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NUCLEAR REGULATORY COMMISSION

COMMISSION MEETING

CLOSED MEETING - EXEMPTION NO. 10

DKT/CASE NO.

TITLE DISCUSSION OF IMMEDIATE EFFECTIVENESS
ISSUES IN TMI-1 RESTART PROCEEDING

PLACE Washington, D. C.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF IMMEDIATE EFFECTIVENESS ISSUES
IN TMI-1 RESTART PROCEEDING

CLOSED MEETING - EXEMPTION NO. 10

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

Monday, December 6, 1982

The Commission convened in closed session, at
2:05 p.m.

COMMISSIONERS PRESENT:

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

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- S. CHILK
- M. MALSCH
- C. ROTHSCHILD
- J. ZERBE
- A. KENNEKY
- J. MONTGOMERY

AUDIENCE SPEAKERS:

- R. SHERRY
- J. FOUCHARD

* * *

1 there might be a number of questions on wording, and how
2 would you propose to handle that?

3 CHAIRMAN PALLADINO: Well, let me try the
4 following. To see if there are major issues first and
5 then see if we can settle the questions raised here, or
6 what we add or subtract from it, and then go back page
7 by page. Is that reasonable? I have some, and many of
8 them are resolved by asking questions of my staff, but I
9 still have a few.

10 COMMISSIONER AHEARNE: All right.

11 CHAIRMAN PALLADINO: Let's try that. If it
12 doesn't work, we will go page by page.

13 MR. ZERBE: Okay. Well, we have reformatted
14 the document from what you saw last time. Essentially
15 then following the memorandum and order title, we cover
16 an item called Effectiveness Review and Decision. Then
17 we have added a new section called Public Concerns at
18 the request of the Commission from the last meeting
19 where we identify those items that the public brought up
20 in the open meeting.

21 While I am talking about that, on Page 3 there
22 is a sentence, the second sentence under Public Concern
23 that just got misplaced in the rejuggling of the
24 computer, and that is the last sentence of the preceding
25 item. In other words, "In this sense, the views

1 expressed in this order are preliminary," that is the
2 last sentence in the Item 1, and that was a fairly
3 lengthy change I wanted to make there.

4 CHAIRMAN PALLADINO: Are you going to discuss
5 what that means?

6 MR. ZERBE: Well, it is more meaningful in the
7 context of the last paragraph and item on Page 3 on your
8 copy.

9 COMMISSIONER AHEARNE: That is true. We had a
10 good discussion, though, about what it meant in that
11 paragraph.

12 (Laughter.)

13 MR. ZERBE: You could have, yes.

14 (Laughter.)

15 CHAIRMAN PALLADINO: All right. Go ahead.

16 MR. ZERBE: Following the Public Concern area,
17 then we go back and pick up the procedural background
18 for a number of pages, followed by the Commission
19 decision, Item 4, which starts on Page 15. Then we go
20 into the major issues, the first being management issues
21 and cheating, which is broken down into four subtitles.
22 This arrangement then picks up all the comments that
23 came out from board discussions plus the various party
24 considerations in the matters.

25 Then we proceed with emergency planning,

1 followed by hardware issues and the Commission
2 conclusion.

3 Now, beyond that, then, we have attached an
4 appendix, and the part that is there are the items that
5 the licensee has to do that specifically come up through
6 the board actions. It does not, if you notice the last
7 page there it said, to be supplied a list of items that
8 would be in the certification package. Now, we are not
9 sure whether you would like to have those put in here or
10 whether we should refer to them. They are the items
11 that are included in a SECY document, SECY 82-250. We
12 would suggest we would just reproduce them here
13 updated. If there are some that are already completed,
14 we would identify that. Otherwise, if they haven't
15 been, we would just list those items here, or we could
16 cut the volume of this thing down by just referring to
17 that SECY document with any modification that would have
18 to be made to it.

19 COMMISSIONER AHEARNE: Jack, could I ask you a
20 question. Based upon my reading of the transcript of
21 the last meeting, it wasn't clear to me when I read the
22 appendix to the decision what it was that you were
23 asking to be included here. I had thought from reading
24 the transcript that what you wanted appended were those
25 steps that the licensee was going to have to complete or

1 that NRR was going to have to certify that the licensee
2 had completed prior to a --

3 MR. ZERBE: Prior to restart?

4 COMMISSIONER AHEARNE: -- prior to restart.

5 MR. ZERBE: Well, this has more than restart
6 item in it.

7 COMMISSIONER AHEARNE: Or actions that were
8 going to be taken. This has everything that was laid on
9 as a condition, as I read it, both items that may have
10 already been completed as well as items that are to be
11 completed.

12 MR. ZERBE: That's right.

13 COMMISSIONER AHEARNE: And so it is more of a
14 historical summary of the list of requirements, and that
15 may well be what was requested, not being here. I was
16 just reading the transcript. But I would think then
17 that what I will ask you at some point to do is to --

18 MR. ZERBE: Add an item.

19 COMMISSIONER AHEARNE: Well, just give me a
20 table that would say, here is what they had to do, and
21 here is the status of it.

22 MR. ZERBE: We could certainly add the status,
23 and maybe that is an appropriate thing to do.

24 COMMISSIONER AHEARNE: Certainly for me if I
25 were the reader, I would be interested in what do they

1 still have to do.

2 MR. ZERBE: Yes.

3 CHAIRMAN PALLADINO: Well, I will give you my
4 answer. There were two parts to it. One was partly
5 historical. For example, what were the concerns that
6 led to the shutdown and also, what these conditions
7 were. It said there were ten conditions. And I said it
8 would be nice to have those in there. But then the last
9 comment I made was, what is it that we are adopting if
10 we adopt the order? In other words, what is it that
11 needs to be done? So there were two parts to it.

12 COMMISSIONER AHEARNE: And it was that second
13 piece that I thought would be useful to have some easy
14 way to read through to say that here are the things the
15 licensee has to do, or here is what NRR has to do.

16 MR. ZERBE: Relative to one of your comments,
17 Mr. Chairman, up in the procedural background starting
18 on Page 6, we added in this version seven items.

19 CHAIRMAN PALLADINO: Yes, you put them right
20 in there.

21 MR. ZERBE: Right. Now, we didn't cover
22 specifically the eight immediate items and the four
23 long-term items as such in the appendix, right?

24 MR. MONTGOMERY: No, that is right.

25 MR. ZERBE: That is not covered.

1 CHAIRMAN PALLADINO: And on that page I have
2 list, question mark, for those.

3 MR. ZERBE: Yes.

4 MR. MONTGOMERY: In fact, what we still
5 intended on doing and just didn't have time to get it in
6 the redraft was to summarize those items that we put up
7 front right at the back end of the order with a couple
8 of sentences on how each one was completed as part of
9 the order itself rather than in the appendix.

10 MR. ZERBE: But, we don't add the eight and
11 four items that the Commission had. We don't have them
12 in here now at all.

13 MR. MONTGOMERY: No. Only up front. They are
14 identified up in the beginning.

15 MR. ZERBE: Yes, right.

16 MR. MONTGOMERY: But there is not a summary of
17 them at the end.

18 MR. ZERBE: Right. So we could add those if
19 you want them in the appendix.

20 CHAIRMAN PALLADINO: What are these items?

21 MR. ZERBE: They were items that had to be
22 done prior to startup and items that could be postponed
23 until after startup.

24 CHAIRMAN PALLADINO: Yes, I thought it would
25 be nice to have a list of both of those.

1 MR. ZERBE: We can put that list of items in.
2 They are not listed independently up front, are they? I
3 mean I have referred to the items.

4 CHAIRMAN PALLADINO: I do agree with
5 Commissioner Ahearne that in the end we have to know
6 what it is that we are laying on the licensee.

7 MR. ZERBE: We will add those things to the
8 appendix.

9 Are there any other items relative to the body
10 of the order then before we talk about --

11 CHAIRMAN PALLADINO: I have a number of
12 comments. I know everybody does.

13 MR. ZERBE: Do you want to do that?

14 CHAIRMAN PALLADINO: But I was wondering
15 whether before we go into those details, we should not
16 try to address some of the major questions that you
17 raised, because it could affect what we want to do with
18 the body, if you want to walk us through.

19 MR. ZERBE: Well, okay. Item 1, should the
20 Commission accept the findings of the Special Master or
21 the Licensing Board relative to adequacy of the
22 operation staff and training? In the order it is
23 identified that the Commission agrees with the Licensing
24 Board and that is covered there, our position on that
25 thing.

1 CHAIRMAN PALLADINO: Well, for guidance, of
2 course, and of course there may be questions or comments.

3 MR. ZERBE: That one is specifically addressed
4 in the body of the order. I didn't plan to talk in
5 detail about it.

6 COMMISSIONER AHEARNE: But in writing the
7 order you have made assumptions on the answers.

8 CHAIRMAN PALLADINO: Yes, that's right.

9 MR. ZERBE: Well, not all of them. Some of
10 them aren't, and they are the ones I was going to
11 write. That one is identified in there.

12 CHAIRMAN PALLADINO: Well, let's see if we
13 have agreement or where we stand on agreement on this.
14 The assumption is that it is the Licensing Board. All
15 right, can we get confirmation that that is generally
16 agreed to?

17 COMMISSIONER GILINSKY: I would be more
18 inclined to go with the Special Master.

19 COMMISSIONER ASSELSTINE: I am inclined to go
20 with the Special Master on some findings, particularly
21 those related to the performance and integrity of
22 selected individuals.

23 CHAIRMAN PALLADINO: When you get down to H
24 and Husted. Yes, I have some questions on those, but I
25 think on the general statement I went with the Licensing

1 Board.

2 COMMISSIONER GILINSKY: There are many
3 individual findings, and I did not mean to say to go
4 with them 100 percent, but if I had to choose overall
5 that is the way I would lean.

6 CHAIRMAN PALLADINO: All right. How about
7 Question Number 2?

8 MR. ZERBE: In Question Number 2, does the
9 record support a finding that GPU management is
10 competent to safely operate TMI? In the order we say,
11 yes, they are competent to safely operate TMI, and there
12 are facts in there.

13 CHAIRMAN PALLADINO: Any disagreement on that
14 assumption?

15 COMMISSIONER AHEARNE: Jack, I am puzzled by
16 this list of questions. What is the genesis of this
17 list of questions?

18 MR. ZERBE: Oh, these were just items that we
19 didn't want people to lose track of that were major
20 issues. Most of them were addressed in the order and a
21 few of them not, but where they haven't been addressed
22 they were items that came up independently that somebody
23 thought they might be included.

24 COMMISSIONER AHEARNE: Well, let me ask you
25 either A or B. Are they all of the major issues that

1 you believe are addressed, or B, are they ones in which
2 you as OPE felt the Commission reached a decision but
3 perhaps should revisit it, that you are not comfortable
4 where the Commission cannot?

5 MR. ZERBE: No, I think the ones that are
6 addressed, and when I say, yes, it is addressed they are
7 ones that we don't feel differently. We feel that they
8 are the way they should be, but we just put them down to
9 identify generally what are the major issues that we
10 think are in the total subject.

11 COMMISSIONER AHEARNE: But if, for example,
12 you were to write some sort of a summary of this
13 document for an easy guide to the reader, these would be
14 the issues that the Commission has now decided?

15 MR. ZERBE: I would say generally, yes, but
16 let me give you an example. There is a couple issues
17 that we put in that haven't been addressed here, and we
18 bring them up because they were in prior correspondence,
19 and we just want to make sure you haven't forgotten
20 them.

21 COMMISSIONER AHEARNE: Okay. That is an
22 additional. But nevertheless, my question is, because
23 at some point then I will say, well, gee, that sounds
24 like a good thing for you to do, is, if all of the major
25 issues are addressed here and if we answer those

1 questions, then that is a good guide to the reader of
2 this document, and the Commission is now saying, one,
3 two, three, four, five, six.

4 MR. ZERBE: Certainly all the major issues are
5 included in this list.

6 COMMISSIONER AHEARNE: Fine.

7 MR. ZERBE: There are a few here that you
8 might not consider to be major.

9 CHAIRMAN PALLADINO: May I make a somewhat
10 different comment? We went through the document last
11 time and there were some issues such as whether the TLDs
12 should begin their work because we weren't sure we had a
13 consensus, and we said those kind of issues ought to be
14 identified so that we can hit them. Now, the list was
15 longer than I expected it to be, but --

16 MR. ZERBE: Because we have added a few that
17 weren't discussed last time, but Item 2 was on the list,
18 and it is covered in the document.

19 CHAIRMAN PALLADINO: And it is assumed that it
20 is competent to safely operate TMI?

21 MR. ZERBE: Yes. That is what the order has
22 in it.

23 CHAIRMAN PALLADINO: Is there any disagreement
24 on Item Number 2? Do we agree that they are competent
25 to safely operate TMI 1?

1 COMMISSIONER AHEARNE: What do you think, Joe?

2 CHAIRMAN PALLADINO: I think they are

3 competent to operate TMI 1.

4 COMMISSIONER AHEARNE: I go along with you.

5 COMMISSIONER ASSELSTINE: Yes.

6 COMMISSIONER GILINSKY: I will tell you, I am

7 not inclined to differentiate between their competency

8 and integrity, and as I have indicated earlier, I had

9 come out with an unfavorable finding on integrity.

10 COMMISSIONER AHEARNE: You mean Number 3 in

11 Jack's listing?

12 COMMISSIONER GILINSKY: Yes.

13 CHAIRMAN PALLADINO: Now, Number 3, you say

14 you don't treat them separately?

15 COMMISSIONER GILINSKY: Well, there is a

16 certain narrow sense in which you can. You know, there

17 are questions, have the operators passed their exams,

18 and if they pass, they pass, and there is nothing more

19 to say about it. But the larger question is do you have

20 confidence in these people to run the plant safely, and

21 there, I think it is a little harder to separate sheer

22 competence from pure integrity. They merge.

23 CHAIRMAN PALLADINO: Do you want to answer

24 them together?

25 COMMISSIONER GILINSKY: Well, I am inclined

1 to, yes. If you ask a very narrow question, you know,
2 have the various factual answers, you know, there are so
3 many operators that passed exams, and I don't have any
4 reason to question that, or that the exams as finally
5 given were conducted properly. I assume they were.

6 CHAIRMAN PALLADINO: So you are saying on 2
7 you could go along with that but when you get down to
8 Number 3, do I gather you have a different opinion?

9 COMMISSIONER GILINSKY: Well, I am saying I
10 combine the two and come out with a negative.

11 CHAIRMAN PALLADINO: So overall you say no.

12 COMMISSIONER GILINSKY: Yes.

13 CHAIRMAN PALLADINO: Well, how about on Number
14 3? Does the report support a finding that the
15 management integrity is adequate to safely operate TMI
16 1? My answer would be yes.

17 COMMISSIONER AHEARNE: That would mine.

18 COMMISSIONER ROBERTS: As would mine.

19 COMMISSIONER GILINSKY: How about yours, Jim?

20 COMMISSIONER ASSELSTINE: I have some
21 difficulty. I guess I would say yes, but marginally so,
22 particularly if restrictions were placed upon certain
23 individuals ever having duties related to TMI 1 again.

24 CHAIRMAN PALLADINO: I think you are looking
25 forward.

1 COMMISSIONER ASSELSTINE: But I am looking
2 forward down the line a bit. But there were enough
3 people who were involved in what I view as the
4 management of the company in some of these incidents to
5 at least make it a close question in my mind.

6 CHAIRMAN PALLADINO: Well, maybe we want to
7 jump down to Number 6. And then we can come back to 4
8 and 5. Do you want to read those?

9 MR. ZERBE: Yes. Number 6, have H and Mr.
10 Hunson been adequately dealt with? Should they be
11 allowed to continue their duties at TMI 1 if it is
12 allowed to operate? And the order comes out saying yes,
13 we agreed with the board, and essentially then disagreed
14 with the Commonwealth.

15 COMMISSIONER ASSELSTINE: In my mind, at
16 least, I have some difficulty with the way more than
17 just H, I think, have been dealt with. Granted, there
18 are a number of people now who no longer work for the
19 company but that were involved in actions that I think
20 would not in my mind have been involved in any future
21 operation of this plant.

22 I would adopt as a condition of restart that a
23 list of individuals who not have further duties related
24 to TMI, and I would include on that list some of the
25 people who have already left, just to make sure that

1 they don't come back, and I would include on that list
2 O, W, G, H, Herbein, Miller, VV, and Mr. Shipman.

3 CHAIRMAN PALLADINO: Could you read them
4 again?

5 COMMISSIONER ASSELSTINE: Yes. O, W, G, H,
6 Herbein, Miller, VV, and Shipman.

7 CHAIRMAN PALLADINO: DD?

8 COMMISSIONER ASSELSTINE: VV.

9 CHAIRMAN PALLADINO: BB?

10 COMMISSIONER ASSELSTINE: No, VV. Victor
11 Victor. Apart from them, I guess I am troubled by Ross
12 and Husted, but I can't think of something that would
13 fall short of --

14 CHAIRMAN PALLADINO: You don't include
15 Husted.

16 COMMISSIONER ASSELSTINE: I don't include
17 Husted, or Husted, yes, and I don't include Ross,
18 although I am troubled by their conduct. But I wouldn't
19 go so far as to prohibit them from further duties.

20 CHAIRMAN PALLADINO: Well, I had some question
21 on Husted, particularly since his attitude seemed to be
22 strange anyhow for the position that he held, and he
23 still is, I gather, in charge of training, and
24 transmittal of that to others would, if that is
25 something that maintains was a problem.

1 MR. MONTGOMERY: He still has training
2 duties.

3 COMMISSIONER ASSELSTINE: He is an instructor.

4 MR. ZERBE: That's one they've got to watch
5 carefully.

6 COMMISSIONER GILINSKY: Is this the one who
7 certified that VV had met training requirements, or was
8 that someone else?

9 MR. MONTGOMERY: No, that was somebody else.
10 That was somebody else that Commissioner Gilinsky was
11 thinking about. It's whoever is in charge of TMI
12 training on-site, and I have forgotten the name right
13 now.

14 COMMISSIONER GILINSKY: Was, but they said he
15 was no longer.

16 CHAIRMAN PALLADINO: Jim, can I ask you a
17 question? Of those that you list, which ones are still
18 there?

19 COMMISSIONER ASSELSTINE: H.

20 CHAIRMAN PALLADINO: H.

21 COMMISSIONER ASSELSTINE: VV. Well, VV, I
22 guess, is not.

23 MR. ZERBE: Not in the nuclear.

24 MR. ROTHSCHILD: Not TMI 1. He is TMI 2. He
25 is not TMI 1. He is the one that had the transfer that

1 was supposedly for disciplinary reasons, but nobody knew
2 of that, including him. And Shipman still is, I
3 believe.

4 CHAIRMAN PALLADINO: Shipman is still there?

5 MR. ROTHSCHILD: Yes.

6 COMMISSIONER ASSELSTINE: So H and Shipman
7 would be the two that are still there.

8 CHAIRMAN PALLADINO: You say you would agree
9 to license startup of TMI 1 at least so far as this
10 point is concerned to providing a list as a condition of
11 startup that these individuals would not be involved?

12 COMMISSIONER ASSELSTINE: That is right, and
13 relieved from their duties related to TMI 1.

14 COMMISSIONER AHEARNE: Jim, would you make
15 that requirement on any NRC licensed facility?

16 (Pause.)

17 COMMISSIONER ASSELSTINE: The problem with
18 that is the question about whether we can do that with
19 relation to other facilities. I do not know. I mean,
20 this way it is imposed as a condition of restart. I am
21 troubled. I am sufficiently troubled by the performance
22 of each one of those individuals to say that I really
23 don't think they ought to be involved in power license
24 activities.

25 CHAIRMAN PALLADINO: What was the problem

1 withShipman? I went back and read on G, H, and
2 Husted. I did not go back and read --

3 COMMISSIONER ASSELSTINE: He is the guy that
4 was at the coffee machine, and he gave an answer to
5 someone who came up to him at the coffee machine, and I
6 don't fault him for that, but what troubles me is his
7 testimony, both his statements to the investigators and
8 his testimony to the special master, that after having
9 remembered that in fact he had given an answer to
10 someone who came up to him and asked him the answer, he
11 couldn't remember who the individual was, and I agree
12 with Milholland that his answer was not credible.

13 CHAIRMAN PALLADINO: That part is credible,
14 because I have any number of people that come up and
15 tell me things, and then I can't remember who it was who
16 told me what.

17 (General laughter.)

18 CHAIRMAN PALLADINO: So that part was
19 credible. I didn't find --

20 COMMISSIONER ASSELSTINE: I know. I think if
21 somebody comes up to you that comes out of a test room
22 and walks up to you and says, hey, what is the answer to
23 this question, you sure remember them asking and telling
24 you, but you don't remember the answer. In fact, I
25 think, as I recall, even the licensing board agreed that

1 they found it difficult to believe Shipman when he said,
2 and as I recall, even the applicant. I may be wrong on
3 that one, but as I recall, the licensing board was very
4 skeptical of that answer.

5 COMMISSIONER GILINSKY: I assume when you say
6 that you don't fault him for it that you are assuming
7 that he didn't know the man came out of an exam room?

8 COMMISSIONER ASSELSTINE: That is right.

9 MR. MONTGOMERY: One of the things which was
10 never clear to me, and I am a little leary of
11 interjecting myself in this particular one, and this is
12 strictly a personal experience on test taking, it is not
13 at all strange to me that somebody comes out and asks
14 somebody else questions after exams, maybe even during
15 exams, and you never know whether that person has
16 already answered that question, that kind of situation.

17 The other one, it does not surprise me that he
18 does not remember what it was. My own experience in
19 tests --

20 CHAIRMAN PALLADINO: Who?

21 MR. MONTGOMERY: Shipman. He does not
22 remember who it was. I didn't find that surprising.
23 When I was an investigator, I had people giving me
24 responses back that were totally incredible, but we had
25 ways to verify later they were truthful. It is just

1 that people come up with some pretty incredible
2 testimony sometimes.

3 CHAIRMAN PALLADINO: Your list having Shipman
4 on there gives me some problem.

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1 COMMISSIONER GILINSKY: Could I though, Jim,
2 expore this a little but further. As I understand it,
3 your concern is that you do not believe these people are
4 qualified on the grounds of integrity to operate a
5 licensed facility. I don't understand why you would
6 conclude, however, that they are, and I am describing it
7 this way because I think the net result would be why you
8 think they are qualified, however, to operate some other
9 licenced facility.

10 COMMISSIONER AHEARNE: Oh, I don't. The
11 question is the extent of our authority to prohibit them
12 from those kinds of activities as part of this
13 proceeding, our decision on this proceeding. I would be
14 very skeptical about issuing an operator's license to O,
15 W, G or H at any other facility.

16 COMMISSIONER AHEARNE: I would guess that
17 frankness and honesty would require us to say if what we
18 really are doing is backballing these people and we
19 ought to say that rather than some other approach.

20 COMMISSIONER ASSELSTINE: I don't have any
21 difficulty with that because it is the combination not
22 only of the cheating but also of the statements that
23 were made to our investigators and in the Special
24 Master's hearings. It is the combination of those
25 things that so greatly troubles me.

1 For example, G and H, I would have a very
2 different attitude with G and H if G and H had said
3 before the Special Master yes, we cooperated on those
4 quizzes. It was a widely held practice, the guidelines
5 weren't very good and we thought that there was nothing
6 wrong with cooperating on those things. That is not
7 what they said. They testified consistently all the way
8 through that they had not cooperated, and I think the
9 evidence against them is overwhelming.

10 It really is a combination of not only the
11 original cheating incidence but also the lack of regard
12 for our regulatory program and our regulatory
13 requirements as evidenced by their subsequent statements
14 and actions that leads me to the conclusion that I don't
15 think these people ought to be involved in our license
16 activities.

17 Shipmay, by the way, at least according to
18 Milholland, did know that the person who asked him the
19 question was taking the exam. Yes, you are right.

20 CHAIRMAN PALLADINO: I wonder if I can just
21 make a few comments. They have to be in individual
22 sentences but they are all interrelated.

23 I agree that a number of these people should
24 not be operating TMI. Shipman I don't think is in the
25 same category, but that is debatable.

1 However, I have a problem in using this
2 vehicle or naming people in an order saying you will be
3 excluded from this operation. Is there any other way of
4 doing this? If we say it in this order, then the
5 natural question comes up well, what about their
6 operating other plants?

7 COMMISSIONER AHEARNE: I guess to start with,
8 though, if you have reached the conclusion that there
9 are a group of people, one or no matter how many, and
10 your conclusion is that they shall not operate this
11 power plant, I don't see how you can possibly then not
12 say they cannot operate any power plant.

13 The second is since this whole issue that is
14 focused upon people not being frank and not being
15 honest, I don't see how you can possibly say at the same
16 time that the NRC has concluded these people by name
17 will not be allowed to operate any nuclear power plant.

18 CHAIRMAN PALLADINO: You would put that in the
19 TMI order?

20 COMMISSIONER AHEARNE: I wouldn't.

21 (Laughter.)

22 COMMISSIONER AHEARNE: I wouldn't have reached
23 the conclusion to do so, but if you are reaching that
24 conclusion it would seem to me that it would be really
25 inconsistent to on the one hand say we found some people

1 unnamed ---

2 CHAIRMAN PALLADINO: Well, O, W, G, Miller and
3 VV, I think they have all been already identified as
4 working ---

5 COMMISSIONER AHEARNE: You want to go beyond
6 saying that they aren't working. You want to say that
7 they shall forevermore not work.

8 CHAIRMAN PALLADINO: Forevermore is a long
9 time.

10 CHAIRMAN PALLADINO: Tom?

11 COMMISSIONER ROBERTS: Well, without defending
12 anybody's action, I just have a lot of difficulty in
13 naming individuals. We are dealing essentially with the
14 licensee and I am just uncomfortable with naming
15 individuals.

16 CHAIRMAN PALLADINO: Well, I have some of that
17 same discomfort. That is why I say is there no other
18 way we can do this, or is there some other way that we
19 can do this if we want to do it.

20 COMMISSIONER AHEARNE: In some way you are
21 going to have to tag them, whether it is in the NRC
22 Licensing Branch file so that if that name ever shows up
23 on an application it is thrown out or else you have got
24 to tag them in the industry.

25 CHAIRMAN PALLADINO: Well, let me say this. I

1 still am reading on this subject. I am not ready to say
2 which way to go, but I did find some disturbing features
3 in G and H and even in Husted. But I haven't decided on
4 it.

5 COMMISSIONER AHEARNE: I found Husted more
6 disturbing.

7 CHAIRMAN PALLADINO: Because he is an
8 instructor and his attitude in responding to Milholland
9 and the Board was surprising.

10 Tom, how would you come down on just question
11 6 as it was stated?

12 COMMISSIONER ROBERTS: I would answer yes to
13 both parts.

14 CHAIRMAN PALLADINO: Okay.

15 COMMISSIONER ASSELSTINE: I have difficulty in
16 having any confidence at all in somebody like H in terms
17 of his ability or willingness to ever provide us
18 accurate information. If we had an emergency and H is
19 the guy we have got to depend upon for accurate
20 information, it sure doesn't seem to me that we have got
21 reasonable assurance that we are going to know what is
22 going on.

23 MR. ZERBE: When these penalties were
24 originally issued against these people, did the
25 Commission have an opportunity to object or strengthen

1 them at that point?

2 COMMISSIONER GILINSKY: You mean two-weeks'
3 pay or something like that?

4 COMMISSIONER ASSELSTINE: That is the
5 utility's suspension.

6 MR. ZERBE: Well, that was the utility's, but
7 presumably the Board went along with that.

8 CHAIRMAN PALLADINO: Yes, the Board went along
9 with it.

10 COMMISSIONER ASSELSTINE: Well, the Board
11 concurred that that was adequate.

12 MR. MONTGOMERY: The Board recommended two
13 weeks. The licensee only did it upon the Board's
14 recommendation.

15 MR. ZERBE: Now if the Board recommended it,
16 did the Commission not have the opportunity to say well,
17 we don't agree with that and you ought to fire them
18 right on the spot?

19 COMMISSIONER ROBERTS: This would have been
20 that opportunity, but as soon as it issued its order,
21 shortly thereafter the licensee sent a notice saying it
22 was voluntarily complying with that aspect of the order
23 immediately and it was taking action on its own to
24 suspend them and they weren't waiting for the decision
25 to be immediately effective.

1 MR. ZERBE: But the Commission did have a
2 chance to that if they wanted to and they didn't do it.

3 COMMISSIONER GILINSKY: Where does that leave
4 you?

5 (Laughter.)

6 MR. ZERBE: I am not a lawyer, but it seems to
7 me like you are putting them in double jeopardy. They
8 have been delved out a penalty and they served it and
9 now you want to hit them again. I don't know. I mean,
10 you have to think of that anyway, if you had the
11 opportunity to stop it and you didn't.

12 CHAIRMAN PALLADINO: As I used to explain to
13 students, we have many jeopardies. For example, I said
14 suppose there is a headline like the Dean of Engineering
15 at Penn State found in some sort of scam. Do you think
16 he would last long as Dean of Engineering? He would
17 lose his job. You are in double jeopardy in a lot of
18 things. The double jeopardy is specifically with regard
19 to the trials in which if found innocent or guilty. I
20 am not a lawyer, but if I am wrong tell me.

21 COMMISSIONER ASSELSTINE: You are on the right
22 track.

23 (Laughter.)

24 CHAIRMAN PALLADINO: John, what is your
25 general reaction to No. 6?

1 COMMISSIONER AHEAPNE: Well, we have debated
2 actually several of those individuals at length before,
3 Mr. Miller, for example, and the Commission explicitly
4 addressed, and now obviously a different consist of the
5 Commission, explicitly addressed should there be formal
6 action taken against them and at that time there was a
7 wide variety of actions proposed. So for myself I have
8 already gone through that issue.

9 I think, as I mentioned, the only one that I
10 was uncomfortable with was Mr. Husted, uncomfortable in
11 the sense that most people I know have foibles, and I
12 didn't find the behavior of a lot of these individuals
13 was exemplary, but I find few individual's behavior to
14 be exemplary.

15 CHAIRMAN PALLADINO: You find what?

16 COMMISSIONER AHEARNE: I find few individual's
17 behavior to be exemplary. So I would have preferred a
18 stiffer penalty for some of these people. The Husted
19 issue, I was disturbed by him and I guess that was the
20 one area where I felt the mangement was not acting
21 correctly because when you have someone handling or
22 involved in your training and getting across an attitude
23 which I don't think is a healthful attitude. You know
24 from managing teachers you have to work on that because
25 that person can infect so many others. That I found

1 difficult, but as far as an overall position I would on
2 balance go with 6, but I am still not clear on Husted.

3 COMMISSIONER GILINSKY: Let's see, John, you
4 said that you would have liked to see a more severe
5 penalty in some cases. What did you mean by that?

6 COMMISSIONER AHEARNE: Well, for example, on
7 the two-weeks' suspension of G and H. If the licensee
8 had really reached their conclusion that they had
9 cheated, it is not obvious that a two-weeks' suspension,
10 or at least to me it doesn't seem to be that significant
11 a penalty.

12 COMMISSIONER GILINSKY: Well, but this is the
13 occasion for you to ---

14 COMMISSIONER AHEARNE: Joe asked for a general
15 conclusion on No. 6, and on balance I am willing to go
16 with the Licensing Board. We would spend a heck of a
17 lot more time looking into the details of the issues
18 than I have.

19 COMMISSIONER GILINSKY: What would the
20 argument have been?

21 CHAIRMAN PALLADINO: What is that?

22 COMMISSIONER AHEARNE: I guess he would have
23 started a long time ago in refusing to have five people
24 trying to manage the plant.

25 (Laughter.)

1 COMMISSIONER GILINSKY: That doesn't seem to
2 be a reason to do a bad job, John.

3 (Laughter.)

4 MR. KENNEKE: May I make a point. To some
5 degree, at least in OPE's writings in the past, the
6 rationale in part was that the safety of future
7 operation was dependent on the new system that was put
8 in place, both our rules and the changes they made
9 within the system so that it would not be subject to or
10 as sensitive to this action on the part of an
11 individual. I wonder to what degree you would be
12 rejecting that thesis if you were to single out
13 individuals in your decision? I just raise that point.

14 CHAIRMAN PALLADINO: Well, there is a system
15 and then there is the attitude of the individual toward
16 the system and whether he works the system to produce
17 the desired result or works it to do whatever he wants.

18 One of the problems that I had was that the
19 Board in looking ahead said basically if somebody had
20 cheated even on internal exams they shouldn't get a
21 chance to sit for the NRC exam. Now at least Mr. H
22 apparently cheated or based on the record he cheated and
23 then he took the exam and one of the excuses used for
24 having him on is well, he passed the exam so he knows
25 the subject. He passed the NRC exam and therefore we

1 know he knows the subject. But if we were looking
2 today, he would have never sat for that exam. I have
3 troubles with Husted and H. It never occurred to me to
4 list all these other people because I thought they were
5 settled.

6 Vic, I don't know what your views are.

7 COMMISSIONER GILINSKY: Well, I am
8 uncomfortable with these people.

9 CHAIRMAN PALLADINO: Well, let's go back to
10 4. Can reactor operators be found to be adequately
11 trained and competent to operate the plant? There I
12 said yes.

13 COMMISSIONER AHEARNE: I said hopefully.

14 (Laughter.)

15 CHAIRMAN PALLADINO: Do I count that as a yes?

16 COMMISSIONER AHEARNE: On the basis of Jack
17 asking this question, the answer is yes. I am not
18 filled with any high degree of confidence in the yes or
19 no exams.

20 CHAIRMAN PALLADINO: The way you asked it,
21 Jack, can the reactor operators be found to be
22 adequately trained and competent to operate the plant.

23 MR. ZERBE: Well, some of the parties felt
24 they couldn't be.

25 MR. MONTGOMERY: That is right.

1 COMMISSIONER ASSELSTINE: The question is do
2 we find that they are.

3 MR. ZERBE: Yes.

4 CHAIRMAN PALLADINO: Tom, what is your
5 reaction to that?

6 COMMISSIONER ROBERTS: Yes.

7 CHAIRMAN PALLADINO: Vic?

8 COMMISSIONER GILINSKY: Well, the ones who
9 passed the exam we found to have passed the exam and
10 satisfied our requirements. I would say yes.

11 CHAIRMAN PALLADINO: Jim?

12 COMMISSIONER ASSELSTINE: I would say yes,
13 too, although I must admit that I think Milholland is
14 probably fairly close to the mark when he criticizes
15 their training program for emphasizing rote
16 memorization rather than a detailed understanding of the
17 workings of the plant, and I think to a certain extent
18 that criticism probably is also valid for our operator
19 exams. Now I realize that we are going to address that
20 question separately and perhaps the audits that the
21 Licensing Board has imposed on the training program will
22 help verify as we go along that the training program is
23 on the mark. I guess I come down yes, but I have got
24 some misgivings.

25 CHAIRMAN PALLADINO: Incidentally, on this

1 route thing, I can take exception with this statement.
2 I think a great deal of what we learn is learned by
3 route and if we were forced to learn it by route we
4 would never learn it. I saw it in my kids who were not
5 forced to learn the multiplication table and I remember
6 I little daughter coming and saying Dad, I don't
7 understand this using the base six. Boy, I panicked and
8 read the textbook and I started to explain. She says I
9 understand that. I explained that and she understood
10 that. I explained that and she understood that. I said
11 what is your problem? I don't get the right answer.

12 (Laughter.)

13 CHAIRMAN PALLADINO: It turned out she didn't
14 know her multiplication table and that is why she got
15 the wrong answer. So I insist that she learn the
16 multiplication table by route. I think medical doctors
17 if they didn't learn anatomy by route then they would
18 never learn.

19 COMMISSIONER AHEARNE: I have a question,
20 Jim. When lawyers train to take the bar, do you mean
21 that they don't learn by ---

22 (Laughter.)

23 COMMISSIONER AHEARNE: I am glad you mentioned
24 that because that is a very good example. A bar
25 examination is an exercise in qualification for

1 admission to the club and nothing more than that.
2 Preparation for a bar exam does not teach you how to be
3 a lawyer. All it does is teach you how to memorize a
4 number of individual bits of information and retain that
5 information long enough to take the examination and then
6 promptly to forget about it.

7 (Laughter.)

8 COMMISSIONER AHEARNE: And I think most all
9 the lawyers in this room would agree with me, and that
10 is the trouble because I am afraid our exams are like
11 that.

12 CHAIRMAN PALLADINO: To the public it means
13 something different.

14 COMMISSIONER AHEARNE: But if it is like that,
15 do you know of any campaign that Gary has been on to
16 change it?

17 COMMISSIONER GILINSKY: Gary who?

18 COMMISSIONER AHEARNE: Milholland. I was just
19 curious as to why ---

20 COMMISSIONER ASSELSTINE: Well, that may be,
21 but that doesn't change the fact that in an area where
22 we can do something about it, if that is a real problem,
23 that we ought to look at it that way.

24 I am the first one to agree with you that bar
25 exams either ought to be eliminated or there ought to be

1 a course of study that over times tests your ability to
2 practice law or at least to master the rules in a
3 particular state. You know, I think bar exams now are
4 basically a sham.

5 (Laughter.)

6 COMMISSIONER ASSELSTINE: Now maybe Milholland
7 would disagree with me. I don't know.

8 COMMISSIONER GILINSKY: I can't resist telling
9 a story that goes back to my ROTC experience at
10 Cornell. A friend of mine was in Army ROTC and he did
11 fantastically on all the exams and got a hundred and
12 everything and he got into terrible trouble. The cause
13 of it was that the officer used to take one answer from
14 the book and that was the right answer and then he make
15 up three others. That was the multiple choice test.

16 This friend of mine, Freddie, was asked how do
17 you always get a hundred, and the Major heard him say
18 you pick the one that is spelled right.

19 (Laughter.)

20 CHAIRMAN PALLADINO: No. 5.

21 MR. ZERBE: Does the record support the
22 finding that the training program adequately will
23 adequate resolve the TNI lessons?

24 Now the Board and the Special Master found
25 different on this one.

1 CHAIRMAN PALLADINO: What is that?

2 MR. ZERBE: The Board and the Special Master
3 found differently on this one. We essentially say, you
4 know, we agree with the Board on this, that it does
5 resolve the ---

6 COMMISSIGNER GILINSKY: What were the words
7 the Special Master used?

8 MR. ZERBE: Do you remember those words, John?

9 MR. MONTGOMERY: I think I would even
10 characterize it a little bit differently as kind of a
11 subset of the overall training program as to whether or
12 not specifically the training program dealt with those
13 special things that came out of the accident
14 adequately. It was more the comments of the parties I
15 think than major differences between the Special Master
16 and the Board.

17 COMMISSIONER ASSELSTINE: There wasn't a
18 difference between the Board and the Master?

19 MR. MONTGOMERY: There may very well be, but I
20 don't specifically know what it was.

21 CHAIRMAN PALLADINO: Well, to the best of my
22 ability I said yes.

23 COMMISSIONER AHEARNE: That really goes back
24 to the question I asked Jack earlier.

25 CHAIRMAN PALLADINO: I was going to ask you do

1 you really need the answer to that question?

2 MR. ZERBE: It wasn't a key one. We talked
3 about it before.

4 MR. MONTGOMERY: We would have erred on the
5 side of having too many questions in here than not
6 enough.

7 (Laughter.)

8 CHAIRMAN PALLADINO: Suppose we don't answer
9 that question, then what happens?

10 MR. ZERBE: That is okay. That won't change
11 anything.

12 MR. MONTGOMERY: I will scratch it off.

13 (Laughter.)

14 MR. ZERBE: Should the Commission require, now
15 this is one, require that the licensee distribute TLDs.
16 Now I guess both Boards agree on this one and of course
17 the Commonwealth was the one has identified that they
18 would like to have the TLDs issued.

19 COMMISSIONER AHEARNE: Now hasn't the
20 Commission asked for a meeting with the staff to discuss
21 the general question?

22 MR. WALSCH: Yes. I forget where it was, but
23 you asked for it I think in a SECYGRAM.

24 COMMISSIONER AHEARNE: Right, following
25 Susquehanna I think.

1 MR. MALSCH: We asked the staff and the staff
2 said they were waiting to talk to FEMA about it before
3 they came back to talk to you all. I think that is what
4 the status is.

5 COMMISSIONER AHEARNE: So my position is I
6 would wait for the generic conclusions.

7 CHAIRMAN PALLADINO: For the purposes of
8 immediate effectiveness do we have to answer that one?

9 MR. ZERBE: Maybe we do, but what you are
10 suggesting is that we don't. It is no an issue for
11 immediate effectiveness.

12 COMMISSIONER AHEARNE: That is my suggestion.
13 It is not a generic issue.

14 COMMISSIONER ASSELSTINE: I would agree with
15 that?

16 CHAIRMAN PALLADINO: Any problem legally?

17 MR. MALSCH: No. You can address whatever you
18 feel needs to be addressed.

19 COMMISSIONER ASSELSTINE: That is the same
20 approach that we took in Susquehanna, wasn't it.

21 MR. MONTGOMERY: Excuse me. Can I just ask
22 one thing. Would you still care to have some language
23 in the order that states that you are going to deal with
24 this generically or just not address it?

25 CHAIRMAN PALLADINO: Well, since it wasn't an

1 item of concern, I think it would be valuable if we said
2 that we were going to treat it as a separate issue.

3 COMMISSIONER ASSELSTINE: I think we should
4 address it since it is one of the Pennsylvania ones.

5 MR. ZERBE: Item 8 talks to the use of the ELF
6 early in the game. In the order you indicate that the
7 Commission agrees, at least for the purposes of the
8 immediate effectiveness, agrees with the Board rather
9 than the position that the Appeals Board took that
10 agreed with the licensee, which would be to have for the
11 first four hours, to have the man in charge of the
12 protective action recommendations be in the control room
13 if you went with the Appeals Board. We are no, you
14 should have that person over in the EOF. Now that can
15 be taken up again.

16 CHAIRMAN PALLADINO: But it doesn't
17 necessarily need to be the emergency support director.

18 MR. ZERBE: Well, whoever is in charge. He
19 wouldn't be the person that would come out from East
20 Coast in four hours. It would be whoever else that the
21 licensee would have to run the show until he became
22 available from New Jersey.

23 CHAIRMAN PALLADINO: Who do they have
24 available there? I have a question with this. I don't
25 know what the conservative way is yet, or at least in my

1 own mind I have not cleared up what is a conservative
2 way.

3 MR. ZERBE: Well, they are local people.

4 COMMISSIONER GILINSKY: The idea of having an
5 EOF was to relieve the reactor people of being concerned
6 about what goes on off site so that they could address
7 themselves to the reactor.

8 CHAIRMAN PALLADINO: Well now who is going to
9 come in here if it is not the EOF.

10 COMMISSIONER GILINSKY: Well it could well be
11 one of the senior people at the reactor.

12 MR. ZERBE: It would be one of the senior
13 people at the reactor site. It would have to be.

14 COMMISSIONER GILINSKY: But with that
15 different responsibility.

16 COMMISSIONER AHEARNE: The key issue is
17 whether you have two individuals who have separate areas
18 of responsibility or whether you try to pile it all on
19 one. They are basically the same people.

20 CHAIRMAN PALLADINO: Well, no, I thought they
21 had an emergency director who is separate from the ---

22 COMMISSIONER AHEARNE: They do, the Emergency
23 Support Director, but the names of the people they gave
24 us when we were asking at the meeting, they people for
25 Emergency Director were Pookhill, Toole, Ross and Colitz

1 and the Emergency Support Director were Pookhill,
2 Colitz, Toole and then Arnold and Clark were the two
3 guys.

4 CHAIRMAN PALLADINO: What was the first list?

5 COMMISSIONER AHEARNE: The Emergency Director.

6 CHAIRMAN PALLADINO: The Emergency Director?

7 COMMISSIONER AHEARNE: Right.

8 CHAIRMAN PALLADINO: What is the other list?

9 COMMISSIONER AHEARNE: The Emergency Support
10 Director.

11 CHAIRMAN PALLADINO: That is all right, but
12 they are different from the SRO.

13 COMMISSIONER AHEARNE: One is inside and one
14 is outside.

15 CHAIRMAN PALLADINO: I know.

16 COMMISSIONER AHEARNE: They are different than
17 the SRO.

18 CHAIRMAN PALLADINO: I don't want the SRO
19 getting involved in this.

20 COMMISSIONER GILINSKY: You mean the shift
21 supervisor.

22 CHAIRMAN PALLADINO: The shift supervisor,
23 yes. Why couldn't one of these guys go to ---

24 COMMISSIONER GILINSKY: They would.

25 COMMISSIONER AHEARNE: He would.

1 MR. ZERBE: That is right, that is who it
2 would be. The only two on that list that aren't there
3 are Clark and Arnold.

4 COMMISSIONER AHEARNE: That is right, and if
5 those guys weren't available it would be one of these
6 other guys. The licensee in the meeting we had up in
7 Pennsylvania, at least my conclusion was that he was
8 going to use the same people in either place and it
9 didn't make any sense then.

10 CHAIRMAN PALLADINO: It didn't make any sense
11 to what?

12 COMMISSIONER AHEARNE: To then put the four
13 hour restriction on. It seemed to me what he was really
14 saying is that he wanted it all to be handled inside
15 unless Arnold and Clark would get there.

16 CHAIRMAN PALLADINO: Inside the control room.

17 COMMISSIONER AHEARNE: Yes.

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1 COMMISSIONER GILINSKY: It seems to me there
2 is a larger issue here, and I don't think you have got
3 it on here, the use of this TSC as well. Because there
4 were great numbers of people in this control room during
5 the accident we felt this impeded decision-making and
6 action and so on. We required a TSC to get sort of the
7 technical support out of the control room that is
8 immediately involved with the reactor and get the people
9 working off site and get them out to some other facility
10 and we laid this on, you know, all over the place and
11 built all kinds of facilities and so on.

12 It turns out that TMI wants to continue, and I
13 gather the staff has more or less approved this, having
14 a large number of people in the control room. There is
15 a larger number of people in this control room than any
16 other I have ever seen during emergencies. They intend
17 to make very slight use of this TSC. They intend to
18 have 15 people in the control room and putting four NRC
19 people on top of that. That is where the NRC people are
20 going to be. There are like five people in the
21 Technical Support Center, or some minor number, and they
22 seem to very much want the decisions to get made in the
23 control room in all of these three categories and I find
24 this odd and unreasonable.

25 COMMISSIONER AHEARNE: One of the things that

1 has bothered me in talking and listening to them is it
2 seemed what they were saying is that they wanted all the
3 decision to be made inside the control room until four
4 hours when Arnold and Clark could get there. But that
5 is really tacitly admitting that until Arnold and Clark
6 show up on the scene they don't want anybody making
7 decisions on off-site actions.

8 COMMISSIONER GILINSKY: They are very
9 concerned about the impact of the decision and they want
10 it made by their most senior people.

11 COMMISSIONER AHEARNE: I know, but I do not
12 think we could live with it.

13 MR. MONTGOMERY: The addition piece of
14 information to that is that, at least as we understood
15 it when we visited the site, is there would not be state
16 representation in the control room and there would be in
17 the EOF. OPE has always taken the position that that is
18 an important aspect of those recommendations and another
19 reason for having those decisions made in the EOF.

20 COMMISSIONER GILINSKY: Did you also get the
21 impression that great numbers of people would be in the
22 control room?

23 MR. MONTGOMERY: They told us the same number
24 that they told you, 15.

25 COMMISSIONER GILINSKY: And four NRC?

1 MR. ZERBE: Right, four NRC.

2 MR. MONTGOMERY: That I am not sure about, if
3 that doesn't change over after some period of time
4 because the number we heard was four NRC people and that
5 was told to us in the TSC and I don't remember having
6 heard that.

7 COMMISSIONER GILINSKY: I was told that the
8 four were going to be in the control room.

9 MR. MONTGOMERY: If so, then that makes it 19.

10 CHAIRMAN PALLADINO: Vic, we weren't out at
11 the same time, and I think it was San Onofre, they had a
12 room that overlooked the control room, wasn't it?

13 COMMISSIONER GILINSKY: Right.

14 MR. MONTGOMERY: That is the technical support
15 center.

16 COMMISSIONER GILINSKY: That was their
17 technical support center.

18 CHAIRMAN PALLADINO: Then I went upstairs to
19 another room where the maintenance people all get
20 together.

21 COMMISSIONER GILINSKY: That is something
22 else, the operational support center.

23 MR. MONTGOMERY: The operational support
24 center. There are actually three on site, the OSC, the
25 TSC and ---

1 COMMISSIONER GILINSKY: Every other reactor
2 that I know of makes substantial use of this technical
3 support center and all the backup people for working
4 with the control room are in that technical support
5 center and the initial radiological assessment off site
6 would have to be made at the reactor or get made there
7 and that is where the guys have their spread sheets and
8 all that sort of stuff generally speaking. But all of
9 that is made in the control room at TMI.

10 CHAIRMAN PALLADINO: Are you saying you would
11 like to change that?

12 COMMISSIONER GILINSKY: I would, yes. Now our
13 staff apparently has reviewed that and there have been
14 exercises and I was told that the thing worked okay. So
15 I mean that is the other side of it, but it just doesn't
16 sound right to me.

17 CHAIRMAN PALLADINO: John, what were you
18 trying to tell me in regard to your ---

19 COMMISSIONER AHEARNE: The point I am making
20 is they have basically the same list of people for their
21 Director inside as well as their Director outside,
22 except for Clark and Arnold. So what they were saying
23 is that for the first four four hours it would be done
24 inside and here are a list of people that they will have
25 available to choose from. Now Ross is one of those

1 people. The only difference is he does not qualify for
2 the outside.

3 Then they had a list of people that after four
4 hours would then be qualified to lead it outside. Three
5 of the five names they gave are the three of the four
6 names who would be qualified to lead it inside. My
7 conclusion is that it isn't one of those that after four
8 hours is now eligible to run it outside, but it is the
9 other two guys, Arnold and Clark, who are the four hours
10 away.

11 Well the conclusion I reach then is that their
12 concern primarily is they do not want one of these other
13 collection of individuals making any kind of
14 recommendations for protective action to be taken and
15 they want to wait for Arnold and Clark to show up. That
16 gives me a very uneasy feeling because I think the
17 reason we went through this process, as Vic said, was in
18 those early stages when there are a lot things going on
19 that are hectic you wanted someone, a senior person
20 true, to be thinking through what kind of protective
21 actions need to be taken, as well as you wanted a senior
22 person worrying about what were the right actions to be
23 taken with respect to the reactor. That is why there
24 are two different people, and their approach is no, we
25 will make it one. It disturbs me and I couldn't go

1 along with that.

2 COMMISSIONER ASSELSTINE: Well going with the
3 one-hour requirement would require in essence that they
4 separate the functions out and you would have to have
5 two people.

6 COMMISSIONER AHEARNE: Yes.

7 CHAIRMAN PALLADINO: Well you say it disturbs
8 you. Where do we go from here with it?

9 COMMISSIONER AHEARNE: See, the Licensing
10 Board said, they said you have to do it in a one-hour
11 basis.

12 CHAIRMAN PALLADINO: From the EOF?

13 COMMISSIONER AHEARNE: Right.

14 MR. MONTGOMERY: The order is drafted
15 presently so that that is the decision you make, you
16 agree with the Licensing Board which would put the
17 decisions in the EOF and the order specifically then
18 stays the Appeal Board for the interim until they finish
19 the merits review.

20 COMMISSIONER AHEARNE: Right.

21 CHAIRMAN PALLADINO: Until they want?

22 MR. MONTGOMERY: Until the Appeal Board
23 finishes -- I am sorry, they already finished the merits
24 review, until the Commission decides whether it wants to
25 take up that issue as a review of its own.

1 COMMISSIONER AHEARNE: And the Licensee I
2 believe has said that they would accept that and
3 following the Licensing Board determination until the
4 Commission finally makes its decision.

5 CHAIRMAN PALLADINO: I gather you would go
6 with that?

7 COMMISSIONER AHEARNE: Yes.

8 COMMISSIONER ASSELSTINE: I would agree with
9 that, too.

10 CHAIRMAN PALLADINO: Tom?

11 COMMISSIONER ROBERTS: I would go with the
12 Appeal Board.

13 CHAIRMAN PALLADINO: Why is that, Tom?

14 COMMISSIONER ROBERTS: The staff supports
15 that. You are shaking your head no?

16 MR. ROTHSCCHILD: The staff disagrees with the
17 Appeal Board and has filed a petition for review with
18 the Commission.

19 COMMISSIONER ROBERTS: Okay, you are
20 absolutely right. Excuse me.

21 COMMISSIONER GILINSKY: The staff doesn't
22 support you.

23 MR. ZERBE: The staff agrees with the
24 Licensing Board.

25 (Laughter.)

1 CHAIRMAN PALLADINO: Do you change your view
2 or not?

3 COMMISSIONER ROBERTS: I think it is academic.

4 CHAIRMAN PALLADINO: What is that? I am
5 sorry, I didn't hear you.

6 COMMISSIONER ROBERTS: Yes, I will go with the
7 Licensing Board.

8 CHAIRMAN PALLADINO: Victor, do you go with
9 the Licensing Board?

10 COMMISSIONER GILINSKY: I would, yes.

11 CHAIRMAN PALLADINO: You would?

12 COMMISSIONER GILINSKY: Yes.

13 CHAIRMAN PALLADINO: It sounds like there is a
14 more fundamental problem here that may be separate from
15 my immediate effectiveness decision that we ought to
16 address with the staff. Now can we?

17 COMMISSIONER AHEARNE: It is the emergency
18 planning staff.

19 CHAIRMAN PALLADINO: Excuse me?

20 COMMISSIONER AHEARNE: I say it is the
21 emergency planning staff.

22 CHAIRMAN PALLADINO: It is still the staff.

23 (Laughter.)

24 COMMISSIONER AHEARNE: I know. I am saying
25 that the more fundamental problem I think is the NRC

1 staff in this particular area.

2 CHAIRMAN PALLADINO: Oh, I see.

3 MR. ZERBE: The next item is one that isn't
4 addressed in here. The question is should you at this
5 time consider the steam generator problem and put some
6 comment into the order relative to the steam generator
7 repairs and I guess the OGC's office would talk to this
8 one about what the questions are.

9 CHAIRMAN PALLADINO: You do make a statement
10 that this is till to be resolved.

11 MR. ZERBE: We make a statement that that
12 repair is going to be done, but my understanding is that
13 legally the licensee wouldn't necessarily be bound to do
14 it. If this order went out the way it is written now,
15 it is not clear that he would be legally bound to fix
16 that steam generator before they went to power.

17 CHAIRMAN PALLADINO: It has never been a
18 Commission level decision as far as I recall.

19 COMMISSIONER AHEARNE: Which?

20 CHAIRMAN PALLADINO: This condition of steam
21 generator. It has been handled pretty much by the staff.

22 MR. ZERBE: I don't understand the problem.

23 MR. MALSCH: We had only raised the issue with
24 OPE in the sense that I gather staff has an
25 understanding with the applicant, the licensee, that he

1 will not restart without staff approval. We only raise
2 the issue in the sense that if someone said to the
3 Commission well how do you know the licensee won't
4 start, you wouldn't actually have an order to point to,
5 but that is really the only purpose that would be served
6 by an order.

7 COMMISSIONER AHEARNE: Well, the someone
8 being, for example, the D. C. Appeals Court which might
9 say how do you know 30 days prior.

10 MR. MALSCH: That is also true, but I think we
11 could answer that by simply pointing out this informal
12 understanding which by virtue of having been pointed out
13 would virtually become an order.

14 CHAIRMAN PALLADINO: I don't follow. I
15 thought we said the immediate effectiveness is therefore
16 limited subject to staff certification that all items
17 that are required to be completed prior to restart have
18 been completed, and if they decide that something needs
19 to be completed, I presume ---

20 COMMISSIONER GILINSKY: There is no formal
21 instrument that holds them down. That is the point.

22 COMMISSIONER ASSELSTINE: That is right.

23 MR. MALSCH: There is just no formal order
24 outstanding on the need to get our approval prior to
25 restarting following completion of the repair program.

1 That is all.

2 CHAIRMAN PALLADINO: Let me go to some other
3 plant, one that makes an inspection and it has got
4 leaks. Now how do we tell them that they are not
5 supposed to start up until they plug their tubes and do
6 whatever requirements need to be done?

7 MR. MALSCH: Well, in some cases it would be
8 covered by tech spec requirements because they just
9 wouldn't be able to restart until they had plugged the
10 tubes because of tube plugging criteria in the tech
11 specs. In other cases I suspect it is handled
12 informally as here. They just simply have an
13 understanding with the licensee that he won't restart
14 without staff approval.

15 We are just raising the question here of
16 whether because of the sensitivity of this case we might
17 want something more formal, but it is really a policy
18 decision.

19 CHAIRMAN PALLADINO: But if they did start up
20 with a steam generator that we didn't feel was
21 appropriate could we issue a shutdown order?

22 MR. MALSCH: Sure.

23 COMMISSIONER AHEARNE: Marty, where does OGC
24 stand at the moment on whether this is going to require
25 an amendment?

1 MR. MALSCH: The staff has what I think is a
2 very firm position that it needs an operating license
3 amendment.

4 COMMISSIONER AHEARNE: That it does need an
5 amendment?

6 MR. MALSCH: That it does need an operating
7 license amendment, but that is based upon their reading
8 of a tech spec provision that says something to the
9 effect that you must plug tubes if the tube wall
10 thickness goes below a certain level.

11 With this repair program they are proposing to
12 deal with tubes in a way other than by plugging. So
13 technically they wouldn't be in compliance with the
14 technical specification.

15 COMMISSIONER AHEARNE: Is the tube wall after
16 the modification is made, does the steam tube wall then
17 have the same definition as before?

18 MR. MALSCH: There is a controversy between
19 the licensee and the staff as to how to read the tech
20 spec requirement. We have asked for a copy of the tech
21 specs and haven't gotten them yet. So I can't be sure.
22 We can read the tech specs ourselves and reach a
23 conclusion as to whether they are right or wrong.

24 The staff says that they are right and that
25 the licensee's interpretation of the tech spec

1 requirement was not consistent with their intent when
2 they wrote the tech specs, but I haven't seen the actual
3 language myself.

4 COMMISSIONER ASSELSTINE: Does the staff have
5 a position on whether an amendment, if it was required,
6 would involve significant hazards considerations?

7 MR. MALSCH: They have suggested that it
8 wouldn't, but have not reached any firm conclusion yet.
9 That is the important question.

10 COMMISSIONER ASSELSTINE: I would assume you
11 would have to have another prior hearing.

12 MR. MALSCH: That is right.

13 CHAIRMAN PALLADINO: Go back to try to think
14 through what I think I understand in the basics, this is
15 not one of the concerns that we had when we shut them
16 down?

17 MR. MALSCH: No.

18 CHAIRMAN PALLADINO: So then say well suppose
19 we had just found out about this and they were not shut
20 down by an immediate effective order such as we are
21 trying to lift, what would we have done with them?

22 MR. MALSCH: Well we would be really in the
23 same situation. I mean let's suppose a plant were now
24 operating ---

25 CHAIRMAN PALLADINO: So this is not

1 necessarily part of the lifting of the immediately
2 effectiveness?

3 MR. MALSCH: Oh, it is definitely not. It is
4 one of the other items that needs to be resolved outside
5 the scope of this proceeding.

6 COMMISSIONER AHEARNE: But it clearly has to
7 be done prior to the plant being able to restart, and
8 since we do have the court having spoken to us, to let
9 them know 30 days before we are going to authorize or
10 before the plant can restart. There is some importance
11 to at least having ourselves know clearly what the steps
12 are and it would be useful I think if we were able to
13 say that clearly whether it is an order or not. We
14 ought to be able to describe what steps we see.

15 CHAIRMAN PALLADINO: What do you mean?

16 COMMISSIONER AHEARNE: For example, in this we
17 ought to be saying here are the actions that must be
18 taken before TMI-1 can start, and one of those is the
19 steam generators have to be fixed, and then what is the
20 role of the Commission at that stage? If it is the
21 staff we are satisfied with, we ought to say the NRC
22 staff has reached an informal agreement with the
23 licensee that the plant will not start before the NRC
24 staff has agreed or the Director of NRR has agreed that
25 the actions are complete and there is no problem with

1 the protection of the public health and safety, or
2 something like that.

3 CHAIPMAN PALLADINO: That would not bother me.

4 MR. ZERBE: What is said in here now under the
5 item of decision starting on page 15, covering it on
6 page 17 when we say that you are going to lift the
7 order, you say "This decision has not, however,
8 authorized TMI-1 to restart. This is page 17. "The
9 steam generator tube problems must be resolved prior to
10 restart and the staff must make all necessary
11 certifications. So that is what is said about it.

12 COMMISSIONER AHEARNE: Well it then goes on
13 "The Commission will fully consider these matters before
14 authorizing any restart." I think the implication from
15 that is the staff is going to certify to the Commission
16 satisfactory resolution of the steam generators and the
17 Commission will then make a decision on that.

18 CHAIRMAN PALLADINO: Do we get any decisions
19 on the steam generator startup?

20 COMMISSIONER GILINSKY: No.

21 COMMISSIONER AHEARNE: No, but I don't think
22 you can really use precedent in this case.

23 (Laughter.)

24 CHAIRMAN PALLADINO: Well, we will create
25 precedent.

1 (Laughter.)

2 COMMISSIONER AHEARNE: I think we have to make
3 the decision whether we wish to or not, but my point is
4 I don't think you can ---

5 CHAIRMAN PALLADINO: Well, is this sufficient
6 in here?

7 COMMISSIONER GILINSKY: What page is that?

8 MR. ZERBE: 17.

9 COMMISSIONER ROBERTS: Well, are you saying
10 this is sufficient, John?

11 COMMISSIONER AHEARNE: It is not clear to me.

12 CHAIRMAN PALLADINO: Why isn't it clear?
13 "This does not, however, authorize restart. The steam
14 generator tube must be resolved prior to restart."

15 COMMISSIONER AHEARNE: I would prefer to say
16 what must be resolved.

17 COMMISSIONER GILINSKY: Let's see, do you
18 expect another Commission vote on restart of this plant
19 quite apart from the steam generators?

20 COMMISSIONER AHEARNE: That is the way this
21 said it.

22 COMMISSIONER GILINSKY: So you are talking
23 about the Commission authorizing restart?

24 COMMISSIONER AHEARNE: What I read this as
25 saying is that the last action prior to that plant being

1 allowed to operate, assuming the courts don't step in,
2 is going to be some Commission vote.

3 COMMISSIONER GILINSKY: Beyond whatever takes
4 place this week?

5 COMMISSIONER AHEARNE: Yes.

6 COMMISSIONER ASSELSTINE: That is the way I
7 read it, too.

8 COMMISSIONER AHEARNE: And it wasn't obvious
9 to me that is what was intended, at least reading the
10 transcript.

11 CHAIRMAN PALLADINO: Why are we going to do
12 that?

13 (Laughter.)

14 COMMISSIONER ROBERTS: Because that is the way
15 the order read.

16 (Laughter.)

17 CHAIRMAN PALLADINO: I know. Let's change
18 it. Why isn't after we act on the immediate
19 effectiveness, on the items for restart, that they
20 should be resolved to the satisfaction of the staff, or
21 otherwise we are going to never be through and it takes
22 us a lot longer to do things than the staff?

23 COMMISSIONER GILINSKY: I wouldn't say that.

24 MR. ZERBE: This certification here was that
25 the general certification that the staff is going to

1 have to make that has to be concurred in by the
2 Commission and not just the certification of the steam
3 generator.

4 COMMISSIONER GILINSKY: You are talking about
5 all the items?

6 MR. ZERBE: Yes. The Board had said that the
7 Commission has to approve that.

8 COMMISSIONER GILINSKY: Is that part of the
9 Board decision?

10 MR. MONTGOMERY: I thought it was part of a
11 Commission statement.

12 COMMISSIONER GILINSKY: I hope at least that
13 somebody knew.

14 (Laughter.)

15 CHAIRMAN PALLADINO: Is there a Board
16 recommendation that we have to act on all these items
17 that are not part of the immediate effectiveness lifting?

18 MR. KENNEKE: The staff must certify a whole
19 host of items to you as being completed.

20 CHAIRMAN PALLADINO: What page are you reading
21 from.

22 MR. KENNEKE: I am now paraphrasing what I
23 understood on page 17. "The staff must make all
24 necessary certifications," I took to mean ---

25 CHAIRMAN PALLADINO: Who is saying that?

1 MR. ZERBE: We have to find out who is saying
2 it. We are not sure.

3 (Laughter.)

4 COMMISSIONER GILINSKY: Well, of course, you
5 can do it any way you want.

6 MR. MONTGOMERY: Why don't you tell him that.

7 MR. MALSCH: I am just trying to recall. The
8 original concept was that the certification to the
9 Commission prior to restart would be the short-term
10 lessons learned items. I think they have all been
11 done. The concept here is now expanded to include all
12 the remaining items, including the so-called long-term
13 items. I am not sure where that concept came from and I
14 am not positive that the idea of the certification back
15 to the Commission is included in the Licensing Board
16 implementation plan. It may be something that we have
17 sort of assumed without thinking too hard about it, but
18 I am not certain about that.

19 MR. MONTGOMERY: I think that is right.

20 COMMISSIONER AHEARNE: It certainly is
21 something that clearly ought to be examined to make sure
22 what exactly the Board requires. I guess in the end of
23 it, though, that the Board could say we require that the
24 NRR tell the Commission and the Commission then must
25 vote and we can say no, we will accept NRR's ---

1 CHAIRMAN PALLADINO: Put let me ask do the
2 Commissioners wish to have these items certified to it
3 for its action, or would it be to the satisfaction of
4 staff?

5 COMMISSIONER ROBERTS: To the satisfaction of
6 staff.

7 CHAIRMAN PALLADINO: That is the way I would
8 look at it.

9 COMMISSIONER AHEARNE: To the Director of NRR.

10 COMMISSIONER ROBERTS: Yes, the Director of
11 NRR.

12 COMMISSIONER ASSELSTINE: I guess I would also.

13 CHAIRMAN PALLADINO: Vic?

14 (Laughter.)

15 CHAIRMAN PALLADINO: When I get four votes ---

16 (Laughter.)

17 COMMISSIONER GILINSKY: You can go with
18 three. That is all right.

19 (Laughter.)

20 COMMISSIONER GILINSKY: I don't know. I am
21 generally in favor of having the Commission pass on
22 these things and it probably would in this case.

23 COMMISSIONER ASSELSTINE: I will tell you,
24 though, I am a little uncomfortable with the informal
25 understanding.

1 CHAIRMAN PALLADINO: Why couldn't that be
2 changed. This says the steam generator problems must be
3 resolved to any restart to the satisfaction of the
4 staff. Now why isn't that a tie ---

5 COMMISSIONER AHEARNE: Because there is no
6 legal requirement.

7 COMMISSIONER ASSELSTINE: That is right.

8 CHAIRMAN PALLADINO: Isn't this sort of a
9 legal requirement?

10 COMMISSIONER ASSELSTINE: It is just worded
11 that way.

12 COMMISSIONER AHEARNE: That is an interesting
13 question. Marty, Joe has asked that if we put in this
14 order that the steam generator problems must be resolved
15 to the satisfaction of the staff, does that now become
16 an order to the licensee?

17 MR. MALSCH: I think that is the effect of it.

18 CHAIRMAN PALLADINO: If the licensee felt that
19 he was going to go ahead and start, in the face of that
20 statement I think they would know better.

21 MR. MALSCH: I think the licensee would
22 construe that as in effect an order to the licensee not
23 to do it without review. Let me point out that in an
24 earlier order in this case on July 16th when the Appeal
25 Board asked to take up certain issues sua sponte, the

1 Commission said no, we will take them up. Those dealt
2 with the steam generator tube repair program, cracking
3 and high pressure nozzles and auxiliary feedwater
4 spargers, and in do so it said each of these issues can
5 and will be dealt with by the staff and the Commission
6 as part of the review of uncontested issues that will
7 take place prior to a decision on restart.

8 COMMISSIONER GILINSKY: Where was this?

9 MR. MALSCH: This is an order of July 16th,
10 1982. I think the implication of that was that the
11 Commission must at least be briefed on those three
12 issues. I am not sure the Commission was thinking very
13 precisely about the long-term program.

14 (Laughter.)

15 COMMISSIONER GILINSKY: I think there is this
16 difference between the language here and in the specific
17 order. When you say "must be resolved to the
18 satisfaction of the staff," that may mean just a phone
19 call to somebody. There aren't any specific conditions
20 and so on.

21 CHAIRMAN PALLADINO: Or to the Director of NRR.

22 COMMISSIONER GILINSKY: Well, if you write it
23 in that is what it becomes. If you have an order, then
24 there is someone that has to put his signature on it no
25 doubt and say this can be lifted. What you have here is

1 our generally informal way of doing things displayed for
2 all to see because you have a particularly notorious
3 case that we are dealing with and a lot of people out
4 there are not going to be understanding of our informal
5 way of doing business as people here.

6 COMMISSIONER ASSELSTINE: Why not have a
7 separate confirmatory order that prevents restart until
8 the Director of NRR certifies to the Commission that all
9 of these things have been done?

10 CHAIRMAN PALLADINO: What does certifying to
11 the Commission mean?

12 COMMISSIONER GILINSKY: That somebody sends a
13 memorandum or whatever or document to us.

14 CHAIRMAN PALLADINO: Doesn't that then mean we
15 have to answer?

16 COMMISSIONER GILINSKY: Not if you just leave
17 it at that?

18 COMMISSIONER ASSELSTINE: Not necessarily,
19 no. I would be more comfortable with that. I think
20 Victor has a good point that given all the sensitivities
21 in this particular case, if we don't do this in a way
22 that is very clear and explicit that there is a
23 prohibition on restart until these things have been
24 done, then it is going to be misconstrued.

25 CHAIRMAN PALLADINO: Well, why don't we try to

1 get that in the next draft. No the Commission will
2 fully consider these matters before authorizing any
3 actual restart at TMI-1 gives a little bit of a problem
4 though. That says we have got to Act, and I want to
5 strike that.

6 COMMISSIONER GILINSKY: That seems to conflict
7 with what Marty just read us.

8 MR. MALSCH: Yes, and I think we put this in
9 here without thinking too clearly about the decision
10 path. We had thought about it in connection with the
11 steam generator tubes and that is why we raised the
12 issue in the list of questions. We hadn't thought about
13 the other issues as well.

14 CHAIRMAN PALLADINO: But if we follow Jim
15 Asselstine's approach, we wouldn't need this sentence.
16 We wouldn't use it.

17 COMMISSIONER ASSELSTINE: That is right.

18 MR. MALSCH: That is right.

19 COMMISSIONER GILINSKY: Let's see, does it
20 conflict with the commitment the Commission made?

21 CHAIRMAN PALLADINO: No, I don't think so.

22 MR. MALSCH: Well, it says "Each of these
23 issues can and will be dealt with by the staff and the
24 Commission as a part of review of uncontested issues
25 prior to a decision on restart. The Commission directs

1 the staff to examine thoroughly each of the issues
2 raised by the Appeal Board and to provide the Commission
3 with its analysis and findings on the issues prior to the
4 time the Commission is to make its decision on the
5 restart of Unit 1." It is a little unclear but I mean
6 you are not technically bound by this and you can change
7 your mind as to how you want to decide it.

8 I think the implication of this was that the
9 Commission would be substituting for the Appeal Board's
10 review and sua sponte decision on the sua sponte issues,
11 its own review and sua sponte decision on the issues.

12 COMMISSIONER GILINSKY: On the uncontested
13 issues.

14 MR. MALSCH: On these particular three
15 uncontested issues.

16 COMMISSIONER AHEARNE: That sounds right, yes.

17 Now on the general matter of certification I
18 was handed on March 16th of this year, the Chairman
19 wrote to Dircks and asked for the plan to accomplish
20 certification of licensee compliance, and we have a SECY
21 paper in June in which he speaks to, that Harold Denton
22 is going to certify a large host of things to the
23 Commission prior to restart.

24 CHAIRMAN PALLADINO: But does that we have to
25 act on them?

1 COMMISSIONER AHEARNE: No.

2 CHAIRMAN PALLADINO: Yes, I go with this
3 certification. I like that.

4 COMMISSIONER AHEARNE: I think Marty has
5 pointed out I guess that we do have to actually have
6 that steam generator brought to us because of that.

7 CHAIRMAN PALLADINO: As a certification?

8 COMMISSIONER AHEARNE: Well, no, unfortunately.

9 CHAIRMAN PALLADINO: What are the three issues
10 that have to be brought?

11 MR. MALSCH: The steam generator tubes, nozzle
12 cracking and spargers. Those are the three issues.

13 CHAIRMAN PALLADINO: And the what?

14 MR. MALSCH: Something to do with spargers. I
15 had better get the order out again.

16 COMMISSIONER AHEARNE: It sounds like the rest
17 of these the Director can just certify and we do not
18 have to take action, but on those it sounds like we have
19 committed to take action.

20 MR. MALSCH: The three are repair for the
21 steam generator tubes, whether there has been any
22 cracking in some high-pressure nozzles or their thermal
23 sleeves and, three, possible distorting of auxiliary
24 feedwater spargers. There were three issues the Appeal
25 Board wanted to take up.

1 CHAIRMAN PALLADINO: So those are going to
2 come to the Commission for a decision and the others we
3 will ask the staff to certify.

4 MR. MALSCH: I gather that is the proposal.

5 CHAIRMAN PALLADINO: Have you got that?

6 MR. ZERBE: Nodding affirmatively.

7 CHAIRMAN PALLADINO: Well, between the two of
8 you you have got it.

9 COMMISSIONER AHEARNE: John, perhaps you can
10 tell me. In the 82-250, this is the one in which Dircks
11 addressed TMI-1 restart certification, its closing
12 sentence is "Those items requiring changes in plant
13 conditions for their completion, the staff intends to
14 recommend to the Commission that such items become a
15 condition of the license or the order which would lift
16 suspension of the license." Do we have any such list
17 that has come up to us from the staff?

18 MR. MONTGOMERY: I think the recapture list
19 would include that and I will have to check and see if
20 it does.

21 COMMISSIONER AHEARNE: This at least would
22 have given the implication that there would be something
23 else.

24 MR. MONTGOMERY: Right.

25 CHAIRMAN PALLADINO: All right, do you want to

1 go down to 10.

2 MR. ZERBE: This item was added because in an
3 earlier OPE memorandum there was a suggestion that
4 because of the importance of this situation that
5 consideration should be given to special inspection of
6 the plant.

7 CHAIRMAN PALLADINO: By whom? Special NEC
8 inspection?

9 MR. ZERBE: Yes.

10 CHAIRMAN PALLADINO: You mean like putting
11 more residents there?

12 MR. ZERBE: Well, more checks and not
13 necessarily more residents I guess, more checks on what
14 is going on in the operation early on in the restart.

15 CHAIRMAN PALLADINO: I didn't really
16 understand that. I didn't know what was being meant and
17 who raised it.

18 MR. MONTGOMERY: It is a little bit quick and
19 let me see if I can add a little bit more to it. Back
20 on October 9th, '81 OPE sent a follow-up memo on the
21 management decision, and it is a two-page memo. In that
22 memo there was a couple of paragraphs in which we
23 recommended because there were so many changes in so
24 many areas of this utility that it might be a good idea
25 to do some special monitoring in the first year of

1 operation to see that it works out the way everybody
2 expected it to.

3 We at that time added a couple more details
4 about what we were talking about, for example, and it is
5 something along the lines of another SALP inspection and
6 not any more residents but dealing with specific issues..

7 CHAIRMAN PALLADINO: This would be an
8 instruction to us ---

9 MR. MONTGOMERY: To our staffs to do something
10 more than the normal inspection effort and the major
11 rationale we used was because of the large amount of
12 change that has come about in the last three years.

13 COMMISSIONER GILINSKY: Well, you may also
14 want to give greater assurance to the people.

15 MR. MONTGOMERY: That is another benefit.

16 CHAIRMAN PALLADINO: Why would you do that as
17 part of the immediate effectiveness order. If we want
18 to do it we could do it.

19 MR. MONTGOMERY: As part of the order you are
20 making a statement to the public that you are going to
21 do it. That would be the reason for doing it as part of
22 the order because you are making a statement in the
23 order.

24 CHAIRMAN PALLADINO: Well what concerns me is
25 before I would go along with something like that I would

1 like to know what it is we are going to ask the staff to
2 do.

3 COMMISSIONER AHEARNE: Here is what they
4 recommended.

5 COMMISSIONER ASSELSTINE: I guess for myself I
6 would in favor of increasing the resident inspector
7 coverage at TMI-1, perhaps even to the point of,
8 depending on how many people it would take, to get
9 24-hour coverage of the plant.

10 COMMISSIONER GILINSKY: It would take four
11 times as many people.

12 COMMISSIONER ASSELSTINE: Well they have got
13 two there now.

14 COMMISSIONER GILINSKY: So it would take eight
15 or ten assuming we have a training shift.

16 (Laughter.)

17 CHAIRMAN PALLADINO: I guess I am torn a
18 little bit. We are making it so difficult for these
19 people to get it operating.

20 COMMISSIONER GILINSKY: Well, that isn't on
21 their side. The difficult is on our side.

22 CHAIRMAN PALLADINO: Well utilizing our staff
23 power.

24 COMMISSIONER GILINSKY: That isn't another
25 burden upon them. The question is do you want to expend

1 or use up more resources in that way.

2 CHAIRMAN PALLADINO: Aren't SALP visits a
3 burden on the utility?

4 COMMISSIONER GILINSKY: Oh, I suppose so, but
5 they are relatively ---

6 CHAIRMAN PALLADINO: And if we go in there and
7 check their management and we want to do a lot of
8 audits, that is going -- well, it depends on what we do
9 there.

10 COMMISSIONER GILINSKY: Well if you do what,
11 say, Jim is suggesting and increase the resident
12 coverage, that would fall in the category of burdening
13 the licensee.

14 CHAIRMAN PALLADINO: John was pointing out
15 some other suggestions that I was reading here that go
16 far beyond that.

17 MR. MONTGOMERY: Our suggestion originally was
18 not just a general increase in inspection, but it was
19 supposed to be aimed at some specific kinds of things.

20 COMMISSIONER AHEARNE: In fact, it wasn't
21 general enough.

22 CHAIRMAN PALLADINO: You don't have that in
23 here now?

24 MR. ZERBE: No, it is not in there and we are
25 just bring it up since it could be not even discussed,

1 you know, just an item that had been identified before.

2 COMMISSIONER AHEARNE: You recommended it once
3 and if we hadn't caught it you thought ---

4 (Laughter.)

5 COMMISSIONER GILINSKY: It is simply a fact of
6 life that probably the most dangerous time is after a
7 plant is started up after being down for a long time and
8 you may just want to take that into account and that is
9 generally true for all plants.

10 COMMISSIONER ASSELSTINE: To an extent, too,
11 it is a way to respond at least partly to some of the
12 public concerns.

13 CHAIRMAN PALLADINO: You want to put another
14 one there permanently or for one year or two years?

15 COMMISSIONER ASSELSTINE: I would think the
16 time of greatest interest and concern would be the first
17 year or two.

18 CHAIRMAN PALLADINO: If we could get somebody
19 up there and back for one year. Well your inclination
20 is to do that?

21 COMMISSIONER ASSELSTINE: My inclination would
22 be to do something to increase the inspection attention,
23 yes, whether it is additional resident coverage or an
24 increased regional inspection program at least for the
25 first year or so.

1 COMMISSIONER AHEARNE: Now we do have a large
2 number of people there.

3 COMMISSIONER ASSELSTINE: But most of them I
4 think focus on two, don't they?

5 COMMISSIONER GILINSKY: Well, right. What I
6 was suggesting is that what may be involved is a certain
7 shift in duties.

8 MR. ZERBE: Not necessarily more people. We
9 weren't thinking of more people I guess.

10 MR. MONTGOMERY: No.

11 COMMISSIONER AHEARNE: As I recall, there were
12 some questions about the maintenance, data-keeping and
13 record-keeping and I thought one of your points was that
14 the licensee had agreed to make changes and how that was
15 handled, and you were recommending a more intensive
16 monitoring of that to make sure that was being done.

17 MR. MONTGOMERY: Yes, meaning this was one of
18 the specific issues.

19 CHAIRMAN PALLADINO: You would like to do
20 something more on this?

21 COMMISSIONER GILINSKY: Well, to tell you the
22 truth, I haven't thought a whole lot about it. I think
23 if the plant does go up it would be good idea for some
24 period at any rate.

25 CHAIRMAN PALLADINO: But I am not sure what

1 you mean. Are you thinking specifically of another
2 resident?

3 COMMISSIONER GILINSKY: Well, increase the NRC
4 presence at the plant, which is what I gather the Jim is
5 suggesting.

6 COMMISSIONER AHEARNE: Maybe a combination of
7 one more resident plus more frequent visits from the
8 regional inspection teams.

9 CHAIRMAN PALLADINO: We would have to spell it
10 out.

11 MR. MONTGOMERY: Let me suggest that before
12 the next meeting one of the things I wanted to do before
13 we gave you any more specifics on something like this
14 was to be able to talk with the staff and I don't think
15 that is ex parte.

16 CHAIRMAN PALLADINO: If we want to make a
17 decision by the 10th, and I think our next meeting is
18 Thursday.

19 COMMISSIONER AHEARNE: I don't see how you can
20 make it by the 10th.

21 CHAIRMAN PALLADINO: What, the decision by the
22 10th? We had better cancel the second meeting on the
23 10th then.

24 COMMISSIONER AHEARNE: This has got a long way
25 to go.

1 CHAIRMAN PALLADINO: Well, are we going to get
2 it done this year?

3 COMMISSIONER AHEARNE: Hopefully.

4 CHAIRMAN PALLADINO: Well, the problem that I
5 found was that next week we don't have everybody present.

6 COMMISSIONER AHEARNE: My sense is when we go
7 out with this order we had best be sure that it is tight
8 and very clear.

9 COMMISSIONER GILINSKY: Tight or typed?

10 (Laughter.)

11 COMMISSIONER AHEARNE: I don't think we will
12 have many chances to say Oh, we didn't quite mean that.
13 This is what we should have said. So I would certainly
14 recommend that we don't try to have on the 10th the
15 final order. We can keep on working through this. I
16 wouldn't cancel the meeting in the sense of our time,
17 but I cancel it from the sense of saying that yes, it is
18 going to be a public production document.

19 CHAIRMAN PALLADINO: The problem I had though
20 is if we go beyond the 10th is having Commissioners
21 present so that we can complete the work. Somebody is
22 always gone and for good reason.

23 COMMISSIONER GILINSKY: Well, let's see, if we
24 are not going to do it by the 10th ---

25 CHAIRMAN PALLADINO: Well ought to act as

1 though we are going to try to do it by the 10th.

2 COMMISSIONER GILINSKY: Well, once you say it
3 that way we are not going to do it by the 10th.

4 (Laughter.)

5 CHAIRMAN PALLADINO: Well then we are going to
6 do it by the 10th.

7 COMMISSIONER GILINSKY: Well that is okay. I
8 just to be sure if we are going to work hard it is
9 not ---

10 CHAIRMAN PALLADINO: Well I think you have to
11 work hard to try to get it done.

12 MR. ZEREE: On this point you are talking here
13 of various amounts of detail. Now one approach would be
14 to put some statement in there in the management part
15 somewhere that said something on the order that because
16 of the substantial degree of change in the utility's
17 organization, management decision and procedures the
18 Commission believes that special NRC inspection
19 attention and operational monitoring is appropriate
20 during the first year of renewed operation. The
21 Commission hereby directs the staff to supply for
22 Commission approval before restart a proposed inspection
23 plan. Now this then puts it off, you see, and lets them
24 do it.

25 CHAIRMAN PALLADINO: If you give more things

1 for the Commission approval you are never going to start
2 this plant. If you are going to do it I would say we
3 want them to have an extra resident inspector for a
4 year, we want the region to inspect two times a quarter,
5 or whatever we come up with, and let it be at that, or
6 you want another SALP thing. I would rather spell it
7 out in here and tell the staff to go do it, because if
8 we come back with another plan ---

9 COMMISSIONER ROBERTS: As another point, we
10 either think the plant is safe to operate or not. We
11 have all sorts of requirements for plants to operate.
12 Now you are going to single this out and say no, we
13 really don't think it is safe to operate and therefore
14 we are going to have these other structures.

15 COMMISSIONER GILINSKY: That is the other side
16 of it.

17 (Laughter.)

18 COMMISSIONER ROBERTS: Sure. We have got to
19 face the question here, are we going to make a finding
20 that it is safe to operate the plant. We either do or
21 we don't. If the existing NRC requirements do not give
22 us sufficient comfort, then there is something wrong
23 with out existing requirements.

24 COMMISSIONER GILINSKY: Or the plant.

25 COMMISSIONER ROBERTS: Or the plant, and we

1 have to make that finding.

2 COMMISSIONER GILINSKY: But frequently, for
3 example, we insist on 100 percent coverage at some plant
4 for some period of time during construction or after
5 problems and so on. You certainly are coming out of a
6 problem period and it really is literally true that when
7 a plant has been down for a long time, just like a ship
8 or anything else, it in some ways is a more difficult
9 period than the actual start up and a more dangerous
10 period.

11 I must say I saw this now for the first time
12 and it does seem to me to make sense.

13 CHAIRMAN PALLADINO: This gave me a lot of
14 trouble when I saw it.

15 MR. MONTGOMERY: Let me try to finish what was
16 going to be my original suggestion until somebody
17 mentioned the Friday date, and that was if you like we
18 will do with this particular item what we did with the
19 others, and that is come to you as soon as we can get it
20 done and give you a draft with specific details of
21 certain items that could be in here with language for
22 you to look at as part of the order.

23 CHAIRMAN PALLADINO: Do you support doing this?

24 COMMISSIONER AHEARNE: No. Where I come out
25 is that I think this plant is going to be the most

1 looked at plant and I have no problem with that. In
2 fact, I think it probably would be a good idea to talk
3 to the staff and see what kind of additional early stage
4 coverage they had thought of planning or might provide.
5 I wouldn't spell it out in detail in the order.

6 CHAIRMAN PALLADINO: I wouldn't put anything
7 in there.

8 COMMISSIONER AHEARNE: I think Vic is right
9 that this is a tough time. The plant really has been
10 down for a long time. I guess we have had plants that
11 have been down for at least a year or year and a half,
12 but this is going on three years.

13 COMMISSIONER GILINSKY: For four years.

14 COMMISSIONER ROBERTS: What about a new plant
15 or a first reactor for a utility?

16 COMMISSIONER AHEARNE: It is a question of a
17 lot of the pipes, the valves and pumps have been running
18 and have stopped and they have tried to do maintenance
19 on them to keep them up. So I would guess I would think
20 that probably you ought to talk to the region and I&E
21 and see what kind of additional watching they intended
22 to do, but I wouldn't put anything in the order.

23 CHAIRMAN PALLADINO: The only advantage that
24 anyone said for putting it in the order is that we get
25 improved public perception. I don't like that.

1 COMMISSIONER AHEARNE: I sort of tend to come
2 down on Tom's side of it. If we don't really think it
3 should be operating we shouldn't let it operate.

4 COMMISSIONER GILINSKY: Well, it does cut both
5 ways. If you have some doubts you ought to be putting
6 more forces in there. On the other hand, if you put
7 more forces in there it underlines your doubts.

8 (Laughter.)

9 CHAIRMAN PALLADINO: We could ask the staff if
10 they feel additional inspection is needed and what it is
11 and submit a paper to us, but not relate it to this
12 order.

13 MR. ZERBE: Just leave it out.

14 CHAIRMAN PALLADINO: Okay, do you want to move
15 on. I have got I guess a decision of logistics here.
16 We can keep on going to 4, but if we are going to go
17 beyond 4 I have got to cancel another meeting and I
18 don't know when else we are going to do this.

19 MR. ZERBE: There are a number of items here
20 on hardware that we haven't gotten to.

21 CHAIRMAN PALLADINO: And we haven't even
22 started to go through the questions on the order yet.

23 COMMISSIONER ROBERTS: And I see a lot of
24 paper clips.

25 CHAIRMAN PALLADINO: What?

1 COMMISSIONER AHEARNE: I have a lot of paper
2 clips and folded pages.

3 (Laughter.)

4 COMMISSIONER GILINSKY: I wouldn't think the
5 remaining items would take a very long time.

6 CHAIRMAN PALLADINO: Well, why don't we go
7 through and see if we can't come up with at least with
8 direction on these.

9 COMMISSIONER AHEARNE: Before you turn to page
10 2, I had one other question and I want to ask to make
11 sure I understand on the steam generators. Are you
12 reaching the conclusion that we will in essence make
13 this document an order to the licensee that they must
14 get approval? The way we had described it in that order
15 was it is approval of the Commission; is that correct?

16 CHAIRMAN PALLADINO: Yes, on the steam
17 generator, the nozzle cracking and the sparger. All
18 other items will be certified by the staff.

19 COMMISSIONER AHEARNE: Now what type of
20 additional hearing rights were approved by us having now
21 given an order to the licensee you will not do something
22 until we approve it?

23 CHAIRMAN PALLADINO: We set it in June.

24 MR. MALSCH: Probably none. The assumption is
25 that this would be in the nature of a confirmatory

1 order, particularly as regards to the steam generator
2 tube repairs.

3 I suppose if we as a result of our review
4 impose some new requirement regarding the other two
5 issues, or I suppose maybe even the steam generator tube
6 repairs, that he had no reasonable way of knowing what
7 we had in mind he might have some hearing rights.

8 COMMISSIONER AHEARNE: How about the people
9 who don't want the reactor to start?

10 MR. MALSCH: It will be like I assume any
11 other enforcement order in which case they could come in
12 and ask for a hearing, but the hearing would only be to
13 support the order we had issued.

14 COMMISSIONER AHEARNE: Well, you say an
15 enforcement order. I thought that the staff was going
16 to be reaching a conclusion this was an amendment to the
17 license.

18 MR. MALSCH: Oh, on steam generator tube
19 repairs?

20 COMMISSIONER AHEARNE: Yes.

21 MR. MALSCH: Well, it would depend. If we
22 were imposing some requirement on them, then that would
23 be in the nature of an enforcement order. If they were
24 coming to us and asking for relief from some technical
25 specification requirement, that would be a license

1 amendment.

2 COMMISSIONER AHEARNE: And what we will have
3 is an order telling them that this action, which is a
4 license amendment, cannot be accomplished until the
5 Commission approves it, and I am asking what kind of
6 intervenor hearing rights does that develop?

7 MR. MALSCH: I would say if what we are
8 talking about is Commission approval of the amendment,
9 the fact that the Commission approves it or issues the
10 amendment as opposed to the staff shouldn't make any
11 difference. They have a right to a hearing on the
12 amendment. Whether or not the hearing takes place
13 before the amendment or afterwards would depend upon the
14 significant hazards consideration finding.

15 COMMISSIONER ROBERTS: The key to when the
16 hearing is is the significant hazards consideration?

17 MR. MALSCH: Well, that plus there is a
18 complication in the sense that there is this outstanding
19 decision in the District of Columbia Circuit that this
20 agrees with our interpretation of the statute, but that
21 is stayed and we have language in our authorization
22 act. But putting that aside, yes.

23 CHAIRMAN PALLADINO: All right, do you want to
24 go to 11.

25 MR. ZERBE: Well 11 is an item that we added.

1 It is not addressed in the order at the moment and
2 pertains to some questions. Apparently there are
3 different interpretations of responsibilities that come
4 out of different parts of NRC. Headquarters has one
5 idea, the Region another, and the TMI Program Office has
6 another on the emergency response areas.

7 Now it is our understanding that these things
8 will get resolved. The staff is working on it and will
9 get results prior to start up and we wouldn't plan to
10 put anything in this document unless you want to, but we
11 are calling it to your attention.

12 CHAIRMAN PALLADINO: Is this the issue of the
13 interim versus the final staff plans?

14 COMMISSIONER AHEARNE: No.

15 MR. ZERBE: No.

16 CHAIRMAN PALLADINO: That is the way I read it.

17 MR. ZERBE: Well there is a question, among
18 other things, about the role of NRC during any potential
19 accident and the role of the licensee. At some point is
20 the NRC going to potentially step in and take over? For
21 instance, if you are there and then the ---

22 CHAIRMAN PALLADINO: What does this have to do
23 with lifting the immediate effectiveness?

24 COMMISSIONER AHEARNE: Because the Appeal
25 Board has said the Director of NRR may not authorize the

1 restart of TMI-1 until the NRC staff emergency response
2 plans is modified and completed in accordance with this
3 decision and have been distributed in final form.

4 CHAIRMAN PALLADINO: Yes, but is the point.
5 It is interim versus final. The Board's concern was
6 that that the staff calls its plans interim, and the
7 reason they called them interim is because I guess they
8 keep changing.

9 COMMISSIONER AHEARNE: But as modified also,
10 as modified in accordance with this decision. There are
11 two specific things I can recall. The first was they
12 said there was confusion as to what the TMI Program
13 Office role was in response to an emergency, and then,
14 second, as Jack pointed out, was this issue of when to
15 clarify, when would or under what circumstances would
16 the NRC step in and take over.

17 CHAIRMAN PALLADINO: That is a more basic
18 question.

19 COMMISSIONER AHEARNE: It is a very basic
20 question. It is a generic issue which I do not believe
21 that we are going to get the NRR ---

22 MR. ZERBE: We don't propose bring it up in
23 this order, but we just bring it up because it is an
24 open area.

25 COMMISSIONER AHEARNE: I think it has got to

1 be brought up. The Appeal Board has said to Harold you
2 can't certify until you have done something.

3 MR. ZERBE: But it can be taken up before the
4 final approval. It doesn't have to be taken up on the
5 immediate effectiveness.

6 CHAIRMAN PALLADINO: If we had an accident,
7 the applicant, the licensee and the owner has some
8 responsibilities that it takes. Does this plan impact
9 on that? Does it change it?

10 MR. ZERBE: Well, we have a statement to add
11 if they want to add one.

12 CHAIRMAN PALLADINO: This is NRC's plan, if I
13 recall.

14 COMMISSIONER ASSELSTINE: That is right.

15 CHAIRMAN PALLADINO: They have a
16 responsibility, the applicant, the licensee and the
17 owner has a responsibility to operate the plant safely
18 in case of accident and he has certain things he has got
19 to do. We have certain things that we want to do for
20 ourselves, but I thought that is what this internal plan
21 was and it is not related. My answer to No. 11 was no.

22 COMMISSIONER AHEARNE: Well, the reason I
23 think we have to is the Appeal Board has directed that
24 the plant can't get started.

25 COMMISSIONER ASSELSTINE: It has to be

1 addressed one way or the other.

2 CHAIRMAN PALLADINO: Well, can we address it?
3 It sounds like the Appeal Board is getting as mixed up
4 as anybody else.

5 MR. ZERBE: Here is a way. If you want to
6 cover it in this particular immediate effectiveness
7 order, the way that we had proposed putting it in it
8 would be worded, at the bottom of page 28, it would be
9 worded "The Appeal Board has alerted the Commission to
10 possible ambiguities in the staff's emergency response
11 plan. The Commission is directing the staff to clarify
12 in its certification report prior to restart emergency
13 response plans for TMI, including the coordination of
14 the NRC emergency response plan with those of the
15 licensee, the Commonwealth and the counties and
16 emphasizing the primary responsibility of the licensee,
17 the primary responsibility of the licensee for managing
18 the emergency and making recommendations for protective
19 action." We will put that in here if you ---

20 COMMISSIONER AHEARNE: Let me just read one of
21 the things the Appeal Board said it found at fault with
22 the current NRC plan. "There are also no specific
23 criteria for decisions concerning the assumption of
24 management control by the NRC, nor has the staff yet
25 discussed this possibility with the licensee."

1 CHAIRMAN PALLADINO: That is true for every
2 plant.

3 COMMISSIONER AHEARNE: Yes, it is true for
4 every plant and NRR is not going to come up in a short
5 period of time with a set of specific criteria for the
6 assumption of management control by the NRC. We have
7 debated that now for years.

8 COMMISSIONER GILINSKY: Who are the Appeal
9 Board members on that?

10 COMMISSIONER AHEARNE: Ettels, Buck and
11 Dotche. So I think some of the items on the emergency
12 planning that the Appeal Board said had to be clarified
13 that Jack's proposed approach is quite adequate. For
14 example, they do make the point that the role of the TMI
15 Program Office is not clear. That ought to be
16 clarified. But there are a couple of others that are
17 just beyond what NRR should be expected to be prepared
18 to handle. They are issues that the Commission has to
19 eventually handle and I would just say with respect to
20 these particular areas the Commission will sometime in
21 the future generically address them.

22 COMMISSIONER ASSELSTINE: Yes, but we can't
23 just be silent on it.

24 COMMISSIONER AHEARNE: Right.

25 COMMISSIONER ASSELSTINE: We have to say which

1 of those requirements we are going to stick by at the
2 Appeal Board's direction and which of them ---

3 CHAIRMAN PALLADINO: Which ones are you
4 addressing there?

5 MR. ZERBE: Well, honestly, we were only
6 addressing those that the Commissioners said we can
7 address relative to TMI and then the other ones we
8 hadn't addressed and we have add a statement to that
9 effect that we would handle them generically.

10 CHAIRMAN PALLADINO: Are you going to make
11 clear which we are doing one way and which we are doing
12 the other?

13 MR. ZERBE: We will have to.

14 CHAIRMAN PALLADINO: Now we have a series of
15 issues raised by Commissioner Gilinsky's office. We
16 went over them last time.

17 MR. ZERBE: And we are prepared to go over
18 them again. We don't have all the answers on the status
19 of some of these items because we haven't been able to
20 get them yet from the staff on where they stand, but
21 John here is going to discuss them all.

22 CHAIRMAN PALLADINO: Just a comment. Vic, on
23 a number of these you are bringing up issues that would
24 treat this plant differently from other plants that are
25 subject to the same rules in terms of scheduling

1 particularly.

2 COMMISSIONER GILINSKY: In terms of schedule,
3 I suppose that is right.

4 CHAIRMAN PALLADINO: And that imposes an added
5 burden.

6 Well, go ahead.

7 MR. MONTGOMERY: I will start with No. 12
8 which is should there be a control room design review
9 required prior to restart. That is per SECY-82-111B.
10 That item, No. 13, which is installation of SPDS also
11 treated in SECY-82-111B, and the last item, No. 18,
12 which should be, and let me correct that EOF there, it
13 should really read Emergency Response Facilities per
14 82-111B. Should those items be required prior to
15 restart.

16 We have found out to date that there is no
17 schedule or for that matter the staff hasn't even come
18 up with an implementation schedule yet. It has only
19 been I think about three weeks or two weeks since 111B
20 was completed here for Commission action. So there is
21 no status to report on those items.

22 What we do know is, as came out of that whole
23 decision process, is that the staff will deal with each
24 plan on an individual basis in terms of scheduling. If
25 the Commission were to choose to deal with any of these

1 items, you have a couple of different choices, as we
2 have stated them here.

3 One of them is of course to require that the
4 item be completed prior to restart.

5 Another is that there be some degree of
6 progress or some statement at least of what is happening
7 and in that effect, for example, the staff would be
8 asked to expedite review for TMI or to at least provide
9 some kind of schedule as to when they would deal with
10 these prior to restart.

11 CHAIRMAN PALLADINO: I most certainly think we
12 should not treat any of those three specifically.

13 MR. MONTGOMERY: Right, 12, 13 and 18.

14 CHAIRMAN PALLADINO: 12, 13 and 18 because we
15 are introducing a whole host of other items that I guess
16 would also apply to TMI-1 as they come along.

17 MR. MONTGOMERY: Yes. If there were no
18 specific action taken, TMI-1 would be treated as all
19 other plants are on some schedule developed between the
20 staff and the licensee.

21 CHAIRMAN PALLADINO: These items I don't see
22 any reason to treat them any different.

23 COMMISSIONER GILINSKY: Well, there is this
24 one difference which I believe applies to all of these
25 schedules, and that is if these schedules are phrased in

1 terms of, you know, first refueling or the second
2 refueling or whatever, then what happens is that TMI
3 having been down ends up being the last of all of these
4 plants to have to comply with these requirements which
5 stem from the accident at TMI. Now it seems to me there
6 is something wrong with that. Plus the utility tends to
7 hang back on all of these various items. So it isn't as
8 if they were rushing forward.

9 CHAIRMAN PALLADINO: Well they are going to be
10 busy getting started. It is just like any other new
11 plant, they are going to have a busy period of time.

12 COMMISSIONER GILINSKY: You know they have had
13 four years.

14 MR. MONTGOMERY: Excuse me, I would separate
15 out at least these three items.

16 COMMISSIONER GILINSKY: 111B gathers together
17 a lot of things that have been around for a long time,
18 but why don't you go on.

19 COMMISSIONER AHEARNE: John, when you say you
20 would separate out those three items ---

21 MR. MONTGOMERY: To the extent that it has
22 only been two or three weeks since the Commission really
23 decided how to handle implementation, I think that is
24 different from those items which were already on 737.

25 COMMISSIONER AHEARNE: The one exception I

1 would argue is No. 18, where you say the Commission has
2 decided, for the third time the Commission has agreed
3 that that is the set of requirements. So naturally that
4 really fits.

5 CHAIRMAN PALLADINO: What are you saying,
6 John, that it should be in?

7 COMMISSIONER AHEARNE: No. I was just
8 commenting that that isn't something ---

9 CHAIRMAN PALLADINO: --- that just came by.

10 MR. MONTGOMERY: Do you want me to discuss
11 each of these or do you want to go through like you did
12 earlier?

13 CHAIRMAN PALLADINO: Well let's see if there
14 is a consensus on 12, 13 and 18 since you brought them
15 up in that package way. My feeling would be not to
16 include them.

17 COMMISSIONER AHEARNE: I wouldn't include it
18 in this, but I do intend to try to follow 18
19 separately. I think it is a broader issue. It is not
20 just this particular plant.

21 COMMISSIONER ASSELSTINE: John, while these
22 things just got wrapped into 82-111B fairly recently,
23 surely there must be some information on what the status
24 is in doing these various things. I mean there are
25 plants that are installing SPDS.

1 MR. MONTGOMERY: That is right. That is one
2 of the things we are not to prepared to discuss today
3 because we haven't got the information back yet.

4 COMMISSIONER ASSELSTINE: For my part I would
5 like to hear what the staff says on those three elements.

6 CHAIRMAN PALLADINO: We have got an order to
7 get out and we would get a lot of information, but I
8 don't see how that would be pertinent to our getting
9 this order out.

10 COMMISSIONER ASSELSTINE: To restart they
11 would have to finish some of these items.

12 CHAIRMAN PALLADINO: There is no way you are
13 going to finish some of those in any reasonable period
14 of time and reasonable to me is up to a year.

15 Well, let's find out where we stand.

16 John, you would go on 12, 13 and 18, no, but
17 you would follow 18.

18 COMMISSIONER ROBERTS: I would go no on 12 and
19 13.

20 CHAIRMAN PALLADINO: I would go no.

21 And you would go yes?

22 COMMISSIONER GILINSKY: Well, you know they
23 are phrased in sort of a flexible way, but I would
24 address them one way or another.

25 CHAIRMAN PALLADINO: Jim?

1 COMMISSIONER ASSELSTINE: My inclination is
2 no, but I guess before I make a final judgment I do want
3 to find out what the status is of some of those because
4 I think Victor does have a good point, that if those can
5 be dead last at this plant, this plant of all places,
6 then maybe that is something that does need some
7 attention at least in terms of the reasonable progress.

8 CHAIRMAN PALLADINO: All right, do you want to
9 go on to other questions.

10 MR. MONTGOMERY: That takes care of 12, 13 and
11 18.

12 14, should vessel level instrumentation be
13 completed prior to restart or should the Commission
14 require some additional progress prior to restart.

15 Now we had a couple of answers to provide you
16 regarding vessel level instrumentation that came out of
17 the last meeting, and that was to find out what the
18 status is of B&W BLI design efforts and the TMI schedule
19 for completion. We don't have the answer to those two,
20 but we did at least find out what other B&W plants have
21 done to date as a relative statement.

22 We only have one B&W plant which is even
23 gotten to the conceptual design state, and that is not
24 an operating reactor, but under OL review the WPPSS
25 plant. There is no other progress by B&W reactors.

1 There of course has been substantial progress by
2 Westinghous and CE plants which, if you desire, I can
3 run through the extent of that. But as far as other B&W
4 plants are concerned, TMI is not lagging behind.

5 The issue here of course with 14 is that there
6 will be BLI. It is one of scheduling and how soon they
7 will be able to get it done.

8 COMMISSIONER GILINSKY: Well, let's see, what
9 is the story with the other Westinghouse plants? At
10 least some of them have got the level.

11 MR. MONTGOMERY: Yes. The other Westinghouse
12 plants, there have been 32 ordered, 8 have been
13 installed and calibrated, and of those 8, two of those
14 are plants under review.

15 COMMISSIONER GILINSKY: What is the story with
16 the Combustion plants?

17 MR. MONTGOMERY: The CE plants, there have
18 been 21 ordered and 21 to be installed. So there is no
19 complete system.

20 COMMISSIONER GILINSKY: You cannot use the
21 Combustion system in the B&W plant?

22 MR. MONTGOMERY: That I am going to turn over
23 to Rick Sherry. Do you want to answer that?

24 MR. SHERRY: If I recall from the last meeting
25 with the staff, that the staff had with the Commission,

1 they indicated that I believe a Westinghouse plant had
2 ordered CE equipment. So there is potential for B&W
3 plants to use other people's equipment.

4 MR. MONTGOMERY: That is right.

5 COMMISSIONER GILINSKY: This is just TMI, but
6 there is something very wrong with these plants hanging
7 back.

8 COMMISSIONER AHEARNE: It is just not on this
9 item.

10 COMMISSIONER GILINSKY: It is not just on this
11 item, that is right, but this happens to be the plant
12 that we are dealing with today. I guess I am not
13 impressed with the argument that they are not that much
14 far behind the other B&W plants.

15 CHAIRMAN PALLADINO: This is not something
16 that is going to be settled real quick. What we had put
17 forth is that they should be making reasonable progress
18 on this.

19 COMMISSIONER ASSELSTINE: In fact, we did
20 better than that, didn't we? Didn't we require that
21 there had to be a design for each of the B&W plants
22 within 90 days?

23 MR. MONTGOMERY: That was part of that order.

24 MR. ZERBE: It seems to me you would want to
25 keep the B&W in the picture though. You don't want to

1 tell somebody to put in another design that they don't
2 necessarily go along with.

3 COMMISSIONER AHEARNE: Jack, we have been
4 arguing with this people, B&W, for several years. They
5 first adamantly refused to even consider and then they
6 fought very hard against talking about any possible
7 design and it is not clear yet that they are convinced
8 that they are going to do it. I hope they are.

9 MR. ZERBE: You don't want to tell them in TMI
10 to put a certain kind of unit in.

11 COMMISSIONER GILINSKY: No, but you can tell
12 them to put a unit in.

13 CHAIRMAN PALLADINO: Before restart?

14 COMMISSIONER GILINSKY: I would.

15 CHAIRMAN PALLADINO: But this is neither a
16 long-term or short-term item that was litigated.

17 COMMISSIONER GILINSKY: I am just giving you
18 my view.

19 COMMISSIONER AHEARNE: I wouldn't tell them to
20 put it in before restart, but, frankly, I would for
21 myself, as I think I indicated on my vote sheet the last
22 time around, I would give an order to B&W plants that by
23 a fixed date certain you will have a system in and it
24 can be the Westinghouse system or the CE system or it
25 can be a B&W system. I hate to use that route force

1 approach, but the other approaches just have not worked
2 and we are just not getting anywhere.

3 There is an anomaly, as Vic points out, that
4 the sister plant, the one that caused the accident that
5 led to these changes, many of the changes are not being
6 put into that plant and it is difficult to explain that.

7 CHAIRMAN PALLADINO: That we should take up as
8 a broader based item and not include it in the TKI order.

9 COMMISSIONER AHEARNE: Yes, I would agree.

10 COMMISSIONER ASSELSTINE: I would stick with I
11 guess the present requirement that we have already
12 agreed to which would mean that as a practical matter
13 before the time of restart they would have to come in
14 with their design for their system.

15 COMMISSIONER AHEARNE: And if they don't?

16 COMMISSIONER ASSELSTINE: Well, we didn't
17 cross that bridge before.

18 COMMISSIONER AHEARNE: Be prepared.

19 (Laughter.)

20 COMMISSIONER ASSELSTINE: Yes, that may be
21 right. As I recall what the staff said at the last
22 meeting, the 90 days gives them enough time, if they
23 want to, to develop their own system, and if they don't
24 want to, then they will just have to buy somebody else's.

25 COMMISSIONER GILINSKY: When are the 90 days

1 up?

2 MR. MONTGOMERY: I think we are talking about
3 a minus three weeks, so about 60 days or 70 days which
4 would put it at about the end of February, is that
5 right, or the middle of February.

6 COMMISSIONER ASSELSTINE: Yes, I think about
7 then.

8 MR. FOUCHARD: John, are you sure those orders
9 have gone out? I don't believe they have.

10 (Laughter.)

11 MR. MONTGOMERY: No, they haven't.

12 (Laughter.)

13 MR. FOUCHARD: Why don't you shoot for this
14 week, John.

15 MR. MONTGOMERY: Okay. That gives you 90 days
16 from the end of this week.

17 COMMISSIONER AHEARNE: If they go out.

18 MR. MONTGOMERY: If they go out, yes. So that
19 is the middle of March.

20 CHAIRMAN PALLADINO: Okay, No. 14 we are not
21 going to put in here, but treat it generically the B&W
22 route.

23 Should the Commission overturn the Board's
24 ruling on the need for safety systems interlock, and I
25 don't know what that means.

1 MR. MONTGOMERY: That is the one we discussed
2 at the last meeting.

3 COMMISSIONER GILINSKY: I vote no on that one.

4 MR. MONTGOMERY: You vote no on that one?

5 (Laughter.)

6 CHAIRMAN PALLADINO: Then I don't know which
7 side I am supposed to be on.

8 (Laughter.)

9 COMMISSIONER ROBERTS: If it gives you any
10 comfort I vote no.

11 COMMISSIONER AHEARNE: I will vote no, too.

12 COMMISSIONER ASSELSTINE: So would I.

13 (Laughter.)

14 COMMISSIONER ROBERTS: Now you still don't
15 know.

16 (Laughter.)

17 MR. MONTGOMERY: The next one, No. 16, should
18 the PORV and block valve be required to be totally
19 safety grade prior to restart.

20 COMMISSIONER GILINSKY: Well actually I would
21 change that to say close to safety grade. There is a
22 distinction between having parallel systems, which would
23 be required if it was completely safety grade, and
24 having the thing be qualified up to safety grade
25 standards, which is what I guess I would require.

1 CHAIRMAN PALLADINO: Isn't that a generic
2 problem for all plants?

3 COMMISSIONER GILINSKY: Well, you have got a
4 problem here which is connected with this high-point
5 vents as well.

6 CHAIRMAN PALLADINO: In what way?

7 COMMISSIONER GILINSKY: Well, the whole
8 business of whether the feed and bleed business is going
9 to work or not, and the Appeal Board preliminary
10 decision which required or seemed to indicate that they
11 are going to want high-point vents.

12 CHAIRMAN PALLADINO: But they didn't require
13 them before restart.

14 COMMISSIONER GILINSKY: They didn't?

15 CHAIRMAN PALLADINO: No.

16 COMMISSIONER AHEARNE: No.

17 COMMISSIONER GILINSKY: What was their
18 condition?

19 COMMISSIONER AHEARNE: Dedicated operator.

20 CHAIRMAN PALLADINO: But they do require
21 high-point vents, don't they eventually?

22 COMMISSIONER GILINSKY: I thought it was
23 before restart. Am I wrong? Marty?

24 MR. MALSCH: I remember the dedicated
25 operators. I don't remember the requirement, if that is

1 prior to restart. I am not certain and I would have to
2 read the decision again.

3 CHAIRMAN PALLADINO: I thought they had made a
4 commitment to putting the high-point vents in, but it
5 was going to take them several months or six months to
6 get them in.

7 COMMISSIONER GILINSKY: But the Appeal Board
8 said in view of the fact, as I recall it, the PORV was
9 not safety grade and could not be relied upon and the
10 various experimental results that raised questions about
11 feed and bleed.

12 COMMISSIONER ASSELSTINE: That is right.

13 CHAIRMAN PALLADINO: The feed and bleed is a
14 system whereby you are trying to ---

15 COMMISSIONER GILINSKY: You are just pushing
16 it out the PORV. There are questions as a result of
17 tests in Idaho about whether or not that works or not,
18 and to boot the PORV is not safety grade, and you don't
19 know if you can rely on it or not. So they got more
20 worried about whether you are going to bind up in the
21 candy cane. So to make sure that doesn't happen they
22 wanted to have the vents as an alternative. As I
23 recall, that was before restart. They basically said
24 either do it or come in and talk to us about it and
25 convince us otherwise.

1 MR. SPERRY: What the Appeals Board had done
2 in their order of November 5th was give some preliminary
3 indication of what their thinking was, and their
4 thinking along these lines was that they would like to
5 see a high-point vent to vent steam and not condensibles
6 from the hot leg to assure that natural circulation
7 cooling would be available.

8 They asked for responses from the other
9 parties and I believe UCS and the licensee responded.
10 Both indicated that they did not believe that the
11 high-point vents would assure natural circulation. So I
12 think that is where it stands right now, but for
13 different reasons.

14 COMMISSIONER AHEARNE: The licensee made the
15 point that it wasn't for steam anyway.

16 COMMISSIONER GILINSKY: Well, it was for
17 both. The original impetus certainly was for hydrogen,
18 but in writing it up they gathered in other reasons for
19 doing it.

20 CHAIRMAN PALLADINO: Did not the licensee
21 commit to putting in a high-point vent?

22 COMMISSIONER GILINSKY: Eventually I gather.

23 MR. MONTGOMERY: It is a scheduling question
24 on the high-point vents. It is not only on whether they
25 are going to do it or not.

1 COMMISSIONER GILINSKY: There is certainly a
2 vent up there.

3 CHAIRMAN PALLADINO: There is a hole.

4 COMMISSIONER GILINSKY: There is a manual
5 valve, as I recall, about which there was some talk
6 during the accident.

7 MR. SHERRY: But I am not sure if this valve
8 is located on top of the reactor vessel head, the
9 pressurizer or on the top of the candycane.

10 COMMISSIONER GILINSKY: It is at the top of
11 the candycane and they use it for filling the vessel
12 when they fill the vessel.

13 MR. ZERBE: We have been asking to find out
14 and we have not been able to find out any details on
15 this from the staff yet.

16 MR. MONTGOMERY: That is one of the questions
17 we don't have an answer to.

18 COMMISSIONER AHEARNE: In your opening remark
19 there, you dropped away from the "totally." What
20 requirements were you ---

21 COMMISSIONER GILINSKY: Well, when you say
22 totally safety grade, then you have to have redundant
23 system. I think it ought to be otherwise qualified,
24 environmentally qualified and seismically qualified, in
25 other words, the valve itself, and it ought to come off

1 a safety bus and that sort of thing rather than saying
2 there ought to be two complete systems.

3 CHAIRMAN PALLADINO: We haven't do that to any
4 other plant thought?

5 COMMISSIONER GILINSKY: I think probably not.

6 COMMISSIONER AHEARNE: Well, it has some level
7 of qualification.

8 MR. MONTGOMERY: Pardon?

9 COMMISSIONER AHEARNE: Doesn't it have some
10 level of qualification?

11 MR. MONTGOMERY: For a certain purpose.

12 COMMISSIONER GILINSKY: I would like to see
13 that valve as qualified as possible. It is true that
14 this applies across the board to a lot of other plants.

15 MR. ZERBE: I understood it was safety grade
16 for the emergency part of it, but the normal routine
17 operation of that valve, the part is not safety grade.
18 Is that right?

19 MR. SHERRY: That is correct.

20 COMMISSIONER AHEARNE: For myself I would like
21 to know exactly what it is that would end up being
22 required.

23 MR. ZERBE: Okay.

24 CHAIRMAN PALLADINO: But why should we require
25 something more here than we do for many other operating

1 plants?

2 COMMISSIONER GILINSKY: Well, you are
3 specifically going to have to be making some sort of
4 findings or approving findings in the Licensing Board
5 decision that certain modes of cooling offer adequate
6 protection. What got the Appeal Board worried is there
7 were experiments that raised questions about whether you
8 could push stuff out the PORV.

9 CHAIRMAN PALLADINO: Are those the ones that
10 the staff raised questions about?

11 COMMISSIONER GILINSKY: Yes.

12 CHAIRMAN PALLADINO: I don't think that was
13 demonstrated at all. They may have made some comments
14 on it, but that doesn't make their comments right.

15 COMMISSIONER GILINSKY: You are talking about
16 the Appeal Board. I am not saying the Appeal Board is
17 necessarily right, but you have to confront it and come
18 down one way or the other. If you decide not to put in
19 a more qualified system, then you are saying this is a
20 good mode of cooling with a less qualified system, or
21 the way it is now where someone upgraded it, or
22 whatever. But you are taking a position on issues that
23 came up in that hearing one way or another.

24 MR. ZERBE: The staff had agreed with the
25 Board and they did not propose making these changes, is

1 that right?

2 COMMISSIONER GILINSKY: The staff agreed with
3 the Licensing Board.

4 COMMISSIONER ASSELSTINE: Right, and the
5 Appeal Board I think is coming out on the other side of
6 it. They haven't issued it.

7 COMMISSIONER GILINSKY: Well, that is right,
8 but there is some more information.

9 COMMISSIONER AHEARNE: The Appeal Board is
10 saying given new information.

11 COMMISSIONER ASSELSTINE: Oh, all right.

12 COMMISSIONER AHEARNE: That is their basis.

13 COMMISSIONER ASSELSTINE: The information in
14 the record is now no longer adequate to show that feed
15 and bleed will ---

16 COMMISSIONER ASSELSTINE: We don't know where
17 the staff stands on that new information yet.

18 COMMISSIONER AHEARNE: I think you do because
19 the staff's notice to the Board, the last notice that I
20 read and I think it was November 5th or something, said
21 that they did not believe that this demonstrate that
22 there was any inadequacies. I think it is the staff
23 response that goes through why they do not believe that
24 these tests were proving what the Appeal Board
25 required. Maybe it was the licensee.

1 MR. SHERRY: I guess it should be noted also
2 that the plant has the capability to go to a feed and
3 bleed mode using the safety valves. The high-pressure
4 injection has sufficient head to drive feed and bleed at
5 those pressures.

6 CHAIRMAN PALLADINO: Well, I don't think we
7 can be requiring or should be requiring that this be
8 totally safety grade prior to restart. We would be
9 singling this plant out over any other one.

10 COMMISSIONER AHEARNE: When Vic back off with
11 "totally," I was prepared to oppose it, but now I am not
12 sure exactly what the difference between what the
13 requirements for those valves currently are and what you
14 would propose. So if I could get some better sense of
15 that.

16 COMMISSIONER GILINSKY: Well the Licensing
17 Board, as I recall, relied on those valves functioning,
18 you know, the feed and bleed business. The Appeal Board
19 is not relying on that, but is relying on vents. You
20 are not going to have safety grade PORV and you are not
21 going to have the vents.

22 COMMISSIONER AHEARNE: I am saying I am not
23 sure what it is.

24 COMMISSIONER GILINSKY: I would like to see it
25 more reliable ---

1 COMMISSIONER AHEARNE: I would like to see it
2 more reliable, too, but in an order I think we have got
3 to be more specific about that.

4 COMMISSIONER GILINSKY: Well, right. There is
5 a certain amount of flexibility there.

6 MR. ZERBE: We will get more information on
7 that and help make it more specific.

8 CHAIRMAN PALLADINO: Well, I would just as
9 soon not say anything about the PORV and block valves.
10 I do think they have made a commitment with regard to
11 the hot leg vent, and it seems to me that the main
12 reason they are getting it done before restart is
13 because there is about six month's work. There are
14 alternative ways of doing this and even the bleed and
15 feed I think would work with the safety valves.

16 COMMISSIONER GILINSKY: The comment was made
17 that we would then be singling this plant out and
18 treating it differently. It seems to me that really
19 isn't right. When we came up with these various
20 schedules and decided to treat it like an operating
21 reactor, which I think I agreed to do, too, this was at
22 a time when the schedules were rather different and had
23 this plant started up its schedule of completion would
24 have been more or less compatible with those of others.

25 The situation you are going to end up with by

1 simply following the specific instructions or directions
2 in our overall rules for all the plants is that this
3 plant is going to lag all the other plants, and it seems
4 to me there has just go to be something wrong with that
5 if right down the line all the basic requirements are
6 satisfied in this plant last.

7 CHAIRMAN PALLADINO: That is not necessarily
8 true, but it takes some study to decide which way it is.

9 COMMISSIONER GILINSKY: It is not true that it
10 is last?

11 CHAIRMAN PALLADINO: It is not necessarily
12 true that it is last.

13 COMMISSIONER GILINSKY: Well, I am just
14 observing. I don't know whether it is true of every
15 single item, but generally speaking that seems to be the
16 pattern. I don't know whether it is absolutely last,
17 but they have not done things that they have had to do
18 in advance of absolutely having to do them, and the
19 pattern of requirements phrased in terms of refueling
20 schedules allows them to string it out for quite some
21 time and they seem to have taken advantage of that.

22 CHAIRMAN PALLADINO: We are trying to write an
23 immediate effectiveness order whether or not we have
24 accomplished all the items that we felt we were
25 concerned about when we shut it down.

1 COMMISSIONER GILINSKY: Well, you know, these
2 are all TMI items -- well, not all of them, but a number
3 of them are important TMI items and I don't think that
4 when the Commission started this process that it
5 expected that this would be the last plant to comply.

6 CHAIRMAN PALLADINO: But it didn't address it
7 from that standpoint.

8 COMMISSIONER GILINSKY: You know, even if they
9 strictly speaking, you know, in the narrowest sense
10 complied on every single one of them, I suppose you
11 can't argue in any detail on any particular item. But
12 it seems to me there is just something wrong with this
13 plant hanging back on the EOF ---

14 CHAIRMAN PALLADINO: Do the other B&W reactors
15 have high-point vents?

16 MR. MONTGOMERY: That is one piece of
17 information we were able to get, that was on high-point
18 vents. Some people don't return our phone calls quite
19 as quickly as we might like sometimes. On high-point
20 vents we have no PRWs on the status of some many "R's"
21 that have completed that. The only installation that
22 has been completed are on 9 BWRs and Fort St. Vrain.

23 COMMISSIONER GILINSKY: BWRs?

24 MR. MONTGOMERY: BWRs, and I think, and I am
25 almost sure, but not positive, that that is because

1 there is already something there. Somebody checked the
2 box because they already had something there.

3 COMMISSIONER GILINSKY: That doesn't sound
4 right to me, but maybe.

5 CHAIRMAN PALLADINO: Could you find out also
6 how long it is going to take? As I recall, we were told
7 there were about six months worth of work, but they are
8 committed to doing it.

9 MR. MONTGOMERY: I believe at the last meeting
10 we were told that May was the scheduled date for
11 completion on the high-point vent.

12 CHAIRMAN PALLADINO: Well, I don't know what
13 the Commissioners want to do for the next draft. I
14 would be inclined to leave them both out, but meanwhile
15 look at the points that were raised on the PORV in case
16 you want go into that.

17 COMMISSIONER AHEARNE: I do want to look and I
18 want to get this clear picture of what the PORV
19 requirement would be.

20 COMMISSIONER ASSELSTINE: On high-point vents
21 I think it is worth noting that between now and when
22 this plant restarts you might well get a final decision
23 from the Appeal Board that says the plant ought not to
24 run without the high-point vents in there.

25 COMMISSIONER AHEARNE: Another way of looking

1 at it is by the time this plant runs they may be in
2 place.

3 COMMISSIONER ASSELSTINE: They may be in
4 place. That is true, too.

5 COMMISSIONER GILINSKY: Now are you telling
6 the Appeal Board not to put them in?

7 COMMISSIONER ASSELSTINE: No.

8 CHAIRMAN PALLADINO: Right now we are just
9 being silent on the point, unless you and John come up
10 with something that you want to propose.

11 Now, John, you have a number of comments.

12 COMMISSIONER AHEARNE: Yes.

13 CHAIRMAN PALLADINO: I have what I will call a
14 few, like maybe six or seven.

15 COMMISSIONER AHEARNE: I have probably got 40
16 questions on some points on the order, but I have
17 several major questions.

18 First, I don't believe this yet approaches
19 clarity for the reader as to what it is that we would be
20 saying. I think that whatever you have in the beginning
21 has to start out with something that, assuming you go
22 the direction you are going, that would essentially say
23 that TMI has three constraints preventing it from
24 operating. One is a Commission order; two, there is a
25 court order; and, three, there are steam generator

1 problems. All three of those have to be resolved before
2 the plant can operate. With respect to steam generators
3 it is this; with respect to the court it is that; and
4 with respect to the previous orders on suspension the
5 Commission is deciding this order to lift it.

6 There are a series of actions that the
7 Director of NRR must certify to the Commission and this
8 order spells those out. But there has to be I believe
9 some introductory page or two pages so that the reader
10 understands what it is that is being done. I don't
11 think that the typical reader is going to go through
12 this high order and then try to sit back and figure out
13 what it is the Commission has done. So that is the
14 first question.

15 The second is I believe that the part on the
16 public meeting and the discussions on what the public
17 meeting meant, first, I think it means more, but,
18 second, I think it goes into a press release and not in
19 the order. I recall Len several times tell us that a
20 public meeting was not part of the record.

21 COMMISSIONER GILINSKY: I don't think you have
22 to hold it to the record here.

23 CHAIRMAN PALLADINO: I think since the public
24 was invited to make comments and made comments and had a
25 number of concerns, it is not improper to address some

1 of the major concerns. However, I think they sounded
2 more like they cursorily dismissed ---

3 COMMISSIONER GILINSKY: We keep hearing this
4 is an effectiveness review and we are not strictly bound
5 by the record, is that right, as opposed to a merits
6 review.

7 MR. MALSCH: That is true.

8 COMMISSIONER AHEARNE: Well then I guess that
9 if that is the way the majority of the Commission wants
10 to be, then I think you ought to say that it is not
11 bound by the record and consequently there is additional
12 information. I think there is one statement in here
13 where it does say a decision is being made on the
14 record. If it is not, then you shouldn't say so.

15 If I were a member of the public who had been
16 complaining about I voted or I worked up this vote and
17 now the plant should not be allowed to start, I think
18 that this gives the back of the hand. My preference is
19 to have it in a discussion in the press release, but if
20 it is going to be in the order it should be done much
21 better than this.

22 I don't believe the order is at all clear, at
23 least to this reader, me, on immediate effectiveness
24 versus what we call merits or what I gather is really
25 the full applicant review process, and I believe that it

1 ought to be clear. It is particularly difficult after
2 three years to sort that out, but there really ought to
3 be a clarity between what decisions are under this
4 immediate effectiveness concept and what decisions are
5 really put off for this full applicant review when we
6 tend to call the merits review process.

7 My final point is I think that we have to
8 probably speak to the Appeal Board feed and bleed issue
9 rather than just letting it sit there.

10 Those are the general comments.

11 CHAIRMAN PALLADINO: Well, let's see, there
12 are various ways we might proceed. One is specific
13 comments might be given to Jack.

14 COMMISSIONER AHEARNE: Well, I suspect that
15 some of them are really to try to get the Commission to
16 discuss them.

17 CHAIRMAN PALLADINO: Well, we had better start
18 to schedule more meetings on TMI. Now I still am not
19 clear, and I didn't bring the schedule along, on how far
20 you are willing for us to go with individual
21 Commissioners absent.

22 I think you are down for about a week, aren't
23 you, Jim?

24 COMMISSIONER ASSELSTINE: I am gone for
25 Monday, Tuesday and Wednesday, and then I have got other

1 meetings on a half days on Thursday and Friday.

2 CHAIRMAN PALLADINO: Of next week. Well, let
3 me look at the schedule because the way we are going
4 even if we meet on Thursday on this and we go through
5 details we are not going to have an order by Friday.

6 COMMISSIONER APPARNE: I don't think that
7 given the way the order is at the present time, and
8 there are enough questions that have been raised even so
9 far, that I don't think you can have an order by Friday.

10 COMMISSIONER ASSELSTINE: We have still got
11 the afternoon session on Friday. We have three working
12 sessions this week.

13 CHAIRMAN PALLADINO: Well, no, we have got a
14 complication. The afternoon session was okay providing
15 it was a short one. Ambassador Kirk is going to be here
16 and I think a number of Commissioners want to see him.
17 So we can maintain our Friday morning meeting as a
18 working session and maybe get to the point where we feel
19 comfortable about scheduling an open meeting later in
20 the next week.

21 Well, we will continue with our meeting for
22 Thursday.

23 COMMISSIONER GILINSKY: Well, let's see, what
24 are you shooting for?

25 CHAIRMAN PALLADINO: Well, I was shooting for

1 the 10th. I would like to see this thing get out just
2 as soon as we possibly can.

3 COMMISSIONER GILINSKY: Well, prepare to shoot
4 for the 10th.

5 MR. FOUCHARD: I will repeat what I have said
6 before. If we are going to call off the public session
7 on Friday afternoon, I would hope that we could do it by
8 Wednesday because there are just an awful lot of people
9 making plans up there, I am sure, to come down here, and
10 there is no point in inconveniencing them if we don't
11 have to.

12 COMMISSIONER GILINSKY: Well, we ought to do
13 it today if we are clear on that.

14 MR. FOUCHARD: The sooner the better if you
15 are prepared to make that decision.

16 CHAIRMAN PALLADINO: Except we can't tell them
17 when. That is the problem. We can tell them it is not
18 going to be Friday. It is pretty clear to me it is not
19 going to be Friday.

20 COMMISSIONER AHEAD: Right, and I think that
21 hopefully on Thursday or Friday we will be then clear
22 when it can be.

23 CHAIRMAN PALLADINO: All right. Does that
24 suit your purpose? We agree now it is not going to be
25 Friday and we will let you know about the middle of the

1 week when we think it will be.

2 MR. FOUCHARD: People are going to ask the
3 question why.

4 CHAIRMAN PALLADINO: Because it is just taking
5 us longer than we thought.

6 MR. FOUCHARD: Obviously.

7 (Laughter.)

8 MR. FOUCHARD: Friday is off then, right?

9 CHAIRMAN PALLADINO: Yes.

10 Well, we will stand adjourned.

11 (Whereupon, at 4:35 p.m., the closed meeting
12 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
COMMISSION MEETING
CLOSED MEETING - EXEMPTION NO. 10

In the matter of: DISCUSSION OF IMMEDIATE EFFECTIVENESS ISSUES IN TMI-1
RESTART PROCEEDING

Date of Proceeding: December 6, 1982

Docket Number: _____

Place of Proceeding: Washington, D. C.

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

Mary C. Simons

Official Reporter (Typed)

Mary C Simons

Official Reporter (Signature)