

ORIGINAL

OFFICIAL TRANSCRIPT
PROCEEDINGS BEFORE

COMMISSION ON THE ORGANIZATION OF THE JUDICIAL BRANCH

COMMISSION ON THE JUDICIAL BRANCH

HEARINGS ON THE JUDICIAL BRANCH

DIKE/CASE NO.

DISCUSSION OF IMMEDIATE PRIORITY ISSUES

TITLE

THE JUDICIAL BRANCH

PLACE

WASHINGTON, D.C.

DATE

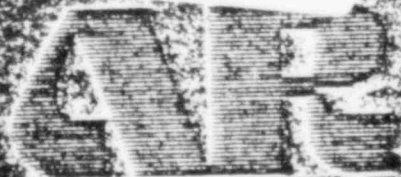
December 10, 1982

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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.

Friday, December 10, 1982

The Commission convened in closed session at

9:05 a.m.

COMMISSIONERS PRESENT:

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

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

S. CHILK
M. MALSCH
R. LEVI
A. KENNEKE
J. MONTGOMERY
J. ARON

AUDIENCE SPEAKERS:

J. FOUCHARD
E. ABBOTT

* * *

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

2 CHAIRMAN PALLADINO: Why don't we get started.

3 This morning we are going to continue our
4 deliberations on the TMI-1 restart. We were at the
5 point where we had walked through the basic documents
6 and were about to address the attachments.

7 I thought that before we begin on the
8 attachments we might see if there are any additional
9 comments that any Commissioners have on the other part
10 and see if OPE has any questions on the comments that we
11 gave yesterday.

12 COMMISSIONER ASSELSTINE: I would just add
13 that as soon as they get typed I will have four
14 proposals, one dealing with Husted, one dealing with the
15 other individuals that I listed yesterday, one dealing
16 with selected findings of the Special Master and how
17 those relate to the findings of the Licensing Board and
18 one dealing with increased inspection. So as soon as I
19 have got those, at some point maybe towards the end
20 after we have gone through the other things I would like
21 to raise those.

22 CHAIRMAN PALLADINO: Okay. Now as I recall,
23 we have a public meeting scheduled the 21st. Do we have
24 an intermediate meeting?

25 MR. ZERBE: Next Friday I guess it has been

1 moved to.

2 CHAIRMAN PALLADINO: Any other comments or
3 questions?

4 (No response.)

5 MR. MONTGOMERY: I have a response to a
6 question that came up in yesterday's meeting.
7 Commissioner asked what the status was of the staff
8 investigation into the alleged material false statement
9 in the VV situation.

10 CHAIRMAN PALLADINO: In which situation?

11 MR. MONTGOMERY: This was the alleged material
12 false statement made by an individual coded VV in in
13 terms of certifying one of the operators to take a
14 test. That investigation is complete. The report has
15 not yet been written by OI. They expect they may get
16 that in a week or two. Then from there it will go over
17 to I&E for the recommendation as to whether or not it
18 was a material false statement.

19 The other question was the status of the
20 staff's evaluation of the \$100,000 fine recommendation
21 by the Board, and the staff intends on having a paper up
22 to the Commission on the 23rd of December.

23 (Laughter.)

24 COMMISSIONER AHEARNE: Could they give us a
25 preliminary draft of that paper say next Friday?

1 (Laughter.)

2 CHAIRMAN PALLADINO: If it comes on the 23rd,
3 I am not sure we are going to get anything done.

4 MR. MONTGOMERY: I will check on that.

5 COMMISSIONER AHEARNE: Give us a precursor of
6 it.

7 (Laughter.)

8 COMMISSIONER ROBERTS: I don't know how
9 valuable they are, but I have sure learned a lot of buzz
10 words since I have been here.

11 (Laughter.)

12 COMMISSIONER AHEARNE: I think precursor is a
13 good weapons physics terms.

14 MR. ZERBE: Yes, that is a physics type term.

15 COMMISSIONER ROBERTS: The ones I have a
16 problem with are getting the flavor of something and
17 your arms around something ---

18 (Laughter.)

19 MR. ZERBE: We were at the end of the formal
20 document and proceeding then with the appendix.

21 CHAIRMAN PALLADINO: You are going to call
22 that an appendix?

23 MR. ZERBE: Well, we would plan to call it an
24 appendix, but if you would prefer attachment or or
25 something else. It is broken down into three sections

1 and we were going to call them sections rather than
2 attachments, but attachment and appendix are sort of the
3 same level, unless you have any comments on that. We
4 would propose to do some editorializing on these things
5 yet.

6 We are ready to go through the first one we
7 have of section one which would be the list of short and
8 long-term actions from Commission Order 79-2.

9 COMMISSIONER AHEARNE: Yes, I think you need a
10 reference as where these came from.

11 CHAIRMAN PALLADINO: I was going to suggest
12 from the August 9th, 1979 Commission order, so it will
13 give the number and the date. I think having the date
14 is important because that is the way you connect it up.

15 MR. ZERBE: Those items then were just copied
16 from that.

17 COMMISSIONER AHEARNE: A difficulty then that
18 arises when you come to something like 3A. It is
19 correct that the original order said this. However,
20 since that time Reg. Guide 1.101 has been, emergency
21 plans satisfied, that has been superseded, and I am not
22 sure how you may want to incorporate that. 0654 has
23 come out and 101 and been revised to endorse 0654.

24 CHAIRMAN PALLADINO: When we put a parenthesis
25 behind new Reg. Guide 1.101?

1 COMMISSIONER AHEARNE: Well, you can put a
2 footnote and then explain what has happened since then,
3 or otherwise ---

4 MR. ZERBE: We should have the most up-to-date
5 version of the Reg. Guide.

6 Anything else on page 2?

7 (No response.)

8 MR. ZERBE: Page 3.

9 CHAIRMAN PALLADINO: Now I didn't read these
10 to see if it was up to date. So look at it very
11 carefully to make sure that there is no other thing ---

12 MR. ZERBE: Page 4.

13 (No response.)

14 MR. ZERBE: Page 5.

15 (No response.)

16 MR. ZERBE: Then section 2 goes into the list
17 of conditions that were required by either the Licensing
18 or Appeal Board and we would segregate those and there
19 would be a title that says "The Following Conditions
20 Have Been Required Of The Licensee," and then we would
21 have a title covering the next few pages we would call
22 "Licensing Board Conditions" just so we know which ones
23 are which.

24 CHAIRMAN PALLADINO: I didn't follow that.
25 Here you lump the Licensing and Appeal Boards.

1 MR. ZERBE: In section 2 both are covered and
2 so we would segregate and they are segregated in here.
3 We would put a title there that the ones you would see
4 would be Licensing Board conditions until we have a word
5 where it is Appeal Board conditions.

6 COMMISSIONER AHEARNE: Would you still keep it
7 by function? So, for example, would you have management
8 and cheating decision conditions and then under that
9 Licensing Board and Appeal Board?

10 MR. ZERBE: No. We would keep them separate.

11 COMMISSIONER AHEARNE: So you would have
12 Licensing Board and then ---

13 MR. ZERBE: Back on page 13 is where the ALAB
14 started and there would be a title above that on page
15 13, right above emergency preparedness conditions which
16 would say "Appeal Board Conditions." There are not many
17 of them and in fact some of these were crossed out.

18 We can do it differently, but that is the way
19 it ---

20 COMMISSIONER AHEARNE: My preference would be
21 to have all the emergency things together and then all
22 the other things together. So my preference would be to
23 have Licensing Board conditions and Appeal Board
24 conditions, all functioned.

25 MR. ZERBE: Okay, functionalize it.

1 MR. MONTGOMERY: I was just thinking, there
2 will only be one surviving condition from the Appeal
3 Board, and if it is easier to do, we can footnote that
4 this was ---

5 CHAIRMAN PALLADINO: So you are going to use
6 the functions then ---

7 MR. ZERBE: We will change it to a functional
8 situation and then just identify which one is the
9 License and Appeal Board.

10 COMMISSIONER AHEARNE: Now I notice in some
11 cases you refer, and primarily I guess it is in the
12 hardware, you refer to the paragraph in the decision and
13 in the other cases you don't.

14 MR. MONTGOMERY: It should be consistent and I
15 would suggest we do it throughout.

16 COMMISSIONER AHEARNE: So would I.

17 MR. MONTGOMERY: I think that is a good
18 notation and we still have to do that for the management
19 and emergency planning.

20 COMMISSIONER AHEARNE: Yes.

21 MR. ZERBE: Are there any comments on page 1
22 of this section 2 then?

23 (No response.)

24 MR. ZERBE: How about 2?

25 (No response.)

1 MR. ZERBE: Page 3.

2 CHAIRMAN PALLADINO: I begin to have problems
3 at the bottom of page 3, item No. 4 and then going to
4 No. 5 on the next page. I probably should explained
5 what is bothering me and I am not quite sure what to do
6 about it.

7 It is partly a generic question, but because
8 of the high state of tension in the TMI area it has
9 specific impact in this area, and that has to do with
10 posting placards in the area and with having the
11 transients portrayed as people that need to give special
12 attention to evacuation.

13 For example, on page 3 it starts "Public
14 information brochures on emergency preparedness shall be
15 previously distributed to likely transient locations.
16 In addition the Board suggests strongly that provisions
17 for informing guests or employees include as soon as
18 practical placards displayed in prominent places such as
19 motel lobbies, park entrances, outside public facilities
20 and on bulletin boards in local businesses."

21 I really question whether this is something
22 that is necessary and on balance whether or not we are
23 not creating a situation where we are liable to have
24 premature kinds of evacuations. The least little bit of
25 notice of anything going wrong at a plant will increase

1 the likelihood of these people being hurt because of
2 panic action rather than from the results of an accident.

3 Now this is a point that EPRI people have
4 brought out and I think something that deserves some
5 attention.

6 It says in No. 5 "The licensee was directed
7 with the assistance of FEMA, the counties, the Chamber
8 of Commerce and similar groups to begin to offer
9 briefings to major employers and to operators of
10 transient locations," and I think that is appropriate.
11 Those people ought to know what they have to do in the
12 event of that situation.

13 Then it goes on to say "These briefings should
14 include key emergency planning information and stress
15 the importance of planning in advance about how the host
16 will provide such information to transients in the event
17 of an emergency, and these briefings should at least be
18 underway with respect to major hosts by the time of the
19 restart."

20 I think that the people that are going to have
21 to handle the evacuation or whatever action is taken
22 should be trained and should have these briefings. It
23 is the question of creating a non-camp sort of
24 atmosphere with regard to the transients themselves
25 because in the event of anything going on I don't think

1 they will know enough from the placards to know what to
2 do.

3 I was just thinking suppose I went to Los
4 Angeles and every room said this is a high-seismic
5 area. Please be aware that in the event of a seismic
6 event you have to do thus and so. I would be more
7 nervous than I am when I go to Los Angeles.

8 COMMISSIONER AHEARNE: It is not clear though
9 that you would be more nervous than you should be.

10 (Laughter.)

11 CHAIRMAN PALLADINO: With seismic events I
12 think I should be.

13 (Laughter.)

14 (Simultaneous conversations -- Inaudible)

15 COMMISSIONER ASSELSTINE: It strikes me it is
16 an awful lot like the new instructions you now find in
17 hotels about fires where you have got a direction on the
18 back of the door that says here is your escape route and
19 you should read this and be aware of it just in case
20 something happens. I am not sure that prompts people ---

21 CHAIRMAN PALLADINO: I look at where the exit
22 is. I don't go down and check it out. Well, this is my
23 concern on that.

24 COMMISSIONER AHEARNE: In this particular case
25 though I gather you are listing what the Board decided?

1 MR. MONTGOMERY: That is right.

2 MR. ZERBE: But the Commission could disagree.

3 COMMISSIONER AHEARNE: Well, we can take it
4 under advisement, but without taking some formal action,
5 I don't think we can profit.

6 COMMISSIONER ASSELSTINE: That is right.

7 COMMISSIONER AHEARNE: Now I gather the
8 placard thing is a recommendation and not a ---

9 CHAIRMAN PALLADINO: Yes, fortunately they do
10 do it that way.

11 MR. ZERBE: Suggested strongly.

12 COMMISSIONER ASSELSTINE: The brochures are a
13 requirement.

14 CHAIRMAN PALLADINO: The brochures are a
15 requirement.

16 COMMISSIONER AHEARNE: Well, the brochures are
17 a requirement in the rule.

18 COMMISSIONER ASSELSTINE: That is right.

19 COMMISSIONER AHEARNE: What is new, at least
20 as I understand, in the rule would be No. 5, which is an
21 additional requirement, the briefings underway by the
22 time of restart.

23 MR. MALSCH: There is a part of the initial
24 decision that addresses this, and there are provisions
25 of NUREG 0654 that are on point. Also FEMA expressed

1 some concerns. I can't tell specifically what their
2 concerns were, but there is reference is made to FEMA
3 concerns about notifying transients in the record.

4 COMMISSIONER AHEARNE: Well, the emergency
5 planning rule does require a mechanism to notify
6 transients in the areas in which they are expected to be.

7 MR. MALSCH: The parts of the decision of
8 pages 501 through 506. There is not all that much in
9 here, but it is addressed. This is a December 14
10 decision.

11 COMMISSIONER AHEARNE: I share some of your
12 concerns, Joe, about going overboard on it.

13 COMMISSIONER ROBERTS: So do I.

14 MR. KENNEKE: Well, the first sentence clearly
15 is a requirement and the second sentence is clearly
16 pertaining to duties that are desirable.

17 COMMISSIONER AHEARNE: But I don't think there
18 is anything really to gain.

19 CHAIRMAN PALLADINO: Well, I would be inclined
20 to put a statement about the need for balance in the
21 consideration of these, and maybe an additional
22 statement identifying this as an issue that ought to be
23 taken up by the Commission.

24 What we are saying is that nuclear reactors
25 are so bad that any time you are in an area where a

1 nuclear reactor is present, boy, everybody better know
2 exactly what to do.

3 COMMISSIONER AHEARNE: It is sort of the other
4 way around. It is not really quite that I think. It is
5 saying that there is a potential for emergency action
6 having to be taken and that prudence requires that
7 people that might have to take that action have some
8 sense of what action to take.

9 CHAIRMAN PALLADINO: A lot of hotels are near
10 major highways and they don't say what happens if a
11 chlorine truck gets in an accident. I think we have
12 gone overboard. I think the hosts ought to be trained.
13 They ought to know what they are going to do and how
14 they are going to manage the population. I don't mind
15 the brochures. The placards I think are what bother
16 me. And I do think there is a bigger danger from panic
17 action than there is from the accidents that are most
18 likely.

19 COMMISSIONER AHEARNE: I agree that panic
20 action can be a danger. As far as the placards go, I
21 think the Board went overboard on its statement.
22 However, at parks, for example, where it is very
23 difficult to get notification to people I think to have
24 some kind of available information, I think that is
25 necessary. Motels lobbies, outside public facilities,

1 bulletin boards, I think that is going too far.

2 COMMISSIONER ASSELSTINE: Well, to a certain
3 extent doesn't it depend upon what the placards say? If
4 the placard says if you hear a siren please check in
5 with the park ranger or with the owner of the facility
6 or operator of the facility or whatever. It doesn't
7 strike me that it does any harm. In fact, it is
8 constructive.

9 If it says warning, you are staying in the
10 shadow of TMI and you might have to evacuate at any
11 moment because of a nuclear accident, I think that may
12 go overboard the other way.

13 CHAIRMAN PALLADINO: Let's take the park
14 situation. I am off in a remote part of the park and
15 hear a siren. I have the option of immediately closing
16 my tent, getting my family and let's get in the car and
17 go, or I can get in my car and I go down and try to find
18 the park ranger, and have you ever tried to find a park
19 ranger?

20 (Laughter.)

21 CHAIRMAN PALLADINO: You don't find them, and
22 then you don't know what to do.

23 COMMISSIONER AHEARNE: I think your idea might
24 be that the sign ought to say if you hear the siren, go.

25 (Laughter.)

1 COMMISSIONER ASSELSTINE: Without the placard
2 it seems to me what you might do is oh, that is a siren,
3 I wonder what that means.

4 CHAIRMAN PALLADINO: That is exactly what I do
5 every time I hear a siren.

6 (Laughter.)

7 CHAIRMAN PALLADINO: The other problem is I
8 think the more likely danger in a park is forest fire.

9 (Laughter.)

10 COMMISSIONER ASSELSTINE: But there are
11 placards about that.

12 (Laughter.)

13 CHAIRMAN PALLADINO: No, they don't tell you
14 what to do.

15 COMMISSIONER AHEARNE: Well, I am not sure
16 that the fact that there is a likely danger they don't
17 tell you anything to do is a reason for us not to do
18 anything.

19 (Laughter.)

20 CHAIRMAN PALLADINO: Because this says this is
21 so much more dangerous and likely.

22 COMMISSIONER AHEARNE: Except the fact that
23 someone who is responsible for one area isn't taking
24 prudent action doesn't mean that people responsible for
25 another area shouldn't take prudent action.

1 CHAIRMAN PALLADINO: But I do say there is a
2 balance to be achieved so that the risk that you get
3 from a premature action applies against those that ---

4 COMMISSIONER AHEARNE: Absolutely, and I agree
5 with that.

6 CHAIRMAN PALLADINO: And I guess I am worried
7 less about fires than I am about other areas. If I go
8 to a beach and its says beware of the sharks, boy, I
9 would be aware of the sharks.

10 (Laughter.)

11 COMMISSIONER ASSELSTINE: But if there were
12 sharks you would want to be warned at the beach.

13 CHAIRMAN PALLADINO: I sure do.

14 (Laughter.)

15 MR. KENNEKE: Joan Aron has some information
16 from a recent status report from FEMA to the staff.

17 MS. ARON: In a letter dated October 6, '82
18 FEMA informed NRC that they had been advised by PMA, the
19 Pennsylvania Management Agency, that the emergency
20 information brochures had been distributed by the
21 licensee to locations within the EPC that have a large
22 transient population influx. FEMA will verify
23 distribution has been accomplished and report findings
24 by November 30th. They have not yet done so.

25 Regarding the display of emergency information

1 in prominent places, the brochures, the licensee had
2 earlier advised the NRC that most businesses are not
3 receptive to the display of such material and
4 consequently the licensee plans to inform the transient
5 population by briefing owners and operators of
6 facilities which attract transients and pre-distributing
7 quantities of the brochures at these facilities.

8 Actually so far as the briefings are
9 concerned, the licensee did hold its first meeting with
10 operators of transient facilities, and these are hotel
11 and motel operators and major employers who employ
12 transients, on October 18, 1982, and it plans to hold
13 similar meetings over the next few months.

14 This is the latest information we have.

15 CHAIRMAN PALLADINO: I would still be inclined
16 to put some additional remarks to maybe pick up that
17 thread to do it.

18 COMMISSIONER ASSELSTINE: I wouldn't.

19 COMMISSIONER AHEARNE: I wouldn't. It is too
20 hard to do a nuance description that doesn't sound like
21 we are coming out against emergency planning which I am
22 not.

23 CHAIRMAN PALLADINO: Well, I think especially
24 with the source ---

25 (Laughter.)

1 COMMISSIONER ASSELSTINE: That may be, but I
2 am not sure this decision is the place to address that.

3 CHAIRMAN PALLADINO: This is a place where
4 people are very up tight.

5 MR. KENNEKE: I am still a little unclear.
6 The title of the attachment is "Conditions," and yet
7 this one sentence is only a suggestion, however,
8 strong. They did not make it a condition.

9 COMMISSIONER AHEARNE: So you are suggesting
10 striking?

11 MR. KENNEKE: Yes. That is what we said, it
12 included all conditions that have been published.

13 MR. MONTGOMERY: Well, except that technically
14 verbatim out of the list of items that the Board called
15 conditions that is where it is listed.

16 MR. KENNEKE: Maybe so, but they call it a
17 suggestion and it is clear from their language.

18 MR. MALSCH: We could put a little asterisk up
19 front and say that for the sake of completeness we are
20 included some that aren't technically conditions that
21 fall in the category of suggestions.

22 MS. ARON: However, they did include four
23 specific suggestions in emergency planning which are not
24 included in this list. We thought it would complicate
25 the matter to include suggestions.

1 MR. ZERPE: So we already have a case where we
2 don't have some suggestions in, but we could take this
3 one out.

4 MR. KENNEKE: One way to interpret this is
5 that the Board is imposing conditions for you folks to
6 decide as to whether or not you feel strongly enough
7 they are conditions.

8 COMMISSIONER AHEARNE: Joan, where those other
9 ones that aren't included, were they in the section
10 under conditions?

11 MS. ARON: They followed it almost immediately
12 in the decision, but they were headed "Suggestions."

13 COMMISSIONER AHEARNE: So this was actually in
14 the section called "Conditions"?

15 MS. ARON: Yes, this is verbatim as a
16 condition.

17 CHAIRMAN PALLADINO: I was hoping we could get
18 by with the first sentence which is a condition, "Public
19 information brochures on emergency preparedness shall be
20 pre-distributed to likely transient locations."

21 COMMISSIONER AHEARNE: I think someone when
22 they do a comparison can raise a question of why did we
23 strike that.

24 COMMISSIONER ASSELSTINE: That is right.

25 COMMISSIONER ROBERTS: Who is going to read it

1 and make the comparison?

2 COMMISSIONER AHEARNE: I would imagine a fair
3 number of people.

4 MR. ZERBE: Well, it sounds from what Joan
5 read though that the people that run the establishments
6 don't like this and they are doing it anyway. So maybe
7 you are getting the effect of what you want.

8 CHAIRMAN PALLADINO: Well, I think it is
9 really an item, not a lone time as TMI, and it is one
10 that we may want to address in a generic way.

11 MR. KENNEKE: Would anybody have a right to
12 come back to you and say that they are not doing this?

13 CHAIRMAN PALLADINO: Yes, that is what I am ---

14 MR. KENNEKE: This is what they are suggesting
15 they are not going to do.

16 COMMISSIONER AHEARNE: Well, Al, it is in the
17 Board order and it is in the section called
18 "Conditions," and if someone is going to raise that
19 issue, whether we put it in here or whether we don't,
20 they can come back and raise it. The question of taking
21 this out though raises it to a level that they will
22 focus attention on it.

23 Here is this whole body of things called
24 conditions and we have plucked one of them out.

25 MR. KENNEKE: I appreciate that. I am not

1 disputing that.

2 CHAIRMAN PALLADINO: And if I write an
3 additional remark that will focus ---

4 MR. KENNEKE: I guess I am asking what is the
5 legal status of that second sentence if someone were to
6 try to hold someone to it, which obviously the licensee
7 is not prepared to do that.

8 COMMISSIONER AHEARNE: Well, I would assume it
9 isn't.

10 MR. MALSCH: Assume it is a suggestion that he
11 is technically free to reject.

12 CHAIRMAN PALLADINO: Also the words in the
13 next one where it says "These briefings should include
14 and should stress."

15 COMMISSIONER AHEARNE: I gather that is ---

16 CHAIRMAN PALLADINO: That is advisory.

17 MR. MALSCH: I am not sure how to read that.

18 CHAIRMAN PALLADINO: Although what they
19 suggest is not as objectionable as the placards.

20 COMMISSIONER AHEARNE: In fact, I thought that
21 was the kind of information you said ---

22 COMMISSIONER ASSELSTINE: That is right.

23 I have a question about the other three
24 suggestions though. If we do not mention those at all in
25 these attachments, is that going to create the

1 implication then that the Commission has rejected the
2 suggestions of the Board? I gather this is the only
3 area where there are suggestions as well as the
4 conditions. I think that is true.

5 MS. ARON: Well, as such, John, but I think we
6 decided not to include the suggestions as such, the four
7 suggestions, with respect to emergency planning. We
8 originally included them. We took them out because ther
9 were suggestions made by the Board throughout the
10 initial decisions, perhaps not in the same formalized
11 form, but there were suggestions throughout and we
12 thought to go and capture every one of the suggestions
13 that had been made by the Board would be difficult, time
14 consuming and we didn't know if it was necessary.

15 COMMISSIONER ASSELSTINE: Maybe it would be
16 sufficient just to maybe to put in a footnote at the
17 beginning of the conditions section just to reflect that
18 the Licensing Board did in other instances offer
19 suggestions.

20 MR. MONTGOMERY: That may in fact be covered
21 by the addition that Commissioner Ahearne gave us
22 yesterday about the recapture provision because that
23 gets into that whole issue about what were in addition
24 and what weren't.

25 COMMISSIONER ASSELSTINE: That is right,

1 because we saying you look back to the orders themselves
2 for the definitive finding.

3 CHAIRMAN PALLADINO: What were the four
4 suggestions?

5 MS. ARON: That certain school districts in
6 York County prepare written plans setting forth their
7 mass care emergency responsibilities. It is my
8 understanding this has not yet been done to FEMA's
9 satisfaction.

10 Two, that the Commission direct the staff to
11 notify it within one year whether pre-distribution of KI
12 has been made in accordance with the state and county
13 plans.

14 Three, that municipalities prepare written
15 plans primarily dealing with transportation of people
16 who are not otherwise able to evacuate.

17 Four, that the Commission direct the staff to
18 report to it approximately one year after restart
19 whether all of the deficiencies identified by FEMA, and
20 there are more than 70 of them have been complied with.

21 CHAIRMAN PALLADINO: The first one sounded
22 like it started as a suggestion and then was a
23 condition. Could you read that one again?

24 MS. ARON: The Board suggested that certain
25 school districts each of which has mass care

1 responsibilities under the York County plan prepare
2 written plans setting forth their mass care emergency
3 responsibilities.

4 CHAIRMAN PALLADINO: Then you said something
5 about FEMA says we hadn't done this yet.

6 MS. ARON: That is correct.

7 CHAIRMAN PALLADINO: I am taking the
8 suggestion as a requirement.

9 MR. ZERBE: That wasn't in the text though,
10 that part of it. That was something you picked up
11 somewhere else.

12 MS. ARON: This is a suggestion.

13 CHAIRMAN PALLADINO: But you said something
14 about FEMA says that it hadn't been done yet to their
15 satisfaction which makes it sound as though they accept
16 that as a requirement.

17 MS. ARON: No, it is just in the status report.

18 CHAIRMAN PALLADINO: That is not in the
19 statement?

20 MS. ARON: No.

21 CHAIRMAN PALLADINO: What do you propose we do
22 on this?

23 COMMISSIONER AHEARNE: (Inaudible)

24 COMMISSIONER ASSELSTINE: I think that is fine
25 given what we have already decided to do in terms of

1 making the orders themselves the definitive guidance.

2 CHAIRMAN PALLADINO: Well, if I feel I want to
3 say something about placards, I will let you know.

4 (Laughter.)

5 COMMISSIONER ASSELSTINE: If you do, I think
6 it really should be in the decision and not in the
7 attachment since the attachment really is a listing of
8 conditions. If you want to address ---

9 CHAIRMAN PALLADINO: I am saying if I feel as
10 an individual Commissioner I want to make some
11 additional comments.

12 COMMISSIONER AHEARNE: I think Jim's point is
13 though, he is saying that this -- (Inaudible) --
14 supposed to be a neutral presentation -- (Inaudible).

15 MR. ZERBE: Recall, we are going to add a
16 comment in the front that says that you want to go back
17 to the original documents to make sure you have got the
18 right wording if there is some question.

19 COMMISSIONER AHEARNE: Right.

20 COMMISSIONER ASSELSTINE: That the original
21 orders are controlling.

22 COMMISSIONER AHEARNE: That is right.

23 MR. ZERBE: Yes.

24 Any other items on page 4?

25 (No response.)

1 MR. ZERBE: Page 5.

2 CHAIRMAN PALLADINO: There is one thing at the
3 bottom of page 4. It says "At least one communications
4 bill similar to that suggested by the Commonwealth of
5 Pennsylvania must be held." Is there a reference that
6 one can put so they find what the Commonwealth of
7 Pennsylvania said? Now maybe ideally the bill should
8 include communications between, et cetera, and maybe
9 that is what Pennsylvania said, but it is not all that
10 clear.

11 MS. ARON: We had a reference in the text
12 "Communication bills among utilities, state, county and
13 municipalities have been held and FEMA has found the
14 results to be satisfactory." We have a sentence to that
15 effect on page 30 of the order.

16 CHAIRMAN PALLADINO: But if one wanted to go
17 see what the Commonwealth of Pennsylvania said must be
18 held, where would you go to find something like that?

19 MR. MONTGOMERY: We can put a footnote here.

20 MS. ARON: Yes, we can get that.

21 MR. ZERBE: Anything else on page 4?

22 (No response.)

23 CHAIRMAN PALLADINO: (Inaudible)

24 MR. ZERBE: Page 6.

25 COMMISSIONER AHEARNE: In No. 5, the line that

1 says "The staff shall certify the Commission and
2 Regional progress has been made prior to restart." Is
3 that part of the quote from the order?

4 MR. MONTGOMERY: It is not a quote. It is a
5 summary from their memo on recapture. It was one of the
6 modifications they made to the staff enforcement plan.

7 CHAIRMAN PALLADINO: What is recapture again?

8 MR. MONTGOMERY: Recapture was the Board's way
9 of saying that since they were not clear exactly which
10 provisions were going to be enforced by the staff, they
11 maintain jurisdiction to decide themselves, have the
12 staff give them a report on things the staff intended to
13 do and then make a final decision about it.

14 So that when you look at that memorandum that
15 the Board wrote, which includes the staff plan, some of
16 the items in the staff plan are modified by the Board
17 memo, and this is one of those items where the Board
18 chose to discuss this particular item and said that they
19 modified the staff plan to say that it needed to be
20 certified. I have added that sentence on that basis.

21 COMMISSIONER AHEARNE: I guess with respect to
22 that and I think also 6, 7 and 9 have the same
23 characteristic in which the Board modified the staff
24 plan.

25 MR. MONTGOMERY: That is right.

1 COMMISSIONER AHEARNE: I guess I would
2 recommend somehow, either in those or as a footnote, to
3 mention ---

4 MR. MONTGOMERY: To note that.

5 COMMISSIONER AHEARNE: To note that it was a
6 modification.

7 CHAIRMAN PALLADINO: But if this is not an
8 item listed in their conditions but one of the sentences
9 put in, should you not so indicate or put in parentheses?

10 COMMISSIONER AHEARNE: As a final condition
11 they did say, didn't they, that the items that they had
12 examined and accepted modified the staff's plan and then
13 the staff shall certify?

14 MR. MONTGOMERY: Yes they did. I just took a
15 paragraph discussion though and added the sentence.
16 That was the distinction I was drawing.

17 COMMISSIONER AHEARNE: I think the Chairman's
18 point is that if we are quoting everywhere else really,
19 then we ought to indicate somehow that ---

20 CHAIRMAN PALLADINO: That is a good point.

21 MR. ZERBE: Anything else on page 6?

22 (No response.)

23 MR. ZERBE: Page 7. We will fix any ones that
24 are ---

25 CHAIRMAN PALLADINO: What was that, Jack?

1 MR. ZERBE: We will fix, other than this one
2 that is in Item 5, we will fix the other ones that
3 Commissioner Ahearne wanted.

4 MR. ZERBE: Page 8.

5 COMMISSIONER AHEARNE: On page 8, and maybe
6 this isn't the right place, and I am not even sure how
7 to introduce it. In talking about technical
8 specifications, in the staff's plan which the Board
9 attached to their decision of April 5th that went out
10 after it, the staff put in a statement on technical
11 specifications to be imposed after restart in which they
12 said "In addition to the general areas identified" and
13 so forth "the staff may address in tech specs being
14 posed after restart certain 0737 requirements."

15 I am not sure, and I really hadn't thought
16 about it, but in just going through this it was just
17 called to my attention, that there is this kind of a
18 provision. I don't know whether you thought about
19 whether that should be mentioned or included.

20 MR. MONTGOMERY: I left it out, and I guess
21 the reason I left it out was in looking back at that
22 April 5th decision here, and the discussion you are
23 talking about is paragraph 2033 ---

24 COMMISSIONER AHEARNE: Right.

25 MR. MONTGOMERY: --- primarily because at the

1 end of the last sentence that reads "The general areas
2 to be addressed by those tech specs cannot be identified
3 by the staff certainly at the present time, but will be
4 developed generically for operating reactors." If there
5 is a reason to put it back in we can.

6 COMMISSIONER AHEARNE: I don't know. You have
7 addressed it. I just ask anybody else to also take a
8 look at it and think about it. I don't have a position
9 at the moment. (Inaudible)

10 In parentheses No. 2 I think that last
11 reference is also 0680, in the middle of the page. All
12 three references are 0680.

13 MR. MONTGOMERY: Oh, yes, right.

14 CHAIRMAN PALLADINO: You mean where it says 90?

15 COMMISSIONER AHEARNE: Yes.

16 MR. MONTGOMERY: 0690, right, typos.

17 COMMISSIONER AHEARNE: Similarly at the bottom
18 of the page, I think it is item No. 2B2. Now in
19 parentheses No. 1 just above the footnote 2, I am not
20 sure who the "we" is. "We rely on licensee's
21 commitment." Maybe that could be phrased another way.

22 CHAIRMAN PALLADINO: Is this -- (Inaudible).
23 Maybe you could put a footnote.

24 COMMISSIONER AHEARNE: Or you can put
25 brackets, and leave it a bracketed phrase.

1 CHAIRMAN PALLADINO: Include "we" and in
2 parentheses -- (Inaudible).

3 MR. MONTGOMERY: That is quoted out of the
4 staff report. So technically that "w2" would be the
5 staff.

6 COMMISSIONER AHEARNE: You could just put a
7 bracket the NRC staff will bracket rely on licensee's
8 commitment.

9 MR. ZERBE: Page 9.

10 (No response.)

11 MR. ZERBE: Page 10.

12 COMMISSIONER AHEARNE: Parentheses 9, the same
13 point that we rely on.

14 Now footnote 3 on page 10, I have been told
15 that the Board deleted that.

16 MR. MONTGOMERY: I am sorry, footnote 3?

17 COMMISSIONER AHEARNE: Yes.

18 MR. MONTGOMERY: I will check that.

19 COMMISSIONER AHEARNE: Would you, and if the
20 Board did I would suggest that we do.

21 Can you explain why you have kept footnote 4?
22 Was it for completeness and the fact that the Board had
23 quoted it?

24 MR. MONTGOMERY: Yes, I think it just came out
25 as we were running the list. (Inaudible)

1 COMMISSIONER AHEARNE: I would suggest the
2 footnote be deleted up in No. 9.

3 MR. MONTGOMERY: Okay.

4 CHAIRMAN PALLADINO: You would what?

5 COMMISSIONER AHEARNE: I would just delete
6 that footnote.

7 CHAIRMAN PALLADINO: Isn't it something they
8 make reference to?

9 COMMISSIONER AHEARNE: Well, I would put
10 parentheses up here -- (Inaudible).

11 COMMISSIONER ASSELSTINE: Yes.

12 CHAIRMAN PALLADINO: Why were you deleting it?

13 COMMISSIONER AHEARNE: It just doesn't seem to
14 add ---

15 MR. ZERBE: Page 11.

16 (No response.)

17 MR. ZERBE: Page 12.

18 COMMISSIONER AHEARNE: At the top of the page
19 I would suggest deleting Rosztoczy's name and just say
20 as stated in the staff testimony.

21 CHAIRMAN PALLADINO: Is that again a quote?

22 MR. MONTGOMERY: Yes.

23 COMMISSIONER AHEARNE: I am not sure whether
24 you can or not. They may need to leave it. I suppose
25 if it is a quote you ought to leave it.

1 CHAIRMAN PALLADINO: Yes, that is the only
2 problem I had.

3 COMMISSIONER AHEARNE: Now when we get to
4 other commitments and requirements, I gather we are now
5 shifting to something that is not a series of quotes?

6 MR. MONTGOMERY: That is correct. These are
7 summaries of Board discussions and memoranda.

8 COMMISSIONER AHEARNE: I think that you ought
9 to make that clear in some way.

10 MR. MONTGOMERY: We can --- (Inaudible)

11 MR. ZERBE: They are covered under a section
12 called by the Board thought "Other Conditions and
13 Requirements."

14 COMMISSIONER AHEARNE: But these aren't quotes
15 from the Board?

16 MR. MONTGOMERY: No, they are not quotes.

17 CHAIRMAN PALLADINO: But they are Board
18 comments or requirements, are they?

19 MR. MONTGOMERY: Yes.

20 COMMISSIONER AHEARNE: My point is that up
21 until here we have ---

22 MR. MONTGOMERY: They have quoted direct
23 quotes and this is ---

24 COMMISSIONER AHEARNE: --- had quotes of the
25 Board. So I think there should be some way of

1 identifying that from here on they are essentially our
2 summary or our interpretation of additional commitments
3 or requirements. Now that means that we ought to
4 carefully think through that the wording really is not
5 going to be consistent with what the Board would have
6 directed or would have agreed to.

7 I gather someone will have in this consistency
8 check that I would urge the seven days next week be used
9 for, that you will take a look at in this particular
10 case what did the Board actually say, and now is this
11 summary statement consistent with what the Board said.

12 MR. MONTGOMERY: All right.

13 CHAIRMAN PALLADINO: Can I ask you about No.
14 3. It says "Deferral of the completion of NUREG 0737
15 items requires separate Commission approval." Are there
16 any that are being deferred?

17 COMMISSIONER AHEARNE: Yes.

18 MR. KENNEKE: Yes.

19 COMMISSIONER AHEARNE: I think we have
20 deferred them.

21 MR. MONTGOMERY: The Commission was asked to
22 defer five items.

23 COMMISSIONER AHEARNE: As I recall, we
24 deferred all of one, and that last one is now up for ---

25 MR. MONTGOMERY: The last one the staff still

1 wanted to review for their recommendations. That one has
2 come back, too.

3 COMMISSIONER AHEARNE: It has come back in now?

4 MR. MONTGOMERY: Yes. They have recommended
5 deferral on that last one. On the previous four it
6 turns out that even though had requested deferral, two
7 of those four already have been completed and the other
8 two are due to be completed before the end of this
9 month. Those also are, by the way, the items that are
10 in contention in the footnote on the UCS ex parte
11 question on SECY-82-384.

12 MR. ZERBE: That is the other footnote up in
13 the text that has to make sure it is ---

14 COMMISSIONER AHEARNE: What I am trying to get
15 at is that I think if we have already done something on
16 either this or if it is covered in your attachment 3
17 that is okay, or maybe it wouldn't be because attachment
18 3 remains still to be done.

19 MR. ZERBE: To be done, that is right.

20 COMMISSIONER AHEARNE. Maybe you want a
21 footnote here that says ---

22 CHAIRMAN PALLADINO: Well, he gave us a draft
23 last time -- (Inaudible.)

24 MR. MONTGOMERY: The footnote here that says
25 what?

1 COMMISSIONER AHEARNE: That you have.

2 MR. MONTGOMERY: Oh, that we have deferred 9.

3 COMMISSIONER AHEARNE: Yes.

4 MR. ZERBE: Page 13.

5 COMMISSIONER AHEARNE: On 13, footnote 7,
6 paragraph 20 through 31 supra is not in this document,
7 and I think that is a quote from somewhere. I am not
8 sure why you put in the last sentence in footnote 8.

9 CHAIRMAN PALLADINO: Which matter are you
10 talking about.

11 MR. ZERBE: Footnote 8 refers to environmental
12 qualifications.

13 CHAIRMAN PALLADINO: This is a footnote.

14 COMMISSIONER AHEARNE: It refers to No. 5 on
15 the previous page. It says "Licensee must
16 environmentally qualify a single path to cold shutdown
17 or bring the matter to the attention of the
18 Commission." Was that one of the items that we voted on?

19 MR. MONTGOMERY: Yes. I think that relates
20 back to accepting the Board's ---

21 CHAIRMAN PALLADINO: I can't hear you.

22 MR. MONTGOMERY: I think that relates back to
23 accepting one of the Board's conditions. I will have to
24 check that.

25 CHAIRMAN PALLADINO: Do we require the

1 licensee to environmentally quality a single path to
2 cold shutdown? I don't think we ever ---

3 COMMISSIONER AHEARNE: No.

4 MR. MONTGOMERY: No, I don't believe so.

5 CHAIRMAN PALLADINO: Why are we requiring it
6 here?

7 COMMISSIONER AHEARNE: No, it says we don't.

8 MR. MONTGOMERY: That was the point of the
9 additional sentence.

10 COMMISSIONER AHEARNE: The previous part of
11 the footnote refers to the Board and the Board said do
12 something or bring it to the Commission's attention.
13 The footnote goes on and says it was brought to the
14 Commission's attention.

15 The next sentence, completeness would then say
16 and the Commission -- (Inaudible) -- but this just seems
17 to say as a generic statement, which although true --
18 (Inaudible).

19 CHAIRMAN PALLADINO: Did we make that specific
20 decision in this case?

21 COMMISSIONER AHEARNE: I wouldn't be surprised
22 if we did in that same package in which they -- or we
23 may not have. We may never have addressed it, and if we
24 haven't addressed it, then I would just still leave this
25 out. I would just drop the whole sentence.

1 MR. ZERBE: We will change it.

2 MR. MONTGOMERY: We can do either one. We can
3 either drop it out or ---

4 CHAIRMAN PALLADINO: If we took some action ---

5 COMMISSIONER AHEARNE: If we took action --
6 (Inaudible) -- just it has been brought to our attention
7 is what the purpose of the footnote is.

8 MR. ZERBE: Now the bottom part of the page
9 has these Appeal Comments and they will be worked in,
10 except that we would plan to take out the emergency
11 preparedness condition that is at the very bottom of
12 page 13 and all of 14. Maybe we can make a note
13 somewhere in the proper place that these have been
14 stayed by the Commission.

15 CHAIRMAN PALLADINO: What has been stayed by
16 the Commission?

17 COMMISSIONER ASSELSTINE: These items have
18 been stayed by the Commission. and you are accepting
19 these decisions by the Appeal Board. We would just make
20 a comment to that effect, but wouldn't include all that
21 detail in the appropriate place in the new revised ---

22 COMMISSIONER AHEARNE: Either one way or the
23 other you can put them in and then go on tell if we are
24 staying it or ---

25 MR. ZERBE: Okay, we can do that. We had

1 planned not to put the ---

2 MR. KENNEKE: Just put a statement in its
3 place.

4 COMMISSIONER ASSELSTINE: I guess for the sake
5 of completeness I would go the other way. I would go
6 with John's formulation.

7 CHAIRMAN PALLADINO: There was something we
8 didn't agree with.

9 COMMISSIONER ASSELSTINE: Well, for one thing
10 it is only stayed.

11 COMMISSIONER AHEARNE: The purposes I thought
12 of attachment one and two, and this is what I gather
13 from the transcript of that meeting, but the purposes
14 were to in one place put all the conditions.

15 MR. ZERBE: Right, but we were only going to
16 put the conditions that were acted, I mean that were ---

17 COMMISSIONER AHEARNE: Well, but if you are
18 only going to put the conditions that were acted, then
19 you ought to strike all the conditions that have been
20 already met.

21 MR. ZERBE: No, no, I mean the ones that were
22 done or are to be done for the Commission and not ones
23 that you have decided not to do.

24 CHAIRMAN PALLADINO: Against which you would
25 go say this has been done, this has been done and this

1 has been done. Here is one that says well, we don't
2 want that.

3 COMMISSIONER AHEARNE: But I guess then you
4 would have to go back to the original order conditions
5 ---

6 MR. ZERBE: We could certainly add them and
7 say that they are ---

8 COMMISSIONER AHEARNE: --- to see which ones
9 we no longer were going to be held to because they have
10 been overtaken by events.

11 CHAIRMAN PALLADINO: What do you mean by that?

12 COMMISSIONER AHEARNE: Well, for example, that
13 one on the Reg. Guide. That is one example.

14 COMMISSIONER ASSELSTINE: That is right.

15 COMMISSIONER AHEARNE: I wouldn't be surprised
16 if there are a number of things in the record which the
17 intervening time has mooted. Well, I don't really care
18 either way. My preference would be, but not a strong
19 preference -- (Inaudible) but I don't really feel strong
20 about just saying that we ---

21 COMMISSIONER ASSELSTINE: I think that would
22 be my preference, too ---

23 CHAIRMAN PALLADINO: To put them in.

24 COMMISSIONER ASSELSTINE: To put them in and
25 simply reflect that that is one that has been stayed.

1 MR. ZERBE: We will put them in.

2 CHAIRMAN PALLADINO: I guess this is the only
3 one.

4 COMMISSIONER ASSELSTINE: That is the only one.

5 CHAIRMAN PALLADINO: What about No. 2 on
6 page ---

7 MR. ZERBE: No. 2, that is in the same
8 condition.

9 MR. KENNEKE: That is a little less clear
10 because that seems to involve some Commission policy as
11 to whether or not you want to strike that or not.

12 (Simultaneous voices -- Inaudible)

13 CHAIRMAN PALLADINO: I just find it confusing
14 to list a long thing like this and then say it has been
15 stayed.

16 Well, why don't you try for the next draft --
17 (Inaudible)

18 MR. ZERBE: Attachment 3 then is a list giving
19 the status of items remaining of all the required items
20 that we have done for restart.

21 CHAIRMAN PALLADINO: Are you going to make a
22 heading that is clear on that?

23 MR. ZERBE: Yes.

24 CHAIRMAN PALLADINO: You are going to redo the
25 page -- (Inaudible).

1 MR. ZERBE: We took this table out of a
2 document we originally got.

3 COMMISSIONER AHEAPNE: 82-483.

4 MR. ZERBE: Right. I don't remember the
5 number of the document.

6 COMMISSIONER AHEARNE: It is TMI Restart
7 Certification Status and NUREG -- (Inaudible) -- An Item
8 Status Update.

9 MR. ZERBE: This is November 3rd.

10 COMMISSIONER AHEARNE: December 9th ---

11 MR. KENNEKE: You are ahead of us.

12 MR. MONTGOMERY: You have got the Commission
13 copy.

14 (Laughter.)

15 MR. KENNEKE: We will have to clean our
16 mailbox out.

17 (Laughter.)

18 CHAIRMAN PALLADINO: I still ask why we are
19 putting this in here. I know you asked for it.

20 COMMISSIONER AHEARNE: You have said you want
21 someone to be able to go down a check list of what they
22 are supposed to do, while I guess I am more interested
23 in a check list of what do they still have to do.

24 CHAIRMAN PALLADINO: (Inaudible)

25 COMMISSIONER AHEARNE: Attachments 1 and 2 for

1 completeness put all the things they have to do, but
2 there is no way you can look at that and have any sense
3 of are they almost finished.

4 CHAIRMAN PALLADINO: I am not saying this is
5 not a valuable item, but does it belong in an order?
6 That is my question.

7 COMMISSIONER AHEARNE: For myself, I think it
8 is a lot more valuable as an attachment to 1 and 2
9 because we are coming out saying we are lifting the
10 immediate effectiveness subject to something being
11 done. What is important I think is what are the things
12 that still have to be done.

13 CHAIRMAN PALLADINO: That is going to change
14 every day.

15 MR. ZERBE: We would update this as of the day.

16 CHAIRMAN PALLADINO: I agree, but then are you
17 going to put out an order when you reach a further state
18 of progression when it is completed?

19 COMMISSIONER AHEARNE: When we are issuing our
20 order, these are the only remaining items that have to
21 be done. So if someone wants to know, for example, what
22 is the progress, they don't have to go back and go
23 through the whole list of everything in the attachment
24 and check the status of every one. These are the only
25 ones that have to be done, because the rest of them have

1 already been finished.

2 CHAIRMAN PALLADINO: But it still appears to
3 me as something that is a snapshot at a particular point
4 in time.

5 COMMISSIONER AHEARNE: At a particular point
6 in time when we are reaching our decision that we are
7 satisfied that the plant can go up. We have got a
8 whole set of conditions that have to be satisfied in
9 order for the plant to start and we have to be saying
10 that we are satisfied with the progress that has been
11 made -- (Inaudible). If, for example, there were none
12 of those conditions that were anywhere near towards
13 getting made, I don't think we would say well, it is
14 subject to. I am sure we would say, why don't you come
15 back and tell us. That was my feeling.

16 CHAIRMAN PALLADINO: Are you going to include
17 a writeup that explains what the purpose of Attachment 3
18 is?

19 MR. ZERBE: We will.

20 MR. MONTGOMERY: We have two choices. We
21 could either do it just for attachment 3 or an
22 explanation for the whole appendix that points out why
23 those three things are there and what they each mean.

24 MR. ZERBE: An alternate to having Attachment
25 3, and I am just thinking out loud, you could make some

1 statement somewhere that a significant number of the
2 items on the first two tables have been completed, and
3 then when the staff finally certifies that all the items
4 have been done you are going to see that again and there
5 will be ---

6 COMMISSIONER AHEARNE: It is not for me. I
7 can ---

8 MR. ZERBE: No, I know, but something will
9 come out of the Commission that says that all these
10 items had been certified completed. So, you know, for
11 the purposes of an order if you didn't want to put so
12 much status detail in you could leave it out and
13 acknowledge that everything isn't physically completed
14 at the time you put your order out. You have just
15 identified all the things that have to be completed.

16 COMMISSIONER AHEARNE: Actually on this, you
17 see, there is a lot of information here that I wouldn't
18 require. For example -- (Inaudible). This is put in
19 the format of a staff report. All I would need is the
20 description and the status.

21 MR. ZERBE: Would you keep the three columns
22 of status.

23 COMMISSIONER AHEARNE: No. I think that could
24 all be lumped into one.

25 MR. KENNEKE: What about estimating completion

1 on the right-hand column?

2 COMMISSIONER AHEARNE: I would think that you
3 could collapse that information -- (Inaudible) -- Just
4 say it is complete or estimate the complete time.

5 MR. KENNEKE: Combine those.

6 COMMISSIONER AHEARNE: Yes.

7 MR. KENNEKE: We will try a revised version.

8 COMMISSIONER AHEARNE: I don't think you need
9 all of this for at least the purposes I have in mind.
10 (Inaudible)

11 CHAIRMAN PALLADINO: That might -- (Inaudible).

12 COMMISSIONER ASSELSTINE: I think that would
13 simply the thing.

14 COMMISSIONER AHEARNE: (Inaudible)

15 CHAIRMAN PALLADINO: Now you can say you are
16 trying to look at what the status of -- (Inaudible) --
17 would be a decision.

18 COMMISSIONER AHEARNE: Yes.

19 CHAIRMAN PALLADINO: I think a sentence or two
20 about -- (Inaudible).

21 CHAIRMAN PALLADINO: Any other items?

22 COMMISSIONER ASSELSTINE: I have got my
23 proposals.

24 CHAIRMAN PALLADINO: Okay.

25 COMMISSIONER AHEARNE: I have another

1 question, but I don't see anybody from Commissioner
2 Gilinsky's office.

3 CHAIRMAN PALLADINO: I understand Commissioner
4 Gilinsky is still ill.

5 COMMISSIONER AHEARNE: My question really was
6 at the previous meeting there was an issue on the
7 possible additional requirements on the PORV safety
8 valves and Commissioner Gilinsky I thought was going to
9 provide his proposed set of requirements.

10 MR. MONTGOMERY: I spoke to his office, to his
11 technical assistant, and my understanding was that what
12 that meant was everything except redundancy, of the
13 definition of safety grade with the exception of
14 requiring redundancy.

15 COMMISSIONER AHEARNE: I am still waiting both
16 to see it and, as I said in the meeting, I would like to
17 see what additional requirements that actually ends up
18 putting on -- (Inaudible).

19 COMMISSIONER ASSELSTINE: The item you have
20 now is my proposed condition regard Mr. Husted, and it
21 would I assume go at the end then in this list of
22 conditions, and I would also expect to see in the
23 cheating section a statement that the Commission agrees
24 with the findings and conclusions contained in
25 paragraphs 109, 110 and 111 of Milholland's decision and

1 2165, 2166 and 2167 of the Licensing Board's decision,
2 which are the operative paragraphs which discuss Mr.
3 Husted.

4 CHAIRMAN PALLADINO: What are all those
5 numbers?

6 COMMISSIONER ASSELSTINE: The paragraphs in
7 the Special Master's decision. This would be something
8 that I think OPE could add in, just the Commission
9 agreement to the findings and conclusions in paragraphs
10 109, 110 and 111 of Milholland's decision, and 2165,
11 2166 and 2167 of the Licensing Board's decision.

12 CHAIRMAN PALLADINO: Did they decide this or
13 did you decide this?

14 COMMISSIONER ASSELSTINE: They did not impose
15 a condition on Mr. Husted, but they did reach findings
16 and conclusions about his conduct.

17 COMMISSIONER AHEARNE: Could you give me those
18 paragraphs again? It is one thing to agree with --
19 (Inaudible) -- and it is another thing to say I agree
20 with all of those paragraphs.

21 COMMISSIONER ASSELSTINE: I understand.

22 COMMISSIONER AHEARNE: What were those?

23 COMMISSIONER ASSELSTINE: 109, 110 and 111 and
24 Milholland. 2165, 2166, 2167 in the Licensing Board's
25 partial initial decision.

1 CHAIRMAN PALLADINO: Now what is the
2 significance of those?

3 COMMISSIONER ASSELSTINE: Those are the
4 paragraphs in which Milholland makes certain findings
5 and the Licensing Board makes certain findings about Mr.
6 Husted's conduct, in particular that he withheld
7 information, that he wasn't cooperative and that he
8 lacked the ability to instill in the people he was
9 training a respect for the training program and for our
10 requirements.

11 CHAIRMAN PALLADINO: Now are you saying these
12 are not going to be included in your comments?

13 COMMISSIONER AHEARNE: No, he wants us to
14 endorse those.

15 COMMISSIONER ASSELSTINE: I would say that is
16 a justification for the condition and we ought to
17 explain why we are imposing this condition. The reason
18 that I thought was persuasive were the findings and
19 conclusions that were reached both by Milholland and the
20 Board on those items.

21 COMMISSIONER AHEARNE: Three questions. Just
22 as a matter of style, is there any way you can refer to
23 the individual without naming them?

24 COMMISSIONER ASSELSTINE: Husted was not one
25 of the coded ones. His identity has not been coded

1 throughout the proceeding. I don't know why that was
2 the case.

3 MR. MONTGOMERY: They were I think given
4 choices and he just was not inclined to go by letter
5 designation.

6 COMMISSIONER ASSELSTINE: In his case since he
7 is mentioned by name specifically, both in Milholland's
8 decision and in the Licensing Board's decision, it makes
9 it more difficult now for the Commission I think to code
10 him, especially if he choice was ---

11 COMMISSIONER AHEARNE: Does he have a job
12 title?

13 MR. MONTGOMERY: Oh, I am sure he does.

14 MR. ZEPBE: What do you want to use, a job
15 title? You don't want to use a job title.

16 COMMISSIONER AHEARNE: No, I understand. I
17 was a little uneasy about naming ---

18 COMMISSIONER ASSELSTINE: However you do it it
19 is going to be quite obvious because of the fact that
20 his name is included in the other two decisions. If it
21 wasn't, I would say yes.

22 MR. MONTGOMERY: I think there was a letter
23 designation for him, but it was not used because he
24 didn't care about it. So if that helps you could use
25 that letter designation. I think it was DD.

1 COMMISSIONER AHEARNE: I guess I would just as
2 a matter of preference prefer that we did that.

3 When you say now or in the future, what does
4 that add? It says "as a condition of restart and the
5 continued operation, the licensee shall not assign."

6 COMMISSIONER ASSELSTINE: I guess what I am
7 concerned about is that if you just had as a condition
8 of restart, it seemed to me you create the problem ---

9 COMMISSIONER AHEARNE: I know, but you say the
10 continued operation.

11 COMMISSIONER ASSELSTINE: Because I don't want
12 them to say all right, we let it start up but at some
13 point in the future we bring the guy back into training.

14 COMMISSIONER AHEARNE: No, Jim. My question
15 is doesn't a condition of restart and continued
16 operation take care of the phrase "now or in the future"
17 and why do you need "now or in the future"?

18 COMMISSIONER ASSELSTINE: It is probably
19 overkill.

20 COMMISSIONER AHEARNE: That is what I thought.

21 COMMISSIONER ASSELSTINE: I didn't want any
22 ambiguities.

23 (Laughter.)

24 COMMISSIONER AHEARNE: Now we say as a
25 condition of restart and the continued operation of

1 TMI-1 the licensee shall not assign. I am not sure why
2 you then go on to say the second sentence. It almost
3 sounds like if the licensee does not intend to follow
4 the conditions of the license we should notify him.

5 COMMISSIONER ASSELSTINE: I guess what I am
6 concerned about is other facilities. I want to know if
7 they are going to use him for training TMI-2 people or
8 Oyster Creek people.

9 MR. ZERBE: Do you not want them to do that?

10 COMMISSIONER ASSELSTINE: I figured we would
11 cross that bridge when we got to it, but I wanted to
12 know if they intended to do that. It seems to me if at
13 that point we take action that way, then we are taking
14 action directed more against that particular individual
15 in that capacity and that may give rise, not so much in
16 the case of this guy, but certainly in the case of the
17 operators when we get to one of my other proposals,
18 questions about his own inherent rights at that stage.

19 MR. MALSCH: Even here we are thinking about
20 whether even this kind of a condition would give rise to
21 hearing rights on his part.

22 CHAIRMAN PALLADINO: I was just wondering how
23 would you go about disbaring a lawyer? Would you give
24 him some opportunity to be heard? I had the same
25 feeling about him as an instructor, but is this the

1 right way to do it.

2 MR. MALSCH: I think you are right to have
3 that feeling. I mean that is the issue we are looking
4 into. There is a part of the Board decision which
5 addresses this in the context of sanctions. It says
6 that "We haven't imposed sanctions for a number of
7 reasons, among them no individual member of the
8 licensee's organization has been a party to the case,
9 none have had notice of possible penalties and because
10 of the sequestration order they haven't had the
11 opportunity to confront the evidence produced against
12 them."

13 Now technically this isn't a sanction against
14 Husted.

15 COMMISSIONER ASSELSTINE: That is right.

16 MR. MALSCH: It is drafted as a condition on
17 restart, but to the extent that you can have the same
18 practical effect ---

19 COMMISSIONER ASSELSTINE: The licensee can
20 choose to retain Husted ---

21 (Laughter.)

22 MR. MALSCH: That is what I said, to the
23 extent it has the same practical effect you probably
24 have the same legal problem. So we are giving some
25 thought to whether we ought to have some kind of offer

1 of a chance to come back on the part of these
2 individuals or put some language in the order.

3 COMMISSIONER AHEARNE: That is a good point.

4 CHAIRMAN PALLADINO: How would you fix this
5 up, Marty?

6 MR. MALSCH: Well, what we were thinking
7 about, and we really haven't reached the stage where we
8 have any particular recommendation to make, but what we
9 were thinking about was some language saying that these
10 individuals if they wish may petition the Commission to
11 reconsider or some language to give them a chance to
12 come back and complain. Then if they came back and
13 complained, then we would at that point decide whether
14 we needed to conduct any further proceedings. We hadn't
15 really developed the language and we weren't absolutely
16 sure it was required, but we were concerned that it
17 would be required.

18 CHAIRMAN PALLADINO: I think something ought
19 to be in there that gives them appeal right.

20 COMMISSIONER ASSELSTINE: I don't have any
21 difficulty with giving them even the right to a hearing
22 on what action we are taking against them, but I don't
23 think that changes the need for this kind of a condition
24 at this point.

25 CHAIRMAN PALLADINO: He may present evidence

1 that was not included in the previous investigation.

2 COMMISSIONER ASSELSTINE: That is right.

3 MR. LEVI: Would you give him the hearing
4 before or after the effect of disbarring?

5 COMMISSIONER ASSELSTINE: After. I don't see
6 how you can allow the plant to restart with him involved
7 in training.

8 COMMISSIONER AHEARNE: I can't go that far.
9 If you really feel that way, then you would have to say
10 let us disqualify anybody who had him as a teacher.

11 COMMISSIONER ROBERTS: That is exactly right.

12 COMMISSIONER ASSELSTINE: Well, I guess what I
13 am concerned about is the continuing influence he would
14 exert during the operation of the plant if he stays
15 involved in training.

16 COMMISSIONER AHEARNE: But, Jim, if you really
17 view it as an infection, then you have to say that all
18 the people he has trained, that they have been infected
19 and now we have to somehow purge that infection. So you
20 are going to have to retrain those people.

21 COMMISSIONER ASSELSTINE: I am not sure you
22 have to go that far to be concerned about the continuing
23 potential for problems in the future. We may well have
24 mitigated the damage or minimized the damage or the
25 problems that have been created in the past through the

1 subsequent examinations.

2 My concern is more the attitudinal problem for
3 the future. As long as he is involved in the training
4 program, he has the potential to convey his attitude to
5 many others and that can have an adverse effect on the
6 operation of the plant in the future.

7 COMMISSIONER AHEARNE: It certainly can. I
8 guess I would have to say that I feel if we felt
9 sufficiently strongly about saying that it must be
10 immediately effective, even if he appeals it, then I
11 think logic would lead us to say we can't allow those
12 people -- (Inaudible).

13 CHAIRMAN PALLADINO: I was having the same
14 problem.

15 COMMISSIONER AHEARNE: If he appeals it, I
16 would give him a chance -- (Inaudible).

17 CHAIRMAN PALLADINO: With regard to Husted's
18 appeal rights, is somebody going to write something?

19 MR. MALSCH: We will give it some more thought
20 and try to put together some language to address that
21 problem.

22 CHAIRMAN PALLADINO: What is the general
23 feeling on including this?

24 COMMISSIONER AHEARNE: I am going to have to
25 check those six paragraphs. Jim, as I mentioned

1 yesterday, I am inclined to try to do something to
2 prevent Husted from being involved in training because I
3 don't believe that his attitude is at all helpful --
4 (Inaudible).

5 COMMISSIONER ASSELSTINE: This is also one I
6 think you may want to chew on a little bit. I am not
7 prepared to agree to the blanket endorsement of the
8 Licensing Board's conclusions on the cheating incident
9 and the blanket rejection of the Special Master's
10 conclusions in all instances as is contained in the
11 proposed text. This would identify the conclusions in
12 the specified paragraphs in the Special Master's
13 decision that I believe are supported by the weight of
14 the evidence.

15 Then I would simply say that in all other
16 instances where there are conflicts I do believe the
17 weight of the evidence supports the Licensing Board's
18 conclusions. So you all may want to look through those
19 paragraphs.

20 CHAIRMAN PALLADINO: This goes after page 22?

21 COMMISSIONER ASSELSTINE: It would have to
22 replace certain portions of page 22 as they are now
23 written, and then the balance of page 22 would have to
24 be revised because right now page 22 says in every
25 instance where there is a conflict the Licensing Board

1 is right and the Special Master is wrong.

2 COMMISSIONER AHEARNE: Now I thought you had
3 pointed out that we ought to, if we take that previous
4 position, explain why. Wouldn't we in this case also
5 then have to ---

6 COMMISSIONER ASSELSTINE: I agree. I think we
7 should. That is right.

8 COMMISSIONER AHEARNE: Obviously I can't --
9 (Inaudible).

10 COMMISSIONER ASSELSTINE: I didn't expect an
11 immediate reaction. I think you are going to have to
12 look at those paragraphs.

13 CHAIRMAN PALLADINO: What is the essence of
14 those paragraphs?

15 COMMISSIONER ASSELSTINE: It is a wide range
16 of issues that are covered, principally about the
17 conduct and performance and behavior of individuals.
18 They cover O and W, G and H, VV, Miller, Herbein and
19 they cover I believe Mr. Wilson's investigation on the
20 part of the licensee.

21 CHAIRMAN PALLADINO: What is the effect of our
22 taking the Special Master's viewpoint?

23 COMMISSIONER ASSELSTINE: The effect would be
24 to say that in those instances we think the Special
25 Master is right and now the Licensing Board.

CHAIRMAN PALLADINO: What results from that?

1 COMMISSIONER ASSELSTINE: In my next proposal
2 I have got the other designated individuals that I would
3 exclude beyond just agreeing that the Milholland view is
4 more supported by the evidence. There is no direct
5 action that follows from that.

6 COMMISSIONER AHEARNE: If there is no direct
7 action, are they items where the Board specifically took
8 issue in each of those paragraphs? Are they cases where
9 the Board took issue with Milholland's ---

10 COMMISSIONER ASSELSTINE: In most all of
11 them. I think there may be a couple where the Board is
12 in general agreement but may not have adopted the
13 principal conclusion that Milholland reached. In others
14 there are clear concepts.

15 COMMISSIONER AHEARNE: I guess maybe I can
16 clarify my questions after I read those paragraphs.

17 CHAIRMAN PALLADINO: But is there anything we
18 do as a result of this?

19 COMMISSIONER ASSELSTINE: Not directly, but my
20 next proposal ---

21 CHAIRMAN PALLADINO: (Inaudible).

22 COMMISSIONER ASSELSTINE: This is in essence
23 the same as the treatment of Husted, except this would
24 prevent assigning these people duties related to the
25 operation of TMI-1 and require that we be notified if

1 the licensee intended to use these people for other NRC
2 licensed activities.

3 COMMISSIONER AHEARNE: Do you have the
4 reference to the paragraphs in the Licensing Board that
5 similarly spoke to these?

6 COMMISSIONER ASSELSTINE: I didn't write all
7 those down, no. I just went through Milholland's. I
8 didn't write down the numbers in the others, but I think
9 I could probably dig those out pretty quickly.

10 COMMISSIONER AHEARNE: If you could it would
11 help because clearly what you are asking us to do is to
12 do a comparison.

13 COMMISSIONER ASSELSTINE: Do a comparison,
14 that is right.

15 CHAIRMAN PALLADINO: Now H is still working in
16 the capacity that you are going to now deny him.

17 COMMISSIONER ASSELSTINE: Well, VV would
18 follow subject to the notification requirement because
19 he is working on TMI-2.

20 CHAIRMAN PALLADINO: But H would be denied his
21 job with an appeal ---

22 COMMISSIONER ASSELSTINE: H would no longer be
23 able to work on TMI-1.

24 CHAIRMAN PALLADINO: On TMI-2?

25 COMMISSIONER ASSELSTINE: Not right now.

1 CHAIRMAN PALLADINO: He is an operator, isn't
2 he?

3 COMMISSIONER ASSELSTINE: I don't believe so.

4 CHAIRMAN PALLADINO: But nevertheless, you are
5 denying him on TMI-1 his job?

6 COMMISSIONER ASSELSTINE: That is right.

7 CHAIRMAN PALLADINO: I am thinking about about
8 an appeal right.

9 MR. MALSCH: It is the same problem.

10 COMMISSIONER ASSELSTINE: The same thing would
11 apply.

12 CHAIRMAN PALLADINO: Can we develop that if we
13 are going to go this way?

14 MR. MALSCH: Is H the one that has an
15 operating license?

16 COMMISSIONER ASSELSTINE: Yes.

17 MR. MALSCH: Then definitely he would have a
18 right to a hearing in connection with any lifting or
19 suspension or revocation of his license.

20 CHAIRMAN PALLADINO: What is Mr. Miller doing
21 and Mr. Herbein?

22 COMMISSIONER ASSELSTINE: They are both
23 working on non-nuclear related activities for GPU.

24 CHAIRMAN PALLADINO: My reaction is not
25 strongly favorable. I think I may go along with Husted.

1 COMMISSIONER AHEARNE: I will look at the
2 paragraphs and it would be particularly helpful if you
3 would give me ---

4 COMMISSIONER ASSELSTINE: I will give you the
5 other paragraphs.

6 This is my last one. This has to do with the
7 increased inspections which I think we have already
8 touched upon briefly anyway. To the extent that No. 2
9 is a factor, this would also be related to that list of
10 paragraphs where I would propose we agree with the
11 Special Master.

12 CHAIRMAN PALLADINO: I don't understand this.
13 Can you explain it?

14 COMMISSIONER ASSELSTINE: What I am saying is,
15 one, because this plant has been shut down for a long
16 period of time prior to restart and, two, because even
17 if you take the actions that I have proposed without
18 removing some of these individuals, there are still
19 individuals working at that plant where we know they
20 were involved in cheating instances but our
21 investigations and hearings simply were able to identify
22 them. Given some of the other conclusions about the
23 extent of the cheating and the attitudinal problems to
24 our regulatory program I think this plant needs special
25 attention.

1 CHAIRMAN PALLADINO: Well, I don't know what
2 you mean "Has decided to increase the level of NRC
3 resident and regional inspection activities." What does
4 that mean?

5 COMMISSIONER ASSELSTINE: What I wanted to do
6 was leave us some flexibility, but to mean that we may
7 want more resident inspectors at this site and we may
8 want more frequent regional inspections.

9 COMMISSIONER AHEARNE: Well, it commits us to
10 it.

11 COMMISSIONER ASSELSTINE: That is right, it
12 commits us to it.

13 COMMISSIONER AHEARNE: He doesn't say how much.

14 COMMISSIONER AHEARNE: That is right, how much
15 or what the mix would be.

16 COMMISSIONER AHEARNE: The resident inspector
17 is something that is quantized.

18 COMMISSIONER ASSELSTINE: That is right.

19 MR. KENNEKE: It is unique now. I have read
20 in the latest report from the staff that they have four
21 at the site now, although they are probably mostly
22 related to TMI-2.

23 COMMISSIONER ASSELSTINE: There are two and
24 two. Two on Unit 1 and two on Unit 2.

25 MR. KENNEKE: But they are by far and away the

1 most already.

2 CHAIRMAN PALLADINO: And for how long ---

3 COMMISSIONER ASSELSTINE: There are other
4 single unit sites in Region I that have two resident
5 inspectors. So I have a question whether it is far and
6 away.

7 MR. KENNEKE: Well, I mean by the number on a
8 site.

9 COMMISSIONER ASSELSTINE: Yes.

10 CHAIRMAN PALLADINO: Now the day they restart
11 we don't need this, or is this forever?

12 COMMISSIONER ASSELSTINE: Well, I don't say it
13 in here, but I would propose for restart and then for a
14 period of time thereafter. I am willing to be flexible
15 on the time. My own feeling had been something like for
16 a year after restart that this would be useful. But
17 again, in terms of timing I was fairly flexible.

18 COMMISSIONER AHEARNE: To quote the Chairman
19 previously, I am not favorably inclined.

20 COMMISSIONER ASSELSTINE: We discussed this
21 before, but I did want to put a formal proposal before
22 you.

23 CHAIRMAN PALLADINO: Especially I don't want
24 to cast on a group an aura of unreliability.

25 COMMISSIONER ROBERTS: If you adopt that you

1 certainly will.

2 COMMISSIONER ASSELSTINE: I guess there is a
3 real difference there because I think that on balance
4 the information that is available to us, the evidence
5 clearly supports that there is an aura of unreliability
6 about this group. I am prepared to say that with
7 certain changes in conditions that does not mean that I
8 have reached the conclusion that the plant can't operate
9 safely. But I think there is an aura of unreliability
10 here that does not exist at our other plants.

11 COMMISSIONER AHEARNE: But it is not fair to
12 say that it is a self-emanating aura or an imposed aura.

13 COMMISSIONER ASSELSTINE: I guess I differ
14 with that.

15 But anyway, what I wanted to do was put those
16 before you.

17 CHAIRMAN PALLADINO: I think these are very
18 dangerous conclusions that I am not sure we have
19 investigated and know well enough to draw.

20 COMMISSIONER ASSELSTINE: That was the whole
21 purpose of the cheating incident and we have two very
22 lengthy ---

23 CHAIRMAN PALLADINO: No. It was to find out
24 if there are cheaters and then if management was ---

25 COMMISSIONER ASSELSTINE: And what the

1 implications of that were.

2 CHAIRMAN PALLADINO: But I don't think the
3 implications are all that clear. You don't get that
4 from just talking to individuals. You observe a group
5 and group dynamics is a very tricky thing and it can
6 change overnight for good or bad. I am not favorably
7 inclined, but I will -- (Inaudible).

8 COMMISSIONER ASSELSTINE: That is it.

9 CHAIRMAN PALLADINO: Is there anything more on
10 this?

11 (No response.)

12 CHAIRMAN PALLADINO: Now where do we go from
13 here?

14 MR. ZERBE: From the comments yesterday and
15 today we will revise and put out a new version early
16 next week or as soon as we can reasonably do that.

17 COMMISSIONER AHEARNE: I would urge that you
18 step back and take a little time. You do have a few
19 days to take a little time so that you can go through
20 and just look at it as a whole and does this now hang
21 together. I am sure after you have had an opportunity
22 to check the records and check things that you might --
23 (Inaudible).

24 MR. ZERBE: In the case here that relates to
25 these people do you want us to ---

1 COMMISSIONER AHEARNE: I think we ought to
2 have some mechanism by which we provide, Joe, some sort
3 of a response to them.

4 CHAIRMAN PALLADINO: Now the one on Husted I
5 would expect to see more so that the vehicle for
6 protecting his rights is stated here. Then I think on
7 all of them we ought to have the Secretary put out our
8 responses.

9 As far as what Jack ought to do about it, I
10 think he should write -- (Inaudible).

11 COMMISSIONER ASSELSTINE: That is right. I
12 agree.

13 CHAIRMAN PALLADINO: And it would be incumbent
14 upon us to tell you where we will insert them.

15 COMMISSIONER AHEARNE: Right, and also to get
16 back to Jim's office because clearly he will have to
17 take a different style of preparation ---

18 COMMISSIONER ASSELSTINE: That is right.

19 COMMISSIONER AHEARNE: --- depending upon if
20 we agree and it goes in the order or we disagree and he
21 issues -- (Inaudible).

22 CHAIRMAN PALLADINO: When is our next meeting?

23 MR. ZERBE: The next meeting is Friday the
24 17th.

25 CHAIRMAN PALLADINO: When will you have that

1 revised on Husted?

2 MR. MALSCH: We can have it mid next week.

3 CHAIRMAN PALLADINO: I was going to suggest we
4 get our results back to Jim by Thursday or even
5 Wednesday.

6 COMMISSIONER ASSELSTINE: Wednesday would be
7 most helpful.

8 (Laughter.)

9 CHAIRMAN PALLADINO: Well, suppose a possible
10 vote, for example, on Husted might be that I am inclined
11 to along with this providing the rewrite is
12 satisfactory, and then I might say something different
13 in the others. But could we get feedback to Sam by
14 Wednesday noon?

15 COMMISSIONER AHEARNE: Marty, if you can
16 possibly get us something by Tuesday night on that.

17 MR. MALSCH: We will try for Tuesday night.

18 MR. LEVI: Do you want to give him a hearing
19 prior to making it effective as a matter of discretion
20 regardless of whether he has a legal right or not?

21 COMMISSIONER ASSELSTINE: No.

22 (Laughter.)

23 CHAIRMAN PALLADINO: Then you would be
24 prepared to give us Thursday or no later than Friday
25 what you would propose to do based on the votes we got?

1 COMMISSIONER ASSELSTINE: Yes, whether I have
2 a final text of additional views or not, but I would
3 certainly be able to say where I am going then.

4 COMMISSIONER AHEARNE: Ed, do you have a sense
5 of when Vic might have additional views?

6 MR. ABBOTT: As soon as he gets well. I am
7 not sure. I will find out.

8 CHAIRMAN PALLADINO: What is wrong with Vic?

9 MR. ABBOTT: He has the flu.

10 CHAIRMAN PALLADINO: Well, let's see, then we
11 have a meeting on the 21st, is it?

12 MR. CHILK: A decision meeting on the 21st.

13 CHAIRMAN PALLADINO: So next Friday we ought
14 to be agreed as to the wording of the order.

15 COMMISSIONER AHEARNE: Or as close as possible.

16 COMMISSIONER ASSELSTINE: Very close, yes.

17 CHAIRMAN PALLADINO: There might be a few
18 things you would want to see.

19 COMMISSIONER AHEARNE: Yes.

20 CHAIRMAN PALLADINO: We might also want to
21 talk a little bit next Friday on press pronouncements we
22 want to make.

23 COMMISSIONER AHEARNE: Yes.

24 COMMISSIONER ASSELSTINE: Yes.

25 CHAIRMAN PALLADINO: I will try to work with

1 Joe and see if we can't come up with something.

2 MR. FOUCHARD: You will have something, sir.

3 I just need another cut on this one before I start
4 sucking my thumb?

5 (Laughter.)

6 CHAIRMAN PALLADINO: Are there any other items
7 that we should discuss on this?

8 COMMISSIONER ASSELSTINE: No.

9 CHAIRMAN PALLADINO: All right, thank you very
10 much.

11 We will stand adjourned.

12 (Whereupon, at 10:35 a.m., the closed meeting
13 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

CLOSED MEETING - EXEMPTION NO. 10

in the matter of: DISCUSSION OF IMMEDIATE EFFECTIVENESS ISSUES IN
TMI-1 RESTART PROCEEDINGS

Date of Proceeding: December 10, 1982

Packet 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)