

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

In the Matter of: PUBLIC MEETING

DISCUSSION OF INSTRUCTIONS TO BOARD  
ON INDIAN POINT PROCEEDING

DATE: December 15, 1980 PAGES: 1 - 54

AT: Washington, D. C.

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING

DISCUSSION OF INSTRUCTIONS TO BOARD

ON INDIAN POINT PROCEEDING

1717 H Street, N.W.,

Washington, D.C.

Monday, December 15, 1980

The meeting came to order, pursuant to notice, at  
10:03 a.m., where were present:

NRC COMMISSIONERS PRESENT:

JOHN F. AHEARNE, CHAIRMAN

JOSEPH HENDRIE

VICTOR GILINSKY

PETER BRADFORD

NUCLEAR REGULATORY COMMISSION STAFF PRESENT:

1 MR. BICKWIT, Special Counsel

2 J. HOYLE

3 P. CRANE

4 M. MALSCH

5 E. HANRAHAN

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DISCLAIMER

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

2                    CHAIRMAN AHEARNE: We meet again this morning on  
3 the continuing attempt to address the Indian Point order.  
4 The first item I would like to address is the one which is  
5 the two-hearings issues, because the modifications in the  
6 order will take a different character, depending on which  
7 way we come out.

8                    General Counsel has given us a paper on the  
9 implications of one versus two hearings. I must admit that  
10 the paper, in association with the latest submission, has  
11 convinced me for the two hearings. That is where I come out.

12                    COMMISSIONER GILINSKY: I am for one hearing --  
13 one instead of two.

14                    CHAIRMAN AHEARNE: How would you resolve the  
15 vagueness that the General Counsel addresses as one of the  
16 significant problems?

17                    COMMISSIONER HENDRIE: Point four of his  
18 memorandum of December 12, the second page.

19                    COMMISSIONER GILINSKY: It says we have to set a  
20 standard.

21                    CHAIRMAN AHEARNE: And the only standard he could  
22 suggest is one that is very vague. And he points out that  
23 this vagueness is not necessarily an impediment.

24                    COMMISSIONER GILINSKY: It is not an impediment to  
25 me. I think if we're going to be more precise about the

1 standard, if this forces us to do so, then all the better.

2 We will be clearer what the proceeding is about.

3 CHAIRMAN AHEARNE: As I recall, that was one of  
4 the reasons we struggled for many, many months in attempting  
5 to even write the orders that stood. And we could not come  
6 up with a very clear, specific description of the criteria.

7 COMMISSIONER GILINSKY: I am certainly for getting  
8 more specific, if we can. I don't see that as a real  
9 impediment.

10 CHAIRMAN AHEARNE: Joe?

11 COMMISSIONER HENDRIE: I would be inclined to go  
12 with two hearings in order that the one which takes a look  
13 at the comparative risk elements at Indian Point could be  
14 adopted to that purpose -- hopefully, not have to endure all  
15 of the paraphernalia that a full-dress license suspension  
16 hearing might have to address, but get on with the  
17 examination of comparative risk and what might be done about  
18 that. So I guess I would go for two hearings.

19 CHAIRMAN AHEARNE: One of the facets of it that  
20 convinced me was, in trying to -- I felt that if we were  
21 going to go to a single hearing then we were obligated to  
22 try to be much clearer on what would be the grounds on which  
23 a decision would be based, and then try to go back through  
24 the previous many months of development of where we were, it  
25 seemed to me that that was exactly the difficulty we were

1 having -- that we were groping with what would be the  
2 grounds, what would be the criteria we would end up using.  
3 And consequently this did have much more of the character of  
4 the investigatory hearing that back in the beginning the  
5 General Counsel had described.

6           So I still believe that although it does offer the  
7 potential for longer periods of time, I cannot really see  
8 how we can adequately develop the kind of information that  
9 is needed to go much further without having that first stage  
10 investigatory hearing.

11           COMMISSIONER GILINSKY: Originally we talked about  
12 having a proceeding -- a rulemaking -- to set a standard and  
13 then have a hearing which would follow that standard. And I  
14 think the Commission decided there really was not enough  
15 time for that standard-setting, rulemaking. That was eight  
16 months ago that we said that.

17           It turned out we did have the time.

18           CHAIRMAN AHEARNE: No, as it turns out we were  
19 completely correct, because that standard is what is still  
20 underway in an attempt to get a safety goal, and that is a  
21 year or a year-and-a-half away.

22           COMMISSIONER GILINSKY: Well, I guess I don't  
23 agree with that.

24           COMMISSIONER HENDRIE: If you would like to set  
25 the Indian Point proceeding back and go ahead with the

1 generic proceeding on the safety goal, why, I said eight  
2 months ago I was prepared to go in that direction.

3           COMMISSIONER GILINSKY: No. Didn't we say at the  
4 time that we would in effect have a standard that we would  
5 develop over a short period of time and which would apply in  
6 this case? And then on another track try and develop  
7 something that we might apply more broadly?

8           COMMISSIONER HENDRIE: Back when we were laying  
9 the groundwork in our discussions for the May 30 order,  
10 there was argument about whether or not one had to have a  
11 reasonable basis for going ahead with a specific hearing --  
12 proceeding -- on Indian Point as prototypical of the high  
13 population density sites, perhaps, in the absence of having  
14 a more general examination of what high population density  
15 sites meant in our overall pattern of licensing.

16           And there was discussion about having -- we argued  
17 back and forth about the merits of trying to get on, at  
18 least partway, down the safety goal line and then having,  
19 hopefully, enunciated some general standard -- perhaps some  
20 modification of it -- that would apply to existing high  
21 population density sites.

22           Then one would scrutinize Indian Point in the  
23 context of that. And I do not -- in fact, I think that that  
24 at one point was a fervent plea of Consolidated Edison, it  
25 seems to me -- that we ought to decide on a generic basis

1 what our high population density rules were. And then they  
2 would have to stand or fall by the general rules.

3 We decided not to go that way. I think events  
4 since then have suggested the kind of difficulty that there  
5 is in hammering that sort of thing out. We did settle on  
6 proceeding with Indian Point and I think doing it on a  
7 comparative risk basis is a perfectly reasonable way at this  
8 stage of the evolution of citing regulations and one thing  
9 or another -- a perfectly reasonable way to do it.

10 COMMISSIONER GILINSKY: But I do not see that that  
11 is excluded by anything that Len has written.

12 COMMISSIONER HENDRIE: No. I agree with that. I  
13 do not think it is either, except Len is saying, look, if  
14 you are going to have this comparative examination, why that  
15 is all well and good. But if you want to contemplate such  
16 outcomes as suspension of the operating license, the  
17 Counsel's office is saying the Atomic Energy Act -- it makes  
18 that a somewhat questionable basis.

19 That is, if the finding of the comparative risk  
20 part of the proceeding were that Indian Point constitutes  
21 1.65 times, on the average, the risk of other sites and so  
22 forth, that still does not mean that it does not meet an  
23 adequate protection standard under the Atomic Energy Act.  
24 And the comparative risk finding, by itself, would not get  
25 you anywhere, particularly with regard, for instance, to

1 suspension as an outcome. And that you would have to go  
2 ahead and enunciate some kind of a second standard which  
3 would tie back to the statute.

4 And what he suggests is -- Counsel's office  
5 suggests he would probably be able to frame one, even if  
6 they did no better than to couch it in terms of adequate  
7 protection. That just the old statutory standard language  
8 in the context of a Commission determination of adequate  
9 protection -- presumably the finding you would make, they  
10 say, after you had looked at the comparative risk elements.

11 Now, getting it in one hearing, I guess, my  
12 preference for two rather than getting it all in one, if it  
13 all goes in one, then that proceeding does fall under  
14 section 189(a) of the Act and carries with it, as a matter  
15 of right, the paraphernalia of the full licensing sort of  
16 hearing. And it seemed to me that the direction we were  
17 heading on the comparative risk proceeding was to be able to  
18 cut some of that away and to provide the Board with a little  
19 more flexibility and control -- and ourselves, too, actually  
20 -- as an aid in reaching some conclusion on the comparative  
21 risk.

22 COMMISSIONER GILINSKY: Well, you give that up.  
23 My impression is we will have most of the paraphernalia  
24 there anyway. There is that useful flexibility.

25 COMMISSIONER HENDRIE: Yes.



1           COMMISSIONER GILINSKY: But still you are going to  
2 have a proceeding about whether or not to have a  
3 proceeding. We thought so much about simplifying  
4 regulation, trying to come to decisions, and so on. I think  
5 if the hearing is about whether to do something with Indian  
6 Point it has an element of seriousness to it that will  
7 assure sort of full and timely participation by everybody,  
8 including our staff and so on.

9           If it is a kind of sort of looking into it type of  
10 hearing, then it goes pretty far down on the list of  
11 priorities.

12           CHAIRMAN AHEARNE: Of whom?

13           COMMISSIONER GILINSKY: I think of the staff. I  
14 can think of other people. And it is just sort of setting  
15 them off on a long journey.

16           CHAIRMAN AHEARNE: Except that we start encumbered  
17 with two things. First, we are encumbered by a large amount  
18 of legal framework, which we have to use no matter how we  
19 approach any issue, so we cannot just have a straight  
20 investigation of the issues. We have to imbed it into a  
21 framework.

22           And then, secondly, I do not understand how we can  
23 task a board to do something when we have not really decided  
24 what that something ought to be or what framework it ought  
25 fit into. We are still trying to struggle with what kind of

1 sets of criteria ought one to use in addressing high  
2 population sites, in particular this one or plants operating  
3 in that environment. And to punt it back to the board and  
4 say well, we cannot do more than to tell you it also has to  
5 meet the criteria of adequate health and safety, but we do  
6 not know what that means. I think that imbeds it further.

7           COMMISSIONER GILINSKY: Maybe we ought to get up  
8 some more specific criteria about how much departure from  
9 the meaning of the spectrum or the range or however we  
10 choose to phrase it is, in effect, unacceptable.

11           CHAIRMAN AHEARNE: That is the safety goal.

12           COMMISSIONER GILINSKY: Well, you know, to wait  
13 for a safety goal, I have seen the outline of that program.  
14 And I would not hold my breath.

15           CHAIRMAN AHEARNE: That was the reason that --

16           COMMISSIONER GILINSKY: Well, you cannot then say  
17 that we are going to stop everything here until we have a  
18 safety goal.

19           CHAIRMAN AHEARNE: I didn't -- I did not say that.

20           COMMISSIONER GILINSKY: We have not had a safety  
21 goal for 25 years.

22           CHAIRMAN AHEARNE: What I said is we have to go  
23 through this investigation first.

24           COMMISSIONER GILINSKY: But nevertheless, people  
25 managed to put one foot in front of the other.



1 CHAIRMAN AHEARNE: Or sideways.

2 COMMISSIONER GILINSKY: Well, an interim goal for  
3 high population sites -- maybe just for Indian Point. But I  
4 just think there is a lot to be said for having a proceeding  
5 which is clearly about some decision. It becomes a serious  
6 matter to which everyone involved is going to pay attention.

7 CHAIRMAN AHEARNE: Your conclusion is that this,  
8 as stands, would not be treated as a serious matter?

9 COMMISSIONER GILINSKY: I am concerned that it  
10 will not be. I am concerned that it might not get the same  
11 degree of attention and would just drag on indefinitely. I  
12 mean, it is a way of just --

13 CHAIRMAN AHEARNE: Vic, one of the reasons it has  
14 dragged so far -- it has taken so long -- is that we on this  
15 side have been unable to reach agreement on what directions  
16 to even give to the Board.

17 COMMISSIONER GILINSKY: Well, nevertheless, I  
18 think if we can be more precise about the standard without  
19 having a hearing -- I don't know.

20 COMMISSIONER HENDRIE: Well, back to the one  
21 hearing-two hearing thing. I -- you know, it seems to me  
22 that everybody is taking the comparative risk proceeding as  
23 we framed it thus far, to the extent we could come to  
24 agreement on it pretty seriously. I have not seen any  
25 indication that the licensees are not very serious about it,

1 and the staff, too. And I think it does lead to some  
2 decisions.

3           Now what Len and his people are saying, in this  
4 memo about one hearing versus two, is that if you go with  
5 one hearing you really are going to need a first part and a  
6 second part. The first part will look at the comparative  
7 risk elements, however the Commission may eventually agree  
8 to phrase those. And the second part, then, would have to  
9 deal with, okay, having found out a batch of things about  
10 Indian Point from this proceeding, now how does that frame  
11 against the absolute standards that we would have had to  
12 enunciate it in order to put it in the one-hearing framework.

13           Now, I expect that if you are going to do one  
14 hearing in two parts like that -- a comparative risk and  
15 then the -- all right, what do you do about the adequate  
16 protection? Do you shut it down, or something else? There  
17 may be, in fact, some net saving over doing two hearings,  
18 one of which is on the comparative risk and the other of  
19 which is on what do you do about that -- maybe shut it down.

20           But I am not dead sure that that is the case,  
21 because you have to do all of the one hearing in all of the  
22 glorious formality of the hearing of right under section  
23 189(a) of the Act. Whereas, the two hearings you could do  
24 the first one with at least a little more flexibility. I  
25 agree with you it is still going to be -- have more

1 formalism than perhaps you or I would propose if we were  
2 trying to do a fair investigation of the technical matter.

3 But, nevertheless --

4 CHAIRMAN AHEARNE: But the first hearing would not  
5 have the ex parte application with respect to us at this  
6 time.

7 COMMISSIONER HENDRIE: So the trade you are  
8 getting is one hearing. You are doing the same two parts in  
9 one hearing in a more informal way. And just because it is  
10 one proceeding instead of two, why maybe you got some gains  
11 there.

12 On the other hand, with the proceedings, why one  
13 of them can go in a more flexible and focused way and, as  
14 John says, you know, we are freer to talk to the staff and  
15 understand the elements of it and so on. So, it just is not  
16 clear to me that there is in fact very much of a saving with  
17 the one-hearing proposition.

18 I think you could almost argue that the two  
19 hearings might even be a savings. I don't think I can argue  
20 that plot because I can see arguments running both ways and  
21 I do not see any reason why one effect is notable more  
22 time-saving than the other.

23 COMMISSIONER GILINSKY: What about putting the --  
24 I don't know if you could put a time limit, but at least put  
25 --

1 COMMISSIONER HENDRIE: Schedule?

2 COMMISSIONER GILINSKY: Schedule out for the first  
3 one.

4 COMMISSIONER HENDRIE: I have a copy of the TMI 1  
5 left over. That ran a year.

6 COMMISSIONER GILINSKY: We are really just saying  
7 that we are going to satisfy some people by engaging in a  
8 proceeding. But it is really not going to go anywhere.

9 CHAIRMAN AHEARNE: But, Victor, we have spent  
10 almost five months -- more than five months -- trying to get  
11 this order out. The big delay in many of these things is us  
12 and that is the one place in the schedule that we have  
13 control over.

14 COMMISSIONER HENDRIE: Well --

15 CHAIRMAN AHEARNE: Great. You can put a schedule  
16 out.

17 COMMISSIONER GILINSKY: Not a schedule. I think  
18 we ought to, if it is an investigatory hearing -- a more  
19 flexible hearing -- we would, by indicating how long we  
20 expected it to take --

21 CHAIRMAN AHEARNE: That is true.

22 COMMISSIONER GILINSKY: Say something about the  
23 level of detail that that hearing is going to go into. For  
24 example, you have questions such as, what is the risk posed  
25 by Indian Point? Well, that could be another WASH-1400, so

1 if somebody knows he has to get that question answered in a  
2 month or two months and go on to the next question, it says  
3 something about how much time you can allot to it.

4           COMMISSIONER HENDRIE: That is perfectly true. I  
5 think some effort to scope along that line would indeed be  
6 useful and, as a matter of fact, if you could come to an  
7 agreement on a reasonable tentative schedule, because we,  
8 again, would make it, you know, a recommended schedule, I  
9 suspect, rather than a compelled one, it would be useful,  
10 whether you issued a two-hearing order or a one-hearing  
11 order. It would be somewhat less binding in the one  
12 hearing, I must say.

13           I suspect on the two-hearing proposition that you  
14 might be able to bind the Board on a schedule, since it is  
15 not -- you know, since people do not have due process rights  
16 to certain hearing elements in this case, why presumably we  
17 would be free to tie the Board down a little bit more.

18           MR. BICKWIT: No doubt you could do that.

19           COMMISSIONER HENDRIE: But even in the one-hearing  
20 case, why it could stand as a recommended schedule and  
21 provide some incentive to move.

22           CHAIRMAN AHEARNE: Peter has not had an  
23 opportunity to comment on the subject.

24           COMMISSIONER BRADFORD: Well, I have a range of  
25 preferences, and it is pretty clear that the bottom of my

1 list cancels out the top.

2 (Laughter.)

3 COMMISSIONER BRADFORD: I would prefer to do it in  
4 one hearing. The last thing I would want is to see us  
5 deadlocked on the question of one hearing or two, and,  
6 therefore, wait another five months to launch anything.

7 And I must say I am also somewhat deterred from  
8 the one-hearing point by what may well be -- what is  
9 certainly Len's view, and it may well be correct, that we  
10 would have to redraw the scope of the single hearing  
11 substantially to crank in a new standard.

12 If we are to go with a two-hearing formulation, or  
13 at least one that anticipates the possibility of a second  
14 hearing, I would agree that it would be good to put down the  
15 length of time we would expect it to take. I don't think I  
16 would accept that standard, though, in contemplation of  
17 thereby being able to choke off the rights that people do  
18 not --

19 COMMISSIONER GILINSKY: Don't have in this case  
20 that they would have in the other.

21 COMMISSIONER BRADFORD: A couple of reasons for  
22 that, but I would not set the schedule that way.

23 I would set a schedule that contemplated an  
24 adequate period for discovery and cross-examination. I do  
25 not think cross-examination really stretches it out very



1 much, and then work with that schedule.

2 CHAIRMAN AHEARNE: Len, why don't you try to draft  
3 a schedule and, I think, I would guess that the two  
4 conflicting views on it are Vic's and Peter's. If you can  
5 get agreement between the two of them --

6 COMMISSIONER BRADFORD: You all would go with any  
7 schedule?

8 CHAIRMAN AHEARNE: I meant as the schedule.  
9 Because I think Vic would like it tighter; you would like it  
10 looser. And so --

11 COMMISSIONER BRADFORD: It was Joe that introduced  
12 the element that was particularly worrying me, but, fair  
13 enough.

14 (Laughter.)

15 CHAIRMAN AHEARNE: Okay. So why don't you try  
16 that. Now, in that case, if there is a reasonable schedule,  
17 would you be willing to go with two?

18 COMMISSIONER BRADFORD: Yes.

19 CHAIRMAN AHEARNE: Okay. Then why don't we try  
20 going in that direction?

21 Then let me go back to the order that was  
22 drafted. There were some issues. I would like to go back  
23 through it. Anybody have any comments on page 1 or 2?

24 COMMISSIONER GILINSKY: Yes.

25 CHAIRMAN AHEARNE: Page?

1 COMMISSIONER GILINSKY: Top of page 2, where you  
2 talk about a 4-pronged approach. It addresses the generic  
3 question of the operation of nuclear reactors in the area of  
4 high population density. Where do we stand on that?

5 MR. BICKWIT: That is a matter that would next be  
6 on the table, as soon as this order was approved.

7 COMMISSIONER GILINSKY: Is there something in the  
8 works?

9 MR. BICKWIT: No, there was nothing in the works.

10 CHAIRMAN AHEARNE: There is nothing in the sense  
11 of a proceeding. There are two related pieces. The NRR  
12 staff has been working through an action that flowed not  
13 just from this but also from the advanced notice we put out  
14 in the construction permit -- how were we approaching that  
15 -- and they have been working through what actions ought to  
16 be taken to carry on a review of high population density  
17 sites.

18 We do have the siting policy also out for comment,  
19 which addresses high population siting as a criteria. And  
20 then, of course, the safety goal. What we do not have is an  
21 integrated piece of how those three pieces fit together.

22 COMMISSIONER GILINSKY: I thought what we were  
23 talking about here was precisely the question of setting the  
24 standard for high population -- I mean, that part of a  
25 standard.



1 CHAIRMAN AHEARNE: Yes.

2 COMMISSIONER GILINSKY: That is now in our system,  
3 which just deals basically with individual risk, I would  
4 say. At least I think that is the way it has been  
5 interpreted up to now.

6 CHAIRMAN AHEARNE: Yes, although the approach we  
7 are taking in siting policy comments --

8 COMMISSIONER GILINSKY: Our siting does, to some  
9 extent --

10 CHAIRMAN AHEARNE: That is right. That is right.  
11 I think Len is correct that when we first --

12 COMMISSIONER GILINSKY: I guess what I am getting  
13 at is I think we ought to -- it would be nice if we could  
14 simultaneously say yes, we are launching a specific effort  
15 on this to which we had committed ourselves earlier.

16 CHAIRMAN AHEARNE: I think when this was first  
17 drafted, many months ago, the concept was this would go  
18 quickly and then we would move into the next step. And the  
19 next step has been kept off -- being deferred as we were  
20 doing this.

21 I would agree that we could tell the staff to now  
22 move that up in their list of priorities to see if we can't  
23 get that up sooner, but I would hate to -- knowing how long  
24 it takes to get things like that into the mill and up to us  
25 and get us to approve it. I suspect if we link this to

1 approving that --

2 COMMISSIONER GILINSKY: No, no. We are not  
3 linking it. We would be saying simply that simultaneously  
4 with putting out this order, we are asking that the next  
5 step be launched.

6 CHAIRMAN AHEARNE: Oh, fine. I have no problem  
7 with that.

8 COMMISSIONER GILINSKY: Not launched -- taken.

9 CHAIRMAN AHEARNE: Fine. Okay.

10 COMMISSIONER GILINSKY: If we can put a footnote  
11 in it or something.

12 CHAIRMAN AHEARNE: Does anybody have any  
13 difficulty with that?

14 (No response.)

15 CHAIRMAN AHEARNE: Okay. Fine. Page 3. I had a  
16 question on page 3. The bottom of the new paragraph, Len,  
17 the last sentence.

18 MR. BICKWIT: That is under study in our office.

19 CHAIRMAN AHEARNE: Given the Controller General's  
20 --

21 MR. BICKWIT: That is right. And the product --  
22 that study -- will probably be available this week.

23 CHAIRMAN AHEARNE: Will you address specifically --

24 MR. BICKWIT: Yes.

25 CHAIRMAN AHEARNE: Because, obviously, if you come

1 out with a conclusion that this is against the Controller  
2 General's determination, I would not want it to be in the  
3 order.

4 Page 4? 5?

5 COMMISSIONER BRADFORD: On 4, John, it was at my  
6 instigation that we originally put in that last paragraph.  
7 It no longer makes much sense, actually. That is, there is  
8 not likely to be a chairman. We wrote it, I think, in the  
9 context of a chairman being confirmed this month, and I  
10 think we put it in back in August. I do not care strongly  
11 one way or another, but at this point I think it would make  
12 as much sense to drop it.

13 CHAIRMAN AHEARNE: Well, except I thought we were  
14 answering a specific request.

15 COMMISSIONER BRADFORD: We were.

16 CHAIRMAN AHEARNE: That, I guess, would still --

17 COMMISSIONER BRADFORD: Everything in here is  
18 still true.

19 CHAIRMAN AHEARNE: Why don't we hold it there, and  
20 if it is still true when we put out the order we can leave  
21 it in.

22 COMMISSIONER BRADFORD: Fine.

23 CHAIRMAN AHEARNE: But you are right. It begins  
24 to --

25 (Laughter.)

1 COMMISSIONER HENDRIE: If we wait long enough, why  
2 we may be able to follow the first sentence with "We have  
3 done so."

4 (Laughter.)

5 CHAIRMAN AHEARNE: And should be chalk that up,  
6 then, as showing our responsiveness?

7 COMMISSIONER HENDRIE: I would think so.

8 COMMISSIONER BRADFORD: Since the point really is  
9 addressed to interim operation during the period that we can  
10 reasonably expect the proceeding itself to last, I do not  
11 think it can be chalked up to --

12 COMMISSIONER HENDRIE: You cannot dot every "i",  
13 Peter.

14 CHAIRMAN AHEARNE: All right. Page 5?

15 COMMISSIONER GILINSKY: The middle of the third  
16 paragraph -- "Unit 2 is currently shut down and must remain  
17 so for technical reasons for a period of months." I am  
18 bothered by this "technical reasons". It sounds like a  
19 technicality or unimportant. You could just as well say --

20 CHAIRMAN AHEARNE: Engineering?

21 COMMISSIONER GILINSKY: Safety reasons?

22 CHAIRMAN AHEARNE: Most of it is refueling.

23 COMMISSIONER GILINSKY: Let's just say what the  
24 reason is.

25 CHAIRMAN AHEARNE: "Repairs and refueling".

1           COMMISSIONER HENDRIE: Repairs? You might go  
2 through and say "repair fan cooler units and refueling".  
3 because that is --

4           COMMISSIONER GILINSKY: That is fine. A little  
5 further down there is some comment about the difference  
6 between the containment fan cooler units in the two plants.  
7 We seemed to be leaning a little hard on that earlier, in  
8 describing the Task Force report. We paraphrase that to say  
9 that the two plants are roughly comparable. It may not be  
10 entirely consistent. You are talking about design in the  
11 first case.

12           CHAIRMAN AHEARNE: Design in the first case and  
13 one of the two big differences in the fan coolers are, one,  
14 that Unit 3's are a lot newer because the plant is run  
15 less. Secondly, they have had a much better standard of  
16 maintenance, according to the attachment that Peter had  
17 suggested we put in the back.

18           It points out that they have just maintained them  
19 in a different fashion.

20           COMMISSIONER GILINSKY: Okay.

21           CHAIRMAN AHEARNE: I have a question on page 5.  
22 What I would like to get clear, Len, is that right now Unit  
23 2 is down. There is an immediate action letter from I&E,  
24 currently. What prevents them from coming up?

25           MR. BICKWIT: Nothing of a binding legal nature.

1 The immediate action letter is an informal matter, and under  
2 it permission of the staff would be required, but not in the  
3 legal sense.

4 CHAIRMAN AHEARNE: And Stello reached the  
5 conclusion that they have now satisfied his concerns and  
6 they could then come up?

7 MR. BICKWIT: That is right.

8 CHAIRMAN AHEARNE: We put in this phrase, "prior  
9 to permitting resumption of operations", then what happens?

10 MR. BICKWIT: As I said last time, I think the  
11 easiest reading of this is that you would need a Commission  
12 majority vote. I do not see this as changing the legality  
13 of the matter. But it strikes me as the Commission saying  
14 that it, itself, wants to pass on whether Indian Point 2 can  
15 resume operation.

16 CHAIRMAN AHEARNE: Without the words "permitting  
17 prior to resumption", then what would that say?

18 MR. BICKWIT: Then I would say the Commission is  
19 not saying that then you are back to the status quo prior to  
20 this document.

21 CHAIRMAN AHEARNE: All right. So the word  
22 "permitting" turns out to be very significant. Anyone have  
23 any views on whether it should stay in or come out?

24 COMMISSIONER HENDRIE: I would take it out.

25 COMMISSIONER BRADFORD: I --



1           COMMISSIONER HENDRIE: Or ask the staff to come to  
2 us when it gets into shape where it is beginning to be ready  
3 to go back on line. Come to us and we will go over -- we  
4 said we want to go over with the staff questions on the  
5 fixes of the coolers and various other matters connected  
6 with the whole affair. And if, when we get to that point,  
7 why it seems it is necessary for an order to go out and tell  
8 them to hold until we --

9           COMMISSIONER BRADFORD: I had not understood there  
10 to be any difference between the two formulations. But if I  
11 just understood you correctly, then what you are really  
12 saying, without the word "permitting" in there, the staff  
13 comes to us and we split two-to-two. The plant starts up  
14 with it in there.

15           If they come to us and we split two-to-two, then  
16 they do not start up.

17           MR. BICKWIT: That is my reading.

18           CHAIRMAN AHEARNE: Turns out to be significant.

19           COMMISSIONER BRADFORD: Turns out to be  
20 significant, certainly, if that reading is --

21           MR. BICKWIT: Sustained, although I have an idea  
22 what the vote would be.

23           COMMISSIONER GILINSKY: They are not going to be  
24 up for months, right?

25           COMMISSIONER HENDRIE: My understanding -- weren't

1 they talking about six or seven months?

2 COMMISSIONER BRADFORD: I do not think it is of  
3 any great practical significance.

4 CHAIRMAN AHEARNE: No problem with striking it?  
5 (Laughter.)

6 COMMISSIONER BRADFORD: That is right, but let me  
7 pursue my original understanding of whether or not it made  
8 much difference. They cannot presently start up without the  
9 staff approval?

10 MR. BICKWIT: Under the immediate action letter.

11 COMMISSIONER BRADFORD: But you are saying that is  
12 not an enforceable --

13 MR. BICKWIT: It is not.

14 CHAIRMAN AHEARNE: Ordinarily, an immediate action  
15 letter, after the staff has issued that, what it carries  
16 along with it is that if the licensee does not follow what  
17 is being said, then --

18 COMMISSIONER BRADFORD: Do not follow. So there  
19 is a technical matter, though Indian Point, at the moment,  
20 could be restarted. And it would then take a staff order to  
21 shut it down.

22 MR. BICKWIT: That is right.

23 CHAIRMAN AHEARNE: I would go for removing that  
24 word.

25 COMMISSIONER GILINSKY: All right, if you want to.



1           COMMISSIONER BRADFORD: Have we not said anywhere  
2 that the -- that the Commission would review -- I guess I  
3 had thought at least that we -- the formulation with the  
4 word "permitting" in, although I say up until this moment I  
5 had not understood there was any difference, but the  
6 formulation with the word "permitting" in came closer to  
7 what we said would be our posture with regard to Indian  
8 Point restart. I would prefer to keep it in.

9           CHAIRMAN AHEARNE: I think my version of it was as  
10 Joe described it. And my understanding was the staff would  
11 come back and brief us on what their conclusions were. If  
12 we disagreed with the direction they were going, we would  
13 step in, and if we did not, they would go ahead.

14           Okay.

15           COMMISSIONER GILINSKY: Can we go back to the Task  
16 Force on page 4? It says the Task Force reports no  
17 significant differences between Indian Point 2 and 3  
18 designs. I do not think they meant the paper designs.

19           CHAIRMAN AHEARNE: The hardware designs.

20           COMMISSIONER GILINSKY: The plant, as built.

21           CHAIRMAN AHEARNE: As built. The designs were the  
22 same, but it is just the way the one started operation much  
23 later.

24           COMMISSIONER GILINSKY: I wonder what this  
25 "designs" means in the sentence. Did they find any

1 significant difference in the risks between those of Indian  
2 Point 2 and Indian Point 3?

3 CHAIRMAN AHEARNE: Oh, I see what you mean --  
4 whether there is anything latent in that word.

5 COMMISSIONER HENDRIE: As I recall it, they did  
6 not find anything significant, but --

7 CHAIRMAN AHEARNE: The simplest way to find out is  
8 to have Ed go back and talk to Bernero and see if there is  
9 anything latent there.

10 MR. HANRAHAN: It is my impression there isn't  
11 anything beyond -- the two plants are essentially alike.

12 COMMISSIONER HENDRIE: Their analysis deals  
13 primarily with the design features, and in making that  
14 analysis I imagine they did what is normally done in that  
15 kind of risk analysis, which is to assume that, you know,  
16 the plant management and operators generally do the right  
17 thing, except for the human error accounting that is done,  
18 to some extent, in the risk assessment calculations.

19 So, it is primarily a design feature sort of  
20 review. Now whether the word "designs" here has some --

21 CHAIRMAN AHEARNE: I do not think we can -- it is  
22 not really determined here.

23 COMMISSIONER GILINSKY: I do not understand what  
24 the sentence is doing here. What is it intended to  
25 demonstrate? It is in a paragraph that deals with UCS

1 allegations that specific safety defects -- that there are  
2 specific safety defects in the units -- responding to these.

3 CHAIRMAN AHEARNE: Because, I believe, that part  
4 of the reason it is in there would be the UCS petition was  
5 alleging significant differences between the two plants.  
6 And what this is saying is that we do note that the Task  
7 Force report found no significant difference in the risk  
8 between the two designs.

9 COMMISSIONER GILINSKY: Then we are relying on the  
10 differences and handling them differently.

11 CHAIRMAN AHEARNE: Remember we did, in allowing  
12 the interim operation, address the report of the Task Force,  
13 so I think it is appropriate for us to note what the Task  
14 Force did find.

15 COMMISSIONER GILINSKY: Yes --no. I mean, i hey  
16 found -- we want to report it accurately, but it is, you  
17 know, not entirely consistent with our leaning on the  
18 differences. I just note that. It does not mean we are  
19 wrong.

20 CHAIRMAN AHEARNE: Well, perhaps.

21 COMMISSIONER GILINSKY: It does say something  
22 about the Task Force report.

23 CHAIRMAN AHEARNE: Or at least our understanding  
24 of it.

25 COMMISSIONER GILINSKY: Yes.

1           CHAIRMAN AHEARNE: You might try to clarify that  
2 word.

3           All right. Page 6?

4           COMMISSIONER BRADFORD: I take it there was no  
5 objection to the footnote on 5?

6           CHAIRMAN AHEARNE: Not to me. I had a question  
7 whether you wanted to include the last paragraph of Jordan's  
8 letter that you had in there. It did not seem --

9           COMMISSIONER BRADFORD: No, in fact I might go  
10 through that and make sure that there was nothing in it  
11 except a technical description of the two units. That would  
12 give a rough idea of what I had in mind.

13          CHAIRMAN AHEARNE: That seems fine to me. Does  
14 anyone else have any problems with that?

15          (No response.)

16          CHAIRMAN AHEARNE: Page 6? 7? I gather that  
17 really is footnote 1.

18          MR. BICKWIT: Footnote, that would be, now.  
19 Footnote 2, on page -- on the first line. That should say 2.

20          CHAIRMAN AHEARNE: Okay. Then we get to, on page  
21 8, where we are still hung up on which paragraph or sets of  
22 paragraphs to use. And I am almost at the stage of  
23 suggesting that we just say that the Commission has been  
24 unable --

25          COMMISSIONER GILINSKY: I am willing to go along

1 with your formulation and to change "risk" to "spectrum".

2 CHAIRMAN AHEARNE: The change to "spectrum"?

3 COMMISSIONER GILINSKY: "The spectrum of risks".

4 CHAIRMAN AHEARNE: Instead of "range of risks"?

5 COMMISSIONER GILINSKY: Yes.

6 CHAIRMAN AHEARNE: I would agree with that.

7 COMMISSIONER BRADFORD: Why do you think that  
8 improves it?

9 COMMISSIONER GILINSKY: Well, spectrum has the  
10 sense of taking account of the density of data points as  
11 opposed to simply comparing it to the maximum of a range.

12 COMMISSIONER HENDRIE: I do not --

13 CHAIRMAN AHEARNE: I am not sure my optical  
14 friends would agree with you, but nevertheless -- but I  
15 would be willing to go along with "spectrum".

16 COMMISSIONER GILINSKY: Also to change it so you  
17 are comparing the risks at Indian Point to the spectrum of  
18 risks in plants.

19 CHAIRMAN AHEARNE: That is what it already says.

20 COMMISSIONER GILINSKY: It says we are comparing  
21 Indian Point to the risk --

22 CHAIRMAN AHEARNE: It says "risks associated with  
23 Indian Point are significantly" -- "the spectrum of risks  
24 from other operating stations".

25 COMMISSIONER GILINSKY: Right above that -- "The

1 Commission intends to compare Indian Point" --

2 CHAIRMAN AHEARNE: Okay. "The risk from Indian  
3 Point to the spectrum"?

4 COMMISSIONER GILINSKY: "Associated with it".

5 CHAIRMAN AHEARNE: Fine.

6 COMMISSIONER BRADFORD: I don't know if "spectrum"  
7 really means that -- that business about clustering of data  
8 points. Well, it is all right with me.

9 CHAIRMAN AHEARNE: I --

10 COMMISSIONER BRADFORD: I mean, I take it this is  
11 some technical meeting.

12 COMMISSIONER GILINSKY: I just wanted to get that  
13 -- that was my --

14 COMMISSIONER BRADFORD: It is okay with me.

15 CHAIRMAN AHEARNE: I have no problem with carrying  
16 with it the interpretation that there is a density  
17 distribution and we are looking at the density distribution  
18 as well as the balance of distribution.

19 COMMISSIONER GILINSKY: That is the thought.

20 CHAIRMAN AHEARNE: Yes, fine.

21 COMMISSIONER BRADFORD: The line in Alice in  
22 Wonderland about a word meaning exactly what I want it to  
23 mean, neither more nor less.

24 (Laughter.)

25 CHAIRMAN AHEARNE: I think it was Peter Strauss --



1 never mind.

2 (Laughter.)

3 CHAIRMAN AHEARNE: All right. We go on to a  
4 series of four rewritten questions.

5 COMMISSIONER HENDRIE: Before you get away from  
6 this, I'm not very fond of the compromise paragraph, which  
7 is OPE's paragraph.

8 CHAIRMAN AHEARNE: Except grafted onto the ending,  
9 which was from all of us -- the last part, the primary bases  
10 for the position.

11 COMMISSIONER GILINSKY: Except if you say  
12 "spectrum", then significantly above loses its precise  
13 meaning.

14 CHAIRMAN AHEARNE: I do not think so.

15 COMMISSIONER GILINSKY: Clearly, when you say you  
16 are comparing risk to a spectrum of risks -- if you are  
17 going to say "significant" above, you are going to have to  
18 say some -- above some number that characterizes that  
19 density. It could be the maximum.

20 I object to it simply being the maximum, since it  
21 may be another reactor that is almost as bad or worse. You  
22 would not necessarily withhold that for merely that reason.  
23 I mean, the thought is right. What we are interested in is  
24 whether the risks connected with Indian Point are  
25 significantly above, certainly, both of the other reactors.

1 But you want to go further. It gets difficult.  
2 You really have to say, almost, say more or say less. I  
3 certainly would be happy to say more, but then you have to  
4 say --

5 CHAIRMAN AHEARNE: I do not think we can reach  
6 agreement on any more. This was --

7 COMMISSIONER GILINSKY: This was -- it is not a  
8 precise statement simply to say the spectrum.

9 CHAIRMAN AHEARNE: It is about as precise as  
10 saying the range. I doubt whether we can reach agreement.

11 COMMISSIONER GILINSKY: Well, I -- I am inclined  
12 to think we can.

13 CHAIRMAN AHEARNE: Because part of it is that we  
14 are really trying to see what are the range of risks. What  
15 are the consequences of those ranges of risk, and what is  
16 the range of consequences? What are the uncertainties in  
17 both sets? And reach a judgmental conclusions on the basis  
18 of that.

19 COMMISSIONER GILINSKY: I am not sure this is the  
20 place to try for alternative language, but I think we ought  
21 to be trying to make this more precise.

22 CHAIRMAN AHEARNE: All right. Okay.

23 COMMISSIONER GILINSKY: Because if you saying  
24 --

25 CHAIRMAN AHEARNE: If we can.



1 COMMISSIONER GILINSKY: Somebody is taller than --  
2 you have to say "than something" -- a number, a person. You  
3 cannot say he is taller than the spread of heights.

4 CHAIRMAN AHEARNE: That is true.

5 COMMISSIONER BRADFORD: Actually, as someone with  
6 some experience in that --

7 (Laughter.)

8 COMMISSIONER GILINSKY: The maximum, yes.

9 COMMISSIONER BRADFORD: I have always been told I  
10 am taller than the range of heights.

11 COMMISSIONER GILINSKY: That may mean it's okay.  
12 I don't know.

13 CHAIRMAN AHEARNE: You were not happy with this  
14 compromise paragraph?

15 COMMISSIONER HENDRIE: I do not like the way it  
16 comes in and hangs everythin on the societal risks.  
17 Individuals get thrown in as an afterthought as well as the  
18 risk to individuals, and then only resulting from the  
19 difficulty of evacuating.

20 COMMISSIONER GILINSKY: Isn't that where --

21 COMMISSIONER HENDRIE: There is some fundamental  
22 American principle at work in society. It is the merit of  
23 the individual. That is why I wanted to start out the way I  
24 phrased it and say the basic proposition is, are the  
25 individuals living around Indian Point significantly at

1 greater risk than people living around other plants? If  
2 they are, that is a problem. And if they are now, why it  
3 does not sound like a problem. But we are also willing to  
4 look at the sort of sum-total of society results and  
5 property damage and so on.

6 But I have always regarded that as a secondary  
7 criterium.

8 COMMISSIONER GILINSKY: Why do we have siting  
9 criteria requiring certain distances from population centers?

10 COMMISSIONER HENDRIE: That is a way of thinning  
11 things out, I suppose, and reducing the consequences. But  
12 it continues to seem to me that the individual risk is the  
13 primary -- the primary thing that you look at.

14 Let me point out, if you decide that society risk  
15 is what you are interested in, then you have to make the  
16 reactors at Indian Point at lot safer than the reactors at  
17 Diablo Canyon. Now see if you can explain why -- explain to  
18 a resident in the Diablo area why the reactors he lives next  
19 to do not have to be as safe as the ones that his  
20 brother-in-law in Buchanan, New York, lives next to.

21 COMMISSIONER GILINSKY: Use Arkansas.

22 CHAIRMAN AHEARNE: Joe, the other way is, if we  
23 say they only need to be as safe, then you have the hundreds  
24 of thousands of people around Indian Point saying why  
25 shouldn't they have a greater level of protection than the

1 people at Diablo?

2 COMMISSIONER GILINSKY: It is clear you have to  
3 look at both, and that is what we struggle with here. But  
4 the reason we are looking at this reactor is precisely  
5 because there are a lot of people around it. It does not  
6 mean the individual risk is unimportant, but that is what  
7 triggers this investigation.

8 COMMISSIONER HENDRIE: Yes, but I certainly do not  
9 like the smell of this paragraph. That what we really are  
10 interested in is how many people each get 3 millirem and  
11 never mind those folks who are in close enough for it to  
12 really have a significant effect.

13 COMMISSIONER GILINSKY: But this has been one of  
14 the strains of safety regulation right from the beginning.  
15 That is why there are population criteria. You are  
16 concerned about both.

17 COMMISSIONER HENDRIE: But we have also pretty  
18 well hung up on standard sets of safety requirements on  
19 plants.

20 COMMISSIONER GILINSKY: Yes, so we require that  
21 they be a certain distance from population centers and we  
22 are putting limits on population densities and so on. You  
23 would not do any of these things if the only thing you were  
24 concerned about is individual risk.

25 COMMISSIONER HENDRIE: Yes, but this plant at this

1 site meets those old standards. Okay?

2 COMMISSIONER GILINSKY: Right. I see.

3 COMMISSIONER HENDRIE: So this one is no different  
4 than the 70 which are licensed to operate in terms of, you  
5 know, the standard of years ago, when it was established.  
6 So this is within what was considered the acceptable range  
7 of sites from the population standpoint -- that is, there is  
8 no question about population being excessive at the site if  
9 your criteria for judgment on that question is the siting  
10 standards by which this and the 70 operating plants were  
11 sited, we are going out beyond that.

12 CHAIRMAN AHEARNE: Wasn't this plant used as the  
13 peg point?

14 COMMISSIONER HENDRIE: This was not the first site  
15 approved, but it's certainly one of the early ones and it  
16 was certainly used as representing the top end of the  
17 scale. We did not care to go past it.

18 But it was acceptable under the standards that  
19 were used in the days it was approved and in the subsequent  
20 development of standards in which the fact that it existed  
21 obviously had a large part to play.

22 But what I am saying is, yes, yes, the reason we  
23 are looking at this is there are a lot of people here. That  
24 is quite true. But you say the siting -- the fact that we  
25 have siting rules that have something to do with population

1 means that that is what we are really interested, and I am  
2 saying no, the siting rules just simply say keep the site in  
3 a region beyond certain population densities.

4           And all of these sites -- Indian Point included --  
5 meet that ancient standards. Now that may not be the  
6 standard we want to carry forward to the future, but that is  
7 sort of a new rule.

8           COMMISSIONER GILINSKY: I assume it meets it,  
9 otherwise the plant would not be there. I did not say it is  
10 the thing we are interested in. I was just saying it is one  
11 element of the basic standards that have always been applied.

12           COMMISSIONER HENDRIE: This says, in particular  
13 the Commission is concerned with the total risk to persons  
14 and property posed by the Indian Point plant. And then it  
15 adds, you know, as a throw-away line, yes, yes, as well as  
16 the risk to individuals resulting from the difficulty of  
17 evacuation, which is not what you mean, as well as the risk  
18 to individuals including those arising from the difficulty  
19 of evacuation.

20           COMMISSIONER GILINSKY: I do not know what other  
21 risks that are affected by the presence of population. In  
22 other words, I just -- again, we talked about trying to  
23 narrow the scope of the investigation and it struck me --  
24 this concern about evacuation -- as the only one that is  
25 importantly affected by there being a lot of people around

1 the plant.

2           It sounds to me like I should have agreed with  
3 "significantly above the spectrum".

4           (Laughter.)

5           And then let it go at that. Maybe I ought to do  
6 that.

7           (Laughter.)

8           But I think -- you know, what you say is true,  
9 Joe. But what this is all about, as I understand it, is we  
10 are reconsidering those standards. I mean, if we aren't, I  
11 do not know --

12           CHAIRMAN AHEARNE: That is what the purpose -- I  
13 think that is right. The only reason we are going through  
14 this process is because the plants are sited in an area with  
15 a very large population density and we are, in a sense,  
16 reconsidering it. That is clearly what this whole thing is.

17           COMMISSIONER GILINSKY: We obviously will be  
18 taking account -- let me put it this way. Whatever we  
19 decide to do, we will have to take into account the fact  
20 that we are dealing with a plant that is there, and built,  
21 and so on. So it is not as if one was going to arrive at  
22 some new standard and simply impose it on a plant as if it  
23 were a new plant.

24           CHAIRMAN AHEARNE: I note in the last phrase it  
25 treats individuals and societal risks.

1 COMMISSIONER HENDRIE: Yes. I would at least like  
2 to get individual risks back on an equivalent basis.

3 CHAIRMAN AHEARNE: That is what I am saying.

4 COMMISSIONER HENDRIE: How about doing something  
5 with the paragraph up above.

6 COMMISSIONER GILINSKY: You want to change "as  
7 well as" to "and"?

8 COMMISSIONER HENDRIE: Yes. I would like to  
9 change "as well as" to "and".

10 COMMISSIONER GILINSKY: I think that is about --

11 CHAIRMAN AHEARNE: Okay.

12 COMMISSIONER HENDRIE: I would like to do  
13 something with the resulting -- the previous thing.

14 COMMISSIONER GILINSKY: What is it we are trying  
15 to -- I mean, you want to look at other individual risks and  
16 demonstrate the fact that these are going to be lower in  
17 this case -- I mean, it is clear that if you bring the  
18 societal risks into some sort of balance you are going to  
19 reduce individual risks here, in part, possibly, from this  
20 evacuation question -- how that will turn out.

21 COMMISSIONER HENDRIE: That might turn out to be a  
22 compensating effect.

23 COMMISSIONER GILINSKY: Is it a matter of  
24 introducing the balance -- someone sees the whole picture?  
25 That these are going to be brought down? Do you want to



1 establish that? I am not clear what it is you want to --  
2 what it is you are aiming at.

3 COMMISSIONER HENDRIE: What I want to do is, at  
4 least, get in the Commission's position process at least an  
5 equal weight placed on the individual risk -- the question.  
6 I think if I were writing it myself I would put more than  
7 equal weight on it. But at least equal weight on individual  
8 risk.

9 COMMISSIONER GILINSKY: I guess I do not  
10 understand that. It is not as if we were ignoring  
11 individual risk. It is that individual risks do not, except  
12 for certain selected questions mentioned here -- principally  
13 the one mentioned here -- do not pose a problem. They are  
14 going to get lower. We know that. You are describing the  
15 dilemma before us. It is not a cause of concern, but the  
16 fact that there are a lot of people around the plant, if  
17 there were to be an accident the number of persons hurt --  
18 the damage -- could be substantially greater than  
19 elsewhere. That is why we are bringing this to the table  
20 here.

21 So, at least as far as I am concerned, that is the  
22 concern. It isn't that thereby one is ignoring the question  
23 of individual risks, but that this is where the problem  
24 arises. I mean, I do not think it means we are shifting to  
25 somehow more emphasis on societal risk in the general way of

1 looking at things.

2           COMMISSIONER HENDRIE: If you came out of this  
3 analysis and found that the individuals risks -- the maximum  
4 individual risk -- was some notable low number --  
5 unexpectedly low number -- one in a million per plant year  
6 of injury -- and was, for instance, a factor of ten below  
7 the mean of the corresponding risk at other -- at the run of  
8 other plants, which might be one in one hundred thousand.

9           But you found, gee, there are an awful lot of  
10 people around Indian Point, so that if I take these  
11 products, you know, of ten millirem exposures and millions  
12 of people, I get ten times as much person-rem exposure, you  
13 really are going to cite Indian Point is unacceptable?

14           COMMISSIONER GILINSKY: I think if you bring  
15 individual risk down by a factor of ten you are going to get  
16 comparable societal risks. I suppose that is conceivable.

17           COMMISSIONER HENDRIE: What I am saying is that I  
18 want to look at those individual risks because that really  
19 is, to me, where the key questions come.

20           CHAIRMAN AHEARNE: I guess, then, Joe, what you  
21 really would prefer would be to say where Vic, as he said,  
22 had tried to narrow -- because -- to the individual risk  
23 from evacuation. Joe's original phraseology was the risk to  
24 individuals including those resulting from the difficulty in  
25 evacuating.

1 COMMISSIONER BRADFORD: How is the risk to  
2 individuals different from the risk to persons, which  
3 appears in the line above?

4 COMMISSIONER HENDRIE: I do not read any. I do  
5 not read any.

6 COMMISSIONER BRADFORD: How about if you just --

7 COMMISSIONER HENDRIE: Total risk to persons is a  
8 societal --

9 COMMISSIONER BRADFORD: Is it necessarily? Or are  
10 we just reading it that way?

11 COMMISSIONER HENDRIE: Well, that is the way I am  
12 reading it.

13 COMMISSIONER GILINSKY: I see, we're thinking of  
14 including --

15 COMMISSIONER BRADFORD: I was thinking of stopping  
16 the sentence with the word "plants."

17 COMMISSIONER GILINSKY: And you would be including  
18 the individual risk and the collective risk.

19 COMMISSIONER BRADFORD: The next sentence makes  
20 clear we are talking about individual and societal risks.

21 CHAIRMAN AHEARNE: Well, then, I guess to do that,  
22 to be clear, you might say the Commission is concerned with  
23 the risks to persons and property posed by the Indian Point  
24 plant, period. And drop the second part -- the word "total"  
25 -- and then, as you say, the second part addresses the

1 individual and societal.

2 COMMISSIONER GILINSKY: I would like to see a more  
3 precise statement, even if it does not have numbers to  
4 support it, just because I think the Board --

5 CHAIRMAN AHEARNE: Yes, yes.

6 COMMISSIONER BRADFORD: Okay.

7 COMMISSIONER GILINSKY: In a position to deal with  
8 --

9 COMMISSIONER BRADFORD: I am not objecting to the  
10 formulation as it is. I can live with that. I could also  
11 live with the one that I just suggested, with John's further  
12 modification.

13 COMMISSIONER GILINSKY: You know, I wonder if this  
14 isn't the sort of thing that is best handled by some  
15 interoffice --

16 CHAIRMAN AHEARNE: That is what we tried before,  
17 but I think we have now spent probably 20 minutes at it. So  
18 we will try that again. Let's see if we can't try to modify  
19 that paragraph. At least that would be, hopefully, a  
20 starting point, and we will try again.

21 All right. The next page. We go into a series of  
22 questions which the staff attempted to --

23 COMMISSIONER GILINSKY: Are you on page 9?

24 CHAIRMAN AHEARNE: Well, mine is cut off at the  
25 bottom. Yes, okay. Page 9.

1           COMMISSIONER GILINSKY: I thought the discussion  
2 there was a little too bullish on risk assessment, to tell  
3 you the truth.

4           COMMISSIONER HENDRIE: You either do it on a risk  
5 assessment basis or you just get in a decibel meter and a  
6 set of parties can become -- produce the largest screams.

7           COMMISSIONER GILINSKY: Applause meters. I  
8 thought it needed something like, nevertheless, despite the  
9 associated uncertainties, and go on to risk assessment by  
10 the best means available, or something like that.

11          COMMISSIONER BRADFORD: The sentence above that  
12 does at least mention the uncertainties.

13          COMMISSIONER GILINSKY: I see. I'm not sure the  
14 Commission is fully --

15               (Laughter.)

16          COMMISSIONER BRADFORD: Some Commissioners?

17               (Laughter.)

18          CHAIRMAN AHEARNE: Well, if you would like to put  
19 in "despite some uncertainties", that is acceptable.

20          COMMISSIONER GILINSKY: "Despite these  
21 uncertainties", something like that.

22          CHAIRMAN AHEARNE: Fine, fine.

23          COMMISSIONER HENDRIE: You say the Commission is  
24 fully aware of the uncertainties, et cetera. The  
25 references, and say "despite these uncertainties risk

1 assessment"--

2 COMMISSIONER GILINSKY: Fine.

3 CHAIRMAN AHEARNE: 10?

4 (Pause.)

5 Then the OPE and the OGC -- OGC attempted to put  
6 together from the last transcript what appeared to be an  
7 acceptable set of questions. Any problems?

8 COMMISSIONER BRADFORD: Well, let's see. Not with  
9 the general framework.

10 There were a couple of specific articles in the  
11 questions the way Victor and I formulated them that I would  
12 like to try and salvage, one of which was, we had asked what  
13 the range of probabilities assigned by experts, et cetera,  
14 in the interest of, as I think somebody put earlier,  
15 avoiding having this proceeding redo WASH-1400.

16 I would like to retain the phrase "assigned by  
17 experts", maybe including the range of probabilities. But  
18 anyway, the phrase, "as found by experts", so we don't leave  
19 the staff and the parties with the sense that it is their  
20 job to go out and redo WASH-1400.

21 CHAIRMAN AHEARNE: Where?

22 COMMISSIONER BRADFORD: I guess I would try to  
23 work it into the first question. But maybe there is  
24 somewhere else.

25 COMMISSIONER GILINSKY: It was originally in the



1 first.

2 COMMISSIONER BRADFORD: It was in our first  
3 question, yes.

4 COMMISSIONER GILINSKY: Which was more or less  
5 like the question there.

6 CHAIRMAN AHEARNE: I guess what you are  
7 essentially saying is you would like the Board to take  
8 expert testimony on this issue.

9 COMMISSIONER BRADFORD: Well, don't you think they  
10 are going to be doing that anyway?

11 CHAIRMAN AHEARNE: I would have thought so. I am  
12 not really sure what is the issue that --

13 COMMISSIONER GILINSKY: It could be taken to mean  
14 that we intend to have -- do some investigation.

15 COMMISSIONER BRADFORD: You mean the way it is  
16 formulated now?

17 CHAIRMAN AHEARNE: Not if your schedule gets  
18 written.

19 COMMISSIONER GILINSKY: That was the reason for --

20 CHAIRMAN AHEARNE: I think if your schedule gets  
21 put in with reasonable tightness that that will not be an  
22 interpretation.

23 COMMISSIONER GILINSKY: That is another way of  
24 doing it.

25 COMMISSIONER BRADFORD: I guess I would rather say

1 it directly. If you leave it simply to the Board to work  
2 backward from the schedule, first of all, unless we actually  
3 make the schedule mandatory -- that is, say on a date  
4 certain we expect you to forward up exactly what you have,  
5 regardless of the state of the proceeding. It is not going  
6 to be all that clear to the Board where we expect to impinge.

7 COMMISSIONER GILINSKY: I think it is useful to  
8 say -- to add we are also looking for --

9 CHAIRMAN AHEARNE: Expert testimony?

10 COMMISSIONER GILINSKY: I think, as opposed to a  
11 recalculation -- sort of a total recalculation.

12 COMMISSIONER BRADFORD: Supposing this just read,  
13 "What is the range of probabilities assigned by experts to"  
14 -- and then exactly.

15 COMMISSIONER HENDRIE: Assigned to what?

16 COMMISSIONER BRADFORD: Serious accidents at  
17 Indian Point 2 and 3. The rest of question 1 -- exact the  
18 way you have it.

19 COMMISSIONER HENDRIE: Everybody who can succeed  
20 in beating, getting disqualified as an expert -- the Board  
21 will be pretty generous with that -- you now have 42  
22 estimates of probability and the Board reports them and the  
23 ranges, whatever the range is.

24 COMMISSIONER BRADFORD: Somehow we have reversed  
25 roles here, Joe. I am trying to narrow the question. The

1 scene that you are describing I think is implicit in the  
2 question the way you are seeking to frame it here. And not  
3 only can everybody who can be described as an expert get  
4 into the game, but there is no limit to the depth that they  
5 can go.

6           Now there may be a better way to do it than either  
7 Vic's question or this one.

8           COMMISSIONER HENDRIE: The guy who has the plant  
9 up there and would like to keep his license and continue to  
10 make power with the plant, if he thinks he has a good case  
11 to make in terms of the risk level, it is not clear to me  
12 that he ought to be cut off and not allowed to present that  
13 argument.

14           And what I am not particularly interested in are  
15 42 estimates by 42 individuals of 10 to the minus anywhere  
16 from zero to nine on accidents. What I would like to see is  
17 somebody's -- probably several peoples' rational  
18 calculations of the consequence distribution curve,  
19 appropriately probability rated and so on. That is, we have  
20 gone a page or so earlier in this order -- taken the trouble  
21 to comment. I think we would like to see those  
22 distributions, probability and consequence distributions and  
23 so on.

24           A series of horseback guesses by people who get  
25 themselves labeled expert in a hearing, you know, I am not

1 sure where you are going to go with that. You are going to  
2 get some very high estimates of probability and some low  
3 estimates for probability.

4 COMMISSIONER GILINSKY: Let's deal with it by  
5 referring to the schedule.

6 COMMISSIONER HENDRIE: I think you could do a  
7 certain amount of control by the schedule.

8 COMMISSIONER BRADFORD: Okay. I do not see  
9 anything in the formulation as it is here that precludes the  
10 nightmare that you just described. But I --

11 CHAIRMAN AHEARNE: All right. The next issue.  
12 Peter, do you have any other?

13 COMMISSIONER BRADFORD: Yes. I am not sure where  
14 I would target in, but our questions -- I have trouble  
15 running back and forth between the drafts, but we had a  
16 focus in our question E on property damage, including  
17 long-term uninhabitability that does not seem to me to be  
18 captured anywhere in these questions. And I would just as  
19 soon pick it up again.

20 COMMISSIONER HENDRIE: Well, it is not picked up  
21 explicitly because it is, once again, one of those questions  
22 that says, in effect, what is the maximum consequence that  
23 could ensue -- this in a property damage sense rather than a  
24 human injury sense. And to me those are meaningless results  
25 unless they are associated in the same breath with the

1 probability of occurrence of those consequences and with  
2 some sense of the distribution of those probabilities of  
3 those consequences versus probability.

4           There is not a reactor in the country -- and  
5 Indian Point is just more so -- for which, if you say what  
6 is the maximum property damage consequence that conceivably  
7 could occur, which is what you have asked here, you are  
8 going to get one hell of a large consequence. If you ask it  
9 in terms of human effects, well, it can be quite large there  
10 too.

11           COMMISSIONER BRADFORD: Yes.

12           COMMISSIONER HENDRIE: Not as large as some people  
13 would speculate, but --

14           COMMISSIONER BRADFORD: Are you saying it is the  
15 wrong question, or it is implicit in question 1?

16           COMMISSIONER HENDRIE: I am saying that that case  
17 is part of the risk imposed by serious accidents at Indian  
18 Point 2 and 3 but that, as question 1 asks it, you see that  
19 sort of end point, appropriately probability-weighted out  
20 there at the end of the distribution.

21           My objection to the questions you and Vic had were  
22 that they asked these questions -- you know, how big can  
23 this be and how big can that be, and yes, you were willing  
24 to look at the probability. But talking about those  
25 isolated events and not about the risk spectrum is, in my

1 view, a very unbalanced way to get at the points. And it  
2 has the unfortunate property that it leaves you talking in a  
3 proceeding about these extreme events. And, you know --  
4 well, I think we all recognize the kind of forum this is  
5 likely to turn out to be.

6 COMMISSIONER GILINSKY: I want to say that I  
7 started off with probability.

8 COMMISSIONER HENDRIE: Okay.

9 COMMISSIONER GILINSKY: I don't put enough  
10 emphasis right in the first sentence.

11 CHAIRMAN AHEARNE: I think what Joe is saying, and  
12 I would agree with him, is that the consequences are  
13 included in the estimates. They are not treated as a  
14 separate issue and so, both in number 2 and number 5, the  
15 consequences will be included.

16 Previously in the discussion we had referenced, I  
17 thought in one of these statements somewhere in the long-term  
18 effects -- I think in the context of the way --

19 COMMISSIONER BRADFORD: Can you find that, John?

20 CHAIRMAN AHEARNE: Let's see.

21 COMMISSIONER BRADFORD: I have a vague memory to  
22 that effect as well, but I could not find it on a fast  
23 run-through this morning.

24 CHAIRMAN AHEARNE: Neither could I. I was trying  
25 to. If I recall --



1           COMMISSIONER HENDRIE: If you go to page 9, at the  
2 foot and continue on page 10, you will find a general  
3 description of the sort of societal effects that you want to  
4 see. And here property damage, decontamination and crop and  
5 milk losses and the possibility that some areas affected by  
6 an accident might be uninhabitable for long periods --

7           CHAIRMAN AHEARNE: Other questions?

8           COMMISSIONER BRADFORD: Those are the only two.

9           CHAIRMAN AHEARNE: Victor?

10          (No response.)

11          CHAIRMAN AHEARNE: Joe?

12          (No response.)

13          CHAIRMAN AHEARNE: General Counsel will be making  
14 some fine tuning of the words. He will also be checking a  
15 couple of general issues. He will be attempting to come up  
16 with a schedule and I guess we will, by interoffice  
17 attempts, try to iron out that still-sticking paragraph.  
18 And we will just try to, whenever we can bring all those  
19 things to conclusion, we will meet a again.

20          (Whereupon, at 11:28 a.m., the meeting was  
21 adjourned.)

22

23

24

25

NUCLEAR REGULATORY COMMISSION

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

in the matter of: Public Meeting - Discussion of Instructions to Board  
on Indian Point Proceeding

Date of Proceeding: December 15, 1980

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

Place of Proceeding: Washington, D. C.

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

\_\_\_\_\_  
Official Reporter (Typed)



(SIGNATURE OF REPORTER)