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ORIGINAL ORIGINAL
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

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In the Matter of:

WATERFORD

DOCKETED
BRANCH

Location: Washington, D. C.

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Date: Monday, July 16, 1984

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3 WATERFORD
4

5 Nuclear Regulatory Commission
6 - 1717 H Street, N.W.
7 Washington, D. C.

8
9 Monday, July 16, 1984

10 COMMISSIONER PRESENT:

11 JAMES ASSELSTINE, Commissioner

12 PRESENTERS:

13 J. Charnoff
14 J. Kane
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P R O C E E D I N G S

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2 MR. ASSELSTINE: I figure given the posture
3 of the case and the pending investigation business,
4 that for all parties concerned it would be best to
5 go ahead and have the meeting transcribed and served
6 on the parties.

7 First, I think we need to identify ourselves
8 so the recorder can do it. I'm Jim Asselstine.

9 MR. CHARNOFF: Okay, and I'm Jerry Charnoff.

10 MR. KANE: And I'm Jim Kane.

11 MR. ASSELSTINE: Great. That way they can
12 match the voices to the names.

13 MR. CHARNOFF: And I'm with Shaw, Pitman
14 and we're counsel for Louisiana Power and Light, and
15 we're here to talk about the Waterford case. We're
16 not going to talk about anything that's at issue
17 before a licensing board or review board, and indeed
18 we're not even going to talk about the details of the
19 investigation, most of which we don't know anything
20 about anyway.

21 MR. ASSELSTINE: Good.

22 MR. CHARNOFF: We did want to talk to you
23 because last week we had a meeting with Darryl Eisenhut
24 and Ben Hayes on Friday. The situation at the moment,
25 as we understand it, is that the Waterford Plant, first

1 of all, is really ready for fueling. It's being held
2 up waiting for disposition from, well, it's waiting
3 for a license which is waiting for a disposition of
4 some matter that is before the Appeal Board on a petition
5 to reopen. We're not here to talk about that.

6 It is also waiting the outcome of the NRC's
7 efforts and investigation at Waterford into a number
8 of allegations. And, indeed, the NRC has done a yeoman's job
9 in some respects down there, I think, Jim.

10 There were a lot of allegations published
11 in a newspaper called Gambit...

12 MR. ASSELSTINE: Yeah, right.

13 MR. CHARNOFF: ...months back, and the NRC
14 proceeded to send down a CAT team down there. The CAT
15 team came up with a report which indicated some
16 problems, but not too many.

17 Actually, it was a very favorable, in the
18 overall, a very favorable report. We felt pretty
19 cheered by that. Simultaneously, some combination of
20 the NRR and OI and OIE, they put together a team of
21 about 30 or 40 or 50 people who went down there and
22 we really appreciated the effort to do it on a team
23 effort and do it all at once.

24 They looked into some 300 allegations, we
25 understand, and out of the 300 they really disposed of

1 all but about 20. Maybe less than 20 but they resulted
2 in about 20 some odd questions.

3 There was a public meeting that we had with
4 the Staff with a lot of television cameras about three
5 weeks ago and where the Staff told us the results of
6 that meeting and said that it would be, of the
7 investigation, and said that they would follow up
8 with some questions.

9 And a couple of days later we got some 23
10 questions from the Staff. As a result of that public
11 meeting and the questions, Jim Kane is president of
12 LP&L, put together a team of people within LP&L to
13 look at the matters and engaged some senior people
14 from NUS and UNC, that's Sol Levine from NUS and
15 Bob Ferguson and Larry Humphries of UNC, as a
16 three-man task force which is reporting directly to
17 Jim on the whole program to resolve these 23 matters
18 and what they mean.

19 That's on the way and working pretty well.
20 In addition, a number of NUS people are working with
21 the LP&L team to try to resolve these 23 matters and
22 find out what the facts are and report them both to
23 Jim and to NRC. And that's on the way.

24 The fellows down there in Louisiana have
25 been talking to an NRC task team which is headed up

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1 by Denny Crutchfield who works for Darryl Eisenhut,
2 and I think they have a pretty good sense of an approach
3 to the 23 questions.

4 By and large, since your task group, the
5 Crutchfield task group, thinks that we're on the right
6 path in terms of approach. I think they appreciate the
7 task force concept that Jim Kane has set up because I
8 think that gives us a good measure of a fresh look at
9 things from very competent people.

10 We ran into a little bit of a problem and
11 that resulted in a meeting on, that we had on Friday
12 with Ben Hayes of OI and his fellow Dick Kerr from
13 Arlington and Denny Crutchfield and Darryl
14 Eisenhut.

15 That meeting grew out of some phone calls
16 that I had with some of them with regard to the fact
17 that here we have a comprehensive look being taken at
18 the 23 questions.

19 We have assigned key people to look at these
20 matters in a responsible way or a responsible reviewer
21 way. It is apparent to us from statements made by either
22 Ben Hayes or Eisenhut or Crutchfield that the NRC OI
23 investigation of many of the allegations, which we
24 were told are in two categories, one was harrasment
25 and intimidation and the other was falsification of

1 documents, may not be over for several months. Now,
2 it turns out and we don't know who they are that there
3 is as a result of this investigation a cloud at least
4 over some of the people that we are using in our principal
5 reviewer role to handle these 23 questions.

6 And I suggested that it would be well if we
7 were told who these people were, not for purposes of
8 our taking any retaliatory measures toward them and
9 not for purposes of impeding the investigation, we
10 don't want to do either, but for purposes of allowing
11 Jim Kane as Chief Executive Officer to, in effect, take
12 any people who may have a cloud over them and maybe some
13 others and just for the moment remove them from the
14 exercise in responding to the 23 questions because it
15 may turn out that all of these people have very clean
16 hands and that the allegations were without substance,
17 and we certainly don't want to do anything that's
18 unfair to them.

19 Many of them may be very good people. At
20 the same time, we are concerned, and I think Eisenhut
21 and NRR is concerned, that during the next several
22 weeks when we produce our responses to these questions
23 many of those questions may be signed off on by people
24 over whom there is, the word "cloud," an inappropriate
25 word at the moment, over whom there is a cloud, warranted

1 or unwarranted. That will make it difficult for NRR and
2 Eisenhut to, in effect, accept those answers, the integrity
3 of the answers.

4 So we've suggested that if you would at least
5 tell Jim Kane and Mike Ledig, who is the Senior VP for
6 Nuclear down there, against whom there is no cloud and...

7 MR. ASSELSTINE: Right.

8 MR. CHARNOFF: ...there is no suggestion of
9 a cloud. If you would tell us who the people are,
10 then management has the responsibility to either decide
11 that there's no basis for the cloud and we ought to
12 just fight the NRC and let the project wait, or manage-
13 ment can decide, and it won't, to fire these people right
14 away without waiting for the results, and it's not
15 about to do that. That wouldn't be fair.

16 Or it could find some way to not remove
17 them from their work, but remove them from this task
18 which is very important. And we did talk to Eisenhut
19 and Hayes about the idea that even if we remove them
20 from the task of being principally involved in resolving
21 the questions, that obviously some of these people are
22 important to the corporate memory of what happened,
23 could we have access to them.

24 And the answer is sure, there's no problem
25 in that. They want us to have that. So the limited

1 issue is, at the moment, that we don't know against
2 whom or over whom there's some cloud.

3 We have some 30 names or so of people involved
4 in key roles. We are concerned that they're going to
5 work hard, as they are doing already, over the next
6 two to six weeks to get you information, and we're
7 crippled in that we can't, we have no options that manage-
8 ment has to deal with the problems.

9 So we asked Ben if he would tell us who those
10 people were. Ben appreciated the quandary that we're
11 in and the quandary that he's in. He doesn't want to
12 affect adversely the investigation, and nor do we, and
13 he doesn't want to hold the plant hostage, which is
14 really what may happen.

15 And that could be several months the plant
16 is sitting there waiting. So he said that he would
17 have to talk to the Commissioners about this, and we
18 said to him, "Good."

19 "Would you please see the Chairman next week
20 and the other Commissioners," and he said he was going
21 to be on vacation today, he and Ben Hayes, and he would
22 talk to the Chairman at the end of the week.

23 He was due back then, I gather. But he said
24 that he would be with you during the middle of the week.
25 You're going on a trip to Grand Gulf.

1 MR. ASSELSTINE: Grand Gulf, right.

2 MR. CHARNOFF: So, I said to him, do you mind
3 if we talk to you and any of the other Commissioners
4 and, in effect, they encouraged us to do that. Now, I
5 did not have with me on Friday the NRC's policy state-
6 ments on OI policies, but I did get it for this morning.

7 And as I see it, Jim, there are two policy
8 numbers, 18 and 19, that may be pertinent, Eighteen,
9 both say don't disclose unnecessarily what's going on
10 with an investigation.

11 The first says don't do it without permission
12 of the Director of OI, that's Ben Hayes, and the second
13 one says don't normally get into the substance of
14 an investigation.

15 Now, we're not interested in the substance
16 at all here today. We are interested in encouraging
17 you to understand the problem and to back Ben up with
18 the authority he already has to give us that limited
19 disclosure, which we will not disclose, and we've
20 already told Ben we'll work some way, if necessary,
21 to protect both the names of the people, we don't
22 want to adversely affect them, and we don't want to
23 hurt the investigation.

24 If that means putting an envelope over some
25 larger number of people temporarily, we'll do that.

1 We'll do some way to mask it, at his directions, what-
2 ever he would want. Jim would work with him.

3 But we need ot get our of this pralysis
4 that we're in. And now when I saw over the weekend
5 and this morning these policy statements, I think he
6 has the authority but appropriately he wants to know
7 that the members of the Commission will understand
8 what he's doing. And that's our mission. Jim.

9 MR. KANE: Jim, you have my assurance, as
10 the Chief Executive of Louisiana Power and Light,
11 that I would certainly deal with this matter in an
12 appropriate discretion and give it the necessary
13 priority and overview that would confirm what Jerry
14 has just shared with you, that I would in no way do
15 anything that would prejudice or compromise the invest-
16 igation underway by Director Hayes.

17 I would do nothing that would in any way
18 reflect on the individuals to which I might be pro-
19 vided access that in any way would be condemning
20 until there is the necessary conclusion to do so, and
21 I would find that very uncomfotable, personally to
22 in any way deal with one's career unless I was satis-
23 fied that ther was an adequate basis for coming to a
24 conclusion.

25 But on the other hand, mindful of my

1 responsibilities to the corporate side of moving forward
2 with the plant, attempting to bring to a conclusion the
3 process to load fuel, to send a signal to the outside
4 world that Waterford is a healthy plant, that it is
5 financially viable, to reassure the citizens and
6 customers in Louisiana that it is a plant that will
7 generate kilowatt hours of electricity and that we're
8 going about it in an orderly way, to reassure the
9 Congressional delegation that there is the basis for
10 understanding between the applicant and NRC, the
11 regulator, and that we can work together, and I think
12 with all of those assurances on my part, and I stand
13 a great deal to lose if I lose credibility with you
14 and other members of the Commission. Perhaps my own
15 corporate career is at stake if I don't have credi-
16 bility with you because I'm being looked to bring the plant
17 to the point that I've just described.

18 So, I would hope that you and other members
19 of the Commission would find it within the wisdom of
20 your judgement to not in any way frown on Mr. Hayes'
21 willingness to work with us to find a method that
22 stands the scrutiny of the outside world, but, yet at
23 the same time, recognized individuals and the integrity
24 of individuals involved. And I in no way intend to
25 compromise those integrities.

1 MR. ASSELSTINE: I take it your feeling was that
2 the 30 people that are involved in the task force from
3 within the organization were really a key element in
4 resolving the 23 open items?

5 MR. CHARNOFF: Well, we brought in the
6 outside...

7 MR. KANE: We brought in the outside people
8 to give sort of the third party overview, but some of
9 these folks that we're talking about do have the
10 corporate memory, do have the background and have a
11 degree of specialization to bring a particular
12 response to the point that it would be reviewed by
13 Sol Levine, and it would be reviewed by Larry Humphries.

14 They bring the outside perspective; some of
15 these people provide the inside perspective. We just
16 don't want to develop what we think is a good response
17 to one of the areas and then three weeks, four weeks
18 down the road say, "Well, you know, that's a good answer,
19 but so and so was involved in it and we're not so sure
20 because of his involvement that we necessarily agree
21 with the response and so on."

22 MR. CHARNOFF: I think we don't want to
23 unnecessarily remove anybody who knows the background
24 because that will impede it. But I think if your
25 question was, Jim, could we just use total outsiders,

1 I think the answer is probably no. That is going to
2 take just one heck of a lot more learning to cover that.

3 And, indeed, when we talked to Eisenhut and
4 Hayes about it, they agreed that even the people with
5 cloud would have to be sources of information.
6 They wouldn't be the guys who would determine what was
7 overall right or wrong.

8 But they, you know, if we, there are a lot
9 of people down at the plant. Hopefully, not
10 everybody's under a cloud. And the concept is that
11 within limits we could move some people out of the
12 direct responsibility for responses to some of these
13 questions, use them as resources, but not have them
14 determine the results, have somebody else go on the
15 line and say that this is a correct, incorrect or
16 wise answer.

17 But it's not a circumstance, I think that
18 easily can be remedied by just saying let's take total
19 outside organizations, you know, So, that it is a
20 question of selection and knowing, and, you know, your
21 fellows have been on this for about three months so
22 they probably have a reasonable idea of who should be
23 investigated further and who shouldn't.

24 And what we need to do is gain access to that,
25 as we told Darryl and Ben eth other day. If you want,

1 we'll hire some of the people out of OI and compete
2 with you for those people and do our own internal
3 investigations and Ben said, "please don't do that."

4 In fact, there aren't that many people, and
5 I didn't know that we want every utility to have a
6 bunch of house investigators to do this kind of thing.
7 I suspect that that's not appropriate for organizations
8 to have, everybody have their own police department.

9 But we're really talking about is the tax-
10 payers, including ourselves, have, in effect, invested
11 a lot into the ongoing investigation, and to deprive us
12 of the first cut of that information means we have to
13 operate in the dark and play with this for months
14 while Ben continues his investigation and it puts
15 Darryl Eisenhut in a difficult position.

16 So it is a question of getting access to that
17 in a credible, legitimate way, limited disclosure, and,
18 as they say, not even interested in knowing what the
19 nature of the allegations are, just tell us who we
20 shouldn't use temporarily for this role.

21 MR. KANE: Well, I guess it goes to
22 further basics of trust. Do you trust me? I have
23 to trust you in doing the right thing in issuing a
24 license to assure the safety of the plant.

25

1 Do you truse me, that I will do what is right
2 in handling this matter to bring it to what I hope to
3 be an orderly conclusion?

4 MR. CHARNOFF: It does come down to that.
5 In the regulated interprise system the Government has
6 got to have some confidence that chief exec's or some
7 others are all right unless there's a basis for dis-
8 crediting them and worrying about it.

9 In this case nobody's suggesting any; and it
10 doesn't exist, therefore, the question is how do you
11 take them into your confidence to a limited extent so
12 that they can go about their business in an intelligent
13 and an efficient way.

14 My sense is that Hayes appreciate this
15 quandary and I think he just needs to know that you
16 fellows on the Commission see it the same way.

17 MR. KANE: How do you react, sir?

18 MR. ASSELSTINE: I am sympathetic to the
19 jroblem that you have, and I do think that given the
20 fact that you've set up an organization to go forward,
21 we ought to look at every possibility to make sure that,
22 that can go forward and that the work will be, will
23 then be not subject to question when it gets done.

24 I guess I would like to talk to Ben once
25

1 more, I talked to him briefly this morning, once more
2 about what he sees as the potential harm to the
3 investigation, particularly if something like the
4 enveloping or masking approach were used so that it
5 wouldn't be readily apparent that there were one, two
6 or three people who were really the focus of allegations
7 and the focus of any further NRC investigations and
8 that they have been removed so that everyone would
9 then clearly know who they were, or importantly, they
10 would know who they were.

11 So I'd like to talk to Ben before I reach
12 a conclusion on the matter. My concern is not to impede
13 you all and let you go forward with an approach that
14 will be credible and get your work completed on the
15 23 open items, but at the same time, not do something
16 that's going to open ourselves up to challenge or
17 criticism, our investigation. I don't think that
18 benefits either of us as well.

19 MR. CHARNOFF: It doesn't. The only point
20 I'm concerned about is the masking. I can appreciate
21 the masking anomaly for purposes of protecting the
22 investigation, but frankly, for protecting the
23 individuals. That's just as important to me.

24 On the other hand, if you put too big of a
25 pillowcase over everyone, then you've removed too many

1 people and made it impossible for us to perform.

2 MR. ASSELSTINE: That's right, yeah.

3 MR. CHARNOFF: So some judgment has to go
4 in on that, but we're really willing to work with Ben
5 in some way to find a way to do that and clear with him,
6 if you will, how we're going to do it.

7 MR. ASSELSTINE: And I agree with you that
8 there does have to be an element of trust between,
9 between us. One of the things that we do have to sort
10 our with the investigation program is how to use
11 that, but at the same time not create problems for
12 rselves that are going to open the investigations
13 up to criticism or challenge or concern that we just
14 didn't do the job right.

15 And I happen to think that the team approach
16 that we used already to try and narrow this down to the
17 23 items is a good step in the right direction. I also
18 happen to think that, that, in general, OI and the work
19 they've been doing has helped matters. I think people
20 have a great deal more confidence in the product of
21 those investigations now than they did a copyle of years
22 ago when they were being done by IE.

23 When issues now get settled, I think
24 generally people are quite confident that the work has
25 been done thoroughly, and I don't want to undermine

1 that either. But I agree with... that's right, that's
2 right.

3 MR. CHARNOFF: No, that's important to us, too.
4 It really is. As an industry, we need to be sure that
5 the investigations are solid and accepted. On the
6 other hand, we can't allow these plants to become hostages
7 to ongoing investigations nor to unnecessarily hurt the
8 reputations of the individuals.

9 But there really is, in this case at least,
10 there really is a way to work it, and I'm really glad to
11 say I think when you look at your policies, it really, it
12 opens the door to exactly this kind of plan. There's
13 certainly nothing in the policies that precludes this.

14 MR. ASSELSTINE: Yeah, I think that's right.
15 I think that's right. And I would agree with you that
16 Ben has that authroity, although I also think that he's
17 smart in asking for whatever guidance we
18 want to give him to make sure that he doesn't get cross-
19 wise of what the Commission wants.

20 MR. CHARNOFF: Yeah, we don't have any
21 problem with that. The only thing we'd like to urge
22 is time. MR. ASSELSTINE: Expeditious.

23 MR. CHARNOFF: Because we really are already
24 waiting. So if that could be worked on this week, somehow
25 or other.

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1 MR. ASSELSTINE: All right.

2 MR. CHARNOFF: It would be very helpful.

3 MR. ASSELSTINE: At least for myself, why
4 don't I give you a reaction tomorrow?

5 MR. CHARNOFF: Great.

6 MR. ASSELSTINE: That'll give me a chance
7 to talk to Ben first and then get back to you and
8 if, I'll just give ... Jerry, are you going to be around
9 tomorrow?

10 MR. CHARNOFF: I'm going to be in a trial
11 in St. Louis but I can call you in the afternoon.

12 MR. KANE: Or he can call me.

13 MR. CHARNOFF: Or consult Jim Kane
14 tomorrow.

15 MR. ASSELSTINE: All right, why don't I
16 do that. Yeah, I'm leaving for Grand Gulf I guess
17 about one or so, so if I could call in the morning.

18 MR. CHARNOFF: Okay. I'm in trial I know
19 until one. So if you'd call Jim Kane, that would be
20 fine. Okay, I appreciate it very much. Sorry to get
21 you at the last minute.

22 MR. ASSELSTINE: No, that's, that's fine.

23 MR. KANE: Somewhere I carry some cards.
24 They tell me I'm supposed to.

25 MR. ASSELSTINE: Okay, thanks, Jim.

1 MR. CHARNOFF: None of us know how to turn
2 off the record so I guess it...

3 MR. ASSELSTINE: No, we have to call
4 somebody to come turn it off. Okay. Thank you. Jim,
5 it's good to see you.

6 MR. KANE: Hope you have a nice trip to
7 Grand Gulf.

8 MR. CHARNOFF: How long are you going to
9 be down there?

10 MR. ASSELSTINE: Two days.

11 MR. CHARNOFF: Is this a tour of the plant?

12 MR. ASSELSTINE: Combination. The first
13 thing I wanted to do is Wednesday...

14 END OF MEETING
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CERTIFICATE OF PROCEEDINGS

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

In the matter of: Waterford

Date of Proceeding: Monday, July 16, 1984

Place of Proceeding: Washington, D. C.

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

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