in the hearing.

8 COMMISSIONER KENNEDY: But as to those close by, the
9 boards are aware that you are looking to the very possibility
10 that the questions may arise? The boards are aware of that?

11 MR. DENTON: I think they are. But I guess I'd have
12 to ask someone firsthand.

13 MR. SHAPAR: It depends on what information has been
14 sent.

15 MR. CHRISTENBERG: With regard to Diablo Canyon and
16 Zimmer, in Diablo Canyon the intervenors filed a motion to
17 reopen the record and/or stay, raising certain issues arising
18 out of TMI. We there filed a response similar to what you
19 suggested, saying that we do have a duty to advise the board
20 if we get any new information. The staff is conducting the
21 study. Once we get that information, we will provide it.
22 Pending that, we suggested that the board defer a ruling on
23 the motion to reopen.

24 In Zimmer, the hearing we have on June 19th, there
25 are certain issues which are unrelated to TMI which go forward.

1 There are other issues, such as emergency planning, off-site
2 monitoring, financial qualifications, which we suggest to the
3 board had a potential relevancy to TMI, and therefore we
4 suggested that the board not hold hearings with regard to those
5 issues. And the board has agreed to that.

6 With regard to McGuire, where the decision was
7 issued on April 18th -- to answer your question specifically,
8 we have not had any contact with the board there to advise
9 them of the effects of TMI.

10 MR. SHAPAR: But we can.

11 COMMISSIONER KENNEDY: Indeed, it seems to me it
12 would be advisable, in any event, to do so.

13 Well, now I come back to my question: If all that
14 is true, are we tilting at a windmill we haven't even built
15 yet?

16 MR. DENTON: The concern was raised last time in the
17 remote possibility that a board would issue a decision which
18 would be binding and require the issuance of a license, and
19 the degree of discretion I had to not issue it. And I think
20 at that time we brought out the fact that I could always file
21 a motion back to the board recommending it be reopened. So
22 I think really, in a practical sense, I don't see any likeli-
23 hood of one issuing, because we have a lot of mechanisms.

24 MR. SHAPAR: That's correct. It's most unlikely.

25 And if it should happen, unlikely as it may be, the Commission,

1 of course, has authority to issue a stay of its own.

2 CHAIRMAN HENDRIE: But it really is not much of a
3 problem on operating licenses, where in any event the board
4 makes findings, even if there is a proceeding, on only a limited
5 number of the total matters that have to be considered and
6 signed off on, and you personally have to sign off on the rest
7 of those.

8 MR. DENTON: That's right. So in the most pressing
9 case, Salem --

10 CHAIRMAN HENDRIE: In a construction permit case,
11 when then, the immediate effectiveness rule says ten days.
12 And in order to defeat that you would have to go back in and
13 request that the board stay their one initial decision or
14 something like that, or not make it if they hadn't made it
15 yet, or something like that, and it needs some kind of instruc-
16 tion along those lines.

17 COMMISSIONER GILINSKY: That sounds right. But as
18 I remember, the last time the lawyers made several statements
19 that agreed just what the statement was.

20 MR. SHAPAR: I think general counsel and I would
21 agree on that statement.

22 COMMISSIONER BRADFORD: What about situations --

23 MR. BICKWIT: Excuse me. What was the statement I
24 agreed with?

25 (Laughter.)

1 MR. SHAPAR: I'll tell you later.

2 (Laughter.)

3 COMMISSIONER KENNEDY: When he reformulates it.

4 CHAIRMAN HENDRIE: Before you kick off, Peter, I
5 wanted to see if I could kind of clean up on this.

6 COMMISSIONER BRADFORD: I was going to comment,
7 before you were kicking off, anyway, just asking Len what
8 he'd agreed to.

9 CHAIRMAN HENDRIE: I was just going to say, in the
10 three cases where there are proceedings either under way or in
11 some stage of this group of seven near-term OLs, presumably
12 when you have a lessons learned letter ready to go to appli-
13 cants, why, there are general things in it and there'll proba-
14 bly be some particular items that are specific to each case.
15 But at any rate, that there be a lessons learned letter presu-
16 mably for Diablo and McGuire and Zimmer in due time. And I
17 would assume that, in addition to going to the applicant, that
18 the board gets notified about that and the extent to which
19 the board or other parties then want to reopen the active part
20 of the hearing and take those matters up, I guess, is up to
21 the board, is it not?

22 Okay. So that, in any case, in places where there
23 are proceedings, there will, if not before, in time be lessons
24 learned letters to those people, and those will go on the
25 record, and so on.

1 Now, the thing you were being told that you agreed to
2 was the proposition that for an operating license, the immediate
3 effectiveness rule notwithstanding, that the board, if there
4 is one in the case, rules not on the whole spread of findings
5 that have to be made under the Atomic Energy Act to issue a
6 license, but only those that had been raised in the particular
7 OL proceeding; that the findings on all of the rest of the
8 matters, which are certainly the great bulk of the findings,
9 have to be made by the Director of Reactor Regulation. Even
10 if the board says, boy, from our standpoint it's great, issue
11 that thing, why, he still has to make a finding on all those
12 other things.

13 And there is, therefore -- that is the operation, --
14 the ten days of the immediate effectiveness rule only counts
15 after such time as, A, the board has said, everything we've
16 looked at is okay, and, B, Harold has said everything else is
17 okay.

18 Then I would think, after some formal pronouncement
19 in a case, then I would think the regulation would say: Okay,
20 issue in ten days.

21 COMMISSIONER KENNEDY: You must agree with that,
22 because that's what your memo says on page 2.

23 MR. BICKWIT: It says that the rule has been con-
24 strued that way, and I agree that it has, and I agree that
25 that is a defensible construction. But the rule does not in

1 fact read that way.

2 COMMISSIONER GILINSKY: That's what I thought.

3 COMMISSIONER KENNEDY: Now, what you said was, "Once
4 the board" -- and I am quoting, not interpreting -- "Once the
5 board has resolved those issues, that is, the issues, only
6 those issues that have been placed into controversy and those
7 additional issues which the board has decided it wishes to
8 consider" -- "Once the board has resolved those issues, the
9 Director of NRR is required to consider all remaining matters,
10 a process which may take considerable time."

11 If it's true the rule as applied to operating
12 licenses would fly in the face of this Commission practice,
13 then what do you mean, the rule has not been so interpreted?
14 Now, if he is required to do it, there must be some way --

15 MR. BICKWIT: He's required under Commission practice
16 to do it. In other words, Commission practice is slightly at
17 odds with a literal reading of the rule. But the rule has
18 been read as consistent.

19 COMMISSIONER KENNEDY: Therefore, since that is the
20 Commission's interpretation of its own rule, that is a
21 reasonable interpretation.

22 MR. BICKWIT: I think it's a reasonable interpreta-
23 tion. I think it's a defensible construction. But the
24 literal reading is to the contrary.

25 MR. SHAPAR: It seems to me stronger than that,

1 because there are other rules, of course, which provide an
2 underpinning for the practices as to what findings will be
3 made by the regulatory staff.

4 COMMISSIONER GILINSKY: Perhaps the wording of the
5 rule ought to be changed.

6 MR. SHAPAR: We all agree on that. But the most
7 reasonable interpretation of the rule, of all the rules
8 relating to this subject, is as stated in the general counsel's
9 memorandum.

10 COMMISSIONER GILINSKY: But the question here is
11 not whether, Harold, you or Lee have the power to stop the
12 licenses from issuing, or whether various offices can throw
13 out grapping hooks. It's whether the Commission is going to
14 state clearly how it intends to proceed over the next several
15 months.

16 I think it ought to state clearly what it wants done.

17 CHAIRMAN HENDRIE: Well, I think that as a general
18 proposition I would hate to argue that it is bad practice for
19 the Commission to say clearly what it wants done. But --

20 COMMISSIONER KENNEDY: That would not even be
21 unique.

22 CHAIRMAN HENDRIE: You know, if fault lies with us,
23 it's probably in our general ability to enunciate what it is
24 we want done on all sorts of things in as clear a way as we
25 would all like to have it done. So I think certainly I'd be

1 glad to see a draft of such a proposition, and I would -- I
2 don't know. I guess one of the things that I'm looking for
3 is to see how differently it would read than the sort of array
4 that I've suggested to you. I guess I'd be interested in
5 people's opinions on that.

6 But Peter, you were about to, since we've now
7 clarified what it is that Len has agreed to -- I'm sorry --

8 COMMISSIONER BRADFORD: I do think Vic's point is
9 the central one. This is just my own sort of a subcategory.
10 That is, there are also cases where hearings are going on
11 before boards, that rulings have to be made on, on the admis-
12 sibility of evidence and that sort of thing. And in at least
13 one type of situation that comes easily to mind, that is,
14 emergency response planning, the Commission has an overall
15 policy practice that would normally govern what the board would
16 consider relevant to a particular proceeding and what it would
17 not.

18 If we're in any way considering changing that -- I
19 think that we might well be -- at least I think I might well
20 be in favor of changing it -- then that poses a problem of a
21 somewhat different sort for a board and for the participant in
22 that hearing. That is, they might conceivably want to produce
23 witnesses of the sort that was produced under the existing
24 rules and practices.

25 The board might make rulings on the relevance and

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1 admissibility of the particular types of testimony under the
2 current practice that would turn out to be wrong according to
3 what might be the practice in a couple of months.

4 COMMISSIONER KENNEDY: Could you give us an example
5 of some specificity?

6 COMMISSIONER BRADFORD: In the area of emergency
7 response planning, supposing the Commission policy became
8 that no reactor should commence operations without a Commission-
9 approved emergency response plan for the off-site area.
10 Supposing, further, that we in some way revised the criteria
11 for Commission concurrence or approval of emergency response
12 planning for the off-site area.

13 The testimony on that subject might then be quite
14 different from what would be allowed in a proceeding that
15 would have taken place under the current practice.

16 COMMISSIONER KENNEDY: I'm trying to figure out how.

17 COMMISSIONER BRADFORD: Well, why would the board
18 want to hear a lot about evacuation planning and the niceties
19 of response planning, if it were not fundamental to the
20 issuance of the permit that they have been considering? Why
21 wouldn't they tend to rule that, at this point, to be either
22 irrelevant or subject to --

23 CHAIRMAN HENDRIE: You know, I can see that indeed,
24 as we go down the line, there will be some long-term and
25 near-term, obviously, and there'll probably be some long-term

1 results from Three Mile Island that will reflect themselves in
 2 designs, in operating practices and the licensing requirements,
 3 in emergency planning and so on. It seems to me to say, you
 4 know -- I don't know if you're suggesting it in fact, but it
 5 seems to me impossible to say we'd just stop everything and
 6 wait until we know everything there is to know, and then work
 7 out an orderly proceeding.

8 COMMISSIONER BRADFORD: No, no, and I certainly
 9 wasn't suggesting that we decide the response planning question
 10 here at the table now. I was just suggesting that there may
 11 be a type of issue on which in fact there is, to pick that
 12 particular issue, one that I think we need to take another
 13 look at -- whether the result would be any different or not,
 14 I wouldn't want to prejudge. But I do think that poses a
 15 dilemma for a board that is now holding a hearing in which
 16 someone is seeking to raise this question. That is, they're
 17 operating under one Commission policy. Their ruling would
 18 have to be under that policy.

19 They can, of course, make their rulings and reopen
 20 later. But that does involve a waste of money and energy on
 21 the part of the parties, who have testified under one set of
 22 rules and then have to bring their witnesses back to testify
 23 under a different set of rules in the fairly near future.

24 CHAIRMAN HENDRIE: But I think one could probably
 25 generate a substantial list of those things. I think new

1 designs of plants might very well incorporate a variety of
2 fairly interesting changes. You might even come to a place
3 where you wanted to require those for plants proposed after
4 some date.

5 There is, then, at least in principle, the question:
6 Shouldn't that possible change be argued on this proceeding
7 which is now under way or will be going on relatively soon?
8 That is, I'm not sure that one could identify a few subjects
9 of the kind that you note that have that kind of possibility.
10 Trying to go ahead with the process now may in fact result in
11 some retreading of ground. In some ways I think it's inevita-
12 ble.

13 One of the difficulties in at least this regulatory
14 system always has been building in subsequent changes. As you
15 arrive at each of those, why, there's a period of greater or
16 lesser agony and difficulty as those things are implemented
17 on projects that are in one or another of the areas, or have
18 passed the point in their design, construction or licensing,
19 where it would have been convenient to put that in.

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1 I don't know that the Three Mile Island, the inevitable
2 items from Three Mile Island, are going to be different in kind.

3 COMMISSIONER BRADFORD: That is, I think, the question
4 on which we ought to try to come to a Commission policy. That
5 is, if there are no issues arising from Three Mile Island that
6 we feel clearly mandate reexamination for either operating
7 licenses or construction permit issues, then presumably we don't
8 need to give the boards and the staff much in the way of dif-
9 ferent guidance.

10 But if there are issues on which we feel that the Com-
11 mission policy should at least be reexamined before further
12 permits issue, then obviously it should be reexamined.

13 If we feel it might well change, then I agree with
14 Victor. We ought to try and articulate what that class of
15 issues is, what the criteria is for something being in that
16 class of issues, and let the staff and the boards know that
17 these are issues which they would want to either tread with care
18 or postpone the specific hearings until they had a clear guidance.

19 COMMISSIONER KENNEDY: How would that affect all of
20 the others in which there are no proceedings?

21 COMMISSIONER BRADFORD: As to the staff handling issues
22 if it fell into that category, presumably Harold would not sign
23 off on licenses, proceeding or not, until we had cleared those
24 licenses from that class of issues.

25 CHAIRMAN HENDRIE: I think, Peter, if you take the

1 view that you're going to hold licenses until you can establish
2 that class of issues, I think that class of issues, at least in
3 principle, can be broad, you are then going to erect for your-
4 self a fence that you can't get over.

5 I think to sit here now or a month from now and say
6 that in a given area secondary system design or operator licens-
7 ing requirements or whatever that we now know whatever it is we
8 are going to do about that and we don't have to worry about any
9 future developments so we can go ahead and litigate these things,
10 I just don't think you're going to have that clear-cut a situa-
11 tion.

12 You have to anticipate that there may, even though on
13 a given item -- say, operator training is an obvious one --
14 without attempting to define which ways one might meet, I would-
15 n't be surprised to find out from the lessons-learned group
16 they're feeling that certain changes in the requirements, changes
17 in provisions are needed now, and that there'd be a letter out
18 to operating plants, there'd be a letter out to the seven near-
19 term OLs and everybody else further down the line would know
20 about it and so on. But you would recognize, even while you
21 were doing that, that while these appeared to be important and
22 necessary near-term changes, that you were by no manner or means
23 saying, "Well, that's it for this phase of operator training."
24 You'd have to recognize that, indeed, six or eight months from
25 now, particularly as the results from some of the longer-term

1 investigations flow in, that you might want to institute some
2 further changes.

3 COMMISSIONER BRADFORD: And that's true of all issues.

4 CHAIRMAN HENDRIE: Just so.

5 COMMISSIONER BRADFORD: Three Mile Island-related or
6 not, I haven't tried to articulate the criteria that I would
7 apply before. In many ways, the most troublesome one to me is
8 the one I have already mentioned, which is response time.

9 CHAIRMAN HENDRIE: We may get that one mandated by the
10 Congress, so that whatever we decide here is preempted.

11 COMMISSIONER BRADFORD: I hadn't thought of it in those
12 terms.

13 I guess what I would like to do is try and say what we
14 think we ought to do about it.

15 CHAIRMAN HENDRIE: I totally agree. I wouldn't stand
16 back and not attempt to enunciate what we think ought to be done.
17 Just against the possibility of congressional mandate, it would
18 seem to me that there is some difference in particularly these
19 near-term operating license cases and cases that are laid down
20 along the pike with regard to some of the ways in which you might
21 want to deal with those.

22 Let's see. I would be interested, as a matter of fact,
23 to see if we could draft a sort of statement of how we think we
24 ought to treat these cases. If I were going to try to draft it
25 -- you can regard this, I guess, as a suggestion to whoever the

1 drafter turns out to be -- I would start out to try to take a
2 limited case, first. I would try to talk about what's reasonable
3 and what we ought to do on those seven close-in operating license
4 cases and see if we can agree on some language that applies to
5 those. And I would wonder if it wouldn't be reasonable to try
6 to draft something along the lines that we've talked about here
7 this morning and as I indicated, if you don't think that's
8 an unreasonable basis to start discussion on.

9 COMMISSIONER BRADFORD: That's fine. I guess I would
10 like to see it in two parts, though, because it's hard to decide
11 the particular cases without some notion of the general princi-
12 ples, as well.

13 COMMISSIONER KENNEDY: General principles --

14 COMMISSIONER BRADFORD: Well, what, if any, issues
15 the position agrees on. That's the holding of the licenses over
16 that if there are no issues that fall into that category. Then,
17 obviously, the particular cases take care of themselves. If
18 there are issues, then all of the concerns that Joe raised
19 earlier about Salem on the one hand versus a plant a year or more
20 away on the other, are perfectly valid ones for discussion in the
21 context of the particular issues, and then how much they really
22 seem to matter as to whether or not one turns the switch on or
23 not.

24 CHAIRMAN HENDRIE: Presumably, if I could enunciate
25 what the general principles which underly the sort of approach

1 that I have suggested, why, that would be a chunk of what you're
2 looking for.

3 COMMISSIONER BRADFORD: Okay. An easy criterion is the
4 one Harold mentioned at the beginning. If something is sub-
5 stantially impacted by whether or not the plant, in fact, has
6 operated and therefore contains a potential for worker exposure
7 to making a fix, that, I think, would clearly be something one
8 wanted to consider.

9 MR. DENTON: I was concerned about foreclosing options.
10 If there are any such items on our list, some might be fore-
11 closed, others might just be more difficult in terms of exposures.

12 COMMISSIONER KENNEDY: Foreclosed? In other words, if
13 you say matters which might turn up in the next two to three
14 months which, were you able to do it, you would like to be able;
15 if the plant had operated, you would simply not be able to.

16 MR. DENTON: I am not sure there are any in that
17 category.

18 COMMISSIONER GILINSKY: At least, it would be extremely
19 difficult.

20 COMMISSIONER BRADFORD: Another possible category.

21 COMMISSIONER KENNEDY: Extremely difficult is one
22 thing, but impossibility is another. If it's worth doing and
23 it's extremely difficult, I guess I would want to see it done.
24 But if it's impossible, whatever I might wish would be irrelevant.

25 CHAIRMAN HENDRIE: I get the notion that there are very

1 few things that are impossible in this part, at least in princi-
2 ple. And I think what you end up doing is making a judgment not
3 that it's possible or impossible, but rather the degree of dif-
4 ficulty after the plant has operated for some length of time
5 related to probably to buildup of radiation levels. And there
6 will be some things where you will think, "Well, it would be nice
7 to implement them when the plant was absolutely clean. On the
8 other hand, it's not all that great a problem to do it after
9 you have operated." So this doesn't fall in the category.

10 On the other hand, here's an item where you know it's
11 really going to be a substantial enterprise with suits and shield-
12 ing and short-time run-ins and -outs of high-radiation areas and
13 much exposure. You can say, "Well, no, that's the kind of thing
14 that you would want to do before."

15 I doubt very much if you are going to cut on the basis
16 of "possible/impossible," because if you really have to do it --

17 COMMISSIONER GILINSKY: Isn't that really just short-
18 hand for --

19 MR. DENTON: I guess I would lean toward the latter
20 construction.

21 CHAIRMAN HENDRIE: Now, let's see. I am just wonder-
22 ing whether some sort of general principle that I had in mind
23 could be enunciated. I guess it would be --

24 COMMISSIONER GILINSKY: It seems to me it's kind of
25 hard to talk about the abstract.

1 CHAIRMAN HENDRIE: Until you see the list.

2 COMMISSIONER GILINSKY: Well, if you want to wait for
3 Harold's list a month down the line, it might end up that way.

4 I thought that if you would like to try to have a
5 fairly clear statement of what the Commission thinks ought to be
6 done, that it might be useful to go ahead and start some draft-
7 ing on that. You know, like immediately. So we can begin to
8 look at some language and see whether we can agree on some
9 language. As his lessons-learned list appears, why, that'll
10 help you perhaps get more specific.

11 But it would seem to me you would want to try to write
12 some of these things down beforehand. To some extent, what
13 we've said here this morning at least ought to provide some
14 guidance in the drafting.

15 I guess, by way of a principle that I was looking at --
16 I am not sure it's a principle -- sort of the basis that I was
17 working on, Peter, in the outline of the way I think we ought to
18 go about it was that it's fairly clear that there are some near-
19 term things that we would like done on these plants, like Salem
20 II, that are close to coming into operation.

21 You know, you can look at it this way: Suppose Salem
22 II had been operating. Would they have gone untouched by Three
23 Mile? The answer is "No." Salem I hasn't gone untouched, you
24 know; it's had some bulletins saying, "Look at this; look at
25 that," and we've answered back and so on. And there will be more.

1 So, as an irreducible minimum, it's clear that Salem
2 II certainly gets that problem for the near term, at least, and
3 some of those things, as I say, I would think might fall into
4 the category where you would say, "Gee, these ought to be either
5 done or well under way before you start loading fuel." Or there
6 will be some others where, for one reason or another, maybe
7 because the plant won't be in power for several months anyway,
8 you can say, "Okay, these can be implemented while you're going
9 along."

10 Now, in addition to that sort of irreducible inventory
11 of things you want done before -- certainly to think about before
12 you move on an operating license, there is Roger Mattson's group
13 who are working on the lessons learned, sort of the near-term
14 lessons-learned list, and that will add, too. So, I am abso-
15 lutely sure that there is going to be a list of items that you
16 will want dealt with on these operating license cases.

17 And now, the way in which I propose that they ought
18 to be dealt with is that those items ought to be looked at
19 against each case. Each Applicant ought to get on with it as it
20 suits him, fits his particular situation, and that the licensing
21 matter, rather than being governed by some general edict like
22 everybody go home for 120 days or, you know, something like that,
23 be governed by the details of those case-specific matters at
24 least for this close-in operating license group.

25 I am willing to agree that the further back you get

1 from those down the line, if you go all the way down someplace
2 where a guy's, you know, halfway through the CP review, why,
3 maybe that's done, so you're dealing and you ought to just deal
4 on a broader-sweeping basis with people in that category. But
5 at least for the near-term people, I would make it more case-
6 specific.

7 The other sort of principle or thing I have in mind
8 is that in talking about the near-term things that you are going
9 to want to have dealt with on an operating license, some of
10 which will be pre-issue and some of which can be completed post-
11 issue, I would think, depending on their nature, you know that
12 there are going to be some longer-term things which this plant
13 would have to pick up, each of these plants would have to pick
14 up, as appropriate for its particular case, just as there has
15 always been an operating plant on March 28.

16 I would just propose that we not -- I don't see a need
17 -- I propose that we just not arbitrarily back off and say,
18 "Well, until we know all those long-term things, why, we can't
19 go anyplace."

20 COMMISSIONER BRADFORD: I think there are extreme ways
21 to state both sides. If one can say, on the one hand, we're
22 not talking about plowing fullspeed ahead as if Three Mile
23 Island hadn't happened; on the other hand, nobody's talking
24 about laying down the tools and taking 120 days off.

25 CHAIRMAN HENDRIE: Well, you know, I took to my bed

1 last Monday, and when I came back I had this paper with six ways
2 to stop licensing for three, six, 12, et cetera months; you know,
3 "Wait." Where's the paper that says, "Here is the most effective
4 way to deal with this situation and get on with the job the
5 agency has to do"?

6 COMMISSIONER KENNEDY: We haven't really even
7 described what the situation is.

8 COMMISSIONER GILINSKY: Let me ask you: You're not
9 saying that there should be no distinction between operating
10 plants and those which do not have operating licenses, in the
11 way we treat them?

12 CHAIRMAN HENDRIE: No. I think clearly there is a
13 distinction, Vic. But I also think that plants that are essen-
14 tially completed do have substantially different character in
15 this array of things also than plants that are still a paper
16 application.

17 COMMISSIONER GILINSKY: Well, obviously, you can't
18 ignore the fact that the plant is sitting there completed.

19 CHAIRMAN HENDRIE: That's the only principle I am
20 enunciating here. I don't think it is any more profound than
21 that.

22 COMMISSIONER GILINSKY: Well, if that's all it is, I
23 still think that, you know, we're still talking about so many
24 angels dancing on the head of a pin until we've seen Harold's
25 list.

1 CHAIRMAN HENDRIE: Well, I don't know. Would you pre-
2 fer to hold drafting of a policy statement, however it might
3 turn out to be, until we see the list?

4 COMMISSIONER GILINSKY: There is certainly no harm in
5 getting a handle on the statement. But as far as issuing one, I
6 think we will have to wait. Issuing one that is detailed enough
7 in terms of what the requirements on licenses would be, I think
8 that would certainly have to await Harold's list.

9 What I have in mind saying now is that we're waiting
10 for Harold's list; in the meantime, boards are to behave in the
11 following way.

12 I wouldn't argue for any specific fixes on reactors.

13 CHAIRMAN HENDRIE: I wasn't proposing to put specific
14 fixes in the statement. I think I was thinking --

15 COMMISSIONER GILINSKY: It may well be that we would
16 have to take a look at it, that a general statement may be
17 appropriate. We'll certainly have to come back to the issue
18 after we hear from Harold and Roger.

19 CHAIRMAN HENDRIE: Unquestionably, because we will
20 want to hear about particular items and how they apply to
21 particular plants.

22 COMMISSIONER GILINSKY: Yeah. My starting point was
23 simply that, you know, we've heard for years, frankly, about the
24 uncertainty of the process and so on. I want to try to reduce
25 it and make clear what the Commission is up to, and not have

1 the staff and the Applicants and other interested persons to
2 speculate and guess about what it is we're planning and thinking
3 about doing. If this is the time when changes are being thought
4 about, we ought to make clear just what it is we're thinking
5 about and how we plan to approach it.

6 I wasn't arguing there for any specific approach, but
end#4 7 whatever our approach, I think we ought to tell people what it is.

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COMMISSIONER BRADFORD: We can always call it a
banana.

(Laughter.)

CHAIRMAN HENDRIE: It seems to me one could try to
sketch out how this ought to go forward. Whether we can all
agree on specific language --

COMMISSIONER KENNEDY: I think that's a very sensible
view.

CHAIRMAN HENDRIE: We can whack away at it.

COMMISSIONER KENNEDY: But it makes an assumption .
for its full effect, and that is that we know what it is we
will then do. Except for the assumption that we know the
answer to that this morning, which I think we do not, your
statement is quite correct.

COMMISSIONER GILINSKY: Well, we ought to collect
our thinking.

COMMISSIONER KENNEDY: That's the point. Instead
of debating this theology, we ought to be talking about what
needs to be done and get on with it.

CHAIRMAN HENDRIE: Let's see. I would like to talk
about what needs to be done, as a matter of fact, in a related
matter here for a moment, to maybe -- at least for the moment,
we could finish off this portion of the discussion.

Len, do you and Steve and Peter think you could
study the transcript of this and if you want to come and see

1 what it was I meant when I muttered something that you can't
2 decipher; try a draft. I think it would be useful to have
3 something, and then, you know, then people could have a comment
4 basis.

5 COMMISSIONER BRADFORD: I was up to one on the list
6 of three principles.

7 CHAIRMAN HENDRIE: In that case, please add them.

8 COMMISSIONER BRADFORD: There was the one that I
9 more or less got through, which is the one that addressed the
10 so-called very difficult change. One clearly wouldn't want
11 plants to go into operation -- it's harder to think of them
12 in the construction situation -- to go into operation. That
13 would make change very difficult in an area in which the
14 Commission is contemplating change.

15 The second, at least in the very short run, would
16 be, one ought somehow to work with the chapters of what Roger
17 is working on and say, clearly these are areas in which change
18 may be forthcoming and boards ought to be at least alert to
19 that.

20 The third -- and I'm not quite sure how to say it --
21 to me it describes the kind of thing under emergency response
22 planning. It might mean other things to other people on other
23 things. The areas in which at least significant change in
24 past Commission policy is at least a possibility, and we ought
25 to try also to alert the boards to that for their guidance in

1 particular rulings on particular issues, until we speak one
2 way or another to that question. I would hope we could do
3 that within the next few weeks.

4 In any case, I don't know whether there are issues
5 other than emergency response planning that strike me -- that
6 would strike other people that way. The emergency response
7 planning is the obvious one.

8 CHAIRMAN HENDRIE: Okay. You must have stated that
9 well enough.

10 COMMISSIONER BRADFORD: Obliquely or not.

11 CHAIRMAN HENDRIE: At any rate, it apparently didn't
12 leave much turbulence in its wake.

13 Could I then turn briefly -- I would now briefly
14 maybe, to a related subject, and that has to do with the
15 impact on the casework of having a large group of people drawn
16 off to work on Three Mile Island-related matters. There are
17 some ways to attempt to deal with those impacts from a resource
18 standpoint. And it seems to me that we have a responsibility
19 to look at those possibilities and to see what it's reasonable
20 to do.

21 There are probably some further steps which could
22 be taken. Harold has, you remember, in connection with the
23 pinch that's been going on since last summer in licensing,
24 has in effect exported some of the NRR jobs to Standards and
25 Research, mostly. I guess you may have gotten one to I&E, as

1 I recall.

2 There is probably some more of that that can be
3 looked at. Obviously, it has an impact on the jobs that those
4 other offices are doing. And in the case of offices that are
5 not all that large, like Standards and Research, it can be a
6 fairly husky impact. But it seems to me that that ought to be
7 looked at and we ought to see what's practical there.

8 Another way of helping with the resource problem in
9 NRR is to gather more contractor forces to bear on these issues,
10 concentrate them more on the essential issues in licensing
11 cases, and to gather additional resources from contract sources.
12 The national laboratories are the principal reservoir of that
13 kind of help. Staff has used it before. We would have to do
14 it on a slightly different basis this time, since the last time
15 around it was judged not to be wholly consistent with the
16 Government's regulations on personnel matters, and we certainly
17 would want to conduct our affairs in a proper manner.

18 But that can be done. And again, that can have
19 sort of two aspects. In part, people can look and see what
20 sort of additional jobs can be put largely out to contractors
21 to get done; and secondly, we can look to bringing one or more
22 contractors in to set up a temporary office in the Bethesda
23 area, so that they can give close-in support for licensing for
24 the NRR activities.

25 And it seems to me that both of those -- that all of

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1 those possibilities ought to be exercised pretty vigorously
2 in order to minimize the impacts down the line. That certainly
3 is a strong message which I have had from some places in the
4 Congress.

5 COMMISSIONER BRADFORD: What sorts of people would
6 these be that could be brought in short-term on a contract
7 basis to act as license reviewers?

8 CHAIRMAN HENDRIE: To act in very close support to
9 license reviews, to work on technical problems. And they
10 would be--you know, the obvious place in terms, in talking
11 about rapid accumulation of such people, the obvious places
12 are the national laboratories.

13 COMMISSIONER BRADFORD: But even those people would
14 presumably require a certain amount of orientation before they
15 could fit right in.

16 CHAIRMAN HENDRIE: Yeah, and obviously they have to
17 work with staff, work with the staff people, because the
18 things they would be doing have to fit within the review plan
19 of the staff.

20 Harold?

21 MR. DENTON: They can best do the audit calculation
22 that the standard review plan calls for. For example, somebody
23 like EP&G, knowing that we've used their audit reactor transient
24 calculations, could run it themselves. And we'd have to have
25 someone that they'd report to to make sure that they get it

1 right and it's within the scope of the standard review plan.
2 It sort of turns out to be like a consultant's report, sort of
3 like we had a Corps of Engineers review of some foundation
4 engineering questions.

5 It's hard to find all those skills in the short-term,
6 in a short time frame. The ones that we are most hurting on
7 are instrumentation control and electrical types. We've always
8 had difficulty finding people in that area. Reactor analysis
9 systems kind of people are the second area. It's somewhat
10 easier to find people in the dynamic analysis, structural
11 design sorts of areas.

12 Lee has asked that we look -- that we identify for
13 him the skills that we would need to maintain current
14 schedules. It's going to turn out to be more than 70 people
15 we converted, for two reasons: One is that we're going to
16 learn things from the lessons learned study that's going to
17 require additional effort that we hadn't really thought about
18 when we put the budget together last year and laid out these
19 schedules.

20 And secondly, bringing in new people won't be easy
21 fishing, certainly not in the first start-up phase. So it'll
22 probably require 100 people. The staff's first estimate was
23 130 people. We've had to cut it back to something like 100
24 people, to say we could make up the learning curve and so
25 forth. But if we could get 100 people with the right skills

1 and reassign them internally to the task, or bought through
2 contractual assistance powers, we could essentially put those
3 plants which were suspended back on again.

4 Work is under way to try to identify those and to
5 assess the impacts on resources and dollars.

6 MR. GOSSICK: I think one other thing we should
7 mention, in the long run: We have an appeal letter, and we'll
8 have very shortly the action on our appropriations bill. It's
9 important for the longer run if we can get the spaces we were
10 asking for in our budget. That doesn't fix it right now, but
11 the longer that's put off the more we're dependent on this
12 sort of jury-rig, ad hoc operation, at least for the time
13 being, and the longer these other matters that will be
14 impacted will just slide downstream.

15 MR. DENTON: In fact, without some change, we're
16 doubly retrogressing. We weren't getting the 85 bodies that
17 we thought of, which our tight budget had already required in
18 order to make the thing on schedule next year. And then, to
19 divert 70 of the existing staff into other activities.

20 COMMISSIONER BRADFORD: Do you have more than an
21 ordinary problem with conflicts when you actually start using
22 contractors in the licensing review process? That is, when
23 they're used in research, the work comes through a filter of
24 sorts before it ever gets used. In the licensing process,
25 it seems to me when you're using outside consultants directly

1 as licensing reviewers, then if anything you'd have to be
2 doubly sensitive to the problem of conflict.

3 MR. DENTON: I think it's a bit more of a problem.
4 We managed to overcome that aspect the last time. The labs
5 were essentially providing enough conflict-free people. But
6 we certainly need to be alert to them.

7 CHAIRMAN HENDRIE: You know, there are a number of
8 provisions -- remember, there is a conflict of interest
9 provision that has been mandated for our contract work. You
10 remember, we were told to develop a policy and a regulation.
11 We did. And it's a fairly vigorous one, and the lab people
12 who worked in these areas and who might be brought in, with
13 a certain amount of pain, to help out, I think by and large
14 that's not a major problem.

15 You know, in some ways -- for instance, when we do
16 environmental reviews now, laboratories do pieces of those and
17 you get the environmental report written, and the lab people
18 have contributed to that. You go to a hearing and you know,
19 somebody says, now, I want to look at how they calculated all
20 the small fish. And it may well turn out to be a fellow from
21 one of the national laboratories that provides that help.

22 COMMISSIONER BRADFORD: This would be less of a
23 concern, of course, to the extent that people were coming
24 from the laboratories. We'd still want to be sensitive to that.
25 But I hadn't understood that to be the only place you'd be

1 looking for people.

2 MR. DENTON: To look elsewhere is so time-consuming.

3 COMMISSIONER BRADFORD: If what we're really talking
4 about is -- people from the laboratories, they're still a
5 concern. But it's of a different order.

6 CHAIRMAN HENDRIE: Oh, yes. If you've got to go
7 out and, for instance, ask for a bid from Bechtel and Sargent
8 and so on, and that group of engineers, oh, boy. You know,
9 the people they've got have worked on the power plant that
10 you're licensing, and you just can't do that.

11 MR. DENTON: You may recall we were going to find
12 someone on the outside to do operating reactor amendments in
13 certain specialized areas, and I guess for about six months
14 down the negotiating line, and it's still some time to go
15 before we complete the competitive process.

16 CHAIRMAN HENDRIE: You going to find anybody that
17 can do that, by the way?

18 MR. DENTON: We've got a dozen or so people who are
19 being evaluated. Once again, conflict is a problem. Most
20 people out there have worked somewhere in industry.

21 CHAIRMAN HENDRIE: Yeah. You know, it's one of those
22 situations where the Government business for a commercial firm
23 is maybe 1 or 5 percent, but you have to stay away from the
24 other 95 to 99 percent if you're going to be eligible for it.
25 You know, it just doesn't work.

1 Well, I would like to ask Lee and Harold to continue
2 to develop these resource, supplemental resource provisional
3 plans, and we ought to have a proposition, then, in hand at
4 some near point that we can talk about.

5 COMMISSIONER KENNEDY: And your response to my
6 request at the last meeting, which I have not received?

7 MR. DENTON: You asked for the list. I think it's
8 about 20. I've gotten it down.

9 COMMISSIONER KENNEDY: I also asked you to discuss
10 why it was more, and I'm anxiously awaiting.

11 MR. GOSSICK: That's a part of this answer of identi-
12 fying, one, the skills that would be used in the task and what
13 it would do to the other program.

14 CHAIRMAN HENDRIE: Okay. Does that seem to take us
15 far enough for the morning?

16 MR. BICKWIT: Mr. Chairman, just one other thing,
17 one word about the status of legislation that relates to the
18 subject matter of the meeting. You've said that your methodology
19 will be to reach your decision first and then look at the
20 legislation. That seems to be a perfectly reasonable position.

21 Whatever position you take may well be relevant to
22 the legislation, and in light of that, I want to tell you that
23 the Commerce Committee is meeting on June 6th to mark up the
24 NRC authorization bill as reported by the Energy and Power
25 Subcommittee and the Udall Committee. And the Senate bill, the

1 best estimate we can get is that it will be on the floor in
2 two weeks, but conceivably could be on the floor next week.
3 So I thought you ought to have that status.

4 COMMISSIONER KENNEDY: What is the status of the
5 relevant legislation, that is, relevant to this meeting, the
6 specific language?

7 MR. BICKWIT: The specific language? Well, the
8 bills I have referred to contain the specific language.

9 COMMISSIONER KENNEDY: That's the point. And will
10 be on the floor with that language in them?

11 MR. BICKWIT: That's right, on the Senate side.

12 CHAIRMAN HENDRIE: Have we got the Committee Report
13 from the Senate?

14 MR. BICKWIT: Yes.

15 CHAIRMAN HENDRIE: We do? Would somebody send me
16 one?

17 MR. BICKWIT: I think you were copied in on the
18 memo that sent it to me.

19 CHAIRMAN HENDRIE: Maybe my request should be
20 addressed to my assistants, then, somewhere in the office. I
21 got the House side, but I think I've got the thing pretty well
22 laid out

23 All right. Thank you very much.

24 (Whereupon, at 11:35 a.m., the meeting was adjourned.)