

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

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In the Matter of: CLOSED MEETING - EXEMPTION 5

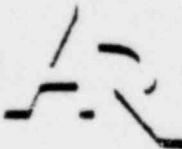
DISCUSSION OF PHASE II OF THE DIABLO  
CANYON REPORT

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AT: Washington, D. C.

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF PHASE II OF THE DIABLO CANYON REPORT

CLOSED MEETING - EXEMPTION 5

Nuclear Regulatory Commission  
Room 1130  
1717 H Street, N. W.  
Washington, D. C.

Tuesday, February 9, 1982

The Commission met in closed session, pursuant  
to notice, at 2:00 p.m.

BEFORE:

- NUNZIO PALLADINO, Chairman of the Commission
- VICTOR GILINSKY, Commissioner
- PETER BRADFORD, Commissioner
- JOHN AHEARNE, Commissioner
- THOMAS ROBERTS, Commissioner

STAFF MEMBERS GIVING PRESENTATIONS AT MEETING:

- S. CHILK
- L. BICKWIT
- J. MURRAY
- D. DeYOUNG
- W. DIRCKS
- H. DENTON
- F. REMICK
- J. FAIR
- J. FOUCHARD
- E. CASE
- K. CORNELL

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TELEPHONE CONFERENCE REGION V STAFF PARTICIPANTS:

- B. FAULKENBERRY
- J. CREWS
- P. MORRILL
- R. ENGELKEN

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P R O C E E D I N G S

1  
2 CHAIRMAN PALLADINO: Will the meeting please  
3 come to order?

4 The purpose of this meeting is to receive from  
5 the staff its report on Phase II of the special  
6 investigation on Diablo Canyon.

7 As you will recall, we had a meeting on Friday  
8 on the Phase I report. It was not clear at that time  
9 whether every Commissioner had had a chance to  
10 deliberate on the Phase II aspects. So we left on the  
11 agenda receipt of the report to give Commissioners an  
12 opportunity to ask questions on Phase II.

13 I do believe that when we are through with the  
14 report and the questions we have to decide on releasing  
15 the Phase II part of the report and whether or not we  
16 find any ineligibility on the part of Cloud at this time  
17 based on Phase II.

18 Now we have to vote as to whether or not this  
19 is to be a closed meeting, Exemption 5, proposed  
20 enforcement action.

21 It is my understanding, and you can clarify  
22 this, Len, if we take no proposed enforcement action,  
23 would then we release the transcript?

24 MR. BICKWIT: No.

25 CHAIRMAN PALLADINO: No, that is not necessary?

1 MR. BICKWIT: No, that is not necessary.

2 CHAIRMAN PALLADINO: Why don't I take a vote  
3 to see whether or not you agree to vote to close.

4 (Chorus of unanimous Ayes by Chairman  
5 Palladino and Commissioners Gilinsky, Ahearne and  
6 Roberts.)

7 CHAIRMAN PALLADINO: All right.

8 MR. BICKWIT: I think you should have a  
9 short-notice vote as well because a decision with  
10 respect to this aspect of the notice is being taken  
11 within a week of the meeting.

12 CHAIRMAN PALLADINO: All right. May I vote  
13 for a short-notice meeting.

14 (Chorus of unanimous Ayes by Chairman  
15 Palladino and Commissioners Gilinsky, Ahearne and  
16 Roberts.)

17 CHAIRMAN PALLADINO: Well, unless any  
18 Commissioner has some introductory remarks, I suggest we  
19 proceed with the presentation.

20 I understand we are in telephone communication  
21 with Robert Faulkenberry, Chief, Reactor Construction  
22 Projects Branch<sup>h</sup>; Jesse Crews, Director, Division of  
23 Resident, Reactor Projects and Engineering Inspection;  
24 Phillip Morrill, Reactor Inspector; and Robert Engelken,  
25 Director from Region V.

1 Are you on? Can you hear us?

2 MR. ENGELKEN: Yes, we are on and we hear you  
3 very well.

4 CHAIRMAN PALLADINO: All right, good.

5 I guess then we ought to proceed with the  
6 presentation.

7 Are you going to make introductory remarks,  
8 Bill?

9 MR. DIRCKS: Bob, we received your slides.  
10 Would you want to go through those for us, or how would  
11 you like to handle this?

12 MR. ENGELKEN: We would like to proceed now  
13 with our presentation. Our presentation including the  
14 showing of the viewgraphs will take 10 or 15 minutes  
15 without questions. So it is a rather brief presentation.

16 I would like to mention that in addition to  
17 those identified previously by the Chairman, John Fair  
18 who participated rather heavily in this investigation is  
19 present in the audience with you at "H" Street. John is  
20 the senior mechanical engineer in I&E headquarters.

21 I would also like to recognize the  
22 considerable contribution made by Hans ~~Sheerling~~<sup>Schierling</sup>, NER  
23 Projects Manager of the Diablo Project. Mr. ~~Sheerling~~<sup>Schierling</sup>  
24 is not present. He had a death in the family and is in  
25 Europe I understand for that purpose.

1           Our discussion today relates to Phase II of  
2 the investigation. Phase II of the investigation  
3 consisted of determining whether the comments that PG&E  
4 provided to R. L. Cloud on the results of the Cloud  
5 verification study resulted in any unjustified changes  
6 in the findings as contained in the Cloud report  
7 submitted to the NRC on November 18, 1981.

8           The presentation this afternoon will be made by  
9 Bobby Faulkenberry, who was delegated by me to conduct  
10 the special investigation and who is the principal  
11 author of both Phase I and Phase II of the Region V  
12 investigation report.

13           I believe you all have been provided with  
14 copies of the viewgraphs that will be used by Mr.  
15 Faulkenberry during his presentation.

16           I will now turn the discussion over to Mr.  
17 Faulkenberry.

18           MR. FAULKENBERRY: I am giving this briefing  
19 with the assumption that everyone has read our Phase II  
20 report and has a good idea of what is contained within  
21 the report.

22 <sup>CHAIRMAN PALLADINO: I think that's a reasonable assumption.</sup>  
<sup>MR. FAULKENBERRY:</sup> On this presentation I will use a series of  
23 slides. I will pause at the end of my discussion on  
24 each slide and ask for any questions relating to the  
25 material on the slide.

1 (Slide presentation.)

2 MR. FAULKENBERRY: May I have the first slide,  
3 please? (next slide)

4 This slide identifies the basic documents we  
5 used in the Phase II review. The Cloud submittal is  
6 contained in our Phase II report as Appendix D.

7 The PG&E submittal is contained in the report  
8 as Appendix E.

9 Now these documents were sent to the NRC as a  
10 result of the request Mr. Engelken sent to the PG&E on  
11 December the 30th, 1981.

12 Are there any questions on this first slide?

13 (No response.)

14 CHAIRMAN PALLADINO: I gather there are none.

15 MR. FAULKENBERRY: May I have the second  
16 slide, please.

17 Our Phase II review was performed in three  
18 separate parts or stages.

19 This slide provides a summary of stage one of  
20 the review. The purpose of this stage of the review was  
21 to assure we had a complete listing of all comments and  
22 a correct identification of which comments resulted in  
23 revisions.

24 As shown on this slide, the Cloud submittal was  
25 not complete and was not completely accurate in that

1 nine comments were not identified and three comments  
2 were incorrectly classified.

3 We corrected the Cloud submitted<sup>al</sup> to include  
4 these nine additional comments and the revised  
5 classifications and continued on with the second stage  
6 of our review.

7 Are there any questions on this slide?

8 COMMISSIONER AHEARNE: Bobby, can you make any  
9 statement as to the significance of the comments that  
10 were not identified?

11 MR. FAULKENBERRY: No. We really did not  
12 consider it to be all that significant. We questioned  
13 Cloud with regard to why they were not included, and in  
14 each case he stated it was just an oversight and he just  
15 failed to pick up on them for one reason or the other.

16 As far as our review was concerned, it really  
17 was not that significant since we have picked them up  
18 and assured ourselves that we did have a complete list.

19 CHAIRMAN PALLADINO: Can I ask you a question,  
20 Bobby, on the second finding? "Three comments  
21 classified in error as resulting in no revision." Does  
22 this mean that they had resulted in revisions?

23 MR. FAULKENBERRY: That is correct.

24 CHAIRMAN PALLADINO: Were the revisions  
25 significant?

1 MR. FAULKENBERRY: Yes, we would say that they  
2 were, but that doesn't <sup>mean</sup> it was. There was a large  
3 rewrite of a section, but it was certainly word changes  
4 or an appreciable rewrite.

5 CHAIRMAN PALLADINO: What I meant by  
6 significant is did they result in a change in the  
7 observation or implied conclusion?

8 MR. FAULKENBERRY: I would have to go back and  
9 look at my data to see exactly which of <sup>these</sup> three comments  
10 are involved. To the best of my recollection, at least  
11 two of the comments that were involved were not  
12 identified as significant enough for a follow-up review  
13 on our part. I am not sure what the third one was.

14 CHAIRMAN PALLADINO: Maybe you could check  
15 that while we go on, or someone could check it?

16 MR. FAULKENBERRY: Okay, fine.

17 CHAIRMAN PALLADINO: I guess we are ready to  
18 go to slide 3.

19 MR. FAULKENBERRY: That is correct.

20 May I have the third slide, please.  
(next slide)

21 Now in the second stage of our review we took  
22 the 339 comments that Cloud identified and we added the  
23 nine comments he had failed to identify giving us a  
24 total of 348 comments.

25 Of these we determined that 202 had resulted

1 in subsequent revisions. We looked at each of these 202  
2 comments and the revisions associated with these  
3 comments and identified those comments that appeared to  
4 us to have resulted in a change in the substance of the  
5 material that was commented on.

6 We identified 98 comments that fell into this  
7 category and we, in turn, conducted a follow-up review  
8 on each of these 98 comments.

9 Of the 104 remaining comments that resulted in  
10 revisions that we did not follow up on, 87 were PG&E  
11 comments and 17 were Cloud comments.

12 Now the slide that you have in front of you  
13 contains <sup>an</sup> error in that it identifies 77, and that 77  
14 number should be corrected to 87.

15 Now these 87 PG&E comments were considered by  
16 us to be of minor significance in that they involved  
17 factual corrections, minor word changes, provided more  
18 information, et cetera.

19 Are there any questions on this slide?

20 CHAIRMAN PALLADINO: Any questions?

21 (No response.)

22 CHAIRMAN PALLADINO: There appears to be no  
23 questions.

24 MR. FAULKENBERRY: May I have the fourth  
25 slide, please.

(Next slide.)

1           In the third stage of our review we took the  
2 98 comments we had identified in stage 2 and went to the  
3 Cloud offices in Berkeley. At the Cloud offices we took  
4 each of the 98 comments and the associated revisions and  
5 by a process of reviewing the documents contained in the  
6 Cloud files and asking questions of the Cloud employees  
7 we made a determination regarding each of the 98  
8 comments.

9           Our determinations or findings as related to  
10 each comment are contained in Appendices B and C of our  
11 Phase II report.

12           Our findings as summarized on this slide show  
13 that all of the revisions that were made as a result of  
14 the 98 comments we reviewed could be justified, with the  
15 possible exception of four comments.

16           Now three of these four comments were made by  
17 Mr. <sup>Chio</sup>~~Gio(?)~~ of PG&E on a section of the report, the draft  
18 report, that discussed the containment polar crane. Two  
19 of his comments were contained in the first draft report  
20 and one was contained in the second draft report.

21           The fourth comment was made by Mr. <sup>Hanusiak</sup>~~Anuziak(?)~~  
22 of PG&E and it dealt with a section of the report that  
23 discussed the dome service crane. This comment was made  
24 on the first draft report.

25           Now these unjustified revisions resulting from

1 these four comments are discussed in the summary of our  
2 Phase II report as Exception 1 and Exception 2.

3 I will ask Bill Morrill to discuss these  
4 exceptions and their significance.

5 However, before I do, to avoid possible  
6 confusion, I will explain the difference between items  
7 and comments.

8 An item, as used in our report, defines a work  
9 package or a work unit, and this work unit can contain  
10 more than one comment. In certain cases it may address  
11 as high as three or four comments. Therefore, there is  
12 no one-to-one relationship between items and comments.

13 With that explanation I will ask Bill Morrill  
14 to discuss the two exceptions and their significance.

15 Bill.

16 MR. MORRILL: Thank you, Bobby.

17 May I have the slide for Exception No. 1,  
18 please. (next slide)

19 Exception 1 relates to the revisions made to  
20 Section 3.3.5.1.1 dealing with the seismic  
21 qualification of the polar cranes.

22 In the October 21st draft Cloud referenced a  
23 July 1979 Blume seismic analysis report on the polar  
24 cranes which was deleted from the November 12th report  
25 submitted to the NRC.

1           This change is based on documents in Cloud's  
2 files. Cloud personnel concluded that the polar cranes'  
3 qualifications were based on the Hosgri report, and  
4 since the July '79 Blume report is not contained or  
5 referenced in the Hosgri report, Cloud personnel deleted  
6 it from their November 12th, '81 report.

7           We believe that Cloud should have retained  
8 reference to this July '79 Blume report as an open item  
9 and not made such a conclusionary statement on the  
10 correctness of the qualification of the containment  
11 polar crane until the purpose and technical relevance of  
12 this July '79 report had been evaluated.

13           In essence, there was sufficient documentation  
14 in the Cloud files to justify all of the revisions, with  
15 the one exception of the deletion of this July '79 Blume  
16 report.

17           A closer examination of the situation, such as  
18 that performed by the NRC, would have logically have led  
19 Cloud to reconsider this deletion.

20           Does anyone have any questions on this?

21           CHAIRMAN PALLADINO: Do you think that this  
22 fault you found under Exception 1 was made to  
23 accommodate the PG&E comment, or do you think it was an  
24 error on the part of R. L. Cloud?

25   I think I asked you that

1 question last week, but I would like to make sure that I  
2 get the same answer.

3 MR. MORRILL: I believe this was an error made  
4 by Cloud's people. Had they looked a little deeper into  
5 the situation and come to a more complete understanding  
6 of it, especially looking at the technical aspects of it,  
7 they would ~~of~~ <sup>have</sup>, I think, come to the same conclusion we  
8 had.

9 I personally didn't see any indication that  
10 Cloud people were trying to cover up anything on this  
11 issue. I think they simply overlooked it.

CHAIRMAN PALLADINO: All right, thank you.

12 MR. FAIR: This is John Fair. I might add  
13 something to this.

14 When I discussed this deletion on this  
15 reference with the Cloud personnel, they stated that the  
16 reason they deleted the reference was basically because  
17 the other analysis was the record in the Hosgri report  
18 and based on that and they were using the Hosgri report  
19 as sort of their guideline for their review.

20 I agree with Phil, that it is an oversight, in  
21 my opinion, on the Cloud personnel for not at least  
22 keeping reference to this particular report and  
23 following up the reason why Blume did a later report and  
24 whether there was any significance to it.

25 CHAIRMAN PALLADINO: Thank you.

1           COMMISSIONER AHEARNE: John, did the later  
2 report that Blume did supersede for purposes of the  
3 analysis this report?

4           MR. FAIR: It is not clear at this time  
5 exactly what the point of the later report was. The  
6 later report is a more sophisticated analysis of this  
7 polar crane. It is a 3-D, non-linear analysis, first,  
8 of the original 2-D.

9           In some preliminary discussions with PG&E  
10 personnel they indicate that there are some things in  
11 this analysis that would not be required. However, we  
12 have not gone over the technical details of the '79  
13 report and verified ---

14           MR. ENGELKEN: If I may interrupt. We are  
15 unable to hear Mr. Fair's discussion. He is apparently  
16 too far away from the microphone. We have not been able  
17 to follow his discussion.

18           (Mr. Fair goes to the Commissioners's table.)

19           CHAIRMAN PALLADINO: Ask him if he can hear  
20 you.

21           MR. FAIR: Can you hear me now?

22           MR. ENGELKEN: Yes, we certainly can.

23           MR. FAULKENBERRY: The question that was asked  
24 of me ~~as to~~<sup>was</sup> the significance of this later Blume report,  
25 the July '79 report that was deleted. As of the time we

1 had done the inspection, one of the personnel had  
2 discussed it with the PG&E people and they had indicated  
3 that there some things in the '79 report which would not  
4 be required to be performed in this Hosgri analysis, but  
5 we have not gone through the details of the report and  
6 verified whether or not this is true and whether the '79  
7 report should supersede the original report.

8           COMMISSIONER AHEARNE: What was the comment  
9 Cloud used? This was in response you mentioned to  
10 someone out at PG&E making a comment.

11           MR. FAIR: Yes, it was.

12           COMMISSIONER AHEARNE: In fact, three  
13 comments; is that correct?

14           MR. FAIR: Yes.

15           COMMISSIONER AHEARNE: All focused on this  
16 same point?

17           MR. FAIR: All focused on the same point.

18           COMMISSIONER AHEARNE: Was the comment to  
19 remove reference to that report?

20           MR. FAIR: Yes. One of the comments  
21 specifically said remove this and the other comment said  
22 the analysis of record is the December '78 analysis.  
23 When the Cloud people verified that the '78 reference  
24 was indeed what was used in the Hosgri report, they took  
25 this deletion recommendation by PG&E.

1 CHAIRMAN PALLADINO: Any other questions?

2 (No response.)

3 CHAIRMAN PALLADINO: All right. Do you want  
4 to go on to the next slide? I presume there is a next  
5 one.

6 MR. MORRILL: Yes. Could we please have the  
7 slide that deals with Exception No. 2?

8 (Next slide.)  
Exception No. 2 relates to the revisions to  
9 Section 3.3.5.1.2 dealing with the seismic qualification  
10 of the dome service crane. The dome service crane is  
11 attached near the top of the containment polar crane.

12 Cloud's personnel correctly verified that PG&E  
13 had qualified the dome service crane and subsequently  
14 concluded that the service crane was adequately  
15 qualified.

16 They did not discover, however, that the  
17 seismic spectra used in this qualification were based on  
18 the undocketed July '79 Blume report, but rather assumed  
19 that since only <sup>one</sup> set of spectra had been prepared that  
20 these were based on the Hosgri report.

21 The actual situation is that one analysis, the  
22 Blume December '78 report with some revisions, was  
23 docketed in the Hosgri for the polar crane while a  
24 different undocketed July '79 analysis was used in the  
25 qualification of the service crane.

1           This Exception No. 2 is very similar to  
2 Exception No. 1 in that Cloud has documentation to back  
3 up the November 12th, 1981 report.

4           However, if Cloud personnel had looked a  
5 little deeper, as we had, they would have found the  
6 inconsistency and could logically have treated it as an  
7 open item.

8           MR. FAULKENBERRY: Now that concludes our  
9 presentation. However, I do have the information  
10 requested with regard to the three revisions that were  
11 incorrectly classified by Cloud.

12          CHAIRMAN PALLADINO: All right.

13          MR. FAULKENBERRY: They are identified as  
14 items 60, 61 and 63 in Appendix B of the Phase II report.

15          If you do desire, I could read the findings  
16 that we made on each of these revisions.

17          CHAIRMAN PALLADINO: Is it brief?

18          (Laughter.)

19          MR. FAULKENBERRY: Yes, it is fairly brief,  
20 each one is. Would you care for me to read the findings?

21          CHAIRMAN PALLADINO: Well, I just wanted to  
22 clear up in my own mind which three you were referring  
23 to. Maybe if you could just give a brief <sup>indication</sup> of finding  
24 that would help.

25          MR. FAULKENBERRY: Okay. With regard to the

1 first revision, <sup>a</sup> Cloud employee aged that the section  
2 had been revised in the second draft and that the  
3 revision had been overlooked.

4           The revision was a factual clarification that  
5 more accurately described the differences of weight <sup>were</sup> ~~when~~  
6 resolved. This revision was justified by the new  
7 information Cloud received from PG&E.

8           The second comment. Again a Cloud employee  
9 agreed that it had been revised in the second draft and  
10 the revision had been overlooked. This revision was a  
11 factual clarification that the finite element model was  
12 based on a vertical response only.

13           The basis for this factual information is  
14 contained in a document transmitted on April the 26th,  
15 '77 from Blume to PG&E entitled "Control Room Floor  
16 Vertical Spectra For The Auxiliary Building." These  
17 documents were contained in the R. L. Cloud log 2.4.2.

18           The third revision is item 63. The revision  
19 that was actually made was not what was requested by  
20 PG&E in their comment. The PG&E comment indicated the  
21 sentence should read: "The qualification of turbine  
22 building crane was performed by U.R.S. Blume. The  
23 actual revision made by Cloud was that in the fourth  
24 draft it stated "PG&E qualified the turbine crane  
25 building."

1           Cloud stated that the PG&E comment was  
2 incorrect and that the actual revision that was made  
3 clarified that U.R.S. Blume performed all of the  
4 analyses and evaluations and that PG&E performed the  
5 qualifications.

6           That is the extent of the findings.

7           CHAIRMAN PALLADINO: Thank you very much.

8           Any other questions?

9           COMMISSIONER AHEARNE: Yes. I had a question  
10 with regard to Exception 2. Is it correct that what  
11 Exception 2 says is that the licensee actually used the  
12 July '79 spectra developed by Blume and you found that  
13 out when you went further than Cloud had gone, but that  
14 Cloud said that it just corresponded to this spectra in  
15 the Hosgri report?

16           MR. MORRILL: Yes, sir. Basically, as we  
17 understand it, what happened was the July '79 Blume  
18 report, which is a three-dimensional non-linear analysis  
19 of the polar crane, was used to develop spectra. Those  
20 spectra were in turn used in the qualification  
21 calculation of the dome service crane.

22           To the best of our knowledge, and based on our  
23 inspection efforts, there were no other spectra  
24 developed for the containment polar crane.

25           MR. FAIR: I might add to that that in

1 discussing this situation with the Cloud people, their  
2 basis for accepting that the improper input was used was  
3 based on two things: one, the date of transmittal of  
4 the spectra was after the '78 report had been completed,  
5 and the second thing they used was the fact that Blume  
6 had told them they only generated one spectra for use  
7 and therefore they assumed it was the correct spectra.

8 CHAIRMAN PALLADINO: Any other questions?

9 (No response.)

10 CHAIRMAN PALLADINO: Well, I guess we have two  
11 questions before us.

12 One, in view of the Phase II report do we wish  
13 to make any statement with regard to R. L. Cloud's  
14 eligibilty as an independent consultant just based on  
15 Phase II?

16 COMMISSIONER BRADFORD: I don't.

17 CHAIRMAN PALLADINO: I gather not.

18 Then I guess the next question is what do we  
19 do with the report? By that I mean do we release the  
20 report and what mechanism do we use?

21 It is my belief that we should release the  
22 report, send <sup>it</sup> to the parties <sup>on the</sup> service list and obtain  
23 appropriate comments. I presume those comments then  
24 would be factored in <sup>any</sup> ~~in~~ decision that we make on an  
25 independent auditor.

1           COMMISSIONER BRADFORD: Let me just ask, and  
2 if you covered it earlier, don't repeat it, but is there  
3 a staff recommendation that goes with this phase of the  
4 investigation?

5           CHAIRMAN PALLADINO: Well, we had specifically  
6 told them not to make a recommendation.

7           COMMISSIONER BRADFORD: I know. Last time I  
8 had the sense they kind of had at least a few  
9 preferences in their hip pocket on Phase I, and I am  
10 wondering if I can get u to that pocket again here.

11          CHAIRMAN PALLADINO: As a matter of fact, if  
12 you will recall, I was quite anxious to get their  
13 recommendations, but that is not the way the Commission  
14 voted.

15          COMMISSIONER GILINSKY: Well, let's see, I  
16 thought we voted not to ask for recommendations in  
17 connection with the investigation, but I didn't think  
18 that in any way precluded getting recommendations from  
19 the senior people.

20          CHAIRMAN PALLADINO: We are dealing with the  
21 investigation now and not with the question of whether  
22 or not the particular individual or group of individuals  
23 should be admitted as an independent auditor. That will  
24 come later.

25          MR. DIRCKS: We are dealing with the question

1 of the November 3rd meeting and the actions you want to  
2 take.

3           COMMISSIONER GILINSKY: Does it bear on  
4 whether or not Cloud is eligible to continue? I thought  
5 we were going to hear from the senior people on that.

6           MR. DIRCKS: I think what we were told, and  
7 maybe I am wrong, you were going to make some decisions  
8 on this November 3rd matter and you could either  
9 eliminate Cloud or not eliminate Cloud based on the  
10 November 3rd issue.

11           In the meantime we were going to continue to  
12 evaluate Cloud by looking at his qualifications and his  
13 program plan and then come up with a recommendation on  
14 that issue.

15           If you voted to eliminate Cloud as a result of  
16 the November 3rd matter, we would just discontinue the  
17 work that we are doing on this other track. But as a  
18 result of the meeting the other day I think the  
19 Commission indicated that you were going to, at least as  
20 far as this issue was concerned, keep Cloud in the  
21 eligibility race and we would continue to ~~work on this.~~ *evaluate.*

22           COMMISSIONER GILINSKY: Well, the Commission  
23 didn't act on Cloud.

24           CHAIRMAN PALLADINO: We did on Phase I, and I  
25 was asking now does Phase II change our conclusion?

1           COMMISSIONER GILINSKY: I don't think you can  
2 separate Phase I and Phase II. The reason we are  
3 pouring over every one of these little details is  
4 precisely because we were not informed that there were  
5 drafts. Had we been informed that there were drafts we  
6 wouldn't be going through all this.

7           CHAIRMAN PALLADINO: I am not debating whether  
8 one ought to take Phase I or Phase II separately or  
9 together. As a matter of fact, I was hoping last time  
10 we could take them both together, but I did not get the  
11 signals that we were all prepared. So we continued with  
12 Phase I and Phase II. Since we had made a conclusion on  
13 Phase I, although you may have all been thinking of  
14 Phase II as well, I just asked is there any change as a  
15 result of Phase, and I gathered not.

16           COMMISSIONER GILINSKY: I thought we simply  
17 hadn't acted last time.

18           CHAIRMAN PALLADINO: Oh, yes, we acted. We  
19 have a draft order.

20           COMMISSIONER GILINSKY: Well, I don't remember  
21 any vote on this aspect of it. I thought we simply  
22 decided not to take it up.

23           COMMISSIONER BRADFORD: I think you are each  
24 saying different things. Joe, you mean we acted on a  
25 set of conclusions and propositions in the context of

1 Phase I.

2 CHAIRMAN PALLADINO: Yes.

3 COMMISSIONER BRADFORD: I think all Victor  
4 means is that we didn't specifically weigh Phase II in  
5 that balance.

6 CHAIRMAN PALLADINO: That is why I am asking  
7 the question now, does Phase II change anything.

8 COMMISSIONER GILINSKY: I think we simply  
9 didn't act because there was a sentiment not to do  
10 anything about Cloud.

11 CHAIRMAN PALLADINO: No. We first went saying  
12 we will keep Cloud on the eligibility list. Then I  
13 believe it was you who said, well, do we really need to  
14 take any action? If we don't take any action, then he  
15 is on the eligibility list. That is the way I recall  
16 it. I <sup>would</sup> ~~might~~ have to check the transcript.

17 COMMISSIONER GILINSKY: Right. That is what I  
18 thought, that we didn't take any action.

19 CHAIRMAN PALLADINO: All right. Now I am  
20 asking, do you now wish to take any action?

21 (Laughter.)

22 COMMISSIONER GILINSKY: I guess I would have  
23 taken action before.

24 (Laughter.)

25 COMMISSIONER GILINSKY: I don't think anything

1 that has happened today changes the situation, but I  
2 think there is a problem. I gathered the staff was, and  
3 I don't know that this got discussed, but I thought you  
4 at least started out along these lines talking about  
5 treating the report more or less as if it had been done  
6 by PG&E, which doesn't invalidate the report from a  
7 technical point of view. It is there and it can be  
8 checked and it may deal with most of the questions one  
9 wants to deal with. But it seemed to me in dealing  
10 with some of the circumstances of November 3rd it isn't  
11 eligible to stand in the category of independent  
12 reports.

13           CHAIRMAN PALLADINO: It is my understanding we  
14 still have to address the question on who the independent  
15 auditors should be and how they meet the criteria and  
16 consideration of the reverification program. On that  
17 you will have input and that will come later.

18           MR. DENTON: Mr. Chairman, we met with the  
19 company last week on those questions of independence and  
20 the program plan and we plan to meet with the  
21 representatives of the Governor and the joint  
22 intervenors next week to go over their comments. Then  
23 we would return to the Commission with our  
24 recommendations on the company's proposal regarding the  
25 company's program plan in comparison against the

1 of the financial points the company wasn't prepared to  
2 put it on the record that day.

3 COMMISSIONER ROBERTS: Excuse me, what sort of  
4 financial points? What do you mean?

5 MR. DENTON: <sup>Applying</sup> The criteria that were identified  
6 in the letter back to Congress as factors that we would  
7 consider. With respect to Cloud, for example, we did  
8 find that he had worked for PG&E in three previous  
9 instances. We went into some detail in the meeting as  
10 to what were those *aspects*.

11 COMMISSIONER ROBERTS: Dollar magnitudes.

12 MR. DENTON: Yes, and how much money had  
13 actually been transferred as a result of those  
14 activities.

15 CHAIRMAN PALLADINO: Harold, when will we be  
16 getting this report or considering this report?

17 MR. DENTON: I would think the week of the  
18 25th would be the time. That would allow us time to  
19 incorporate the comments we expect to receive next week  
20 in the meeting with the Governor's representatives and  
21 the joint intervenors. That meeting would be held in  
22 San Francisco.

23 CHAIRMAN PALLADINO: I would like to ask Len a  
24 question.

25 It is my impression, and correct me if I am

1 independence criteria.

2           COMMISSIONER AHEARNE: Now in that, Harold,  
3 you will be addressing and exploring some of these  
4 issues that I gather came out in that meeting which are  
5 then included in a letter we got from Mr. Feishacker,  
6 the questions of Cloud's working for Westinghouse for so  
7 long and whether he in his Westinghouse role had  
8 anything to do with developing or managing or  
9 controlling the designs which he would now be in the  
10 position of going back to see whether the Westinghouse  
11 program was adequate and the size of the contractual  
12 support with respect to the whole business base of his  
13 company and is he essentially a captive contractor.

14           ~~MR. DIRKENS:~~ <sup>DENTON:</sup> We went through the factors that  
15 the Commission had identified with each of the companies  
16 proposed by PG&E. We ~~have~~ <sup>haven't</sup> reached a conclusion on that  
17 pending our meeting with the other parties. Then there  
18 would be a regrouping on everything we have heard and we  
19 would get back to the Commission with a recommendation.

20           COMMISSIONER AHEARNE: But you believe you  
21 have explored those points well enough so that at least  
22 you have a factual basis to reach your decision?

23           MR. DENTON: That is correct. I would think  
24 some of the points, we may still get additional  
25 information from the company to clarify, because in some

1 wrong, that we now distribute Phase II of the report.  
2 We had indicated we were going to allow Governor Brown  
3 and joint intervenors seven days to comment. So it  
4 would be incumbent upon us to release it soon so we can  
5 get those comments, and in whatever way we want to  
6 reflect them in our decision, have them to reflect in  
7 our decision.

COMMISSIONER ANGEARNE: *I agree.*

8 MR. DENTON: I wonder if we might go to release this  
9 report, the Phase II report, release it in the same  
10 manner as we released Phase I for appropriate comment?

11 May I have a vote on that question?

12 (Chorus of unanimous Ayes.)

13 CHAIRMAN PALLADINO: Is there any other action  
14 we should take at this time on this question?

15 COMMISSIONER BRADFORD: I never did get an  
16 answer to my question as to whether there was feeling in  
17 the staff, although at this point it would take a brave  
18 staff, but feeling in the staff that we in fact should  
19 consider striking Cloud from the list based on Phase II?

20 MR. DENTON: My own opinion was that Phase II  
21 of this report does not provide a basis for concluding  
22 Cloud was ineligible.

23 MR. DIRCKS: Any actions you have taken thus  
24 far, I don't think this affects it.

25 COMMISSIONER BRADFORD: If you can swallow

1 Phase I, you can swallow Phase II.

2 (Laughter.)

3 CHAIRMAN PALLADINO: It is a choice of words.

4 (Laughter.)

5 COMMISSIONER GILINSKY: I guess we never did  
6 ask how they felt about Phase I.

7 COMMISSIONER AHEARNE: Dick?

8 MR. DeYOUNG: We agree.

9 CHAIRMAN PALLADINO: Okay, any more that  
10 should be discussed on this question today?

11 (Chairman Palladino and Commissioner Ahearne  
12 confer off the record.)

13 MR. DIRCKS: Do we wait now for another week  
14 before we take any action that the Commission directed,  
15 pointed in the direction of last week?

16 MR. BICKWIT: With respect to the earlier  
17 statement?

18 MR. DeYOUNG: The notice of violation.

19 MR. BICKWIT: I see. I hadn't interpreted  
20 this reaction, no. I hadn't interpreted the Commission  
21 to be saying that.

22 COMMISSIONER GILINSKY: I assume you are  
23 preparing whatever it is you need to prepare.

24 MR. DeYOUNG: We may sign it out unless you  
25 tell us not to, like sometime today or tomorrow morning.

1 MR. BICKWIT: The purpose of the comment  
2 period was not to help the Commission in its decisions  
3 involving enforcement actions.

4 MR. DeYOUNG: I see.

5 CHAIRMAN PALLADINO: Did you have a comment?

6 MR. FOUCHARD: I have a question. The  
7 Commission has not as yet issued its statement which  
8 directs the staff to issue a notice of violation.

9 (Laughter.)

10 COMMISSIONER AHEARNE: You are suggesting that  
11 it should come before it gets issued.

12 (Laughter.)

13 CHAIRMAN PALLADINO: I think we now have a  
14 three to two vote on that.

15 COMMISSIONER ROBERTS: We do?

16 COMMISSIONER GILINSKY: He means the actual  
17 piece of paper.

18 (Laughter.)

19 MR. FOUCHARD: I was just saying whoa just a  
20 little bit here on the staff. In addition, one of the  
21 comments, and I believe it is Mr. Ahearne's, refers to  
22 the Phase II report. It would be nice if both of those  
23 could go out simultaneously, but I don't know the timing  
24 as to when the Commission's statement will be ready.

25 CHAIRMAN PALLADINO: Well, do we need another

1 statement on Phase II?

2 COMMISSIONER GILINSKY: I don't think so.

3 MR. FOUCHARD: This looks all-inclusive to  
4 me. But what I would like to do is do it simultaneously  
5 is what I am saying.

6 CHAIRMAN PALLADINO: Release Phase I and Phase  
7 II together?

8 MR. FOUCHARD: No. What I would <sup>like</sup> to do is  
9 release the Phase II investigation report and this  
10 statement at the same time.

11 CHAIRMAN PALLADINO: Is there some reason why  
12 we can't?

13 MR. FOUCHARD: Not as far as I am concerned.  
14 (Laughter.)

15 CHAIRMAN PALLADINO: All I think is that we  
16 need confirmation through the Secretary <sup>to</sup> what the  
17 voting stands at the moment on that.

18 COMMISSIONER GILINSKY: There is a piece of  
19 paper from the General Counsel which got circulated. I  
20 suggested dropping one sentence, but that is something  
21 we can resolve in two minutes.

22 CHAIRMAN PALLADINO: Yes, I think it is  
23 resolved now.

24 COMMISSIONER ROBERTS: I would like to know  
25 how. I mean, I would like to know the resolution.

1           CHAIRMAN PALLADINO: The resolution was that  
2 we keep it in.

3           COMMISSIONER ROBERTS: Thank you. Okay.

4           (Laughter.)

5           MR. FOUCHARD: I would suggest that since we  
6 have some paperwork to do that we just plan to release  
7 this statement and the Phase II report about noontime  
8 tomorrow which will be 9 o'clock San Francisco time so  
9 that we will have a chance to get PG&E at least a copy  
10 of Phase II of the report and also do the necessary  
11 external notifications.

12           CHAIRMAN PALLADINO: Do you see any problem in  
13 doing it by noon tomorrow?

14           MR. FOUCHARD: No.

15           COMMISSIONER BRADFORD: Have we now seen all  
16 the statements and Tom's and John's are the only  
17 separate statements?

18           CHAIRMAN PALLADINO: No, I was proposing a  
19 statement of my own that I just got out of the  
20 typewriter and I think it is almost ready to go.

21           (Laughter.)

22           COMMISSIONER GILINSKY: It looks mercifully  
23 short.

24           CHAIRMAN PALLADINO: It is mercifully short.

25           (Laughter.)

1           CHAIRMAN PALLADINO: I would circulate it  
2 except I only one one copy and all I did was cross out a  
3 phrase.

4           MR. FOUCHARD: Well, it is all right to aim  
5 for release of both documents tomorrow?

6           CHAIRMAN PALLADINO: Yes, I think we should  
7 aim for release ---

8           (Laughter.)

9           MR. FOUCHARD: Thank you, sir.

10          CHAIRMAN PALLADINO: Now before we adjourn,  
11 Commissioner Ahearne handed me a letter that I haven't  
12 read. He says it raises a question with regard to this  
13 report that I probably ought to raise with the  
14 Commissioners and see, while we are together, whether we  
15 want to take any action in this direction.

16           I think the pertinent paragraph is: "I  
17 believe, therefore, in order to forestall a repeat of  
18 past experience, the NRC inspector and auditor should be  
19 directed to conduct a review of NUREG 0862 for the  
20 purpose of determining whether appropriate questions  
21 were asked during the interviews conducted by the NRC  
22 staff, whether these questions were appropriately  
23 followed up, whether an adequate search was made for  
24 relevant documents and whether the summary sections of  
25 NUREG 0862 are an accurate reflection of the materials

1 on which they are based. Since the quality of NRC  
2 investigations is a matter I intend to monitor, the  
3 report of the inspector and auditor may<sup>be</sup> the subject of a  
4 future oversight hearing."

5 COMMISSIONER ROBERTS: That makes the  
6 assumption we are going to have such a report. This is  
7 a suggestion that we do so. The second paragraph that  
8 you read said "the report of the inspector and auditor."

9 COMMISSIONER BRADFORD: Or the absence  
10 thereof, I think you can read into that.

11 (Laughter.)

12 CHAIRMAN PALLADINO: However, now, we did have  
13 a special task force to go try monitor, I believe, these  
14 same questions.

15 MR. DeYOUNG: Yes.

16 CHAIRMAN PALLADINO: I don't know whether the  
17 Commission wishes to have another investigation done by  
18 the inspector and auditor.

19 I think John's purpose in bringing it up now  
20 gives us the opportunity to answer that question.

21 COMMISSIONER AHEARNE: Well, it just came in.  
22 It was handed to me while we were sitting here. Since  
23 everybody who is involved was here, I thought it might  
24 be an appropriate time to raise the question to get  
25 reactions.

1           COMMISSIONER GILINSKY: Well, I haven't seen  
2 the letter.

3           CHAIRMAN PALLADINO: I was reading it and  
4 absorbing it at the same time. I believe while the  
5 separate review has not been by the inspector and  
6 auditor, I think we undertook to conduct the spirit of  
7 that review in the team that we sent out to San  
8 Francisco. Now if there is a difference of opinion, I  
9 am willing to listen.

10          COMMISSIONER AHEARNE: Dick?

11          MR. DeYOUNG: Let me ask one of the panel  
12 members. You were on the panel. Ed, do you think you  
13 did what was proposed to be done?

14          MR. CASE: I wasn't paying that much  
15 attention. Certainly some of the things.

16          COMMISSIONER GILINSKY: Have you see the  
17 letter?

18          MR. CASE: Certainly those aspects, yes,  
19 singly and jointly.

20          COMMISSIONER BRADFORD: Was OIA on that  
21 panel? It wasn't, was it?

22          MR. DeYOUNG: No.

23          COMMISSIONER GILINSKY: I wonder if we could  
24 take this up after we have had a chance to look at the  
25 letter and think about it.

1           COMMISSIONER AHEARNE: Well, I think the  
2 question that is raised is a very straightforward  
3 question. Mr. Udall is requesting the Commission to  
4 have OIA do a review of the report. I think we as a  
5 Commission on a previous day voted with regard to an  
6 enforcement action based on part of the report, and  
7 today we have just essentially agreed not to take any  
8 further action to eliminate Cloud from this review based  
9 upon the second stage of the report.

10           So in theory we have just spent time on a  
11 Commission <sup>basis</sup> reviewing the report. The question that is  
12 being raised is are we satisfied with the adequacy of  
13 that report. If not, we might turn OIA onto it to  
14 review the adequacy. There is always the resource  
15 question of people in the agency, and this is another  
16 question of resource allocation.

17           MR. ENGELKEN: I would like to just make one  
18 comment. It was my sensitivity to the criticism that  
19 has been raised about some of our previous  
20 investigations that caused me to request the  
21 participation of a peer group. I had nothing to do with  
22 the selection of that group, of course, and I must say  
23 that their participation was quite vigorous.

24           On their first visit out here they identified  
25 quite a few areas that they felt we should pursue

1 further than we had, and we did so. Their participation  
2 was vigorous to the point where I was almost sorry that  
3 I had asked for their involvement. It was a rather  
4 critical scrutiny that they did, and I personally feel  
5 that it was a very worthwhile effort.

6 I am pleased, now that the whole matter has  
7 been completed, that I did so, and I think it improved  
8 the quality of the investigation considerably.

9 CHAIRMAN PALLADINO: Do we have a report of  
10 that review?

11 MR. DeYOUNG: No, we do not.

12 CHAIRMAN PALLADINO: We do not. So there is  
13 lacking documentary confirmation of what was done.

14 MR. DeYOUNG: That is true.

15 COMMISSIONER BRADFORD: Can you document or  
16 justify the changes made in reponse ---

17 (Laughter.)

18 MR. DeYOUNG: There is no documentation.

19 COMMISSIONER ROBERTS: I wonder if we knew  
20 there were drafts being made?

21 (Laughter.)

22 CHAIRMAN PALLADINO: There may be value in  
23 documenting what was done. Otherwise, it would be  
24 difficult to explain to others or have a common base of  
25 understanding of what was done.

1 MR. DeYOUNG: I presume that we can do this.

2 CHAIRMAN PALLADINO: I think that would be  
3 appropriate regardless of what we do with this question.

4 COMMISSIONER BRADFORD: It is probably a good  
5 idea given the sensitivity of this issue. The conflict  
6 problem isn't the same as between Cloud and PG&E, but it  
7 probably would be a good idea to have such material  
8 handy, especially if we turn out not to be requesting an  
9 OIA report.

10 CHAIRMAN PALLADINO: I think we should have a  
11 document reflecting what was done in that review, what  
12 conclusions were drawn and what actions were taken.

13 MR. DeYOUNG: We will do that.

14 CHAIRMAN PALLADINO: How quickly can you do  
15 that?

16 MR. CORNELL: We can do that in 24 hours.  
17 Just off the top of my head, it is going to be a  
18 one-page description of essentially what happened  
19 because we don't have any documents left over from our  
20 review.

21 Also, I will have to point out that the panel  
22 members did not review the final document that you have  
23 before you. We saw it in various drafts and commented  
24 on them and most of the comments were verbal. There  
25 were various pieces of paper which I certainly don't

1 have any left over.

2           When the final report came in we did not have  
3 a chance to review it before it was sent to the  
4 Commission. We were not involved in Phase II at all.

5           CHAIRMAN PALLADINO: Except that you did cause  
6 Phase II to come about.

7           MR. CORNELL: That is correct, yes. We can  
8 put together a description of what the panel did and who  
9 they were.

10          CHAIRMAN PALLADINO: By asking that question I  
11 didn't mean that it should be a superficial report. It  
12 should be a report of what was done.

13          COMMISSIONER AHEARNE: Can I make a suggestion?

14          CHAIRMAN PALLADINO: That probably ought to be  
15 done in the order of about a week, *but that doesn't necessarily*  
*answer his question.*

16          COMMISSIONER AHEARNE: I would suggest, Joe,  
17 that we have OCA check with Mr. Udall's staff on two  
18 things.

19                 First, do they know the peer review, the  
20 background that has already gone through?

21                 Second, did they have some other additional  
22 cause for concern that underlies this, because initially  
23 my reaction is that this was an effort that was done  
24 with extensive care, that there was this special peer  
25 review group to review it and that a lot of material was

1 generated. To then turn for an additional review of  
2 that review, I would like to get some sense of why Mr.  
3 Udall believes that should be done.

4           In the final analysis, if the senior chairman  
5 of one of our oversight and authorizing committees ends  
6 up saying that I believe that your in-house audit group  
7 ought to look at something that you have done, I suspect  
8 that we probably <sup>will</sup> end up having that done.

9           CHAIRMAN PALLADINO: I was having difficulty  
10 with answering this because I just wrote last night and  
11 finished this morning what I thought came out of a whole  
12 day workshop.

13           (Laughter.)

14           CHAIRMAN PALLADINO: One of the things I did  
15 write, or one item that I am giving consideration to is  
16 that when we make these improvements for a while that we  
17 ought to have a check on them to see that the  
18 improvements area being effective. So I am having  
19 difficulty in saying no to this because that is within  
20 the spirit of what I have written, but I want to review  
21 it before I send it out.

22           Well, I think it is a good suggestion. Why  
23 don't I have OCA check to see if they knew of the  
24 in-house review that we made and what was accomplished  
25 by it, and ask them if they have any further reason for

1 wanting to have an OIA review.

2 MR. DIRCKS: Can I ask, this whole thing is  
3 subject to review and comment by the Governor's office;  
4 is that right? We have sent this out for comment, too,  
5 haven't we?

6 MR. BICKWIT: This meaning?

7 MR. DIRCKS: The investigation.

8 MR. BICKWIT: Yes.

9 MR. DIRCKS: I think that may be another item.

10 CHAIRMAN PALLADINO: What did you say?

11 MR. DIRCKS: We have had the intervenors  
12 review this and we have had the Governor of California's  
13 office review it.

14 COMMISSIONER AHEARNE: Phase I is out for  
15 comment and Phase II will go out for comment.

16 CHAIRMAN PALLADINO: Why don't we check on  
17 these two and then get the answers back to the  
18 Commissioners and we can get a notation vote or an  
19 affirmation vote if we need it.

20 COMMISSIONER GILINSKY: Here is the man.

21 (Referring to Jim Cummings.)

22 COMMISSIONER AHEARNE: Has he got a typewriter?

23 (Laughter.)

24 CHAIRMAN PALLADINO: Where is he?

25 COMMISSIONER AHEARNE: Jim Cummings.



NUCLEAR REGULATORY COMMISSION

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

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in the matter of: CLOSED MEETING - EXEMPTION 5 - DISCUSSION OF PHASE II OF  
THE DIABLO CANYON REPORT

Date of Proceeding: February 9, 1982

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

Place of Proceeding: Washington, D. C.

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

Mary C. Simons

---

Official Reporter (Typed)

Mary C Simons

Official Reporter (Signature)