

COPY

Transcript of Proceedings

UNITED STATES OF AMERICA

PRESIDENT'S COMMISSION ON THE ACCIDENT AT
THREE MILE ISLAND

*D64
series
part.*

DEPOSITION OF: JOSEPH D. LAFLEUR, JR

Bethesda, Maryland

August 1, 1979

Acme Reporting Company

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UNITED STATES OF AMERICA
PRESIDENT'S COMMISSION ON THE ACCIDENT
AT THREE MILE ISLAND

DEPOSITION OF: JOSEPH D. LAFLEUR, JR.

Room 8119
Maryland National Bank
7735 Old Georgetown Road
Bethesda, Maryland

August 1, 1979
9:30 o'clock a.m.

APPEARANCES:

On Behalf of the Commission:

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On Behalf on the NRC:

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I N D E X

<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Joseph D. LaFleur, Jr.	5			

E X H I B I T S

<u>NUMBER:</u>	<u>FOR IDENTIFICATION</u>
LaFleur No. 1	5
LaFleur No. 2	24
LaFleur No. 3	53
LaFleur No. 4	69
LaFleur No. 5	73
LaFleur No. 6	74
LaFleur No. 7	76
LaFleur No. 8	79
LaFleur No 9&10	87
LaFleur No. 11	84
LaFleur No. 12	86
LaFleur No. 13	87
LaFleur No. 14	89

P R O C E E D I N G S

1
2 MR. HELFMAN: Mr. LaFleur, would you please raise
3 your right hand?

4 Whereupon,

5 ~~JOSEPH~~^J D. LAFLEUR, JR.

6 having been duly sworn, was called as a witness herein, and
7 testified as follows:

8 MR. HELFMAN: Would you please state for the record
9 your full name?

10 THE WITNESS: Joseph Delta LaFleur, Jr.

11 MR. HELFMAN: Have you ever had your deposition
12 taken before?

13 THE WITNESS: On this subject?

14 MR. HELFMAN: On this subject.

15 THE WITNESS: No.

16 MR. HELFMAN: Have you ever had your deposition taken
17 before on any subject?

18 THE WITNESS: I can't recall any specific one.

19 MR. HELFMAN: Let me go through some characteristics
20 of a deposition then. The testimony that you will be giving
21 today will be sworn, and as a result will have the same force
22 and effect as if you were giving your testimony in a court
23 of law.

24 At the conclusion of the deposition, the court
25 reporter will reduce your testimony to transcript form and

1 in the course of events you will be provided with a copy of
2 the transcript and given an opportunity to read it and make
3 changes that you deem necessary.

4 You should be aware that we would have the
5 opportunity to comment on any changes that you make and should
6 the changes be substantial, it could adversely affect your
7 credibility. As a result, it is important that you try to
8 be as accurate as you can today and that you ask for a
9 clarification of any questions that I ask that you don't
10 understand.

11 For the benefit of the court reporter, it is
12 necessary that your responses be audible since it is
13 difficult for her to record gestures.

14 It is also necessary that you allow me to
15 complete my question even if you anticipate where it is
16 going and I will try to allow you to complete your answer
17 before I ask the next question since it is difficult for the
18 court reporter to take down two people talking at the same time.

19 It is our practice at the end of the deposition to
20 recess it rather than terminate it in the event we have
21 further questions to ask you. We simply reconvene the
22 deposition. It hasn't happened yet, but we like to maintain
23 that option.

24 Do you have any questions about any of that?

25 THE WITNESS: No.

POOR ORIGINAL

DIRECT EXAMINATION

1
2 BY MR. HELFMAN:

3 Q You were asked to bring a resume with you. Have
4 you done so?

5 A Yes.

6 MR. HELFMAN: I have here the resume of Joseph D.
7 LaFleur, Jr., and I would like this marked as the first
8 exhibit to the LaFleur deposition.

9 (LaFleur Exhibit No. 1 was
10 marked for identification.)

11 BY MR. HELFMAN:

12 Q Does this resume accurately reflect your educational
13 and employment background?

14 A Yes.

15 Q Could you please describe for the record your
16 present title at the NRC and generally what your duties are?

17 A I am the Deputy Director of the Office of
18 International Programs. I am also the Assistant Director
19 for International Cooperation.

20 Q Are the duties under these two positions different?

21 A There are two halves to the office. One half is
22 cooperation, and the other is the export/import licensing
23 function.

24 Most of my time I serve in the cooperation side,
25 but I am the second ranking person in the office and serve

1 as Acting Director in the absence of the Director for the
2 whole office.

3 Q What are your duties as Deputy Director of the Office
4 of International Programs?

5 A My primary duty is the function of cooperating with
6 other countries and international groups to improve the national
7 and multilateral programs in nuclear safety.

8 The majority of my time is spent doing that, maybe
9 80 percent. Twenty percent is spent acting as director over
10 that function, that function of cooperation, plus the function
11 of Commission staff work of export and import licenses and
12 the policy work that goes along with that.

13 Q What part does the NRC play in the import/export
14 license function?

15 A The NRC has to issue export licenses.

16 Q For what?

17 A For [basically, mainly for] production and utilization
18 facilities as defined in the Atomic Energy Act, which [mostly
19 includes] mainly includes power reactors or research reactors,
20 and it also has to issue export licenses for fuel and by-
21 product material, meaning other radioactive products, fuel
22 for those reactors, and byproduct material.

23 The NRC also has to comment and concur in other
24 actions related to that such as transfers, retransfers of fuel
25 or byproducts overseas after they are once authorized for

1 export.

2 Q Would that be retransfers to this country or
3 transfers among--

4 A Anywhere.

5 Q I see.

6 A Between the other countries, or back to the United
7 States; when they come back to the United States we also have
8 to issue an import license which is one of our main
9 functions.

10 Q In the export licensing function, who applies for
11 the license? Is that the vender or is it the country that
12 would be the recipient of the reactor or the fuel or the
13 byproduct?

14 A An exporter is usually a commercial organization,
15 either the manufacturer or somebody designated under contract
16 for the export function.

17 In the case of the reactors, it very often is the
18 vender, the manufacturer of that equipment which is being
19 exported.

20 In the case of fuel and material, sometimes it is
21 a middleman.

22 Q In the export licensing?

23 A Often it is a middleman.

24 Q For other than the reactor itself, for such things
25 as fuel and byproduct, it is usually a middleman?

1 A I think that is a fair statement.

2 Q For the reactor, it is usually the vender?

3 A Yes.

4 Q In the export licensing process, what type of an
5 application does the vender provide and basically I am asking
6 does the vender provide an equivalent to the SAR which must
7 be provided for the construction of a domestic plant?

8 A No. His application is more in the nature of filling
9 out a form and then substantiating it with statements and
10 answers to questions dealing with the special requirements
11 of national security and non-proliferation, assurances that
12 the fuel or material or material being exported will indeed
13 be placed under appropriate safeguard agreements, international
14 safeguard agreements, and assurance that the material will
15 indeed be used for peaceful purposes and details about
16 transport and so forth.

17 Much of our advice on export licenses comes from
18 the Executive Branch. As soon as we get an application, we
19 send it to the State Department who coordinate the views of
20 the Executive Branch on the application and who then answer
21 us giving advice on whether the export license should be
22 issued.

23 Although one of the considerations is the health
24 and safety, the domestic health and safety implications of
25 a license, that is usually a fairly small one and their finding

1 is that it is not, that] the important finding to make is that
2 the export will not be inimical to the national security.

3 Q Does the NRC do the primary evaluation of domestic
4 health and safety concerns or does the State Department
5 concern itself with that?

6 A No. The State Department does not concern itself
7 with domestic health and safety.

8 Q So that would be primarily your function?

9 A They might. They might. If they turned up anything,
10 there would be no reason why they couldn't list it to us. I
11 don't recall that they ever have.

12 On the other hand, there have been generic studies
13 done on the environmental impact of the licensing program--
14 I mean, I'm sorry, of the nuclear energy export program, and
15 that generic analysis is a part of this picture. It is
16 cited each time or generally as a description of the domestic
17 impact on the environment of this program as a whole, the
18 export program as a whole.

19 Q When you refer to generic, you are not referring
20 to B&W plants, but plants in general?

21 A Right, but you see the plants and their fuel do not
22 operate nuclear in this country. They are shipped out and
23 then they operate in another country, so the impact on the
24 environment here or on safety here is negligible.

25 Now in the near future a new consideration will be

1 made of the environmental effect of each export of reactors,
2 but not of fuel. This first generic statement that I
3 mentioned considered the environmental effect of export in
4 this country, on the high seas and in the global commons.

5 The Executive Order issued by the President in
6 January will require that a certain consideration be given
7 to the environmental impact of each export of ^a reactor₅ in the
8 country in which it will operate, and in the neighboring
9 countries as well.

10 Q Would it be possible to obtain from you a sample
11 questionnaire such as an applicant would fill out for an
12 export license?

13 A Yes.

14 Q Could we get that during the deposition? If we
15 could, I would like to have it marked as a exhibit.

16 A Yes.

17 Q And also so that we can do it at the sametime if
18 you have a copy of the Executive Order handy?

19 MR. HELFMAN: Off the record.

20 (A discussion was held off the record.)

21 BY MR. HELFMAN:

22 Q Are you aware generally speaking of the course
23 of events at TMI 2 in March of this year?

24 A Yes, pretty well.

25 Q Are you aware that among the factors which caused

1 or exacerbated the problem included a PORV which stuck
2 open, a pressurizer level indication which indicated the
3 presence of ample coolant in the core despite continuing
4 loss of coolant from the core and ~~avoids~~ in the core, the
5 operator relying on pressurizer level terminated HPI?

6 A Yes.

7 Q Were you aware at the time of the Three Mile Island
8 incident in March of this year of any transients in this
9 country or abroad which followed a similar course of events?

10 A It is my impression that one or more of the elements
11 that you described, that you selected as important here have
12 occurred in many places in this country and presumably
13 overseas.

14 Q Were you aware--

15 A I was not aware, well, I was aware, I am aware of
16 some incidents that have occurred overseas, not with both
17 factors that you mentioned I think.

18 MR. CHOPKO: I just want to fix the time of your
19 question.

20 MR. HELFMAN: I was going to fix that myself.

21 BY MR. HELFMAN:

22 Q Were you aware of such transients at the time
23 of the Three Mile Island incident in March of this year?

24 A In the broadest sense, that is the incidents
25 overseas, containing one or more directly or closely somewhat

1 related elements, yes, I was aware.

2 Q How many such incidents were you aware of, more
3 than two?

4 A This is a very common type of transient. The closer
5 you get to exactly what happened at Three Mile Island, the
6 more, of course, you narrow down the answer, but in the con-
7 text of there having been overseas incidents with some of
8 the elements in it, yes, more than two.

9 Q How would you become advised of such transients?
10 Is it similar to the domestic procedure whereby the NRC
11 is notified via LER's and investigation reports?

12 A The question was how do I normally, how am I
13 normally advised?

14 Q Of overseas transients.

15 A Yes. The NRC has agreements with foreign countries
16 that have active nuclear energy programs, about 18 of them.
17 It is either 17 or 18, that do exchange information that is
18 useful or that is interesting to the other country, each to
19 provide information to the other country about nuclear energy
20 safety.

21 Q Is this a mutual exchange of information?

22 A Yes.

23 Q So foreign countries with nuclear programs would
24 be advised of domestic transients which might bear on their
25 nuclear industry, and they would advise us of transients

1 that might be pertinent to the domestic industry?

2 A That is the intent of the agreement.

3 Q Does the information come from the country, or
4 does it come from the vendor?

5 A The obligation is on the part of the country, an
6 agency of the country, of the government of the country,
7 like NRC. It is an agency-to-agency agreement.

8 Q The agreements are between the NRC and the pertinent
9 agency?

10 A That's right, but very often we get the information
11 through commercial channels, usually clearly blessed by the
12 country, by the agency.

13 Q Is the existence of such an agreement a pre-
14 condition to the granting of an export license to a vendor
15 to supply reactors to a country?

16 A No.

17 Q Has this country issued, has the NRC issued an
18 export license for the export of a reactor to a country that
19 does not have an agreement to engage in mutual sharing of
20 pertinent information with the NRC?

21 A Yes. Has the NRC done this?

22 Q Yes.

23 A Wait a minute now. That requires my figuring back
24 to 1975 when the NRC was created.

25 Yes, we have done so, yes.

1 Q Is it current practice to issue such export
2 licenses in the absence of an agreement, or was that an
3 older and superseded policy?

4 A The law requires that ^{there} ~~they~~ be an agreement for
5 cooperation with a country which does provide generally
6 for cooperating and would certainly sanction the exchange
7 of information between the two governments, usually
8 specifically ^{calling} ~~calling~~, I think usually specifically ^{calling} ~~calling~~
9 out safety information.

10 I am not too sure of that, but in any case, the
11 intent to cooperate on a scale that would certainly be
12 consistent with having detailed cooperation in safety is in
13 the agreements for cooperation. That is a government-to-
14 government agreement.

15 That authorizes, with all the other procedures
16 that I mentioned, authorizes the export; both parties then
17 recognize later the benefit of sharing safety information
18 and of other cooperation that might be done in safety and
19 voluntarily as a separate action come up with this, with an
20 agreement to cooperate in regulatory matters.

21 The answer is that I guess yes, it has always been
22 the policy not to require a safety cooperation agreement as
23 a condition of license.

24 Q Would it be accurate to say that the agency-to-
25 agency agreement implements the government-to-government

1 agreement concerning cooperation?

2 A Yes. It is part of the implementation.

3 Q Does the domestic vender, supplier of a reactor to
4 a foreign country, have an obligation to report to the NRC
5 concerning transients or does the obligation fall solely on
6 the regulatory agency of the foreign government?

7 A Part 21, which is based on I think Section 206 of
8 the Energy Reorganization Act of '74, requires that certain
9 parties, including designers and construction companies and
10 operators and licensees of U. S. reactors, report to NRC
11 any safety defect, safety situation, which could reasonably
12 be considered to be a hazard^{or} to cause a safety problem, and
13 if one of those people knows of a defect, such a defect in
14 a U. S. reactor, and he knows about this as a result of
15 overseas^{experience}, whether he gets it in as an exporter or a vender
16 overseas or something else, he has to report under Part 21
17 the deficiency or the problem as it exists in the U. S.
18 reactor.

19 Q Would that include generic problems.

20 A Yes. What I am trying to say is that he is not
21 required to come home and tell us what is wrong with somebody
22 else's reactor overseas.

23 He is required to come here and tell us what is
24 wrong with our reactor here.

25 Q Based as it may be on information gained from

1 experience with overseas reactors of the same type?

2 A That's right.

3 Q So you could conceivably receive details about an
4 overseas transient from the agency in the foreign country
5 which regulates their nuclear effort and from the domestic
6 vender who supplied the reactor to the foreign government?

7 A Yes.

8 Q Customarily do you receive such information from
9 both sources?

10 A Often when we receive information of this type, it
11 comes from several people involved, including our vender,
12 yes.

13 Q Are there time requirements imposed on either the
14 vender ~~or~~^{or} the agency concerning how soon after the occurrence
15 of a transient the transient be reported to the NRC?

16 A I didn't get all the question.

17 Q Within what period of time after the occurrence
18 of an overseas transient which bears on the domestic
19 industry must the vender report to the NRC concerning the
20 transient?

21 A That is a detail of the regulation. I am sure
22 that it is essentially as soon as he can convince himself
23 that there is something that does have an effect on the
24 U. S. reactor in a reasonable manner, but I am not exactly
25 sure what the regulation says. Part 21 would say it.

1 Q From your recollection of the requirement, such
2 as it may be, would a six month period of time be the
3 outside period of time?

4 A From the time that the party in this country knows
5 about it, I would say in the case of most safety problems,
6 certainly most serious ones, he should be able to recognize
7 and report within six months.

8 Q It is my understanding that the vender remains
9 intimately involved in the operation of a reactor which it
10 has supplied. It may, for example, provide training programs
11 for the utility, operator, operators. It may provide
12 technical advice to the utility. It may provide the technical
13 assistance in drafting responses to inquiries put to the
14 utility by the NRC.

15 From your experience, does the supplier of a reactor
16 retain some involvement in the operation of a European
17 reactor which it has supplied?

18 A Yes.

19 Q Is it along the same lines as the vender would
20 remain involved in the operation of a domestic reactor or
21 is it different?

22 A I think it is probably roughly along the same lines,
23 at the same magnitude of effort. The scope might be a little
24 different because in general the overseas party has to
25 operate or has to have a little bit more self-sufficiency.

1 You can't call as fast on such a vender who happens to be
2 many miles away as a U. S. company can, and in each country
3 there is a different kind of effort to create and support
4 its own national industry, its own domestic industry.

5 Q Would a domestic vender be involved, for example,
6 in training the operators of a European plant?

7 A Could. It is my impression it is a common,
8 continuing function.

9 Q Would the U. S. vender be involved in supplying
10 technical advice to the operator of a--

11 A Could be.

12 Q Is that a common occurrence, as far as you know?

13 A I think it is. I couldn't tell you what percentage
14 of the plants still retain the vender for technical advice.

15 Q In your effort to keep apprised of European transients
16 that may bear on the domestic industry, do you also try to
17 keep abreast of domestic transients which have highlighted
18 problems in the domestic industry?

19 A Only to the extent that we try to arrange
20 consultations. Part of our function of exchanging
21 information is trying to call regular meetings or ad hoc
22 meetings on important topics or current topics, so to the
23 extent that we had to know what the important current topics
24 were and what technical people in the NRC were interested
25 at the moment, we would keep a current on what is going on

1 here.

2 Q Are these in-house meetings that you are referring
3 to?

4 A No. The meetings with other countries that we have
5 agreements with.

6 Q I see.

7 A Mostly with the leading countries that we have
8 agreements with, the countries that have the most active
9 programs, mainly Germany and Japan.

10 Q How many countries has this country supplied with
11 nuclear reactors?

12 A That question comes different every time it is
13 stated--10 to 20 I guess.

14 Q Could that question be rephrased and produce a
15 different answer?

16 A I guess not. I am surprised that I don't right
17 off recall how many countries there are. These 13 that we
18 have agreements with, I think most of them have been supplied
19 with U. S. reactors and then there are a few others that, as
20 I said earlier, have been supplied U. S. reactors, ^{with} which we
21 still don't have agreements, so I guess that is how I come
22 to the conclusion it is 10 to 20.

23 Q And these are the agency-to-agency agreements that
24 you referred to a moment ago?

25 A Yes. In all cases, there is an existing agreement

1 for cooperation, as I said. I might have said also that
2 in the case of some of the international organizations,
3 notably the only one I know of is EURATOM in the European
4 countries, we now have agreement for cooperation with the
5 organization rather than with the individual country.

6 Q EURATOM?

7 A It is an acronym describing that community of the
8 communities of Europe which is responsible for contracting
9 for and monitoring and safeguarding the fuel within the
10 European communities.

11 Q How old is the agreement with EURATOM?

12 A In the mid-'60's, the various country programs,
13 country agreements in Europe I believe were all melded into
14 the community agreement and that set up EURATOM.

15 Q Is this an agreement between the NRC and EURATOM,
16 or is this--

17 A It is an agreement between the U. S. Government
18 and EURATOM and the European communities.

19 Q Does that supersede the previously existing
20 agreements of cooperation between government and government?

21 A Between the United States and several of the
22 other governments; I am not sure whether the six members of
23 the EURATOM at that time all had agreements for cooperation
24 or what, but whatever existed at that time in the peaceful
25 uses was incorporated into the EURATOM agreement.

1 Q Do you know the six members of EURATOM?

2 A I should--West Germany, France, Benelux, and Italy,
3 and now there are another three, so it is the nine--Ireland,
4 UK, and Denmark I believe. I'm pretty sure that's right.

5 Q So that would be nine?

6 A Right now, but originally it was six.

7 Q Which countries do you include in the Benelux
8 group?

9 A Belgium, Netherlands, Luxembourg.

10 Q In your effort to apprise foreign nuclear regulatory
11 agencies or foreign governments of transients which have
12 occurred in this country which may be pertinent to their
13 nuclear industry, do you recall if the NRC advised foreign
14 governments of the Davis-Besse transient which occurred in
15 September of 1977?

16 A No, I don't recall. Much of the advice that we
17 give is by automatic distribution of published documents,
18 so unless something is really likely to cause a stir, an
19 interest, press interest and political interest in the
20 countries that have these kinds of reactors, we don't usually
21 prepare special correspondence on an incident.

22 Davis-Besse also dealt only with, was only of
23 immediate concern to B&W operators, of which there are
24 none overseas so that would have accounted for a little
25 idifferent interest.

1 Q There are no B&W plants in Europe?

2 A There is one that is being built in Germany, but
3 there is none in operation. It has some differences, too.
4 I am not familiar with the details, but there are some
5 differences that have been mentioned by the people that we
6 have talked to about it casually as being either like some
7 of the plants, but not like TMI or like none of the U. S.
8 plants or something like that, that were talked of in the
9 context of being a little better from the point of view of
10 this kind of transient.

11 Q Has the German government been advised of transient
12 history with domestic B&W plants such as the Davis-Besse
13 incident in September, '77 or the Davis-Besse transient in
14 November of '77 or the March, 1979 transient at TMI 2?

15 A I don't know. I am sure that they have, but I have
16 not specifically called it out to them that I recall. I can
17 go back and try to look at the various distributions we
18 have made of operating reports, and I am sure we will turn
19 up some on this, but I am not sure, not absolutely sure.

20 Q Is this something that could be done during a break
21 in the deposition, or would it take some time to compose a
22 list?

23 A That was a long time ago. I will see if it can be
24 done while we are talking.

25 MR. HELFMAN: Let's go off the record.

1 (A discussion was held off the record.)

2 BY MR. HELFMAN:

3 Q You have brought with you a document which is
4 entitled "LER Monthly Report" dated July 11th, 1979 and it
5 looks like a soft-bound booklet of some 91 pages.

6 Could you explain for the record what this is and
7 who receives it.

8 A We receive it monthly as a listing of all the
9 reported licensee reports. I think they are all included
10 and it is distributed in this country within the NRC report
11 system to whoever is interested, and we distribute it to
12 the people, the contacts designated under our agreements for
13 regulatory information, cooperation overseas, including
14 Germany.

15 Q Do you eliminate from the LER monthly report
16 LER's concerning plant designs which are inapplicable to
17 European plants?

18 A No.

19 Q They get everything?

20 A They get everything.

21 Q These are basically summaries of LER's?

22 A They are the important narrative description of each
23 incident, of each report.

24 Q I see. For example, on page 81 of the LER monthly
25 report there is a reference to Three Mile Island 1, and

1 there are three series of numbers following the identification
2 of the particular facilities.

3 Is there a date somewhere in these numbers that
4 indicate the date of the LER or the date of the transient?

5 A The title of the column is event date, report
6 date, and report type.

7 Q So for this particular transient, what would be
8 the date?

9 A The first item is the date, so it must be the
10 second, or February 28, '79.

11 Q I see, so the second column of numbers indicate the
12 dates of the particular transients?

13 A Yes.

14 MR. HELFMAN: I would like to have this document
15 marked as an exhibit to the deposition. May we retain
16 this for the purposes of the deposition?

17 THE WITNESS: Yes.

18 (LaFleur Exhibit No. 2 was
19 marked for identification.)

20 BY MR. HELFMAN:

21 Q This LER monthly report is dated July 11th, 1979.
22 How often do these appear?

23 A Monthly.

24 Q Do you distribute them on a monthly basis to
25 European countries which have American-supplied reactors and

1 have agreements of cooperation with this country?

2 A To foreign countries, including European and others.

3 Q Do you distribute these LER monthly reports to
4 countries that do not have an agency-to-agency agreement
5 regarding sharing of information?

6 A I will have to answer that exactly--I am not sure.
7 We have about four different mailing lists and some go only
8 to those designated contacts under the agreements. Some go
9 to all of the people who have any form of cooperation,
10 including very informal with us. Some go to people
11 designated to receive urgent messages in the countries, and
12 so as to the LER, I am certain that the countries that have
13 the agreements with us, that have light water reactors, do
14 receive them, but I am not sure exactly who else might
15 receive that one.

16 Q Would it be possible to obtain the lists to which
17 you just referred, the routing lists so that we could see
18 who gets what?

19 A Yes.

20 Q Could we do that now and then perhaps make that an
21 exhibit to the deposition?

22 A Okay.

23 MR. HELFMAN: Off the record.

24 (A discussion was held off the record.)

25 MR. HELFMAN: Back on the record.

1 BY MR. HELFMAN:

2 Q Does the NRC receive similar regular notification
3 from any foreign agencies or governments concerning
4 transients at plants in their countries?

5 A Yes.

6 Q Is that the bulk of countries or is it to a few
7 you are providing such regular information?

8 A The information we receive from the foreign
9 governments depends largely on how they normally report it
10 domestically, ⁱⁿ each country. Most of them don't have nearly
11 the reporting detail or the requirements for open use of
12 the information that we have.

13 We have not adopted a system in this country for
14 selecting and reporting the incidents that are important and
15 that have to be distributed to everybody; although
16 important incidents by various systems of recognition here
17 are distributed domestically, we have not come to a standard
18 format for reporting of foreign information.

19 In the absence of that, we have asked the other
20 countries to send whatever they can, which is their usual
21 form, in their usual form, and several of the countries send
22 good information. I think the Germans do. I think the
23 French. We get some good selection of important information.

24 Our use of the information is to see that it gets
25 distributed to the people who have a need to know around our

1 agency, depending ^{on} what what is the information, what is in
2 the incident report.

3 Does that answer the question?

4 Q Yes, it does, and it answers that question and the
5 next two questions.

6 Where information is received from a foreign
7 government or a foreign agency and the NRC receives it, and
8 I assume some evaluation occurs, is that information then
9 transmitted to vendors or utilities in this country that
10 operate similar plants?

11 A Our responsibility is to transmit it to the people
12 here in Inspection and Enforcement and in licensing or in
13 research who have the responsibility in turn to digest it
14 and to evaluate it and to distribute it for them.

15 Q Is such information pretty much handled the same
16 as would a domestic LER once it is received by the NRC and
17 put into the normal staff processes?

18 A To the best of my knowledge it is, yes.

19 Q So far as you know, has the NRC sought additional
20 information or details from foreign agencies or governments
21 regarding transients reported by them?

22 A I can think of at least two transients that we
23 inquired further about.

24 Q Does the NRC ever send investigators to the site
25 of a foreign plant to do on-site investigations such as might

1 be done in this country with a domestic transient?

2 A Yes. Transients--the answer is yes, and also other
3 safety problems such as long-term damage that might be studied
4 or leaking of pipes and that kind of thing, we discuss in
5 ad hoc or periodic meetings with the foreign parties.

6 Q Does the Office of International Programs have its
7 own investigators for the investigation of overseas transients?

8 A No.

9 Q Whose services do you employ? Would that be I&E
10 investigators?

11 A In the ad hoc side of it, we would make up a team
12 of whoever ⁱⁿ NRC is interested to go talk about a problem.
13 We have been in addition conducting with the two main
14 countries that operate most of the light water reactors of
15 the U. S. type overseas, Germany and Japan, trying to set
16 up--not really trying, we have been conducting at least
17 annually a meeting with each of these two other countries
18 either there or here to specifically discuss current generic
19 problems and for either side to tell the other of important
20 things, recognized to be important, that they hadn't told
21 about in the past.

22 I have been exploring this as a way of attempting
23 to get more information. ^{In} addition to the lack of public
24 reporting in the other countries, there is a reluctance
25 by many parties, many people to talk about embarrassing

1 nuclear incidents, and I have hoped that by these meetings
2 we, these meetings would tend to overcome the reluctance to
3 write a report about something and also having a suitable
4 and appropriate time and place for both parties to sit down
5 and discuss that as a matter of the agenda I think is a
6 good way of encouraging more flow of information of this type.

7 Q With respect to on-site investigation of European
8 transients, has the NRC been able to send inspectors to the
9 site of a European facility to further investigate the
10 details of a reported transient?

11 A With respect to what?

12 A To a reported transient.

13 A Yes.

14 Q Is that generally an acceptable procedure to the
15 foreign government with whom we deal, or are there some that
16 are receptive to that and some that are not?

17 A We have never been refused a request that we make
18 for us to make a visit to a country to talk about a new
19 problem that they have, or a recent report that we got from
20 them.

21 Q I am referring to on-site investigation rather than
22 conferences or discussions.

23 A The three or four times that I can recall that
24 we have requested meetings of this kind, on site or off site,
25 we have gotten what we requested.

1 Q You referred to a reluctance of some foreign
2 countries to report embarrassing transients.

3 Is this a common problem with foreign governments
4 who have been supplied with American reactors?

5 A The United States has by far the most open system of
6 reporting everything, as I said, so much so that we have so
7 much, the problem is how to use it.

8 The other countries invariably report less for
9 domestic and outside consumption than we do. Among the other
10 countries, the amount reported varies from practically
11 nothing to almost as much as we report.

12 Q Is there such a wide variation among say European
13 countries? Are there some European countries that supply
14 virtually nothing and others that supply much more?

15 A Yes. Now one of the mechanisms that we use to
16 overcome this--

17 (A discussion was held off the record.)

18 MR. HELFMAN: Would you read back where we were?

19 (The record was read by the reporter.)

20 THE WITNESS: One of the mechanisms we use is to
21 honor confidentiality of information when it is requested,
22 and we as a policy have agreed in these agreements, these
23 agency-to-agency agreements and in all of our subsequent
24 relations with these countries that if they can supply us
25 some information only on a confidential basis under the

1 condition that it be kept confidential, not given public
2 disclosure, we can accept it that way, and we agree to
3 keep it confidential.

4 BY MR. HELFMAN:

5 Q How would the NRC go about advising a domestic
6 vender or domestic utility of a significant European transient
7 if the information regarding that transient were provided--

8 A In confidence?

9 Q In confidence.

10 A There are two or three ways.

11 (A discussion was held off the record.)

12 THE WITNESS: So the question was something to the
13 effect of how do we tell our licensees when we know of such
14 a problem but it is received on a confidential basis?

15 BY MR. HELFMAN:

16 Q Yes.

17 A First, as with the gimmick used in Part 21, as I
18 mentioned earlier, we don't have to tell them anything about
19 what happened in the foreign country. All we have to tell
20 them is what we know is wrong with their reactor.

21 (A discussion was held off the record.)

22 THE WITNESS: We don't have to tell them what is
23 wrong with the foreign reactor. All we have to tell them is
24 what we know to be wrong or potentially wrong with their
25 reactor, so if we know from foreign experience of a dangerous

1 situation in one of our reactors, we only have to tell our
2 operator to show us how he can avoid such a problem or how
3 he can fix it or that he doesn't have the problem. That
4 is the first way.

5 BY MR. HELFMAN:

6 Q Are there others?

7 A The way ways are that we don't have to, although
8 we have authority under the Executive Order to classify
9 this information as national security information, we don't
10 have to do that in every case.

11 We only do that in the very serious cases where we
12 really feel that there is a fairly high potential for
13 leaking the information otherwise because of the interest,
14 the heat of the moment, of where we think there is some other
15 factor that would make it serious enough to apply that
16 protection, that level of protection.

17 We can do it in administrative ways. We can
18 protect it. We can mark it with a marking saying do not
19 disclose without permission of the NRC or the International
20 Program of NRC, and there are other exemptions, for example,
21 Exemption 4 which applies to commercial information,
22 Exemption 1 being national security information, under the
23 different regulations such as FOIA procedures.

24 Q FOIA?

25 A Freedom of Information Act--~~but~~ some of the Exemption

1 4 being, ^{for} ~~is~~ commercial ^{information} Exemption 1 is national security
2 information. There are other exemptions such as personnel
3 matters and so forth, [among the other] that might sometimes
4 apply, but those two are the ones that we usually discuss.

5 We can protect information if we don't think it is
6 important enough to require the full national security
7 protection and still make it usable, and thereby make it more
8 usable to our staff and to licensees and vendors and other
9 people who have a need to know.

10 The other thing we can do is if it is serious
11 and if we do classify it, we can require that the licensee
12 and the vendors have cleared people to receive the information,
13 but usually that is the extreme because what we begin to
14 deal with soon after we obtain the information is something
15 wrong in our plant, not something wrong overseas, so we can
16 usually use the information without identifying the source
17 and without making it evident that there is something wrong
18 in an overseas plant.

19 Q So basically you are able to use the information
20 that you gained from the overseas transient without
21 identifying the plant and the countries involved?

22 A Without even saying it happened overseas. Because
23 it is getting different now, but ^(in the past) there were so few reactors
24 overseas if you say where it happened and you say the kind
25 of plant and you say when it was shut down or you imply when

1 it was shut down, then it is easy to zero in on which foreign
2 plant it is, and there have been some instances of that
3 kind of thing.

4 Q Would I be correct in assuming then that
5 confidentiality of such information applies primarily to
6 identifying the source rather than to the information
7 itself?

8 A That is true, but it is a trap that we have to be
9 very careful of.

10 It is very difficult to say that something happened
11 overseas and still protect it just by not saying in what
12 plant and what country.

13 Q So if you receive information concerning an overseas
14 transient and you wish to advise domestic vendors or
15 utilities or to pose questions to them concerning the transient,
16 you could describe the sequence of events involved in the
17 transient as the information was provided to you from the
18 foreign source and protect that information by not dis-
19 closing the name of the country, the name of the plant, and
20 the fact that it was a foreign transient? Is that generally
21 correct?

22 A It is very difficult to apply that generally. I
23 would say that you can protect the information by digesting
24 it and dealing with the problems in the U. S. plant and
25 not describing the incident in the overseas plant any more

1 than you have to to get to the information.

2 Q So you would attempt to exlude--

3 A The other ways you can do it are to require an
4 agreement of confidentiality from the people who receive
5 the information in the case of not classified, protected
6 information, or to require clearances and a clear understand-
7 ing of what is classified in the case of classified
8 information.

9 Q In either the former or the latter case, protected
10 but not classified information, and classified information,
11 you would then provide the vender or the utility with the
12 full story?

13 A Yes.

14 Q Which is the more commonly used approach to digest
15 the information, to withhold the name of the country, the
16 name of the plant and the fact that it was an overseas
17 transient, or the use of confidentiality agreements or
18 security ratings of the information and then supplying the
19 entire story to the vender or the utility?

20 A In the context we are talking about, operational
21 information, I would say the digestion in the staff here of
22 the information usually pooled with domestic information
23 to form a composite picture and then discussing with the
24 operators the licensees or incorporating into regulations
25 or new designs requirements of the information without

1 any reference at all to any foreign plant, but we are
2 dwelling upon a very small percentage of the total information
3 that we get from overseas, or that we use in our regulatory
4 actions here.

5 Q Is it true that most of the information you receive
6 is provided without a request for confidentiality or pro-
7 tection of this sort?

8 A Yes.

9 Q Is that because there are very few countries that
10 require this type of protection?

11 A No. It is because only a few of the incidents are
12 so sensitive, information about very few of the incidents
13 is sensitive.

14 Q As a general matter, the request for confidential
15 treatment of information would be made on a case-by-case
16 or transient by transient basis?

17 A Yes. I ~~don't~~ think that would be the case. I
18 think it will be a little different when we get a more
19 standardized reporting from overseas, but when we start
20 telling the people overseas we now have a system for using
21 foreign information along with our own information and we
22 would like you to furnish all of the information in the
23 following categories in the following format, or at least
24 including information enough for us to put it in the follow-
25 ing format, then if we pressed the other countries to give

1 us all of that information, I think we would get more
2 routinely marked confidential things.

3 I mentioned a while ago that there was what we
4 talk about as operational experience information. We also
5 have agreements in research, and in many of the countries
6 overseas, the research information may come out initially
7 in draft form or it may come out always with some kind of
8 a protection, copyright or marking on it saying this is the
9 property of somebody, and it is not to be given to anybody
10 freely, not to be given away without any restrictions. It
11 is restricted in fact, so in that case, it is more of a
12 routine policy of the owner, the originator, that is involved
13 there I believe.

14 Q That applies far less to normal operating
15 information and experience?

16 A That's right.

17 Q Are there any overseas countries that as a general
18 matter require information they provide concerning operat-
19 ing experience to be held confidential as a general matter
20 on a transient-by-transient basis?

21 A Most countries have a national policy that
22 information is not released by the government until it has
23 been approved for release, and many countries in addition
24 have a strong policy that any information that is given to
25 them in the course of their official duties by a private

1 source remains to a certain extent the property of the private
2 source, or even by a public corporation in the case of a
3 nationalized utility, so that unless the country had
4 established a policy and a system for publishing operating
5 information, it would just be unusual to release it without
6 any controls at all, and if it had, well then, it would have
7 been culled in some way to provide a certain selection of
8 what is important and what can be released and so forth.

9 Q Is what you are saying that there do not exist any
10 foreign countries that have a general requirement that
11 information be provided to the NRC be held confidential
12 because there is already some pre-screening that goes on in
13 those countries?

14 A Usually in most countries there is some system
15 for reporting, and it may be very sparse and [it may be very
16 well laundered--please strike that--] it may be very well
17 edited before it is released.

18 Q Are you speculating or do you know of countries that
19 do launder or edit transients that are reported to the NRC?

20 A I think much more so overseas than here; everything
21 that is officially released for public use is edited.

22 Q Overseas?

23 A Yes.

24 Q Does the NRC have an agreement with any overseas
25 country to hold confidential all information received from

1 that country concerning operating experience?

2 A No, and most of what we get from every country is
3 open information, but we have agreements with all countries
4 to protect what they ask us to protect.

5 Q On a case-by-case or transient-by-transient basis?

6 A That's right.

7 Q You indicated a few moments ago that you were
8 aware of a number of overseas transients that had some
9 similarity to the TMI 2 incident in March of this year.

10 Do you recall now specifically which transients you
11 were referring to?

12 A There was a well-publicized incident in Germany
13 at Gundrimmingen.

14 Q When was that?

15 A I think the beginning of '77. Announcements were
16 made about it in Germany, about its effect and what happened
17 there was a transient which led to opening of a pressure
18 release valve and the pressure relief valve was damaged and
19 didn't shut as it was supposed to.

20 This is, as you know, a very common concern with
21 pop valves, and a lot of water was spilled on the floor and
22 it was in effect a blowdown of a system.

23 In that case, we talked to the operators and the
24 government people soon after it in a lot of detail and
25 understood fully the kind of incident involved and used the

1 information here, and it was released through--I don't
2 recall just how it was released, how it was used in our
3 regulatory or the licensing and inspection side. I don't
4 know if I knew all the details, but I know it was thoroughly
5 considered here. It was well understood.

6 Some of that was confidential and some wasn't. I
7 think I mentioned there have been a lot of information
8 worldwide about cracking of stainless steel pipes in BWR's
9 pipes. This is a continuing generic concern in BWR reactors.

10 Q Is that a concern which arises from plants going
11 solid?

12 A No. It is because of the boiling regimes in the
13 steady state operation of BWR's. The tendency toward a
14 certain kind of stainless steel cracking is greater in ^{BWR's} ~~BWR~~
15 than in PWR's, and the cracking so far has not been
16 catastrophic. It has been gradual, and it is a well studied,
17 well publicized phenomenon that we have to watch out for,
18 and we have gotten a lot of experience from overseas that
19 has been factored into our data base here, and in the usual
20 way we get such information, it is usually in an internal
21 report being used currently in an overseas agency, and it
22 has some kind of protection on it, so usually what we do in
23 a case like that is we use it and when we are getting ready
24 to publish something like an annual or a current, an update
25 of the BWR cracking phenomenon report, we would look at what

1 finally came out of the report and see whether it reflects
2 closely enough something that happened overseas that hasn't
3 been publicized overseas, and then check if necessary with
4 the owner as to whether we can release that or whether
5 we have to modify it.

6 Q With regard to the Gundrimmingen transient, were
7 you provided with the German equivalent of an LER on that
8 transient?

9 A I don't know. I would have to look back and see.
10 We were told about the incident directly by the government
11 and by a captive contractor of the government in Germany.

12 Q An American?

13 A And I don't know whether one of the listings that
14 we get of German continuing experience had an incident
15 on it. I'm sure it did.

16 Q Would that be an American contractor?

17 A No. After we learned about this, we had many
18 discussions with the German Ministry of Interior, which is
19 the regulatory organization, with the state, the German
20 state government of Bavaria, people there, with the GRS,
21 which is their, it is an organization that does technical
22 support work and research for the Ministry of Interior on
23 a continuing basis, and I don't know what the words are.

24 * GRS is the outfit, and in that case, we also eventually
25 involved the utility because we visited there and the

1 General Electric Company was involved because they were
2 there and built the plant.

3 Q Was this a boiling water reactor?

4 A Yes.

5 Q Would it be possible for you to get ahold of
6 whatever report was provided to you on this transient?
7 Perhaps we can mark it as an exhibit to the deposition.

8 A I can give you what has been released, approved
9 for release.

10 Q Let's take a look at that. Shall we go off the
11 record for that?

12 A Yes.

13 (A discussion was held off the record.)

14 MR. HELFMAN: On the record.

15 THE WITNESS: The use of such information in our
16 report, of course, is where it really, is its usefulness
17 to us and where it makes a contribution to our safety in
18 this country.

19 BY MR. HELFMAN:

20 Q Does your office keep track of the use made by
21 the NRC of information?

22 A No.

23 Q Do you recall any other overseas transients that
24 have some common marks with the TMI 2 incident of March
25 of this year?

1 A There was a French incident that happened since then,
2 by the way, since the Three Mile Island, at a reactor
3 called CAP in southern France which had a failure in a
4 steam generator. It was a special kind of reactor with a
5 steam generator in the head of the reactor, and it resulted
6 in a transient and some leakage of a small amount of
7 radiation.

8 I think if you analyzed, which we are presumably
9 doing because we furnished the information to the staff
10 here, if you would find some elements very similar to what
11 happened at Three Mile Island.

12 Q Do you recall if PORV failure was involved in this?

13 A No, I don't think it was.

14 Q Do you recall whether in the German transient which
15 you described operator action was involved in that transient,
16 operator error let's say?

17 A I don't recall. There was another incident in
18 Germany after that one I think.

19 Q Prior to TMI 2?

20 A Yes--wherein operators didn't believe some
21 instruments or for some other reason made an error permitting
22 a continuing, an incident to aggravate.

23 Q Do you recall when that was?

24 A It was after the Gundrinningen one, but it was
25 before Three Mile Island. The occurrence, the fact that an

1 incident of that kind occurred ~~were~~ publicized, were in
2 the papers, and there were a couple of others that happened.
3 There has been an incident that you asked about earlier,
4 the one in one country in Europe where there was a Westinghouse
5 type reactor.

6 Q Let's finish with the second German incident
7 before we move on to others. Do you recall the vendor?

8 A No. As I recall, the special interest in that one
9 was the operator error, the operator inaction that might
10 have, that if continued might have caused serious incident
11 and if terminated earlier would have cut down on the
12 importance of the incident.

13 Q Would it be possible to get the equivalent of an LER
14 whatever was provided to you on this second German incident?

15 A I guess so.

16 Q Perhaps we should go off the record while you make
17 the arrangements?

18 A Do you want to be in all of these incidents? Do
19 you want all the information, and am I to make a complete
20 search of all that we have and all that we have reported on
21 this?

22 There are incidents that have occurred, they
23 haven't occurred, but our discussions in our interest have
24 occurred in one or more meetings and in several documented
25 reports, and it would be a research project to do this.

1 Q What I would like is initially whatever you can find
2 and if there is additional material available and you can
3 get your hands on it after the deposition today is
4 recessed, I would appreciate your providing it to me, perhaps
5 through Mr. Rehms' secretary or directly from your office,
6 and if we have any questions, we can perhaps get in contact
7 with you and ask you if there is additional information.

8 A You are just selecting the ones that I ^{choose} ~~choice~~ to
9 remember as examples. Do you want everything we have ever
10 reported on a foreign incident?

11 Q Is there some list that you could refer to that
12 would give us an idea of overseas reported transients and a
13 rough idea of what was involved in the transient?

14 A We could make one up, but I don't know if it would
15 be complete and it would require a lot of work.

16 Q Well, I hate to add to the burdens that your
17 office already has in handling its workload, but despite my
18 personal reluctance, I think that I have an obligation to
19 request the information, and so would it be possible for you
20 to arrange to have made up such a list which would then be
21 transmitted to our office upon completion?

22 A Transients overseas?

23 Q Overseas transients with a brief description of
24 the elements of the transients.

25 A You have thousands and thousands of transients in

1 the United States.

2 Q All right. Let's try to limit it then. Perhaps
3 we can confine ourselves to overseas transients which
4 involved PORV failures, open or closed; pressurizer level
5 indication problems; containment actuation problems; operator
6 error based on disbelief of indicator readouts; core
7 uncoveries; divergence of core coolant inventory and pressure
8 level indication.

9 A Pressure level indication?

10 Q Yes.

11 A Operator error, disbelief^f of instruments probably
12 is in every transient that ever occurred.

13 Q Well, perhaps we ought to limit that further--
14 operator error based on disbelief^f of indicators indicating
15 core coolant level or pressure level, operator interruption
16 of HPI; I think for the moment that should do it.

17 Do you have any idea how long it would take to put
18 together such a list?

19 A My problem is we have a room full of foreign
20 reports, some of which we haven't translated.

21 Q Well then, let's put an additional limit on that
22 and ~~confine~~^{define} it to pre-TMI 2 transients, overseas transients,
23 and perhaps that will exclude the bulk of material that has
24 not yet been translated.

25 A Would you want to confine it to those that have come

1 to the attention of the people here, of the technical people
2 here?

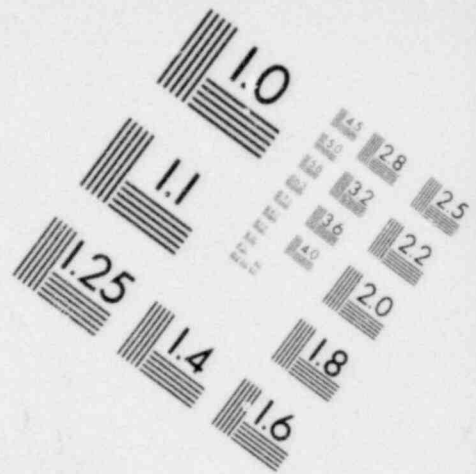
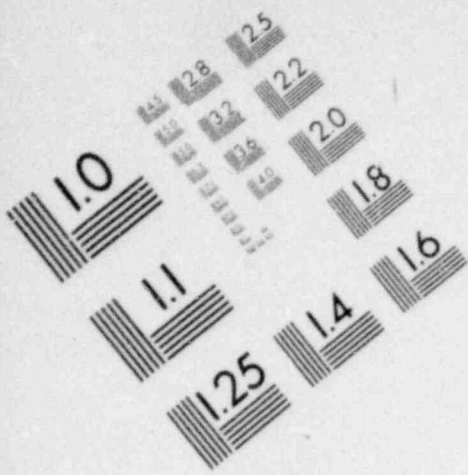
3 Q How would you be able to provide me with a list
4 of transients that did not come to the attention of the NRC?
5 I don't see quite what you are asking.

6 A We send routinely copies of reports that we receive
7 from the foreign governments, but I am not sure how much
8 they are used, just like our LER's are used. I am not sure
9 that there is any systematic evaluation that goes on, but I
10 think those that we know are important, or we are told are
11 important by the overseas governments, or ^{that} make the headlines,
12 are picked up by people doing periodic studies or studies
13 of special kind of problems, those would be the ones that
14 might have been studied by NRC.

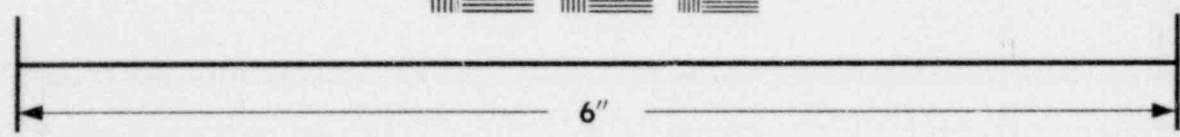
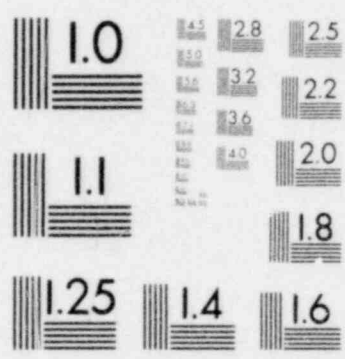
15 Q Now I don't think that we want to limit it to those
16 that have been reported in the papers or those that
17 received particularly intensive study by the NRC. I think
18 we will just leave it.

19 A At the end of the question, my question is why are
20 we picking on transients, because just that is what happened
21 at TMI? There are other kinds of safety problems that go on
22 that are studied in various countries all the time.

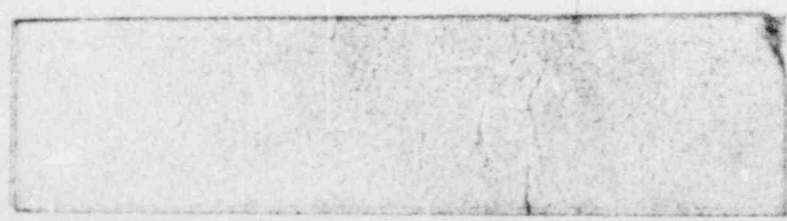
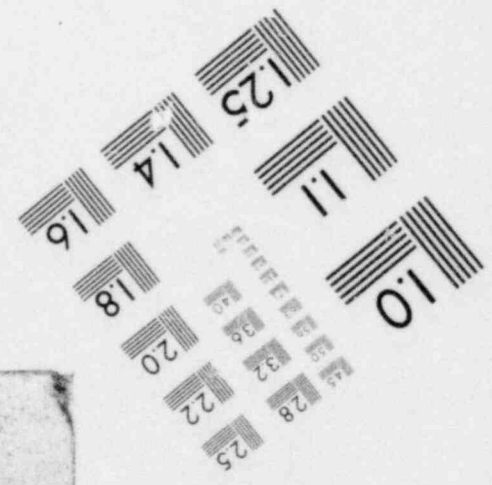
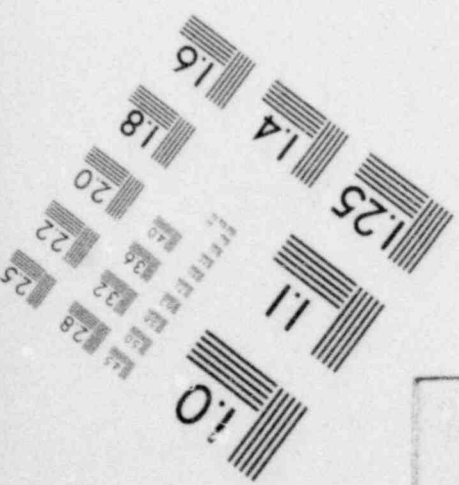
23 Q That's a good point. Would a foreign government
24 report to you a defect they found in a piece of equipment,
25 even if a transient didn't result?



**IMAGE EVALUATION
TEST TARGET (MT-3)**



MICROCOPY RESOLUTION TEST CHART



1 A Yes, like the cracking business of stainless steel.

2 Q Okay. Let's include in that list then reports
3 of problems with or defects with the PORV, pressurizer level
4 indication, procedures concerning operator interruption of
5 HPI, and containment actuation, whether or not they resulted
6 in transients or accidents.

7 A This will ignore all of the unreported, I mean all
8 of the unwritten meetings where much of our information is
9 transmitted

10 Many times someone comes here to ask about a current
11 problem, and he discusses it with the people who are here.

12 Q Would there be some way of including in the list
13 material that is received in that fashion?

14 A I doubt it, unless we started interviewing every
15 visitor to the staff.

16 Q Let's divide the list into three parts--the first
17 part dealing with transients or accidents involving the items
18 listed; the second part dealing with the particular pieces
19 of equipment or procedures which were noted but did not
20 result in accident or transients; and the third part, whatever
21 information you can gather concerning informally relayed
22 information about either accidents, transients, or the
23 material covered in the second part, recognizing that the
24 material on the third part of the list will be incomplete
25 since it is not--

1 A What is the third item?

2 Q Information concerning either accidents and
3 transients or the material covered in the second part, which
4 information was transmitted to you through conversations
5 or meetings or discussions and which was not reduced to
6 official reports, LER's and so forth, the material that you
7 suggested would require interviewing everyone on the staff
8 to get all of it, and then we would recognize that the third
9 part would be incomplete due to the fact that it would be
10 based on the memory of people and so forth.

11 A I will furnish you a list of visitors who come on
12 the topics they have discussed.

13 Q And where they came from?

14 A Yes.

15 Q All right. Let's make that the third part then.

16 A I frankly think you are wasting your time, but that's
17 okay. It's not my business to think that.

18 Q Why do you think we would be wasting our time?

19 A Because you are asking for everything that exists.
20 Do you plan to take all of this stuff like that book there
21 and go back to day one? There are hundreds of thousands of
22 entries. I won't have a hundred thousand. I will have
23 what we have gotten in our more or less successful searches.

24 Q Shall we start with 1973?

25 A That won't make any difference. There wasn't an

1 NRC before '75.

2 Q Let's start with 1975. The problem is I really
3 don't know how useful the material is going to be until I
4 see it.

5 A It will be about as useful as what is in there.
6 After you see it you say well, a transient, and it is going
7 to take a hell of a lot of work to put together. I think I
8 will do it. I will check and see if I can do it.

9 Q If you complete the first part before you complete
10 the other two, you can complete that and if you complete the
11 second part before you do the third, you can transmit that.
12 It will probably be easier for us to get it as you complete
13 it.

14 A The stuff that I have read before we passed on it
15 comes in the form that was in these gray books--a brief
16 narrative description of the problem that might have
17 occurred during the period.

18 Q Would it be with a composite of all overseas
19 transients, or do particular countries provide gray book
20 type summaries of the transients they have experienced?

21 A There is a report from the IAEA on important
22 operating experience of all the world reactors or all member
23 reactors during a year.

24 Q IAEA?

25 A The International Atomic Energy Agency in Vienna, and

1 there is a similar report by EURATOM, but the basic
2 problem here is that we will have a certain bulk of data
3 and it will be difficult for you to see how somebody might
4 have used it.

5 Q In any event, that is not something that your
6 office follows?

7 A No.

8 Q So that information we would have to get from another
9 office or branch within NRC?

10 A Yes.

11 Q When you receive this information which branch do you
12 transmit it to? Is that I&E, licensing?

13 A At least to NRR, licensing that is, and usually
14 I&E and maybe research, ^{and} if it has to do with non-reactor
15 facilities, to NMSS to material safety and safeguards.

16 Q Do you also transmit information to operating
17 reactors?

18 A Oh, ~~no,~~ to the division in NRR, yes, we send it to
19 NRR, and then they are usually our contact and we either
20 send it to them directly if we know they are the ones who
21 are interested in it, or we send it to NRR and let them decide
22 what to do with it.

23 Q Okay. So just to summarize now, you are going to
24 provide to us today before the deposition is completed the
25 LER type report, whatever form it took on the, and I still

1 can't pronounce the name, Gundrimmingen transient, and then
2 the second German transient which you mentioned which
3 occurred after the first, but before TMI 2, which involved
4 some sort of operator action or inaction based on disbelief
5 of indicators.

6 A Yes.

7 Q And then some time after the conclusion of the
8 deposition, the list that we have composed concerning
9 overseas transients.

10 Do you have any idea how long it would take?

11 A I am not sure we have kept them all. That's the
12 problem. We have passed them on and we have increased here
13 from a staff of 2 to a staff of 10 or so in the last three
14 or four years, and I will have to go back and see how good
15 we have kept copies of it. What I will give you won't be
16 complete in any way.

17 Q Would two weeks be a reasonable time estimate?

18 A Yes.

19 Q All right. You were mentioning a few moments ago
20 another incident involving a Westinghouse overseas reactor.
21 Could you continue with that?

22 A Yes. I have a statement here that I can give you
23 on it.

24 Q May I have that?

25 A I can give you a little bit more information.

1 MR. HELFMAN: Before you do, let's mark this as
2 an exhibit to the deposition.

3 (LaFleur Exhibit No. 3 was
4 marked for identification.)

5 THE WITNESS: For the time being, we are treating
6 that as confidential, but not as classified.

7 BY MR. HELFMAN:

8 Q All right. This statement which you have provided
9 me has been marked Exhibit No. 3 to your deposition. It is
10 a two paragraph statement beginning with quote, the
11 paragraph, and then unquote, and then at the end of the
12 statement, unquote.

13 Could you tell me what this is quoting from?

14 A It is a statement that we sent to the originators
15 of the information proposing after some discussion, proposing
16 what we might say in public about it.

17 Q I see.

18 A And then it says how about the following statement
19 being used, and quote, unquote.

20 Q Did they request deletion of some information that
21 you had originally suggested might be disclosed?

22 A I don't recall. I didn't do it.

23 Q Is this the entire statement that was sent to the
24 originator?

25 A I don't recall. I think it was.

1 Q Would it be possible for you to find out if there
2 were?

3 A This is all that is approved for release.

4 Q By the NRC?

5 A By ^{them,} then.

6 (A discussion was held off the record.)

7 MR. HELFMAN: Back on the record.

8 BY MR. HELFMAN:

9 Q I note that this report, the statement which you
10 have provided and which has been marked as Exhibit No. 3,
11 refers to a Westinghouse reactor in which a PORV valve was
12 challenged and failed to close, that the valve is essentially
13 the same as those used on Westinghouse reactors.

14 The statement does not indicate the date of the
15 transient. Are you aware of approximately when this
16 transient occurred?

17 A Yes.

18 Q When is that?

19 A I can't tell you, only because it is not included
20 in the complete statement that we were allowed to release.

21 Q Okay. The information which is held confidential
22 is pursuant to an agreement between the NRC and--

23 A One of the other countries.

24 Q Between the NRC and that country?

25 A Its regulatory agency.

1 Q And the information that you cannot disclose
2 includes the date of the incident?

3 A The only information that I have permission to
4 disclose is what is in the statement.

5 Q I should note for the record that the statement
6 does not contain the name of the country, the name of the
7 reactor, the date of the incident. It does not indicate what
8 corrective measures were taken. It does not indicate the
9 date on which the incident was reported to the NRC or who
10 reported it.

11 Now with respect to this transient, is it possible
12 for you to disclose when the NRC became aware of it?

13 A I don't know ~~as to~~ whether I could tell you what I
14 know about when we learned about it. I guess I am
15 obligated to tell you. I don't know of any basis for denying
16 that.

17 It came after the Three Mile Island incident. It
18 happened before.

19 Q Since the time this transient was reported to the
20 NRC, has the NRC communicated with Westinghouse concerning
21 this transient?

22 A I think they have. I think I have heard that they
23 have. I have not.

24 Q Your office has not been involved in that?

25 A I don't think so, no.

1 Q Are you aware of whether this transient also
2 involved a containment isolation problem?

3 I have been led to believe that this particular
4 reactor--strike that. Are you aware of whether this
5 transient involved an HPI actuation problem? I have been
6 led to believe that the design required both a pressure
7 indication and a coolant level indication to actuate HPI
8 but that during the course of this transient, pressure and
9 coolant level diverged.

10 A I would rather not answer. I feel comfortable only
11 in talking about what is in the statement there.

12 Q Would it be possible to confer with Mr. Chopko
13 concerning my question and perhaps he could advise you as to
14 whether you can discuss that matter?

15 A We can confer separately, but I think I made it
16 clear that the only permission, release that I can make about
17 it is there.

18 MR. HELFMAN: Shall we go off the record for this
19 conference?

20 (The witness conferred with his counsel.)

21 MR. HELFMAN: Let's go back on the record. Could
22 you read back the last exchange?

23 (The record was read by the reporter.)

24 MR. HELFMAN: Mr. Chopko has a statement to make
25 concerning the confidentiality of the information as it

1 relates to Exhibit No. 3.

2 MR. CHOPKO: As I understand, based on off the
3 record discussions, Exhibit No. 3 marked for identification
4 in this deposition is the only statement now which the
5 NRC has had approval from the originator to release, and it
6 is, the four corners of the document represent the now
7 authorized publicly available information on the incident.

8 I will point out for the record that the NRC
9 regulations specifically prohibit the production of exempt
10 material in 10 CFR Section 9.12, and the matter of
11 confidentiality of this information is still the subject of
12 discussion.

13 I have proposed and Mr. LaFleur has agreed to follow
14 up discussing this matter with staff counsel and with
15 chief counsel for the President's Commission, Mr. Gorenson,
16 and that I expect that either more information will be
17 approved for release, or there will be some confidential
18 agreement executed with the President's Commission.

19 MR. HELFMAN: We should add to that that
20 Mr. LaFleur has indicated that it would be possible to
21 contact the originator and request that additional information
22 concerning the transient be disclosed.

23 Do you think that might be done today?

24 THE WITNESS: No, it couldn't be done that fast.
25 We discussed this yesterday and decided we would get together

1 and decide what to ask the other ^{side} ~~guy~~ because there is a
2 danger that he could over-react and give us very negative
3 response unnecessarily if we approach it wrong, so we are
4 thinking in terms of going back to him and trying to see what
5 more we can get released, but we haven't decided yet when
6 or how to do it.

7 I think we can do it in a couple of days. The last
8 time we got a clearance in a matter of two or three days
9 to release that statement.

10 BY MR. HELFMAN:

11 Q Then if you receive such a clearance from the
12 originator, you would I presume notify the President's
13 Commission and we could reconvene the deposition and
14 obtain that information from you at that time? Does that
15 seem a workable arrangement?

16 A Yes.

17 Q You have indicated previously that this transient
18 occurred pre-TMI, and the NRC was notified of the transient
19 by the originator post-TMI.

20 Could you be more specific in terms of providing
21 the timeframe? Could you tell me the year in which it occurred
22 and the date on which the NRC was notified by the originator?

23 A No. I don't know the date on which it was notified
24 by the originator, and I would prefer not to talk about when
25 it happened.

1 Q Do you know whether the vender of this particular
2 plant which according to this statement is Westinghouse
3 found out about the transient?

4 A Do I know when he found out?

5 Q When the vender was notified and when you say you
6 do not know are you saying that you cannot disclose the
7 information or that you do not have the information?

8 A I do not have it. I do not know when Westinghouse
9 learned about the incident, and I am saying that because I
10 don't have the information, not because I am bound not to
11 disclose it.

12 Q Do you know if Westinghouse found out pre or post-

13 TIM?

14 A No.

15 Q This statement which is marked as Exhibit 3 confines
16 itself pretty much to the part played in the transient by
17 the PORV and its failure to close during the transient.

18 However, the statement does not address the ECCS
19 actuation involved in the transient. Are you aware of the
20 role played by ECCS actuation in this transient?

21 MR. CHOPKO: I don't know that there is a way to
22 answer that question without some breach of confidentiality.

23 MR. HELFMAN: I haven't gotten to that question
24 yet. I imagine if I asked for the disclosures of the
25 information, if he has it, that the question of confidentiality

1 would arise.

2 MR. CHOPKO: Just the fact that you are asking a
3 question that doesn't appear in the four corners of Exhibit 3 I
4 think you are asking into protected areas.

5 THE WITNESS: I would rather not answer.

6 MR. HELFMAN: Do you know whether following the
7 disclosure of this transient the NRC issued a regulation
8 requiring Westinghouse plants in the United States to change
9 ECCS actuation?

10 MR. CHOPKO: I am going to object again. It is
11 obviously the factual material that is restricted.

12 MR. HELFMAN: Well, the question I am asking
13 concerns a reg directed to domestic plants.

14 MR. CHOPKO: But the beginning of your question is
15 based on first knowledge of the details of the transient,
16 and then an implicit assumption that the details were somehow
17 factored into an analysis.

18 MR. HELFMAN: My question was quite specific and
19 that simply establishes a timeframe. I will repeat the
20 question.

21 Are you aware of whether after this transient came
22 to the attention of the NRC a regulation was promulgated
23 to the operators of Westinghouse plants in this country
24 requiring a change in the ECCS actuation system?

25 MR. CHOPKO: I will renew my objection based on the

1 same grounds.

2 MR. HELFMAN: I will reframe the question.
3 Are you aware of whether post-TMI, NCR promulgated a
4 regulation requiring the operators of Westinghouse plants
5 in this country to alter their method of ECCS actuation?

6 MR. CHOPKO: If you know.

7 THE WITNESS: I am aware, yes. I personally worked
8 on the distribution to all the other countries of this
9 statement, of this requirement.

10 BY MR. HELFMAN:

11 Q Do you have a copy of that new requirement
12 available?

13 A I think so.

14 Q Could we obtain a copy for the purposes of the
15 deposition?

16 A Okay.

17 MR. HELFMAN: Let's go off the record.

18 (A discussion was held off the record.)

19 BY MR. HELFMAN:

20 Q When you receive notification of a transient such
21 as the statement contained in Exhibit No. 3, do you distribute
22 this in accordance with your foreign distribution list?

23 A No. We are obligated to tell people about what
24 happens here, but not what happens overseas.

25 So the obligation to spread the information on an

1 international basis rests with the originator?

2 A Yes. However, again after we digest and make this,
3 after we use this information in our process and do
4 something with it to our reactors, then it gets into our own
5 instructions. It is factored, it has been factored into our
6 own instructions for shutdown of U. S. plants or review of
7 design or operational procedures or something like that, and
8 then we do distribute it in the usual routine to others as
9 reflecting what we are doing in our plants.

10 Q I see. In this statement marked as Exhibit No. 3,
11 there is indicated a statement from Westinghouse that
12 "Although PORV's are expected to only relieve steam, they are
13 nevertheless capable of passing 2 phase and liquid water
14 and that no destructive failure of the valve body will occur
15 for any fluid conditions passing through the valve. The
16 staff does not have documentation to support this contention."

17 Was this statement by Westinghouse made in response
18 to an NRC inquiry based on the notification of this transient,
19 or was this a statement made by Westinghouse which pre-dated
20 the notification from the originator concerning this transient?

21 A I don't know.

22 Q Are you aware of who had the--

23 A It is a fact that most of these valves that are
24 designed to handle steam can handle a certain amount of two
25 phase or liquid fluid, and so I guess this is somebody

1 reporting Westinghouse having said that it should be
2 applicable in these designs.

3 Q You don't know if this was the response to an
4 inquiry which was ~~qu~~cited by this report?

5 A No.

6 Q Do you know who in the NRC had the contact with
7 Westinghouse following the receipt of this report?

8 A People in NRR; I don't know. I think I heard that
9 this fellow Thadani had been in touch with them.

10 Q Did the notification from the originator come to
11 your office first within NRC and then did you notify NRR or
12 was NRR made aware of this by the originator prior to your
13 office?

14 A I think NRR got it first. Because of this
15 sensitivity, sometimes we receive information not directed
16 to us, to the NRC staff, but through a vender or some other
17 non-government agency in another country, utility, for
18 example.

19 I reason this is because of the extreme political
20 sensitivity of releasing such information in these
21 governments. Most of the people don't want to be associated
22 with having released it when it is sensitive information,
23 and in several instances, we have received information from
24 such a third ^{party} and on inquiry established clearly that the
25 government party that was responsible for getting to us was

1 really aware of that transmission, so it is not unusual
2 to receive it when the government over there decides that
3 it is time that they are obligated to tell us.

4 I am not talking about ^{This} ~~his~~ instance, but in all
5 instances, it is not unusual to receive it from another
6 party.

7 Q If the information is received from the vender or
8 the operator rather than directly from the government
9 involved, does that information normally get transmitted
10 to your office rather than some other branch within the NRC?

11 It is unusual that this information was transmitted
12 first to NRR.

13 A The several people hear about it sort of
14 concurrently, and NRR is really stuck with the question of
15 how do we use it and all these protection problems I have
16 been mentioning and so they for that reason forward it to
17 us and we start working with it to define the regime of
18 protections that is required.

19 This is not only government secrecy. It is very
20 often ~~protection~~ ^{proprietary} stuff. It very often involves, I think
21 I mentioned earlier the rights of the commercial source.
22 It is real clear. It is really clear in the laws, for example,
23 of Canada that information obtained from a private utility
24 or other private source which is his information which
25 belongs to him is to be treated as obtained by the government

1 in the course of its regulatory actions, activities, is to
2 be protected, is to be treated still as though it were the
3 information of the source, and the property of the source,
4 and this definition goes considerably beyond what we would
5 tolerate and accept as proprietary rights in NRC. I think you
6 realize that in our own government, the various functions
7 deal with a little bit different definitions of proprietary
8 rights.

9 For example, the laws requiring, the laws concerning
10 ~~commerce exploiting~~ ^{commercial export} of material require much tighter
11 protection of the designers' and the sellers' secrecy rights
12 in his property, that he is exporting, than we would normally
13 accept because of our open system of regulation.

14 Do you follow me?

15 Q Yes.

16 A Do you agree? Do you know that?

17 Q Well, what you say doesn't appear on the face to
18 be unreasonable.

19 A Certainly among the other countries, the people
20 who work with proprietary information here as being exempt
21 under the fourth exemption initially react with non-belief,
22 with disbelief ^{of} that something that we got from a foreign
23 country that we are looking at is ^{||} proprietary. ^{||}

24 They say we would never accept this as proprietary
25 here. and the fact is that the laws of that country have

1 defined it, and the practices are a lot different than here
2 and we are protecting it at their request. We are not
3 protecting it by our direct definitions.

4 Q Would it be fair to state that the concern of the
5 foreign originator is that if this confidential information
6 were disclosed to the American public it would inevitably
7 be disclosed to the public of the originating country?

8 A Primarily what we are talking about is information
9 that they feel they own and that a competitor might benefit
10 from, or that they feel they own and although they are
11 giving it to the government because the government has an
12 obligation to regulate them, nevertheless it is to be used
13 only for that purpose and they have a right to prevent its
14 use in any other way, and so the other reason, to prevent
15 embarrassment, I guess in that case the answer would be
16 yes. They assume if it came out in our headlines tomorrow
17 morning, it would come out in theirs, too.

18 Q And would embarrass them at home?

19 A Yes, to the extent that that is the reason for it.
20 It is more. The basis for doing it is more a traditional,
21 a long-term policy of not letting any such government
22 information out. It is not a question of just nuclear energy
23 safety information. That is only one of many, many categories
24 of information considered to be not for release unless specially
25 cleared and edited for release by the government.

1 Q For a number of reasons, including the proprietary
2 rights of the owner of the information and also the desire
3 of the originating government to avoid embarrassment by
4 disclosure of such information to their own domestic
5 population--

6 A You have to go about it the other way. Our policy
7 of full disclosure to the public for the good of the society
8 and for the protection of the public is a very novel one.
9 That is what is radical in this international relation
10 business. It is not that we can pin down some reasons why
11 we think they are protecting it in the other countries. It
12 is rather our experiment in democracy that is unusual.

13 (A discussion was held off the record.)

14 BY MR. HELFMAN:

15 Q Mr. LaFleur has handed me IE bulletin No. 79-06
16 dated April 11, 1979 entitled "Review of Operational
17 Errors and System Misalignments Identified During the Three
18 Mile Island Incident."

19 A Did you read this?

20 Q The number?

21 A Yes.

22 Q Yes. Could you find in this bulletin for me the
23 reference to HPI initiation based on pressure level and
24 coolant level indications?

25 (A discussion was held off the record.)

1 BY MR. HELFMAN:

2 Q Mr. LaFleur has pointed to page 2, paragraph 5 of
3 bulletin No. 79-06--excuse me, paragraph 3, which reads,
4 "For pressurized water reactor facilities that use pressurizer
5 water level coincident with pressurizer pressure for automatic
6 initiation of safety injection into the reactor coolant
7 system, instruct operators to manually initiate safety
8 injection when the pressurizer pressure indication reaches
9 the actuation set point whether or not the level indication
10 has dropped to the actuation set point."

11 Now would I be correct in concluding from this
12 paragraph that the solution mandated by bulletin 79-06 is a
13 procedural solution rather than a design change?

14 A Yes. It sounds like it to me. I am only trying
15 to find something that pertains to this. I am not familiar
16 with all the response that was made to this kind of problem.

17 Q Are you aware of any bulletins that may have come
18 after this requiring a design change in actuation of ECCS?

19 A I believe the recent report to the Commission on
20 lessons learned from Three Mile Island prescribes some
21 changes in design concept that would include this.

22 Q Would that be the short-term lessons learned
23 which was issued on July 19th of this year?

24 A I think so.

25 Q But you are not specifically aware of any such--

1 A I am not aware of whether that, exactly how it is
2 dealt with in that report or of whether there was some other
3 actions between here and there.

4 Q On the basis of the report that you have in your
5 hand, would it appear that the automatic actuation of ECCS
6 or ~~HIP~~ remains tied to the coincidence of pressure and level
7 indication?

8 A Just on the basis of this paragraph; there is no
9 indication that it has been taken off of that.

10 Q All right.

11 MR. HELFMAN: We would like to have this bulletin
12 marked as an exhibit to the deposition, Exhibit 4 I believe.

13 (LaFleur Exhibit No. 4 was
14 marked for identification.)

15 BY MR. HELFMAN:

16 Q Was your office involved in the preparation and/or
17 promulgation of bulletin No. 79-06?

18 A No.

19 Q Was this bulletin distributed on a worldwide basis
20 to the people on your distribution list?

21 A I think after discussions with some of the venders
22 and licensses. I think it mentions in some of these that
23 there had been a meeting with the venders involved to
24 discuss the applicability. Somewhere as I recall when that
25 came out that was noted.

1 Q Was your office involved in meeting with venders,
2 the discussions concerning this?

3 A No.

4 Q Would this bulletin have been distributed to the
5 originator of the information concerning the transient
6 addressed in Exhibit No. 3, Westinghouse's transient?

7 A I think we have already told you, it came from one
8 of the people we cooperate with and this went to all the
9 people we cooperate with.

10 Q So bulletin 79-06 would have gone to the originator
11 of the Westinghouse transient information?

12 A Yes, by mail; it would have taken a week or two.
13 Now we might have sent it also in a telegram, the substance
14 of it.

15 Q Are you aware of whether that was done?

16 A I will have to dig out the telegrams.

17 MR. HELFMAN: Off the record.

18 (A discussion was held off the record.)

19 MR. HELFMAN: Anticipating what your response will
20 be, let me indicate to you some questions that I had
21 anticipated asking you about that Westinghouse transient and
22 if you feel that you are unable to provide information about
23 any of them, please do so, and if not, please indicate that
24 you are unable to.

25 The statement which has been marked Exhibit No. 3

1 does not mention coincident pressurizer level and pressure
2 level as part of the transient.

3 Are you aware of whether pressurizer level and
4 pressure level as actuation for ECCS was involved in that
5 transient?

6 MR. CHOPKO: Objection.

7 THE WITNESS: I can't answer.

8 MR. HELFMAN: Are you aware of whether the transient
9 involved a cavitation of pumps due to plant reaching the
10 saturation point?

11 MR. CHOPKO: Objection to the whole line.

12 THE WITNESS: I can't answer that.

13 MR. HELFMAN: Exhibit No. 3 as I have mentioned is
14 concerned almost exclusively with the PORV, but does not
15 mention whether the operator was able to detect the problem
16 and block the PORV at any point in the transient.

17 Are you aware of whether operator action was involved
18 in the PORV's involvement as addressed in Exhibit 3?

19 MR. CHOPKO: I am going to object again and I am
20 going to have a continuing objection to every single
21 question that you ask beyond the four corners of the document.
22 You may want to consider whether you want to put it on the
23 record.

24 MR. HELFMAN: Do you know whether operator
25 termination of HPI was involved in the transient?

1 MR. CHOPKO: Objection.

2 MR. HELFMAN: Do you know whether in this country
3 plants other than Westinghouse plants prior to the issuance
4 of bulletin 79-06 relied on coincident actuation of ECCS?

5 Are you aware of whether the B&W, CE, or GE plant
6 employed such a system?

7 MR. CHOPKO: If you know.

8 THE WITNESS: It is my impression they did, but I
9 don't know for sure. I assumed they did from the way it has
10 been ~~discussed~~ ^{discussed} since the incident.

11 BY MR. HELFMAN:

12 Q Does that discussion that you refer to relate to any
13 specific vender other than Westinghouse?

14 A It related generally to all of the vendors, but
15 to no specific one.

16 MR. HELFMAN: Let's go off the record for a minute.

17 (A discussion was held off the record.)

18 MR. HELFMAN: Back on the record. You have
19 indicated, Mr. LaFleur, that following TMI 2, the information
20 which is contained in IE bulletin No. 79-06 was provided to
21 certain overseas addressees and originators via telegram,
22 and you have handed me what looks like a Xerox copy of a
23 telegram. It is entitled "US NRC. J. D. LaFleur, Jr.,
24 4/11/79" followed by a phone number.

25 We would like to have this marked as the next exhibit

1 No. 5 I believe to the deposition.

2 (LaFleur Exhibit No. 5 was
3 marked for identification.)

4 BY MR. HELFMAN:

5 Q Would this telegram have been sent to all of those
6 on your addressee list as recipients of telegraphed
7 information?

8 A Yes.

9 Q You have provided me with two addressee lists.
10 One of them bears the title "Air Gram," and a message
11 reference number A-0221, and to the right of that is a list
12 of what is entitled technical notification addressees.

13 That list continues on to a second page. There are
14 a total of 29. Does this list contain the names of overseas
15 persons who received this telegram that has been marked as
16 Exhibit No. 5?

17 A Does it? I am worried about one or two changes.

18 (A discussion was held off the record.)

19 BY MR. HELFMAN:

20 Q The 29 addressees that are listed on the document
21 to which I have referred normally get the cabled information,
22 would that be correct?

23 A Yes, plus the 6 or 7 on the other list that is
24 among these things--those 6 in your left hand go by way of
25 commercial cable whereas all the others go by way of diplomatic

Exhibits were not included in the 74
communications. *draft that reviewed. JSC*

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Q So there are the 29 addressees listed on the *3/14*
document which is entitled "Air Gram"?

A Some of those are two to a country, so we don't
send it to 29 different embassies. We sent to a lesser
number of embassies.

Q And the embassies will then do further distribution?

A In the same country, yes.

Q Then there is a further list of 6 addressees that
receive telegram notification through commercial means?

A Yes.

MR. HELFMAN: Let's go off the record on this.

(A discussion was held off the record.)

MR. HELFMAN: Back on the record. I would like
marked as the next exhibit to the deposition the list of
cable addressees, including 29 who receive cable notification
through diplomatic channels, and 6 who receive commercial
cable notification--three pages all together.

(LaFleur Exhibit No. 6 was
marked for identification.)

BY MR. HELFMAN:

Q While we are awaiting the list of addressees who
received the cable of 4/11/79, let me ask whether the
information which is contained in the cable is confidential
or classified or privileged?

1 A No.

2 Q Let me read to you the third paragraph from the
3 cable of 4/11/79. "The Three Mile Island Nuclear Power
4 Plant Unit 2 experienced significant core damage which
5 resulted from a series of events initiated by a loss of
6 feedwater transient and compounded by operational errors.
7 Pressurizer level indication appears to have been a
8 contributing factor by leading to erroneous inferences of
9 level in the reactor coolant system. It has been determined
10 that in some Westinghouse designed facilities, coincident
11 low pressurizer pressure and low pressurizer level signals
12 are required to actuate safety injection and further that
13 preliminary analysis of a small break in the pressurizer
14 indicates that LP may remain high while PP continues to
15 decrease. In such a case, safety injection would not
16 automatically occur and reliance by the operator on LP
17 could possibly lead to erroneous actions. On April 7, 1979
18 Westinghouse advised owners with plants having coincident
19 logic for safety injection signals that operators should
20 manually initiate safety injection if PP drops below the
21 safety injection initiation setpoint."

22 Do you now have the list of the actual recipients
23 of this telegram?

24 A Yes.

25 Q May I see them, please?

1 A Let me just check one here. That tells the
2 embassies.

3 (A discussion was held off the record.)

4 BY MR. HELFMAN:

5 Q You have handed me a list of embassies entitled
6 "Department of State Outgoing Telegram."

7 Does this list accurately depict the recipients
8 of the 4/11/79 telegram?

9 A That list of embassies plus the airgram list
10 designating who in turn receives from the embassies copies
11 of the substance of these cables is a list, together
12 constitute a list of everybody who received telegraphic
13 notification of those summaries in that telegram.

14 Q You are referring to Exhibit No. 6?

15 A Right.

16 MR. HELFMAN: We will have the list that you have
17 just handed me marked Exhibit No. 7.

18 (LaFleur Exhibit No. 7 was
19 marked for identification.)

20 THE WITNESS: That list is the complete State
21 Department telegram that went out with this notification in
22 it.

23 MR. CHOPKO: Do you want the whole document or just
24 the list as an exhibit?

25 MR. HELFMAN: This entire page which on its face

1 also contains the text of the telegram as Exhibit No. 7.

2 BY MR. HELFMAN:

3 Q I also have been provided by Mr. LaFleur with five
4 lists of recipients of notifications.

5 A Of mailings.

6 Q Are these the recipients of notifications by mail
7 rather than by telegram?

8 A Yes. When we say technical notification, we usually
9 are referring to the list on the airgram who receive the
10 advice of telegrams through the embassies. When we send
11 the telegram, we send one telegram to an embassy that
12 advises the people of the embassy who includes the science
13 counselor in the embassy (who is usually the staff member
14 of the embassy who is interested), and then he in turn is
15 obliged by that airgram to go and give copies of the
16 substance of the message to the people in the tech
17 notification list, which is on the airgram, so by sending
18 these cables, we disseminate the information to the embassies
19 and to these official contacts designated under the terms
20 of the agreement to receive early notification cables.

21 In addition, for TMI there is that short list of
22 commercial cables, and then this whole list here is the
23 mailing list.

24 Q Let's see if we can get this laid down in the
25 record. The list on Exhibit No. 7 are American embassies that

1 receive the telegrams and they are then obligated to
2 distribute the information to the addressees listed on
3 Exhibit no. 6?

4 A Right.

5 Q Then in addition to the telegraphic notification
6 and the dissemination by American embassies abroad, there
7 are lists of recipients who receive notification by mail,
8 is that not correct?

9 A Right.

10 Q And the [list of] mail recipients are contained in
11 five lists which you have handed me?

12 A Why don't we count the pages and make it all one
13 list?

14 Q Perhaps we can make it one exhibit, but identify
15 them by title.

16 The first is entitled "U. S. Embassy Science
17 Attaches and Counselors list, Revised March, 1979,"
18 consisting of four pages.

19 The second list is entitled, "Foreign Embassy
20 Scientific Counselors List C, Revised May, 1979," consisting
21 of four pages.

22 The next is entitled, "Technical Notification
23 Addressees List A, Revised May, 1979," consisting of three
24 pages.

25 Then there is a list entitled, "Administrators and

1 Others Not on the Tech Notice List," consisting of a single
2 page with five addressees listed, and the final is a single
3 page with the handwritten title "GSA Cable Addressees for
4 TMI," containing 6 addressees.

5 Were these lists that were employed in notifying
6 the recipients concerning the TMI incident?

7 A Yes.

8 Q Were these same lists used to notify the recipients
9 of other transients or was this list composed for the TMI
10 notification?

11 A [The permanent list], this is the list primarily
12 used for TMI, modified from permanent lists for use with TMI.

13 Q For TMI, was the list expanded?

14 A Yes.

15 MR. HELFMAN: Let's have these lists marked as
16 a single exhibit to the deposition, Exhibit No. 3

17 (LaFleur Exhibit No. 3 was
18 marked for identification.)

19 MR. HELFMAN: Before we turn from the subject
20 of the telegram, I call your attention to page 2 of the
21 telegram, Exhibit No. 5. It indicates that on April 7th,
22 1977 Westinghouse advised owners with plants having coincident
23 logic for safety injection signals that operators should
24 manually initiate safety injection if PP drops below the
25 safety injection initiation point.

1 Are you aware of whether NRC had been advised by
2 Westinghouse prior to Westinghouse advising owners with
3 suc plants?

4 THE WITNESS: I am not.

5 MR. HELFMAN: Concerning Exhibit No. 3, which is
6 the statement describing the European Westinghouse transient
7 based on your knowledge of that transient, do you believe
8 that if that information had been available to the NRC
9 prior to the occurrence of TMI 2, that such information
10 could hve been helpful in preventing or mitigating the TMI 2
11 transient of March of this year?

12 MR. CHOPKO: Objection unless you are willing to
13 confine your question to the four corners of the exhibit.

14 Are you willing to stipulate that you are only
15 concerned with the four corners of the exhibit?

16 MR. HELFMAN: Let the witness confine his answer.

17 THE WITNESS: Based on what is in the four corners,
18 I would say it would have been interesting and possibly
19 useful.

20 BY MR. HELFMAN:

21 Q In preventing the transient at TMI 2 of March of
22 this year? Interesting, certainly; useful, certainly.

23 A I think we are trying to attach a lot of significance
24 to one or two other incidents that really would have, might
25 have prevented TMI, and I think that in each incident that

1 one examines, one sees special things about that incident
2 at that plant at that time that make it a special case, and
3 that are recognized as such, and that that special case
4 usually means, usually leads to it being considered with
5 other special cases, but not immediately translated into
6 direction to all plants or to all similar plants or to all
7 plants having any one of the characteristics of that incident
8 plant, so I think in reality very few individual incidents
9 immediately get translated into directions to change something
10 that will affect or prevent something at Three Mile Island,
11 so on that generalization, there are many, many incidents
12 over the history of reactor licensing that might have
13 contributed, that being one of them, what you see in those
14 four corners being one of them, and in that context, it would
15 be very useful.

16 It is very difficult to say that this incident
17 as recited there is that significant.

18 Q Recognizing that the failed PORV was one of the
19 important ingredients in the TMI incident of March of this
20 year, and that Exhibit No. 3 which is concerned with the
21 European Westinghouse transient focuses on a failed open
22 PORV, and putting aside the procedural or administrative
23 matters which may have delayed or impeded or enhanced
24 notification of utilities or vendors of this information,
25 doesn't it appear to you that this information bears

1 directly on the type of PORV failure that occurred at TMI 2
2 in March of this year?

3 A Both incidents involved failure of the PORV. I
4 can't get much from this or from what I know about TMI to
5 say just how similar the two failures of PORV's were.

6 Q All right. Are you aware of why Westinghouse did
7 not report this matter until after TMI 2, and I am
8 referring again to the incident described in Exhibit No. 3?

9 A No.

10 Q Do you know if Westinghouse was obligated to report
11 such overseas transients to the NRC in timely fashion?

12 A No, because I haven't made the judgment that I would
13 have to make, and Westinghouse would have to make in accordance
14 with the requirements before they would find it necessary
15 to report.

16 Q There is a reporting requirement, however, regarding
17 overseas transients?

18 A There is a reporting requirement if Westinghouse
19 knows about a plant in the United States that has a similar,
20 ^{if} Westinghouse knows of a safety problem that exists in a
21 plant for which it has a responsibility as defined in Part
22 21, ^{if} Westinghouse is within the limitations, ^{then} ~~where~~ they are
23 required to report that deficiency or that safety problem
24 to NRC.

25 Q Let's go through some of the exhibits which have

1 not yet been marked and which you have provided.

2 We have here a document entitled "Application for
3 License to Export Nuclear Material and Equipment,"
4 accompanied by a copy of Part 110 of Title 10, Chapter 1 of
5 the Code of Federal Regulations, and we would like to have
6 these two documents marked together as the next exhibit
7 to the deposition.

8 (LaFleur Exhibits Nos. 9&10 were
9 marked for identification.)

10 BY MR. HELFMAN:

11 Q With respect to Exhibit No. 10 which has just
12 been marked, is the information that is requested in the
13 application described or is it required by Part 110, is
14 Part 110 basically instructions to filling out this
15 application? What is the relationship between these two
16 documents?

17 A The requirements for submission of ~~an~~^{export} applications
18 are given in Part 110. The form for submitting an export
19 application is the other item. Part 110 says that an
20 import application is done without a form, but in a
21 letter.

22 Q Then I show you an Executive Order dated January
23 5th, 1979, which consists of five pages followed by a docu-
24 ment entitled "White House Fact Sheet" consisting of 3 pages
25 followed by a document entitled "News Release" dated January

1 5, 1979.

2 A Wait a minute. Wait a minute. I think that's the
3 wrong one.

4 (A discussion was held off the record.)

5 MR. HELFMAN: Let me show this to you and perhaps
6 you can determine whether this is the document we have
7 requested from you.

8 THE WITNESS: As I recall, we were discussing the
9 Executive Order dealing with the environmental effects
10 abroad of major federal actions, and indeed this is the
11 correct one.

12 MR. HELFMAN: As I was saying, followed by a
13 news release consisting of one page dated January 5, 1979,
14 followed by a document entitled "Executive Order for
15 Environmental Effects Abroad of Major Federal Actions
16 Promulgated by the Executive Office of the President, Council
17 on Environmental Quality," consisting of five pages, followed
18 by a document entitled "Questions and Answers on International
19 Environmental Executive Order" consisting of five pages,
20 the first being unnumbered, followed by a letter signed by
21 John Heinz and Adlai Stevenson from the United States Senate
22 addressed to the President dated December 13th, 1978 consisting
23 of two pages, I would like to have this marked as the next
24 exhibit in order.

(LaFleur Exhibit No. 11 was
marked for identification.)

1
2
3 MR. HELFMAN: Mr. Chopko, could you please
4 describe for the record these two packages of documents
5 which will be marked together as the next exhibit in order.

6 MR. CHOPKO: I probably could, realizing of course
7 that I am not under oath.

8 As handed to me by you, Mr. Helfman, I recognize
9 these documents as Xerox copies evidently reflecting some
10 information that occurred in West Germany and was discussed
11 during the course of this deposition.

12 I will stipulate that it is Exhibit 12.

13 MR. HELFMAN: Mr. LaFleur, these two packages of
14 documents refer to the Brunsbüttel Nuclear Power Plant
15 disturbance of June 18th, 1978, and the transient at the
16 Gundrinningen reactor of January 1st, 1977.

17 Would you please look these over and see if both-
18 I and Mr. Chopko have given an accurate description of these
19 documents for the record?

20 (A discussion was held off the record.)

21 MR. HELFMAN: Back on the record.

22 BY MR. HELFMAN:

23 Q Is it correct that Mr. Chopko and I have
24 accurately described the two documents which you have reviewed?

25 A Yes.

1 MR. HELFMAN: Let's have these marked together as
2 Exhibit 12

3 (LaFleur Exhibit No. 12 was
4 marked for identification.)

5 MR. HELFMAN: We have also been provided by you
6 with a document entitled "Enclosure List" dated January 25,
7 1978 signed by you. Let me show you this document and ask
8 you what that is.

9 THE WITNESS: The answer to the question is it
10 is an enclosure list of those enclosures to the transmittal
11 that we made to foreign addressees on our mailing list on
12 January 5, 1978.

13 BY MR. HELFMAN:

14 Q And these would be the addressees who did not
15 receive the telegraphic communication only? These are the
16 enclosures with the mail communication?

17 A That's right.

18 Q Now under Part 3, special reports, it indicates
19 that current event, power reactors 1 September through
20 31 October 1977 was an enclosure. Would it be reasonable to
21 assume that if a transient were described in current
22 events, that that description would have been transmitted
23 to the addressee on the mailing list?

24 A For that period, yes.

25 Q And concerning the Davis-Besse transient which we

1 addressed earlier of September 24th, 1977, are you aware
2 of whether that transient was described in current events in
3 this edition of current events as described in the
4 enclosure list?

5 A On the basis of what the person who makes the mailing
6 list was able to determine by calling back to the source
7 of the current events report to NRC, the answer is yes.

8 MR. HELFMAN: We would like to have this document
9 marked as Exhibit 13 to the deposition.

10 (LaFleur Exhibit No. 13 was
11 marked for identification.)

12 BY MR. HELFMAN:

13 Q Are you aware of a document which has become
14 known as the Michelson memorandum?

15 A No.

16 Q Are you aware of a document that has become known
17 as the Novak memorandum?

18 A I have heard of the Novak memorandum, but I am not
19 aware of what is in that document.

20 Q You haven't seen it?

21 A No.

22 Q Are you aware of a document known as the Creswell
23 memorandum?

24 A No.

25 Q Are you aware of whether any of the three documents

1 that I have referred to have been distributed by your
2 office to overseas governments, operators, embassies?

3 A I am not aware.

4 Q If such item had been distributed, is it likely
5 that you would have been aware of it?

6 A Not very likely.

7 Q Who in your office would be aware of such
8 transmittals?


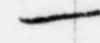
9 A Bud Levine, William Levine, to whom we have been
10 talking and who has furnished these, Exhibit 13.

11 MR. HELFMAN: Off the record.

12 (A discussion was held off the record.)

13 BY MR. HELFMAN:

14 Q Mr. LaFleur, you have handed me a packet of
15 materials. Could you please describe for the record what
16 this is?

17 A This is a package of information supplied to,  
18 under a Freedom of Information Request on the incident in
19 Germany at Gundrimmingen and Wurgassen.

20 Q Is that the second of those two transients that
21 you referred to but did not recall the name of the facility?

22 A No. That was Brunsbuttel.

23 MR. HELFMAN: Let's have this marked in order,
24 which would be Exhibit 14.

1 (LaFleur Exhibit No. 14 was
2 marked for identification.)

3 MR. HELFMAN: That concludes the questions that we
4 have today. Mr. Chopko, did you have any questions for
5 the witness?

6 MR. CHOPKO: No.

7 MR. HELFMAN: On that not,⁶ we will recess the
8 deposition, as I indicated earlier. If we have need to
9 ask you further questions, we will reconvene the deposition,
10 but for today, that's it.

11 Thank you very much.

12 (Whereupon, at 2:30 p.m., the deposition of
13 Mr. LaFleur was recessed.)
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REPORTER'S CERTIFICATE

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2
3
4 DOCKET NUMBER:

5 CASE TITLE: DEPOSITION OF JOSEPH D. LAFLEUR


6 HEARING DATE: August 1, 1979

7 LOCATION: Bethesda, Maryland
8

9 I hereby certify that the proceedings and evidence
10 herein are contained fully and accurately in the notes
11 taken by me at the hearing in the above case before the

12 PRESIDENT'S COMMISSION ON THE ACCIDENT AT THREE MILE
13 ISLAND
14 and that this is a true and correct transcript of the
15 same.

16
17 Date: August 2, 1979

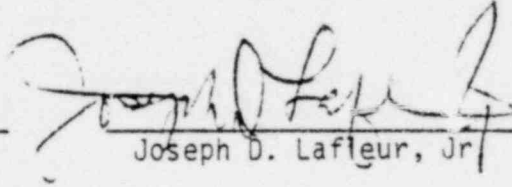
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CERTIFICATE

I certify that I have read this transcript and corrected any errors in the transcription that I have been able to identify, except for unimportant punctuation errors.

Date: _____

8/17/79



Joseph D. Lafleur, Jr.