



October 28, 1983 **ADJUDICATORY ISSUE** SECY-83-441
(Notation Vote) LIMITED DISTRIBUTION

For: The Commission

From: James A. Fitzgerald,
Assistant General Counsel

SUBJECT: GAP FOIA APPEAL FOR PALO VERDE
INVESTIGATIVE FILES

Purpose: To solicit Commission approval for a
proposed disposition of this FOIA
appeal.

NEED FOR
ACTION: NRC IS REQUIRED TO FILE A MOTION FOR
SUMMARY JUDGMENT IN A LAWSUIT OVER THESE
DOCUMENTS BY NOVEMBER 10. COMMISSION
ACTION IS NEEDED AS SOON AS POSSIBLE.

Discussion: On March 29, 1983, the Government
Accountability Project (GAP) requested
copies of all investigative records on
the allegations of Robert Gunderson and
a senior Bechtel manager concerning
electrical problems at Palo Verde. On
April 28 the NRC sent a partial response
identifying two public inspection
reports and withholding under Exemption
5 three OGC/OPE documents that discuss
the allegations and their impact on the
Palo Verde adjudication. On May 13, GAP

Contact:
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9404110326 930614
PDR FOIA
GILINSK92-436 PDR

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 3, 5, 6, 7, 8, 9, 10
FOIA- 92-436

w/s

appealed, contesting both the withholding and the adequacy of the search. In a July 8, 1983 letter from Marjorie Nordlinger, OGC, to Lynne Bernabei, GAP, NRC informed GAP that a number of additional documents were being processed subject to the request. Notwithstanding the NRC's letter, on July 12, GAP filed this lawsuit. Following receipt of the complaint, in a July 19 letter, Rick Levi (OGC) sent GAP a list identifying about 300 documents which the Office of Investigations (OI) was processing under the FOIA. GAP also was informed that many of the documents could be released upon completion of the OI investigation, which was expected to be soon.

On October 6 at a status call on the lawsuit, Judge Flannery ordered the NRC to complete its work on the appeal and file a Motion for Summary Judgment and supporting Affidavits and Exhibits no later than November 10. Commission action is needed as soon as possible (but it must be completed no later than November 3) if we are to comply with this directive.

Ex. 5

Ex.

OGC has reviewed

Ex.
5

We believe

A list of the records subject to the appeal is appended to a draft response to the appeal (Attachment 1). The list indicates which records are to be withheld and the applicable exemptions. The records themselves may be reviewed

Ex. 5

pate

we antici-

In addition to OI documents, the appeal also sought three OGC/OPE documents concerning matters raised at a March 15 meeting with the Commission. The documents are SECY-83-125 (and two drafts of the paper) which discuss the immediate effectiveness review for Palo Verde and its relationship with the OI investigation.

OGC

Ex. 5

believes that

X

Similarly we

were concerned that

Ex-5

Recommendation:

James A. Fitzgerald
James A. Fitzgerald
Assistant General Counsel

Attachments:

- 1. Draft Ltr Chilk to Bernabei w/List
- 2. OGC/OPE Papers on Palo Verde
- 3. Edited transcript, March 15, 1983 Mtg.

As requested by the Office of the General Counsel, Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Thursday, November 3, 1983.

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ATTACHMENT 1

ATTACHMENT 2



April 5, 1983

SECY-83-125

ADJUDICATORY ISSUE

(Notation Vote)

For:

The Commission

From:

Martin G. Malsch
Deputy General Counsel

John E. Zerbe, Director
Office of Program Evaluation

Subject:

PALO VERDE IMMEDIATE EFFECTIVENESS DECISION
AND REVIEW OF ALAB-713

Review

Time Expires:

April 20, 1983

Discussion:

The Licensing Board on December 28, 1982 issued a decision in the Palo Verde proceeding authorizing the Director, NRR, to issue an operating license for Palo Verde, Unit 1. On February 15, OPE recommended in SECY-83-65[

On the same day in ALAB-713 the Appeal Board affirmed the Licensing Board's decision. On February 18, 1983 OGC in SECY-83-71 recommended

On March 15, 1983 the Commission met to discuss whether to make the Licensing Board's decision immediately effective. No final conclusions were reached at that meeting pending receipt of further information from OI and Region V concerning the status of possibly relevant technical investigations. That information was provided in OI's memorandum of March 25 and the EDO's memorandum of March 29.

Ex. 5

1/ SECY-83-71 was issued as a negative consent paper because[

EX

Ex. 5

CONTACTS:

Rick Levi, OGC, 41465
Neill Thomasson, OPE, 43302

EX-5

There are two issues which the Commission needs to address: (1) whether to allow the Licensing Board's decision to become effective; and (2) if so, whether (i) to issue an order, or (ii) simply to allow the review time for the Appeal Board's decision to expire. We believe

1. Background

OPE in its review of the Licensing Board's decision found

EX-5

On February 28, 1983 the Government Accountability Project (GAP) wrote the NRC to inform it of numerous allegations at Palo Verde and to note that GAP was going to conduct its own investigation.

At the Commission meeting on March 15, OI discussed its ongoing investigations at Palo Verde. [

EX-5

OI provided a list of its investigations on March 25, 1983. The EDO, in coordination with OI, on March 29 identified the items currently under inspection/investigation at Palo Verde. The EDO, based on Region V's preliminary evaluation,

EX-5 [

2. Whether to Allow the Licensing Board's Decision to Become Effective



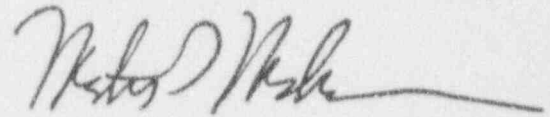
EX-5

3. Whether to Issue An Order

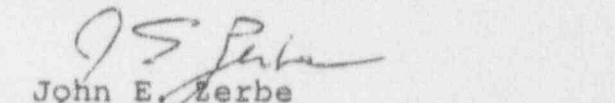


EX-5

Recommendation: [



Martin G. Malsch
Deputy General Counsel



John E. Zerbe
Director, Program Evaluation

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, April 20, 1983.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Tuesday, April 12, 1983, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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OPE
OIA
SECY

ATTACHMENT 3

**TRANSCRIPT
PROCEEDINGS BEFORE**

NUCLEAR REGULATORY COMMISSION
COMMISSION MEETING
CLOSED MEETING - EXEMPTION NO. 10

DKT/CASE NO.

TITLE DISCUSSION/POSSIBLE VOTE ON CONTESTED ISSUE
IN PALO VERDE FULL POWER PROCEEDING

PLACE Washington, D. C.

DATE March 15, 1983

PAGES 1 - 57

1 MR. CHILK: CI is on their way I understand.

2 MR. ZERBE: Fortuna is supposed to be here. *release*

3 MR. CHILK: I understand they are on their way

4 and should be here shortly.

5 CHAIRMAN PALLADINO: You are going to bring up
6 pending investigations?

7 MR. ZERBE: Yes, I will mention those, but we
8 were depending on that gentleman to go into the details
9 if you wanted to do that.

14 CHAIRMAN PALLADINO: All right, I think we
15 ought to hear it.

16 COMMISSIONER AHEARNE: Yes.

17 COMMISSIONER ASSELSTINE: Yes.

18 CHAIRMAN PALLADINO: Roger.

19 MR. FORTUNA: Good morning. Roger Fortuna
20 from OI. Quite simply I think I can wrap up the issues
21 that OI has primary jurisdiction in in several moments,
22 but before I do that I think I have to explain how this
23 effort came about to help you focus on where we are
24 today.

25 Quite simply the lion's share of these

release

1 allegations came into the agency prior to the birth of
2 OI and as such were handled as they had been routinely
3 handled in the past through the regions and prior to
4 that through ICE in the regions.

5 Quite simply when we speak and use the term
6 investigations, it is a loose sense, in the sense that
7 when these allocations came in and based on information
8 I have received from our field office and people I have
9 spoken with in the past several business days, I now
10 have a clearer picture and quite simply of the amalgam *release*
11 of Palo Verde allegations that we have received to date
12 as an agency, and I am giving a rough cut numberwise, at
13 least three quarters, and I am satisfied with that
14 number, are truly technical in nature and as such are
15 being addressed by the inspectors and their requisite
16 supervisory personnel in Region V.

17 Some of the other issues, the investigatable
18 as we understand them now, not confusing the terms
19 inspection and investigation, are being handled by OI.

20 As an aside, Mr. Hayes and myself have
21 determined to dispatch two of our headquarters people to
22 field office five in Region V to help bring this thing
23 to a head in a short time.

24 I can't speak for Region V, but as an aside,
25 it is my understanding, but I don't want you to rely on

1 this information because it is just that, my
 2 understanding, that Region V is also bring in its
 3 inspections which we would have originally referred to
 4 loosely as investigations in a fairly prompt manner.

5 Now given that background, what I have tried
 6 to do is cull out the investigatable items that were
 7 buried in the issues that we have loosely referred to
 8 heretofore as the investigations of the matters of Palo
 9 Verde. Quite simply, there are four items.

10 I am not at all familiar with the contested release
 11 issues. So if you will bear with me, or if I am giving
 12 too much detail cut me short. There are four things
 13 based on my conversations with our field office that in
 14 my view clearly fall squarely within the investigatable
 15 areas.

16 Item No. 1 is an issue regarding alleged
 17 falsifications/alteration of welder testing
 18 certifications. Quite simply as I appreciate it, it is
 19 that individuals from a subcontractor prior to their
 20 performing some welds on some tendons were required to
 21 be qualified to a particular welding procedure.

22 These gentlemen went to a Bechtel weld shop
 23 and did some things. These things were, according to
 24 the subcontractor, adequate to provide assurances,
 25 welding coupons and what-have-you. Unfortunately, based

1 on the information that OI has derived to date, and I
2 think that it will probably hold up to the test of
3 time. It is fairly hard.

4 There was nobody there that was in a position
5 to be able to administer the test and certify to the
6 fact that the individuals did in fact know how to weld
7 to procedure.

8 A fifth individual that also worked for the
9 subcontractor was supposedly to monitor this type of
10 testing, administer it and fill out the certifications. *release*
11 His concern was a very simple one. In his view, since
12 he was not certified to weld to the particular procedure
13 at issue it is quite difficult for him to be able to
14 pass on the other people's welds.

15 Fortunately, the alleged went very promptly to
16 Bechtel and to the NRC and the matter was caught in a
17 matter of a few weeks. Now I will slip to the
18 inspection side, if you will.

19 CHAIRMAN PALLADINO: I had first thought that
20 you were going to say that the certifying officer wasn't
21 present, but now you are saying ---

22 MR. FORTUNA: Excuse me. I am sorry. I will
23 backtrack. I didn't give you enough detail. After the
24 fact it was determined that one of the five individuals
25 present at the test booths was going to have ---

1 certifying official. Now I can't give you exact detail
 2 as to how that felt in No. 5 as opposed to individual
 3 No. 3. But one of the five was elected to be the
 4 certifying official. He obviously had a concern, he
 5 raised that concern, took it to the proper individuals
 6 both in the NRC and at the site and they had the test
 7 readministered.

8 I speak for the region, but I am confident
 9 that this is essentially the gist. They were properly
 10 certified shortly thereafter and the work has been
 11 looked at, if you will, the work that they did during *release*
 12 the time period when they really weren't up to snuff
 13 certification-wise.

14 Now I don't have this answer, but it would be
 15 interesting to know if in fact they were good welders,
 16 but, if you will, in a technical sense just didn't have
 17 the proper papers.

18 CHAIRMAN PALLADINO: What I didn't pick up is
 19 where the falsification came in.

20 MR. FORTUNA: Oh, excuse me. I will get to
 21 that.

22 CHAIRMAN PALLADINO: All right.

23 MR. FORTUNA: Papers were filled out. AWS
 24 certification forms were filled out by the subcontractor
 25 saying that individuals 1 through 4 were certified to

1 procedures such and such. It was when that paper was
2 generated that our allegor who was enlisted to go down
3 on the line as the certifier had the concern.

4 COMMISSIONER AHEARNE: So he certified, but
5 also then went ahead.

6 MR. FORTUNA: Excuse me. I don't want to
7 mislead you. I haven't seen the certification paper.
8 When I asked the questions telephonically, it is up for
9 grabs as to whether or not he had second thoughts prior
10 to or he signed under, but it is one or the other. That
11 is issue No. 1. release

12 So the region will be following up in my view
13 on the ---

14 CHAIRMAN PALLADINO: But they did observe the
15 test; is that right? These welders went through the
16 test. This fellow I presume observed the test.

17 COMMISSIONER AHEARNE: Or he was one of the
18 people taking the test.

19 MR. FORTUNA: But it is at issue as to what
20 test was actually administered because we have
21 information from the prize contractor that says our weld
22 shop is for our welders and we don't recall ever
23 administering a test and we would not because they are
24 not our welders.

25 In in fact, it is the truth that these

1 subcontractor people came over, I really don't know what
2 they would be doing.

3 COMMISSIONER ROBERTS: What is the time frame
4 for all of this? When did this occur?

5 MR. FORTUNA: Let me make reference to my
6 notes here and give you a little more precision as to
7 the dates. Early 1982, sir.

8 Should I move on to the second one?

9 This is an issue regarding termination cards,
10 electrical terminations. For whatever reason based on
11 another allegation from another individual, release
12 approximately a year to a year and a half ago there were
13 missing termination cards. When the cables come into
14 the box, or however we do it, there was no paper to back
15 up that in fact a particular inspector had looked at the
16 termination, had crimped, had used the proper pressure
17 or the proper gauges to ensure himself or herself that
18 the termination was properly made.

19 This one is now being worked, but essentially
20 there were three things that happened regarding the
21 termination cards.

22 Step one, the termination cards were missing.
23 Particular QC inspectors were given a number of
24 terminations to resolve. It appears that in some
25 instances a particular QC inspector would sit down at

1 his desk with a packet of termination cards,
2 terminations 1 through 15 as an example, and create the
3 paper.

4 CHAIRMAN PALLADINO: Without looking at ---

5 MR. FORTUNA: Yes, sir. That is the exception
6 to the rule, but I am informed that instances of that
7 have happened. In other situations an individual that
8 performed the termination was not available for a given
9 day or a given week for whatever reason and a co-worker
10 would go out, examine the terminations, satisfy himself
11 or herself that they were adequate and fill in a card
12 identifying the QC inspector as another individual. releas

13 A third situation would be where an individual
14 went back looked at the termination, satisfied himself
15 or herself that in fact the work was done properly and
16 in some instances redoing the work and, filling out a
17 new termination card with his or her name on it.

18 That is roughly the three ways that it went
19 about. We don't have a bottom line on this other than
20 again, and here I speak for Region V, so with a bit of
21 reluctance, in the sense that it appears from what we
22 have to date that the terminations that are under
23 discussion are non-safety related with the exception of
24 a particular termination which was identified as the
25 alleged as safety related and in fact there was problem

1 with the termination card.

2 I am trying to put it in perspective. I don't
3 want to overconcern you or do the opposite. That is the
4 extent of my information on that particular issue.

5 I will pause for a moment in case there is a
6 question that you might have that would jog my memory.

7 (No questions.)

8 MR. FORTUNA: I will move on to the next
9 area. Again, this is regarding questionable
10 documentation or concerns regarding documentation. It
11 has to do with stressing jacks again in the tendon area,
12 and forgive me again for my inarticulate presentation on ^{release}
13 this. I am not totally familiar with what stressing
14 jacks are used for other than to tighten up the tendons.

15 According to the allegation, one or more of
16 the stressing jacks fell to the ground and upon falling
17 to the ground there was an assumption on the part of the
18 allegor that they must have been no longer in
19 calibration and that it is important to have the proper
20 torque. It must be foot-pounds, psi's, to get them
21 torqued enough but not so much as to overstress.

22 The region is looking at the inspection
23 perspective on this one as quite simply that we want to
24 satisfy ourselves in whatever manner we can that there
25 stressing jacks were in fact proper calibrated. That is

1 a issue that the region will resolve.

2 My preliminary information from our field
3 office indicates that these jacks are either working or
4 not working. If they fell to the ground and became
5 inoperable, they wouldn't just be out of calibration.
6 They would be totally inoperable.

7 But the OI perspective on the issue is a
8 slightly different one, and it is quite simply when
9 these jacks fell to the ground and perhaps were out of
10 calibration or totally inoperable, if any individual or
11 individuals attempt through a bogus manipulation or
12 what-have-you to attempt in some manner to keep the NPC
13 from finding that out. But that, from what I release
14 understand, doesn't appear to be too significant an
15 issue in that the paperwork that was looked at is fairly
16 routine, an occasional missing initial or something like
17 that, but nothing that has tipped any of our
18 investigators off to deep suspicions or any suspicions
19 of any substance.

20 The final area that I have looked at in my
21 view is OI related. It is an allegation regarding
22 undocumented welds on class one piping. Again, the
23 region has gone through that area, and I don't have a
24 bottom line, I apologize, I wasn't able to chat with
25 anybody in the region on this, and has resolved the

1 issue of whether or not there was undocumented class one
2 piping.

3 We will go behind the region to see if in fact
4 there was and whether or not there was any paper
5 manipulation. As another subset of that particular area
6 there was an allegation regarding cold springing of
7 class one pipe.

8 I believe the answer from the region was that
9 there was some, but again the question becomes, if so,
10 was there a paper problem. These were more technically
11 related, but had a slight potential for if in fact if
12 substantiated from a technical perspective, a look-see
13 paperwise.

release

14 So in review, in my view, based on my
15 information available to me at this time, the welder
16 qualifications issue I would think we will be able to
17 resolve and it sounds typically OI. And the termination
18 cards is another typical type problem that we encounter
19 in our efforts and we will have resolution of that.

20 As I opened with and I will close, we
21 will have two individuals from the head office
22 going out to Five next week to help us bring things up.

23 CHAIRMAN PALLADINO: Are there any other
24 mid-82 time frame?

25 MR. FORTUNA:

1 mid-'82.

2 CHAIRMAN PALLADINO: When did OI take under
3 its wing these four?

4 MR. FORTUNA: Well, we inherited them, as all
5 others, on 19 July 1982.

6 CHAIRMAN PALLADINO: Why has it taken so long
7 to get these? Maybe it is just all the things that you
8 have inherited.

9 MR. FORTUNA: I don't want to sit here and
10 make excuses, but I can give you background. I think it
11 is quite simply, and we have had this problem in our
12 other field offices but, fortunately, they were of a
13 lesser magnitude allegation-wise and we were able to release
14 clear it out, that which was almost done prior to OI's
15 birth went out as a regional product even though OI
16 investigators worked on it. That which came in on the
17 19th was clearly ours under our system.

18 This happened to be the biggest one that kind
19 of happened half way through the field work, and, in my
20 view, it is quite simply an understanding of what is
21 technical and what is investigative because historically
22 we have kind of merged the two together and fuzzed and
23 confused in some instances.

24 This quite simply, in my view, I think field
25 work complete unless it is not completed to

1 headquarter's satisfaction in the function of a
2 write-up, and that is why the dispatch of our two
3 investigators.

4 CHAIRMAN PALLADINO: When do you expect to
5 have these investigations completed and written up?

6 MR. FORTUNA: Mr. Chairman, I am reluctant to
7 give you a date, but I will try to and ask you not to
8 hold us too firmly to it. I would anticipate that if we
9 can have our two headquarters resources crashir. on this
10 with the region and there are other things that they
11 have to do -- excuse me, the field office, see I slipped
12 into that, too -- that 45 to 60 days would not be
13 unreasonable.

release

14 CHAIRMAN PALLADINO: It would be settled
15 before there would be a need for fuel loading.

16 MR. FORTUNA: That was our hope and I think we
17 can meet that.

18 COMMISSIONER AHEARNE: Roger, you had started
19 out by pointing out that you had separated the
20 allegations and approximately 25 percent, as you said,
21 were really in the OI area.

22 MR. FORTUNA: Yes, sir.

23 COMMISSIONER AHEARNE: And 75 percent
24 therefore in the inspection area.

25 MR. FORTUNA: Yes, sir.

1 COMMISSIONER AHEARNE: Are the 75 percent
2 technical pieces of these four or were there additional
3 items.

4 MR. FORTUNA: I am sorry, I didn't catch the
5 last part of your question.

6 COMMISSIONER AHEARNE: Is the 75 percent in
7 the technical area the technical issues relating to
8 these four topics you just covered or are there
9 additional topics?

10 MR. FORTUNA: Oh, yes, sir. There are other
11 issues that are being resolved by the region separate
12 from those that I discussed. In fact, that is the 75/25
13 cut that I was describing.

14 COMMISSIONER ASSELSTINE: So the 25 is just
15 what you have already described? release

16 MR. FORTUNA: Yes, sir, and whatever technical
17 assistance that would be involved in those issues. To
18 be quite honest, I think it is probably even
19 numbers-wise more toward the technical side, but I was
20 trying to be conservative because we are talking in the
21 area of 35 to 40 allegations from several allegeders, some
22 duplicative.

23 COMMISSIONER AHEARNE: Jack or Neill, do you
24 know what this list is?

25 MR. ZERBE: We don't have that many. We had

1 six.

2 MR. THOMASSON: No. There was what I term in
3 our statement we gave Jack to give you six
4 investigations/inspections, but these are composed of
5 the number of allegations Roger just indicated.

6 For example, one that was not admitted by the
7 Board last June, if I may term it, the electrical worker
8 allegation, an electrical worker from Bechtel, initially
9 had 17 points in it and it has developed into 22.

10 COMMISSIONER AHEARNE: See, what I am puzzled
11 by now is that Roger has given these four topics, but he
12 has said that that four represents 25 percent of some
13 universe, and now I am puzzled by what is the other 75
14 percent. release

15 COMMISSIONER ASSELSTINE: Yes, that is right.

16 CHAIRMAN PALLADINO: The universe would sound
17 like 16, wouldn't it?

18 (Laughter.)

19 MR. FORTUNA: It is probably more.

20 COMMISSIONER AHEARNE: So I am wondering what
21 the other ---

22 CHAIRMAN PALLADINO: Are we going to get a
23 report on this when we get to the uncontested issues I
24 presume from the staff?

25 MR. THOMASSON: I understand that is a normal

1 part of the presentation to the Commission. I think it
2 would be a matter of when you want this. My
3 understanding is that normally they report this before
4 they come to you for a full power license usually after
5 the fuel loading.

6 COMMISSIONER AHEARNE: Right.

7 MR. THOMASSON: I don't think it is proper for
8 me to go into detail on the technical issues that
9 involve this. For one thing I think you already have
10 more information in your monthly status reports than I
11 could give you right now because I know on this
12 electrical worker one there is a long list of the status
13 reports that talk about the technical allegations.

14 Am I right, Roger, on that? release

15 MR. FORTUNA: Yes.

16 MR. THOMASSON: We are not privy to that. We
17 discussed it with OI.

18 COMMISSIONER AHEARNE: But my understanding,
19 Roger is that the other 75 percent would have nothing to
20 do with any of these four issues that you just talked
21 about. Is that what you said?

22 MR. FORTUNA: Let me do this. Let me make
23 reference for one moment to a couple sheets of paper
24 that I have here. I am very reluctant to speak for the
25 region type allegations, but perhaps with a little

1 culling I could give you a feel or a taste if you
2 thought that was appropriate.

3 COMMISSIONER AHEARNE: I think clarification
4 would help because at the moment I am puzzled.

5 COMMISSIONER ASSELSTINE: I think it is useful
6 to think about, too, that in this case we have got a
7 little bit different wrinkle since the Board has
8 expressly reserved to itself a decision to reopen the
9 record. Now they made that decision on the basis of the
10 allegation of the electrical deficiencies, but if you
11 have a whole slew of allegations that came in at the
12 time, either at the end or very close to the end of the
13 hearing, it seems to me based upon what comes out of the
14 safety investigations that you have got a real potential
15 that the Board may reopen the hearing. release

16 COMMISSIONER AHEARNE: But it says electrical
17 and QA.

18 COMMISSIONER ASSELSTINE: That is right.

19 CHAIRMAN PALLADINO: Well, are the electrical
20 system items these electrical terminations, or are there
21 some other electrical systems items?

22 MR. FORTUNA: Let me attempt to not further
23 confuse the issue, and I think I might be able to do
24 that by just saying that case No. 1 regards essentially
25 from the OI perspective the welder qualification issue.

1 Wrapped into that is also a couple of other
2 issues, training records from the inspection side of the
3 house, alleged excessive tension placed on tendons
4 during the installation of field anchorheads, and then
5 there is the third which is the OI issue of the possible
6 problem with records. Another one was a falling that I
7 briefly described with the stressing jack to the gallery
8 floor. That was the issue of the calibrated and
9 non-calibrated. Then a general issue of QA/QC
10 independence and the standard production overriding QC.
11 Another was backcharges from subcontractor to contractor.

12 COMMISSIONER AHEARNE: Backcharges?

13 MR. FORTUNA: Overcharges. I am just laying
14 out the issues. *release*

15 COMMISSIONER ROBERTS: Why was that an issue?

16 MR. FORTUNA: I am not disputing that. I am
17 just reciting the concerns of the individual.

18 COMMISSIONER ROBERTS: How is that relevant to
19 what we are doing?

20 COMMISSIONER AHEARNE: To the NRC?

21 MR. FORTUNA: I don't think that it is, but I
22 was just trying to be responsive to your question.

23 CHAIRMAN PALLADINO: What are you reading,
24 allegations?

25 MR. FORTUNA: Yes, sir, I am. What I am

1 trying to do is skin through the allegations I have
2 broken out into ---

3 COMMISSIONER ROBERTS: We don't need to waste
4 any time and resources on things that are not our
5 purview?

6 MR. FORTUNA: Well, OI is not addressing this
7 issue, sir.

8 CHAIRMAN PALLADINO: Are we investigating all
9 of these allegations?

10 MR. FORTUNA: What OI is doing is working on
11 the typical traditional what we all understand are
12 investigatable items under the NRC. I am just repeating
13 to you, and excuse me I am be confusing and clouding the
14 issue more than is necessary, but I understood your *release*
15 question to be quite simply what were the other issues,
16 and I work it from the investigative perspective.

17 COMMISSIONER AHEARNE: But these are the other
18 issues that your understanding is that the regional
19 inspectors are working on?

20 MR. FORTUNA: Yes. Then a final one in this
21 particular case, if you will, is issues regarding
22 shimpacks placed at the end of a stress tendon, a
23 question of were they properly installed and properly
24 placed.

25 CHAIRMAN PALLADINO: These are things that the

1 staff would report on?

2 MR. FORTUNA: That would be the Region 5
3 issues. So as an example, when I said case No. 1, the
4 DI interest is the concern of the qualification of
5 welders and the paperwork to back that up. Involved in
6 that individual's were the other six that I just
7 mentioned. I was trying to give you a feel for the
8 other things, the inspection things.

9 Then you take each of the allegers that we
10 have and you break it out in more detail. As I would
11 say, here is the DI issue, here is the other
12 allegations, the technical and the inspector issues.

13 COMMISSIONER AHEARNE: Now you had QA/QC
14 independence as one of those that you mentioned.

release

15 SR. FORTUNA: Yes, sir.

16 COMMISSIONER AHEARNE: Jack, do you know how
17 that fits with respect to the QA issue that the Board
18 said that it would grant a motion to reopen?

19 SR. FORTUNA: This is regarding your
20 subcontractor.

21 MR. THOMASSON: I missed your question, I am
22 sorry.

23 COMMISSIONER AHEARNE: In your paper you
24 mentioned that the allegation that the Board denied
25 involved QA and then said if there were substantive

1 issues developed in the investigation they would reopen
2 it. Was that focused on a specific aspect of QA?

3 MR. THOMASSON: Yes, electrosystem QA and
4 resulting construction of electrical components.

5 COMMISSIONER ANHEARNE: It was strictly on the
6 electrical?

7 MR. THOMASSON: At that point, yes, sir.

8 CHAIRMAN PALLADINO: All electrical components
9 or just the termination?

10 MR. THOMASSON: Construction related to the
11 electrical system as a QA problem and resulting
12 construction defects because of the QA. release

13 MR. ZERBE: It could have been this case.

14 CHAIRMAN PALLADINO: Well, if it wasn't that
15 case, then I didn't hear anything about the deficiencies
16 on which the Board is expecting results of an
17 investigation.

18 MR. THOMASSON: Let me walk briefly through a
19 little history on this. At the end of March the
20 intervenor notified by telephone in a joint conversation
21 call with the parties and the Board that she had a new
22 allegation she wanted to raise relative to the hearing
23 which was scheduled to start, as I recall, the 27th of
24 April, 1982.

25 Subsequently in May the intervenor finally

1 filed her formal allegation and contention. She refused
2 to present the allegor, which was her contact who, by
3 the way, had contacted the press also because for fear
4 for retaliatory action on the allegor.

5 This had been referred to the NRC regional
6 field office. There is some confusion there. They
7 talked about one in Las Vegas. But anyway, it showed
8 some of the confusion of the allevers and intervenors.
9 Then it was referred to investigation. The Board did
10 not take up this issue until the last day of the hearing
11 during which the intervenor raised the question about
12 addressing the issue. release

13 The Board ruled that they were closing the
14 record and would lenient in considering reopening the
15 record after the results, as they termed it, of the
16 investigation on the allegation was completed which they
17 expected in the late summer. That is the history of the
18 thing. It was an electrical worker that had been
19 employed by Bechtel.

20 COMMISSIONER AHEARNE: That is also the
21 subject of the letter that the Chairman got from the
22 company?

23 MR. THOMASSON: Yes, sir, and the subject of a
24 letter that Lynn Bernabei sent to the Chairman following
25 the company's letter. I think the dates were May 11th

1 and 24th or something like that.

2 COMMISSIONER AHEARNE: And EDO responded and
3 said that it is being referred to the regional office.
4 Then I gathered what happened was that a portion of that
5 is split off to become your termination ---

6 MR. FORTUNA: I have that list, if you are
7 interested. This particular issue generated a set of
8 allegations and I have them listed out here in front of
9 me. They are fairly wideranging, splicing of cables,
10 use of improper insulation on high-voltage
11 terminations. I am speaking to the inspection issues,
12 but I got them down in case you had an interest when I *release*
13 was here today. QC inspectors not properly trained, and
14 so on. The OI fallout of that individual's 17 or 18
15 allegations is the termination cards issue.

16 COMMISSIONER ASSELSTINE: But the others are
17 still under investigation or inspection by the region,
18 the technical merits of it.

19 MR. FORTUNA: Yes, sir.

20 COMMISSIONER ASSELSTINE: And that has been
21 closed down.

22 MR. FORTUNA: That hasn't been issued.

1 Appeal Board had granted the decision.

2 CHAIRMAN PALLADINO: I guess I am unclear on
3 several things.

4 One, it would be nice to get a listing of the
5 OI investigations that are in progress on this case.

6 MR. FORTUNA: They would be available, I don't
7 know if in enough detail for your interest, in that
8 monthly status that we provide.

9 CHAIRMAN PALLADINO: Well, maybe I just need
10 to have my attention directed to the right monthly
11 status report.

12 COMMISSIONER AHEARNE: Although sometimes it *release*
13 is a little hard to read the monthly status and conclude
14 what is really happening.

15 COMMISSIONER ASSELSTINE: That is right, yes.
16 They have been pretty summary descriptions on some of
17 these.

18 CHAIRMAN PALLADINO: I gather OI cases have
19 discrete numbers and titles.

20 MR. FORTUNA: Yes, sir, they do.

21 CHAIRMAN PALLADINO: I just would like to have
22 a list of the discrete numbers and titles of those
23 investigations being performed by OI on Palo Verde.

24 MR. FORTUNA: That would be available in the
25 monthly status, the numbers in the thing.

1 CHAIRMAN PALLADINO: Well, could I have it?

2 MR. FORTUNA: Oh, you certainly can have it.

3 Excuse me, yes, sir.

4 CHAIRMAN PALLADINO: I would like to get it in
5 a separate listing or have my attention directed to some
6 concise list that relates to Palo Verde. Then I think
7 we ought to alert the staff, unless the Commission feels
8 otherwise, for them to identify what items they have
9 under investigation for this case, and I would like not
10 to wait until full power operation.

11 COMMISSIONER AHEARNE: I guess I would like to
12 know that. So far I don't have a real sense of how many
13 problems they are looking at and how real are those *release*
14 problems and I would like to get a better understanding.

15 CHAIRMAN PALLADINO: Well, maybe we can send a
16 staff requirements memo to highlight for us those items
17 they have under inspection.

18 COMMISSIONER ASSELSTINE: Yes.

19 COMMISSIONER AHEARNE: I think it would have
20 to be an investigation by the regional office.

21 COMMISSIONER ASSELSTINE: I think that is
22 really what it is. I recognize Roger's sensitivity on
23 the term "inspection" and "investigation."

24 CHAIRMAN PALLADINO: They all involve regional
25 people.

1 MR. FORTUNA: I understand that you think it
2 was one agency.

3 COMMISSIONER AHEARNE: Well, no, and also they
4 are investigating something.

5 COMMISSIONER ASSELSTINE: That is right.

6 COMMISSIONER AHEARNE: Their inspectors were
7 investigating instead of investigators were
8 investigating.

9 CHAIRMAN PALLADINO: Well, maybe it is not
10 technical investigation. Inspections slant technical
11 investigations. It certainly is not clear to me where
12 we stand on those matters with regard to Palo Verde. *release*

13 MR. FORTUNA: So I will take home with me so I
14 understand, the requirement is to provide members of the
15 Commission with those cases that are under investigation
16 both technically and ---

17 CHAIRMAN PALLADINO: From OI we want the OI
18 list and from the staff we want the
19 inspection/investigation.

20 COMMISSIONER AHEARNE: I think Sam will take
21 care of writing something to the regional offices.

22 CHAIRMAN PALLADINO: You just get us the
23 discrete list of OI investigations related to Palo Verde.

24 MR. FORTUNA: All right.

25 CHAIRMAN PALLADINO: Any other questions on

1 allegations?

3 COMMISSIONER ASSELSTINE: Is there any chance
4 do you think that we could get the staff in say before
5 the 28th to hear about the technical investigations?

6 CHAIRMAN PALLADINO: We will have to look at
7 the schedule. release

8 COMMISSIONER AHEARNE: I don't think it really
9 is critical because they are a long way from fuel
10 loading.