

NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

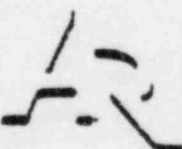
In the Matter of: CLOSED MEETING - EXEMPTION 10

 DISCUSSION OF SCHEDULING MATTERS
 REGARDING TMI-1 RESTART

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF SCHEDULING MATTERS REGARDING TMI-1 RESTART

CLOSED MEETING - EXEMPTION 10

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

Wednesday, December 9, 1981

The Commission met in closed session, pursuant to
notice, at 10:10 a.m.

BEFORE:

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

ALSO PRESENT:

- S. CHILK
- L. BICKWIT
- J. MILHOUN
- J. MONTGOMERY
- F. REMICK
- T. ROTHSCHILD

* * *

1 P R O C E E D I N G S

2 CHAIRMAN PALLADINO: The meeting will please come
3 to order.

4 At today's discussion of the scheduling matters
5 regarding TMI-1 restart I would like to propose and obtain
6 Commission agreement, not necessarily on what I propose, but
7 after discussion on what we come up with to see if we can't
8 get agreement on the major steps which remain for our
9 decision on restart and the dates at which we might expect
10 to complete these steps.

11 I have asked OPE to present to us this morning a
12 summary of the major questions which it feels must be
13 addressed.

14 To supplement the OPE's presentation I have prepared
15 for Commission consideration a brief paper which I believe
16 includes the major steps remaining for us.

17 As we discuss each item on that brief paper I am
18 prepared to suggest a target date of when we might get the
19 work done and see if we can't get some agreement on how we
20 can proceed from that point.

21 So let me turn the meeting over to Dr. Remick who
22 will make the presentation for OPE.

23 MR. REMICK: Thank you, Mr. Chairman.

24 Joining me this morning on my far left is Jim
25 Milhoun and on my immediate left is John Montgomery.

1 I handed out a one-page summary of the things that
2 I will be covering, but in thinking about that this morning
3 I thought perhaps there are a few other background items
4 that I should mention because this morning I realized that
5 there were some things I had forgotten about this case.

6 So I will just briefly add a few items.

7 One, to remind the Commission that you issued a
8 shutdown order for Unit 1 following the accident at Unit 2
9 and that shutdown order was made immediately effective. It
10 is my understanding that the Commission is legally required
11 to lift that shutdown order if the conditions which prompted
12 the order no longer exist.

13 The Commission also established a proceeding to
14 hear various issues of concern. The Board that was
15 established to hear those issues issued its partial initial
16 decision in August on management issues. Following that you
17 received and considered an OPE analysis of that partial
18 initial decision, you heard presentations from the parties
19 to that proceeding and you received an OPE/OGC memo on the
20 decision options that we thought you had on management
21 issues.

22 At that time you decided to await the Board's
23 initial decision on hardware, emergency planning and
24 separation of units before reaching a decision on the
25 management issues.

1 The Commission indicated twice previously in March
2 and again I believe in August that it expected to issue its
3 decision on whether to lift the shutdown order within 35
4 days of a favorable Licensing Board decision authorizing
5 resumption of operation. Those statements, of course, were
6 made before the question of cheating on operator exams was
7 at issue.

8 COMMISSIONER GILINSKY: Was that the language we
9 used, a favorable Licensing Board decision?

10 MR. REMICK: I am not absolutely sure. I think it
11 is, but I am not sure.

12 COMMISSIONER GILINSKY: Well, it matters a lot.
13 What was the language?

14 MR. BICKWIT: I have a copy of that.

15 CHAIRMAN PALLADINO: Do you have a copy of that?

16 MR. BICKWIT: I do. "If the Licensing Board should
17 issue a decision authorizing resumption of operation upon
18 completion of certain short-term actions by the licensee" --
19 and I am reading the relevant portions -- "and if the staff
20 certifies that those short-term actions have been completed
21 to its satisfaction, the Commission will issue an order
22 within 35 days after such certification deciding whether the
23 provision of this order requiring the licensee to remain
24 shut down and it shall be made immediately effective."

25 Then in March of '81 you issued another order

1 saying that the 35 days would run from the date of the
2 decision rather than from the date of the certification. So
3 that certification is still a precondition to ---

4 COMMISSIONER GILINSKY: Was that deliberate or
5 inadvertent?

6 MR. BICKWIT: What, the change? It was
7 deliberate. It was to keep the certification as a
8 precondition to lifting the immediate effectiveness of the
9 original order or to allowing restart, not to let the 35
10 days run from the certification but to let the 35 days from
11 the date of the decision.

12 COMMISSIONER GILINSKY: I suppose we will have to
13 wait for the Licensing Board's decision to know whether they
14 are waiting for the cheating part of the proceeding to be
15 completed before they are willing to authorize operation.

16 CHAIRMAN PALLADINO: I guess we don't have an
17 inkling of what their decision is yet.

18 COMMISSIONER GILINSKY: There is a question on
19 that.

20 MR. BICKWIT: I should say whatever they do, the
21 Commission remains free to ---

22 COMMISSIONER GILINSKY: Well, we could authorize
23 the thing right now if we wanted to and they can do what
24 they want.

25 MR. BICKWIT: That is right. In fact, the

1 Commission is obligated to let the plant restart whenever it
2 determines that the original findings that led to making the
3 original order immediately effective no longer prevail.

4 COMMISSIONER GILINSKY: But in terms of our last
5 order we would count from a favorable Licensing Board
6 decision. Well, more than a favorable one, one authorizing
7 operation.

8 MR. BICKWIT: That is right.

9 COMMISSIONER GILINSKY: I suppose we don't know at
10 this point whether the Board is planning to do that with its
11 next order.

12 MR. REMICK: That is correct. We do not know.

13 One final previous item was that on 30 November
14 the Commission asked the parties for comments on the initial
15 decision when it comes out and also comments on whether the
16 Commission should make a decision on restart within 35 days
17 of the initial decision or defer it until the Board's
18 supplemental decision on cheating.

19 That is the background for precipitating at the
20 agenda planning session the suggestion in looking ahead at
21 the holidays coming that there are some things that perhaps
22 the Commission should be deciding. That leads me to the
23 one-page handout that I gave you there that we currently
24 expect that the Licensing Board's initial decision will be
25 coming out either Friday or Monday.

1 COMMISSIONER GILINSKY: That was supposed to be
2 due December 1st, wasn't it?

3 MR. REMICK: It was due November 30th and it has
4 been delayed. The best information now is Friday to
5 Monday. The Licensing Board apparently decided this morning
6 realizing that there are a lot of people waiting to see it
7 to make comments. The parties as well as the Commission
8 were informed this morning that they are going to take the
9 sections that are finished and distribute them to the
10 parties and then the full decision will come later.

11 COMMISSIONER GILINSKY: When are they going to do
12 that?

13 MR. REMICK: It is expected that that will be
14 today.

15 CHAIRMAN PALLADINO: Are we going to get them all
16 in pieces or are we eventually going to get it combined or
17 consolidated?

18 MR. REMICK: I would think you will eventually get
19 it consolidated.

20 COMMISSIONER AHEARNE: The 20 days would run from
21 the receipt of the last piece?

22 MR. ROTHSCHILD: They are hoping to get the whole
23 works out Friday. If not, it may slip to early next week,
24 but they decided the parties might as well today have on an
25 unofficial basis the portions on the ---

1 COMMISSIONER AHEARNE: That sounds like they
2 essentially are finished.

3 MR. ROTHSCHILD: They are finished. It is
4 editorial changes on emergency planning which is the only
5 thing that is holding up issuance at this point.

6 COMMISSIONER GILINSKY: Are we going to get copies?

7 (Laughter.)

8 MR. REMICK: I assume so.

9 MR. BICKWIT: In due time.

10 COMMISSIONER GILINSKY: In the fullness of time.

11 (Laughter.)

12 COMMISSIONER GILINSKY: Is the thing written? Is
13 it just the mechanical part of it?

14 MR. REMICK: It has been written for some time,
15 but it is just the editorial aspects.

16 COMMISSIONER GILINSKY: They are still editing
17 part of it?

18 MR. REMICK: They are editing the emergency
19 planning section now. The others they feel are fairly well
20 edited. They are using, is it Cress or Crest, to do the
21 printing and so forth. So there are some mechanical
22 problems. The last we heard it was 800-and-some-pages; is
23 that correct?

24 MR. MONTGOMERY: (Nodding affirmatively.)

25 COMMISSIONER AHEARNE: Are you serious that the

1 report, the Board decision is 800?

2 MR. REMICK: That is what we are told, yes.

3 CHAIRMAN PALLADINO: How long is your analysis
4 going to be?

5 (Laughter.)

6 MR. REMICK: We are hoping to meet the guideline
7 of 110 that Commissioner Ahearne suggested to us earlier.

8 COMMISSIONER AHEARNE: I think I will revise that.

9 (Laughter.)

10 MR. REMICK: I really don't know how long ours
11 will be, but that brings me to the next point. We are
12 targeting our analysis of that for 31 December. If we do
13 receive certain parts today that will help us meet that
14 target date. If the remainder comes out much later than the
15 14th we might have to slip a few days, but the best estimate
16 is we can make the 31 December analysis to the Commission.

17 COMMISSIONER GILINSKY: Well, let's see. If the
18 only part that they are workin on is the emergency planning,
19 then presumably we should know today whether or not they are
20 authorizing resumption of operation at Unit 1.

21 MR. REMICK: They might not give us the
22 conclusions of law and so forth. I honestly don't know what
23 we will get. I agree, I think it is an unofficial version.
24 I think they are urging parties not to comment on that; is
25 that right?

1 MR. ROTHSCHILD: I gather they are putting in a
2 cover memo saying it is unofficial and want no one to act as
3 far as the Commission's order until they issue the entire
4 thing.

5 COMMISSIONER GILINSKY: Is there a precedent for
6 this way of doing things?

7 MR. BICKWIT: No. It is just that what you have
8 got here is an 800-page decision and 20 days to comment on
9 it. The Board is mindful of the press that that puts on the
10 parties.

11 COMMISSIONER AHEARNE: Is it realistic?

12 MR. BICKWIT: What, to comment in 20 days on 800
13 pages?

14 COMMISSIONER GILINSKY: Why is it an 800-page
15 decision? There is something very wrong when you get an
16 800-page decision. I mean somebody just hasn't spent time
17 thinking about.

18 MR. ROTHSCHILD: Well, if you had 150 contentions
19 on emergency planning or something as a start.

20 COMMISSIONER GILINSKY: Well, you know, they are
21 there to sort out the important from unimportant.

22 (Laughter.)

23 (Simultaneous Conversations - Inaudible)

24 COMMISSIONER GILINSKY: There is just something
25 very wrong with an 800-page decision in a case like this.

1 CHAIRMAN PALLADINO: It would be nice if they had
2 an executive summary and then had all the other items as
3 appendices.

4 MR. REMICK: Our analysis will be in that format.
5 (Laughter.)

6 COMMISSIONER AHEARNE: Seriously, I don't see how
7 we can expect reasonable comment in 20 days, particularly 20
8 days over this period on 800 pages.

9 COMMISSIONER BRADFORD: I must say, it seems to me
10 a more sensitive way to go about it, given the 800-page
11 decision, is to give the parties an extra 10 days rather
12 than the Board handing out their decision piecemeal.

13 COMMISSIONER GILINSKY: It seems like a pretty
14 sloppy way of doing it if you ask me.

15 CHAIRMAN PALLADINO: I don't mind their giving
16 something ahead of time, but I don't think we ought to count
17 that ---

18 COMMISSIONER GILINSKY: No, I think there is a
19 problem because it is given out unofficially. If there is
20 an error in it it will have to be pulled back and there will
21 be a lot of arguing over, you know, were there changes,
22 whether or not changes, did they change after somebody
23 talked to them or something. It just sounds like a very
24 ragged way to do business.

25 COMMISSIONER AHEARNE: I agree.

1 COMMISSIONER ROBERTS: I agree.

2 COMMISSIONER AHEARNE: I would much rather have
3 them put it out all at once.

4 CHAIRMAN PALLADINO: Well, do we want to get that
5 word to them?

6 COMMISSIONER GILINSKY: I would.

7 COMMISSIONER AHEARNE: Yes.

8 CHAIRMAN PALLADINO: Okay, first decision.

9 (Laughter.)

10 COMMISSIONER BRADFORD: Let's see, if we tell them
11 to put it out all at once, I mean it ought to be within a
12 number of days.

13 CHAIRMAN PALLADINO: We are counting that they put
14 it out at once by December 14th.

15 COMMISSIONER AHEARNE: I seriously believe at that
16 stage we ought to address and give people more time to
17 comment.

18 CHAIRMAN PALLADINO: That is why I didn't put any
19 dates on my steps. Well, no, I won't say that is why.
20 Recognizing that there were other questions, similar
21 questions, I didn't put these dates ---

22 COMMISSIONER AHEARNE: We can get back to that
23 because there are other issues.

24 MR. REMICK: Our analysis of that decision will
25 include a summary of the cheating hearing based on our daily

1 reading of transcripts. We plan to put just kind of a
2 factual summary of the status of that.

3 COMMISSIONER GILINSKY: Do you have a sense for it
4 now? I mean, is it a big deal, or is it arguing over some
5 picayune matters?

6 MR. REMICK: If I could refer to John Montgomery
7 who has been reading the transcripts.

8 MR. MONTGOMERY: I have been able to read all but
9 the last few transcripts which came in late on the operator
10 testimony itself.

11 I would characterize that for the most part it is
12 not a big deal. There are maybe two or three issues. One
13 concerns whether or not there were in fact additional people
14 who either cheated on NRC examinations or licensee given
15 examinations and that is a restricted number. The issue
16 arises only with two or three people and not any number
17 larger than that.

18 There may be some concern over the NRC
19 administration of tests. I doubt that there will be any new
20 information in terms of management involvement.

21 In no instance on the reading that I have made so
22 far is there incontrovertible evidence that any of these
23 things happened. The weight may go farther than we knew
24 earlier, for example, on whether or not there were more
25 people involved in cheating other than the ones that came

1 out before they discussed in the hearing.

2 As I say, nobody admitted they did that. In the
3 case of management complicity, no one has admitted nor has
4 any fact come out which in fact proves that that was the
5 case.

6 COMMISSIONER GILINSKY: Is there any strong
7 suggestion in that direction?

8 MR. MONTGOMERY: In the case of the operator
9 cheating I would say, yes, it tends to go in a strong
10 direction.

11 COMMISSIONER GILINSKY: What about management
12 involvement?

13 MR. MONTGOMERY: I don't want to make a statement
14 about that yet because whether that happens I think is going
15 to be based upon the testimony of the two individuals who
16 were caught cheating on the examination at NRC and I haven't
17 been able to read that yet. I wouldn't want to discount it
18 totally.

19 COMMISSIONER GILINSKY: What is the contention?
20 Let me ask it that way. Or what is it that people are
21 possibly talking about?

22 MR. MONTGOMERY: It is not really involved with
23 cheating. In the case of the one issue there may be
24 testimony from one of those individuals involving whether or
25 not there were other facts known by the licensee on the day

1 of the accident that were not put out which goes back to
2 another issue back in the management and really is not
3 involved in the cheating.

4 The other other one would be whether or not if you
5 wished to consider shift foremen as management personnel,
6 one or more of them may have been involved in some form of
7 cheating as an individual.

8 COMMISSIONER GILINSKY: That is what is referred
9 to as management complicity?

10 MR. MONTGOMERY: Right.

11 COMMISSIONER GILINSKY: When will these people
12 testify?

13 MR. MONTGOMERY: They were testifying yesterday.
14 They will continue today and tomorrow should be the end of
15 all of the testimony and the end of the hearing. These
16 people were the last people to testify in the hearing.

17 COMMISSIONER GILINSKY: So the testimony you are
18 referring to is testimony that would take place today or
19 tomorrow?

20 MR. MONTGOMERY: Correct.

21 COMMISSIONER GILINSKY: So we will know after that
22 what it was that they said?

23 MR. MONTGOMERY: Right.

24 COMMISSIONER AHEARNE: Then there is no further
25 testimony currently scheduled after tomorrow?

1 MR. MONTGOMERY: That is right.

2 COMMISSIONER GILINSKY: So the rest of the time is
3 just putting an opinion together.

4 MR. MONTGOMERY: Yes.

5 MR. REMICK: That brings me to the next point.
6 The comments that the Commission requested from the parties
7 in its order of 30 November are due 20 days after that
8 initial decision, and, depending on whether that is Friday
9 or Monday, those would be due 31 December or 4 January.
10 They have seven days then for replies. Therefore, that
11 would bring it out to somewhere between 7 and 11 January.

12 The items then that we feel the Commission should
13 consider because of scheduling questions is the need to
14 eventually decide when that 35-day clock starts. Presumably
15 that decision must await the comments from the parties
16 because you asked them to comment on that very point.

17 However, if you do decide that the clock would
18 start with the issuance of the initial decision, that means
19 that your decision on lifting the shutdown order would be
20 due somewhere between 15 and 18 January.

21 In addition, we believe the Commission should
22 decide whether it wishes a staff briefing on I say
23 uncontested issues here. I will change that slightly. For
24 example, TMI action plan items, special Commission order
25 items.

1 COMMISSIONER GILINSKY: Why do you say you are not
2 calling them uncontested issues?

3 MR. REMICK: I will elaborate on that in just a
4 minute.

5 The question of operator licenses, the number and
6 so forth, in other words, the question of staffing status,
7 presumably the steam generator tube leak notification
8 recently received and I&E verification of license
9 commitments.

10 The reason why I would enlarge that is that the
11 record of course closed on some of these issues some time
12 ago and I would presume that whether they are contested or
13 not that the Commission would like to have some kind of a
14 briefing on the status of installation of a number of these
15 items and an updating over what will be in the record, the
16 current status, before you make your decision.

17 We would suggest that that staff briefing probably
18 should come after the OPE analysis because some of these
19 things will be covered up to a certain point in the decision
20 and I think that will set the stage better.

21 In fact, as Trip points out, hopefully maybe the
22 initial decision will even lead the way and indicate what
23 items are okay up to this point and what items are not.

24 However, if you do plan to have the staff in
25 because of the holidays, I think they should be alerted on

1 when to expect them to come in. We would suggest that that
2 be scheduled sometime in early January, assuming that you
3 will have our analysis by 31 December.

4 The next item then, we feel that you should
5 consider and decide whether you wish to have an interim
6 report either from the Licensing Board or from the Special
7 Master on the cheating issue, and, if you do, whether that
8 report should be written, oral or both. Once again, if so,
9 we think that you should notify the Special Master or the
10 Board.

11 There is a complication. We understand that Judge
12 Milhollin plans to leave on about 16 December for a trip to
13 Europe of at least a month.

14 (Laughter.)

15 MR. REMICK: He has indicated that if the
16 Commission wishes him to come in he will return, but I think
17 as a courtesy to him he should know whether you wish him and
18 when and what things you would like to have in a report.

19 COMMISSIONER GILINSKY: I just cancelled a trip to
20 Europe.

21 (Laughter.)

22 CHAIRMAN PALLADINO: He has time, or I believe he
23 has time.

24 COMMISSIONER AHEARNE: Does he intend to have his
25 opinion written before he goes or will he write it after he

1 gets back?

2 MR. REMICK: I don't know in this case. I presume
3 they would be proposed findings that he would receive.

4 MR. BICKWIT: He is going to be working on it over
5 there.

6 MR. REMICK: That would be my guess.

7 CHAIRMAN PALLADINO: He is trying to get away from
8 the telephones.

9 (Laughter.)

10 MR. REMICK: The last we knew he was targeting his
11 report to the Board for late January and then I would think
12 it would be about a month before they wrote their decision.

13 COMMISSIONER ROBERTS: Is this an unusual
14 procedure to ask for this interim report?

15 MR. REMICK: I would prefer that OGC answer that,
16 but I think so.

17 MR. BICKWIT: It is unusual.

18 COMMISSIONER ROBERTS: Why are we considering
19 doing this unusual thing?

20 MR. BICKWIT: I think you are considering it
21 because you want to know everything there is to know before
22 you decide whether to wait for the final report as a
23 precondition to lifting the suspension.

24 MR. REMICK: That covers the things I had, Mr.
25 Chairman.

1 CHAIRMAN PALLADINO: Go ahead.

2 COMMISSIONER AHEARNE: Were either you or OGC
3 going to make any comments about the request we have from
4 Mr. Minnich?

5 MR. REMICK: On the Advisory Committee?

6 COMMISSIONER AHEARNE: Yes.

7 CHAIRMAN PALLADINO: To meet with the Advisory
8 Committee.

9 COMMISSIONER AHEARNE: Well, I gather it is
10 broader than meet with the Advisory Committee. I thought
11 the latest letter that came in was a recommendation to hold
12 a meeting, and he uses the Board and The Commission
13 interchangeably, but I think what he is talking about is
14 meeting with the Commission prior to restart.

15 MR. REMICK: Commissioner Ahearne, if I recall,
16 and maybe I am not considering the thing that you are, the
17 thing I was thinking of was his concern that the Commission
18 is not doing an adequate job of making Congress aware
19 of -- (Simultaneous Conversations - Inaudible).

20 COMMISSIONER AHEARNE: No, different letter. He
21 sent two letters. One, I guess it was perhaps three weeks
22 ago or four weeks ago, and that one enclosed a request that
23 it come to him with respect to having a meeting. Now that
24 letter was very neutral on his part.

25 Now another letter just came in from him in which

1 he enclosed I guess a letter from TMI Alert. In this
2 particular letter Minnich seems to be strongly recommending
3 that the Commission do hold a meeting prior to making its
4 decision. I was wondering whether anyone was going to
5 address that.

6 MR. BICKWIT: I wasn't planning to. I haven't
7 read the letter. Why don't we go read it and then tell you
8 what we think.

9 CHAIRMAN PALLADINO: Well, it might be worth
10 trying to get those letters while we look at these others.
11 I don't have that in my list of stuff.

12 COMMISSIONER AHEARNE: In one way or another we
13 have to I believe respond and answer that. If the decision
14 were to have that kind of a meeting, then that would have to
15 be before we made any decision on the restart.

16 CHAIRMAN PALLADINO: Is Bill going to go and try
17 to get those?

18 MR. CHILK: Yes, I am sending someone out to try
19 and get them.

20 CHAIRMAN PALLADINO: Well, based in part on the
21 questions that were raised by OPE and in part on other
22 things that I was aware of I tried to put together some
23 steps that we may or may not want to take with regard to
24 approaching the TMI restart decision.

25 I will hand them out.

1 (Document distributed.)

2 CHAIRMAN PALLADINO: I thought we might walk
3 through them and not talk specifically about dates. Well,
4 maybe I will suggest dates as we go along.

5 It seems to me that we still have some lingering
6 questions, or I sense that some Commissioners have lingering
7 questions with regard to what Vic Stello had said regarding
8 the information flow on the day of the accident. I gathered
9 that there was a desire to meet with him to hear what he has
10 to say and to make sure that any questions are answered.

11 So I have listed that as an item that perhaps we
12 want to do. I said, well, we might even try to do it this
13 week if you would like.

14 COMMISSIONER AHEARNE: Do you wish to? I defer to
15 the Chairman.

16 CHAIRMAN PALLADINO: I haven't alerted Vic
17 Stello. So we will have to see.

18 Then I thought the Commission would want to hear a
19 staff report. I suggested an open meeting on the status of
20 specific items, including the respective positions of the
21 staff and GPU Nuclear on the items listed below.

22 Now, if OGC concludes that an item is ex parte,
23 then we would ask OPE to make the report in a closed portion
24 of the meeting if that is necessary.

25 Some of the items listed were:

1 We have the NUREG 0737 and other special
2 requirements.

3 We probably ought to be briefed on the reactor
4 operator exam.

5 There is quite a bit of controversy on the water
6 level indicator. That, I gather, is contested and that
7 would have to come from OPE.

8 The steam generator problems and other pending
9 technical issues. We have a letter from Governor Thornburgh
10 that has several conditions.

11 We would like to hear the staff's opinion on when
12 GPU would be ready to start operating. If they are not
13 going to be ready to operate until a certain date we may be
14 able to relax our -- (Inaudible.)

15 COMMISSIONER AHEARNE: I don't think I understand,
16 Joe. You say we would be hearing from the staff and GPU
17 Nuclear.

18 CHAIRMAN PALLADINO: Well, I didn't have GPU
19 Nuclear. Things crept in as I got tired ---

20 (Laughter.)

21 CHAIRMAN PALLADINO: My thought was we ought to
22 hear a staff report on specific items and these were the
23 suggested specific items. Well, I gather somebody added
24 this, including the respective positions of the staff and
25 GPU. I think what is meant there is that on such things as

1 water level indicator, for example, it may be that the staff
2 has one position and GPU has another and we would like to be
3 apprised of those respective positions. That is the way I
4 interpreted it.

5 MR. REMICK: Mr. Chairman, on that item, the water
6 level indicators, since that is contested we would assume
7 that the Board would speak at length and we would analyze
8 both sides of that argument and how the Board came out.

9 CHAIRMAN PALLADINO: That is why I say because it
10 is an ex parte item we would rely on you for discussion of
11 that or any other items that OGC says are ex parte.

12 I said if the staff is ready we might try to do
13 this on the 16th of December.

14 Then step three, have OPE's and OGC's staff
15 analysis of parties' comments on whether to await a Board
16 decision on cheating and whether to make the Board's
17 decision on hardware and emergency planning, et cetera,
18 effective if it is favorable to restart. All the comments
19 are due to arrive 20 days following the Board's hardware
20 decision.

21 On the basis that it was coming the 11th -- this
22 doesn't sound right -- oh, there is a 20 day and then there
23 is a 7-day feedback, so it is roughly about the middle of
24 January that those comments are due.

25 COMMISSIONER GILINSKY: These comments are the

1 comments on the Board's decision or the comments on the
2 request or comments that we put out on whether or not we
3 ought to wait?

4 COMMISSIONER AHEARNE: Both.

5 CHAIRMAN PALLADINO: Both.

6 COMMISSIONER GILINSKY: They are both due at the
7 same time?

8 COMMISSIONER AHEARNE: Yes.

9 MR. REMICK: It was in your November 30th order.

10 COMMISSIONER GILINSKY: That is the way we put it?

11 MR. REMICK: You asked for comments on the
12 decision and also the question of the 35 days.

13 COMMISSIONER AHEARNE: What we said was that
14 comments on that decision, and this is the Licensing
15 Board ---

16 CHAIRMAN PALLADINO: Why don't you read the whole
17 order. It is very short, as I recall.

18 COMMISSIONER AHEARNE: "The Commission is inviting
19 parties to file comments with it on whether the Licensing
20 Board's partial initial decision on hardware design issues,
21 emergency planning in the separation of Units 1 and 2 should
22 be made immediately effective if that decision is favorable
23 to restart.

24 "The Licensing Board is expected to issue its
25 decision on these matters in early December. Comments on

1 that decision must be received by the Commission within 20
2 days after the issuance of the Board's decision. Reply
3 comments must be received by the Commission within seven
4 days thereafter.

5 "In their comments the parties should also
6 specifically address whether the Commission should make a
7 decision on restart within 35 days after the issuance of the
8 Licensing Board's partial initial decision described above
9 or defer its decision until the Licensing Board has issued
10 its opinion on the implications of the cheating incidents."

11 CHAIRMAN PALLADINO: These were the comments that
12 I was referring to in step three. Assuming we follow what
13 that order said, then these comments, the final set, and the
14 replies would be in about the middle of January.

15 Now I have listed a step No. 4. Inasmuch as I am
16 told that the Special Master and the Licensing Board will
17 not have their decisions on cheating until sometime in
18 February, I have put in a step here that we might want to
19 hear an interim oral report to the Commission from the
20 Special Master and perhaps the Licensing Board because I
21 gather his recommendations are to the Licensing Board. This
22 is on the cheating issue.

23 I said, well, if we are going to wait for comments
24 until the 15th of January, maybe the 15th of January is a
25 good time to hear the oral report from the Master.

1 Now it has also been suggested to me, a step that
2 is not indicated here, that if we are going to have the
3 Master and the Licensing Board give us an oral report that
4 perhaps we ought to have a five-day comment period from the
5 parties on what they said. So if we heard the oral report
6 about the middle of January, then this would add an
7 additional five days.

8 The fifth step is something that came up earlier
9 that we need staff certification of the licensee's
10 compliance with the necessary requirements. We might ask
11 for that about the middle of January.

12 COMMISSIONER GILINSKY: Well, I thought that we
13 had changed things around so that that certification is no
14 longer a requirement.

15 MR. BICKWIT: No, I guess I didn't make myself
16 clear. The 35 days doesn't run from the date of that
17 certification. That is the change we made.

18 COMMISSIONER GILINSKY: The certification still
19 has to come before Commission approval?

20 MR. BICKWIT: That is right.

21 COMMISSIONER GILINSKY: Oh, I see. Okay.

22 CHAIRMAN PALLADINO: So I would say, well, we
23 could accept it around the middle of January or we could
24 accept it before, but I don't see the reason for it.

25 COMMISSIONER GILINSKY: Does that mean that the

1 licensee needs to have all the hardware changes in place?

2 COMMISSIONER AHEARNE: I think it depends on the
3 requirements that the Board lays down.

4 COMMISSIONER GILINSKY: For those requirements
5 which are ---

6 MR. BICKWIT: --- short term. It depends on
7 whether the Board has singled out something that is a
8 short-term requirement.

9 COMMISSIONER GILINSKY: For those which are
10 required to be in place.

11 MR. BICKWIT: Yes.

12 COMMISSIONER GILINSKY: Okay

13 CHAIRMAN PALLADINO: There are several things here
14 that would be coming around the middle of the month: Item
15 No. 3, the analysis of the parties' comments and the
16 comments. We could have the informal report to the
17 Commission from the Special Master and Licensing Board if we
18 wish. We could also have the staff certification on the
19 licensee's compliance with the necessary requirements. Then
20 the Commission needs to make a decision on whether to await
21 the Board's decision and that is when you start the 35-day
22 clock. Since we would allow five days for a comment period
23 on the oral report of the Special Master, this could not
24 come any sooner than January 20th.

25 Then sometime in that 35-day period, depending on

1 how we decide that 35 days, then we would make a decision on
2 the restart.

3 COMMISSIONER GILINSKY: Well, you have already
4 passed the 35 days at that point, haven't you?

5 CHAIRMAN PALLADINO: I am assuming that we are not
6 prepared really to make a decision on the 35 days until we
7 have got these comments which won't come in until the middle
8 of January. We should know whether or not we want to await
9 the cheating hearing decision. To help us decide whether we
10 want to wait we could introduce the interim oral report.

11 So the earliest I would see us making a decision
12 on the 35-day clock would be about the 20th of January.
13 Then if that is when we want to start it, then within the
14 next 35 days we would make our decision.

15 If we decide at that point that we want to await
16 the final decision on the cheating matter, then we might
17 defer starting the 35-day clock until that time.

18 These are some of the thoughts that I believe we
19 have to address. Now I did not put in anything about
20 meeting with the Advisory Committee.

21 Go ahead.

22 COMMISSIONER AHEARNE: When, Trip, does Milhollin,
23 what is his best estimate of when he would have his report
24 to the Licensing Board?

25 MR. ROTHSCHILD: The last time I talked to him on

1 that issue, which was a couple of weeks ago, he was still
2 thinking the end of January was realistic.

3 COMMISSIONER AHEARNE: The end of January?

4 MR. ROTHSCHILD: Yes.

5 COMMISSIONER AHEARNE: So he really would expect
6 that after he gets back from Europe then to be finishing it
7 up.

8 MR. ROTHSCHILD: He plans to be working on it
9 while he is in Europe. He is going to have the proposed
10 findings served on him in Europe and that kind of stuff.

11 CHAIRMAN PALLADINO: Now those proposed findings
12 then go to the Hearing Board, don't they? Is that a proper
13 understanding?

14 COMMISSIONER GILINSKY: I think his decision goes
15 to the Hearing Board.

16 CHAIRMAN PALLADINO: His decision goes to the
17 Hearing Board and then the Hearing Board may or may not buy
18 his decision. So we really have to wait for the Hearing
19 Board if we wanted to wait for the whole process.

20 MR. ROTHSCHILD: They could reopen the hearings if
21 they wanted to if they weren't satisfied with certain
22 testimony or they wanted more information.

23 CHAIRMAN PALLADINO: So that could go on for some
24 period of time.

25 MR. ROTHSCHILD: They have indicated through

1 Milhollin in a recent transcript that they were not inclined
2 at this point to do that, that they were telling parties to
3 work on the presumption that the Licensing Board was not
4 going to call further witnesses.

5 COMMISSIONER AHEARNE: But your best estimate
6 would be at the end of January for Milhollin's decision.

7 CHAIRMAN PALLADINO: Now the question had been
8 raised as to whether another step would include a meeting
9 with the Advisory Committee on TMI-2 Cleanup.

10 COMMISSIONER AHEARNE: Let me point out again that
11 it wasn't with the Advisory Committee. The Advisory
12 Committee has raised the issue of should not we have a
13 meeting up there.

14 He says here: "I would very strongly urge the NRC
15 Panel to consider a public hearing in this area in order for
16 the panel members to obtain a sense of the public's interest
17 in matter prior to the restart of TMI-1."

18 CHAIRMAN PALLADINO: Let's see, "I would very
19 strongly urge the NRC Panel." What does that mean?

20 COMMISSIONER AHEARNE: Then has a next paragraph
21 he mentions should arrangements be made for the
22 Commissioners to meet in a central Pennsylvania area. So
23 although he talks about the panel in the second paragraph,
24 my interpretation in the third paragraph was he was speaking
25 to a meeting of the Commissioners. But it is not with this

1 Advisory Group, at least the way I read this. He is
2 suggesting that the Commission hold a public meeting up in
3 that area prior to the Commission making its decision on
4 restart. That is how I at least read this.

5 MR. MILHOUN: Wasn't there an earlier letter,
6 too? I think he forwarded a constituent letter.

7 COMMISSIONER AHEARNE: Yes, he did.

8 CHAIRMAN PALLADINO: I thought he did.

9 COMMISSIONER AHEARNE: That one was much more
10 neutral on his part. It more or less said I pass this on to
11 you.

12 This comes out much more strongly in favor of it.
13 As he finishes up: I request your earnest and sincere
14 consideration for such a meeting."

15 CHAIRMAN PALLADINO: Wasn't there an earlier
16 letter from Minnich that asked for a meeting with the
17 Advisory Panel? I thought there was, and I thought it was
18 three or four weeks ago, or maybe two weeks ago.

19 COMMISSIONER ROBERTS: That passed on a
20 constituent's letter.

21 COMMISSIONER AHEARNE: That passed on a letter
22 which was sent to him. The letter asked for a meeting up
23 there and all he did was pass it on in a very neutral
24 fashion. This is much different.

25 CHAIRMAN PALLADINO: Yes, this is a public hearing.

1 MR. BICKWIT: May I suggest that we talk to him
2 and get a better sense of what it is that he is
3 recommending. I am having a lot of trouble with his letter.

4 COMMISSIONER AHEARNE: Good. I wanted to make
5 sure we realized that the request was in and we ought to
6 address it prior to making final schedules.

7 MR. BICKWIT: I agree.

8 CHAIRMAN PALLADINO: Well, it uses different sets
9 of words in different parts of the letter. It talks about a
10 public hearing which may envision having members of the
11 public give their comments. Then in another place he says:
12 "I am concerned about the type of hearing that would be held
13 and the how the public would react to the hearing. I
14 certainly would hesitate to invite the panel to come to a
15 hearing where they would be shouted down, insulted or
16 subject to other kinds of abuse."

17 COMMISSIONER ROBERTS: I am going to pass on that.

18 (Laughter.)

19 COMMISSIONER AHEARNE: We have gone to those kinds
20 of meetings and you deserve to go to one, too.

21 (Laughter.)

22 CHAIRMAN PALLADINO: "I find myself comfortable
23 with this request for the Commissioners to hold a public
24 hearing." I guess he does use public hearing all the way.

25 COMMISSIONER BRADFORD: Len, I don't at all mind

1 your calling him, but I am not sure what you find unclear in
2 this letter.

3 MR. BICKWIT: I don't know who is supposed to
4 speak to the Commission at this session.

5 COMMISSIONER BRADFORD: I assume what he has in
6 mind is a legislative format in which the Commission sits
7 and takes what comes.

8 CHAIRMAN PALLADINO: Takes what?

9 COMMISSIONER BRADFORD: Takes what comes.

10 COMMISSIONER AHEARNE: Similar to the other types
11 of meetings that have been held up there. You know, you had
12 a sign-up sheet and you get this whole list of people and
13 you sit there ---

14 CHAIRMAN PALLADINO: And they line up behind the
15 mike.

16 COMMISSIONER AHEARNE: Now the previous letter was
17 the one that OGC circulated on November 23rd. The letter
18 itself was on November 10th. All Mr. Minnich said was: "I
19 have received the enclosed letter from Mrs. Helen Ann Hocker
20 which I believe you will find self-explanatory. I am
21 forwarding a copy for your response to Mrs. Hocker.
22 Awaiting your response, I am sincerely yours."

23 In the particular letter that was sent to Mr.
24 Minnich Mrs. Hocker says: "It is my belief that the NRC
25 Commissioners should also hear the concern in a public forum

1 to be held here in Harrisburg." That was the previous
2 letter which I felt was very neutral.

3 CHAIRMAN PALLADINO: Well, I have mixed feelings
4 on this subject. These meetings can become shouting matches
5 even with great restraint. It is primarily an outlet for
6 expressions of emotional views that people have and I am not
7 sure that we are going to get any additional information,
8 but those emotional views are not unimportant.

9 COMMISSIONER BRADFORD: I am not I think
10 especially worried about how the hearing would turn out, but
11 I do think in a situation where we have had a Board hold
12 months of hearings, and I assume they had opportunities for
13 non-intervenor participants to come in and make what are
14 called limited appearance statements, that it is probably
15 not a good idea for the Commission to then conduct a further
16 proceeding of that sort for a couple of reasons.

17 One is that it will then be hard to distinguish
18 this case from say the Diablo Canyon and other high
19 visibility type of proceedings in which people will say,
20 well if you did it in Three Mile Island, you should be doing
21 it here.

22 The other is because I don't really see what
23 legitimate role a hearing like that can then play in what is
24 supposedly an on-the-record decision that has been made on
25 the basis of the record built by the Board. The part and

1 parcel to that is the fact that in some ways you are asking
2 people to waste their time to come and testify before the
3 Commission in a forum in which they can't have any influence.

4 The other side of the coin I guess is what you
5 said when you thought you were of two minds which of course
6 is that be declining to have a meeting like this you create
7 an issue where there wasn't one before, that is, the NRC
8 wouldn't come and listen to us.

9 I must say I think the purpose of our Hearing
10 Boards is in large part to hold sessions like this. If we
11 scheduled oral argument of some sort in this context we
12 could do what we did at Seabook, just hold the oral argument
13 in that area.

14 CHAIRMAN PALLADINO: What?

15 COMMISSIONER BRADFORD: Well, in the Seabook case
16 we allowed oral argument and we held the oral argument in
17 New Hampshire.

18 CHAIRMAN PALLADINO: The Commission did?

19 COMMISSIONER BRADFORD: The Commission itself did,
20 but that is very different from ---

21 COMMISSIONER GILINSKY: That was part of the
22 proceeding.

23 COMMISSIONER BRADFORD: That was part of the
24 proceeding. This is sort of an extraordinary meeting
25 outside of the proceeding. I think I feel the same sort of

1 pull that you do toward doing it so that one can say that it
2 was done. I would want to think about it. I don't think it
3 is a good idea.

4 CHAIRMAN PALLADINO: There are a couple of other
5 options. Rather than make it a public hearing, maybe we
6 could hold our January 15th "meeting" in the Harrisburg area.

7 COMMISSIONER GILINSKY: This one would cover what
8 now?

9 CHAIRMAN PALLADINO: It depends on what we decide
10 we ought to cover. But among the things that it might cover
11 is the staff analysis of the parties' comments that we
12 receive, an interim oral report to the Commission from the
13 Special Master and the Board and the staff certification of
14 the licensee's compliance with the necessary requirements,
15 or any combination of these. They are all focused about the
16 middle of January. We would just have the meeting there and
17 invite the public to observe. That is one thing.

18 Another is to have a meeting to receive a report
19 from the Advisory Panel and have it in the Harrisburg area
20 and let the dialogue be between the Commission and the
21 Advisory Panel. That would fall short of having public
22 hearing, but nevertheless the various points might have a
23 chance to get out.

24 COMMISSIONER AHEARNE: I might point out to you,
25 Joe, since you were a member of the Advisory Panel, remember

1 it is really focused on decontamination of Unit 2.

2 CHAIRMAN PALLADINO: I appreciate that.

3 COMMISSIONER ROBERTS: Well, how can mix up the
4 two?

5 CHAIRMAN PALLADINO: Well, because we are supposed
6 to make sure that these two plants are separated. As a
7 matter of fact, the Governor's letter, as I recall, before
8 he would support TMI-1 restart he wants to make sure that
9 these things are separated and that the clean-up of TMI-2 is
10 going to go.

11 COMMISSIONER GILINSKY: You know, one thing that
12 isn't here is a corresponding meeting or hearing to the one
13 that we had with the company on management competence. I
14 don't know whether we are going to want to have one or not.
15 But should we decide to have one with the company or the
16 staff and the various parties, then that would correspond
17 more closely to the meeting we had in Manchester. In other
18 words, it was part of the normal process of the Commission
19 but it just happened to be up there.

20 CHAIRMAN PALLADINO: Well, we did have such a
21 meeting. We had a meeting where we had GPU and the
22 intervenors on the management part.

23 COMMISSIONER GILINSKY: On the management part,
24 but now we are getting this 800-page report and I don't know
25 whether we are going to want to pursue that or not but at

1 least that is a possibility. Then you would have just the
2 parties to the proceeding appearing and it would be a
3 continuation of the hearing. You may want to hear from
4 everybody about water level indicators or whatever else
5 remains in a gray area or whatever.

6 COMMISSIONER AHEARNE: On balance I guess I at the
7 moment can't see a strong advantage to holding any
8 Commission meeting up there.

9 COMMISSIONER GILINSKY: Let me just say, we may
10 want to have such a meeting in any case. That is one that
11 isn't on the list. We may after reading the OPE analysis
12 and so on have a number of items that we may just want to
13 hear from the staff or GPU and other parties.

14 CHAIRMAN PALLADINO: We have had various views
15 expressed on whether we should have a meeting in the
16 Harrisburg area. If we have such a meeting it should be
17 part of our normal procedure. I think on that we are pretty
18 well agreed.

19 COMMISSIONER BRADFORD: Joe, what is your
20 feeling? After all, you know the terrain rather better than
21 us. If this were in Maine, I don't know what my feelings
22 would be.

23 CHAIRMAN PALLADINO: Even if it is well
24 constrained, it will be a very emotional meeting if we allow
25 people to get up and speak. If we have one of our regular

1 meetings there, we may get applause when different people
2 make different statements. We would try to control that.
3 As long as it didn't get farther than applause and you
4 didn't get too many boos when it was on the other side, it
5 could be all right.

6 My frank opinion is and my deep seated feeling is
7 I would not want to have a meeting where you have a lot of
8 people from the public just get up and rant and rave.

9 COMMISSIONER GILINSKY: The thing I suggested
10 was ---

11 CHAIRMAN PALLADINO: I know. I am just adding
12 that.

13 COMMISSIONER GILINSKY: By the way, our experience
14 at Seabook where passions ran pretty high, and in fact there
15 was a demonstration on the street while we were conducting
16 the hearing was a good one in that inside the hearing room
17 people were very well behaved and things went on in a very
18 orderly way. Outside they were demonstrating, but when we
19 went in and out there was just absolutely no problem.

20 CHAIRMAN PALLADINO: Well, I have had meetings at
21 Three Mile Island where they filled up the whole auditorium
22 and I don't know how many people that holds.

23 COMMISSIONER GILINSKY: I was I suppose you might
24 say the Christian at one of those.

25 (Laughter.)

1 CHAIRMAN PALLADINO: Let me try another
2 suggestion. You had brought up the desirability of having a
3 meeting on hardware, emergency planning and separation to
4 hear the parties' arguments on those. That might be a
5 worthwhile thing and that might be something that we might
6 hold in the Harrisburg area if that is the wish of the
7 committee.

8 COMMISSIONER AHEARNE: As I say, on balance I
9 don't think it would be a good idea.

10 COMMISSIONER ROBERTS: I don't either.

11 CHAIRMAN PALLADINO: I am sure we would then have
12 to hold a similar meeting on something or other in Diablo
13 Canyon.

14 COMMISSIONER BRADFORD: Well, no, I don't believe
15 that is true. We have had a lot of proceedings since
16 Seabrook without ever going to the site again.

17 CHAIRMAN PALLADINO: Well, let me ask directly.
18 How many of you think we ought to have a meeting in
19 Harrisburg?

20 COMMISSIONER BRADFORD: Let me put it another way,
21 if you will allow me. I think if there is another meeting
22 of the type that we had on management qualifications it
23 would be well to do that in Harrisburg. I don't know that I
24 would manufacture a meeting simply for the sake of holding
25 one in Harrisburg, but if it turns out that there is another

1 logical meeting point I think it would be a good idea to
2 hold it up there.

3 COMMISSIONER AHEARNE: I wouldn't oppose that. I
4 just at the moment am not convinced that holding a meeting
5 on this next set of very lengthy issues is going to be of
6 benefit.

7 CHAIRMAN PALLADINO: Before proceeding any further
8 on whether or not we should have one in Harrisburg, how many
9 of you feel that we should have a meeting to hear the
10 parties on hardware, emergency planning and separation of
11 the 1 and 2 Units?

12 COMMISSIONER GILINSKY: Well, I would want to see
13 the opinion first and see what OPE says, but if it is 800
14 pages and if there are a bunch of issues to which the answer
15 isn't obvious, you know, however the Board will resolve
16 them, it may well turn out that there are such --
17 (Simultaneous Conversations - Inaudible).

18 CHAIRMAN PALLADINO: From my reading so far there
19 is a major issue on the level indicator, for example. The
20 ACRS has said we ought to put one in. Some of the readings
21 I have read GPU says, well, there is no need to put one in.

22 COMMISSIONER GILINSKY: Well, there is something.
23 You may just want to ask the company and want to hear from
24 them right across the table.

25 CHAIRMAN PALLADINO: I suggest that we tentatively

1 list this as a step we may want to take.

2 COMMISSIONER AHEARNE: List it as a step we would
3 want to consider.

4 COMMISSIONER GILINSKY: It also seems to me that
5 that meeting is the one that most closely fits the category
6 or is the most likely candidate for holding it in that
7 area. It is a regular Commission meeting and a part of the
8 process of evaluating the Board's decision.

9 COMMISSIONER AHEARNE: I want to agree with Peter
10 that I don't think we ought to construct such a meeting just
11 to hold it.

12 COMMISSIONER GILINSKY: I agree with that.

13 COMMISSIONER AHEARNE: If we decide to hold it,
14 then I would agree if we held it there, but that is a
15 two-step decision.

16 COMMISSIONER GILINSKY: Of all the meetings we are
17 talking about, assuming we decide to have this one, it seems
18 the most likely one.

19 CHAIRMAN PALLADINO: If we had this it would come
20 in presumably perhaps between six and seven.

21 COMMISSIONER AHEARNE: Yes, it will have to
22 precede seven.

23 CHAIRMAN PALLADINO: Yes. It seems to me we would
24 want enough information so that we can appreciate whatever
25 is presented to us.

1 Now whether or not to have this meeting would not
2 be decided until when, about the 15th of January?

3 COMMISSIONER AHEARNE: We obviously need the
4 Board's decision and I agree with Vic that we need OPE's
5 analysis. Then we can make that decision.

6 CHAIRMAN PALLADINO: That is why I put it after
7 step six.

8 COMMISSIONER AHEARNE: I would like to speak to
9 your overall schedule, if I could. I think it is a little
10 bit too compressed at the moment.

11 CHAIRMAN PALLADINO: The dates.

12 COMMISSIONER AHEARNE: The dates. There are
13 several factors. First, we do have this mammoth opinion
14 that has to be addressed. Now that has to be addressed by
15 the parties to comment and it has to be addressed by OPE and
16 OGC. That is an enormous amount to digest and distill and I
17 would expect that the shorter time ---

18 COMMISSIONER GILINSKY: To read.

19 COMMISSIONER AHEARNE: Yes.

20 (Laughter.)

21 CHAIRMAN PALLADINO: Incidentally when I set up
22 these dates I had no inkling of 800 pages. I was thinking
23 of something like that (Indicating) that might be a hundred
24 pages.

25 (Laughter.)

1 COMMISSIONER AHEARNE: I think if you compress the
2 time too short obviously what you are going to get is an
3 attempt to disgorge as best one can, but it is not going to
4 be a thoughtful distillation and I don't think it will be
5 very useful for us.

6 There is obviously the issue of the cheating and
7 I, myself, think we are going to have to wait until at least
8 Milhollin is ready to say where he has come out. As you
9 even worked on that ambitious schedule, it begins to overlap
10 right around that time.

11 CHAIRMAN PALLADINO: That is why I say there is
12 plenty of time for him to go to Europe.

13 (Laughter.)

14 COMMISSIONER AHEARNE: For want of a week or so, I
15 don't think I would want to twist the schedule around. I
16 would much rather wait until Milhollin has got his position
17 and we know what his position is. That I think would be
18 much better than asking for a week prior for Milhollin to
19 give us a special report.

20 CHAIRMAN PALLADINO: That is why I put this
21 together was because I was surprised how close we were to
22 the 1st of February.

23 COMMISSIONER AHEARNE: Then there is also the
24 recent result from the ---

25 COMMISSIONER GILINSKY: Well, it is more than the

1 1st of February if you count 35 days the way you are
2 starting from January 20th.

3 CHAIRMAN PALLADINO: He is saying change it and
4 don't have an interim report from Milhollin.

5 COMMISSIONER AHEARNE: We might as well wait for
6 Milhollin's report.

7 CHAIRMAN PALLADINO: We were saying Milhollin's
8 interim report would come about the middle of January. We
9 can have the final report at the end of January. He is
10 saying why have that step and let's just wait until we get
11 the final report.

12 COMMISSIONER AHEARNE: We also have the recent
13 letter from Novak talking about the TMI-1 examination
14 results in which half of the SROs failed. It is not obvious
15 to me where they are going to come out on just getting the
16 necessary staffing.

17 COMMISSIONER GILINSKY: Does that give them
18 enough ---

19 COMMISSIONER AHEARNE: I don't know.

20 MR. MONTGOMERY: We can answer that in part. To
21 meet the minimum commitment without special considerations
22 that are in the Hearing Board decision that was worked out
23 with the Commonwealth and the staff they would have to have
24 a minimum of 20 people. That would allow them to fill five
25 shifts.

1 COMMISSIONER AHEARNE: RO and SRO?

2 MR. MONTGOMERY: That is right. That would be ten
3 ROs, a minimum of five SROs and a minimum of five personnel
4 who would serve a shift foreman who had passed the RO exam,
5 had SRO training but not necessarily the SRO license.

6 On the basis of the October exam none ROs passed.
7 So they are one short. Four SROs who are scheduled to do
8 shift work passed. There were two of their scheduled shift
9 foremen who failed the SRO portion but did pass the RO
10 portion. So they could serve as shift foremen. That gives
11 them a total of 15 of the 20 they need and they would need
12 to find five other people.

13 They have six staff people who took and passed
14 both the RO and the SRO. One of those is the manager of
15 operations. I don't think there is much of a possibility he
16 is going to stay in shift work. The other five, they would
17 have to use all five of those people. One of them is a
18 staff engineer.

19 COMMISSIONER GILINSKY: I thought we went through
20 this before, or was that Diablo Canyon?

21 (Laughter.)

22 MR. MONTGOMERY: I don't think we have ever said
23 anything about this before because we just worked these
24 numbers out yesterday. The five extra people they would
25 need would have to be a shift engineer, one STA and three of

1 their people out of training, operations training people.

2 COMMISSIONER AHEARNE: Did you say, John, at the
3 beginning that this is to meet the Board requirements or
4 without meeting the Board requirements?

5 MR. MONTGOMERY: This would meet the minimum Board
6 requirements without any special considerations. There is
7 also a paragraph in the commitment where given a request to
8 the NRC and notifying the Commonwealth they could work with
9 less than five shifts.

10 So if they did that they could work with four
11 shifts and they would be able to meet that without going to
12 pulling staff people off.

13 COMMISSIONER AHEARNE: Then, finally, at the end
14 of December is for many people a very difficult time and for
15 many offices a very difficult time to get a large amount of
16 staff effort put in. Putting all those things together had
17 led me already to begin to conclude we had to stretch the
18 time out a little bit, and at 850 pages that just seals it.

19 COMMISSIONER GILINSKY: Let me ask about the
20 staffing. Are they going to get re-examined or how does
21 this work?

22 MR. MONTGOMERY: The next part of that is they
23 have scheduled for February re-examination on written and
24 oral tests and for March ---

25 COMMISSIONER GILINSKY: Is it the same people that

1 they can get re-examined?

2 COMMISSIONER AHEARNE: Ninety days.

3 COMMISSIONER GILINSKY: Ninety days.

4 MR. MONTGOMERY: They are some of the same but not
5 all of the same. For example, of the five SROs who were
6 scheduled for shift work who failed, as best we can tell
7 they are putting up three of those five to retake in
8 February. The other two they are not. Other than people
9 who have previously taken tests and not passed, they will
10 also have six brand new RO candidates taking the February
11 test.

12 CHAIRMAN PALLADINO: If agree that if this is
13 going to be a such a formidable document we probably ought
14 to extend our 20 days. I would suggest 30 days.

15 COMMISSIONER AHEARNE: Yes.

16 COMMISSIONER GILINSKY: Yes.

17 CHAIRMAN PALLADINO: What does that take, an order?

18 COMMISSIONER AHEARNE: Yes.

19 COMMISSIONER GILINSKY: Well, we are also going to
20 have to say something about this 35 days because unless we
21 decide that we are going to count from the cheating
22 decision -- well, in any case, we would have to modify it if
23 the Board has decided that it is prepared to authorize on
24 the basis of its current decision, right?

25 CHAIRMAN PALLADINO: Say that again.

1 COMMISSIONER GILINSKY: We said that we would
2 count 35 days from the time the Board authorizes operation.
3 Now I don't know whether the Board is authorizing operation
4 with this decision that we are talking about now that is
5 going to come down Friday or Monday.

6 COMMISSIONER AHEARNE: Yes, you are right.

7 COMMISSIONER GILINSKY: If it isn't, then there is
8 no problem and we would be conforming with our earlier
9 decision if we waited. But if the Board is authorizing
10 operation then we have to put out an order, it seems to me,
11 and say we have decided either to wait or to count from some
12 other date or add 15 days or whatever. Is that right?

13 CHAIRMAN PALLADINO: We can't do that until we see
14 what this order says.

15 COMMISSIONER GILINSKY: We can't do that until we
16 see what this order says.

17 MR. BICKWIT: But you can extend the comment
18 period.

19 COMMISSIONER AHEARNE: Yes, I think we have to.

20 COMMISSIONER GILINSKY: Yes.

21 CHAIRMAN PALLADINO: So we are going to have to
22 meet perhaps after we see what the Board's finding is on
23 hardware, emergency planning and what-not, to see whether
24 they recommend restart.

25 COMMISSIONER GILINSKY: Why don't we put it

1 altogether in one order.

2 COMMISSIONER AHEARNE: Well, I would guess we
3 ought to. If we could get the time for extension out, that
4 would be I think a big help to all of the parties that have
5 to respond because they are going to have to start gearing
6 up their people. If we were able to get out and say we were
7 going to give you 30 days instead of 20 ---

8 COMMISSIONER GILINSKY: Fair enough.

9 COMMISSIONER BRADFORD: Let's see, one of the
10 issues then is whether or not we should be waiting for the
11 cheating order?

12 MR. BICKWIT: That would be one of the issues to
13 comment on.

14 COMMISSIONER BRADFORD: Yes. Somehow I think the
15 comments should be gotten ---

16 CHAIRMAN PALLADINO: I don't see how we can make a
17 decision of when the 35-day clock starts until we get the
18 comments.

19 MR. BICKWIT: We can't.

20 COMMISSIONER BRADFORD: So if we are not
21 extending ---

22 MR. BICKWIT: You are not saying anything with
23 respect to the 35-day clock. You are simply saying you are
24 extending the comment period.

25 CHAIRMAN PALLADINO: I understand that. But

1 suppose on the 11th the Hearing Board comes out and says we
2 recommend restart. Now we have got 35 days and only 35 days
3 unless we speak. So we may in the next week be faced with
4 saying, oh, wait a minute, we want to change when the 35-day
5 clock starts. We don't want it to start now because we
6 don't even have the public comments.

7 MR. BICKWIT: Well, what you have said is you
8 expect to make a decision within 35 days from the time of
9 that decision if favorable. You have also said that you
10 want comments on whether the 35-day clock really should run
11 from the date of that decision. I think it is pretty
12 obvious that you are going to be considering this question
13 and if you don't speak within 35 days I don't think there is
14 any problem.

15 CHAIRMAN PALLADINO: What I am asking is are you
16 sure there isn't a problem because if we don't act within 35
17 days and there is a decision to restart, doesn't that ---

18 COMMISSIONER AHEARNE: No.

19 MR. BICKWIT: No.

20 CHAIRMAN PALLADINO: Okay. That is what I want to
21 guard against.

22 COMMISSIONER AHEARNE: The way the order was
23 written it isn't that it automatically gets lifted in 35
24 days. The Commission said we will do our best.

25 COMMISSIONER GILINSKY: You know, we have got

1 ourselves in this odd position where we are going to be
2 deciding at about the 35th day whether or not you ought to
3 count the clock from 35 days before that.

4 CHAIRMAN PALLADINO: I think the 35 days really
5 now is not an important question. It is when do we want to
6 make our decision. That is what was worrying me was the
7 35-day clock might give us an action by default.

8 MR. BICKWIT: You could put out in the request for
9 comment that the Commission no longer expects to make a
10 decision within 35 days from the date of the decision. When
11 it will make its decision is something that it will decide
12 upon after receiving comments on whether it should wait
13 until the cheating board finishes its work.

14 CHAIRMAN PALLADINO: Now you are suggesting
15 putting that on with the extension of the comment period?

16 MR. BICKWIT: Yes.

17 CHAIRMAN PALLADINO: That would be helpful.

18 Well, can I go down this list again.

19 MR. REMICK: Mr. Chair^{man} before we do that I was
20 wondering if I could raise ~~an issue~~. If you are going to
21 give ten additional days on comments, can OPE have ten more
22 days for its analysis?

23 COMMISSIONER AHEARNE: I would think so.

24 CHAIRMAN PALLADINO: Oh, sure.

25 MR. REMICK: I think that would help us.

1 MR. BICKWIT: Could we get straight the question
2 of whether OPE is expected to comment on the basis of the
3 comments or before receiving the comments?

4 COMMISSIONER BRADFORD: When are we going to need
5 comments?

6 MR. BICKWIT: The present plan is to comment
7 without regard to the comments.

8 MR. RENICK: That is right. We were going to
9 comment on the decision itself and not the comments received.

10 MR. BICKWIT: Right.

11 CHAIRMAN PALLADINO: Could we not have both?
12 Could we not have your comments on the decision and then
13 your analysis of the comments that we receive?

14 COMMISSIONER GILINSKY: That is what the ten extra
15 days are for.

16 (Laughter.)

17 COMMISSIONER AHEARNE: I think the question is the
18 timing of when OPE submits its report, because if they are
19 going to incorporate a consideration of the comments
20 independent of whether it is in Section 2 it just will come
21 in later.

22 COMMISSIONER ROBERTS: Are you going to comment on
23 the replies to the comments?

24 MR. BICKWIT: We decided not to do that at the
25 last meeting?

1 CHAIRMAN PALLADINO: You decided what?

2 MR. BICKWIT: Not to do what you just said.

3 CHAIRMAN PALLADINO: Not to do what?

4 MR. BICKWIT: Not to send out any staff analysis
5 of the replies to the comments. But it wasn't clear on
6 whether we were suppose to analyze the comments themselves.

7 CHAIRMAN PALLADINO: Wait a minute. Don't you
8 normally analyze the comments?

9 MR. REMICK: One certainly can.

10 (Laughter.)

11 MR. REMICK: We did not in this case because we
12 could see the crunch and we wanted to get you our analysis
13 of the decision. Then we realized that you would be getting
14 comments and presumably we would work with OGC on evaluating
15 those comments.

16 COMMISSIONER BRADFORD: You could do one analysis
17 of the decision and then ---

18 CHAIRMAN PALLADINO: --- and then an independent
19 analysis.

20 MR. REMICK: This is what we presumed.

21 CHAIRMAN PALLADINO: That is what I was expecting
22 you to do. Give us your analysis of the decision and then
23 after the comment period is over then give us your
24 evaluation of the comments.

25 MR. BICKWIT: The evaluation of the comments is

1 being put together during the replies to the comments. You
2 are still going to have a reply period. Is that your intent?

3 CHAIRMAN PALLADINO: Yes.

4 COMMISSIONER AHEARNE: So OGC will draft an order
5 doing this extension revision; is that correct?

6 MR. BICKWIT: Yes.

7 CHAIRMAN PALLADINO: Going back to these steps, I
8 gather the Commission would like to meet with Vic Stello.

9 COMMISSIONER AHEARNE: I defer my vote to you,
10 Joe, if you feel that it is important.

11 CHAIRMAN PALLADINO: Well, I think that there
12 might be some value in at least hearing what he has to say.

13 COMMISSIONER ROBERTS: Vic, could you briefly tell
14 me why this is so important to you and I will listen
15 objectively an open minded.

16 COMMISSIONER GILINSKY: Well, we had a meeting and
17 the staff testified one way. Stello sent us a note which I
18 took to mean that he disagreed with what had been said at
19 the hearing or briefing, or whatever you call it. John then
20 said he had talked with Stello and said, no, no, what he
21 meant was something back what was said earlier. It would be
22 interesting to clear it up.

23 COMMISSIONER ROBERTS: But what is the relevance
24 of that to the issue before us?

25 COMMISSIONER GILINSKY: Well, the relevance is

1 whether the company lied and what the NRC staff thinks about
2 it to put it in the bluntest terms.

3 COMMISSIONER ROBERTS: Well, the worst case.
4 Suppose they did lie three years ago. What is the relevance
5 of that today? I am not prepared to say they did lie. I am
6 just making a supposition.

7 COMMISSIONER GILINSKY: Well, if they did and are
8 unwilling to say so and deal with it, then I would say that
9 is pretty serious. If they lied and said, yes, we acted
10 improperly and misinformed you and owned up to it and make
11 changes and so on, that is a different case. Then you could
12 say, well, you know, bygones are bygones perhaps.

13 At least I would have a better feeling about their
14 plans for the future and the commitment of the company to do
15 things right from now on.

16 COMMISSIONER ROBERTS: Well, of the major reports
17 of the investigations is the only one that raises this issue
18 the House subcommittee? What about the Rogovin report and
19 the Kemeny and the Senate report?

20 COMMISSIONER GILINSKY: I think they are all
21 blurred actually. We can go down that list. I don't have
22 it in front of me and I don't remember the details.

23 COMMISSIONER ROBERTS: I have been through it and
24 I can't find where they raised the issue in the same way the
25 House report does.

1 COMMISSIONER GILINSKY: Well, they don't deal with
2 it head on. The one that does is the Rogovin report and
3 they end up with a qualified conclusion in favor of the
4 company. The others raise questions about the information,
5 but they didn't really deal with that aspect of it. I don't
6 think the Kemeny report really dealt with it. It simply
7 talks about the company having put out information that
8 misled or played down the accident.

9 Well, you know, we can go down that list if you
10 want to. I am not prepared to do it right this moment.

11 CHAIRMAN PALLADINO: But I wasn't proposing we
12 were going to reopen the whole matter of information flow.

13 COMMISSIONER GILINSKY: I wasn't either, but just
14 Tom was asking ---

15 COMMISSIONER ROBERTS: This says to discuss
16 information flow. What are you proposing?

17 CHAIRMAN PALLADINO: Vic Stello's position has
18 been characterized in different ways and you can't point to
19 any one of them and say that is the definitive way he meant
20 it. Even his letter intended to be more confusing than it
21 was clarifying.

22 COMMISSIONER AHEARNE: I agree with that.

23 CHAIRMAN PALLADINO: So I think there is value to
24 understanding what he meant. I am not trying to get him to
25 change his mind but I just want to understand what he meant.

1 COMMISSIONER AHEARNE: Now will this be an
2 on-the-record portion of the record of the TMI-1 restart?

3 MR. BICKWIT: I think it should be treated as an
4 ~~on-the-record portion of the record of the TMI-1 restart~~ the parties should have an opportunity
5 to ~~discuss it.~~

6 COMMISSIONER AHEARNE: ~~Should we take a~~
7 ~~short break and then read the transcript to the parties?~~

8 MR. BICKWIT: ~~I would even invite the~~
9 ~~parties to the meeting.~~

10 COMMISSIONER AHEARNE: To also talk at the meeting?

11 MR. BICKWIT: No.

12 CHAIRMAN PALLADINO: Just to hear him.

13 COMMISSIONER AHEARNE: Given that, do you want to
14 ask Vic how long it would take him to get ready for that
15 kind of a meeting?

16 CHAIRMAN PALLADINO: Well, somebody gave me note
17 and he said he could be available tomorrow but he would have
18 to cancel a GRRC meeting and I don't think that there is
19 that much urgency and I would like to give him a little time.

20 COMMISSIONER AHEARNE: Given that it is part of
21 the record, et cetera, he might want to have some
22 opportunity to refresh his memory or go back over old files
23 or something.

24 CHAIRMAN PALLADINO: Well, if we are willing to go
25 with this step, why don't we try to set up a time within the

1 next couple of weeks, or within the next week or thereabouts
2 rather than try to rush it in a day or two.

3 COMMISSIONER ROBERTS: Are you going to vote on
4 that, because I want to vote against it.

5 CHAIRMAN PALLADINO: Okay, you want to vote
6 against having ---

7 COMMISSIONER ROBERTS: Whatever he says and
8 whatever transpires in no way is going to affect my decision
9 on the restart of the plant.

10 COMMISSIONER GILINSKY: Let me ask you this just
11 as a point of information. Do you think the manner in which
12 the company informed the state and the NRC is relevant to
13 our decision?

14 COMMISSIONER ROBERTS: That is a complex
15 question. I can't answer that simply. I think if they
16 wilfully and purposefully and knowingly withheld
17 information, that is one extreme set of circumstances.
18 Considering the confusion and the lack of information and
19 the fact that they may have reported incorrect information
20 in and of itself I don't think is culpable, and I am not
21 prepared to argue whether they put out bad information.

22 COMMISSIONER GILINSKY: Well, you are drawing
23 conclusions about what actually happened, but in deciding
24 whether or not it is relevant you have to consider the range
25 of possibilities, everything from having reported everything

1 a hundred percent accurately to having just lied.

2 Now the question is, is it relevant where on that
3 spectrum they fell. I am not asking you to come to a
4 certain conclusion here. I am just asking whether the
5 contention is relevant or the question is relevant.

6 COMMISSIONER ROBERTS: Based on having read the
7 voluminous investigations and whether they address this
8 issue as thoroughly as you might like is a debatable
9 question.

10 I come to the conclusion that this is not a
11 fruitful topic. I appreciate that we have a difference in
12 point of view. I think we would be wasting everybody's time
13 to continue this line.

14 COMMISSIONER GILINSKY: I can understand that
15 point of view. But suppose you came to the conclusion that
16 they had, you know, knowingly and all those words you
17 used ---

18 COMMISSIONER ROBERTS: I would think that would be
19 a matter of consideration in the present circumstance. I
20 have not reached that conclusion and I am not prepared to
21 understand that whatever Stello has to say to us is going to
22 lead one to reach that conclusion.

23 CHAIRMAN PALLADINO: Well, I think Stello's
24 comments ought to be cleared up for the record. It also
25 will I think help in our discussions with various committees

1 that ask us about what was meant and we can point to a
2 meeting in which at least we clarified what was meant. That
3 is all the farther that I intended to go on that.

4 You vote against it?

5 COMMISSIONER ROBERTS: Yes.

6 CHAIRMAN PALLADINO: How do you vote?

7 COMMISSIONER AHEARNE: As I said earlier, Joe,
8 this is something I will defer to you if you as Chairman
9 feel that it is important for you to do.

10 MR. BICKWIT: That is how I thought you were going
11 to vote.

12 (Laughter.)

13 CHAIRMAN PALLADINO: I don't sense any urgency.
14 In other words, it doesn't have to be tomorrow or the next
15 day but it would be in something like a week or two.

16 COMMISSIONER GILINSKY: If you are going to pursue
17 the vote ---

18 (Laughter.)

19 COMMISSIONER GILINSKY: I guess I would vote in
20 favor of it. I must say I am inclined to agree with Tom
21 that it probably won't clarify even what Stello's view is.

22 (Laughter.)

23 (Simultaneous Conversations - Inaudible)

24 COMMISSIONER ROBERTS: Well, how are we going to
25 do this?

1 COMMISSIONER GILINSKY: On the off chance that it
2 might.

3 COMMISSIONER ROBERTS: I think the chances are
4 slim enough.

5 COMMISSIONER GILINSKY: I would have let it go
6 except he wrote us a letter and I thought I understood it.
7 Then John said he talked with him and he came away with a
8 rather different impression of the letter than I had in
9 reading it. I was just going to call Vic and say, well,
10 what about this. I sent a note to the General Counsel and
11 he tells me that I am not supposed to do that.

12 MR. BICKWIT: You are not supposed to, but John
13 can --(Simultaneous Conversations - Inaudible).

14 COMMISSIONER GILINSKY: I must say I did not ask
15 the Chairman to hold this meeting.

16 CHAIRMAN PALLADINO: I put it on because I had a
17 list of things that had come up from time to time and I
18 said, well, we ought to settle it. If we are going to have
19 a meeting let's settle it, and if we are going to have it,
20 then have it for whatever good it does.

21 COMMISSIONER AHEARNE: The only comment I would
22 make on that, Joe, since you used the word "settle," is this
23 isn't going to settle it.

24 CHAIRMAN PALLADINO: But we are going to have a
25 meeting and attempt to understand his position. That is all

1 I want to do.

2 COMMISSIONER ROBERTS: I think that effort has
3 been going on since May of '79.

4 CHAIRMAN PALLADINO: To tell you the honest truth,
5 for whatever importance it has, I don't understand Stello's
6 position.

7 COMMISSIONER ROBERTS: Is Stello's position of
8 relevance the issue that is before us? I thin Victor's
9 question about if in fact they wilfully and knowingly
10 withheld information, that is an issue. What Vic Stello
11 thinks I don't think is an issue.

12 COMMISSIONER GILINSKY: Well, except that he was
13 the Director of Inspection and Enforcement and they turned
14 out a staff report on this point. It is ultimately his
15 report.

16 COMMISSIONER ROBERTS: I think we are wasting
17 everybody's time and we ought to move on. You have got the
18 vote.

19 CHAIRMAN PALLADINO: I thought I understood it
20 until we had the meeting here where we got a somewhat
21 different version and then we got a letter that attempted
22 clarified it but really didn't and then we have had the
23 hearsay since then.

24 All right, we will work out a date for him.

25 The second item is one that I think we need pretty

1 soon and I will tell you why I think it is needed pretty
2 soon. If some of the things that are at issue are items
3 where we want to either have more input or may want to have
4 more staff work done we ought to have time enough to do it.
5 So I would like to see a staff report to the Commission
6 supplemented by an OPE/OGC report on any contested items and
7 try to do that reasonably soon.

8 COMMISSIONER AHEARNE: Does OGC have a position
9 yet on whether some of these are ex parte, or are all of
10 them?

11 MR. BICKWIT: They are not ex parte in the precise
12 sense of the word because you are really dealing with
13 whether to lift an earlier suspension rather than to make
14 immediately effective the Board's decision. But there are
15 due process concerns that amount to almost the same thing.

16 I think as a strictly legal matter you could hear
17 the staff on all of these matters if you had comment from
18 the parties later on those matters which were in contest. I
19 would not advise doing that. ~~I think it would be better~~
20 ~~from an appearance standpoint where a matter is contested to~~
21 ~~deal with it in the way we have been dealing with contested~~
22 ~~matters which is to have an OPE and OGC briefing.~~ There are
23 a few in here such as the water level indicator.

24 CHAIRMAN PALLADINO: Are there any others that you
25 know of?

1 MR. BICKWIT: I am sure some of the NUREG 0737
2 items are.

3 COMMISSIONER AHEARNE: What I was really trying to
4 get at as we pile all these things on OPE is I was trying to
5 see when ---

6 COMMISSIONER ROBERTS: Merry Christmas.

7 (Laughter.)

8 CHAIRMAN PALLADINO: Well, I would like to see
9 Items 1 and 3 done before Christmas, if that is possible.
10 Then after that I think we ought to keep ourselves flexible
11 and use these steps as a guide in our agenda planning.

12 Now there is somebody from the staff I am told
13 that could speak to their capability of giving such a staff
14 report. I don't know if you want to take that up now or we
15 work with him to see when it would be ready.

16 COMMISSIONER AHEARNE: I would prefer you with Len
17 because it is going to be this mixture of some things we
18 have discussed in open and some in closed.

19 MR. BICKWIT: Have you decided whether you want an
20 oral or a written report?

21 CHAIRMAN PALLADINO: On these items?

22 MR. BICKWIT: Yes.

23 CHAIRMAN PALLADINO: I was thinking of an oral one.

24 MR. BICKWIT: Okay.

25 MR. REMICK: ~~There is a problem with the~~

1. ~~the most difficulty is the NUREG 0737 other special~~
 2 ~~requirements~~ It is very complex. It is a question of is
 3 something contested or not. If you look at contentions they
 4 are broad and if you look at testimony, apparently they come
 5 in and they might speak specifically about some but give
 6 information on others. ~~What is the level of knowledge is a~~
 7 ~~contested issue, consideration not. Justice level~~
 8 ~~is quite clear. It is not clear to me what brief~~
 9 ~~based on the record, there might be something that~~
 10 ~~the record says a~~ ~~record~~

11 When you get into NUREG 0737 other special
 12 requirements it is tough to sort out. This is why we had
 13 suggested that we thought that perhaps the staff briefing
 14 might best come after we have the record and can speak about
 15 those items and then perhaps address whether the Commission
 16 needs further briefing from the staff on the status and
 17 implementation and so forth. It is murky right now until we
 18 see what the Board does. Some of these things will be
 19 contested, uncontested and it is hard to separate them out
 20 at the moment.

21 COMMISSIONER AHEARNE: Joe, could I ask, you have
 22 had a feeling that some of these we ought to get to early,
 23 did you say because there might be additional efforts?

24 CHAIRMAN PALLADINO: The water level indicator,
 25 for example, is one that the ACRS has spoken about. So I

1 said if you want a water level indicator, we had better
2 indicate pretty soon that we want a water level indicator.
3 Maybe the staff is saying we want a water level indicator,
4 and then I say, okay, or I don't know where their position
5 is now.

6 COMMISSIONER AHEARNE: Isn't that one of the
7 issues that is contested?

8 MR. BICKWIT: Yes.

9 COMMISSIONER AHEARNE: If we took it up aren't we
10 essentially beginning to address what we have asked the
11 Board to address?

12 COMMISSIONER GILINSKY: Wait a minute. After
13 their decision we take up anything we want.

14 COMMISSIONER AHEARNE: Yes, I know, but I thought
15 Joe was suggesting taking it up before.

16 COMMISSIONER GILINSKY: Why take it up before, the
17 decision is going to come in.

18 MR. BICKWIT: The decision is going to come in any
19 day.

20 CHAIRMAN PALLADINO: Well, that is true. We can't
21 get it done before Monday, that is for sure.

22 COMMISSIONER AHEARNE: I see what you mean.

23 CHAIRMAN PALLADINO: I gather we are going to have
24 to work out the date.

25 COMMISSIONER AHEARNE: It would be in the context

1 I will call 6-A that we want to consider later, I am going
2 to suggest that I get these redrafted without dates again
3 and send you a revised version so that we can use them at
4 our agenda planning session.

5 Any other items that should come before the
6 Commission?

7 COMMISSIONER ROBERTS: Mr. Chairman, you are not
8 going to decide about the Special Master then?

9 CHAIRMAN PALLADINO: I guess I implied a decision
10 that we didn't make. In view of the time that these things
11 are falling in, do you wish to have an interim report by the
12 Special Master, or do you wish to wait until the final
13 report of the Master comes out on the cheating?

14 COMMISSIONER AHEARNE: I would wait for the final
15 report.

16 CHAIRMAN PALLADINO: You want to wait.

17 COMMISSIONER AHEARNE: But at the same time I
18 would want to tell Milhollin that we really expected to make
19 that the end of January.

20 MR. BICKWIT: You want to wait on the assumption
21 that it is ---

22 COMMISSIONER AHEARNE: Well, more than the
23 assumption.

24 COMMISSIONER ROBERTS: We are not going to ask for
25 the interim, but please get the final as soon as you can; is

1 that what you are saying?

2 COMMISSIONER AHEARNE: Yes.

3 MR. BICKWIT: Aren't you also saying that if that
4 date slips that you might want to reconsider the idea of an
5 interim report?

6 COMMISSIONER AHEARNE: Of course.

7 COMMISSIONER GILINSKY: Well, that date shouldn't
8 slip. I mean, the hearing is going to be over in a few days
9 and the guy ought to write his decision by that time.

10 COMMISSIONER AHEARNE: I agree, Vic, and I would
11 say that there should be no problem other than where he is
12 spending the next month.

13 (Laughter.)

14 COMMISSIONER GILINSKY: Well, he can go there. He
15 just needs to get his decision done by the promised date.

16 CHAIRMAN PALLADINO: You agree though that if he
17 gets it in by that date we want to wait for it, and you also
18 agree that we should tell him we want it by that date.

19 COMMISSIONER BRADFORD: It is hard to know without
20 knowing about what is at issue in that proceeding. Based on
21 what John said earlier, I must say it sounds to me as though
22 the outcome is not in fact going to drive our result one way
23 or the other.

24 On other other hand, without knowing more about
25 the record than I do now, I guess I would have to say I

1 would wait just because I don't know enough not to wait.
2 There may come a time in a couple of weeks when that full
3 record is in when it will be possible to say, look, if
4 everything else is in order there is just nothing in here
5 that would influence the outcome.

6 CHAIRMAN PALLADINO: Well, you see, the problem is
7 though we can't make any decision until we get all these
8 comments back.

9 COMMISSIONER BRADFORD: That is right.

10 CHAIRMAN PALLADINO: That gets us, now that we
11 have added ten days, that gets us almost to the end of
12 January.

13 COMMISSIONER BRADFORD: That is right.

14 CHAIRMAN PALLADINO: So you can say, all right, as
15 long as we are there why don't we wait now for the cheating
16 decision which is due about the same time.

17 COMMISSIONER GILINSKY: Well, except Peter makes I
18 think a good point. I think we ought to wait for what we
19 think we need to make a decision. Now if it happens that
20 our schedule is going to make it possible to incorporate
21 that, too, fine, but if in a few days after knowing about
22 the rest of the testimony it turns out that this isn't
23 something that could possibly sway you one way or the other,
24 then I don't think we ought to hang it on waiting for the
25 cheating.

1 CHAIRMAN PALLADINO: I recognize that point, but I
2 am saying that point is rather moot in the end because you
3 have got to wait for the comments and the comments come
4 about the same time.

5 COMMISSIONER BRADFORD: Yes.

6 COMMISSIONER GILINSKY: Good enough.

7 CHAIRMAN PALLADINO: Now if the report gets
8 delayed, then I think this point becomes very important.

9 COMMISSIONER GILINSKY: Well, we ought to just say
10 we want it on that date.

11 CHAIRMAN PALLADINO: All right. So we will tell
12 Milhollin we do not expect to call him back from Europe
13 during the month of December 16th through January 15th, but
14 we do expect his report in by the end of January.

15 Is that all right?

16 (All Commissioners nodding affirmatively.)

17 MR. REMICK: Mr. Chairman, one related item.
18 Since we had planned to put in a cheating summary, I
19 question now whether that would be of any benefit for us to
20 summarize the record with our analysis which is now going to
21 come roughly the 10th of January. Do you still want us to
22 try to do that, or do you want us to try to do that and
23 maybe try to get that portion to you by the 31 December,
24 that summary? It is not clear.

25 COMMISSIONER AHEARNE: By 31 December?

1 MR. REMICK: Based on the fact that that cheating
2 hearing will end tomorrow ---

3 COMMISSIONER AHEARNE: Yes, I understand that.

4 MR. REMICK: --- we were going to summarize and
5 get it to you on 31 December. If you wished, we could still
6 do that since we now have ten days for the rest of the
7 decision, but I don't know if it is going to be beneficial
8 to you or not since you have already now decided to wait for
9 the Special Master's decision. Whether we might confuse or
10 not, I don't know.

11 COMMISSIONER BRADFORD: Since you have got a
12 limited number of people doing a large number of things, I
13 would let that one slip and focus on the rest. If we need
14 the cheating summary we can always ask you for it at a later
15 point.

16 CHAIRMAN PALLADINO: I was going to suggest that
17 you do what you said you were going to do by the 31st but do
18 it by the 10th. Did I say that right?

19 COMMISSIONER GILINSKY: Yes.

20 CHAIRMAN PALLADINO: Take the extra ten days on
21 whatever you were going to do.

22 COMMISSIONER AHEARNE: I guess I would come out
23 more with Peter.

24 COMMISSIONER BRADFORD: Much as I would love to
25 have a document entitled "Cheating Summary" ---

1 (Laughter.)

2 COMMISSIONER AHEARNE: I think that the limited
3 manpower there is ---

4 CHAIRMAN PALLADINO: I gathered he has almost got
5 that done.

6 (Laughter.)

7 MR. REMICK: No, it is not true. I guess we are
8 are, what, two to three days behind in transcripts. There
9 was glitch in getting some for several days so we probably
10 have five or six days --(Simultaneous Conversations -
11 Inaudible).

12 CHAIRMAN PALLADINO: I will compromise. I will
13 say whatever you had planned to do, and I think it is under
14 Item 3, take the extra ten days that we gave you. If you
15 get overburdened where you have to give something up, then
16 the cheating analysis would be what you would give up.

17 COMMISSIONER GILINSKY: Would you not continue to
18 read the transcripts?

19 MR. REMICK: Absolutely.

20 COMMISSIONER GILINSKY: You would not?

21 MR. REMICK: We would.

22 COMMISSIONER GILINSKY: You would continue.

23 MR. REMICK: Oh, yes, we intend to.

24 COMMISSIONER GILINSKY: Well, if you are not going
25 to turn out a summary, could you stop down and just tell me

1 what is in the transcripts.

2 (Laughter.)

3 CHAIRMAN PALLADINO: I have a feeling they are
4 going to do that summary and they are going to do it later
5 than the date they show here. If they have got any problems
6 where they have to decide to give something up, the cheating
7 analysis ---

8 MR. MONTGOMERY: We will just change it from 1 in
9 10 to 1 in 100 on the cheating.

10 CHAIRMAN PALLADINO: What is that?

11 MR. MONTGOMERY: We will change it from the 1 in
12 10 standard to 1 in 100.

13 CHAIRMAN PALLADINO: Anything more?

14 (No response.)

15 CHAIRMAN PALLADINO: Thank you.

16 We will stand adjourned.

17 (Whereupon, at 11:50 a.m., the closed meeting
18 adjourned.)

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NUCLEAR REGULATORY COMMISSION

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

in the matter of: CLOSED MEETING - EXEMPTION 10 - DISCUSSION OF SCHEDULING
MATTERS REGARDING TMI-1 RESTART

Date of Proceeding: December 9, 1981

Docket Number:

Place of Proceeding: Washington, D. C.

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

Mary C. Simons

Official Reporter (Typed)

Mary C Simons

Official Reporter (Signature)