

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

In the Matter of: CLOSED MEETING - EXEMPTION 5
DISCUSSION OF ENFORCEMENT ACTION

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AT: Washington, D. C.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
DISCUSSION OF ENFORCEMENT ACTION
-CLOSED MEETING - EXEMPTION 5

Nuclear Regulatory Commission
Room 1130
1717 H Street, N. W.
Washington, D. C.
Friday, May 28, 1982

The Commission convened in closed session at
10:05 a.m.

BEFORE:

- NUNZIO PALLADINO, Chairman of the Commission
- JOHN AHEARNE, Commissioner
- VICTOR GILINSKY, Commissioner
- THOMAS ROBERTS, Commissioner
- JAMES ASSELSTINE, Commissioner

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- S. CHILK
- L. BICKWIT
- J. MURRAY
- F. REMICK
- M. MALSCH
- W. DIRCKS
- R. DeYOUNG
- J. LIEBERMAN
- J. COLLINS

AUDIENCE SPEAKERS:

- E. JOHNSON
- C. HACKNEY
- B. GRIMES
- R. MATEKIS

1 Commission.

2 MR. DeYOUNG: Good morning.

3 Enforcement seems to us to be the hardest task
4 that I&E has. There are few cases that are easy, some
5 cases are hard and some are harder, but this is one of
6 the hardest we have faced.

7 Now the Cooper Plant has been a top performer.

8 CHAIRMAN PALLADINO: Has been a what?

9 MR. DeYOUNG: The Cooper plant has been a top
10 performer. The station manager is excellent. In our
11 last two SALP reports Cooper was rated in the top
12 category. We understand INPO also views it highly on a
13 relative basis. It is one of about a dozen plants that
14 have never been assessed a civil penalty or any other
15 elevated enforcement action.

16 COMMISSIONER ROBERTS: Never been assessed a
17 civil penalty?

18 MR. DeYOUNG: Never. There are about 12
19 plants or so that have never been assessed a civil
20 penalty or other enforcement action, elevated
21 enforcement.

22 The violation that will be discussed today is,
23 in our opinion, a very serious violation. It involves a
24 licensee organization providing false information to us.
25 Whatever the reasons, and we will be talking about the

1 reasons today, this is totally unacceptable and we must
2 make this clear to everyone, this licensee and all other
3 licensees.

4 Our region people will describe the facts of
5 the violation and then Jim Lieberman will describe how
6 we came to our enforcement position.

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11 is essential. It is important part of the enforcement
12 action, not only to civil penalty, but that meeting we
13 propose to take.

14 We also feel that a civil penalty of an amount
15 significant enough to assure it will have the impact we
16 want is truly needed. We are not fixed on \$400,000
17 specified in the proposed position. A smaller value
18 could still have the desired impact. We welcome all the
19 guidance we can get from the Commission and from other
20 people and we have been receiving a lot of it.

21 One more point before we hear the facts of the
22 case. The proposed civil penalty will not complete the
23 enforcement action. We will meet with the chairman of
24 the board, the corporate managers involved in the event
25 and the technician who gave false information to his

1 management, not to us but to his management. Following
2 this meeting we will determine what further enforcement
3 action is needed. This will include consideration of
4 action action against individuals.

5 Through experience we have come to a policy
6 that before we act on any individual we will try to get
7 as much information as possible on the circumstances
8 involved. And, in addition, I personally will meet with
9 the individual and discuss the matter with him before
10 acting.

11 I know we would have acted differently in past
12 cases if we had followed this policy in the past. We
13 don't want to make the same mistake in the future. As
14 part of the enforcement package the civil penalty is to
15 get their attention but then we will talk to all the
16 individuals before we make a final determination on
17 action against individuals or further enforcement action
18 against the company.

19 I think with that we ought to get into the
20 facts of the case and the details from John Collins and
21 his people.

22 COMMISSIONER ROBERTS: May I ask a question.
23 You said the staff is not fixed on the \$400,000.

24 MR. DeYOUNG: Not at all.

25 COMMISSIONER ROBERTS: All right. Are you

1 fixed on the severity level?

2 MR. DeYOUNG: Yes. Yes, we are. We can talk
3 about it when it comes to that point.

4 John.

5 MR. COLLINS: Thank you, Mr. Chairman.

6 Before I get into the details, I would like
7 the opportunity to introduce to you the other members of
8 our staff that have accompanied us here today.

9 Mr. James Gagliardo. He is the Director of
10 our Division of Resident Reactor Projects and
11 Engineering Programs. Of course, in that position he
12 has responsibility for the Cooper Nuclear Station.

13 Mr. Eric Johnson is our Director of
14 Enforcement and Investigation in the Region IV staff.

15 COMMISSIONER AHEARNE: May I ask you just a
16 question on that. I notice he is also listed as the
17 Reactor Inspector.

18 MR. COLLINS: Mr. Eric Johnson. I will
19 explain that in a minute, Commissioner Ahearne.

20 MR. COLLINS: Mr. Chuck Hackney. Charles
21 Hackney is our Emergency Preparedness Coordinator.

22 Mr. Richard Matekis is the investigator from
23 Region I who at my direction conducted the investigation
24 into the material false statement.

25 I might point out that Mr. Matekis was

1 assisted by Mr. Hackney during the conduct of the
2 investigation.

3 Also, at the time of the March 10th exercise
4 Mr. Johnson was the region based reactor inspector who
5 was on the site at the time of the exercise and who at
6 my direction conducted the special inspection that
7 verified indeed that the early warning system had not
8 been installed. Since that time he was appointed to the
9 position of Director of Investigation and Enforcement.

10 COMMISSIONER AHEARNE: So that he signed the
11 investigation report as the Director of Investigation
12 and Enforcement and he signed the inspection report as
13 the inspector.

14 MR. COLLINS: That is correct because he
15 conducted the actual inspection.

16 I think to try to put the problem in a little
17 better perspective, I have asked Charles Hackney to at
18 least give you some background. On a viewgraph we have
19 a picture of Cooper Nuclear Station and the EPZ. That
20 will at least give you a feel for the population within
21 the 10-mile EPZ that we will be referring to in our
22 discussion.

23 Can we have the first viewgraph.

24 (Slide presentation.)

25 MR. HACKNEY: If you will notice in the center

1 of the circle is the position for the Cooper Nuclear
2 Station. Cooper is located approximately three miles
3 southeast of Brownville, Nebraska. It is located right
4 by the Missouri River.

5 If you will look in the left-hand sector up in
6 the north end up there you will very vaguely see I guess
7 the positions, and I may go up there and point them ---

8 (Mr. Johnson assists Mr. Hackney in pointing
9 to the areas of reference.)

10 MR. HACKNEY: That is Peru, Nebraska, which is
11 where one of the fixed sirens is located. That is
12 Brownville, Nebraska, then Nemaha, Nebraska and then we
13 get on down to Schuyler. Over on the Missouri side we
14 have Mine La Motte, Langdon, Felp City, Watson and
15 Rockport.

16 The licensee located the sirens in the areas
17 of where they had approximately 25 people or more. That
18 was the criteria they used for locating the fixed
19 sirens. In the processing of finishing out their
20 notification system they augmented that with, at that
21 they they proposed to have 32 mobile sirens to fill in
22 the five and the ten-mile EPZ.

23 MR. COLLINS: As you know, the early warning
24 system or public notification system, as many refer to
25 them, was originally installed by July 1 of 1981. Then

1 the Commission deferred the implementation date until
2 February the 1st of 1982.

3 In mid-January all the Regional Administrators
4 had received a memorandum from Mr. DeYoung requesting
5 that we find out the status of all of the plants in our
6 region so that he could present to the Commission a
7 status report of as February 1.

8 Mr. Hackney made contact with the licensing
9 people at Cooper Nuclear Station in mid-January and was
10 assured that the system as they had proposed was indeed
11 installed and was operable.

12 COMMISSIONER ASSELSTINE: Do we have a date
13 for when that phone call took place?

14 MR. COLLINS: Chuck, can you remember the
15 exact date of that call?

16 MR. HACKNEY: No, sir, I cannot recall the
17 exact date of that phone call.

18 MR. COLLINS: It was about mid-January.

19 COMMISSIONER AHEARNE: Was it later confirmed
20 in writing?

21 MR. COLLINS: Yes, it was. They were asked
22 during that telephone conversation to confirm that in
23 writing. On February the 8th the licensee sent a letter
24 to me indicating that the system had been installed and
25 was operational.

1 CHAIRMAN PALLADINO: Was that under oath, that
2 letter?

3 MR. COLLINS: No, it was signed by their
4 licensee manager. It was not under oath.

5 CHAIRMAN PALLADINO: Okay. Thank you.

6 MR. COLLINS: Cooper had an emergency exercise
7 scheduled for March 10th. On March the 9th my
8 inspectors and the auxiliary team had their entrance
9 interview with plant management people. During that
10 entrance interview there was some concern expressed on
11 the part of Mr. Hackney that perhaps portions of the
12 early warning system had not been installed.

13 He together with a representative from the
14 company visited one station and indeed one of the sirens
15 had not been installed.

16 On the evening of the exercise, which occurred
17 on March the 10th, I arrived at Auburn to participate in
18 the development of the exit interview that we would
19 conduct with Cooper Nuclear. I have made it a practice
20 to participate in a number of our exits, depending on
21 the findings during the exercise. If we feel that we
22 have numerous problems with them, then I would myself
23 participate, and on this particular case we did have
24 some problems.

25 That evening inspectors shared with me

1 their concern that perhaps the system was not installed,
2 or all of the system had not been installed. Based on
3 their concern, I established a special inspection headed
4 by Mr. Johnson and one of our health physics
5 specialists. That following morning on the 11th they
6 went out and they did a special inspection to verify the
7 implementation of the sirens.

8 They came back and briefed me at one o'clock
9 just prior to our exit and informed me that a number of
10 the sirens had not even been taken out of the boxes, had
11 not been installed and were not operable.

12 Following our exit on the emergency exercise,
13 I confronted the utility with our findings and told them
14 of course that they were in noncompliance and I informed
15 them that before I left that plant site that night that
16 I wanted them to put in place administrative procedures.

17 Their attitude was anything but cooperative.
18 In fact, they even felt that perhaps I wasn't being very
19 serious about it. So I informed them again that I was
20 not leaving the plant site until they had administrative
21 means to notify the public in the zero to five-mile EPZ.

22 I told them that if they did not have that in
23 place that I was making a call to Mr. DeYoung and
24 recommending to him that the plant would be shut down
25 immediately.

1 They still did not take me very seriously and
2 they began some discussions and arguments among
3 themselves. At that time I removed the rest of my staff
4 and we caucused and let them get their act together and
5 finally went back in again and reminded them that I was
6 not leaving the site until those procedures were put in
7 place. That time I think they finally got a message
8 that it was either that or the plant was coming down.
9 My inspectors stayed on site that night and reviewed
10 their administrative procedures.

11 During the course of our meeting with the
12 utility on the 11th I had discussed this with Mr.
13 DeYoung and also Mr. Grimes. Upon returning to Region
14 IV I initiated a special investigation into the material
15 faslse statement.

16 Pardon me, I am getting a little ahead. I
17 also wanted commitments as to how they were going to
18 upgrade their system to be in conformance and we worked
19 out those commitments and I issued to them a
20 confirmatory action letter on March the 12th which said
21 this is what you commit to and this is the schedule for
22 implementation.

23 CHAIRMAN PALLADINO: All that went on on March
24 12th?

25 MR. COLLINS: That all went on between March

1 11th and March 12. March 12th is when we formally
2 issued the confirmatory action letter to them.

3 COMMISSIONER ROBERTS: When you were having
4 difficulties on the 11th in convincing them that you
5 were serious about this, at what level were you dealing?

6 MR. COLLINS: I was talking to the Assistant
7 General Manager for NPPD. The only person in the
8 corporate structure at all was the plant manager. He
9 knew that I was being very serious. In fact, he jumped
10 up at the meeting. He wanted to leave the meeting and
11 begin immediately to put the procedures in place because
12 he knew I wasn't fooling around.

13 COMMISSIONER AHEARNE: Was the reluctance on
14 their part to take you seriously, do you think that
15 reluctance was driving by their belief that the
16 violation wasn't serious or that the requirement isn't
17 very important?

18 MR. COLLINS: Commissioner, I think it is a
19 little of both. I am not going to answer that all of
20 the utilities out there really felt that the Commission
21 was all that serious about the implementation of
22 emergency preparedness.

23 MR. DIRCKS: I think that cuts across the
24 board on many utilities. They do not believe the
25 Commission is serious.

1 COMMISSIONER AHEARNE: That is what I thought.

2 MR. COLLINS: Yes, I don't think they really
3 took us seriously and I don't think they really thought
4 I would shut the plant down based on the fact that they
5 did not have a public notification system in place. I
6 don't think they really thought I would do that. Yet, I
7 made that phone call to Mr. DeYoung and I informed them
8 of that phone call. I think at that point in time they
9 then began to take me seriously.

10 CHAIRMAN PALLADINO: Were other plants that
11 had not met the requirement of the sirens or early
12 warning system, had they also been required to have some
13 interim measure?

14 MR. COLLINS: Well, I think Mr. Grimes can
15 best answer that.

16 MR. GRIMES: There are about six other
17 facilities which had not completed these measures and
18 they all had some existing way of notifying the public
19 which was in place and normally went to the sheriff's
20 department who would go out and knock on doors, the
21 so-called Paul Revere method.

22 (Laughter.)

23 COMMISSIONER AHEARNE: It is appropriate for
24 New England.

25 (Laughter.)

1 MR. GRIMES: But there were not special
2 additional measures beyond the existing ---

3 CHAIRMAN PALLADINO: Well, what I was getting
4 at is were we asking something different of this utility
5 than we had asked of other utilities regarding interim
6 measures?

7 MR. COLLINS: I believe, Brian, I think they
8 could not meet the February 1 deadline they had to
9 communicate with us and inform us of their status and
10 when it would be completed.

11 MR. GRIMES: That is correct.

12 CHAIRMAN PALLADINO: But did they have to have
13 some interim alternative measures?

14 MR. COLLINS: Well, the regulation says
15 physical or administrative measures. So if you don't
16 have the physical means in place, then my interpretation
17 then is that they have to have administrative means in
18 place to notify the public.

19 MR. GRIMES: We did not perceive at that time
20 that there was a general problem in utilities having a
21 means to carry out notifications within the plume
22 exposure emergency planning zone. It has been my
23 experience that all of the utilities I was familiar with
24 had a systematic means, although not a very prompt means
25 and it would take a couple of hours to do that.

1 CHAIRMAN PALLADINO: So I gather as far as the
2 interim requirements, that is not something new for the
3 utilities.

4 MR. GRIMES: They were all generally expected
5 to have some means of doing that.

6 COMMISSIONER AHEARNE: But Cooper was not one
7 of those that had told us that they were deficient.

8 MR. GRIMES: That is correct.

9 MR. COLLINS: That is correct. They informed
10 us that they were in fact. Then beginning on March
11 15th ---

12 COMMISSIONER ASSELSTINE: Before you get to
13 that, let me ask you just one other question, if I could.

14 MR. COLLINS: Sure.

15 COMMISSIONER ASSELSTINE: March 11th is the
16 first day that NRC had information to indicate that the
17 emergency warning system was not in installed and
18 operational; is that right?

19 MR. COLLINS: That is correct.

20 COMMISSIONER ASSELSTINE: And at least on
21 three prior occasions to March 11th, the phone call in
22 January, the February 8th letter and the discussions on
23 March 9th the utility had represented that in fact the
24 system was installed and operational?

25 MR. COLLINS: That is correct. The

1 investigation then covered the period of March 15 to
2 March 30. Later on I would like Mr. Matekis, the
3 investigator, to at least summarize for you the
4 investigation that was conducted. I think that is
5 pertinent to the civil penalty.

6 On March the 22nd I again dispatched Mr.
7 Johnson and Mr. Wilborn to go up and verify the
8 implementation of the commitments that were made in the
9 confirmatory action letter and that is of course
10 documented in the inspection report that accompanies the
11 civil penalty.

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On April the 12th, or following that conversation, I then invited Mr. Woodie Hills, who is the General Manager for the Nuclear Power Public District, and two of the board members from NPPD down to the Arlington office for an enforcement meeting to express to them our sincere concern about our findings concerning the system and to explain to them that it was incumbent upon them to take whatever appropriate actions they felt were necessary to make sure that this would not occur in the future, and that not only was I concerned about this particular event, but if it could occur on this event why could it not occur on other events that may have equal safety significance or greater safety significance.

At that time I was also invited by Mr. Hills and the two board members to go to Columbus to meet with the entire board people. I had meeting set up with them for May the 13th which had to be cancelled. It has now been rescheduled for June the 17th and I intend to meet with the entire board of NPPD and express our concerns again to them.

I think one has to recognize a public power

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15 MR. COLLINS: I am sure that is true,
16 Commissioner. I expressed of course to Mr. Hills my
17 particular personal concern about the attitude that was
18 displayed at the exit, particularly on the part of his
19 Assistant General Manager. I felt that that was an
20 issue that should be addressed to himself and to the
21 board people.

22 On April 20th we received a final response
23 from the confirmatory action. We had one item that we
24 had permitted them to extend past the March 20th
25 deadline until April 20th, and that was to make a

1 reassessment of the mobile system itself and make a
2 determination that they indeed meet the 32 units. They
3 felt they did not need 32 units. They felt that it
4 should be some other number. We allowed them that time
5 to make that evaluation.

6 They submitted to me a letter on April 20th
7 with their final response. On April 29th I sent a
8 letter back to them telling them that their response was
9 totally unacceptable and asked them to make a full-scale
10 notification drill of the mobile system.

11 Then on May 24th, we received this past
12 Monday, a response to my April 29th letter in which they
13 now have modified their entire mobile system. They are
14 upgrading their public notification system with a tone
15 alert system and with one additional fixed siren. They
16 have committed to have that installed by July 1, or
17 prior to their coming back on the line after a
18 refueling. This past Friday they went down for a
19 refueling outage and their schedule would call them to
20 come back on line on July 1st, and consequently the July
21 1 date.

22 COMMISSIONER ASSELSTINE: Are you saying in
23 essence then that they still don't have installed and
24 operational an emergency warning system now?

25 MR. COLLINS: They have a system installed.

1 The results of their tests were unacceptable to us and
2 we asked them to go back and run a more sophisticated
3 drill than what was presented to us in that letter of
4 April 20th.

5 COMMISSIONER ROBERTS: That May 24th letter,
6 what they outlined in that, is that satisfactory if they
7 do what they say in that letter, or you haven't had time
8 to evaluate it?

9 MR. COLLINS: I don't think the staff has had
10 fully time to evaluate it, but we have other plants that
11 have put in tone alert systems. I think it were to
12 operate and function similar to other plants then I
13 think it would be found acceptable.

14 You have to recognize the acceptability of any
15 public notification system is not the responsibility of
16 the NRC. That is the responsibility of FEMA. Our
17 responsibility is to ensure that they have a system
18 installed.

19 CHAIRMAN PALLADINO: John, you or somebody
20 keyed on the March 12th date as a date where apparently
21 they were in compliance. I was wondering why you picked
22 that date. It seemed to me it was a later date that
23 they were ---

24 MR. COLLINS: We selected the March 12th date,
25 Mr. Chairman, because on the evening of March the 11th

1 is when I required of them to put in place, to
2 supplement the fixed stations, an administrative
3 procedure that would notify the public and confirming
4 that.

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8 COMMISSIONER AHEARNE: I think the letter
9 ought to make that clear.

10 COMMISSIONER GILINSKY: Well, I don't think
11 you can say there is no hazard when a plant shuts down.
12 It is a smaller hazard.

13 MR. COLLINS: That is true, the hazard is
14 smaller.

15 Let me show you on the next slide the
16 corporate structure and how this tied into the events
17 that were described in the investigation report. I will
18 ask Mr. Johnson to describe their organization.

19 MR. JOHNSON: Eric Johnson. The NPPD board of
20 directors, as was pointed out, is a publicly elected
21 body. Reporting to them the chief operating office for
22 the district is the general manager. I am showing
23 primarily the nuclear side. There would be assistant
24 general managers for finance and what-not reporting to
25 him. The two principal assistant general managers on

1 the right-side ---

2 COMMISSIONER GILINSKY: What is the capacity
3 of the district?

4 MR. JOHNSON: The total capacity?

5 COMMISSIONER GILINSKY: Yes.

6 MR. JOHNSON: They have Cooper at 780
7 megawatts. They have two coal-fired plants at 600
8 megawatts each and then about 150 megawatts in three or
9 four other small and fairly old oil-burning plants.

10 They started as a transmission company and
11 Cooper was for the longest time their sole major source
12 of generating power.

13 COMMISSIONER GILINSKY: I asked because that
14 is a lot of structure manager and the station
15 superintendent.

16 MR. JOHNSON: Interestingly enough is that you
17 noticed that because on the left side there has been a

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2 On that left side then reporting to that
3 senior division manager of power operations is the
4 division manager of power supply, the corporate level
5 person in charge of stations operations. Then we go
6 down to the station.

7 Also reporting to the senior division manager
8 of power operations you have quality assurance and
9 licensing with a division manager there. Then of course
10 manager of quality assurance and manager of licensing.

11 On the engineering side the division manager
12 of power projects also has fossil engineering under
13 him. The engineering manager, that is a little
14 misleading. It is nuclear engineering manager, and
15 reporting to him is the team of engineers that are
16 involved with nuclear activities.

17 The individuals D-1 through D-6 are indicated
18 on there and that refers to the statements that were
19 taken during the investigation.

20 MR. COLLINS: I think it is also interesting
21 to note, Commissioner, that, first of all, the corporate
22 organization is located about 150 miles from the plant
23 itself, too, in Columbus. Also, even though it may be a
24 detailed structure, there aren't many people involved in
25 that total structure.

1 Describe the engineering group itself because
2 that is the group that played a part in this and your
3 licensing group.

4 MR. JOHNSON: I was going to present them a
5 little bit later but it is very convenient to do that
6 now. In the engineering side ---

7 CHAIRMAN PALLADINO: Is that on the right?

8 MR. COLLINS: Yes.

9 MR. JOHNSON: Yes, sir, on the right. The
10 engineering manager had at the time of the event six
11 engineers and three engineering technicians working for
12 him of which D-6 was one of those engineering
13 technicians.

14 COMMISSIONER GILINSKY: Who signed the
15 February 8th letter?

16 COMMISSIONER ROBERTS: That confuses me. D-2.

17 MR. JOHNSON: D-2 is the corporate contact for
18 NRC matters. So all letters to the Commission would
19 normally be signed by D-2.

20 COMMISSIONER AHEARNE: Where is this line of
21 people located 150 miles away? Who is actually at the
22 site?

23 MR. JOHNSON: At the site just the station
24 superintendent and his staff and then there would be
25 three people reporting to the manager of quality

1 assurance also located at the site. Otherwise, this
2 entire staff is at the corporate office.

3 COMMISSIONER AHEARNE: The manager of
4 licensing, D-4, is he at the corporate site?

5 MR. JOHNSON: D-4 is at the corporate general
6 office in Columbus.

7 COMMISSIONER AHEARNE: How about D-5?

8 MR. JOHNSON: D-5 is also in Columbus. This
9 entire organization that you see, with the exception
10 of ---

11 COMMISSIONER AHEARNE: How about D-3?

12 MR. JOHNSON: He is at the corporate office.

13 CHAIRMAN PALLADINO: In Columbus?

14 MR. JOHNSON: Yes.

15 COMMISSIONER AHEARNE: You mean the nuclear
16 engineering manager with six engineers, he is ---

17 MR. JOHNSON: He is in Columbus. Now there
18 are about a dozen ---

19 COMMISSIONER AHEARNE: How about D-6?

20 MR. JOHNSON: D-6 is in Columbus. It is
21 actually 165 miles from the site. When you end up
22 taking the back roads it is 150 as the crow flies.

23 CHAIRMAN PALLADINO: D-6 is part of the D-3
24 organization.

25 MR. JOHNSON: Yes. The manager of quality

1 assurance, besides himself, he has two quality assurance
2 engineers and one quality assurance technician.

3 COMMISSIONER ASSELSTINE: Are any of those at
4 the site?

5 MR. JOHNSON: Then in addition there are three
6 at the site, but the three people that he has working
7 for him in Columbus would also handle fossile quality
8 assurance matters.

9 The manager of licensing, there is himself and
10 the licensing engineer ---

11 CHAIRMAN PALLADINO: Is everybody on the right
12 in Columbus?

13 MR. JOHNSON: Yes, sir.

14 CHAIRMAN PALLADINO: Everybody?

15 MR. JOHNSON: Every one on the entire chart is
16 at Columbus with the exception of the station
17 superintendent on the far left.

18 CHAIRMAN PALLADINO: Everybody on this chart,
19 including the manager of quality assurance, is at
20 Columbus?

21 MR. JOHNSON: Yes, sir, which is not unusual
22 for any of the utility organizations. They would
23 generally have this identical structure with maybe
24 different numbers and they would call them different
25 titles.

1 COMMISSIONER ASSELSTINE: But he at least has
2 three people at the site?

3 MR. JOHNSON: He has three people working at
4 the site. I will say a little bit more about the
5 resources in the engineering department when we get into
6 that area of the discussion.

7 Are there any more questions on this?

8 CHAIRMAN PALLADINO: You say everybody on this
9 page except the station superintendent is at corporate
10 headquarters, but the manager of quality assurance has
11 three people at the site.

12 MR. JOHNSON: Yes, sir.

13 CHAIRMAN PALLADINO: Does anybody else have
14 other people at the site?

15 MR. JOHNSON: No, sir.

16 COMMISSIONER GILINSKY: What is the station
17 staff?

18 MR. JOHNSON: The station staff is 135
19 people. There are approximatey 12 engineers that report
20 to the station superintendent. They have liaison with
21 the engineering people at Columbus but they work for the
22 station superintendent. That 135 does not include
23 security guards. Also, that is an interesting number

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MR. COLLINS: I think now we can go to the next slide.

COMMISSIONER AHEARNE: Just as a side comment, until this event I gather from Dick's statement that Cooper was viewed as a very well run plant.

MR. DeYOUNG: The plant superintendent is very good, excellent.

COMMISSIONER AHEARNE: So the fact that it is a very small staff shouldn't be viewed as an inadequate staff.

MR. DeYOUNG: That is right.

MR. JOHNSON: Yes, sir, that is true.

MR. DeYOUNG: The supervision at the plant is very good.

MR. JOHNSON: We have over the years had discussions with them expressing our concerns that with such a small staff they have very little depth, and in some of the key positions like engineering and operations, you know, we didn't perceive a back-up man in case the incumbent supervisor left and we still

1 perceive that.

2 MR. COLLINS: We expressed that concern again
3 to Woodie Hills, the General Manager, during our
4 enforcement meeting in Arlington, about the depth of
5 their organization to back up that plant superintendent.

6 Eric, do you want to discuss a little of the
7 background of the weaknesses that occurred?

8 MR. JOHNSON: Yes, sir. I was wondering if it
9 might be appropriate to lead off with the investigator's
10 report.

11 MR. COLLINS: All right, why don't we do that.

12 MR. JOHNSON: Then we will slip back into the
13 other. So I would like to introduce Rich Matekis.

14 MR. COLLINS: I borrowed Mr. Matekis. He is
15 from Region 1. Because our investigators were tied up
16 on other matters and Mr. Matekis helped us out on this
17 one.

18 COMMISSIONER GILINSKY: Could I ask you, did
19 you distribute the February 8th letter? I don't find it
20 in my package.

21 MR. COLLINS: The February 8th letter?

22 COMMISSIONER GILINSKY: Yes.

23 MR. COLLINS: It should have been in your
24 package.

25 MR. JOHNSON: Jim Henderson, put the corporate

1 structure slide back on.

2 MR. MATEKIS: I would to identify the people
3 that I talked to during this investigation. They were
4 all at the corporate level and identified as individuals
5 D-1 through D-6.

6 First of all, individual D-1 is Mr. Cecil
7 Jones who is the Assistant General Manager and was the
8 senior member of the committee that developed the Cooper
9 Nuclear Station early warning system.

10 Individual D-2 is Mr. Jay Pilant. He is the
11 NPDD Division Manager of Licensing and Quality Assurance
12 and he is also responsible for all correspondence
13 between the NRC and NPDD.

14 Individual D-3 is Mr. Richard Boyle who is the
15 Engineering Manager and he was also the Project Manager
16 of the Cooper Nuclear Station early warning system.

17 Mr. Jeff Weaver is a Licensing Manager.

18 Mr. Kim Walden is a Licensing Engineer.

19 Mr. Merl Haddock, that is individual D-6, is
20 an engineering technician and is also the lead engineer
21 for the implementation of the project.

22 First of all a little background. We are
23 talking about the February 8th letter which essentially
24 said that the Cooper Nuclear Station early warning
25 system has been installed and is operational.

1 COMMISSIONER GILINSKY: It said exactly that.
2 It wasn't essentially.

3 MR. MATEKIS: Yes, sir. I didn't have it in
4 front of me so I said essentially.

5 That letter was signed by Mr. Pilant who, as I
6 have already said, is responsible for all correspondence
7 between the NRC and NPPD. The letter was drafted by Mr.
8 Kim Walden. Previously we referred to a telephone
9 conversation between Mr. Hackney and NPPD wherein Mr.
10 Hackney was told that the Cooper Nuclear Station early
11 warning system had been installed and is operational.

12 At the other end of that conversation were two
13 individuals from NPPD on a speaker phone and they were
14 Mr. Weaver, the Licensing Manager, and Mr. Walden, the
15 person who drafted the February 8th letter.

16 COMMISSIONER ASSELSTINE: So D-4 and D-5.

17 MR. MATEKIS: D-5 is Mr. Walden and D-4 is Mr.
18 Weaver.

19 I have a sworn statement to that effect. Mr.
20 Walden acknowledges that the conversation did take place
21 and that Mr. Hackney was told that the early warning
22 system was installed and was operational and that the
23 volunteer firemen knew what their duties were and knew
24 what they were supposed to do.

25 COMMISSIONER GILINSKY: Did he explain what he

1 said that?

2 MR. MATEKIS: Well, I will get into that just
3 a little bit more. We are talking about three
4 statements. The main two that I investigated were the
5 March 9th briefing and the February 8th letter. That
6 sort of came out. We did address it and I addressed it
7 more with -- well, I think we ought to talk a little bit
8 about the management controls and I think that will
9 become evident.

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15 First of all, Mr. Walden, after he had the
16 conversation with Mr. Hackney, he approached Mr.
17 Haddock and asked him if the system was installed and
18 operational and if the volunteer firemen knew what they
19 were supposed to do. Mr. Haddock told him that it was
20 installed and operational and they did know, you know,
21 what they were supposed to do. This was after he had,
22 you know, tried to contact some of the volunteer
23 firemen, and I will talk a little bit about that also.

24 So this confirmed in Mr. Walden's mind that
25 what he was drafting in that letter when he said it was

1 installed and operational, that as far as he was
2 concerned he was making a true statement based on
3 information he got from Mr. Haddock.

4 COMMISSIONER AHEARNE: That was a little date,
5 wasn't it? They had already told the NRC that it was.

6 MR. MATEKIS: That is right, sir.

7 COMMISSIONER GILINSKY: They had already told
8 the NRC what?

9 COMMISSIONER AHEARNE: They had already told
10 us. When the region called them, they had already said
11 it was. They didn't say we have to go check, did they?

12 COMMISSIONER GILINSKY: Said what.

13 COMMISSIONER ASSELSTINE: They said it was
14 installed and operational.

15 COMMISSIONER GILINSKY: Which communication
16 are you talking about?

17 MR. COLLINS: January.

18 CHAIRMAN PALLADINO: But there was a follow-up.

19 COMMISSIONER AHEARNE: This says the letter
20 was only to confirm what was in the telephone call, what
21 they had already said.

22 MR. MATEKIS: But, first of all, we are
23 talking about a telephone conversation. When you talk
24 about telephone conversations several months later there
25 could have been other things that were said. But the

1 effect of that telephone call was that they were saying
2 that it was installed and operational. They might have
3 had some qualifications or something else, I don't know,
4 but it was just a telephone call that wasn't documented.

5 COMMISSIONER ASSELSTINE: But none of your
6 interviews disclosed any indication of that.

7 COMMISSIONER AHEARNE: There were three
8 interviews. You talked to three people, right, two at
9 one end and one at the other. Did any of them say that
10 while what was really said is we don't know and we have
11 to check?

12 MR. MATEKIS: No, they didn't.

13 COMMISSIONER AHEARNE: Right.

14 CHAIRMAN PALLADINO: But don't we have a
15 February 8th letter that says as requested by your
16 staff, this letter is to confirm that the early warning
17 system for Cooper Nuclear Station as described in
18 reference one has been installed and is operational?

19 MR. MATEKIS: That is correct.

20 CHAIRMAN PALLADINO: So they had already said
21 back in February that everything was hunky-dory.

22 MR. MATEKIS: Right, and we have it in black
23 and white in the February 8th letter.

24 COMMISSIONER AHEARNE: The point I am trying
25 to make is that those two guys told the NRC, according

1 to your interviews, unless you have reason to doubt your
2 interviews, but according to your interviews those two
3 guys told the NRC at that time that it was installed.
4 Now later whether they then in putting together that
5 letter when and checked with someone, that is
6 interesting but it doesn't affect the fact that in
7 January, those two people responded that it was done.

8 MR. MATEKIS: I agree. All I am saying is,
9 you know, maybe giving them the benefit of the doubt in
10 January, but, you know, there is no doubt when they
11 wrote it in the letter.

12 COMMISSIONER ASSELSTINE: But unfortunately we
13 don't know the date, the exact date of when that phone
14 call took place.

15 MR. MATEKIS: That is right.

16 CHAIRMAN PALLADINO: But you do have the
17 confirmation of February 8th.

18 MR. MATEKIS: Yes, sir.

19 COMMISSIONER GILINSKY: Let's see, is a phone
20 call of this sort not kept track of? Is there no log?

21 COMMISSIONER AHEARNE: Did you keep notes of
22 that phone call?

23 MR. HACKNEY: No, sir, I did not.

24 COMMISSIONER AHEARNE: This was in response
25 to, I gather, Dick, you had asked all the Regional

1 Administrators ---

2 MR. DeYOUNG: This was in response to the
3 Commission's request to inform them of who were in
4 compliance.

5 COMMISSIONER AHEARNE: Right, and you went to
6 the Regional Administrators and asked.

7 MR. DeYOUNG: Yes.

8 COMMISSIONER AHEARNE: So you made these phone
9 calls but you diin't take notes of the phone calls?

10 MR. HACKNEY: No, sir.

11 COMMISSIONER GILINSKY: This is out of the
12 regional office?

13 MR. HACKNEY: Yes.

14 MR. DIRCKS: But I think he asked for the
15 confirming letter.

16 CHAIRMAN PALLADINO: You got it.

17 MR. HACKNEY: That is correct.

18 CHAIRMAN PALLADINO: But unfortunately the
19 copy I have doesn't show anybody having signed it. Did
20 I miss it?

21 (Laughter.)

22 COMMISSIONER AHEARNE: It has been deleted.
23 This was to protect ---

24 CHAIRMAN PALLADINO: I was just asking. I
25 hope your copy is signed.

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22 COMMISSIONER AHEARNE: Fine, and if the letter
23 didn't come in, or if the letter came in and said
24 something different?

25 MR. DIRCKS: Well, then we have another story

1 on our hands.

2 CHAIRMAN PALLADINO: Okay, do you want to go
3 on.

4 MR. MATEKIS: So basically we have Mr.
5 Haddock providing information to Mr. Walden who drafted
6 the letter that was signed by Mr. Pilant and that is the
7 February 8th letter.

8 COMMISSIONER AHEARNE: I am sorry, I have to
9 go back to that. That is not what this says. What this
10 says is that those two guys told the NRC something. One
11 of them volunteered to draft the letter. He drafted the
12 letter and he asked Haddock, now what I told them,
13 isn't that right?

14 MR. COLLINS: That is correct.

15 COMMISSIONER AHEARNE: That is different than
16 asking him what information should I put in this letter.

17 MR. COLLINS: Yes.

18 MR. MATEKIS: One more time, sir.

19 COMMISSIONER AHEARNE: At least what I get out
20 of reading these interviews is that D-4 and D-5 received
21 a phone call from the NRC and they were asked what is
22 the status of something. They told them the NRC what
23 the status was. They were then asked to provide it in
24 writing. So one of these guys said, all right, I will
25 draft the letter. I guess it was maybe D-5 for D-2 to

1 sign.

2 MR. MATEKIS: I believe D-5 was told to draft
3 the letter.

4 COMMISSIONER AHEARNE: I think one of your
5 interviews says he volunteered.

6 MR. MATEKIS: Then one other interview says he
7 was told to draft a letter.

8 COMMISSIONER AHEARNE: He is going to draft
9 the letter. What is the letter going to say. Is it
10 going to answer a question? No, it is going to confirm
11 what they already told the NRC. In fact, the letter
12 even says that.

13 MR. DeYOUNG: That is what the letter says.

14 COMMISSIONER AHEARNE: This guy then asks D-6
15 is what I have already said correct? That is different
16 than asking D-6 what should I say, and that is the point
17 I was trying to make.

18 MR. JOHNSON: I have got some information on
19 that. D-4 is a key player in this because throughout
20 the investigation and the discussions and all D-4
21 maintained that the only responsibility NPPD had towards
22 the mobile part of the siren system was to distribute
23 the units. He kept saying it is up to the state. Of
24 course, the state would be the actuating authority for
25 the system. In any of the emergency notification

1 systems it is up to the local officials to cause the
2 system to be activated.

3 So since the units had already been
4 distributed the previous July, D-4 telling Mr. Hackney,
5 yes, it is installed and it is operational, or it is
6 there and it is in place, I don't know exactly what the
7 words were ---

8 COMMISSIONER AHEARNE: But they had two guys
9 in on that conversation.

10 MR. JOHNSON: Yes.

11 MR. HACKNEY: If I may muddy the water a
12 little bit more, D-4 looked at NPPD's I guess
13 involvement in this early notification system, the nine
14 permanent sirens. Once those were installed in his
15 mind, and they were tested in August, but once those
16 were installed and tested, he considered it closed. The
17 other, as Eric said a minute ago, once those other
18 sirens were delivered, that was another problem but they
19 had no concern with that. That was not their part of
20 the early warning system. Although it made up the total
21 warning system, he only considered the nine stationary
22 sirens as his responsibility.

23 So in his mind when he is telling me, yes, we
24 have ours, and we had arguments about this over and over
25 or discussions ---

1 COMMISSIONER AHEARNE: When did you have those
2 arguments?

3 MR. HACKNEY: Prior to January.

4 COMMISSIONER AHEARNE: Prior to January. So
5 you knew prior to January that in his mind it was their
6 responsibility for those fixed sirens; is that correct?

7 MR. HACKNEY: Yes, in his mind, not in my mind.

8 CHAIRMAN PALLADINO: In whose mind was this?

9 COMMISSIONER AHEARNE: This is D-4, the
10 Manager of Licensing.

11 MR. HACKNEY: The Manager of Licensing, D-4.

12 COMMISSIONER AHEARNE: Did the region ever
13 formally in the way of a letter express to the company
14 that their interpretation was incorrect?

15 MR. HACKNEY: No, sir. I referenced them 10
16 CFR 50 and said read it.

17 MR. COLLINS: I don't think it was on the part
18 of the Licensing Manager. In his mind he knew that it
19 went to the total system. This is the individual who
20 worked for him.

21 COMMISSIONER AHEARNE: No, this is D-4.

22 MR. COLLINS: I mean D-2.

23 COMMISSIONER AHEARNE: But the Licensing
24 Manager ---

25 COMMISSIONER ROBERTS: But D-2 understood it

1 included the mobile units.

2 MR. COLLINS: Yes, but Charlie is saying this
3 individual who worked for him ---

4 COMMISSIONER AHEARNE: But he is saying that
5 he had these discussions with ---

6 MR. HACKNEY: With D-4.

7 MR. COLLINS: And Mr. Hackney kept telling him
8 that his interpretation was wrong.

9 COMMISSIONER GILINSKY: Well, let me ask you
10 this. When you had your conversation in January and
11 they told you the system is in place, did you say now
12 let's be sure we mean both parts of it?

13 MR. HACKNEY: Yes, is the whole siren system
14 installed and operational, yes. That is what I was
15 talking about at the time in January when we finally got
16 down to it. What led to this whole thing was our
17 discussion of how does it work. My problem was on how
18 did the firemen get notified, how do they respond and
19 have you done all of this. Every time I would talk to
20 them about the mobile sirens I never could get a clear
21 answer as to exactly how this entire system worked.

22 COMMISSIONER AHEARNE: Did you ever elevate it
23 then, as John has just said, that D-2 understood that it
24 included everything? Did you ever elevate this
25 disagreement that D-4 was not interpreting it the way

1 that the NRC was interpreting it? Did you ever elevate
2 this to D-2 to tell D-2 that your guy down there has
3 this different opinion and you ought to talk to him?

4 MR. HACKNEY: I had quite a few conversations
5 during that period of time with I guess all the
6 licensees and I can't say truthfully that I did talk to
7 D-2 specifically about it. In some cases I would call
8 like D-4 or try to get D-2 and D-4 would answer.
9 Usually when I called D-2, D-4 and D-5 were called in on
10 the conversation.

11 COMMISSIONER GILINSKY: Well, but in any case,
12 the letter references a letter to Harold which
13 references some other material which describes the whole
14 plan and they say that the system is in as described in
15 the reference ---

16 MR. HACKNEY: That is true.

17 COMMISSIONER GILINSKY: --- which describes
18 the whole system. So whatever happened in January, they
19 did claim in the letter that the entire system was in
20 explicitly.

21 MR. HACKNEY: As Mr. Collins indicated, there
22 were other people who I think disagreed with Mr.
23 Weaver's or D-4's concept.

24 MR. DeYOUNG: I might add a point that we
25 haven't spoken at all about D-3 and he was assigned the

1 project to get the system installed. I think that you
2 are beginning to sense that this corporate engineering
3 organization was very poorly coordinated on this
4 activity.

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19 MR. DeYOUNG: The individual that made the
20 material false statement to the NRC is D-2. He is the
21 one we want to talk to. In the phone call it was D-4
22 and D-5 who made the initial false statement.

23 COMMISSIONER GILINSKY: Well, the company lie
24 to us.

25 MR. DeYOUNG: The company lied to us.

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MR. DeYOUNG: Then we had a poorly put together package.

CHAIRMAN PALLADINO: Well, I got the same impression that Commissioner Ahearne did, that it was D-6. Now change my impression. What did D-2, D-3 and D-4 do?

MR. COLLINS: D-2 signed the letter that came to the Commission.

CHAIRMAN PALLADINO: D-2 being the ---

MR. COLLINS: Mr. Pilant. That is the man who signed that letter you have in front of you, Mr. Chairman.

CHAIRMAN PALLADINO: Okay, he signed it and you are saying he shouldn't have signed it and is guilty because he didn't check?

MR. COLLINS: He signed that and he is responsible for that piece of paper coming to the Commission.

CHAIRMAN PALLADINO: I agree with that.

MR. COLLINS: We depend on that information to make decisions in the Commission.

COMMISSIONER GILINSKY: Well, we are not

1 bringing charges against individuals. It is in terms of
2 the company and for the company to sort out various
3 responsibilities.

4 MR. COLLINS: That is right.

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COMMISSIONER AHEARNE: Well, I have got a series of connected statements out of your interviews that at least leads me to believe that ---

MR. DeYOUNG: That is why we are proposing a substantial civil penalty against the company.

CHAIRMAN PALLADINO: Could you highlight your connected ones.

MR. COLLINS: That is why we wanted to talk to you.

COMMISSIONER AHEARNE: Well, D-3 says "One or two days prior to February 8th I was informed that D-2 had responded to the NRC and I had a conversation with D-6 about it. He told me that he had made some checks and that the sirens would be installed." Would be installed. He knew then that they weren't installed.

CHAIRMAN PALLADINO: Who knew, D-6?

COMMISSIONER AHEARNE: This is D-3. They would be installed. He knew then that they weren't. Indicating that they would be installed very shortly. "I received a copy of the February 8th letter on a later date but did not talk to D-6 about it." The February 8th letter didn't say they would be installed.

MR. DeYOUNG: That they had been installed.

1 COMMISSIONER AHEARNE: That is right.

2 COMMISSIONER ASSELSTINE: As of the
3 conversation in January.

4 MR. DeYOUNG: Absolutely.

5 COMMISSIONER AHEARNE: This says though one or
6 two days prior to February 8th I talked to this guy and
7 he said they would be installed. I have got the
8 February 8th letter which says they are installed.

9 MR. MATEKIS: May I say something on that
10 issue. That is exactly what I was getting at when I
11 asked that question: Did he know and, if he did know,
12 did he have any input into the February 8th letter. I
13 addressed that with Mr. Haddock and I addressed it with
14 Mr. Boyle. Mr. Boyle was very honest and very
15 forthright with his answers. If they would have gone to
16 the project engineer and asked the project engineer, if
17 they would have had the management controls to do that,
18 they would have discovered that Mr. Boyle ---

19 COMMISSIONER AHEARNE: Well, wait a minute.
20 This guy, and this is Boyle now we are talking about ---

21 MR. MATEKIS: That is correct.

22 COMMISSIONER AHEARNE: --- it seems to me he
23 had reasonable cause to know the February 8th letter
24 wasn't accurate.

25 MR. MATEKIS: After the fact, yes, sir.

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10 MR. MATEKIS: That is right, and I went on ---

11 COMMISSIONER AHEARNE: All right. Therefore,
12 when he saw the February 8th letter saying they were
13 installed I argue he had reasonable cause to conclude
14 that letter was wrong. He didn't do anything about it.
15 He didn't check.

16 MR. MATEKIS: I think he had reasonable cause
17 to check and see if ---

18 COMMISSIONER AHEARNE: But he didn't.

19 MR. MATEKIS: That is right, yes, sir.

20 COMMISSIONER AHEARNE: The June 26th, 1981,
21 memo from D-3 to D-4 talking about the tone encoders
22 says "Tone encoders which control the activation of the
23 fixed sirens have been delayed. Due to a computer
24 misprint at the factory, only one encoder was shipped
25 with the sirens and six more are due by July 3rd." All

1 right. This is D-3 to D-4.

2 CHAIRMAN PALLADINO: Which year are you
3 talking about?

4 COMMISSIONER AHEARNE: This is '81. He is
5 saying six more are due by July 3rd. D-4 however says
6 "Based on the information in the memo, I closed out the
7 Cooper Nuclear Station early warning system as an action
8 item and drafted the June 30th letter."

9 Now the information in the memo said the
10 equipment wasn't even coming until July.

11 MR. MATEKIS: That is right. That is 1980,
12 the previous year, yes, sir.

13 COMMISSIONER AHEARNE: But he was signing out
14 saying as of June 30th.

15 MR. MATEKIS: That is Mr. Weaver.

16 COMMISSIONER AHEARNE: That is right. I am
17 just pointing all of these various pieces which lead me
18 to believe that at least these other people turned away
19 and didn't try to find out what the status was and I
20 to me that they are

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8 MR. BICKWIT: Well, but the senior people have
9 got responsibility. You can't get away from that.

10 MR. DeYOUNG: Absolutely.

11 CHAIRMAN PALLADINO: Incidentally, we are
12 focusing largely on statements regarding equipment.
13 Apparently in the interviews they also uncovered that
14 some of the people that were supposed to have been
15 trained were not trained. They claimed they weren't
16 even given any instruction.

17 COMMISSIONER AHEARNE: For example, D-5 says:
18 "Mr. Hackney asked us to make our response in writing
19 and I believe that same day I had a conversation with
20 individual D-6 and the information that individual D-6
21 provided to me confirmed what we had already told Mr.
22 Hackney to be true." So it is clear that D-5 talked to
23 D-6 after ---

24 MR. MATEKIS: Then if you read D-6, he said
25 that he confirmed that he had had the conversation and

1 that he had made some phone calls to check.

2 COMMISSIONER AHEARNE: Sure. Right. But the
3 point was that this confirms that as far as D-5, he
4 represented to the NRC a situation and then he went and
5 checked on it.

6 COMMISSIONER GILINSKY: Let's see, John, where
7 does this lead? I guess you would write the thing up
8 somewhat differently.

9 MR. DeYOUNG: Let me just say that we agree
10 completely with you, Commissioner Ahearne. That is why
11 we are having this big meeting. We expect to invite the
12 chairman of the board, all the individuals D-1 through
13 D-6 ---

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1 CHAIRMAN PALLADINO: Yes.
2 COMMISSIONER AHEARNE: That wasn't the
3 relevance that I saw in it.

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MR. DeYOUNG: Let me say a word that the plant has done well. Why has it done well? We believe because of the very effective plant manager. This is the first major activity with respect to the licensing of that plant. We understand the corporate group has taken hold of by itself and they have bungled it. It looks to me like they had no coordination and they just lost it.

COMMISSIONER AHEARNE: Well, it is also looks to me like they aren't serious. Sure, they may not have very many people on this thing, but what you have been describing is a situation where a lot of people talked to the NRC and wrote to the NRC and there is this one

1 guy down at that far end of the chain who has to do the
2 work.

3 MR. DeYOUNG: He is trying to do it without ---

4 COMMISSIONER AHEARNE: And the others don't
5 care whether they keep in touch with what he is doing.

6 MR. COLLINS: If we could move ahead on
7 something. I think you are hitting a point that has
8 been bothering me since the report.

9 I wonder if we could go to the next slide for
10 a minute because I think that is pertinent.

11 From the very onset when they were notified
12 about the regulation that they had to put in a system
13 the management never gave anybody clear directions as to
14 what it meant by implementation of a public notification
15 system. They just said here, and that went down to this
16 man, then went down to this man and then he turned
17 around to D-6 and said now you implement, but they never
18 told him what it was they wanted to implement.

19 COMMISSIONER AHEARNE: One of the low people
20 on their totem pole.

21 MR. COLLINS: Yes.

22 MR. DeYOUNG: The lowest.

23 MR. COLLINS: There was no documentation that
24 said this is what the program is going to consist of,
25 here are the procedures and this is the quality

1 assurance check to make sure that it is verified. There
2 was no system. That is what has bothered me from the
3 very beginning. Management was not involved.

4 The first time this D-6 ever saw the
5 regulation is when Rich Matekis handed it to him and
6 said did you ever read the regulations. No. How can
7 you expect somebody at that level to understand the
8 significance of something if somebody doesn't direct him
9 to do it? That is what is bothering me and has been
10 right along.

11 COMMISSIONER AHEARNE: I would agree with
12 that, but this package doesn't bring that message across.

13 COMMISSIONER ASSELSTINE: There is a paragraph
14 on page 2 of the letter in particular that points out
15 off in the other direction.

16 CHAIRMAN PALLADINO: Which is that?

17 COMMISSIONER ASSELSTINE: The enforcement
18 letter.

19 COMMISSIONER GILINSKY: Well, I mean if that
20 many people have gotten the wrong impression then there
21 is something wrong and it ought to be adjusted.

22 CHAIRMAN PALLADINO: It seems to me there are
23 three components to this thing. There is what I believe
24 is a material false statement and I want to ask you
25 about it. Secondly, management inattention which is

1 separate I believe because it has been going over
2 perhaps a longer period of time. Third, the
3 noncompliance with our regulation on early warning
4 devices.

5 MR. DeYOUNG: Yes, we say exactly the same.

6 MR. COLLINS: I think maybe we did not bring
7 it out as clearly as we should have on page 2 in the
8 second paragraph.

9 CHAIRMAN PALLADINO: Now this is your letter
10 to ---

11 MR. COLLINS: This is a letter to advise the
12 public power ---

13 MR. DeYOUNG: Which we decided to send instead
14 to the chairman of the board.

15 MR. COLLINS: The second paragraph on page 2
16 it says: "Acceptance of the systems important for
17 public health and safety and adequate verification
18 clearly demonstrates unacceptable performance by
19 licensee's management and cannot be tolerated." This
20 matter was discussed in the enforcement conference and
21 that is the meeting that I had with Mr. Hills in my
22 office.

23 CHAIRMAN PALLADINO: Where does it say Mr.
24 Hills?

25 MR. COLLINS: No, I said the April 12th

1 meeting they are referring to is the enforcement meeting
2 with Mr. Hills the General Manager in Arlington and I
3 made those comments to him.

4 MR. DeYOUNG: And on that same page it says
5 the daily penalty of \$10,000 is being proposed in view
6 of the wilful nature of the violation by management.

7 COMMISSIONER GILINSKY: Let's see, what do you
8 mean by willful nature?

9 MR. LIEBERMAN: The callous disregard of
10 requirements. The next sentence says: "Failure by your
11 management to take steps to verify the proper
12 notification system was actually operational and tested
13 evidences a callous disregard of regulatory
14 requirements." Wilfulness for purposes of civil
15 penalties and enforcement policy.

16 COMMISSIONER GILINSKY: I just wondered what
17 aspect of this you were referring to. Well, if we are
18 all in agreement on the impression that ought to come
19 across, then it is a matter of adjusting the words.

20 COMMISSIONER AHEARNE: Which was the
21 willfulness?

22 MR. LIEBERMAN: I think that the willful
23 aspect of this matter was the composite nature of all of
24 the various factors, not establishing a systematic
25 system to assure that this requirement would in fact be

1 implemented, assuring that the procedures were in place
2 and that people understood what they were doing.

3 MR. DeYOUNG: That training had occurred.
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15 CHAIRMAN PALLADINO: This is why I would like
16 to go back to those three components and I think you
17 ought to treat each component. I want to ask you
18 questions. Why has the staff not specifically cited the
19 licensee for any material false statement? I think that
20 is an issue. Then there is management inattention,
21 which is a shorthand for all the things you said.

22 MR. DeYOUNG: Right.

23 CHAIRMAN PALLADINO: Then there is the
24 noncompliance for 12, 20 or maybe 40 days. I don't know
25 the number.

1 MR. DeYOUNG: Whatever.

2 CHAIRMAN PALLADINO: Those ought to be spelled
3 out.

4 COMMISSIONER GILINSKY: I must say that is the
5 way I see it, too.

6 MR. DeYOUNG: I do, too.

7 COMMISSIONER GILINSKY: But what you did is
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10 COMMISSIONER ASSELSTINE: In actuality what
11 you are doing is you are posing the civil penalty for
12 not having the system in place and you are simply saying
13 you are increasing the amount of the civil penalty
14 because of the other factors that were involved.

15 COMMISSIONER GILINSKY: That troubles me a
16 little bit.

17 MR. DeYOUNG: The material false statement
18 decision will be made after this meeting that we plan to
19 have. We took some enforcement steps against people in
20 the past that we wished we had spoken to them first
21 personally.

22 COMMISSIONER GILINSKY: There is no question
23 about the material false statement so far as the company
24 goes. There may be some question as to exactly who said
25 what to whom.

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CHAIRMAN PALLADINO: I do think though that your position sort of lumps everything in one ball of wax and therefore is not as helpful to identifying the problems. I think it is imporant that they have identified for them that they gave us material false information. I think it is important for them to understand that we don't countenance their inattention to matters as important as this. Then they were late, and whatever the period of time is that they were late they are subject to that \$1,000 or \$2,000 or whatever time period is involved.

MR. DeYOUNG: One of the most important things that we see for this document is how others will read it, other utilities, the lessons to be learned. If we don't write it well and they missed the lessons to be learned, it is a poor document.

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17 COMMISSIONER ASSELSTINE: But this case has
18 implications a lot beyond this particular utility and
19 this particular plant. We rely very, very heavily on
20 accurate information from the utilities. We simply
21 don't have the ability to go out and get that
22 information.

23 MR. COLLINS: That is exactly what my point
24 has been, that we rely on the good information being
25 supplied by a utility to make decisions. I think we

1 have to impress on the utilities through actions such as
2 this that we will not tolerate this.

3 COMMISSIONER AHEARNE: I agree entirely.

4 COMMISSIONER ROBERTS: I agree with that.

5 COMMISSIONER AHEARNE: I think the message
6 that has to come through is that, and that is the
7 material false statement part. Secondly, that a utility
8 in order to do that must have an effective management
9 system in place.

10 MR. DeYOUNG: Corporate management.

11 COMMISSIONER AHEARNE: That is right. Those
12 are messages well worth supporting and emphasizing. The

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COMMISSIONER ROBERTS: Well, I know I am not going to be happy.

CHAIRMAN PALLADINO: He is raising a question of how does he get is differing views appended to this document.

MR. BICKWIT: You can do what you did in Diablo Canyon, which is put out some form of instruction to the staff and that instruction you could append your views as you did in Diablo Canyon.

CHAIRMAN PALLADINO: Say that again?

MR. BICKWIT: In Diablo Canyon you put out what was called a statement. It was a form of instruction to the staff to issue a notice of violation and Commissioners who dissented from the Commission's view could express their dissent by appending their views.

CHAIRMAN PALLADINO: Well now here we would do the same thing?

MR. BICKWIT: You could do the same thing. I don't know if you want to put out a statement. You

1 could put out a staff requirements memo or any of a
2 number of vehicles could be put out by the Commission
3 instructing the staff to take action.

4 CHAIRMAN PALLADINO: I would like to get as
5 much knowledge about this as we can on the table now.
6 One piece of advice is that we issue a statement so that
7 any Commissioner can add his additional remarks.

8 MR. BICKWIT: Yes.

9 CHAIRMAN PALLADINO: And that is one for the
10 Federal Register, the statement?

11 MR. BICKWIT: No, it is just a public
12 statement.

13 COMMISSIONER AHEARNE: We used that in the
14 Diablo Canyon case. We might as well stick with it. It
15 seemed to work.

16 CHAIRMAN PALLADINO: Okay. So can we agree we
17 are going to follow the same practice we did in Diablo
18 Canyon?

19 COMMISSIONER AHEARNE: Yes.

20 (Commissioners Roberts, Gilinsky and
21 Asselstine nodding in agreement.)

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CHAIRMAN PALLADINO: The meeting on Cooper is
adjourned.

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(Commissioner Gilinsky left the Commission
table at 11:56 p.m.)

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(Whereupon, at 11:56 a.m., the meeting
adjourned.)

NUCLEAR REGULATORY COMMISSION

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

In the matter of: CLOSED MEETING - EXEMPTION 5 - DISCUSSION OF ENFORCEMENT
ACTION

Date of Proceeding: May 28, 1982

Docket Number: _____

Place of Proceeding: Washington, D. C.

are 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)

CLOSED MEETING

COOPER ENFORCEMENT

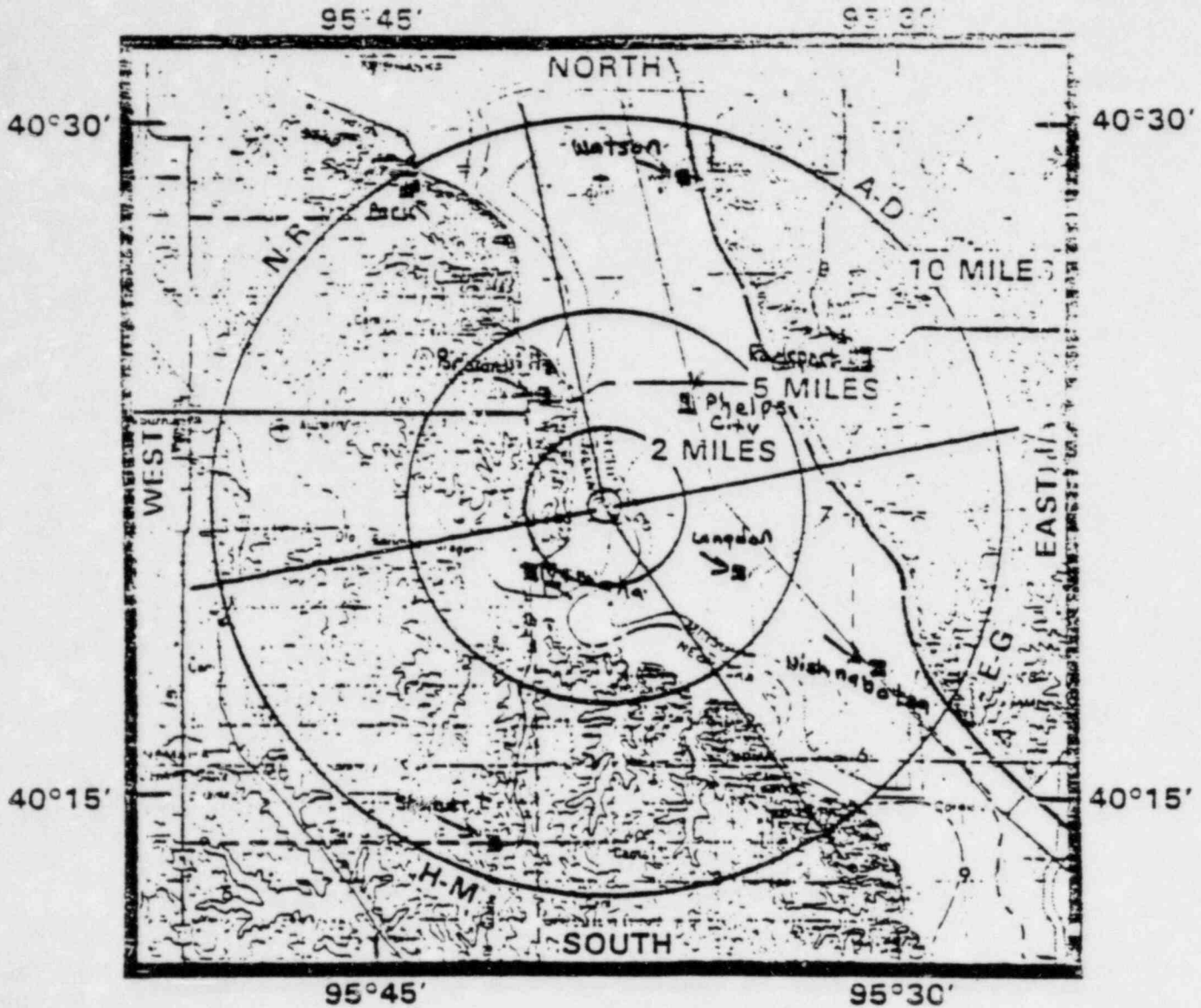
MEETING - MAY 28, 1982

J. LIEBERMAN

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TOTAL POPULATION:

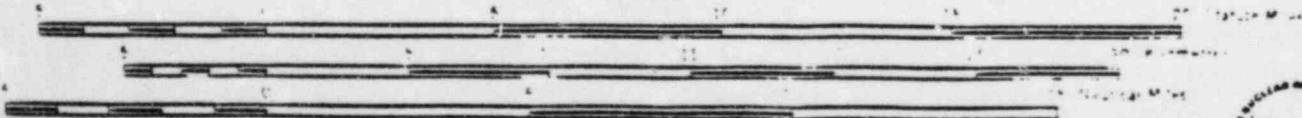
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COOPER NUCLEAR STATION NEBRASKA

MAY 28, 1982

Scale 1:250,000



CONTOUR INTERVAL 50 FEET



CHRONOLOGY OF KEY EVENTS

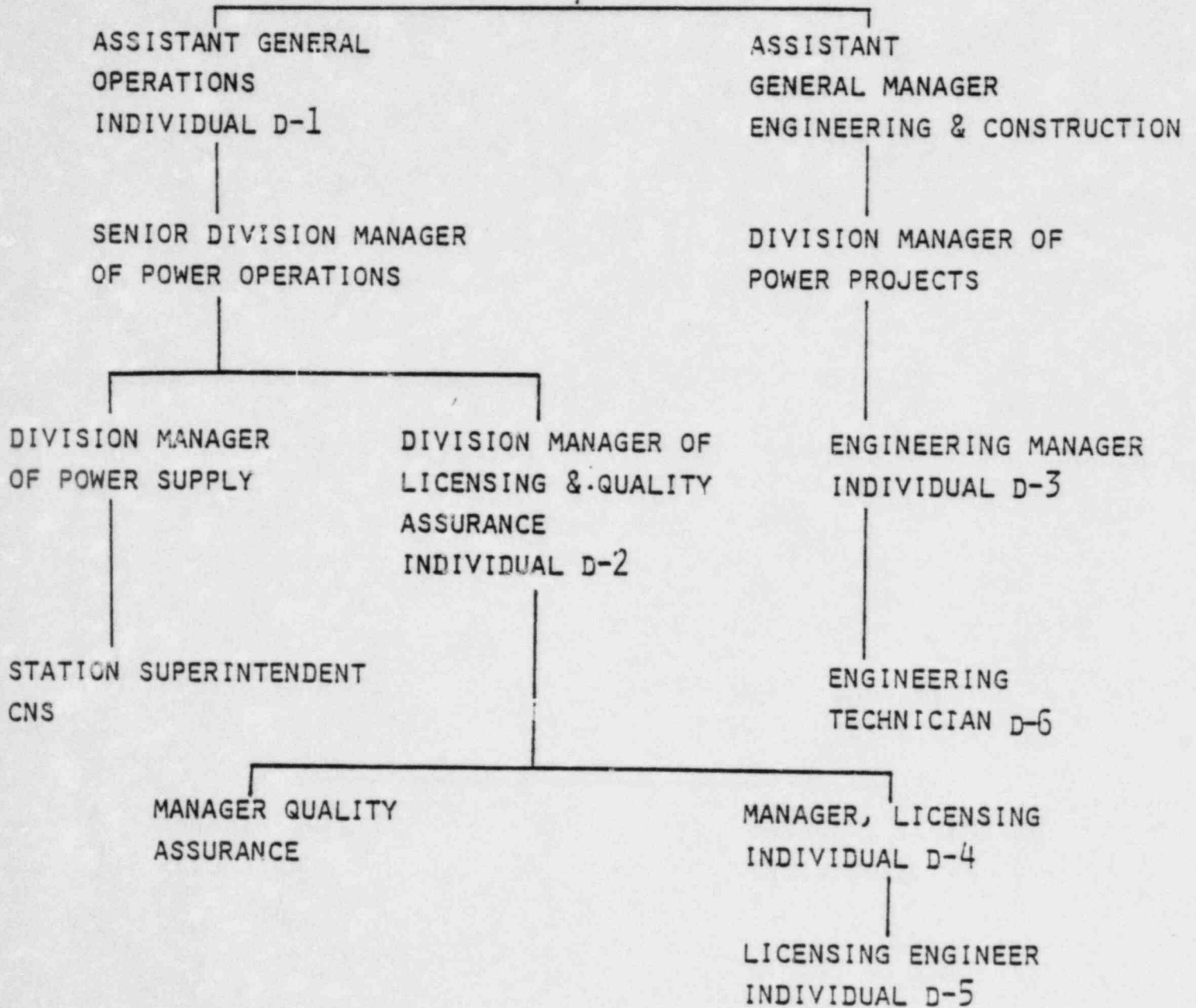
- JANUARY 1982 - TELEPHONE CALL TO LICENSEE RE ENS
FEBRUARY 8, 1982 - LICENSEE WRITTEN RESPONSE
MARCH 9, 1982 - CNS-G.O.-NRC MEETING RE ENS
MARCH 11, 1982 - SPECIAL INSPECTION OF ENS AND EMERGENCY
PREPAREDNESS EXERCISE EXIT INTERVIEW
MARCH 12, 1982 - C.A.L. RE ENS
MARCH 15-30, 1982 - INVESTIGATION RE ENS
MARCH 22-23, 1982 - C.A.L. FOLLOWUP INSPECTION
MARCH 31, 1982 - CASE DISCUSSION WITH OIA
APRIL 12, 1982 - ENFORCEMENT MEETING RIV
APRIL 20, 1982 - FINAL RESPONSE TO C.A.L.
APRIL 29, 1982 - RIV REQUEST UNANNOUNCED FULL PUBLIC
NOTIFICATION SYSTEM DRILL
MAY 24, 1982 - LICENSEE RESPONDS TO APRIL 29, 1982 REQUEST

MAY 28, 1982

NEBRASKA PUBLIC POWER DISTRICT - ORGANIZATION

NPPD BOARD OF DIRECTORS

GENERAL MANAGER



MAY 28, 1982

COOPER ENFORCEMENT BRIEFING

- CIVIL PENALTY
 - * FAILURE TO MEET FEBRUARY 1, 1982 DEADLINE FOR ENS
 - * UNACCEPTABLE LACK OF MANAGEMENT ATTENTION
 - * MISREPRESENTATIONS
 - * CIVIL PENALTY EMPHASIZES NEED FOR DIRECT MANAGEMENT INVOLVEMENT

- MEETING
 - * ATTENDANCE
 - SENIOR OFFICERS
 - INVOLVED MANAGERS & TECHNICIAN
 - * SCOPE
 - UNDERLYING CAUSES OF VIOLATION
 - CORRECTIVE ACTION

- FOLLOWUP
 - * ACTION AGAINST MANAGERS & TECHNICIAN
 - * ORDER FOCUSED ON CORPORATE ACTIVITY
 - * ADEQUACY OF ENS

MAY 28, 1982