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NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

VOLUME II

NRC/TMI SPECIAL INQUIRY

DEPOSITION OF LEE GOSSICK

Place - Bethesda, Maryland

Date - Tuesday, 23 October 1979

Pages 1 - 46

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Deposition of: :
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 LEE GOSSICK :
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NRC/TMI SPECIAL INQUIRY

VOLUME II

Room 6716
Maryland National Bank Building
7735 Old Georgetown Road
Bethesda, Maryland

Tuesday, 23 October 1979

The deposition of LLE GOSSICK was reconvened at 1:30
p.m., pursuant to notice.

APPEARANCES:

Mr. Robert Bernero and Mr. William Ballaine, Esq.,
Appearing for the NRC/TMI Special Inquiry.

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C O N T E N T S

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WITNESS:

Examination by:

Page:

LEE GOSSICK
(Resumed)

Mr. Bernero & Mr. Ballaine

4

EXHIBITS:

Identified:

[None.]

P R O C E E D I N G S

1
2 Whereupon,

3 LEE GOSSICK

4 resumed the stand as a witness and, having been previously
5 duly sworn, was examined and testified further as follows:

6 EXAMINATION [Continued]

7 BY MR. BERNERO:

8 Q Good afternoon, Mr. Gossick.

9 As you remember, this is a continuation of your
10 previous deposition for the Special Inquiry, which took place
11 on September 28, so I will not administer the oath to you
12 again.

13 I would, in fact like to start out by going back
14 to that deposition on September 28th, and there was a
15 question that was asked at that time. I'll read the key
16 passage here and then if you wish to look at the transcript
17 yourself, you may.

18 "First of all, do you think that the Commissioners
19 should play any role in emergency response other than what
20 might be termed a policy role, a policy decision-making
21 role?"

22 And your answer was: "Well, I think as a result
23 of our experience at Three Mile Island, if we were to have
24 another such occasion in anything like a similar nature.
25 it is my belief, based on this experience. that the

1 Commission probably would designate the Chairman or whoever
2 was present and best able to act as a single person,
3 responsible for doing whatever was necessary to deal with
4 the event."

5 Do you recall that?

6 A Yes, I do.

7 Q Now since Three Mile Island, we have had at least
8 one noteworthy incident. It involved Prairie Island. Has
9 it happened as you forecast it, the Commission designated
10 someone?

11 A No, they did not. We notified -- I say we, the
12 Commissioners were notified by the incident response center.
13 I believe two of them were in the course of taking deposi-
14 tions and again I think based on early information that we
15 had, it didn't appear at the outset to be something of
16 great seriousness, but nevertheless none of the Commissioners
17 came to the center, nor do I recall any phone calls from
18 any of the Commissioners into the center during that period.
19 during that event.

20 Q Well, in that event, then, would you say that
21 the EMT was operating as the manual, or generally as the
22 manual describes?

23 A I would say it was operating generally as the
24 manual describes, but as updated based on the experience
25 that we'd had from the Three Mile Island, and some of the

1 discussions and developments between the TMI incident and
2 the Prairie Island incident.

3 Q When you say updated, do you mean formally
4 revised paper, procedures, or something like that, or --

5 A No, I wouldn't say the Red Book itself had been
6 overhauled. There, of course, were differences quite apart
7 from the communications system that's been put in, but
8 primarily it was a matter of briefing procedures. Immediate
9 contact with the senior company person at the site as well
10 as the corporate president. We reached him to find out who
11 in fact was, you know, in their mind the guy in charge at
12 the site. And there were these contacts made regularly
13 through the event.

14 Q Excuse me, Mr. Gossick. Those contacts, were
15 they being made by the EMT?

16 A By the EMT, that's correct.

17 Q So the EMT was in direct communication with plant
18 management?

19 A Right. The first thing I did practically was
20 when I arrived there, I told Mr. Stello to contact the
21 company president. I've forgotten now the name of the
22 city. wherever they are located, Minneapolis, St. Paul, I
23 guess and, one. verify that they were aware of what was
24 going on and also get for us in no uncertain terms who the
25 man at the site at the plant was. that was in charge.

1 That happened, and as a consequence, we were in
2 contact on two or three occasions during the evening with
3 Mr. Watzel, I believe his name was, who was the site manager.

4 Q Who was the individual who spoke to the plant
5 management there?

6 A I asked Mr. Stello to talk to Mr. Watzel because
7 I figured that he was perhaps best qualified to discuss
8 the technical level details that the plant manager should
9 have and the kind of information we wanted to have. Mr.
10 Case and I were present on the phone listening to hear the
11 same conversation.

12 Q You said Mr. Case was there with you. Did Mr.
13 Denton come to the center during that incident?

14 A He did. I believe it was after our initial phone
15 call to the utility. It was -- I don't recall exactly the
16 time he came in, but it was a bit later

17 Q When you say "a bit," could you approximate?

18 A Half an hour, something like that.

19 Q Of that order?

20 A I just don't remember the exact time.

21 Q Were any especial steps taken with respect to the
22 regional inspection office response to that incident?

23 A Yes, the very first thing, in fact, before I --
24 well, while I was en route to the center, Mr. Stello had
25 contacted Mr. Keppler or tried to contact Mr. Keppler

1 and was prepared to send him to the site. He found that
2 Keppler was in the air somewhere Chicago and Pittsburgh on
3 his way to some business trip. I believe Gen Rcy, the next
4 person who would normally have been considered ranking
5 person, was also away from the office.

6 Consequently they settled on another chap, I
7 don't recall his name now, who was the most qualified and
8 senior person from the region to get on the way up there
9 immediately with some of these people.

10 Q Pardon me, did you wish to add?

11 A No, no, go ahead.

12 Q In the course of events that ensued, was the
13 EMT relying on the description of events provided by the
14 licensee or by the regional inspection office?

15 A The information that we were getting was both
16 through the IRACT 2, our resident inspector, and the utility,
17 but we talked both to the -- I don't recall the name, but I
18 believe there was a resident inspector at the site and, also,
19 of course, EMT, as we indicated, was talking directly to the
20 plant manager. So the information was coming from both sides.

21 Q From both channels?

22 A Yes.

23 Q Do you feel then that in general substance the
24 EMT as presently constituted in the manual is a satisfactory
25 management organization?

1 A I think there are some problems with it. I think
2 that certainly improvements can be made, but I really think
3 that there is a more fundamental question involved with
4 regard to the -- are we including the interim arrangement
5 that we now have that involves the Chairman and so forth, or
6 not?

7 Q Well, you can include that if you wish.

8 A Well, the reason that I say that I think there
9 is a problem, that unless it's addressed, it's going to, I
10 think, continue to give difficulty, and that is there is,
11 as you know, a continuing question within the Commission about
12 what the relationship of the EDO, the Commissioners, and
13 the major program offices should be. And is, for that
14 matter, it is not clarified. It's been something that even
15 Congress tried to put a patch over by, you know, saying
16 that the program office directors are going to keep the
17 EDO informed on things that are going on. That has still
18 not been implemented.

19 I'm not trying to put, you know, great emphasis
20 on that fact in itself, but the point that I am getting to is
21 I believe that there is going to be a tendency for that kind
22 of uncertainty as to who works for who to carry over in the
23 time of a crisis in the EMT.

24 Certainly I'll do my best to keep it from
25 happening, but I think it is something that's more fundamental

1 than just the manual chapter or the manual on emergency
2 management team from the way it operates.

3 Q Mr. Gossick, at the present time, your staff
4 enjoys the services of Mr. Stello in the Office of Inspec-
5 tion & Enforcement, who is very familiar with reactor
6 safety and design and, of course, is responsible for inspec-
7 tion and enforcement.

8 From your description, it appears in that the
9 Prairie Island event you designated him as a logical choice
10 for the person to talk to the management. This brings up
11 some suggestions that have been made to us, that perhaps
12 rather than constitute the EMT on ex officio lines where the
13 EDO is there because he is the director, the I&E is there
14 because he is the director of I&E, that perhaps it would
15 make sense to periodically review the document and select
16 from top management on the basis of their unique histories
17 or personalities.

18 Is this a reasonable approach, in your view, to
19 preselect?

20 A Yeah. I think that that would be done. I think
21 our present arrangement except for this problem that I just
22 mentioned with regard to the role of the EDO --

23 Q The clarity of the role?

24 A Plus also the fact that I'm not a reactor expert
25 in any sense. I'm not even a reactor or nuclear engineer.

1 I think it makes sense to pick the guy that is most capable
2 of understanding the problem and dealing with it, at the same
3 time recognizing that whoever you put in charge does have
4 to be somewhat broader than that in being able to deal with
5 relations with the other agencies that may be called in to
6 support the interface with all the other people that get
7 involved in something like this.

8 But I believe that this is really reflected in
9 the arrangement now where we have a reactor accident, it will
10 be Mr. Denton and myself. I will be there as the director
11 of the EMT. If I'm not there, Mr. Denton is in charge. If
12 it's another kind of accident involving a fuel cycle facility,
13 it's Dircks, and if neither of those are available, it's
14 Mr. Stello, so I think in fact we have taken people with
15 the best skills -- I'll leave myself out of this argument
16 for the time being -- and put them so that they will be
17 there and either be in charge or be in direct support of the
18 EDO or, for that matter, the Chairman, if he's there in his
19 at least interim role as the Commission on the site, and
20 in charge of the response to whatever the incident is.

21 Q Another thought comes up. I understand that
22 in the Prairie Island response, the IRACT was subdivided
23 consciously, specifically, into plant operations, radiological
24 or environmental impact, and long-range problems. Is this
25 correct?

1 A It was basically the same structure that's in the
2 book and was in effect for Three Mile Island. We had the
3 plant operations, the health physics or, you know, the health
4 effects business.

5 We did ask Darrell Eisenhut when he got over there,
6 working with some of the other NRR people who had come to
7 help staff the IRACT, to think about the what-ifs, you know,
8 the future developments and problems that might develop. But
9 I don't recall anything being different as far as the basic
10 structure of the IRACT from what's in the book or what had
11 been set up before.

12 Q Well, a suggestion has been made that since the
13 IRACT represents relatively a larger body of people dedicated
14 to gathering information and analyzing information in
15 specialized areas, that it might make sense for one senior
16 individual in each of the primary areas to sit in the EMT
17 as a direct technical advisor to the EMT.

18 For example, a senior health environmental
19 physicist or whatever one might call that sort of person,
20 and a senior reactor safety expert, just to act as a
21 direct technical advisor to EMT.

22 Does this seem reasonable to you?

23 A Well, you say as members of the IRACT, but
24 sitting in the EMT. or just members of the Staff?

25 Q No, no, they would be, if anything, carried as a

1 supporting portion of the EMT.

2 A Okay.

3 Q They would not be members of IRACT.

4 A I think that's in essence the mode we got into at
5 Three Mile Island, where we had Brian Grimes sitting in the
6 EMT very often and discussing with us, you know, what we
7 were hearing in the way of information.

8 Mattson was there with regard to other aspects
9 of the problem.

10 No, I think the EMT, particularly in something
11 other than, let's call it a semi-serious sort of event,
12 is going to need more than just the three members of the EMT
13 there. They've got to have some help, but they can't be
14 taken away at the expense of the people out here who are
15 getting the information and bringing it in to the EMT. I
16 see no problem -- in fact, I don't see anything greatly
17 different than the practice that's been developed here.

18 Q Well, in effect, what you seem to be saying, that
19 one would draw from the IRACT ranks as appropriate really?

20 A No. I'm not saying that. I'm saying that you
21 need additional senior highly qualified people that are
22 experts in such areas as the health effects, or reactor
23 physics, or core, whatever, you know; that depending on the
24 nature of the beast. you may not recognize the moment you
25 activate the center what you're going to need, but you

1 ought to get them very quickly and have them there to help
2 and advise EMT as appropriate. But I wouldn't take them out
3 of the Staff that's forming up the IRACT, which has their
4 own problem of, one, getting information and getting answers
5 to questions that the EMT may have, or their advisors.

6 I'm saying that they are not a part. brought out
7 of the IRACT staff. I think these are additional people
8 that one would bring in to help support the EMT.

9 Q I'd like to follow up on the comment you made a
10 little while ago about the uncertainty of the role of the EDO
11 in this agency.

12 Is it fair, in your opinion, to say that the EDO
13 is weakened by the ability of the individual offices to
14 communicate directly to the Commission under our statute?

15 A Let me start out by saying that I think that
16 the Energy Reorganization Act structure, that is the structure
17 set up by the Energy Reorganization Act, and the relationship
18 that is stated there, is just a plain unworkable system.

19 It tries to, I think, do too much and ends up
20 doing too little. Let me just give you a few words on this.

21 I believe that the major office directors,
22 certainly the statutory offices that are set up in the act,
23 clearly have to be you know, appointed by the Commission.
24 They serve at the pleasure of the Commission. I don't know
25 how you can do that and knowing that the Commission may fire

1 them, they have that authority, but then say, "Okay, Mr. EDO,
2 you are in charge, you're going to write these guys'
3 performance appraisals. They will report only through you,
4 or we'll make damn sure that any time they are back and forth
5 in communication with the Commission directly, that you are
6 informed as to the substance and why, you know, it was
7 necessary to not bring you in, in the first place."

8 It is just, I think, an unrealistic situation
9 to expect one guy sitting on top of the entire staff here
10 doing the whole schmear, if you will, of management for the
11 entire spectrum of activities going on and being the funnel
12 that all of this goes through to the Commission.

13 That really, in my mind, is the head of the
14 agency, if you're going to do that, and the Commission is,
15 you know, something else. I think this is one of the
16 arguments that speaks for the single administrator kind of
17 operation.

18 Now if that was to be the arrangement, the EDO
19 can't possibly do this without adding significantly to the
20 staff that's available to him. I mean right in here to help
21 advise and help break up parts of the problem in order to
22 keep it from becoming an absolute bottleneck.

23 I suppose that could be done, but I don't think
24 it will ever work under the Commission, because the Commission
25 just by its nature wants to get directly into things with

1 each of the offices and in some cases, I'm not too sure that
2 that isn't a preferable way of dealing. But you can't then.
3 by allowing this direct back and forth with no requirement
4 for the program directors to keep the EDO advised of what's
5 going on or what he's discussing with the Commissioners,
6 and yet at the same time expect the EDO to be, you know,
7 fully aware of all of the problems and the interactions
8 between the parts of the Staff, and to be responsible for
9 the whole show.

10 So I just think that it frankly is not a
11 workable situation that the law has laid out, and the fix
12 that the Congress tied to put on it of saying, "Ah, but
13 you know, contrary to Section 209, where it says EDO
14 won't stop one of the office directors from talking directly
15 to the Commission if he feels it necessary to discharge his
16 responsibilities, we'll fix that by putting a provision in
17 there that he must keep the EDO currently and fully informed,"
18 or words to that effect.

19 It's a bandaid. That's all it is. It doesn't
20 address the real problem.

21 Q Let me seek your opinion on what may be a
22 corollary problem. The legislation designates the
23 Chairman as the chief or principal executive officer. Do
24 you feel that the same is true in that respect, that the
25 Chairman is not able to function in that fashion?

1 A I've forgotten what section of the Atomic Energy
2 Act it is, but there is something in there that says all
3 Commissioners are created equal, or whatever the words are,
4 and as long as that's in there, I don't think you're ever
5 going to get this or any other bunch of Commissioners to give
6 up part of what they consider to be their charge and
7 responsibility, and let a Chairman really act as the chief
8 officer, if you will, of the agency.

9 So I really think that that clause that was put
10 in, or amendment to the Energy Reorganization Act after the
11 fact. which has led to no little consternation on the part
12 of some of the Commissioners, again was kind of a bandaid,
13 and it didn't really address what I believe to be the
14 fundamental problem, and that is the role of the Chairman
15 as opposed to the other Commissioners. and he is more --
16 if it's going to work, he's got to be not just one of five,
17 equal to each other.

18 Q Am I correct in summarizing your view, then, that
19 it would take a legislative change to enable either the
20 Chairman or the EDO to be truly effective management?

21 A I think that's absolutely right.

22 Q Let me go to the present management practices.
23 As we understand it from talking to you, and from studying
24 the various sources available, the EDO does not attempt or
25 purport to provide technical management or direction of the

1 line office staff, but administrative management. Is this
2 correct? And a budgetary and administrative management is
3 what is provided by EDO?

4 A I guess I'd ask you to see if you can separate
5 for me a little more cleanly what you would term technical
6 management and administrative management.

7 Q By technical management, I would intend filtering,
8 turning back, or altering, let's say, safety licensing
9 positions or something like that.

10 A Certainly in that context, that's correct.
11 I make no pretense of being able to get in and second-guess
12 the offices on the technical proposal that's being made.
13 It is my job, however, and I consider it one of the functions
14 here, to make sure that whatever is being proposed isn't --
15 well, that it's coordinated, that the other staff input is
16 made, that there's a resolution of differences in technical
17 arguments.

18 So, with that distinction I'd say that your
19 question is essentially yes -- the answer to the question.

20 Q Well, Mr. Gossick, if we turn aside for a moment
21 from the day-to-day events and consider periodic evaluations
22 of office performance, and taking an individual office,
23 the EDO conducts what are called PARs, does it not?

24 A That's correct.

25 Q Could you please define for me what the scope of

1 a program appraisal review or PAR is?

2 A All right. The system of review goes back, oh,
3 early on in the creation of NRC, I don't recall exactly
4 when we first laid this out, but the intent was to get an
5 overall programmatic look at what each office was doing.

6 One of the earliest attempts that we had was
7 simply for a branch-by-branch, division-by-division, almost,
8 discussion of what the groups were doing, and we found
9 that there wasn't a very satisfactory way of getting ahold
10 of the problem.

11 We later established a series of what we called
12 objectives, management by objectives, and that was a trick
13 name which took areas of activity, such as the one you are
14 very familiar with, decommissioning, and tried to get it
15 down and laid out so that we could see a program milestone
16 and types of efforts going into reaching the objective of
17 that particular program.

18 Each office has, you know, a variety of these
19 things. They range all the way from relatively minor
20 administrative kinds of things, like the document retrieval
21 system that the administration is handling, to the whole
22 waste program that Bill Dircks has.

23 So, in any event, the program assessment review,
24 as it's now constituted, has been up until just now, when
25 we are in the process of revising it further, is to take a

1 look at these programs in each of the offices and look at it
2 from a total sense. Wherever there's interface with other
3 parts of the agency, some other office's input, try to find
4 out, you know, what the problems are that affect schedule
5 or resources going into it, and to try to ascertain whether or
6 not we're doing what we said we would with the money that
7 we defended in front of Congress.

8 Also at the same time we look into the more or
9 less routine matters of equal opportunity, equal employment
10 opportunity staffing, obligation of funds, and more or less
11 normal management parameters that one is interested in looking
12 at.

13 We are currently, as you probably know, revising
14 this to center the program assessment reviews on the items
15 that are being tracked in decision unit tracking systems,
16 so-called DUT system, and I believe this Friday is our first
17 cut at using NMSS as a guinea pig in reviewing their program
18 more or less within the confines of the office. That will
19 be done initially, but then after we've gone through the
20 offices on that basis, we're going to start cutting it cross-
21 wise, using the same decision unit tracking system, so we
22 can take waste management, NMSS is the lead, but there's
23 research, there's standards, there are people that are
24 involved, and all the office directors are going to be
25 present, and we're going to look at the whole program that

1 affects the waste management thing and find out where
2 problems are that have to be addressed.

3 We hope to do this more frequently than we've
4 done in the past, about every two months, as opposed to about
5 every four months for each office.

6 Q In essence, the scope that you have described
7 is what one might call a total management appraisal of either
8 : issue or an office performance, at least an attempt at
9 that?

10 A We hope to get the most significant and major
11 parts of the staff effort encompassed in this review program.
12 Obviously we are not going to catch every bit.

13 Q You have already indicated that in your view
14 the legislation sets up the EDO in a rather parlous position
15 of rather uncertain authority or jurisdiction.

16 Would it be fair to say that the conduct of the
17 PAR review is done by the EDO on behalf of the Commission, or
18 on behalf of the Commission EDO structure, insofar as that
19 directs the day-to-day operations of the agency?

20 A I'm not sure I have the point of your question.

21 Q The point of my question is, is the PAR review --
22 is the PAR an activity for your benefit as EDO, with essentially
23 no consideration of the Commission, or do you conceive of that
24 as properly involving the Commission in some way?

25 A Oh, all right. I don't look at it as just simply,

1 you know, my own interest. It's the whole agency's interest
2 to find out are we tracking on schedule against, you know,
3 milestones, objectives that we had set out for ourselves.
4 Whether I do it or not, somebody has to do it, and I think
5 that the Commission has generally indicated by past history
6 that, you know, they just have not gotten into this.

7 We have offered to take the briefings to them,
8 or have them join us. We do send them copies of all of these
9 PAR reviews and briefing charts, and a little summary of the
10 points that come out every week, when we have one of these
11 PARs, this goes down to the Commission.

12 I can't recall a single feedback from any of the
13 memos that we've sent down there, or any of the PAR charts
14 that have gone down; not to me directly, at any rate.

15 I'm not saying that it's not because they're not
16 interested. I think their attitude is that, well, you know,
17 Gossick is trying to make sure that we are spending our money
18 and using our people the way we said we were in front of
19 Congress, if there's big changes, so we'll know it and be
20 able to keep track of it. And they've been content to let
21 it go on that basis.

22 Q You say they don't give you feedback on the
23 documents you have sent to them. Do they ever come as
24 individuals to the PARs?

25 A I think I can only recall on two occasions when

1 we had, early on in the program, when we had the PAR reviews
2 with Commissioners present. That's when Ken Chapman was here,
3 and I don't recall what the other one might have been. I
4 think it might have been an I&E PAR. But they were no more
5 than a couple, as I can recall, occasions where we were able
6 to get -- I believe they were meeting out here in 422, you
7 remember when we used to have those meetings, and we ran the
8 PAR briefing, and what was going on, and they seemed to think
9 it was -- well, that's fine. But they have not seen fit to
10 participate since then. I'm sure they are busy with lots of
11 other things and, as I say, I gather it's an indication that
12 they're -- you know, they know this process is going on.

13 I'm sure if it was not going on, that we'd have
14 an indication from them, you know, what is being done to keep
15 track of the effort and staff.

16 Q In your memory, have they sent assistance,
17 technical or legal assistance to sit in?

18 A Only on the rarest of occasions. We put out a
19 regular schedule, as you probably know, of the PAR briefings,
20 and that's sent downtown.

21 I think on one or two occasions there may have
22 been an assistant that showed up, but it's not the regular
23 practice.

24 Q So it would be fair to say, then, that the
25 Commission takes little or no direct part in the PAR process?

1 A I think that's correct.

2 Q Now you've been with EDO since the agency was
3 formed and, of course, I recognize that the PAR and other
4 processes related to it, has developed during that time.

5 Would you judge that in the PAR, it is the EDO
6 reviewing the performance of one office -- this is where
7 the PAR is devoted to an office --

8 A Uh-huh.

9 Q -- situation. Is it in your view the EDO reviewing
10 the performance of an individual office, or is it the EDO
11 sharing this oversight with the other offices?

12 A My intent has been to present an opportunity
13 where not only I can get a feeling for what's going on and
14 what the progress has been and what the problems are, but to
15 force, as much as one can force, the office directors to be
16 present and hear how -- what is going on, interacts with
17 activities in their own office.

18 I would say our success has been spotty on that.
19 I recognize that there are tremendous demands on people's
20 time, and it's sometimes difficult to, you know, get every
21 Friday morning people available; but by and large, I think
22 the representation is either the office director or deputy,
23 if there is one, or at least senior people from the other
24 staffs, sit in.

25 So I think that I really look at it as an equal

1 benefit, if not even more important is this interaction
2 across the Staff of knowing what's going on, quite apart from
3 at least the process of keeping me posted on what's going on,
4 and what the problems are that need to be addressed.

5 Q A little earlier you said that you do not claim to
6 be a nuclear safety engineer or some words to that effect.
7 Do you think your not being a nuclear safety engineer is
8 any significant hindrance to the conduct of management of
9 this sort, the PAR and related matters?

10 A Oh, no, I don't think so. I think anybody that's,
11 you know, had the responsibility of dealing with a sizeable
12 organization -- it's a management technique. This PAR
13 thing is an acronym, an old Air Force term that I sort of
14 brought over here and -- no, I think that a lawyer or an
15 engineer or anybody that is able to manage an effort can do
16 this, should do it.

17 Q Let's assume for the moment that the Commission
18 form of governance of this agency is retained. You said
19 earlier that there was apparent need for legislative change
20 to enable the EDO to function with any managerial strength
21 or, for that matter, for the Chairman as chief executive officer
22 to do so.

23 If you assume retention of the present form,
24 the Commission form of governance, which do you think would
25 be the more effective? To throw the burden of day-to-day

1 management to the Chairman of the Commission, or to an EDO?

2 A Well, that's a tough one, and I guess it would
3 depend a great deal on, you know, how the law can be fixed,
4 but I guess let's assume for the moment that you come out
5 with a Commission. They are something along the lines, I
6 believe, FERC has the chairman who runs the place and the
7 other whatever it is, four, seven, anyway, the other
8 commissioners really are solely involved, you know, in
9 judging cases that go through there by the hundreds and
10 thousands.

11 They don't take a role in the management, if
12 you will, of the staff, the hiring and firing of people,
13 budget or anything else. That's going quite a long ways
14 and it's a big change, I believe, in the way our Commission
15 is so prescribed in law. But in the event that you did that,
16 then it seems to me that you have got a situation somewhat
17 more anomalous to a head of an agency and a deputy, and I
18 would look then in setting up the responsibilities of the
19 EDO kind of like I would -- at least this would be my
20 inclination -- I haven't thought this through -- but I would
21 look at it in terms of how can you break this down?

22 It may be that you need more than one deputy.
23 There may be some additional key people on the top of this
24 pyramid, where you can, again depending on the particular
25 strengths and skills and interest of the Chairman, have a

1 clean understanding of those kind of things that he is going
2 to want to get in and involve himself in, from a management
3 standpoint, and those things which he's perfectly willing
4 to say, "Okay, EDO, that's your baby, you just come to me
5 if either you've got a problem or when I find that you've
6 messed it up and I have to tell you about it."

7 I don't think that it's necessarily realistic to
8 say we can break down, you know, cleanly beforehand that
9 division. It will depend so much on the nature of the guy
10 that you've got in this so-called EDO role, or whatever you
11 call that position, and on the characteristics and strengths
12 and interests of the Chairman that's in that spot.

13 But I think that, you know, could be made to work.
14 I'm not too sure that -- as I say, I haven't thought through
15 how it would go, going beyond that, where you had the
16 single administrator and still tried to deal with things
17 like the boards and the panels and all of the other
18 adjudicatory kinds of responsibilities the Commission,
19 at least under its present law, has to face.

20 Q That last question, in my words, was couched
21 as if the legislative need was to strengthen either the
22 Chairman or to strengthen the EDO. In a way your response
23 suggests to me that perhaps the legislative need is to weaken
24 the Commission. Would you consider that a fair way to put it?

25 A Well, I would be careful about how I interpreted

1 the word "weaken." Weaken in what? I think to lessen
2 their involvement in certain aspects of running the agency,
3 if that's what you term weaken, yeah, I think --

4 Q To weaken their administrative --

5 A Yeah.

6 Q -- authority --

7 A Yeah.

8 MR. BALLAINE: Your analogy was defer --

9 THE WITNESS: Yeah, right.

10 MR. BALLAINE: -- some Commissioners just sit
11 in final judgment --

12 THE WITNESS: Exactly. Exactly.

13 MR. BALLAINE: That's what he's interested in.

14 BY MR. BERNERO:

15 Q You would agree, then, that the legislative
16 need is to consider ways to dilute or to remove the day-to-
17 day administrative authority of the Commission, rather than
18 to somehow attempt to enhance the authority of the chief
19 executive officer?

20 A Well, let's see if we can parse it. Of the
21 other Commissioners, the Chairman has to have the total
22 responsibility for the whole agency, obviously. But with
23 that proviso, yes, I think by doing that you then can
24 allow strengthening of the relationship between the Chairman
25 and the EDO.

1 Oh, I'm not sure I'd even want to use that term.
2 I think it's a lousy title in the first place. But whoever
3 that man is, or whatever that position is, that assists
4 the Chairman, then, in running this mass of people and
5 offices and resources that is available to the agency. So I
6 think that it's sort of in between what the -- you know,
7 the extremes, what -- that you -- they weren't extremes,
8 but you're both strengthening the Chairman by giving him
9 the ultimate responsibility and taking some of that
10 responsibility away from the other Commissioners.

11 I think you thereby can permit the development
12 of this relationship between the Chairman and whatever that
13 position is called. I don't know that -- it can't be a
14 deputy chairman, that doesn't make any sense, but call it
15 executive director, if you will, but more importantly, the
16 relationship then with the other people on down the line
17 on these major offices and staff offices.

18 Now that all assumes you keep the Commission.

19 Q Well, that brings us to our favorite question.
20 As you undoubtedly know, we have read a lot of reports and
21 dug things out of the files and talked to people. We
22 find that in 1962, then Chairman Seaborg of the AEC joined
23 with the entire Commission in recommending to the Office
24 of Management & Budget that the Commission be abolished
25 and replaced with a single administrator.

1 The Ash Report in 1971 spoke long and hard about
2 the difficulties of the Commission form of governance.

3 You have lived a difficult period of five years
4 as the EDO for the Commission. If it were up to you,
5 would you retain the Commission form of governance?

6 And please amplify on that, why or why not.

7 A I have tried to argue that one out in my mind.
8 I find that there is some experience that I guess is lacking
9 in which to base an answer that I would be comfortable and
10 sure of, and that missing piece of history or information
11 that I think would be useful is to be able to identify another
12 agency that has the responsibilities or range of responsibilities
13 that the NRC presently has, and which has carried out under
14 single administrator form of governance.

15 I guess some people would point to the FAA as
16 being fairly close. I'm not too sure that's a good parallel.
17 The thing that concerns me is that with nuclear energy, the
18 uses of nuclear material being in the state that it is, I
19 think that there is great merit in having differing viewpoints
20 brought to bear on policy problems of a policy nature.

21 Sometimes our difficulty has been with great
22 divergence of viewpoints on things that are not really policy,
23 but are sort of administrative matters that should be
24 settled, you know, in a minute. It's a mixed bag, and I
25 think it's more than anything else something in the nature

1 of a judgment that our administration and our Congress is
2 going to have to address.

3 It starts with what the administration's posture
4 and thrust is on the use of nuclear energy. You know, if
5 you really feel that it's important and you want to press on
6 with it, and you want to make sure that you don't, you know,
7 take the chance by putting a single person in there -- now,
8 of course, this would depend on where he is. I don't know
9 how he can be an independent agency if he's a single person.
10 I don't believe there is such a beast, is there?

11 Q No, presumably it would be an executive branch
12 of some sort.

13 A It would have to be in the executive branch, and
14 I guess that I must say I'm not terribly impressed with what
15 I've seen on the -- you know, the DOE side of the fence, in
16 the way of management, and getting on with national objectives.

17 So I find it a very difficult one to really come
18 down on, and I think that -- I'm sure this whole history,
19 you know, of Commission versus something else, people at the
20 time have these same kind of qualms and in arguing, you know,
21 I find it strange that the Commission still exists after all
22 of these arguments. There must be some fairly good ones
23 or some reasons that have kept it from, you know, switching
24 over to the single administrator kind of management.

25 I really don't know that I can honestly say I've

1 made up my mind on that. I think maybe with some more in-
2 sight such as the Kemeny Report and certainly not the GAO
3 report, and what you people come up with will help me make
4 up my mind, but right now I don't think I can call the shots.

5 I see arguments both ways.

6 BY MR. BALLAINE:

7 Q By the way, the example I always hear is the EPA,
8 and I imagine you've given thought to that. In what respect
9 do you think that that's not a model for justifying the
10 single administrator role?

11 A Well, I guess the difference that I see there is
12 while they have the responsibility of protecting our environ-
13 ment, we have the same responsibility, of course, with regard
14 to those things which we deal with, but we've also got the
15 responsibility of public health and safety in a -- I believe
16 some people would argue with this -- in a somewhat more vivid
17 nature.

18 That is, we're dealing with the safety of an
19 industry, nuclear power plants, that are involved, you know,
20 in helping meet our energy problems.

21 Some people would say the EPA thing is a clean-up
22 of, you know, past conditions. There's a little difference
23 in the nature, but structurally I guess they deal with a lot
24 of the same things. I don't know that they have anything
25 comparable to the hearing process, the hearing boards on

1 individual cases.

2 Well, I guess they do have hearings on like some
3 of the Seabrook business, on the water permit or whatever it
4 was. But I somehow feel that there is a fair difference,
5 and I guess maybe I'm not able to tell you why I think there is,
6 but that's just my general impression. It's a different kind
7 of thing we're dealing with.

8 BY MR. BERNERO:

9 Q Mr. Gossick, you cited the Commission as a source
10 of different viewpoints. On a controversial issue like nuclear
11 power, is the Commission form of governance, or the
12 Commission in that form of governance a unique thing, providing
13 something that you can't get out of public comments,
14 Congressional oversight, public hearings, the gamut of things
15 that are available to regulatory agencies?

16 A Oh, I think there is a difference. Sure, there
17 are all those tools and methods for getting public input,
18 but you finally get to the -- you know, the last place on
19 the desk where the sign is, and somebody makes a decision
20 one way or another, and I have the feeling that there are
21 enough issues that, you know, get to that point in this
22 Commission, as well as others, where depending on the inclina-
23 tion of the guy in charge, either, you know, one extreme
24 or the other, that depending on who that person is, all of
25 those decisions over a given period of time are going to

1 reflect sort of the main results in his own thinking and
2 his own inclination.

3 In other words, you know, a real pro-nuclear
4 type in there is going to make a bunch of decisions which in
5 my own view probably will be a disaster for the future of
6 using nuclear energy in this country, just because they
7 might tend to go too far.

8 On the other hand, if you get someone who is, you
9 know, very, very opposed to it, you know, sometimes
10 responsibility tempers one's views, but I still believe --
11 and I wouldn't want to even come up with an example -- but
12 I believe some of the decisions that have been made by this
13 Commission on controversial subjects are probably sounder
14 and better decisions by the benefit of, you know, five
15 brains working on it, and some compromising that goes on.

16 Sometimes, you know, people say, well, a
17 compromise is probably the worst of all solutions. I don't
18 believe that, in this case. I really think that there is an
19 awful lot of decisions made, or that could be made in this
20 agency, that don't necessarily have to go that route.
21 But on those controversial policy kind of questions, where
22 there's a wide spectrum of views, there is a wide range of
23 input from the public, there is different views in the courts
24 and so forth, anyway, I do believe that I would look upon,
25 you know, just turning that over to a single individual as

1 the head of the agency with some trepidation.

2 Q That seems to bring us back to a loggerhead
3 situation. If you take the example of a regulatory commission
4 where the commission is set to one side, acting only on
5 case decisions, they are forced to deal with policy and
6 individual case decisions, which is admittedly a difficult
7 way to do it.

8 Or if you allow them to confront and grapple with
9 policy decisions, it seems like we are drawn right back to
10 this management problem of how can you have effective day-to-
11 day management where five people are managing, or whatever
12 number.

13 A Well, I think that in the distinction between
14 the other Commissioners' roles, in not only the case reviews
15 of cases and so forth, but in rulemaking and in the policy-
16 setting functions of the Commission in general, I don't see
17 why that has to get involved with the day-to-day detail of
18 the internal workings of the Staff.

19 I mean that ought to be the Chairman's business.
20 If, you know, he's got something that's either conflicting or
21 not getting done properly from a purely management,
22 administrative, whatever sense, that's a little different,
23 completely different, in my mind, than the other kind of
24 duties that would perhaps be just limited to the other
25 Commissioners.

1 Q So that in your mind, it's segregating hire-and-
2 fire capability, or authority, over the principal staff,
3 the day-to-day management, day-to-day decisions, in the
4 hands of a line organization?

5 A Right.

6 Q And rulemaking, policy statement development, that
7 sort of thing, as a commission.

8 BY MR. BALLAINE:

9 Q Let me ask -- I have some bizarre interest. I
10 want you to take the five Commissioners we have now, and
11 won't go by names: Do you think that you would get the
12 potential wide or disparate swings in attitude toward
13 nuclear energy that you talked about a moment earlier if we
14 selected as the one administrator each of the five people
15 who are now Commissioners?

16 I guess what I'm saying, are there any two who
17 are absolutely the opposite ends of the spectrum that you
18 testified to?

19 A I think there are.

20 Q There really are.

21 There is one Commissioner, without naming names,
22 who you'd call strongly anti-nuclear?

23 A At least for some time I may have to continue
24 working for these people.

25 Let me say it this way: I think there are

1 distinctly differences between the various Commissioners
2 with regard to the overall, you know, benefits and dangers, if
3 you will, of the nuclear power thing. And you have a
4 somewhat different kind of agency depending upon which one
5 of those guys you put in as the chief administrator.

6 Q Somewhat different or very different? You were
7 suggesting earlier very different.

8 A First of all, I think it would be very different --
9 and let's separate the characteristics of any one of the
10 Commissioners. Just by structure it would be a different
11 operation.

12 Q No, I don't mean that way. I mean in the focus
13 of the --

14 A Now, going to the five Commissioners that you've
15 got, depending on who you made the Chairman, with this new
16 mantle of additional authority, it can again have a difference,
17 yes. But whoever appoints that chairman is going to have to
18 recognize this, and that's part of the process.

19 Q When we last deposed you, sir, I think we asked
20 if you could check back with the President's Commission
21 to see if by some remote chance, they had any transcripts.

22 A I did. They do not. We asked -- I don't
23 recall the name now, but they said they didn't make any
24 transcripts or any write-up of the notes.

25 Q Okay. I think we made a similar request as

1 respects a possible transcript of the interview by someone
2 from Nation Magazine.

3 A I did, and he was back in here, and he is -- he's
4 got the tape. In fact, he's got it transcribed, but he asked
5 me not to give it to you, because he felt it was part of his
6 source material and he didn't want to give it up, and he
7 said if they really insist, I guess I'd have to ask that
8 they get in touch with me, and I'll be happy to give you his
9 name and address, or name and phone number. It's up to you.

10 They came back in. It was more of my listening
11 to them than it was the other way around, but they were in
12 here last week, I guess, for a little while.

13 Q From your last deposition, I think it reflected
14 two situations which I'll describe in which during the
15 TMI response -- in which it might have seemed logical to
16 call some senior utility official. The first situation I
17 have in mind is at or about the time Wednesday afternoon,
18 when Mr. Stello was concerned about superheat and core
19 recovery, and you were party to a telephone conversation
20 with Commissioner Gilinsky, advising him about that situation.

21 Our understanding is that the senior utility
22 official was not called at that time, to emphasize Mr.
23 Stello's concern.

24 The second situation is Friday, when Dr. Mattson
25 indicated he had very serious concern that the utility might

1 depressurize, and if that were done, that would create a
2 serious problem because of the existence of a hydrogen
3 problem.

4 As near as we can tell, there again nobody
5 specifically got on the phone and said, well, damn it,
6 let's tell somebody at the utility to be sure they don't
7 do it.

8 I wonder whether you have any insight as to why it
9 was that no call was placed.

10 A I've thought about that, because it certainly is a
11 glaring kind of thing, why didn't it happen, and I guess,
12 you know, one would have to say nobody thought of it, but,
13 you know, that's a stupid answer.

14 One of the problems, I believe, that developed was,
15 look, you know, Herbein's over making a press release, and
16 we already know that what he's saying doesn't seem to be
17 quite in g with what we're understanding of what's going on,
18 and it may have just been a feeling that developed that,
19 look, I'm not interested in talking to their management
20 people, I want to know what's going on in the reactor core,
21 you know, and I want to talk to the people that are closest
22 to that that I can get to.

23 Now that probably was a bad line of thought, but
24 there should have been somebody in the supervisory level
25 that we should have been talking to. That's Wednesday.

1 Now I want to set Friday away, because that's a
2 different situation, I believe.

3 Clearly someone should have called the senior
4 guy on site. I guess we talked to the senior guy on site
5 through the control room, at the time early on, but he was --
6 well, maybe not, that was 7:00 o'clock, so I guess by that
7 time the station manager was onboard.

8 But, no, I think that was just a plain glitch
9 that I can't understand. I guess I was assuming that the
10 IRACT people were talking to the responsible people that
11 were in charge of that operation for the utility, and that's
12 where we were getting our information, and there should have
13 been more checking as to hey, who are you talking to. Well,
14 we're talking to the senior reactor operator or the
15 shift supervisor, or whoever.

16 Well, why weren't we talking to Herbein. Now,
17 later Thursday, when Vollner and company went up there, at
18 least my own understanding was that this was, you know,
19 something that would logically happen is that he'd get ahold
20 of the -- in fact, for that matter, once our people from
21 the region got there, there would be interfacing with the
22 appropriate level of management folks.

23 But, no, it's a troublesome area, and that's why
24 I say one of the very first things, you know, learn the
25 hard way and I'm not sure just what this proves. But I was

1 impressed the other night when we talked to Mr. Watzel on
2 Prairie Island, boy, he was on top of it. He really had
3 the thing, you know, under his cognizance, and he was doing
4 what -- and seemed to be completely onboard.

5 Fortunately it turned out to be a nothing event.
6 But it's one of the things you can well ask, why did that
7 happen.

8 I'm not sure what would have happened, had we done
9 so, but because, you know, the first day we -- there was
10 confusion up there, it might have added to our confusion,
11 and it might have cleared some up. I just have no idea which
12 way it would have gone. But it's certainly a glitch.

13 BY MR. BERNERO:

14 Q Mr. Gossick, in that regard, as you recall, very
15 early on the communication about what was happening in the
16 plant was coming from plant staff to the NRC, and at 10:00
17 o'clock or shortly thereafter, the line of communication
18 became direct contact with our people on site, our Inspection
19 & Enforcement people.

20 Did you feel a reluctance to challenge their
21 efficiency in that communication because there were expressed
22 frustrations that by the time you explained to our field
23 communicator and he explained to his opposite member at the
24 other end of the line, an IE man, and he in turn went to ask
25 the question of the plant operator, that --

1 A It's certainly no reluctance to question, I
2 don't think it was something that certainly wasn't brought
3 to our attention that, you know, this was becoming a
4 problem even on the part of our IRACT people or the part of
5 the people up there, but if there was a problem like that,
6 we should have known about it.

7 Q Well, Mr. Stello used the expression in one of his
8 testimonies that he impulsively took the phone for that
9 conversation he had with Mr. Hitz. Remember the 4:15 or
10 thereabouts conversation, that he acted impulsively as if there
11 was a pattern, he was feeling frustration and there was a
12 pattern that you're supposed to speak through a field
13 communicator.

14 A Yeah.

15 Q Are you saying that the EMT wasn't aware of this
16 continuing frustration?

17 A I wasn't. If others were, I can't recall it being
18 brought up, certainly not then, and I really haven't-- haven't
19 heard much about it since. But I can see where, you know, if
20 all a guy is doing -- well, now, it's got to be an NRC guy
21 on this phone, you know, transposing information through
22 another person, it would be a burden, and probably in some
23 cases could be a mistake. It's the very kind of thought
24 that I said, "Stello, you call Mr. Watzel and talk to him.
25 You talk the same language." Okay.

1 BY MR. BALLAINE:

2 Q In the last deposition session, we also
3 referred briefly to what was called the Gossick log or
4 EMT director's log. There was a formal green book, copy of
5 which you see here, which contains some notes of the EMT,
6 and I think it begins with April 4.

7 Prior to April 4, what we have is some looseleaf
8 paper. As near as I can tell, the first day the notes were
9 taken was on Friday, March 30. Does that accord with your
10 recollection?

11 A I think so. I think the other notes that were
12 taken Wednesday and Thursday, or Thursday night, we finally
13 got efficient in cleaning the place up and somehow they got --
14 if there were -- there weren't many, I don't remember keeping
15 it down like that, and it's again something that we learned
16 through this drill, that there has to be a better logging.

17 Q I was wondering if anything in particular prompted
18 you to start taking a little more detailed notes on Friday,
19 if that's what happened.

20 A If what?

21 Q What, if anything, prompted you to take more
22 detailed notes?

23 A Well, just the things that sort of, you know,
24 had taken a real turn for the worst, and, man, we'd better
25 start getting the best we can, and it was happening so fast,

1 and phone calls and stuff going on, that we started logging
2 it.

3 Q Well, I'm not going to bother to mark these
4 exhibits, but I'm just going to read the portions I'm interested
5 in. First of all, this portion of your notes that I'm
6 going to recite into the record, is this your handwriting?

7 A Yes.

8 Q And so that I understand, there are times indicated
9 in the left-hand column. These purport to be times at which
10 you received information that's written over in the right-
11 hand side?

12 A Approximately. Yeah, looking at my watch and
13 writing down the time.

14 Q So the notes would be taken at or about the time
15 indicated on the left-hand side of each page?

16 A That's correct.

17 Q It says Gilinsky directed us to set up press
18 bullpen in EW building.

19 A That's East-West.

20 Q East-West -- I guess from "high quarters" or
21 "headquarters." This is a note apparently Friday, March
22 30th. I wonder if you have any recollection what this remark,
23 what is this referring to?

24 A No, I think the reason I put it in quotes, is
25 those were the words I believe he used, and I inferred it

1 was probably Jody Powell or somebody.

2 Q But it was your recollection of what Commissioner
3 Gilinsky said, it was from high quarters?

4 A What does the tape say? Have you heard it?

5 Q Nothing like that.

6 A Really?

7 Q Nothing in particular.

8 MR. BERNERO: I don't recall that.

9 MR. BALLAINE: I never had any impression that it
10 was from above.

11 THE WITNESS: That's a transcript of the tape.

12 MR. BALLAINE: The tape doesn't indicate anything,
13 and I don't believe we have any information suggesting it
14 came from other than Commissioner Gilinsky, and that's why
15 I was interested in having that down.

16 Anyway, that's your recollection of what he said?

17 THE WITNESS: That's my recollection, yeah.

18 BY MR. BALLAINE:

19 Q Okay.

20 A I don't know why I would have written it down,
21 otherwise.

22 BY MR. BERNERO:

23 Q Excuse me. In this vein, it has been suggested
24 in one of the other depositions that there is a feeling
25 that the White House was taking over press relations, and this

1 all culminates in the President's visit to the site on that
2 Sunday.

3 Did you feel uncomfortable or bothered with an
4 apparent White House takeover of events?

5 A Well, first, I didn't really get the feeling it
6 was a takeover. I think they were certainly giving advice
7 or counsel with regard to making sure that we weren't
8 saying one thing and then -- at Three Mile Island,
9 Middletowne, and then another thing down here. But I guess
10 I didn't really get the feeling of a takeover. I mean
11 certainly the President was interested in it, it was a
12 national thing. How could he have avoided becoming involved?

13 MR. BALLAINE: Off the record.

14 [Discussion off the record.]

15 BY MR. BALLAINE:

16 Q Let me get into the record something we discussed
17 off the record.

18 I directed your attention on page 186 of the
19 original deposition. There you describe a conversation you
20 had with Jack Watson. I know there is a correction that
21 you've made, and we'll let -- it's in a letter and we'll
22 let that letter speak for itself, but what I want to clarify
23 is I take it that Mr. Watson indicated in substance that
24 bags would be delivered, but that the licensee would have
25 to pay for them, and did you then simply call back up to the

1 site to Mr. Stello or someone else, and advise them, "Look,
2 we're prepared to get this done, but you'll have to tell
3 the licensee that he will have to pay for the work"?

4 A That's correct. That's correct.

5 Q Okay.

6 MR. BALLAINE: I believe that we have no further
7 questions of you, Mr. Gossick. Because this is an ongoing
8 investigation, we may have to bring you back and ask questions,
9 but I don't think that's likely, and we want to thank you
10 very much for your patience and cooperation --

11 THE WITNESS: You're welcome.

12 MR. BALLAINE: -- on two occasions.

13 I also want to thank the reporter for her time
14 and trouble.

15 [Whereupon, at 2:45 p.m., the deposition
16 was adjourned.]

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