

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

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In the Matter of: PUBLIC MEETING

BRIEFING BY IE ON CURRENT STATUS OF INDIAN POINT-2  
INVESTIGATION OF THE CONTAINMENT FLOODING EVENT, AND  
BASIS FOR ALLOWING RESTART OF INDIAN POINT-3 AND  
DISCUSSION OF INSTRUCTIONS TO BOARD ON INDIAN POINT  
PROCEEDING

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2 NUCLEAR REGULATORY COMMISSION

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5 BRIEFING BY IE ON CURRENT STATUS OF INDIAN POINT-2  
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8 AND

9 DISCUSSION OF INSTRUCTIONS TO BOARD  
10 ON INDIAN POINT PROCEEDING

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13 Nuclear Regulatory Commission  
14 Commissioner's Conference Room  
15 1717 H Street, N.W.  
Washington, D.C.

16 Friday, November 14, 1980

17 The Commission met, pursuant to notice, at 10:00 a.m.

18 BEFORE:

19 JOHN F. AHEARNE, Chairman of the Commission

20 VICTOR GILINSKY, Commissioner

21 JOSEPH M. HENDRIE, Commissioner

22 PETER A. BRADFORD, Commissioner

23 NRC STAFF PRESENT:

24 LEONARD BICKWIT, General Counsel

25 ~~WILLIAM J. DIRCKS, Executive Director for Operations,~~

## 1 NRC STAFF PRESENT (continued):

2 JOHN HOYLE, Secretary

3 SAMUEL J. CHILK, Secretary

4 VIC STELLO

5 HOWARD SHAPAR

6 ROY WOODS

7 ED JORDAN

8 ED HANRAHAN

9 PETER CRANE

10 LEONARD OLSHAN

11 JOHN OLSHINSKI

12 *Vince* ~~PAT~~ NOONAN

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

1  
2 CHAIRMAN AHEARNE: The Commission meets this  
3 morning to address three items, all relating to Indian Point  
4 reactors.

5 The first two are to hear from the director of the  
6 Office of Inspection and Enforcement, Mr. Stello, both on  
7 the status of the investigation of the recent event at  
8 Indian Point-2, where a very large amount of water was put  
9 into the containment in the cavity of the reactor vessel,  
10 and, the second, to hear from Mr. Stello regarding Indian  
11 Point-3 and its current status and what the staff intends to  
12 have occur at Indian Point-3.

13 After that we will then move to address the, once  
14 again, as we have many times, come to address the order  
15 establishing the board that we agreed to establish, I think  
16 it was on May 30th, and we have been having some continuing  
17 difficulty trying to reach a final agreement amongst the  
18 four of us as to what exactly we ought to be telling the  
19 board. We have a synthesis of a variety of opinions, and I  
20 would hope to spend, after we hear from Mr. Stello and the  
21 Commissioners are completed asking any questions, they might  
22 wish to then move to that and spend the rest of the  
23 morning. I do not know whether we will complete it. We --  
24 as we have in the past, we could then -- if we don't, we'll  
25 then reschedule another meeting.

1 With that, Vic?

2 MR. STELLO: Okay. We're here to talk about an  
3 event that began to come to our attention through a shutdown  
4 at Indian Point on automatic scram, due to some various  
5 equipment and personnel errors, on October the 17th, that  
6 led to water coming in contact with the reactor vessel. We  
7 have had since that time an ongoing inspection/investigation  
8 to understand what happened, why it happened, who knew what  
9 when, the purpose for -- for which will be to decide whether  
10 and to what extent enforcement action is needed. We are not  
11 finished with the investigation. We hope to have the  
12 investigation complete in about another two weeks, so that I  
13 will have a report on which to make the decision as to what  
14 kind of enforcement action we may -- we -- we think is  
15 appropriate.

16 CHAIRMAN AHEARNE: You say, again, when do you  
17 expect you might?

18 MR. STELLO: Two weeks.

19 CHAIRMAN AHEARNE: Two weeks for completion of  
20 investigation or two weeks for --

21 MR. STELLO: Two weeks for the report to me.

22 We are prepared to tell you what we know, what  
23 facts we have available. I am not prepared to speak to the  
24 issue of compliance or non-compliance today, simply because  
25 the investigation is not even yet finished and they're still

1 conducting some interviews, finding out what had happened  
2 and, more importantly, what were the -- the people-related  
3 activities and who did know what when.

4           This morning we'll tell you what the issues are  
5 that we're looking at, give you a status report on what we  
6 know of the problem; and we will finish up with that  
7 discussion and then tell you what we are looking at on  
8 Indian Point-3 -- as you recall, they have been in an  
9 extended outage, and that outage is coming to the point  
10 where they're ready to make a decision on their behalf as to  
11 whether they believe it's appropriate for them to start up  
12 the plant in light of what happened at Indian Point-2.

13           We're going to be discussing what the issues we  
14 think they must address before the start-up, before we're  
15 prepared to agree that it would be acceptable to start up,  
16 in terms of actions that they -- they need to take and  
17 either they have taken or are taking actions, and they will  
18 be complete before we will go forward with the start-up, or,  
19 at least, recommending that they be allowed to start up.

20           There will be a number of issues that we'll have  
21 to look in terms of what we understand from this event that  
22 will apply to other reactors. We have issued an information  
23 notice to all other reactors telling them what we do know  
24 about it, so that they can assure themselves they won't have  
25 this problem. We hope that next week we will have, at

1 least, a first bulletin to go out and set forth what  
2 additional information requirements we think ought to be  
3 placed on -- on the reactors in light of the experience, and  
4 probably will issue supplemental bulletins as we learn more,  
5 to apply to all the other reactors that might have this kind  
6 of a problem.

7           With that introduction, let me turn to Roy Woods,  
8 who is prepared to brief on -- on both issues.

9           MR. WOODS: Okay. Why don't we just start with  
10 the first slide, then.

11           CHAIRMAN AHEARNE: Roy, what is your association  
12 with the -- in other words, where are you in I&E?

13           MR. WOODS: Okay. I'm the person who follows  
14 operating experience on Westinghouse plants. This being a  
15 Westinghouse plant, I've been following it from the  
16 beginning. I've gone up there twice, in the containment of  
17 both, both Indian Point units, in the past two or three  
18 weeks.

19           Okay, this first slide, I'm not -- I'm not going  
20 to say everything that I eventually intend to say about it;  
21 this is just a summary of the major issues that we've been  
22 concerned with.

23           The first one is thermal effects of cold water on  
24 the hot vessel. As you probably are aware, when the water  
25 flooded into the reactor cavity, it got nine feet up on the

1 vessel that was still in hot stand-by. So you've got a  
2 thermal stress problem. The outside skin of the vessel is  
3 in -- is in -- it's in tension.

4           The second one is the effect of brackish water on  
5 stainless steel components. There's an awful lot of  
6 stainless steel in that cavity. There's the little thimbles  
7 that come out of the bottom of the vessel, then the long,  
8 sweeping curve that's many, many feet long, dozens of feet  
9 long, that comes back up to the seal table; and a lot of  
10 that got under the brackish water.

11           There's adequacy of the containment sump pumps and  
12 level indicators. Again as you're probably aware, both  
13 containment sump pumps, for -- for two different reasons,  
14 were inoperable. And the level indicators, we now believe  
15 they were operable, but they did have a recent history of  
16 failure, so the operators didn't trust them.

17           Which brings me to the next item -- adequacy of  
18 operator actions and procedures. They did not pay attention  
19 to some of the indications that they did have, that being  
20 the level indication and one other item that I can think of  
21 right now, they declared a weir level instrument inoperable,  
22 possibly prematurely, that's one thing we're looking at.

23           I guess the major item, in my personal opinion, is  
24 the integrity of the service water system fan coolers, the  
25 service -- well, the service water system portion of the

1 containment fan coolers. There's a history of previous  
2 leaks at Indian Point-2. I understand they've averaged  
3 about five leaks per year, one per -- one -- let's see --  
4 yeah, one per year per cooler, and they have five coolers.

5 CHAIRMAN AHEARNE: Are you defining "leak" as a  
6 certain rate of flow?

7 MR. WOODS: No, I can't get that quantitative;  
8 it's just something that they had to go patch, before it was  
9 more than -- than they wanted to see leaking on the floor.

10 The problem with these penetrations, if you will,  
11 of the service water portion of the containment fan coolers  
12 are the next three items. Well, let me -- let me jump to  
13 the next-to-the-last one first: post-LOCA containment  
14 cooling degradation. If you had to isolate one of these  
15 units, you're counting on having that cooling capability.  
16 They are backup systems, this containment spray, but you've  
17 nevertheless lost part of what you thought you had.

18 The reason you might have to perform that  
19 isolation of one of the units is the post-LOCA boron  
20 dilution problem. If you have a leak, you know in the long  
21 term, long-term cooling portion post-LOCA, you've got a  
22 certain inventory in the containment and it's -- it's  
23 borated, and if you're adding water to that, then it's not  
24 as borated as you thought it was.

25 And then there is a brief period after a large



1 LOCA when the containment design pressure is greater than  
2 the service water pressure, so you have a potential leakage  
3 path -- containment contents into the service water system  
4 and back out into the river.

5 Let's go on to the sequence.

6 We'll start back on the 1st of October. I guess  
7 you can start anywhere you want, but that seems the logical  
8 place to start because they did enter the containment to  
9 repair a leak; I believe this was in the motor cooler on fan  
10 cooler unit No. 25. The motor cooler is a smaller coil; the  
11 main cooler is the -- is a large bank of -- of big  
12 radiators, really, that the air in containment is blown  
13 across. It's blown by a fan, which is driven by a motor;  
14 and there's a smaller coil that cools the air that goes over  
15 that motor.

16 That's where most of the leaks have been,  
17 actually, in those motor coolers.

18 CHAIRMAN AHEARNE: Motor coolers?

19 MR. WOODS: Yeah.

20 Okay. Again, on the 3rd of October, they entered,  
21 to repair a different cooler; and again, I believe, that was  
22 on a motor cooling coil. At that second entry they also  
23 lifted one control float on -- on -- well, on at least one  
24 of the sump pumps; we're not certain whether they lifted  
25 both of them or not, but they've verified essentially that

1 at least one of the pumps was -- was operable. And they had  
2 had a problem with two of the level indicating lights  
3 sticking, or they were -- they were on constantly, when they  
4 shouldn't have been, so they also cycled those two floats.

5 Let's have that second backup slide then.

6 I'll try to explain what the level floats are.

7 Okay, I'd better go over here, I think.

8 These are the two sump pump motors and the long  
9 section pipe that goes down into the sump. This is the --  
10 this is the control float. It's a long -- it's just a lever  
11 that sticks out and a rod that goes down to a big float.  
12 When the water level comes up, this comes up and it turns on  
13 the pump. There's one on each pump.

14 In addition to that, and entirely separate from  
15 that, there are two columns, which are just for indication  
16 purpose, they have no control function. When the water  
17 level gets up to this point, it raises this little float  
18 about, oh, a couple of inches and it actuates a switch  
19 that's inside this rod -- the rod's about the size of my  
20 thumb -- and it turns on a light in the control room and it  
21 says, okay, we've got at least seven inches of water in the  
22 sump; and when it gets up to the next level, that light  
23 comes on, and so on. There are two of these columns.

24 While I'm standing here, I want to point out that  
25 the normal sequence of operation of these pumps -- well,



1 let's start with it pumping. Let's -- let's assume it's  
2 pumping. The level comes down to somewhere in this region,  
3 below the 45- and 51-inch lights, and then that's -- that's  
4 far enough and the pump turns off. As leakage or  
5 condensation, or whatever, collects, the level builds up:  
6 when it gets up here, in somewhere in this range, the pump  
7 turns back on and repeats the cycle.

8           So in the normal sequence of operation you'd  
9 expect to see the 45- and 51-inch lights come on  
10 occasionally and then go off after the pump comes on and  
11 does its job and pumps the sump.

12           Okay. So it was those two lights, the 45 and 51,  
13 that had a history of sticking. So those were the two that  
14 they cycled, and they thought they had them fixed. But  
15 then, as soon as they got out of containment and, you know,  
16 got their thoughts back together, they noticed that the  
17 lights were on.

18           So whether that was indicating that the level was  
19 already up there or whether they -- whether it was a false  
20 indication, we really don't know, and, I guess, we never  
21 will.

22           CHAIRMAN AHEARNE: Well, so you're saying that  
23 when they did this checking, they didn't at the same time  
24 make any notice of what the level was in the sump?

25           MR. WOODS: I presume the level was below those

1 two lights, or they wouldn't've been able to do the  
2 cycling. I would guess at that point they pumped it down  
3 and the level was, in fact, below those two points.

4 But, see, you do have a normal collection in the  
5 sump, so that very first slow filling, the lights would come  
6 back on, and beyond that point you don't know what happened.

7 Okay. On the 14th there was an indication in the  
8 fan cooler No. 22 weir level that it was inoperable, or that  
9 it -- it gave a high reading.

10 What this thing -- I'd better explain the weir  
11 level. There's a system of little pans, basically, in the  
12 containment fan cooler, for the purpose of collecting  
13 condensation. You've got cooler water in coils, and it's  
14 like an air conditioner -- you collect water and you pip it  
15 over to this weir, which is just a big pipe, about this big,  
16 and six or eight feet high, and it has a slot, a V-shaped  
17 slot, in it, and the more the flow that goes in, the deeper  
18 the water's going to be in this pipe. So you can measure  
19 the level and have it calibrated as flow.

20 They -- they normally have about two inches level  
21 indication. And the indication was seven inches. And they  
22 tried to verify, for other -- from some other parameter,  
23 whether or not this was a real problem, like whether they  
24 had real leakage, or whether it was an inoperable  
25 instrument; and there was no confirmation that they had a

1 real high level. And those, the things they tried, were  
2 moisture in the containment -- with hindsight, now we don't  
3 believe the moisture indicators would show that small an  
4 amount of just liquid water leakage on the floor -- the sump  
5 level, I've already mentioned that these two lights were on,  
6 and they were, basically, disbelieving the lights because of  
7 the recent history of failure --

8 CHAIRMAN AHEARNE: But that was a -- to the extent  
9 that they check it, a confirmation would be to have the  
10 lights on?

11 MR. WOODS: Well, you'd -- you'd expect to see the  
12 lights on quite often as the sump fills up and then gets --

13 CHAIRMAN AHEARNE: Yes.

14 MR. WOODS: -- pumped down but immediately has to  
15 be --

16 CHAIRMAN AHEARNE: But if -- what I was trying to  
17 ask is that you said that they were trying to check whether  
18 that weir level indication was --

19 MR. WOODS: Right.

20 CHAIRMAN AHEARNE: -- correct: checking for the  
21 sump lights, if the lights were off that would be -- that  
22 would be not -- that would not be a confirmation that the  
23 weir level was indicating correctly?

24 MR. WOODS: That's correct.

25 CHAIRMAN AHEARNE: But the lights being on --

1 MR. WOODS: It --

2 CHAIRMAN AHEARNE: -- was a --

3 MR. WOODS: That --

4 CHAIRMAN AHEARNE: -- support that it was?

5 MR. WOODS: It -- yes, it should have been a  
6 support, you're correct. But, like I say, they sort of  
7 ignored that support.

8 Okay. In addition, you can -- you can do an  
9 inventory or notice, measure the flow into the waste holdup  
10 tank, which comes, unfortunately, from not only the sump  
11 pumps but from other sources, like laboratory drains. So  
12 the fact that the sump pumps were not pumping they kind of  
13 missed. And also, you'd expect if -- if the high -- if the  
14 high weir -- if the high weir level were due to a real leak,  
15 you'd expect to see that leak go down when you isolated the  
16 service water to the cooler. And they did isolate the  
17 service water to the cooler, but they didn't notice any  
18 significant change in the level.

19 I think, now, that's due to -- to leakage in the  
20 isolation valves, because they were found to be not -- you  
21 still have a leak even after you close those valves.

22 So those are all the many reasons why they ended  
23 up declaring the weir level instrument inoperable.

24 COMMISSIONER BRADFORD: Well, is there any reason  
25 why, if you really wanted to know, you couldn't go look?

1 MR. WOODS: No, there's no reason. It's -- it's  
2 accessible. You could probably see it.

3 MR. JORDAN: As far as the licensee's practice, it  
4 was his practice, because of ALARA, not to make routine  
5 entries in the containment. They made entries for  
6 troubleshooting purposes. Their -- their union staff was  
7 under an agreement with the management that they didn't make  
8 entries while critical. So the entries were made by  
9 management personnel. So there was a bit of an inhibition  
10 to an entry.

11 COMMISSIONER BRADFORD: I see. Sort of a -- you'd  
12 want some threshold indication that you had to go in before  
13 you'd do it.

14 MR. JORDAN: That's correct.

15 MR. WOODS: Okay. Going on -- let's have the  
16 second slide -- sequence slide.

17 Okay. This gets into the first trip, on the 17th  
18 of October. Of course, at the time they didn't know that --  
19 what -- what the reason was, but they began to get erratic  
20 indications in nuclear power range indicator N42, which is  
21 one of eight power range indicators.

22 CHAIRMAN AHEARNE: Well, if I could ask you, up  
23 until the 17th, then, through this period of the 3rd through  
24 the 17th, the 45- and 51-inch lights are on?

25 MR. WOODS: They were constantly on, yes, sir. We

1 have -- we've examined their records, and each time they  
2 read them, I believe it's every four hours, they were on.

3 COMMISSIONER BRADFORD: And let me understand the  
4 implications of something you just said. I don't know the  
5 breakdown between union and non-, and -- and management  
6 types, who'd be available on any given shift. What do you  
7 -- what does that mean in terms of people who would be  
8 available on the normal circumstances to go into the  
9 containment?

10 MR. WOODS: This would mean that the -- the shift  
11 engineer, the shift foreman, the operating engineer, the --  
12 the management-level staff would be available; but the  
13 instrument technicians, the licensed operators would not be  
14 available.

15 CHAIRMAN AHEARNE: Facility operators.

16 MR. WOODS: That's -- that's correct.

17 COMMISSIONER BRADFORD: So, roughly, you'd have  
18 three or four people that you could send? Or would it be  
19 more than that?

20 MR. WOODS: On day shift you would have many. On  
21 the night shifts about three or four, that's correct.

22 Okay. Well, they were getting these erratic  
23 indications. They were -- it was not a complete failure, by  
24 any means, of N42. It was just slight variations,  
25 oscillations, or whatever, in the indication. For that



1 reason, they went through a sequence that would -- was to --  
2 to take N42 out of service and declare it inoperable. But  
3 they made some procedural errors in -- in taking the thing  
4 out of service and caused a trip.

5           They immediately knew why they had had the trip.  
6 I mean, they knew what procedures they were following and  
7 they could see what had caused it. So they immediately  
8 began -- they restarted.

9           But the technicians continued to check -- were  
10 checking into the cause of the trouble in N42, and  
11 basically, they decided to look at one of the other  
12 instruments for comparison purposes. And again they made an  
13 error and they got the necessary logic to cause a second  
14 trip.

15           Again they understood exactly what had happened.  
16 So they began a restart. But then the decision was made to  
17 shut down, so they could go into containment and replace  
18 N42. I believe the concern was, in order to operate with  
19 one of these eight nuclear power range instruments out of  
20 service, they have to do very frequent in-core flux maps and  
21 that involves running physically the in-core detectors  
22 through those long tubes and there's the concern of wearing  
23 out that instrument if you have to use it frequently,  
24 constantly.

25           So they decided to avoid that and, instead, go in

1 and replace N42. So they shut down. And that was the  
2 reason they entered the containment, was in order to replace  
3 that.

4 CHAIRMAN AHEARNE: Now, does -- when shut down,  
5 does that, at that stage, then, allow, does the union  
6 agreement allow non-management people to enter?

7 MR. WOODS: Yes. If they're subcritical, then  
8 they may enter, under the agreement. And that's what I mean  
9 by "shut down": they were subcritical but still hot. They  
10 didn't go to cold shutdown until many days later.

11 So they entered containment. And that's when they  
12 discovered -- it's been variously characterized -- but  
13 something like four inches of water on the 46-foot floor.

14 I think at this point, Denny, let me -- let me  
15 show that first backup slide.

16 You need to rotate it 90 degrees.

17 Well, that's 90 degrees.

18 (Pause for further slide adjustment)

19 Okay. When you first come into containment, down  
20 to the main floor, you come down a ladder onto the main  
21 level, which is 46 feet. Here's the sump that I showed you  
22 before, with the two pumps -- we only show one here -- and  
23 the two level indicating columns. Here's the now infamous  
24 six-inch curbing around the -- well, okay, I need to point  
25 out the in-core instrument tubes, conduits, come out and



1 make a broad sweep and come up through this. So here's one  
2 hole down into the area under the cavity -- under the  
3 reactor. And here's another one. There's a vertical ladder  
4 that goes down to a grating, here; and then there's another  
5 ladder that comes down to the bottom. So when I talk about  
6 the 46-foot floor, it's up here. When I talk about the  
7 cavity under the vessel, I'm talking about this whole volume  
8 here, including these two holes that are protected by this  
9 nominal six-inch curbing.

10 COMMISSIONER BRADFORD: Does that -- the curbing  
11 does protect the hole through which the tubing runs?

12 MR. WOODS: Yes, it does. Apparently, it doesn't  
13 protect it to as high a level as was thought. But it does  
14 protect it to some degree.

15 Okay, well, so on the first entry, they discovered  
16 -- the only discovery was four inches of water on this  
17 46-foot floor. And it was several hours later, like six  
18 hours later, that the first person happened to need to go  
19 around to where he could see one of these holes inside the  
20 curbing and noticed that there was water there also. The  
21 first entries were not in that area of the containment, so I  
22 believe it's reasonable that he wouldn't have -- he had no  
23 reason to go over there and he had no -- no suspicion that  
24 that much water would flow into the cavity, so he didn't go  
25 over there.

1           CHAIRMAN AHEARNE: Well, are you saying you  
2 understand why they didn't or are you saying that you  
3 believe it's reasonable that they didn't?

4           MR. WOODS: I believe it's reasonable -- for that  
5 short period of time. The first entry would not necessarily  
6 make that discovery. That's all I'm saying. And they did  
7 discover it somewhat later. I don't mean to imply anything  
8 beyond that.

9           Well, basically, there's a whole sequence of  
10 containment entries, attempted repairs, replacement of  
11 cavity pumps, over the weekend; but basically, that next  
12 item, where it says they pumped the containment and cavity,  
13 that was the basic activity over the weekend. They had  
14 discovered water in the -- on the 46-foot floor and under  
15 the -- in the -- under the vessel, and they spent the  
16 weekend pumping.

17           And then on the morning of -- on Monday morning  
18 they began their restart procedure. But one of the more  
19 senior people, who had been on vacation, returned to work  
20 Monday morning and brought up certain other concerns. I  
21 think his first concern was salt water on the stainless  
22 steel conduits under the vessel. And for that reason he  
23 requested them to come back down for further investigation.

24           The last item, our resident inspector was finally  
25 told, at eleven-thirty that Monday morning.

1           And the next slide, Denny, gets us into more  
2 details on the reporting chronology.

3           COMMISSIONER BRADFORD: Well, one other question  
4 about the sequence up to now. When do you now think the  
5 water first got into the reactor cavity and then,  
6 especially, got up around the reactor itself?

7           MR. WOODS: All I would be prepared to say is  
8 sometime before, before it was seen. I don't think we are  
9 ever going to have any definite indication.

10          COMMISSIONER BRADFORD: There's no way to tell how  
11 long the reactor itself was sitting in the water?

12          MR. WOODS: Not to my knowledge.

13          MR. JORDAN: No. We're unable to identify clearly  
14 when it would have occurred.

15          It could have occurred, based on the leak rate  
16 that existed when they made the entry, perhaps three days in  
17 advance, or as -- I'll say as long as three days in advance,  
18 or it could have actually only overflowed on Friday,  
19 depending on the rate of change of the leak.

20          COMMISSIONER BRADFORD: And is there any way to  
21 tell whether the level went up and down, that is, whether it  
22 was immersed more than once?

23          MR. JORDAN: We have indications that there may  
24 have been an increase, based on observations of a -- a  
25 decrease and then an increase over the weekend during the

1 pumping operation. We -- we have not yet established why  
2 that could have occurred, unless there was a communication  
3 in addition to the overflowing the curb; and that's still  
4 under investigation.

5 MR. WOODS: Ed's referring to the weekend, when  
6 they were actually in there. We have no way of knowing  
7 prior to the entry what the water level might have been.

8 MR. JORDAN: There would be no indication that  
9 prior to the entry there was any oscillation in the water  
10 level.

11 MR. WOODS: There'd be no reason to expect it.  
12 But again, there would be no indication, either.

13 COMMISSIONER BRADFORD: The plant is -- is in hot  
14 stand-by all through the weekend?

15 MR. WOODS: At this point, yes.

16 All right. Well, on the 17th there two -- the  
17 licensee both of the trips that we've discussed, timely  
18 reports on the hot line to NRC headquarters.

19 The licensee's engineering director did call the  
20 resident inspector about 3:20 p.m. that Friday; he left a  
21 recorded message to return the call, but he did not mention  
22 the nature of the problem. The inspector had already left  
23 at that point.

24 The inspector, resident inspector, came in on  
25 Monday morning and tried to return the call and couldn't

1 reach this particular individual who had left the very short  
2 message to return, so -- return the call, so he left a  
3 message.

4           And the call was finally returned, return of the  
5 return call, or whatever, at 11:30 a.m. on that Monday. So  
6 that was the first real NRC knowledge of this, of the extent  
7 of the problem. We knew of the trips, but we didn't know of  
8 anything else until 11:30 a.m. on Monday. And finally that  
9 call we informed Region 1 and IE headquarters and everybody  
10 began to get mad.

11           That's it for the sequence.

12           CHAIRMAN AHEARNE: That is, that's it as far as  
13 you know --

14           MR. WOODS: That's it as far as I intend to --

15           CHAIRMAN AHEARNE: And as far as you know so far,  
16 is that right? Some of the --

17           MR. WOODS: Well, that's basically the end of the  
18 sequence as far as how the plant got to the actual condition  
19 it's in now.

20           CHAIRMAN AHEAPNE: But I thought Mr. Stello said  
21 that there were still other interviews going on.

22           MR. WOODS: Oh, the sequence of events as far as  
23 the plant's physical status.

24           CHAIRMAN AHEARNE: Right, yeah.

25           MR. WOODS: Yes, we are continuing --

1           CHAIRMAN AHEARNE: Yes.

2           MR. WOODS: -- investigations. I think that's on  
3 a later slide.

4           CHAIRMAN AHEARNE: Okay.

5           MR. WOODS: Okay, let's go to the next one, Denny.

6           One of the concerns is effects of water on the  
7 vessel. There have been three sets of analyses done. I  
8 think we heard some details the morning meeting in New  
9 York. But Westinghouse has done rather extensive computer  
10 analyses, though the concern here, obviously, is the -- the  
11 thermal stress on the vessel: was it, or was it not, put in  
12 the condition where you might expect cracking or weakening  
13 of the vessel. So Westinghouse, Con Ed, and a consultant  
14 hired by Con Ed have all done independent analyses and  
15 concluded that -- well, that's the next item here -- the  
16 stresses are within design, the usage factor is very low,  
17 and they do not expect any damage.

18          COMMISSIONER BRADFORD: What does the phrase  
19 "usage factor" mean?

20          MR. WOODS: The usage, I'm -- I guess that's not  
21 exactly my field, but it's basically how many times you've  
22 done the thing back and forth, if you're talking about a  
23 simple -- how many times you stress it and then relieve the  
24 stress.

25          MR. STELIO: Let's have Vince Noonan respond to

1 that one.

2 MR. WOODS: Yeah.

3 MR. NOONAN: When we did the vessel analysis --

4 CHAIRMAN AHEARNE: Vince, would you identify  
5 yourself first?

6 MR. NOONAN: Yes. Vince Noonan, assistant  
7 director for materials and qualifications engineering,  
8 division of engineering.

9 When we do the vessel analysis for the code, you  
10 take into account a number of transients. Some of these  
11 transients are fluctuations in temperature and so forth.  
12 You base it on a -- your usage factor is based on a fatigue  
13 analysis, how many times the vessel could take these, these  
14 various cycles, and still maintain its life. You look at it  
15 for the total life of the plant, which is 40 years.

16 A usage factor of 1, that number would say you  
17 have expended the life of the vessel. It's that way.

18 In most cases, in normally reviewed cases on a  
19 vessel, the usage factors are always held around 14 to 15  
20 percent, .14 to .15. That's the normal range when the plant  
21 is licensed.

22 COMMISSIONER BRADFORD: For -- for the 40 years?

23 MR. NOONAN: For the 40 years.

24 COMMISSIONER BRADFORD: And what kind of a usage  
25 factor seems to show up as a result of these things?



1           MR. NOONAN: Well, I can tell you what  
2 Westinghouse has said. We are looking at it independently,  
3 and we have just started our own analysis, so we don't have  
4 the numbers. But Westinghouse's numbers said that it was  
5 less than a half a percent. Rough calculations that we did  
6 -- and these are very, very rough -- indicate an increase of  
7 usage factor of about 1 percent for the vessel, in toto.

8           I think the most critical thing you have to look  
9 at is the usage factors at the various welds and, around the  
10 vessel, some of the instrumentation lines. And we don't  
11 have those numbers yet.

12           COMMISSIONER BRADFORD: Now, what assumption do  
13 they make about how long the vessel was under water and how  
14 many times it may have been immersed?

15           MR. NOONAN: The Westinghouse analysis made the  
16 assumption that the vessel was under water and it remained  
17 there one time, one cycle.

18           COMMISSIONER BRADFORD: And how long does that  
19 mean?

20           MR. NOONAN: Well, they took it from, I believe  
21 they took it from -- when? -- from Friday until sometime on  
22 Tuesday afternoon, when the vessel went cold.

23           COMMISSIONER BRADFORD: So that's -- I mean,  
24 that's about the minimum assumption one could make? It  
25 might have been several days longer, or --



1 MR. NOONAN: Could be so.

2 COMMISSIONER BRADFORD: -- it might have been  
3 immersed more than one time?

4 MR. NOONAN: It wouldn't really make much of a  
5 difference, though, as far as the overall stress analysis is  
6 concerned.

7 COMMISSIONER BRADFORD: Supposing it were immersed  
8 more than once -- would that make a difference?

9 MR. NOONAN: It would make -- that would make a  
10 difference, yes.

11 MR. STELLO: Does the length of time enter into  
12 the calculation at all?

13 MR. NOONAN: Only from the standpoint of  
14 stabilizing. The transients, you're looking -- you're  
15 looking at a -- at a differential, thermal -- thermal  
16 differential across the -- across the vessel. And if that  
17 -- if that -- once that goes down, you know, like in about  
18 25 minutes that occurs. So, in other words, you stabilize  
19 across that, that five-and-a-half-inch thickness, in about  
20 25 minutes. So after that, after 25 minutes, then she's  
21 stabilizing; the stress field is -- is set. Then -- then it  
22 would become a factor if you cycled beyond that point.

23 COMMISSIONER BRADFORD: And if -- if, in fact,  
24 that happened, how long would the vessel have to remain out  
25 of the water to heat up to the point where it would be

1 significant.

2 MR. NOONAN: About another 25 minutes. It takes  
3 about 25 minutes for that curve to shift --

4 COMMISSIONER BRADFORD: Either way.

5 MR. NOONAN: -- back up and forth, all the way  
6 back to its -- that, that again is a rough calculation, and  
7 we will provide that number when we do our own, our own  
8 analysis.

9 MR. WOODS: All right. Well, all of -- all of the  
10 above are, basically, calculations. The last item here, Con  
11 Ed has, in fact, gone in and it looks, with -- with methods  
12 to detect whether or not there are cracks on the bottom of  
13 vessel, and there are not; they did not find any indication  
14 of stress, excessive stress on the bottom of the vessel.

15 Let's go on to the next.

16 Okay. Licensee actions and present plans.

17 The licensee entered a refueling outage that was  
18 planned, I believe, for late December. He's in it now. He  
19 just committed to stay down and do his refueling.

20 While he's down, he has now committed to replace  
21 all five fan coolers of the -- the service water portion of  
22 the fan coolers; this is the coils and the headers for those  
23 coils, which is where most of the leaks have been.

24 CHAIRMAN AHEARNE: How long is that going to take?

25 MR. WOODS: He projects start-up, I think, in June

1 of '81, June or July or '81.

2 CHAIRMAN AHEARNE: Where the pacing item is the  
3 refueling or the fan cooler replacement?

4 MR. WOODS: It would be the fan coolers.

5 MR. STELLO: Their answer to the question was,  
6 without the fan cooler replacement their outage would go, I  
7 believe it was projected, until April; they expected,  
8 because they have added the replacement of the fan coolers,  
9 as I recall, that it would go up to -- till June. And those  
10 were only estimates; we'll, hopefully, be getting more  
11 definitive information on that schedule in the near future.

12 COMMISSIONER GILINSKY: Is that equipment readily  
13 available?

14 MR. STELLO: What I understood that they are  
15 looking at is the possibility of finding units that are  
16 scheduled to go into plants that are under construction and  
17 seeing if they could get their order for the unit and put it  
18 in at Indian Point and then when the construction is such  
19 that they can accommodate replacing the -- putting in that  
20 unit later. My understanding is that they're fanning  
21 construction sites to find out what the availability is at  
22 the moment.

23 But if you had to order them to be fabricated, the  
24 lead time is very, very long.

25 MR. WOODS: These things are very large. I was

1 surprised to see them. They're something on the order of  
2 the size of this table stacked on top of each other. We  
3 have lots and lots of coils. So they're definitely not a  
4 shelf item.

5           Okay. While he's down, while the licensee has the  
6 plant down, he plans to install, has probably already  
7 installed some of these, certain alarms to indicate in the  
8 control room that there's water in the containment.

9           One thing he's done is, if you remember the slide  
10 I had, I showed where the sump pumps come on and where they  
11 turn off, he's lowered that whole range. In other words,  
12 the pump comes on now at a lower level and pumps down to a  
13 lower level than it used to. So that he's lowered it so  
14 that now the 45- and the 51-inch lights should not normally  
15 come on during the normal pumping sequence. So he's put  
16 alarms on the 45- and 51-inch lights. These are the audible  
17 and flashing-light alarms in the control room up, on the  
18 panel. So now if that lights comes on he'll know it.

19           COMMISSIONER BRADFORD: This is still Unit 2?

20           MR. WOODS: This is Unit 2. We -- all this is  
21 Unit 2 so far.

22           CHAIRMAN AHEARNE: Well, but you had earlier said  
23 that those, in normal operation you would expect those to be  
24 coming on.

25           MR. WOODS: Yeah. That's why I specified that he

1 lowered the normal operating band of the pump also. In  
2 other words, he lowered the float down on the -- on --

3 CHAIRMAN AHEARNE: So this would now be outside of  
4 that normal --

5 MR. WOODS: This is outside of the normal range  
6 now. He had to do that, or otherwise, you're exactly right,  
7 that alarm would be coming on all the time.

8 So now it'll be an unusual event and it should get  
9 his attention.

10 Also, previously there was no indication outside  
11 of the -- outside of the containment that these smaller  
12 pumps, two pumps, under the reactor cavity, under the  
13 vessel, were running, or whether or not they were running.  
14 He now has an alarm in the control room that will sound and  
15 flash if that pump, either of those pumps, comes on, which  
16 would indicate there's water somehow getting in under the  
17 vessel.

18 COMMISSIONER BRADFORD: But the new fan coolers  
19 will still run on Hudson River water?

20 MR. WOODS: That's correct.

21 MR. STELLO: They -- that is their plan, but we  
22 told them we'd also like to have them tell us of their  
23 consideration about the possibility of an interim loop.

24 VOICE: Speak louder.

25 MR. WOODS: Move the thing closer.

1           COMMISSIONER GILINSKY: It's not a usual problem  
2 that we have here.

3           CHAIRMAN AHEARNE: Try it again.

4           MR. STELLO: The -- we've told the licensee that  
5 we'd like to have them explore with us their thoughts and  
6 ideas about putting in an additional loop between the river  
7 water and the fan coolers. They indicated that they had not  
8 considered it in any depth, but they would come in as soon  
9 as they were able to think it through.

10           It is a very, very large task; it will require  
11 additional equipment, buildings, and power capability. It  
12 is not a simple task.

13           COMMISSIONER HENDRIE: Well, I'm not so -- well,  
14 among the things you balance, then, is that in a situation  
15 in which you really need the fan coolers, you've now got an  
16 additional set of pumps in the intermediate loop, for which  
17 emergency power may have to be supplied. And that -- that  
18 -- it, in effect, it raises the ante on emergency power  
19 requirements in a number of situations, and that's a -- it  
20 has to be balanced against the -- whatever benefit you  
21 derive from the additional isolation.

22           COMMISSIONER BRADFORD: And that's part of what  
23 you meant when you said --

24           MR. WOODS: Yes.

25           COMMISSIONER BRADFORD: -- it's a big task. You'd

1 have to go back --

2 MR. WOODS: Yeah, there are -- there are  
3 definitely pro and con --

4 COMMISSIONER HENDRIE: In addition, it's pretty  
5 fair sized equipment.

6 MR. STELLO: It's not --

7 COMMISSIONER HENDRIE: You'll need a big heat  
8 exchanger --

9 MR. STELLO: Yes.

10 COMMISSIONER HENDRIE: -- a set of pumps; and then  
11 you're probably --

12 MR. STELLO: Another building.

13 COMMISSIONER HENDRIE: -- going to want those to  
14 be redundant, and --

15 MR. STELLO: Yes.

16 COMMISSIONER HENDRIE: -- so you're going to need  
17 two big heat exchangers.

18 MR. STELLO: And control tower. And mode of  
19 power. Probably the diesels wouldn't be adequate.

20 There definitely are pro and con arguments. I  
21 didn't want to leave the impression that that's clearly --  
22 well, which one of -- a pell-mell rush into getting into a  
23 decision.

24 COMMISSIONER HENDRIE: Yeah.

25 MR. STELLO: But we do want to discuss it.



1           COMMISSIONER BRADFORD: Are some plants configured  
2 that way now?

3           MR. STELLO: Yes.

4           MR. WOODS: I think one relevant thing which we'll  
5 get into a little bit later, in Unit 3, I don't want to get  
6 into that now, but their fan coolers are nearly identical,  
7 but they're newer and they are in much better condition, so  
8 what I'm really saying is, they're good for some number of  
9 years before they start giving this problem.

10          CHAIRMAN AHEARNE: Well, why don't you, though,  
11 finish on number 2.

12          MR. WOODS: Yes.     am.

13          MR. STELLO: I think there's an important point.  
14 Let me make a point.

15          There are some things about the design of fan  
16 coolers, too, that raise some question in terms of  
17 performing maintenance on them. If you have a fan cooler  
18 like this and you have access to it in a water box and you  
19 can pluck tubes more conventionally or even possibly replace  
20 tubes, much as you could do in a condenser, there are other  
21 ways to go about treating this kind of a problem. I didn't  
22 want to leave the impression that the intermediate loop is  
23 necessarily an answer, either.

24          CHAIRMAN AHEARNE: Okay. Go ahead, Roy.

25          MR. WOODS: Okay. Let's -- okay, he's got the



1 next slide up.

2           These are the things NRC has done during this,  
3 during this incident.

4           We issued an Immediate Action Letter on Wednesday,  
5 October 22nd, that, basically, said, "We have reached an  
6 agreement with you that you will not restart until you  
7 answer certain questions" -- basically, what caused the two  
8 trips, how much water got -- that sort of thing. I have a  
9 copy of it here.

10           An investigation team also arrived on site that  
11 day. That was, oh, several people; the -- the investigation  
12 was headed by Tim Martin from Region 1, and there were other  
13 people -- well, the two resident inspectors and several  
14 people from headquarters, both NRR and I&E, there.

15           We issued a IE Information Notice to all power  
16 reactors on the 24th. That notice, basically, briefly  
17 described what had happened at Indian Point and said, "We  
18 are investigating it, but in the meantime that's what  
19 happened -- take a look and make sure it can't happen at  
20 your plant."

21           Then we issued -- we sent a sort of informal  
22 questionnaire to -- to our people in the regions, trying to  
23 make a first, preliminary estimate as to how many plants had  
24 which kind of systems, in order to better be able to decide  
25 what we need to do with other plants.

1 And then there was the infamous public meeting  
2 with Con Ed on November the 5th up there in New York, near  
3 the, fairly near the site.

4 CHAIRMAN AHEARNE: Well, I guess, the best way to  
5 describe it, there was a public meeting, without a --

6 MR. WOODS: Yes, there was.

7 CHAIRMAN AHEARNE: -- characterization.

8 MR. WOODS: Planned actions. We -- we are -- the  
9 NRC staff is discussing -- sorry.

10 CHAIRMAN AHEARNE: Oh. Go ahead, Roy.

11 MR. WOODS: The NRC is planning to have -- or, is  
12 investigating the possibility of having an independent  
13 contractor do a non-destructive examination of the bottom of  
14 the vessel.

15 We have done some independent vessel stress  
16 calculations. We are --

17 CHAIRMAN AHEARNE: I thought Vince said we're  
18 doing.

19 MR. WOODS: Well, we've done some and we are  
20 continuing to do.

21 CHAIRMAN AHEARNE: Doing, okay.

22 MR. WOODS: I guess those statements are, right,  
23 probably better characterized as we're still doing them.

24 CHAIRMAN AHEARNE: Now, I had, my understanding  
25 was that, from Tom Murley, that over the years we had had

1 some work done under research on looking at some at, I think  
2 it was, Oak Ridge, on stress of vessels under conditions  
3 where -- which might be similar to this. Have you guys gone  
4 and talked to research and found out what kind of work they  
5 have done?

6 MR. NOONAN: On this particular problem I have not  
7 talked directly to Larry Shao. But Larry Shao and I have  
8 talked a few weeks ago on thermal shocks to the vessel. We  
9 plan to get together and talk some more.

10 CHAIRMAN AHEARNE: Okay. Please do, because  
11 Murley believed that there was some work that was germane to  
12 this.

13 MR. WOODS: Okay. And we're currently working on  
14 the bulletin for all licensees, which, basically, will --  
15 it's very preliminary at this point, but I believe it's  
16 going to be something to the effect that they should  
17 institute immediate action if they have these open systems,  
18 to determine whether -- often, frequently -- whether or not  
19 there is leakage in the containment, while they are in the  
20 process of putting in additional instrumentation, if  
21 necessary, to detect leakage in the containment.

22 Vic's already mentioned the investigation report,  
23 I think, in his opening remarks.

24 And we are evaluating Unit 3 for restart. Which  
25 is what the rest of my slides are, if you --

1           CHAIRMAN AHEARNE: Okay. Before you -- could you  
2 just say a few more words on that first bullet under  
3 "Planned"? You say you're exploring the possibility -- does  
4 there seem to be a difficulty with getting --

5           MR. WOODS: I just was --

6           (Laughter)

7           MR. STELLO: We are -- we are trying to find a  
8 contractor to go in and do some independent NDE work for  
9 us. We don't have someone who is immediately available that  
10 can go in and do the work. And that's why it is listed as  
11 planned, to find a suitable contractor to go in and do it.

12          CHAIRMAN AHEARNE: Do you at this time foresee any  
13 difficulty in finding such an individual?

14          MR. WOODS: No.

15          MR. STELLO: Well, yeah, your usual requirements  
16 of --

17          CHAIRMAN AHEARNE: Yes.

18          MR. STELLO: -- getting a contractor, which is not  
19 the simplest task in the world.

20          MR. JORDAN: Well, not to leave it there -- we do  
21 have a firm under contract to us that has provisions for  
22 providing those types of people. You know, they're already  
23 under a contract. So they are now searching for the right  
24 people to physically do the work.

25          COMMISSIONER HENDRIE: What are they going to look

1 for? You aren't going to see anything just on the general  
2 surface. I suppose you could --

3 MR. WOODS: Can we have the backup number seven?

4 COMMISSIONER HENDRIE: -- look around the nozzle --

5 MR. WOODS: Denny?

6 COMMISSIONER HENDRIE: -- abutments or thimbles.

7 MR. STELLO: You can either do a mag' particle on  
8 the lower head of the vessel and all the walls.

9 MR. WOODS: Sure.

10 MR. STELLO: Okay. There's the answer.

11 MR. JORDAN: The licensee did a mag' particle  
12 examination of the wells on the bottom of the vessel. And  
13 so we're going to do a reexamination, independent  
14 examination, of that same activity. And the -- the bottom  
15 of the vessel is painted, and so we're going to also  
16 requalify the procedure for doing the mag' particle test  
17 over the paint and then do a sample inspection of the  
18 stainless steel conduit, the wells in the stainless steel  
19 conduit, in independent fashion.

20 MR. WOODS: The next topic -- unless there are  
21 further questions -- is Unit 3. So.

22 CHAIRMAN AHEARNE: Well, let me find out whether  
23 any of my colleagues have any additional questions regarding  
24 the current status of what you found out on Unit 2.

25 Vic?

1 Joe?

2 COMMISSIONER BRADFORD: Let me just ask a question  
3 that goes back to the point you made at the beginning. And  
4 if it's part of what you plan to come to later on, I can  
5 perfectly well wait till then.

6 With regard to a couple of the overall questions  
7 raised by this, namely, the path back out during a LOCA and  
8 the boron dilution problem, if you had a leak of this size  
9 that you're talking about here, which I think you once said  
10 was roughly the size of a pencil, how significant would that  
11 be in the event of -- that you had a lot of radioactivity in  
12 the containment? Would that be a serious path back out?

13 MR. WOODS: Which are we -- are you talking about  
14 both items now, boron dilution and leak path? Or --

15 COMMISSIONER BRADFORD: In terms -- in terms of  
16 the question, how significant would it be?

17 MR. WOODS: Well, it would be a very, very slow  
18 effect, the boron dilution, obviously, from a tiny GPM leak,  
19 into the tremendous volume that you'd have in the  
20 containment. I guess I can't quantify it for you, but I  
21 would think it would be on the order of days before you'd  
22 have a problem.

23 The other problem is the out-leakage. And I think  
24 Vic characterized that at the public meeting. I'll repeat  
25 what he said. That is, you're only going to have the

1 out-leakage problem if you have a high pressure in  
2 containment, and you're only going to have that for a large  
3 break, and for a large break you get -- you get that  
4 pressure spike when the primary system water comes out in  
5 flashes, and that's before you fail any significant amount  
6 of fuel. So the leakage through that path would not contain  
7 failed fuel. So it wouldn't be that serious a problem. And  
8 then the pressure would go down and you wouldn't have the  
9 leak any more, it would be in-leakage instead of out-leakage.

10 CHAIRMAN AHEARNE: Any other questions?

11 Okay. Okay, Roy, why don't you move on to 3.

12 MR. WOODS: Okay. Denny, let's go on to the slide  
13 eight.

14 Okay. Well, after the public meeting in New York,  
15 Lenny Olshan and I stayed up an extra day and went into Unit  
16 3, talked to the plant manager, and actually looked at the  
17 inside containment. Here's some of the things we found.

18 The maintenance history and present condition of  
19 the five fan coolers in Unit 3 is very noticeably different  
20 than Unit 2. I've seen both units. It just doesn't look as  
21 old and corroded and patched as Unit 3.

22 MR. JORDAN: Well, partially that is because it  
23 isn't.

24 MR. WOODS: It's -- that's correct -- it's newer.  
25 That's the main reason. And so this problem may well exist



1 down the road for Unit 3, but the point today is, we are not  
2 there today. So.

3 CHAIRMAN AHEARNE: What is the relative operating  
4 times of the two?

5 MR. WOODS: I believe there's three to four years'  
6 difference.

7 Vic, do you -- do you have -- I've got -- I've got  
8 the great details here, but --

9 MR. OLSHAN: Seventy-three to seventy-five.

10 MR. NOONAN: Two?

11 MR. OLSHAN: About two years.

12 MR. NOONAN: Two years.

13 MR. WOODS: Okay.

14 MR. OLSHAN: It actually started, Unit 3 went to  
15 about -- Unit 2, about '73 it started.

16 COMMISSIONER HENDRIE: You're not -- that isn't  
17 necessarily a measure of the fan cooler lifetime, because  
18 Unit 2 had some holdups. I wouldn't -- it wouldn't surprise  
19 me to find that the Unit 2 fan coolers had spent a long time  
20 sitting on the site and then in the containment that wasn't  
21 fully closed during the construction period of time. I'm  
22 not sure the two-year start-up interval is necessarily an  
23 adequate measure of the difference between the fan coolers.

24 MR. WOODS: Okay. Also, Unit 3 has more water  
25 level indications inside containment. For one thing, in

1 Unit 2 the recirculation sump is stored wet; it's full of  
2 borated water. So any level indication that's present in  
3 the recirc' sump is not of any use for this purpose. In  
4 Unit 3, however, that sump is kept dry. So the two columns  
5 similar, well, I guess, identical to the ones that I showed  
6 on the board, that exist in the recirculation sump would --  
7 would show indication of increasing water level before the  
8 water was high enough to spill over under the reactor cavity.

9 Unit 3 has added a new, I believe it operates on a  
10 capacity principle, a level detector that will detect about  
11 one-inch of water on the 46-foot floor and sound an alarm in  
12 the control room. That's new because of this event.

13 Also, there was a lot of discussion as to whether  
14 or not a particular power level light in Unit 2 would come  
15 on before the water flowed over into the reactor cavity,  
16 like, the 91-inch light, if you want a number. In Unit 3  
17 it's been verified that that will, in fact, come on. So  
18 there's one additional light that would warn you of  
19 increasing water level at Unit 3 compared to Unit 2, before  
20 you put water in the reactor cavity.

21 In the reactor cavity they have installed two new  
22 pumps. There were pumps there, but there was some question  
23 as to the design of those pumps, whether or not they would  
24 turn themselves off on thermal overload as they were pumping  
25 dry after they pumped the water out.

1           The new pumps have been checked and found to not  
2 have that problem.

3           He has, the licensee has, installed two level  
4 alarms in the -- in the cavity. That's basically the same  
5 kind of column as in the sumps that I showed you, except the  
6 floats are very near down at the bottom, about one inch and  
7 three inches off the floor. I've physically seen those. It  
8 looks just identical to the other system, as far as I can  
9 tell.

10          The licensee has examined the area, the  
11 containment area, for other paths where you might siphon  
12 water into the reactor cavity without going over that  
13 six-inch lift. And -- and he, well, he found one, which I  
14 saw, which really isn't it -- it's -- it's a conduit, and  
15 the conduit has a cover on it and if there's any leakage  
16 through the coupler, I guess, it could potentially siphon;  
17 but he has put an extra sealant around it, just to be sure.  
18 And he has installed a -- a siphon-breaker, basically, on  
19 the discharge line to the -- to the cavity pumps, so that it  
20 can't -- can't stay full of water and siphon backwards.

21          And he's measured the effective curb height. You  
22 have to know exactly how the floor slopes in order to know  
23 whether the six inches you think you have really is six  
24 inches. He seems to have about five-and-a-half inches,  
25 based on the latest numbers I've seen, whereas the numbers

1 that are still varying a bit from Unit 2, depending on which  
2 day's report -- it's, apparently, very difficult to do  
3 surveying with contamination clothing on -- it varies from  
4 two to four inches; I still can't give you a definite number  
5 there.

6 I understand one of their investigators is going  
7 to do his own survey Monday morning. He's tired of hearing  
8 these numbers vary, and he's going in with the instrument  
9 himself.

10 Let's go on to the next slide, Denny.

11 COMMISSIONER BRADFORD: Let's see that a minute.

12 MR. WOODS: I'm sorry. Make it back up.

13 COMMISSIONER BRADFORD: Well, the features that  
14 you were running down there, I take it, are, they're not,  
15 any of them, required, if I remember rightly?

16 MR. WOODS: I think the next slide will tell you  
17 what the answer is.

18 MR. STELLO: Right now they're not required, but  
19 that's part of what we're going to be doing, is -- is  
20 developing suitable license requirements or various  
21 surveillance requirements in operability; and we'll be very  
22 shortly getting license conditions formulated for that  
23 purpose.

24 MR. WOODS: That's true except for the second item  
25 on this slide, which is, there are two requirements, and

1 they already existed before this event, they do have a fan  
2 cooler leakage tech' spec', it's really on the isolation  
3 valve's tech' spec' -- oh, it's the second slide, Denny, I'm  
4 sorry. The leakage per fan cooler can't exceed .36 GPM per  
5 cooler. That's, that spec' is, basically, on the isolation  
6 valve, but the way they do the test, if it leaks anywhere,  
7 either valve or any of the coils, it would be part of the  
8 measured leakage. So it's a very conservatively applied  
9 specification.

10 COMMISSIONER BRADFORD: Let's see. Unit 2 does  
11 not have a similar spec' requirement?

12 MR. WOODS: I'm -- I haven't heard of one. I  
13 wouldn't want to say, definitively, it doesn't. Does anyone  
14 know?

15 They do?

16 Okay. They do.

17 COMMISSIONER BRADFORD: And how do they -- how do  
18 they measure what the leak rate from the fan cooler is?

19 MR. WOODS: It was described to me as, they  
20 isolate the cooler and use a small pump, with carefully  
21 measured quantities that it pumps, and you measure how much  
22 water you have to add per unit time to maintain the pressure  
23 that you have, to test.

24 COMMISSIONER BRADFORD: So it's something you have  
25 to test for from time to time. It isn't something that you

1 realize is occurring and then you have to --

2 MR. WOODS: That's correct.

3 COMMISSIONER BRADFORD: -- fix it.

4 MR. WOODS: This is required, I believe, it's  
5 every refueling outage, or every two years, which,  
6 essentially, is every refueling outage; I believe that's the  
7 specification. But no, [REDACTED] something you can do  
8 continuously.

9 MR. JORDAN: I think it's worth putting in at this  
10 point that during the outage they're currently in, they --  
11 they've done this test and demonstrated integrity.

12 COMMISSIONER BRADFORD: No, I'm -- I'm really  
13 looking, in part, now at the Unit 2 leak, which, I guess,  
14 Vic had indicated was 20 GPM. Is it, is this tech' spec',  
15 worded in a way that says you will test for leakage from the  
16 fan cooler periodically and if it exceeds .36 you won't  
17 operate, or does it say any time the leakage is over .36?

18 MR. WOODS: Lenny Olshan is the project manager  
19 for Indian Point.

20 MR. OLSHAN: Yes. And pardon my voice, by the  
21 way. But the tech' spec' is an Appendix J requirement  
22 that's done every two years. So in between times there's no  
23 indication of that kind to watch.

24 CHAIRMAN AHEARNE: Well, but, as was mentioned,  
25 they have been averaging about, what was it, five leaks per

1 year that required patching. When, on that basis, you say  
2 it requires patching, what is the criteria that they're  
3 applying to lead them to conclude it requires patching?

4 MR. OLSHAN: I don't know. I guess they saw a  
5 leak of sufficient magnitude to require patching. I don't  
6 think they're required to patch as a result of the tech'  
7 spec's.

8 COMMISSIONER HENDRIE: Well, there are overall  
9 unidentified leakage tech' spec's; that is, whatever leaks  
10 from the fan coolers -- it doesn't just evaporate and then  
11 end up being purged out -- ends up eventually down in a, in  
12 a sump, where it gets classed, I guess, as unidentified  
13 leakage, and you've got some limit on, on what your  
14 identified leakage can be per unit time, right?

15 MR. OLSHAN: Right. But, unfortunately, most of  
16 it --

17 COMMISSIONER HENDRIE: So, you know, you go in the  
18 containment and you look around, you see a little weepage,  
19 you'll have to plug those things up, even though they may be  
20 in non-essential equipment, just because otherwise it adds  
21 to your unidentified leakage burden in the sump and tends to  
22 limit you that way.

23 COMMISSIONER BRADFORD: But that must be a much  
24 larger number, if I -- if I understood what Roy was saying  
25 earlier about the problems of identifying leakage from any



1 one source because there's so much water going into those  
2 tanks from all sources.

3 COMMISSIONER HENDRIE: My guess is that 20 GPM is  
4 way over the unidentified leakage tech' spec'.

5 MR. OLSHAN: That's true. But the unidentified  
6 leakage is really geared to reactor cooling system  
7 unidentified leakage. The methods that they have to  
8 determine it only can you tell you unidentified leakage in  
9 reactor cooling system. That's why when they tried to  
10 verify this, all their typical methods didn't show any  
11 leakage; so they discounted some of their indications. So --

12 MR. STELLO: I had --

13 COMMISSIONER HENDRIE: Sump location problems and  
14 so on?

15 MR. STELLO: I had the same impression, that the  
16 unidentified leakage spec' would set a limit on the total  
17 amount of water leakage into the containment. But the way  
18 the spec' is developed in these plants, it's for reactor  
19 coolant system leakage. And that's one of the things we  
20 want to go back and look at.

21 COMMISSIONER HENDRIE: How do you separate the two?

22 MR. WOODS: You don't in the sump; that's the  
23 point.

24 MR. OLSHAN: Yeah, in the sump you can't with the  
25 other measures, the other methods they have, like radiation

1 detection, dew point indicators --

2 COMMISSIONER HENDRIE: Okay, yeah, yeah, those --

3 MR. OLSHAN: Right.

4 COMMISSIONER HENDRIE: Well, let's see, dew point  
5 might still trip. But unless the -- unless the basement  
6 floor is broken up in such a way that the fan cooler leakage  
7 wouldn't get down into the -- into the --

8 MR. STELLO: But there's a positive --

9 MR. OLSHAN: Out of the sump.

10 MR. STELLO: There's a positive way also to do  
11 primary coolant leakage -- by makeu..

12 COMMISSIONER HENDRIE: Yeah.

13 MR. STELLO: That can be done --

14 COMMISSIONER HENDRIE: I see.

15 MR. STELLO: -- positively.

16 COMMISSIONER HENDRIE: Well, we got another  
17 smiling face.

18 Hi.

19 MR. OLSHINSKI: Hi. John Olshinski, chief of  
20 operating reactors assessment branch. The question on  
21 unidentified leakage is one of the things that NRR is going  
22 to be pursuing both on the short term, in conjunction with  
23 the bulletin, with I&E, and on the longer term we're going  
24 to be going back and looking at that very issue, because  
25 that has been brought up, various leakage detection

1 methods. When you're dealing with reactor coolant pressure  
2 boundary leakage, those systems may, or may not, be  
3 effective when you're dealing with a non-reactor-coolant  
4 systems. The humidity that you were speaking of, in fact,  
5 fan cooler condensation, sump level -- there main question  
6 is there, is location of leakage, if you just consider  
7 reactor coolant system leakage, whether that's adequate for  
8 non-reactor-coolant system leakage. So as far as licensing  
9 requirements are concerned, we are going back to examine  
10 those to make sure that they, in fact, are adequate for  
11 non-reactor-coolant system leakage also.

12 . MR. WOODS: Okay. Well, also, then, the other  
13 tech' spec' required item is one of these level indicating  
14 columns per sump. There are two in the regular vapor  
15 containment sump, and there are two in the research sump, at  
16 Unit 3, and one per sump has to be operable.

17 CHAIRMAN AHEARNE: Operable determined by?

18 MR. WOODS: I don't know what the test is. I  
19 would presume you'd go inside containment and move the --

20 CHAIRMAN AHEARNE: Well, but it --

21 MR. WOODS: -- thing up and down and see if the  
22 light comes on.

23 CHAIRMAN AHEARNE: But when do --

24 MR. WOODS: Well, I know what you're worried  
25 about. I don't know the answer.

1 (Laughter)

2 CHAIRMAN AHEARNE: I see. Well, perhaps someone  
3 can find that answer for me.

4 MR. WOODS: Maybe you'd better state the question,  
5 then.

6 (Laughter)

7 CHAIRMAN AHEARNE: Well, there are a series of  
8 questions.

9 MR. OLSHAN: I asked the same question. There is  
10 a difference in the tech' specs'. Unit 3 requires one to be  
11 operable. But I don't know how they can verify it operable  
12 with the -- with the containment closed.

13 CHAIRMAN AHEARNE: And a restriction on people  
14 going into it.

15 MR. OLSHAN: That's right. That's right.

16 CHAIRMAN AHEARNE: Yes. It's -- and then, of  
17 course, then, that's -- so that's a question, one set of  
18 questions. Second question is --

19 MR. OLSHAN: But I'm not sure it means much,  
20 because the lower two lights on that would always be on,  
21 and, I guess, if they were off, they could say that, at  
22 least, that was inoperable. But I don't think it's --

23 CHAIRMAN AHEARNE: Yeah. I guess I'd like to find  
24 out what -- what -- how that's interpreted, you know. And  
25 then the second question, obviously, is, is there -- is that

1 also in number 2's requirements?

2 MR. OLSHAN: No, it --

3 CHAIRMAN AHEARNE: Or number 2's, rather.

4 MR. OLSHAN: No, it isn't. Unit No. 2 does not  
5 have a tech' spec' that requires one of those trains  
6 operable. But again, I -- I don't know much weight you can  
7 put on the *differences in the tech specs.*  
~~(WORDS UNINTELLIGIBLE)~~.

8 CHAIRMAN AHEARNE: Yes.

9 MR. WOODS: But there's several months before Unit  
10 2 will restart.

11 CHAIRMAN AHEARNE: I understand.

12 MR. WOODS: Okay. The only other item is plant  
13 procedural requirements. This is not a tech' spec' item.  
14 But they do have an instrument, a flow instrument on the  
15 discharge line from the -- from the normal sump in the  
16 containment. And it has instantaneous flow and a flow  
17 totalizer on it. And, I understand, they read that, record  
18 it, plot it every shift; and that'll give you an indication,  
19 if -- if that flow goes way up, that something has happened  
20 in the containment, at which point you'd make an entry to  
21 find out what happened.

22 CHAIRMAN AHEARNE: Okay. Now, that is the -- is  
23 that the only way they can tell whether the sump pumps are  
24 operating?

25 MR. WOODS: Well, you'd expect these lights to

1 cycle on and off, the same ones that should have been  
2 cycling on Unit 2; that would be another way. There's no  
3 direct --

4 CHAIRMAN AHEARNE: Cycling on says they should be  
5 -- that they should be operating.

6 MR. WOODS: No, when the light --

7 CHAIRMAN AHEARNE: Cycling off means that they may  
8 have been operating.

9 MR. WOODS: I hope I said on and off. But if  
10 those lights are on and then they go off, unless the bulb  
11 burned out or something --

12 CHAIRMAN AHEARNE: That's -- I'm --

13 MR. WOODS: -but, it's not a --

14 CHAIRMAN AHEARNE: I'm just trying a slight --

15 MR. WOODS: -- that direct an indication --

16 CHAIRMAN AHEARNE: -- a slight distinction.

17 MR. WOODS: -- but it -- it is an indication --

18 CHAIRMAN AHEARNE: Yeah.

19 MR. WOODS: -- that the sump is running.

20 I think your question was, is there a direct  
21 indication on the motor?

22 CHAIRMAN AHEARNE: Yes. You know, that the pumps  
23 are running?

24 MR. WOODS: There is not.

25 MR. STELLO: Well, again, you recognize that



1 there's a discussion that you ought to have on the pro and  
2 con, do you really want a -- a light that tells you that --

3 CHAIRMAN AHEARNE: Vic, I wasn't saying that there  
4 should be.

5 MR. STELLO: But let --

6 CHAIRMAN AHEARNE: I'm just asking a question.

7 MR. STELLO: But let -- let me, because I -- --

8 CHAIRMAN AHEARNE: I'm trying to understand.

9 MR. STELLO: -- I guess, I -- I am leaning toward,  
10 on Unit 2, a requirement that says put an integrator, a flow  
11 integrator, where you can actually physically see that there  
12 is flow coming out from this sump, which says all of the  
13 things -- there's power --

14 CHAIRMAN AHEARNE: Yes.

15 MR. STELLO: -- to the motor, the motor is --

16 CHAIRMAN AHEARNE: Yes.

17 MR. WOODS: -- powered, and --

18 CHAIRMAN AHEARNE: Yeah.

19 MR. STELLO: -- the pump is turning, and --

20 CHAIRMAN AHEARNE: Right.

21 MR. STELLO: -- water is coming out.

22 CHAIRMAN AHEARNE: Right.

23 MR. STELLO: And looking at the -- at having them  
24 add a flow integrator to the system, possibly even  
25 indicating in the control room, I think that that is the



1 firmest way to know --

2 CHAIRMAN AHEARNE: Yes.

3 MR. STELLO: -- that the pump is working.

4 MR. WOODS: I agree completely. The very best way  
5 to know that a pump is working is flow out from the pump --

6 CHAIRMAN AHEARNE: Right. Right.

7 MR. WOODS: -- not power to the pump --

8 CHAIRMAN AHEARNE: Sure.

9 MR. WOODS: -- or anything else.

10 CHAIRMAN AHEARNE: Sure.

11 MR. WOODS: Even shaft motion.

12 CHAIRMAN AHEARNE: Yeah.

13 MR. WOODS: It could be part of the shaft.

14 CHAIRMAN AHEARNE: Yeah. Yeah.

15 MR. WOODS: Yes?

16 MR. STELLO: Okay. Well, the final conclusion is  
17 that we're at the point where, given that all of the things  
18 we've talked about are at the point where they're completed,  
19 we're ready to allow operation to resume. We are looking at  
20 this next step; and I don't know when we'll be at the point  
21 of the license requirements. I don't feel that there's a  
22 need to -- to have all of that done today, to modify the  
23 license. And I don't know whether it's a good idea to do it  
24 in pieces or wait until we have more of it laid out. But we  
25 will be imposing things that we've talked about here today

1 as license conditions, where they'll be required to perform  
2 a surveillance and required to have the equipment operable.  
3 They will be part of the license. I just don't want to  
4 leave the impression that we're going to do that today,  
5 because I don't think we necessarily will have that  
6 finished. We will have a commitment that they will do  
7 various kind of surveillance and assure equipment  
8 operability before it starts up, however.

9           CHAIRMAN AHEARNE: Vic, what is the -- is there  
10 any connection between the management and the operating  
11 crews of 2 and 3?

12           (Pause)

13           MR. OLSHAN: Vic, do you want me to help you on  
14 that?

15           MR. STELLO: I'm not sure I understood that  
16 question.

17           MR. OLSHAN: There is no connection. They're  
18 owned by different companies.

19           CHAIRMAN AHEARNE: All right. But are the -- they  
20 are owned by different companies, but is there a interchange  
21 of personnel between 2 and 3?

22           MR. OLSHAN: Well, I'm sure there are certain  
23 committees that they share and there are certain functions  
24 that they only have one person that can satisfy. But in  
25 general the operating crew is independent.

1 CHAIRMAN AHEARNE: So that the requirements laid  
2 on Unit 2's operators are ones generated by Con Ed  
3 management, the requirements on Unit 3 are --

4 MR. OLSHAN: Right. They would be totally  
5 different.

6 MR. WOODS: That's correct.

7 MR. OLSHAN: Totally different.

8 CHAIRMAN AHEARNE: Well, they may be -- the result  
9 may be totally different, but at least the process is.

10 MR. OLSHAN: That's right. The process is  
11 different.

12 MR. STELLO: Okay. That concludes what we had to  
13 say regarding both units, 2 and 3.

14 CHAIRMAN AHEARNE: Vic?

15 Joe?

16 Peter?

17 COMMISSIONER BRADFORD: Just one other question,  
18 Vic. As I understand it, most of the equipment, all of the  
19 equipment that we're talking about here isn't safety grade,  
20 although you're going to impose a bunch of requirements on  
21 making sure that it's operable, which may come to pretty  
22 close to the same thing.

23 What I'm really after, though, is, at least, as to  
24 perhaps the level indicators in the reactor cavity, wouldn't  
25 you want some one piece of equipment that you would be

1 absolutely sure, sort of as a last line, would tell you if  
2 water were getting close to the reactor vessel itself?

3 MR. STELLO: Well, there's a requirement that  
4 there be such an instrument installed as part of the  
5 short-term Lessons Learned, that will be installed in the  
6 units, that'll -- that'll, hopefully, do this, a wide-range  
7 instrument, that is being -- that is going to be, as I  
8 recall, I think it's required to be safety grade.

9 Am I right? John?

10 MR. OLSHINSKI: There's a requirement on the TMI  
11 action plan for a wide-range instrument that is safety  
12 grade. But that will be, as part of the implementation  
13 package, it'll be a while downstream. There's also a  
14 narrow-range instrument that is to go on, a narrow-range  
15 sump level indication, which meets Reg Guide 1.89, which has  
16 a lot of redundancy and reliability requirements associated  
17 with that also as part of that package. So there will  
18 actually be two instruments.

19 COMMISSIONER BRADFORD: I'm sorry, tell me what  
20 "wide-range" and "narrow-range" mean in this context.

21 MR. OLSHINSKI: Okay. The wide-range requirement  
22 is for a wide-range level instrument run from the bottom of  
23 the containment sump to a level equivalent to 600,000  
24 gallons in the containment, safe, full safety-grade  
25 requirements.

1           The narrow-range is a narrow range on the sump. I  
2 can't recall the particular levels, although it's a much  
3 narrower range, on the regular containment sump itself; and  
4 that'll meet requirements of Regulatory Guide 1.89, which  
5 specifies reliability and operability and power to that  
6 equipment.

7           COMMISSIONER HENDRIE: Range in this case, for a  
8 level instrument, means --

9           COMMISSIONER BRADFORD: Feet. Feet or inches.

10          COMMISSIONER HENDRIE: -- over, over what  
11 elevation --

12          COMMISSIONER BRADFORD: I got it.

13          COMMISSIONER HENDRIE: will it indicate water  
14 level. And there's the -- the TMI basement-full-of-water  
15 gauge that we found we would have liked to have had.

16          COMMISSIONER BRADFORD: And that will take of this  
17 concern as well? That is, if it's measuring the level in  
18 the sump, you can be, always be sure that you'll know from  
19 that the level in the cavity as well?

20          MR. OLSHINSKI: I'm not too sure that that's --  
21 we'll have to go back and look at that, and if, in fact --  
22 we want to satisfy our concerns; we think that that is true;  
23 we say the bottom of the containment, whatever the low point  
24 is in that case. In this case it would have been the cavity  
25 here.

1 CHAIRMAN AHEARNE: Yeah.

2 MR. OLSHINSKI: And I think that's probably true,  
3 but it's something we'll have to go back and verify that;  
4 for each containment, you know, we'll take the areas of  
5 concern, we'll be covering those areas.

6 MR. STELLO: Well, there will be a correlation,  
7 however. You'll know what the elevation is, and you'll know  
8 what the elevation components are. But I don't think that  
9 I'd want to get to the position where I had to rely on that  
10 kind of equipment. We have much more equipment that's going  
11 to be there to tell us we have the problem before we have it.

12 MR. WOODS: What I thought I heard John say was  
13 from the bottom of the sump to a certain level. I believe  
14 it's from the bottom of the containment.'

15 MR. OLSHINSKI: Yes, it's -- it's from the -- I'm  
16 -- I didn't mean to say the bottom of the sump, but meant  
17 bottom of the containment.

18 COMMISSIONER HENDRIE: It has to. It doesn't do  
19 what we want it to do unless it really goes all the way to  
20 the bottom of the lowest available cavity in the containment.

21 CHAIRMAN AHEARNE: Well, that's what John --  
22 that's what the second point he made was, that that's why  
23 it's containment by containment.

24 MR. OLSHINSKI: That's right. It's -- it's a  
25 post-accident monitoring and evaluation tool, and that's



1 what it was intended to be.

2 COMMISSIONER BRADFORD: And when it is due to be  
3 imposed?

4 MR. OLSHINSKI: I haven't checked on the schedule,  
5 but as I recall, it's either January '82 for the safety  
6 grade or it may be July '82; it's one of those, basically,  
7 but I haven't checked for sure.

8 CHAIRMAN AHEARNE: Any questions?

9 COMMISSIONER GILINSKY: Do we have two inspectors  
10 on the site?

11 MR. STELLO: Yes.

12 COMMISSIONER GILINSKY: And what are our plans for  
13 the next year or two as for as the number of inspectors, to  
14 keep two?

15 MR. STELLO: I don't know. I'm thinking about it;  
16 at the moment I hadn't decided.

17 CHAIRMAN AHEARNE: Well, you're -- what you're  
18 thinking about is more than, not less than, isn't that  
19 correct?

20 MR. STELLO: That -- yes. Augmenting what's  
21 there. But I haven't really decided how, how to go about  
22 it, yet.

23 CHAIRMAN AHEARNE: Any other questions, Vic?

24 COMMISSIONER GILINSKY: And you're thinking about  
25 what, adding one, or more? Is there anything you want to



1 tell us at this point?

2 (Laughter)

3 MR. STELLO: No. Augmenting, but I haven't  
4 decided what's the best way to go about it.

5 CHAIRMAN AHEARNE: Well, these are -- these are  
6 resource commitments that he has to think through carefully.

7 MR. STELLO: Yes -- as the Commissioner has  
8 reminded me on countless occasions.

9 CHAIRMAN AHEARNE: Yes. All right. So my  
10 understanding is that what you intend to do is, with respect  
11 to 2, that's now down for -- till June at least, currently.

12 MR. STELLO: Yes.

13 CHAIRMAN AHEARNE: And on 3, when you are  
14 satisfied that they have done the things that you believe  
15 they should have done, then they will start back up, is that  
16 correct?

17 MR. STELLO: Yeah. I'm -- what -- what I want to  
18 make sure is that we have some commitments that various  
19 kinds of surveillance are going to be done on the equipment,  
20 pending getting formal license requirements established. I  
21 think we want to take a bit more time to put formal license  
22 conditions, but to work out an arrangement where we're sure  
23 *of the arrangement that* ~~that (UNINTELLIGIBLE)~~ the various surveillance requirements  
24 will be met.

25 CHAIRMAN AHEARNE: Okay, and you'll keep us

1 informed of when you do develop those additional license  
2 requirements.

3 MR. STELLO: Well, we're coming to the first step  
4 in that process, will be a bulletin I hope to have out next  
5 week, and I'll be happy to provide a copy, of all of the  
6 correspondence, to the Commission, surely.

7 COMMISSIONER GILINSKY: Is the question of the  
8 number of inspectors something you're liable to come to a  
9 conclusion on fairly soon?

10 CHAIRMAN AHEARNE: Well, I would hope that he  
11 thinks through it carefully, Vic, because it -- these are  
12 sort of the critical people we have in the agency, he's got  
13 to carefully control both where he'd get them and how he  
14 allocates them.

15 COMMISSIONER GILINSKY: Does that mean he won't  
16 come to a conclusion soon, John?

17 CHAIRMAN AHEARNE: It means that when he, I think,  
18 has -- has thought through his resource allocation, he will  
19 reach a conclusion.

20 COMMISSIONER GILINSKY: That seems an odd way to  
21 discuss this. But go ahead.

22 CHAIRMAN AHEARNE: Yeah. All right.

23 MR. STELLO: Perhaps we can privately. There's  
24 some things that I -- I just am not prepared to discuss  
25 today.

1 COMMISSIONER GILINSKY: Okay.

2 CHAIRMAN AHEARNE: All right. Not hearing any  
3 objection, I'll then move on to the order.

4 Thank you.

5 (Pause)

6 We'll take about a two-minute break here, while  
7 some of these people have a chance to leave, if they were  
8 interested in leaving.

9 (A brief recess was taken.)

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1           CHAIRMAN AHEARNE: Those of you who wish to talk  
2 further go outside and we'll try to get back to address and  
3 work our way through an Indian Point order.

4           Len, why don't you at least briefly describe the  
5 document -- the unnumbered document -- that was sent around,  
6 SECY-A-80-

7           MR. BICKWIT: It's now 80-179A.

8           CHAIRMAN AHEARNE: 179-A.

9           MR. BICKWIT: It has three attachments to it. The  
10 first is a proposed order which includes -- which attempts  
11 to include the various differences of opinion that have been  
12 expressed informally by the different Commissioners on the  
13 substantive matters at issue.

14           The second attachment is an approach which our  
15 office puts forward as just that with respect to interim  
16 operation, which would, if accepted, have the effect of  
17 scratching all of the interim operation sections and  
18 substituting for them a one paragraph replacement.

19           And the third attachment is, again, from our  
20 office, which is a proposed footnote dealing with the  
21 procedural aspects of this matter. Your informal exchanges  
22 have focused almost exclusively on substantive issues. We  
23 raised some procedural questions at the last meeting and  
24 this is our proposal as to how to resolve the procedural  
25 issues as we see it.

1 CHAIRMAN AHEARNE: Do you have any rough  
2 suggestion as to where that footnote would be planted?

3 MR. BICKWIT: Yes. It should be planted at the  
4 point in the text where there is reference to a trial-type  
5 adjudication including discovery and cross-examination. It  
6 would be page 8, paragraph <sup>16</sup>~~50~~.

7 CHAIRMAN AHEARNE: Well, I would suggest we try to  
8 work through, starting from the beginning. I'm not sure  
9 whether we will get through it all, but at least hopefully  
10 as a result of at least this meeting we can narrow down the  
11 areas where there might still be disagreement.

12 Page 1, paragraph 1. Any problems with page 1?

13 COMMISSIONER GILINSKY: What's in paragraph 1?

14 CHAIRMAN AHEARNE: Page 2.

15 COMMISSIONER GILINSKY: We would go with the OGC  
16 paragraph. I think we probably ought to strike the last  
17 sentence.

18 MR. BICKWIT: That's right.

19 CHAIRMAN AHEARNE: I thought your paragraph, Vic,  
20 was actually better. Page 14. Paragraph 35.

21 COMMISSIONER GILINSKY: You mean instead of the  
22 OGC paragraph?

23 CHAIRMAN AHEARNE: Yeah.

24 MR. BICKWIT: It is not merely two different  
25 paragraphs as I understand it. The OGC approach strikes

1 everything in the interim operation section. As I  
2 understood the Gilinsky approach, you leave that and then  
3 you add this paragraph.

4 CHAIRMAN AHEARNE: Yes. And that seems to me to  
5 reflect more accurately what we actually have done.

6 COMMISSIONER BRADFORD: I wrote that before I had  
7 seen the OGC paragraph.

8 COMMISSIONER GILINSKY: I think personally the OGC  
9 paragraph did perfectly well and has the advantage of making  
10 the whole order clearer.

11 CHAIRMAN AHEARNE: Pardon me. It has the  
12 advantage of -- sorry.

13 COMMISSIONER GILINSKY: Shortening the order.

14 CHAIRMAN AHEARNE: Let us see how others feel on  
15 it. Joe?

16 COMMISSIONER HENDRIE: I think the elements of the  
17 decision on interim operation which pertain to population  
18 density, associated aspects of risk and so on -- the sort of  
19 things we asked the task force to do -- remain as a decision  
20 that was soundly made. I think in view of the circumstances  
21 recently at Unit 2, it's fair to note that if we find reason  
22 to reconsider why we will, and that the unit is down and  
23 before restart I'm willing, if you like, to have the  
24 Commission think about it and say what level of  
25 reconsideration might be appropriate.



1 But we have, I remind you, delayed a decision on  
2 interim operation made on the basis of the task force report  
3 and the Commission's review of it since July. This is now  
4 mid-November. I see no reason in punting the expression of  
5 those elements of the Commission's decision yet further  
6 forward into the future.

7 And, in particular, I see no reason to go back and  
8 retread the examination which we made in the task force  
9 report and those discussions at some future time. If the  
10 conclusion of the staff and subsequently the Commission out  
11 of the current events at Indian Point 2 would lead to some  
12 other result, then I think we ought to make that  
13 determination and apply those new conclusions when we make  
14 them.

15 But in the meantime, I see no reason to keep on  
16 just punting off downstream and saying well, it's a cloudy  
17 day today, let's not decide. I think, in fact, we have  
18 decided and we ought to record our say-so.

19 CHAIRMAN AHEARNE: That's what I liked about Vic's  
20 paragraph was that it did accurately reflect the fact of the  
21 matter -- that we did on July 15 decide. The two reactors  
22 were operating in the interim and the reason was that on  
23 July 15 we made a decision thereon.

24 This new event is going to cause us to rethink  
25 some of that, and that's -- Vic did, I felt, capture that.



1           COMMISSIONER HENDRIE: In a general sense, right  
2 at this moment, for every license which is out there which  
3 allows a reactor to operate something may happen this  
4 afternoon which will lead us to reexamination of that  
5 permission. And, you know, I don't see anything  
6 extraordinary here that would cause us to go back and say  
7 no, no, all of that work of the task force is now invalid  
8 and so on.

9           There are, obviously, connections that can be  
10 made. Some of the assumptions that went into the decision  
11 on the task force report, some of those elements in D you  
12 can make a connection with a present circumstance and with  
13 some of those elements. But I think that's something that  
14 one ought to do when one comes to some conclusion on the  
15 present matter and if we find it necessary to change the  
16 interim operation order language, why we change it.

17           CHAIRMAN AHEARNE: Vic's line does say that after  
18 the -- and we will review whether that previous decision is  
19 still valid. That captures an accurate representation. We  
20 did something. Something else happened. We're going to  
21 relook. So that's why I --

22           Peter?

23           COMMISSIONER BRADFORD: Well, obviously, as to  
24 Unit 3 we're going to have to make a determination right  
25 away as to whether the interim operation decision was

1 invalid and so that really can be split up.

2 I take it that was intended to be part of  
3 Attachment B as well. You didn't intend to defer the  
4 interim decision on Unit 3.

5 MR. BICKWIT: Well, Attachment B, which was  
6 written before the staff briefing today, would have the  
7 effect of allowing Unit 3 to operate.

8 COMMISSIONER HENDRIE: But would not have made the  
9 decision on interim.

10 MR. BICKWIT: It would not have said anything  
11 about an interim operation decision. But if all you had was  
12 Attachment B, Unit 3 would be permitted to operate. It  
13 would not provide a rationale for that, which was something  
14 that you suggested in your memo, and I have no problems with  
15 providing such a rationale. I just didn't feel capable of  
16 doing it until we had a briefing on this.

17 COMMISSIONER GILINSKY: Len, what difference do  
18 you see between your paragraph B and tacking on the  
19 paragraph I have written to the existing case.

20 MR. BICKWIT: Well, in one case I think what I  
21 found most objectionable about your proposal is that --

22 COMMISSIONER GILINSKY: Make it --

23 MR. BICKWIT: I have two defenders here.

24 CHAIRMAN AHEARNE: That's all right, Vic. I'll  
25 come to your defense.

1 MR. BICKWIT: I think this is maybe one where you  
2 need to come to his defense.

3 Is the reference to the decision in the present  
4 tense throughout the order. If you simply add this onto  
5 what is in that order, in effect you're talking about your  
6 present state of mind and a decision that you are reaching  
7 in this order.

8 My assumption is that the Commission does want to  
9 rethink this, does want to review it. And --

10 COMMISSIONER HENDRIE: Review what?

11 MR. BICKWIT: Review the decision on interim  
12 operation. Does want to rethink its decisions on interim  
13 operation in light of the accident.

14 That's not a case then --

15 CHAIRMAN AHEARNE: But as you describe it it was a  
16 decision that was reached.

17 MR. BICKWIT: A decision that was reached. If it  
18 were phrased in terms of a decision that was reached and one  
19 which the Commission wants to rethink, that removes most of  
20 my objection.

21 CHAIRMAN AHEARNE: Well, why not simply stick in  
22 that sentence.

23 MR. BICKWIT: No, it doesn't say that because it  
24 is in addition to an order that describes the decision  
25 really being made in the present tense and reduced to

1 writing in this document. If it were phrased in terms --

2 CHAIRMAN AHEARNE: In other words, if it were  
3 phrased it was a decision that was made --

4 MR. BICKWIT: On this basis.

5 CHAIRMAN AHEARNE: Reduced to writing in this  
6 document. And Vic's thing -- or paragraph 35 statement that  
7 we will determine whether that decision remains valid. That  
8 would meet your objection.

9 MR. BICKWIT: That's right. That certainly would  
10 meet the bulk of my objection. Then the only difference,  
11 which I simply want to draw for you --

12 COMMISSIONER HENDRIE: Well, is your objection,  
13 you know, your reading that the Commission wants to revisit  
14 the whole interim operation question? If it is you've  
15 misjudged my temper in the matter.

16 COMMISSIONER BRADFORD: That would be hard to do,  
17 I think.

18 MR. BICKWIT: I think I've got it.

19 CHAIRMAN AHEARNE: The misjudging?

20 MR. BICKWIT: No, I think I've got your  
21 temperament.

22 Yes, it was based on the assumption that you do  
23 want to revisit the question of interim operation because of  
24 the developments involved in this accident. It is premised  
25 on that. If that is not your view, I think I have trouble

1 even with Vic's proposal.

2 CHAIRMAN AHEARNE: Number 35 if you care to -- I  
3 mean I've played that one about as long as I can.

4 The previous proposal, which is paragraph 35.

5 COMMISSIONER BRADFORD: John, maybe it --

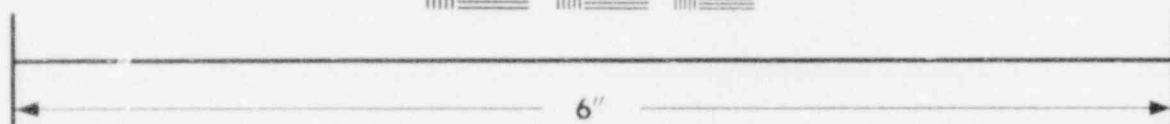
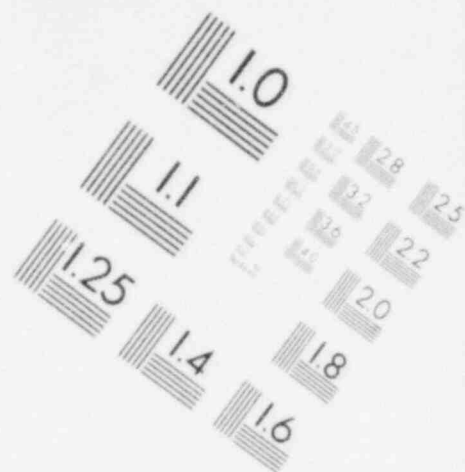
6 CHAIRMAN AHEARNE: Let me go through my  
7 rationale. I think we made a decision back in July. We did  
8 make a decision.

9 MR. BICKWIT: There's no doubt that you made a  
10 decision.

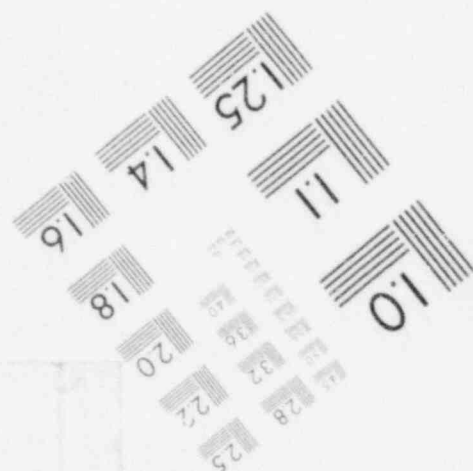
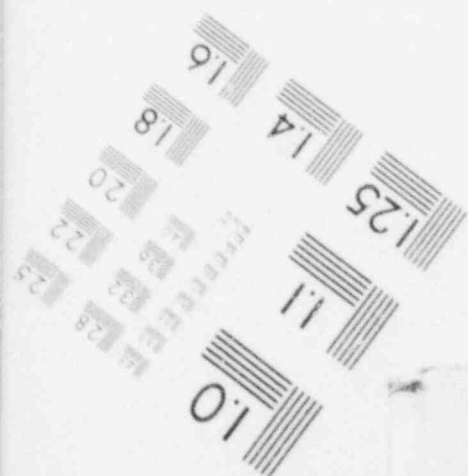
11 COMMISSIONER BRADFORD: There is, incidentally, a  
12 difference in these two paragraphs as to whether it was made  
13 on the 15th or the 17th, but I assume someplace it could be  
14 documented.

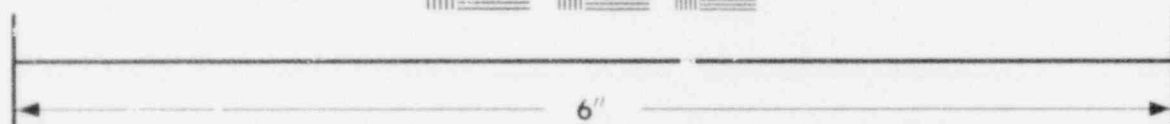
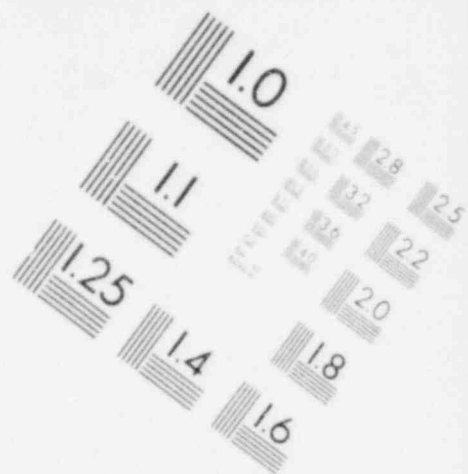
15 CHAIRMAN AHEARNE: Well, I think it was the 15th.  
16 I think the 17th was the second meeting, because at least I  
17 went through the transcript of the 17th and it appears to be  
18 based upon a meeting that previously occurred. I didn't  
19 look it up to see whether it was the 15th.

20 In any event, whatever date, that I imagine can be  
21 extracted somewhere in July. But a decision was made. We  
22 did allow the reactors to continue operating and I had  
23 difficulty not putting that down in that I felt the order  
24 did explain. And I, in fact, did start modifying some of the  
25 tenses back here to change the present tense to the past

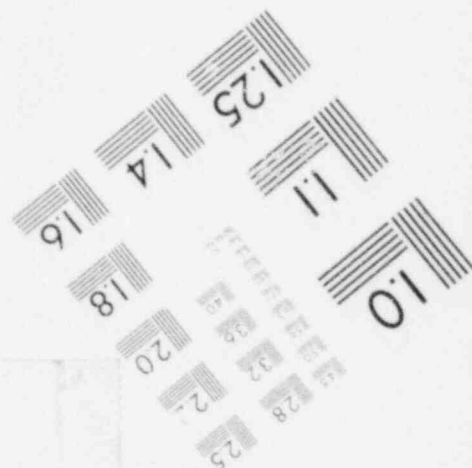
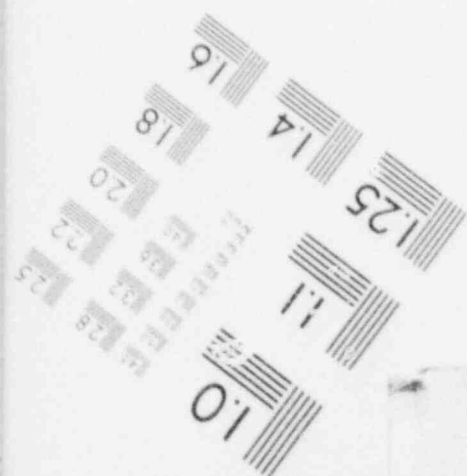


## MICROCOPY RESOLUTION TEST CHART





## MICROCOPY RESOLUTION TEST CHART





1 tense.

2 MR. BICKWIT: That's right. As I said --

3 CHAIRMAN AHEARNE: It appeared to me that we had  
4 to reflect we did review it. We did look at this. We did  
5 make a decision. Now, with Vic's paragraph, then, what I  
6 liked about it was that it then went on to say, much better  
7 than the attempt that I had made, is that there now have  
8 been recent events, and assuming that this gets out, the  
9 recent events are being reviewed by INE.

10 After that, and prior to any decision on whether 2  
11 could operate, we are going to have to review whether or not  
12 that previous decision is valid. Validity means here is a  
13 result. There's some information that leads to that  
14 result. That the result's still valid.

15 Now how broad a review that entails I don't know,  
16 because I don't know what the results of the investigation  
17 are going to be. I have no problem with if you -- I think  
18 Peter made a comment or you made a comment that you would  
19 have to have some justification of why we would right now  
20 have reached this decision on Unit 3, putting something  
21 about we heard from the Director of INE and the explanation  
22 as to the differences that lead us to allow this interim  
23 operation pending this next step.

24 But that's why I felt that this did accurately  
25 characterize what happened.

1           COMMISSIONER BRADFORD: I may be wrong, but I  
2 don't think there's a very major disagreement here. I would  
3 be perfectly content as to Unit 2 to recite the facts that  
4 this is under July, whichever day we made the decision, and  
5 the plant is now shut down and will be shut down until next  
6 June. Before that time, the Commission will review the  
7 results of the INE investigation and conclude whether the  
8 plant would be permitted to come back up on the projected  
9 schedule.

10           That poses slightly the question of whether there  
11 are those of us who believe at the moment that that  
12 investigation is not going to make any difference, but it  
13 states the sequence of events as we see it unfolding. And  
14 any reader reading it would be able to take from that both  
15 the fact the Commission has made a past decision, that it  
16 will review it in the context of the INE investigation, and  
17 if it reaffirms it at that time, the plant will come up on  
18 schedule. If it does something else, something else will  
19 happen.

20           As to Unit 3, I assume we're going to decide very  
21 shortly what to make of that situation and will be able to  
22 reflect that accordingly.

23           CHAIRMAN AHEARNE: Well, let me get back to Unit 3  
24 very briefly. When Stello was here I asked whether we had  
25 any other issues to raise with him. He currently has

1 delegated the authority to tell the licensee that he can go  
2 ahead.

3 COMMISSIONER BRADFORD: I was about to suggest  
4 that in fact the writing will flow much more easily once we  
5 make the decision as to whether we, in fact, do intend to  
6 object to Unit 3 going back up. And if we were to take that  
7 up now, then it would simplify the operation.

8 CHAIRMAN AHEARNE: I'll be glad to revisit it. I  
9 thought we had, but --

10 COMMISSIONER BRADFORD: Okay. I am not, in fact,  
11 opposed to letting Unit 3 come up. I would be opposed,  
12 however, to putting this order out without a clearer  
13 statement of the basis that we feel that Unit 3 is different  
14 from Unit 2.

15 CHAIRMAN AHEARNE: My bases are that the  
16 differences described by the director in his briefing are  
17 sufficient.

18 COMMISSIONER BRADFORD: That having been said, it  
19 becomes much simpler to write about Unit 3 in the present  
20 tense.

21 CHAIRMAN AHEARNE: I'm not sure what whether Peter  
22 and I are much in disagreement.

23 MR. BICKWIT: I don't hear any disagreement.

24 COMMISSIONER BRADFORD: I don't think so.  
25 Unfortunately, neither of the paragraphs works in this --

1           COMMISSIONER HENDRIE: It depends on the language  
2 in which it's expressed. It seems to me that paragraph 3  
3 covers the matter.

4           CHAIRMAN AHEARNE: I would have then, just in  
5 going through these next paragraphs on interim operation  
6 reflect two things. One, reflect in the past tense that a  
7 decision had been made based upon review. And then in the  
8 present tense we just ignore the words in paragraph 35 as  
9 modified with the addition feature of the comparison between  
10 the two presented by the director of INE. And that's the  
11 approach I would take.

12          COMMISSIONER HENDRIE: I think the past tensing  
13 doesn't need much more than about in the middle of the page  
14 it says "based on this report as well as the Director's  
15 previous decision we conclude that the risk", we could say  
16 "we concluded in July" or "on July 15" that the risk --

17          CHAIRMAN AHEARNE: Well, those were the kinds of  
18 changes I was trying to make.

19          COMMISSIONER HENDRIE: I haven't found any place  
20 else where you really need the past tense in the proposition.

21          CHAIRMAN AHEARNE: Well, I think on page 5 we were  
22 talking about "the decision is", "the decision was".

23          MR. BICKWIT: There are a number of places,  
24 because I found those offensive when I --

25          CHAIRMAN AHEARNE: Well, I didn't find them

1 offensive --

2 MR. BICKWIT: Offensive to my point of view.

3 COMMISSIONER HENDRIE: Two paragraphs will do  
4 what, then? Follow paragraph 3 with something like the  
5 expanded paragraph 35?

6 CHAIRMAN AHEARNE: Where it is appropriate to  
7 place it, I didn't know. Len obviously thought that the end  
8 was the right place. I'm not sure where it ought to sit in  
9 the order.

10 MR. BICKWIT: Actually, I think it should sit  
11 under the interim operation section.

12 CHAIRMAN AHEARNE: Fine.

13 COMMISSIONER HENDRIE: Maybe not right after 3,  
14 but at the end.

15 CHAIRMAN AHEARNE: At the very end. Okay.

16 COMMISSIONER HENDRIE: Now the paragraph 35, this  
17 effort of Vic's which not has a success beyond his current  
18 desire perhaps --

19 MR. BICKWIT: Let me say that the only difference  
20 now between what we've proposed and what he originally  
21 proposed is a very minor difference.

22 In one case you have made the decision and you are  
23 going to rethink it. In the other case you are going to  
24 make the decision. And I find --

25 CHAIRMAN AHEARNE: As far as a reflection of

1 history, there is a substantial difference between those two.

2 MR. BICKWIT: It is clear to me --

3 COMMISSIONER GILINSKY: Put in that sentence into  
4 the OGC version.

5 MR. BICKWIT: It is clear to me that if you are  
6 going to make the decision the way you are going to go about  
7 it is to rethink earlier decisions, so I don't see any  
8 substantive difference. It is merely a way of phrasing it.

9 CHAIRMAN AHEARNE: I would prefer myself to then  
10 leave in as modified by the verb tenses the previous  
11 expression.

12 COMMISSIONER HENDRIE: Yes. That's very much what  
13 I would do.

14 The other thing I want to do it to take "and Unit  
15 3" out of Vic's paragraph at the end. It seems to me that  
16 Vic's paragraph applies to Unit 2 and not to 3, in view of  
17 today's briefing and the thrust of the discussions.

18 CHAIRMAN AHEARNE: I'm not sure -- Peter, you had  
19 done that earlier. Is that an accurate reflection of your --

20 MR. BICKWIT: I'm sorry. I missed Joe's --

21 CHAIRMAN AHEARNE: Joe said that in that last  
22 paragraph 35, he would like to take out the comment on Unit  
23 3 and then refer to unit 3 separately.

24 COMMISSIONER BRADFORD: Yes, that's right. I had  
25 assumed that we have still a page or so to write on it.



1 COMMISSIONER HENDRIE: Yes, there's some  
2 additional language saying we've looked at the matter with  
3 regard to differences between 2 and 3.

4 COMMISSIONER BRADFORD: The only other -- well,  
5 two other things, one of which is apart from this discussion  
6 -- that I would make clear in whichever paragraph that's in  
7 -- this one is all right with me -- is that Unit 2 is, in  
8 fact, and will remain down until a period --

9 COMMISSIONER HENDRIE: Yes.

10 COMMISSIONER BRADFORD: It's implicit and I think  
11 we coul --

12 COMMISSIONER HENDRIE: I think an insertion there  
13 just before "prior to permitting resumption" it would be  
14 useful to state the unit is now shut down, for instance.

15 CHAIRMAN AHEARN: Fine. Is someone over there  
16 taking notes?

17 COMMISSIONER BRADFORD: I think someone back here  
18 is taking notes.

19 COMMISSIONER GILINSKY: It seems to me, really  
20 returning to the question of both units, *but would he*  
*inclined to leave that in.*

21 MR. BICKWIT: That is before the Commission. It's  
22 not a judgment I can help you with.

23 CHAIRMAN AHEARNE: For the drafting purposes, why  
24 don't you go through it with Peter and Joe?

25 Okay, I think that would, then, take us through



1 your paragraphs to -- now there was an issue on the bottom  
2 of page 3 and top of page 4, which I gather was really  
3 whether the task force report summary was going to be  
4 attached. I have no problem going along with Peter's  
5 proposal of just dropping the task force.

6 COMMISSIONER HENDRIE: I have no difficulty with  
7 that either. Among other things, it saves us the agony of  
8 agreeing upon what the summary of the report ought to be.  
9 In many ways, it's just better to say here's the report.  
10 You know. Folks are invited to make their own summaries.

11 CHAIRMAN AHEARNE: Down toward the bottom of page  
12 5, Peter had proposed a change from "but it is questionable"  
13 to "but questioned".

14 MR. BICKWIT: Page 4.

15 CHAIRMAN AHEARNE: I'm sorry, page 4. You are  
16 correct. Seven lines up. Anyone have any?

17 COMMISSIONER HENDRIE: No, those are --

18 CHAIRMAN AHEARNE: And I guess three of us have  
19 agreed to a significant life answer estimating overall  
20 risk. Joe, do you?

21 All right, page 5.

22 COMMISSIONER GILINSKY: The next to last line of  
23 the top paragraph does not, *yet have an approved plan.* (inaudible).

24 MR. BICKWIT: I'm afraid we missed that.

25 CHAIRMAN AHEARNE: This is down about the sixth

1 line from the top of page 5, "do not yet have <sup>^</sup>~~proof~~".

2           Okay. I think the other comments that we have  
3 talked -- you've got to adjust the verb tenses. Remember  
4 those.

5           All right, Peter, could you help us. You, I  
6 thought, had substantial revision on the adjudicatory  
7 proceeding section and that I wasn't --

8           COMMISSIONER BRADFORD: Where are you, John?

9           CHAIRMAN AHEARNE: This is starting at the bottom  
10 of page 5.

11           MR. BICKWIT: Let me. Unless we're missing  
12 something, on page 8, Peter's proposal has been in fact  
13 agreed to by all of the Commission as a substitute for 12,  
14 14, and 15.

15           COMMISSIONER BRADFORD: Paragraph 16 is a  
16 substitute for 13?

17           MR. BICKWIT: 13, 14, and 15 and I think all have  
18 agreed to that.

19           CHAIRMAN AHEARNE: Okay. Now that substitutes for  
20 -- that's what I wasn't sure of.

21           MR. BICKWIT: 13, 14, and 15.

22           CHAIRMAN AHEARNE: So 10, 11, and 12 stay.

23           MR. BICKWIT: Right.

24           COMMISSIONER BRADFORD: I think what OGC's given  
25 us is a better machine. I just don't know how to run it.

1 COMMISSIONER HENDRIE: And then in paragraph 16 --

2 CHAIRMAN AHEARNE: Wait. So that the proposal  
3 would be to keep 10, 11, and 12. Any problems?

4 COMMISSIONER HENDRIE: Well, at least thus far  
5 those paragraphs have not been the subject of discussion in  
6 the assorted drafts, counterproposals that have been passed  
7 back and forth. Why don't we treat this draft as allowing  
8 them to stand.

9 Strike 13, 14, and 15, put in 16, and add the  
10 procedural footnote to --

11 CHAIRMAN AHEARNE: 16 is where you will put your  
12 procedural footnote.

13 COMMISSIONER HENDRIE: Asterisk after  
14 cross-examination.

15 CHAIRMAN AHEARNE: Could I ask you a question on  
16 your procedural? Your proposal, can you say a few words on  
17 in it you say that "The licensing board is bound to the  
18 directives of this order. It may depart from the provisions  
19 of Part 2 in the interest of accommodating the need..."  
20 What -- first could you briefly describe what led you there  
21 and then what kind of situations you saw?

22 MR. BICKWIT: What led us there is that the  
23 complication of Part 2 in its entirety in the past has led  
24 to very lengthy proceedings, which it was our expectation  
25 and hope that the Commission would want to avoid in this

1 situation.

2           In the TMI 1 proceedings, you in putting out your  
3 order wound up with a adjudicatory proceeding which is going  
4 to last well over a year, maybe two years. It was -- when  
5 the Commission put out the order it was thought that this  
6 would last for one year and that the hearing would not begin  
7 for half a year. And the direct application of Part 2, it  
8 was our conclusion, would result in that situation. We  
9 don't think that's what you want.

10           Secondly, we don't think it's what the public  
11 wants or expects with respect to the Indian point hearings.  
12 So we cast about for alternative ways to avoid that result.  
13 And our -- one of the places we looked was the TMI 1 Board,  
14 and we went to that Board and said, why is it taking so  
15 long? And what is it that our order might have said?

16           CHAIRMAN AHEARNE: And this footnote encapsulates  
17 all the reasons they gave you as to why it was taking so  
18 long?

19           MR. BICKWIT: No, it encapsulates those that we  
20 felt could be dealt with in this order.

21           And basically what the Board told us was that had  
22 they had the authority to depart from Part 2 in  
23 circumstances where they felt it was in the interest of  
24 expedition without sacrifice to the merits, they could do so.

25           And this is really patterned after that discussion

1 and designed to avoid the results that you have.

2           CHAIRMAN AHEARNE: Could you give me an  
3 illustrative example?

4           MR. BICKWIT: Yeah. The TMI 1 Board has been  
5 concerned that under the laws applicable to it on  
6 contentions they have to admit contentions which, while  
7 marginally relevant, they are clear are not going anywhere  
8 and are not going to influence their ultimate decision. Our  
9 feeling is that you don't want that kind of hearing. You  
10 want a kind of hearing where the Board will go directly to  
11 the contentions that it feels are going to influence its  
12 recommendations to the Commission and will not belabor the  
13 others.

14           CHAIRMAN AHEARNE: Under Part 2 the Board would  
15 not have the authority to do that?

16           MR. BICKWIT: No. Under Part 2 and accompanying  
17 case law, we believe would not --

18           CHAIRMAN AHEARNE: I didn't ask the question that  
19 way.

20           MR. BICKWIT: Well, but I think you have to  
21 interpret it according to case law.

22           COMMISSIONER HENDRIE: He can't avoid the case law  
23 and we've recently had an A Lab and a Commission affirmation  
24 of it that run in just that direction.

25           MR. BICKWIT: That's right. And we believe that

1 the Board would not have the authority to get out from under  
2 that stricture.

3           CHAIRMAN AHEARNE: Now if, in your proposal,  
4 someone who didn't like that decision, though, wouldn't they  
5 appeal it?

6           MR. BICKWIT: They would appeal it on an  
7 interlocutory basis if that contention that was thrown out  
8 was their only contention. Otherwise, they would not, under  
9 Part 2, be permitted to appeal that, unless Part 2 were  
10 waived in that particular circumstance.

11           CHAIRMAN AHEARNE: But if they're appealing it  
12 because Part 2 had been waived in that particular  
13 circumstance?

14           MR. BICKWIT: Right. But that doesn't mean that  
15 the interlocutory appeal provision of Part 2 waives in that  
16 particular circumstance. It could be --

17           CHAIRMAN AHEARNE: What I'm trying to find out is  
18 whether this would really lead to a tighter schedule, which  
19 I see as your thrust.

20           MR. BICKWIT: That is the thrust and it's our view  
21 that it would.

22           CHAIRMAN AHEARNE: Let me ask Howard, since  
23 something he said there tickled the back of my memory and  
24 that was I can remember when we were setting up the schedule  
25 for TMI 1, some of us, myself included, were pushing and



1 saying put down a tight schedule and hold everybody to it  
2 and Howard was saying no way. It just isn't going to get  
3 there. So let me ask if he has any comments.

4 MR. SHAPAR: Yeah, I do.

5 I think everybody's objective is essentially the  
6 same here, but I come out differently than Len. I think the  
7 worst situation we can be in is to initiate a proceeding  
8 like this and not tell the world and the parties in advance  
9 what the ground rules are going to be.

10 I think the Commission has made a decision. It's  
11 going to be a trial-type procedure. I think the only  
12 question is how that trial-type procedure is going to be  
13 carried out by this Board. And the real question is, is the  
14 Commission going to tell the Board in advance what those  
15 procedures are, or is it going to repose substantial  
16 discretion in the Board?

17 I think the Boards do a fine job in carrying out  
18 Commission policy. I don't think the Boards are very good at  
19 inventing new policy. So my suggestion would be, whatever  
20 the Commission's wishes are here in terms of the procedures  
21 it wants. For example, take Len's point about contentions.  
22 Say Part 2 is applicable except, and the Boards and the  
23 parties and the world know that Part 2, with all its  
24 trial-type procedures, is going to be followed except in  
25 those areas where the Commission determines in advance it



1 wants exceptions.

2           And, therefore, everybody walks into the hearing  
3 knowing what the ground rules are and the Commission isn't  
4 pestered with complaints about how the Board has exercised  
5 its discretion. In my opinion, in the long run you will  
6 save time that way, rather than vesting substantial  
7 discretion in the Board.

8           Wherever you grant discretion -- wide discretion  
9 -- to a hearing board you are going to create time lags.

10           CHAIRMAN AHEARNE: Do you have enough illustrative  
11 examples that you think that you define it in that framework?

12           MR. BICKWIT: I think so. I'd argue that you  
13 shouldn't. That you ought to give the broad opportunity to  
14 the Board to exercise its discretion.

15           Although logically I think those are strong  
16 points, as a matter of practice I feel, one, if we go  
17 through the rules and try to figure out exactly where we want  
18 relaxation of those rules there will be areas that we'll  
19 miss where time savings may be useful.

20           Secondly, the kind of approach that Howard's  
21 outlined is really the one we took in TMI 1, and we went  
22 through the rules. We sat up at this table and we tried to  
23 figure out situations where time could be saved. And it  
24 hasn't worked.

25           Thirdly, this is an opportunity. I feel that we

1 at this table, including myself, haven't had the experience  
2 with the application of these rules that would permit us to  
3 do the kind of fine tuning that is suggested here in a way  
4 that makes the most sense and that this really does give us  
5 an opportunity to learn something about how an alternative  
6 system might work.

7           And then, finally, and I've got to throw this in  
8 to be comprehensive in the answer, because this is really  
9 the answer I gave to Howard, if we spend -- we've spent a  
10 lot of time getting this order out. If we proceed to mark  
11 up the rules at this point and try to devise language for  
12 each of the examples that I would give you if you asked me  
13 for additional examples, I think we will spend an additional  
14 amount at this table and will have difficulty.

15           CHAIRMAN AHEARNE: Let me ask you one more  
16 question and then I'll ask my colleagues if they have  
17 questions on this.

18           You are putting it -- tacking it on to a sentence  
19 that seems to go into a fair amount of detail saying it  
20 shall use the full procedural format of a trial-type  
21 adjudication including discovery and cross-examination. So  
22 at least on the one hand it is saying we will put in place  
23 all of our full procedures.

24           Then the footnote is, except we won't. I'm not  
25 sure why you --

1 MR. BICKWIT: It says except we won't if two  
2 things are -- two conditions are met. One, the order  
3 doesn't mandate that we do.

4 CHAIRMAN AHEARNE: I was just wondering why you  
5 didn't have a simpler statement, that it directs the  
6 discretionary adjudicatory proceeding will be conducted.  
7 And put that in.

8 MR. BICKWIT: Because I think the Commissioners  
9 all have in mind that there will be discovery and  
10 cross-examination. And I don't think you want to give the  
11 Board the discretion to get rid of all discovery and  
12 cross-examination.

13 CHAIRMAN AHEARNE: I guess what you're saying is  
14 that you do have in your mind, then, a sub-set of Part 2,  
15 which you believe that we've already agreed shouldn't be  
16 waived.

17 MR. BICKWIT: That's right. and that's what that  
18 language says. It says that when mandated by the order, the  
19 Board must stick to the order.

20 CHAIRMAN AHEARNE: Vic?

21 COMMISSIONER GILINSKY: Like to hear what Peter  
22 says.

23 CHAIRMAN AHEARNE: Joe?

24 COMMISSIONER HENDRIE: Well, I think there does  
25 need to be the footnote on procedural matters.

1           And now this question of whether we grant to the  
2 Board the discretion to adjust what would otherwise be  
3 controlled by Part 2 as they see fit to move it forward, or  
4 whether we, as Howard suggests, try to identify what will  
5 probably turn out to be a relatively few specific changes in  
6 Part 2, and just put those into the footnote.

7           I guess I don't have very strong feelings. You  
8 know, it's hard to tell before the event how the various  
9 arguments made here in favor of one course or the other will  
10 turn out.

11           It may -- it could very well be that leaving much  
12 discretion to the Board, then, in the circumstances of the  
13 hearing will entail them in great wrangles over their  
14 exercise of discretion and that could end up just prolonging  
15 the whole thing serious.

16           On the other hand, maybe not at all. Maybe having  
17 that power would allow them to slash through a lot of things  
18 that otherwise would just drag on and on. So I find it very  
19 difficult to decide, you know, to know which is right. It  
20 might be useful to try to draft some language about the  
21 things that one would adjust in Part 2, but I --

22           COMMISSIONER BRADFORD: Howard, come back to the  
23 last point regarding the TMI 1 proceeding for a minute.  
24 Would you agree that the approach you are suggesting is  
25 essentially the one that has been tried there?

1 MR. SHAPAR: Not really. I think you're  
2 comparing, in a sense, apples and oranges, although there  
3 are certain similarities between the two. In the TMI  
4 restart you have so many different issues which I'm not sure  
5 you're going to get in the restart.

6 I think you're going to have heavy arguments about  
7 the issues, but I don't think you're going to have the  
8 multiplicity of the issues.

9 COMMISSIONER HENDRIE: I think you are. I think  
10 parties are going to want to try to raise in this proceeding  
11 every argument you've ever heard one way or the other. And  
12 I think the Board's going to have a fierce time whamming it  
13 back down into shape along the lines that I think we'll have  
14 a general consensus.

15 MR. SHAPAR: Of course you already have a  
16 difference in format in the sense that you're getting the  
17 recommended decision in Indian Point rather than an initial  
18 decision by the Board. I'm not sure I've answered your  
19 question though, Peter.

20 CHAIRMAN AHEARNE: Well, I thought his question  
21 was that Len said that the approach you suggested was the  
22 one that we tried in TMI 1 restart. And Len's argument,  
23 with which I don't disagree, is that the TMI 1 procedure  
24 that we put in place has not accomplished what we hoped it  
25 would accomplish. That is, --

1 MR. SHAPAR: I think that's correct, because we  
2 did identify -- I think Len is right -- we did identify  
3 differences. But I don't think that's the reason. Whether  
4 we had gone one way or the other, I don't think you could  
5 conclude with any ease whatever that that's the reason why  
6 TMI hearing has dragged.

7 COMMISSIONER HENDRIE: But we didn't change any of  
8 Part 2 for TMI 1. You know, we talked about various ways to  
9 crank the thing forward and we ended up saying follow Part  
10 2, as I recall it. Am I wrong?

11 MR. BICKWIT: No. That's where we came out. But  
12 the process was that we looked at each one of these rules  
13 and we decided the best approach was to exhort under this  
14 rule and exhort under that rule, but not fiddle with it.  
15 And that's what I'm concerned is going to happen if --

16 COMMISSIONER HENDRIE: Yeah. Just so.

17 CHAIRMAN AHEARNE: So your concern is that if we  
18 try to do it -- if we try to be explicit about what the  
19 Board might do, we wouldn't exist.

20 MR. BICKWIT: What you're saying is that if the  
21 same people sit at this table and ask the same questions  
22 this time we'll get the same answers.

23 CHAIRMAN AHEARNE: But we all might be smarter.

24 MR. BICKWIT: I don't feel that this is a  
25 momentous decision. I don't feel that strongly about it.



1 But that is my concern.

2           COMMISSIONER HENDRIE: But you've at least raised  
3 one item which is if we decide to go the route of  
4 identifying changes in Part 2, then at least this one is  
5 worth identifying in the general terms that you've  
6 identified it today, because it's not an insignificant item  
7 -- allowing the Board beyond the rules in Part 2 the  
8 discretion to say, oh, that's an interesting contention but  
9 it doesn't cut to the heart of things and we're not going to  
10 hear it and that's that. Whereas they would not be able to  
11 do that under Part 2 and the practice that's built up.

12           So I can see at least that.

13           CHAIRMAN AHEARNE: Peter, you're still -

14           COMMISSIONER BRADFORD: Well, I am sympathetic  
15 with the OGC approach, but I guess I'd like to know what the  
16 Board itself responds. Because if they come back as Howard  
17 says, well, you people don't understand what's going to  
18 happen in this hearing. We're going to be deluged with  
19 procedural requests under the waiver. And if we use our  
20 waiver powers it will take us longer to sift through those  
21 and make up our minds about them than it would under a  
22 strict Part 2 procedure, then I guess I draw back from it.

23           MR. BICKWIT: Well, I can tell you what one Board  
24 says.

25           COMMISSIONER BRADFORD: That's okay.



1 MR. BICKWIT: And can say it very loudly. TMI 1  
2 Board. They said if we had just had this it would have made  
3 all the difference in the world. Now whether that's right  
4 or not I can't say, but that's what they said.

5 COMMISSIONER BRADFORD: And is that because they  
6 would have been able to dispense with a number of  
7 contentions?

8 MR. BICKWIT: That's a large part of it.

9 COMMISSIONER BRADFORD: I find that unconvincing.

10 MR. BICKWIT: I'm not going to comment on the  
11 convincingness of it. I'm just going say that that's what  
12 they say, if you want to know what a Board says.

13 CHAIRMAN AHEARNE: I suspect we're not going to  
14 reach resolution on that, unless there are some other parts  
15 you want to throw out. Vic, having heard Peter?

16 COMMISSIONER BRADFORD: Sorry, Victor.

17 CHAIRMAN AHEARNE: I guess I would lean towards if  
18 you could put a few specific -- the things that you think  
19 ought to be done. And it's solely because I recall the  
20 previous time Howard was so right that we'd never make that  
21 schedule.

22 MR. SHAPAR: It hasn't happened since, though.

23 CHAIRMAN AHEARNE: So I agree we ought to try to  
24 give them additional authority to take those kinds of  
25 steps. I would like to be comfortable that the Commission

1 agrees that those steps ought to be taken. I think that  
2 that would also strengthen the Board's position if it took  
3 those steps that the Commission has explicitly said yes, you  
4 can take those steps.

5 And if the Commission doesn't want them to take  
6 those steps, then it's probably useful for the Board to know  
7 that also.

8 COMMISSIONER HENDRIE: But we do agree on the need  
9 for the footnote and we still just haven't quite settled on  
10 this.

11 CHAIRMAN AHEARNE: Yeah. The footnote has several  
12 other features in it that I thought was --

13 Anyone have any problem with the investigative and  
14 ex parte issue which is really just reflecting back what we  
15 had decided in a previous.

16 All right. We now move into paragraph 17 and 18,  
17 I guess are two alternate versions of the same -- Does  
18 anyone have any thing to comment on which might lead them to  
19 say that they now see the wisdom of the other's position?  
20 Or any changes?

21 I still like the first version. Page 8 and 9,  
22 paragraphs 17 and 18. And if there is no change in people's  
23 relevant position, then I guess that's one of the items we  
24 put aside for the moment and I'll probably ask OPE to see if  
25 they, since this seems to be a description of how we are

1 addressing the risk question, maybe they might be able to  
2 blend something.

3 COMMISSIONER BRADFORD: Actually, let's just make  
4 the point that that isn't quite as much an act of despair as  
5 might seem to be the case. If we can get down to two or  
6 three disputed paragraphs, with the rest of this order  
7 agreed upon, I think that would facilitate the solving of  
8 those paragraphs.

9 COMMISSIONER HENDRIE: The objection to 18 is that  
10 is just misstates the proposition. It suggests that the  
11 risk associated with evacuation difficulties, if any, are  
12 the particular focus of interest to the Commission. And what  
13 I put to you is that's not the particular focus of the  
14 Commission.

15 The question is, is the overall risk to  
16 individuals and society from the Indian Point unit fall  
17 substantially above the run of risks from other operating  
18 sites. That's been the question from the beginning. And  
19 the way 18 is phrased it just distorts that into a  
20 peculiarity associated with whether or not there is greater  
21 or lesser difficulty with evacuation.

22 COMMISSIONER GILINSKY: Is there anything else  
23 wrong with it?

24 MR. BICKWIT: I think you're almost there.

25 COMMISSIONER GILINSKY: I was trying to limit the

1 scope of the inquiry regarding other factors that we more or  
2 less -- to concentrating in the individual risk on the  
3 evacuation question, which is different when you're  
4 surrounded by a larger population. So it wasn't a matter of  
5 trying to shift the point of our investigation but to limit  
6 it. I thought you'd like it.

7 COMMISSIONER BRADFORD: Also, though, unless I've  
8 misread it, it doesn't focus just on evacuation-related  
9 risks. I mean it has a point one and a point two.

10 COMMISSIONER HENDRIE: It does go on and say total  
11 risk to persons and property, but it puts these in terms of  
12 the total list, you know, and it doesn't say compared to  
13 anything else. There seems implicit in there an absolute  
14 standard which --

15 COMMISSIONER GILINSKY: No, no. The last sentence  
16 says the Commission is going to prepare the lists --

17 CHAIRMAN AHEARNE: I guess I would say that if you  
18 view it to be the same as their other version.

19 COMMISSIONER GILINSKY: Well, it's better  
20 written. It's more to the point.

21 CHAIRMAN AHEARNE: I guess I tend to share Joe's  
22 view that it does -- it's more that it really is less of a  
23 comparative examination than --

24 COMMISSIONER GILINSKY: Well, that certainly.  
25 There's certainly no intention to remove the comparison.

1 That's the point of the last sentence. It is that I felt  
2 that as far as individuals are concerned the thing that  
3 makes this site different is that there are more of them  
4 around.

5 COMMISSIONER HENDRIE: That's certainly the thrust  
6 of the decision that goes with the task force report.

7 COMMISSIONER GILINSKY: I felt that as far as  
8 individual risk goes there wasn't a need to go into a lot of  
9 other questions.

10 CHAIRMAN AHEARNE: Such as what other questions?

11 COMMISSIONER GILINSKY: A whole range --

12 COMMISSIONER HENDRIE: I tell you that --

13 MR. BICKWIT: Are we going to get into turkeys?

14 COMMISSIONER HENDRIE: Vic, I didn't get from the  
15 language in 18, okay, the thrust that I get from you now  
16 about saying no, no, the aim here was to focus on -- to say  
17 that those other elements were pretty much awash and that  
18 what is different here for individuals is that there are  
19 more folks hitting the trail, if it ever comes to that.

20 COMMISSIONER GILINSKY: I thought the first  
21 sentence concentrates on that point.

22 Well, why don't we think about it and at least  
23 I've tried to explain what I was trying to do.

24 CHAIRMAN AHEARNE: And to see if there may be a  
25 relatively -- that may not be the --

1           COMMISSIONER BRADFORD: There is also the  
2 continuing difficulty over the phrase "range of risks versus  
3 the risks posed by" and the question of whether what one is  
4 really saying is that Indian Point has to be much worse than  
5 all the others or whether what one might be saying is that  
6 there is a troublesome upper end of the range -- the Indian  
7 Point-Zion class.

8           I'm not sure that that can't be accommodated under  
9 the phrase "range of", but I've always been uneasy about the  
10 formulation of terms as a comparison of one class through  
11 the range as distinguished from the question of whether  
12 there is a grouping at the top of the range.

13          CHAIRMAN AHEARNE: I think what you're addressing  
14 there, Peter, though, is what is the final basis on which  
15 the Commission would reach a decision on it.

16          COMMISSIONER BRADFORD: That's right.

17          CHAIRMAN AHEARNE: And my argument for trying to  
18 keep range in whenever it's there is that when we address  
19 that it is not a single plant versus a single plant. It's  
20 really a single plant versus a whole collection. How we  
21 reach that balance in judgment is one that we have to reach.  
22 The Board is not reaching it for us. The Board is examining  
23 it in comparison to these things. And there wasn't that  
24 deep a concept embedded in the use of the range other than  
25 recognizing that there is a range.



1 COMMISSIONER BRADFORD: Well, that's why I say  
2 that I'm not sure that my concern can't be encompassed  
3 within the phrase "range of", but I didn't want to come back  
4 and have the argument made that in effect you're precluded  
5 from making a decision to treat Indian Point differently,  
6 because somewhere off but still not quite over the horizon  
7 there is another site and therefore it's within the range.

8 COMMISSIONER GILINSKY: I <sup>left</sup> ~~looked~~ it out merely  
9 because I assumed that the Board would characterize the  
10 situation sensibly. If there are uncertainties they'd  
11 express them. If there's a range they'll give us the  
12 range. And I don't feel a need to <sup>tell them exactly how to present the numbers.</sup> ~~totally~~ (inaudible).

13 CHAIRMAN AHEARNE: Okay, Ed, I think that perhaps  
14 you can <sup>-- there isn't that much of a disagreement.</sup> ~~(inaudible)~~.

15 All right, 19, which addresses a point that comes  
16 up again later, and that is the question as to what extent  
17 should there be an examination of part of the issues that  
18 UCS had raised about the regulations being met. And in  
19 trying to prepare for today's meeting, going back through a  
20 host of this stuff that has been around now, I find, since  
21 May, I thought that long back, back in fact when we even had  
22 five people, I thought that we had agreed to some sort of a  
23 general statement. A statement I think was embedded here in  
24 the bottom of number 3 on page 12, which was, at least in my  
25 system of trying to keep track of what we did, why, it says



1 that that would compromise to try to get at that particular  
2 question.

3 COMMISSIONER HENDRIE: You're locking 19.

4 CHAIRMAN AHEARNE: Well, what I was referring to  
5 was the last paragraph, the last sentence in paragraph 26.  
6 I believe, was a compromise we reached long ago in order to  
7 address what do you do about the specific contentions  
8 regarding regulations not being met.

9 COMMISSIONER HENDRIE: I think that's right. So  
10 what's the proposal for 19.

11 CHAIRMAN AHEARNE: Well, I would have left 19 in  
12 and then used that paragraph in 3 as the reference to where  
13 that would then be covered in the specific question. That's  
14 why I was willing to go with paragraph 19.

15 COMMISSIONER HENDRIE: I'll buy off on 19, with  
16 the addition proposed, but what I want, then, is to strike  
17 question 7 on page 13.

18 CHAIRMAN AHEARNE: Well, that's why I ended up  
19 trying to resurrect what actually had been the progression  
20 of things and that's why I ended up finally disagreeing with  
21 it. Because I thought that it was --

22 COMMISSIONER HENDRIE: You felt it was covered by  
23 the addition in number 3?

24 CHAIRMAN AHEARNE: I found that although I had  
25 backing on that compromise had been reached, disagreed with

1 that as the correct compromise. Nevertheless, that was the  
2 compromise that was reached.

3 COMMISSIONER GILINSKY: Is this where we break for  
4 a half hour for lunch?

5 COMMISSIONER HENDRIE: I'd rather go a little more  
6 and then just quit for the time being.

7 COMMISSIONER BRADFORD: Are there others?

8 CHAIRMAN AHEARNE: Peter, Victor and Joe both need  
9 to come to an end on this issue, I gather sometime in the  
10 next hour. Vic would like to do it now and then come back to  
11 it. We do have, at 2:00, we have another major one we  
12 really have to get to.

13 Joe would like to go for another half an hour and  
14 then break and then just revisit this next week, I gather,  
15 or later this afternoon.

16 COMMISSIONER BRADFORD: How about revisiting the  
17 2:00 one next week and finishing this one today while we're  
18 still fresh on it?

19 CHAIRMAN AHEARNE: I guess I would rather, since I  
20 think there will be other people coming, to leave it.

21 COMMISSIONER BRADFORD: I'll tell you. The other  
22 point about putting it off is that we're not going to be  
23 able to conclude that one anyway today, because I gather  
24 from the direction we're headed I'm going to have to write  
25 something and I haven't written it yet.

1 I make the suggestion and hope it is one document  
2 we can actually conclude on, rather than letting it open  
3 again.

4 CHAIRMAN AHEARNE: Well, why don't we do this. At  
5 least for the benefit of, there will, I imagine, be some  
6 people who will have come down from Pennsylvania for this  
7 afternoon's meeting, at least at 2:00.

8 MR. BICKWIT: It's a closed meeting.

9 CHAIRMAN AHEARNE: Oh, it's a closed meeting.  
10 Then fine. Then it's fine. Then we'll just break and start  
11 at 2:00.

12 We will reconvene at 2:00.

13 (Whereupon, at 12:38 p.m., the hearing was  
14 recessed, to reconvene at 2:00 p.m., that same day.)

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## AFTERNOON SESSION

2:15 p.m.

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3 CHAIRMAN AHEARNE: To continue the meeting of this  
4 morning on the Indian Point order, to start this afternoon I  
5 would like to revisit two items that we were addressing this  
6 morning. The General Counsel has provided proposed  
7 modifications and perhaps we should address those. Len?

8 MR. BICKWIT: The first relates to procedures, a  
9 footnote that we had enclosed at attachment C. And we  
10 would replace the fourth and fifth sentences of that  
11 footnote with what you have as attachment A to this paper.

12 The major changes are that we specify the areas in  
13 which the discretion of the Board would be exercised and we  
14 list those areas as contentions, discovery and  
15 cross-examination.

16 CHAIRMAN AHEARNE: And the order of presentation.

17 MR. BICKWIT: That's right. I thought that that  
18 was already in there.

19 COMMISSIONER BRADFORD: Let's see. Did I  
20 misunderstand? I thought that this morning you were not  
21 putting discovery and cross-examination in as those areas  
22 eligible for Board --

23 MR. BICKWIT: No. We were saying that total  
24 abolition of discovery and cross-examination was ours, but  
25 that these are areas that we have in mind that the Board

1 would exercise its discretion in.

2 COMMISSIONER GILINSKY: And if the Board in this  
3 formulation have total discretion over the nature of the  
4 proceeding?

5 MR. BICKWIT: It has to in effect make a finding  
6 that it is needed to achieve reasonable expedition  
7 consistent with the development of a sound evidentiary base.

8 COMMISSIONER GILINSKY: What is needed? A change  
9 from --

10 MR. BICKWIT: The change in the rules. We would  
11 add at the -- let me just make a few additions to this. We  
12 would add at the end of the paragraph: that you have -- the  
13 sentence -- "except as provided above or elsewhere in this  
14 order; 10 CFR Part 2 will control", so as to make that point  
15 clear.

16 COMMISSIONER GILINSKY: Let's see. Where are you  
17 going to put that?

18 MR. BICKWIT: That would be in lieu of the fourth  
19 and fifth sentences in the procedural footnote that you have  
20 as Attachment C to the paper.

21 COMMISSIONER GILINSKY: No, I don't mean this.  
22 The addition sentence about part 2 controlling.

23 MR. BICKWIT: Oh, at the end of the sentences that  
24 you have. The end of the paragraph that we've given you as  
25 Attachment A.

1           COMMISSIONER BRADFORD: Let's see. Once you've  
2 limited contentions, then why aren't the ordinary rules of  
3 redundancy and relevancy and materiality enough on  
4 cross-examination and discretion as to what's what. What  
5 you want is for the parties not to waste time. The Board  
6 has a fairly substantial club within the rules that already  
7 exist.

8           MR. BICKWIT: It does have a club. One, as a  
9 practical matter we want to encourage it to use that club in  
10 a way that apparently we have been unsuccessful in doing in  
11 the TMI 1 case.

12           Secondly, it does go beyond. The discretion that  
13 we're providing here does go beyond the existing rules in  
14 some respects. They are not necessarily major. I'd say the  
15 practical effect of this is more important than the actual  
16 change in the rule. The practical effect is we're exhorting  
17 the Board to really make use of its discretion.

18           But the rules allow discovery, for instance,  
19 regarding any matter which is relevant to the subject matter  
20 involved in the proceeding. This says even if its relevant,  
21 you don't have to permit discovery. Again, if you've  
22 convinced that the discovery isn't going any where and it's  
23 expeditious to move forward and you've got enough of an  
24 evidentiary base to make your recommendations.

25           The rule on cross-examination says that

1           COMMISSIONER GILINSKY: How would it be different  
2 if you instructed the Board to apply a strict test of  
3 relevancy?

4           MR. BICKWIT: Well, it depends how you read  
5 relevancy. I think you could say yes, that discovery is  
6 relevant, but as a practical matter it's not going to take  
7 you in a direction which is really going to affect this  
8 Board's decision.

9           COMMISSIONER GILINSKY: But doesn't that mean it's  
10 not relevant?

11          MR. BICKWIT: No. I don't think it necessarily  
12 does mean that. It is certainly a way that they could  
13 define it, but I don't think they're compelled to define  
14 relevancy that way.

15          COMMISSIONER GILINSKY: Relevancy must mean  
16 relevancy to the decision that the Board --

17          MR. BICKWIT: There are certain things that are  
18 conceivably relevant to a decision. If certain things fall  
19 into place in ways that we can almost certainly predict they  
20 will not.

21          CHAIRMAN AHEARNE: I think what you're probably  
22 saying is that the past practice of the way the Boards have  
23 operated would tend to lead to very good confidence that  
24 without some kind of strong statement that the Board would  
25 go on a more extensively open approach, a broader



1 interpretation.

2           COMMISSIONER GILINSKY: We aren't talking about a  
3 statement. We're talking about wanting the Board to change  
4 the rules.

5           CHAIRMAN AHEARNE: That's right, which certainly  
6 is more than a hortatory statement.

7           MR. BICKWIT: Moreover, in the discovery area, the  
8 discovery can simply go forward on its own and then the  
9 person who would be discovered against has to file for a  
10 protective order if he feels that what's happening is  
11 irrelevant or posing an undue burden.

12           COMMISSIONER BRADFORD: That would still be true  
13 here, though, would it not?

14           MR. BICKWIT: This would allow the Board  
15 flexibility to go beyond that. This is opening a big door.

16           COMMISSIONER BRADFORD: Well, let's see. Even if  
17 the Board -- unless the Board says simply that there should  
18 be no discovery.

19           MR. BICKWIT: Which we would not be able to say.

20           COMMISSIONER BRADFORD: If it allows discovery,  
21 then --

22           MR. BICKWIT: What it could do under this --  
23 you're not instructing it to, but it could -- it could say I  
24 want to provide a clearance mechanism. I don't want any  
25 discovery until you come to me and specify why that

1 discovery has to take place.

2 COMMISSIONER BRADFORD: Now did you have the sense  
3 from the TMI 1 Board that discovery and cross-examination  
4 were substantial contributors to the delay in that case?

5 MR. BICKWIT: I have to ask you, Peter. Peter was  
6 the one who had the conversation.

7 MR. CRANE: I was told that the central thing was  
8 contentions. Discovery and cross seemed to be a second  
9 rank. How they broke down between those --

10 COMMISSIONER BRADFORD: Cross must be second  
11 indeed, because they haven't even got to that phase.

12 MR. BICKWIT: In expressing the concerns, those  
13 were the main things.

14 COMMISSIONER GILINSKY: Could we have given that  
15 Board the authority to alter the rules?

16 MR. CRANE: Yes. The specific message I got was  
17 that the order which came down gave with one hand and took  
18 with the other. It spoke of urging expedition and at the  
19 same time kept reinforcing --

20 CHAIRMAN AHEARNE: What you're saying is that it  
21 is not the fact that this is a different character board  
22 that would allow us to provide it this flexibility?

23 MR. BICKWIT: Your question is, could we, as a  
24 legal matter, have allowed a relaxation of the rules?

25 CHAIRMAN AHEARNE: Yes.

1 MR. BICKWIT: And the answer is probably yes. You  
2 would have had to do a rulemaking in order to do it. Here  
3 you don't have to, because the rules will not apply to this  
4 situation unless you say they do.

5 The statute, I think, gives you enough flexibility  
6 to do some of these things.

7 CHAIRMAN AHEARNE: Because this is a unique  
8 character.

9 MR. BICKWIT: That's right.

10 COMMISSIONER BRADFORD: Why was the TMI 1 -- were  
11 we required to have a hearing in that case? I thought that  
12 was a discretionary hearing.

13 MR. BICKWIT: You were required to have a  
14 hearing. You weren't required to have one before restart.  
15 You chose to have the hearing do double duty, as it was, so  
16 that the hearing prior to restart would be the hearing that  
17 you were required to have by statute.

18 COMMISSIONER BRADFORD: What was it that triggered  
19 the requirement for hearing?

20 MR. BICKWIT: The 189 of the Atomic Energy Act  
21 that says that when you suspend a license you have to have a  
22 full adjudicatory hearing.

23 COMMISSIONER GILINSKY: Did that Board indicate at  
24 all why it had not returned to us as the procedures were  
25 leading them afield to such an extent?

1 MR. CRANE: Not to me.

2 CHAIRMAN AHEARNE: It may have reached the  
3 conclusion that there was little possible chance of success.

4 MR. CRANE: Some of the things that have been  
5 holding up the Board are the inability of the Commission to  
6 address some of the issues that we are supposed to be  
7 telling the Board to do.

8 COMMISSIONER BRADFORD: My understanding was that  
9 that wasn't holding up the Board yet, but soon would.

10 COMMISSIONER GILINSKY: Well, there is a statement  
11 in here which I believe I contributed which tells the Board  
12 to stay closely to the --

13 CHAIRMAN AHEARNE: Yes. To the questions asked.

14 COMMISSIONER GILINSKY: To the questions asked. I  
15 am inclined to go with that sort of approach. I'm just not  
16 sure where the other one takes you.

17 MR. BICKWIT: Now the point I was trying to make  
18 this morning was that if you have a full-scale adjudication  
19 under your rules that our best estimate is that you will not  
20 get to this hearing until six months from now, if things go  
21 on schedule.

22 CHAIRMAN AHEARNE: That's optimistic.

23 MR. BICKWIT: Well, that's -- finishing my  
24 sentence, if things go as scheduled. And, if the Commission  
25 is content with that schedule, if it is content with a

1 schedule of a normal adjudication where you don't actually  
2 get to the hearing for six months, if you're lucky, and you  
3 don't finish up until considerably over a year, then you  
4 really oughtn't to be fiddling around with this.

5           And that's really the judgment that's before you.

6           CHAIRMAN AHEARNE: I think, really, the experience  
7 we have had with TMI 1, I think, ought to make us -- it  
8 certainly makes me realize that the system we have is a  
9 very, very slow system. And I would say that six months is  
10 optimistic. I think that going the normal approach, no  
11 matter what hortatory words we put in, we are likely to take  
12 almost a year before the actual hearing can begin, and it  
13 could very well take another year before we would finally be  
14 sitting here readdressing the issue.

15           So I think what we are really balancing is, if  
16 we're realistic in looking at a two-year type process unless  
17 we try to enable the Board to take other measures to come to  
18 grips with the issues more rapidly.

19           COMMISSIONER GILINSKY: Well, in getting a sort of  
20 a major compression there are going to have to be major  
21 departures from the way these hearings are conducted  
22 usually. And in that case one ought to put them on the  
23 table and see what they are and if we go along with them,  
24 fine.

25           MR. BICKWIT: Well, we can get down to any level

1 of specificity that you want.

2 COMMISSIONER GILINSKY: It doesn't sound like  
3 we're dealing with a lot of little items. There would have  
4 to be several major changes.

5 CHAIRMAN AHEARNE: That's what he said. That's  
6 the discretion --

7 MR. BICKWIT: We've now particularized the areas  
8 in which the Board will have discretion. If you want to  
9 leave it no discretion, but to specify in detail the  
10 procedures that it will use, we can do that.

11 COMMISSIONER GILINSKY: Well, there's no reason  
12 why the Board can't come right back to us and say, look, we  
13 propose to handle it in the following way and make the  
14 following changes and, with your approval, we'll go ahead.

15 MR. BICKWIT: That's a perfectly reasonable way of  
16 proceeding.

17 CHAIRMAN AHEARNE: I guess I don't have enough  
18 experience with the licensing board chairman to know whether  
19 that is a reasonable way to proceed. In other words, I'm  
20 not sure whether -- how long it will take for them to  
21 realize which issues they have to treat. If you think, or  
22 if -- I guess I'd like you to check with some of the people  
23 that you have checked with already to find out whether that  
24 is the right procedure, or whether it's much better to just  
25 say out in the beginning that here is the flexibility you

1 have.

2           And I certainly don't think it would be of any use  
3 whatsoever if each time they want to deny a contention they  
4 have to come back to us and say --

5           MR. BICKWIT: No. No. I agree with that. But if  
6 they can formulate some general principles and come back to  
7 you, then you have to ask yourself, you know, will you  
8 really save time or will things get hung up here.

9           Our preference is for giving them some flexibility  
10 above and beyond what they usually have and in this  
11 situation it is a unique situation in that the rules do not  
12 apply unless you say they do.

13           CHAIRMAN AHEARNE: Because it's a discretionary --

14           COMMISSIONER BRADFORD: I'd be prepared to do that  
15 as to their rulings on contentions. Unless you can convince  
16 me that, to the contrary, I am really inclined as to the  
17 mechanics by which the contentions are let in or pursued to  
18 go with Part 2 as it is, with exhortatory language of the  
19 sort that you've already put in here elsewhere saying that  
20 the Commission does expect the Board will use its powers to  
21 assure that discovery and cross-examination are --

22           MR. BICKWIT: Well, I don't want to convince you.  
23 It's a trade-off. It's a question of how clearly the  
24 Commission wants to get the maximum public participation.  
25 Clearly the Commission wants to move as expeditiously as



1 possible. These objectives come into conflict, and you just  
2 have to decide which is more important.

3 COMMISSIONER BRADFORD: But what I'm saying is,  
4 once the Board has tailored the contentions to match up with  
5 the proceedings as we've described it in the order, then my  
6 preference is to allow those contentions to be --

7 MR. BICKWIT: Subject to full discovery and --

8 COMMISSIONER BRADFORD: Yeah.

9 CHAIRMAN AHEARNE: Would you be willing to go  
10 along with an additional sentence which would say that if  
11 the Board concludes that additional relaxations are  
12 appropriate then they --

13 COMMISSIONER BRADFORD: You can come back to us?  
14 Yes. If it turns out that the procedures are insufficient.  
15 Yes.

16 COMMISSIONER HENDRIE: I'd take the footnote as  
17 amended with the three areas in it as proposed.

18 CHAIRMAN AHEARNE: Are you saying --

19 COMMISSIONER BRADFORD: He's not saying as amended  
20 by me, I think.

21 COMMISSIONER HENDRIE: Attachment C plus the  
22 replacement language which has been presented in counsel's  
23 paper and that other sentence about otherwise Part 2.

24 I think we've got enough of an example of the  
25 difficulties that the procedural rules under Part 2, coupled

1 with the present practice of the Boards, leave a very w  
2 range and make it very difficult to focus down a hearing.  
3 And I don't know that the particular thing suggested here --  
4 leaving to the discretion of the Board -- leaving them some  
5 discretion to limit these areas more than Part 2 would  
6 allow, whether that's going to be effective or not. I  
7 suppose it depends an awful lot on the Board, maybe some  
8 other things.

9 But it seems to me worth trying. It can't be any  
10 worse than fall back to the Part 2 positions -- sort of wide  
11 open -- and they might be able to use this kind of authority  
12 compel a focusing in on the really essential issues.

13. So I'd go with it for discovery and  
14 cross-examination as well as contentions. I think it's just  
15 a question of discovery and cross-examination because there  
16 are three areas you're saying you're going to change Part 2  
17 -- contentions, the discovery and cross and then the order  
18 of presentation. I think it's just discovery and cross that  
19 we have a condition. Otherwise, I think that footnote  
20 language is --

21 CHAIRMAN AHEARNE: I think where we stand, though,  
22 is that, you know, Victor doesn't like the footnote at all,  
23 so he would be against it. Peter and I are with it up to  
24 the discovery and cross and what we would say is that if the  
25 Board wants additional flexibility to come back to us.

1 COMMISSIONER GILINSKY: That's fine with me.

2 MR. BICKWIT: I'm with you, Commissioner.

3 CHAIRMAN AHEARNE: So I think the only way I can  
4 get -- I think we're at the stage that we get nothing or  
5 part way.

6 COMMISSIONER HENDRIE: Well, you can either rule  
7 that as the way the footnote will read, or you can leave it  
8 with versions A and B, as we have in some other parts of the  
9 rule.

10 CHAIRMAN AHEARNE: I would say for this next  
11 drafting, why don't you modify it on the discovery and  
12 cross. Just put in some hortatory language about sticking  
13 to the relevance, et cetera. And that if there are  
14 additional things to come back.

15 MR. BICKWIT: All right. Now the second  
16 attachment is designed to deal with the interim operation  
17 question. And this is to replace the current paragraph 35  
18 and would be inserted at the end of current paragraph 9.

19 The Chairman had a proposed change to that which  
20 would state, after the words "Unit 2", two lines up from the  
21 bottom, you would insert the phrase "and that Unit 3 has  
22 additional safety features not present in Unit 2."

23 CHAIRMAN AHEARNE: That was because, in Stello's  
24 presentation he did have -- he said that Attachment B.

25 COMMISSIONER HENDRIE: I must say those

1 differences didn't account for much in my judgment on  
2 interim operation.

3 MR. BICKWIT: Your judgment having been based on?

4 COMMISSIONER HENDRIE: Well, the task force  
5 scratched its way through, you know, what would happen from  
6 this one, what would happen from that one. Yeah, there are  
7 those differences and unquestionably some of the things that  
8 were implemented in Unit 3 represent what could clearly be  
9 regarded as better practice. You know, by no means is there  
10 any suggestion that you ought to just relax back to the  
11 earlier regime.

12 But I think the task force concluded that, within  
13 the sort of accuracy that they were able to make these  
14 assessments, that the units were sufficiently comparable to  
15 be regarded --

16 CHAIRMAN AHEARNE: That's -- my point, Joe, is  
17 that the specific issue here I thought we were addressing is  
18 that we just had this large water spillage in Unit 2 which  
19 went undetected and which led to the water getting up onto  
20 the reactor. And the issue is why is that not --

21 COMMISSIONER HENDRIE: Oh, I see. You're thinking  
22 about the Unit 3 safety features, in particular that you've  
23 got in mind that there's somewhat better water levels. Okay.

24 CHAIRMAN AHEARNE: That's right. In other words,  
25 why wouldn't that be likely to immediately occur in Unit 3.

1 And it is, the fan cooler is in better shape and they have  
2 these other items. That was the point Stello was talking  
3 about.

4 COMMISSIONER HENDRIE: Okay. If it were me, then,  
5 I would add "in this regard" at the end of your phrase.

6 CHAIRMAN AHEARNE: Fine.

7 COMMISSIONER HENDRIE: Rather than --

8 COMMISSIONER BRADFORD: It certainly is in the  
9 right general direction. I think what I'd prefer to do  
10 would be to take the change you've made and then put a  
11 footnote below it to be a little more explicit about what  
12 you're drawing from, just so that the reader can tell what  
13 it is that we are in fact relying on.

14 CHAIRMAN AHEARNE: Fine.

15 COMMISSIONER BRADFORD: And why don't I do that.

16 CHAIRMAN AHEARNE: Okay. Vic?

17 COMMISSIONER GILINSKY: I guess on Unit 3 I  
18 wouldn't say "we seen no reason to revisit". I mean we may  
19 decide to revisit and taking and looking at the reasons to  
20 do it and the reasons not to do it.

21 CHAIRMAN AHEARNE: Fine. Excellent.

22 All right, then, let us return to where we were  
23 this morning. I think we were still on paragraph 19.

24 COMMISSIONER GILINSKY: How what is this? You  
25 wanted a package deal of some sort?

1 COMMISSIONER BRADFORD: It's very complicated,  
2 those three pages.

3 CHAIRMAN AHEARNE: Well, we can take them one at a  
4 time, but I think Joe --

5 COMMISSIONER HENDRIE: Why don't we get back to  
6 this thing?

7 CHAIRMAN AHEARNE: That's the best way. We can  
8 get back to it at a later --

9 COMMISSIONER HENDRIE: Why don't we take the  
10 extended language --

11 CHAIRMAN AHEARNE: Subject to later recall.

12 COMMISSIONER HENDRIE: And you've got three for  
13 that, and my only objection to it ties to attacking Question  
14 7 later on, which I will do when we get there.

15 CHAIRMAN AHEARNE: All right.

16 COMMISSIONER GILINSKY: We'll remind you.

17 CHAIRMAN AHEARNE: Paragraph 20, I think, is  
18 next. Anybody?

19 21?

20 All right. 22? There are a number of --

21 COMMISSIONER HENDRIE: I'll buy off on the BG. I  
22 don't know, what's the difference between them?

23 COMMISSIONER GILINSKY: For a long period. I was  
24 trying not to extend it out to infinity.

25 COMMISSIONER HENDRIE: Seems like a good idea.

1           CHAIRMAN AHEARNE: Just as --

2           COMMISSIONER HENDRIE: To periods not to exceed  
3 some multiple of a half life of a permanent isotope.

4           CHAIRMAN AHEARNE: Just as an aside, then, that  
5 other bracket was not my suggestion.

6           MR. BICKWIT: Well, it's just that the original  
7 draft was sitting there and then it looked like Vic had  
8 scribbled in "for long periods". And here it said, "if  
9 that's okay." As the only supporter of the original draft.

10          CHAIRMAN AHEARNE: Okay. Fine with Victor's,  
11 right?

12          The next, then? Three of us. Joe do you want to  
13 argue this?

14          COMMISSIONER HENDRIE: As far as I can see, it's  
15 just a rewording which contains the same thoughts, perhaps  
16 better expressed.

17          CHAIRMAN AHEARNE: So you have no problem?

18          COMMISSIONER HENDRIE: No, no.

19          CHAIRMAN AHEARNE: All right. Then we'll move up  
20 and get to some of the meat.

21          The series of questions, I guess. There are two  
22 versions of Question 1. Vic, would you care to address the  
23 original version of Question 1, or as modified by Peter as  
24 modified by me. It's on page 12. You have your version.  
25 Would you care to address why you believe you're version is



1 a better way of describing it?

2 COMMISSIONER GILINSKY: Well, I thought we ought  
3 to start with the health and safety problem. Otherwise, if  
4 there isn't a serious problem at this point we wouldn't go  
5 on. So it seems like the thing to put first.

6 CHAIRMAN AHEARNE: Well, that was embedded in the  
7 other number 1.

8 COMMISSIONER GILINSKY: Yeah. I just -- I guess --

9 CHAIRMAN AHEARNE: Do you see your version as just  
10 a re --

11 COMMISSIONER GILINSKY: Well, there are some  
12 differences. For example, you say what is the probability  
13 of such an event? I didn't think the Board ought to be  
14 getting into a WASH 1400 study, but it is relevant just to  
15 know what the current estimates of these things are. That's  
16 why I explicitly said --

17 CHAIRMAN AHEARNE: What is the range of  
18 probabilities assigned by the experts? You explicitly do  
19 not want them to get into a WASH 1400-type analysis?

20 COMMISSIONER GILINSKY: To recalculate all the  
21 numbers, no.

22 CHAIRMAN AHEARNE: So you were not asking them to  
23 -- you were not asking the Board to try to reach a  
24 determination of what probability ought to be assigned?

25 COMMISSIONER GILINSKY: I don't think I would do

1 that. No.

2 CHAIRMAN AHEARNE: And, similarly the reason,  
3 then, that you add "a pressurized water reactor" as opposed  
4 to "Indian Point" was --

5 COMMISSIONER GILINSKY: These numbers are not  
6 precisely known, and I thought if one picked a typical  
7 number, unless there's some reason not to do that that I  
8 don't know of at this point, it struck me as a reasonable  
9 starting point.

10 CHAIRMAN AHEARNE: All right. So that you don't  
11 view that -- would you view that, then, as a factual  
12 question that you are trying to have the Board determine?  
13 Or is this a piece of -- these range of data -- is this  
14 something that the Board just accepts here as a given?

15 COMMISSIONER GILINSKY: Well, certainly the way I  
16 put it here -- you're interrogating me and you're  
17 introducing doubts into my formulation. I was inclined to  
18 accept that the reactor wasn't all that different from other  
19 reactors.

20 CHAIRMAN AHEARNE: Would it not then be  
21 appropriate for us just to say here is the range of  
22 probabilities assigned.

23 COMMISSIONER GILINSKY: Well, you know, then we'd  
24 have to get into that ourselves and find out what other  
25 estimates outside of the staff, and so on. We'd have to

1 conduct a kind of mini-hearing ourselves.

2           CHAIRMAN AHEARNE: So by -- you are asking the  
3 Board to try to determine who ought to be the experts that  
4 they are going to be considering?

5           COMMISSIONER GILINSKY: Yeah. That doesn't strike  
6 me as a great problem.

7           CHAIRMAN AHEARNE: I guess I would see it as a --

8           COMMISSIONER GILINSKY: You know, as we talk about  
9 it, if this reactor is thought to be vastly different in  
10 terms of probabilities of core melts and so on than others,  
11 then I suppose one ought to think about that. But, well, my  
12 inclination is to take a typical number.

13          CHAIRMAN AHEARNE: But that typical number would  
14 be determined by the Board by --

15          COMMISSIONER GILINSKY: Oh, a range of numbers  
16 that they would get by talking to experts.

17          MR. BICKWIT: It seemed to me that this set of  
18 questions generally has got to cover the same points in a  
19 somewhat clearly and more direct manner, but I would be  
20 inclined to introduce some adjustment to Question 1 to allow  
21 factors specific to Indian Point.

22          COMMISSIONER GILINSKY: Well, it may be that that  
23 ought to get at it. As I said, as John was questioning me  
24 about it I'd say if there's some way that this departs  
25 clearly from other plants, either in the plus or minus

1 direction, then I suppose we ought to take account of that.  
2 But I don't know that there's a great need to fine tune the  
3 number if it doesn't.

4 CHAIRMAN AHEARNE: Now, in your description of  
5 Question 1, you have not --

6 COMMISSIONER GILINSKY: Let me put it this way.  
7 If we take the other approach to its logical conclusion,  
8 we're talking about an IREP analysis or whatever. And then  
9 we are talking about a very extensive effort.

10 CHAIRMAN AHEARNE: I would agree with that. I'm  
11 just concerned that no matter how we describe it, unless we  
12 are very careful we are going to end up with a very  
13 extensive, extremely large calculational effort that may  
14 swamp the capability of a board to try to address that.

15 COMMISSIONER GILINSKY: Well, they would have to  
16 command more than others would criticize it.

17 CHAIRMAN AHEARNE: Now you don't speak to what is  
18 the way the previous question at least, started. And the  
19 start isn't important, but it does end up addressing what's  
20 the current status of state and local emergency planning.  
21 And --

22 COMMISSIONER GILINSKY: Well, I think I would have  
23 modified this question to say what are the health  
24 consequences given the current level of emergency  
25 preparedness and -- in other words, do you have an effective

1 evacuation or let's say evacuation on the basis of current  
2 programs which presumably would be less effective than the  
3 one based on the ultimate state of planning that we're  
4 looking for. And without -- if evacuation plans fail for  
5 some reason.

6 COMMISSIONER GILINSKY: Well, I do think we want  
7 to have the status of the plan. And I guess, is that not in  
8 there if we take out? Well, I think we obviously want to  
9 have that.

10 COMMISSIONER BRADFORD: Let's see. Why is that  
11 not in there under, in effect at least, under C?

12 COMMISSIONER GILINSKY: Well, it doesn't clearly  
13 say in fact what would be achieved under current planning  
14 levels.

15 CHAIRMAN AHEARNE: It's certainly possible you  
16 might get there, but it doesn't --

17 COMMISSIONER BRADFORD: That's what I  
18 suggesting is that it would be hard to answer the question  
19 without describing what the existing situation was. I don't  
20 mind.

21 CHAIRMAN AHEARNE: What I was really trying to  
22 probe was that in Victor's reconstruction of the question,  
23 was that something that -- when something is taken out, I'm  
24 not sure whether --

25 COMMISSIONER BRADFORD: I don't mind adding it

1 back.

2           CHAIRMAN AHEARNE: Joe, you had significant  
3 concerns about any of these versions.

4           COMMISSIONER HENDRIE: Yeah. Let may say first  
5 what I prefer. What I prefer is the original Question 1  
6 modified to degree of conformance with the guidelines, since  
7 we now have a rule in place.

8           I object to the emphasis on core melt accidents  
9 that reach containment, but the last part of number 24 in  
10 this context for the minimum number of hours and so on and  
11 so on is fair enough. That's part of the emergency planning  
12 area.

13           The intermediate sentences in 24, "do the  
14 emergency plans provide adequate protection in the event of  
15 a core melt, reach containment, or" and then with or without  
16 the probability and risk sentences. My difficulty with that  
17 is the same that I have with B, D, and E of Vic's proposed  
18 Question 1. That is, when you start out and say, assuming  
19 the core melt will have reached containment, you have now  
20 selected one quite unlikely event out at the low probability  
21 end of the spectrum of severe core damage events and  
22 focused, by the nature of this language, a really excessive  
23 attention upon it.

24           It's like saying we're now going to conduct a  
25 discussion of the safety of air transport aircraft coming

1 into LaGuardia and Idlewild, and what we are interested in  
2 is, given a 747 whamming into Shea Stadium the day of the  
3 big ballgame, what are the probabilities and consequences.  
4 You know, you totally distort what should be a reasoned  
5 consideration of the risk over this whole spectrum of events  
6 from more likely but lower consequence out to less likely  
7 but higher consequence events, appropriately weighted by the  
8 probabilities and taking some sort of crude integration over  
9 that spectrum.

10           You just focus on a particular sequence way out on  
11 the far end, and I think it just distorts totally the  
12 picture and does not give a fair examination of the whole  
13 picture.

14           I think it has, furthermore, the property that no  
15 matter what and how much you say about probabilities no one  
16 will pay much attention to it, and it will appear that the  
17 Commission has in effect decided that this event can happen  
18 and all we're talking about are how big the consequences  
19 are. And I think, in what is bound to be a hard-fought and  
20 somewhat emotion hearing in any event, why it's a very  
21 unfortunate thrust for the Commission to impart to the  
22 proceeding, even apart from the fact that I think it just  
23 distorts a reasoned consideration of what the IP risk really  
24 is.

25           My second difficulty with the framework of your



1 Question 1 is that by saying no we sort of roll IP in with  
2 the other PWRs and take some sort of see what people ascribe  
3 to the probabilities of core melt for the whole class of  
4 plants and so on. On the one hand, you deny to the Indian  
5 Point Licensees whatever benefits their particular prudence  
6 in design may have gained in terms of real public safety.  
7 And on the other, from the standpoint that the most  
8 extensive risk assessment that has been made is still the  
9 one on the Surry plant, you may blindly infer advantages at  
10 Indian Point from the Surry picture which aren't fair. So  
11 it can cut both ways and I wouldn't care to speculate which  
12 way the balance goes or would go.

13           Furthermore, earlier in this order, in dealing  
14 with interim operation, you have pointed out the results of  
15 the task force examination on the design features at IP and  
16 what other reactors would look like at the IP site and what  
17 the IP reactors look like versus other reactors and so on.  
18 But you've said this is a preliminary thing and we make no  
19 sort of final decision on the merits here. The task force  
20 report is adequate in our view for us to form a judgment on  
21 interim operation, but those arguments about IP versus other  
22 designs and other sites versus the IP site remain to be  
23 tested in this hearing.

24           And, you know, if the thrust of the arguments made  
25 in the task force report hold up under examination well and

1 good, and if they don't then we'll see what other  
2 conclusions ought to follow. It appears to me here, by  
3 backing away from some specific examination of the IP  
4 designs, that we seem to be saying well, we've sort of  
5 judged it's a wash and I think that both premature and I  
6 think it's also probably technically incorrect.

7           What I read from the early returns on the risk  
8 assessments made thus far under the IREP program and other  
9 efforts of that kind, including WASH 1400 and its  
10 examination of Surry is that the way safety systems are set  
11 up, particularly with regard to the supporting auxiliaries,  
12 balance of plant -- some of the balance of plant stuff --  
13 that there are in fact substantial differences in overall  
14 risk among PWRs as a class, including PWRs, say Westinghouse  
15 PWRs, just on the basis of the way people put together all  
16 of the support systems.

17           And I think to say we'll judge Indian Point on the  
18 basis of the range of probability of core melt and breach of  
19 containment as reflected by what we know now of the class of  
20 PWRs -- the whole class -- you're going to get a much  
21 broader range than you really need, than is really going to  
22 be helpful to you. I think you have to look at Indian  
23 Point. If you want to know what the risk at Indian Point is  
24 I think you're going to have to sit down and make a risk  
25 assessment cut at Indian Point.

1 COMMISSIONER BRADFORD: Let's see. Supposing Item  
2 1A were made specific to Indian Point?

3 CHAIRMAN AHEARNE: Well, I guess, then, that was  
4 probably number 4, page 13.

5 COMMISSIONER GILINSKY: That's the thing you want  
6 to start with.

7 COMMISSIONER HENDRIE: Well, I'm not sure that the  
8 fact that a question is numbered one versus four in a list  
9 six or whatever coming from the Commission necessarily is a  
10 priority order. I didn't change the order of the May 30,  
11 you know, where we went out and said we're going to have  
12 hearing and we're thinking about these questions and we  
13 invite your comments. And I just stuck with that order  
14 because it seemed to me, having gone out in the preliminary  
15 notice, why it was useful to preserve the order. And  
16 there's also the configuration that it starts out and says,  
17 now, how's the emergency planning stand? What improvements  
18 can be expected? What about those improvements from the  
19 Director's order earlier? And then, now, what risk -- how  
20 do the risks stand for serious accidents, including after  
21 those improvements -- pending and after those improvements  
22 -- and then how do these risks compare with other plants?

23 It seemed to me a progression which had the merit  
24 of tradition from the May 30 order and also was not  
25 unreasonable as a logical proposition. So I just didn't see

1 any reason, you see, to recast the numbering. Whether we  
2 number them and invert the order, but I didn't see any  
3 particular need to.

4 COMMISSIONER GILINSKY: Incidentally, on the  
5 business of focusing on core melt --

6 COMMISSIONER HENDRIE: Well, core melts and breach  
7 of containment. And it says, you know, here is the great  
8 language "that of a core melt accident that breached the  
9 containment with a few hours' warning". You know, what  
10 you've gone and done is to sort of say we'll now consider  
11 the worst case.

12 I can tell you what the answer is in that case.  
13 The answer is you've got a lot of trouble.

14 COMMISSIONER GILINSKY: That's John's version.  
15 That was one reason why I started off with the  
16 probabilities. In B, those are the cases that you're  
17 interested in in looking at this situation.

18 COMMISSIONER HENDRIE: No, I tell you, those are  
19 not the cases I'm interested in in looking at this  
20 situation. What I'm interested in looking at are the  
21 probability weighs -- the probability-weighted integral --  
22 across this spectrum. Otherwise, you haven't got a fair  
23 measure of the real risk and

24 COMMISSIONER GILINSKY: Well, it's only reasonable  
25 to expect that the situation differs from other locations.

1 Right?

2 COMMISSIONER HENDRIE: That's right. And if the  
3 likelihood of those things -- of melt plus early breach of  
4 the containment -- is low, then the risks at this site  
5 aren't particularly different from those at others. That  
6 is, they'll differ by 10 to the minus a significantly large  
7 number. And just be a WASH in the real world. And I think  
8 you've got to have the integral over that spectrum  
9 appropriately weighted to form a fair judgment of that.

10 COMMISSIONER GILINSKY: I guess I don't follow.

11 CHAIRMAN AHEARNE: I think I tend to agree with  
12 Joe on that. Part of what I believe he's saying is that  
13 we're asking the Board to address a particular reactor  
14 operating in this region. We all agree that the reason that  
15 the Board is examining this question and the reason we're  
16 going through the process is because of the very high  
17 population in which it's located.

18 COMMISSIONER GILINSKY: If you're talking about  
19 incidents in which there is no breach of containment, then I  
20 can't see how the fact that there is a large population at  
21 ten miles or fifteen miles or twenty miles makes the  
22 slightest bit of difference here. Now if that's how we feel  
23 we ought not be part of this proceeding or looking into it  
24 all.

25 CHAIRMAN AHEARNE: But, Vic, if we're having a

1 proceeding, and we are trying to go through the process of  
2 having the Board and the people in the area go through what  
3 will be a lengthy process, I think Joe's point -- at least I  
4 would agree with it, if it is his point -- that that board  
5 ought to address this spectrum of risk.

6           COMMISSIONER GILINSKY: Well, if you're saying  
7 when you get all done and you want to make your comparison,  
8 you want to add up all the numbers and be sure to take into  
9 account that these high consequence events are events that  
10 are unlikely ones and weight it all appropriately. But  
11 insofar as you're looking to distinguish this case from  
12 others, it's precisely those events that do. And in the end  
13 that's what you have to do. You have to take a look at  
14 those serious events and lump them in with everything else  
15 and compare them to other places.

16           But if we were not concerned about those events we  
17 wouldn't be looking into it at all. Because I think you can  
18 just say right now that there's not going to be any  
19 difference or any significant different --

20           CHAIRMAN AHEARNE: But you guys don't disagree on  
21 that. But if you weren't going to do that comparison across  
22 the spectrum you also wouldn't need to have this. Because  
23 the question was, take the Sun Desert site and compare a  
24 reactor that would be operating there or take some other  
25 plant in a very, very isolated area and compare that to the



1 plant operating here. And then assume that you get a core  
2 melt breach of containment. What are the relative risks for  
3 those two then clearly we would also --

4 COMMISSIONER GILINSKY: Let me ask you. Is your  
5 point, Joe, that if you look at the more likely but less  
6 serious events and you lump them all together this site will  
7 look better and when you add up the small accidents and big  
8 accidents overall it's not going to look so bad and that's  
9 the comparison you have to make?

10 COMMISSIONER HENDRIE: I'm not sure that it turns  
11 out looking better. As we deal with -- when you do the risk  
12 assessment, why the things that count turn out to be the  
13 ones that allow some fission products out. Now there are  
14 various kinds of sequences and the whole process is aimed at  
15 trying to enunciate these characteristic sequences and  
16 identify likelihoods and how much comes out. You know, so  
17 you could form an integral over it.

18 I'm not sure that since, when you deal with the  
19 consequences you are including in that population  
20 distribution or events which have lower yield releases  
21 there's still a difference. Because there are more people  
22 there to get exposed. And I'm not sure whether, you know,  
23 whether taking this integral will turn out ultimately to be  
24 favorable to operation of Indian Point or the other way.

25 What I am saying is that it is to me the only



1 rational, fair estimate to the best of our ability at the  
2 present time of the actual level of risk to individuals and  
3 on the societal basis -- that is, to the group. And that  
4 focusing on a few extreme events distorts the picture and  
5 makes rational judgment very difficult.

6 I guess that in part reflects my own view that  
7 that integral of the weighted consequences --  
8 probability-weighted consequences -- is what really counts  
9 as a risk measure. And that the highest consequence number  
10 for IP versus other sites just doesn't count much with me.

11 COMMISSIONER GILINSKY: Well, this was another  
12 case where I was trying to pare things down a bit. Would it  
13 help if we said highly unlikely core melts?

14 CHAIRMAN AHEARNE: It would probably help if we  
15 went back to the 1, 2, 3, 4 as previously written.

16 COMMISSIONER HENDRIE: We could use the classic  
17 language -- the hypothesized, unlikely.

18 You know, there are people who will argue that you  
19 -- never mind probabilities. No matter how unlikely things  
20 are, what you do is to look at the maximum possible  
21 consequence and if you don't like it or if it's higher in A  
22 than B, then A loses or is unacceptable or something like  
23 that. And I simply can't form a judgment on that basis.

24 COMMISSIONER GILINSKY: That's why I started with  
25 the probabilities.

1 COMMISSIONER HENDRIE: Yeah, but the rest of it  
2 sure defines one big whopping --

3 COMMISSIONER GILINSKY: Well, we could expand it  
4 and talk about accidents in which radioactive material was  
5 released to the environment. It does expand the job  
6 considerably.

7 COMMISSIONER HENDRIE: Well, I don't know that you  
8 change the scope of the job much with that kind of  
9 language. In order to know which accidents do result in  
10 releases why you have to work the event trees and so on. So  
11 you sort of work through the whole array and then there are  
12 a series of sequences which turn out to be dominant in terms  
13 of the probabilities and consequences, and those are the  
14 ones that are the essential components of the final integral.

15 CHAIRMAN AHEARNE: Why doesn't number 4 do that?

16 COMMISSIONER GILINSKY: Well, maybe it does.

17 MR. BICKWIT: John, could I ask that same question  
18 in a slightly different way? Has anybody actually gone  
19 through the various permutations possible here, leaving out  
20 a couple of specific situations or sentences that Joe would  
21 leave out because I think there is does make a difference,  
22 to decide whether a licensing board administering these  
23 different criteria would actually come to significantly  
24 different conclusions on proposed contentions?

25 Are there contentions that might be made under the

1 formulation of question 1 as Vic and I have proposed it that  
2 would be admitted that would not be admitted under  
3 essentially the JA formulations?

4 COMMISSIONER GILINSKY: I haven't seen much  
5 difference.

6 CHAIRMAN AHEARNE: I can assure you, Peter, that I  
7 would never have addressed the questions of what contentions  
8 will this or will this not admit. That's -- I don't know if  
9 anybody's ever looked at it that way.

10 MR. BICKWIT: It serves two purposes. It lets  
11 people know what we are considering, but it also, after all,  
12 is the document that the licensing board will be --

13 CHAIRMAN AHEARNE: Yeah. The approach that I try  
14 to do is to figure out what am I trying to find out.

15 COMMISSIONER BRADFORD: I --

16 CHAIRMAN AHEARNE: I think you'd probably get --  
17 we probably are going the same route but coming from  
18 different backgrounds.

19 COMMISSIONER HENDRIE: I think you certainly, by  
20 either your version of one with parts A through E, or the  
21 alternate number 24 with that stuff in the middle about  
22 containment breached in a few hours, I think either of those  
23 versions end up --

24 CHAIRMAN AHEARNE: Well, you've convinced me to  
25 drop out the middle.

1           COMMISSIONER HENDRIE: Okay. Then just 23. I  
2 think just pushes the whole arena in the hearing way out on  
3 the end of the accident spectrum that says we're going to  
4 sit out here at whatever low probability. Hopefully it's  
5 low. If it's not low, why then --

6           COMMISSIONER GILINSKY: But, Joe, isn't that what  
7 the thing is really all about. I mean, it's as if we're  
8 going to have a safety hearing and talk not only about  
9 accidents but talk about all the good things that management  
10 is doing in the running of the plant and so forth. It just  
11 -- you know -- these things are interesting and they do, in  
12 some sense, present -- balance out -- the overall picture as  
13 far as the facilities concerned, but they're not strictly  
14 relevant, it seems to me, to the decision before us.

15          MR. HOYLE: Would it help if you, rather than  
16 calling them "core melt accidents", calling it "core damage  
17 accidents"?

18          COMMISSIONER HENDRIE: Yeah, I think that's true.

19          COMMISSIONER GILINSKY: By the way, Joe, why is it  
20 that whenever you object it appears in capitals?

21          COMMISSIONER HENDRIE: I keep sending whiskey to  
22 the --

23          COMMISSIONER GILINSKY: Well, except you go to  
24 page 13 that's not true.

25          COMMISSIONER HENDRIE: I actually wanted it in red

1 caps, but that would mean you'd have to have a typewriter  
2 version.

3           CHAIRMAN AHEARNE: We are going to have to break  
4 in about 30 -- 25 minutes, so let me suggest that this is an  
5 A and B alternative. Why don't you redo, in your -- there  
6 are several other open items, so why don't you just go ahead  
7 and redraft that. There's one approach and a second  
8 approach. And maybe we can, in the twenty minutes, clean up  
9 the rest of the issues.

10           COMMISSIONER HENDRIE: Yeah. I think it would be  
11 useful to charge on too.

12           CHAIRMAN AHEARNE: We would then move to number 5.

13           COMMISSIONER HENDRIE: Whoops.

14           CHAIRMAN AHEARNE: Well, I think Victor's -- maybe  
15 no. Let's take your paragraph 25.

16           COMMISSIONER HENDRIE: You want paragraph 25.

17           CHAIRMAN AHEARNE: Paragraph 25.

18           COMMISSIONER HENDRIE: I'll withdraw my objection  
19 to the addition with the understanding that --

20           CHAIRMAN AHEARNE: It's subject to the 1, 2, 3, 4  
21 line of logic?

22           COMMISSIONER HENDRIE: Yeah.

23           MR. BICKWIT: It's "What are the specific --

24           CHAIRMAN AHEARNE: And "are there?" The "what"  
25 shouldn't be there.

1 MR. BICKWIT: Let's try to be faithful to this  
2 draft.

3 CHAIRMAN AHEARNE: Oh, I didn't say -- I didn't go  
4 back to look at what I scribbled in. It's entirely possible  
5 that I scribbled that in, but it shouldn't be there.

6 All right. Paragraph 26, which then gets back to  
7 -- well, I guess nobody had any disagreement with paragraph  
8 26, is that correct?

9 MR. BICKWIT: Correct.

10 CHAIRMAN AHEARNE: Paragraph 27.

11 COMMISSIONER HENDRIE: Thus far, that is.

12 CHAIRMAN AHEARNE: Yeah. Paragraph 27. The  
13 errata that was handed out indicates that Vic and Peter you  
14 disagree with number 4. I think that's in context of  
15 picking up the number 1.

16 COMMISSIONER GILINSKY: Just covered by 1.

17 CHAIRMAN AHEARNE: 28. I guess there are two  
18 issues. One is whether "range of" is in or out. And the  
19 other is whether the last sentence is in or out.

20 COMMISSIONER BRADFORD: Let's see. This really  
21 reflects back on the area that you asked OPE to take  
22 another whack at.

23 CHAIRMAN AHEARNE: Yes. So you would suggest that  
24 that fit into their charter?

25 COMMISSIONER BRADFORD: Well, I think when you say



1 "succeed" then that's success would wind up being reflected  
2 in here as well.

3 CHAIRMAN AHEARNE: All right. Even though  
4 successful wouldn't address your point of not going into  
5 site-specific.

6 COMMISSIONER HENDRIE: Well, that's kind of a  
7 separate question. One question is the range of. And the  
8 other question is what about that parenthetical expression,  
9 which I'd raised, you know, long ago in one of my memoranda  
10 trying to get to this point.

11 I said that I would not want that sentence to mean  
12 that the sort of comparative look at other sites that was  
13 taken with the task force would be forbidden. But I thought  
14 I dealt with that by some language that we've accepted up  
15 earlier that says the kind of comparisons presented by the  
16 task force, et cetera, were found useful by the Commission,  
17 et cetera. I thought that sanctified that sort of approach  
18 and that the sentence, the parenthetical sentence, would  
19 stay in here to discourage more detailed examinations of  
20 other particular sites, in effect making it a hearing on  
21 many sites.

22 COMMISSIONER BRADFORD: Yeah. I think we agreed.  
23 I was just afraid that the parentheses here would have  
24 exactly that effect and that the Board wouldn't be quite as  
25 --



1 MR. BICKWIT: Why don't you just put an exception  
2 in there. "Except to the extent raised by the task force"?

3 COMMISSIONER HENDRIE: It's fine with me and any  
4 other sort of adjustments that may occur to people to help  
5 carry the thought would be fine.

6 CHAIRMAN AHEARNE: Okay. Fine. Well, then, it  
7 sounds like we're really in agreement on what that says.

8 COMMISSIONER HENDRIE: I'm not sure but what the  
9 Board wouldn't understand quite clearly what we meant if we  
10 took it out. I think I would trust they would understand we  
11 didn't mean them to call in witnesses, you know, and start  
12 grilling people about, I don't know, Diablo Canyon or Zion  
13 or whatever.

14 CHAIRMAN AHEARNE: All right. So I gather that  
15 you'll stick in just an exception.

16 COMMISSIONER HENDRIE: I'd be glad to have the  
17 counsel's advice on how to best treat the point, or whether  
18 it's necessary to treat the point.

19 CHAIRMAN AHEARNE: Number 6. Peter, you wish to  
20 -- there are three of us who have agreed to take it out.

21 COMMISSIONER BRADFORD: Well, my objection was, or  
22 suggested -- was to just take it off the full, or off-peak.

23 COMMISSIONER HENDRIE: Yeah, that was mine too.  
24 My only objection was to the "full or off-peak" just because  
25 I couldn't sort out what that might mean.

1 COMMISSIONER GILINSKY: I thought that was mine.

2 COMMISSIONER HENDRIE: Without that, it was one of  
3 the original questions and I saw no reason to --

4 CHAIRMAN AHEARNE: So if we just strike "full or --

5 COMMISSIONER GILINSKY: I assumed that there were  
6 other possibilities than full shutdown or --

7 CHAIRMAN AHEARNE: What would be the consequences  
8 of a shutdown? Fine.

9 Number 7. Now this gets back to the point that  
10 Joe had raised in paragraph 19.

11 COMMISSIONER HENDRIE: Since I think we've already  
12 allowed -- specifically allowed -- the matters in as  
13 contentions --

14 COMMISSIONER GILINSKY: How was that done?

15 COMMISSIONER HENDRIE: It's back in 19 --  
16 paragraph 19. The Commission's interest in the current  
17 stage as well in resolving the specific contentions in the  
18 UCS petition to the effect that some of our regulations are  
19 not met in one or both units.

20 CHAIRMAN AHEARNE: And then picked up in number 3.

21 COMMISSIONER GILINSKY: Let's see. But then  
22 doesn't it have to get translated into one of these  
23 questions?

24 CHAIRMAN AHEARNE: That's only to number 3, I  
25 think.

1           COMMISSIONER HENDRIE: The questions are not in  
2 the context that these are the only matters that can appear  
3 in the hearing. The questions appear in the context that we  
4 want the Board to focus on these questions in particular,  
5 but we haven't attempted anywhere to say no other subjects  
6 other than those in these questions will be allowed to come  
7 up. I never read it that way.

8           COMMISSIONER GILINSKY: I thought we were saying  
9 that the board should stay closely.

10          CHAIRMAN AHEARNE: Yes.

11          COMMISSIONER GILINSKY: Where is that? I mean it  
12 seems to me if you don't get into these questions we don't  
13 have much chance --

14          CHAIRMAN AHEARNE: The question -- the questions  
15 are what the board's supposed to focus on, and, as far as --

16          COMMISSIONER BRADFORD: It's on page 8, about the  
17 middle of the page.

18          COMMISSIONER GILINSKY: Yeah, focus clearly upon  
19 questions asked by the Commission. So it sounds like if  
20 it's in the rest of the text and it doesn't get into the  
21 questions it's not going to get into the hearing.

22          CHAIRMAN AHEARNE: But I remind you, paragraph 26,  
23 the last parenthetical statement. That was where we had  
24 many months ago, when there were five of us, that was the  
25 agreement that I have to, as I recall, the rest of you

1 reached as to the way to resolve that.

2           COMMISSIONER GILINSKY: Let me understand. What  
3 is your concern, that putting it into the questions gives it  
4 excessive emphasis?

5           COMMISSIONER HENDRIE: Yeah. I think so. I feel  
6 unable to say no, since the rest of you are going that way,  
7 but, you know, if I could change some minds I might feel  
8 able to say that no, the Board ought not to hear contentions  
9 about regulations not being met which don't seem to run  
10 directly to this high population question.

11           So. Okay, those things can be raised, but I  
12 wouldn't go ahead and amplify the attention given by making  
13 that one of the Commission's questions.

14           COMMISSIONER GILINSKY: But you interpret the  
15 words within the parentheses of number 26 to allow these --

16           CHAIRMAN AHEARNE: They are addressed to safety  
17 measures. We -- the Commission, as you know, has not  
18 addressed which of the -- in other areas we haven't narrowed  
19 -- pinned down -- which of the regulations are really  
20 addressed to safety. And this is -- to the Board, though,  
21 they can go ahead and address those contentions, to the  
22 extent that they really do affect the safety.

23           COMMISSIONER GILINSKY: I suppose if we sent them  
24 a transcript of this meeting, it would be all right to  
25 handle the problem.

1 COMMISSIONER BRADFORD: Well, let's see, paragraph  
2 19 speaks only to the specific examples in the UCS  
3 petition. And those, I think, are regulations that  
4 indubitably affect safety. None of those are likely  
5 candidates for a list of non-safety significant regulations.  
6 Supposing that we just use the exact language out of there  
7 and attach it to question 3 here? The Commission is also  
8 interested in and skip in the parentheses.

9 CHAIRMAN AHEARNE: Well, I think I would have to  
10 then probably go back and reread the UCS specific  
11 contentions. The way this is worded is a little bit looser.

12 I think what I would want to say is specific  
13 contentions in the UCS petition -- that some of our  
14 regulations that directly affect safety -- you know,  
15 something like that. Because I didn't bother arguing on  
16 number 19 because that didn't -- it had been called to my  
17 attention that that had been a debate that was really  
18 argued, thrashed out, back in the May 30, and the conclusion  
19 that the Commission had reached was that, yes, well, here's  
20 -- this sentence was to address that issue, rather than  
21 trying to resurrect all of the arguments that had led to  
22 that compromise, since we had once seemed to be able to  
23 reach a compromise on how to address it I moved on to other  
24 issues.

25 COMMISSIONER BRADFORD: Now what is troubling me

1 is that we have before us specific allegations that some of  
2 the regulations aren't met in Unit 2. I just don't remember  
3 the May 30 discussion and haven't reread it. Perhaps I  
4 should.

5           But since it's, in part at least, those  
6 allegations in the context of the appeal from our decision  
7 of the 2206 it's true to this proceeding. It makes sense to  
8 me to say that the Commission's response at the end of the  
9 proceedings would also be taken as our final response to  
10 those contentions. And I'm just not sure that the somewhat  
11 indirect language in item 3 in there is clear enough so that  
12 a Board doing its housekeeping at the end going through  
13 answering questions 1 through 8 would necessarily pick up  
14 those contentions.

15           CHAIRMAN AHEARNE: All right. I will admit I did  
16 not view this Board process as having one of its fundamental  
17 objectives to reach a final Commission position on the UCS  
18 petition.

19           I viewed this issue is should those plants be  
20 allowed to operate? And how that issue came up and how it  
21 developed is at this stage, to me, quite secondary. That's  
22 why I didn't think that -- I had no problem with not having  
23 that be a major focus of the --

24           COMMISSIONER BRADFORD: We're not required to, but  
25 if I remember right, the Commission has never in any of the



1 documents so far finally disposed of those particular  
2 items. That is, the last Commission words -- NRC agency  
3 words -- on the particular points regarding the regulations  
4 or the Director's denial.

5 Now what we've been petitioned to review -- the  
6 Director's denial, and things that I've lost track -- we  
7 don't have to review it. I suppose technically we're going  
8 to have to respond to the petitions.

9 MR. BICKWIT: I think you've decided to review it,  
10 but you don't have to dispose of every element of a petition.

11 CHAIRMAN AHEARNE: I'll have to go back and reread  
12 all of that stuff then.

13 COMMISSIONER BRADFORD: I think there's a  
14 short-cut, John. You can just put it in here.

15 CHAIRMAN AHEARNE: Well, you see, we had reached a  
16 position that this was going to get at that issue, but if  
17 you are unhappy with that resolution I will have to go back  
18 over it. And since people are -- so I don't think we're  
19 going to reach a resolution on --

20 COMMISSIONER GILINSKY: Well, we ought to give the  
21 Board as explicit instructions as possible. I mean,  
22 otherwise we're going to sound like the ACRS.

23 CHAIRMAN AHEARNE: Well, we are trying to give  
24 them explicit instructions.

25 COMMISSIONER GILINSKY: Well, what are they to do



1 with this item? Are they to keep it in or throw it out?

2 CHAIRMAN AHEARNE: I think where we are is we are  
3 probably going to have to go back and look at the specifics  
4 of the contentions and see which ones are specifically  
5 safety-related and try to argue that out.

6 COMMISSIONER BRADFORD: John, the point is touched  
7 on, at least, in paragraph 5, which we've already looked  
8 at. If you drop down to the second and third sentences.

9 CHAIRMAN AHEARNE: That's certainly true. And the  
10 general flavor is that there are two, to my mind, separable  
11 questions. One is are there safety issues with respect to  
12 those plants and should they be allowed to operate. That's  
13 one set.

14 There's another set and we are revisiting much of  
15 my uneasiness about a lot of the review of regulations. I  
16 still believe that there are a lot of our regulations which  
17 aren't really directly significantly safety-related.

18 COMMISSIONER BRADFORD: Fair enough. No, I  
19 understand, but there are only a couple of -- what, two or  
20 three -- contentions, if I remember right --

21 CHAIRMAN AHEARNE: And my point was I'm not sure  
22 at this stage. It was back in May when we specifically  
23 addressed that, and I would have to revisit those. So let  
24 us put that 7 aside. I'm not sure whether we can -- if you  
25 guys have to leave. I think the only final issue is what do

1 we do about the State of New York?

2 COMMISSIONER BRADFORD: I, with all --

3 CHAIRMAN AHEARNE: And the question is how do we  
4 go about asking, or do we ask?

5 COMMISSIONER BRADFORD: Let me tell you what -- my  
6 concern there is that it seems to me to be at least possible  
7 that the proceeding is going to come out in effect in a gray  
8 area. It's not going to be absolutely clear that these  
9 plants are a risk of such a magnitude that one recoils from  
10 it and finds it unacceptable. And it may not be absolutely  
11 clear that they're not. It will be out in the area where  
12 reasonable people may differ.

13 If that does turn out to be the case, then it  
14 seems to me that the entity in which the plants were located  
15 ought to be encouraged to provide with its views both on  
16 what it views as an adequate level of protection for its  
17 citizens to be and what it wants us to make of the economic  
18 and other consequences associated with a shutdown.

19 To me, perhaps naively, it seems to me that the  
20 Governor speaks for a state.

21 CHAIRMAN AHEARNE: If you are willing to -- my  
22 problem was who speaks for the state. And I'm willing to  
23 agree to the governor speaks for the state and I would go  
24 along with a question does the governor care to express.

25 The difficulty I was having with your

1 reformulation and the previous formulation is the phrase  
2 "the government of the state".

3           COMMISSIONER BRADFORD: I can't rule out -- I  
4 haven't looked at New York statutes. Some states have  
5 statutes saying that the attorney general is the legal voice  
6 of the people of the state, but for most practical purposes  
7 my inclination is to look to the governor to speak for the  
8 state.

9           I'm going back essentially to the days when I was  
10 in Maine State government. If this were a proceeding  
11 affecting Maine Yankee, I would expect the governor would  
12 have wanted to make his views known.

13           CHAIRMAN AHEARNE: Subject to a possible  
14 modification, if there's a legal statement somewhere that  
15 says that someone other than the governor speaks for the  
16 state, I would be willing to accept "Does the Governor of  
17 the State of New York care to express an official position?"

18           And perhaps the best way to do that would be for  
19 the Commission to ask him.

20           COMMISSIONER HENDRIE: Well, the State's a party  
21 here, isn't it?

22           COMMISSIONER BRADFORD: If it chooses to be.

23           COMMISSIONER HENDRIE: It almost certainly will  
24 be. It's inconceivable to me that the state will find  
25 itself.

1           CHAIRMAN AHEARNE: There's a distinction though,  
2 and the elements that can be parties need not be the  
3 governor.

4           COMMISSIONER HENDRIE: I know, but there is some  
5 remote relation between representatives of the state and the  
6 governor. The Board could ask them.

7           CHAIRMAN AHEARNE: You'd be willing to go with  
8 governor. Would you be willing to go with governor?

9           COMMISSIONER HENDRIE: The formulation "care to  
10 express" and I don't know. I'm blast if I know who speaks  
11 for us up there in New York. If you think Hugh Carey does,  
12 why come on out to my part of the country.

13          CHAIRMAN AHEARNE: This is supposed to be an  
14 objective board sitting and not reflecting --

15          COMMISSIONER HENDRIE: Since they may not get an  
16 answer until there's been a chance for a gubernatorial  
17 election out there, why, who knows? Anyway, I'd prefer not  
18 to have this query in among the questions, but if enough of  
19 you want it in then I would strongly recommend that it be,  
20 you know, "care to express an opinion", and if you want to  
21 make it the governor, why I don't have much to offer.

22          CHAIRMAN AHEARNE: Vic? Okay.

23          All right. I think that moves us a little bit  
24 closer. We will, then, await the draft from the General  
25 Counsel with the assistance of OPE on that one section. All

1 right?

2 Thank you.

3 (Whereupon, at 3:38 p.m., the hearing was  
4 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the  
COMMISSION

in the matter of: Public Meeting - Briefing by IE on Current Status of  
Indian Point -2 Investigation of the Containment Flooding Event, and Basis  
for allowing Date of Proceeding: November 14, 1980  
Restart of Indian  
Point-3 and Docket Number: \_\_\_\_\_  
Discussion of  
Instructions to Place of Proceeding: Washington, D. C.  
Board on IP Proceeding  
were held as herein appears, and that this is the original transcript  
thereof for the file of the Commission.

Linda Behrens

Official Reporter (Typed)



Official Reporter (Signature)