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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

CONTINUATION OF DISCUSSION OF FUTURE
STEPS IN TMI-1 RESTART

Docket No.

CLOSED MEETING

Location: Washington, D. C.

Pages: 1 - 68

Date: Tuesday, January 24, 1984

B407130054 B40604
PDR FOIA PDR
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CONTINUATION OF DISCUSSION OF FUTURE STEPS
IN TMI-1 RESTART

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CLOSED MEETING - EXEMPTIONS 5 AND 10

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

Tuesday, January 24, 1984

The Commission met, pursuant to notice, at
2:05 p.m.

COMMISSIONERS PRESENT:

- NUNZIO PALLADINO, Chairman of the Commission
- VICTOR GILINSKY, Commissioner
- THOMAS ROBERTS, Commissioner
- JAMES ASSELSTINE, Commissioner
- FREDERICK BERNTHAL, Commissioner

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- SAM CHILK
- JOHN E. ZERBE
- JOHN MONTGOMERY
- RICK LEVI
- HERZEL PLAINE

AUDIENCE SPEAKER:

- JOE FOUCHARD

- - -

P R O C E E D I N G S

1
2 CHAIRMAN PALLADINO: Good afternoon. The subject
3 of today's meeting is a continuation of our discussio of
4 future steps in TMI-1 restart which we did not complete when
5 we met on January 16th of this year.

6 The issue we are discussing is whether and if so,
7 under what conditions the Commission is prepared to go
8 forward on a restart decision prior to completion of the
9 Met-Ed criminal trial.

10 Since our last meeting, we have received written
11 views of Commissioners Gilinsky, Roberts, and Asselstine.
12 This afternoon, I hav prepared a statement which was
13 circulated just prior to the meeting and I hope you all
14 received it.

15 COMMISSIONER ASSELSTINE: I don't think I got it.

16 CHAIRMAN PALLADINO: Can we make some more copies,
17 if necessary? Make some more copies.

18 (Commissioner Gilinsky enters hearing room.)

19 CHAIRMAN PALLADINO: Now, with this background, I
20 suggest we open the floor to discussion. I might start it
21 off because we need to clear up what seems to be mis-
22 impression from the last meeting -- at least I think it's a
23 misimpression.

24 Commissioner Asselstine wrote in his first paragraph,
25 "It did not appear at yesterday's meeting" -- speaking of the

1 January 16th meeting -- "that a majority of the Commission was
2 prepared to proceed with a TMI-1 restart decision that would
3 approve operation of the plant based upon the GPU staff
4 proposal, before a completion of the criminal trial."

5 I didn't get that feeling -- or perhaps I was wrong.
6 "However, it appeared that there was a majority in favor of
7 proceeding to a decision, authorizing restart prior to the
8 completion of the criminal trial if certain other conditions
9 were made, for example, if there were substantial changes in
10 the GPU organization, than that proposed by GPU and the staff,
11 including the removal of Bill Kuhns and Herman Dieckamp and
12 the quarantine of Ross [redacted]
13 [redacted] who had been involved in the
14 TMI-2 leak rate falsification matter."

15 COMMISSIONER ASSELSTINE: That should be TMI-1
16 supervisory personnel.

17 CHAIRMAN PALLADINO: That's what I thought. Where
18 should it be "1," in the last --

19 COMMISSIONER ASSELSTINE: In "other TMI-1
20 supervisory personnel."

21 CHAIRMAN PALLADINO: Okay, thank you.

22 COMMISSIONER BERNTHAL: All right.

23 CHAIRMAN PALLADINO: Now, I think Commissioner
24 Gilinsky's -- now, the rest of your views I have no problem
25 with, but I was curious as to whether we had reached the

1 conclusions that you had indicated.

2 COMMISSIONER BERNTHAL: Joe, let me just clear up
3 since obviously it's my fault, maybe, for lapsing into the
4 language of mathematics in describing my position.

5 I think Jim and I, from an earlier conversation,
6 understood where I was. It clearly is adequate and sufficient
7 for all of those people to be quarantined and removed, and
8 the question in my mind at the time was whether it was
9 necessary to do all of that.

10 I don't know how much more clearly and simply to
11 state the point. So, today in fact then, I am prepared to
12 state at least in respect to the question of quarantine and
13 those chief officers what my position is. If you want that
14 now, I will be happy to.

15 CHAIRMAN PALLADINO: Go ahead, yes.

16 COMMISSIONER BERNTHAL: I do not believe that it's
17 necessary -- and I am not going to require -- that Kuhns and
18 Dieckamp be replaced, removed, quarantined because as of this
19 point I don't see any evidence that they are clearly
20 culpable. There simply is no direct trail there that would
21 lead one to require their removal, their quarantine and,
22 although I realize there is disagreement on that point, that's
23 my point of view at this time.

24 Now, I am not prepared to speak to the question of
25 the TMI-1 leak rate investigation because there are, as I

1 mentioned before, some base line data there that I wish to
2 have before I make a decision on that, and those data haven't
3 been made available yet.

4 CHAIRMAN PALLADINO: Have they been clearly
5 requested of someone?

6 COMMISSIONER BERNTHAL: Yes, I believe so, and my
7 staff in fact have been working on it.

8 COMMISSIONER GILINSKY: What data is this?

9 COMMISSIONER BERNTHAL: The question of whether
10 these really are extraordinary occurrences or not.

11 COMMISSIONER GILINSKY: Let's see, what difference
12 does that make?

13 COMMISSIONER BERNTHAL: I believe that establishes
14 motive. I mean, as I mentioned in our earlier meeting, if
15 you are trying to decide whether someone is drunk driving
16 down the road, it's nice to know what your experience is.

17 COMMISSIONER GILINSKY: Well, it's either common
18 for people to do these things, or it isn't common. I don't
19 understand --

20 COMMISSIONER BERNTHAL: That's precisely the
21 point and that is what I am trying to find out.

22 COMMISSIONER GILINSKY: But that doesn't get at
23 whether -- I mean, you know, you can go either way and it
24 doesn't matter a whole lot to me. But I don't really see that
25 it tells you anything. I mean, it may be that you have to

1 charge over to all these other reactors and start dealing
2 with them.

3 COMMISSIONER BERNTHAL: That may be. But the point
4 is, if it's common practice and if in fact these tests are
5 difficult enough to perform that out of frustration and not
6 malice, particularly, that it's rather common practice to do
7 this sort of thing, then the question arises whether it's
8 appropriate that we single out TMI-1 where we are talking
9 about one-half of one percent of the cases.

10 That we should single out that particular group
11 on the basis of very little evidence, and to make that
12 judgment, I simply would like to have more information on
13 the baseline data. That's all that I am saying.

14 CHAIRMAN PALLADINO: Well, that could be obtained
15 while OI is completing its limited investigation that I
16 think is still under way.

17 COMMISSIONER BERNTHAL: Now, let me make another
18 comment on the question of quarantine. I think the rest of
19 the individuals that Jim and you, Victor, mentioned in the
20 last meeting, I am prepared to discuss here and in fact I
21 believe that there is justification for quarantining at least
22 a couple of those people. Perhaps that's one of the things
23 we need to discuss here today.

24 CHAIRMAN PALLADINO: Well, Commissioner Roberts
25 has said -- maybe I should let him speak for himself. Go

1 ahead, Tom.

2 COMMISSIONER ROBERTS: Well, it's in my memo.

3 CHAIRMAN PALLADINO: All right. He doesn't believe
4 that we should await completion of the criminal trial before
5 authorizing restart, neither do I believe that we need to
6 await completion of the on-going investigations or to remove
7 from positions of responsibility for operation of TMI-1
8 any person against whom we presently do not have specific
9 and concrete evidence of wrong-doing in connection with the
10 prior operation of TMI-1 or TMI-2.

11 I indicated, as I said at our January 16th
12 meeting, regarding possible restart at TMI-1, "I do not
13 believe that we should require removal of Mr. Kuhns and
14 Mr. Dieckamp as condition for restart. I also believe that
15 we do not need to await the completion of Met-Ed's criminal
16 trial before restart. I believe that we should proceed
17 with the restart decision along the lines I outlined in my
18 memo of January 12th."

19 Now, Commissioner Gilinsky --

20 COMMISSIONER GILINSKY: You don't have to read it.

21 CHAIRMAN PALLADINO: I think we --

22 COMMISSIONER GILINSKY: I know what I said.

23 (Laughter)

24 CHAIRMAN PALLADINO: Well, I don't want to be
25 accused of only giving one side. And I think Jim's position

1 is very clear.

2 COMMISSIONER ASSELSTINE: But it does sound like
3 there are three people that are willing to proceed along
4 the basis of the GPU proposal. So, I guess that answers
5 the question I had which is, it seemed to me at the last
6 meeting we were sort of at the cross-roads and we had to
7 decide which way to go.

8 So, it now appears that at least the majority is
9 in favor of going down one road.

10 COMMISSIONER BERNTHAL: Well, this isn't an
11 unmodified version, I think, of the GPU proposal; is it?
12 The key point, it seems to me, is Kuhns and Kieckamp here.

13 COMMISSIONER ASSELSTINE: That's right.

14 COMMISSIONER BERNTHAL: Once you concede whether
15 or not in your own mind you believe that they were directly
16 responsible, then the others --

17 COMMISSIONER GILINSKY: The rest of it is just
18 minor detail.

19 COMMISSIONER BERNTHAL: I realize that.

20 COMMISSIONER GILINSKY: I don't know what is
21 holding you back then, once you made that decision. You
22 might as well approve the plant right away.

23 CHAIRMAN PALLADINO: We write up --

24 COMMISSIONER GILINSKY: I urge you to act on your
25 convictions.

1 CHAIRMAN PALLADINO: Well, I would then propose
2 that we do follow an approach similar to that I outlined in
3 my January 12th memo. I do think it is appropriate, if we
4 go this way, to talk about some of the other people that
5 individual Commissioners want to quarantine.

6 But first, let me see if my other colleagues agree
7 with trying to go along the lines of my January 12th memo.

8 COMMISSIONER ROBERTS: (Inaudible)

9 CHAIRMAN PALLADINO: We can go through it and
10 discuss what individual --

11 COMMISSIONER GILINSKY: I guess I may just leave
12 it to you to sort it out among yourselves.

13 CHAIRMAN PALLADINO: Well, we will come down to
14 whether or not --

15 COMMISSIONER GILINSKY: I assume you are going to
16 make some announcement on this shortly, that this is the
17 sense of the Commission.

18 CHAIRMAN PALLADINO: I think Joe Fouchard would
19 very much counsel that we do something along this line.

20 MR. FOUCHARD: I think you ought to let parties
21 know where you stand.

22 COMMISSIONER GILINSKY: After this meeting?

23 MR. FOUCHARD: Not immediately after the meeting.

24 CHAIRMAN PALLADINO: I think we ought to flesh out
25 a little bit more some of the other conditions.

1 MR. FOUCHARD: You have a 20-day comment period out
2 there on the list that has started to run.

3 COMMISSIONER BERNTHAL: I mean, it seems to me
4 while the question of those two individuals may be key, at
5 least to some members of the Commission, we ought not to
6 come out prematurely with something that is half baked here.

7 There should be some concrete scenario of events.

8 CHAIRMAN PALLADINO: Well, I have proposed that
9 we update this draft and take the recommendations from OPE
10 for guidance on the other issues, and then review the draft
11 order and then we come to a period when we send it out for
12 comment.

13 COMMISSIONER GILINSKY: I would say that if you are
14 acting on the basis of this GPU proposal, I would make that
15 clear to everyone, and that you are dealing with the details
16 of it and you haven't completed your deliberations and
17 haven't crossed every "t" and dotted every "i." That is in
18 fact the direction in which you are moving.

19 I think you owe it to everyone involved to do that.

20 MR. ZERBE: One of the items in the Chairman's
21 list, though, was this investigation, this OI investigation
22 on the leak rate. As I recall, that wasn't part of the
23 TMI -- I mean, that wasn't part of the GPU proposal and
24 depending on how that comes out, would preclude -- I mean,
25 I presume you would want to know that before you approved

1 of the management.

2 COMMISSIONER GILINSKY: Well, this is not time for
3 hand-wringing, I mean --

4 MR. ZERBE: No, I'm just saying that that is one
5 of the things you might want to get completed.

6 COMMISSIONER GILINSKY: Had the other proposal
7 prevailed, I think I would have urged that that be announced.

8 COMMISSIONER ASSELSTINE: You know, Jack, that
9 was one of the staff's comments on the GPU proposal. But I
10 agree with Vic, I think the fundamental question is, is
11 the Commission prepared to go forward on the basis of the
12 GPU proposal with perhaps some modifications --

13 CHAIRMAN PALLADINO: With some modifications.

14 COMMISSIONER ASSELSTINE: -- prior to the
15 completion of the trial and the other investigations. I
16 think at least on that question the Commission ought to be
17 able to at least issue some kind of a statement fairly
18 quickly and say, "Yes, the majority of the Commission is in
19 favor of doing that," just as I believe if the Commission
20 was going to say "no," it should do that fairly promptly as
21 well.

22 Then you can go through and work out the details
23 along the lines of the Chairman's memo on how you reach the
24 point where you finally issue a decision. But I think it's
25 fairly important to make the announcement fairly quickly that

1 "Yes, the majority of the Commission has decided to basically
2 follow the approach of the GPU proposal."

3 CHAIRMAN PALLADINO: With some modifications --

4 COMMISSIONER ASSELSTINE: With some modifications.

5 CHAIRMAN PALLADINO: -- that we are still working
6 on.

7 Now, would you say anything about without removal of
8 Kuhns and Dieckamp?

9 COMMISSIONER GILINSKY: However you want to phrase it.

10 COMMISSIONER ASSELSTINE: I mean, I think if you
11 go by the GPU proposal, that's the fundamental issue.

12 COMMISSIONER BERNTHAL: Somehow, I object to the
13 characterization and it's probably important how we
14 characterize this, saying that Kuhns and Dieckamp are not
15 part and parcel, and equivalent to the GPU proposal, somehow
16 I don't have the perception that that is the GPU proposal.
17 That somehow everything else collapses in a heap, it seems
18 to me this Commission --

19 COMMISSIONER GILINSKY: It's in the eye of the
20 beholder.

21 COMMISSIONER BERNTHAL: Oh, I am sure, yes.

22 COMMISSIONER GILINSKY: And that's the way it will
23 be seen.

24 COMMISSIONER BERNTHAL: But it seems to me the
25 Commission should state its position, and we don't have to say

1 anything about the GPU proposal. This is our position.

2 COMMISSIONER GILINSKY: However you want to
3 characterize it. But I think you ought to say what you are
4 doing, and you ought to do that promptly.

5 COMMISSIONER BERNTHAL: I agree.

6 CHAIRMAN PALLADINO: Why don't we go some of these
7 thoughts and see where we have major differences.

8 Now, Tom, you had said there were things in here
9 that you would like to see changed, I presume. Do you want
10 to highlight any of them?

11 COMMISSIONER ROBERTS: Yes, l.b. I don't know
12 any safety basis for doing l.b.

13 COMMISSIONER GILINSKY: What's l.b?

14 CHAIRMAN PALLADINO: That's getting rid of DD.

15 COMMISSIONER GILINSKY: Well, you didn't want to --
16 DD when it really came down to it; didn't you?

17 CHAIRMAN PALLADINO: What?

18 COMMISSIONER GILINSKY: I thought you said if
19 it really came down to it, you didn't --

20 CHAIRMAN PALLADINO: No, I was willing to re-
21 consider this matter if they got additional justification.
22 My problem with DD -- if I can find it again and I had it
23 right here. Let's see, DD is a licensed operator-instructor
24 at TMI-1 at the time of the cheating incident in 1981. He
25 now is an instructor for training of auxiliary operators at

1 TMI-1. DD's refusal to cooperate with NRC investigators of
2 the cheating incident and his subsequent failure to admit
3 regret gives rise to the question whether his attitude
4 constitutes an atmosphere of disrespect for TMI-1 training
5 programs and examinations, and whether he really should be
6 in charge of training of auxiliary or non-auxiliary operators.

7 This is why I asked if DD should -- the plant
8 should not operate with him doing any kind of training. I
9 left my caveat open because there may be some remedial steps
10 that are taken that might justify a different decision later.

11 COMMISSIONER BERNTHAL: Well, I agree with you on
12 that, Joe. It seems to me that there are at least a couple of
13 people here that Jim mentioned in the last meeting and in
14 his memo that there is a pretty clear connection and potential
15 question and they ought to be quarantined. And I agree with
16 you that DD is one of them, whoever he may be.

17 COMMISSIONER ASSELSTINE: DD is, I think, a
18 separate issue from the ones that I identified. DD has to do

19 COMMISSIONER BERNTHAL: You are right.

20 COMMISSIONER ASSELSTINE: -- with the cheating
21 decision.

22 COMMISSIONER BERNTHAL: You are right. That's
23 right.

24 COMMISSIONER ROBERTS: In "c" I agree with the first
25 statement about Ross, but when you continue on, I don't see

1 why anyone should be treated differently than all. "Any
2 other members of the TMI-1 operations staff who are involved
3 in the indictment and current trail should be removed." We
4 are taking the position they are guilty, therefore you are
5 prejudging them.

6 CHAIRMAN PALLADINO: But incidentally, that's the
7 same thing, I think, that GPU said.

8 COMMISSIONER ROBERTS: Well, so be it.

14 CHAIRMAN PALLADINO: Well, the basis, as I under-
15 stand it, is that apparently -- let's see, you are talking

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CHAIRMAN PALLADINO: Well, the main reason, if I
understand it correctly,

6 The basis for my recommendation was really tied
7 in with Kuhns and Dieckamp as well. My view was that the
8 only way I would be prepared to go forward with a restart
9 decision prior to completion of the criminal trial and our
10 subsequent investigation of the TMI-2 leak rate falsification
11 was in essence to be able to conclude that this was a
12 different organization. That in fact the argument that Bill
13 Kuhns made to us was really true and therefore I believe
14 that you had to exclude Kuhns and Dieckamp, and that you had
15 to quarantine those people who at least had the potential
16 for being involved in the TMI-2 leak rate falsification
17 matter.

18
19 since Ross was
20 involved in TMI-2 as well as TMI-1 at the time, that was
21 the reason for putting those people on the list.

22 Now, if you don't buy that rationale that it has
23 to be a different organization to go forward -- which I
24 gathered you don't -- then you probably don't need to
25 quarantine those people as well.

1 But my view was, it was all tied up together and
2 that was the reason that I put forward that quarantine as
3 well as the exclusion.

4 COMMISSIONER BERNTHAL: Yes, I guess I don't buy
5 the rationale that it has to be a "entirely different
6 organization." It seems to me what I would attempt and hope
7 to do is to ask the question of competence to run the plant,
8 responsibility for running the plant, and that is why in my
9 judgment Kuhns and Dieckamp don't get caught in that net.

10 I don't feel that the competence to run the plant
11 in the interest of public health and safety is wrapped up
12 in those two individuals;

17 You know, I don't think any of us probably is
18 going to convince each other at this point of details.

19 CHAIRMAN PALLADINO: Now, has _____ been
20 mentioned as a possible witness in the Met-Bd trial? I don't
21 think he has.

22 COMMISSIONER ASSELSTINE: Well, he is one of the
23 people we can't talk to, I believe because of the Justice
24 prohibition.

25 I don't know whether he is going to be called as a witness

1 in the criminal trial. I don't particularly know who is
2 going to be called as a witness in the criminal trial at
3 this point.

4 COMMISSIONER BERNTHAL: I mean, I can go on and
5 give rationale for the other two, and my position on those
6 if you want, _____

7 CHAIRMAN PALLADINO: Yes, go ahead.

8 COMMISSIONER BERNTHAL: I mean, I don't know, I
9 don't feel so strongly about that one. _____

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11 It seems to me that is probably not critical to the
12 operation of the plant which is keyed to the public health
13 and safety here. But I am certainly open to argument on that.
14] as I under-
15 stand it. So, again I would take the position that he
16 probably is not key to public health and safety.

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18 COMMISSIONER GILINSKY: Once they start up, they
19 can reach out to all these people and any one of these
20 people could end up as manager of a plant.

21 COMMISSIONER BERNTHAL: Well, no, they can't
22 reshuffle them. That is precisely what we are going to say;
23 isn't it?

24 COMMISSIONER GILINSKY: I don't know what you are
25 going to say.

1 COMMISSIONER BERNTHAL: We are going to quarantine
2 certain of these individuals. Well, your point is well
3 taken that you surely don't quarantine a couple without
4 saying that we understand that these other individuals will
5 not be involved in whatever operations we choose, or whatever
6 restrictive way, we choose to place on it.

7 COMMISSIONER GILINSKY: Some of these people are
8 quarantined for the trial and they couldn't use them during
9 the trial. I guess I don't know what your concerns are.

10 To the extent that they apply to the actual
11 competence or integrity of the individuals themselves, unless
12 you put in a condition for all time, they can be switched
13 around.

14 COMMISSIONER BERNTHAL: No. The condition, I
15 think, is until the resolution of the trial.

16 COMMISSIONER GILINSKY: So, you are just talking
17 about the leak rate investigation?

18 COMMISSIONER BERNTHAL: Yes.

19 COMMISSIONER GILINSKY: That's the least of the
20 items.

21 COMMISSIONER BERNTHAL: I don't necessarily
22 disagree with that.

23 CHAIRMAN PALLADINO: Does anyone know what
24 responsibility is now at TMI-1?

25 MR. MONTGOMERY: We know his title, but we are

1 not totally sure --

2 CHAIRMAN PALLADINO: What's his title?

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10 COMMISSIONER ASSELSTINE: What I tried to do was
11 to identify and isolate those people who were part of the
12 either -- part of the TMI-2 organization. f

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16 The same thing for
17 Ross who was involved in TMI-2 as well as TMI-1 and could
18 have been involved in the TMI-2 leak rate falsification.

19 My idea was to isolate those people and not have
20 them associated with the operation of TMI-1 until the
21 resolution of the TMI-2 leak rate falsification matter.

22 And with regard to Kuhns and Dieckamp to assure that what
23 you had was a separate organization so that it wouldn't be
24 affected by whatever might come out of that investigation.

25 But that was the rationale.

CHAIRMAN PALLADINO: So, the rationale is that they

1 worked at TMI-2 --

2 COMMISSIONER ASSELSTINE: To isolate those that
3 could be affected by the -- or could be involved in the
4 TMI-2 leak rate falsification matter, the criminal trial.

5 CHAIRMAN PALLADINO: Now, on Ross the connection
6 seems to be a lot more tenuous than these others, based on
7 Ross' own statement in the meeting. I would be inclined to --

8 COMMISSIONER ASSELSTINE: I admit he has made the
9 statement --

10 CHAIRMAN PALLADINO: He had so little.

11 COMMISSIONER ASSELSTINE: -- it just depends on
12 whether you are prepared to rely upon that without access to
13 any of the information that has been developed by the Justice
14 Department, and without an investigation on our part.

15 CHAIRMAN PALLADINO: But he had very little to do
16 with TMI-2. Well, that's my difference of opinion.

17 COMMISSIONER ASSELSTINE: Yes.

18 COMMISSIONER BERNTHAL: I guess again -- it may be
19 a small point and I tend to agree with Victor, it doesn't
20 seem to be --

21 CHAIRMAN PALLADINO: The central point.

22 COMMISSIONER BERNTHAL: -- the part of the iceberg
23 that's important.

24 CHAIRMAN PALLADINO: But nevertheless, it's --

25 COMMISSIONER BERNTHAL: I would like to see what

1 happens, to get some more of the data just to see what motive
2 or reason to believe that there was wrong-doing at TMI-1.

3 CHAIRMAN PALLADINO: I think Jim is saying --

4 COMMISSIONER ASSELSTINE: These are the TMI-2
5 people that now have some responsibility for the operation
6 of Unit 1.

7 COMMISSIONER BERNTHAL: But my understanding was,
8 I thought Ross was --

9 COMMISSIONER ASSELSTINE: He was in both.

10 COMMISSIONER BERNTHAL: But wasn't he --

11 CHAIRMAN PALLADINO: Primarily on TMI-1.

12 COMMISSIONER BERNTHAL: Primarily one, though,
13 wasn't it? He was --

14 COMMISSIONER ASSELSTINE: He was involved in
15 both. He was cross-licensed.

16 COMMISSIONER BERNTHAL: Well, apparently there is
17 a disagreement over whether he was in fact a shift supervisor
18 on Unit 2, although the Rodoven Report said he was.

19 COMMISSIONER GILINSKY: He was involved in the
20 accident.

21 COMMISSIONER BERNTHAL: And people say he was not.

22 COMMISSIONER GILINSKY: There are all sorts of
23 questions about his statements, both there and in connection
24 with the cheating incidents. The Master did not speak well
25 of him.

1 COMMISSIONER ASSELSTINE: That's for sure.

2 CHAIRMAN PALLADINO: What did the Master say about
3 Ross? I don't have all -- I do have it somewhere in all
4 this batch. Does OPE remember, can you pinpoint it?

5 COMMISSIONER GILINSKY: I think we are having
6 trouble keeping the attention of the audience.

7 CHAIRMAN PALLADINO: Well, it's not the audience
8 I'm worried about, I want to make sure we keep attention
9 focused here at the table.

10 MR. MONTGOMERY: Not having looked at it in a
11 while, the thing I remember directly, the Special Master's
12 concern with Mike Ross was the fact that the Special Master
13 didn't necessarily believe his justification for whether
14 or not he purposefully kept the Proctor out of the room.

15 I think the major question was, the Special Master
16 questioned his credibility on the basis of watching him
17 testify.

18 CHAIRMAN PALLADINO: And what did the Board say?

19 MR. MONTGOMERY: They disagreed.

20 COMMISSIONER GILINSKY: They disagreed.

21 COMMISSIONER ASSELSTINE: That's right.

22 COMMISSIONER BERNTHAL: I guess it has to be a
23 relevant question of whether he also is at some level such a
24 key person in the operation, potential operation of Unit 1,
25 that we have to balance the consideration there.

1 COMMISSIONER ASSELSTINE: He's plant manager.

2 COMMISSIONER GILINSKY: You know, I am not saying
3 this to change anybody's mind, I don't expect it will, but
4 to sit here and wring their hands over various minor people
5 and yet just swallow the elephant is straining the --

6 (Laughter)

7 COMMISSIONER GILINSKY: It would be as if -- just
8 imagine if there was somebody talking about the NRC and
9 just said that, "Well, we've got to get this branch chief
10 out of there," or so-and-so. "We've got to get some other
11 guy out of there because he may have done something or may
12 have been involved in something before we can qualify this
13 agency. But never mind the Chairman, never mind the
14 Commissioners, that' doesn't matter. The Executive Director,
15 that doesn't matter."

16 CHAIRMAN PALLADINO: That's probably right.

17 COMMISSIONER GILINSKY: Well --

18 CHAIRMAN PALLADINO: No.

19 COMMISSIONER GILINSKY: I don't think that's right.
20 That's really the attitude you are taking. Things have gone
21 bad but never mind, those guys, they were detached, you know.

22 CHAIRMAN PALLADINO: No, no, Victor. Look, you
23 have changed the president of Met-Ed; you have changed the
24 president of GPU Nuclear. You brought in a new management
25 team and you do have some individuals about whom we have

1 questions within the organization that are going to play key
2 roles in the operation.

3 Despite what a management says, their attitude could
4 impact very directly on the operation, especially when it
5 comes to training. At least that's in my mind.

6 COMMISSIONER GILINSKY: But by corporate rule the
7 people in charge are left immune, the fellow who is the
8 chief executive in each of these companies. You are talking
9 about Metropolitan Edison. You are saying the chief
10 executive, "That doesn't mean anything, he is kind of a
11 remote guy. He is clean because he deals with money, you
12 know, and anyway, he doesn't know about these things and he
13 wasn't informed. So, he's okay."

14 But these other guys, little characters down
15 the line, blue-collar types --

16 CHAIRMAN PALLADINO: Well, are you saying that if
17 we had solved Kuhns, or don't require the removal of Kuhns
18 and Dieckamp, then we shouldn't require the removal of any
19 of these? That's very similar --

20 COMMISSIONER GILINSKY: I'm just commenting on --
21 well, I guess if it doesn't bother you that the people in
22 charge who are responsible for all this are going to
23 continue there, I don't see what difference it makes what
24 you do to the other ones who set the tone, set the rules,
25 give the incentives.

1 CHAIRMAN PALLADINO: Then you agree with Roberts --

2 COMMISSIONER GILINSKY: Well, I said given that,
3 I think his position is a hell of a lot more logical than
4 your's and Fred's.

5 (Laughter)

6 CHAIRMAN PALLADINO: I don't agree with you. Your
7 saying that it is more logical doesn't make it more
8 logical.

9 (Laughter)

10 COMMISSIONER GILINSKY: I'll agree with that.

11 COMMISSIONER BERNTHAL: Well, you know, we could
12 argue longer than anybody needs to, and I suppose a minute is
13 longer than we need to. But I just don't see how you can
14 single out those individuals and not equally as well say
15 that the whole Board of Directors should have gone then --
16 and I guess they probably have gone, by accident more than
17 intent or design. Or perhaps that the Commission itself
18 was not equally responsible.

19 You know, there is some --

20 COMMISSIONER GILINSKY: The factual matter is, the
21 Chairman got replaced precisely for that reason.

22 CHAIRMAN PALLADINO: And so did the president of
23 Met-Ed.

24 COMMISSIONER GILINSKY: Yes, but the president of
25 Met-Ed is not comparable because the chief executive officer

1 in every one of those companies was Bill Kuhns, and somehow
2 you are trying to explain that away, that that doesn't mean
3 anything. That's just something -- I don't know what, you
4 think that's just something they tell the bankers?

5 That means the guy is in charge and he is
6 responsible. And you are saying he's not responsible
7 because he is over some magic dotted line, you know.

8 CHAIRMAN PALLADINO: I don't think he was
9 responsible for the accident and I think he has brought
10 about changes in the organization that have improved it and
11 improved it substantially.

12 COMMISSIONER GILINSKY: Then I wouldn't gag at
13 these little things. You know, that's why I said Tom's
14 position made a lot more sense.

15 COMMISSIONER BERNTHAL: It's also partly a question,
16 it seems to me, of where you are today and whether the plant
17 can be operated safely. And there is the competence there
18 to run the plant. That's the judgment you made, not so much
19 the question of whether those guys knew something back then
20 or not.

21 COMMISSIONER GILINSKY: Well, I was just commenting
22 not so much on the overall rightness or wrongness of your
23 view, but about what I thought was a lack of consistency in
24 the view that you take of the top people and let me just, to
25 exaggerate, take the other extreme, DD.

1 I mean, here is poor DD teaching auxiliary operators
2 and Joe is worried about it.

3 (Laughter)

4 COMMISSIONER GILINSKY: And he's not worried about
5 Kuhns and Dieckamp. I mean, if I wouldn't worry about Kuhns
6 and Dieckamp, I wouldn't worry about DD.

7 CHAIRMAN PALLADINO: Well, I worry about DD. I
8 have seen more bad attitudes generated by poor teachers
9 than any person the top could influence otherwise, and I
10 do worry about it. I think if his attitude is so indifferent
11 with regard to training of operators, I certainly don't
12 want to trust him with the training of auxiliary operators,
13 whoever they may be.

14 COMMISSIONER GILINSKY: Here is another analogy,
15 I guess I would rely on the Dean to take care of that problem.

16 CHAIRMAN PALLADINO: That's what I am doing.

17 COMMISSIONER GILINSKY: No.

18 CHAIRMAN PALLADINO: Oh, come on, that's what I am
19 doing in my mind.

20 COMMISSIONER GILINSKY: All right.

21 CHAIRMAN PALLADINO: Incidentally, my proposal is
22 only to get rid of DD and not the other people.

23 COMMISSIONER GILINSKY: I know, you are working
24 from the wrong end.

25 (Laughter)

1 CHAIRMAN PALLADINO: Well, I disagree with you.

2 COMMISSIONER BERNTHAL: Well, is the question
3 whether the "criminal trial" should be finished, or whether
4 Kuhns and Dieckamp should be removed?

5 I thought that the real question is whether -- and
6 as you know from the last meeting, one that sounds very
7 bad, plays bad, I'll grant you, the "criminal trial" should
8 be finished is the real question, it seems to me. That is
9 what is involved here.

10 But if you look at the great likelihood of what
11 will come out of that "criminal investigation and trial,"
12 if it turns out it's a maximum fine of \$85,000 or something
13 like that and the low probability of individuals being
14 convicted, I just -- you have to ask yourself whether under
15 similar circumstances you would close the plant.

16 COMMISSIONER GILINSKY: You can't compare -- the
17 money is just completely irrelevant. I mean, here is a
18 criminal indictment of a company on matters having directly
19 to do with safety that we regulate. And that is just a
20 terrible indictment in speaking legally --

21 COMMISSIONER BERNTHAL: But then you ought to
22 close down Oyster Creek, it seems to me because once you
23 close that plant --

24 COMMISSIONER GILINSKY: I would like to change
25 that management for the reasons both of TMI and Oyster Creek.

1 You know, earlier there was a proposal at one time
2 to move Mr. Arnold from TMI and move him to Oyster Creek
3 because we were worried about TMI. That made absolutely no
4 sense. If we are worried about the guy we are worried about
5 him wherever he is.

6 I think you are right, I think it applies to both.

7 COMMISSIONER BERNTHAL: Okay, you are being
8 consistent then as well and I applaud the logic because if
9 you condemn the organization because they are under criminal
10 indictment then, by God, independent of whether you start
11 up TMI-1 or not, Oyster Creek ought to be closed down.

12 COMMISSIONER GILINSKY: Let me say --

13 COMMISSIONER ASSELSTINE: Or change the organization
14 for Oyster Creek until we have the information on which the
15 indictment was based.

16 COMMISSIONER GILINSKY: Let me say, I raised these
17 points before the indictment and also made the point about
18 Oyster Creek before the indictment.

19 CHAIRMAN PALLADINO: Yes, I made the point about
20 Oyster Creek very early.

21 COMMISSIONER GILINSKY: But I think the indictment --
22 the reason I brought that up is first of all, it strengthens
23 the case and the other is that I think even if one doesn't
24 agree with the earlier -- at least my earlier -- conclusions
25 about Kuhns and Dieckamp, it seems to me a very awkward

1 position approving the start-up of a plant under the
2 leadership of the very same people that are under indictment.

3 And it isn't a matter of concluding that they are
4 guilty before they are tried. We have a different standard.
5 An indictment may be sufficient to trigger our threshold here.
6 It has nothing to do with deciding there is sufficient
7 evidence to convict them in court. That's just another world.

8 If there is sufficient evidence that, you know,
9 the company probably was guilty, then that's enough for
10 enforcement action here or drawing any sorts of conclusions
11 in connection with the start-up and imposing conditions.
12 There isn't any question about that standing up in court.

13 COMMISSIONER BERNTHAL: Well, I don't disagree that
14 it's awkward, but that's not really the question. I grant
15 you that this phrase, "criminal indictment" probably takes
16 on a very awkward proportion. But the question is, what
17 is fair and what is equitable.

18 COMMISSIONER GILINSKY: Well, I don't mean
19 awkward in that it's going to be, you know, embarrassing,
20 bad PR or something like that. But I mean that that's
21 something that you have to weigh in the balance in making
22 your decision. And you can't simply say, "Well, that's
23 an indictment and the trial hasn't run, and we don't know
24 if they are guilty or innocent."

25 You know a certain amount about the fact -- I mean

1 "you" in the sense of collectively the agency -- and dealt
2 with this matter and has a responsibility to draw
3 conclusions. You can't just put yourself in a state of
4 suspension on it.

5 Now, if you concluded that it's not important,
6 probably they didn't commit whatever it is they are accused
7 of, Justice is way off base, et cetera, et cetera, then fine,
8 ignore it.

9 But if you think otherwise, I don't think you can
10 argue that, "Well, they haven't been convicted yet so we are
11 not going to take it into account."

12 COMMISSIONER BERNTHAL: It seems to me Justice, if
13 they had felt they could convict the individuals here,
14 specifically Kuhns and Dieckamp, would have indicted
15 individuals.

16 COMMISSIONER GILINSKY: Kuhns and Dieckamp are not
17 down there manipulating data, we don't know that. But the
18 fact that they did not indict individuals and the only
19 individuals they could have indicted would have been the
20 persons doing 't or their immediate supervisors is, I think,
21 a telling blow against the people running the company because
22 you are saying that this is, you know, not a good outfit to
23 put it in its mildest terms.

24 And, you know, whatever the flaws are, they go far
25 beyond their having been a "bad apple" and manipulated a few

1 numbers, that there was either an atmosphere or a sense of --
2 these people had the sense that that what they were supposed
3 to do and that comes from above. One way or another the
4 people at the top have got to take responsibility.

5 There is no accountability in this system. You
6 know, there is no accountability here and there is no
7 accountability in the industry, and that is what has wrecked
8 it all.

9 CHAIRMAN PALLADINO: Let me get back to --

10 COMMISSIONER BERNTHAL: I think we are beyond our
11 minute.

12 (Laughter)

13 CHAIRMAN PALLADINO: Let me go back to the
14 statement that Tom was objecting to, and as I read it, it
15 sounds like Jim Asselstine's position.

16 "Any other member of the TMI operations staff"
17 -- operations staff and I have to think about what that
18 means -- "who were involved in the indictment in the current
19 trial of Met-Ed should be removed from the TMI-1 operations
20 staff until and unless their involvement in wrong-dling
21 has been evaluated as a result of the trial or an NRC
22 investigation or they are otherwise exonerated."

23 COMMISSIONER ASSELSTINE: Yes. I read that as
24 being -- as essentially covering the ground covered by the
25 GPU proposal.

1 CHAIRMAN PALLADINO: That's right.

2 COMMISSIONER ASSELSTINE: Now, if you meant by
3 "operations staff" the TMI-1 operators, I think that is the
4 GPU proposal; isn't it?

5 CHAIRMAN PALLADINO: Yes.

6 COMMISSIONER ASSELSTINE: It doesn't go beyond that.

12 COMMISSIONER GILINSKY: May I ask the General
13 Counsel a question?

14 What is the standard for indicting someone, is
15 it probable cause?

16 MR. PLAINE: Probable.

17 COMMISSIONER GILINSKY: That he probably did
18 whatever he is accused of, and in the trial is whether there
19 is sufficient evidence?

20 MR. PLAINE: The trial itself is beyond a
21 reasonable doubt.

22 COMMISSIONER GILINSKY: Okay.

23 MR. PLAINE: Guilty beyond a reasonable doubt.

24 COMMISSIONER GILINSKY: So, what that means is
25 that at least in their system they have gone past the

1 threshold for our action, for our enforcement.

2 COMMISSIONER BERNTHAL: For the company, though.

3 COMMISSIONER GILINSKY: For the company, right.

4 That's right.

5 COMMISSIONER BERNTHAL: And you know, what the
6 difference is, that you are drawing a different line, I guess
7 for equity somehow than I am.

8 COMMISSIONER GILINSKY: But you are saying, you are
9 not going to take that into account at all. You are going
10 to do absolutely nothing with it.

11 Suppose they come down with an indictment and with
12 a result that says the company is guilty. What are you going
13 to do with that? Nothing.

14 CHAIRMAN PALLADINO: It depends on which company is
15 guilty.

16 COMMISSIONER GILINSKY: Metropolitan Edison, right.

17 COMMISSIONER BERNTHAL: It's a relevant question
18 and the question then is, what would you conclude about
19 the competence of the utility to run the plant.

20 COMMISSIONER GILINSKY: Well, suppose they came
21 down tomorrow and they said, "guilty," what would you do?
22 How would you change what you are doing?

23 COMMISSIONER BERNTHAL: I don't think I probably
24 would.

25 COMMISSIONER GILINSKY: You wouldn't change at all.

1 COMMISSIONER ROBERTS: What's happened in five
2 years?

3 COMMISSIONER BERNTHAL: Unless there were individuals
4 named as being specifically responsible, it seems to me that
5 what you are trying to do here is make a judgment over who
6 at some level was responsible for specific actions.

7 COMMISSIONER GILINSKY: Yes, but even these -- what
8 is the point in quarantining anybody if you are not going
9 to do anything if the company is found guilty?

10 COMMISSIONER ASSELSTINE: Yes. I don't understand
11 why you are even accepting the GPU proposal of quarantining
12 the TMI-1 operators.

13 (Simultaneous conversation.)

14 COMMISSIONER GILINSKY: This is going to be down
15 to poor DD.

16 (Laughter)

17 COMMISSIONER GILINSKY: I'm going to save him if
18 I can.

19 (Laughter)

20 CHAIRMAN PALLADINO: Tom?

21 COMMISSIONER ROBERTS: You want me to keep going?

22 CHAIRMAN PALLADINO: Yes.

23 COMMISSIONER ROBERTS: Page 4. Let's go through
24 with this, rub their nose in it; that's all understood.

25 CHAIRMAN PALLADINO: They definitely said they

1 had some responsibility but they weren't at fault. Kuhns
2 sat right there and told me, that's what gives me the problem.
3 That's one of my most severe problems with my own proposal.

4 He sat right there and said, "Oh, yes, we accept
5 responsibility but we don't accept fault.

6 COMMISSIONER GILINSKY: The reason he's not saying
7 that is because he's got some suits -- he's got a suit against
8 the government.

9 CHAIRMAN PALLADINO: All right.

10 COMMISSIONER GILINSKY: And basically you are in
11 a position of saying that you want him to drop the suit.

12 CHAIRMAN PALLADINO: I didn't say that. I just
13 said I want --

14 COMMISSIONER GILINSKY: I'm all for it.

15 (Laughter)

16 CHAIRMAN PALLADINO: And I leave them the caveat
17 because I say, "accepting fault for any improper," and you
18 can always have a trial about something was improper,
19 improper operator staff and management action. And he seemed
20 to imply that improper or not, they don't take fault. That
21 gives me a very severe problem. It sends me 20 percent
22 towards what you were proposing. But I didn't go past it.

23 Well, you say that bothers you?

24 COMMISSIONER ROBERTS: Yes. And the last one that
25 bothers me is 2.b. I just don't -- I think that's totally

1 inappropriate.

2 COMMISSIONER GILINSKY: What is 2.b?

3 COMMISSIONER ASSELSTINE: I don't think we have any
4 legal basis to do that anyway; do we, Herzel?

5 COMMISSIONER ROBERTS: No, we do not.

6 COMMISSIONER ASSELSTINE: That's requiring a plant
7 for using TMI-1 income to fund the clean-up.

8 COMMISSIONER GILINSKY: No, we can't do that.

9 COMMISSIONER ASSELSTINE: Yes.

10 CHAIRMAN PALLADINO: Well, it's a recommendation
11 of our Advisory Panel, that's why I threw it in.

12 COMMISSIONER GILINSKY: Well, they are beyond
13 their competence and responsibilities, and so would we be.

14 CHAIRMAN PALLADINO: Well, nobody else is getting
15 TMI-2 cleaned up and I think --

16 COMMISSIONER GILINSKY: Unless they are ready to go
17 in there with a mop.

18 (Laughter)

19 CHAIRMAN PALLADINO: It takes money.

20 COMMISSIONER ROBERTS: But look, Joe, I agree with
21 you but that's just not on our agenda.

22 CHAIRMAN PALLADINO: Let me ask Herzel the extent
23 to which it's even legal.

24 MR. PLAINE: What's the question?

25 CHAIRMAN PALLADINO: The question is, "GPU should

1 develop a plan for use of TMI-1 income that gives high
2 priority to use of funds to help clean-up of TMI-2.

3 Is this something we can say?

4 COMMISSIONER ASSELSTINE: Is there a legal basis
5 for our requiring that?

6 CHAIRMAN PALLADINO: Or is there some legal basis
7 that we can't do that?

8 COMMISSIONER GILINSKY: We don't allocate rates.

9 COMMISSIONER ASSELSTINE: Yes.

10 MR. PLAINE: Unless you are trying to impose
11 certain conditions. Let me change the subject for a moment.
12 You were talking before about to acknowledge accepting
13 fault as well as responsibility.

14 Could one say to the company, "We will grant you
15 a license for restart on the condition that you drop any
16 law suits you have against --

17 COMMISSIONER GILINSKY: No, he is raising another
18 question.

19 CHAIRMAN PALLADINO: I didn't raise that question.
20 I raised the question that given that something is improper,
21 that there was improper operator action or improper management
22 action, given that, then -- and I'm willing to go to court
23 over whether it's improper or not. But assume we went to
24 court and it was improper, their attitude is saying, well,
25 they are not at fault for anything like that.

1 COMMISSIONER GILINSKY: I thought he was talking
2 about TMI-2 waste.

3 CHAIRMAN PALLADINO: Oh, no, I thought he switched
4 back.

5 COMMISSIONER ASSELSTINE: He did.

6 (Laughter)

7 CHAIRMAN PALLADINO: I switched back with him, I'm
8 sorry.

9 COMMISSIONER GILINSKY: That was kind of you.

10 MR. PLAINE: I'm trying to get a feel for whether
11 I think, did you have the authority to impose certain
12 conditions that relate to doing something by the operators
13 of TMI-1 that is not in the ordinary course of so-called
14 safety events.

15 If it's conceivable that you have that kind of
16 authority, then any one of these things could be conditions.
17 If you think that you don't have that kind of authority,
18 and that your authority relates only to -- is looking directly
19 and squarely at the operations, the re-vamped plant, then I
20 would guess that you don't have a basis for imposing these
21 extra conditions.

22 (Commissioner Gilinsky leaves hearing room.)

23 CHAIRMAN PALLADINO: Well, may I just continue for
24 one moment on this fault question.

25 MR. PLAINE: Yes.

1 CHAIRMAN PALLADINO: I am not asking them to admit
2 fault to TMI-2 or to anything, but that they accept the
3 concept of responsibility does include accepting fault for
4 improper actions by operators, management people, and I
5 forgot who else they had.

6 MR. PLAINE: Well, I see what you are saying. But
7 you are looking at TMI-1 now.

8 CHAIRMAN PALLADINO: Yes.

9 MR. PLAINE: You are not necessarily dealing with --

10 CHAIRMAN PALLADINO: I'm thinking TMI-1.

11 MR. PLAINE: Yes.

12 CHAIRMAN PALLADINO: I don't want them to start
13 operating the same TMI-1 but, "We take responsibility but if
14 anything goes wrong, we are not at fault." It's a question
15 of attitude.

16 MR. PLAINE: Well, there's got to be another
17 condition of licensing, re-licensing.

18 CHAIRMAN PALLADINO: Now, let's get back to the
19 question with regard to use of funds to for the clean-up of
20 TMI-2.

21 MR. LEVI: If I can make a suggestion.

22 CHAIRMAN PALLADINO: Yes.

23 MR. LEVI: The Commission certainly has the
24 authority to suggest to GPU the advisability of developing
25 such a plan. But it's doubtful that you have the authority

1 to do it.

2 COMMISSIONER ASSELSTINE: Sure, if you want to make
3 it hortatory --

4 CHAIRMAN PALLADINO: Make it what?

5 COMMISSIONER ASSELSTINE: Hortatory, just say --

6 COMMISSIONER ROBERTS: We think it's a good idea.

7 COMMISSIONER ASSELSTINE: It would be a good idea,
8 you do that.

9 MR. PLAINE: That's a different question.

10 CHAIRMAN PALLADINO: Well, I heard four votes that
11 said they couldn't do 2.b except to make it hortatory. All
12 right.

13 COMMISSIONER ASSELSTINE: Going back to the fault
14 issue, Joe, if you have fundamental questions about whether
15 this organization accepts responsibility for its actions --

16 CHAIRMAN PALLADINO: Well, that was Mr. Kuhn.

17 COMMISSIONER ASSELSTINE: I don't see how you
18 can vote to let them run the plant. I mean, if there are
19 fundamental questions in your mind about whether that
20 organization is willing or able to accept responsibility for
21 its actions in running the plant, I don't know, I wonder how
22 you could then say, "Well, but we'll go ahead and let them run
23 the plant."

24 COMMISSIONER BERNTHAL: But Jim, the next question
25 really is, it seems to me, you are equating an organization,

1 from the tone of this discussion here, with two men. I mean,
2 the rest of them, it seems to me, are negotiable. I don't
3 feel strongly about quarantining the rest of this crowd
4 except as it might affect competence to run the plant. That,
5 I think, we do have to look carefully at.

6 But if the organization is two men and it seems
7 to me that you owe it to the logic of your position to say
8 that Oyster Creek ought to be shut down until those two men
9 are out.

10 COMMISSIONER ASSELSTINE: Well, I agree with
11 Victor's position that I have a problem with the organization,
12 and I think the organization has to be changed. I would agree
13 with him that I think it has to be changed for Oyster Creek
14 as well as for TMI.

15 COMMISSIONER BERNTHAL: But how could we have let
16 Oyster Creek run this long if the organization is rotten?
17 That's basically the same question.

18 COMMISSIONER ASSELSTINE: Because there weren't
19 three people who were willing to say, something should be
20 done about Oyster Creek.

21 COMMISSIONER BERNTHAN: Two, perhaps?

22 COMMISSIONER ASSELSTINE: I think there were two.

23 CHAIRMAN PALLADINO: As a matter of fact, I was
24 the first one who brought up Oyster Creek.

25 COMMISSIONER ASSELSTINE: If we are going to do

1 something --

2 CHAIRMAN PALLADINO: If we are going to do something
3 for TMI-1, then we'll have to do something there too. But
4 I didn't agree we need to do something --

5 COMMISSIONER ASSELSTINE: That's right.

6 COMMISSIONER BERNTHAL: But that's clearly the point
7 of what we are about here, and I think it's an instructive
8 consideration because we really shouldn't say that TMI-1
9 for our purposes, if we quarantine these people, is different
10 from Oyster Creek.

11 If it's going to be Kuhns and Dieckamp that make
12 the organization rotten, then we just ought to say so and
13 then the logical conclusion is clear, it seems to me.

14 COMMISSIONER ASSELSTINE: Except that there are
15 some aspects of this case that touch upon the organization
16 as it applies to the Three Mile Island plants, as opposed to
17 Oyster Creek. The cheating incident; the violation of
18 procedures in the clean-up tend to touch on TMI and not
19 necessarily on both.

20 COMMISSIONER BERNTHAL: But why with respect to
21 those two individuals more than -- if it affects their
22 integrity for that part of the organization or the operation,
23 I should say --

24 COMMISSIONER ASSELSTINE: It has implications for the
25 other, I agree.

1 COMMISSIONER ROBERTS: Was it Kuhns that said
2 something that disturbed you?

3 CHAIRMAN PALLADINO: Yes, it was Kuhns.

4 COMMISSIONER ROBERTS: What meeting, when?

5 MR. PLAINE: It was a public meeting.

6 CHAIRMAN PALLADINO: It was a public meeting.

7 COMMISSIONER ASSELSTINE: It was the one where they
8 presented their proposal; wasn't it?

9 MR. PLAINE: That's right.

10 COMMISSIONER ASSELSTINE: That's where, I think,
11 he went back and forth a couple of times.

12 MR. PLAINE: He very clearly said --

13 CHAIRMAN PALLADINO: Bill Rehmer, I don't know
14 if out of this you could find that transcript, or maybe you
15 have it somewhere else, where that was said.

16 Well, let me go back. At least so far as Tom's
17 comments, I got no support for 2.b which I put in there
18 primarily because the Advisory Committee had said so.

19 I have to explore in my own mind where I stand
20 on 1.e.

21 But now, let me ask OPE a question with regard to
22 1.c at the top of page 4. Is this paragraph that I suggested
23 consistent with the GPU proposal, that one that says, "Any
24 other members of the TMI-1 operations staff who are involved
25 in the indictment and current trial of Met-Ed should be

1 removed from the TMI-1 operations staff until and unless
2 their involvement in wrong-doing has been evaluated," et
3 cetera.

4 I think that is basically the GPU proposal.

5 MR. PLAINE: Yes, sir.

6 CHAIRMAN PALLADINO: So, I don't even have to
7 say it.

8 MR. ZERBE: You wouldn't have to.

9 MR. MONTGOMERY: If you accept the GPU proposal,
10 it includes it.

11 CHAIRMAN PALLADINO: Well, the proposal includes
12 commitments that they make.

13 MR. MONTGOMERY: Right.

14 CHAIRMAN PALLADINO: In my mind, anyhow. I still
15 maintain --

16 COMMISSIONER BERNTHAL: Well, I don't know, Joe,
17 whether Jim is deterred to draw a distinction. At least, there
18 is a distinction in my mind -- logical or not -- between
19 these two guys that seem to be the crux of the issue and the
20 rest of those guys. I guess we all agree to that.

21 I'm certainly open to persuasion as to whether
22 perhaps all of those other individuals that Jim has mentioned
23 should in fact be quarantined from the operation -- I have
24 said this before and I'll say it again -- unless Ross, for
25 example, is just key and you can't replace a man like that.

1 That's the question in my mind.

2 CHAIRMAN PALLADINO: My proposal is that Ross be
3 allowed to continue, which is consistent with the GPU
4 proposal, and any other members of the operations staff for
5 TMI-1 who were involved in a Met-Ed situation be removed
6 until they are exonerated.

7 I think that's also part of the GPU proposal.

8 COMMISSIONER ASSELSTINE: Yes.

9 CHAIRMAN PALLADINO: So, I don't need to say
10 this in preparation of the proposal.

11 MR. ZERBE: I think Ross is critical to the
12 operation.

13 COMMISSIONER ASSELSTINE: Well, that's GPU's
14 argument.

15 MR. ZERBE: Sure.

16 COMMISSIONER BERNTHAL: What's the judgment of
17 our staff, have we had further feedback on that?

18 MR. ZERBE: Well, the Boards might have something
19 to say about it, if he wasn't there either because when they
20 evaluated the competency of the operating staff, he was one
21 of the -- he was the operations manager. So, I would think
22 they might have concern.

23 MR. MONTGOMERY: And they made a statement in
24 the management findings as to how critical -- he was because
25 of his past experience.

1 CHAIRMAN PALLADINO: Fred, do you have areas in
2 which you would be concerned, or for which you would give
3 different guidance from what I proposed there, if we were to
4 go ahead with the proposal?

5 COMMISSIONER BERNTHAL: I think in bits and pieces
6 I indicated what my position is on those various parts, Joe.

7 I guess I feel, whether or not a majority of the
8 Commission agrees, Ross I want to reserve
9 judgment on for the moment, but should
10 be excluded or quarantined. That as part
11 of the conditions we place should not be in any supervisory
12 position that involves operation. but
13 that should be part of our condition.

14
15 fence. I'm not sure whether -- what kind of judgment OPE
16 would recommend on that individual.

17 CHAIRMAN PALLADINO: Let me write down that, Fred.

18
19 COMMISSIONER BERNTHAL: I believe, should
20 be quarantined. I'd appreciate any comments staff or
21 OPE might have on that individual.

22 MR. LEVI: I heard a rumor that
23 I have not been able to
24 verify it or not.

25 COMMISSIONER BERNTHAL: If that's true, then that

1 removes that question.

2 CHAIRMAN PALLADINO: Could we check that?

3 MR. LEVI: Yes.

4 COMMISSIONER BERNTHAL:

5 what is his job?

6 MR. MONTGOMERY: That's what I am trying to find
7 out right now.

8 COMMISSIONER BERNTHAL: In any case, it seems to
9 me --

10

11

12 operator.

13 MR. MONTGOMERY: What gave us concern was, it has
14 word in it but he is not really in that part of
15 the organization which is

16 COMMISSIONER BERNTHAL: Those are my opinions
17 and I'll be willing to modify those if we need to, to get
18 some sort of agreement on these individuals.

19 CHAIRMAN PALLADINO: Well, what I would propose
20 is to consider it a separate item from writing up this
21 order.

22 COMMISSIONER ASSELSTINE: Okay.

23 CHAIRMAN PALLADINO: And let's set forth the
24 people at issue and try to see if I captured what individual
25 Commissioners have thought^s on it, and then come back to it

1 again.

2 COMMISSIONER ASSELSTINE: Okay.

3 CHAIRMAN PALLADINO: But now, if Ross remains, that's
4 consistent with the GPU proposal, and the TMI-1 operations
5 staff who is involved in the indictment and current trial
6 should also be removed until exonerated. That's part of
7 GPU's proposal. This need not be so overtly stated.

8 I gather we should not have anything about the
9 use of funds and I guess I'm the last hold-out on l.e. For
10 the moment we'll say, let's leave it out unless I can think
11 further for keeping it in.

12 What I am trying to get at is, is there agreement
13 by at least a majority of the Commissioners to proceed
14 along the lines identified in the January 12th memo.

15 It is my understanding that TR does not believe
16 that DD should stay, and I believe, Fred, you have a
17 question about DD.

18 COMMISSIONER BERNTHAL: Well, I agreed with you on
19 him, I believe, yes; based on at least the information that
20 we have here I agreed that we should exclude him.

21 CHAIRMAN PALLADINO: And we would refer to the
22 GPU proposal and it would not require saying anything about
23 Ross or the others, perhaps, that --

24 I would for the moment not propose that we put
25 that fault thing in, unless I come back strong on that.

1 Nobody else seems to support it.

2 And use of funds, nobody else seems to support.

3 Now, would you be willing to proceed along lines
4 such as this, to get OGC -- I guess it's OGC -- with the
5 help of OPE to prepare a proposal along those lines?

6 COMMISSIONER BERNTHAL: I trust we all understand
7 and agree that we will see a written proposal here before
8 any statement is made on the position of the Commission.

9 CHAIRMAN PALLADINO: Well, that's what I was going
10 to come down to.

11 MR. LEVI: Could I ask one additional question?

12 CHAIRMAN PALLADINO: Sure.

13 MR. LEVI: When you say revise the January 17
14 Order, that Order also dealt with hardware issues.

15 CHAIRMAN PALLADINO: Yes, and I said updated on
16 the hardware issues.

17 MR. LEVI: Since there is ALAP 729 is still
18 pending before the Commission --

19 CHAIRMAN PALLADINO: Yes, I think I had urged
20 that people vote on that earlier.

21 MR. LEVI: I would suggest that if the Commission
22 agreed to take review of ALAP 729, it might be better to
23 address the Commission's position in that decision rather
24 than mixing it with the management decision.

25 In other words, you would issue a decision taking

1 review --

2 CHAIRMAN PALLADINO: Hardware.

3 MR. LEVI: -- and state your immediate effective
4 position there rather than in a management decision.

5 CHAIRMAN PALLADINO: I think our January 17
6 proposal of last year included everything. But you may be
7 right.

8 How many people have voted on ALAP 279?

9 MR. CHILK: We are looking for Gilinsky and
10 Asselstine.

11 COMMISSIONER ASSELSTINE: Yes. I'll vote by
12 tomorrow.

13 CHAIRMAN PALLADINO: Okay. So --

14 MR. CHILK: The other three of you voted.

15 CHAIRMAN PALLADINO: All right, maybe that takes
16 the 729 issue out of this.

17 COMMISSIONER ASSELSTINE: I agree it makes more
18 sense to deal with that in that context, yes.

19 MR. ZERBE: For a restart you also need to close
20 out the steam generator.

21 CHAIRMAN PALLADINO: Let's leave that separate. If
22 we go ahead, if we get to a point where we are going to
23 put out a decision, then we can ask Bernthal if he is ready
24 to vote on the steam generator.

25 COMMISSIONER ASSELSTINE: On the 729 issue, I guess

1 you probably do need to say something in here about how it
2 is going to be treated. If the Commission votes to take review,
3 I think you have to say in here, you know, how you are going
4 to address it, if you are going to lay out an overall schedule
5 that includes all of the elements that have to be addressed
6 before you issue your restart decision.

7 MR. LEVI: Let me ask another question, then. Is
8 the purpose of this to lay out --

9 COMMISSIONER ASSELSTINE: That's how I read this.
10 This is the roadmap.

11 MR. LEVI: The January 17 draft order was a restart
12 decision. Are you now suggesting writing a roadmap or
13 revising that restart decision? They seem to be two
14 separate --

15 CHAIRMAN PALLADINO: I started out by saying, let's
16 try to revise that decision.

17 COMMISSIONER ASSELSTINE: Yes.

18 MR. ZERBE: That's something you wouldn't be putting
19 out yet for some time, though because if you are going to
20 wait for the TMI-1 leak and if you are going to wait for
21 the review of the ALAP 729, if the vote is that way.

22 COMMISSIONER ASSELSTINE: Joe, I thought though
23 your proposal was in essence a roadmap on how to get from
24 where we are today to a decision on restart sometime around
25 what, June, May or June, whenever it was.

1 Part of that was updating and preparing the
2 January 17, 1983 draft Order. But there is a lot more in
3 here as well.

4 CHAIRMAN PALLADINO: And incidentally, that order
5 kept saying it's not a restart authorization. So, it kept
6 confusing me every time I read it.

7 COMMISSIONER ASSELSTINE: Because I thought this
8 went beyond, certainly went beyond that January 17th draft.

9 CHAIRMAN PALLADINO: Let me ask you, Rick, what
10 is involved in taking review of ALAP 729?

11 MR. LEVI: What's involved in it?

12 CHAIRMAN PALLADINO: Yes.

13 MR. LEVI: If you take review, you are then doing
14 a merits review of the issues in ALAP 729. And it seems the
15 appropriate area to address the hardware issues is in the
16 hardwares review.

17 I would just suggest you keep hardware and
18 management separate.

19 COMMISSIONER ASSELSTINE: But wait a minute, though.
20 You have -- it seems to me that what you have here is a
21 decision on whether to allow the plant to resume operations.
22 And I think that involves at least some preliminary judgment
23 that you don't have outstanding hardware issues that raise
24 significant concerns about the ability of the plant to
25 operate safely.

1 So, I think you have to address the hardware
2 issues before you can put out a restart decision.

3 MR. LEVI: I agree with that. The question is, which
4 forum do you do it in.

5 COMMISSIONER ASSELSTINE: Yes, okay.

6 MR. LEVI: Separately, or with the management.

7 COMMISSIONER ASSELSTINE: So, are you suggesting
8 that we do the merits review of the hardware issues and
9 simply say, until that's completed you won't get a final
10 restart?

11 MR. LEVI: No, that's not what I am suggesting.
12 Let me clarify one thing. Are you suggesting issuing a
13 roadmap on where the Commission is going, or writing a
14 decision?

15 CHAIRMAN PALLADINO: I started out by trying to
16 write a decision, or foreseeing the writing of a decision.

17 MR. LEVI: Okay.

18 CHAIRMAN PALLADINO: I still get back to, what
19 do we have to do specifically to review the ALAP 729?

20 MR. ZERBE:

21 and that would mean you would have to go out
22 and if you approved that, then you would go out and get
23 comments from the parties. And then you would assess
24 those comments and decide whether there was enough
25 information there then to say that you agreed with the Board

1 or whether -- and the Board's ruling was correct or incorrect.
2 Or if you needed more information. And if you needed more
3 information, the next step would be to open the record, I guess,
4 on one of those issues. There was one, potentially, where
5 this might happen.

6 At that point, though, you could proceed with
7 restart and do that in parallel, presumably, if the Commission
8 chose to do that.

9 COMMISSIONER ASSELSTINE: If you could make a
10 finding that there wasn't a significant issue there --

11 MR. ZERBE: Yes.

12 COMMISSIONER ASSELSTINE: -- it is operational.

13 MR. ZERBE: Yes, but you just need to fill out
14 the record. You can do that in parallel. But the point would
15 be that you wouldn't, probably, want to issue a restart order
16 until you got to that point where you have reviewed the
17 comments from the parties on that hardware issue.

18 That's -- the schedule would be when, sometime
19 out in April?

20 MR. MONTGOMERY: Now it would be 45 days, 60 days.

21 CHAIRMAN PALLADINO: Let me ask a different question.
22 Suppose we were to follow one of the thoughts that Rick
23 had put out, supposed we said this was our partial decision
24 on management competence and integrity, and then treated the
25 hardware items separately, and then treated the steam

1 generator separately, does that constitute authorization of
2 restart? Or we probably would have to come back and write
3 something that says, "Here is the grand decision."

4 MR. LEVI: The authorization to restart won't come
5 until staff certifies that all the items --

6 CHAIRMAN PALLADINO: Yes.

7 MR. LEVI: -- have been completed.

8 CHAIRMAN PALLADINO: But that would be one of the
9 caveats in a grand decision. There still would have to be
10 a decision that says, "Given these three partials, we are
11 now ready to restart, subject to Commission certification."

12 COMMISSIONER ASSELSTINE: Yes.

13 MR. ZERBE: You can get partials, one on management,
14 right?

15 MR. LEVI: Yes.

16 MR. ZERBE: You would have a management integrity
17 partial decision.

18 CHAIRMAN PALLADINO: And then the decision to
19 review ALAP 729 would be a separate decision.

20 MR. ZERBE: You have a separate one on the
21 hardware.

22 CHAIRMAN PALLADINO: How would that strike you?

23 MR. ZERBE: But even the management one now,
24 are you going to wait until the OI investigation is
25 complete on TMI-1 leak? Have you decided that?

1 CHAIRMAN PALLADINO: Well, I haven't heard any
2 comment on that. I had proposed that we ask OI to go as
3 far as they can and then, when we get the report, decide
4 whether --

5 COMMISSIONER BERNTHAL: I thought that meant they
6 were going no where right now.

7 CHAIRMAN PALLADINO: No, no, no. This says they
8 go as far as they can without impinging, without violating
9 the --

10 MR. ZERBE: But they have interviewed, our
11 understanding is, they have interviewed everybody except
12 the people that DOJ said they didn't want them to. But
13 they haven't completed their report and all that, you see.
14 And you want that to get their evaluation --

15 COMMISSIONER BERNTHAL: But there will be no
16 further interviews, as I understand it. -

17 MR. ZERBE: In my understanding, they cannot
18 interview --

19 CHAIRMAN PALLADINO: Well, let me ask Herzel, have
20 we negotiated getting any other persons to be interviewed?

21 MR. PLAINE: I got a meeting scheduled for
22 tomorrow to see if we can iron out some problems. One of
23 the possible problems that was intimated to me without getting
24 a direct indication of where it came from, there was a
25 chance that Justice might be asking that we not release

1 even a partial report from OI while the trial is pending.

2 Now, I don't know whether that is a fact.

3 CHAIRMAN PALLADINO: A partial --

4 MR. PLAINE: A partial report by OI on TMI-1
5 leak rates.

6 CHAIRMAN PALLADINO: Oh, I see.

7 MR. PLAINE: The issue we were just talking about.

8 CHAIRMAN PALLADINO: I find that one hard to
9 swallow.

10 MR. PLAINE: Well, you know, they have asked you
11 similar things with regard to certain other reports that
12 were about to come out, and we have temporarily granted
13 some such requests.

14 Now, I asked the Justice Department people to
15 come prepared tomorrow to tell me, are they really asking
16 that or not. I don't know if that is so. I want to know
17 whether that's a fact. And hopefully, I will have an
18 answer tomorrow.

19 I will let you know as soon as I get some response.

20 CHAIRMAN PALLADINO: I don't see how you get a
21 nexus between this OI limited investigation of TMI-1 and
22 their case.

23 MR. PLAINE: They had asked us not to touch ten
24 people, right?

25 CHAIRMAN PALLADINO: That's right, and we are not

1 touching them.

2 MR. LEVI: I can give you a couple of examples. For
3 instance, suppose the OI report comes out and says that at
4 Unit 1 they destroyed leak rate tests that were bad, but this
5 is insignificant.

6 Part of their criminal trial is destruction of
7 leak rate tests, and Justice would not want us to issue a
8 statement that such was insignificant because it would
9 prejudice their trial.

10 CHAIRMAN PALLADINO: Well, if it was insignificant --

11 MR. LEVI: The basic issue in both --

12 CHAIRMAN PALLADINO: That's an important point.
13 If they are insignificant, then why go over their trial on
14 it?

15 MR. LEVI: The basic issue in both trials is
16 leak rate tests, and Justice could well feel that they don't
17 want any statements by us regarding leak rate test practices
18 at TMI to be made public because it could prejudice their
19 trial.

20 COMMISSIONER BERNTHAL: Making no distinction
21 between one and two.

22 MR. LEVI: The same practices may have been
23 at both.

24 MR. ZERBE: But they could be insignificant in
25 one and not in two. The thought we had in our memo was that

1 they weren't significant, technically, in one but they
2 were significant, technically, in two. So, there is a
3 difference between two and one.

4 COMMISSIONER BERNTHAL: There is a question of
5 motive, it seems to me. I would be surprised if we are in
6 a real Catch 22 then, if we can't even make a statement.

7 CHAIRMAN PALLADINO: Then they are tying our hands
8 on all TMI-1 restart until that trial is over, and then
9 the review of that trial, records, and then our own
10 interests.

11 MR. PLAINE: Let's find out if they are really
12 asking for that or not.

13 CHAIRMAN PALLADINO: You might indicate to them --

14 MR. PLAINE: And if they are, we will want to
15 know what their real basic reasons are and so forth, and
16 we can then acquiesce in it.

17 CHAIRMAN PALLADINO: But I would, speaking for
18 myself, I would have more resistance to that than their
19 other proposal.

20 MR. ZERBE: Well, if you -- you know, the only
21 date we have at the moment from OI was the one they gave,
22 that they could complete that investigation by the 1st of
23 April.

24 Now, by shortening it up, conceivably they could
25 do better. But there is nothing that they have down that

1 says that they are going to do any different than that. In
2 fact, I don't know what their schedule would show today.
3 It would seem like if this investigation is important and
4 critical to the management decision, that the Commission
5 might want to tell OI that they ought to -- subject to this
6 situation with DOJ -- they should post-haste grab that one
7 up because that is controlling on your making that decision,
8 that partial decision.

9 Now, the other point, though, is, we haven't
10 really discussed the other investigations that were involved,
11 for instance, the RHR and the beta, and what have you.
12 The Commission should take a position where do they stand.

13 You know, the recommendation was that they were
14 not important -- they weren't necessary to complete for
15 restart. But I don't think you have addressed that issue.

16 CHAIRMAN PALLADINO: Oh, sure. I said you will
17 update and you will use the OPE conclusion and recommendation
18 in its Memo 12-14, and the Task Evaluation is a guide to
19 incorporate resolution of issues raised since 1-17-83,
20 except that.

21 MR. ZERBE: Oh, okay. And our recommendation was
22 that there wasn't any other investigation. One would have
23 to concede, okay.

24 CHAIRMAN PALLADINO: That's the intent of my --

25 MR. MONTGOMERY: I have one further question, I

1 think, just to make sure we understand what it is we were
2 supposed to do.

3 As I understand it now, that is to redraft the
4 year-old order. But in addition, does the Commission want
5 something that is a roadmap as a response, or at least as
6 a draft response to the parties as a result of this?

7 COMMISSIONER ASSELSTINE: I think you need to do
8 that.

9 MR. FOUCHARD: Mr. Chairman, I think that -- and
10 hopefully sometime this week if you can get agreement on it --
11 you should issue something to the parties, telling them how
12 you are going, what you want. The roadmap, if you will.

13 COMMISSIONER ASSELSTINE: Yes. I think you can
14 take the Chairman's memo and if you can reach agreement
15 among yourselves on what you want in it and what you don't
16 want in it, put that out.

17 CHAIRMAN PALLADINO: Incidentally, the fact that
18 one is not a part of a majority does not mean that the
19 individual can't participate in other aspects of the
20 decision.

21 COMMISSIONER BERNTHAL: Yes, I must say, I agree
22 in fact that one thing that troubles me about the tenor of
23 the meeting here today is that it really comes down to
24 this question of those two people, and on all of these other
25 things we still should be working out among us what the best

1 thing to do would be.

2 I would hope that we have complete participation
3 on that.

4 COMMISSIONER ROBERTS: Victor can identify --
5 (Laughter)

6 CHAIRMAN PALLADINO: I tell you what I wanted to
7 do -- however, I am willing to sit here and try to do it --
8 is to see if I understand what each person's position is
9 and confirm it, and then see where there is a possibility of
10 a compromise position.

11 Now, let me ask you, what do you mean by a
12 "roadmap" in this order, just so I know where we are going?

13 MR. FOUCHARD: If I can give you my thoughts.

14 CHAIRMAN PALLADINO: All right.

15 MR. FOUCHARD: I would just do a -- whatever you
16 call it -- a memorandum to the parties or something which
17 OPE and OGC can draft, which just says, "Here is what the
18 Commission has decided" -- with a majority the Commission
19 has decided -- "that thus-and-so," and here is how the
20 Commission intends to proceed.

21 COMMISSIONER ASSELSTINE: Right.

22 CHAIRMAN PALLADINO: Is that what you were thinking
23 of, Rick, when you asked the question?

24 MR. LEVI: Yes, as opposed to issuing the
25 January 17 decision again, yes.

1 MR. FOUCHARD: I think you are ready to do that.

2 COMMISSIONER ASSELSTINE: I think you need to do
3 both.

4 CHAIRMAN PALLADINO: But he's insulated it.

5 MR. LEVI: But you can't issue the decision until
6 after the leak rate investigation is completed.

7 COMMISSIONER ASSELSTINE: That's right, yes.

8 MR. FOUCHARD: But it seems to me that you want
9 to avoid the implication, unless you are ready to take
10 a public vote, that you have decided that restart at TMI --
11 and I don't think you have.

12 MR. LEVI: Yes. By "roadmap" I assume you mean
13 the Commission is prepared, has decided to await the
14 completion of the leak rate investigation before making a
15 final decision on restart.

16 Do you want to go into more detail?

17 CHAIRMAN PALLADINO: No.

18 MR. ZERBE: You are waiting for the partial.

19 CHAIRMAN PALLADINO: I'm waiting for the partial,
20 the limited one.

21 MR. LEVI: Do you want to go into more detail than
22 that?

23 COMMISSIONER ASSELSTINE: I think you ought to
24 say something about what the Commission is doing on the
25 GPU proposal.

1 MR. FOUCHARD: I think your lead item probably is
2 that the Commission has decided to proceed to consider
3 restart on the basis of the GPU proposal.

4 COMMISSIONER ASSELSTINE: Absolutely.

5 CHAIRMAN PALLADINO: As modified. We agree to
6 modifications.

7 COMMISSIONER ASSELSTINE: Yes.

8 MR. FOUCHARD: I just hope that the story will
9 hold until we have a memorandum for the parties.

10 CHAIRMAN PALLADINO: Well, these "stories"
11 because you can have different versions, depending on --

12 COMMISSIONER ROBERTS: The citizens --

13 COMMISSIONER BERNTHAL: I don't think you should
14 count on any story holding.

15 MR. ZERBE: And it has to say, we are waiting
16 for these comments on the integrity list.

17 COMMISSIONER ASSELSTINE: Yes, the comments on
18 the integrity list.

19 MR. ZERBE: And we want to wait for the comments
20 of the parties.

21 CHAIRMAN PALLADINO: Yes. I think some of these
22 caveats are very important.

23 MR. ZERBE: Yes.

24 CHAIRMAN PALLADINO: Well, let's see where I think
25 we stand, let me try it.

1 You are going to draft a memorandum and order that
2 indicates the Commission is going to -- is planning to make
3 a restart decision on immediate effectiveness, set down an
4 order, based on the GPU proposal as modified -- as the
5 Commission intends to modify it.

6 And then you would have to say something about the
7 leak rates falsification. We will have to decide on who is
8 to get quarantine. You are going to have the hardware
9 decision as a separate decision.

10 COMMISSIONER ASSELSTINE: Yes. So, the first part
11 would be a decision on the integrity issue.

12 CHAIRMAN PALLADINO: Management competence and
13 integrity.

14 COMMISSIONER ASSELSTINE: That's right.

15 CHAIRMAN PALLADINO: And that we are going to try
16 to draft a draft order on the management competence and
17 integrity. When we get it so we like it, we'll publish it
18 for comments and then, after we get the comments, we'll
19 decide whether or not that issue is closed.

20 That the steam generators are going to be treated
21 separately. The Appeal Board should continue its merit
22 review, and perhaps some rationale for it. That would be
23 the first thing.

24 That one, we should probably try to do as quickly
25 as possible, if possible, by the end of the week.

1 MR. FOUCHARD: I would urge prompt action on that
2 document.

3 COMMISSIONER BERNTHAL: What's the matter, Joe,
4 you are afraid you'll have nothing?

5 (Laughter)

6 CHAIRMAN PALLADINO: Now, that means drafting and
7 then prompt attenty by the Commissioners to the wording.
8 And then, meanwhile, I will try to see if we can come up
9 with where people stand on DD, and the
10 like, come back and talk to you individually about what we
11 might do to reach a compromise.

12 Is this as much as we can properly hope for, for
13 today?

14 Then we would have to proceed on trying to write
15 up a draft order on management competence and integrity and
16 as a separate issue the ALAP 729. Okay?

17 Anything more we should touch on today? Okay,
18 thank you very much. We'll stand adjourned.

19 (Whereupon, at 4:30 p.m. the meeting of the
20 Commission was adjourned.)

21

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24

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CERTIFICATE OF PROCEEDING

1
2 This is to certify that the attached proceedings before the
3 NRC COMMISSION

4 In the Matter of: Continuation of Discussion of Future Steps
5 in TMI-1 Restart
6 Date of Proceeding: 24 January 1984

7 Place of Proceeding: Washington, D. C.

8 were held as herein appears, and that this is the original
9 transcript for the file of the commission.

10 Elizabeth Hansen
11 Official Reporter - Typed

12 Elizabeth Hansen
13 Official Reporter - Signature