



1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 In the Matter of: :  
5 METROPOLITAN EDISON COMPANY : Docket No. 50-289  
6 (Three Mile Island Unit 1) : (Restart)  
7 - - - - - x

8 Skyways Inn  
9 Susquehanna Room  
10 Eisenhower Boulevard  
11 High Spire, Pennsylvania 17034

Thursday, November 12, 1981

12 The reopened evidentiary hearing in the above-  
13 entitled matter convened at 9:02 a.m., pursuant to recess.

14 BEFORE:

15 GARY MILHOLLIN, Special Master  
16 Atomic Safety & Licensing Board

17 On behalf of the Licensee, Metropolitan Edison Company:

18 ERNEST L. BLAKE, Jr., Esq.  
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24 On behalf of the Commonwealth of Pennsylvania:

25 ROBERT ADLER, Esq.  
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## 1 APPEARANCES (Continued):

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7 On behalf of Three Mile Island Alert:

8 LOUISE BRADFORD  
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10 Harrisburg, Pennsylvania 17102

11 On behalf of the NRC Regulatory Staff:

12 LUCINDA LOW SWARTZ, Esq.  
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15 U.S. Nuclear Regulatory Commission  
16 Washington, D.C.

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C O N T E N T S

WITNESS:

DIRECT CROSS REDIRECT RECROSS BOARD CROSS  
ON BOARD

Robert C. Arnold (Resumed)

By Ms. Bradford 23,751  
By Ms. Aamodt 23,779  
By Mr. Clewett 23,821

AFTERNOON SESSION .. page 23,838

Robert C. Arnold (Resumed)

By Mr. Adler 23,859  
By Mr. Goldberg 23,891  
By Mr. Blake 23,896  
By Judge Milhollin 23,897  
By Mr. Clewett 23,907

Henry D. Hukill

By Mr. Blake 23,912  
By Ms. Bradford 23,914

E X H I B I T S

NUMBER

IDENTIFIED IN EVIDENCE

TMIA 54	23,773	23,778
TMIA 55 & 56	23,917	23,921
TMIA 57 & 58	23,918	23,921
TMIA 59	23,919	23,921
TMIA 60	23,933	23,934

Licensee's Testimony of Henry D. Hukill, dated 11/03/81,  
comprised of 21 pages and a two-page attachment.....23,913

300 7TH STREET, S.W., REPORTERS BUILDING, WASHINGTON, D.C. 20024 (202) 554-2345

P R O C E E D I N G S

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(9:02 a.m.)

3

JUDGE MILHOLLIN: The hearing will come to order.

4

MR. BLAKE: Judge Milhollin, the parties met again last night after the close of the hearing to discuss sequestration. We have arrived at an agreed upon order for sequestration that is being typed this morning, and as well, we have compiled over the night a list which would be an attachment to that of prospective witnesses, both those that would appear on licensee's behalf and those that would be licensee employees.

12

When that list has been typed as well, I will distribute it to the parties this morning, presumably at the break. We can discuss it further and have something for you after the morning break.

16

JUDGE MILHOLLIN: Very well.

17

MR. BLAKE: I have also alerted the parties that with respect to witness availability, I can foresee at this point one complication or potential complication with Mr. Trunk. Mr. Trunk is not available either next Tuesday or Wednesday, and as we approach Friday and Saturday we will just have to make the best position we can about whether or not to put him on on Saturday if it looks like we could complete him on Saturday. At least my intention at this point is to continue Mr. Arnold, Mr. Hukill and Mr. Ross,

1 and then at that point decide whether or not, wherever we  
2 are on Friday or Saturday, whether or not we could put in  
3 Mr. Trunk at that point.

4           But I am just trying alert everybody so they have  
5 several days to prepare in case Mr. Trunk comes in on  
6 Saturday.

7           JUDGE MILHOLLIN: Mr. Trunk might not be available  
8 on what days next week did you say?

9           MR. BLAKE: Tuesday and Wednesday, the 17th and  
10 18th. I have indicated to Ms. Bradford this morning -- made  
11 a suggestion with respect to her TMIA-53 and assuming that  
12 suggestion is taken, I would have no objection to its  
13 admission.

14           MS. BRADFORD: Judge Milhollin, I have not had  
15 time this morning to adequately consider Mr. Blake's  
16 suggestion. I will be able to look at it at the break and  
17 make a decision.

18           JUDGE MILHOLLIN: Fine.

19           MR. BLAKE: Finally, with respect to the two  
20 individuals who I was trying to touch base with for  
21 ratification, I have in fact touched base with one of them  
22 and gotten a favorable reaction. We are still trying on the  
23 latter and I will continue to make reports to you.

24           JUDGE MILHOLLIN: I have delivered to Mr. Blake  
25 signed originals of the stipulation and order on

1 confidentiality. He will arrange for the distribution of  
2 those in Washington. Isn't that right, Mr. Blake?

3 MR. BLAKE: I will undertake to serve those if I  
4 can just put in a cover letter that at the Chairman's  
5 request, I am serving this on all parties.

6 JUDGE MILHOLLIN: Yes.

7 MR. BLAKE: And I will serve it up here on the  
8 individuals who are here and as well on what I understand to  
9 still be the direction that all the parties in the  
10 proceeding have.

11 JUDGE MILHOLLIN: Yes, the entire service list.

12 MR. BLAKE: Yes, sir.

13 MR. GOLDBERG: Judge Milhollin, I have a  
14 preliminary matter concerning the stipulation on  
15 confidentiality which I believe is basically just a  
16 clarification that ought to be understood by everyone and  
17 ought to be on the record.

18 In paragraphs 9 and 10 --

19 JUDGE MILHOLLIN: Just a moment.

20 (Pause.)

21 Go ahead.

22 MR. GOLDBERG: Excuse me. In paragraphs 8 and 9  
23 it is provided that there will not be disclosure of the  
24 identity of individuals by the NRC staff. As was explained  
25 to the parties when this stipulation was negotiated, the NRC



1 stand and, having been previously duly sworn, was examined  
2 and testified further as follows:

3 JUDGE MILHOLLIN: Ms. Bradford, you may proceed.

4 CROSS EXAMINATION (Resumed)

5 BY MS. BRADFORD:

6 Q Good morning, Mr. Arnold.

7 A Good morning, Ms. Bradford.

8 Q I would like to take up where we left off  
9 yesterday afternoon, and if you recall we were discussing  
10 Mr. V.V.'s placement in the accelerated training program.

11 As I recall, the discussion was if that was his  
12 placement in the requalification, the accelerated program  
13 was a requirement of the administrative procedure which  
14 governs that program.

15 A Ms. Bradford, I really cannot speak to the  
16 specific circumstances surrounding Mr. VV's status vis a vis  
17 the Training Department procedure requirements at that time  
18 of July 1979. I am just simply not familiar with it.

19 Q Okay.

20 A We will have witnesses, I think, that can address  
21 that.

22 Q Okay, fine. Can you tell me how long Mr. VV has  
23 been employed at TMI?

24 A My recollection is that Mr. VV was assigned to  
25 Three Mile Island in about the 1968-69 timeframe, so he has

1 been there on the order of 12 or 13 years.

2 Q And how long had he held the position that he was  
3 holding in 1979?

4 A I do not know.

5 Q Was he an SRO?

6 A Yes.

7 Q Do you know how long he had been licensed at TMI?

8 A He was in the initial group, as I recall, that  
9 received cold licenses on TMI Unit 1, so he probably  
10 received a cold license in late 1973, early 74. But I do  
11 not think I am too far off, but that may not be quite  
12 exactly correct.

13 Q Fine. Was he also licensed for TMI 2?

14 A Yes, he was.

15 Q And when did he receive that license? Do you know?

16 A My recollection is that most of the people who  
17 were licensed in Unit 1 and received what we call a  
18 cross-license on Unit 2, among the initial group received  
19 those cross-licenses in the second half of 1977 perhaps.  
20 The issuing of the licenses for a particular unit is  
21 dependent upon the unit's schedule as much as anything, and  
22 we received an operating license for TMI 2 in February of  
23 1978, as I recall.

24 Q Fine. Did you at any time speak with Mr. O about  
25 his part in the 1979 incident?

1 A No, ma'am, I did not.

2 Q Do you know if there was any disciplinary action  
3 taken with regard to Mr. O?

4 A To the best of my knowledge, there was no  
5 discipline taken, and I was familiar or conferred in July  
6 1979 with the decision not to impose discipline on Mr. O, as  
7 I was confident that his role in it was innocent.

8 Q Could you explain that decision, please?

9 A Yes. The explanation provided by Mr. O for  
10 answering the questions was simply that; that he was  
11 requested by Mr. VV who was his supervisor to answer some  
12 questions. This was not an unusual kind of request in the  
13 sense that within the Operations Department they frequently  
14 work with each other in developing answers to questions to  
15 assist each other's knowledge of the plant procedures, not  
16 typically to my knowledge answering questions that were a  
17 part of assignments or exams or of that nature, but were  
18 outside of the formal Training Department procedures or  
19 requirements, and that he had understood the request to be  
20 of that nature.

21 Mr. VV confirmed that he had not identified what  
22 the background of the questions consisted of, and that Mr.  
23 O's participation was completely innocent.

24 Q Was Mr. O Mr. VV's subordinate?

25 A Yes.

1 Q Mr. Arnold, do you feel that a management person  
2 misrepresenting a request such as you just described to a  
3 subordinate is --. First of all, let me ask you did Mr. VV  
4 represent that request to Mr. O and tell him that it was  
5 part of an exam?

6 A I would have to conclude he did not. He did not,  
7 to my knowledge, and I think that Mr. VV considered the  
8 requirement which we are referring to as an exam -- I will  
9 not quibble with that characterization of it -- as more in  
10 the nature of an exercise and information that he was  
11 required to be cognizant of and aware of and familiar with,  
12 and that he fulfilled that by being sure he understood the  
13 answer to those questions.

14 And it was the understanding of the answers and  
15 not the specific mechanism by which he developed the  
16 understanding that he felt was the objective of the  
17 assignment and the critical element of it.

18 Q By "he", do you mean Mr. VV?

19 A Yes.

20 Q I see. But in fact, he did not explain to Mr. O  
21 that that was part of an exam or a quiz?

22 A Not to my knowledge. He did not.

23 Q All right. Let me go back to what I started to  
24 ask you just now. A management person who would  
25 misrepresent that kind of a request to his subordinate in

1 that way that you just described, do you feel that that kind  
2 of management person is conveying to other employees in the  
3 plant what kind of message?

4       A     Well, first of all, I think I would disagree that  
5 I described it as misrepresenting -- that what I described  
6 constituted misrepresenting it, the questions by Mr. VV to  
7 Mr. O. I will readily agree that Mr. VV did not give the  
8 background to my knowledge of what he was working on, but I  
9 do not think that in the context that I described and which  
10 was my understanding of Mr. VV's understanding of the  
11 requirement, that that constituted misrepresenting it.

12           Nevertheless, I think that the failure by Mr. VV  
13 to understand the training program requirements to be sure  
14 that he was personally supporting them and conveying that  
15 support to the people that work for him was a significant  
16 lapse in his judgment and in his fulfilling of his  
17 responsibilities. And I think that that approach to those  
18 training program requirements gave the wrong signals to his  
19 organization. That is what he was held accountable for in  
20 the discipline that we took in that instance.

21       Q     Let's just go back again to the request. If, as  
22 you say, Mr. VV considered he would have fulfilled the  
23 requirements of the exam if he read the work product of Mr.  
24 O, is it likely that he would have told him that this was  
25 part of an exam?

1           A       Well, it seems to me that they are inconsistent  
2 attitudes.  If he thought of the questions in terms of an  
3 exam, as we would normally characterize an exam, he never  
4 woul have proceeded as he did.  Not looking at it as an exam  
5 in the traditional use of that word, I can hardly expect  
6 that he would describe the questions as being characterized  
7 by an examination requirement.

8           Q       Did he tell Mr. VV it was part of -- excuse me.  I  
9 mis-spoke.  Did Mr. VV tell Mr. O that it was part of a  
10 take-home assignment?

11          A       Not to my knowledge he did not, and that was the  
12 information that we had from Mr. O and that was the  
13 information that was confirmed by Mr. VV, according to the  
14 reports I received.

15          Q       How long had Mr. O been employed by Met Ed?

16          A       My recollection is that Mr. O had been with us for  
17 about the same timeframe as Mr. VV.  I think perhaps March  
18 of 1969.

19          Q       Would you say that Mr. O was highly regarded by  
20 other operators?

21          A       No question in my mind that he was very, very  
22 highly respected for his personal qualities as well as  
23 professional qualities, and still is, by and large.

24          Q       And --

25          A       Even though there is clear opinion that what he

1 did was wrong. His many years of very strong performance  
2 are not completely wiped away.

3 Q I take it from your response that he was also  
4 highly regarded by management.

5 A Yes, he was.

6 JUDGE MILHOLLIN: Mr. Arnold, was VV regarded in  
7 the same way by management?

8 THE WITNESS: I think that management's perception  
9 of Mr. VV was that he was a very capable technical person,  
10 very, very knowledgeable about the plant. And while I  
11 recognize it is a very subjective kind of thing, he had an  
12 operator's feel for the plant.

13 Some people feel very comfortable and feel very  
14 much at home and have a sense of machinery and how it works  
15 and how it interacts in a dynamic way. Some people are less  
16 inclined that way. Mr. VV was at the far end of the  
17 spectrum of capabilities in terms of having a sense of the  
18 plant, a feel for it.

19 We also believe Mr. VV was very conscientious in  
20 terms of doing things safely in attempting to ensure the  
21 plant was properly maintained, properly operated. But we  
22 also had an assessment of his capabilities that he was weak  
23 from an administrative standpoint, did not have in all cases  
24 the right sense of priorities about those types of  
25 requirements; certainly did not have any question in our

1 mind as to his general honesty, his general integrity.

2           We did not feel uneasy that he would do something  
3 that we considered to be dishonest. We would not have had  
4 him in the position if we did.

5           BY MS. BRADFORD (Resuming):

6           Q     Do you think that fact unduly influenced you or  
7 any of the investigators when you were making the decisions  
8 about disciplinary actions?

9           A     In the July 1979 timeframe?

10          Q     Yes.

11          A     No, I do not think it unduly influenced. I think  
12 it is -- one's total experience with an individual should be  
13 properly taken into account in looking at any given set of  
14 circumstances in any particular instance. In some cases,  
15 they may even predominate; in other cases, specific instance  
16 may be the determinant factor independent of what history  
17 exists.

18          Q     Mr. Arnold, on page 3 of your testimony you use  
19 the term "cheating in the broadest sense." Would you say  
20 that the 1979 incident is covered under that term?

21          A     No, I would not. And I would not because what I  
22 meant by that is that cheating in its broadest sense to my  
23 mind means the misrepresentation, the deliberate doing of  
24 something known to be improper with the intent of deceiving  
25 people. And those kinds of actions can take place in other

1 activities than just examinations.

2           I did not intend "cheating in its broadest sense"  
3 to mean the case of looking at exams and saying that  
4 whatever could be interpreted or characterized as cheating  
5 ought to be interpreted and characterized that way. I  
6 really had not thought about attempting to define the  
7 dividing line between what constitutes cheating and what  
8 does not; but rather, that there is a whole spectrum of  
9 activities that represent a violation of a trust that is  
10 placed in an individual, and that that violation of the  
11 trust in whatever form it may occur when it is deliberate,  
12 wilfull, knowing, is cheating.

13           Q     When Mr. VV was placed in the accelerated training  
14 program, was someone assigned to fill in for him on his job?

15           A     I was not aware in July 1979 that Mr. VV, to the  
16 best of my recollection anyway, was placed in an accelerated  
17 training program. Typically, when someone goes on vacation,  
18 as Mr. VV did in the early part of July, there would be  
19 someone assigned to at least fulfill the administrative  
20 parts of that position.

21           There was an assignment of another person to Mr.  
22 VV's position subsequent to the permanent removal of Mr. VV  
23 from the position. I do not know if anything was done on an  
24 interim basis or not. But the incident, as I recall,  
25 occurred on July 2 and it was around August 8 or August 11,

1 as I recall, that we put out the memorandum that assigned  
2 another person to th position previously held by Mr. VV.

3 Q Was that person Mr. MMM as in Mary?

4 A Yes, ma'am.

5 Q And this was temporary position?

6 A Initially, I believe he was assigned in an acting  
7 capacity. He was subsequently assigned on a permanent basis.

8 JUDGE MILHOLLIN: Excuse me. Is it clear that  
9 your answer is that MMM was placed in the position which Mr.  
10 VV had occupied during the time when Mr. VV was placed in  
11 the accelerated training, or is that not your testimony?

12 THE WITNESS: That is not my testimony. My  
13 testimony is that I do not know if anybody was formally  
14 assigned to that position during Mr. VV's period of time in  
15 the accelerated training program, which would not have  
16 started until he returned from vacation, about mid-July.  
17 And --

18 JUDGE MILHOLLIN: I am trying to follow the  
19 testimony. You said that MMM was assigned to Mr. VV's  
20 position after Mr. VV had been removed, first on an acting  
21 basis and then on a permanent basis.

22 THE WITNESS: Yes.

23 JUDGE MILHOLLIN: Then did the period during which  
24 Mr. V -- I'm sorry, -- Mr. VV was assigned to accelerated  
25 training, was that period before the period during which he

1 was relieved of his duties? Are we talking about different  
2 periods of time?

3 THE WITNESS: I think so. If I could try  
4 chronologically to get at least the sequence if not the  
5 precise dates, I think that Mr. VV would have been assigned  
6 to his accelerated training program about mid-July, and I do  
7 not know if at that point in time anybody was formally  
8 assigned to handle his position on an interim basis or not.

9 JUDGE MILHOLLIN: What was the --

10 THE WITNESS: The first week of August I think is  
11 when we finalized the decision to permanently remove Mr. VV  
12 from his assigned position. At that time, Mr. MMM was  
13 assigned to that position in an acting capacity. He  
14 subsequently was made a -- that assignment was subsequently  
15 made permanent. The acting aspect of it was superceded.

16 JUDGE MILHOLLIN: Was the accelerated training  
17 assignment full time?

18 THE WITNESS: Yes. It would have been at least as  
19 required by the training procedures, as I recall.

20 I might also point out that it probably would have  
21 been completed in a week or ten days.

22 JUDGE MILHOLLIN: Do you know whether he was  
23 actually present in his regular job during the time he was  
24 assigned to accelerated training?

25 THE WITNESS: I do not know.

1 BY MS. BRADFORD (Resuming):

2 Q You say that Mr. MMM --

3 A Excuse me, I wonder if I could interrupt just a  
4 minute, perhaps elaborate on that last answer. I think that  
5 one of the things that is perhaps germane to understanding  
6 the answer to that kind of a question, or even the  
7 circumstances that may later be developed by others is in  
8 the July 1979 timeframe.

9 Not only were we under very intense effort as a  
10 result of the various investigations that I referred to  
11 yesterday, but we also had a situation at the plant that was  
12 still extremely uncertain. When one, you know, reflects  
13 back on the plant conditions at that time, we had a badly  
14 damaged reactor core whose conditions were unknown and  
15 remain unknown to us at this point.

16 We were at a point that we felt we had achieved  
17 relative stability on the short term, but were frantically I  
18 guess is really the wrong word -- were very intensely  
19 working on putting into place a number of plant  
20 modifications that were essential for providing reliable  
21 control of plant conditions for the intermediate and the  
22 long period.

23 The plant was heavily contaminated in many of the  
24 critical areas necessary for operators to gain access to,  
25 and we were attempting to decontaminate the portions of the

1 plant to allow access to equipment that needed to be  
2 monitored and surveyed. We had yet to complete the  
3 installation of equipment for processing the close to half a  
4 million gallons of water that were collected in the  
5 auxiliary building, and which threatened to exceed the  
6 storage capacity for contaminated water in the plant.

7           We were trying to find places to which we could  
8 ship waste that we were generating and collecting on the  
9 island --

10           JUDGE MILHOLLIN: The relevance of all this is  
11 what?

12           THE WITNESS: The relevance of all this in my mind  
13 is the non-routine and very intense level of activity that  
14 all of were involved with and that Mr. VV had been a part of  
15 up until that time, and may well still, even after having  
16 been assigned to accelerated training program, had some  
17 involvement in some of those types of things. And in my  
18 opinion, very likely probably so. Even though under the  
19 requirements of the training program he would have, under  
20 normal circumstances, have been reassigned to the training  
21 program on a 100% basis.

22           So I think that the requirements of the time have  
23 to be part of the circumstances that are kept in mind when  
24 one evaluates the various judgments, decisions, activities  
25 that were taking place then.

1 BY MS. BRADFORD (Resuming):

2 Q Mr. Arnold, is it then your testimony that Mr. VV  
3 was removed from license activities and placed in an  
4 accelerated program, and I believe you said in one week he  
5 cured deficiencies which had been outstanding for two years,  
6 at the same time he was involved in other plant activities?

7 A No, ma'am, I do not think several of those items  
8 are my testimony at all. First of all, I think that my  
9 testimony has been that I am not aware, to the best of my  
10 recollection, I was not aware in July of 1979 that Mr. VV  
11 was in an accelerated training program or even required to  
12 be. So all that flows from that clearly I cannot testify to.

13 What I did state and it would still be my  
14 expectation, is that the nature of what Mr. VV had to  
15 upgrade in the way of knowledge level in particular training  
16 areas probably could have been done on a full-time basis in  
17 a week to ten days.

18 The other aspects of your generalization I think I  
19 would also disagree with, but I guess I have forgotten the  
20 specifics of them at the moment.

21

22

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25

1 Q Okay. Let's go back to Mr. MMM. He was in August  
2 assigned to a temporary acting position to fill Mr. VV's  
3 assignment. Is that correct?

4 A That is my recollection or that is my  
5 understanding based upon having looked at some of the  
6 documentation that we have for that time period. And the  
7 correct characterization of it is that of acting.

8 Q And at that time he was sent a memo notifying him  
9 of that acting position.

10 A Well, I would expect we would have distributed  
11 that memorandum rather widely within the plant.

12 Q And that is normally the means of communication on  
13 job changes so that people in the plant are aware?

14 A To the rest of the organization, at that point in  
15 time, that was one of the mechanisms. There are also  
16 various organization charts that are maintained in which the  
17 new assignment would have been shown, in normal times, at  
18 least.

19 Q And was this change -- did it show up on an  
20 organizational chart?

21 A Eventually it did, inasmuch as it shows up on the  
22 ones currently. At what point in time it showed up I do not  
23 know.

24 Q Okay.

25 JUDGE MILHOLLIN: Excuse me. Is Mr. MMM a person

1 to whom confidentiality attaches?

2 MR. BLAKE: He is an individual for whom letter  
3 designations have been used.

4 JUDGE MILHOLLIN: I am sorry. I meant to say  
5 letter designations.

6 MR. BLAKE: He is an individual for whom letter  
7 designations have existed to date. Mr. Wilson and I have  
8 just been discussing him because he is not assigned at this  
9 point to Unit 1 and I really, I guess --

10 JUDGE MILHOLLIN: He is not in my list of letters,  
11 so I am having a hard time understanding the testimony,  
12 since that is the case. Are other parties similarly in the  
13 dark as to the identity of MMM?

14 MR. BLAKE: No. The other parties would have a  
15 list that identifies who MMM is.

16 JUDGE MILHOLLIN: Could you furnish that to me?

17 MR. BLAKE: I can and will.

18 JUDGE MILHOLLIN: Thank you. You may proceed, Ms.  
19 Bradford.

20 (Pause.)

21 BY MS. BRADFORD: (Resuming)

22 Q When, if you know, Mr. Arnold -- and you might  
23 have answered this question already, forgive me if you have  
24 -- when was Mr. MMM's position made permanent?

25 A I do not recall when that occurred.

1 Q Would a memo have been generated?

2 A There would have been some documentation  
3 developed, I believe, at least within the payroll system to  
4 recognize that change. There may well not have been a  
5 memorandum generally distributed. I just do not recall.

6 Q When that became a permanent position, would Mr.  
7 VV have been notified?

8 A I do not know any reason we would necessarily have  
9 notified him.

10 Q If he was being replaced in his position would he  
11 have been notified?

12 A Yes, ma'am. I guess I would say it a little  
13 differently. He was replaced in his position and he was so  
14 notified, at least he was notified that he was no longer  
15 assigned to that position.

16 Q And how was he notified?

17 A I do not know.

18 Q Do you know who would know, Mr. Arnold?

19 A I would expect that Mr. Miller or Mr. Herbein  
20 would know.

21 Q Thank you.

22 Was Mr. MMM an SRO in '79?

23 A Yes, ma'am.

24 Q And did he also hold a dual license for both units  
25 1 and 2?

1           A       My expectation is that he was dual licensed, but I  
2 cannot be sure of that. I just was not that involved with  
3 the operations, the details in the time frame in which he  
4 would have been licensed on Unit 2.

5           Q       Prior to the 20th of August in '79, what was Mr.  
6 MMM's position in the company? Excuse me, I do not know. I  
7 am not quite sure. Am I allowed to ask that on the record?

8           JUDGE MILHOLLIN: Perhaps Mr. Blake could respond.

9           MR. BLAKE: Let me cure that right now and say  
10 that Mr. MMM's name is Joseph Chwastyk and we might just as  
11 well use that name and his position, although it is not at  
12 Unit 1. His position in Unit 2 is clearly above the shift  
13 personnel people at Unit 1 that we have used and tried to  
14 retain the letters for under the current stipulation. And  
15 it is my judgment that this individual should be discussed  
16 by name.

17           So to the extent your hesitancy was with regard to  
18 tracking his employment and, therefore, his identity, why  
19 don't we just take care of that.

20           MS. BRADFORD: Thank you, Mr. Blake.

21           THE WITNESS: Mr. Chwastyk was a supervisor prior  
22 to his assignment as supervisor of operations on Unit 2.

23           BY MS. BRADFORD: (Resuming)

24           Q       Was the assignment, then, a promotion for Mr.  
25 Chwastyk?

1 A Yes, ma'am.

2 Q Does Mr. VV hold a current operator's license for  
3 TMI?

4 A My understanding is Mr. VV has a current license  
5 on Unit 2. His license on Unit 1 was permitted to lapse.

6 Q Do you know when he was recertified?

7 A Recertification is required at two-year  
8 intervals. My understanding is that his anniversary date,  
9 as it were, his license was toward the end of 1979 or the  
10 early part of '80.

11 Q Thank you. Is Mr. VV --

12 A Excuse me. One of the things that I recall that  
13 you characterized in my testimony earlier I would like to  
14 specifically explain, is that we removed Mr. VV from  
15 licensed duties. We removed Mr. VV from a supervisory  
16 position that required a senior reactor operator's license.

17 We did not withdraw his qualification as a senior  
18 reactor operator and he could still legally, and dependent  
19 upon his status within the training program, continue to  
20 function as a senior reactor operator. And that was a  
21 deliberate decision on our part at that time. We requested  
22 that his license not be renewed on TMI Unit 1 because we had  
23 not, since the accident, and did not intend to use him in  
24 any licensed capacity on Unit 1.

25 Q Of whom --

1 MR. BLAKE: Miss Bradford, excuse me. My  
2 recollection of when you used that term was when you said he  
3 was removed from licensed functions to go into an  
4 accelerated training program and I think to that extent the  
5 clarification and the question cover different periods of  
6 time.

7 BY MS. BRADFORD: (Resuming)

8 Q Mr. Arnold, you just -- I cannot capture your  
9 exact language, but you said that you requested that Mr. VVL  
10 not be relicensed on Unit 1. Was that request made to the  
11 NRC?

12 A Yes, at the time that we were requesting  
13 reexamination of the operators and we identified to them the  
14 specific individuals we would like to have sit for the  
15 recertification examinations, we identified that we were not  
16 including Mr. VV in that group and that we would be  
17 withdrawing, in effect, our request for him and our  
18 certification for him to have a license for Unit 1 but  
19 retain it for Unit 2.

20 Q When was that request made?

21 A My recollection is that that was in the latter  
22 part of 1980 based upon, again, documentation I have seen in  
23 the last few weeks. I think it was in conjunction with  
24 identifying the people that we wanted to take the April 1981  
25 NRC exams.

1 Q What is Mr. VV's current position with GPU?

2 A Mr. VV is currently being utilized to provide  
3 technical interface with the Department of Energy's R&D  
4 programs at TMI-2.

5 Q And he has a current operator's license for Unit 2?

6 A To the best of my knowledge he still has a valid  
7 TMI-2 senior reactor operator's license.

8 Q And his current position, does that require him to  
9 use that operator's license?

10 A No. To the best of my knowledge he has not in  
11 fact been utilized as a senior reactor operator since the  
12 July '79 time frame.

13 JUDGE MILHOLLIN: Mr. Arnold, if I might ask you  
14 one question now, the present position which Mr. VV holds,  
15 would you say it requires a high degree of technical skill?  
16 You characterize Mr. VV as having a high degree of technical  
17 skill, right?

18 THE WITNESS: Yes. It requires a high degree of  
19 detailed plant knowledge of a technical nature.

20 JUDGE MILHOLLIN: Very well.

21 BY MS. BRADFORD: (Resuming)

22 Q How does his current job compare with his former  
23 position, I mean in respect to his position in the company.

24 A I believe on the organization charts he would be  
25 shown in a staff position to the member of company

1 management that interfaces with the Bechtel companies that  
2 we have under contract for the decontamination and removal  
3 of the fuel from Unit 2.

4           In terms of salary grades, I frankly do not know.  
5 I suspect his position is among several that we still have  
6 yet to complete the processing through reevaluation in our  
7 salary administration program which was necessary when we  
8 completely restructured the organization.

9           Q    On the organizational chart, would he have moved  
10 upwards or -- I am trying to make a comparison from where he  
11 was in 1979.

12          A    Yes, and I understand that and I presumed that's  
13 what you were trying to do. And I think the way in which to  
14 best calibrate on that or the best measurement of that  
15 really is the salary grade which he is in and, as I say, I  
16 do not believe that we accomplished that administrative  
17 activity yet that would assign him to a salary grade.

18               There is no question in my mind that the  
19 assignment represented a demotion and I would certainly  
20 think there is no question in Mr. VV's mind or in the rest  
21 of the organization's mind that that was a demotion.

22          Q    Mr. Arnold, I am going to go back for just a  
23 moment. I have here a memo from Gary Miller and cc'd to  
24 you. I would ask you to identify it, please.

25               (Counsel handing document to witness.)

1 (Witness reviewing document.)

2 A This memorandum was, as you identified, from Mr.  
3 Miller to a number of management people, including myself,  
4 and documents the assignment of Mr. VV to an ad hoc group  
5 that I had set up subsequent to the accident for developing  
6 the documentation of our internal investigations into the  
7 accident of Three Mile Island.

8 And Mr. VV was assigned to that ad hoc group,  
9 which was of a temporary nature.

10 MS. BRADFORD: Thank you. I would like to have  
11 this marked Exhibit TMIA Exhibit 54, I believe.

12 MR. GOLDBERG: Excuse me. May I have a copy?

13 (The document referred to was  
14 marked TMIA Exhibit 54 for  
15 identification.)

16 JUDGE MILHOLLIN: This is a memorandum dated  
17 August 20, 1979, from Mr. G. P. Miller to Mr. R. C. Arnold  
18 and others entitled "Personnel".

19 (Pause.)

20 BY MS. BRADFORD: (Resuming)

21 Q Mr. Arnold, the last paragraph of this memo says  
22 the addition of VV to the group will provided the  
23 much-needed insight to the detailed design and daily  
24 operation of the unit in both the pre- and post-accident  
25 period.

1           The -- can you explain that?

2           A     Yes. The group that is described there, the  
3 accident investigation documentation group, was an ad hoc  
4 group that I set up headed by Mr. Wallace, whose assignment  
5 it was to capture in a single document the results of the  
6 various company investigations into the TMI-2 accident,  
7 including the activities in the weeks and months following  
8 the accident as we undertook to control and stabilize the  
9 situation and stage ourselves for the long-term recovery  
10 effort.

11           Part of what we wanted to do was to have that  
12 document along with others. At a subsequent time it could  
13 be read and would be meaningful and understandable so that  
14 there was a certain amount of priority placed with the  
15 editorial quality of it. There was a shortage of people  
16 with necessary plant knowledge and technical background to  
17 support that effort.

18           Mr. VV is identified and I think consistent with  
19 my earlier characterization of his capabilities as being the  
20 type of person that could bring that to the effort and this  
21 memo reflects that.

22           Q     And this is the temporary assignment that you  
23 spoke of earlier?

24           A     No. I do not think I spoke of a temporary  
25 assignment for Mr. VV other than I spoke about this ad hoc

1 group being a temporary group and Mr. VV was, you know,  
2 assigned to that, the expectation that he continue to work  
3 there until he was no longer needed either because the job  
4 was completed or his contribution to it was complete.

5 Q And, however, the language in the first paragraph  
6 says that Mr. VV will be temporarily assigned to that -- to  
7 the accident investigation documentation group and I assume  
8 that is the ad hoc group to which you refer.

9 A Yes.

10 Q So it was a temporary assignment?

11 A Well, frankly, Ms. Bradford, I do not associate  
12 any particular significance with the identification of that  
13 being temporary as far as our longer-term intent on the  
14 utilization -- for the utilization of Mr. VV is concerned.

15 If you are trying to develop a point that he was  
16 there temporarily with the idea that he was eventually going  
17 back to the supervisor of operations, let me state very  
18 clearly my testimony is at the time of the July 1979  
19 incident my decision was to permanently remove him from that  
20 position. There was no intent on my part to have him return  
21 to that position.

22 Q Did you notify Mr. VV of that intent?

23 A I think I told you before that I did not  
24 personally notify Mr. VV.

25 Q Are you aware if anyone notified Mr. VV?

1           A       I think I told you before that I am not aware of  
2 anyone specifically telling him that.

3           MS. BRADFORD: Thank you, Mr. Arnold. I have no  
4 further questions.

5           THE WITNESS: Yes, ma'am.

6           MR. GOLDBERG: Judge Milhollin, is there going to  
7 be a motion to admit this? I would like to note my  
8 objection --

9           JUDGE MILHOLLIN: Mr. Goldberg, I do not think --  
10 it seems to me it may be waste of time to object to the  
11 admission of a document which has not been offered into  
12 evidence.

13          MR. GOLDBERG: I am not objecting to a motion to  
14 admit it. I want to object to the examination of the  
15 witness on a document which is not in evidence.

16          MS. BRADFORD: I am sorry.

17          JUDGE MILHOLLIN: On what ground do you make such  
18 a motion?

19          MR. GOLDBERG: Well, if for some reason this  
20 document is not admissible, and I am not suggesting it is  
21 not, then it would not be proper to examine the witness on  
22 the details of the document.

23          JUDGE MILHOLLIN: Why?

24          MR. GOLDBERG: Because then his testimony would  
25 have to be stricken if it is determined that the content of

1 the document is not admissible evidence.

2 JUDGE MILHOLLIN: Are you saying that you cannot  
3 cross examine the witness on a document which has not been  
4 introduced into evidence?

5 MR. GOLDBERG: Not on the substance of the  
6 document where the phrases are repeated and read into the  
7 record. If it is being -- if this is going to be -- if that  
8 testimony is admitted for the truth of the matters asserted  
9 in this document then it would not be proper unless the  
10 document is admitted into evidence.

11 JUDGE MILHOLLIN: I understand your point.

12 MS. BRADFORD: Judge Milhollin, I ask that the  
13 TMIA Exhibit 54 be moved into evidence.

14 JUDGE MILHOLLIN: All right. There is an  
15 objection. Would you like to state the grounds of it again?

16 MR. GOLDBERG: I do not have any objection to the  
17 admission of this document into evidence. I have an  
18 objection to the examination of the contents of the document  
19 for the truth of the matters asserted in the document, if  
20 the document is not in evidence, because the document may be  
21 ruled inadmissible.

22 It is just not proper.

23 MR. ADLER: If I can respond to that, the witness  
24 is free either to agree or disagree to the truth of the  
25 matters asserted in the document being used for cross



1 my judgment the cross examination is not productive then I  
2 will withdraw it, especially in your case, since you are  
3 representing the Aamodts as an attorney and have been  
4 recognized as such for this proceeding.

5           So I think you being aware of that it might be  
6 useful.

7           MR. CLEWETT: Thank you, Judge Milhollin.

8                                   CROSS EXAMINATION

9           BY MS. AAMODT:

10          Q    I am Marjorie Aamodt.

11          A    Yes, ma'am.

12           MS. AAMODT: Judge Milhollin, may I just explain  
13 too that Mr. Clewett came quite late to this case and I have  
14 been participating in it since last January and that does  
15 cause some problems in just the amount of information that  
16 he must absorb and motions to prepare and so forth, which  
17 has distracted him somewhat from the substance of the case.

18           And that has, therefore, thrust me into this  
19 unwelcome role.

20           JUDGE MILHOLLIN: Very well. Go ahead.

21           MS. AAMODT: Yes.

22           MR. BLAKE: Judge Milhollin, I would only observe  
23 that Mr. Clewett has been here since the very first  
24 prehearing conference in this reopened proceeding.

25           JUDGE MILHOLLIN: I am aware of that.

1 MR. BLAKE: Thank you.

2 BY MS. AAMODT: (Resuming)

3 Q Mr. Arnold, would clearly defined bounds in the  
4 administration of tests have deterred instances of cheating  
5 at TMI?

6 A Could you clarify what you mean by clearly defined  
7 bounds of administration?

8 Q Well, may I ask you, have you had -- do you  
9 believe that you have had clearly defined bounds for test  
10 administration in the TMI training department?

11 A I am sorry, Mrs. Aamodt, but I do not think I know  
12 what you mean by clearly defined bounds of administration.  
13 I really do not understand.

14 Q Were you aware of a letter from Mr. Collins in  
15 1980, the latter part of 1980, concerning the administration  
16 of tests in the TMI training department, whether they were  
17 closed book or open book?

18 A No, I have no awareness of that letter that I  
19 recall.

20 Q And since the investigation you have no awareness  
21 of the means of administration of the Category T tests, the  
22 makeup tests?

23 A Yes, I am aware in general with the way our  
24 training program has been administered for the last few  
25 years, including in the time period in which Category T

1 makeup exams were taken.

2 Q Are you aware, then, of the way the testing was  
3 administered in the TMI training department, the  
4 requalification tests?

5 A I think I have a general knowledge of it.

6 Q Are you aware -- is it your understanding that  
7 those tests were sometimes closed or open book, that  
8 sometimes they were take-home tests?

9 A My understanding is that all three testing  
10 techniques were employed by us as they are at most training  
11 and education efforts.

12 Q Do you plan to continue such a policy in your  
13 training department for administration of tests?

14 A I would expect that we would continue to utilize  
15 both closed and open book type of examinations. I do not  
16 think that we are currently using take-home exams, by which  
17 I mean a person is required to do what we would classify as  
18 an examination on an honor system.

19 But I would expect that there would continue to be  
20 what I would call take-home assignments, exercises typical  
21 of what we would generally call homework assignments.

22 Q Did you feel that the administration of the NRC  
23 examination contributed to the rumors and instances of  
24 cheating?

25 (Pause.)

1           A       I think that the way in which the NRC exams were  
2 administered in April may well have contributed to rumors  
3 about cheating on the exam. I do not have a definitive  
4 conclusion or judgment on that, but certainly I would not  
5 think that that is unlikely.

6                   I guess I would be -- would be very hesitant to  
7 conclude that the cheating incident involving O and W grew  
8 out of the way in which it was administered. I think that  
9 the administration in a more closely controlled way would  
10 probably have prevented that cheating incident, but I guess  
11 if I understand what happened there was sufficient  
12 deliberateness to it, there was sufficient scope to it.  
13 There was obviously more than a spur of the moment taking  
14 advantage of the degree to which the examination  
15 administration did not prevent it.

16                   In the case of Mr. Shipman I think the lack of  
17 control of conditions outside of the examining room probably  
18 contributed to that inasmuch as I think that was kind of a  
19 chance encounter in which the closer administration or more  
20 controlled conditions would have prevented that having  
21 happened.

22                   JUDGE MILHOLLIN: Excuse me. While we are on that  
23 subject, you interviewed -- you testified that you  
24 interviewed Mr. O with respect to his activities on the  
25 April exam.

1 THE WITNESS: Yes.

2 JUDGE MILHOLLIN: Did he state to you that he had  
3 copied from Mr. W?

4 THE WITNESS: I do not recall that he admitted  
5 either in my interview with him and my recollection of his  
6 signed statement was that he specifically denied that he  
7 copied from Mr. W.

8 JUDGE MILHOLLIN: Did you ask him whether he  
9 copied from Mr. W?

10 THE WITNESS: I am not sure I did. What I  
11 principally took in the way of an approach in the interview  
12 with Mr. O and Mr. W was to establish that what I understood  
13 them to be acknowledging was their participation in the  
14 cheating incident in the April 1981 NRC exams was in fact  
15 true and I wanted to be clear to each of them, and  
16 particularly Mr. O, inasmuch as his role was somewhat  
17 different in character, as he admitted to it at least, was  
18 in and of itself a basis in my judgment for his termination.

19 And while I asked him about knowledge of other  
20 cheating, I do not recall that I attempted to develop any  
21 more specifically than the NRC had tried to develop or as  
22 specifically what other activities he might have engaged  
23 in. I just do not remember that I did.

24 JUDGE MILHOLLIN: You said that you felt he was a  
25 highly competent person, highly competent employee, and that

1 I think I recall you saying that Mr. O was a competent  
2 employee and skilled and his fellow employees shared your  
3 view, or rather that you shared the view of his fellow  
4 employees.

5 Did you ask him why he felt it necessary to cheat?

6 THE WITNESS: No, sir. I did not. I think, Judge  
7 Milhollin, that as distrustful as that situation was for all  
8 of them, that I would not have attached too much reliability  
9 to any rationalization they would have given me at that  
10 time. I think it is the kind of circumstance that it can be  
11 very difficult for one to understand themselves why they did  
12 it.

13 And I -- well, I may have been wrong. I really did  
14 not feel that much productive could come out of that type of  
15 a discussion, at that time at least.

16 JUDGE MILHOLLIN: Did you ask W why W thought it  
17 was necessary to cheat?

18 THE WITNESS: No, for basically the same reasons.  
19 I might state that I was aware at the time I talked to W  
20 what he had stated in his testimony or in his signed  
21 statement to the NRC was the reason for his cheating.

22 JUDGE MILHOLLIN: Did you ask them whether they  
23 had conspired to cheat or agreed to cheat in advance?

24 THE WITNESS: I do not recall that I did. I do  
25 not think I did. As I say, the thrust of my meeting with

1 them was to understand what they had done that they had  
2 admitted to at that point.

3 I guess if I had reflected further on it at that  
4 time I would have had some concern as to the extent to which  
5 the company can properly develop information which places  
6 the individual in jeopardy once it goes beyond the point at  
7 which the company's specific immediate needs are met.

8 JUDGE MILHOLLIN: If you had -- well, if you had  
9 pursued with them the reason for their decision to cheat,  
10 wouldn't that have given you some information about the  
11 company's training program that might have been useful to  
12 you? That is, weren't you curious whether they were  
13 cheating because they felt the training program was  
14 inadequate or because they felt the exam was unfair or  
15 because they felt that -- oh, for any other reason.

16 Weren't you curious about the genesis of their  
17 decision since it may have reflected on several things of  
18 which you would -- over which you could exercise some  
19 control?

20 THE WITNESS: Yes. Well, I think that while I was  
21 curious, the only way in which the company could proceed is  
22 to assume that all of those things or any one of those  
23 things may have contributed so that our action had to  
24 address, in my opinion, all of the potential reasons  
25 independent of which ones they themselves may have selected.

1           And I think that while the opinions of Mr. O and  
2 Mr. W are a part of the total -- total picture in terms of  
3 the attitude towards our training program and the perception  
4 of its adequacy by the operators, that can be gained by  
5 talking to the others as well.

6           So -- and I think that we had to approach our  
7 corrective action on the basis that any one of those things  
8 that you listed could have contributed to it, so we had to  
9 be sure that we took whatever steps would be necessary to  
10 remove that type of issue, to contribute to it in the future.

11           JUDGE MILHOLLIN: You said that in the case that  
12 Mr. VV, when you were deciding upon his demotion or other --  
13 or the other response which the company might make to his  
14 actions, that you felt his motive was important in making  
15 the company's decision. Don't you feel that the motives of  
16 O and W, the motives of those people were equally important  
17 in deciding how to deal with them?

18           THE WITNESS: Frankly, no. Their motive -- there  
19 was no motive that I could conceive of that would have  
20 mitigated the -- perhaps let me choose a different word  
21 based on our discussion yesterday, but that would have  
22 provided any rationalization for what they did that would  
23 have made a different response on the part of the company  
24 appropriate in my mind.

25           The aspect of Mr. O and Mr. W's activities I just

1 felt took them beyond the threshold where the company had  
2 any alternatives, was the extensive nature of it, and it  
3 proceeding over two days when both of them had the  
4 opportunity to reflect on what they were doing and to have  
5 ceased and the fact that it would proceed as extensively and  
6 on two succeeding days, in my mind, just took them to where  
7 we could not do anything to help or protect them from their  
8 actions.

9           They had gone beyond where the company's response  
10 could be other than what it was.

11           BY MS. AAMODT: (Resuming)

12           Q     Mr. Arnold, do you --

13           JUDGE MILHOLLIN: Maybe we have reached the time  
14 at which the temperature has fallen and it would be  
15 appropriate to take a break. So let's take a break for ten  
16 minutes.

17           (A brief recess was taken.)

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1 BY MR. AAMODT: (Resuming)

2 Q Without asking O and W about their reasons for  
3 cheating, can you be sure that you have hit upon the correct  
4 reason?

5 A Mrs. Aamodt, I do not think that asking them or  
6 not asking provides assurance that we hit on the correct  
7 reason, in my opinion. In other words, obviously, not  
8 asking them does not provide any information on it. But as  
9 I indicated before, I would not put much reliability in  
10 whatever explanation they might give, particularly at the  
11 time of my interview with them.

12 It was a very distressing time for them. In the  
13 case of one individual, he was clearly extremely distraught  
14 by the situation. It simply was not a time in which that  
15 type of dialogue could have expected to be productive.

16 I was also aware that the NRC had pursued those  
17 questions from the written statements that the people had  
18 signed, and I think that we can reconstruct or we can  
19 speculate on the potential contributors to such an incident,  
20 and need to address them all. And I guess I have a high  
21 degree of confidence that in the course of doing that we are  
22 not apt to overlook a significant contributor to the  
23 incidents that are caused by programmatic problems.

24 Q I understand that you described these individuals  
25 as being "intelligent" and individuals that you highly

1 respected; is that correct?

2 A Yes, ma'am.

3 Q Do you have any reason to believe that these  
4 individuals could not have been insightful as to their  
5 reasons for cheating? Well, let me ask you, I think perhaps  
6 you feel you have been asked that question, so perhaps I  
7 should ask you this question instead: Were these  
8 individuals resentful at the time of this interview, which  
9 would interfere with their abilities to communicate with  
10 you?

11 A Their frame of mind was such that it would  
12 interfere with them being able to objectively discuss the  
13 reasons for why they did what they did.

14 I did not sense any resentment on their part, but  
15 certainly a great deal of distress on both their parts,  
16 distress to the point where it was difficult for both of  
17 them to continue to maintain control of themselves from an  
18 emotional standpoint during the course of that interview.  
19 And as I say, I do not believe, did not at the time, it was  
20 a setting under which those issues could have been  
21 productively pursued.

22 Q Have you attempted to pursue those issues with  
23 them at any time since that time?

24 A We have not.

25 JUDGE MILHOLLIN: Mr. Arnold, do you feel you know

1 why they cheated, now?

2 THE WITNESS: I think I -- I guess it is something  
3 I would try to represent by saying I am 80 to 90 percent  
4 confident that I know why they cheated. And I -- I do not  
5 know if I will ever gain more confidence than that, but I  
6 think I have, you know, a personal opinion as to why it  
7 happened, yes.

8 JUDGE MILHOLLIN: Would you tell us what that is?

9 THE WITNESS: Yes, certainly. I think that in the  
10 case of Mr. W, that he went into the examinations, both the  
11 ATTS and the NRC examinations very unsure of himself. I  
12 think that lack of confidence was probably misplaced,  
13 because he had always performed quite well in examinations.

14 But I think he is by nature a person with a little  
15 less self-confidence of his capabilities compared with  
16 perhaps others of the shift supervisors. And that anxiety  
17 existed not only to the performance on the exam but to the  
18 implications of failing the exam. And I think they were the  
19 implications he was concerned with relative to himself.

20 He stated that was the reason in his interviews  
21 with the NRC, and I have really no reason to doubt that was  
22 the most likely immediate concern he had, that if he failed  
23 the examination, it could have significant consequences to  
24 him in terms of potentially losing his position, losing his  
25 license.

1 I do not think that based on the experience with  
2 the company, he would have been concerned of having lost  
3 employment as a result of that, because we certainly have  
4 been able to utilize very effectively others who for one  
5 reason or another no longer maintained a license.

6 And I think that he conveyed that lack of  
7 confidence to Mr. O. And Mr. O, out of a sense of "we are  
8 all in this together" type thing, "we have got a commitment  
9 and interrelationship to each other that leads to helping  
10 each other out," made a very serious error as far as what  
11 the appropriate way to provide assistance to Mr. W.

12 I think that there was not an expectation on the  
13 part of either one of them that it would be nearly as  
14 extensive as it turned out to be, particularly on the NRC  
15 exam. And I suspect that once they got into the exam  
16 itself, that the exam was difficult enough, was demanding  
17 enough, that Mr. W -- I will not say "panicked," although,  
18 you know, it may be something verging on it -- became even  
19 more anxious about things, to where he effectively got  
20 himself in the mode of just utilizing Mr. O's examination to  
21 proceed.

22 The exam was long. It was difficult. If you once  
23 got in the mode of making progress on the exam by using  
24 somebody else's, I am not sure you could step back away from  
25 that and start to work on one's own, even though the answers

1 were probably known in most cases to Mr. W. I think he kind  
2 of got himself into a situation where he was unable to break  
3 away from it, and that is why the cheating was so obvious on  
4 the answers.

5           So I think those are, in a sense, sort of the  
6 reasons that relate to the particular individuals involved.  
7 I think there probably are other contributors that are  
8 secondary considerations that still have to be addressed; in  
9 particular, the conditions that permitted it to proceed.

10           But I do not think that those two individuals  
11 cheated on the exam because they either thought it was okay  
12 or that they individually felt that the NRC exam was  
13 completely irrelevant, even though they might have been  
14 critical of it in some ways, as others have been as well.

15           And I think the actions we have taken to upgrade  
16 our training program and improve the administration of it  
17 address both what I see as the reasons that these particular  
18 individuals got involved with it as well as the secondary  
19 kind of issues that permitted it to occur.

20           BY MS. AAMODT: (Resuming)

21           Q     Did you ever check the attendance of Mr. O or Mr.  
22 W in the OARP program?

23           A     No, ma'am.

24           Q     Do you have any reason to believe that they were  
25 in full attendance during that program?

1       A       I am sorry, I did not catch the word before --

2       Q       Do you have any reason to believe that they were  
3 in full attendance during that program?

4       A       Well, my expectation is that they would have  
5 attended the majority of the training sessions, and I would  
6 expect nonattendance at particular segments of that to have  
7 been exceptions and not -- I do not know that I would --  
8 would be my minimum expectation.

9       Q       Were they on a one-in-six shift rotation at the  
10 time they were in the OARP program?

11      A       There are others that are going to be able to  
12 testify with more direct knowledge of the program. But for  
13 the OARP, my recollection is that that program was carried  
14 out in -- as part of the one-in-six rotation sequence.

15      Q       So you are not aware of reasons that personnel  
16 would be prevented from attending that program?

17      A       There can be reasons such as illness, particular  
18 problems that come up of a personal nature or problems  
19 within the plant that I would not be surprised would lead to  
20 some absences, but not a systematic absence.

21      Q       Could I give you a document to look at that was  
22 serviced on me in this -- in the discovery period of this  
23 reopened hearing?

24      A       As far as I am concerned, you may.

25               (Counsel handing document to witness.)

1 (Witness perusing document.)

2 MS. AAMODT: I will describe this page that I am  
3 presenting to Mr. Arnold as attorney's notes relating to an  
4 interview with GG. And it is represented there that --

5 MR. BLAKE: Mrs. Aamodt, can you hold just for a  
6 moment while I read it?

7 (Pause.)

8 MR. GOLDBERG: May I have a copy of the document,  
9 please?

10 MS. AAMODT: I really am sorry that I had not  
11 intended to come into this, but it was elicited by the  
12 Special Master in your inquiry as to the reasons for O&W  
13 cheating. And I felt it came to this issue and felt the  
14 question could be productive to be asked now.

15 MR. ADLER: If you can identify what discovery  
16 response it was pertinent to, I may be able to come up with  
17 another copy.

18 MS. AAMODT: Yes. This was our discovery of the  
19 Licensee about their records on the -- on any other cheating  
20 incidences.

21 MR. BLAKE: What it appears to be, Mr. Adler, is  
22 the retyped versions of probably what are Mr. Wilson's  
23 notes, and it is from the 9/3/81 interview of what looks to  
24 be GG.

25 MS. AAMODT: That is my understanding of what it

1 is.

2 JUDGE MILHOLLIN: Do you want to mark this for  
3 identification?

4 MS. AAMODT: Yes, I think we might do that. Thank  
5 you. And I will provide copies.

6 May I suggest that perhaps the witness could look  
7 at this document and respond to it, and perhaps we could  
8 decide then whether we would need to make copies and enter  
9 it in as an exhibit.

10 JUDGE MILHOLLIN: The witness will respond to  
11 questions you ask the witness on the document when the  
12 witness gets the document. The witness has not received the  
13 document yet.

14 MS. AAMODT: All right.

15 JUDGE MILHOLLIN: Does the Licensee have a copy of  
16 this document for itself?

17 MR. BLAKE: We do not have a copy of it here.

18 MR. GOLDBERG: Staff does not have a copy of the  
19 document either, and I would like to examine the document at  
20 least before it is given to the witness.

21 MR. BLAKE: Is it possible just to go on to  
22 another line?

23 MS. AAMODT: Yes. Could I do that, and we will  
24 bring this up after we get some copies?

25 JUDGE MILHOLLIN: Very well.

1 MS. AAMODT: All right.

2 BY MS. AAMODT: (Resuming)

3 Q Have you communicated to your employees what the  
4 company's definition of cheating is?

5 A We have included a definition of cheating from the  
6 dictionary, or a dictionary, in a procedure that we have  
7 recently developed for control of administration of  
8 examinations. We had not prior to that put in any company  
9 documentation a definition of cheating.

10 Q Have you included in that definition your  
11 interpretation of cheating as being -- including the intent  
12 and motivation of the individual?

13 A My recollection is the definition includes both of  
14 those and, as I recall, the words "willful" and "intent to  
15 deceive" are part of the definition. But that is, I  
16 believe, entered as an attachment to the testimony of the  
17 training panel. And I think it has probably been  
18 distributed to the parties.

19 Q If someone should see something that they would  
20 consider cheating and they did not report it to the company,  
21 would you consider this a breach of the policy that was  
22 recently distributed?

23 A Yes, ma'am.

24 Q Can you tell me how an individual in observing the  
25 actions of another individual can decide on the intent and

1 motivation of that individual?

2       A     I think he can only form judgments based upon the  
3 circumstances. And I think that your prior question, which  
4 included words to the effect of which he believes to be  
5 cheating, are very important to how he responds to a  
6 particular incident that he sees. He obviously -- a person  
7 is probably not going to be in any position to know intent  
8 or motivation, but that will not prevent them from forming  
9 an initial judgment at least as to whether that is cheating  
10 or likely to be cheating.

11       Q     Was your direction then for individuals to report  
12 any suspected behavior on the part of other individuals?

13       A     Well, I think the document we provided, you know,  
14 contains our instructions.

15               I think that we did not write it so broadly that  
16 we make it a case where whenever anyone sees something that  
17 subsequently is shown to have been cheating, and perhaps  
18 there was some small signal that that person should have  
19 been sensitive to, that they did not turn out to be, that he  
20 has somehow violated our instructions.  
21 I think there is, you know, just kind of a practical aspect  
22 to it.

23               But what we tried to do was in a very  
24 straightforward and with a pragmatic approach to it,  
25 identify to people that, "Look, we do not want cheating, for

1 a variety of reasons. It is important to everyone that we  
2 not have cheating. So first and foremost, each of us as  
3 individuals should not cheat. And secondly, if we know  
4 about cheating, we need to identify that so it can be  
5 addressed." That is, I think, the substance and the essence  
6 of what our instructions are.

7 Q Do you think that your employees did not recognize  
8 that they should proceed in this way before the cheating  
9 incident or before this policy letter?

10 JUDGE MILHOLLIN: Mrs. Aamodt, I am not sure where  
11 we are going with this testimony -- with this cross  
12 examination. I am not sure that much is being added to what  
13 we already know. Mr. Arnold's opinions about things which  
14 are already in the record are interesting, but facts are  
15 probably more interesting.

16 MS. AAMODT: All right, I plan to proceed there.  
17 What I was trying to show is that management -- management's  
18 job is to set bounds on the behavior of the individuals that  
19 work within their employ and that the clarity with which  
20 those bounds are set is important. And I was trying to  
21 decide how clear those bounds were to the personnel. But  
22 perhaps that has been already done and I have not realized  
23 it. Is that --

24 JUDGE MILHOLLIN: Wel, if you have a specific  
25 question about a specific bound, that would push back the

1 frontiers of knowledge.

2 MS. AAMODT: All right.

3 JUDGE MILHOLLIN: But general questions which get  
4 rather lengthy general responses do not.

5 MS. AAMODT: Yes. Yes.

6 BY MS. AAMODT: (Resuming)

7 Q Well, I am very much interested in your employees'  
8 perception of what penalties would result from particular  
9 behavior such as cheating.

10 A I think that our employees, both before this  
11 incident and certainly since, have understood that cheating  
12 was a serious matter and one for which discipline could be  
13 expected. Whether they anticipated that an incident of the  
14 nature that Mr. W and Mr. O were involved with would involve  
15 discharge, I do not know. I do not know that they ever  
16 really thought about it that much.

17 I think if you had asked any one of our people  
18 prior to July 27 if an incident such as Mr. W and Mr. O were  
19 involved with would happen, they would have said "No." Even  
20 after it was identified, there were many other co-workers  
21 who had a great deal of difficulty accepting that they had  
22 done what they did.

23 And so I think that when one asks about  
24 hypotheticals, it is -- or whether people consider certain  
25 hypotheticals -- I suspect that most of us do not really

1 think that much about hypotheticals that are outside our  
2 expectations or our own experiences.

3 Q Are you saying that the policy is now that  
4 cheating of the kind that O and W were involved in,  
5 deliberate and extensive cheating, violating a regulation,  
6 either company or NRC, would result in dismissal? Is that  
7 understood now within the company?

8 A As I understand, you asked two or three  
9 questions. First of all, that -- that type of violation,  
10 under our present policies and under our previous policies,  
11 would be dealt with by discharge, and I think that is  
12 understood quite thoroughly by the total organization now,  
13 and I think it was understood to a great extent prior to  
14 that. An incident that serious, when viewed in the  
15 hypothetical situation, would be dealt with very seriously.

16 I can assure you, Mrs. Aamodt, that one's  
17 reaction, one's inclination on discipline in a specific case  
18 is always much more complex, always much more difficult to  
19 decide on what the correct response is when you have a  
20 specific situation and know the total range of circumstances  
21 that apply to that than is the case when one is talking  
22 about a hypothetical and usually describing only one or two  
23 particular aspects of the hypothetical and you do not have  
24 the total context within which the incident is going to have  
25 to be dealt with.

1           And it is usually much easier to come to fairly  
2 simple conclusions in the hypotheticals than it is in the  
3 actual.

4           Q       How much in setting penalties do you take into  
5 consideration the threat that the kind of behavior you are  
6 dealing with has to the health and safety of the public?

7           A       I do not know. I do not know that I have had  
8 enough instances where we have been involved with improper  
9 performance or -- in fact, I guess I cannot think of any  
10 instances where we have been involved with improper  
11 performance or an inadequate performance where there was a  
12 direct threat to the public health and safety, in a  
13 situation where we felt discipline was appropriate.

14                   And while there may be implications to public  
15 health and safety if one extends, you know, sort of follows  
16 through the potential consequences of the action -- for  
17 example, in the instant case of Mr. W and Mr. O -- that they  
18 in fact were not sufficiently knowledgeable of the plant to  
19 fulfill their responsibilities and they had a license and  
20 potentially they could fail to perform in a way that  
21 eventually had public health and safety consequences, but  
22 those are, as I see it, more indirect implications of the  
23 incident.

24                   And the judgment in that case, as I guess it has  
25 been in all the cases I can think of, been based upon the

1 immediate considerations and not the direct considerations,  
2 that the immediate considerations have governed.

3           So I do not know that I can really answer reliably  
4 that type of a hypothetical, and I can think of no specific  
5 incident immediately where that was one of the immediate  
6 factor, and therefore can show by example how I responded.

7           JUDGE MILHOLLIN: Excuse me, Mr. Arnold. I am  
8 going to have to ask you to confine your responses to  
9 material or information which is essential to answer the  
10 question asked. I think we are consuming a lot more time  
11 here than perhaps we need to consume with this cross  
12 examination. And I think it is partly because the questions  
13 are not precise enough. And I also think the answers are  
14 longer than necessary.

15           And so I think you all should keep in mind that  
16 eventually I am going to have to decide all these questions,  
17 and so if I say that I think the answers are too long, that  
18 means I think they are providing more information than I  
19 need. I am not suggesting you not make a complete response,  
20 but I am encouraging you to make it as succinctly as  
21 possible.

22           THE WITNESS: I will certainly try, Your Honor,  
23 but I do have some anxiety as to whether or not I am  
24 understanding the sense of the questions. And so I am  
25 trying to be sure that I cover the issues. But I will --

1 JUDGE MILHOLLIN: If you do not understand the  
2 question, I encourage you to indicate that when it is  
3 asked.

4 THE WITNESS: Yes, sir.

5 JUDGE MILHOLLIN: I am not sure I understand some  
6 of them.

7 MS. AAMODT: I am sorry.

8 JUDGE MILHOLLIN: Go ahead.

9 BY MS. AAMODT: (Resuming)

10 Q Did you consider the examination of your operators  
11 in April on the NRC examination a company requirement or an  
12 NRC requirement?

13 A I am sorry, could I have the question read back to  
14 me? I was not following the initial part of it.

15 Q Did you consider the examination of the operators  
16 in April on the NRC examination a company requirement or an  
17 NRC requirement?

18 A In April of 1981?

19 Q '81.

20 A It was a requirement of both the company and the  
21 NRC. The company requested in June of 1979 that our  
22 operators be reexamined. That decision on the part of the  
23 company was later incorporated into the orders of the NRC.

24 Q Mr. Arnold, I would have found it acceptable to  
25 just say either "Company and NRC requirement." I really do

1 not mean to be eliciting such long answers from you, and if  
2 I could have some brevity in the answer, I would appreciate  
3 it, too, so I could get through this.

4           Was there any time prior to today -- I am sorry --  
5 was there any time that you considered the reexamination of  
6 operators to be merely a company requirement?

7           A     Yes, ma'am.

8           Q     At the time that the cheating of the operators on  
9 the NRC examination occurred, did you consider the  
10 reexamination of the operators at that time to be a company  
11 requirement rather than an NRC requirement?

12           MR. BLAKE: Mr. Chairman, I object to the  
13 question. The question has been asked and answered. He  
14 regarded it as both.

15           JUDGE MILHOLLIN: The question again is whether  
16 the witness considered the examinations given in April of  
17 1981 to be --

18           MS. AAMODT: At the time that they were given in  
19 April of 1981.

20           JUDGE MILHOLLIN: Are you referring to the NRC  
21 exam?

22           MS. AAMODT: The NRC examination.

23           BY MS. AAMODT: (Resuming)

24           Q     Do you consider that that was both an NRC and a  
25 company requirement?

1 JUDGE MILHOLLIN: That is what the witness  
2 responded, yes.

3 MS. AAMODT: All right. Okay.

4 BY MS. AAMODT: (Resuming)

5 Q Did you have any part in conveying or preparing or  
6 communicating with the news media at the time regarding the  
7 cheating on the April licensing examination?

8 MR. BLAKE: Mr. Chairman, I am certain that that  
9 is going to elicit a fairly extensive answer, because it  
10 combines several types of communication and because it is  
11 "at that time," an undefined period.

12 JUDGE MILHOLLIN: The question is whether at the  
13 time --

14 MS. AAMODT: At the time of the cheating  
15 incident.

16 MR. BLAKE: What time?

17 BY MS. AAMODT: (Resuming)

18 Q Were you in contact --

19 JUDGE MILHOLLIN: It was discovered at the time it  
20 occurred.

21 MS. AAMODT: I am sorry, sir, I did not hear you.

22 JUDGE MILHOLLIN: You said at the time of the  
23 cheating incident? Are you referring to the time when it  
24 occurred? The cheating or when it was discovered?

25 MS. AAMODT: When it was released to the news

1 media.

2 JUDGE MILHOLLIN: You have to be precise in your  
3 questions.

4 BY MS. AAMODT: (Resuming)

5 Q At the time the news of the cheating incident was  
6 released to the media, did you have any part in preparing  
7 those news releases or communicating with the news media?

8 A Could I have a clarification as to which news  
9 releases and communications with the news media you are  
10 referring to?

11 Q Well, I am specifically referring to the news  
12 release on KYW Radio from Philadelphia.

13 MR. BLAKE: Do we have that available to us so that  
14 the witness could see it?

15 MS. AAMODT: This was a verbal release. It was on  
16 the radio.

17 BY MS. AAMODT: (Resuming)

18 Q Are you aware of the import of news releases at  
19 that time?

20 A Whose news releases are you asking the question  
21 about?

22 Q I am specifically referring to a news release from  
23 KYW news at that time that indicated that it was their  
24 understanding that this NRC licensing examination was a  
25 company requirement. Did you have any part in communicating

1 that understanding to the news media?

2 A I am sorry, but I do not recognize that. Radio  
3 stations make news releases, and I understood your question  
4 to be a news release from KYW.

5 (Counsel for the Aamodts conferring.)

6 JUDGE MILHOLLIN: The question was whether you had  
7 any part in preparing a news release which was then  
8 announced; is that right?

9 MS. AAMODT: That is right. That is what I am  
10 trying to ask.

11 BY MS. AAMODT: (Resuming)

12 Q If you had any part in preparing a news release  
13 which --

14 A A news release from the company?

15 Q To anyone, that indicated that the NRC licensing  
16 examination was a company rather than an NRC requirement.

17 A Is the question directed towards news releases by  
18 the company?

19 Q Yes.

20 A Thank you. In general, news releases from the  
21 company concerning Three Mile Island are cleared through me  
22 unless they concern very routine or relatively mundane  
23 matters or unless I am not available. I cannot speak with  
24 regard to the specific one that you are asking, because I do  
25 not know what one it was.

1 Q Were you at all aware at that time of any  
2 understanding on the part of the press that this was a  
3 company requirement rather than an NRC requirement?

4 JUDGE MILHOLLIN: Mrs. Aamodt, what is the  
5 relevance of this line of inquiry?

6 MS. AAMODT: I am trying to establish how  
7 seriously the test, the NRC licensing examination, was  
8 regarded by management and by the operators and --

9 MR. BLAKE: This is a press release after --

10 MS. AAMODT: I am basing this on an actual  
11 observation of my own and on depositions that we took of the  
12 operators.

13 JUDGE MILHOLLIN: And you are trying to establish  
14 that the company stated that the examination was a company  
15 rather than an NRC examination? Is it your intention to  
16 establish that the company stated that its view was that the  
17 examination was a company rather than an NRC requirement; is  
18 that the object of your line of cross examination?

19 MS. AAMODT: I am trying to establish whether they  
20 gave that -- put that significance onto the examination both  
21 to the operators and to the news media, whether they  
22 represented the NRC licensing examination as a company  
23 requirement rather than as an NRC requirement.

24 JUDGE MILHOLLIN: If they had, what relevance  
25 would it have?

1 MS. AAMODT: The attitude that the operators would  
2 have towards the examination and passing the examination in  
3 any way they could, which we have had testimony to.

4 JUDGE MILHOLLIN: Do you think that would make the  
5 operators more or less desirous of passing the exam if it  
6 were a company exam rather than NRC exam; is that what you  
7 are saying? Is that the thrust of your --

8 MS. AAMODT: The thrust is that without proctoring  
9 and with a pressure to pass it, rather than regarding it as  
10 a valid measure and a needed measure, that they could have  
11 used any means, could have been encouraged essentially to  
12 cheat on the examinations.

13 JUDGE MILHOLLIN: You hve asked the witness  
14 whether he believed that the examination was a company exam  
15 or an NRC exam, and he said it was both.

16 MS. AAMODT: That is right.

17 JUDGE MILHOLLIN: And you asked the witness  
18 whether he participated in a news release which may have  
19 said or may not have said that it was only one of the two.  
20 And he says his answer is that he does not remember.

21 Is that right?

22 THE WITNESS: Well, I think my answer was that I  
23 do not know what specific news release the question is  
24 directed towards. I do not think I gave any answer as to  
25 what I thought the content of news releases in general were

1 at that time relative to this question.

2 BY MS. AAMODT: (Resuming)

3 Q And do you have any knowledge of how the operators  
4 regarded this licensing examination?

5 MR. BLAKE: Objection.

6 JUDGE MILHOLLIN: What grounds?

7 MS. AAMODT: How seriously they --

8 MR. BLAKE: If she wants to say how they regarded  
9 it from the print on the exam or from the lighting or the  
10 surroundings in which it was taken or as to whether or not  
11 it was a Licensee or NRC requirement or any other specific  
12 question, I would withdraw my objection. But the question  
13 was do you have any opinion as to how your operators  
14 regarded the NRC exam.

15 MS. AAMODT: We can specify that.

16 MR. BLAKE: You are going to get the same sort of  
17 general answer.

18 JUDGE MILHOLLIN: Rephrase your question and make  
19 it specific. If you are after something specific, make the  
20 question specific.

21 BY MS. AAMODT: (Resuming)

22 Q Did the operators, to your knowledge, regard the  
23 NRC licensing exam as a company requirement solely or as an  
24 NRC requirement solely or both?

25 A My understanding is that the operators understood

1 it to be both in the April 1981 time frame.

2 Q Is it your understanding that the operators  
3 appreciated the significance of your requiring the NRC  
4 licensing examination?

5 MR. BLAKE: I am sorry, could you repeat that  
6 question?

7 JUDGE MILHOLLIN: The question is whether the  
8 witness appreciates the significance of the company-required  
9 NRC examination; is that it?

10 MS. AAMODT: I am sorry, I am tired. Let me try  
11 again.

12 BY MS. AAMODT: (Resuming)

13 Q Could I ask you this: Do you have any knowledge  
14 of the attitude of the operators toward taking the NRC April  
15 1981 licensing examination?

16 A Yes, ma'am.

17 Q How would you describe that attitude?

18 A I am of the opinion that those operators who had  
19 previously been licensed on TMI Unit 1 resented very much  
20 that they had to retake that examination.

21 Q Do you consider that attitude to have possibly  
22 contributed to operators attempting to get through the  
23 examination any way they could, even cheating?

24 MR. BLAKE: Objection.

25 JUDGE MILHOLLIN: On what ground?

1 MR. BLAKE: I do not know what the basis is for  
2 "getting through it any way they could."

3 JUDGE MILHOLLIN: Your objection to the question  
4 is what? I mean the question is --

5 MR. BLAKE: My objection is that it is a  
6 hypothetical without a foundation. She has laid no  
7 groundwork for saying that their attitude was they could get  
8 through any way they could. It assumes that was their  
9 attitude.

10 JUDGE MILHOLLIN: I will overrule it.

11 MR. BLAKE: Could I hear the question again,  
12 please?

13 JUDGE MILHOLLIN: The question is whether the  
14 attitude of the operators created a situation -- well, as I  
15 recall, the question is whether the attitude of the  
16 operators might explain their attitude toward getting the  
17 examination.

18 Is that right?

19 MS. AAMODT: That is right.

20 JUDGE MILHOLLIN: Perhaps you could fill in the  
21 details of that question if you have it written out.

22 MS. AAMODT: I have it here someplace, my notes,  
23 my cross examination plan.

24 JUDGE MILHOLLIN: Will the reporter read it  
25 back?

1 MR. GOLDBERG: Judge Milnollin, excuse me, I would  
2 like to make a general objection to the examination by the  
3 Aamodts, and I will make it now, or we will wait if you  
4 prefer. But I would like to make an objection.

5 JUDGE MILHOLLIN: Very well. We will wait until  
6 this question is read back and answer it, and then you can  
7 make your objection.

8 (The record was read as requested.)

9 THE WITNESS: My answer to the uestion is "No,"  
10 because I do not believe that that was their attitude.

11 BY MS. AAMODT: (Resuming)

12 Q Are you aware of --

13 JUDGE MILHOLLIN: Excuse me, Mrs. Aamodt, I think  
14 there is an objection on the floor.

15 MS. AAMODT: Oh, I am sorry.

16 MR. GOLDBERG: With all due respect to Mrs.  
17 Aamodt, she is represented by counsel in this proceeding. I  
18 am concerned with the inordinately large record that we are  
19 creating with a series of questions which I think one after  
20 another are improperly phrased, compound, ambiguous, and, to  
21 a large, extent irrelevant.

22 I think there ought to be a genuine concern about  
23 the length of time that we are taking with this examination  
24 and the extent to which it is contributing to new  
25 information that is not already on the record. And I just

1 have a general objection to proceeding in this fashion when  
2 Mrs. Aamodt is represented by counsel who ought to be able  
3 to ask proper questions or at least guide her in asking  
4 proper questions.

5 JUDGE MILHOLLIN: I agree with the objection. So  
6 I am going to give you a short additional period of time to  
7 ask questions, and then I am going to insist that either  
8 your counsel begin the examination or that your counsel not  
9 be permitted to do any examination of this witness.

10 MS. AAMODT: Now, do I understand that you are  
11 giving me the opportunity to continue if I --

12 JUDGE MILHOLLIN: I am giving you an option.  
13 Either you can continue for a short period of time and then  
14 you can turn questioning over to your counsel under my  
15 discretionary grant to you of the authority to cross examine  
16 by more than one cross-examiner; or you can continue beyond  
17 that short period of time, at which time I will withdraw my  
18 discretion to allow cross examination by more than one  
19 person.

20 Do you understand? Mr. Clewett can fill you in if  
21 you do not understand.

22 MR. CLEWETT: I wonder if we might ask the  
23 indulgence of the Special Master for about a five-minute  
24 break to see if we can organize our presentation in a manner  
25 that would be most suitable.

1 JUDGE MILHOLLIN: Not more than five. Yes. Very  
2 well. We will break for five minutes.

3 (Brief recess.)

4 MR. CLEWETT: Judge Milhollin, the procedure which  
5 we would like to suggest is this: that Mrs. Aamodt continue  
6 for about ten minutes, after which I will have a very few  
7 questions, and that will wrap up our questioning of Mr.  
8 Arnold.

9 JUDGE MILHOLLIN: Very well.

10 BY MS. AAMODT: (Resuming)

11 Q Mr. Arnold, are you aware of an allegation that  
12 operator EE signed and circulated a memorandum, a memorandum  
13 addressing the improper acquisitions of one department from  
14 the supplies of another?

15 A Yes, ma'am.

16 Q Are you aware of allegations by operator KK that  
17 the originator of that memorandum, operator EE, engaged in  
18 that sort of behavior and ordered others to?

19 A I am not aware that operator -- excuse me, no,  
20 ma'am.

21 Q I am sorry, is it YY? I believe it is YY who made  
22 those allegations. An operator who is no longer with the  
23 company made the allegations that an individual --

24 JUDGE MILHOLLIN: Mrs. Aamodt, I do not think the  
25 witness now understands what your question is, and I do not

1 understand it either.

2 MS. AAMODT: Oh, I am sorry.

3 JUDGE MILHOLLIN: What is your question?

4 BY MS. AAMODT: (Resuming)

5 Q My question is: Are you aware that there are  
6 allegations that were under investigation by the NRC that EE  
7 ordered acquisitions of materials and supplies of other --  
8 from other departments in an improper manner?

9 A No, ma'am.

10 Q Have you read the NRC investigation of that, or  
11 are you not aware of that?

12 A Would you clarify what "that" is, please?

13 Q Of that allegation.

14 JUDGE MILHOLLIN: Mrs. Aamodt, your question is  
15 not precise enough for anyone to answer it. You asked the  
16 witness whether the witness was aware of an allegation, a  
17 rather detailed one, and I think he said "No."

18 Is that right?

19 THE WITNESS: Yes, sir, that is right.

20 JUDGE MILHOLLIN: And then I think your question  
21 was was he aware of an NRC, whether he had read an NRC  
22 investigation.

23 MS. AAMODT: Yes, and he is not aware of that. I  
24 understand.

25 JUDGE MILHOLLIN: I assume you mean has he read a

1 report of the NRC with respect to that allegation. Is that  
2 your question?

3 MS. AAMODT: That is right.

4 JUDGE MILHOLLIN: Have you read a report by the  
5 NRC with respect to that allegation?

6 THE WITNESS: No, sir. But if I could beg your  
7 indulgence, I have read a report that relates to an  
8 allegation that I understood to be similar to that, but it  
9 was not, as I understood it -- recalled it anyway, as stated  
10 by Mrs. Aamodt.

11 BY MS. AAMODT: (Resuming)

12 Q Could you recall for us your understanding of that  
13 allegation?

14 A The one that I -- allegation that I recall being  
15 made that was similar to that is an allegation that Mr. Ross  
16 would do that sort of thing; that is, that Mr. EE, who was  
17 among those removed from protection, that Mr. EE would do  
18 that sort of thing. I did not recall that the allegation  
19 said that he in fact did that type of thing.

20 Q May I ask you if you have spoken with Mr. Ross  
21 about this allegation?

22 A Yes, ma'am.

23 Q Has Mr. Ross indicated to you that he would do  
24 that sort of thing, make acquisitions improperly from  
25 another department?

1 (Pause.)

2 A Could you repeat the question, please?

3 JUDGE MILHOLLIN: Has Mr. Ross indicated to you  
4 whether he would do such a thing?

5 BY MS. AAMODT: (Resuming)

6 Q Have you spoken with Mr. Ross about any possible  
7 acquisitions that he would have made or ordered to have been  
8 made in an improper manner, as discussed in the memoranda  
9 that he --

10 A No, ma'am.

11 JUDGE MILHOLLIN: I am confused. I thought you  
12 answered this question "Yes" a moment ago.

13 THE WITNESS: The question she asked me then was,  
14 "Can I ask you a question?"

15 JUDGE MILHOLLIN: She asked you if you had spoken  
16 to Mr. Ross, and I think you said "Yes," did you not?

17 THE WITNESS: She said, "Could I ask you the  
18 question?" To that question I had to answer "Yes." She can  
19 ask me any question that you do not overrule.

20 BY MS. AAMODT: (Resuming)

21 Q Did you speak with Mr. Ross about this matter?

22 A No, ma'am.

23 Q In view of the -- are you agreed that there were a  
24 large number of similarities between the answers of O and W  
25 on the April 1981 licensing examination?

1           A     No, ma'am.

2           Q     Do I understand that you are saying that you are  
3 not aware that there was a large number of answers of O and  
4 W on the licensing examination that were similar, if not  
5 identical?

6           JUDGE MILHOLLIN:   Mrs. Aamodt, the proper way to  
7 ask that question is to ask the witness whether he was aware  
8 of it at a particular time or whether he was ever aware of  
9 it.

10          BY MS. AAMODT:   (Resuming)

11          Q     Were you ever aware, Mr. Arnold, of the extent of  
12 the similarity of answers between Mr. O and Mr. W on the NRC  
13 licensing examination?

14          THE WITNESS:   Your Honor, could I ask for some  
15 assistance, in order to try not to complicate things  
16 further? In terms of knowledge, th answer to the question  
17 would have to be "No," but in terms of awareness of  
18 allegations that that was the situation, the answer would be  
19 "Yes." And I do not want to, you know, just confuse things  
20 by being that tight in the interpretation of the question.

21          JUDGE MILHOLLIN:   All right.

22          BY MS. AAMODT:   (Resuming)

23          Q     You then are aware, either through our own  
24 knowledge or someone else's knowledge, that there were a  
25 number of similarities on the examinations of O and W?

1 A No, ma'am.

2 (Counsel for the Aamodts conferring.)

3 Correction: a number of similarities. I would  
4 say the answer to that is "Yes."

5 Q So you have knowledge that there were a number of  
6 similarities on these examinations; is that correct?

7 A Yes, ma'am.

8 Q All right. Are you satisfied that none of the  
9 operators who were seated in the same room with O and W have  
10 come forward to indicate that they observed any collusion  
11 between O and W?

12 JUDGE MILHOLLIN: The question is whether you are  
13 satisfied that they have not come forward, I think.

14 Mrs. Aamodt, I am going to have to rule in a few  
15 minutes that you do not know how to ask questions.

16 MS. AAMODT: I am sorry. Can I just -- I will let  
17 Mr. Clewett ask the questions. Maybe I can direct him.

18 JUDGE MILHOLLIN: That would be much better.

19 MS. AAMODT: Okay. I am sorry.

20 JUDGE MILHOLLIN: Mr. Clewett has represented to  
21 us he is going to have just a few questions. Is that right,  
22 Mr. Clewett?

23 MR. CLEWETT: This is correct.

24 JUDGE MILHOLLIN: All right.

25 (Counsel for the Aamodts conferring.)

1 BY MR. CLEWETT:

2 Q Turning first of all to the incident involving Mr.  
3 Shipman, I believe it was your testimony yesterday that you  
4 did not talk to Mr. Shipman until you had "essentially  
5 decided" what to do in the case of Mr. Shipman. Is my  
6 recollection correct in that regard?

7 A Yes, sir.

8 Q Just as a point of clarification, did you mean to  
9 convey by saying essentially decided that you did not talk  
10 to Mr. Shipman until you had decided or that you were still  
11 not sure and that there could have been things that Mr.  
12 Shipman could say that would affect your decision?

13 (Pause.)

14 A I understood that to be a compound question. But  
15 the decision was not analyzed until I had met with Mr.  
16 Shipman, just as my decision was not finalized with regard  
17 to Mr. W and Mr. O until I had met with them.

18 Q So when you said that you had essentially decided  
19 before you met with Mr. Shipman, did you mean to convey that  
20 it would take some unusual showing by Mr. Shipman to change  
21 your mind?

22 A Yes, sir.

23 Q And he did not make that showing?

24 A No, sir. Excuse me. It is true he did not make  
25 that showing.

1 Q Thank you.

2 (Pause.)

3 Referring to Mr. VV in the two-year period before  
4 he was removed from supervisory activities, would he have in  
5 the normal course of events been required to stand watch in  
6 the control room from time to time?

7 (Pause.)

8 A Yes, sir.

9 Q How often would that have been?

10 A I think it would have been perhaps on the order of  
11 once or twice a month as he filled in for shift foremen or  
12 shift supervisors that may need to be away temporarily from  
13 the duties. It would not have been a systematic  
14 requirement.

15 Q Is there any requirement that as a licensed  
16 individual he would have been required to stand watch from  
17 time to time in order to maintain his license?

18 A Not to my knowledge.

19 Q I believe you referred yesterday to Mr. VV having  
20 been perceived at the time of his removal from supervisory  
21 activities as having caused a "vulnerability" to the  
22 organization. Is my recollection of your testimony there  
23 accurate?

24 A Yes, sir.

25 Q What did you mean by the word "vulnerability" with

1 respect to the organization?

2       A     The organization is structured and administered to  
3 try to give us maximum assurance that we will control and  
4 conduct our activities as we intend to do. That includes  
5 the way in which we administer our activities. The weakness  
6 that Mr. VV had shown in administrative areas made that  
7 aspect of our organizational structure have a weakness that  
8 creates a vulnerability to breakdowns and adequate  
9 administration of our activities.

10           MR. CLEWETT: Excuse me for one moment here.

11           (Pause.)

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1 BY MR. CLEWETT (Resuming):

2 Q Referring to page 4 of your prepared testimony,  
3 several lines up from the bottom you refer to operators of  
4 nuclear plants as being as a group subject to the same human  
5 frailties as any other group. And I believe also in your  
6 testimony yesterday that you referred to, or that you stated  
7 in reference to the matters under consideration in these  
8 hearings that absolute perfection is not obtainable.

9 While I would imagine that everyone could agree  
10 with that, my question is whether you feel it is appropriate  
11 for those who operate a nuclear power plant to be held to a  
12 higher standard of integrity than the normal man in the  
13 street would be held to an ordinary job.

14 (Pause.)

15 A Could I have a clarification of what you mean by  
16 held to?

17 Q Well, do you feel that it is reasonable for the  
18 assumption to be made that the people who are in charge of  
19 operating a nuclear power plant with its attendant risks of  
20 extraordinary dangers, whether it is appropriate for people  
21 to assume that the people running such a plant will manifest  
22 a higher standard of integrity than the average person?

23 A Yes, sir.

24 Q Do you feel that if that expectation were to be  
25 shown to be wrong, that it would be appropriate to impose

1 any penalties on nuclear power plant operators? I am  
2 sneaking back up to the notion of "held to" and whether you  
3 feel -- I am asking you whether you feel that if nuclear  
4 power plant operators demonstrate that they do not have any  
5 higher standard of integrity than anyone else, whether there  
6 would be any circumstances under which any penalties might  
7 be appropriate.

8       A     To nuclear power plant operators as a group, is  
9 that the question?

10       Q     Well, or individuals within them who fail to meet  
11 those standards, those higher standards.

12       A     I think operators who fail to fulfill the trust  
13 placed in them in being operators are accountable for that,  
14 and that they have to expect a response that, in effect,  
15 imposes a penalty.

16       Q     And when you refer to the trust that has been  
17 placed in them, do you mean to convey that that is a greater  
18 trust involving a higher standard of integrity than would be  
19 the case with an ordinary individual in the street?

20       A     No, I do not think it is a matter of -- as you  
21 describe it, I think that the trust is greater or more  
22 broad-based than is imposed on the average man in the  
23 street. And I would make a distinction between, I guess,  
24 integrity and the implications of that and the trust.

25             I think it is a lot more helpful for us to think

1 of these responsibilities in terms of the trust that is  
2 placed in them, because I think all of us are obligated to  
3 act with integrity, the man on the street or a nuclear power  
4 plant operator. But the trust that is placed in us for that  
5 integrity varies in degree.

6 (Counsel for the Amodts conferring.)

7 Q On page 3 of your statement --

8 JUDGE MILHOLLIN: You are referring to his  
9 testimony, is that right?

10 MR. CLEWETT: Yes.

11 BY MR. CLEWETT (Resuming):

12 Q Page 3 of your prepared testimony, you state that  
13 the company needs to know about problems and all the  
14 circumstances related to problems relating to problems, and  
15 a little bit further you refer to a balancing of the  
16 conflict that exists between being sure that people  
17 understand they will be held accountable, and the  
18 constraining influence of this on their willingness to be  
19 completely frank.

20 I am wondering whether you feel currently hampered  
21 in your ability to impose penalties because of your need,  
22 your felt need, your presumable felt need to maintain a  
23 minimum complement of operators.

24 A No, sir.

25 Q How many operators of your present complement

1 could be dismissed before you reached a situation where you  
2 had an inadequate number to operate the plant safely?

3 (Pause.)

4 A I would have to review the specific data on that.  
5 I do not know the answer off the top of my head.

6 Q Do you have a feel for a rough estimate as to how  
7 much of a margin you have in this regard?

8 A On the order of 20% or 25%.

9 (Counsel for the Amodts conferring.)

10 Q I believe in the memoranda concerning operator W  
11 and operator O which TMIA entered on the record yesterday  
12 you had indicated in each case that your decision with  
13 regard to each of those operators was based primarily upon  
14 your oral discussion with them. Is this correct?

15 A I do not believe so, but perhaps if you could give  
16 me the specific reference it would be helpful.

17 Q Referring to TMIA Exhibit 52 which concerns  
18 operator W, on the third page of your memorandum, the last  
19 paragraph reads, quote, "I would like to amplify that the  
20 action taken by the company was not based on the contents of  
21 the written statements provided to the NRC, which contain  
22 inconsistencies, but was based on the degree of involvement  
23 in this incident orally acknowledged to me by Mr. W in Mr.  
24 Hukill's presence."

25 Has there been any statement, any reduction to

1 writing, of the substance of that oral conversation?

2       A     Not anything other than this memorandum  
3 represents. I still agree with my previous answer to the  
4 question prior to getting the reference, though, that the  
5 answer to the question was no.

6       Q     I am not sure I follow that. So if you could  
7 briefly explain.

8       A     I understood you to read or interpret that last  
9 paragraph as meaning that the interview was the primary  
10 basis for taking the action, and that I relied upon that  
11 interview primarily for taking the action. And I just  
12 wanted to be sure it is understood that that is not what  
13 that paragraph means.

14       Q     What else did you rely upon?

15       A     All the information that was developed in the  
16 course of the NRC's investigation, of which I was aware of.

17       Q     I am not sure I understand. My reading of that  
18 last paragraph would be that the action taken, which is  
19 presumably the decision to terminate the employment of this  
20 individual, was not based on the contents of the written  
21 statements provided to the NRC.

22       A     Perhaps it is inartfully worded, but the point  
23 that I was trying to emphasize there is that independent of  
24 the other information that was developed and of which there  
25 were conflicts, the information that was acknowledged by Mr.

1 W to be accurate was, in and of itself, sufficient basis for  
2 termination.

3 (Counsel for the Aamodts conferring.)

4 JUDGE MILHOLLIN: Mr. Clewett, how much longer do  
5 you think you are going to go?

6 MR. CLEWETT: Not more than five minutes.

7 JUDGE MILHOLLIN: All right.

8 MR. CLEWETT: Let me take one moment right now.

9 (Counsel for the Aamodts conferring.)

10 BY MR. CLEWETT (Resuming):

11 Q Are you aware of any allegations concerning  
12 cheating which involve other parties who have identities  
13 that have not been identified at this time? That may not be  
14 a very artfully phrased question.

15 JUDGE MILHOLLIN: Do you mean lettered individuals?

16 MR. CLEWETT: No, I do not. That is an example of  
17 how inartfully phrased that question was.

18 JUDGE MILHOLLIN: I am sorry.

19 BY MR. CLEWETT (Resuming):

20 Q In the report of the I&E, there are matters which  
21 I would like to inquire as to whether you are aware of them,  
22 which --

23 A Before you go on, so I could follow the question  
24 would you identify which I&E report you are referring to?

25 Q I -- the second, the third of the three that we

1 have to date. They are --

2 A Okay.

3 JUDGE MILHOLLIN: Mr. Clewett, are you going to  
4 ask him questions about the contents of those reports? Is  
5 that what your question is going to be?

6 MR. CLEWETT: No, I am not. I was just referring  
7 to those two in an attempt to establish whether Mr. Arnold  
8 had been aware at all of any allegations. I am not asking  
9 him about the specific allegations that flow from that.

10 JUDGE MILHOLLIN: What you want to ask him is  
11 whether he knows of any cheating beyond that which is  
12 reported in the I&E reports? Is that what you are trying to  
13 ask him?

14 MR. CLEWETT: No, let me try again and see if I  
15 can do better here.

16 BY MR. CLEWETT (Resuming):

17 Q Are you concerned -- well, are you aware of any  
18 allegations which involve individuals or which allege that  
19 there were individuals involved who were not in any way  
20 identified such as the accounts that there were telephone  
21 calls to shift technical advisors from, in one instance, a  
22 person who is not identified at all, in one instance a  
23 person whose identity has been the subject of some dispute.  
24 In another matter there is -- in the Shipman incident there  
25 is on the part of Mr. Shipman, a stated failure to be able

1 to recall the identity of the individual who asked and  
2 received an answer to a question from the examination.

3           And my question is whether you are concerned about  
4 the fact that there is the potential for there being further  
5 involvement of additional individuals who have not yet been  
6 identified. Does it concern you that there may be other  
7 people out there who have been involved in cheating whose  
8 identities are not yet known?

9           A     Yes, sir.

10          Q     What steps, if any, are you taking to attempt to  
11 resolve those outstanding questions?

12          A     As I provided in my prepared testimony on page 11,  
13 the beginning of the first full paragraph, I believe that we  
14 have taken the appropriate steps and the ones that are  
15 available to us to pursue those issues as far as we can  
16 pursue them. We do not have any further effort going on at  
17 this time relative to any of those rumors.

18                   (Counsel for the Aamodts conferring.)

19          Q     Am I correct in my understanding that Mr. NNN  
20 reported a rumor to you in June?

21          A     No, sir.

22                   MR. CLEWETT: I do not believe we have any further  
23 questions, Judge Milhollin.

24                   JUDGE MILHOLLIN: Thank you, Mr. Arnold.

25                   THE WITNESS: You are welcome, sir.

1 JUDGE MILHOLLIN: Very well. We have a report  
2 from the staff before lunch.

3 MS. SWARTZ: I am reporting in answer to your  
4 questions regarding the grading of the SRO and RO  
5 examinations given in October of this year.

6 I talked with the Chief of the Operator Licensing  
7 Branch, which is the branch administering, preparing,  
8 administering and grading the NRC licensing examinations.

9 JUDGE MILHOLLIN: That is Mr. Collins?

10 MS. SWARTZ: Yes, he reported to me that the RO  
11 examinations are being graded by Battelle Laboratories in  
12 the state of Washington. That grading is expected to be  
13 completed this weekend. The grading is being conducted by  
14 contractors who work for Battelle under contract to the NRC.

15 The graders will meet with Mr. Boger, who also  
16 works under Mr. Collins in the Operator Licensing Branch, in  
17 Lynchburg at the B&W simulator where Mr. Boger is now  
18 conducting simulator examinations. They will meet on the  
19 17th to go over the examinations that the contract graders  
20 did grade.

21 Mr. Boger, however, --

22 JUDGE MILHOLLIN: They meaning Mr. Boger and --?

23 MS. SWARTZ: And the contract graders. Mr. Boger,  
24 however, cannot begin his review of the examinations until  
25 the 23rd of November because he is in the midst of giving

1 simulator examinations at the B&W simulator.

2           The SRO examinations are being graded by two NRC  
3 staff people, Mr. Campbell and Mr. Buzy. None of these have  
4 been graded yet, but I understand from Mr. Collins that they  
5 expect to start grading those today.

6           The staff still believes that the exam results  
7 will, or the examination grading, will be completed by  
8 November 30. This process includes, as I understand it,  
9 initial grading, review by the individuals who prepared and  
10 actually administered the examination and then a management  
11 review by section leaders and by Mr. Collins, the Branch  
12 Chief.

13           JUDGE MILHOLLIN: When will the SRO examinations  
14 be finished?

15           MS. SWARTZ: He did not give me --

16           JUDGE MILHOLLIN: By finished, I mean the first  
17 round of grading.

18           MS. SWARTZ: He did not give me an indication of  
19 that.

20           The staff stated, Mr. Collins stated that more  
21 people could be put on the grading, but this would be at the  
22 expense of examinations being administered at other plants.  
23 Those examinations that are now scheduled to be given at  
24 other plants would have to be cancelled to be given at  
25 another date. And staff is hesitant to do that because it

1 may cause delay at the other plants.

2           Staff does want to be able to do a thorough job of  
3 grading and reviewing these examinations, especially in  
4 light of the importance that is being placed on these  
5 particular examinations to the parties here, to the Special  
6 Master, to the Licensing Board and maybe most important to  
7 the examinees themselves.

8           A question that the staff has is when the results  
9 are available, in what form is the Special Master and the  
10 Board going to want these results? Are you going to want  
11 letter designations, pass/fail; are you going to want names  
12 and grades? I would like to say if you do want names and  
13 grades, we will probably be seeking a protective order  
14 because there might be Privacy Act problems with that.

15           JUDGE MILHOLLIN: Is it anymore burdensome to give  
16 us pass/fail results than to give us grades?

17           MS. SWARTZ: No, we could give you pass/fail. It  
18 is not more burdensome to give you pass/fail than it is to  
19 give you grades.

20           JUDGE MILHOLLIN: My question was, is it more  
21 burdensome to give grades than pass/fail?

22           MS. SWARTZ: No, that is not more burdensome,  
23 either. Our only problem with that is a Privacy Act problem  
24 that we might be asking for a protective order, so that it  
25 does not get published in the newspaper as to the fact that

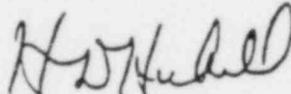
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the NRC examinations. This review has indicated that because the results on a written examination are not by themselves a sufficient basis for determining if an operator is qualified, an attitude has tended to develop which views the examinations as unrelated to determining an operator's qualification.

We will work with the Training Department and the NRC (in the case of licensed operators) to try to assure examinations are prepared properly; however, we rely upon you to understand the importance of examinations and display a proper attitude towards them. Our view of their importance includes:

- (1) Examinations are an essential element of an effective education and training program,
- (2) Objective measurements of the knowledge and understanding of plant behavior, equipment, systems and procedures are necessary to determine if an operator is qualified,
- (3) NRC examinations are one important and necessary element of the licensing process in determining qualifications of a license candidate, and
- (4) Because of the potential for a nuclear plant to affect the health and well-being of the people living in the vicinity of the plant, we have an obligation to demonstrate by our attitudes, our actions and our administration of examinations that examinations are taken seriously and that they meaningfully measure the knowledge and understanding of the operator on the material covered by the examination.

I urge you to reflect on your own attitude toward these issues. You are one of those we depend upon to understand them and carry out your work assignments consistent with those understandings. Because of the importance of these issues, department heads will be scheduling group meetings in the near future to discuss these and other related issues in more detail.

  
H. D. Hukill  
Director, TMI-1

1 a specific name individual got a 96.8 on his examination.

2 JUDGE MILHOLLIN: But in terms of -- okay. I

3 assume that something we can decide.

4 MS. SWARTZ: I just wanted to present a possible  
5 problem.

6 JUDGE MILHOLLIN: Yes. So your response is that  
7 you cannot give us any assurance that the results will be  
8 available before November 30.

9 MS. SWARTZ: That is true.

10 JUDGE MILHOLLIN: According to the present plans.  
11 Is that right?

12 MS. SWARTZ: That is true.

13 JUDGE MILHOLLIN: Thank you. Do you have any  
14 other information on that subject that you think I should  
15 know about?

16 MS. SWARTZ: No, I do not believe so.

17 JUDGE MILHOLLIN: Oh, let me ask you this. How  
18 many of the examinations are there in each category?

19 MS. SWARTZ: That I do not know but I think I can  
20 get that for you fairly easily.

21 JUDGE MILHOLLIN: All right. Could you -- when  
22 could you get that information?

23 MS. SWARTZ: I think it is written down in  
24 something the licensee gave us yesterday as to how many  
25 people took the RO and how many people took the SRO.

1 JUDGE MILHOLLIN: Maybe the licensee could supply  
2 that information.

3 (Pause.)

4 MR. BLAKE: I think, Judge Milhollin, it is  
5 available in two different documents which have been  
6 provided. One of those is what I sent out last Friday, that  
7 is November 6th, the chart of the exams. The last entry on  
8 that was the NRC October exam, and although it does not give  
9 the number --

10 JUDGE MILHOLLIN: Each person has a letter?

11 MR. BLAKE: Yes.

12 JUDGE MILHOLLIN: So we can count the letters and  
13 determine how many there are.

14 MR. BLAKE: I also --

15 JUDGE MILHOLLIN: That is true of both categories  
16 of exams, so I can look at that and count the letters and  
17 know how many people took the exams?

18 MR. BLAKE: Yes, sir.

19 I also believe it is derivable from Mr. Hukill's  
20 prepared testimony which has been distributed.

21 JUDGE MILHOLLIN: I see. Have you made any  
22 progress on your attachment to that chart?

23 MR. BLAKE: We have made progress, but we have not  
24 distributed it and gotten everybody's agreement yet on the  
25 attachment to the sequestration order.

1 JUDGE MILHOLLIN: No, I am referring to the chart  
2 which you provided.

3 MR. BLAKE: You mean the pass/fail?

4 JUDGE MILHOLLIN: Yes. How many passed and failed  
5 the various examinations.

6 MR. BLAKE: We are making progress on that, too,  
7 but we have not completed that. That is not a quick item to  
8 do.

9 JUDGE MILHOLLIN: All right.

10 If there are no other matters this morning we will  
11 break for lunch, and I assume after lunch we will be ready  
12 for the Commonwealth examination.

13 MR. ADLER: That is correct. I do not expect that  
14 it will be very long. Certainly, less than an hour and  
15 maybe far shorter than that.

16 JUDGE MILHOLLIN: Very well. So the licensee can  
17 plan to have Mr. Hukill available this afternoon.

18 MR. BLAKE: All right, we will do that.

19 JUDGE MILHOLLIN: We will break until 1:30.

20 (Whereupon, at 12:26 p.m. the hearing in the  
21 above-entitled matter recessed for lunch, to reconvene at  
22 1:30 p.m. the same day.)

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AFTERNOON SESSION

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(1:42):

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JUDGE MILHOLLIN: The hearing will come to order.

4 Mr. Blake?

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MR. BLAKE: Judge Milhollin, over the noon hour I have provided to the parties and as well have put a copy at your place of the typed version of the sequestration order which the parties approved and agreed upon yesterday. What the parties had not seen yesterday and had not seen until the lunch hour today is the attachment to the sequestration order, which I also passed out to the parties and have made available to you.

13

It is a list of the prospective witnesses to which the sequestration order would apply. Let me describe for your benefit and for the parties as well how we went about generating this list.

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We first went through our list of witnesses for whom we had distributed prepared written testimony. Secondly, we went through your special prehearing conference order in which you had identified individuals that either the Licensing Board or you expected to have testify. Third, we went through TMIA's and the Aamodts' trial plans and listed from those all of the individuals that had been identified.

25

Now, some of that took interpretation, for

1 example, where there were classifications of people rather  
2 than specific identified individuals. We have sought to  
3 identify all the individuals who we think would be within  
4 that class and have now identified them on this list either  
5 by letter or by name, as we have agreed to in the  
6 stipulation. And it is my judgment that we have done that  
7 in the broadest fashion that we know how.

8           It includes in the list not only current employees  
9 but ex-employees as well. And as I say, the parties have  
10 really gotten this over the lunch hour, this Attachment 1,  
11 so I do not have returns from them on their thoughts  
12 regarding it.

13           You will note, Judge Milhollin, that in the  
14 sequestration order that the parties agreed to it attempts  
15 in one fell swoop to put out a protective order for both  
16 prospective witnesses and envisions that at the end of each  
17 witness's testimony, you would provide whatever additional  
18 instructions above and beyond this order would be necessary.

19           I have not talked with the parties about how we  
20 would attempt to get this order out, although it is my  
21 intention to mail it by presumably certified mail to each of  
22 the individuals' home addresses that we have. I cannot  
23 speak for some of the ex-employees who are on this list, and  
24 I cannot confirm for you now that we have their addresses.  
25 We certainly -- I will, however, if this is approved,

1 undertake to expeditiously get it served on these  
2 individuals and alert you to any that I do not know where to  
3 send it to or I do not have confidence will receive it  
4 properly.

5           The second piece of paper, which I have put for  
6 you, Judge Milhollin --

7           JUDGE MILHOLLIN: Can you indulge me just a  
8 moment? Just a moment.

9           (Pause.)

10          Go ahead. You were going to explain the  
11 sequestration order. The document with the attachment.

12          MR. BLAKE: No. I had -- I did not intend to say  
13 anything more about the sequestration order other than that  
14 we had attempted to incorporate both the idea that you would  
15 speak with each witness at the conclusion of his testimony  
16 and answer any questions that any individual had at that  
17 time.

18          The second document that I was going to refer to  
19 is a document dated November 11, 1981, and it's entitled  
20 ASLB Hearings. It is an interoffice memorandum of GPU  
21 Nuclear; a one-page document, and this document, Judge  
22 Milhollin, has not been distributed anyplace other than this  
23 hearing room.

24          The company has had a policy throughout the  
25 hearings that are going on, and particularly those where

1 everybody has an interest in what is occurring at the  
2 hearing, within the company that on a periodic basis -- and  
3 in this case it is currently envisioned to be daily -- that  
4 they would put out a little news blurb to keep people  
5 advised of what was occurring. This -- obviously, it is of  
6 considerable interest to the employees in the company, and  
7 it is an attempt to keep the employees advised.

8           The reason that I hand it out, or that I am  
9 sensitive in particular about it now is because of the  
10 pending sequestration order. Bearing that in mind, this one  
11 has been generated and I envision doing it, or would  
12 envision the company doing it, from here on out throughout  
13 the hearings.

14           I have showed it to each of the parties here who  
15 does not have a problem -- none of whom have expressed a  
16 problem with this one, although they understand that we  
17 could step over the line, or there is the potential for  
18 that, in this practice. I have given it to you as well to  
19 solicit your judgments about this practice.

20           It is my believe that by allowing the company to  
21 continue this, which will be reviewed each day at least by  
22 Mr. Wilson, who is familiar with the sequestration order and  
23 with the spirit with which we are entering into it, I think  
24 it is probably a better method of doing it than -- it  
25 satisfies some of the curiosity about what is going on and I

1 think, quite frankly, might avoid and have a positive effect  
2 on avoiding problems with compliance with sequestration.

3 I also have committed to Ms. Bradford that we  
4 would make copies of these available here to the parties so  
5 that they can track these as they do it. But I wanted to  
6 alert you to this practice in advance, and as I say, to  
7 solicit your views on whether or not we can continue it.  
8 Bearing in mind the spirit in which we are entering into the  
9 sequestration order.

10 JUDGE MILHOLLIN: I see nothing about the first  
11 one -- I have read it very quickly. I see nothing in it  
12 which concerns me. I do have a question. Who prepares  
13 these daily items?

14 MR. BLAKE: The signature at the bottom -- not the  
15 signature, but the name which appears at the bottom of this  
16 is Mr. Osterhout. Mr. Osterhout is here today; he is in the  
17 communications department of the company, who has  
18 responsibility -- one of the responsibilities is to  
19 distribute throughout the company to the employees  
20 information to keep them abreast of company affairs.

21 JUDGE MILHOLLIN: It is understood that Mr.  
22 Osterhout's communications will do nothing to defeat the  
23 spirit of the sequestration order, either by communications  
24 in this document or other communications he might make. I  
25 assume that is understood, is it not?

1           MR. BLAKE: Mr. Osterhout is not a prospective  
2 witness, and in that regard he is not covered. But it is  
3 certainly within the spirit of sequestration which has given  
4 rise to the sensitivity which causes me to bring the  
5 document to you at this point in time.

6           Assuredly, the worst thing that can happen is for  
7 us to wind up in even the potential of being chastised for  
8 running afoul of that order, and it is with that spirit that  
9 we want to still continue to maintain this system.

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1           JUDGE MILHOLLIN: I only mention it because he is  
2 here. It has not been mentioned before. It is certainly  
3 clear from what I have said that counsel and anyone excepted  
4 from the exclusion rule would be covered by the  
5 understanding that they would do nothing to undermine the  
6 spirit of the sequestration order. So I just wanted to make  
7 it clear that he would be included in the persons we have  
8 already described.

9           MR. BLAKE: He certainly is bound by the spirit  
10 with which the sequestration order would be entered into.

11           I must observe, though, that I indicted yesterday  
12 I do not know where to draw the line with restrictions on  
13 counsel, but as I stated yesterday, I would vigorously  
14 object to the sequestration orders infringing on  
15 attorney-client relationships or my ability to prepare  
16 witnesses.

17           JUDGE MILHOLLIN: I think the normal expectation  
18 is that in preparing a witness the attorney does not  
19 communicate the content of another witness' testimony. It  
20 is the content of a witness' testimony which is the target  
21 of the prohibition and not the activity which attorneys must  
22 do to prepare a witness to give his own testimony.

23           MR. BLAKE: I guess to the extent we are into an  
24 attorney-client relationship area and to the extent you mean  
25 to restrict my ability to prepare witnesses based on the

1 hearing and what I regard to be the issues in the hearing  
2 and preparing the witness the best way I know how in order  
3 to serve my client, then I guess I would like an opportunity  
4 to brief that question.

5 JUDGE MILHOLLIN: Well, let me ask you what your  
6 position is, then. Do you feel at liberty to discuss with  
7 any prospective witness the content of a previous witness'  
8 testimony?

9 MR. BLAKE: Since we are dealing here in the  
10 hypothetical and you are not asking for any past  
11 communications that I have had with particular witnesses --

12 JUDGE MILHOLLIN: I am just asking for your  
13 position on the law. Do you think the law gives you that  
14 right and are you prepared to engage in such  
15 communications? If I do not order you explicitly not to, is  
16 it your intention to, for example, communicate the content  
17 of a witness' testimony to another witness who has not yet  
18 testified?

19 MR. BLAKE: Judge Milhollin, I must say that I was  
20 not aware of a restriction generally on attorneys that would  
21 prohibit them from discussing another witness' testimony in  
22 preparing the witness as a general proposition, nor the  
23 content of the record.

24 JUDGE MILHOLLIN: Well, you agree, don't you, that  
25 there is very little to be gained by a sequestration order

1 if it can be circumvented by counsel communicating the  
2 content of the previous testimony?

3 MR. BLAKE: I think that when you are talking  
4 about an attorney-client relationship and the proprieties  
5 that attach to preparing a witness it may be quite a  
6 different matter from what could be envisioned in  
7 discussions between two individuals who are not subject to  
8 the codes of professional responsibility and the system  
9 which attaches and I think is respected among counsel.

10 And to that degree I do not know.

11 JUDGE MILHOLLIN: Well, if a witness should tell  
12 you that the witness plans to testify to facts X, Y and Z  
13 and that the witness plans to testify that the facts are a  
14 certain way with respect to those issues X, Y and Z, and you  
15 know that another witness has testified that with respect to  
16 those issues the facts are exactly opposite and both  
17 witnesses are employed by the Licensee, are you going to  
18 tell the witness, the second witness, that the previous  
19 witness has testified to the contrary?

20 MR. BLAKE: I cannot tell you what I would say. I  
21 can tell you that in my preparation of witnesses it is not  
22 my intention to alter the facts or their recollection of the  
23 facts one iota.

24 JUDGE MILHOLLIN: That was not my question,  
25 whether you were intending to alter the facts. My question

1 was whether you were intending to communicate the contents  
2 of a previous witness' testimony.

3           MR. BLAKE: And I -- I do not know that I have  
4 come up against that yet, but certainly I would say that to  
5 the extent there are areas of interest in the proceeding  
6 which become better framed as the proceeding goes on, I  
7 would anticipate in my preparation of a witness saying so,  
8 to the extent the issues change throughout a hearing with  
9 respect to certain preparation before the hearing starts,  
10 and as the hearing proceeds where new issues come up or  
11 where new concentration -- new concentration or new slants  
12 on issues are developed, I think as a hypothetical matter I  
13 would anticipate trying to prepare in my preparation of a  
14 witness having him be familiar with -- as familiar as he  
15 could to be best prepared to provide meaningful testimony in  
16 a case.

17           JUDGE MILHOLLIN: If I or an Intervenor or the  
18 Commonwealth were to call an operator, operator letter  
19 number blank --

20           MR. BLAKE: Yes.

21           JUDGE MILHOLLIN: It is possible that witness  
22 could be called as an adverse witness.

23           MR. BLAKE: Yes. Yes.

24           JUDGE MILHOLLIN: It is possible that that witness  
25 could be called as a Board witness. If the witness were

1 called as an adverse witness, how would you -- what would  
2 you do with respect to preparing such a witness, anything?

3           MR. BLAKE: Well, that came up back earlier in  
4 this case, as an example. Back earlier in this proceeding,  
5 the Board called several maintenance people because they  
6 wanted to get a feel for what an individual in the  
7 maintenance department felt. That was Mr. McCurdy and I am  
8 afraid I forget the other individual's names -- Eberly.

9           I never met with Mr. McCurdy nor with Mr. Eberly  
10 prior to their being -- appearing as a witness when they had  
11 been called by the Board. Mr. Eberly's case, my  
12 recollection is he was previously, prior to that, identified  
13 either by TMIA as a witness or to be deposed and I have  
14 forgotten now which. I think it was to be deposed.

15           And prior to those Mr. Eberly in that instance,  
16 and other individuals being deposed by TMIA, I met with them  
17 and described the subject of the proceeding, try to alert  
18 them to the types of questions they might be asked, and gave  
19 what I would regard as fairly general instructions to a  
20 witness.

21           I have wrestled somewhat with what might occur  
22 here with you having identified at least by class a number  
23 of individuals and what I would do on that occasion. What  
24 was -- and quite frankly I had arrived in my own mind at the  
25 determination that if you were to call them as witnesses I

1 would put the question to you what you were expecting by way  
2 of preparation by me or alternatively I would talk with them  
3 and give them general instructions, tell them who the  
4 parties were in the proceeding, how it would be set up, that  
5 they were being called, obviously to be honest and  
6 straightforward, to listen to the questions -- that sort of  
7 business -- but not preparing them as I might a witness who  
8 was more clearly appearing on behalf of my client.

9           JUDGE MILHOLLIN: I would like to hear the views  
10 of the other parties on this subject.

11           MR. CLEWETT: Well, I guess our initial reaction  
12 is one of a certain degree of surprise to the extent that it  
13 appears entirely possible that the spirit of the  
14 sequestration order could well be circumvented by means of  
15 the preparation of individual witnesses.

16           I gather from the immediately preceding discussion  
17 of the Special Master and Mr. Blake that there may be some  
18 -- some evolution in the position that Mr. Blake is taking  
19 with regard to witnesses called by the Board or by the  
20 Special Master, and I would be interested in learning more  
21 about what distinction there might be between the attitude  
22 of Mr. Blake toward witnesses in that circumstance vis-a-vis  
23 witnesses in other circumstances, and whether if indeed the  
24 approach toward Board witnesses would be substantially  
25 different, whether that approach might also apply to

1 specific witnesses called by the Intervenors.

2           That would leave only the class of witnesses  
3 called by the Licensee, who would be in a position whereby  
4 the spirit of the sequestration order might be circumvented  
5 and perhaps there would be other arrangements that could be  
6 made in terms of tight scheduling of witnesses that would  
7 make it less possible as a practical matter for the  
8 sequestration order to be circumvented.

9           I am at somewhat of a loss on this matter. It is  
10 sort of a surprise. I am hoping to hear more as to the  
11 precise import of all this.

12           MR. ADLER: I guess I have two comments. It is  
13 obviously an extremely difficult question. I tend to agree  
14 with the observation of the Special Master that the purpose  
15 of sequestration might be defeated if counsel were permitted  
16 a carte blanche. On the other hand, they are Licensee's  
17 employees for the most part, and I do believe that they have  
18 a right to prepare them and confer with them.

19           I might suggest one line that could be drawn. I  
20 am not sure exactly how it would be enforced except for  
21 trusting Mr. Blake, which I do. I think it would be proper  
22 in preparing a witness to say the following area of facts  
23 may be pursued and the sorts of preparation which would not  
24 inherently bias the response that would result from the  
25 witness.

1           On the other hand, I think that any extent to  
2 which you inform a prospective witness of facts elicited  
3 from other witnesses by the very definition would  
4 potentially bias their own answer. I just do not think there  
5 is any way around that. A pure objective account of what  
6 was said by a previous witness could bias a subsequent  
7 answer. So that might be a line that could be drawn.

8           The only second suggestion that I have is that we  
9 attempt to group witnesses in subject matters where we think  
10 there might be some bias and, as Mr. Clewett has suggested,  
11 bunch them together so that counsel would not hear what the  
12 other witnesses said before the the subsequent witnesses  
13 came on the stand.

14           The problem I see with that is that it could  
15 result in delay in some instances, which is a result that we  
16 should try to avoid. Those are in the way of practical  
17 suggestions rather than a position.

18           JUDGE MILHOLLIN: Thank you.

19           MR. GOLDBERG: I know of no proposition of law and  
20 I know of no case that restricts the right of counsel in  
21 litigation to discuss with his witnesses prior testimony of  
22 other witnesses in that same litigation.

23           Counsel has a professional obligation and  
24 responsibility as an officer of the court or as a  
25 representative in this case in an NRC proceeding and as a

1 member of a bar to comply with the applicable standards of  
2 professional conduct and ethics. That to me means that  
3 there is a big difference between one witness talking to  
4 another witness about the subject of their testimony.

5           Those witnesses are not held to any standards of  
6 professional ethics with respect to the litigation at hand.  
7 Counsel, however, is. One of those obligations is to not  
8 elicit testimony which counsel believes is perjured in any  
9 way and to ensure to the best of his ability that the  
10 witness is telling the truth. That is emphasized to the  
11 witness by his taking of an oath and it being clear to the  
12 witness that he is testifying under oath and is expected to  
13 tell the truth.

14           I believe that counsel's right to discuss with his  
15 witnesses the testimony of prior witnesses in the same case  
16 includes, by way of example, stating that Witness A  
17 testified as to X. If that's a recollection is that your  
18 understanding. That witness is then obligated when he  
19 testifies to tell the truth and tell what his understanding  
20 it.

21           There is absolutely nothing improper with counsel  
22 testing his witness as to what that witness' independent  
23 recollection is, whether it might be consistent or  
24 inconsistent with the prior testimony. That witness would  
25 have an obligation to tell the truth when he is on the stand

1 and the counsel would have an obligation to bring to the  
2 attention of, in this case, the Special Master, or in the  
3 case of a court of law, the judge, if he has any knowledge  
4 of any perjured testimony.

5 I, therefore, believe that even in light of the  
6 sequestration order which we have in this case or which has  
7 been proposed in this case that counsel for the Licensee  
8 would be free to discuss with his witnesses the details of  
9 the testimony of prior witnesses.

10 MR. ADLER: I have a need to respond to one  
11 element of Mr. Goldberg's remarks. I believe that one of  
12 the purposes of sequestration has nothing to do with some  
13 sense of conspiracy or preparing the witness to essentially  
14 agree with the witness of an earlier -- the testimony of an  
15 earlier witness.

16 One is to eliminate bias. One of the best ways to  
17 determine the truth of the facts, particularly of an  
18 occurrence six months ago, is to get independent testimony  
19 and I perceive that as one of the major purposes of  
20 sequestration here and that purpose would certainly be  
21 frustrated if counsel were allowed to discuss prior  
22 testimony with witnesses as suggested by Mr. Goldberg.

23 MR. BLAKE: Judge Milhollin, I have attempted,  
24 obviously, to research this question of sequestration and  
25 its bounds. There is not a whole lot in the NRC world. I

1 find only one case, a Midland case in 1977. Quite frankly,  
2 that case, as I read the Appeal Board's order or as the  
3 Appeal Board's order is reported to me, says that in the  
4 NRC's practice we ought to go -- step lightly in applying  
5 the Federal Rules, that this is a different world and we  
6 probably are not -- we do not just sign up for the Federal  
7 Rules of Evidence.

8           We are past that. We all signed up yesterday, at  
9 least yesterday, for the Federal Rules and their application  
10 here, and in general I have not resisted. What I have not  
11 found in any sequestration case is that an element of  
12 sequestration order infringed upon an attorney's right,  
13 counsel's right, to protect his client's interests.

14           What I see in some of the cases is a question  
15 about who my client is in this proceeding. It is obviously  
16 the company. But I also see in them -- and I am told the  
17 recent Upjohn decision, Supreme Court, which takes away  
18 controlling interest group and says -- I have not read the  
19 case myself, but was told late last night that in an  
20 instance like this where the party to this proceeding is the  
21 company and I represent the company, that I am effectively  
22 counsel to the individual employees of that company who are  
23 acting within the business interests of the company in  
24 appearing as -- in this proceeding, and that in fact the  
25 attorney-client relationship attaches.

1 I think that is clear in the case of Mr. Arnold as  
2 a prime example. As you get down further and further in the  
3 organization, the questions begin to arise and become -- and  
4 loom bigger and bigger, but --

5 JUDGE MILHOLLIN: Yes, I think there are some  
6 rather difficult questions.

7 MR. BLAKE: These are tough questions, several of  
8 them.

9 JUDGE MILHOLLIN: In whose interest you represent  
10 with respect to a witness when the witness' testimony could  
11 be potentially damaging to the people higher up the ladder  
12 whom you represent.

13 MR. BLAKE: That is right, and with this  
14 particular issue it has been even tougher. I mean, here,  
15 for example, we have a couple of individuals who are  
16 ex-employees, one who is still an employee of the company,  
17 who are represented by Mr. McBride and Mr. Cole.

18 JUDGE MILHOLLIN: Yes, we have an example, as you  
19 point out, of someone who is still an employee of the  
20 company who -- well, about whom we cannot assume that there  
21 would be a congruity of interest with the company's.

22 MR. BLAKE: True, and this is tough stuff. But I  
23 guess I meant to signal this very strongly yesterday, which  
24 appears at transcript page 23,574. I am a little bit  
25 surprised at Mr. Clewett's expression of surprise where I

1 said to go beyond the instructions, which I had indicated,  
2 putting out a sequestration order and instructing people  
3 about what was expected, to go beyond that, however, and  
4 interfere potentially with counsel's ability to prepare  
5 witnesses and to talk with a client and to prepare our case  
6 in this proceeding.

7 I clearly indicated yesterday where, as you  
8 clearly indicated yesterday, we have the burden, we would  
9 resist.

10 JUDGE MILHOLLIN: Let me tell you what my thought  
11 is. I, of course, have no intention to interfere with your  
12 ability to give your clients effective assistance of  
13 counsel. They are entitled to that. Certainly I would be  
14 reluctant to do anything which diminishes your power to  
15 render that assistance.

16 However, I think if we had an ordinary civil case  
17 in which the question were whether someone was liable to  
18 someone else for X amount and there were ten witnesses  
19 standing out in the hall, I could order you not to talk to  
20 any of them. I think that is pretty clear.

21 You might find a few decisions going the other  
22 way, but I think that when you get close to the trial and  
23 the possibility of compromising the sequestration policy is  
24 very high, I think you'll find that in order not to nullify  
25 the policy the courts have allowed judges to forbid

1 attorneys to talk to witnesses.

2 MR. BLAKE: I must say that, one, with respect to  
3 the ten witnesses out in the hall, if all those were my  
4 client I would find that --

5 JUDGE MILHOLLIN: I do not think there is going to  
6 be a prohibition against talking to your client. The  
7 question is whether you can communicate the contents of a  
8 previous witness' testimony which are two different  
9 questions.

10 MR. BLAKE: And I also must observe that to date  
11 in our research we have found no case where counsel was  
12 prohibiting from discussing with a client, no matter how  
13 close to the case they were.

14 JUDGE MILHOLLIN: Okay, well, I think this is a  
15 subject we are going to have to give some more thought to.  
16 I think there might be a compromise arrangement which would  
17 be possible and I think when I use my imagination and Mr.  
18 Clewett uses his and you use yours we can already see the  
19 outlines of a compromise.

20 I think we have different categories of witnesses  
21 and with respect to the category which is lowest in the  
22 hierarchy of the company there comes the question of whether  
23 you should be taken to represent their interests in the  
24 hearing. So that is sort of a nature dividing line that  
25 suggests itself to me anyway.

1           So I would encourage you to think about the  
2 possibility of coming up with some kind of a formula under  
3 which you would undertake not to disclose testimony to a  
4 certain category of witnesses and to think about it.

5           MR. BLAKE: I think you are right, that it may  
6 well be deserving of more thought and I obviously will need  
7 to consult with my client. Not to aggravate the situation  
8 in that regard, but certainly a split along the lines of who  
9 calls an individual is not going to be easily parsed either.

10           For example, Mr. Arnold has been listed in the  
11 trial plans of other people. There is no doubt but what I  
12 regard him as my client here.

13           JUDGE MILHOLLIN: Yes, the question of who calls  
14 the witness can be separated from the question which counsel  
15 represents that client's interests, I think.

16           MR. BLAKE: All right. I will indeed think more  
17 about it, but it may well be a complication to our ability  
18 to agree on the sequestration order which has been stated.  
19 But for the moment I must make clear that I do not regard  
20 myself at the moment as having any restrictions to continue  
21 to represent my client and maintain a proper client-attorney  
22 relationship.

23           And I think, quite frankly, I would be subject to  
24 at least criticism and severe criticism if I did not so duly  
25 attempt to represent my client's interests.

1 JUDGE MILHOLLIN: I think we can all agree on that.  
2 Any other preliminary matters before we continue?  
3 (No response.)

4 MR. ADLER: Thank you. Judge Milhollin, I will  
5 try to the best of my ability to track my original cross  
6 examination plan. It has been dissected considerably.  
7 Whereupon,

8 ROBERT C. ARNOLD,  
9 the witness on the stand at time of recess, having been  
10 previously duly sworn, resumed the stand and was further  
11 examined and testified as follows:

12 CROSS EXAMINATION - Resumed

13 BY MR. ADLER:

14 Q Mr. Arnold, I would like to begin with a few  
15 rather general questions and then we will get into specifics  
16 after that. First, I would like to make sure I understand  
17 the general nature of your testimony with regard to the two  
18 issues of management's responsibility for and response to  
19 the April cheating incident on the NRC examination.

20 As I understand your testimony you agree that to a  
21 certain extent management has been deficient in certain  
22 procedures and attitudes that were not undertaken to prevent  
23 cheating of this sort. Is that correct?

24 A I do not think that is correct, as I understand  
25 what you just said.

1 Q Please correct me. In what manner was it  
2 inaccurate?

3 A I think that I would agree that, and I indicated  
4 both in the direct testimony and the course of cross  
5 examination, that the company did not do some of the things  
6 which we recognize now it is desirable to do and which we  
7 are undertaking to accomplish, which helped to shape the  
8 proper attitudes.

9 Also, I do not think I would say that the cheating  
10 incident on the NRC exam was the result of our inadequate  
11 procedures. But certainly those inadequate procedures  
12 permitted the opportunity for cheating and failed to put  
13 into place proper or, let me say, adequate safeguards  
14 against cheating on our own examinations.

15 But the NRC examination was fully the  
16 responsibility of the NRC to administer. We had no part in  
17 that.

18 Q All right. Now I am also going to infer, and  
19 again correct me if I am wrong, that prior to the time at  
20 which you learned of the April incident it did not occur to  
21 you as Met Ed's management, GPU's management, that the  
22 corrections that you have now undertaken were necessary.  
23 You simply did not believe that they were necessary or it  
24 did not occur to you. Is that correct?

25 A Well, I think the extent of effort that we are now

1 taking was not taken before because we did not reflect upon  
2 the implications of not having them in place.

3 Q I am going to cover what I believe are three areas  
4 of your response to your learning of the cheating  
5 incidents. One is that you embarked upon a complete  
6 investigation of whether you could determine whether other  
7 cheating incidents had occurred in the past, not in the  
8 infinite past but in a certain segment of the past.

9 The second is that you embarked on a program to  
10 change and correct procedures and the third is that you  
11 tried to do something to convey to your operating staff a  
12 renewed sense of the need to be honest through meetings,  
13 letters, et cetera.

14 Are all those accurate?

15 A Yes, sir.

16 Q I would like to go back in time a little bit. Had  
17 you personally, prior to the April incident or learning of  
18 the April incident, ever heard of any rumors of cheating on  
19 past examinations other than the VV incident, which is  
20 obvious?

21 A Not on examinations for our licensed operator  
22 program.

23 Q Any rumors? That implies that you had heard  
24 rumors with regard to cheating on other examinations or  
25 programs.

1           A     Well, I did not hear rumors, but we did know of at  
2 least one incident of cheating on general employee training  
3 examinations in the time frame which you are talking about.  
4 I also am aware that Mr. Williams had an article published  
5 in a local newspaper. To the best of my recollection that  
6 was, in fact I am sure, that was after we knew about the  
7 NRC's investigation. I do not recall any other information  
8 relative to cheating incidents prior to July 1981 when we  
9 learned about this.

10          Q     The two that you just mentioned, Mr. Williams'  
11 article and the GET incident. Are those two distinct  
12 incidents?

13          A     Yes, they are.

14          Q     Can you describe the nature of the GET incident  
15 that you just referred to?

16          A     When one of our new management level employees was  
17 taking his general education training instruction in late  
18 January or early February of 1980 there was an incident  
19 where two employees who were temporarily assigned to Three  
20 Mile Island from one of the operating locations were  
21 involved in giving assistance to each other or having  
22 improper assistance on the examinations. I do not remember  
23 the specific details of it.

24          Q     The follow-on to that is almost obviously. Why,  
25 in light of at least that incident, didn't it occur to you

1 prior to July 1981 that steps needed to be taken to prevent  
2 cheating on examinations related to TMI operation?

3       A     I think the circumstances with regard to general  
4 employee training are quite a bit different and we took  
5 steps to further reduce the likelihood of that type of  
6 improper conduct occurring at that time.

7           And I think that my own perception is that the  
8 general employee training is considerably different in  
9 character than the type of or rather the scope of that  
10 program that inherently the nature of the way the program is  
11 run is quite a bit different than the operator training  
12 program.

13           And I think if you had asked me at that time  
14 whether I thought there were safeguard in place in the  
15 operator training program that were sufficient, I probably  
16 would have answered yes. I did not conduct an investigatin  
17 at that time.

18       Q     I am not sure I understand your response. Do you  
19 believe that the general employee training program is more  
20 susceptible to cheating than the operator training program?

21       A     Well, I do not know if susceptible is the right  
22 word or the word I would choose, at least. I think that,  
23 first of all, the purpose of it is quite a bit different.  
24 The purpose is to orient people to the administrative  
25 procedures and practices, some of the rules and regulations

1 that apply within the site that they need to know in order  
2 to effectively function at the site.

3           It is much less level of qualification and it is  
4 -- the examination, I think, on that is much more of a type  
5 of a screening process to be sure that before people have  
6 certain degrees of access within the plant that they are  
7 sufficiently knowledgeable and I think that the people that  
8 are taking it undoubtedly, you know, have a different  
9 attitude towards -- towards that examination and I think  
10 clearly people's attitudes towards an exam influences the  
11 way they look at what their kind of obligation is, what the  
12 trust is that is associated with that.

13       Q     So you think that people's attitudes -- attitudes  
14 toward the GET exams make it more likely that cheating will  
15 occur in those exams than on operator qualification exams?

16       A     Well, I think that the spectrum of people that  
17 take this is so much broader that the likelihood of having  
18 people or the predictability of having a fraction of the  
19 people take it who have an attitude that is not something  
20 they need to do their homework on is substantially higher  
21 than the likelihood of having that type of an attitude in he  
22 operator training program.

23       Q     Is that implying the numbers of people who take  
24 that program or the types of people who take that program?

25       A     I am a little bit reluctant to talk about types of

1 people. It has to do with the number and the spectrum of  
2 background. If by different backgrounds we mean different  
3 types of people, then, yes.

4 Q Do you think the reactor operators are inherently  
5 more reliable, have more integrity than your general  
6 employee? Is that what you are trying to say? I really do  
7 not understand your answer.

8 A I think I said earlier that I thought that our  
9 reactor operators had a higher degree of reliability for  
10 acting with integrity than the general population. I feel  
11 that and I think we get a fair cross section of the general  
12 population going through our general employee training, so I  
13 guess the answer to that question would be yes.

14 But I think there is much more than that aspect as  
15 far as the additional confidence I have in the operator  
16 training program or have had, is that I think, again, the  
17 level of trust that is understood by the people in the  
18 operator training program I would expect to be considerably  
19 different in character in the sense that some faction, some  
20 meaningful faction of the people coming through the general  
21 employee training would perceive as the trust that is  
22 associated with them taking the exam that they are taking.

23 Q At this point in time do you believe that given  
24 your reactors operators as a group they are less likely to  
25 cheat on an exam than your general employees as a whole,

1 given what you have known since July of this year?

2       A     Well, I can -- really can only answer that, I  
3 guess, on the basis of our general experience in living it,  
4 in the much larger group that -- and the wider spectrum of  
5 backgrounds that exist in the cross of employees as a whole  
6 compared with the cross of operator employees, that the  
7 answer is yes. I think that I had more confidence in the  
8 reliability or -- of the operators in carrying out their  
9 responsibilities with integrity than I associate with the  
10 total class of employees as a whole.

11       Q     Let's get back to the issue of prior rumors. I  
12 asked you about you personally. Do you at this point know  
13 if other members of management who have in the past, that is  
14 prior to July 1981, heard rumors of cheating at TMI?

15               (Pause.)

16       A     Well, I am not entirely sure. The -- as we  
17 carried out our various investigations it was not always  
18 clear to me whether people who said sure, I heard rumors,  
19 were clear in their own minds as to whether they heard them  
20 before or after it came up in July of '79.

21               I do not have any sense right now that there was  
22 within the level of management that would be represented by  
23 Mr. Ross and above, a sense of rumors of cheating. I think  
24 such incidents as the phone call that Mr. KK received and  
25 related, you know, that undoubtedly had to lead to some

1 degree of rumors within the organization.

2 Q Have you read Mr. Ross' testimony filed in this  
3 proceeding?

4 (Pause.)

5 A I thought I had read everybody's. Yes, I have  
6 read Mr. Ross' testimony.

7 Q I am going to quote a sentence from page five of  
8 Mr. Ross' testimony which reads: "I cannot say that I have  
9 never heard rumors about cheating, although I can say that a  
10 story must have made so little sense by itself that it  
11 seemed most reasonable to ignore it."

12 Does it disturb you that Mr. Ross had heard rumors  
13 of cheating prior to July 1981 and did not report them to  
14 his superiors?

15 A In the -- in the abstract, yes. But I think that  
16 Mr. Ross' characterization of them is he is even uncertain  
17 as to what he really heard. It is indicative that obviously  
18 it required some judgment. In a group as large as we have  
19 there is going to be talk that I guess is generally referred  
20 to as loose talk.

21 I think some practical application of a threshold  
22 level of meaningfulness has to be crossed before one can  
23 follow up or has the grounds for following up on it. And so  
24 in the abstract, if someone hears something that really is a  
25 rumor of cheating that appears to have any meaningfulness,

1 yes. But I guess, you know, I qualify that response by  
2 saying that I can certainly envision comments that are of so  
3 unspecific a nature, so speculative that they do not warrant  
4 follow up.

5 Q So you think that it should be up to the  
6 individual management officials, say Mr. Ross, to judge  
7 whether he finds that rumor to be sufficiently credible to  
8 bring it to your attention or Mr. Hukill's or Mr. Herbein's?

9 A I think in any case where judgment has to be  
10 applied, the first person that has the ability to apply the  
11 judgment makes it. You know, I do not -- I do not see that  
12 it can be any other way.

13 What we have to do is be sure that we provide  
14 enough sensitivity to the seriousness of these types of  
15 issues that we have got people's threshold for deciding they  
16 need to be followed up sufficiently low that we do not have  
17 meaningful concerns unaddressed.

18 JUDGE MILHOLLIN: We seem to be slipping back into  
19 our habit of giving rather long answers. It is important to  
20 keep in mind the necessity for moving forward.

21 MR. ADLER: I apologize if my questions are broad.  
22 I think they may be misinterpreted or overinterpreted, but  
23 that may be my fault.

24 BY MR. ADLER: (Resuming)

25 Q Let's go to the rumor allegedly passed from Mr. U

1 to Mr. NNN, as in Nancy. Are you aware of that rumor that  
2 passed, allegedly, in June of this year? I believe that you  
3 subsequently had a discussion with Mr. NNN regarding that  
4 rumor.

5 A Would you ask me what your question is again,  
6 please?

7 Q I am simply asking if you know what rumor I am  
8 referring to as a background question.

9 A Yes, I do.

10 Q And I believe it was true that you reprimanded Mr.  
11 NNN for not bringing this to your attention earlier. Is  
12 that correct?

13 A Yes, sir.

14 Q Can you describe the nature of that rumor? I do  
15 not believe we have that anywhere.

16 A I believe I did describe it on the record earlier,  
17 but I will do it again.

18 Q I must have missed that.

19 MR. BLAKE: He was in fact asked about this by  
20 Miss Doroshov and went through in some detail, in fact, the  
21 interview with Mr. Polon, who is NNN, a rather detailed  
22 explanation.

23 JUDGE MILHOLLIN: This refers to the rumor  
24 concerning an operator, did it not, and the operator's  
25 conduct within the examination room?

1 MR. BLAKE: Correct.

2 JUDGE MILHOLLIN: Concerning a piece of paper.

3 MR. BLAKE: Right, crib sheets and handwriting on  
4 the hand. That is correct.

5 MR. ADLER: I recall now. Thank you.

6 BY MR. ADLER: (Resuming)

7 Q I think we have discussed at great length the VV  
8 and O incident and I do not want to go over that in detail.  
9 There are a couple of points that were left over. I am not  
10 sure if you were asked very directly why you provided that  
11 information to the NRC on July 28, 1981.

12 We sort of went around that issue. I just want a  
13 brief response to that.

14 A I considered it a piece of background information  
15 on Mr. O which I anticipated would be of interest to the NRC  
16 in their investigation.

17 Q Okay, that is the point I wanted to hit. If it  
18 did not involve Mr. O would you still have reported it at  
19 the time, if it was VV and P, for example?

20 A I do not know, but I may well not have.

21 Q When you were discussing with Ms. Bradford the  
22 reason for transferring Mr. VV you said that one of the  
23 elements was his poor job performance. Was one aspect of  
24 that your perception that he was not a capable supervisor?

25 A I think that I said his ability as a supervisor

1 was limited by some weaknesses he had, particularly in  
2 administrative ability and the application of appropriate  
3 judgment to some types of situations.

4 Q So it was a combination of factors that led you to  
5 transfer him?

6 A Yes.

7 Q You also indicated to Ms. Bradford that you could  
8 not fault him entirely for his negligence of certain of his  
9 training duties because he was very pressed for time  
10 following the accident, very long shifts and so forth. Are  
11 you aware that one of his stated reasons for obtaining work  
12 from Mr. O was his desire to go on vacation?

13 A Yes, sir.

14 Q I presume that you do not consider that an  
15 acceptable excuse for neglecting his training duties.

16 A That is correct, sir.

17 Q Of the recent set of examinations in both April  
18 and October of this year, certain training personnel took  
19 the examinations. Do you know why it is that training  
20 personnel take NRC qualifying examinations?

21 A Yes, sir.

22 Q Can you please explain that?

23 A We have in the training department a need, in our  
24 judgment, to have some of the course material provided to  
25 the operators by people who have the qualifications of

1 licensed operators and therefore some of the members of the  
2 training department maintain their license.

3 Q Is it necessary for them actually to take the  
4 exam? I am not sure I understand that link.

5 A They cannot maintain a license without taking the  
6 examinations.

7 Q Well, you referred to the level of training.  
8 Can't you maintain the level of training necessary to be  
9 licensed without being licensed?

10 A I do not think you can effectively maintain the  
11 quality and level of training of licensed operators in some  
12 areas unless the person in fact has the knowledge level  
13 equivalent to a licensed operator. And the best way of  
14 verifying he has that requisite knowledge level is by having  
15 him take the license examinations and maintaining his  
16 license.

17 Q I would like to discuss the Trunk investigation  
18 briefly.

19 JUDGE MILHOLLIN: Before you do that I would like  
20 to follow up on your last question.

21 You said that the best way to make sure that  
22 someone had the competence necessary was to have the person  
23 take and pass the requisite examinations. And you also said  
24 that you thought that VV was a highly competent individual.  
25 I wonder how you view the fact that VV continued to fail his

1 requalification examination two years in a row. How do you  
2 conclude that the examination was an important way to know  
3 whether someone was competent and how do you conclude that  
4 VV was very competent and yet draw these conclusions in the  
5 face of the fact that he continued to fail these  
6 examinations?

7           THE WITNESS: Well, let me say that the  
8 examination scope and -- covers a number of different  
9 areas. I honestly do not know the specifics of Mr. VV's  
10 training deficiencies in the period of time which we are  
11 talking about.

12           The major day-to-day visibility we have on an  
13 operator's knowledge of the plant and what we generally  
14 sense is his competence, his capability, relates to plant  
15 design features, operating procedures, things that he  
16 utilizes on a day-to-day basis and in those -- in that  
17 day-to-day interface with Mr. VV he demonstrated to be very  
18 knowledgeable.

19           I think that perhaps what the examination of the  
20 record would show is that one of the values of the training  
21 program and the examination process associated with it is  
22 that it assures that the knowledge level is maintained  
23 across the full spectrum at an acceptable level, including  
24 areas of knowledge which perhaps do not get demonstrated or  
25 challenged, as it were, in routine situations that we would

1 typically be having visibility of the operator's knowledge.

2           And I only offer that as a possible explanation  
3 for why he would be having difficulty with some of the  
4 sections and there was a limited number of sections where,  
5 overall, our assessment of him was very good.

6           JUDGE MILHOLLIN: I take it by that you mean that  
7 you continued to believe he was very good beyond the time  
8 when you demoted him because you said that you put him in  
9 the position that he was in because of his technical skill.  
10 And yet during that period he had not successfully passed or  
11 he had not passed his exams. Is that right? He did not  
12 just fail one. He failed two in a row. Isn't that right --  
13 '79 and '80?

14           THE WITNESS: I am sorry, sir, but I do not know  
15 the specifics of his background.

16           JUDGE MILHOLLIN: I am sorry. I am confused on  
17 that. He failed on the '79, apparently, and also failed the  
18 previous year, did he not?

19           THE WITNESS: I think that the -- my recollection  
20 of it, the requalification exam administered at the end of  
21 the '77-'78 time frame had deficiencies in it which he was  
22 required, in effect, to upgrade in the subsequent '78-'79  
23 training year. At the requalification exam, annual exam, he  
24 would have taken in March of '79, the comprehensive one, he  
25 also showed deficiencies and that it was in conjunction with

1 the closure on those areas that he was deficient in that  
2 March '79 exam, that the incident arose and the topic of  
3 discussion.

4 JUDGE MILHOLLIN: So perhaps it is not accurate to  
5 say he failed the exam. It might be more accurate to say he  
6 was deficient in certain categories.

7 THE WITNESS: Yes. As I indicated yesterday, I  
8 think we provide for gradations between sort of failing the  
9 exam and coming away with a clean slate.

10 JUDGE MILHOLLIN: Yes. Well, my concern was that  
11 -- I guess my question was directed to the issue of whether  
12 the company regarded the performance on examinations as  
13 indicative of a person's competence.

14 THE WITNESS: I think we clearly regard it as one  
15 indicator of competence, but not -- not a determining one.

16 JUDGE MILHOLLIN: All right.

17 THE WITNESS: Unless the performance is just so  
18 bad that, you know, it is fairly evident that the person --  
19 certainly people can have results on the exams, I would  
20 feel, that make the exam results not determinant as to  
21 whether they have the requisite knowledge.

22 I think they can do so badly I would decide  
23 clearly they do not know enough about the subject matter to  
24 be considered competent. They can also do an intermediate  
25 level performance. So I would say it is an open question.

1 JUDGE MILHOLLIN: I have a few more questions on  
2 that area but I do not want to create too large a gap in the  
3 --

4 MR. ADLER: I was in-between subjects, so you can  
5 proceed if you wish.

6 JUDGE MILHOLLIN: I was -- it also occurred to me  
7 that in reading the documents we have available to us that  
8 there were two operators who, as I recall, failed the  
9 Category T examination three times. They failed the  
10 original Kelly examination. They failed the first round of  
11 the makeups and failed the second round of the makeups.

12 Do you feel these operators are still qualified?

13 THE WITNESS: Yes, sir. I think one of the things  
14 it is important to realize is the passing grade for the  
15 Category Ts was ninety percent, which is a pretty demanding  
16 requirement, of course, depending upon the ease of the  
17 exam. But in general relative to, I think, the degree of  
18 difficulty of our examinations is a very demanding  
19 requirement.

20 So that I think -- and I think that Category T  
21 being on a very limited scope of the total range of  
22 knowledge that the operators needed to know is not  
23 necessarily indicative of unqualified status. It is one  
24 data point. It is an important data point, but it is only  
25 one of many.

1           MR. ADLER: I was going to move to the Trunk  
2 examinations.

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1 BY MR. ADLER: (Resuming)

2 Q I believe you testified to Ms. Bradford that one  
3 of the reasons you selected Professor Trunk was that in your  
4 view he could give an objective and independent evaluation  
5 of potential cheating on past exams. Is that accurate?

6 A Yes, sir.

7 Q Now, as I understand it, Mr. Trunk and his  
8 associates performed the physical analysis of the  
9 examinations, presented potential suspect to the company,  
10 and then follow-up examinations, interviews, and  
11 investigations were performed by Mr. Wilson, Mr. John  
12 Wilson. Is that correct?

13 A Yes, sir.

14 Q Can you explain to me why Mr. Trunk was not given  
15 the task of performing the follow-up interviews and  
16 investigations?

17 A I guess I can speculate on how we arrived at it.  
18 I do not know that we even considered having Mr. Trunk  
19 pursue the various facets that were appropriate to be  
20 pursued. I have no -- I had no lack of confidence in Mr.  
21 John Wilson's ability to pursue those issues and develop  
22 whatever information was able to be developed. And after  
23 that was accomplished, that was reviewed with Mr. Trunk.

24 So the follow-on effort came about as a result of  
25 what was identified by Mr. Trunk as, I say, suspicious

1 answers on questions. He was briefed on it.

2 Q Do you not believe that Mr. Trunk would have been  
3 a far more objective investigator than Mr. Wilson?

4 A No, sir.

5 Q You do not? Are you aware that Mr. Wilson has  
6 been associated with the company for some 12 or 13 years?

7 A Yes, sir.

8 Q In a legal and representative capacity?

9 A Yes, sir.

10 Q And you do not believe that that bears on his  
11 independence and objectivity in any manner?

12 A It bears on his independence, I guess, but not his  
13 objectivity. I think Mr. Wilson understood very clear that  
14 my objective was to find out whatever he could or whatever  
15 needed to be understood in the way of factual information on  
16 these incidents. So his objective was to go after the facts  
17 on it.

18 Q You stated that one of the reasons you felt Mr.  
19 Wilson would be appropriate was that he was familiar with  
20 the plant staff, that he got along with the plant staff. Is  
21 that correct?

22 A Yes, sir.

23 Q Would you say that he was friends with people in  
24 the plant staff?

25 A No, sir, not with the people that would be the

1 subject -- subject, in a general sense, of the follow-on  
2 investigation.

3 Q Did you determine that before you gave him this  
4 task?

5 A No, sir.

6 Q Have you read Mr. Wilson's testimony?

7 A Yes, sir.

8 Q Do you agree with the conclusions in his  
9 testimony?

10 A Yes, sir.

11 Q Have you discussed his conclusions with Professor  
12 Trunk?

13 A No, sir.

14 Q Have you determined whether Professor Trunk agrees  
15 with Mr. Wilson's conclusions?

16 A Only based upon conversations I have had with Mr.  
17 Wilson, Mr. John Wilson, as to the results of his review  
18 with Mr. Trunk of what he developed in the way of  
19 information.

20 Q Have you personally reviewed the suspect  
21 examinations, suspect examinations from the Trunk  
22 investigation?

23 A I personally reviewed the first set of Category T  
24 makeup exams. And here by "set" I mean those that we gave  
25 to Mr. Trunk to review. I did not review any of the other

1 examinations that we provided to Mr. Trunk for follow-on  
2 investigations.

3           But the first effort that he undertook, I reviewed  
4 the exams that were associated with that where he had  
5 identified potential problems. I did not repeat a review of  
6 the ones which he did not feel there were any problems  
7 identified.

8           Q     I am not sure if I just understood you to say that  
9 you did not review the materials that were discovered as a  
10 result of Mr. Wilson's follow-up investigations; for  
11 example, lesson plans and so forth.

12          A     That is correct. I did not look at those.

13          Q     Let us talk about the FF incident. I cannot  
14 recall whether you were asked what Mr. FF's job position is;  
15 that is, Mister -- am I --

16          A     Shipman?

17          Q     Shipman, that is right.

18          A     Mr. Shipman is an engineer on the staff of Mr.  
19 Ross.

20          Q     Is he an assistant to Mr. Ross? Is that his job  
21 title, assistant supervisor of operations?

22          A     No. I think his job title is engineer senior 1.

23          Q     Can you briefly describe his responsibilities?

24          A     He provides technical staff support to Mr. Ross in  
25 the areas that the plant operators are directly responsible

1 for, the activities that they are directly responsible for.

2           So examples would be that he assists in the  
3 preparation and review of procedures developed by the  
4 operations department and brings to that a technical  
5 background that the shift supervisors, for example, would  
6 not have.

7           So that he is assistant to Mr. Ross, I guess would  
8 be one way to describe it, who has the technical background  
9 of a graduate engineer, has the operational capabilities and  
10 knowledge of the plant represented by his senior reactor  
11 operator license, and assists in the supervision and  
12 direction of the operating activities.

13       Q     Is it fair to say, in general, that his  
14 responsibilities are directly related to the safe operation  
15 of the plant?

16       A     Yes, sir.

17       Q     Did you read his statements, his written  
18 statements to the NRC investigators?

19       A     I read the one which he signed. I think I just  
20 glanced at the one which he did not sign.

21       Q     Then I am sure you saw that Mr. Shipman did not  
22 feel that the time that his infraction was significant. Mr.  
23 Shipman is a degreed engineer, and so he has been through  
24 quite a bit of academic training and environments. Do you  
25 find that a credible response?

1           A     Yes, sir. I do not agree with it, but I find it a  
2 credible response. Mr. Shipman does not have that opinion  
3 either at this point.

4           Q     I do not want to get back to the general area of  
5 defining cheating and drawing those fine lines. I think we  
6 have sort of kicked that to death.

7                     But I note that you determined that Mr. FF did  
8 have the necessary intent, Mr. Shipman at the time of the  
9 incident, to constitute cheating. Is that a correct  
10 recollection?

11                   (Pause.)

12          A     I guess I did not really try to form a judgment on  
13 what his intent was.

14          Q     Are you aware that in his statement he said that  
15 at the time he did realize that what he was doing was wrong  
16 but that it was spontaneous?

17          A     Yes, sir.

18          Q     And your testimony has been that intent is a  
19 significant factor for you to consider in determining what  
20 the appropriate punishment or response is. Is that not  
21 correct?

22          A     Yes, sir.

23          Q     Did you not also testify that you believed that  
24 Mr. JV did not have intent to deceive when he was involved  
25 in his incident of turning in Mr. O's work?

1       A     Yes, sir.

2       Q     Can you explain why when Mr. FF, Mr. Shipman, did  
3 have intent or knowledge that what he was doing was wrong,  
4 and Mr. VV did not, why Mr. VV's punishment was more severe  
5 than Mr. Shipman's?

6       A     I think I have tried to explain -- and I will try  
7 to cut it short this time -- previously that Mr. VV's  
8 discipline or the discipline taken by the -- disciplinary  
9 action taken by the company, which we do not characterize as  
10 punishment and do not feel it is punishment, was based not  
11 only upon this incident but upon this incident in the  
12 context of other problems that I felt we had with his  
13 performance in an supervisory position.

14               In the case of Mr. Shipman, we had had seven years  
15 of experience with him in varying levels of responsible  
16 assignments. They had been very satisfactory. And the  
17 incident that he was involved with, in my opinion, taken in  
18 the context of the total circumstances, warranted the  
19 response we made.

20               I have difficulty making the comparison you ask,  
21 because we had never looked at, never made a judgment as to  
22 what discipline we would have imposed on Mr. VV if the only  
23 thing that we were addressing -- or let me say it  
24 differently -- if what we were addressing was this as an  
25 isolated incident, incident in an otherwise completely

1 adequate, satisfactory performance of his job  
2 responsibilities.

3           It was done in a different set of circumstances,  
4 and the total set of circumstances is what has to be the  
5 basis for making the judgment of what the appropriate  
6 discipline would be.

7           Q     All right. Your testimony on page 11 asserts that  
8 there has been no management involvement in the isolated  
9 cases where cheating occurred. And Ms. Bradford asked you  
10 to define "management," and I am not sure I completely  
11 understand who falls into the category of management, in  
12 your opinion.

13           You referred to exempt employees. Are you talking  
14 about exempt from a bargaining unit under labor laws? Is  
15 that what you were referring to?

16           A     Well, exempt under wage and salary law, yes.

17           Q     I see. And you indicated that a position above  
18 that of shift supervisor was an exempt employee. Is a shift  
19 supervisor a management employee?

20           A     First of all, I do not think that I said above a  
21 shift supervisor was a management employee. Shift  
22 supervisors and shift foremen are both positions occupied by  
23 exempt employees, and I was careful to make the distinction  
24 of what we meant by the word "management" for the purposes  
25 of the testimony I was giving in response to Ms. Bradford.

1 I think that it is important whenever we get into  
2 that line of discussion or inquiry that we understand what  
3 we mean by the word.

4 Q Earlier you were discussing Mr. W's potential  
5 reasons for cheating, and you referred to the fact that  
6 perhaps the key factor was his lack of self-confidence.

7 Do you have any reason to believe that Mr. W was  
8 less self-confident about the exam with all of his years of  
9 operating experience than the reactor operators or the new  
10 reactor operator candidates?

11 A Only that of my general experience with people and  
12 with the spectrum of self-confidence that one encounters  
13 within any group. And I think that Mr. W's personality is  
14 such that he would, by his nature, tend to be at the lower  
15 end of the spectrum in terms of self-confidence within a  
16 group of reactor operators.

17 Q Even with -- in comparison to a new candidate who  
18 had never before been licensed and never before taken the  
19 exam which Mr. W had passed in the past?

20 A I do not have that much exposure, frankly, to  
21 people that are in that category, so I am not sure my  
22 comparison would be meaningful.

23 Q If we look at the individuals who have been  
24 involved in cheating or some sort of incident involving  
25 potential wrongdoing, if we look at Mr. Shipman, Mr. W, Mr.

1 O, Mr. VV, what we find is that we do not have reactor  
2 operators, we have someone at a higher level, shift  
3 supervisor or above.

4 Do you have any explanation for why the incidents  
5 that we know occurred occurred at the sort of shift  
6 supervisor level or above rather than the lower levels?

7 (Pause.)

8 A I guess I would offer two observations. One is  
9 that when going for help, one will go to a more  
10 knowledgeable person if the option exists to go there as  
11 opposed to a less knowledgeable one. So, to some extent,  
12 Mr. O, for example, Mr. Shipman represented more  
13 knowledgeable people, perhaps, than the average of the total  
14 operator spectrum.

15 I think, secondly, it is generally the opinion of  
16 the operating staff that the reactor operator exam requires  
17 more specific detailed plant knowledge and specific  
18 procedure knowledge than the senior reactor operator exam  
19 requires. The senior reactor operators do not tend to have  
20 the same degree of involvement with that on a day-to-day  
21 basis that the reactor operators do.

22 So that I guess if one looks at people like Mr. W,  
23 for example, who had been a senior reactor operator for  
24 several years, he may well have less confidence about his  
25 knowledge about some of the specifics than he does about

1 some of the broader issues in the areas that are more  
2 specific to a senior reactor operator's additional level of  
3 knowledge requirement.

4 Q I have follow-ons to both of those two reasons.  
5 The first was that you would tend to go to someone with more  
6 knowledge if you wanted information during an exam.

7 Is it not true that in all of the cases except for  
8 Mr. FF, we know that it was also solicited from a higher  
9 level, and with respect to Mr. FF, Mr. Shipman, we do not  
10 know where it came from, but it could have?

11 A That is true.

12 Q With respect to the second, do you have any  
13 comment with regard to the fact that Mr. O and Mr. W cheated  
14 on both the RO and the SRO exams?

15 A I do not think I can provide any more, I guess, of  
16 my opinions on that than I provided to Judge Milhollin when  
17 he was asking me similar questions.

18 Q Did you mean to imply that you feel that the  
19 senior reactor operators are less prepared to take the  
20 reactor operator exam than the senior reactor operator  
21 exam?

22 A No.

23 Q In that case, I am not sure I understand your  
24 answer that they would be more inclined to cheat on the RO  
25 than the SRO exam.

1       A     I did not give that answer, I do not believe.

2       Q     You cited the more detailed nature of the RO  
3 exam. Is it that you feel that the more detailed nature of  
4 the RO exam would cause a senior member of your staff to  
5 cheat than a junior member of your staff? Perhaps you can  
6 simply rephrase your answer.

7       A     I think that the concern that the senior reactor  
8 operator may have about his readiness to take a reactor  
9 operator exam may be much greater than that of a reactor  
10 operator taking the reactor operator's exam. I do not know  
11 that I would conclude at all that that concern was  
12 necessarily well-founded. You are asking me to get into  
13 areas where obviously I am speculating. I cannot give you  
14 completely -- answers that would completely cover all the  
15 spectrum.

16       Q     At the very beginning of this cross examination we  
17 referenced three general areas, your knowledge of the April  
18 incident. I would like to go back to the VV 1979 incident.  
19 To your knowledge, did management make any effort to  
20 determine at that time whether there were other potential  
21 instances of impropriety of this sort?

22       A     I am not aware of any that we undertook at this  
23 time.

24       Q     Were there any changes in procedures made as a  
25 result of that incident?

1           A     I do not know.

2           Q     Were any concrete steps taken at that time either  
3 to meet with the operating staff or to in some other way  
4 convey to them the knowledge that this was not acceptable  
5 behavior?

6           A     Yes. I think a very concrete step was taken in  
7 the discipline imposed on Mr. VV as a result of what he had  
8 done. And I think that the staff, you know, in general, was  
9 aware of that.

10          Q     And that is the only thing that was done?

11          A     Well, we were in the process then of a complete  
12 restructuring and reupgrading of our training program. And  
13 so there were a lot of things that were being done to  
14 improve the training, the training program. Again, I would  
15 urge that, you know, the total spectrum of activities that  
16 we had underway at that time and the extent to which very  
17 urgent matters were requiring the time and attention of the  
18 management of the plant be recognized. I think that the  
19 company was clearly allocating tremendous importance,  
20 priority, to the training program and the improvement of it  
21 in that time period.

22                   As others will testify later, the focus of that  
23 did not include the administration of the examinations and  
24 the way in retrospect it clearly would have desired to be  
25 the case. But I think it certainly would be improper to

1 take this one incident out of the context of what else was  
2 occurring at that time and try to make a judgment about it  
3 in some absolute sense.

4 MR. ADLER: Thank you, Mr. Arnold. I have no more  
5 questions.

6 BY MR. GOLDBERG:

7 Q Mr. Arnold, my name is Jack Goldberg, and I  
8 represent the NRC staff I have just a few questions.

9 JUDGE MILHOLLIN: Before you begin, Mr. Goldberg,  
10 it might be an opportune time to take a break. How long do  
11 you think you will be? 15 or 20 minutes at least?

12 MR. GOLDBERG: Probably not that long.

13 JUDGE MILHOLLIN: Well, let us take a break anyway  
14 until 25 minutes to 4:00. 3:35.

15 (Brief recess.)

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1 JUDGE MILHOLLIN: The hearing will come to order.  
2 Mr. Goldberg, do you have a cross examination plan  
3 for this witness?

4 MR. GOLDBERG: No, I do not have a cross  
5 examination plan because I did not have any cross  
6 examination based on his direct testimony.

7 My cross examination questions arise because of  
8 the cross examination testimony brought out by the  
9 intervenors.

10 JUDGE MILHOLLIN: Very well.

11 CROSS EXAMINATION

12 BY MR. GOLDBERG:

13 Q Mr. Arnold, you testified that the NRC  
14 administration of the April '81 exams may have contributed  
15 to rumors of cheating. Is that correct?

16 A Yes, sir.

17 Q Mr. Arnold, do you have any personal firsthand  
18 knowledge that the NRC administration of the April '81 exams  
19 in fact contributed to rumors of cheating?

20 A No, sir.

21 Q You testified concerning the attitude of operators  
22 concerning the NRC reexamination in April of '81. Does  
23 management share that attitude that you described earlier in  
24 your testimony?

25 A I would need for you to verify for me what you

1 mean to indicate by the term "management".

2 Q Do you personally share the attitude of the  
3 operator that you described earlier?

4 A Of being resentful of the requirement?

5 Q Yes, that is correct.

6 A No, sir. I was a party to the decision to request  
7 the NRC to recertify our operators.

8 Q I take it, then, that that would be the company  
9 position with respect to the reexamination.

10 A Absolutely.

11 Q Does the company have the same position with  
12 respect to the October '81 reexamination?

13 A No, sir.

14 Q What is the company position with respect to that  
15 reexamination?

16 A That the incident of cheating on the April 1981  
17 exam was shown to be isolated, was shown to not involve  
18 management in the sense in which that term, I think, has  
19 been used in the various NRC investigation reports, and that  
20 it was unfair -- it is -- it was unfair to our operators to  
21 require them to retake the examinations which they had  
22 passed in April.

23 Q Did you convey that company position to the  
24 operators?

25 A Yes, sir. It was a matter of public record with

1 the letter that we sent to the Commission.

2 Q Did you convey to the operators any instructions  
3 with respect to the October '81 reexamination?

4 A I think that some of the discussion that were held  
5 and one specifically that I was a party to would fall within  
6 the realm of your question. That is, that we told the  
7 operators that we felt we were going to lose the appeal of  
8 the decision. They would undoubtedly have to take the exam  
9 again, that the retaking of the exams would be very  
10 important to them as well as to the company. We would give  
11 them the maximum assistance that we could in order to ensure  
12 their readiness to retake the examination and that we  
13 expected and encouraged them to make their very best effort  
14 to in effect accept the requirement that was going to be  
15 imposed and let's get on with it.

16 Q Did you provide them with the opportunity to  
17 prepare for that exam on company time?

18 A Yes, sir.

19 Q Mr. Arnold, I am sure at this point that you think  
20 you have been asked every conceivable question on the VV  
21 incident, but I do believe that the record is incomplete in  
22 one respect and I have a couple of questions that I would  
23 like to ask you to hopefully complete the record on that  
24 matter.

25 You have testified concerning VV's weaknesses and

1 I believe you testified yesterday that VV's submission of  
2 another person's work product was common knowledge within  
3 the organization. Is that correct?

4 A I think I testified that I would expect it was  
5 common knowledge once it was identified by the training  
6 department, which was more or less immediately and as a  
7 result of the action that was taken.

8 I think I testified, though, as to the  
9 expectations I had.

10 Q Yes, I believe you are correct. Would you expect  
11 that it was common knowledge within the organization of the  
12 weaknesses of VV that you identified today and yesterday?

13 A Yes, sir, in the same sense in which my own  
14 weaknesses, I am sure, are common knowledge within the  
15 organization.

16 Q Could you explain why you believe your action in  
17 removing VV from his supervisory position would have been  
18 considered by the organization, by the employees of your  
19 organization, to be a response to both VV's submission of  
20 another person's work product and VV's weaknesses which I  
21 believe you testified were the reasons why he was removed  
22 from his supervisory position?

23 A I guess I do not have confidence that it would  
24 have been general knowledge as far as the total scope of our  
25 considerations in making our evaluation. I have confidence

1 that the incident was known and was clearly a part, if not  
2 all, of the reason for the response.

3           It is not our practice to discuss in general the  
4 performance evaluation of individuals or individual  
5 disciplinary action we take. But clearly in that type of a  
6 situation that we have at a power plant, those sorts of  
7 things become general knowledge.

8           MR. GOLDBERG: I do not have any further  
9 questions. Thank you, Mr. Arnold.

10           JUDGE MILHOLLIN: Is there redirect?

11           MR. BLAKE: I just have one area of clarificaton  
12 for the record, Judge Milhollin.

13                               REDIRECT EXAMINATION

14           BY MR BLAKE:

15           Q     Mr. Arnold, do you recall Mr. Adler in the course  
16 of his cross examination asking you a question about whether  
17 you were aware that members of management were aware of  
18 rumors of cheating?

19           A     Yes, sir.

20           Q     Do you recall that your answer was framed saying  
21 that you were not certain as to the timing of those  
22 vis-a-vis July and it is -- well, vis-a-vis, that is, before  
23 or after July.

24           A     Yes, sir.

25           Q     And it is my recollection, Mr. Arnold, that you

1 said July 1979. In that answer did you intend July 1979?

2 A No, sir. I intended to say July 1981.

3 MR. BLAKE: I have no other questions.

4 JUDGE MILHOLLIN: I have a few questions.

5 EXAMINATION BY THE SPECIAL MASTER

6 BY JUDGE MILHOLLIN:

7 Q I would like for you to tell me, if you could,  
8 whether you were aware that the NRC investigators were  
9 opposed to the presence of a management representative  
10 during the interviews which they conducted?

11 A Yes, sir, I was.

12 Q Do you agree with their conclusion that a  
13 management representative inhibited the free flow of  
14 information? Are you aware of that conclusion in the  
15 documents?

16 A I am aware of that conclusion and I have no basis  
17 other than, I guess, common experience to draw the  
18 conclusion as to whether or not it hindered the  
19 investigation. I have no information in the affirmative  
20 from my people.

21 I am aware of the evaluation that is contained in  
22 the NRC's reports.

23 Q I think you said, or perhaps I may just have  
24 inferred, that you were concerned with the rights of the  
25 employees or perhaps -- well, I hate to use the word -- I am

1 reluctant to use the word protect the employees, but let's  
2 use the word rights of the employees. I think you may have  
3 testified that you were concerned with the rights of the  
4 employees.

5           Could you tell me from what sort of things you  
6 were trying to protect the employees by having a management  
7 representative present?

8           A     I think the only thing I would characterize in the  
9 way of a protective nature is the mental strain and the  
10 anxiety that comes out of being in that kind of a situation  
11 on your own and the questions one invariably has after that  
12 type of interview as to gee, did I say this or did I say  
13 that, or something else. And in a sense the reassurance  
14 that one can obtain from having had somebody there to be  
15 able to discuss with someone that was there what was in fact  
16 said as at least that person heard it.

17           I think that is the only sense in which I would  
18 say it was being protected, that the motivation was a  
19 protective one.

20           ]     Well, perhaps I should have asked you a more -- a  
21 broader question. What was your -- what result did you hope  
22 to achieve by having the representative present?

23           A     The principal result I hoped to achieve was a  
24 continuing reassurance to the organization, specifically the  
25 operators, that the company was very much interested in

1 them, had confidence in them, was supportive of them and  
2 would continue to give them support until there was good  
3 reason to justify why we could not.

4 I think, you know, it has to be again understood  
5 in light of the tremendous examination inspection that our  
6 operators have gone through the last two and a half years  
7 and they are tough times. They are hard on people. And the  
8 support of the company is important to them.

9 Q The NRC reports which we have contained somewhere  
10 within them a statement that it would have been impossible  
11 to guarantee confidentiality to the operators during their  
12 interviews because of the management representative. Do you  
13 recall seeing that statement somewhere within the NRC  
14 documents?

15 A No, sir. I do not recall seeing it, but clearly  
16 it is the case.

17 Q Do you think that is true, that if there had been,  
18 for example, information which an operator might have given  
19 which would have required confidentiality from management  
20 that it would have been impossible to give that statement  
21 because of the management representative being present?

22 A Well, I would hesitate to say it would have been  
23 --

24 Q Impossible is a strong word. What I am getting at  
25 is does it concern you that there might have been that

1 effect on the employees?

2 A Yes, sir. It does. It does concern me.

3 Q If you had to make this decision over again would  
4 you make it the same way?

5 A Absolutely, I would. And if I may --

6 Q Elaborate on that? Go ahead.

7 A Our experience has been that if there is anything  
8 of substance that needs to -- is there or anything of  
9 importance it usually is not a case of being able to be  
10 taken care of in the sense of the first -- first interview  
11 and I think we have been very successful in being able to  
12 provide the assistance or the support for the individual  
13 employees to the point where it is no longer appropriate for  
14 us to involve ourselves in the same way in those instances  
15 where that has come up.

16 And there are follow-on interviews and I guess my  
17 judgment based on the experience of the last two and a  
18 half-plus years now is that by and large the company's  
19 approach to it in total has overall been a large net benefit  
20 through being able to obtain information and get at the  
21 facts in an expeditious way and I think that showing initial  
22 support has been important and in this specific instance of  
23 Mr. W and Mr. O I truly believe expedited being able to  
24 close that issue out.

25 No question that Mr. W and Mr. O, for example,

1 wanted the management people, in my mind at least, to  
2 accompany them down to -- to the interviews that occurred  
3 there.

4 Q After the accident did you make an effort or did  
5 you succeed in hiring a great number of new people whom you  
6 would seek to qualify as operators or are the people you are  
7 seeking to qualify now for the most part the same people who  
8 were present at the time of the accident?

9 A I do not know the current mix. It is my  
10 recollection that in the spring when I testified or perhaps  
11 earlier than that in the year, my estimate at that time was  
12 about 75 percent were people with the company at the time of  
13 the accident, if not licensed at that time, and 25 percent  
14 that were new.

15 It is perhaps a little lower percentage than that,  
16 but it is a mixture and it does include a substantial  
17 fraction of people who were previously licensed and an even  
18 larger fraction of people who were with the company at the  
19 time of the accident. But there is also a significant  
20 fraction that are new.

21 Q I asked you before about the practice of taking  
22 makeup examinations, I think with respect to -- I do not  
23 think I mentioned any letters, but there were employees who  
24 repeatedly failed makeup examinations and I think you  
25 testified that there had been a practice to regard the

1 examination perhaps as an option which you have referred to  
2 as a correspondent's course.

3           Do you think it would be better if makeup  
4 examinations were not allowed? That is, would it be better  
5 for operators simply to be required to continue to take  
6 sitdown examinations if they failed to successfully a  
7 category on an NRC exam or -- I am sorry, on a company exam.

8           A     Are you asking if it would be better if they had  
9 one opportunity only and if they failed to pass whatever the  
10 requirement was at that time --

11          Q     I am sorry I was not clear. I am referring to  
12 makeup examinations which can be completed simply by doing  
13 an assignment.

14          A     Well, as I understand our procedure, the makeup  
15 examination is a part of a study package. It is not just  
16 take an examination and that weighs or that fulfills the  
17 requirements of the particular section of the training  
18 program that the exam covers.

19                They are supposed to review material in addition.

20          Q     Let me be a little bit more specific. For  
21 example, with respect to VV would it have been better, do  
22 you think, for the requirements to have been that once VV  
23 failed the requalification examination that it was expected  
24 within a certain period of time that VV would absolutely  
25 pass another examination of equivalent difficulty and and,

1 well, equipment structure in terms of proctoring or be  
2 relieved of his duties until he did so, rather than being  
3 able to continue until he failed to pass the examination the  
4 second time and then be in the position of handing in a  
5 takehome assignment?

6       A     I think that what you are describing initially is  
7 the requirement, as I understand it, with the exception that  
8 we were permitting in the July 1979 time frame for the  
9 examination associated with that part of the training  
10 material to be taken on shift or as a takehome exam.

11           I do not believe that we are any longer permitting  
12 those makeup examinations to be taken unproctored, so that  
13 if the issue goes to how he takes the examination, that is a  
14 requirement.

15           If the issue goes to, you know, how much  
16 flexibility is there before he is no longer able to be  
17 assigned licensed duties, while we may not completely  
18 understand each other at what point he ought to fall into  
19 that category, the procedure, the requirements currently  
20 clearly put him in that category. As a certain point in  
21 time if he has not, you know, taken the path that clears his  
22 qualification status.

23           And I think probably subsequent witnesses will be  
24 able to speak more precisely about the process than I can.  
25 But that was -- the fundamental design was to take people

1 that have some weaknesses, even if they are not in a sense  
2 fatal weaknesses, provide a process by which they corrected  
3 those or, if they did not correct them in a certain number  
4 of steps, then they were considered to be fatal weaknesses  
5 until corrected, fatal in the sense they had to be removed  
6 from licensed duties.

7           I might add, you know, in terms of our sensitivity  
8 to it is we even negotiated a provision for that in the  
9 labor agreement in terms of stepping down the qualification  
10 and the status of control room operators consistent with  
11 their performance in the retraining program. So it was, you  
12 know, an issue that we looked at quite extensively.

13       Q     I only have one more question. If it should turn  
14 out that a great number of your employees fail the October  
15 1981 examination, how would that affect your view of their  
16 overall competence?

17       A     I do not think that I would be willing to make a  
18 judgment based upon just the end result of a particular  
19 exam. I have a lot of data points other than the April 1981  
20 NRC exam that I do not feel are tainted to any significant  
21 amount, at least, that give me a lot of confidence in the  
22 qualification of our operators.

23           So that a low pass rate on these exams would  
24 certainly be of great importance to me. It would be a  
25 serious consideration. I would not be prepared until we

1 looked further at what the nature of the failure was, you  
2 know, what kinds of things were the causes of the failure,  
3 to be able to make a judgment about their overall  
4 qualification.

5 Q You would say a highly competent operator could  
6 fail an exam and perhaps continue to fail it, such as VV,  
7 for example?

8 A I think a highly competent operator could  
9 certainly fail the exam and if he does not take steps to  
10 review and upgrade his knowledge in one of the specific  
11 areas he could continue to be weak enough in that area that  
12 he continues to fail it.

13 Q But if he did you would still consider him a  
14 competent operator?

15 A I think it depends -- well --

16 Q Based on your other data points?

17 A Other data points might give me a basis, such as  
18 the case of Mr. VV for considering him a competent  
19 operator. I could not answer that it automatically would or  
20 would not. I would not see any of these exam results as  
21 being determinant, but I think that is the reason that we,  
22 because one cannot make those -- that degree of absolute  
23 judgment based on particular exams that we set what are in  
24 essence arbitrary requirements. And I think it is  
25 appropriate to do so.

1           If they do not pass, then whether we judge them  
2 competent or not they do not take licensed duties and I  
3 think that, you know, they are required to fulfill various  
4 aspects of training qualification programs or, regardless of  
5 our subjective view of it, they do not get to step into  
6 those positions of responsibility.

7           JUDGE MILHOLLIN: Thank you. I have no further  
8 questions.

9           MR. CLEWETT: Judge Milhollin, may I inquire as to  
10 whether it is procedurally proper to ask follow-on questions  
11 that arise from the questions by someone who questions after  
12 one's questions, if that is understandable. In other words,  
13 I have one or two questions that have arisen from the  
14 matters discussed by Mr. Adler and I was wondering if it was  
15 proper to ask those of the witness.

16           JUDGE MILHOLLIN: Are there responses to that  
17 request from the parties.

18           MR. ADLER: I will say that it is consistent with  
19 the procedure followed in the bulk of the hearing. The key  
20 requirement is that it is clearly linked to a response that  
21 arose after the party's cross examination and it is not  
22 something they should have asked prior to that time.

23           Perhaps Mr. Blake will agree or disagree with that.

24           MR. BLAKE: I would not disagree with Mr. Adler's  
25 characterization of what occurred in the proceeding. I

1 think the general proposition is that following direct but  
2 certainly in the preceding there were opportunities. I  
3 would put the emphasis on the latter ground rule which he  
4 referred to. That is, it is clearly something which only  
5 could be asked now and could not have been asked earlier.

6 JUDGE MILHOLLIN: How many questions do you have?

7 MR. CLEWETT: Essentially one which might have one  
8 follow-on question.

9 JUDGE MILHOLLIN: Very well. Go ahead.

10 CROSS EXAMINATION - Resumed

11 BY MR. CLEWETT:

12 Q Mr. Arnold, in response to a question which Mr.  
13 Adler asked you I believe you indicated that you noted a  
14 newspaper article concerning Harry Williams within the past  
15 few weeks. And I was wondering whether that was the first  
16 time you had heard of the matters relating to potential  
17 cheating which Mr. Williams discusses.

18 A To the best of my recollection, it was the first  
19 time I heard of those allegations.

20 (Counsel for the Aamodts conferring.)

21 MR. CLEWETT: Thank you very much.

22 JUDGE MILHOLLIN: Thank you, Mr. Arnold, you are  
23 excused.

24 THE WITNESS: Thank you, sir.

25 (The witness was excused.)

1           MR. BLAKE: Mr. Hukill is around but obviously not  
2 in the hearing room. Mr. Arnold would be the first witness  
3 to complete who will be subject ultimately to the  
4 sequestration order, assuming we reach agreement on one and  
5 issue it.

6           I do not know, quite frankly, what to do at this  
7 point with regard to what instructions you might give him  
8 absent our having agreed upon or your having issued an order  
9 yet on sequestration. He has certainly been privy to the  
10 discussions that we have had.

11           JUDGE MILHOLLIN: Yes, I think that given the fact  
12 that there is perhaps still a small amount of thought still  
13 to be given to this subject of sequestration, perhaps a  
14 considerable amount of thought, that we could go forward on  
15 the following assumptions; that is that Mr. Arnold has been  
16 here while we have been talking about sequestration. I  
17 think we have reduced to writing our agreement so far. I  
18 can rely upon you, Mr. Blake, to inform him if there are any  
19 changes and I will assume that Mr. Arnold understands the  
20 import of this order and will abide by it.

21           THE WITNESS: I believe I do understand, sir, and  
22 I certainly will abide by that understanding.

23           JUDGE MILHOLLIN: Is that adequate, do you think,  
24 Mr. Blake?

25           MR. BLAKE: I do not know how to do any better at

1 this point, Judge Milhollin.

2 JUDGE MILHOLLIN: I do not either and I guess I am  
3 persuaded that that should be enough at this point. Since  
4 the only outstanding question is as to what you can do, I do  
5 not see that there is much misunderstanding concerning Mr.  
6 Arnold.

7 MR. BLAKE: Until this point I had not heard you  
8 express approval or concurrence with the parties'  
9 agreed-upon --

10 JUDGE MILHOLLIN: I am sorry. My disposition is  
11 to approve this, but I would still like to give some thought  
12 to this last problem before I sign it. But I assume that  
13 Mr. Arnold understands at least that portion of it which  
14 applies to him.

15 MR. BLAKE: I think he has just indicated that he  
16 does and he has read the draft order as we put it together.

17 JUDGE MILHOLLIN: While we are waiting for Mr.  
18 Hukill I might ask whether all the witnesses whom you are  
19 going to present have already been sworn.

20 MR. BLAKE: I have to review in my mind. Mr.  
21 Hukill has. Mr. Ross has. Mr. Kelly has. Mr. Brown has  
22 not, one of the training witnesses, though the other two  
23 have -- Mr. Long and Mr. Newton.

24 Mr. Miller has not. He did not appear in the  
25 prior portion of the proceeding. I think with the exception

1 of Mr. Brown and Mr. Miller.

2 JUDGE MILHOLLIN: Mr. Wilson?

3 MR. BLAKE: Mr. Wilson, he has not appeared and  
4 Mr. Trunk has not.

5 (Pause.)

6 MR. BLAKE: Judge Milhollin, our next witness is  
7 Mr. Henry Hukill. I would like to make two observations,  
8 though, before we turn to Mr. Hukill, who has already been  
9 sworn.

10 One is that Mr. Hukill is not up to date with what  
11 witnesses we are able not to talk about and what individuals  
12 in terms of names as opposed to letters and the instructions  
13 that we have given him is go ahead with the letters and as  
14 they occur just for purposes of getting on with it, and we  
15 may interrupt at some point in time and say that individual  
16 has allowed his name to be used and we will get on, I think,  
17 most expeditiously if we at least start out that way.

18 It may prove to be unworkable, but that is at  
19 least the instructions we have given him at this point.

20 The second is that I think I can represent to you  
21 that there is a consensus among the parties with respect to  
22 the sequestration order and attachment 1 that we ought to go  
23 with that order even if it need be supplemented or modified  
24 later on depending upon what comes out with respect to  
25 counsel participation or restrictions on counsel in order to

1 get it on the street and start the ball rolling in this  
2 respect.

3           JUDGE MILHOLLIN: That is a good suggestion. Very  
4 well. I will now sign it and make it effective as of this  
5 time.

6 Whereupon,

7                           HENRY D. HUKILL,  
8 was recalled as a witness by counsel for Licensee, having  
9 previously been duly sworn by the Chairman of the Atomic  
10 Safety and Licensing Board, was further examined and  
11 testified as follows:

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1 DIRECT EXAMINATION

2 BY MR. BLAKE:

3 Q Mr. Hukill, I show you a copy of a document  
4 entitled "Licensee's Testimony of Henry D. Hukill," dated  
5 11/03/81, and ask whether or not this document was prepared  
6 by you or under your supervision?

7 A It was prepared under my supervision.

8 Q And are there any corrections that you would make  
9 to this document?

10 A Yes. I think there are two corrections that I  
11 should make. The first correction is on page 17, on the  
12 very first line, where it states, "We will utilize training  
13 personnel," I would like to insert after "personnel," "or  
14 STAs."

15 The second correction is on page 18, fifth line  
16 from the bottom. It should be "biannual" rather than  
17 "annual."

18 Q Mr. Hukill, looking at page 6 of your testimony  
19 for a moment, in the full paragraph at the top of that page,  
20 the third-from-the-last line in that paragraph, there is a  
21 sentence that begins, "Mr. Christman has informed me that  
22 this his experience was comparable." Is that correct? Is  
23 that what your testimony will be?

24 A It looks like a typographical. I would say "this"  
25 probably does not belong there.

1 Q So you would like to correct --

2 A It to read, "Mr. Christman has informed me that  
3 his experience was comparable."

4 Q With those corrections to this testimony, do you  
5 adopt it as your testimony in this proceeding?

6 A Yes, I do.

7 MR. BLAKE: Mr. Milhollin, I would ask that the  
8 document entitled "Licensee's Testimony of Henry D. Hukill,"  
9 dated 11/03/81, comprised of some 21 pages and a two-page  
10 attachment, be physically incorporated into the record just  
11 as though read.

12 JUDGE MILHOLLIN: It will be so incorporated.

13 (The written testimony of Henry D. Hukill, with  
14 attachments, follows:)

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1 MR. BLAKE: With Mr. Hukill's testimony accepted,  
2 Licensee has no additional direct, and he is available for  
3 cross.

4 CROSS EXAMINATION

5 BY MS. BRADFORD:

6 Q Good afternoon, Mr. Hukill. My name is Louise  
7 Bradford.

8 A Good afternoon.

9 Q And I have a few questions for you.

10 JUDGE MILHOLLIN: Mrs. Bradford, have I received  
11 an outline of your --

12 MS. BRADFORD: I left it there this morning.

13 (Pause.)

14 JUDGE MILHOLLIN: I have it. Go ahead.

15 BY MS. BRADFORD: (Resuming)

16 Q At the top of page 5 of your testimony, Mr.  
17 Hukill, you state that, "It may have been a failing on my  
18 part not to expressly communicate this integral part of my  
19 past experience with all members of the TMI-1 staff when I  
20 arrived and to assume that such a viewpoint about honesty  
21 was commonplace."

22 Could you please explain on what basis do you  
23 conclude that such a viewpoint about honesty was not  
24 commonplace?

25 A Could you repeat the question, please?

1 C I said could you please explain to me on what  
2 basis do you conclude that such a viewpoint about honesty  
3 was not commonplace?

4 A I personally believed that such a viewpoint about  
5 honesty was commonplace and that it should be commonplace,  
6 but I feel I should probably have let people know  
7 immediately that I felt that way.

8 Q Mr. Hukill, how do you propose to engrain your  
9 philosophy concerning honesty in people?

10 A If you will let me look at my testimony, I think I  
11 talk about that in my testimony.

12 Q I think you will find it, Mr. Hukill, on the same  
13 page, on page 5, at about the middle of that paragraph, the  
14 middle of the page.

15 A I believe I talk about it in the back to where I  
16 have also talked -- already started to talk to people about  
17 honesty and about the certification process. It is farther  
18 on in the testimony.

19 On page 12, "I have already taken some actions in  
20 my talks with people." And on page 12, in the first  
21 paragraph, starting with "Moreover," I say, "Moreover,  
22 regardless of their opinion of the written exams they are  
23 required to take, I place significance on them and would not  
24 tolerate misconduct in taking these exams or, for that  
25 matter, in their participation in the training and testing

1 program which the training and education department has  
2 developed for their benefit."

3           So not only have I done this now, I certainly  
4 intend to do that in the future with new people.

5           Q     When you -- did you have a number of interviews --  
6 excuse me -- did you sit in on a number of NRC interviews at  
7 the end of July?

8           A     Yes, ma'am, I did.

9           Q     Mr. Hukill, I have here a number of documents that  
10 I would like to identify. They are copies of interviews  
11 with individuals, W, S, EE, with OO, with individual Q. I  
12 would like to show you copies of these documents.

13                   (Counsel handing documents to witness.)

14                   (Witness perusing documents.)

15           MR. BLAKE: Judge Milhollin, I should note for Mr.  
16 Hukill's benefit that with respect to these documents he has  
17 been handed, one of them relates to EE, and that is Michael  
18 Ross, and his name is used freely, Mr. Hukill. The others  
19 we are maintaining letter designations for.

20           JUDGE MILHOLLIN: Mrs. Bradford, we have five  
21 documents, is that right?

22           MS. BRADFORD: Yes, Judge Milhollin.

23           BY MS. BRADFORD: (Resuming)

24           Q     Mr. Hukill, would you examine these, identify  
25 these documents for me one at a time, please?



1 and this one TMIA 56. Do you want them different?

2 MS. BRADFORD: I misspoke. It was TMIA 55.

3 Excuse me.

4 BY MS. BRADFORD: (Resuming)

5 Q And a similar document, Mr. Hukill, and the  
6 subject of this document is Mr. EE.

7 A That is correct. But I am supposed to use his  
8 name; is that correct?

9 Q Mike Ross.

10 A Mr. Ross.

11 MS. BRADFORD: I would label this document TMIA  
12 Exhibit 57.

13 (The document referred to was  
14 marked TMIA Exhibit No. 57  
15 for identification.)

16 BY MS. BRADFORD: (Resuming)

17 Q A similar document, Mr. Hukill, the subject of  
18 this investigation is Mr. OO.

19 A Yes, ma'am.

20 MS. BRADFORD: Can we label that one TMIA 58?

21 (The document referred to was  
22 marked TMIA Exhibit No. 58  
23 for identification.)

24 BY MS. BRADFORD: (Resuming)

25 Q And the last in this series, the individual in

1 question is Mr. Q, and I would label that one TMIA 59.

2 (The document referred to was  
3 marked TMIA Exhibit No. 59  
4 for identification.)

5 MS. BRADFORD: I would ask at this time that all  
6 of these documents be moved into evidence.

7 MR. BLAKE: Judge Milhollin, in quickly looking at  
8 these, we believe these to be accurate and what we provided  
9 in the course of discovery and therefore would have no  
10 objection.

11 We note that in the case of at least one of them,  
12 TMIA 55, on page 2 of that exhibit or proposed exhibit, down  
13 near the bottom of the page, there are some circles and a  
14 notation, "Wrong," which I do not think appear on the  
15 document that we provided in the course of discovery. And  
16 therefore, I do not know that that -- I do not know where  
17 that notation comes from, and I do not know if there are  
18 others in here that we would have to inspect.

19 But if I could get at least Ms. Bradford's  
20 representation that that is not a portion of the company's  
21 official documents -- and I will check further on it. Well,  
22 I do not want to stop the procedure at this point. We will  
23 take a look further, but at this point I would have no  
24 objection as long as I could get at least that notation.

25 MS. BRADFORD: I apologize for not mentioning that

1 there are some notations in here that were not there.

2 JUDGE MILHOLLIN: Are there other notations which  
3 were there, untyped notations which will cause confusion?

4 MR. BLAKE: Yes, there are. By and large, you  
5 will note they have initials, like Mr. Hukill's initials  
6 where he made corrections. So we will try our hand at it.  
7 I do not have any objection as long as there is an  
8 understanding that these documents are not necessarily what  
9 we provided but they reflect some additional notations made  
10 by TMIA.

11 JUDGE MILHOLLIN: While we are on the subject of  
12 admissibility, my notes indicate that perhaps one exhibit  
13 has not yet been admitted into evidence. Is there still an  
14 outstanding question about that?

15 MS. BRADFORD: Judge Milhollin, Mr. Blake and I  
16 have reached an agreement. The agreement is that we will  
17 remove the third -- the second enclosure, the third page of  
18 the document. That third page is a rough draft of the  
19 letter which is the first enclosure.

20 JUDGE MILHOLLIN: Just a moment.

21 So I interpret what you have said to mean that the  
22 exhibit which you offer is changed to include only two  
23 pages?

24 MS. BRADFORD: That is correct.

25 JUDGE MILHOLLIN: And is offered. There is no

1 objection.

2 Go ahead.

3 MS. BRADFORD: Have the exhibits been moved into  
4 evidence?

5 JUDGE MILHOLLIN: They are admitted, subject to  
6 possible correction.

7 (The document referred to,  
8 previously marked for  
9 identification as Exhibits  
10 No. TMIA 55 through 59 were  
11 received in evidence.)

12 BY MS. BRADFORD: (Resuming)

13 Q Mr. Hukill, in the interview with Mr. W, on page  
14 4, the second-to-last question, do you recall that exchange,  
15 Mr. Hukill?

16 (Pause.)

17 A Yes, ma'am, I recall that exchange.

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1 Q Can you tell me was Ted merely silent or did he  
2 begin to answer and then stop?

3 A To the best of my recollection he was silent. He  
4 never said a word.

5 Q Your handwritten notes of this exchange which  
6 appear on the fourth page from the back of this document  
7 would indicate that you began to write something but crossed  
8 it out. Is that correct?

9 A Which page was that?

10 Q The fourth page from the back of the document.

11 A I would have to assume yes. It looks like I  
12 started to write "AI" but crossed it out. But I do not know  
13 what that means.

14 Q Could it possibly mean that the "A" indicates  
15 Ted's answer?

16 A No, ma'am, not to the best of my recollection. I  
17 specifically recommend -- recollect this question and  
18 specifically remember that there was no answer.

19 Q Thank you.

20 Mr. Hukill, would you look at the examination of  
21 Mr. S? On page two --

22 JUDGE MILHOLLIN: Mrs. Bradford, could you  
23 identify the exhibit numbers?

24 MS. BRADFORD: I am sorry.

25 BY MS. BRADFORD: (Resuming)

1 Q That is Exhibit 56.

2 JUDGE MILHOLLIN: Would you give us the page  
3 number again? I am sorry.

4 BY MS. BRADFORD: (Resuming)

5 Q On page two, the fourth question from the bottom,  
6 the one which concerns Mr. EE. It discusses -- let me just  
7 read that. The question is: "Could you see papers at the  
8 other end of the table?" Answer: "Very hard. I saw one of  
9 EE's on my way out to the head and I thought he had a wrong  
10 answer but I did not say anything. Evidently he was right  
11 because he sure did better than I did."

12 Did you pursue that?

13 A No, ma'am. I did not pursue any of these  
14 questions. This was the NRC investigation. It was not  
15 mine. I did not pursue that.

16 Q At a later time did you ever pursue that?

17 A No, ma'am. I never did pursue that.

18 Q I expect -- I think I want to ask you the reason  
19 you were sitting in, your understanding of the reason that  
20 you sat in on those NRC interviews.

21 A I would like to go to my testimony and review that.

22 (Pause.)

23 On the bottom of page six and the top of page  
24 seven I state: "I did feel, however, that it would be  
25 beneficial for me to attend if the interviewee requested our

1 presence, since it would enhance the individual's  
2 cooperation and confidence. Also, by attending I would gain  
3 firsthand knowledge of the scope of the problem with which I  
4 was faced as Vice President of TMI-1."

5 Q In the response from -- from this -- from Mr. S  
6 that we just discussed, did you see a potential problem that  
7 possibly if Mr. S had seen another exam candidate's papers,  
8 that that -- that might not be an isolated event?

9 A No, frankly I did not. I remember the interchange  
10 but I did not consider that S just having seen an answer as  
11 he walked out to the head really consisted of any flagrant  
12 cheating or anything that I should get into. I just never  
13 thought of it.

14 Q Did you ever discuss that with Mr. EE?

15 A No, I never discussed it with Mr. Ross.

16 Q I am sorry, Mr. Ross.

17 Would you turn to Exhibit 57? On page three, the  
18 fifth question: "Was it possible for one at a table to  
19 observe papers of the other?" Mr. Ross answered it was very  
20 difficult. In light of the testimony of Mr. S, did you  
21 think that -- not think that a possible follow-up was  
22 indicated?

23 A No, I did not really. I am not sure whether I  
24 ever thought of it, but the indication that one individual  
25 going to the head happened to see one answer to one out of

1 numerous questions just did not raise that question in my  
2 mind.

3           And as he notes here, it was very difficult, but  
4 he did not say it was impossible.

5           Q     I just want to briefly look at Exhibit 58, which  
6 is the interview of Mr. OO. At the middle of page two the  
7 question is: "Prior to today have you had any idea of  
8 people cheating?" The response was that is a hard question,  
9 rumors only.

10          A     I am sorry. I am not -- where are you?

11          Q     On page two at the middle of the page.

12          A     The middle of the page.

13          Q     Starting with "Prior to today".

14          A     Okay.

15          Q     Did you pursue these rumors with Mr. OO?

16          A     No, ma'am, I did not.

17          Q     Do you know if anyone else pursued those rumors  
18 with Mr. OO?

19          A     No, this was the NRC's investigation and as I  
20 understood our part in it, it was as observer only and the  
21 NRC was conducting this investigation.

22          Q     Was the -- did the company conduct investigations?

23          A     I did not. I cannot answer for the rest of the  
24 company.

25          Q     Did you make this information known to the person

1 who was conducting those investigations?

2 A I did not personally make it known to him. I just  
3 gave him the sheets that you see typed up here that are your  
4 exhibits.

5 Q And did you point out that Mr. OO had heard rumors?

6 A No. As I remember it, I pointed out that there  
7 might have been two or three people that said during the  
8 investigation they had heard rumors.

9 Q Exhibit 59, Mr. Hukill, on page two, question:  
10 "Any belief that there was cheating?" Answer: "Heard  
11 rumors, but nothing definite."

12 Did you follow up on that one?

13 A No, ma'am, I did not.

14 JUDGE MILHOLLIN: I am sorry. I am not following.  
15 You are referring to Exhibit 59?

16 MS. BRADFORD: Yes. It is -- I think it is the  
17 fourth one from the bottom.

18 JUDGE MILHOLLIN: All right.

19 BY MS. BRADFORD: (resuming)

20 Q Mr. Hukill, do you believe that turning in someone  
21 else's work on an exam is cheating?

22 A Yes, I believe that turning in someone else's work  
23 is cheating.

24 Q Could you tell me when and how did you inform Mr.  
25 W and Mr. O that they had a right to have senior management

1 present during their interviews?

2 A Yes. I would like to use my testimony again, as I  
3 think it is in there. And your question was how I informed  
4 them?

5 Q Yes, and when.

6 A I did not inform them.

7 Q You did not inform them?

8 A No, ma'am.

9 Q Did you go with them?

10 A Yes, I went with them

11 Q Do you know who did inform them?

12 A They were informed -- I do not think they were  
13 really ever informed of what they were up there -- they were  
14 shown the two exams and indicted by the NRC investigators  
15 that they were investigating the similarity between the two  
16 exams. When they came to my office they were not informed  
17 of any reason why they were there other than that the NRC  
18 wanted to see them.

19 Q I think you misunderstood my question. The  
20 question was who and when were Mr. W and Mr. O informed that  
21 they had a right to have senior management present during  
22 their interviews?

23 A They were informed by me. They were called to my  
24 office and were informed by me. That was done after Mr.  
25 Arnold had called me and said do not take them up until I

1 get this cleared up, at which time he called me back in  
2 about ten minutes and said he had talked to Mr. Stello and  
3 that we could be there during their interviews.

4 Q By this cleared up, are you indicating the NRC  
5 objections to having a management person present?

6 A I understood yes. I know the NRC objected because  
7 Mr. Arnold asked me to call and see if we could be there  
8 with them. I called probably Mr. Baci, but I am not sure  
9 and he said no, they did not want us there. And I informed  
10 him that I would then have to check back with Mr. Arnold  
11 before I would bring the people up.

12 And that is when I called Mr. Arnold, who, to the  
13 best of my knowledge, called Mr. Stello and made an  
14 arrangement that we could offer our services to O and W if  
15 they wanted them.

16 Q Did you have any discussion with Mr. Arnold or was  
17 this more in the form of a response to a request for Mr.  
18 Arnold? I mean, was there any discussion about your --

19 MR. BLAKE: Excuse me. Could we have one question  
20 at a time?

21 MS. BRADFORD: I am sorry.

22 BY MS. BRADFORD: (resuming)

23 Q When Mr. Arnold requested that you accompany Mr. O  
24 and Mr. W to the NRC investigation, was there any discussion  
25 about that at that time?

1           A     To the best of my recollection, very short, and I  
2 said I agreed with them.

3           Q     Was there any thought to informing Mr. O and Mr. W  
4 that they might want to retain counsel?

5           A     I do not think so. I do not think we discussed  
6 that at the time.

7           Q     Do you feel that they might have been better  
8 served at that time to have been represented by counsel  
9 rather than by management?

10          A     I am really not sure I know the answer to that.

11          Q     Okay. Do you believe that your presence had any  
12 effect on their decision to deny wrongdoing at the time of  
13 the first interview?

14          A     No, that is covered in my testimony. Do you want  
15 me to read it?

16          Q     No. If you just --

17          A     I will read from page nine. "In conclusion I do  
18 not feel that my presence during the interviews I attended  
19 constrained the NRC's investigation of cheating in any way,  
20 nor do I believe Mr. Christman's presence on several  
21 occasions had that result.

22                   "Moreover, given the fact that the I&E  
23 investigators subsequently interviewed whomever they chose  
24 to talk with without senior management of the company  
25 present including reinterviewing individuals as they saw

1 necessary, I see no basis for concluding that licensing  
2 management constrained NRC's investigation of cheating and  
3 rumors of cheating in licensed operator examinations."

4           There are also some other words that I should find.

5           Q     Mr. Hukill --

6           A     Well, to answer this question fully, there are  
7 other words. On page six in paragraph one, starting with  
8 "To the best of my recollection I did not interject my views  
9 into the interview process. I would estimate that in total I  
10 probably only said ten or fifteen words in response to  
11 questions. Mr. Christman has informed me that his  
12 experience was comparable and that he did not interject his  
13 views during the interviews he attended."

14           MR. BLAKE: Mr. Hukill, I believe the question  
15 that was asked was do you think that your presence  
16 contributed to Mr. O or Mr. W denying cheating at the time  
17 you were there?

18           THE WITNESS: Is that the question?

19           BY MS. BRADFORD: (resuming)

20           Q     Yes, it is.

21           A     No, I do not believe that our presence had any  
22 effect on Mr. O or Mr. W, and I do not think that it had any  
23 specific effect on their denying that they cheated.

24           Q     On the -- can you conceive of any reason why an  
25 individual might not want management to know something that

1 they would tell the NRC?

2       A     I can conceive that they might think that  
3 management would take action against them by some words or  
4 some information they provided the NRC, yes.

5       Q     And do you -- I am sorry. Would you repeat your  
6 answer, please?

7       A     To the best of my ability I will repeat my  
8 answer. Yes, I can conceive that an individual employed at  
9 the company might feel constrained with management present  
10 in an interview by the NRC and that he might not say  
11 something for fear of retribution by the company.

12       Q     And with that in mind, do you still believe that  
13 your presence had an effect -- any effect on the decision of  
14 Mr. O and Mr. W to deny wrongdoing at the time of that  
15 investigation?

16       A     No, I do not think that our presence would have  
17 had any effect. They both asked for us. They both wanted  
18 us there. I do not think that our presence would have had  
19 any effect because I believe they knew that whatever came  
20 out of that investigation was going to be made public and be  
21 made known to management in any case.

22       Q     Did they request that you go along?

23       A     Yes, they requested that we go along. When they  
24 first came to my office, I told both of them that we had  
25 permission for a senior member of management to sit with

1 them during the interview, that myself and Mr. Christman  
2 were available if they wanted to use us, or they could ask  
3 for someone else if they wanted.

4 Q Did they request you after you made that statement  
5 or before?

6 A I cannot remember.

7 Q Do you think if a senior management person offered  
8 that service to an operator that they would feel  
9 uncomfortable turning down that management person?

10 A No, I do not think so. In at least one case one  
11 individual did request someone else other than me, and in a  
12 case where they were seeing Mr. Wilson they turned down and  
13 asked for one of their shift supervisors to go up with them.  
14 So I do not think they would feel anything wrong  
15 with turning me down on my offer.

16 Q Fine.

17 (Pause.)

18 MS. BRADFORD: Just one moment, please.

19 (Counsel for TMIA conferring.)

20 BY MS. BRADFORD: (resuming)

21 Q Mr. Hukill, I have here a letter dated October 5  
22 and an attachment of handwritten notes which is entitled --  
23 the handwritten notes are titled operator interviews. I  
24 would like you to -- I would like to mark this TMIA-60 and  
25 ask that it be moved into evidence.

1 (The document referred to was  
2 marked TMIA Exhibit No. 60  
3 for identification.)

4 (Counseling handing document to witness and  
5 parties.)

6 (Witness reviewing document.)

7 JUDGE MILHOLLIN: This letter dated October 5,  
8 1981, is signed by Mr. Hukill, is that right?

9 MS. BRADFORD: Yes, it is.

10 (Pause.)

11 THE WITNESS: I believe this is part of my  
12 testimony, isn't it?

13 MS. BRADFORD: This is the way that it was  
14 presented to us in discovery requests. It is -- this letter  
15 is also attached to Mr. Hukill's testimony. However, the  
16 handwritten notes which are attached to this letter are not  
17 part of Mr. Hukill's testimony.

18 BY MS. BRADFORD: (resuming)

19 Q Is that correct, Mr. Hukill?

20 A That is correct.

21 JUDGE MILHOLLIN: So does the exhibit consist of  
22 the handwritten notes?

23 MS. BRADFORD: Yes, it does.

24 JUDGE MILHOLLIN: It would be better to have the  
25 exhibit consist of all four pages since it might be confused

1 as to what the handwritten notes refer to if they are not  
2 attached to the letter. So even though it is repetitious,  
3 perhaps it would be better to have the exhibit consist of  
4 all four pages.

5 MR. BLAKE: I have no preference to the form of  
6 the exhibit and no objection to it.

7 JUDGE MILHOLLIN: Very well. It shall be entered  
8 into evidence.

9 (The document previously  
10 marked TMIA Exhibit No. 60  
11 for identification was  
12 received in evidence.)

13 MS. BRADFORD: Thank you.

14 BY MS. BRADFORD: (resuming)

15 Q Could you turn to the handwritten notes, Mr.  
16 Hukill, and would you tell me please are these notes of all  
17 interviews conducted by you?

18 A Yes, I conducted 27. I assume the second page is  
19 just a copy blanked out. These are the interviews I  
20 conducted and these are the handwritten notes I made.

21 Q Next to several names are the words -- excuse me.  
22 Next to several individuals' letter designations there are  
23 the words "no problem." To what does that refer?

24 A That refers to the points I was making with each  
25 and every operator, number one concerning his understanding

1 of both his position and the company's position being a  
2 regulated agency and, number two, specifically an  
3 understanding and a complete agreement with his  
4 responsibility as an operator for the safety and health of  
5 the public and the workers at TMI and his full understanding  
6 of that.

7           Number four, it indicates that of the two specific  
8 questions I asked every operator that their answer was no.  
9 Those two questions were, number one, did you cheat on the  
10 exam and, number two, do you know of anyone who cheated on  
11 the exam.

12       Q     So that the -- the letter designations that do not  
13 have the words "no problem" beside them might have heard of  
14 cheating or might have participated in cheating. Is that  
15 true?

16       A     No, that is not true. You would have to go over  
17 each and every one of those and I can explain the comments  
18 to you.

19       Q     Okay, why don't we do that. On Number 20 on your  
20 chart, Mr. C, could you read that comment to me, please?

21       A     Number 20 says "no problems". You may have a  
22 problem reading my writing. That is what it says.

23       Q     It is number 21. I am sorry.

24       A     Number 21? Number 21 --

25       Q     You have two Cs, I think.

1           A     No problem. I see. I took two lines for C. I am  
2 sorry.

3           JUDGE MILHOLLIN: Does that refer to line 19, the  
4 material on the line which was originally for the first C?

5           MS. BRADFORD: Yes.

6           JUDGE MILHOLLIN: Is it the source of the  
7 confusion?

8           THE WITNESS: Yes, I understand. There is two Cs.

9           JUDGE MILHOLLIN: All right.

10          THE WITNESS: Operator C indicated he heard  
11 rumors. Anyone who indicated they heard rumors I asked them  
12 what the rumors were and in all cases they said they were  
13 just rumors. There were no specific names. There were no  
14 specific incidences and they gave me nothing to follow up  
15 from or with. And that is what that comment means.

16          JUDGE MILHOLLIN: To which comment are you  
17 referring? I am now confused. The comment which says "but  
18 heard rumors and other talking", is that it? Is that what  
19 you are referring to in your answer?

20          THE WITNESS: Yes, sir.

21          JUDGE MILHOLLIN: And that refers to which  
22 operator?

23          THE WITNESS: Operator C.

24          JUDGE MILHOLLIN: Well, also you say, opposite C,  
25 "No problem" on the next line down.

1 THE WITNESS: Yes, sir. And that to me, in my own  
2 writing, as I interviewed these people, meant there were no  
3 problems in his understanding of what I was trying to get  
4 across from him. I just indicated that he did mention rumors  
5 and I tried to indicate on any of these those that did  
6 mention rumors.

7 BY MS. BRADFORD: (resuming)

8 Q But --

9 JUDGE MILHOLLIN: All right.

10 MR. BLAKE: I wonder if -- I am still not  
11 convinced that we are straight here, Judge Milhollin. I  
12 wonder if Ms. Bradford would indulge just asking Mr. Hukill  
13 what the entire comment that he has down there on that paper  
14 is for Operator I. Would you, Ms. Bradford?

15 JUDGE MILHOLLIN: That would be a generous  
16 indulgence on her part, I think.

17 (Laughter.)

18 BY MS. BRADFORD: (resuming)

19 Q Mr. Hukill, would you read to us item 19, which is  
20 the comment you had to make for Operator I?

21 A Oh, I see. I am sorry. It is Operator I. It says  
22 "Won't testify without subpoena; no, didn't cheat but heard  
23 rumors and others talking." I do not know what the "not  
24 NRC" means. I just do not remember.

25 Q Could it mean not on the NRC exam, the rumors

1 pertained to cheating on exams other than the NRC exam?

2 A I cannot answer that. I do not remember.

3 Q And on the item 22, Operator 00, would you tell me  
4 what that comment is, please?

5 A It says "did not cheat or does not know anyone who  
6 did but has heard all kinds of rumors, cheating on exams in  
7 past has been commonplace and accepted."

8 Q Mr. Hukill, is this -- did you follow up on that  
9 item?

10 A Yes, I asked him specific names, times, events,  
11 places of which he said they were nothing but rumors. I do  
12 not know of any specific names and I do not know of any  
13 specific times. I have just heard rumors and there are  
14 rumors around the plant all the time and he would not give  
15 me any other information.

16 Q Did he indicate when he heard these rumors?

17 A No, ma'am, not that I can remember.

18 JUDGE MILHOLLIN: I would like to follow that up  
19 if I might.

20 Mr. Hukill, your testimony is that the last  
21 sentence does not stand alone. That is to say, is Mr. 00  
22 according to your notes saying that according to Mr. 00's  
23 knowledge, cheating on exams in the past has been  
24 commonplace or been accepted?

25 THE WITNESS: Yes, sir. That is what it says.

1 JUDGE MILHOLLIN: Well, I am asking you because it  
2 seems to me your testimony could be construed in two ways.  
3 It can be construed to say that OO told you that he heard  
4 rumors that there was cheating on exams and that it had been  
5 commonplace and accepted or he is telling you that according  
6 to his knowledge.

7 THE WITNESS: No, sir, Judge. He said to me he  
8 has heard rumors and that he has heard rumors that cheating  
9 in the past was commonplace, not that he knows cheating in  
10 the past was commonplace.

11 JUDGE MILHOLLIN: Did he tell you that he heard  
12 rumors that it was accepted or did he say it was accepted?

13 THE WITNESS: No, sir. He said he heard rumors it  
14 was accepted.

15 JUDGE MILHOLLIN: All right.

16 BY MS. BRADFORD: (resuming)

17 Q How many people -- does this chart represent all  
18 of the interviews that you conducted?

19 A Yes, the two pages, to the best of my  
20 recollection, represent all the people I talked to.

21 Q And how many of these operators discussed rumors  
22 that they had heard with you?

23 A I would say three or four but I would have to go  
24 down and count them. I will do that if you like.

25 Q Yes, please.

1 (Pause.)

2 A I count six.

3 Q And did you follow up these rumors?

4 A With each and every individual I followed up with  
5 the rumors and tried to track down what the rumors were and  
6 try to get them to tell me where they heard them, who they  
7 heard them from, what did they involve and in no case would  
8 anyone say anything other than that there were rumors in the  
9 plant and that they always heard rumors in the plant.

10 Q How did you select these operators for interviews?

11 A These were all the operators that were presently  
12 employed who took the exam. I am talking about operators  
13 not STAs and not people in the training department. These  
14 were all the people on the plant staff who took the exam who  
15 were still employed.

16 Q Do you think it is unusual that so many people had  
17 heard rumors and yet none of them could identify the source  
18 of these rumors?

19 A No, I really do not under the circumstances. Once  
20 the O and W thing had broken and it was the topic of  
21 conversation of every single person in the plant, and I do  
22 not consider it unusual for these people who work so closely  
23 together and see each other so often to have all kinds of  
24 rumors going on after the incident had broken.

25 Q Did any of these people indicate to you the rumors

1 were -- they had heard rumors before the incident was  
2 reported in the media or they were aware of the  
3 investigation?

4       A     I do not remember asking them that. I just asked  
5 them the two questions and they were very specific. They  
6 were written down and I asked them the two questions and the  
7 answer was I have heard rumors from the six people and  
8 whether they were before or after I do not know, except for  
9 the one here who -- and I have not reread these, so that the  
10 one here who says he had heard rumors of cheating on exams  
11 in the past.

12               But whether they had heard rumors before the O and  
13 W incident broke or not, I do not know.

14       Q     But you said that you -- I believe you testified  
15 earlier that you pursued all of them and now -- is that  
16 correct you did testify earlier that you had pursued all of  
17 these rumors?

18       A     I asked each one of these individuals if they  
19 could explain the rumors to me and they could not.

20       Q     And then I thought you just said in response to my  
21 question -- to a question I asked that you asked them two  
22 questions and you went down the list and asked every  
23 operator two questions. Is that correct?

24       A     That is correct.

25       Q     And when you gained a response to those two

1 questions that might indicate that you would have to  
2 question them further, did you indeed question further?

3       A       When any of them indicated to me that they had  
4 heard rumors I told them specifically I was dealing in  
5 facts. Could they explain the rumors and could they give me  
6 facts? And if they could not give me facts, rumors did not  
7 help me. And that I wanted facts and that if they knew  
8 facts they had an obligation to tell me.

9       I specifically made it clear to them that they had  
10 the obligation to tell me. And I told them that rumors did  
11 not help me in any way come to the bottom of this thing.

12       MS. BRADFORD: Thank you, Mr. Hukill. That is all  
13 the questions I have.

14       JUDGE MILHOLLIN: Mr. Blake, we are almost at the  
15 point where we would normally break up. Based on your brief  
16 encounter with Mrs. Bradford which I noticed from the bench  
17 were you under the impression that she may have departed for  
18 reasons other than that her questions were exhausted?

19       MR. BLAKE: Well, I am not certain. That is what  
20 I thought when I looked whether or not she was feeling badly  
21 and that terminated her examination for that reason. She  
22 did not indicate to me one way or the other but I would --  
23 you are not going to hear an objection from me if when she  
24 comes back she says she has some more questions.

25       But I would not like to terminate if we can maybe

1 get another small parcel out of the way in the way of  
2 questions. I would like to have us go on.

3 JUDGE MILHOLLIN: Well, we are -- our schedule is  
4 that we break at 5:30. We have five minutes.

5 MR. BLAKE: If that is all that Mr. Clewett has  
6 for Mr. Hukill I would just as soon get that behind us.

7 MR. CLEWETT: I think I can probably safely  
8 represent that I have more than five minutes for Mr.  
9 Hukill. If possible I would prefer to do it all at once  
10 tomorrow morning. Since we only have five minutes, perhaps  
11 we could usefully discuss further the additional  
12 sequestration matter or some other small parcel.

13 JUDGE MILHOLLIN: It does strike me as -- well,  
14 unproductive to begin cross examination and then to have it  
15 end after five minutes.

16 MR. BLAKE: That would also offer an opportunity  
17 to get a fix on Ms. Bradford.

18 JUDGE MILHOLLIN: Yes, that is why I brought the  
19 question up. It seems to me if she does have a few  
20 additional questions in the morning we could take them up  
21 rather than having to come back to her.

22 Does any party have a matter which should be  
23 discussed before we break up this evening.

24 (No response.)

25 MR. BLAKE: I am not sure that Mr. Hukill is aware

1 of the sequestration and where we stand on it, but I will  
2 undertake --

3 JUDGE MILHOLLIN: Will you undertake to inform him  
4 --

5 MR. BLAKE: Yes.

6 JUDGE MILHOLLIN: Of the order which I just  
7 signed. If I now give this order to you, Mr. Blake, will  
8 you undertake to make service of it?

9 MR. BLAKE: I will serve it on the service list  
10 and I will undertake as well to have it delivered to the  
11 individuals on that list and I will report back tomorrow the  
12 complications I have with that because I do not know  
13 addresses or what.

14 JUDGE MILHOLLIN: Very well. We shall reconvene  
15 here tomorrow morning at 9:00 a.m. We stand adjourned until  
16 that time.

17 (Whereupon, at 5:26 o'clock p.m., the hearing was  
18 recessed, to reconvene at 9:00 o'clock a.m., Friday,  
19 November 13, 1981.)

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LIC 11-03-81

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
METROPOLITAN EDISON COMPANY ) Docket No. 50-289 SP  
(Three Mile Island Nuclear ) (Restart)  
Station, Unit No. 1) )

LICENSEE'S TESTIMONY OF

HENRY D. HUKILL

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## I. Nature of Testimony

My name is Henry D. Hukill. I am the Vice President of Three Mile Island, Unit 1, the most senior member of GPU Nuclear Corporation's management with responsibility solely for TMI-1. I testified at length earlier in the TMI-1 restart proceeding, and my responsibilities and professional qualifications are described in the Partial Initial Decision (PID) of August 27, 1981 at ¶¶ 148-151 and 71, respectively.

My testimony today covers a number of the issues identified in the joint statement of issues prepared by the parties to this reopened hearing, as modified by the Licensing Board during the October 2, 1981 prehearing conference. First, I will discuss the extent of Licensee's management knowledge of, encouragement of, negligent failure to prevent and/or involvement in cheating in NRC or Company administered exams, from my perspective as the Vice President of TMI-1. Next, I will discuss my participation in the NRC investigations of cheating and rumors of cheating on the April, 1981 NRC exams. Third, I will focus upon my own investigations and response to cheating on NRC and Company exams. I will then review the adequacy of projected staffing of TMI-1 operations, and the TMI-1 operator certification process.

## II. Prior Knowledge of Cheating

The first indication I had that there was a possibility of cheating on the NRC exams given in April of this year occurred at approximately 5:30 p.m., Monday, July 27. At that

time, I received a call from Mr. Arnold, who requested that I meet him at the office of Mr. Lake Barrett, the Deputy Director of the NRC's TMI-2 Program Office, to discuss a very important matter. I proceeded to Mr. Barrett's office and met with Mr. Arnold, Mr. Barrett and several of the investigators from the Office of Inspection and Enforcement (I&E). Mr. Arnold and I were shown and requested to review two of our SRO license candidates' (O and W) examinations. Together, we reviewed portions of the suspect exams, shown to us by the inspectors. At that time, it was apparent to us that there may have been collusion between operators O and W on the exam..

Prior to that time, I had absolutely no knowledge or indication of any kind that cheating could have occurred or did occur on the NRC exams, or on any other licensed operator exam. I was totally caught by surprise and shocked when I saw the two exams which contained virtually identical answers, particularly in view of my personal association with individuals O and W and my familiarity with their reputations as highly competent senior reactor operators and as supervisors. Even today, knowing that both of these individuals have admitted to cheating on the NRC exams, I find it difficult to understand although I clearly recognize the fact that such conduct did occur.

In retrospect, I feel somewhat naive and, in view of my position as the senior member of management at TMI-1, responsible for the cheating which has occurred. Needless to

say, I have given this issue a tremendous amount of thought in the past three months or so. I would like to briefly share my perspective on the specific subject of cheating on NRC exams, and generally, on the issue of honesty in the conduct of one's job as an employee at a nuclear power plant.

As a graduate of the United States Naval Academy who served on active duty in the Navy for more than 22 years, most of which was associated with nuclear power and submarines, ingrained in me is an understanding of the absolute need for total honesty and trustworthiness on the part of all individuals, from the top to the bottom, in an organization, and the strong belief that cheating, lying, falsification of records, or any other conduct which reflects a willingness to compromise the integrity of one's actions is totally unacceptable and cannot be tolerated. In the environment I have worked and lived in such actions on the part of any individual could endanger the ship, its equipment and, in fact, the lives of those for whom I was responsible. I cannot recall whether at the Naval Academy we were told point-blank that any form of cheating was unacceptable; however, I can say that it was clear to me from the day I entered the Academy that I was being trained to be an officer in the United States Navy, and that one certainly could be automatically dismissed from school for such an offense.

This principle -- that false representations are intolerable -- was inherent in my submarine experience, where

the lives of the individuals in the submarine are dependent on each person's honesty in his work. For example, when we "rigged for dive", i.e., prepared to submerge, two individuals would go through the submarine and open or close appropriate hatches, valves, etc., necessary to safely submerge. These two individuals signed a paper indicating that they had properly completed their assigned task. The safety of the entire ship and the lives of the crew depended on their honesty and integrity.

When I went to naval nuclear school, it was clear to me that the work that was being judged was expected to be my own. Cheating was simply out of the question. Again, perhaps I was naive; but it was always clear to me that cheating was unacceptable, and that it was dishonorable.

As a commanding officer for five years, I considered falsifying records or any form of dishonesty as the most serious offense, less those of a capital nature, which one of my men could engage in. Later in my experience while working in Admiral Rickover's office, this principle was emphasized by the Admiral in every detail of one's daily work: we were expected to carry out every facet of every assignment with absolute, professional integrity and honesty, regardless of the significance of the assignment or the expected outcome or results.

In summary, I arrived at TMI-1 with an attitude about my job which had been formulated from my Navy experience.

While it may have been a failing on my part not to expressly communicate this integral part of my past experience with all members of the TMI-1 staff when I arrived, and to assume that such a viewpoint about honesty was common-place, it was certainly not a conscious ignorance on my part of a principle I believe is critical to maintaining integrity in one's work, particularly when the health and safety of the public is entrusted to them as operators of a nuclear power plant. As discussed below, I intend to make my views on this subject clearly understood by my staff, and have begun this process over the past several months. I do believe that I and my managers can make it absolutely clear to our personnel why honesty is absolutely necessary and required, and ingrain in them the correctness of this philosophy which, in most cases, I believe merely will be confirmatory of the values held by the personnel at TMI. In stating this, I must observe that I have read Mr. Arnold's prefiled written testimony in this proceeding, and share the philosophy that he candidly discusses there. I recognize that there is an ideal world for which I strive and expect my people to strive, but that in application, ideals are not always realized and shortcomings in this regard must be recognized and dealt with fairly.

### III. Potential Constraints on NRC Investigation

During the NRC's investigation of cheating by individuals O and W on the April, 1981 NRC exams, and on portions of the follow-up investigations conducted by NRC's I&E personnel, I attended some of the interviews of Operations staff conducted by the NRC investigators. In addition, Mr. Paul G. Christman, Manager, Plant Administration at TMI-1, attended a few interviews of licensed operators conducted by I&E. To the best of my recollection, I did not interject my views into the interview process. I would estimate that in total, I probably only said 10 or 15 words, in response to questions. Mr. Christman has informed me that [REDACTED] his experience was comparable, and that he did not interject his views during the interviews he attended.

To the best of my knowledge, Mr. Christman and I never discussed the issue of cheating with individuals identified by the NRC investigators as persons with whom they sought interviews prior to the conduct of these interviews. It was not our intention or desire to interfere in the NRC's investigations or to in any way constrain the conversations which did take place between members of my staff and the NRC investigators. Rather, Mr. Christman and I sat in on the interviews as GPU Nuclear management representatives at the request of the interviewees, who were each informed of their entitlement to have us present, if they so chose. I did feel, however, that it would be beneficial for me to attend, if the

interviewee requested our presence, since it would enhance the individual's cooperation and confidence. Also, by attending, I would gain first-hand knowledge of the scope of the problem with which I was faced as Vice President of TMI-1.

Senior management participation in the NRC investigation of cheating included my attendance or Mr. Christman's attendance at the following specific interviews:

(1) On July 27, with the agreement of Mr. Victor Stello, the Director of the Office of Inspection & Enforcement, Mr. Christman and I attended the interviews of operators O and W conducted by I&E investigators. We attended these meetings after the interviewees were asked by the NRC staff whether they desired our attendance during the interviews. Just prior to these interviews, I had individually informed O and W that a member of senior management, either Mr. Christman or myself, was available and willing to sit in on their interviews if they specifically requested. Both individuals indicated their desire to have us present during the interviews. At no time did I insist my presence (or Mr. Christman's) was required or preferred, nor do I believe that our presence was desired for reasons other than providing emotional support to the suspect individuals. During these interviews, the issue of cheating was raised with O and W, both of whom denied any wrongdoing.

Because the interviews with O and W were conducted simultaneously, Mr. Christman attended individual O's interview; I attended individual W's interview.

(2) Mr. Christman and I attended the follow-up interviews of O and W conducted by I&E investigators on July 30, also simultaneously given. Our attendance was again prompted by the requests of O and W to have us present. At these interviews, O made modifications to a statement prepared by the investigators of the substance of his prior interview on July 27. Individuals O and W did not agree to sign the statements prepared by the investigators of their prior interviews until they obtained advice of counsel, who were not present.

(3) Mr. Christman and I accompanied O and W to Bethesda, Maryland for their respective meetings with Mr. Stello. Neither Mr. Christman nor I attended those meetings. Mr. Stello did give me a written copy of O and W's statements concerning their cheating on the April 1980 examinations.

(4) I also attended the following interviews conducted by I&E investigators at the request of each individual: on July 28, individuals EE and A; on July 29, individuals U, S, R, H, OO and Q. Mr. Christman attended the interview of individual DD at DD's request. Each of these individuals was told prior to the interview that he could have a member of senior management or any other individual he chose present during the interview if he so desired. Each individual expressed to me (or to Mr. Christman, in the case of individual DD,) and to the investigators that he would like us to be present.

It is my understanding that sometime after July 30, Mr. Stello changed his mind with regard to allowing senior management to be present during the investigation interviews, and so informed Mr. Arnold. From that point on, a representative from senior management did not attend NRC's numerous follow-up interviews of TMI-1 employees.

In conclusion, I do not feel that my presence during the interviews I attended constrained the NRC's investigation of cheating in any way, nor do I believe Mr. Christman's presence on several occasions had that result. Moreover, given the fact that the I&E investigators subsequently interviewed whomever they chose to talk with without senior management from the Company present, including re-interviewing individuals as they found necessary, I see no basis for concluding that Licensee management constrained NRC's investigation of cheating and rumors of cheating in licensed operator examinations.

#### IV. Management Response to Cheating

Perhaps the best way for me to describe management's actions, and particularly my actions, since the discovery of cheating on the April, 1981 NRC examinations is to chronologically review the meetings I have either attended or conducted with the individuals, specifically the operators who work for me, who took the NRC exams last April. Let me preface that review with the fact that this past summer, before the discovery of cheating on operator examinations, I talked with the

entire plant staff of more than 300 individuals in groups of five to ten individuals, for one to two hours, in order to emphasize to them the issues of importance to me which we faced as TMI-1 personnel, to get to know them as individuals and vice versa, and to discuss with them the problems which were on their minds. My focus, as a relative newcomer to the island, was to instill in them pride in the organization and an understanding that TMI-1 is a place where people should like to work and should excel in their work. I also wanted to ensure they understood my philosophy regarding the absolute need for professionalism in carrying out their duties.

During the first week of August, shortly after the discovery of cheating on the NRC exams, Mr. Arnold convened a meeting with all of the available licensed operators, myself, Mr. Toole, the Director of Plant Operations and Maintenance, and Mr. Ross, the Manager of Plant Operations. During this meeting, which lasted approximately one and a half hours, Mr. Arnold addressed the group on the importance he placed on maintaining our integrity as individuals and as a corporation. He stated that cheating was intolerable, and emphasized the tremendous responsibility placed on us as operators and managers of a nuclear power plant. I did not speak during this meeting.

Over the course of the next few weeks, I met with each of the licensed operators by shift for approximately one to two hours. The meetings took place in the plant. During

these meetings, I reviewed the following subjects with each group: (1) the facts related to cheating, as I understood them at that time; (2) actions which I would not tolerate, including cheating, and intentionally falsifying records; (3) why the Company had undertaken to rapidly resolve the O and W cheating incident; that is, because O and W's actions were unacceptable, delaying the matter would only increase O and W's anxieties and the potential consequences to them of their misconduct, and it was bad for morale generally to delay taking prompt action with regard to personnel problems; (4) that I did not believe that the management of GPU Nuclear had improperly treated O and W in view of their conduct, although I was concerned with the more complex problem of the degree to which O and W felt "driven" to cheat, and I felt responsible for not ensuring that individuals felt ready (substantively and emotionally) to take the exams, for ensuring proper administration of our own examinations, and for having no rules on cheating; (5) reaffirmation of my intention to utilize six shifts, although I anticipated that a five shift rotation temporarily might be necessary depending on the timing of TMI-1 restart; and (6) requested feedback from the group on my comments.

On the basis of the feedback which I received at these meetings, I first became sensitized to the degree of the morale problem with the operators, and of a need to change their attitude with respect to the importance of the examination process. My awareness of this problem was reinforced in a

follow-up meeting convened by Mr. Arnold at which most of the operators were in attendance. The operators did not feel that the written examinations alone were an adequate measure of their abilities, and were frustrated and angry with the need for them to repeatedly take the NRC exams, when other operators around the country were not subject to this requirement, nor did they cheat on the April, 1981 exam. It was at this juncture that it became clear to me that I and others in management positions in the Company needed to make it clear to the operators that while the NRC licensed operator examinations and our mock exams were not the only gauge of an operator's capabilities, they were indeed an objective measure of an operator's knowledge. In conjunction with their overall performance in training, on the job, and on the oral examinations, the written exams were a measure of their qualification and ability to perform as licensed operators. Moreover, regardless of their opinion of the written exams they were required to take, I placed significance on them, and would not tolerate misconduct in taking these exams or, for that matter, in their participation in the training and testing program which the Training & Education Department has developed for their benefit.

During my subsequent normal bi-monthly managers meetings, I strongly emphasized the information I had relayed to the licensed operators. Attending the managers meetings were the TMI-1 Managers, as well as onsite managers from GPU

Nuclear's support groups, such as the Manager of Quality Assurance, Mr. Blaine Ballard, the Manager of Training, Dr. Ronald A. Knief, the Manager of Radiological and Environmental Controls, Mr. William Potts, and others.

During the weeks of October 5 and 12, I also met individually with every TMI-1 licensed operator candidate on the plant staff who took the NRC examinations in April. At these meetings, I focused on a number of subjects. The first subject was a letter sent by Mr. Arnold to all GPU Nuclear employees which emphasized the importance of regulations in our business, and the commitment of management to not only the law expressed in the regulation, but the intent of that requirement. I also discussed with them a letter I had sent to each of them individually, a sample copy of which is attached. This letter, sent to all TMI-1 operators and management personnel, emphasized the fact that their obligation to follow NRC's requirements was based on the concern for safety. Almost without exception, I would require my staff to adhere to these or similar requirements even if there were no NRC regulations on the subjects. I informed each individual that the Company expected them to be straightforward and honest and relied upon their being truthful if the individual was interviewed by an individual from one of our regulatory agencies, or if they were called to testify in the restart hearings. I also reemphasized my view that the NRC written exams provide a means by which the NRC and plant management can ensure and verify that operators

have a certain minimum knowledge level. Finally, I reviewed with each candidate his personal responsibility as a licensed operator, for the health and safety of the public, and in carrying out this responsibility, the absolute need to pay close attention to his duties in operating the plant strictly in accordance with established rules, regulations and procedures. I was totally satisfied that each and every operator understood and would carry out fully this responsibility.

During these individual interviews, which generally lasted from one to two hours, I asked each individual whether he had cheated on the NRC, Kelly, ATTS and Category T exams, and whether he knew of anyone who had cheated on these exams. With one exception, the answer given by each individual to both of these questions was "no". The exception was the response by individual FF to the second question, namely, whether he knew of anyone who had cheated on an exam.

FF informed me that when he had gone out of the room in which he was taking the NRC's April, 1981 exam for a cup of coffee, an individual from the other exam classroom asked him a question which he answered. FF then went back into the classroom where he was taking the exam. FF was not able to recall the individual's name or the question.

While FF's conduct raised questions in my mind about his judgment, including his capability to respond properly to unexpected events, it was my judgment, based on a number of conversations I have had with him and other management

personnel, that he should be severely reprimanded, but not removed from his assigned duties. The factors that went into my decision included the fact that FF had volunteered this information to me, that the instance did not involve a planned decision to cheat on his part but rather was a spontaneous action, that it was an isolated instance, that FF admitted to me that his answering this question was wrong and unacceptable, that I do not believe FF will repeat this action, and that FF has shown over a seven year period of time a high degree of competence and honesty on the job. Certainly, misconduct by my staff must be effectively responded to by me; however, I do not believe that the proper response in all cases is to terminate an individual's employment with the company. In my view, the action we have taken makes clear to FF and to others who may know of it that answering a question which may be on an exam while the exam is being conducted is highly improper conduct which should under no circumstances take place. In my view, for management to make this position clear did not require more severe action in this particular instance.

In summary, I have made every effort to personally discuss with the TMI-1 operations staff and management, from Mr. Toole down through the organization, the standards of conduct which I expect and which I will demand from them. To remove any lingering doubts, these policies are being formalized now within GPU Nuclear. I believe that the most important contribution I can make to preserving the integrity

of our operators and of GPU Nuclear, generally, is (i) to ensure that procedures and regulatory requirements are followed; (ii) to ensure that procedures necessary to safeguard the integrity of plant operations are established, including exam administration procedures; (iii) to discuss my views with members of my staff; (iv) to follow-up on any problem which potentially reflects on the integrity of our operations; and (v) to set a good example, both in attitude and in conduct, for my staff. It is my intention to make every effort to ensure cheating does not occur in the future.

#### V. Staffing

At the present time, we have employed 13 control room operators (one of whom has just submitted his resignation) who took the NRC RO exams last month. There are 4 shift foremen, 6 shift supervisors, 4 shift technical advisors, 3 Training personnel, and 2 non-shift Operations personnel who took the October, 1981 NRC SRO (and RO) exams. Assuming an 80% pass rate on these exams, which has been the typical performance of TMI-1 personnel on NRC exams, there will be 10 RO and 15 SRO-qualified personnel available. It is impossible to ascertain, without knowing exactly which individuals pass these exams and which fail, the makeup of a typical shift. However, I do feel that it is likely that we will not be able to maintain a six shift rotation, and will thus utilize a five shift rotation for a period of time. It is also possible that for that period of

time, we will utilize Training personnel<sup>or STAs</sup> on shift who have successfully passed the SRO examinations.

Given the figures stated above, and while I am unable at this time to define the exact shift makeup, I reiterate our commitment that we will meet our control room staffing commitment to the Commonwealth of Pennsylvania, as set forth in the PID at ¶ 583(9), which was one of the conditions for restart articulated by the Board.

Second, I am hopeful that we will soon have at least four additional CROs available for shift work. At the present time, five CROs are in training, along with one Training staff member who is seeking an RO license. NRC reactor operator examinations are anticipated to be taken by these individuals in February or March of 1982. In addition, we are planning and hope to reach the manning level of 24 control room operators and 13 senior reactor operators (7 shift supervisors and 6 shift foremen) at TMI-1 next year, and have allocated sufficient resources to meet these manning levels.

Finally, I am not concerned about the use of a five shift rotation, which provides for three regular on-duty shifts, one off-shift, and one shift which is in training. Missing is the relief shift, which instead overlaps with the training shift. Of course, over an extended period of time, a five shift rotation can reduce the effectiveness of the training program because when there are absences in the regular on-shift crews, individuals in training must fill those gaps.

However, I do not anticipate this schedule to last for an indefinite period of time, and I believe that the continuous training program which exists at TMI allows individuals who miss a day of training to still maintain the requisite knowledge level, by training's providing to these individuals the materials they missed, and requiring operators to take quizzes. Moreover, with five rather than six shifts, more training hours per shift are scheduled for the year.

VI. Certification of Licensed Operators to Take the NRC Examinations

Since I assumed the job of Vice President (formerly titled the Director) of TMI-1 in September of 1980, there have been two sets of NRC examinations which required my certification, those taken last April, and the recent October examinations. The process I used to determine the readiness, from both a competence and integrity standpoint, of the April and October, 1981 candidates is described below.

In general, I do feel that we can be legitimately criticized for not formalizing our certification process by establishing a written certification procedure. It is my intention and commitment to institute such a procedure prior to certifying our next group of operator candidates. A comparable procedure will be instituted for the <sup>bi</sup>annual recertification process. By specifically stating in a procedure the necessary reviews of candidate qualifications which must take place prior to certification, we provide a means of verifying the adequacy of the certification process. However, this is not to say that

the certifications which I made in the past, were substantively inadequate. On the basis of the reviews I have participated in this year, I am fully satisfied that our existing certification process is a valid means of determining the readiness of an individual to sit for the NRC examinations. However, we do need to be more formal in the way we document and maintain records of this process.

I would like to emphasize one point. In my mind, certification to sit for the NRC examinations is only the first in a two step process. As the Vice President of TMI-1, it is my job to ensure that individuals are not only qualified, from a licensing point of view, to operate TMI-1, but are people I believe are qualified and have the proper attitude to staff the TMI-1 control room. Thus, the certification process which I undertake includes not only determining that an individual is ready to take the NRC exams, but re-assessing, after the exam results are in, whether individuals who have passed the NRC exams are the right individuals for the job. I anticipate formalizing this re-assessment process in the TMI-1 certification procedure.

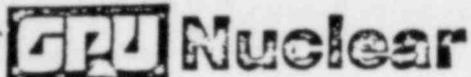
The method I employed in certifying candidates to take the NRC exams last April involved a lengthy meeting with Mr. Herbein, the Vice President of Nuclear Assurance and former Director of TMI-1, Mr. Toole, the Director of Operations and Maintenance at TMI-1, Mr. Ross, the Manager of Plant Operations, Dr. Knief, the Manager of Training at TMI, Mr. Newton, the Manager of Operator Training at TMI, and

Mr. Brown, the Supervisor of Licensed Operator Training at TMI. As a group, we reviewed the results of each candidate on the April ATTS examinations, the performance of individuals during the past year's training program, and the performance of individuals on the job. Each candidate was reviewed separately. Weaknesses of particular individuals, whether in training or on-the-job, were discussed.

For this group of individuals, attitude or performance problems were absent. Several individuals had required special training during the year, and we reviewed the competency of these individuals. I discussed these personnel with Messrs. Arnold and Clark, and we all agreed the individuals appeared to be sufficiently capable to take the NRC examinations. If I had thought that any individual would most likely not succeed on the NRC exams, I would not have certified him.

Last month, in certifying individuals for the NRC exams, I held a similar, long meeting. Again, we reviewed each candidate's records individually, focusing upon potential weaknesses in capabilities and attitude of individuals. One individual was not certified because we reached a consensus that he simply was not ready to take the NRC examinations. A second individual's negative attitude about the Company was discussed; however, because of his conscientiousness and high level of competency on the job, and full understanding of his responsibilities as a licensed operator I certified him for the examination. Questions were not raised with respect to the other candidates.

Finally, while Mr. Ross' testimony will discuss the issue of certifying integrity, I would like to reaffirm Mr. Ross' view that such an evaluation is inherently subjective, and would only suffer from formalization in a procedure. Thus, while I intend to include in the TMI-1 licensed operator certification procedure the requirement that operator attitude be evaluated, I do not intend to further specify the means of conducting this evaluation. Clearly, however, individuals who reflect a lack of respect for the licensing process by cheating on exams have an unacceptable attitude.



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October 5, 1981

Mr.  
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Dear

Recent reviews of our nuclear activities by ourselves as well as by outside organizations have alerted us to the need to ensure that our employees understand the role of various regulatory requirements in the way we conduct our activities. Corporate policy statements are being prepared on these matters; however, as one of the initial steps in correcting this situation at TMI Unit 1, I am sending this letter to members of my staff who are most centrally involved in the activities affected by these regulatory requirements and, therefore, are in the best position to effectively address this situation.

One of the issues which needs to be addressed is the way we look at regulatory requirements for conducting such activities as tests, inspections, and surveillances and for maintaining documentation of this work. During the course of the INPO review, it became clear that these efforts are sometimes viewed as "motions" to be gone through because the NRC requires us to do it. The very real value of the activities to us and the need to do them effectively for our own purposes tends to be lost in the process. It is important that we as operators of TMI-1 recognize that the way we are fulfilling the requirements is consistent with what we desire and need to do. For example, surveillance tests need to be done carefully and thoughtfully with equipment performance and conditions observed closely and critically, identified problems understood and corrected, and the results documented and thoroughly reviewed. The objective is not just a completed check-off list, the objective is primarily an assessment of the reliability and material condition of the plant equipment. There is a lot more to the monthly surveillance of the emergency diesels than just showing they will start and carry the required load. Let's be sure we obtain the full benefit of such tests, inspections, etc.

Another issue that has received a lot of attention recently is understanding the role of the training and qualification program for licensed operators in assuring safe and reliable operations. As a result of the cheating incident in the NRC licensing examinations, we have been reviewing our own examination program and the attitudes toward these examinations and

NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

ATOMIC SAFETY AND LICENSING BOARD

in the matter of: METROPOLITAN EDISON COMPANY (THREE MILE ISLAND UNIT 1)

Date of Proceeding: November 12, 1981

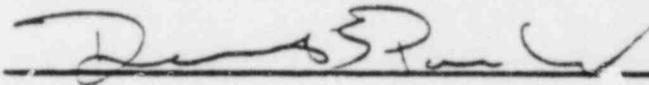
Docket Number: 50-289 (Restart)

Place of Proceeding: Harrisburg, Pennsylvania

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

David S. Parker

Official Reporter (Typed)



(SIGNATURE OF REPORTER)