

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of:

COMMISSION MEETING

Docket No.

DISCUSSION OF PENDING INVESTIGATIONS  
EXEMPTIONS 5 & 7

CLOSED SESSION

Location: Washington, D.C.

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF PENDING INVESTIGATIONS

CLOSED MEETING - EXEMPTION NOS. 5 AND 7

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

Monday, June 6, 1983

The Commission convened, pursuant to notice,  
at 2:03 p.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
- H. PLAINE
- J. ZERBE
- B. HAYES
- J. CUMMINGS

AUDIENCE SPEAKERS:

- M. MALSCH
- E. CASE
- W. DIRCKS
- H. DENTON

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

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CHAIRMAN PALLADINO: Good afternoon.

The Commission meets this afternoon to receive a briefing on the status of three investigations involving TMI.

The first is the inquiry into the Parks-Gishel allegations, the second is the renewed Hartman investigation and the third is the investigation of the allegations noted in Board Notification 83-71 of May 18th, 1983. As part of these investigations there was also the question of the so-called mystery man.

Before beginning the discussions -- where is the General Counsel?

COMMISSIONER AHEARNE: I am very uneasy about that being under some kind of a court constraint.

MR. CHILK: They are on their way over.

CHAIRMAN PALLADINO: This is a very important part of my presentation.

COMMISSIONER AHEARNE: Yes, I was wondering whether there was something significant about the General Counsel not being here.

(Laughter.)

CHAIRMAN PALLADINO: I say here before beginning the discussion I would ask the General Counsel to comment.

COMMISSIONER AHEARNE: See, the can full say the

1 Commission snuck away.

2 (Laughter.)

3 CHAIRMAN PALLADINO: No, I have alerted him to  
4 the fact that I was going to ask this question.

5 (Laughter.)

6 (At this point in the proceedings Mr. Malsch  
7 comes into the meeting.)

8 MR. MALSCH: They are all behind me.

9 (Laughter.)

10 CHAIRMAN PALLADINO: Herzal, I got to my second  
11 paragraph which begins as follows. Before beginning the  
12 discussion, I would ask the General Counsel to comment,  
13 and then I didn't see you here.

14 MR. PLAIN: I am sorry.

15 CHAIRMAN PALLADINO: I would ask the General  
16 Counsel to comment and provide guidance on ex parte  
17 considerations that need to be taken into account,  
18 particularly with regard to the matter addressed by the  
19 Board Notification.

20 Then after that we will go ahead and hear from  
21 Ben Hayes, unless the Commissioners have other comments.

22 MR. PLAIN: Let me make one ---

23 COMMISSIONER AHEARNE: Herzal, could I also ask  
24 you to comment. The last time we had planned hold a  
25 meeting like this you had pointed out that there was a

1 court order which in your view prevented us from holding a  
2 closed meeting on TMI at that time and I would like to  
3 understand what has changed in the interim.

4 MR. PLAIN: Yes. On that the court dismissed the  
5 action that was brought against us, but didn't provide too  
6 much guidance on how we should conduct ourselves. Indeed,  
7 today's meeting is closed under Exemption 5.

8 In reviewing that, I would like to add and have  
9 you vote on closing also under Exemption 7 which provides,  
10 among other things, that a meeting may be closed where  
11 there would be involved disclosure of investigatory  
12 records or information which if written would be contained  
13 in such records, but only to the extent that the  
14 production of such records and information would interfere  
15 with enforcement proceedings, deprive a person of a right  
16 to a fair trial or impartial adjudication, constitute an  
17 unwarranted invasion of personal privacy, disclose the  
18 identity of a confidential source in the case of the  
19 records compiled by a criminal law enforcement authority  
20 in the course of a criminal investigation, and that  
21 doesn't apply to us at this point, disclose investigative  
22 techniques and procedures, or endanger life or physical  
23 safety, et cetera.

24 It seems to me that the key words for us here  
25 is disclosure of information which would involve a

1 possible enforcement proceeding.

2 Exemption 5 indeed is our closure exemption for  
3 dealing with enforcement procedures. So it seems to me we  
4 ought to buttress our position by using both exemptions.

5 CHAIRMAN PALLADINO: Both 5 and 7.

6 MR. PLAIN: And particularly because the court  
7 declined in the case we just talked about to discuss  
8 Exemption 5 even though we had talked about it in the  
9 Chairman's affidavit and in the discussion of the brief.

10 CHAIRMAN PALLADINO: But there we had had no  
11 vote where the Commission based its vote on Exemption 5.

12 MR. PLAIN: Yes, that was the point. The court  
13 said it was premature for it to be dealing with something  
14 that you hadn't relied on.

15 CHAIRMAN PALLADINO: But now, Herzel, there are  
16 a number of factors in Exemption 7 that seem to apply  
17 here possibly.

18 MR. PLAIN: That is what I am suggesting, and I  
19 would appreciate it if you would vote to include Exemption  
20 7 as well as 5 which you have voted on I understand.

21 CHAIRMAN PALLADINO: What is our basis today? Is  
22 it 10?

23 MR. PLAIN: No, not 10. Right now it is 5.

24 CHAIRMAN PALLADINO: Well, let's take that step  
25 if the Commission is willing.

1           COMMISSIONER ASSELSTINE: Let me just ask a  
2 question first. Have we used 7 as a basis, in addition to  
3 5, in other closing other enforcement proceedings?

4           MR. PLAIN: I am not sure of that. Does anyone  
5 on my staff know that?

6           MR. MALSCH: I don't think so, but I am not  
7 positive about that.

8           CHAIRMAN PALLADINO: Well, have we ever used 7  
9 insofar as an investigation is concerned?

10          MR. PLAIN: Have we ever used 7?

11          MR. CHILK: I can't remember our ever using 7.

12          MR. MALSCH: I think our theory until now had  
13 been that it is quite clear that you can vote to close  
14 under one exemption and you have all the exemptions still  
15 available to you when you want to withhold the transcript.

16                 Now the Philadelphia Enquirer case added sort  
17 of a glitch to that, and that was we could not assert on  
18 review of a decision to close the meeting an exemption  
19 that hadn't been voted on. So I think we have become  
20 inclined to be more cautious in recommending including  
21 exemptions for closing than we had been in the past since  
22 there is a slight chance that if we haven't vote to  
23 close ---

24          MR. PLAIN: It is a lot safer to try it and be  
25 wrong, if you are wrong, than not to have tried it at all.

1           CHAIRMAN PALLADINO: It sounds as though  
2 Exemption 7 has a number of features ---

3           MR. PLAIN: It has the clear ring of being  
4 applicable.

5           COMMISSIONER ASSELSTINE: So our failure to use  
6 Exemption 7 in the past as the basis for closing meetings,  
7 in addition to Exemption 5, really was not ever based upon  
8 a judgment on the appropriateness of 7.

9           MR. MALSCH: No, not that I know of.

10          MR. MALSCH: In this case today when we are  
11 basically hearing about an investigation from the  
12 investigation unit, it seems to me that it is awfully  
13 pertinent to what the exemption deals with.

14          CHAIRMAN PALLADINO: The court in its motion for  
15 summary judgment that "The NRC now claims that Exemption 5  
16 is also applicable. The court finds, however, that only  
17 the applicability of Exemption 10 is properly before the  
18 court at this time. Under NRC regulations the Commission  
19 may not close a meeting pursuant to any exemption without  
20 a vote of the Commission membership resulting in a  
21 majority decision that the particular exemption is  
22 applicable."

23           So I think it is a good point that if we think  
24 Exemption 7 is applicable to vote that way.

25           Any other questions, Jim or Tom?

1 COMMISSIONER AHEARNE: No.

2 COMMISSIONER ASSELSTINE: No.

3 COMMISSIONER ROBERTS: No.

4 CHAIRMAN PALLADINO: Well, I would like to call  
5 for a vote whereby we claim both Exemption 5 and Exemption  
6 7 as the basis for closing this meeting.

7 All those in favor indicate by saying Aye.

8 COMMISSIONER AHEARNE: Aye.

9 COMMISSIONER ASSELSTINE: Aye.

10 COMMISSIONER ROBERTS: Aye.

11 CHAIRMAN PALLADINO: Aye.

12 Opposed?

13 (No response.)

14 MR. PLAIN: Now let me make one further  
15 observat on which is more pertinent to the question you  
16 asked, Mr. Chairman.

17 Since we are going to hear from OI on these  
18 ongoing investigations, it would seem to me that  
19 questions relating to TMI restart should not be asked or  
20 discussed. These are the subject of public hearings and it  
21 would seem to me that we ought not be discussing them.

22 In that connection I see no harm in members of  
23 the staff here to listen and hear because some of the  
24 material that will be discussed undoubtedly not only was  
25 asked by them but will be very important to them in their

1 continuing work.

2 But it would seem to me that if the members of  
3 the Commission were to avoid asking or discussing the  
4 relationship of what Mr. Hayes is about to tell and save  
5 that for another meeting, there would be no problem with  
6 the members of the staff who are here remaining here.

7 CHAIRMAN PALLADINO: So you are saying you see  
8 no problem in their remaining for the whole meeting?

9 MR. PLAIN: That is correct.

10 COMMISSIONER AHEARNE: As long as we stay away  
11 from discussing ---

12 MR. PLAIN: Just stay away from tying up  
13 whatever you hear to TMI-1 restart.

14 CHAIRMAN PALLADINO: Now if we have questions of  
15 Ben Hayes and possibly Jim Cummings on the relationship of  
16 these investigations of TMI-1, we could hold them off to  
17 the end and then we could excuse the staff and we could  
18 continue, could we not, to ask Ben questions related to  
19 the relationship of the investigations to TMI-1.

20 MR. PLAIN: I guess if we make it fairly clear  
21 at the time that the meeting is now confined only to Ben  
22 Hayes' group ---

23 CHAIRMAN PALLADINO: Or to Cummings.

24 MR. PLAIN: And Mr. Cummings.

25 COMMISSIONER AHEARNE: Joe, did you mean the

1 relationship to TMI-1 or TMI-1 restart?

2 CHAIRMAN PALLADINO: TMI-1 restart. Thank you, I  
3 meant TMI-1 restart.

4 Any other comments?

5 (No response.)

6 CHAIRMAN PALLADINO: Well then why don't we turn  
7 the meeting over to Ben Hayes.

8 MR. HAYES: Thank you, Mr. Chairman.

9 As you say, we have three current investigative  
10 matters before OI. I would like to deal with the most  
11 recent investigation, and that involved a request by Mr.  
12 Bill Dircks which OI received on May the 23rd, 1983.

13 It was a transmittal memorandum transmitting to  
14 me certain photocopies of transcripts and other data which  
15 he obtained from Mr. Stello's review of the B&W/GPU  
16 transcripts. Contained in there were various allegations,  
17 and Mr. Dircks summarized those allegations in his  
18 memorandum.

19 CHAIRMAN PALLADINO: What is the date of that  
20 memo?

21 MR. HAYES: The date of the memorandum is May  
22 20th, 1983, and it was received in the Office of  
23 Investigation on May 23rd.

24 Those allegations are basically whether  
25 training records of reactor or senior reactor operators

1 were falsified before or after the TMI accident, if so, by  
2 whom, management's knowledge of the actions related to  
3 such possible or actual falsifications, whether NRC  
4 requirements on training and recertification were  
5 satisfied before or after the accident, names of any  
6 current licensed operators that were not properly trained  
7 or recertified ---

8 CHAIRMAN PALLADINO: Is this a memo we are  
9 supposed to have or is it one we are not supposed to have?

10 MR. HAYES: Well, I can't answer that, Mr.  
11 Chairman.

12 CHAIRMAN PALLADINO: Were carbon copies shown?

13 COMMISSIONER AHEARNE: I think it is certainly  
14 true it is a memo we don't have.

15 (Laughter.)

16 MR. HAYES: This is the Board Notification ---

17 COMMISSIONER AHEARNE: Now, whether we should,  
18 that is another question.

19 CHAIRMAN PALLADINO: I don't think I have it.

20 MR. HAYES: This is, I believe, the genesis of  
21 Board Notification 83-71, if I am not mistaken.

22 MR. CASE: On advice of counsel, I did not  
23 prepare copies for the Commission of the case law.

24 MR. HAYES: If I may continue.

25 CHAIRMAN PALLADINO: Let's see, it referred what

1 to you?

2 MR. HAYES: Well, there are better than a half a  
3 dozen allegations. In essence what Mr. Dircks asked us to  
4 do was to look at a particular allegation of a gentleman  
5 by the name of Book, B-o-o-k. Mr. Book at that time was an  
6 operator at TMI-2 and he basically alleged that there had  
7 been a falsification of training records.

8 COMMISSIONER AHEARNE: Falsification of training  
9 records prior to the accident?

10 MR. HAYES: That is correct.

11 COMMISSIONER AHEARNE: His own training records?

12 MR. HAYES: Training records in general. I would  
13 presume specifically his. We took statements and I will  
14 get into that, if I may.

15 COMMISSIONER AHEARNE: So you had listed then  
16 four different areas. Were all of those related to this  
17 Book, what he alleged?

18 MR. HAYES: Yes, sir. There are other here, but  
19 basically they center upon, if in fact the records are  
20 falsified, who knew about it, who condoned it and so on.

21 COMMISSIONER AHEARNE: And this was information  
22 which Stello ran across in the GPU/B&W trial documents?

23 MR. HAYES: That is correct.

24 CHAIRMAN PALLADINO: So far I have only written  
25 down that he referred to the allegations by Book, an

1 operator at TMI, refalsification of training records  
2 before the TMI-2 accident. Now were there subsequent ---

3 MR. HAYES: Well, there are ramifications of  
4 that such as who in management was aware of it, and when  
5 they became aware, if in fact they were aware, what did  
6 they do, what actions, and then determined the facts  
7 surrounding the incident, if there was an incident, and  
8 make a determination as to whether or not there should  
9 have been NRC Board Panel notification.

10 In our view in analyzing Mr. Dircks' request as  
11 well as reading the transcript that was given to us which  
12 formed the basis of his request, of course Mr. Book became  
13 a very important person and we sought him out. Mr. Book is  
14 currently employed by BW?

15 CHAIRMAN PALLADINO: Who?

16 MR. HAYES: B&W. I thought you said BW.

17 MR. HAYES: If I may read for you excerpts of  
18 Mr. Book's affidavit.

19 COMMISSIONER AHEARNE: Can I ask you, did he go  
20 to work for B&W before the trial or after the trial?

21 (Laughter.)

22 MR. HAYES: I don't know, Commissioner Ahearne.

23 CHAIRMAN PALLADINO: Did they give his position  
24 in the trial record?

25 MR. HAYES: He indicates in his affidavit that

1 he has been employed by Babcock and Wilcox since March  
2 1973. He is currently in Lynchburg, Virginia. His position  
3 is Product Developer in Training Services.

4 We confronted Mr. Book with these allegations,  
5 and I have excerpted from his affidavit two paragraphs  
6 which pretty much sum up his testimony.

7 CHAIRMAN PALLADINO: That was recent that you  
8 confronted him with it?

9 MR. HAYES: Yes, sir.

10 COMMISSIONER AHEARNE: Book or Books?

11 MR. HAYES: Book, B-o-o-k. Theodore L. Book.

12 The statement is dated May 26th, 1983. It took  
13 us a couple of days to find him since he was no longer  
14 employed at GPU.

15 Mr. Book states: "To my knowledge, no  
16 supervisors at any level or above condoned or suggested  
17 that training records be falsified. I am not aware of any  
18 falsification of NRC required training records or any  
19 other records. I have no information at this time relevant  
20 to any falsification of records of other improprieties at  
21 TMI."

22 That is basically the bottom line of about a  
23 three-page affidavit.

24 COMMISSIONER AHEARNE: Is that then inconsistent  
25 with what he had provided earlier on which ---

1 MR. HAYES: Well, we showed him a particular  
2 document.

3 CHAIRMAN PALLADINO: Which particular document?

4 MR. HAYES: His GPU transcript material. His  
5 handwritten letter to Mr. O'Hanlon?

6 COMMISSIONER ROBERTS: Dated when?

7 MR. HAYES: Dated June 17th, 1977.

8 Basically he suggests that the training records  
9 were falsified, and as he explained it to us, many times  
10 when he was on his shift Training would send down a  
11 request to review a particular procedure or document and  
12 allot two hours of training time for it. They would spend  
13 an hour and a half, but the training records would show  
14 two hours as opposed to the hour and a half, and he was  
15 speaking towards quality of training.

16 He was a strong proponent of six shifts, and  
17 there were five at that time as well as more classroom  
18 instruction and more expertise in the training area.

19 CHAIRMAN PALLADINO: What was the date of that  
20 again, 1977?

21 MR. HAYES: His handwritten memorandum to a Mr.  
22 Jim O'Hanlon is June 17th, 1977.

23 COMMISSIONER AHEARNE: Now you also said you had  
24 a transcript there.

25 MR. HAYES: Well, there were various statements

1 taken during the trial and other documents that we  
2 reviewed that Bill Dircks sent to us. One was from Gary  
3 Miller, Zechman ---

4           COMMISSIONER AHEARNE: But did these all refer  
5 to Book or were they related to this question of whether  
6 training records had been falsified but it had nothing to  
7 do with book?

8           MR. HAYES: In some instances they deal directly  
9 with the Book handwritten letter as to who got it, what  
10 did you do with it, did you talk to Book and did you  
11 institute some management procedure to determine if the  
12 records were falsified, et cetera. We got it all and  
13 analyzed it all, but we felt the key player would be  
14 O'Hanlon who received it and Book who wrote it.

15           O'Hanlon, we took an affidavit from O'Hanlon on  
16 the same day. Mr. O'Hanlon is currently the Manager of the  
17 Operations Department, Evaluation and Assistance Division,  
18 Institute of Nuclear Power Operations, INPO.

19           CHAIRMAN PALLADINO: He is the manager of?  
20 Repeat it again.

21           MR. HAYES: Manager of the Operations  
22 Department, Evaluation and Assistance Division at INPO.  
23 Mr. O'Hanlon was interviewed on the same day that Mr. Book  
24 was interviewed. In essence his affidavit states that he  
25 became alarmed of course when he saw Mr. Book's

1 handwritten note. He called Mr. Book and they got together  
2 and went over Mr. Book's concerns and Mr. O'Hanlon  
3 forwarded his concerns forward.

4           There is no falsification of training records.  
5 The only discrepancy that we have been able to see in the  
6 two affidavits was that Book doesn't remember ever being  
7 counseled or spoken to by higher level management which  
8 O'Hanlon was at the time.

9           COMMISSIONER AHEARNE: So Book doesn't recall  
10 talking to O'Hanlon?

11           MR. HAYES: That is correct, but O'Hanlon  
12 definitely recalls talking to Book.

13           CHAIRMAN PALLADINO: What did he do as a result  
14 of talking to Book? Did he prepare a memo and send it to  
15 management? I missed that part.

16           MR. HAYES: I would have to reread the affidavit  
17 here. I didn't make a note of that.

18           CHAIRMAN PALLADINO: I was just trying to  
19 remember what I thought you said.

20           MR. HAYES: I don't know what O'Hanlon did with  
21 it. As I remember he forwarded it up his managerial chain,  
22 but he was concerned about whether or not there was in  
23 fact falsification of records. He said Book was more  
24 concerned with the quality and the style of training.

25           CHAIRMAN PALLADINO: Did O'Hanlon conclude that

1 there was or there was not any falsification, or does he  
2 say?

3 MR. HAYES: He is unaware of any falsified  
4 training records. In fact, there is the term "radioed" by  
5 Mr. Book's handwritten statement to O'Hanlon. Radioed  
6 apparently means, it is an old Navy term, fixed, falsified  
7 or what-have-you. We zeroed in on that with Mr. O'Hanlon,  
8 and this is a quote from his affidavit.

9 "O'Hanlon concluded by stating that he has  
10 absolutely no knowledge of any record falsification or the  
11 'radioing' of training records at Three Mile Island, and  
12 he continued to monitor and be involved in the training  
13 activities until he left the site in December of 1979."

14 CHAIRMAN PALLADINO: But yet his longhand note  
15 didn't Book say that they were falsified?

16 MR. HAYES: I will try to read his handwriting.  
17 This is a quote from Book's June 17th, 1977 memo to Mr.  
18 O'Hanlon.

19 "Besides being just plain frustrated over all  
20 of this, it is my opinion that it is somewhat erroneous to  
21 say we fulfilled the NRC requirements when they are based  
22 on documentation of subject matter supposedly covered on  
23 shifts. Many times more hours are documented than were  
24 actually used for training."

25 CHAIRMAN PALLADINO: Many more hours?

1 MR. HAYES: "Many times more hours were  
2 documented than were actually used for training."

3 Then out to the left of that is a notation  
4 "Records" -- it may be radioed. I can't make that out.

5 So with that particular allegation, in essence  
6 he is saying there is a possibility of falsified training  
7 records. That, in my view, was why Bill Dircks asked us to  
8 get involved to determine what the facts were.

9 CHAIRMAN PALLADINO: Did he say anything more  
10 damaging on that?

11 MR. HAYES: He wants six shifts instead of five,  
12 and he wants more classroom training as opposed to OJT  
13 type control room type training. He wants training to  
14 train and bring in more experts. In other words, he is  
15 interested in the quality of the training or lack of  
16 quality in his view.

17 Now our investigation did not deal with whether  
18 or not Board notification was appropriate. The quality of  
19 the training, if you will, is a little out of our  
20 expertise. What we hope to do is conclude our inquiry and  
21 take the results and send them back to Mr. Dircks for  
22 whatever use.

23 COMMISSIONER ASSELSTINE: When you say conclude  
24 your inquiry, what else do you plan to do beyond  
25 interviewing these two folks?

1 CHAIRMAN PALLADINO: You mean on this one?

2 COMMISSIONER ASSELSTINE: Yes, on this one.

3 CHAIRMAN PALLADINO: Can I ask an intermediate  
4 one. Earlier you had indicated to me there were some in  
5 1979, that there were several other allegations in the '77  
6 to '79 period on training.

7 MR. HAYES: The transcripts that came to us from  
8 the GPU area covered that range of time, '77, '78 and '79,  
9 in that particular area. We tried to stick right with the  
10 allegation of Mr. Book which appeared to us to be the real  
11 essence of the potential falsified training records.

12 COMMISSIONER AHEARNE: So the other material  
13 that was sent to you, you found nothing ---

14 MR. HAYES: No, sir, we did not.

15 CHAIRMAN PALLADINO: No allegation that you  
16 thought required further scrutiny?

17 MR. HAYES: No, sir. In fact, it dealt with  
18 Book's allegation, if you will, of what did you do, who  
19 did it and trying to tie down responsibility of course for  
20 the lawsuit.

21 CHAIRMAN PALLADINO: Go ahead, Jim. Do you want  
22 to repeat your question?

23 COMMISSIONER ASSELSTINE: Okay. My only  
24 question is what more do you plan to do on this particular  
25 investigation to wrap it up?

1 MR. HAYES: We came across a memorandum dated  
2 June 28th, 1977, subject, requalification program. I  
3 assume this particular memorandum of Metropolitan Edison  
4 Company dealt with some of the areas that Mr. Book was  
5 referring to in his letter to Mr. O'Hanlon.

6 CHAIRMAN PALLADINO: This was a memo from ---

7 MR. HAYES: It is a GPU memorandum and the  
8 subject is requalification program. It is directed to  
9 shift supervisors and shift foreman Unit 1 licensed.  
10 Basically it states that there are six areas here to be  
11 covered and we want it down on shift. Two of the areas are  
12 required by NRC.

13 Now we also came across another handwritten  
14 one-page item which we have not looked into yet, and it is  
15 to a gentleman by the name of George. I am presuming at  
16 this point it is George Kunder. The author we believe is a  
17 gentleman by the name of Knowles, K-n-o-w-l-e-s.

18 CHAIRMAN PALLADINO: It is to George from  
19 Knowles?

20 MR. HAYES: From Knowles. Our information right  
21 now suggests that Knowles is presently a supervisor, and I  
22 don't if he is at 1 or 2, a shift supervisor in the  
23 operating room.

24 However, he states "I don't have the time to  
25 give two or three lectures. So I can't meet this NRC

1 requirement and I am not going to fake it any more like  
2 other shifts do. Get training for CROs, AOs, As and SS/SF  
3 back where it belongs in training and on six shifts. It is  
4 about time Training Department trains people instead of  
5 keeping up with paperwork only."

6 Now I don't know what that means, but ---

7 (Laughter.)

8 COMMISSIONER AHEARNE: But you are going to then  
9 inquire ---

10 MR. HAYES: We ought to look into that matter  
11 and find out who Knowles is and who is George and what is  
12 he talking about.

13 COMMISSIONER AHEARNE: where did you find this  
14 memo?

15 MR. HAYES: I think GPU volunteer'd this to us.

16 CHAIRMAN PALLADINO: What was the time frame of  
17 that note?

18 MR. HAYES: The note is undated, but it presume  
19 it is around June of '77. I am uncertain of that and I  
20 don't know until we ---

21 COMMISSIONER AHEARNE: Was the note attached to  
22 that memo? Is that why you drew the connection?

23 MR. HAYES: No. I assumed the connection only  
24 because of the six shifts reference and Book's reference  
25 to six shifts and the training memorandum on equal.

1           COMMISSIONER AHEARNE: So then the note itself,  
2 at the moment you have not managed to pin it down within a  
3 time frame?

4           MR. HAYES: That is correct. It is undated, last  
5 names aren't used and that is the best I have got today.

6           CHAIRMAN PALLADINO: And you got that from GPU?

7           MR. HAYES: Yes, sir.

8           Unless there are further questions on the  
9 training allegation, I will move on to the Hartman  
10 allegation.

11          CHAIRMAN PALLADINO: Coming back to Jim's  
12 question, do you plan to investigate these two memos  
13 further?

14          MR. HAYES: That is correct.

15          CHAIRMAN PALLADINO: And then unless you find  
16 something more you are going to write your final report?

17          MR. HAYES: Yes, sir.

18          CHAIRMAN PALLADINO: What sort of time frame do  
19 you see that coming in?

20          MR. HAYES: If GPU hadn't volunteered this, we  
21 would have had it written out this week. It was a very  
22 short inquiry, not even a full fledged investigation. I  
23 don't know what this is going to entail. This may open up  
24 something else. Hopefully we can resolve or at least get  
25 an idea of where we are within two weeks. This week I have

1 a staff meeting for two days and I won't be able to put  
2 staff on it really.

3 CHAIRMAN PALLADINO: But after you have your  
4 facts, what do you see as the time needed to finish  
5 reporting, a month, two weeks or some other number?

6 MR. HAYES: If it is merely taking affidavits  
7 and if he recants, as Book recanted, we can wrap this  
8 thing up within 30 days easily. But if he is currently on  
9 site and currently feels the same way ---

10 COMMISSIONER AHEARNE: You view Book as having  
11 recanted. Do you read that original memo as saying that  
12 there was falsification?

13 MR. HAYES: Well, in Book's mind I think he  
14 feels as though they were falsified to the extent that  
15 Training would say it is going to take two hours to go  
16 through this material, but they covered it in an hour and  
17 a half or an hour and forty-five minutes, but two hours  
18 would go in the official training documents. To that  
19 extent it is falsified in his mind. He explained that in  
20 his affidavit. He did not call it falsification.

21 COMMISSIONER AHEARNE: But in his affidavit did  
22 he say that what he meant was that they would put down  
23 more time than was actually spent?

24 MR. HAYES: That is correct.

25 CHAIRMAN PALLADINO: There are several ways of

1 interpreting that. If they thought it was going to take  
2 two hours and they put two hours and it took an hour and a  
3 half, that is one thing, but if they came along and said  
4 well, we had them in there for an hour and a half and  
5 let's put down three or four ---

6 MR. HAYES: Apparently Training would make the  
7 determination as to what in their view it would take to  
8 cover the material adequately. That was predetermined.

9 CHAIRMAN PALLADINO: Is that the number that was  
10 used regardless of the time taken?

11 MR. HAYES: That is correct?

12 CHAIRMAN PALLADINO: That is not dissimilar to  
13 the way I think most colleges and universities work.

14 MR. HAYES: And most government training  
15 courses.

16 CHAIRMAN PALLADINO: A 50 minute lecture period  
17 or a 75 minute lecture period and if they got through a  
18 little early they still got credit for a 75 or a 50-minute  
19 lecture period.

20 (Laughter.)

21 CHAIRMAN PALLADINO: But I am interested in  
22 knowing whether they were purposefully saying hey, let's  
23 double that number. It only took us an hour and a half,  
24 but let's put down three. Then that would be very  
25 bothersome to me. That is why I was wondering if you had

1 any clue as to which way it came out. It implied that they  
2 said two hours, and if it didn't take two hours, they  
3 still marked two hours.

4 MR. HAYES: Anything else on the training  
5 allegation at this time?

6 CHAIRMAN PALLADINO: Now that is the one that  
7 referred to the Board notification.

8 MR. HAYES: Yes, sir, 83-71.

9 CHAIRMAN PALLADINO: Okay.

10 MR. HAYES: The next investigation involves our  
11 progress on Mr. Parks' and Mr. Gischel's allegations  
12 concerning allegations involving technical concerns, a  
13 mystery man, if you will, and intimidation and harassment.  
14 I have broken it into those three named categories.

15 The technical team composed of members of the  
16 EDO staff has basically concluded its review and in fact  
17 has written their reports. I have asked ORE to provide  
18 technical and managerial overview on those reports and  
19 Jack has been gracious enough to ask a member of his staff  
20 to work with OI and do that analysis and review. That is  
21 currently in progress.

22 CHAIRMAN PALLADINO: What did the staff report  
23 on, the technical adequacy of work that was contained in  
24 the Parks/Gishel allegation?

25

1 MR. HAYES: We broke down as best we could  
2 those affidavits and peeled away the technical concerns  
3 and asked our technical support unit to address those.

4 COMMISSIONER AHEARNE: By technical concerns you  
5 mean, for example, was the polar crane qualified?

6 MR. HAYES: No. We stopped short of saying yes  
7 or no. What we have attempted to do is to analyze the  
8 allegation of violations of safety procedures, GPU  
9 procedures, NRC requirements or what-have-you, and have  
10 taken it from this step to what we saw and documented as  
11 to actually what happened and then addressed it in terms  
12 of what should have happened if in fact the management  
13 chain had been used the way it was designed to be used at  
14 least on paper.

15 I can't be too informative here. I have asked  
16 Harold Denton to provide for me the guidelines, if you  
17 will, as to what TMI-2 is in terms of is it a licensed  
18 plant or isn't it and, if it is, what criteria should we  
19 use and what authorities were given to the TMI recovery  
20 team up there to deviate or provide assistance to GPU.

21 In other words, we can't say something is amiss  
22 until we see what criteria we are measuring that against.  
23 We are currently awaiting that particular memorandum from  
24 Harold.

25 CHAIRMAN PALLADINO: But you are not speaking to

1 whether or not the polar crane is adequate, but were the  
2 procedures that are outlined, were they followed?

3 MR. HAYES: That is correct. If you will  
4 remember, Mr. Parks was extremely concerned about being  
5 cut out of those procedures. In many instances in its  
6 affidavit he attempts to say we are violating good  
7 engineering standards by not following the precise steps  
8 that should be taken.

9 COMMISSIONER AHEARNE: But then do I gather that  
10 this investigation is not going to have as a part of it an  
11 NRC judgment as to the adequacy of the polar crane?

12 MR. HAYES: I would think not. What I hope to do  
13 is lay out some areas. In fact, on the polar crane matter  
14 there are about 10 or 12 areas that Fred has indicated  
15 that we ought to take a look at.

16 CHAIRMAN PALLADINO: That who has indicated?

17 MR. HAYES: Our polar crane fellow that is  
18 participating with us on the OI team?

19 CHAIRMAN PALLADINO: Who is that?

20 MR. HAYES: Fred Clemmons. Now he has looked at  
21 it and he has a very thick report which is still in the  
22 rough draft stage and it is still being reviewed by OPE.  
23 So I can't really speak for Fred nor do I want to suggest  
24 I am going to provide something then I may not down the  
25 road.

1           COMMISSIONER AHEARNE: I am not sure to whom  
2 this question should be addressed. Bill is probably the  
3 best one. Is there then any procedure for rechecking the  
4 adequacy of the polar crane, or is that in the normal NRR  
5 approval process with the TMI Program Office?

6           MR. DIRCKS: That is in the normal NRR approval  
7 process. The strange quirk is that I think the technical  
8 capability resides with Clemmons.

9           (Laughter.)

10          COMMISSIONER AHEARNE: I see. So you<sup>^</sup> technical  
11 competence to do the review is with OI which is not going  
12 to do a judgment of the technical ---

13          MR. DIRCKS: I am sure we will have to find  
14 somebody to do it. There is not much of a demand for polar  
15 crane specialists and we only have essentially one.

16          (Laughter.)

17          CHAIRMAN PALLADINO: But then I thought you had  
18 said the staff has written reports on technical matters.  
19 Now what sort of report did the staff write? Am I correct  
20 in note?

21          MR. HAYES: The staff means the OI participating  
22 people, OI. I am sorry.

23          CHAIRMAN PALLADINO: Oh, OI staff.

24          MR. HAYES: Little (s), OI staff.

25          CHAIRMAN PALLADINO: I see.

1 MR. HAYES: What I tried to do was break this  
2 thing down into two areas. The Office of Investigation can  
3 deal with the intimidation and harassment aspect. But we  
4 brought in technical people to assist us in looking at  
5 whether or not the procedures were followed, at whether or  
6 not appropriate engineering practices were followed and  
7 whether or not safety standards were followed and, if not,  
8 what actually happened.

9 I want to stop short of telling Bill Dircks  
10 that, look, your polar crane is good or your polar crane  
11 is bad. I am not sure that we have that expertise. There  
12 are many other things that have to be resolved.

13 COMMISSIONER AHEARNE: What Joe said is if you  
14 happen to have it.

15 (Laughter.)

16 CHAIRMAN PALLADINO: But normally you would make  
17 that determination, would you not, Bill?

18 MR. DIRCKS: That would normally be done within  
19 the staff, right.

20 COMMISSIONER AHEARNE: And as soon as Fred gets  
21 back you can do it.

22 (Laughter.)

23 MR. DENTON: Actually we have retained an  
24 outside consultant to assist in review of this area, but  
25 we are holding any final views until the results of the

1 investigation are complete.

2           CHAIRMAN PALLADINO: I don't whether I am going  
3 to be legal or not, but I will try to be legal by first  
4 asking Ben. You implied that perhaps the staff may have  
5 given authority to the TUI-2 NRC office, authority to  
6 waive or dismiss with certain procedures, and you said you  
7 were waiting for a memo from NRR to say that.

8           But aside from waiting for the memo, did you  
9 get any indication from them as to whether or not they  
10 had given that office authority to waive certain  
11 procedures?

12           MR. HAYES: Well, there were various amendments.  
13 I think there are maybe eight amendments, and you might  
14 help me here, Harold, eight or ten amendments to the  
15 original license exempting GPU from something. Technically  
16 I just can't answer that.

17           CHAIRMAN PALLADINO: Well, Harold has some  
18 answers for you.

19           MR. DENTON: We will have a response to Bill's  
20 question in the next day or two. You may recall that the  
21 Commission issued a new license in 1980 which was intended  
22 to take the Commission's regulations and apply them to a  
23 plant that had had an accident. So with the Commission's  
24 approval, I issued a new license for that plant in 1980.  
25 Since that time we have issued a number of exemptions or

1 orders that subsequently modified it.

2           What Ben wants is a list of the actual  
3 regulatory conditions that currently apply to that plant  
4 and they are not the same as to what applied to a plant in  
5 normal operation. Then from that he can judge whether or  
6 not the conditions are being met I presume.

7           MR. HAYES: Whether or not the procedures are  
8 being followed and what-have-you.

9           CHAIRMAN PALLADINO: But you are implying that  
10 perhaps some of these procedures that Parks found not  
11 consistent with what he believed was right, that some of  
12 these might have been allowed by the amendments. Is that a  
13 possibility?

14           MR. HAYES: That is a possibility. That would be  
15 nice to see if in fact it is there.

16           CHAIRMAN PALLADINO: Well, I am not saying that  
17 is what it ought to be. I am just asking is that the  
18 possibility you are exploring?

19           MR. HAYES: What I am trying to do is determine  
20 as best we can the criteria of the operating conditions of  
21 that plant, the licensing conditions so that we can use  
22 that as the standard to determine whether or not  
23 procedures were or were not violated and by whom and  
24 what-have-you.

25           I also may have to make some adjustments after

1 the technical review is completed. Jack's person,  
2 Gene Gallagher, has been with us about two or three days  
3 is all, and the rough draft of that report is about three  
4 and a half to four inches thick. He is now going over  
5 that, and he expressed to me this morning some concerns  
6 about some of the conclusions or what-have-you that have  
7 been drawn already. So after his in-depth review we may  
8 have to go back up on the site to resolve some of these  
9 issues.

10 I had, I believe, given to the Commission an  
11 estimated completion date of first June 6th and then June  
12 20th. From OI's standpoint we are basically done, but the  
13 technical thing may hold us up until July sometime. I  
14 don't want to speculate. I think it is important that this  
15 report be as well founded as we can possibly make it. So I  
16 don't want to rush Gene nor my technical people.

17 CHAIRMAN PALLADINO: Now the technical  
18 investigation has determined what procedures were  
19 followed, where there were deviations or where there were  
20 things that needed checking out.

21 MR. HAYES: Yes, along the lines of Parks'  
22 allegations that procedures were not followed, that he was  
23 cut out or they were cut out or what-have-you.

24 Now I was in hopes of getting out the technical  
25 section as quickly as possible when compared to "the

1 mystery man." To be very candid with you, i don't know  
2 what we are going to do there yet. The  
3 intimidation/harassment thing of course is right down our  
4 alley. Once we have resolved the technical portion of the  
5 report and issued that to you, then the  
6 intimidation/harassment thing should come along fairly  
7 rapidly.

8 CHAIRMAN PALLADINO: What are you going to do  
9 next aside from the ---

10 MR. HAYES: The intimidation/harassement  
11 allegations will be addressed as soon as we close out the  
12 technical report.

13 COMMISSIONER AHEARNE: Do they necessarily have  
14 to be done sequentially or is that a resource problem?

15 MR. HAYES: It boils down a resource problem. I  
16 just don't have the staff to do it all.

17 COMMISSIONER AHEARNE: Yes.

18 CHAIRMAN PALLADINO: I am trying to see what  
19 options we might have to add to it. I guess it is the  
20 Bevill Committee that has us constrained.

21 MR. HAYES: On the mystery man issue, I don't  
22 know what we are going to do there, gentlemen. What I am  
23 going to suggest to my staff is to gather up voluminous  
24 documents that exist already on this area and take a  
25 look/see at it and try to map out some systematic approach

1 to try to once and for all try to put this issue to bed.  
2 Right now I can't tell you that we will or we won't, but I  
3 may come back to the Commission and say we have looked at  
4 "X" number of documents and we can go out and attempt to  
5 resolve it, but it is going to take "X" amount of  
6 resources and is it really something that we want to  
7 resolve and it is cost-beneficial and what-have-you. So I  
8 may come back to you on that issue.

9           CHAIRMAN PALLADINO: The existence of a mystery  
10 man is I believe at least in part based on the presumption  
11 that one can interpret these up and down curves on tank  
12 level versus time.

13           Looking at those I asked the people that are  
14 trying to interpret the downward slope and say this one is  
15 different from that one and therefore this one must have  
16 been taking water down faster and therefore they must have  
17 opened an injection system, but I asked the question but  
18 the curves also go up. They said they are going up because  
19 they are adding water.

20           Well, if you are adding water and you are  
21 taking away water, how do you know whether the change in  
22 slope is not due to the fact that you are adding at the  
23 same time you are taking away or not adding at the same  
24 time you are taking away?

25           The answers I got from the people I was asking

1 leave me cold. Apparently people are trying to draw  
2 implications from changes in slope that is resulting from  
3 not only taking away water and putting it into the  
4 injection system but also adding water and they which was  
5 going on as far as I can tell. Maybe the staff has a  
6 little more background on that.

7 MR. DENTON: I think the main genesis is the  
8 fact that GPU had in their sequence up until the time of  
9 the lawsuit the fact that the pumps were turned on at  
10 about 5:41 and the operators testified to that in many  
11 forums and then changed their view at about the time of  
12 the lawsuit. It was even in one of the early drafts of the  
13 NRC sequence and you can find many references where the  
14 operators said they did turn them back on. But now the  
15 same people say they aren't sure.

16 CHAIRMAN PALLAC NO: But there have been  
17 attempts to draw conclusions based on the slopes of those  
18 curves, and the one I was referring to was the one that  
19 Fraley's people put together. I don't see how anybody in  
20 God's green earth could ever draw a conclusion from that.

21 MR. DENTON: That is also the one where the  
22 Commission has been asked I guess by Congressman Udall to  
23 obtain the B&W views on the same topic, and Mr. Meyers has  
24 asked me now and then what does the Commission intend to  
25 do with that.

1           CHAIRMAN PALLADINO: GPU got its feeling from  
2 what people told them, but not from these curves; is that  
3 right?

4           COMMISSIONER ASSELSTINE: GPU used the EDS  
5 nuclear analysis, as I recall, in the trial to try and  
6 support their new version.

7           COMMISSIONER AHEARNE: Wasn't it, Harold, that  
8 back in the first few days in the original writeup of the  
9 GPU's sequence they put that in?

10          MR. DENTON: That is correct. It has been in the  
11 GPU sequence since the first day or few days after the  
12 accident, right up to the time of the lawsuit in which the  
13 EDS analysis came out and the operators suddenly began to  
14 back off from their original views.

15          CHAIRMAN PALLADINO: But does EDS try to draw  
16 conclusions from the slopes of those curves?

17          MR. DENTON: Yes, they do.

18          CHAIRMAN PALLADINO: Do they have knowledge  
19 about what is being added?

20          MR. DENTON: I haven't seen the EDS report. That  
21 is part of this voluminous record. I think the EDS report  
22 concluded that the pumps had not been turned on.

23          CHAIRMAN PALLADINO: Well, what I was interested  
24 in is can you draw that from looking at that kind of data?

25          MR. DENTON: I don't know. We have not examined

1 it in NRR.

2 COMMISSIONER AHEARNE: As you say, up your  
3 alley, Ben, would be the question of trying to figure out  
4 who to ask what?

5 MR. HAYES: Well, certainly right off the cuff,  
6 we would not zero in on the technical graphs and  
7 what-have-you. We are a people type of thing. We would  
8 identify who was in the control room at the time and who  
9 is responsible for this and that and zero in on their  
10 previous testimony during the various mission studies, the  
11 GPU, et cetera, and analyze testimony as opposed to  
12 technical data and then try to factor in what questions we  
13 should ask or shouldn't ask or where should we go.

14 That is the approach that OI would use to at  
15 least try to get a handle on what to do and who to do it  
16 to.

17 CHAIRMAN PALLADINO: Ben, I gather Parks said  
18 some words about the mystery man and everybody knows he is  
19 a mystery man. Are you planning to interview or have you  
20 interviewed Parks?

21 MR. HAYES: We have interviewed Parks  
22 extensively in the offices of OI one day for over ten  
23 hours and followed up subsequent to that with additional  
24 interviews.

25 CHAIRMAN PALLADINO: Did he mention people who

1 would know or who have said this fellow is ---

2 COMMISSIONER AHEARNE: We have had extensive  
3 investigation. Were you talking about the mystery man or  
4 was that on the ---

5 MR. HAYES: We interviewed Parks himself.

6 CHAIRMAN PALLADINO: But I meant on the mystery  
7 man issue did Parks say everybody knew ---

8 MR. HAYES: Everybody knew it was George Kunder.

9 CHAIRMAN PALLADINO: Can you give me a few  
10 examples of other people who think it is George Kunder?

11 MR. HAYES: I can't remember, Mr. Chairman. I  
12 would have to go back and look at the ---

13 CHAIRMAN PALLADINO: But do you plan to pursue  
14 that, at least to talk to a variety of people?

15 MR. DENTON: This was covered in the trial to  
16 the extent that the trial went on. The judge did examine  
17 Ziewee and others as to what their personal knowledge was  
18 of this at the time. So there is extensive testimony.

19 I think the reason some people find it  
20 interesting is that it would have been GPU's interest to  
21 not have been found turning them on and turning them off  
22 again in a lawsuit against B&W.

23 COMMISSIONER AHEARNE: It might be in the NRC's  
24 interest also to have them found turning them on and off.

25 MR. DENTON: That is right, and I understand

1 there is in this amount of paper somewhere, there is even  
2 an early sequence where George Kunder has written in a  
3 sequence. So there is an awful lot of paper existing on  
4 this particular topic and I don't know that we can  
5 technically add anything to it other than what has already  
6 been discussed.

7                   CHAIRMAN PALLADINO: Well, I am not sure whether  
8 it is good or bad regardless of which finding because if  
9 they should have turned them on and they didn't, I think  
10 that is as bad as turning them on and then shutting them  
11 off. Either way, I don't see how GPU can gain a benefit  
12 from that, but I don't know.

13                   So you are going to feel your way and identify  
14 people ---

15                   MR. HAYES: On that one, I guess so until we  
16 finally get there.

17                   CHAIRMAN PALLADINO: One of the problems is if  
18 there ever was a mystery man. Have you talked to Kunder  
19 himself?

20                   MR. HAYES: Not on this issue, no.

21                   CHAIRMAN PALLADINO: Do you plan to?

22                   MR. HAYES: Well, like I say, when we get there  
23 and we have looked at everything, which will take some  
24 time, then we will have to lay out an investigative game  
25 plan here.

1           COMMISSIONER AHEARNE: My last question on that  
2 issue is when you talked to Parks in this ten hours, did  
3 you also cover this particular issue or was it solely on  
4 the polar crane?

5           MR. HAYES: I can't answer that. I would have to  
6 look at the memorandums that we prepared after that  
7 interview. But I do know the ten hours went into just a  
8 litany of areas.

9           Mr. Parks is very astute. He is a very sharp  
10 individual and certainly impressed my staff with change  
11 order numbers and who was there. I mean he had it all  
12 down with no notes in front of him. He went into other  
13 areas that were not addressed in his affidavit.

14           In fact, in my opinion, if we went to him again  
15 today, he could give us other areas to look into. I think  
16 the polar crane is strictly in his view the symptom of a  
17 greater illness at TMI-2, and that was his point. The  
18 polar crane in and of itself is not the issue. It goes  
19 much deeper than that, and he used the polar crane as an  
20 example of the problem and that is basically the straw  
21 that broke the camel's back, if you will, as far as he is  
22 concerned.

23           CHAIRMAN PALLADINO: Did he give you any other  
24 examples in addition to the polar crane?

25           MR. HAYES: Yes, he did.

1           CHAIRMAN PALLADINO: He was apparently cut out  
2 of some procedure, or he says he was.

3           MR. HAYES: Yes, he did.

4           CHAIRMAN PALLADINO: Was he also cut out of  
5 other procedures?

6           MR. HAYES: He was cut out of other procedures.  
7 Things were going on in his view now, and this is his  
8 view, if I may, that it should have gone through Safety  
9 Review Boards and there should have been engineering  
10 studies, and what-have-you, that were not done, and he  
11 felt as though they should have been done.

12           He was basically concerned because the Bechtel  
13 Corporation had taken over the containment room in almost  
14 toto, and yet he was responsible for everything that went  
15 on there from the safety standpoint, but he had not say in  
16 it.

17           CHAIRMAN PALLADINO: When he is speaking that  
18 this is symptomatic of a problem or whatever he says, did  
19 he limit his comments to TMI-2 or did he give other  
20 implications?

21           MR. HAYES: To my knowledge, TMI-2. I am unaware  
22 of anything Mr. Parks or Mr. Gishel told us that reflects  
23 on TMI-1.

24           COMMISSIONER AHEARNE: Are you saying that their  
25 comments never got to the management chain that is the

1 umbrella organization?

2 MR. HAYES: The logical extension is if, and  
3 this is some of my opinion, if there has been some  
4 wrongdoing on the part of TMI management at 2, the  
5 question then is who above TMI-2 was aware of it and  
6 allowed it to go on and what-have-you. That is always  
7 there and there is always that potential implication, if  
8 you will.

9 He gave us no details of something at the plant  
10 site at 1.

11 COMMISSIONER AHEARNE: Yes, I understand.

12 MR. HAYES: Any other questions on the  
13 Parks/Gishel matter?

14 (No response.)

15 MR. HAYES: I will then go on to the Hartman  
16 allegation, the falsification of leak rate tests. I will  
17 be very quick about that.

18 (Laughter.)

19 MR. HAYES: We have just been recently charged  
20 by the Commission to look into this matter and as of  
21 Friday we got custody and control of the previous NRC  
22 investigation. I have not seen the records and my staff  
23 started to look at the records this week, today.

24 CHAIRMAN PALLADINO: When you say records, these  
25 are NRC records?

1 MR. HAYES: That is correct.

2 CHAIRMAN PALLADINO: Where did you get them  
3 from, the region?

4 MR. HAYES: Region I. They were in the custody  
5 and control of Mr. Martin. So I am at a loss to even  
6 suggest to you what we are going to do and how long it is  
7 going to take us. I don't know. It will take a few weeks  
8 to decide what we have and then lay out again an  
9 investigative plan.

10 I am concerned about one thing and I am trying  
11 to track it down. I believe the Commission asked Mr. Martin  
12 during the hearing where Mr. Martin testified to send  
13 copies of everything to the Commission, and I don't if  
14 others are receiving copies. I am trying to tie down who  
15 is going to get copies of what.

16 COMMISSIONER AHEARNE: He had said that he had  
17 reached his conclusion and I asked him whether this was  
18 documented. He said no, there is no formal documentation.  
19 I asked whether it was informal, and he said yes, it was.  
20 I asked whether we could see it, and he said he would send  
21 it to us.

22 Subsequently there was identified two potential  
23 problems, one, ex parte type problems and the second, a  
24 potential grand jury information problem. Consequently the  
25 decision, I believe, was that anything he sent would go to

1 the General Counsel who would review it for those two  
2 points. That is at least what I thought was happening.

3 CHAIRMAN PALLADINO: Yes, the memo, Sam Chilk  
4 said -- well, if it is dated only June 6th ---

5 (Laughter.)

6 CHAIRMAN PALLADINO: In says, "In addition to  
7 reviewing this material," and this is the Herzel Plaine  
8 memo, in addition to reviewing this material for ex parte  
9 considerations, the Commission wishes you to determine in  
10 consultation with OI and OIA whether NRC is strained in  
11 the use of the material by the ongoing DOJ investigation  
12 or the related grand jury proceeding."

13 MR. PLAIN: Our people have just received the  
14 material and they are beginning to look at it.

15 COMMISSIONER AHEARNE: I think then that is the  
16 other location.

17 MR. HAYES: I do propose, Mr. Chairman, to  
18 possibly make a visit to Harrisburg and meet with the  
19 United States Attorney up there. I think it only proper  
20 that we at least have an opportunity to sit down and  
21 advise them of what we intend to do in terms of conducting  
22 our own outside parallel investigation.

23 There is going to have to be some coordination  
24 there, something like the Zimmer situation.

25 CHAIRMAN PALLADINO: Now you must make sure he

1 is aware of Jenson's statement that we are free to  
2 proceed, or otherwise we will get them working at cross  
3 purposes.

4           Incidentally, Commissioner Gilinsky I think  
5 wrote a memo, and I guess it went to Bill Dircks, dated  
6 May 31st in which he asked a number of questions about Jim  
7 Martin's statement. Does anyone know if there is a  
8 response to those questions?

9           MR. DIRCKS: Yes. We are asking everybody who  
10 had anything to do with anything revolving around this  
11 issue to get their comments in. Harold is replying for  
12 NRR. I guess, Dick, you are putting something together.  
13 Guy Cunningham is putting something together. We have the  
14 vacuum cleaner out and we should have something. We will  
15 make the 10th due date. I believe you established a due  
16 date there of the 10th, and we will have an answer by the  
17 10th.

18           CHAIRMAN PALLADINO: May I ask one other  
19 question.

20           MR. HAYES: Yes, sir.

21           CHAIRMAN PALLADINO: I gather on the harassment  
22 and intimidation, or maybe as a separate item, there was  
23 an allegation about NRC's staff involvement. Are you or  
24 Jim going to touch on that?

25           MR. CUMMINGS: The problem we have there is we

1 have been trying to get ahold of Tom Devine who is  
2 representing Parks on this. Parks will not speak to anyone  
3 unless ---

4 CHAIRMAN PALLADINO: Who?

5 MR. CUMMINGS: Parks won't talk to us unless Mr.  
6 Devine is present for that interview, and we are having a  
7 good deal of difficulty getting that arranged. We are  
8 hoping that this week we will be able to get that  
9 straightened out.

10 COMMISSIONER AHEARNE: That is the first step  
11 then in trying to find out whether there is anything to  
12 the allegation?

13 MR. CUMMINGS: Yes. We now have the benefit of  
14 Ben's OI's work in some of those areas. We are going to  
15 have to talk to Parks and Gishel. Their ground rule is  
16 that Mr. Devine be present for all of those interviews.

17 CHAIRMAN PALLADINO: Did both Gishel and Parks  
18 allege that there was NRC improper involvement?

19 MR. CUMMINGS: My recollection, it was certainly  
20 Parks, but Gishel, clearly I don't think so.

21 MR. PLAIN: Mr. Cummings, who is Mr. Devine?

22 MR. CUMMINGS: He is the attorney that  
23 represents GAP, the Government Accountability Project.

24 CHAIRMAN PALLADINO: And you expect to be able  
25 to do something within ---

1 MR. CUMMINGS: We are waiting for calls to be  
2 returned and we are pursuing that.

3 CHAIRMAN PALLADINO: Are these all the  
4 investigations that we have either underway, pending or  
5 waiting to go underway?

6 MR. HAYES: As far as I know today.

7 CHAIRMAN PALLADINO: One of the questions I will  
8 have to the Commissioners, and we are not discuss it, but  
9 I think the Commissioners are going to have to decide  
10 which ones of these, if not all of them, or any of them,  
11 the results of which we need before we can make a TMI-1  
12 restart decision. But I will send a memo out with those  
13 questions.

14 COMMISSIONER AHEARNE: It would seem hard to  
15 discuss that without getting into TMI-1 restart.

16 CHAIRMAN PALLADINO: I know, but there is a  
17 relationship that we have to address, which ones we feel  
18 we have to wait for, which ones would be nice to wait for  
19 and which ones do we think we don't have to wait for.

20 Anything more that should come up on pending  
21 investigations of TMI?

22 (No response.)

23 CHAIRMAN PALLADINO: Does anybody have any  
24 comments or questions?

25 (No response.)

1 CHAIRMAN PALLADINO: All right.

2 Well, thank you very much, Sen.

3 MR. HAYES: Thank you.

4 CHAIRMAN PALLADINO: We will stand adjourned.

5 (Whereupon, at 3:12 p.m., the meeting

6 adjourned.)

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