

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

ORAL PRESENTATIONS BY PARTIES ON TMI-1 RESTART

OPEN MEETING

Location: Washington, D.C.

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2 NUCLEAR REGULATORY COMMISSION
3 ORAL PRESENTATIONS BY PARTIES ON TMI-1 RESTART
4 OPEN MEETING
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6 Nuclear Regulatory Commission
7 1717 H Street, N.W.
8 Room 1130
9 Washington, D.C.

10 August 15, 1984

11 The Commission met, pursuant to notice, at
12 10:00 a.m.

13 COMMISSIONERS PRESENT:

14 NUNZIO PALLADINO, Chairman of the Commission
15 JAMES ASSELSTINE, Commissioner
16 FREDERICK BERNTHAL, Commissioner
17 LANDO W. ZECH, JR., Commissioner

18 STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

19 S. Chilk, Secretary
20 H. Plaine, General Counsel
21 R. Thornburgh, Governor of Pennsylvania
22 W. Kuhns
23 P. Clark
24 G. Trowbridge
25 E. Blake
N. Aamodt
M. Aamodt
J. Doroshov
L. Bradford
E. Weiss
H. Denton
J. Goldberg
J. Murley
B. Russell

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DISCLAIMER

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PROCEEDINGS

CHAIRMAN PALLADINO: Good morning, ladies and gentlemen. Would you please take your seats? This morning's meeting is for the purpose of hearing oral presentations on issues related to Three Mile Island Unit 1.

On June 1, 1984, the Commission issued an order requesting parties' comments on whether, in view of all the relevant information, the management concerns which led to the 1979 shutdown of TMI-1 had been sufficiently resolved so that the Commission could lift the immediate effectiveness of a shutdown prior to completion of review of appeals.

The Commission in 1979 obligated itself to ask this question. It did so by shutting down TMI-1 reactor without the benefit of a prior hearing, and by indicating that it would lift the immediate effective order when the concerns that led to it were adequately resolved.

It thus provided for the separate restart question and decision, and it recognized at the same time that all administrative appeals and reviews might not be completed at the time it addressed the restart question.

We sometimes used shorthand titles for these two

1 actions. In the shorthand, we often refer to the
2 lifting of the immediate effective shutdown order as
3 the immediate effectiveness review, and refer to the
4 appellate process as the merits review.

5 This sometimes leads to misimpressions about what
6 is involved in each of these reviews.

7 I should point out that in both reviews, the issues
8 involved are addressed and resolved to the satisfaction
9 of the Commission.

10 The difference is that in the so-called immediate
11 effectiveness review, the Commission concentrates on
12 the concerns that led to the immediate shutdown of
13 TMI-1 in 1979.

14 The Commission is free to utilize any and all
15 pertinent information available to it, whereas in the
16 so-called merits review, second order issues may also
17 be addressed and only information available on the
18 record is considered.

19 Today we are honored to have present Governor
20 Richard Thornburgh, of the Commonwealth of
21 Pennsylvania, to present the views of the Commonwealth.

22 I would like to express our appreciation to
23 Governor Thornburgh for offering to speak to us today,
24 and to commend him for his forthright and constructive
25 initiatives in helping to develop a funding plan for

1 cleanup of TMI-2. We look forward to his comments
2 today.

3 We have allotted the governor and his party that
4 will follow him time for the presentation and
5 questions.

6 AUDIENCE: We can't hear.

7 CHAIRMAN PALLADINO: I'll talk into the mike. Can
8 you hear me now? All right. Thank you. We have
9 allotted the governor and each party that will follow
10 him time for the presentation and questions.

11 If parties wish to save time for rebuttal, they
12 should so indicate.

13 I encourage all speakers to be brief and to the
14 point, and I also encourage those of us on this side of
15 the table to permit the speakers to complete their
16 statements before questions.

17 There will not be presentations today beyond those
18 provided for in the schedule, which can be found at the
19 rear of the room.

20 I would like to point out that we have an overflow
21 room in case we get too crowded here, in which the
22 audience can see and hear today's proceedings on the TV
23 monitors.

24 Let me ask now whether other commissioners have
25 opening remarks.

1 COMMISSIONER ASSELSTINE: Joe, I had not planned to
2 have other remarks, but I guess I do have to respond
3 briefly to a couple of points you made in your opening
4 statement.

5 First, it seems to me that the distinction between
6 an immediate effectiveness review and a merits review
7 in this case is not nearly so clear-cut or sharp a
8 distinction as as is the case in an initial licensing
9 decision.

10 I've made that point before. I'm not sure I agree
11 with drawing that fine a distinction in this case. It
12 does seem to me that before the Commission allows
13 restart at TMI-1, it has to assure itself that it has
14 sufficient information to conclude that all of the
15 concerns that led to the initial shutdown order and all
16 of the concerns that have since been identified that
17 are relevant to the operation of that plant have, in
18 fact, been satisfactorily resolved.

19 Second, I have a concern about your statement on
20 the record information and extra record information.
21 It seems to me that's one of the key questions that we
22 have to consider here today.

23 It does seem to me that the Commission promised at
24 the outset of this proceeding that its decision would
25 be based upon an adjudicatory record.

1 I think one of the questions that we have to
2 confront today and in the weeks ahead is whether we're
3 now prepared to depart from that and consider extra
4 record material that has not been tested by the kind of
5 trial type procedures that would be available in an
6 adjudication.

7 So I'm not prepared for myself, at this point, to
8 say that it's clear-cut, that an immediate
9 effectiveness decision could be based upon extra record
10 material.

11 I think that's an issue that we have to discuss
12 today with the parties.

13 CHAIRMAN PALLADINO: All right. I appreciate your
14 comments. Thank you. Any other comments? All right.
15 Let me turn now to Governor Thornburgh.

16 (Applause.)

17 GOVERNOR THORNBURGH: Mr. Chairman, members of the
18 Commission, on the evening of April 6, 1979, it was my
19 pleasure to tell thousands of very brave, tired,
20 bewildered and innocent Pennsylvanians that ten days of
21 nuclear nightmare were coming to an end.

22 I told them then that the accident at Three Mile
23 Island never should have happened in America, and that
24 for the remainder of my service as governor, I would be
25 dedicated to the proposition that it never would be

1 allowed to happen again. And that's why I'm here
2 today. You have asked if it would be appropriate for
3 the Commission to vote at this time on the resumption
4 of nuclear power generation on Three Mile Island.

5 My answer is, "No."

6 (Applause.)

7 GOVERNOR THORNBURGH: I repeatedly have expressed
8 to you, to your predecessors, and to others my
9 opposition to any restart vote unless and until funding
10 has been assured to complete the radiation cleanup of
11 the damaged Unit 2 facility on TMI, and unless and
12 until this Commission has provided adequate assurances
13 that Unit 1 can be operated without threat to the
14 health or safety of the people of Central Pennsylvania
15 or the integrity of our environment.

16 (Applause.)

17 GOVERNOR THORNBURGH: My safety concerns ...

18 CHAIRMAN PALLADINO: Excuse me, ladies and
19 gentlemen. Would you please refrain from applause or
20 other indication of response? Thank you.

21 GOVERNOR THORNBURGH: Thank you, Mr. Chairman. My
22 safety concerns and those expressed by others have
23 involved a number of questions relating to such areas
24 as the quality of the staffing, training, and
25 monitoring at the plant site, the physical quality and

1 condition of the plant itself, operator competence and
2 integrity, emergency management planning, and most
3 recently, the Unit 2 cleanup funding impasse.
4

5 While it is true that progress has been made in
6 several of these areas, it is also true that sufficient
7 funding has not yet been assured for Unit 2
8 decontamination, and that adequate safety assurances
9 have not yet been fully provided, regarding the
10 operation of Unit 1.

11 On the contrary, we need look no further than your
12 own staff's memorandum of July 12 to understand why
13 Pennsylvanians are such a long way from feeling assured
14 in this matter.

15 This memorandum, as the chairman has noted, is
16 entitled "Possible Approaches to the TMI-1 Decision."
17 And it offers what your staff calls two major
18 approaches for you to follow.

19 One approach would provide that you make your
20 restart decision independent of the merits process.
21 Let me repeat that phrase. "Independent of the merits
22 process."

23 The other approach, of course, would have you, and
24 I'm quoting again, "wait for completion of the merits
25 process before deciding on restart."

Now, Mr. Chairman, you have noted and I understand

1 that this somewhat unfortunate terminology may have a
2 much narrower application than it seems to convey, but
3 it is incredibly symbolic of what appears to be wrong
4 with the exercise in which we have been engaged for
5 more than five years now.

6 There should be no choice at all between settling
7 an issue on the merits or settling it regardless of the
8 merits.

9 There should be no choice at all between resolving
10 safety questions before cranking up a nuclear reactor
11 or simply putting off those questions and crossing our
12 fingers.

13 There should be no question at all that the safe
14 removal of the highly radioactive wreckage at one
15 nuclear reactor ought to be assured before another is
16 returned to service and returned to risk, I might add,
17 just 200 yards away.

18 There should be no question at all that issues
19 regarding the competence and integrity of Unit 1's
20 managers should be resolved prior to any restart.

21 There should be no question at all that operator
22 training should be fully and properly evaluated and
23 certified by this Commission as meeting the highest
24 standards possible prior to restart and not some time
25 afterward.

1 And there should be no question at all that an
2 emergency management system for the TMI area should be
3 properly tested and certified by this Commission prior
4 to restart and not some time down the road.

5 I continue to believe that there is a legitimate
6 role in America's energy future for commercial nuclear
7 power.

8 But that role has been at risk since March 28,
9 1979, and it remains at risk today.

10 The public confidence and support necessary to
11 preserve that role require an approach to the restart
12 issue that places public health, public safety, and the
13 integrity of our environment at the very top of the
14 agenda.

15 Before any decision is made, a fundamental question
16 not yet answered in the public forum should be resolved
17 through an open hearing of the Atomic Safety and
18 Licensing Board.

19 That question is, whether an act that led to a
20 federal criminal indictment and subsequent guilty plea,
21 the intentional and systematic falsification of leak
22 rate test results at Unit 2 was directed or condoned by
23 any members of the current management of Unit 1.

24 Your suspension of the board's effort to answer
25 this question was unfortunate, and I would hope that

1 you rescind that order and allow the truth to emerge.
2 I also suggest that you fully evaluate other questions
3 of management integrity, in view of the great trust a
4 restart vote would imply, including allegedly willful
5 misstatements made to you through the Keaton Report
6 about management's own degree of responsibility for the
7 accident March 28, 1979.

8 Under a process deserving of public confidence and
9 support, it also would be ill-advised for this
10 Commission to vote on restart until deliberations on
11 operator training improvements and on steam generator
12 repairs have been completed, and the ASLB's best
13 judgment on these matters has been rendered.

14 Under such a process, it would be ill-advised for
15 you to vote on restart until an emergency management
16 system, that actually failed its certification test
17 last year, has been corrected and recertified as sound.

18 Finally, under such a process, it would be ill-
19 advised in the extreme for this Commission to ignore
20 the question of Unit 2 cleanup funding in establishing
21 an approach to any Unit 1 restart.

22 Two years ago, this Commission told the United
23 States Senate Subcommittee on Nuclear Regulation, and I
24 quote, "If TMI-2 is allowed to remain in its present
25 condition over the long term, accidents involving the

1 public have a greater possibility for occurrence. The
2 potential for these adverse effects, although small
3 now, will increase with time as TMI-2 equipment
4 deteriorates." End of quote.

5 I'm compelled to point out once again that if the
6 potential for an unexpected release of radioactive
7 material from Unit 2 is increasing with time, and if
8 the cleanup that would prevent such a mishap is delayed
9 perhaps indefinitely, for lack of funding, then this
10 Commission has an obligation to consider what effects
11 such a release would have on the staff, management,
12 instruments, and other resources necessary to a safe
13 and fully-operational Unit 1.

14 Is it realistic to assume that the work environment
15 at Unit 1 would not be affected by radiation emergency
16 less than 200 yards away?

17 Or would it be more realistic to assume that a new
18 emergency at Unit 2 could produce any number of adverse
19 reactions at Unit 1, ranging from mere distraction to
20 panic or even actual injury?

21 Could such a development confront us with a double
22 crisis of unprecedented dimensions? An operating
23 nuclear power plant, suddenly abandoned or understaffed
24 on an island poisoned by escaping radiation.

25 I believe the people of Pennsylvania deserve

1 assurances that every reasonable precaution will be
2 taken to prevent such a crisis.

3 I do not believe that this can be accomplished
4 without a fully funded plan to ensure the safe and
5 expeditious removal of the radioactivity still trapped
6 at Unit 2.

7 A process deserving of public confidence and
8 support would condition any Unit 1 restart decision on
9 the assurance of Unit 2 cleanup funding.

10 And I suggest that you can and ought to impose such
11 a condition at this time. To argue that the Unit 2
12 question was resolved in 1981, long before the funding
13 impasse and the safety implications were raised in
14 Senate testimony by this Commission, would be like
15 arguing that the integrity issue was resolved long
16 before a Federal grand jury indicted Metropolitan
17 Edison Company on criminal charges.

18 Your own staff has said it probably would not have
19 issued a favorable review of Metropolitan Edison
20 management in 1981 had it known then what it knows now.

21 The only thing, I suggest, that is constant in this
22 matter has been change itself, and a process that is
23 worthy of public confidence and support is one that
24 adapts to new circumstances, absorbs new facts, and
25 considers new information in the public interest.

1 In fact, a mere hint that this Commission might
2 condition any restart on the assurance of cleanup
3 funding already has had a positive effect on the
4 willing of the industry to contribute to the cleanup
5 effort.

6 As you know, we first introduced the funding
7 impasses of Unit 1 safety issue on June 14 of this
8 year.

9 Just four days later on June 18th, the industry
10 established for the first time ever a firm date for
11 delivery of initial contributions under the \$192
12 million commitment to the cleanup it first made in
13 1981.

14 It also removed a \$100 million trigger condition it
15 had placed on the delivery of any contribution member
16 companies agreed to make under that commitment.

17 And it voted to divert research and development
18 funds from the industry-supported Electric Power
19 Research Institute into the TMI decontamination effort.

20 Even so, the electrical utility industry remains to
21 this day the only major partner which has yet to
22 deliver on its commitment under the National TMI
23 Cleanup Cost Sharing Plan I first advanced in 1981.

24 The Federal Government agreed to fund a \$123
25 million research and development program tied to the

1 cleanup and is doing so under the plan.

2 Pennsylvania taxpayers already have provided a \$15
3 million downpayment on the \$30 million we pledged under
4 the plan.

5 GPU rate payers and stockholders are delivering
6 \$223 million over a six-year period under the plan.
7 New Jersey has appropriated the first \$3.6 million of
8 the \$11 million in taxpayer contributions which that
9 state pledged under the plan.

10 Even the Japanese utility industry has come forward
11 with \$18 million for the cleanup, yet the American
12 industry has yet to deliver one thin dime on the
13 unconditional \$192 million commitment it made in 1981.

14 So on behalf of those who live within the shadow of
15 Three Mile Island as I do, and those who believe that
16 public health, safety, and environmental integrity must
17 remain our first concerns, I ask once again that you
18 withhold any vote on Unit 1 restart until all major
19 safety issues including Unit 2 cleanup funding have
20 been satisfactorily addressed and resolved.

21 Now, Mr. Chairman, and members of this Commission,
22 let me add one thing more. I was there on March 28,
23 1979.

24 I was there when the worst fear of modern man
25 almost came to pass in Central Pennsylvania. I saw

1 fear in the eyes of pregnant young women who were
2 forced to live on a stadium floor.

3 And I saw anger and confusion on the faces of good
4 and innocent people who realized for the first time
5 that there was something out there, powerful, and
6 strange, and not entirely under control.

7 This nation must demonstrate to these people and to
8 all Americans that nuclear power can indeed be
9 controlled, or risk losing it as an alternative in
10 meeting our energy needs.

11 That is the task before you now, and there is no
12 other choice. Thank you very much.

13 (Applause.)

14 CHAIRMAN PALLADINO: Thank you, Governor
15 Thornburgh. Please restrain yourself. Governor, we
16 very much appreciate your comments.

17 I'd like to make a comment or two of my own in
18 response. I believe this Commission, every member of
19 this Commission is committed to resolving the issues
20 that need to be resolved before this plant is started
21 up.

22 I think as Commissioner Asselstine indicated, there
23 are procedural questions that are involved and we're
24 going to have to cope with those as well.

25 With regard to the cleanup of TMI-2, I support you

1 wholeheartedly in the concept that the cleanup has to
2 be done as expeditiously as possible.

3 I am heartened by the progress on obtaining
4 funding, and we may be able to see completion of a
5 funding pattern in the near future.

6 We are faced with the question of the degree to
7 which we can condition TMI-1 restart on TMI-2, and we
8 have had correspondence from you on that question.

9 It has been litigated, although you indicate that
10 it was litigated a couple of years ago, or I guess a
11 little more than that.

12 However, I should note that the Commonwealth did not
13 follow up with an appeal on that, and perhaps that
14 would have been a wise thing, but that doesn't change
15 the situation with regard to whether TMI-2 is cleaned
16 up or not.

17 I'm going to ask other commissioners if they have
18 any questions or comments.

19 COMMISSIONER ASSELSTINE: I have two brief ones.
20 One had to do with the funding, Governor. I gather
21 from your statement that the one key element in the
22 funding plan that you proposed several years ago, that
23 still has not been fulfilled, is the utility
24 commitments to provide funding.

25 If that were made, would that provide the assurance

1 of funding that you think is necessary to fulfill one
2 of your conditions on restart?

3 GOVERNOR THORNBURGH: It's difficult to answer that
4 question, Commissioner. And let me perhaps elaborate a
5 little bit on the concern that Chairman Palladino has
6 expressed about the Commission's authority to couple
7 any order on restart with a component that ensures
8 funding for the Unit 2 cleanup.

9 It is true that no appeal was taken by the
10 Commonwealth in 1981 from the alteration in the
11 original order with respect to funding.

12 That action was not taken because in 1981, every
13 one of the parties that I suggested would be
14 appropriate as contributors to the cost sharing plan
15 had made firm commitments to ante up their shares.

16 Three years later, we find that all of the parties,
17 save the National Utility Industry, has honored those
18 commitments.

19 And it is that kind of change of fact and change of
20 condition that I suggested in my testimony should
21 occasion a review sua sponte by this Commission of the
22 conditions that should be attached to restart.

23 In answer to Commissioner Asselstine, I should say
24 that from the very outset, in 1979 one of the twin
25 concerns that we have expressed has been the lack of

1 any assured source of funding for the cleanup of the
2 damaged Unit 2 reactor.

3 If that assurance were to be forthcoming, parti-
4 cularly from the National Utility Industry, it
5 would remove a major obstacle, obviously, to our
6 feelings about a restart order, but it would leave on
7 the table continuing concern that this Commission
8 examine the record and assure the people of
9 Pennsylvania that the health, safety, and environmental
10 concerns that I averted to, had been dealt with as
11 effectively.

12 COMMISSIONER BERNTHAL: Let me just, if I can
13 interject and ask a question that relates to that, Jim.
14 It wasn't quite clear to me, Governor, whether you are
15 suggesting that the funding itself be the focus, the
16 major focus, or in your statement, whether the cleanup
17 itself should, in your judgment, be a precondition to
18 the restart. Would you care to comment further on
19 that?

20 GOVERNOR THORNBURG: I have taken the view from
21 the outset that it would be hazardous in the extreme to
22 restart the Unit 1 undamaged reactor while there was a
23 potential for the cleanup of the damaged reactor at
24 Unit 2 proceeding by fits and starts due to the
25 inability of funding streams to assure a continuity of

1 operation. In fact, that has already contributed to the
2 delay in the cleanup of Unit 2.

3 It's one thing not to have the cash in hand. It's
4 another not to have have it assured so that long-term
5 schedules can be planned for an operation that has, as
6 you know, has never taken place before on the face of
7 this earth.

8 I have no doubt about the technology of cleanup. I
9 have very serious doubts about whether that technology
10 can be utilized effectively and efficiently if the
11 wherewithal to fund that technology is on a day-to-day
12 basis in doubt, and that is my principal concern.

13 COMMISSIONER BERNTHAL: So the concern is certainly
14 partly funding, but it sounds like one of the questions
15 that you would have us pay some additional attention
16 to, and I'm not sure, frankly, to what extent we've
17 done that, perhaps I just haven't focused on it, but
18 ensuring that there is, as cleanup progresses, even
19 with the presence of adequate funding, ensurance that
20 there can be no destructive interaction, shall we say,
21 between the two units.

22 GOVERNOR THORNBURG: Commissioner, I have to assume
23 that that's a given.

24 COMMISSIONER BERNTHAL: Right.

25 GOVERNOR THORNBURGH: I can't perceive that this

1 Commission would ignore the consequences of an ongoing
2 cleanup on the startup of Unit 1.

3 What I'm concerned about is that that cleanup would
4 not in fact be ongoing, that there would be a greater
5 potential for deterioration of the present condition if
6 the funding were to proceed in fits and starts and
7 depend upon promises, I.O.U.s, and broken commitments.

8 COMMISSIONER BERNTHAL: Thank you.

9 COMMISSIONER ASSELSTINE: One other question I had
10 was on the reopened hearings. You mentioned
11 particularly the reopened hearings on the integrity
12 issues, training, and the other issues, where our
13 appeal board has already indicated the record should be
14 reopened.

15 Do you envision any circumstances under which you
16 think the Commission could make a restart decision
17 prior to the conclusion of at least those aspects of
18 the hearings?

19 I want to set aside the steam generator repairs for
20 the moment. That's one I already agree with you on.

21 GOVERNOR THORNBURGH: It would be hard to say. I
22 think you'd have to look in probably more detail than
23 I'm prepared to go in this morning in each of those
24 component matters.

25 However, as a general matter, it seems to me that

1 this Commission, which is undertaking a task
2 unprecedented in its nature, and which has a highly
3 visible effect upon, I suggest, the future of a nuclear
4 power industry in this nation with ramifications that
5 are international, would want to, as a matter of
6 orderly procedure, dispose of all pending and
7 outstanding questions, perhaps even including those
8 that might be deemed peripheral, in order to present
9 the best face and the most thorough examined record
10 possible to the public in coming to a determination.

11 So I guess my answer in a yes or no fashion would
12 be I can't conceive of that, however, I acknowledge
13 that there may be intricacies of those proceedings with
14 which I'm not as familiar as the Commission is, and I
15 would have to rest on what my observation was.

16 COMMISSIONER ASSELSTINE: Thank you.

17 CHAIRMAN PALLADINO: May I ask a follow up question
18 on the funding? The utilities that had made pledges
19 apparently now are free to honor them.

20 Does this provide you any additional assurance, at
21 least so far as that aspect of the funding is
22 concerned, that those funds will be provided?

23 GOVERNOR THORNBURGH: Nearly three years ago, Mr.
24 Chairman, after my personal appearance before the board
25 of directors of the Edison Electric Institute in Kansas

1 City, Missouri, that board of directors adopted a
2 resolution committing, without qualification, the
3 electric utility industry in this country to a
4 contribution of \$192 million, which I had requested
5 under the cost sharing plan put forth earlier that
6 summer.

7 I am advised that as of the close of business
8 yesterday, there is some \$44 million in hand in
9 fulfillment of pledges that have been made in the
10 intervening period of time.

11 Today is the last day for that ante-ing up to be
12 made. But when I consider that at the close of
13 business yesterday, less than one-quarter, less than
14 25% of the amount that was firmly committed nearly
15 three years, is actually in hand, I am not heartened,
16 because of an estimated \$200 million shortfall in the
17 amount needed to complete the funding in a timely and
18 orderly manner, comparing that with the cash in hand, I
19 suggest that it should occasion this Commission to very
20 carefully look at its legal authority to condition the
21 restart on the availability of funding for the cleanup,
22 because we have tangible evidence that that funding is
23 not there from the sources that have been already
24 identified.

25 Now one could add in to that \$44 million the \$18

1 million from the Japanese utility industry, which I
2 think shows, I might suggest, that this industry in
3 Japan has a very clear appreciation of the importance
4 of the future of nuclear power as a contributor to
5 energy problems, solving energy problems, and a very
6 clear appreciation of their own self-interest and
7 appreciation that apparently exceeds that which is
8 extant in the American utility industry, and which I
9 regret.

10 CHAIRMAN PALLADINO: One other point. I think,
11 without question, this Commission will be following the
12 funding pattern as it further develops for TMI-2.

13 And we'll want to receive any new information from
14 all the parties before we make a decision, and we will
15 have to examine, at least reexamine the extent to which
16 any conditions could be placed on TMI-1.

17 The conditions are one of the things that might be
18 explored, is whether or not or to what extent GPU
19 could provide additional funds.

20 I think that's an important question to ask of the
21 licensee.

22 All right. Any other questions or comments?

23 COMMISSIONER BERNTHAL: Yeah, I'd like to make just
24 a comment or two, and perhaps ask an additional
25 question.

1 We've talked at some length in previous meetings
2 about this issue of providing funding for cleanup.
3 I should say that you, Governor Thornburgh, have
4 provided much of the leadership, and to your great
5 credit, at least the framework if not all of the money
6 so far, has been set for a reasonable gathering of the
7 funds necessary to complete the cleanup.

8 Three years ago, in my judgment, or I guess maybe
9 it's four years ago or more already, the Commission, I
10 believe, made a serious error in judgment.

11 I think the Commission should have ordered that
12 mess cleaned up immediately and things may have been
13 very different today. I suspect, in fact, that it
14 would be cleaned up today.

15 Instead, what we have is a spectacle of Federal
16 Government, if you will, arguing over what fraction of
17 the cleanup cost constitute legitimate R and D
18 expenses.

19 I simply can't subscribe to that kind of polemic in
20 a matter that involves public health and safety.
21 Utilities arguing with their public utility commissions
22 and then the Japanese, frankly, shaming us all by
23 donating \$18 million to help us clean up our own mess.

24 We have spoken before, and I think I've asked this
25 question before, Mr. Chairman, whether the Commission

1 even today at this late date, having missed the
2 opportunity, if I might misuse the word "opportunity,"
3 earlier, could still find legal basis for ordering the
4 cleanup, and whether that might not expedite matters
5 and might not bring into play, perhaps, federal or
6 other funding that first sees to it that this mess is
7 cleaned up, and secondly, then, we can let the courts
8 and the lawyers and others argue about who pays for it.

9 COMMISSIONER ASSELSTINE: Fred, if I might
10 interject...

11 COMMISSIONER BERNTHAL: It seems to me that's the
12 appropriate procedure to use.

13 COMMISSIONER ASSELSTINE: If I could just interject
14 on that, I think we agreed...

15 CHAIRMAN PALLADINO: Yes, we did.

16 COMMISSIONER ASSELSTINE: ...in our last meeting on
17 TMI-2 advisory panel that we would try just that, and
18 the staff is supposed to be preparing a suitable order.

19 CHAIRMAN PALLADINO: Yes, I think they're working
20 on it.

21 GOVERNOR THORNBURGH: If I might, Commissioner
22 Bernthal, the original August 1979 order contained the
23 following language, which indicated that at least at
24 that time, the Commission felt that the funding was an
25 important component of any restart decision.

1 It said, then, "The licensee shall demonstrate his
2 managerial capability and resources to operate Unit 1
3 while maintaining Unit 2 in a safe configuration and
4 carrying out planned decontamination and/or
5 restoration activities."

6 It seems to me that the recognition then that the
7 licensee should have the resources could easily be
8 extended to all other interested parties, including
9 those of us who have no legal responsibility to
10 contribute to the cleanup, but who have done so in
11 order to coalesce those who do have it, in a workable
12 plan to fund the cleanup.

13 COMMISSIONER BERNTHAL: Let me make one other
14 comment, to respond somewhat to Commissioner
15 Asselstine's early comments.

16 It is so easy around here, I think, to be
17 distracted by the question of whether we are carrying
18 out adjudicatory proceedings or legislative
19 proceedings, whether we're lifting suspensions, whether
20 things are or are not being litigated and subject to
21 cross-examination.

22 I just want to assure you, Governor, and others
23 that the principal issue which you raised in your
24 statement, that of resolving the safety issues before
25 restart, should be the single issue, and I believe that

1 remains before us. And in the Commission's judgment,
2 certainly in my judgment, if those safety issues have
3 not been resolved, whether it's lifting suspension or
4 any other device that we could talk about here, I have
5 to agree that the most important thing is not whether
6 it's legally possible or easier to lift the suspension
7 than to grant a new license.

8 The important thing is that we not, by procedural
9 contrivance, try to do something that we would not
10 normally do.

11 And I can assure you that we're not going to do
12 things that way here.

13 COMMISSIONER ASSELSTINE: I agree.

14 CHAIRMAN PALLADINO: Yes.

15 GOVERNOR THORNBURGH: I don't take that assurance
16 lightly, Commissioner, and I thank you for it.

17 CHAIRMAN PALLADINO: I think I gave similar
18 assurance with regard to the issues themselves. Any
19 other questions or comments?

20 COMMISSIONER ZECH: Let me just say that Governor,
21 I thank you very much for your coming today and your
22 statement and your comments have been certainly very
23 helpful and excellent.

24 I really appreciate it. Certainly my concern in
25 considering this very important issue is going to be

1 what's the right thing to do, what's the right thing
2 to do.

3 (Applause.)

4 COMMISSIONER ZECH: And you have given us your
5 thoughts on that, and certainly your emphasis on public
6 health and safety will be something that I will be
7 factoring in to my thoughts, too. And I thank you very
8 much for coming today.

9 COMMISSIONER ASSELSTINE: Governor, I join my
10 colleagues as well in expressing my appreciation for
11 you coming today and for the statements that you've
12 made. It's very helpful to me.

13 GOVERNOR THORNBURGH: Thank you.

14 CHAIRMAN PALLADINO: We all thank you, Governor.

15 GOVERNOR THORNBURGH: Thank you.

16 CHAIRMAN PALLADINO: We appreciate your coming.

17 (Applause.)

18 CHAIRMAN PALLADINO: I understand you cannot
19 stay, but if any members of your staff...

20 GOVERNOR THORNBURGH: I am sorry, and I apologize
21 to the Commission and to the other witnesses who were
22 here today.

23 We have a very serious flooding problem in Western
24 Pennsylvania that I'm going to be leaving here to visit
25 with some folks out there who have another kind of

1 disaster to cope with.

2 But my staff will be here, and we'll look forward
3 to continued interchange with the Commission and its
4 staff, and with those who are interested in the
5 resolution of this problem.

6 CHAIRMAN PALLADINO: Thank you, Governor. We'll
7 give the Governor a chance to leave, and then we'll
8 call the licensee representatives forward.

9 (Brief pause.)

10 CHAIRMAN PALLADINO: I wonder if I could get your
11 attention, please. Would you please come to order. I
12 wonder if at this time we might have the
13 representatives of GPU Nuclear join us at the table.

14 (Brief pause.)

15 CHAIRMAN PALLADINO: Mr. Kuhns, and Mr. Clark, we are
16 pleased to have you here for your presentation, and
17 I'll turn the meeting over to you at this time.

18 MR. KUHNS: Thank you, Mr. Chairman, commissioners.
19 I'd like to say in the beginning that we'd like to
20 reserve about five minutes for rebuttal, if we may, and
21 we'll try to pace it accordingly, to get through with
22 our statements as fast as we can, covering the key
23 points we believe in this complicated issue.

24 I am Bill Kuhns, chairman, chief executive officer,
25 of GPU, director of GPU, director of GPU Nuclear,

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1 chairman, chief executive officer of the GPU-3 Public
2 Utility Operating Companies, the licensed owners
3 of the Three Mile Island plants.

4 With me as Mr. Philip R. Clark, on my left,
5 president, chief executive officer, and director of GPU
6 Nuclear Corporation, the licensed operator of Three
7 Mile Island.

8 Mr. John O'Leary, chairman of the GPU Nuclear Board
9 wished to be here today to address you. However, this
10 meeting was scheduled while he was abroad, and he was
11 not able to arrange to return for the meeting.

12 We believe that you now have ample basis for
13 lifting your 1979 shutdown orders on the undamaged TMI
14 Unit 1 and respectfully urge that, in fact, you are
15 obliged to do so.

16 Our basis for this belief has been provided most
17 recently in our filing of July 26, 1984. There are
18 extraordinarily voluminous materials dealing with this
19 matter before you, including those presented to the
20 Licensing and Appeal Boards, and in the filings and
21 presentations to this Commission itself.

22 It is not possible to comment at this hearing on
23 each of the issues which have been raised. We have,
24 however, previously submitted written comments on each
25 as they relate to the issue before you today.

1 The fundamental management issue which the
2 Commission is called upon to decide in this proceeding,
3 is whether there is reasonably assurance that GPU
4 Nuclear can and will conduct its licensed activities in
5 accordance with regulatory requirements and can and
6 will operate TMI-1 without undue risk to the health and
7 safety of the public.

8 Stated differently, whether the management-related
9 concerns that gave rise to the 1979 suspension orders
10 have been satisfactorily resolved.

11 We submit that there is today, in place, a GPU
12 Nuclear organization fully staffed with highly
13 qualified personnel, structured to provide the
14 appropriate checks and balances both internal and
15 external, and with established policies and procedures
16 to provide such assurance.

17 Our presentations today focus on the GPU Nuclear
18 organization that is now in place, and the evidence
19 that it is effective and satisfies the concerns that
20 led to the 1979 immediately effective shutdown.

21 Basically, during the last five years, we have
22 established and staffed a new company, GPU Nuclear
23 Corporation, devoted entirely to...

24 (Audience expresses negative feelings.)

25 CHAIRMAN PALLADINO: Order, please.

1 MR. KUHNS: A new company, GPU Nuclear, devoted
2 entirely to our nuclear activities and nothing else.
3 It is one of the most sweeping changes made by any U.S.
4 utility following the TMI-2 accident.

5 With regard to the proper utility organization to
6 run nuclear facilities, the Kemmeny Commission, the
7 Presidential Commission, made some recommendations that
8 are included in my printed statement. I won't reread
9 them.

10 But we do believe very sincerely that the
11 establishment of GPU Nuclear Corporation has been fully
12 responsive to their recommendations.

13 Figures One and Two, attached to my statement, show
14 schematically the relationship of this new subsidiary
15 to GPU system.

16 As shown there, the owners of the GPU nuclear
17 facilities have assigned to GPU Nuclear full authority
18 and responsibility for safe and effective operation of
19 all of their nuclear activities.

20 GPU Nuclear has no other responsibilities. The
21 company has been approved by all cognizant regulatory
22 bodies, including the NRC, which issued the necessary
23 license amendments for TMI and Oyster Creek in January
24 1982.

25 Its activities are carried out under the direction of

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1 its own board of directors, which has an outside
2 chairman, Mr. O'Leary, and three other highly-qualified
3 outside directors.

4 Messrs. Clark and Kentner of GPU Nuclear and
5 representatives of GPU and the plant-owners round out
6 the 11-person board.

7 The three outside directors, other than the
8 chairman, form a Nuclear Safety and Compliance
9 Committee of the board.

10 That Committee has been given the outside staff
11 resources necessary to independently monitor our
12 operations.

13 Figure Three shows the membership of the board and
14 the Nuclear Safety and Compliance Committee.

15 Figure Four shows the principal elements of the
16 board's role.

17 We believe that the outside directors bring to GPU
18 Nuclear new experience, judgment, and values. They
19 provide added assurance of full external visibility and
20 objective influence on all aspects of GPU Nuclear
21 activities.

22 Two of them, Ms. Laney and Witsig, are here today,
23 and will be pleased to comment or respond to any
24 questions you may have.

25 The third, Mr. Humphreys, president of United

1 Nuclear Resources, simply couldn't be with us today.
2 The extent of our commitment to fulfilling our nuclear
3 responsibilities is evidenced by the greatly increased
4 resources we are provided.

5 There are now over 2,600 full-time GPU Nuclear
6 people. In addition, Figure Five shows the financial
7 resources we have applied.

8 This represents a major and increasing proportion
9 of the total systems resources and these resources
10 have been made available during a very difficult period
11 of overall financial restraints on the GPU system.

12 The organization is fully in place and functioning.
13 Results of these changes are demonstrated by the
14 performance of the organization.

15 Extensive evaluations by NRC staff has reflected in
16 the last two self-evaluations of TMI-1, show overall
17 performance well above average.

18 INPO evaluations have also been favorable. Also,
19 as I told you in November, Admiral Rickover evaluated
20 our organization and people and concluded, quoting,
21 that "based on the assessment of GPU Nuclear
22 Corporation organization and its senior management
23 as reported herein, the team concludes that GPU Nuclear
24 Corporation has the management competence and integrity
25 to safety operate the TMI-1 plant."

1 The admiral returned with his staff in April 1984,
2 and again concluded, "GPU Nuclear Corporation actions
3 at TMI-1 reveals the corporation has made significant
4 and noteworthy progress toward adoption of the
5 recommendations of the earlier report.
6

7 The corporation has also strengthened its top
8 management by restructuring its board of directors to
9 include board members from outside the corporation with
10 particular technical experience and expertise in the
11 nuclear power field.

12 These actions of the GPU Nuclear Corporation
13 management give further evidence of their commitment to
14 safety restart and operate the plant."

15 I want to comment directly on the indictment of
16 Metropolitan Edison in relation to leak rate testing at
17 TMI-2 prior to the accident. That was a very painful
18 and humbling experience.

19 (Audience laughter.)

20 AUDIENCE MEMBER: What do you think it was to us?

21 MR. KUHNS: It was a very painful and humbling
22 experience for everybody. The behavior identified by
23 the government in that matter is totally unacceptable.

24 Such conduct will not be tolerated. GPU Nuclear
25 has made that policy clear to its people. In addition,
they have put in place extensive safeguards designed to

1 prevent such behavior.

2 With regard to operation of TMI-1, the U.S.
3 attorney who returned the indictment made clear that
4 there was no involvement of any kind by the officers
5 and directors of GPU Nuclear or the directors of
6 Metropolitan Edison Company.

7 Further, Figure Six shows graphically that the
8 senior Metropolitan Edison management responsible in
9 1979 for the operation of TMI are not involved in GPU's
10 nuclear activities today.

11 Specifically, four levels of management. The Med
12 Ed president, the Med Ed vice president of generation,
13 the Med Ed TMI station manager, and the Med Ed unit
14 manager levels for both TMI-1 and TMI-2 are not
15 associated with GPU Nuclear in any capacity.

16 The focus of this meeting is TMI-1, but certainly
17 the cleanup of TMI-2 is of great importance to all of
18 us, as emphasized by the governor this morning.

19 I am pleased to report that during the last several
20 months, there has been good progress made on both
21 cleanup and the funding of the cleanup.

22 My letter to you dated June 20 stated, "I believe
23 from the point of view of both schedule and provision
24 of funding, we are moving responsibly to carry out the
25 project as fast as practical."

1 Since then, we have successfully removed the
2 reactor vessel head. I again assure you that we will
3 continue to do everything we can to assure the safe and
4 timely cleanup of Unit 2.

5 I recognize the recent correspondence between
6 Governor Thornburgh and you, Mr. Chairman, on possible
7 relationships between the cleanup and the funding of
8 TMI-2 on the one hand, and the restart of Unit 1.

9 My letter to Governor Thornburgh dated July 20,
10 attached to my testimony, provided directly to him
11 information on those matters.

12 A copy of that letter is attached. In it, I noted
13 that a subcommittee of the TMI-2 Safety Advisory
14 Board had been commissioned to provide independent
15 confirmation of the safety of TMI-1 operation during
16 the cleanup of TMI-2.

17 We've just received that report. It has been
18 provided to the Commission, to the NRC staff, to
19 Governor Thornburgh, and the other parties in the TMI-1
20 restart proceeding.

21 It provides a current evaluation which supplements
22 the prior findings of the ASLB. The conclusions of the
23 subcommittee report include, and I'm quoting, "During
24 the last month, the subcommittee and its staff have
25 reviewed the potential for accidents in Unit 2 causing

1 unsafe conditions to develop in TMI-1. We find that in
2 their present condition, the two plants are nearly
3 completely isolated from each other.

4 And thus, the potential for interactions between
5 the plants is very low. (Still quoting). Even using
6 what we believe are very conservative calculations, we
7 can find no events that would produce contamination
8 levels in TMI-1 nearly high enough to deny operator
9 access to the plant.

10 We conclude that even in the most serious events,
11 the plant could be shut down and safely maintained in a
12 shutdown condition.

13 (Still quoting.) No credible accidents in TMI-2
14 were found that could threaten safe shutdown of TMI-1.
15 It is our believe that in its present condition, TMI-2
16 is less of a risk to safe operation of TMI-1 than if it
17 were a plant operating at power.

18 We therefore believe that the existence of TMI-2 in
19 its present condition is not a valid technical reason
20 for delaying operation of TMI-1."

21 Let me say in closing, gentlemen, how conscious we
22 are of the importance of a proper attitude and a strong
23 sense of responsibility throughout any organization
24 that manages nuclear power facilities.

25 We accept responsibilities for our deficiencies

1 revealed by the TMI-2 accident. We were responsible
2 for training the TMI-2 operators.

3 Their training was inadequate. We accept
4 responsibility for operator cheating on exams.
5 Moreover, the inadequate pre-accident TMI-2 leak rate
6 test procedures and the unsatisfactory administration
7 of those procedures were our responsibility.

8 Against that background, other issues have
9 understandably assumed greater importance and received
10 greater attention than in most cases detailed
11 investigation has found to have been justified.

12 But the fact remains that we have made mistakes.
13 We blame no one but ourselves for those mistakes. We
14 have been humbled, we have been humiliated.

15 We have no vestige of corporation or individual
16 arrogance in our management. But we do respectfully
17 suggest that the crucible of these proceedings
18 demonstrates that we have learned from those mistakes
19 and have brought into being a strong nuclear
20 organization that has benefited from that learning.

21 The organization which Mr. Clark will now address
22 more specifically has a singleminded dedication to
23 safety, excellence, and responsibility.

24 We believe we deserve your confidence. Thank you.
25 And I would ask Mr. Clark to proceed.

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CHAIRMAN PALLADINO: Thank you.

MR. CLARK: Chairman Palladino and commissioners, I am Philip Clark, president, CEO, and a director of GPU Nuclear Corporation.

I will address in more detail the organization and management of GPU Nuclear and the resources applied to TMI-1 as well as the significance to your shutdown orders of ALAB 772 and the recent OI reports.

In summary, we believe you have before you ample evidence of two facts. First, that the questions and concerns which caused the shutdown orders of July and August 1979 have been resolved.

Second, that we have and we have demonstrated the ability to operate TMI-1 **safely** and at the same time, clean up TMI-2.

The major lessons from the TMI-2 accident were not, of course, the hardware lessons. They were people-related lessons, the need for the utility to have substantially greater numbers of its own technically qualified people to effectively manage and direct its nuclear activities, for greatly improved training, for improved procedures, and for greater formality and discipline.

The lessons from both the accident and such events as the pre-accident leak rate practices at TMI-2 and

1 the cheating incidents in training in early '81 and
2 before, also show the need for checks and balances
3 and other safeguards within the organization designed
4 to actively seek out and identify potential problems so
5 they can be properly addressed.

6 Perhaps most importantly, there must be full
7 recognition and acceptance throughout the organization
8 of our responsibility to fully protect the health and
9 safety of our workers and the public and to provide
10 full, open, and timely information about our
11 activities.

12 I believe that all those lessons are recognized in
13 the GPU Nuclear organization and in our selection
14 training of our people.

15 Figure One shows the mission of GPU Nuclear. This
16 mission was established at the very inception of the
17 company.

18 It's widely publicized throughout the organization.
19 And the primacy of our responsibility to protect public
20 alth and safety is clearly established there.

21 Figure Two shows the major elements we designed
22 into GPU Nuclear to address the unique requirements of
23 nuclear power.

24 Some of those are full-time organization solely
25 dedicated to nuclear generation, increased on-site

1 technical and management resources, strong central
2 technical control, full-time on-site management for
3 plant operation and maintenance, independent expertise
4 and management for engineering, radiation protection,
5 and other disciplines, extensive checks and balances.

6 Figure Three shows the organization of GPU Nuclear
7 which reflects those elements. Of the 12 senior
8 persons in the organization, eight, including me, Mr.
9 Kentner, my deputy, Mr. Huckel, the director of TMI-1,
10 joined the GPU system since March 1979.

11 Three of the remaining four had no involvement with
12 Metropolitan Edison Company. These are all highly-
13 qualified, experienced technical managers who have
14 demonstrated the proper attitudes and standards in
15 long, successful careers.

16 Brief biographies of those people, as well as of
17 our board of directors, are included at the end of my
18 statement.

19 Figure Four shows the total full-time people now in
20 GPU Nuclear and the large portion of those having
21 technical background and experience.

22 These people represent major increases in the
23 capability applied to operating GPU Nuclear plants.
24 That chart shows 2,637 total people, 646 people having
25 professional technical degrees, and over 7,600 years of

1 experience of those professional technical people.

2 Figure Five shows the GPU Nuclear people applied to
3 TMI-1 today, compared to those applied by Med Ed in
4 1979.

5 Overall, there are now two and a half to three
6 times as many people applied to TMI-1 than before the
7 accident, with an even greater increase in key areas.

8 That table shows 915 people applied today, compared
9 to 315 in March of '79. Of the 435 key people, three-
10 quarters are new to the GPU system since March of 1979.

11 Mr. Kuhns' statement that this is a new company is
12 borne out by all of the above.

13 As one example, there are now 106 full-time people
14 on our GPU Nuclear training staff, with over 50 applied
15 to TMI-1 training alone.

16 To address the Appeal Board remand on the
17 significance of the cheating incidents in early '81 and
18 before, to our training, I reconvene the Operator
19 Accelerated Retraining Program Committee which
20 testified before and was relied upon by the ASLB.

21 Its report has been provided to you and to the
22 parties. They had a lot of conclusions, but I believe
23 four of the most pertinent are as follows.

24 The committee is pleased at the response of GPU
25 Nuclear training and education department to the

1 recommendations contained in our ED report. It feels
2 "the progress has been outstanding, and that the GPU
3 Nuclear training and education department now ranks
4 among the top utility training programs in the United
5 States.

6 "The management of the training program recognizes
7 its responsibility associated with the cheating
8 incident.

9 It has taken specific steps to correct the
10 situation and are dedicated to assuring that it never
11 happens again.

12 The examination development, control, and security
13 procedures are more extensive than any that the
14 committee has seen in industry or academia.

15 Finally, the bottom line, as far as the committee
16 is concerned, is that the GPU Nuclear training program
17 produces qualified operators and it is adequate to
18 support the restart of TMI-1.

19 I add here, not in my prepared statement, that the
20 committee has been asked to continue its reviews. I
21 met with their chairman, Dr. Eurig, last night.

22 The committee has been at TMI Monday, Tuesday, and
23 the members and Dr. Eurig are there today. I wanted to
24 hear first hand their latest conclusions.

25 They have been talking to the operators and the

1 management in order to assess not just the program but
2 the results.

3 He advised me that their continuing review beyond
4 that reflected in their report further confirms their
5 conclusions.

6 Dr. Eurig is with us today if there is any desire
7 to refer questions to him.

8 With respect to our overall training program, the
9 latest TMI-1 self-report states, "The licensee's
10 training program is extensive, the general employee
11 training program attempts to instill a high regard for
12 quality in all workers of TMI-1.

13 A large number of dedicated training personnel,
14 detailed procedures, specialized manuals, technical
15 forces, and well-maintained and retrievable records
16 reflect a high degree of management attention to
17 implementation of the training program.

18 Control procedures established last year in
19 response to ASLB decision on the reopen proceeding on
20 cheating were well-thought-out and properly
21 implemented.

22 Interface between the plant staff and the training
23 staff is evident, with frequent feedback of practical
24 information into the training program.

25 We are also well along in seeking INPO

1 accreditation of our training programs for licensed and
2 non-licensed operators and STAs.

3 We have taken the initial steps, and as I recall,
4 the INPO team will be on-site in about October of this
5 year to look at those programs.

6 With regard to the other two issues remanded by the
7 Appeal Board, leak rate testing and the D-cam mail
8 gram, the information now available to the Commission
9 is ample, we believe, to conclude that they do not
10 pose (inaudible) to restart and safe operation of TMI-1.

11 With regard to emergency preparedness, the SALT
12 Report (phonetic) have rated TMI-1 as a category one
13 for the last two periods.

14 The latest report states a November 16, 1983
15 exercise indicated significant improvement from the '82
16 exercise.

17 Licensee management demonstrated a thorough
18 understanding of previously identified deficiencies,
19 and was responsive in getting them corrected.

20 Additional improvements can be made in the areas of
21 information flow, response implementation, and
22 scenarial development.

23 The licensee's emergency preparedness program is
24 supposed by all levels of management and is adequate to
25 protect public health and safety.

1 We recognize that staff certification of open items
2 for restart such as emergency planning, must address
3 the adequacy of off-site communications in light of the
4 ASLB finding and the FEMA report.

5 To address this item, we arranged in June and July
6 for the involved off-site counties to participate in
7 two FEMA-observed communication drills.

8 We believe those drills provide the basis for staff
9 certification.

10 To the extent the staff believes it needs more
11 information, major exercises are scheduled in early
12 fall.

13 In any event, Commission action to lift the
14 immediate effectiveness of the orders should provide
15 and I think must provide in some cases for subsequent
16 completion of staff certification and should not
17 require prior certification of this or any other of the
18 few remaining open items.

19 We believe the recent OI reports and the NRC
20 staff's assessment in Supplement V to NUREG 0680
21 provide no grounds for delaying a decision to lift the
22 immediate effectiveness of your orders.

23 Our detailed basis for that is provided in our
24 filing of July 26th.

25 The total performance of GPU Nuclear on TMI-1 as

1 summarized in the SALT reports (phonetic) states,
2 "Overall, this assessment found that the licensee is
3 continuing to devote considerable resources, to improve
4 performance in all areas of the organization,
5 management attention in identifying and correcting
6 weaknesses is apparent from licensee initiatives noted
7 in the areas reviewed.

8 Management's commitment to safety is also apparent
9 from their extensive commitment to personnel training,
10 continuing efforts to staff the organization with
11 highly technical, competent personnel, and the
12 implementation of a stringent policy regarding
13 procedural adherence.

14 The OPE memo of July 12 issue with your notice
15 outlined possible approaches to a TMI-1 decision. In
16 our view, it would be unnecessary and unfair to
17 continue to defer the already long delayed immediate
18 effectiveness decision, and thus continue to provide
19 indefinitely an umbrella under which each and every
20 event can be placed.

21 To do so would continue to compound the already
22 complex and confusing matter of determining whether
23 TMI-1 of the 12 reactor plants of similar design in the
24 United States should alone be prevented from operating.

25 The lengthy time which has passed has seen the

1 new issues arise. This is not unique to TMI. You know
2 that additional questions and issues are always being
3 raised and addressed at nuclear plants.

4 The Commission has established procedures for
5 dealing with such issues. These should be applied for
6 TMI-1.

7 Staff certification, steam generator license
8 amendment, any other items needed for actual restart
9 should be addressed on their merits in the common sense
10 of the word as we all understand it, but not within the
11 framework of the immediate effectiveness of your 1979
12 orders.

13 We believe that the additional hearings which
14 the Appeal Board has directed are not warranted and
15 have petitioned the Commission to reverse the Appeal
16 Board's directive.

17 If the Commission does not overrule the Appeal
18 Board, any hearing should proceed expeditiously. In
19 any event, any deficiencies in the record the Appeal
20 Board has before it have been resolved in the addition-
21 al materials presented directly to the Commission, so
22 as to allow a Commission decision on restart.

23 Therefore, any such hearings and a decision thereon
24 should not be a precondition to lifting the 1979
25

1 orders. We strongly urge you to make a decision now to
2 lift the immediate effectiveness of your 1979 orders.

3 The issues which form the basis for immediate
4 effectiveness have been investigated, discussed,
5 litigated at length, and we believe resolved.

6 There is before you ample basis to make a favorable
7 decision on those orders.

8 Thank you.

9 CHAIRMAN PALLADINO: Thank you, gentlemen. I have
10 four questions I'd like to ask. Three of them are
11 related, as a matter of fact, I think, focus on one
12 point, and that is the question of management
13 integrity.

14 Let me start with those three questions. The first
15 question refers to your comment about the leak rate
16 testing at TMI-2 prior to the accident.

17 I'm not looking at the details of that. What I'm
18 looking at is the fact that even though the government
19 said the top management wasn't involved, the board
20 wasn't involved, yet it seems to me that top management
21 has a responsibility to be giving oversight to the
22 operations such that these things are not likely to
23 develop and are caught in the bud.

24 Again, I'm not sure that I have understood what it
25 is that could provide us the assurance that such a

1 thing won't take place again. And I'm going to go on
2 to my second question, because I think these three
3 questions are all related.

4 I come to the point of the staff's statement that
5 its position in the management competence phase of the
6 hearings would have been different had it known of the
7 information as it now is.

8 There again comes the question of even in more
9 recent times, we have not had the full flavor of what's
10 been going on in GPU such that when the staff comments
11 in a hearing on GPU's organization, or on the overall
12 organization, this management, that it can't be sure
13 that all the information is provided.

14 In other words, here it goes back and says, "Had we
15 know all these things that we've learned during the
16 past few years, we would have made different comments
17 on management."

18 And here again, say, even in more recent years, has
19 the organization been such that we do get forthcoming
20 information so that we don't have to backtrack on
21 decisions or so that we can be assured that things
22 don't happen such that they might lead to serious
23 events.

24 And my third question, that relates again to this same
25 matter, has to do with a question, I think, I raised at

1 the November meeting, the question of responsibility
2 and fault.

3 You have admitted again that you're responsible,
4 but during the November meeting, there was a tendency
5 to look back and say, "But we were not at fault in all
6 aspects with regard to the TMI-2 accident."

7 And I'm not interested in going back to see whether
8 you were at fault or not, but I am concerned that in
9 extending this concept forward, that this
10 responsibility that you're reasserting is strong enough
11 so that there aren't weak links so that you can say,
12 "Well, we really weren't at fault on that. There was
13 information we might have been provided, but it wasn't
14 provided to us."

15 My feeling is that it takes a provocative stance on
16 the part of the management to make sure it has the
17 information necessarily to do the job.

18 And so I'd like to get comments on these three
19 questions. They all focus to the degree of confidence
20 that we, as a Commission, can have in the
21 forthrightness, integrity, and the pursuit of sound
22 management in handling TMI-1 if it were restarted.

23 MR. KUHNS: Let me start on that, Mr. Chairman.

24 MR. CLARK: I'd like to comment also.

25 MR. KUHNS: Absolutely, and I'd like you to

1 describe the things that are in place that we think
2 specifically would prevent the kinds of things from
3 happening again that happened before.

4 We do accept responsibility for that leak rate
5 testing mess. It was a mess, and the procedures were
6 not enforced.

7 The people were not impressed, apparently, with the
8 seriousness of that test. A key point is those people
9 are not there. We have made changes.

10 (Audience laughter.)

11 CHAIRMAN PALLADINO: But the top management is
12 still there, at least very high.

13 (Audience applause.)

14 CHAIRMAN PALLADINO: This is where I'm trying to
15 go. How can it be assured that perhaps the casual
16 reaction to what's going on in the organization might
17 lead to future problems?

18 MR. KUHNS: The top management of the plant is not
19 there.

20 CHAIRMAN PALLADINO: Well, go ahead.

21 MR. KUHNS: Now when you say top management, are
22 you talking about Kuhns and DeCamp (phonetic)?

23 CHAIRMAN PALLADINO: They are certainly included.

24 MR. KUHNS: As senior officers of the system, and
25 they are there, but we have made changes which we think

1 are very extensive. I described them as I went
2 through my presentation.

3 Certainly a key change, from my standpoint, was
4 initially the formation of GPU Nuclear. This is a
5 separate...we didn't have that before.

6 We had the operating company who had the
7 responsibility for operating TMI-1, Metropolitan
8 Edison, running that plant along with a lot of other
9 responsibilities.

10 The president of that company had not only that
11 responsibility, but his fossil plants, his building,
12 his total across-the-company operations.

13 We have changed all that. We decided, wisely, I
14 believe, that nuclear power can't be effectively managed
15 that way, so we set up this separate single focused
16 organization called GPU Nuclear.

17 And how have we staffed it? With new people and a
18 new board of directors, in the sense that we have
19 brought on that board a new chairman, Jack O'Leary,
20 three new outside men, Messrs. Laney, Witsig, and
21 Humphreys, who comprise a Nuclear Safety and Compliance
22 Committee, who have in turn hired consultants to
23 maintain a presence in that plant, to maintain a
24 separate view of what's going on, so that there
25 are...and Phil can talk in more detail about other

1 checks and balances that we have introduced that would
2 assure us and you, we hope, that that kind of disregard
3 for procedures could not occur, or if it did occur, it
4 wouldn't occur for more than a few minutes.

5 It would be immediately caught by the various
6 review groups and procedures that we now have, external
7 visibility, reports to the public of all that goes on,
8 and to this Commission. That just can't happen. It's
9 a new organization.

10 CHAIRMAN PALLADINO: Let me be more specific.
11 After the accident, yes, there was a reorganization.
12 My problem is, is the top management set up in looking
13 at the organization, such that it recognizes precursors
14 to situations, so that any slovenly practices are
15 stopped before they bring about an accident?

16 MR. KUHNS: Absolutely. Absolutely.

17 CHAIRMAN PALLADINO: And if there's a need for
18 reorganization to take place before an accident, not
19 after.

20 MR. KUHNS: Absolutely. Mr. Clark can talk more
21 specifically about these checks and balances. Last
22 night I was reading...we get biweekly reports now, the
23 top management, including myself, of the total nuclear
24 program bifunctions.

25 And we have off-shift reviews by plant personnel,

1 off-shift plant tours they make at high levels of
2 management. They make a record of this. They note
3 deficiencies.

4 There is a follow up on those. That never occurred
5 before. We didn't have that kind of a thing in place.
6 Phil can more specifically identify the other checks
7 and balances.

8 MR. CLARK: Let me pick up first on what I think is
9 a complementary comment with regard to the senior
10 management involvement in the last several years to
11 what Mr. Kuhns said.

12 There is very heavy involvement by the senior
13 management, including the board of directors, including
14 Mr. Kuhns and Mr. DeCamp, and very clear evidence to me
15 that they are interested in knowing what the problems
16 are, and interested in having us very aggressively seek
17 out those problems.

18 I firmly believe that that's an important element,
19 and I tried to address that in my prepared remarks
20 where I talked about the lesson from the leak rate
21 question and the cheating incidents, and that lesson
22 being the need to actively and aggressively look for
23 potential problems so that they can be addressed. And
24 that is done actively.

25 I'll give you some more examples than Mr. Kuhns

1 gave, including reflecting those problems up through
2 the board of directors.

3 The board goes to the sites, each plant, twice a
4 year. They interact with the people, not only the
5 management, but the people down in the organization.

6 In addition to the off-shift management tours that
7 Mr. Kuhns referred to, we have QA shift monitoring
8 people on every shift.

9 Their job is to look for procedure compliance
10 problems that may be there, identify them, document
11 them so they get resolved.

12 We have full-time on-shift STAs, different than
13 some other people. We have an independent on-site
14 full-time safety review group dedicated to looking for
15 problems.

16 The checkers, if you will, which include QA, the
17 safety review group, have an exercise access to the top
18 management.

19 The QA director is in with the board of directors
20 quarterly. There are just all kinds of steps taken and
21 we do fully recognize that management has the
22 obligation to seek out potential problems and address
23 them. And we have a great many mechanisms in place.

24 I made up a list one time at the board's request of
25 such mechanisms, because the board was concerned as to

1 whether we had that. So there is, in fact, a memo from
2 me to Mr. Kuhns saying, "Here are the things that I
3 think help protect us against the kind of thing that
4 happened in the TMI-2 leak rate."

5 So he was interested to ask, and I was able to
6 satisfy him that there are a great many such steps in
7 place.

8 With regard to the staff comments on what they
9 would have said earlier if they knew what they know
10 today, I think the staff has to speak to exactly what
11 that meant. I won't attempt to.

12 A great deal of what they know today that they
13 didn't know then goes to pre-'79, and I think it is not
14 of great pertinence to today.

15 With regard to information flow, I do recognize the
16 importance of that. You will find that my prepared
17 statement does speak directly to that.

18 You will find that the instructions down through
19 the organization do speak directly to that, and you
20 will find that in a day-to-day implementation within
21 the organization, which I think is what really counts,
22 it's not the policy you put out, although that's
23 important, but it's how it gets implemented and how
24 they see the management feels about it.

25 I think you will find that that shows management

1 interest, involvement, exertation, to keep the NRC and
2 the public fully and openly informed.

3 And I think there's plenty of evidence of that. In
4 terms of responsibility, I've spoken to this Commission
5 before in terms of this question and said there's no
6 question in my mind but what I am and feel and will act
7 responsible for everything that happens within the
8 nuclear activities. And I repeat that assurance to you
9 today.

10 There's just no question about that in my mind,
11 there's no question about that in my experience and
12 training, and in my own approach to the job, and I
13 might add, in the approach to the job of the people
14 reporting to me.

15 Those people, and again, I tried to say this in my
16 prepared statement, were selected on the basis not only
17 of experience but of proper attitude on responsibility
18 toward public health and safety.

19 If I made the right notes, your last comment was
20 does management have to take the initiative and find
21 out, and I think I've already addressed that as I have
22 gone through.

23 So I hope that's response, Mr. Chairman, to all
24 three of the questions.

25 CHAIRMAN PALLADINO: I was really looking to, does

1 the board have a mechanism now and is it working, such
2 that it can identify problems that may require change
3 in the organization, major change in the organization,
4 based on the information they get, without waiting for
5 an accident to happen to bring that forth.

6 I gather the Nuclear Safety and Oversight Committee
7 is an important ...

8 MR. CLARK: There's an additional one. We have a
9 general office review board, which is not in our tech
10 specs, senior outside people involved in that.

11 They report to me, but their reports go to the
12 board of directors, and they meet every year with the
13 board of directors just so that there is an opportunity
14 for real dialogue at that level.

15 There are just, Mr. Chairman, a whole variety of
16 mechanisms. We really have been extremely conscious of
17 the need to look for and be able to address potential
18 problems and not wait until we have something go wrong.

19 MR. KUHNS: Let me put it in its worst light, if I
20 may. I think we have, and I think it's a test of the
21 adequacy perhaps of the controls and the oversights and
22 the visibility that we've provided.

23 I think we have an organization set up here today
24 that would make it impossible for any of us as
25 individuals to mess it up.

1 (Audience laughter.)

2 MR. KUHNS: I really mean that, and I say I put it
3 in its worst sense, and the cheapest sense, if you
4 will.

5 But there are enough checks and balances that if
6 any one of us or more of us are negligent or lack the
7 diligence that we ought to have, it will be revealed.

8 It will not be covered up, and it certainly is not
9 going to affect the safe operation of that plant.

10 Would it help, Mr. Chairman, to have Mr. Laney, the
11 chairman of that committee, say a few words in terms of
12 his...

13 (Audience expresses negative feelings.)

14 MR. KUHNS: ...visibility or his perception of how
15 he sees his role and the independence of that board?

16 CHAIRMAN PALLADINO: I think in the end it's going
17 to come down to see the extent to which the board is
18 effective in its operations. Let me not dwell anymore
19 on that for a moment.

20 MR. KUHNS: You had one other question.

21 CHAIRMAN PALLADINO: One other question.

22 MR. KUHNS: Yes, sir.

23 CHAIRMAN PALLADINO: It had to do with the funding
24 of TMI-2 cleanup.

25 MR. KUHNS: You also asked the question about the

1 law suit.

2 CHAIRMAN PALLADINO: Well, I was asking the
3 question about looking to the future as a question of
4 responsibility and fault, clear enough so that we're
5 not going to find...

6 MR. KUHNS: I would like to make a comment on that,
7 if I may, because it was a subject of discussion at the
8 last meeting.

9 I want to very clearly separate our sense of
10 responsibility and specifically the law suit that we
11 have pending at this time against the U.S. Government.
12 We do have an obli...

13 CHAIRMAN PALLADINO: Excuse me. Ladies and
14 gentlemen, I appreciate that you have great interest in
15 this matter.

16 But it does help if we can keep down the background
17 noise and response, emotional response, to what's being
18 said,

19 Thank you.

20 MR. KUHNS: Thank you, Mr. Chairman. Following the
21 accident, several investigations, as you know, were
22 made, the Presidential Commission, the Kemmeny
23 Commission, the Rogovin Commission and other
24 investigations revealed deficiencies in the process
25 that went beyond our own responsibility.

1 It doesn't detract one bit from our responsibility
2 for what happened. I want to make that perfectly
3 clear.

4 However, it did reveal an area that the lawyers, in
5 looking at it, and pursuing their sense, our sense of
6 our obligation to our customers and our stockholders,
7 to pursue possible claims that we may have, found this
8 violation, suspected violation of, I think, Section 206
9 of the Energy Reorganization Act, and it was on that
10 basis that that law suit was filed.

11 That legal issue really has nothing...does not
12 involve the exercise by the NRC of its regulatory
13 responsibilities or authority.

14 It's separate and apart from that, and it does not
15 affect our perception, our understanding, of our own
16 responsibility.

17 CHAIRMAN PALLADINO: I wasn't thinking of the law
18 suit per se. I was thinking where the acceptance of
19 responsibility is complete enough so that it goes to
20 exercising initiative in getting any information that
21 you need to being aware of the circumstances going on
22 in the plant, either organizationally or substantively,
23 in the technical matters.

24 And it's that little gnawing feeling that I still
25 have that I was trying to explore, so that if something

1 goes bad, it doesn't automatically mean that it isn't
2 the organization's fault.

3 MR. KUHNS: No, sir. No, sir.

4 CHAIRMAN PALLADINO: I understand in accidents
5 there may be accidents ...

6 MR. KUHNS: We recognize, Mr. Chairman, from the
7 top down that TMI-1 has to be the best run nuclear
8 facility in the world, bar none. It's got to be, and
9 it will be.

10 (Audience laughter.)

11 CHAIRMAN PALLADINO: Let me go to my fourth
12 question. That had to do with funding.

13 MR. KUHNS: Yes, sir.

14 CHAIRMAN PALLADINO: You're quite aware of the
15 governor's plan and all the participants involved in
16 leading the funding of the cleanup, but at this moment,
17 I know it's difficult to talk about the amount of short
18 fall, because it's ever changing.

19 But I was wondering if you could comment, the
20 extent to which GPU can make commitments to make sure
21 that the funds needed for cleanup will be there as
22 needed, so that the cleanup can go on expeditiously.

23 MR. KUHNS: Yes, sir.

24 CHAIRMAN PALLADINO: I think it would be very
25 assuring if we had the strong commitment from GPU

1 Nuclear on making sure that the funds will be provided
2 for cleanup on a timely basis.

3 MR. KUHNS: We make the...my letter to Governor
4 Thornburgh, dated July 20, which is attached to my
5 statement, covers that point, I hope. We can amplify
6 it to the extent you wish.

7 CHAIRMAN PALLADINO: Maybe it's worth highlighting.

8 MR. KUHNS: Well, yeah, let me just do that. We
9 make the flat-out commitment that the earliest cleanup
10 completion within the confines of our total obligations
11 and capabilities is in everyone's interest, our efforts
12 to date in our future plants are directed toward this
13 objective.

14 We unequivocally accept as our number one
15 responsibility the protection of the health and safety
16 of the public and our workers.

17 This has been and will continue to be our policy no
18 matter what the pace of the cleanup may be. So we make
19 that flat-out commitment.

20 We absolutely will provide the resources needed to
21 protect the health and safety.

22 Now beyond that, to the extent of affecting the
23 pace of the cleanup itself, that letter does address
24 that, and attaches a schedule.

25 And Mr. Peterson received this information within

1 the NRC organization, which shows the projected TMI-2
2 spending and the sources of that funding through 1990.

3 The cleanup is virtually completed by the end of
4 1988 or early into 1989, but we take it out through
5 1990.

6 We show on that schedule the sources, and we feel
7 more assured about the industry share of 150 million
8 than the governor expressed here today.

9 His doubts are justified. I don't mean to suggest
10 anything other than that. But we believe that the
11 industry has now put in place a program with its
12 voluntary piece, supplemented by the diversion of every
13 dues by Pennsylvania and New Jersey utilities to a
14 total of 25 million a year for six years, and that's in
15 place, and that's going to work, we believe, very
16 strongly.

17 There is a slight update to the governor's number
18 this morning. We have provided him with that number.
19 We didn't get to him before we had an update this
20 morning.

21 The total commitment at this point is a
22 reaffirmation, if you will, \$46.6 million, and there
23 will be a follow up program to raise that as closely as
24 possible to at least the roughly 70 to 80 million that
25 had been committed prior to that.

1 But that level will then determine the extent of
2 the (inaudible) dues diversion. We are assured by this
3 program of 25 million a year, and that is reflected in
4 this schedule.

5 The schedule shows the expenditures, the sources,
6 as I say, through 1990. It indicates on the bottom
7 line, cumulative company advances.

8 Do you have that, Commissioner Bernthal? This is
9 attached. There it is.

10 MR. CLARK: The one that runs across the page,
11 table.

12 MR. KUHNS: The last attachment to my statement.
13 Do you have it, commissioner? It shows that company
14 advances...

15 MR. CLARK: Do you have them?

16 CHAIRMAN PALLADINO: Is this it?

17 MR. CLARK: Yes, yes.

18 MR. KUHNS: Bottom line shows increasing company
19 advances cumulative, 7 million the end of this year,
20 18, 35, 68, 86, 60, and then it comes down because
21 we're spending less than we're getting.

22 It does show a net advance of \$38 million. And
23 certainly we would commit to provide those funds. We
24 do say in my letter to the governor, and it is true,
25 that we do not see our ability to advance those funds

1 aggragating an advance of \$86 million by '88 without
2 the return to service of Unit 1.

3 That is not said as a threat. It really isn't.
4 But we have to have...we have a dual obligation of
5 maintaining service to our customers and we have to be
6 able to meet all of these public demands.

7 And the return to service of Unit 1 is in the
8 interest of the financial capability to fully fund this
9 cleanup at a pace that we all want to maintain.

10 The customers, upon the return of Unit 1, of
11 course, will see a rate reduction of \$80 million a
12 year.

13 They're helped by that. That's an economic
14 advantage.

15 (Audience laughter.)

16 MR. KUHNS: If TMI-1 never returns to service, it
17 will have to be replaced with a coal plant, probably,
18 another nuclear plant, perhaps, which will cost ...

19 (Audience applause.)

20 MR. KUHNS: ...two and a half to three and a half
21 billion dollars. This plant is on our books at
22 something around \$400 to \$500 million, an enormous
23 bargain for the customers.

24 (Audience laughter.)

25 MR. KUHNS: The economic impact of restart is not the
 major

1 concern of this Commission, we recognize, but all
2 things being equal, it certainly is something not to be
3 ignored.

4 And in the context of funding, it's very relevant.
5 We have cash problems. You've probably noticed
6 increasing earnings reports that we've issued in recent
7 months.

8 Our earnings are improving. But our cash position
9 is still very tight. And this displays somewhat the
10 tightness of that position.

11 CHAIRMAN PALLADINO: Well, I think we're going just
12 a little beyond where I wanted to go. I was looking
13 for ...

14 MR. CLARK: May I comment just a minute?

15 CHAIRMAN PALLADINO: ... a commitment that would
16 help this Commission, help the governor in his thinking
17 with regard to funding of the TMI-2 cleanup.

18 MR. CLARK: But...

19 CHAIRMAN PALLADINO: And that's the thrust of my
20 question.

21 MR. CLARK: Could I comment, Mr. Chairman? One
22 part of the comment is history, and the other is
23 current.

24 In, as I recall, September of 1980, the
25 Pennsylvania Public Utility Commission issued an order

1 or memorandum or something which said in essence, no
2 penny of rate-payers' money shall be spent on cleanup.

3 The day that was received, I issued to the director
4 of TMI-2 with the agreement of the management at that
5 time, an order which said, "Continue to do everything
6 required to protect public health and safety."

7 GP^NNuclear is charged and has the authority to
8 spend without prior authorization from the owners funds
9 required to protect the public health and safety.

10 And I think both of those, both what happened in
11 '80 and that situation today, go quite directly to what
12 I understand your concern to be.

13 (Audience applause.)

14 MR. KUHNS: My only qualification, not to what Phil
15 says, but to what I was saying earlier is that without
16 the restart of Unit 1, the pace of the cleanup will be
17 affected, in my judgment.

18 CHAIRMAN PALLADINO: Okay.

19 MR. KUHNS: The health and safety of the public
20 will not be in jeopardy as a result of that. We will
21 see to that.

22 CHAIRMAN PALLADINO: Well, one of the concerns I
23 have is that the plant is in a condition for which it
24 was not designed and there's always a possibility of
25 deterioration with time.

1 And if the cleanup is delayed, then the likelihood
2 that something might deteriorate that we would rather
3 not have deteriorate would increase, and that's why I'd
4 like to make sure it goes on expeditiously.

5 MR. CLARK: Well, we obviously are concerned with
6 getting on with it as quickly as we can. I think it is
7 important, also, Mr. Chairman, to recognize that while
8 the plant is in a condition it was not designed for,
9 the elements of an off-site threat, which are how much
10 radioactivity is there, how much energy is there in
11 order to disperse that radioactivity, and the
12 combination of those two, is far, far different today
13 than an operating plant than even in 1979, so that when
14 you try to assess the risk, you know, there is a very
15 low level of risk.

16 And I think your own staff would recognize that
17 and certainly the assessment we had from the Safety
18 Advisory Board, they chose to emphasize that.

19 That is not to say that we are not interested and
20 do not intend to clean it up as quickly as we can. I
21 mean, that is what needs to be done, and what we
22 intend to do.

23 COMMISSIONER BERNTHAL: Let me just interject...

24 CHAIRMAN PALLADINO: Go ahead.

25 COMMISSIONER BERNTHAL: ...a comment. What you say

1 is true, of course, that one can...I should say, one
2 can look at risk, but there also is the important
3 question of public confidence.
4

5 I have to recall the time some months ago, I guess,
6 when I spoke with some of the local residents of the
7 area.

8 And I suppose that's something that should be
9 obvious, even to the outside observer, but the point
10 certainly had not been made before, as pointedly and as
11 clearly as it was there, the impact that the presence
12 of the uncleaned-up plant has on public opinion with
13 respect to restart of the other plant.

14 Whatever the other issues might be, I would just
15 urge you to be especially cognizant of that perception
16 on the part of the public.

17 MR. CLARK: I accept that. I agree.

18 COMMISSIONER BERNTHAL: It's extremely damaging to
19 your position, I would say.

20 MR. KUHNS: I should add something else on cleanup,
21 because the schedule I referred to has DOE funding
22 shown beyond a period presently authorized.

23 DOE has no funds authorized for the cleanup beyond
24 fiscal '85, which ends in October of '85.

25 We have shown some numbers based on our estimate of
what we would hope could be put in place either by the

1 normal DOE budgeting process or through the
2 congressional route.

3 In addition to that, there is still \$15 million a
4 year of Pennsylvania customer money which is
5 conditioned upon restart of Unit 1, under the
6 Thornburgh plan.

7 They were putting up a given amount totalling 246
8 million total. Fifteen million a year of that is still
9 conditioned under a Commission order upon the restart
10 of Unit 1 and will not be available until then.

11 So both of those factors introduce some
12 imponderables that just make it impossible for me to
13 make the pledge that I'd like to make, we absolutely
14 can assure the present pace and total funding of the
15 cleanup.

16 (Audience interruption.)

17 CHAIRMAN PALLADINO: Excuse me. We're going to
18 have to keep order in the room, so I would appreciate
19 your cooperating.

20 Commissioner Asselstine, do you have a question?

21 COMMISSIONER ASSELSTINE: I have just a couple of
22 questions. Let me follow up on the cleanup funding
23 questions briefly.

24 CHAIRMAN PALLADINO: Let me explain about time.
25 The Commission will take all the time it wants in

1 questioning the presenters, and to do less than that
2 would not permit us to discharge our responsibilities.

3 So I'm not going to curtail the discussion. I will
4 watch for the amount of time the people take in making
5 a presentation.

6 Go ahead, Commissioner.

7 COMMISSIONER ASSELSTINE: On the cleanup funding,
8 would you agree with the point that Governor Thornburgh
9 made that the key missing element right now is the
10 fulfillment of the utility pledges or commitments in
11 terms of the funding, that the other elements are
12 pretty much there, that's the one that's still missing?

13 MR. KUHNS: The other elements are pretty much
14 there. I have a greater degree of confidence about the
15 industry share than he does, for reasons that he
16 stated.

17 I understand those reasons. He tends to take the
18 position that, "I won't believe it until I see the
19 money flowing."

20 The program, as it's now been put in place,
21 provides for the beginning of the flow of funds,
22 January 1, 1985.

23 But I feel confident the program is there and will
24 be followed.

25 COMMISSIONER ASSELSTINE: I was wondering if you

1 had any thoughts or ideas on what else might be done,
2 both to get a higher level of commitments, up to the
3 kinds of levels that you're talking about here on your
4 chart, and also to make sure that the money in fact
5 comes through, that people fulfill on the pledges and
6 commitments from the other utilities?

7 I know you've spoken to the EEI board from time to
8 time about it. Others have, as well. I wonder if you
9 have any other ideas on what can be done to make sure
10 that that \$153 million or \$200 million, whichever it
11 is, is a firm commitment, and in fact will be delivered
12 upon.

13 MR. KUHNS: Well, I have no doubt that those who
14 have signed the commitment are all good companies.
15 They're substantial organizations of integrity, and
16 they will stand behind it.

17 We had a couple drop out for reasons of their own
18 problems, and you might guess they're largely nuclear
19 problems.

20 They're struggling with plants throughout the
21 country and we had two drop-outs. One was not included
22 in the original pledge. One was and dropped out.
23 But I feel confident that those who have pledged and
24 will pledge will maintain that pledge. I don't see
25 what we can do beyond that, other than to trust them.

1 We're never going to be in the position with the
2 cleanup, as I think Dr. Snyder said at one hearing but
3 all the money's in the bank.
4

5 We feel very confident about the cleanup on the
6 basis that it's been developed...funding, on the basis
7 that it's been developed, with these uncertainties that
8 I've mentioned.

9 The DOE funding is important, and we're working
10 there to try to get a kind of a commitment beyond
11 fiscal '85 that we need.

12 We think it would be tragic for the U.S. Department
13 of Energy to walk away from that site when the
14 centerpiece of the cleanup is about to be accomplished,
15 namely, the fuel removal.

16 And the Japanese involvement, of course, will be
17 there. So we think it's an important role for the DOE
18 to continue, at least for two years beyond fiscal '85.

19 We show that in our projections. The restart of
20 Unit 1 is a condition that is important, we believe,
21 again, to the pace of funding.

22 MR. CLARK: Commissioner, I wonder from the
23 question whether the current plan under which the
24 Pennsylvania and New Jersey utilities have said they
25 will make up the short fall of the EEI pledges so as to
assure that 25 million a year does flow starting in

1 January '85, whether that plan is really understood.

2 To the extent that that's the case, and that's what
3 they have said, then the absolute level of the EEI
4 pledges per se does not affect the money which will
5 flow to cleanup.

6 And I think that's an important point, and a change
7 from before June 'til today, and does give us, and I
8 think should give you considerable added confidence
9 that money will start flowing at that rate in January
10 of '85.

11 COMMISSIONER ASSELSTINE: So it's not a question of
12 whether the money will be available; it's a question of
13 who will ultimately end up paying for it.

14 MR. CLARK: I think in substantial essence, yes.

15 MR. KUHNS: The dues, just to put that clearer in
16 numbers, the dues of the Pennsylvania and New Jersey
17 utilities to aggregate about \$25 million a year to the
18 extent that the voluntary program provides funds, the
19 diversion will be less than their full dues.

20 COMMISSIONER ASSELSTINE: Yes.

21 MR. KUHNS: But that relationship is important, I
22 think, to the integrity of that total \$25 million.

23 COMMISSIONER ASSELSTINE: Uh-huh.

24 CHAIRMAN PALLADINO: More questions?

25 COMMISSIONER ASSELSTINE: I had two other

1 questions, not relating to the cleanup.

2 CHAIRMAN PALLADINO: Go ahead.

3 COMMISSIONER ASSELSTINE: Bill, you've mentioned
4 from time to time the importance of the new
5 organization.

6 MR. KUHNS: Yes, sir.

7 COMMISSIONER ASSELSTINE: That's really the
8 centerpiece of what you think ought to be the basis for
9 the Commission's confidence.

10 MR. KUHNS: Yes, sir.

11 COMMISSIONER ASSELSTINE: To what extent do you
12 think that the occurrence of the operator licensing
13 cheating incidents and GPU response to it, and the
14 occurrence of the non-compliance procedures on TMI
15 cleanup, TMI-2 cleanup, and GPU response to that, are
16 fair tests of the new organization?

17 To what extent, can I look at both of those
18 events, in making, do you you think, in making a fair
19 appraisal of how effectively the new organization is
20 going to be able to, one, anticipate and avoid
21 problems, and, two, respond promptly and effectively in
22 dealing with problems, even when they're difficult to
23 deal with?

24 Even when it requires replacing people, firing
25 them, cleaning house, correcting serious problems in

1 terms of attitudes and performance. Do you think those
2 are two fair tests?

3 MR. KUHNS: The first one was the cheating?

4 COMMISSIONER ASSELSTINE: Operating license
5 cheating incidents after the accident.

6 MR. KUHNS: After the accident in 1980...

7 COMMISSIONER ASSELSTINE: And the non-compliance
8 with the procedural non-compliances on the TMI-2
9 cleanup.

10 MR. CLARK: Polar crane kinds of procedure issues?

11 COMMISSIONER ASSELSTINE: That's right, and how you
12 responded to both of those incidents.

13 MR. KUHNS: Certainly, taking them one by one, the
14 cheating incident I would say certainly occurred before
15 we had this organization in place.

16 People who managed the response largely aren't with
17 GPU Nuclear. I don't think that's a test of the new
18 organization.

19 The polar crane situation, talked about that
20 before. We did...I did acknowledge that there was some
21 confusion, at least, between the GPU presence and the
22 Bechtel presence and the interrelationship procedures
23 and questions of which procedures should be followed.

24 And it was a failure. It was an absolute failure
25 that we have to take responsibility for.

1 The investigations proved that it didn't impact the
2 safety of the operation, and, of course, the subsequent
3 head lift demonstrated the integrity of the crane and
4 what happened, admittedly, there were deficiencies in
5 following procedures.

6 I think the organizational interface there explains
7 that to some extent. I would ask Phil to comment
8 whether he feels we have now in place, and I know we
9 spent an enormous amount of time and indeed, told the
10 supervision management to do nothing but work on
11 procedures for a period of time to get that subject
12 behind us.

13 MR. CLARK: Let me also add a thought on the
14 cheating incident. I think we all know that the
15 cheating, in fact, took place on an NRC exam. Our
16 operators cheated.

17 We very quickly did fire them. We did undertake
18 our own investigation into the cheating, and while I
19 didn't claim then, and I guess I'm still not an expert
20 in investigations, we tried to do a thorough
21 investigation.

22 And on balance, the licensing board found that the
23 company had carried out a satisfactory investigation,
24 although they pointed out some areas where they thought
25 we could have done more and better.

1 I think on recent incidents that have come up such
2 as the polar crane issue, the TMI-1 leak rate, we have
3 chartered a more thorough investigation, we have gone
4 outside to bring in experienced investigator. And we
5 think that he's done a very thorough job.

6 So one part of our response to that is to recognize
7 better the depth and breadth and strength, if you will,
8 of an investigation and how to carry it out, and I
9 think we've demonstrated we've learned that lesson.

10 I think another part of the "did you learn
11 anything" was the focus that we put internally with the
12 training department management.

13 And this was the board of directors to me and me to
14 the training department management, an assessment of
15 whether we thought they understood their
16 responsibility, I think exactly analogous to the
17 question you people have been asking us today, whether
18 they accepted their responsibility, whether they were
19 facing up to it.

20 I would suggest that the report you have from the
21 OARP committee today, where I charged them to look at
22 that amongst other things, goes very directly to that
23 question.

24 It says that the training management does accept
25 their responsibility, they are dedicated to preventing

1 it, and they have in place methods, systems, controls,
2 unequal to anything the committee has seen.

3 So I think that in a total sense of looking at the
4 response of the organization to those issues, that I
5 think you should, and not at all uncomfortable, with
6 your judging the organization and its response on the
7 basis of our total response to those events.

8 COMMISSIONER ASSELSTINE: I have just one more
9 question.

10 CHAIRMAN PALLADINO: Go ahead.

11 COMMISSIONER ASSELSTINE: It picks up on the
12 comment that Commissioner Zech made to the governor
13 about we're going to do what's right.

14 It seems to me that when this proceeding was all
15 begun, that the Commission basically had promised at
16 that time that the information on which these...that
17 would be used to resolve these issues in the proceeding
18 would be given in the hearing.

19 You've pointed to a lot of information this morning
20 in your statements that you think serve as a basis for
21 lifting the shutdown order.

22 And I think it's fair to say a lot of that
23 information isn't in the record.

24 You mentioned the Rickover Report, our SALT
25 (phonetic) report, the follow up reviews of your

1 training program, a number of those, and some of our
2 Office of Investigation reports as well.

3 Why isn't it the right thing to do now for the
4 Commission to say that before TMI-1 is going to be
5 restarted, that information will also be tested in the
6 hearing, at least on the key issues that the Appeal
7 Board, at least, feels are not fully resolved at the
8 present time, based upon the record that now exists?

9 MR. CLARK: Commissioner, I know there is some
10 legal arguments with regard to procedures, etc.

11 COMMISSIONER ASSELSTINE: (inaudible)

12 MR. CLARK: I'm not...

13 COMMISSIONER ASSELSTINE: That's right.

14 MR. CLARK: I was going to say I'm not familiar
15 with those, I won't attempt to speak to them. I think
16 we have in our filings.

17 I think on a merits basis in the common ordinary
18 English language sense of the word, that the issues
19 which formed the basis for the order, have been
20 addressed, and have been extensively litigated and there is
21 a great deal of information in the record, and the
22 licensing board has in fact issued its partial initial
23 decisions.

24 Now when this thing was set up, the plan was to
25 have the licensing board issue its decisions, and

1 as I recall, the Commission review that, and act within
2 30 or 35 days.

3 All right. The licensing board did issue its
4 decisions. They were all favorable to restart, and
5 it's probably at least two and maybe three years since
6 then.

7 So you know, the issues have been looked at, they
8 have been litigated, they have been tested in cross-
9 examination.

10 I personally was part of that. The rest of the
11 people in the organization were part of that. The GPU
12 Nuclear organization, as it stands today, was litigated
13 in that hearing.

14 So in that sense, the thrust and the intent and the
15 merits as seen **then**, and I think, as legitimately seen
16 today, do call for lifting the shutdown orders.

17 To the extent there are other issues, there are
18 other forums, other proceedings, other methods to deal
19 with them, that's the way you are dealing with the same
20 kinds of issues with almost everybody, if not everybody
21 else.

22 And we suggest that that's the appropriate way to
23 deal with the merits of the TMI-1 issue.

24 COMMISSIONER BERNTHAL: I just point out that...and
25 I'm still learning on this, as at least one of my

1 colleagues is, that one of the wonders of our system
2 that we've developed is that, as I understand it, the
3 Appeal Board remand to the licensing board deals with a
4 record in this matter that was closed in December of
5 1981.

6 Isn't that right?

7 COMMISSIONER ASSELSTINE: I think that's right.

8 COMMISSIONER BERNTHAL: In fact, the issues being
9 discussed here, while two and a half years of other
10 information, extra record, to be sure, has been
11 developed in one way or another, procedurally in this
12 agency, in this particular case, we're arguing about a
13 remand that involves a record that was closed in
14 December of 1981, to me as a non-lawyer, that's quite
15 remarkable.

16 But I won't try to stand in judgment of how you
17 deal with that.

18 I'd like to ask just a couple of questions myself
19 here, Mr. Chairman.

20 CHAIRMAN PALLADINO: Go ahead.

21 COMMISSIONER BERNTHAL: I have to say that it just
22 stretches credibility for me, at least, that here we
23 are five years after the event, talking about whether
24 there's confidence that money will be available, \$3
25 million from the Japanese one year and \$10 million

1 somewhere else, whether or not justifiably. I gather
2 that you have considerable confidence that the money in
3 fact will be there.

4 But we're still talking about scenarios where
5 perhaps it might not be there. That, I think, is just
6 evidence of a failure of government, if I might say, at
7 all levels to deal with the problem.

8 And that failure continues, and there's plenty of
9 blame to go around, and I've referenced some of the
10 blame that I think the NRC has to share.

11 Let me ask a hypothetical question here, and it's
12 hypothetical because I don't know whether the legal
13 basis exists.

14 Suppose that we found that there was the legal
15 basis for the Commission to issue an order that the
16 cleanup be carried out expeditiously and forthwith.

17 Now it's not our responsibility to worry about
18 money in these matters.

19 Could you respond? You may need to consult your
20 legal counsel here, but I'm curious to know whether you
21 have any contingency plan or whether there has been any
22 thought given to a device, financial device, by which
23 that procedure, that cleanup procedure could go ahead.
24 How would GPU seek to comply with such an order?

25 MR. KUHNS: And what would the order again be, Mr.

1 Commissioner?

2 COMMISSIONER BERNTHAL: Simply that the cleanup
3 be carried out forthwith and expeditiously, in other
4 words, that there...

5 MR. KUHNS: Well, that's subject to interpretation.

6 COMMISSIONER BERNTHAL: There would be no...what I
7 want to say is that there would be no room left for
8 stretching out of the schedule based on flow of funds
9 from one source or another.

10 I understand the delicate legal position you're in
11 here, and you may wish to consult before answering, but
12 let me pose the question.

13 MR. KUHNS: Well, the response has to be qualified
14 in the sense that we can't do more than we can do, if
15 you will.

16 We can't spend money we don't have. We now
17 have...our only access to outside capital, other than
18 our revenues from customers, is the revolving credit
19 agreement with banks.

20 That credit agreement is designed, and the levels
21 are established, to maintain the solvency of the
22 organization during this period.

23 COMMISSIONER BERNTHAL: So you're simply saying
24 that you could not comply with such an order unless
25 other funding that we've described becomes available on

1 a timely basis.

2 MR. KUHNS: We would do everything we could to
3 comply, Commissioner. We would certainly try, as a
4 part of that response, to establish to your
5 satisfaction that the health and safety is not in
6 jeopardy, as a result of this delay.

7 I don't think we're talking here about a site that
8 has to be cleaned up by this date or all hell's going
9 to break loose.

10 I don't think anybody takes that position. We all
11 want it cleaned up, and it isn't going to get any
12 better while it's waiting to be cleaned up.

13 But I think the kind of reviews that we've made now
14 by this subcommittee of the SAB indicates not total
15 comfort, we're not relaxed about the cleanup, but it
16 certainly ought to be viewed as giving some time to
17 accomplish the job, and let these cleanup sources move
18 along.

19 AUDIENCE MEMBER: How?

20 MR. KUHNS: We're not ... and they're there. They
21 really are there. I have to keep saying to you that
22 from our standpoint, Unit 1's restart is important, and
23 you can't pay much attention to that, I realize that,
24 in terms of the safety question.

25 But it's got to be part of my answer to that kind

1 of an order.

2 COMMISSIONER BERNTHAL: Let me ask...

3 MR. CLARK: I'm sorry. I think what you asked was
4 a hypothetical question.

5 COMMISSIONER BERNTHAL: It was.

6 MR. CLARK: Which was, if you issue us an order to
7 tell you what we have both said here, to tell us to do
8 what we have both said here, and said we're doing our
9 very best to do, what would we do.

10 And I think the answer is we would continue to do
11 our very best to clean it up as fast as we can, which
12 is what we have been trying to do.

13 And I think the greater assurance of industry
14 funding which exists today did not just happen.

15 It is not solely the result of Governor Thornburgh.
16 It is not solely the result of this Commission. It
17 represents the results of, among other things, a major,
18 major effort by GPU management to get that funding
19 source in place and to convince the other utilities in
20 Pennsylvania and New Jersey to contribute.

21 So I think Mr. Kuhns' answer that we would do our
22 very best to comply with your order is what we would
23 do, without being able to be more specific.

24 MR. KUHNS. And lack of funding, if you will, or
25 the amount of funding, has not been one of the primary

1 restraints to the progress of the cleanup.

2 There have been other restraints, regulatory,
3 understandably. I'm not complaining, but they have
4 been there.

5 We lost about a year on the whistleblowing
6 situation. Now there were deficiencies there in terms
7 of procedures, and we concede that. We admit
8 responsibility for it.

9 But it wasn't endangering safety. That doesn't
10 excuse it, but that whole process took about a year and
11 delayed that cleanup for just about one year.

12 Now those things can continue to happen. We are
13 going to get probably more surprises along the way.

14 (Audience laughter.)

15 MR. KUHNS: There are people working...

16 CHAIRMAN PALLADINO: Excuse me.

17 MR. KUHNS: ...to prevent the restart of Unit 1,
18 and messing up the cleanup is an effective way to
19 contribute to that, I believe.

20 Now that's getting a little accusatory, and I don't
21 mean it to be in that sense, but I think we have to
22 recognize where we are today and the job we have to do
23 and to get on with it.

24 I read a line last night that I will inject, if I
25 may, and I hope it isn't misunderstood, in an editorial

1 I read last night. I don't agree with many editorials
2 these days.

3 But this one, in talking about TMI, said, "Those
4 who cannot remember the past are condemned to repeat
5 it,'is George Santiyanta's much-quoted statement.

6 There is much truth in that. The problem at TMI-1
7 today, however, is less a failure to remember the past
8 than a refusal to face the present.

9 Santiyanta, if he had seen the machinations
10 concerning TMI-1, might have said, 'Those who use the
11 past to avoid the present are condemned to create new
12 problem."

13 I think there is a thought there. I think we have
14 to get on with this at some point. We have a new
15 organization. It's highly qualified. Let us prove it.
16 It's not in any way endangering health and safety.

17 CHAIRMAN PALLADINO: Okay. You have more
18 questions?

19 COMMISSIONER BERNTHAL: I have one other question
20 that I'd like to ask. I think we've...

21 CHAIRMAN PALLADINO: I think we've...

22 COMMISSIONER BERNTHAL: ...beat the financial issue
23 enough here, perhaps. This again may be a difficult
24 question to answer, but we've talked a lot about
25 management changes and the fact that, as you've

1 represented it, you have an entirely new organization.

2 Can you outline for us perhaps with numbers, if you
3 have them, off the top of your heads, how many of the
4 people that were involved in any way in plant
5 operations or plant management at TMI-2?

6 And we all understand that there are two, you
7 yourself, Mr. Kuhns, and Mr. DeCamp, that are still at
8 least in some way with the organization.

9 But aside from those two, can you tell me how many
10 such persons now have any management responsibility or
11 any direct responsibility for plant operations at TMI-
12 1?

13 MR. CLARK: I think I can give you at least some
14 elements of the answer to that, Commissioner. First is
15 that with the single exception of Mike Ross, who's been
16 thoroughly discussed, nobody licensed to operate TMI-2
17 is or will be licensed to operate TMI-1. Now that's a
18 group of people.

19 I was looking for the figure one, I believe it is,
20 or one of the figures to Mr. Kuhns' statement which you
21 have before you...

22 COMMISSIONER BERNTHAL: Yes, I saw that one.

23 MR. CLARK: That takes the senior levels of
24 management and shows the extent of their involvement.

25 I believe that in probably December of '83 or

1 January of '84, in response to a question raised by
2 Senator Spector at a hearing he held in Harrisburg, I
3 provided to Mr. Denton a letter which went through all
4 of the people, and that picked up clerks and utility
5 workers, all of them.

6 As I recall, there were of the order of...I'm going
7 to say 15, but I'm not certain.

8 COMMISSIONER BERNTHAL: This includes everybody in
9 the plant?

10 MR. CLARK: Yes, yes. Now, you understand, going
11 back to '79 and saying out of all the people on the
12 island, you know, who did exactly what, there's a bit
13 of uncertainty.

14 But I don't think in terms of the total numbers,
15 that you would find relevant, that the order of 15
16 people who had been supervisors or above, that is,
17 excluding people doing the hands-on job and looking
18 solely at the people who supervise, manage, and direct,
19 which we...who are in any way involved in TMI-1, and
20 then we ran down exactly what each of those people was
21 doing.

22 I think there is a real balance to be drawn between
23 genuinely having new management and direction, and
24 ensuring that standards and discipline are understood
25 and enforced, and retaining some detailed knowledge and

1 familiarity with the plant and the equipment to be
2 operated.

3 And I think we attempted to draw that balance most
4 directly, first in June of 1983, where we talked about
5 the people who would be removed from any oversight
6 checking, QA, safety review and there are no people who
7 had prior Med Ed involvement of the exempt people,
8 there were none of those in that oversight groups at
9 TMI-1.

10 And retaining in some of the doing groups, some of
11 the people who had the experience, on which there is no
12 evidence of wrongdoing, and yet providing additional
13 oversight by our shift monitoring engineers and others,
14 and we really have been, for five years, emphasizing
15 to all of the people involved, what are the proper
16 standards, what's expected of them, and I think
17 demonstrating in the day-to-day disciplinary action
18 and what not that we really mean it.

19 And so I suspect you'll find, if you want to count
20 all the hands-on people, out of the 900 people applied
21 to TMI-1, I suspect there are 200, 250 maybe.

22 But you have the additional people, and you have
23 five years of learning and involvement. One of the
24 figures in my own statement says we have 915 total
25 people working on TMI-1.

1 We labeled 435 of those as key. That's managers,
2 technical professionals, licensed operators, and
3 there's a little longer list.

4 Of those 435, 235 were not anywhere in the GPU
5 system prior to March of '79, so that's somewhat over
6 half, brand-new.

7 And 100 additional, bringing the total to over
8 three-quarters of those were not with Med Ed prior to
9 March of '79, and so were not involved in TMI in any
10 way.

11 And I suggest that that's a preponderance of new
12 people, and I also think that the assessments
13 available to you of how this organization has performed
14 in the recent past are all favorable.

15 You have your own SALTs, you have the INPO
16 evaluations, you have a great many things, which say
17 that the results which, I think, are important in the
18 decision, that those results are good.

19 COMMISSIONER BERNTHAL: Okay. I think maybe we
20 can hear more from staff about this later. But let me
21 summarize.

22 You say that there are 15 people at the supervisory
23 level and above in the entire organization now at TMI-1
24 that were involved prior to that with TMI-2?

25 MR. CLARK: I said there is a letter in the record

1 to Mr. Denton, and my recollection is it's 15.

2 COMMISSIONER BERNTHAL: More or less.

3 MR. CLARK: Yes. I would not want to be held to my
4 memory on that number.

5 COMMISSIONER BERNTHAL: And that there is one
6 person that would be licensed for operation at TMI-1,
7 and what is the total number of people in your
8 operating core?

9 MR. CLARK: Well, the licensed operators we have
10 for TMI-1 now, as I recall, is about 33, of which half
11 are SROs and half are ROs.

12 That number goes up and down a little, but that's
13 about the right number. We are on six shifts.

14 COMMISSIONER BERNTHAL: Okay.

15 CHAIRMAN PALLADINO: Thank you. Lando, you have
16 some questions?

17 COMMISSIONER ZECH: One quick comment and one quick
18 question. The comment is I'm not sure of the
19 appropriateness of the Commission involving ourselves in
20 the funding question.

21 I recognize that that's not our specific
22 responsibility. On the other hand, it seems to me that
23 perhaps in Congress, I know, sometimes they use the
24 term "the sense of the Congress" by making a statement
25 that would be in support of some issue.

1 And I just don't know if perhaps it might be
2 appropriate for our Commission to at least express the
3 sense of Commission as regards encouraging the funding
4 more expeditiously for TMI-2 cleanup.

5 I just offer that as a comment. I would certainly
6 have to defer to others who might look into that.

7 The question for Mr. Clark, would be, you've
8 stated, I think, very strongly that you accept the
9 responsibilities for TMI-1 and TMI-2.

10 Do you feel at the same time you're accountable for
11 those two very important nuclear power plants?

12 MR. CLARK: Yes, both on the basis of having taken
13 the job and on the legal basis of being the licensed
14 operator, and the president and CEO of the company, on a
15 whole variety, as well as my own personal conviction.

16 There's no question in my mind but what I am
17 accountable.

18 COMMISSIONER ZECH: And my last question, then,
19 would be, having acknowledged your responsibility and
20 your accountability, do you think you have the
21 authority to supervise and monitor and control the TMI-
22 1 and TMI-2 organizations in order that the public
23 health and safety will be completely protected?

24 MR. CLARK: I do. And I have now, when I commented
25 to an earlier Commission meeting, perhaps emotionally,

1 that I have been now with the CPU system four and a
2 half years.

3 And I not only have the legal authority but I have
4 that period of time of evidence of complete support of
5 my exercising that authority.

6 COMMISSIONER ZECH: That's all I have, Mr.
7 Chairman.

8 CHAIRMAN PALLADINO: Okay. Thank you. Any other
9 questions?

10 COMMISSIONER ASSELSTINE: No.

11 CHAIRMAN PALLADINO: Gentlemen, we thank you for
12 your presentation and bearing with us while we asked
13 questions.

14 Two housekeeping matters. First, I neglected to
15 mention in my opening remarks the regrets of
16 Commissioner Roberts of not being able to be here.
17 He's on official travel fulfilling a longstanding
18 commitment.

19 He wants me to make sure that you understand his
20 absence is not due to a lack of interest, and he will
21 be reading the transcript very carefully.

22 Second matter is the fact that we're running way
23 overtime. I am going to suggest that we now adjourn for
24 lunch, if the Commission is willing, and return at 1:30
25 so that we'll have a little more time to deal with

1 matters this afternoon. If that's agreeable?

2 COMMISSIONER ASSELSTINE: That's a good idea.

3 CHAIRMAN PALLADINO: Then that's what we'll do.

4 We'll recess until 1:30.

5 (Whereupon, the meeting recessed, reconvening at
6 1:30 p.m.)

7 CHAIRMAN PALLADINO: This is a continuation of our
8 meeting in which we are receiving oral presentations by
9 the parties on issues related to Three Mile Island Unit
10 1.

11 Next on the agenda are presentations by Norman and
12 Marjorie Aamodt, and I wonder if they might join us at
13 the table.

14 (Audience Applause.)

15 CHAIRMAN PALLADINO: Let me repeat once again that
16 we need to maintain order. We appreciate the interest
17 that is shown by various participants, but I would like
18 to withhold any applause or demonstration, so we can
19 proceed with our meeting.

20 MR. AAMODT: Mr. Chairman, commissioners, we
21 genuinely appreciate the opportunity to be here today.

22 I've only one preliminary remark, and that is that
23 we would reserve some of our time for rebuttal. There
24 were many comments made this morning that we felt were,
25 in our judgment, gross misrepresentations, and we would

1 like the opportunity to respond. Therefore, we have a
2 relatively brief statement we'd like to make.

3 It's a very difficult one, because we're aware of
4 the reaction concerning it, the controversy. But we
5 feel that this issue is the most important issue that
6 has been and will be brought before you.

7 I was struck, as we sat waiting this morning, at
8 Commissioner Zech's comment. What's the right thing to
9 do?

10 And I would like to extend that comment one word
11 further, and say what's the right thing for this
12 Commission to do first. That's really the issue before
13 us.

14 We reviewed your order and its attachment, and it's
15 our judgment that the proposed paths toward a decision
16 fail to take into account that most important element
17 that we would like to discuss today.

18 We served on the Commission on June 21st of this
19 year a motion where we demonstrated that people
20 northwest of TMI were exposed to high doses of
21 radioactivity during the initial days of the accident,
22 at that time, when GPU alone was monitoring the
23 releases.

24 Credible, solid citizens, voluntarily and
25 independently described experiences which are clearly

1 radiation effects. I hope you had the opportunity to
2 read their affidavits.

3 I would like to point out to you that in the
4 audience today there are several of those people who
5 wrote and signed those affidavits.

6 And I want you to seriously consider what you're
7 doing if you let anything take precedent to seeing
8 whether or not what happened at Three Mile Island was
9 the cause of a cancer mortality rate six to eight, and
10 I believe now, ten times the state average.

11 As perhaps you noted from our data, that the data
12 didn't quite span ten years, and today we learn that
13 two more people died of cancer on those streets.

14 What greater responsibility do you have than to
15 determine whether or not it was caused by the accident
16 at Three Mile Island?

17 The motion that we gave you...let me back up.
18 There is one other thing I do want to point out to you,
19 and I don't want to be melodramatic, but I do want to
20 remind you that among the individuals sitting out here,
21 are individuals who, on the first day of the accident,
22 never in their lives before, never, on that first day
23 of the accident, had sunburn over their arms and their
24 face, developed nausea and diarrhea, subsequently had
25 rashes, went to their doctor, and was told by their

1 doctor these are classic radiation symptoms, but it
2 couldn't be the effect of radiation because the NRC
3 told us that not enough radiation got out.

4 I submit, gentlemen, that at this moment, we may be
5 talking about the biggest cover-up that our government
6 has been engaged in.

7 Our motion was that you examine the integrity of
8 licensee to determine whether or not on that first day
9 those records which were presumably lost, were they
10 indeed lost?

11 Do you know that? Or were they destroyed? Was
12 that extrapolation of 40 rems over Goldsboro, was that
13 legitimate?

14 There's been a lot of argument. Or perhaps, as
15 some news media people have suggested on occasion,
16 maybe this high mortality rate was the result of
17 earlier releases from TMI-1. Maybe it was.

18 The fact of the matter is that the cancer mortality
19 rate on three hilltops west of Three Mile Island is on
20 the order of ten times as high as the cancer rate
21 across Pennsylvania, and it's your responsibility to
22 assure those people either that it didn't come from
23 Three Mile Island or that if it did come from Three
24 Mile Island, that suitable remedies are available to
25 them.

1 And at the very least, they have the opportunity to
2 know that today somebody cares and somebody will tell
3 them.

4 And the little children, there are people there.
5 We can take you to these people who have rashes on
6 their feet when they walk barefoot in their gardens,
7 children, who when they crawl on the ground have rashes
8 on their arms when they crawl on the ground, dogs who
9 have rashes on their bellies when they crawl on the
10 ground.

11 We can show you those people. They're your
12 responsibility, nobody else's. They're yours.

13 I'd like to bring another matter to your attention
14 with regard to this issue. As you know, as I said, we
15 presented you with a motion.

16 I presume you're aware of the staff's response and
17 the licensee's response and the Commonwealth's
18 response.

19 The staff's response was, "Don't pay any attention
20 to it. There's nothing new here." I submit there
21 isn't. They know about it, just like they knew about
22 the Hartmond issue and deceived even you.

23 The licensee said, "There's nothing new about it.
24 Don't pay any attention to it." You're right. There
25 was nothing new about it. They knew about it.

1 The Commonwealth's response, the only response we
2 got, was not one in writing, but just one by George
3 Tokahara.

4 His response was, "Don't pay any attention to it.
5 The investigators weren't scientific qualified."

6 I didn't spend ten years on the staff of Bell Labs
7 to not be qualified to run a simple study like this,
8 nor did my wife. That was a perfectly valid test.

9 And yesterday we were visited by two members of the
10 Health Fund, very qualified people, Dean Abramson and
11 the other fellow's name I don't recall.

12 MS. AAMODT: Dr. Kohn.

13 MR. AAMODT: Dr. Kohn, who came because they had
14 read the study, because they recognized its validity,
15 because as they put it, it was provocative.

16 They're going to look. I suggest you had better
17 look, too.

18 We're at the point here of enormous law suits, if
19 nothing else. The integrity of the Commission is at
20 stake on this one.

21 It is your responsibility to guard the health and
22 welfare of people around that island, and for five
23 years, people have suffered the effects of radiation
24 damage and died, and this agency hasn't taken a
25 positive step.

1 I'll tell you one step they did take recently.
2 Someone from your staff was out in that area, inquiring
3 of residents as to where we took our soil samples and
4 where we were going to have them analyzed.

5 Why didn't they come to us? Why didn't you come to
6 us? Why didn't anybody come to us? Do you think we
7 may have the biggest cover up that we've seen in the
8 Federal Government for a long, long time?

9 As Governor Thornburgh stated, the nuclear industry
10 is at risk, and I've heard it said before, and it
11 applies today, that when an individual dies because of
12 this accident near Three Mile Island, Three Mile Island
13 will die, too.

14 Thank you.

15 (Audience applause.)

16 CHAIRMAN PALLADINO: Thank you. Did you have
17 additional comments?

18 MS. AAMODT: No, I did not.

19 CHAIRMAN PALLADINO: Okay, thank you.

20 MS. AAMODT: I just wanted to make one correction.
21 At the beginning of Norman's remarks, he said ten years
22 when he meant five. It was a five-year study of the
23 last five years.

24 MR. AAMODT: Yes.

25 CHAIRMAN PALLADINO: Okay. Thank you. You

1 mentioned a cover up, Mr. Aamodt.

2 MR. AAMODT: I didn't hear you.

3 CHAIRMAN PALLADINO: I'm sorry. You mentioned a
4 cover up, and I'd like to just explore it for a minute.

5 MR. AAMODT: Yes.

6 CHAIRMAN PALLADINO: As I recall, at TMI-2, there
7 were measurements by the licensee, there were
8 measurements by the state.

9 I think there was monitoring by EPA. I'm sure
10 there was monitoring by DOE or NRC. I don't recall all
11 of them.

12 MR. AAMODT: EPA monitors it to this day.

13 CHAIRMAN PALLADINO: Yes, EPA monitored. And yet
14 you imply that all these people got together and
15 brought about a cover up. I don't know on what basis
16 you say that.

17 MR. AAMODT: Yes. My son came home from seventh
18 grade this year with a text, with a section prepared by
19 the Commonwealth of Pennsylvania, in which the
20 Commonwealth of Pennsylvania was teaching the children
21 in our school, and I suppose schools around the
22 Commonwealth that no radiation got out of Three Mile
23 Island that no one was injured.

24 We know that George Togahara set up some studies.
25 No new studies were set up after 1980. The people who

1 we talked to brought their case to the Commonwealth.
2 One of the individuals in this room wrote a letter to
3 Governor Thornburgh outlining his symptoms, to which he
4 never got a reply.

5 There were 6,000 phone calls received at, I
6 believe, it was DER's hotline during the time of the
7 accident.

8 Would you believe that they've all been destroyed?
9 You know that there is this problem with the filter at
10 Three Mile Island.

11 Nobody can satisfactorily explain that. All the
12 explanations we've gotten, Chairman Palladino, are
13 explanations to explain why nothing got out.

14 There is an interesting dichotomy here. Both the
15 fortunate and unfortunate aspect of this is that people
16 tend to believe government, and when government
17 accepted at face value, whether or not they
18 intentionally covered up, licensee statements that
19 nothing got out, the people believed it.

20 My point is, I just cannot believe with all those
21 people in the plant and we know of at least one
22 individual who can testify to the fact that radiation
23 records were destroyed, and I'm sure you can find more,
24 but nobody's looked.

25 And I think the failure to look, one would have to

1 objectively say, at least ask the question, wouldn't
2 that be part of a cover up?

3 MS. AAMODT: I want to add, before your response,
4 Chairman Palladino, that numbers of citizens brought to
5 the NRC, as well as to the Commonwealth, their
6 experiences of the reddening of the skin, metallic
7 taste, diarrhea, graying of the hair, loss of hair,
8 hearing rustling of the trees, and a rain-like sound
9 coming through the trees particularly on Friday of the
10 accident.

11 We have people who told us about two experiences
12 with a plume, and some of these people took these
13 experiences to NRC.

14 We also...NRC did nothing to look into these
15 experiences, but simply told the people that they
16 couldn't have been from radiation.

17 EPA has taken soil samples. We went to their
18 offices several weeks ago and asked for samples in
19 areas near where we made our studies, and they can't
20 find their sampling data now.

21 At first they said...

22 MR. AAMODT: They're missing.

23 MS. AAMODT: ...this would be provided, but they
24 can't...

25 CHAIRMAN PALLADINO: The data or the samples?

1 MR. AAMODT: The data.

2 MS. AAMODT: That they can't locate the data in the
3 computer unless we could provide them with the exact
4 days on which the sampling was done.

5 CHAIRMAN PALLADINO: Well, I still come back,
6 though, to your statement about cover up. At that
7 time, I was not involved with the NRC, but I was
8 heavily involved with the state.

9 I am particularly aware of your radiological
10 protection in the state and I think Pennsylvania was
11 and is fortunate in having a group that's as
12 knowledgeable as that group is.

13 I've never heard of them trying to cover up or not
14 getting...or making objective measurements or
15 evaluating measurements objectively.

16 MR. AAMODT: Let me give you another ...

17 CHAIRMAN PALLADINO: I am not aware of any basis on
18 which they ever were involved in a cover up.

19 MR. AAMODT: I hope that's true. But we cannot
20 help but conclude personally that this is the case.
21 I'd like to point out another example, though, of
22 something that would lead in this direction.

23 As you recall, in our motion, we presented an
24 affidavit by Dr. Cunkle, who was professor emeritus of
25 botany at Rutgers, the world's leading authority on

1 radiation effects on plants. The samples that we
2 brought to Dr. Gunkle had been presented to George
3 Togahara.

4 The Commonwealth knew they existed. Your staff
5 knew that they existed. None of you, if you'll forgive
6 my saying it, did a damn thing.

7 CHAIRMAN PALLADINO: Well, that's something perhaps
8 we ought to check.

9 MR. AAMODT: I think.

10 CHAIRMAN PALLADINO: Yes.

11 MR. AAMODT: But I think you can understand ...

12 (Audience applause.)

13 MS. AAMODT: It wasn't very difficult when Mary
14 Osborne, who is sitting in this auditorium, showed me
15 in her home one night the abnormal plants, having lived
16 on a farm for over 20 years and having only seen one
17 aberration in a plant on our farm, which was, by the
18 way, right after the Three Mile Island accident, it was
19 in the spring. It was an asparagus plant.

20 Only ever having seen one, I was very much
21 impressed with Mary's box of samples, and within three
22 days, I was in Dr. Gunkle's home and was able to have
23 these effects verified.

24 So it was not very difficult to have this
25 information verified or to recognize it as something of

importance.

1 CHAIRMAN PALLADINO: Well, it doesn't help in
2 understanding what the basis is for the cover up.

3 MR. AAMODT: Well...

4 CHAIRMAN PALLADINO: At least the allegation of a
5 cover up.

6 MR. AAMODT: Dr. Palladino, I think it can be very
7 clearly stated. Any professional in his field worth
8 his salt, when he saw those plants, knew that they were
9 caused by radiation.

10 Any professional worth his salt, when he heard
11 about the effects that the people around Three Mile
12 Island suffered, would at least suspect that they were
13 caused by radiation.

14 My point is that you have people worth their salt.
15 The Commonwealth has people worth their salt. Where
16 were they?

17 CHAIRMAN PALLADINO: Well, I can speak about...

18 MR. AAMODT: Why weren't they out there?

19 CHAIRMAN PALLADINO: I can speak about the
20 Commonwealth because I was at TMI for part of that
21 time, with the Commonwealth people.

22 And I never saw a group that worked harder and more
23 objectively...

24 MR. AAMODT: And many did. I don't question that.
25

1 CHAIRMAN PALLADINO: So while there may be
2 information that you have that maybe ought to be
3 examined, I never saw the slightest evidence of an
4 attempt to cover up.

5 MR. AAMODT: That would almost define a good cover
6 up, wouldn't it?

7 (Audience laughter.)

8 CHAIRMAN PALLADINO: Well, I don't know. It
9 depends on how you see people work.

10 MR. AAMODT: Yes.

11 MS. AAMODT: Well, Chairman Palladino, what do you
12 do with the fact that there are many, many people who
13 brought their concerns which doctors identified as high
14 radiation related concerns, to the Commonwealth and
15 the Commonwealth did not follow up on that?

16 This was brought by way of telephone call, and by
17 letter, and by personal encounters with Dr. Togahara at
18 meetings.

19 And these people were told that this was not from
20 high radiation, that they had the same experiences of
21 the NRC staff.

22 And many of the people in the areas where we
23 surveyed were more willing to speak with us, who were
24 citizens, than they indicated they would be to speak
25 with an agency's personnel, because they've been tired

1 of being told that they didn't experience what they
2 experienced.

3 MR. AAMODT: That's what your people told them.

4 CHAIRMAN PALLADINO: Well, I'd have to go check the
5 records, but I presume these people...and I have no
6 basis for not presuming that these people were giving
7 their best professional opinions when they gave the
8 opinions.

9 MR. AAMODT: Right.

10 CHAIRMAN PALLADINO: Well, let me turn to other
11 commissioners and see what questions they may have.
12 Jim, did you want to start?

13 COMMISSIONER ASSELSTINE: I don't have any
14 questions. I guess I just would make one comment, that
15 you brought to us some information that I think we
16 ought to look at very carefully.

17 You deserve a fair, thoughtful, well-considered and
18 well-researched response. I think you ought to get it.

19 MR. AAMODT: Thank you.

20 CHAIRMAN PALLADINO: Fred?

21 COMMISSIONER BERNTHAL: Mr. Chairman, I would just
22 ask whether it's appropriate for us to hear from staff
23 or others and see what the response is here.

24 I mean, there are a number of suggestions made here
25 and information provided. I don't know whether we have

1 the time or...

2 CHAIRMAN PALLADINO: Well, we can proceed in one of
3 several ways. Maybe we ought to proceed with the other
4 presentations but ask the staff to be prepared to
5 comment on it.

6 COMMISSIONER BERNTHAL: Comment on some of these
7 issues. The only point that I would make is that...and
8 you haven't suggested otherwise, I don't think, is that
9 the question of the missing records is a question that
10 was, in fact, raised by our staff as well, back in
11 1979, so it's not like, I think, just for the public
12 record, everyone should understand that while you are
13 reraising the issue of the missing records, the staff
14 of the NRC had published in August of '79 its own
15 finding that those records were indeed not available
16 without making any judgment at this point on what the
17 reason of the absence of the records was.

18 What I would like to hear, and I think the public
19 deserves and you deserve, a response, at least to the
20 extent we can have a response today, to some of the
21 concerns that you've raised here, have our staff
22 respond to those.

23 CHAIRMAN PALLADINO: I would ask the staff to be
24 prepared to respond to the extent that they can today,
25 and then if the response is not sufficient, ask them to

do more.

1 MR. AAMODT: We thank you.

2 CHAIRMAN PALLADINO: Okay. Commissioner? Lando

3 COMMISSIONER ZECH: Yes, I'd just like to say that
4 I agree that your thoughts and your allegations, if you
5 will, or your concerns should be looked into, and
6 thoughtfully considered, and I would certainly support
7 doing that.

8 MR. AAMODT: We appreciate that, sir.

9 CHAIRMAN PALLADINO: Thank you. Now you have
10 reserved five minutes.

11 MR. AAMODT: Yes, sir, we have.

12 CHAIRMAN PALLADINO: Do you want to do that later?
13 I wonder if we might have the representatives of TMI
14 alert join us at the table.

15 Would you please identify yourself?

16 MS. DOROSHOW: Thank you, Mr. Chairman. My name is
17 JoAnne Doroshow. I represent TMI Alert along with
18 Louise Bradford, who is seated to my left.

19 We would both like to make short statements today,
20 and we would also like to reserve a short time for
21 rebuttal.

22 It is the position of TMI Alert that the licensee
23 lacks the requisite character to operate a nuclear
24 power plant.
25

1 The basis for this belief is contained in a nearly
2 200-page petition which we filed with the Commission
3 Monday under the 2.206 of the Code of Federal
4 Regulations.

5 The petition is to be supplemented shortly with an
6 additional 100 pages or so very shortly.

7 We believe it is the Commission's responsibility
8 under the Atomic Energy Act to immediately revoke the
9 license of GPU Nuclear to operate TMI-1, and that the
10 Commission should immediately institute proceedings for
11 revocation.

12 We would like to note several things, in light of
13 some remarks which were made by the licensee this
14 morning and in light of some other documents which have
15 recently come to light.

16 The staff has now determined that as of late 1981,
17 the company did not have the requisite character to
18 meet the statutory requirements.

19 Yet they qualify their position, insisting that
20 suddenly, the company went through some sort of
21 germatic change as of January 1, 1982.

22 There is no conceivable way that this argument can
23 legitimately be made.

24 Everyone knows that shortly after the accident, the
25 company reorganized structurally. It was the basis of

1 the licensing board's 1981 decision which supported
2 restart.

3 As a matter of fact, in the words of former GPUN
4 president, Bob Arnold, words which he spoke to NRC
5 investigators in late last year, he said that, "In July
6 of 1979, we officially integrated the management and
7 technical staff of GPU Service Corporation, which was
8 responsible for the design and operation of TMI-2 until
9 it went commercial in December, 1978, and Med Ed
10 Company, that was involved with Three Mile Island.

11 That was known as the TMI Generation Group. That
12 TMI Generation Group was the forerunner of the GPU
13 Nuclear Corporation which was established in September
14 1980."

15 Mr. Arnold said, "I was the head of all of the
16 organizations I described, including president and
17 chief operating officer of GPU Nuclear Corporation."

18 By the way, Mr. Clark came to GPU Nuclear and
19 assumed responsibilities in January of 1980.

20 One basis for the staff conclusion that the company
21 lacked requisite character through 1981 was the
22 cheating incidents.

23 The licensee today told you that the people that
24 were responsible for those incidents and were
25 responsible for the company's response to those

1 incidents are gone today. That's ridiculous. The
2 people that are still in control of GPU today are the
3 ones who were responsible for the cheating incidents
4 and are responsible for the company's response to those
5 incidents.

6 In particular, Mr. Clark boasts about the swift
7 action that was taken against these two cheaters who
8 were caught cheating on NRC exams in 1981, Mr. O. and
9 W.

10 Mr. O. and W. were the only two operators against
11 whom the company took any action after being caught
12 cheating.

13 For example, neither operators G. nor H., who
14 repeatedly cheated on company exams and perjured
15 themselves during the restart hearings, were removed at
16 the suggestion of licensee management.

17 G. resigned on October 15, 1982. H. was only
18 removed at the insistence of the Commonwealth of
19 Pennsylvania in June of 1983.

20 To the extent that G. and H. were disciplined at
21 all, it was only at the specific direction of the
22 licensing board close to a year after the incidents
23 were known to licensee.

24 The licensing board had serious reservations about
25 licensee's capability of effectively disciplining G.

1 and H. on its own, since, "according to the board,
2 licensee continues to maintain that G. and H. did not
3 cheat."

4 Licensee now views their response to the G. and H.
5 issue moot, but the licensee only decides to implement
6 any corrective action after it was imposed by the
7 board, reflecting nothing positive about licensee's
8 character.

9 The Appeal Board also expressed concern over the
10 adequacy of licensee's response to cheating by
11 operators G.G. and ordered licensee to reprimand him in
12 May 1984.

13 Regarding former training instructor Husted,
14 licensee's reponse to evidence of Husted's strikingly
15 poor attitude, which should have immediately
16 disqualified him from supervisory duties, was to
17 promote him, first to supervisor of licensed training
18 at TMI-1, and then after the Commonwealth forced the
19 issue, they promoted him to supervisor of non-licensed
20 training.

21 The Appeal Board flatly rejected the adequacy of
22 licensee's response to this incident, has ordered that
23 he is to be removed.

24 Further, licensee covered up the incident involving
25 Floyd and O., which occurred in 1979, when the cover up

1 continued for two years. One is publicly known. The
2 company's response to those incidents was the company
3 investigation called the Speaker Report, which was so
4 disingenuous that it is beyond description, and it
5 reflects very poorly in the Governor's words, "in the
6 extreme on licensee's integrity."

7 In fact, these incidents resulted in \$100,000 civil
8 penalty against the company, and the licensee resisted
9 paying this civil penalty.

10 As far as the company's response to the Unit 2 leak
11 rate issue, licensee boasted that the U.S. attorney
12 had assured that there was no involvement of any kind
13 by any corporate officer currently involved in running
14 TMI-1.

15 In fact, what the U.S. attorney said was that the
16 United States indicted the company for reason, it was
17 to show to the world that the United States of America
18 was not about to pick out a bunch of scapegoat
19 employees when it was really the corporation's
20 responsibility for the misconduct. The corporation is
21 the senior management.

22 They are directly involved no matter how you look
23 at it.

24 Further, the U.S. attorney did not address the
25 cover up of Unit 2 leak rates, and if he had, he

1 certainly would have gotten to the issue of management
2 responsibility.

3 I don't know what you heard Mr. Kuhns tell you
4 earlier, but what I heard Mr. Kuhns say to you was
5 exactly what he told the press after the company plea-
6 bargained in February as to the Unit 2 leak rate
7 charges, and that is that the licensee insists that the
8 leak rates were not falsified and in fact they have
9 never acknowledged that the leak rates were falsified.

10 It denies culpability, just as it denies
11 culpability and responsibility for just about every
12 single issue and act of wrongdoing that they have been
13 involved with, until basically their license has been
14 in jeopardy.

15 Most importantly, they have denied culpability for
16 the accident. All of these things speak very poorly
17 for the licensee's current character.

18 Regarding the new training program, just a word
19 about the new OARP, which you have received, which Mr.
20 Clark spoke of.

21 The authors of that report qualified just about
22 every statement they can make in there that they did
23 no in-depth review of the training program, including
24 just about every concern raised by the Appeal Board in
25 their decision.

1 These people made the exact same assurances in 1981
2 at a time when there was widespread cheating going on,
3 fueled by disrespect for the program, because operators
4 were not being trained to operate the plant.

5 As of last year, the RHR auditors reported that
6 operators felt precisely the same way about the
7 training program, as it did during the cheating
8 hearings and as it did at the time of the accident,
9 and as it did before the accident, at a time when the
10 company was in direct violation of NRC training
11 requirements.

12 This fact alone provides one of four bases for the
13 staff's conclusion now that through 1981 the company
14 lacked requisite character to operate the plant.

15 Mr. Clark also spoke about the STAs, which they now
16 promise are on shift. This was a promise made December
17 5, 1979, in the context of the company's response to
18 the notice of violation.

19 You should note that last year the Beta report
20 specifically noted that the STAs were not working out,
21 that the program was just not working. Second...

22 CHAIRMAN PALLADINO: Where was that?

23 MS. DOROSHOW: The Beta Management Audit, which
24 came out in early 1983, the Beta Report, which is a
25 subject of some motions to reopen the record in the
 restart hearing.

1 MS. DOROSHOW: (Inaudible), of course. This
2 is another subject of the reopen hearings. And I note
3 that Mr. Decamp is perhaps the single most influential
4 person currently at GPU, over in Nuclear Operations
5 at TMI-I.

6 I would just like to briefly note some
7 remarks which Mr. Kuhns and Mr. Decamp made to NRC
8 investigators very recently in the context of the
9 Keaten investigation.

10 Mr. Kuhns recently told NRC investigators
11 "I do think I have a role and that's certainly the
12 structure that we have today, with the GPU Nuclear
13 Corporation and its board. And the way we operate
14 gives me a role even though I am not an officer of the
15 corporation. I have a presence and I attend all
16 meetings and I visit all the plants with the management
17 and supervisory level of the organization and I make
18 sure that they understand my attitude about this very
19 important and this very special technology".

20 Mr. Kuhns also described the fact that he
21 was responsible for bringing Herman Decamp on, who
22 he looks to for "Nuclear advice, counsel and direction".
23 According to Kuhns, "Herman has taken a lead position
24 on the operating matter within the system, nuclear and
25 non-nuclear. He is the man I look to and the Board

1 looks to in terms of the operation of the power plants".

2 According to Kuhns, he said, my office is a
3 few feet from Herman's office. We work very closely.
4 He, we visit on all major problems daily the way any
5 management runs an organization. Every significant
6 communication that he gets or that Arnold got or that
7 Clark now gets, I am generally informed about without
8 being seen or needed to read all the material, but I am
9 kept informed of all nuclear developments.

10 Mr. Decamp also told a lie, I've got to
11 believe that I contaminate certain decisions or let me
12 put it another way. I'm in a position where I maybe
13 could have influenced them to go another way.

14 Clearly, Kuhns and Decamp are still very
15 much in control of this organization. I think one
16 indication may even be the fact that Mr. O'Leary did
17 not show up today to present his view of the corporation
18 and to show the Commission that he feels the corporation
19 has changed and that Kuhns and Decamp are no longer in
20 charge.

21 As to the re-examination of organization commitments
22 that the company has made, there are just several
23 points that I think are important to be made. First,
24 in order to allow the pre-accident Unit 2 operators
25 to continue with the company at Unit 1, licensee promoted

1 some of them to supervisory positions.

2 For example, former Unit 2 shift Supervisor Zaley (ph.)
3 was promoted to the position of rad waste operations
4 manager at TMI-I in 1982. He left to go to the, to
5 become superintendent of the Titus Station in January of
6 this year, replacing him with former Unit 2 shift super-
7 visor Brian Maler (ph). All of these individuals were
8 on shift at the time the accident and were on shift
9 at the time leave grade falsifications were occurring
10 as well as the licensee's choice to replace (inaudible)
11 supervisor of life and (inaudible) at TMI-I, who was a
12 former Unit 2 operator at Frederick.

13 Second, Michael Ross who was dual licensed
14 on Unit I and Unit II before the accident is expressly
15 not exonerated by the U.S. Attorney, was not removed
16 from license duties. In addition to the questions
17 about his personal integrity regarding Unit I activities
18 regarding the Unit I leave grade issue and the cheating
19 incidents, it is also significant that not only was
20 there testimony from at least one former shift supervisor
21 that he recalls that Ross and Unit 2 supervisor of
22 operations, Floyd, who you may recall was intimately
23 involved with Unit 2 leave grade falsification,
24 occasionally filled in for the other during vacations.
25 In other words, Ross would take over for Floyd as Unit 2

1 supervisor of operations.

2 Moreover, Ross was expressly called over to
3 Unit 2 during the accident as part of the command team
4 supervising immediate company response activities. He
5 clearly was intimately familiar with Unit 2. It's
6 inconceivable that he did not know about the leak
7 grade problems.

8 Further, it's also true that half of the GPUN
9 Nuclear Vice Presidents came from GPU Service Corporation.
10 GPU Service Corporation managed TMI-2 until it went
11 commercial in December 1978. By that time, the leak
12 grade falsification had already become an established
13 pattern and all major peak (inaudible) events were in
14 place.

15 These individuals include Mr. Huward (ph) who
16 was Projects Manager for GPU Service at the time the
17 accident. It includes Mr. Wilson who was at the
18 accident, Chief Engineer of GPU Service Corporation
19 for their Generation Division. And it includes Mr. Long
20 who is now GPUN Vice President for Nuclear (inaudible).
21 Long was Manager of Generations Productivity at the
22 time of the accident.

23 CHAIRMAN PALLADINO: Maybe I'm getting the
24 signals...your time is up, but is that based on the
25 reserving five minutes?

1 UNIDENTIFIED SPEAKER: No, full time.

2 CHAIRMAN PALLADINO: Full time.

3 MS. DOROSHOW: Okay. I will, I will then
4 allow Miss Bradford to make some comments. She has
5 some very important things to say about the steam
6 generators tube hearings and some other issues.

7 CHAIRMAN PALLADINO: Can we be brief?

8 MS. BRADFORD: Just recently and, of course,
9 in July of this year, the Licensing Board conducted
10 hearings on the steam generator. I might start by
11 saying that the scope of the hearings was so narrow that
12 it was impossible to discover whether there was safety
13 related problems with the repair itself.

14 For instance, the licensee qualified that
15 repair program using archive tubing. That is, steam
16 generator tubings, tubing that has never been in
17 service. That qualification program...questioning on
18 that qualification program was specifically disallowed.
19 The reason that was was because in framing our contentions,
20 TMIA had, using common sense we thought, had decided
21 that the things that we wanted to examine were the
22 post repair testing, thinking in a common sense fashion
23 that it was just normal that having conducted the
24 repair that these testing programs would take place
25 after the repair. And, in fact, the qualification
program took place prior to the repair. And it is on

1 that qualification program that licensee has based
2 its, and the NRC, have based their, their determination
3 that licensee has met the standards for the steam
4 generator.

5 It was, the licensee has relied so heavily
6 upon the qualification program in order to, to, to
7 qualify the repair that they found that even though
8 the scope of the hearing was, was narrowed, that they
9 could not prepare testimony for that hearing without
10 mentioning the qualification program; however, TMIA was
11 time and again foreclosed from questioning on that
12 particular area.

13 Some things did emerge at the hearing, however,
14 that have great safety significance or at least raise
15 questions of, of safety. It seems that the licensee
16 did have available to it a mechanism for testing the
17 actual steam generator program, the actual steam
18 generator tubing that will be used in the steam
19 generators.

20 They had conducted a long-term corrosion test.
21 When questioned by the Board and asked why they did not
22 include mechanical tests in that long-term corrosion
23 test which utilized actual steam generator tubing, they
24 said that it would have required altering the testing
25 fixture. They continued to say that it never even

1 crossed their minds, that it did not occur to them to
2 test the actual steam generator tubing that had under-
3 gone the repair process.

4 Clearly, that's, that's a ridiculous
5 statement. And nor is it actually...testimony came out
6 at the hearing that as a matter of fact the reason
7 that they did not test it, we heard testimony from a
8 witness who said that they had tested the actual steam
9 generator tubing in C rings in the, in the long-term
10 corrosion test to its maximum limit.

11 It then turned out that the maximum limit
12 at which they had tested it was 1100 pounds. They have,
13 however, qualified that steam generator to, to be able
14 to withstand a main steam line break which is a 3140
15 pound, that's the pressure under which the steam
16 generator is used.

17 What I'm saying is that there seems, there
18 appears to be from just the limited amount of informa-
19 tion that we were able to acquire at this extremely
20 narrow hearing, that there seem to be very many
21 questions. And I recognize that this is not part of
22 the, the restart hearing process; however, you did
23 include it in your, in your...and, of course, it's a
24 very important safety related issue.

25 Additionally, I would just like to add that

1 one of the things that I noted time and time again
2 throughout these hearings and once again at the steam
3 generator tube hearings was that when asked direct
4 questions about certain things, licensee simply has
5 forgotten or doesn't know. And I wonder if you have
6 noted, as I have noted in reading this record over the
7 past five years that licensee seems to have suffered
8 an incredible case of amnesia.

9 When they are faced with difficult questions,
10 they simply do not know or they do not remember. And
11 I ask you if we are to believe that, how can we
12 possibly imagine that this, this company that remembers
13 nothing that they have done in the past can possibly
14 learn and correct those errors in the future.

15 CHAIRMAN PALLADINO: Okay, thank you. I
16 would rather hear from anyone that they don't know
17 rather than give us false information. Not remembering
18 is a different subject.

19 You mentioned a number of people that you
20 still have questions about and this matter, I think,
21 will receive considerable Commission attention; however,
22 there were two points that I wanted to ask you about.

23 One, if I recall correctly, Mr. Ross was
24 exonerated by the Board. Am I in error on that? It
25 seems to me that he was and he seemed to imply otherwise.

1 MS. DOROSHOW: Well, we certainly still...
2 we certainly don't know that as far as Unit I leak
3 grades are concerned. I mean that issue now is, is the
4 subject of a licensing board hearing which has been
5 stopped, but I think there are many very questionable
6 things that were raised in the OI investigation that,
7 that challenge Mr. Ross' credibility very seriously.

8 MS. BRADFORD: I think what Miss Doroshaw had
9 pointed out, that he was not expressly exonerated by
10 the, by the, he was not exonerated at the grand jury
11 proceeding.

12 MS. DOROSHOW: The United States Attorney
13 never expressly exonerated Ross as to the Unit 2 leak
14 grade issue.

15 CHAIRMAN PALLADINO: Yes, I thought maybe
16 that's where it was.

17 MS. DOROSHOW: That's true...the

18 CHAIRMAN PALLADINO: They also, the Court
19 also seemed to exonerate Mr. Kuhns and Mr. Decamp and,
20 yet, you seem to imply otherwise.

21 MS. DOROSHOW: Well, you know, I think that
22 this really sort of shows a...the tunnel vision that
23 the Commission has been using here.

24 CHAIRMAN PALLADINO: Well, it's not (inaudible)
25 and I'm quoting what...

1 MS. DOROSHOW: What he did was he said that
2 they were not directly involved in actual falsification,
3 that they had no knowledge of the actual falsification,
4 but it's clear that the United States Attorney intended
5 the corporation, meaning its senior management, to take
6 responsibility for the Unit 2 leak grade falsification.
7 He said that to the press. He said that to the Court.
8 He indicted the company for a reason. And it was
9 specifically to lay the blame at the corporate level
10 and in that, you cannot, you cannot exonerate senior
11 management because they were not directly involved in
12 actual falsification. They are responsible. They run
13 the company. They set the tone for the company and
14 people would not have felt that they could get away
15 with that kind of scheme unless there was some attitude
16 and atmosphere that was pervasive there that allowed
17 that to happen.

18 CHAIRMAN PALLADINO: Well, I may have to re-
19 read the record, but I thought it (inaudible) little
20 bit different with regard to those two individuals, and
21 I'm not...

22 MS. DOROSHOW: Well, I would, I would encourage
23 you to read the United States Attorney, the transcript
24 that...

25 CHAIRMAN PALLADINO: I've read it but I have

1 to reread it to check to see if the flavor I got was
2 different from what you got.

3 You did make some comments on training, and
4 I, I would like to have the staff comment on your
5 remarks regarding training when they come up. I'm
6 just alerting them because...

7 MS. DOROSHOW: You are aware, of course, that
8 that is a subject of hearings that we're now involved
9 in.

10 CHAIRMAN PALLADINO: Yes.

11 MS. DOROSHOW: And those are ongoing hearings.

12 CHAIRMAN PALLADINO: Okay. Other questions?

13 COMMISSIONER ASSELSTINE: I have just one.
14 You submitted now a motion in a proceeding to
15 revoke the license. I guess I'm wondering whether,
16 why you don't think the, the course that Governor
17 Thornburgh outlined this morning is the appropriate
18 one; that is, to proceed with the reopened hearings
19 on the items where the, the appeal board has
20 identified deficiencies in the record, to put this
21 new information that you've been talking about with
22 others this morning. You've been talking about on
23 the record tested in the hearing process, concludes
24 the, the hearing on the steam generator tube repairs
25 and only after those steps as well as a couple of

1 others that Governor Thornburgh mentioned this morning
2 at that point considered whether to restart or whether
3 to take other, other action.

4 To add to my answer my question, basically, why that
5 is the appropriate course as opposed to proceeding
6 right away with, with something towards revocation.

7 MS. DOROSHOW: The Appeal Board has made
8 very clear in its decision that it was limited in the
9 scope of evidence that it was allowed to consider
10 and that as far as the allegations which have come to
11 light which are not part of the record, since the
12 record closed that it had basically no jurisdiction
13 to even include discussion of those incidents.

14 Recently, we submitted a motion to the
15 Appeal Board, that's just one example, a motion to
16 reopen the record on a couple of issues; one being
17 training , iirregularities which weren't faced before
18 the accident. And that was based on the recent OI
19 report that had come out which had some very, very
20 serious damaging findings as to the types of training
21 violations which were, which were going on before the
22 accident.

23 The Appeal Board denied the motion to reopen
24 on that and they said, basically, that as to pre-
25 accident events that if there were violations of

1 regulations, that would be an enforcement matter but
2 the issue is outside the scope of those, the proceedings
3 that were before them.

4 What's interesting is that the staff has
5 now determined that violations did occur and in its
6 most recent NUREG which reports on the staff's new
7 position on integrity, it uses those violations and
8 looks at them in light of the response to the violations,
9 the accident and the subsequent cheating incidents to
10 determine that there is a pattern of conduct involved
11 which, which indicates that there were serious
12 character problems, that you can really only look at
13 character in terms of patterns. And you just can't look
14 at them as incidents as discrete items, as the Appeal
15 Board feels it is forced to do.

16 And what, what seems to be the Commission's
17 position at this point is that you look at items here
18 and there and if this one doesn't involve a Unit I
19 operator and that one doesn't involve a Unit I operator,
20 well, we're okay without looking at the character issue
21 as a whole.

22 The character is something that must be
23 looked at in terms of patterns and its cumulative
24 effects. And it's become very clear to us recently
25 that neither the licensing board, the appeal board process,

1 nor the process the Commission is engaged in right
2 now is taking into account all of the character
3 evidence that is important. And the staff, itself,
4 has not. If you look at the NUREG that just came out,
5 there are a number of issues which were expressly not
6 dealt with in that NUREG, some of which were the
7 subject of licensing board hearings and are the
8 subject of ongoing appeal board hearings. Other
9 ones are, concern issues that OI was expressly directed
10 not to investigate, such as the company's response
11 to the Unit 2 leak ~~ratee~~ incident; why they withheld
12 the Fahgren ~~le~~ and Benson report, what they did to,
13 to, to respond individually to people who may have
14 been involved. You know, basically doing nothing
15 until last year, having knowledge that that was going
16 on.

17 And that's why it seems that what's
18 happening in this particular process is that the
19 character issue is not being examined and that the
20 Commission has a statutory obligation to examine that
21 issue as a whole. And if they're not going to do it
22 in this proceeding, then they've got to do it somewhere.

23 CHAIRMAN PALLADINO: Well, you imply that
24 we're not going to do it and you imply that the staff
25 hasn't done it. The staff very expressly, I think in

1 its brief, says that they not only looked at the
2 individual cases but then collectively...I don't know
3 exactly what their words were. But I do recognize
4 that is an important point and I think it's important
5 ...

6 MS. DOROSHOW: I think it's wrong to think
7 that the staff did. I think if you look at the,
8 just the table in the beginning where they, they
9 discuss issues that they considered resolved and,
10 therefore, were not made part to the NUREG. I mean
11 I can recite a list of issues for you that were
12 expressly not part of that but, also, if you look
13 throughout the report, there are within certain
14 incidents, they expressly will state, we do not make
15 a finding on this particular issue because OI did not
16 investigate it.

17 They're all relevant character issues. And
18 it's also, as far as the Commission is concerned, I
19 think that the January 1st, January 27th memorandum
20 and indicating that there were no outstanding
21 integrity issues that they, that the Commission felt
22 other than Unit I leak rates which would impact on
23 a restart decision is pretty good indication to us
24 that these issues are not planning to be dealt with by
25 the Commission. And that, that's just wrong.

1 COMMISSIONER ASSELSTINE: I take it that you
2 don't have any major difficulty in reaching a restart
3 decision and are looking at extra records, material,
4 material that wasn't part of any of the hearings.
5 What I seem to hear you saying is we should read that
6 material in a different way, for example, than GPU has
7 argued that we should, should read it, and that it
8 should lead us to the, to the opposite conclusion.

9 But you seem to be saying there's no
10 particular problem in looking at all of that material
11 together and making a decision now. Am I reading you
12 wrong?

13 MS. DOROSHOW: Yes. I don't think the
14 Commission should be looking in that material outside
15 the context of a adjudicatory hearing. And...

16 COMMISSIONER ASSELSTINE: But you're asking
17 us to do just that, aren't you?

18 MS. DOROSHOW: The 2206 ask that hearings
19 be instituted to proceed with the revocation. We
20 understand that that can't be done until there are
21 hearings held.

22 COMMISSIONER BERNTHAL: Well, at the risk
23 of prolonging for just a minute, could you...you've made
24 a number of comments here. And I would like to see
25 if we can get a summary of it here to the extent that, if

1 possible, you might outline the steps that in your
2 judgment...Governor Thornburgh, of course, laid out
3 his judgment on this matter...can you, can you tell
4 us of these issues that you raised then succinctly
5 now to summarize what steps the Commission needs to
6 take in your judgment before considering a restart
7 decision?

8 MS. DOROSHOW: Well, I mean I think we've
9 been pretty clear on the fact that none of these issues
10 have been properly litigated, the ones that have
11 certainly come up in the past two years, but all of
12 them need to be litigated in the context of a adjudicatory
13 proceeding and that means, first of all, the ones
14 that we're involved with right now, meaning the
15 training issue and the Decamp (inaudible) issue as well
16 as the Unit 2 and the Unit 1 leak rate issue which
17 we, we apparently have a motion before the Commission
18 to lift their stay on those, on at least the Unit 2
19 leak rate issue.

20 With that aside, we have come to the, to the
21 conclusion, having viewed all of the OI reports, having
22 viewed all of the evidence which has come to light in
23 the past couple of years, that the company does not
24 meet its statutory requirements for character. And if
25 all the issues currently before the licensing board go

1 to that character issue, but, in addition, there should
2 be character hearings instituted, basically, an entirely
3 new process begun to determine whether license needs
4 to be revoked because it appears that that is not under
5 discussion by, by the Board. It's just a matter
6 of whether the, the original concerns which were layed
7 down by the Commission in the August 9th order have
8 been resolved.

9 COMMISSIONER BERNTHAL: So, you're, if I can
10 summarize, you're essentially saying that in your
11 judgment this company shouldn't operate that plant ever?
12 Is that what you're saying?

13 (Applause.)

14 MS. DOROSHOW: Exactly.

15 MS. BRADFORD: I think if you look at all of
16 these issues as a whole rather than as a Commission,
17 as the Boards have been looking at them, each as a sep-
18 arate entity. It just seems to us, it's just really
19 obvious to us that you have never looked at all of these
20 issues and how they impact on the integrity of this, of
21 this company. You've looked at just little tiny pieces
22 of the problem.

23 COMMISSIONER BERNTHAL: Have you looked at
24 all of the record and the fact that this company in the
25 meantime over the last five years has been operating a
nuclear power plant, the Oyster Creek plant? Do you

1 derive any conclusions from such a look if, indeed,
2 you've looked at that?

3 MS. DOROSHOW: Well, if you look at the
4 petition that we filed, the petition relates to all the
5 nuclear reactors that are under GPU Nuclear's control
6 right now. That includes Oyster Creek because we
7 believe that the, the poor record which we have seen
8 revealed by the evidence in the restart proceeding
9 indicates that the same character problems would impact
10 on safe operation of Oyster Creek.

11 Now, the fact that Oyster Creek has not had
12 a major accident in five years, I don't think is indicative
13 of anything. I think it does not mean that the company
14 does not have the requisite character to operate a
15 plant. I don't believe the Oyster, from what I know,
16 the Oyster Creek record has not been very good, that
17 some have ranked it among the worst in the country, is
18 at least what I understand. And I think that, that the
19 Commission has an obligation to determine if certain
20 incidents come up then that raise questions as to the
21 character of the company, that action is taken on that
22 evidence before some kind of major accident happens.

23 COMMISSIONER BERNTHAL: Okay. I think we
24 may want the staff to speak to the record of the Oyster
25 Creek operation, if we're trying to make broad judgments

1 here on character.

2 My understanding is that it was not the best
3 plant in the country but that that has improved over
4 the recent years, the last year or two, and maybe
5 staff ought to speak to that. That's all I have to
6 say.

7 MS. BRADFORD: Commissioner, I think, I think
8 we've seen evidence of that most recently in the Beta (ph)
9 and the RHR report and, in fact, GPU in commenting on
10 those reports when they were finally issued made it
11 very clear to differentiate between the TMI-I report
12 and the Oyster Creek portion and pointed out that the
13 Oyster Creek was a somewhat even worse record than they
14 had at TMI.

15 CHAIRMAN PALLADINO: Well, I should observe,
16 though, that it's not the same group of people that
17 operate TMI-I operate Oyster Creek. And, so,...

18 MS. BRADFORD: But...

19 CHAIRMAN PALLADINO: Wait a minute.

20 MS. BRADFORD: Okay.

21 CHAIRMAN PALLADINO: So, that the extent to
22 which you should ask the staff to explore it should be
23 limited to that portion that...

24 COMMISSIONER BERNTHAL: Yeah, well, my point
25 was that I think one of the...

1 CHAIRMAN PALLADINO: Let me finish my para-
2 graph. I think we should limit any comments by the
3 staff to those aspects of the Oyster Creek operation
4 that's common to TMI-I.

5 COMMISSIONER BERNTHAL: Certainly. One of
6 the main points has been simply that calling in to
7 question the competence, character, integrity, whatever
8 words you wish to use of the very senior management and
9 they, of course, are also responsible for Oyster Creek.

10 MS. DOROSHOW: Just to make one short point
11 on that. You know Ed Wallace was the individual that
12 worked with Bob Arnold on preparing the company's
13 response to the notice of violation after the accident
14 which both OI and the staff now determine contained
15 false statements and that Arnold and Wallace were
16 primarily responsible for constructing that response.
17 Do you know where Ed Wallace is right now? He's at
18 Oyster Creek.

19 CHAIRMAN PALLADINO: Well, let me turn to
20 Lando Zech. I do want to make one comment on a
21 point you made.

22 COMMISSIONER ZECH: Well, I just have only
23 one comment to make and that is to assure you that
24 the integrity and the competence and performance as
25 well as the issues of quality, people and integrity,

1 all very important, character, very important. And I
2 think that although, I suppose one could say they're
3 judgmental, they're very important issues to consider
4 and, certainly, I will consider them and I know my
5 fellow Commissioners will also. Thank you very much.

6 CHAIRMAN PALLADINO: Thank you. You spoke
7 to the point I wanted to take exception on. You
8 indicated that nobody is looking at the overall, and
9 the Commission apparently is...you said it was obvious
10 that we're not looking at the overall.

11 I'd just like to dispell you of that thought
12 because I think as Mr. Zech said, this is a matter very
13 much of interest and concern to the Commission.

14 MS. BRADFORD: Well, may I say that in
15 response to that that I came by that observation by,
16 after having been involved in the cheating hearings.
17 And when the licensing board looked at, at the integrity
18 issue and they, they found reason to rebuke licensee
19 for what I would call definite, very definite issues of
20 questionable integrity; however, they choose to see
21 that as being discrete. That problem with integrity
22 as being discrete to the training program. And that is
23 a series of events such as this which led us to believe.
24 And, certainly, if you're saying that, that the whole
25 problem will be reviewed, when we see some evidence of

1 that, we will be much relieved; however, the evidence
2 that we have seen is that things are being looked at
3 in, in a piece meal fashion.

4 CHAIRMAN PALLADINO: Well, thank you very
5 much. We appreciate your coming and giving us your
6 views.

7 I wonder if next we might have the representative
8 of the Union Concerned Scientists, Miss Ellen Weiss, to join
9 us at the table.

10 MS. WEISS: Good afternoon, gentlemen. Thank
11 you very much for the opportunity to speak. My name is
12 Ellen Weiss with the law firm of Harman and Weiss in
13 Washington. I represent the Union of Concerned
14 Scientists. I hope you'll bear with me. My notes have
15 expanded during the past three hours and, and it grew
16 less legibile.

17 I'd like to begin by discussing something
18 that hasn't been mentioned this morning and that is
19 the Appeal Board decision in ALAB 772, and why allowing
20 TMI-I to operate in the face of that decision would
21 be wrong.

22 The heart of that decision is the finding
23 that the record does not support the ultimate conclusion
24 that GPU has the competence required of a nuclear
25 licensee nor does the record support a finding that the

1 operators have been trained and prepared in the manner
2 necessary to insure safe operation.

3 As the Appeal Board said, the licensee board
4 correctly framed the issue. Is the instruction
5 adequate to prepare the operators to operate the plant
6 safely? We disagree with the Board, however, on its
7 affirmative answer to that question. So much, by the
8 way, for GPU's peculiar claim that the Appeal Board
9 and the Licensing Board did not reach inconsistent
10 conclusions.

11 Now, the issues at stake include those most
12 fundamental to operate a competence. As the Appeal
13 Board said, does the training program actually enhance
14 the operator's knowledge or does it simply encourage
15 memorization? Are the licensee and NRC's exams an
16 effective way to measure an operator's ability to run
17 a plant?

18 One-fourth of those who took the April 1981
19 NRC exams were either directly involved in cheating in
20 both company and NRC exams contrary to Mr. Clark's
21 assertion it was only NRC exams involved, or were
22 implicated in some manner that could not be satisfactorily
23 explained.

24 Several of these were and still are in
25 supervisory positions. Beyond the actual cheaters, the

1 record is overwhelming, that the operators and the
2 training staff did not take the training or examination
3 process seriously, that they treated it as a technical
4 obstacle at NRC directed for them and beyond that, that
5 the content of the training program, its substance,
6 was gravely deficient.

7 The training and testing program relied upon
8 wrote memorization and did not attempt to teach
9 operators material even in the areas where they had
10 demonstrated weakness.

11 The same questions were repeated week after
12 week until the operators finally learned to parrot the
13 approved words. According to the Licensing Board,
14 from this pattern one must conclude that the training
15 department did not take seriously, Special Master and
16 the Licensing Board, did not take seriously the licensee's
17 obligation to teach the subjects required by the
18 Commission's order and that the operators did not take
19 seriously their obligation to learn it.

20 The Commission appears to have decided although
21 I hope after this morning that the question is open
22 to reconsideration. The questions of GPU integrity can
23 be separated from restart, but the principle cannot
24 extend the competence.

25 For one thing, questions about the competence

1 of this utility were specifically included in a short
2 list of unique circumstances at TMI, that the
3 Commission stand to require treating TMI a different
4 matter than all other B&W plants. In other words,
5 requiring shutdown pending hearings. And that short
6 list was required "To be resolved prior to restart".

7 In addition, the Commission included among the
8 short-term actions that the company is required to
9 complete as a condition of operation, the retraining and
10 reexamination of all operators.

11 Thus, this Commission ruled five years ago
12 that the prerequisites for restart must include
13 successful retraining of all operators in a demonstra-
14 tion of management competence.

15 The program undertaken by GPU to fulfill this
16 post accident requiremnt is the precise program the
17 evidence has shown to be aggrieniausly inadequate.
18 There is no record evidence showing that it is, it has
19 improved. The mere passage of time does not transform
20 bad into good nor is GPU due any presumption that its
21 reconstituted experts are now credible when the previous
22 testimony of the same people fell so far short of
23 describing reality that even the Licensing Board spoke
24 in frustration of the paper curtain.

25 Finally, as the Appeal Board noted, competence

1 is beyond question directly related to safety both
2 generally and in this particular case. Proper training
3 is essential to safe operation.

4 In this case, in particular, numerous design
5 related issues raised by UCS and others were resolved
6 by the Licensing Board on the grounds that design
7 changes or improved equipment would not be necessary
8 precisely because the greatly improved level of
9 competence of GPU assured by the augmented post
10 accident training program would obviate the need for
11 these hardware improvements. And we documented that
12 time after time and place after place.

13 In summary, ALAB 772 establishes that there's
14 no basis in the record for the necessary confidence that
15 GPU management or operators have the requisite
16 competence to operate this plant safely.

17 There are only two ways in which one can
18 gain the necessary confidence. One is the company's
19 training and testing program. The other is the NRC
20 examination process. Both must be independent and
21 leave reliable checks on competence. And the evidence
22 in this case shows beyond question that neither has
23 been.

24 Let me pass, now, to integrity and see if I
25 can touch just briefly on some of the major points. The

1 point which I want to make to leave you with is not
2 only that there are, that there were many acts of
3 misconduct, of shading, of expediency which took place,
4 but that the attitude which permitted that to happen
5 remains evident.

6 First, there was systematic falsification
7 of leak rates Unit 2 over a period of many months
8 up to and including the day of the accident and this
9 is proven. Less widely known is that in October of 1978,
10 five months before the accident, and by the way while
11 the plant was still operated by GPU Service Corporation
12 which is not covered by GPU's embargo, it was discovered
13 by an NRC inspector that the company was routinely
14 discarding bad leak rates rather than following the
15 procedure of moving toward shutdown.

16 He called this a shocking a fundamental
17 misinterpretation of NRC rules and he did this in
18 meetings with the supervisor of operation, two shift
19 superintendents, the supervisor of technical operations
20 and various shift foreman.

21 We were specifically promised that the
22 practice would stop and that all operators would be
23 given training on the correct interpretation of the
24 license.

25 It did not stop and it got worse. The company

1 deliberately continued to violate its license on a
2 virtually daily basis after being informed at high
3 levels that its conduct was shocking.

4 To this day, GPU and that is the new GPU
5 has held no one, not a single person, accountable for
6 the misconduct to the Unit 2 leak rate falsification.
7 They have completed no investigation to identify who
8 was responsible, who allowed it to happen, who turned
9 their eyes away and who condoned it.

10 Indeed, GPU withheld its only internal report,
11 Fahgren (sp) Benson where, by the way, only Mr. Hartman
12 was interviewed, for three years until 1983, well into
13 the new GPU regime. These are not the actions of the
14 company which has accepted responsibility and changed
15 course.

16 The staff says the falsification was the
17 result of negligence on the part of management. I
18 submit to you that that is a convenient fabrication.
19 Let us assume that Kuhns and Decamp did not know that
20 it was happening. Who did? Somebody did. Do you
21 really believe that the only guilty parties were the
22 operators who manipulated the controls? Where was the
23 motive for them?

24 Particularly, when we now know that the
25 company falsely promised in October 1978 to stop. If

1 one seriously expected to believe that the incident
2 with the inspector which required, by the way, an LER
3 to be filed with the NRC, was never communicated above
4 the level of operation staff, I submit that's not
5 believable.

6 Let me move to the Unit 1 leak rate falsifica-
7 tion question. And assume, simply for the initial
8 purpose of this discussion, that there was not a systematic
9 falsification at Unit 1. It is proven, however, even
10 in the version of the facts most favorable to GPU
11 that just as at TMI-2 bad leak rates were routinely
12 thrown out and negative leak rates within one gallon
13 per minute were accepted as valid although the operators
14 well knew that they could not reflect actual plant
15 conditions because it's impossible to get a negative
16 leak rate.

17 This is the same, precisely the same shocking
18 misinterpretation of the rules discovered at Unit 2,
19 and it went on at both plants, just makes it even more
20 difficult to believe that only the operators were
21 involved.

22 As to whether intentional falsification was
23 involved at Unit 1, it is certainly true that far
24 fewer instances of leak rate manipulation by the addition
25 of hydrogen and water during the test was found at

1 Unit 1 than at Unit 2 because it was not so hard to get
2 a good leak rate for Unit 1. OI says that it can,
3 therefore, not find a motive for falsification nor can
4 it find a benign explanation for the addition of
5 hydrogen in small spurts.

6 Perhaps, falsification was necessary only
7 occasionally at Unit I, but the rich man who embezzles
8 only occasionally to cover a temporary shortage is no
9 less guilty. Moreover, by throwing away the bad
10 tests and accepting the negative ones as valid, that
11 Unit I operation staff which was led then and now by
12 Michael Ross showed an unacceptable attitude toward
13 basic safety surveillance requirements. And no one,
14 no one has been held accountable.

15 The Unit I events are particularly important
16 because, of course, the limited embargo does not apply
17 to TMI-I personnel.

18 Let me discuss my final incident, the cheating.
19 One of the main TMI lessons learned was the need for
20 greatly enhanced operator training and for requalifica-
21 tion. The special Master Licensing Board
22 and the Appeal Board all agreed on the widespread
23 cheating on company and NRC exams. Surprisingly, this
24 occurred most at supervisory levels and instructor
25 levels up to and including the supervisor of operations

1 at Unit 2.

2 What I would like you to focus on beyond the
3 cheating is GPU's response. The company, the new
4 post accident company denied the guilt of all but two
5 operators who confessed. They hired a lawyer purportedly
6 to investigate and present his independent investigation.
7 He testified under oath as GPU's witness in the hearing,
8 and he conducted not an independent investigation but
9 he prepared an advocacy document. All the boards are
10 virtually in agreement on this.

11 He uncritically accepted denials of operators
12 later found by all the boards to have obviously cheated.
13 Most telling is that he and, therefore, one
14 must only presume GPU viewed its interests as being
15 advanced by denying and minimizing the problem.

16 More than that, it rewarded in competence
17 and dishonesty. Mr. Housted (ph), a licensed training
18 instructor who was found by all boards to have refused
19 cooperation with the NRC investigators, gave an incredible
20 testimony under oath and to have such distain for
21 the training program that his attitude was a partial
22 explanation for its failure. GPU's reaction, he was
23 promoted to supervisor of non-licensed operator
24 training.

25 Mr. Long was director of training and educa-

1 tion of GPU and during the cheating. Licensing Board
2 said after hearing him testify that it could not
3 determine that he understood that his training department
4 was at fault and that its failure was the principal
5 cause in the breakdown in integrity of the training and
6 testing program. GPU's reaction, Long was promoted
7 to vice president in Nuclear Assurance succeeding
8 Mr. Herbine (ph).

9 These instructive to contrast the treatment
10 of these people and such management, upper management
11 as Arnold and Herbine gently nudged into non-nuclear
12 activities while GPU continues to profess itself
13 convinced of their unimpeachable integrity with the
14 treatment of Richard Parks, the cleanup engineer who
15 went public with improper practices during the cleanup.
16 No place could be found in GPU's entire organization
17 for a concededly competent engineer whose concerns
18 were found justified and whose sin was that he wouldn't
19 keep quiet.

20 The actions of the new GPU are not those of
21 a company that takes responsibility for its actions,
22 much less do they exhibit such characteristics of
23 integrity as firmness, self-discipline, ethics,
24 sincerity, avoidance of expedience.

25 Time does not allow the discussion of any more

1 specific events, although there are many. Your staff
2 in its most recent filing states that if it had known
3 earlier what it knows today, it would likely have had
4 to conclude that the company doesn't have the integrity
5 required under the Atomic Energy Act.

6 My answer to that is sadly that your staff
7 did know. It certainly knew enough, but it closed its
8 eyes. Your staff knew of the Unit 2 leak rate
9 falsification from May of 1979. The public and the
10 Licensing Boards didn't know because they weren't told
11 by the staff, but the staff knew. And, yet, it affirmed
12 GPU's integrity.

13 Your staff also knew of the cheating and it
14 affirmed GPU's integrity, and your staff knew of the
15 material false statements. I well remember another oral
16 argument in Harrisburg two and a half years ago when
17 one of the Commissioners asked the staff lawyer whether
18 it was cheating for the Unit 2 supervisor of operations
19 to have handed in a makeup exam necessary for his annual
20 requalification written partially in another's hand,
21 the action, by the way, for which Mr. Floyd has recently
22 been indicted in Federal Court. And the attorney said
23 that it was a philosophical question that he could not
24 answer. The sad fact is that the staff disregarded and
25 rationalized the evidence against GPU and was then put

1 in a position where it has had for the past three years
2 to defend its own misjudgments, a position in which it
3 is still mired.

4 The staff now says that there has been a
5 dramatic change in GPU as of January 1, '82. It's a new
6 company. This premise is also or a variation of it
7 central to GPU's position. I ask where is the objective
8 evidence that this new company has dramatically changed
9 course? Where is the objective evidence of a true
10 house cleaning because there is a difference between
11 wishful thinking and evidence?

12 Let us talk , for example, about environmental
13 qualification. A safety issue which cuts the broadest
14 possible swath across all safety systems. Like
15 all other plants, GPU has been under order since 1980
16 to have all safety equipment environmentally qualified
17 and by June 30, '82, for each component to be either
18 qualified and documented as such or a justification for
19 continued operation.

20 The staff did a limited audit just this
21 spring of eight equipment files, eight equipment files
22 in the emergency feedwater system and found that in no
23 case, zero for eight, was there documentation to
24 demonstrate environmental qualification. And in each
25 case the component had been asserted to be fully

1 qualified. And the staff found no evidence of management
2 or a QA involvement in this issue. The fact is that
3 the same attitudes persist. No one has been held
4 accountable for incident after incident.

5 The new GPU responded the cheating episodes
6 by denial, minimization and promoting responsible
7 persons. GPU responded to the accident itself by
8 sanitizing its only , its only internal report to down
9 play the management's role and remove references to
10 license violations.

11 CHAIRMAN PALLADINO: Miss Weiss, I got a
12 signal that time is up, but I would like you to give me
13 a feeling for how long...

14 MS. WEISS: I'm almost finished. I'm on the
15 last two pages.

16 I just want to make one remark and then go to my
17 conclusion. Commissioner Asselstine asked a question
18 and got what I thought was an extremely telling response.
19 If I can find my notes. Yeah.

20 Commissioner Asselstine asked if it was fair
21 to judge GPU by its response to the cheating incidents
22 as well as the cheating incidents which occurred in
23 1981. And Mr. Kuhns said, no, it wasn't really fair
24 because the, the real new organization wasn't in place
25 in 1981.

1 Two breaths later Commissioner Asselstine asked another
2 question. He said is it fair to make this decision on
3 the basis of off the record materials, the decision on
4 integrity and competence. And Mr. Clark answered that
5 question by saying but you do have, you do have on the
6 record decisions. You have Licensing Board decisions
7 from 1981.

8 Put aside for the moment that, that ignores
9 the Appeal Board decision. You can't say on the one
10 hand don't judge us by the bad things that we did in
11 1981, judge us by the good things that we did in 1981.

12 GPU's plan for restart requires the NRC to
13 accept three unacceptable premises. The first is that
14 while the TMI-2 staff, TMI-2 staff was deeply
15 compromised, the TMI-I staff was in the same corpora-
16 tion, was and is pristine. The proposition is not
17 believable but it is essential to both the GPU and
18 staff proposals.

19 The second premise is that while Messrs. Kuhns
20 and Decamp were sufficiently removed from daily TMI
21 activities, to be unaware of the leak rate falsification
22 in that training, the cheating, the laundering of the
23 cheating report, the inaccurate response to the notice
24 of violation, the NRC can depend upon the effectiveness
25 of their current promises to insure strict adherence

1 to high standards of integrity throughout the organization.
2 I say top management can't have it both ways. If they're
3 not responsible for failure, they're not in a position
4 to insure success. It's not enough to keep saying they
5 didn't personally know. They bear responsibility.

6 The third premise is that a small group of
7 GPU personnel hired after the accident can cure the problem.
8 I heard Harold Denton in an open Commission meeting
9 assert that he gets his faith in the new GPU from
10 Messrs. Clark and Hukel (ph).

11 For one thing, as we have shown, the new GPU
12 continues the pattern of the old. Perhaps, the clearest
13 example is its failure to this date to hold anyone
14 accountable for leak rate falsification, Messrs. Clark
15 and Hukel notwithstanding. Clark was in place during the
16 cheating and the cheating hearings. He was in place
17 during the time when GPU denied the obvious cheating in
18 sworn testimony in that hearing. He was replaced when
19 Richard Parks was fired for raising safety concerns
20 about the cleanup. He was replaced during the period
21 when the Fahgren (sp) and Benson report was withheld,
22 the BETA NRHR reports were withheld and during the
23 preparation of the Keaten report. And it seems to me
24 that you can't march up here and say we have humbly
25 determined to follow all of the lessons learned from the

1 accident when the facts of your recent past testifies
2 so much in the other direction.

3 It is wishful thinking to imagine that two
4 people can change the course of this ship and they have
5 not. Messrs. Clark and Hukel report to the same Board of
6 Directors as, by the way, does the new independent
7 safety oversight group, and they direct an organization.
8 whose fundamental instincts are unchanged.

9 I conclude by recalling the dictionary
10 definitions of integrity and character: Moral excellence,
11 firmness, resolution, self-discipline, high ethics,
12 forcing judgment, other sincerity, honesty and candor,
13 avoidance of deception, expedience or artificiality
14 or shallowness of any kind. These qualities are,
15 unfortunately, not characteristic of GPU. It should
16 not be permitted to operate TMI-I.

17 The concerns which prompted the TMI-I shut-
18 down have not been resolved. Indeed, there's more reason
19 now to doubt the competence and integrity of this
20 company than the Commission could remotely have
21 imagined in 1979.

22 Thank you.
(Applause.)

23 CHAIRMAN PALLADINO: Thank you. Miss Weiss,
24 you indicated that you had, you said restart
25 would require acceptance of three unacceptable premises.

1 Aren't they really the questions that we're addressing?
2 In other words, I don't think we're making a premise
3 where a TMI-2 staff was deeply compromised and TMI-I
4 staff pristine. It's part of the question that we're
5 searching the answer to.

6 MS. WEISS: What I mean to say there is that
7 in order for you to accept the GPU proposal for
8 restart, you must accept these three premises which we
9 believe are unacceptable.

10 CHAIRMAN PALLADINO: It's not clear that that
11 is so, but it may require a finding that way. I'm not
12 sure. And I think, the same point with regard, to, your
13 second premise, that it's a question that we're
14 exploring.

15 Now, you speak about a small group of GPU
16 personnel hired after the accident as curing the problem.
17 I heard, I believe correctly, Mr. Clark indicate that
18 about three-quarters of a present organization either
19 did work for GPU or did work for...

20 MS. WEISS: Met Ed.

21 CHAIRMAN PALLADINO: ...that, that plant.

22 MS. WEISS: Met Ed, yeah. Well, there's
23 certainly been a lot more than a few people hired, but
24 my observations from sitting here meeting after meeting
25 and reading paper after paper and it's been said quite

1 explicitly by your staff, when asked where do you get
2 the confidence that the new management has changed course
3 dramatically and can do the job, they mention Mr. Clark
4 and they mention Mr. Hukel. I don't think there's been
5 any examination of these other 350 people, except that
6 we know they are new.

7 CHAIRMAN PALLADINO: But they do mention quite
8 a few people in their report, but, and some of the
9 other comments they make are similar to some of those
10 that you make on some of them.

11 Let me just ask one other question. You made a
12 statement that said and I can't quote you correctly but
13 I get the spirit of the question, you said the evidence,
14 beyond question, shows that neither the NRC nor the
15 licensee looked into the training adequately. I don't
16 remember what the end part was.

17 But, from my reading so far, I thought that
18 there had been a great deal of attention given to train-
19 ing and that there had been improvement in it. Now, if
20 you think, if you have evidence that beyond question
21 shows that neither the NRC or the licensee addressed
22 the question of training properly, I'd be interested in.

23 MS. WEISS: Well, I think all you have to do is
24 look at the Appeal Board decision. That is the
25 latest decision on the basis of the record evidence in
this case. Everything else since then is self-serving

1 assertions, understandably self-serving on all sides,
2 none of which have been subject to a test of taking the
3 stand under oath and being questioned.

4 The Appeal Board decision in ALAB 772 says
5 on the basis of this record. We cannot make a finding
6 that the training was effective.

7 COMMISSIONER BERNTHAL: That was a very
8 important point, in fact, in one of the key issues here,
9 Joe, it seems to me, is, in fact, a procedural issue.
10 I find it incredible that we have been speaking...I
11 shouldn't say we, the Appeals Board has been speaking
12 to a record that is two and a half years old.

13 Somehow if not a year or two ago, at least
14 today we need to make a decision not just in this case
15 but, perhaps, I hope not future such cases but in
16 general how to deal with that kind of situation. It's
17 pointless to be talking about a record that clearly
18 must be out of date.

19 CHAIRMAN PALLADINO: But as I recall, and I
20 might be wrong, their principal specific was that the
21 program hadn't been reviewed by the operators accelerated
22 retraining program.

23 MS. WEISS: With all due respect, Mr. Chairman,

24 ...

25 CHAIRMAN PALLADINO: The (inaudible).

1 MS. WEISS: Sure.

2 COMMISSIONER BERNTHAL: There's no question
3 there's a lot of new information, and there's no
4 question that it has been dealt with in adequate or
5 less than adequate fashion, depending on your point
6 of view, but in this process that we've set up here,
7 we apparently demand an adjudicatory procedure in such
8 matters.

9 And all that I'm saying is in expressing is
10 my sense of frustration that the record is two and a
11 half years old that we're talking about.

12 CHAIRMAN PALLADINO: Well, before you draw
13 a conclusion, I don't want to be vague but...

14 COMMISSIONER BERNTHAL: I haven't drawn a
15 conclusion.

16 CHAIRMAN PALLADINO: About what our procedure
17 is, it would be well to reread some of the orders
18 that the Commission has put out, but I will debate
19 that later.

20 COMMISSIONER BERNTHAL: I'm not necessarily
21 placing blame. I'm just pointing out the flaw in the
22 system, Mr. Chairman.

23 MS. WEISS: If I could just for the
24 Chairman's benefit, for my benefit.

25 CHAIRMAN PALLADINO: For all our benefit.

1 MS. WEISS: Yeah. Quote to you, again, what,
2 how the Appeal Board characterized its own decision.

3 (END OF TAPE 4).
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1 MS. WEISS: What it said was that the issue in
2 this case is the instruction adequate to instruct the
3 operators to operate their plant safely. We, meaning
4 the appeal board disagree with the licensing board on
5 its affirmative answer to that question. That is not,
6 certainly not a trivial matter. They have said many
7 many times this is directly related to safety both
8 generally and in this case. It is not just a matter of
9 the opinions of the use experts. I assure that there
10 will be other experts appearing there.

11 CHAIRMAN PALLADINO: I would want to reread
12 it. I don't know if that is the whole paragraph. One of
13 the things that I did learn from the only law course I
14 ever took was you should never read one sentence out of
15 a paragraph. You should at least read the paragraph.
16 But, it was impression that they concentrated on
17 particularly one point. However, I admit that training
18 is a very important item and one that we will have to
19 give careful attention to in our deliberation. Let me
20 turn to my fellow commissioners.

21 COMMISSIONER ASSELSTINE: I just have one
22 question, Ellen. With the addition, if you added in
23 environmental qualification, do you think that the set
24 of steps that Governor Thornburg outlined this morning
25 are a set of necessary and sufficient steps to get us

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1 to the point where the commission could then make a
2 restart decision one way or the other.

3 MS. WEISS: That's environmental
4 qualification, emergency feedwater, emergency planning.

5 COMMISSIONER ASSELSTINE: Also I was thinking
6 about the treatment of the 2.206?

7 MS. WEISS: Right. The 2.206, that's what I
8 meant. Emergency planning integrity complex...

9 COMMISSIONER ASSELSTINE: Steam generators
10 tube repairs and then the three open items that are
11 addressed in the ALAB.

12 MS. WEISS: I think so.

13 CHAIRMAN PALLADINO: Fred, do you have more
14 questions?

15 COMMISSIONER BERNTHAL: I think not.

16 CHAIRMAN PALLADINO: Lando?

17 COMMISSIONER ZECH: I just want to thank you
18 very much. I think you brought out some very important
19 issues and certainly they are ones that we on the
20 commission should consider very carefully. I appreciate
21 your summarizing them here just now for Commissioner
22 Asselstine. Thank you.

23 MS. WEISS: Thank you.

24 CHAIRMAN PALLADINO: I'm going to suggest we
25 take a short break, 10 minutes and then we will get to

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1 the staff. Thank you.

2 (Brief recess.)

3 CHAIRMAN PALLADINO: The next presentation
4 will be made by the NRC staff.

5 MR. DENTON: Thank you Mr. Chairman. With me
6 at the table is Tom Murley, the administrative in
7 region 1, Jack Goldberg, the attorney, OELD attorney on
8 this case, and Bill Russell, deputy director of human
9 factors who directed the evaluation of the licensees
10 management integrity, resulting in report NUREG
11 0680. Let me turn the meeting over to Mr. Goldberg to
12 begin the staff's presentation.

13 MR. GOLDBERG: Chairman Palladino and
14 commissioners, I had just a very few brief remarks on
15 the staff's overall position on restart. In particular,
16 on the management concerns with the basis of the
17 commission's extension of the TM11 operating license.
18 Then, I believe Mr. Denton, Mr. Russell, and Mr. Murley
19 would like to address some matters that were raised
20 today. We, of course, would be happy to attempt to
21 answer any questions that the commissioners may have.

22 The staff's overall legal position is
23 precisely the one which was stated by the commission in
24 CLI8134. That is, that when the commission believes
25 that the concerns which were the basis for the

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1 immediately effective suspension of the TM11 operating
2 license have been resolved, then, the public health,
3 safety and interest no longer mandates that suspension,
4 and the suspension should be lifted.

5 We emphasize that it was the commission's
6 concerns which prompted the immediate effective
7 suspension and it must be the commission's decision as
8 to whether those concerns are sufficiently resolved to
9 allow restart. The staff believes that there is
10 adequate information available to the commission on
11 which it can base a decision.

12 If the commision believes that its concerns
13 have been sufficiently resolved to authorize restart,
14 then it should make a decision to authorize restart.
15 If, however the commision does not believe that its
16 concerns are sufficiently resolved based on the
17 information that it has available to it then it is not
18 obligated to make a restart decision now.

19 And, certainly the commission can proceed
20 with further hearings if it believes that those
21 hearings are necessary to resolve the concerns that
22 were the basis for the suspension. The staff has
23 evaluated the OI reports which were recently completed
24 in connection with all the integrity issues that were
25 raised concerning TM11, subsequent to the close of the

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1 evidentiary record. We have documented that analysis in
2 supplement 5 which has been provided to the parties
3 recently as well as provided to the commission and the
4 boards.

5 Mr. Russell is here to answer particular
6 question that the commission may have on the staff's
7 analysis as documented in that supplement. We would
8 note that that document has not been the subject of
9 party comments.

10 With respect to ALAB 772, the appeal board
11 identified some concerns that it had with the
12 evidentiary record. The staff does not believe that
13 ALAB 772 is necessarily a bar to restart. There is
14 available to the commission, information on each one of
15 the areas of concern to the appeal board which the
16 commission can rely on if it chooses to make a restart
17 decision.

18 With respect to the training and testing
19 program, there have been a number of fairly recent
20 evaluations of the licensee's current training and
21 testing program, including SALP reports, inpo
22 evaluations, NRC inspections, and a report by the
23 reconstituted OIRP committee. These evaluations and
24 reports can provide a basis for a commission decision
25 that its concerns in the training area have been

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1 sufficiently resolved to permit restart.

2 With respect to the Decamp mailgram issue,
3 another area of concern to the appeal board, there is
4 the sworn statement of Mr. Decamp taken by the NRC in
5 September of 1980, as well as the staff's testimony in
6 this proceeding which can provide a basis for the
7 commission decision on whether the concerns that it
8 might have as a result of the Decamp mailgram have been
9 sufficiently resolved for restart decision.

10 Similarly, with respect to leak rate testing
11 at TM11, the third area of concern to the appeal board.
12 There is no completed an OI investigation which deals
13 with that subject matter. In the staff's view, it does
14 not identify any significant adverse implications for
15 any key TM11 management or operating personnel, so as
16 to be a bar to restart.

17 In conclusion, we would like to emphasize
18 that the commission has to decide whether the concerns
19 which formed the basis for the suspension have been
20 resolved. There is adequate information available to
21 the commission if it wishes to make a restart decision
22 now.

23 If the commission believes that the concerns
24 aren't sufficiently resolved based on the available
25 information, then it is certainly in the commissioner's

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1 discretion to pursue further party input and further
2 hearings if necessary to provide the commission with
3 the information that would be adequate to resolve those
4 concerns.

5 I believe that Mr. Denton would like to
6 address some of the points that were raised this
7 morning by some of the other parties as well as some
8 points and questions that were asked by the
9 Commissioners.

10 MR. DENTON: There are four issues which we
11 had planned to briefly discuss. That's management
12 issues, emergency planning, certification issues, and
13 the steam generator issues. Let me go through those
14 first. The staff suspended its judgement regarding
15 national integrity in April of last year because of the
16 information that was beginning to unfold particularly
17 as a result of the information that came available
18 during the B&W GPU law suit and other sources. What we
19 have done since that time is await the outcome of all
20 of the OI investigations and this report, NUREG 068.0
21 does summarize the staff's views with regard to
22 management integrity both individually and collectively.
23 I don't propose to read it, but it has not been
24 subjected to adjudicatory process and it has not been
25 commented by the other parties. We certainly recommend

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1 that you consider getting comments from other parties
2 if you so desire.

3 CHAIRMAN PALLADINO: This is on 0680?

4 MR. DENTON: Yes. In the staff's view this
5 issue is resolved. Perhaps I should read the bottom
6 line from page 1318. It says based on all of the
7 information reviewed by the staff in balancing the past
8 improper activities of the licensee against its
9 subsequent record of remedial action and performance as
10 well as the record of current senior management of the
11 licensee, the staff concludes there is reasonable
12 assurance the GPUN can and will conduct its license
13 activities in the course of regulatory requirement and
14 the GPUN can and will operate TM11 without undue risk
15 to health and safety to the public. That's based on our
16 review of the information contained in the 9
17 investigation reports and a number of other sources.

18 We think we tried to document the basis for
19 our view, and dealt with all the issues that the
20 commission has identified we should deal with in that.

21 The next area I wanted to cover was emergency
22 planning. That's an issue which was a subject of the
23 original commission order that board also laid down
24 some requirements in that area. We sent the commission
25 a letter a few weeks ago saying we could no longer

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1 certify that emergency planning requirements were being
2 met. We have in the audience today a representative
3 from FEMA. It is my understanding that the test
4 required to demonstrate correction of those Class A
5 deficiencies in Dolphin and Lancaster County will not
6 be done until about mid October and will be sometime
7 after that assuming they are satisfactory that we would
8 receive from FEMA certification that those Class A
9 deficiencies had been corrected. If you would like to
10 go into that, we have a Staff or FEMA who can discuss
11 that.

12 CHAIRMAN PALLADINO: How long after the
13 exercises, we might get something from Vema, do you
14 know?

15 MR. DENTON: Let me ask Mr. Jordan from I&E or
16 Mr. Wilkinson who is here from FEMA who might like to
17 answer that.

18 MR. JORDAN: I'm sorry, Mr. Chairman, I
19 couldn't hear your question, could you say it again?

20 CHAIRMAN PALLADINO: How long after the
21 exercise might we get some indication from FEMA on
22 their conclusions?

23 MR. JORDAN: Okay, I will let Bob Wilkinson of
24 FEMA answer that question.

25 MR. WILKINSON: Mr. Chairman, normally it is a

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1 period of 30-45 days. There could be some expedited
2 action in this case. We will pay particular attention
3 because of the nature of these category A deficiencies.

4 CHAIRMAN PALLADINO: Did you say 35-40 days.

5 MR. WILKINSON: 30-45 days.

6 CHAIRMAN PALLADINO: On the expedited basis,
7 or is that your normal?

8 MR. WILKINSON: I would expect on an expedited
9 basis about 30 days would be what we expected.

10 COMMISSIONER ASSELSTINE: So, that would be 30
11 days after the exercises are concluded about the middle
12 of October.

13 MR. WILKINSON: Yes sir. I would hasten to add
14 that there is a relatively firm date for the exercise
15 for Lancaster County, because that is a part of the
16 Peach Bottom exercise, whereas in Dauphin county we are
17 awaiting the scheduling, the final scheduling of that
18 exercise until the completion of their new emergency
19 operating center. So, that is a floating date for the
20 Dauphin county exercise.

21 COMMISSIONER ASSELSTINE: I have just one
22 other question I could ask the FEMA representative. Is
23 the Dauphin county exercise a tabletop exercise, or is
24 it more of an actual testing of the people themselves.

25 MR. WILKINSON: The Dauphin county exercise

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1 goes beyond the, simply the tabletop exercise in that
2 it has involved the activation of the emergency
3 operating center and some simulated situations to
4 involve a decision process for making protective action
5 recommendations. It will also involve certain items
6 which are closely related to your certification item
7 144 in that it would require activation of the alert
8 warning system and the communication system between
9 Dauphin County, the state of Pennsylvania, the Utility,
10 and other local jurisdictions with that particular EPZ.

11 CHAIRMAN PALLADINO: Could I ask what is the
12 staff's position with regard to the need to wait for
13 the emergency exercise before lifting the immediate
14 effectiveness order?

15 MR. DENTON: It's our understanding that the
16 order requires that we certify that effective emergency
17 planning is in place. That goes back to the original
18 commission order. It is my view that we cannot certify
19 that is, until we have an affirmative letter from FEMA.

20 CHAIRMAN PALLADINO: But, wasn't the emergency
21 planning litigated once?

22 MR. DENTON: Yes, and it was found at that
23 time, maybe I should let Jack speak, but to be adequate
24 with certain provisions, and we thought at one time
25 that this issue was resolved in the RAMA tests which

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1 showed deficiencies, so we received a letter from FEMA
2 that said our previous thoughts about the adequacy of
3 emergency planning in that area were no longer true,
4 and that is when we withdrew our certification.

5 MR. GOLDBERG: Mr. Chairman, to just elaborate
6 on that a little bit, there was litigation of all the
7 emergency planning concerns. The board noted some
8 problems with communications in the area of emergency
9 planning. As a result of the problems that it noted
10 with communications, it imposed a license condition
11 that there must be held prior to restart a
12 communications drill similar to the one suggested by
13 the Commonwealth. Now, what happened was there were
14 some deficiencies that resulted from the communication
15 drills which FEMA communicated to us. So, these are the
16 same kinds of communication problems that were the
17 basis for that license condition. It is our position,
18 therefore, that we cannot certify that item until FEMA
19 determines whether its concerns and the deficiencies it
20 identified have been resolved.

21 CHAIRMAN PALLADINO: Yes. I remember now the
22 license condition. Okay, thank you.

23 MR. DENTON: The next item I want to cover in
24 what we call the certification issues, there is a
25 number of issues over the years we have identified that

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1 the staff needs to certify to the commission have been
2 completed. We anticipate having all those completed and
3 certifications made to the commission by about
4 Mid-September. So, I don't propose to go into those,
5 but there are a number of those that we have not yet
6 certified to you. Some include equipment qualification
7 issues that were mentioned earlier today. We are
8 pursuing those, awaiting from additional information
9 from the licensee on some. It is our best estimate that
10 those issues would be completed by about
11 mid-September.

12 COMMISSIONER ASSELSTINE: So, that would
13 include all the EQ issues? I noticed we got a note
14 saying that the licensee wasn't ready.

15 CHAIRMAN PALLADINO: Yes, I think you issued a
16 decision on July 26, asking us to look specifically at
17 radiation effects. That is where, I think we don't
18 expect information from the licensee that we need until
19 sometime after the 20th of this month. So, mid
20 September is assuming that the licensee provide
21 satisfactory information in that area.

22 But, that's the date that I would project for
23 otherwise completion of all the commission
24 certification items.

25 The last item I wanted to mention the steam

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1 generator hearing. The hearing itself is complete. We
2 are waiting a board decision. It is the staff's
3 estimate that the decision might be forth coming around
4 the end of September. That's an area we need to settle
5 since the last commission vote on that was 2-2. There
6 have been some new developments with regard to the
7 steam generator. I wanted to apprise you of. Some loose
8 parts were found in the bottom of the steam generator
9 recently. These are plugs from the, that were used to
10 plug the bottom tubes, this is not from the top repair,
11 that was a subject to rejustification. We required the
12 applicant to do some tests on those. These tests have
13 revealed about 5 out of the 10 plugs that were tested
14 recently were pulled out prior to their calculated
15 strength where they should have stayed in.

16 So, it is clear that this issue is going to
17 have to be resolved before the plant would be
18 physically ready to operate.

19 CHAIRMAN PALLADINO: Are these plugs welded
20 in?

21 MR. DENTON: These are roll plugs, Mr.
22 Chairman. I understand there are about a thousand of
23 them. They have been used, explosive plugs, and
24 mechanical plugs have all been used before. This plant
25 probably has the most extensive use of roll plugs of

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1 any plant.

2 COMMISSIONER BERNTHAL: May I just suggest
3 that we start referring to these as loose plugs,
4 instead of loose parts? In fact, or are there other
5 loose parts?

6 MR. DENTON: I think these are the parts that
7 were referred to.

8 COMMISSIONER BERNTHAL: That's what I thought.

9 COMMISSIONER ASSELSTINE: You want to start
10 thinking of a loose plug monitor?

11 COMMISSIONER BERNTHAL: This is a case where a
12 euphanism is not euphanism.

13 MR. DENTON: These are the items I wanted to
14 cover. We have a number of staff here who can cover
15 these in more detail. But, I thought these were the
16 most notable issues that remain to be completed to the
17 staff's satisfaction. As you heard this morning, there
18 is a great deal of difference of opinion as about where
19 the other issues have been completed adequately or not.
20 But, these are the ones that we see, that are
21 impediments to the staff saying the plant is ready to
22 go.

23 Subject to satisfactory resolution of these,
24 we would conclude that the plant has been completed
25 in accordance with the commission regulations and can

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1 be operated safely. I did want to comment briefly on
2 the issue that came up during the Aamodt's presentation
3 this morning throughout the survey that had been done
4 showing unexpectedly high rates of cancers. I think it
5 is highly likely that such a situation exists, could be
6 related to the accident. You probably recall that at
7 the time of the accident, every Federal and state of
8 Pennsylvania agency that had any expertise in radiation
9 monitoring was involved in monitoring. There were
10 federal groups, that included the NRC, EPA, DOE, HEW
11 that wrote a report on how much radiation got out. The
12 best estimate of that inter-governmental group was that
13 the maximum dose anyone could have received if they had
14 stood in the worst location during the entire time was
15 on the order of 100 millirem. Scientific tests for many
16 years showed you would not expect the kind of results
17 that are being quoted today based on the release of 100
18 millirem at the location of the north gate.

19 But, since any staff review of that probably
20 would not be believed either, I suggest the commission
21 may want to refer that to a Federal Agency with
22 expertise in epidemiology, such as the Center for
23 Communicable Diseases, or EPA, or someone else who is
24 skilled at looking into patterns of disease in
25 neighborhoods and drawing conclusions from it.

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1 COMMISSIONER BERNTHAL: Hasn't the state of
2 Pennsylvania done or tried to do an epidemiological
3 study of...or is that not the case?

4 MR. DENTON: There were two studies that I am
5 aware of. One was done by the state, but that was
6 focused on the occurrence of birth defects, and whether
7 or not any impact of the plant on birth defects could
8 be seen. There is another study that is being funded as
9 a result of a law suit, and the, I have forgotten the
10 name of that group. But, there is a, as a result of the
11 citizen's banding together who were involved in that,
12 there is, the court's did establish an epidemiological
13 study that is going on. That is being administered
14 through that process.

15 CHAIRMAN PALLADINO: Could we get some
16 supplementary information.

17 MR. DENTON: I would be glad to provide
18 additional information on what is going on. It is my
19 understanding that that group was doing an
20 epidemiological study. The NRC is not sponsoring
21 epidemiological studies, that is clear. I think that
22 when a small survey like this is done, it is best to
23 refer to someone who has a long history of dealing with
24 epidemiological studies, and trying to deal with it
25 several years ago, it is a difficult subject. You may

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1 recall there were studies that were done regarding
2 hypothyroidism, and whether that was unusual in the
3 area. I think the health officials are the proper ones
4 to refer that sort of study to.

5 COMMISSIONER BERNTHAL: I don't know what the
6 best procedure for questions is. It may not be so good
7 to come back four times to the same issue, so if you
8 don't mind, I would like to ask another question on
9 that subject. I think that the Aamodts have represented
10 some people, and perhaps some animals to say nothing of
11 structures and inanimate material, may have been
12 exposed to levels of radiation in the neighborhood of
13 100R if I am remembering correctly. That's a thousand
14 times greater than the suggested maximum possible dose
15 that you have made. Unless that were a very very soft
16 radiation, shouldn't you be able to, even today perhaps
17 determine from careful analysis of materials in the
18 area where doses of that size were alleged to occur,
19 whether that could possibly be the case.

20 MR. DENTON: This was as thoroughly studied
21 accident as we have ever had, Commissioner. Once the
22 Federal agencies were there in force, every agency was
23 independently taking samples and making analyses. The
24 documents that were published were the conclusions of
25 all of the agencies involved. I think it is extremely

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1 unlikely that radiation levels 100 times greater than
2 estimated by the council were released. A thousand
3 times greater.

4 COMMISSIONER BERNTHAL: That's based on what,
5 analysis of looking for residual radioactivity, or was
6 there...what I am suggesting is that the physical
7 effects of a level of 100R, a dose of 100R from what I
8 remember of radiation physics suggests that you had
9 still today probably be able to find the physical
10 effects on perhaps on glasses and things of that
11 nature.

12 MR. DENTON: I think that sort of thing was
13 studied at the time, Commissioner. A film was gotten
14 from drug stores, for example, where there have been
15 this film would have been in the store during the time
16 of the accident, and attempts made to look at that. I
17 remember whole body counting of individuals, extensive
18 soil sampling. Milk sampling was done, and there were,
19 right after the accident, a lot of occurrences of what
20 people thought were related to the accident, we
21 retained the services of the Department of Agriculture
22 where it was concerning crops and animals and wildstock
23 to look into those. There were several reports written
24 as a result of those kinds of studies to see if in fact
25 we could find and I think the punincy and integrity of

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1 the professionals who were involved at that time, all
2 indicating to the State of Pennsylvania to try and find
3 the effects. That is extensively documented, so I think
4 the study is very small and it just needs to be
5 referred to a group that specializes in that.

6 CHAIRMAN PALLADINO: It was my impression that
7 your radiological protection tried to respond to a
8 number of suspicions of radioactive pockets to see
9 whether or not it existed and what level it was
10 there...

11 MR. DENTON: I think the difference between
12 what you would expect at those levels were projected
13 and what was being talked about here, is...makes it
14 highly unlikely there is a cause and effect
15 relationship. But, I do think if the staff were to
16 produce a study, it would probably be equally suspect
17 because of the accusation of somehow there was a
18 massive coverup involving every Federal Agency. That's
19 why I recommend referral to some agency that
20 specializes in it.

21 COMMISSIONER ASSELSTINE: I notice the staff's
22 response, to the Aamodts' petition had identified some
23 of the studies that had been done at or following the
24 time of the TMI accident. Is that a comprehensive list
25 of all of the studies or surveys that might have

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1 addressed this kind of a question, and if it isn't
2 could you maybe provide us with a list of the other
3 studies or surveys where these kind of concerns or
4 questions have been addressed?

5 MR. DENTON: We'll certainly do that.

6 COMMISSIONER ASSELSTINE: Okay.

7 CHAIRMAN PALLADINO: Any more on the question
8 of the...

9 COMMISSIONER ZECH: I would just like to see
10 those studies, and I think it is a very worthwhile
11 subject and I appreciate the Aamodt's bringing it up,
12 and I think it deserves looking into again. It is
13 certainly is so important in my judgement.

14 CHAIRMAN PALLADINO: As I do recall, there
15 were a lot of reports issued on the subject. I am not
16 saying that they are the last word, but.

17 MR. DENTON: It's unfortunate that 20% of us
18 will probably die of cancer in today's population.
19 Then, the question that you find an occurrence in a
20 neighborhood or small areas that has had to you some
21 local effect or is it just random occurrences. We faced
22 that sort of question before, and I think generally we
23 do have to enlist the health agencies for bringing
24 their expertise to bear.

25 COMMISSIONER BERNTHAL: Who would be the

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1 appropriate agency that has not already been involved
2 in, perhaps therefore disqualified in the studies that
3 have been done?

4 MR. DENTON: As I said, I think almost any
5 agency with any capability in this area was involved at
6 the time. But, typically, if it came up in some other
7 location, I think our first choice would be to go to
8 the CDC in Atlanta as having a unique capabilities in
9 this field.

10 COMMISSIONER ASSELSTINE: Were they very
11 actively involved in the past?

12 MR. DENTON: I think they had a representative
13 or two during the studies, yes. You may recall that the
14 secretary of HEW Calafono at the time, gave his view
15 that the 3,000 man rem that were projected, the total
16 exposure from the accident might cause about 1 cancer
17 in the population.

18 COMMISSIONER BERNTHAL: I would just suggest
19 that we might investigate whether they would be an
20 appropriate agency to, at the very least go through
21 this volume, these volumes of studies that have been
22 done, and then make a decision on anything further as
23 appropriate. If so, in any case, it might be useful for
24 them to initiate such studies, perhaps not just here
25 but it's worthwhile in general, I think to carry out.

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1 MR. DENTON: Previous discussions with the
2 commission point out that it is extremely costly to do,
3 have to run from long periods of time in order to get
4 reliable statistics.

5 CHAIRMAN PALLADINO: Well, I think we ought to
6 examine the question. We know that there was a lot of
7 work done at the time of the accident which begins to
8 fade, in memory unless I'm refreshed in them.

9 MR. DENTON: This concludes our plan
10 presentation. There were a number of things that came
11 up today. We could respond as the Commission is
12 interested.

13 CHAIRMAN PALLADINO: Let me start with two
14 questions. One, could you comment about some of the
15 remarks regarding training that have been made during
16 the course of the day, particularly dealing with Ms.
17 Weiss, but not only by Ms. Weiss, the basis for any
18 conclusions, or the conclusions that you have drawn
19 with regard to training and the extent to which the
20 issue has been litigated?

21 MR. DENTON: I'm sure you remember, Mr.
22 Chairman that we sent the letter to the licensee
23 requiring the retest of all operators after we
24 discovered he cheating incident had occurred. Since
25 that time, we have paid special attention...

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1 CHAIRMAN PALLADINO: What year was that, 1982?

2 MR. DENTON: Someone refresh my memory, Bill?

3 MR. RUSSELL: April of 1981.

4 MR. DENTON: April of 1981. Since that time,
5 this area has received a lot of attention by our
6 inspection staff and our headquarter staff. Let me have
7 Bill Russell describe what is going on since that area.
8 Some of this information is contained in the report
9 0680.

10 MR. RUSSELL: In reviewing the training area
11 most of the information which is covered in Nureg 0680,
12 in Section 7.3 is information which is outside of the
13 record, and was developed as part of the proceeding.
14 Some of the activities that the staff has been involved
15 in, have involved review of training at the point of
16 delivery. I had two people on my staff go down to the
17 B&W simulator at Lynchburg and observe the operator
18 training and the performance of the operators on the
19 simulator to respond to some of the concerns about
20 whether the training reveiws were in fact reviews of
21 paper and process or whether it was actually a review
22 of training. The conclusions of those individuals was
23 that the training was effective, and that it exceeded
24 NRC requirements in the area, and in particular the
25 performance of Mr. Ross, who was the supervisor of that

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1 particular team, his performance on the simulator was
2 quite good.

3 In addition to that, in February of this
4 year, there was an extensive review including
5 interviews and questioning of all the operators at the
6 plant that was documented in the inspection report. I
7 believe it was in early February. Of those inspections
8 and evaluations that with citations to the record, the
9 document that staff used are all contained in section
10 7.3R report. They do cover matters which are outside of
11 the record that was developed.

12 MR. DENTON: I think Tom may also like to
13 comment on that.

14 MR. MURLEY: Just to elaborate on that last
15 point that Bill made, we conducted an operational
16 readiness assessment this spring, I guess it was in
17 February. This was a team of experienced examiners from
18 the region, from other regions, and also from our
19 Chatanooga training center. We went to the plant, we
20 interviewed most of the plant operators. Some of them
21 were not there, they were away on training. We did face
22 to face interviews. This went well beyond any inspection
23 or any assessment that we do for any other plant for
24 the normal mode of business, for example. We did not do
25 such a thing for Susquehanna 2, to give you an example

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1 when they recently got licensed.

2 What we found there was, although there were
3 some weaknesses in some of their knowledge. We
4 attributed this primarily to a general rustiness, the
5 fact that they haven't operated the plant for the last
6 5 years. We none the less found that the operators were
7 well trained, and in our judgement capable of operating
8 the plant and this is documented in our inspection
9 report, and it is referred to in the report here as
10 well.

11 CHAIRMAN PALLADINO: Ms. Weiss made the
12 statement that the incidents beyond question showed a
13 lack of NRC'S, as well as the licensee's, attention to
14 training. I gather you say the evidence goes the other
15 way?

16 MR. DENTON: There have been so many
17 developments since that time...

18 CHAIRMAN PALLADINO: I forgot to ask her what
19 about evidence on the record or the total...

20 MR. MURLEY: I think she was.

21 MS. WEISS: Yes.

22 CHAIRMAN PALLADINO: Let me ask my second
23 question. Ms. Weiss asked a question that I was
24 prepared to ask you also. You said that had you known
25 what you knew now, you would have probably given

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1 different conclusions or observations to the hearing
2 board. Question team up, well, didn't you know any of
3 the things at the time of the hearing? What is it that
4 you didn't know, and why didn't you know it?

5 MR. DENTON: Well, I didn't know it.

6 CHAIRMAN PALLADINO: Well, the staff.

7 MR. DENTON: The history of that, at least my
8 understanding of the history is that the region, Tom
9 maybe you can help me, had begun investigating the
10 Hartman matter. It accumulated quite a bit of evidence
11 when the Department of Justice asked the staff to seal
12 its own investigation so as to not interfere with the
13 Department of Justice review. We had assumed that the
14 Department of Justice would complete its review far
15 sooner than the staff would get through with the other
16 items in the review, and that that would become
17 available.

18 So, in effect very few people in the agency
19 knew what Justice knew. Justice had in fact asked the
20 people who interact with them not to talk about it for
21 fear of prejudicing their case. So, as we were moving
22 along, we had assumed that this area would be taken
23 care of before it was. Then, when the case was
24 reopened, suddenly I became aware of information that
25 had otherwise been protected at the request of justice.

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1 CHAIRMAN PALLADINO: Is that only the Hartman
2 matter that you were referring to?

3 MR. DENTON: Well, then there was the B&W
4 lawsuit review which revealed a great deal more
5 information, and then as the, there were things like
6 the RHR and Beta report, and it was that information
7 that led me to write in April of 1983 because of the
8 law suit record, the Hartman allegations, the Parks and
9 King allegations, the Beta and RHR reports, and the
10 failure to provide those to the board, that we felt we
11 should suspend any judgement in that until they can be
12 investigated, that then led to the 9 investigations by
13 OI which provided a great deal of new information that,
14 and during all of this time changes were occurring in
15 the licensees organization, and we have reflected all
16 of that in the report.

17 But, the question of why didn't we know it at
18 the time is either those investigations had not been
19 done, or that information wasn't available.

20 MR. MURLEY: That's generally right. I, please
21 keep in mind that my involvement with TMI before I went
22 to Region 1 was almost nill. I have tried to avoid
23 going back into all of that myself. I would point out
24 also that the GPU and B&W trial record brought out a
25 number of things. I don't know if you mentioned that,

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1 that the staff was not aware of. That is a reason...

2 MR. DENTON: We spent some...we spent five man
3 years reviewing almost 100,000 pages of that. That was
4 part of the basis for requesting investigations in
5 certain areas.

6 CHAIRMAN PALLADINO: Ms. Weiss made the claim
7 that you knew a nubmer of these things, or should have
8 known them.

9 MR. DENTON: Would that we were omnipotent.

10 CHAIRMAN PALLADINO: I have one other
11 question. We received letters from several individuals
12 mentioned in your report. I don't know if you had a
13 chance to look at them, but they raise the question on
14 whether or not we have done an adequate job of our
15 investigation, particularly one of them who says that
16 "my name, had been provided with a copy of a statement
17 of facts referred to me...to, by the staff, my name is
18 not included in the document. Apparently, the staff
19 relied upon the identification of certain position
20 titles in the statement of facts that conclude that I
21 was involved. That conclusion is unwarranted and
22 incorrect. I assumed the position of superintendent
23 technical Board to TMI2 on December 1, 1978. Prior to
24 that time, I was not assigned to TMI2, nor was involved
25 in this operation. The incidents referred to in the

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1 statement of facts involving the superintendent of
2 technical support took place prior to December 1, 1978.
3 Thus, there is no basis for the staff's assumption that
4 I was involved". I wasn't trying to get into the
5 details of it, but it seems to raise questions as to
6 whether or not we had done an adequate job on the
7 investigations and related matters that led to an
8 inclusion of some of these names in that report.

9 MR. DENTON: We relied, we took as given the
10 adequacy of the OI investigations. Our call is based on
11 reading those investigations. We asked them to pursue
12 this issue, now that is why we mentioned earlier that
13 you might want to consider having people comment on
14 either the OI investigations or our interpretation of
15 it. We took that as a given, and we called it the way
16 we saw it. I wouldn't be surprised if the people who
17 are mentioned in there don't have differences of
18 opinion. We did see that letter this morning, Bill
19 would you like to comment on it.

20 MR. RUSSELL: I guess that the confusion is
21 that the position of the supervisor of technical
22 support at TMI2 was held by two different individuals
23 over different periods of time on those activities of
24 those individuals were reviewed. There were discussions
25 between OI and the US attorney concerning the

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1 involvement of those individuals. There is also the OI
2 investigation report, the Martin report that came to
3 Judge Plaine, and the documentation that was available
4 on that, which I reviewed at the offices of OI in
5 region 1 and reviewed extensively afterwards. The two
6 letters, if you take them at face value, one individual
7 claims it happened on the other person's watch. The
8 other individual claims it happened on the other guys
9 watch. So, there were two individuals there. The
10 position was named in the indictment, and there were
11 events that occurred during both individuals tenure in
12 that position which raised questions which clearly in
13 my judgement involve them in the activities.

14 CHAIRMAN PALLADINO: Well, this particular
15 individual claims that it all happened before his
16 watch.

17 MR. RUSSELL: There are other events which
18 occurred, I believe that you are talking about the
19 second individual that was the supervisor of technical
20 support.

21 CHAIRMAN PALLADINO: Okay, well, I'm
22 interested in your comments, and I do think that there
23 is merit in getting comments on your 0680, but I will
24 have to refer to how the whole commission feels. Other
25 questions?

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1 COMMISSIONER ASSELSTINE: Just a couple. One
2 back on the petition that Mr. and Mrs. Aamodt had
3 filed. I noticed that Attachment 3 to their petition
4 included an August 8, 1979 letter from a state
5 representative to then Chairman Hendrie outlining some
6 of these concerns. I wonder also if you could look back
7 and see what if anything was done in response to that
8 letter. That would be helpful to me as well.

9 CHAIRMAN PALLADINO: Alright.

10 MR. ASSELSTINE: I had two other questions.
11 One has to do with the appeal board's management
12 decision. It's decision on reopening the record. In the
13 staff's view, is the record sufficient to serve as a
14 basis for a merits decision as supposed to looking
15 outside the record at this other information that the
16 staff tends to rely on so heavily. Is the record itself
17 sufficient to support a restart decision of merits
18 review? I am particular concerned myself by the
19 conclusion that the staff reaches in its
20 recertification, that if they had known then what they
21 know now the staff likely would not have come out in
22 favor of positive finding on management competence and
23 integrity. That is something I haven't seen the staff's
24 position on:

25 MR. GOLDBERG: When the licensing board issued

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1 its decision on the management issues, and subseugently
2 when it issued its decision on the cheating issues, the
3 staff reviewed those decisions and we concluded that
4 the licensing boards findings and conclusions which
5 were favorable to restart were supported by the
6 evidentiary record. We do not take any appeals from
7 those decisions because we thought they were sound
8 decisions. We continue to believe that based on the
9 evidentiary record, there is support for the licensing
10 board's partial initial decisions which are favorable
11 to restart.

12 There are concerns which have arisen outside
13 the evidentiary record, and there have been solutions
14 proposed by GPU, and investigations done by OI, and
15 analyses done by the staff outside the context of the
16 evidentiary record which addresses those concerns.

17 We believe that if the commission wants to
18 make a restart decision based on the evidentiary
19 record, that they can do so, because there is support
20 for the licensing board's findings. However, if the
21 commission wants to look at material that they have
22 been provided outside the evidentiary record, because
23 they are making immediate effectiveness decision
24 without prejudice to the appeals which the commission
25 may or may not hear on. ALAB 772. They can base their

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1 immediate effectiveness decision on all the available
2 information they have. That would be for the sole
3 purpose of lifting the immediately effective suspension
4 while the appeals pursue, or are pursued in the normal
5 course.

6 COMMISSIONER ASSELSTINE: In terms of the
7 appeal, on ALAB 772, what's the staff's position on
8 reopening the record on the items that were identified
9 by the appeal board for purposes of a merit's decision
10 on the appeal.

11 MR. GOLDBERG: The licensee filed a petition
12 to have the commission review ALAB 772. We reviewed '
13 their petition and determined that we did not oppose
14 the petition. We believe that they did state sufficient
15 reasons for the commission to take review of ALAB 772
16 on the merits. Therefore, we didn't oppose it under our
17 rules. We were not permitted to file a response. We did
18 send a letter to the commission though, indicating that
19 we did not oppose it.

20 COMMISSIONER ASSELSTINE: Well, beyond that,
21 can you give me what the staff's position is now? Do
22 you think the appeal board is right on reopening the
23 record, that the record is deficient in terms of those
24 particular items in terms of the merits of the appeal
25 itself, or like the licensee do you think they were

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1 wrong.

2 MR. DENTON: I would observe that we are
3 actually in that proceeding, and I guess discovery is
4 beginning. Absent Commission action, we take that as a
5 definite decision by the commission. I understand the
6 hearing starts in November and a decision is expected
7 mid next year.

8 CHAIRMAN PALLADINO: I think that's one of the
9 questions we in the Commission have to decide.

10 COMMISSIONER ASSELSTINE: Well, I think that
11 is one in fairness, that is one of the issues that we
12 wanted to discuss today.

13 MR. DENTON: But Jack may want to offer a view
14 on the legal situation. I think from the staff's view,
15 we are tearing it out as we interpret your directives.

16 MR. GOLDBERG: I don't have too much to add.
17 We believe that the licensing board decision was a
18 sound one. After reviewing ALAB 772, we did not change
19 our conclusion that the licensing board's findings
20 favorable to restart are supported by the evidentiary
21 record. The appeal board did not see it that way, they
22 thought there were some deficiencies that were worth
23 exploring. We didn't necessarily agree with that
24 judgement, but, by the same token, we didn't challenge
25 that determination other than to not oppose the

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1 licensee's petition to have the commission review that
2 decision.

3 COMMISSIONER ASSELSTINE: The second question
4 I had, had to do with the draft order on TMI cleanup,
5 in terms of an order with the schedule, proceeding with
6 the cleanup. We discussed that a little bit this
7 morning with Governor Thornburg. In the interim I asked
8 OGC where that stood. They indicated to me that they
9 prepared to draft about a month and a half ago. It had
10 been sent to the staff, and that is where it was. Could
11 you tell me where that stands. I know that when the
12 commission asks, it asks that an order be prepared. We
13 wanted it done so that we could act on it when we next
14 met, or prior to meeting with the advisory panel, which
15 I think is scheduled for next month again. I am
16 wondering where it is, and if we could maybe could get
17 a committment to get it fairly quickly, within a week
18 or so.

19 MR. DENTON: Yes sir. I have seen that. I
20 think the staff is, will have it down here next week.

21 CHAIRMAN PALLADINO: I did a little checking
22 also, and what I was told was that it had been prepared
23 and has been sent to Mr. Dirks and is on his desk.

24 COMMISSIONER ASSELSTINE: Is that required or
25 is this...

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1 CHAIRMAN PALLADINO: I get this about third
2 hand. So, I would like to confirm.

3 MR. DENTON: We have had quite an interchange
4 between the legal staff to be sure that we addressed
5 all of the issues that we could. That is why it took as
6 long as it did. We think now that there is general
7 agreement among participants in the drafting process,
8 and I think with certainty, you will have it next week.

9 CHAIRMAN PALLADINO: Okay. Other questions?

10 COMMISSIONER ASSELSTINE: Let me go back to
11 the other question on the record in ALAB 772. I guess I
12 am a little bit troubled by not getting what I would
13 see is a clear cut answer from the staff one way or the
14 other on whether they think that the record ought to be
15 reopened or not. Whether the appeal board is right or
16 wrong. It does seem to me that, you know, the staff
17 ought to be looking to what they think is in the public
18 interest in this case, whether the record is adequate
19 or not. I guess, maybe it is not a question, maybe it
20 is more a comment. I would have hoped that there would
21 have been a more active and definitive judgement by the
22 staff one way or the other on what they thought about
23 the appeal board decision and the adequacy of the
24 record.

25 MR. GOLDBERG: Well, with respect to reopening

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1 on a number of issues that were raised by the parties,
2 we did look at everyone of those carefully and file a
3 response which represented the staff's best judgement
4 as to whether or not the commission standards for
5 reopening the record were satisfied. So, we have called
6 each one of those as we have seen it according to the
7 appropriate standards. Similarly, we reviewed very
8 carefully the appeal board's decision. They identified
9 certain concerns that they had. We did not think that
10 the record was deficient in the areas which the Appeal
11 Board identified. However, we recognize that their
12 judgement was just different from ours, and we were not
13 going to seek review of that. When the licensee filed
14 its position for commission review, we recognize that
15 from their point of view, there were important issues
16 involved, and they sought to have the commission review
17 that situation. From their perspective, we could not
18 disagree with them, that it wasn't an appropriate
19 decision for the commission to review.

20 So, we didn't oppose it. We, I can only
21 reiterate that if we limit ourselves to the evidentiary
22 record, the staff believes it is adequate to support a
23 restart decision.

24 COMMISSIONER ASSELSTINE: Let me ask you one
25 final question on that. You think the evidentiary

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1 record is sufficient for purposes of making a decision,
2 and yet we have this certification from you that says
3 if you knew then what you know now, you wouldn't have
4 come out with a positive finding. What weight can we
5 give to the staff testimony that is in the record?

6 Do we basically have to discount it and throw
7 it out and rely only on the other evidence in the
8 record?

9 MR. GOLDBERG: I think that if the commission
10 wants to deal with the issues which have been raised
11 since the close of the evidentiary record, then
12 certainly they have to look to all of the available
13 information which they have, which consists to a great
14 extent the OI reports, the licensee's evaluations which
15 it has submitted to the commission, and the staff's
16 analysis of the OI reports. Those are not in the
17 evidentiary record for sure. However, in our July 26
18 comment to the commission, we did point out the
19 distinction which is even reflected in the commission's
20 rules, between their immediate effectiveness review,
21 and the review of the issues based on the merits based
22 on the evidence. There is a distinction, it is
23 reflected in our rules, and it is reflected in a number
24 of prior condition cases in dealing with suspended
25 licenses. We have cited those in our filing. There is

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1 legal support for the commission to make its immediate
2 effectiveness decision on the basis of the information
3 which they have, some of which is not in evidence.

4 COMMISSIONER ASSELSTINE: Let me set that
5 question aside for the moment, and just focus on the
6 merits review. Don't we have to basically discount all
7 of the staff's evidence, all of its testimony in the
8 record when we do the merit's review, if we are going
9 to rely on the record. Because, the staff has said,
10 that wouldn't have been our position. Our position
11 would have been different. In fact, it would likely
12 have been just the opposite. So, for purposes of the
13 merits review, if we are limited just to the record
14 that we have now, don't we have to throw out all of the
15 staff's testimony?

16 CHAIRMAN PALLADINO: Or, at least don't you
17 have to consider new testimony.

18 COMMISSIONER ASSELSTINE: I think, basically,
19 that everything they said was thrown out.

20 CHAIRMAN PALLADINO: In case we say, well you
21 can't throw away old testimony.

22 MR. DENTON: That would be one way, but we
23 want to...

24 COMMISSIONER ASSELSTINE: The other way is to
25 reopen the record.

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1 MR. DENTON: Are, yeah, that is another way.
2 But, if I don't get trapped in a process here, what we
3 did when we discovered things that said we have
4 concerns about GPU management and particular managers
5 in view of information that is coming to life, that is
6 when we went to work having the investigations and
7 doing the reviews. GPU's response to some of the
8 information that began to develop began to change their
9 management around. So, I think from my standpoint, this
10 is, would be our basis now for our view of the company,
11 and it is no longer the same company that existed at
12 the time. It's not the same people that were there
13 during that hearing.

14 Then, the question of whether that should be
15 rejudicated, I think is a good policy question for the
16 commission.

17 (Laughter.)

18 MR. DENTON: You are going to have to face
19 that one. Other questions?

20 COMMISSIONER BERNTHAL: Well, I am certainly
21 not going to try and detail the issue we have just
22 been through, because I haven't even had one course in
23 logic, so.

24 COMMISSIONER ZECH: Mr. Chairman, if I may
25 make one statement too, I think it is our

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1 responsibility. As I understand, the problem, and I
2 think I am understanding it, but it is a problem that
3 the commissioner's have to face in our judgement and we
4 are going to have to make that decision. As soon as we
5 are ready to do it, and I hope it would be very soon.

6 It is a very important issue, and I think
7 that it is our responsibility to take this one on.

8 COMMISSIONER BERNTHAL: I agree. In fact, I
9 have in my notes to myself here, where are we going
10 here today? I mean, we certainly in a sense are sitting
11 here now for six hours or whatever it has been
12 considering a procedural issue to be sure. But, we are
13 also sort of gathering other information in the process
14 here. Finally, Jim and others I think have pinpointed a
15 key procedural decision that we have got to make. It
16 probably, certainly applies to this case especially,
17 and probably to other cases as well. I would like to
18 see us straight forwardly address the question of
19 whether we are going to make a decision based on extra
20 record material. I would also like some comment right
21 now if we can get it, in connection with that as to
22 whether there is precedent for the commission simply
23 to, whatever the time it takes to take the extra record
24 material and resolve these issues for itself. Is there
25 a precedent for the commission doing that without going,

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1 I mean we have a record that we are talking about here
2 that is 2-1/2 years old. Is it simply inconceivable
3 because of the amount of material, or is it
4 unprecedented or impossible otherwise for the
5 commission itself, perhaps for reasons of time if
6 nothing else to take up these issues?

7 CHAIRMAN PALLADINO: I think the commission in
8 its 1981 order tried to clarify some of these points.
9 This is what I was referring to earlier. It really
10 keeps it for itself eventually to make the decision. I
11 complained about anyone reading a sentence out of a
12 paragraph, so I guess I have to read a whole paragraph.
13 The commission has decided against the appeal board's
14 stay authority, because this case differs significantly
15 from normal, initial operating license cases. Here a
16 decision by the commission rather than granting
17 effectiveness to a licensing board decision would be
18 determined based on that decision and other factors
19 whether the concerns which prompt the original
20 immediate suspension order of August 1979 justify
21 continuation of that suspension. They do not, and the
22 commission therefore can no longer find that the public
23 health and safety, the public health, safety and
24 interest mandates this suspension, then commission is
25 required by law, whatever the nature of the licensing

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1 board's decision to lift that suspension immediately.

2 This is a matter of peculiarity within the
3 commission's knowledge, and involving the most
4 discretionary aspects of this enforcement authority. I
5 think it does beg for us to go back and read the
6 various orders, but this was an attempt to interpret,
7 set an interpretation of the very question we are
8 discussing now. That doesn't mean the commission is
9 bound by it, except that everytime we change, there is
10 a basis for further confusion.

11 COMMISSIONER BERNTHAL: Well, but there is
12 clearly one path that we can take. In the end, I don't
13 think we have to ask advice to pursue such a path legal
14 or otherwise. We can simply decide that we are going to
15 take whatever evidence we choose to take and whatever
16 manner, I guess and make a decision.

17 CHAIRMAN PALLADINO: Well, I think this was
18 intended by tell that back in 1981.

19 COMMISSIONER BERNTHAL: I frankly dislike the
20 idea of getting distracted by questions of lifting
21 suspensions and treating it a certain way under those
22 conditions, and a different way if it were a new
23 license. It has been 5 years, after all, so I think we
24 ought to focus on the issues, and address them
25 squarely. If it means the commission sitting here for

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1 40 hours in the next few weeks, we just ought to do it.
2 I may regret saying that.

3 COMMISSIONER ASSELSTINE: Are you suggesting
4 Fred, you are suggesting that we conduct the hearing?

5 COMMISSIONER BERNTHAL: I guess I would like
6 some advice on just exactly what the commission itself
7 could do, rather than throwing all of these issues once
8 again back on another body where we will go through the
9 same process endlessly, maybe we ought to consider
10 something else.

11 COMMISSIONER BERNTHAL: I don't know, Jim. You
12 are in a far better position, procedurally, to advise
13 how to grab hold of something like this than I am. I
14 have two specific questions that I hope are short ones.
15 There were some comments made that should be cleared up
16 for the public record, I think on the evaluation of
17 operations at Oyster Creek, whether it is better than
18 most, poorer than most, indifferent, or what it is, and
19 I think that someone here ought to speak to that for
20 the record.

21 MR. MURLEY: As you recall, prior to GPU
22 Nuclear being formed, Oyster Creek was operated by
23 Jersey Central Power and Light. TMI 1 & 2 were operated
24 by Metropolitan Edison, both of whom were held by the
25 GPU as a kind of a holding company. Since PU nuclear

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1 has been formed, they are now the licensee that we deal
2 with on both Oyster Creek and TM11 & 2. So, they come
3 together, those two plants, that is Oyster Creek, and
4 TM11 at the level of Phil Clark is the President, and
5 Ed Kinter is the Vice President. Underneath them, there
6 are a number of vice presidents and departments at
7 their headquarters in Parcipiny that support both
8 plants, emergency planning, engineering, and the
9 typical kinds of support functions.

10 Oyster Creek in years past, has not been one
11 of the better performers in the region. There are signs
12 of improvement in their operation. I attribute it
13 largely to actions that Phil Clark has taken to bring
14 in good people. He has brought in Mr. Feedler, who is
15 the plant manager of Oyster Creek. He is slowly, I
16 think improving the operations. That is the general
17 assessment of my staff.

18 The plant, of course, has been shut down for
19 the last 16 months for extensive modification. So, we
20 have not actually observed it in actual operation. But,
21 our impressions with that caviot is that Oyster Creek
22 is improving in their general management and
23 operations.

24 COMMISSIONER BERNTHAL: What were the most
25 recent SALP reports and do they mean anything in view

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1 of the fact that they have been shut down for that
2 period of time?

3 MR. MURLEY: Yes they do. There were some .
4 other comments about SALP this morning. I would like
5 to just take a second. Typically, we carry out our
6 inspections over a course of a year, a year and a half.
7 We have resident inspectors at each site, and we have
8 about 100 and some inspectors in the region. They go
9 out and produce inspection reports, and we typically
10 find violations of our regulations. It's not uncommon,
11 for example, I think a rule of thumb is that we find
12 about one or two a month per plant. We have found some
13 at Oyster Creek, and we have found some at Three Mile
14 Island.

15 But, again, once a year we sit down and we
16 conduct the systematic assessment of the licensee
17 performance, the SALP. The purpose of that is to take
18 an integrated look at how we believe the whole
19 operation is being done. We have our senior managers
20 from the region, and also from NRR come up. They help
21 us in our evaluation.

22 We rely fairly heavily on the resident
23 inspectors, overall, as well. What we are finding, is
24 that at both TMI, and at Oyster Creek, that their
25 performance is improving over the last, the previous

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1 SALP in the last year. So, with regard to Oyster Creek,
2 of course, there are certain things we cannot evaluate
3 because they are not operating.

4 But, we do observe how they follow
5 procedures. We observe how they conduct their health
6 physics operation, in fact, an outage is the best time
7 to assess their health physics capability. We can
8 observe their emergency preparedness. Most everything,
9 except actual manipulation of dials by operators.

10 COMMISSIONER BERNTHAL: Can you give us a
11 quick sense of, you guys use a, we use a 3-2-1 system.
12 Can you give us some sense of where they have fallen,
13 to the extent of at least that you can evaluate them?

14 MR. MURLEY: Yes. I resist trying to take a
15 numerical average and making any comparisons. I think
16 that is absolutely the wrong way to use SALP.

17 COMMISSIONER BERNTHAL: But, improving, which
18 is the only word that you have used so far could mean
19 lots of things.

20 MR. MURLEY: Yes. Now, I would say that there,
21 I tend in my own mind to lump the licensees, at least
22 in region 1 to a large group in the middle. Some are
23 clearly superior and some are clearly not as good. I
24 lump them in the large group in the middle.

25 COMMISSIONER BERNTHAL: Now.

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1 MR. MURLEY: Now, yes.

2 CHAIRMAN PALLADINO: When you say they, you
3 mean Oyster Creek?

4 MR. MURLEY: Oyster Creek and TMI.

5 CHAIRMAN PALLADINO: Well, TMI as I recall...

6 AUDIENCE: What does TMI say, what does EPRI
7 say about this?

8 CHAIRMAN PALLADINO: Excuse me. I believe that
9 it is important to give us an opportunity to discuss
10 some of these questions. As I recall, the latest SALP
11 on TMI had seven in category one. I've got three or
12 four in Category Two.

13 MR. MURLEY: Yes. Then that indicates that it
14 is, as far as I am concerned yes. Again, I would urge
15 you to resist the temptation to take those numbers.

16 CHAIRMAN PALLADINO: I agree. I only wanted to
17 find out what was there.

18 MR. MURLEY: One would have to look behind
19 what is the substance is, yes.

20 CHAIRMAN PALLADINO: Okay. Any other comments
21 or questions? Lando?

22 COMMISSIONER ZECH: I'd just like to thank the
23 staff also for their presentations today. This has been
24 a long day of oral presentations. We have, I think we
25 have heard an awful lot of important comments and

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1 opinions and recommendations. I do think the commission
2 has got to make a decision, an important one as to how
3 we will proceed from here. I think we should do that
4 very thoughtfully. I also think that we have an
5 obligation to get on with the public health and safety
6 consideration as well as the procedural consideration.
7 With the considerations of whether or not we can
8 authorize the plant to be operated again. So, we have
9 some very important things to think about, and I think
10 we should, we the Commission should take that
11 responsibility on and get back as soon as we possibly
12 can.

13 COMMISSIONER PALLADINO: I think there is no
14 question about that. I would like to mention that we
15 have scheduled a public meeting for September 7, at
16 which we will consider the options before us, and the
17 options coming in various categories. I think we have
18 to address how we are going to proceed on these
19 particular questions, and if possible, depending on the
20 staff work that can be done between now and then,
21 whether or not we have a decision of particular
22 direction. But, I would hope that we can discuss the
23 options before us, and reach a consensus on the
24 direction that we want to take.

25 Following that meeting, both the commission

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1 and the public, I hope will have a better understanding
2 of what sort of progress that can be expected in what
3 time frame.

4 CHAIRMAN PALLADINO: I too, on behalf of the
5 commission want to thank the staff. I also want to
6 express my appreciation for the efforts of all the
7 parties to provide the commission their views on the
8 issues before us.

9 COMMISSIONER ASSELSTINE: Joe, a couple of
10 parties had reserved time. You haven't provided them
11 with that.

12 CHAIRMAN PALLADINO: Oh, you are right. Okay,
13 this is...thank you and we will...well, let's at least
14 thank the staff so they can retire, and let's see, who
15 was it that requested that. Remember the Aamodts had...

16 We ought to have the Aamodts come first, and
17 then the licensee.

18 MR. AAMODT: We would like to say we will keep
19 it short.

20 CHAIRMAN PALLADINO: Okay, thank you.

21 MR. AAMODT: I think the first thing we would
22 like to comment on is the Hartman matter itself. The
23 staff's role in the early days of that, do you want to
24 comment on that Margie?

25 MS. AAMODT: I really take exeption to what I

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1 heard here today, having participated in the hearing
2 since September of 1979, when we got the staff's safety
3 evaluation report. It clearly said that the Hartman
4 matter was a matter that was not causal of the
5 accident, that there was no indication of similar
6 practices at unit 1, that it was only the second
7 evaluation, first that it was only of historical
8 significance and so forth. We didn't get the flavor at
9 all of the leak rate falsification. Now, I understood
10 from the May 24th meeting of 1983, from Tim Martin that
11 the staff had essentially verified the Hartman matter,
12 that I saw in Ornstein's notes that he had come to the
13 conclusion that this matter was caused by the accident.

14 Now, I also take exception with Mr. Denton's
15 saying that the trial record, the GPU V. B&W trial
16 record was the thing that opened his eyes. Because that
17 trial record essentially had not more in it than had
18 been available in the depositions that had been taken
19 by the NRC and by the GPU.

20 Now, we have this information in the reopened
21 hearing. We had those depositions, and I attempted to
22 bring this subject up to the special master at the end
23 of the hearing. But, again got no support from the NRC.
24 We raised this issue on April 6, in a brief that we
25 filed by express mail on April 16, after we read

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1 Stello's comments to you the commission saying
2 essentially that there was nothing new in the GPU B&W
3 court trial record, and that the Hartman, there was
4 just nothing new there, and he rushed over the Hartman
5 mater.

6 MR. AAMODT: We submit he knew there was
7 something new.

8 MS. AAMODT: We went up then, to read the
9 transcript when you gave this opportunity for us to
10 comment, not to get new information. We knew about the
11 Hartman matter. You just provided us with a window to
12 get to you. We had tried to bring it up in the reopened
13 hearing, for we simply went up, gathered the
14 information from it to get the transcript numbers, but
15 we knew about this matter. We just had no way to bring
16 it to you. We had been, essentially closed out by the
17 misrepresentation of the staff in the main hearing, and
18 by procedural matters that we, not being lawyers were
19 unable to come around in the second hearing.

20 When we brought it up, our document arrived
21 on April 18, at 11:00 in the morning.

22 MR. AAMODT: Our motion did.

23 MS. AAMODT: Our motion did. Where we said
24 that this is cause of the accident and so on, and so
25 forth, and so on

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1 CHAIRMAN PALLADINO: Which are you speaking
2 about?

3 MS. AAMODT: This was our motion of April 16th
4 that arrived here on April 18th of 1983.

5 The following day, the NRC staff put a small
6 document into the commission saying that we need to
7 revalidate our position on management integrity. I just
8 find it very hypocritical...

9 MR. AAMODT: No. Just one thing, and they
10 predated the filing of docketing. They lied about the
11 day.

12 MS. AAMODT: They dated it.

13 MR. AAMODT: The staff has lied on many
14 occasions in our view.

15 MS. AAMODT: They dated it April 18th, and it
16 was filed on April 19th, and it was essentially
17 something that was already out of order. They had
18 already had their opportunity to respond on the GPU B&W
19 court trial. We can only reasonably conclude that
20 because we brought the issue up on April 18th, they
21 attempted to claim it for themselves so they would
22 essentially hold control of this issue.

23 I just find that extremely hypocritical
24 everytime I see it, because I know the amount of
25 suffering that I went through to bring that issue into

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1 the restart proceeding, with that document that we
2 filed on April 16th, that arrived here on April 18th.
3 But, be that as it may, our real concern was the
4 statement about this health study. I would be very,
5 very happy if the commission would like to hear from
6 some of the people that we have interviewed in their
7 homes. I know the problems with cluster health studies.
8 I am a psychologist. I have done studies. I did studies
9 for AT&T. I know that I am not a health person, but I
10 have read many of the studies. I know that there are,
11 can be unusual things that happen that can cause
12 clusters of particular disease, but our areas are not
13 contiguous. Our areas with this high cancer incidence,
14 were all in a line from the TMI plants. A line where
15 there were the intial releases, and they were on
16 hilltops and elevations of the towers of the plant.

17 There were no records of radiation releases
18 other than what GPU put forth for the initial days of
19 the accident. The only other radiation measurement we
20 have are the people who were out there in these areas
21 where the releases went. I think their experiences are
22 the accurate TLD's. I think what their experiences are
23 saying from having talked to experts about their
24 experiences, I have talked...sent...These studies have
25 been sent to a number of experts, health physics

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1 experts over the country. They have invariably said,
2 and Dr. Morgan is among them, Dr. Rosely Vertell, Dr.
3 Bross, and so forth. The ones that we have listed, and
4 especially Dr. Abramson, Dr. Coll. They have all said
5 that these are, these are radiation effects. These are
6 descriptions that can't be turned away from.

7 These people, essentially are the TLD's. We
8 are simply asserting that licensee has lied because
9 these people are saying things that are indicating as
10 TLD's that they were the high, that they experienced
11 high radiation dose.

12 COMMISSIONER BERNTHAL: Excuse me. You are
13 referring to TLD's. You're just saying that these
14 people, in your judgement, reflect the detection of
15 large amounts of radiation.

16 MS. AAMODT: Yes. I am taking them as the
17 measures rather than the licensee's reports or the
18 other studies that had no information from the first
19 three or four days. They had no information.

20 CHAIRMAN PALLADINO: Let me make one comment.
21 I didn't want to interrupt you, but we have been
22 overtime for about the last minute and a half. I don't
23 want to destroy the dialogue, go ahead.

24 COMMISSIONER BERNTHAL: Let me just suggest,
25 as I did earlier, that it may in fact be possible, I

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1 won't assert that it is, but it certainly may be
2 possible after the fact to find clear evidence of
3 whether clear levels of radiation of the kind that you
4 suggested, 100R, could have been possible on the base
5 of physical evidence, quite apart from animate evidence
6 that you might find in the hearings.

7 Let me just, you can respond to that if you
8 wish, but could you also then suggest a group or party
9 or authority in your judgement would be appropriate to
10 carry out such a study. Would you agree with the
11 suggestion that the center for, what is it, CDC in
12 Atlanta would be the appropriate?

13 MR. AAMODT: We would like to respond formally
14 on that. We would like time to think about that. I
15 don't think we should do that off the top of our head,
16 but I would like to make this point, which I think is
17 terribly important.

18 COMMISSIONER BERNTHAL: Is there any group of
19 experts that you feel you would trust to do a study
20 like that?

21 MR. AAMODT: Absolutely, and I think there are
22 many more than a single group of experts who would. I
23 have had great respect for the scientific community all
24 of my life. This is the first time in my life that I
25 have felt that I was dealing with a bunch of shmucks.

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1 Honestly.

2 (Laughter, applause.)

3 MS. AAMODT: There are many independent people
4 that we would know of. For instance, Dr. Morgan, Dr.
5 Vertell, Dr. Johnson. These are all independent people
6 who we can respect. They can't find any more out there
7 than there is.

8 COMMISSIONER BERNTHAL: Is there any public
9 organization that you would, any group like, that has
10 broad responsibility for such matters?

11 MR. AAMODT: We would like to wait to respond
12 on that one.

13 CHAIRMAN PALLADINO: We would very much
14 appreciate your response.

15 MR. AAMODT: Well, what I would like to do, I
16 would like to comment very briefly to another one of
17 Mr. Denton's comments.

18 MS. AAMODT: Your honor, could I just go back
19 on the health issue for just minute. I just wanted to
20 say on the health issue that there is a study by John
21 Biay, of the source terms of that plant that is in
22 GPU's hands that the court has not released, evidently
23 the attorneys are still looking it over. But, we have
24 had skutelbug that has come to us, information by the
25 grapevine, that has come to us that this study is going

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1 to overturn what GPU has been claiming, and that we
2 won't look like we are saying things that are out of
3 line.

4 So, I just warn you, and that is why we
5 brought this motion to you as quickly as we could, so
6 it could be factored into the management integrity
7 phase of the restart proceeding. We are interested in
8 the health issues, but we are even more interested that
9 this plant isn't operated by people who don't tell the
10 truth.

11 CHAIRMAN PALLADINO: Could you be very brief.

12 MR. AAMODT: Yes. I will be very brief. I'd
13 like to point out that Mr. Denton pointed out how
14 thoroughly this accident was studied. Bear in mind,
15 that the county report, the senate, the Regovin and all
16 of these people based their estimates of damage on the
17 licensee's telling them nothing got out. In addition to
18 that, your staff and the licensee saying there is about
19 2% core damage. We know that is not true. It is a whole
20 new ballgame. That's it, and Mr. Denton knows that full
21 well.

22 MS. AAMODT: I just want to say we did take a
23 small geiger counter out to this area ourselves, and we
24 did measure .1 millirems on the ground. Now, I haven't
25 provided that information, because we haven't had been

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1 absolutely certain of the calibration, although we have
2 no reason to believe because it did calibrate with the
3 Newberry township geiger counter.

4 But, .1 millirems, presently on the ground,
5 is ten times the background radiation.

6 MR. AAMODT: And, you can run the numbers back
7 on that and figure what was there that day.

8 MS. AAMODT: .1 millirams. It's .0008 and
9 .0009 millirams. .1 millirams is on the ground.

10 COMMISSIONER BERNTHAL: It's not 10 times
11 background, I don't think.

12 MR. AAMODT: Sure it is. Background is .01.

13 MS. AAMODT: .009.

14 MR. AAMODT: Well, .0009.

15 MS. AAMODT: So, that would be .01, so that
16 would be 10 times, isn't that right?

17 MR. AAMODT: Sure it is, a little over 10.

18 COMMISSIONER BERNTHAL: I'll check.

19 MS. AAMODT: That was just in one area. I just
20 have to say this, though. I spent an entire week cross
21 questioning witnesses in the main part of the hearing
22 on training. This is formed, essentially the training
23 record. This is essentially that cross questioning has
24 become the training record that we are depending on. I
25 am well acquainted with it. The reason that the issue

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1 has to be reheard is that the OARP report, that report,
2 the OARP was based, the conclusions were based on data
3 that was taken by the operators cheating on tests.

4 The company tests that were all on the 80's
5 and 90's, on which the committee based their decision
6 that these operators had done a good job on these
7 particular courses. Those tests, the operators were all
8 cooperating and cheating on.

9 MR. AAMODT: We know that now.

10 MS. AAMODT: That is the reason, the appeal
11 board didn't directly say that, but that is the reason
12 that the OARP committee must reconvene. But, what is on
13 the record of the hearing is essentially data that was
14 cheating in tainting it. The other point that I want to
15 say is that the training department has the same
16 instructors who was testified by Shipman, who was in
17 charge of procedures. These instructors didn't take the
18 training on TMI 2 events seriously. Fredericks, who is
19 now in charge of operator training, didn't pass his own
20 SOR examination recently. Newton is still there, who
21 was there when there was the cheating, Samuel Newton.
22 There was Mr. Cohe who was just appointed whose
23 credentials in nuclear subjects is quite lacking.

24 CHAIRMAN PALLADINO: I very much appreciate
25 your willingness to give us all that information. We

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1 will certainly give it the careful attention that it
2 deserves. Thank you very much.

3 MR. AAMODT: Thank you.

4 (Applause.)

5 CHAIRMAN PALLADINO: Can we have the licensee
6 for a five minute rebuttal.

7 MR. CLARK: Chairman and Commission, four
8 quick comments on this health effects issue which is of
9 concern to you. Our filing of July 5th, lists the 6
10 major reports of which we are aware, which looked at
11 after the accident, which do not rely on company data,
12 and which did include extensive investigations and
13 sampling around the site.

14 Second, in some of the comments today, even
15 with regard to what Mr. Kuhns and I said this morning,
16 I think that there has been considerable
17 mischaracterizations of what we said, and I would
18 respectfully request that in terms of what we have
19 said, that you look to what we have said and not to how
20 others have characterized it.

21 Third, as the staff testified, I believe, the
22 shutdown order can be lifted, and should be lifted now,
23 and the extraneous issues, which are important, but
24 which include emergency planning, include steam
25 generator, can and should be dealt with separately by

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1 the proper procedures rather than part of this long and
2 extended restart issue.

3 It appears to us that there are two cases you
4 can consider. One is the evidentiary record as a whole,
5 and without anything else. That evidentiary record of
6 itself supports restart, and that's what I believe the
7 staff certified. The second is the total record,
8 evidentiary record and post evidentiary record as a
9 whole and by itself. We believe that that record also
10 supports restart.

11 CHAIRMAN PALLADINO: Alright. Thank you. Any
12 comments or questions? Was there anyone else I
13 overlooked? Well, then let me make my few closing
14 remarks. We do want to express our appreciation for the
15 efforts that the parties expended today in providing
16 the commission their views and issues before us, and
17 the actions that we ought to take.

18 We will take these matters into account in
19 our future discussions and deliberations. I did
20 indicate earlier, that we have scheduled a public
21 meeting for September 7th, at which time we will
22 consider the options before us. We will have some staff
23 work done between now and then, so that we can better
24 discuss the matter before us.

25 I hope that after that meeting, we will have

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1 a better understanding of what future steps we need
2 beyond that. Anything more by any members of the
3 commission?

4 We thank you all for coming, we will stand
5 adjourned.

6 (Whereupon, at 4:42 p.m. on Wednesday, August
7 15, 1984 the hearing adjourned.)
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C E R T I F I C A T E

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

In the matter of: ORAL PRESENTATIONS BY PARTIES
ON TMI-1 RESTART

Date of Proceeding: Wednesday, August 15, 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.

JOE NEWMAN
Official Reporter

Joe Newman / 215
JOE NEWMAN
Official Reporter

David J. Becker
PREPARER

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8/15/84

SCHEDULING NOTES

TITLE: ORAL PRESENTATIONS BY PARTIES ON TMI-1 RESTART

SCHEDULED: 10:00 A.M., WEDNESDAY, AUGUST 15, 1984 (OPEN)

DURATION: APPROX 2 HRS.

BACKGROUND: PARTIES HAVE BEEN REQUESTED TO COMMENT ON WHETHER MANAGEMENT CONCERNS WHICH LED TO IMMEDIATELY EFFECTIVE SHUTDOWN ORDERS HAVE BEEN SUFFICIENTLY RESOLVED SO THAT THE COMMISSION SHOULD LIFT IMMEDIATE EFFECTIVENESS OF THOSE ORDERS PRIOR TO COMPLETION OF REVIEW OF ANY APPEALS FROM ALAB-772.

SPEAKERS: COMMONWEALTH OF PENNSYLVANIA - 15 MIN.
- GOVERNOR RICHARD THORNBURGH

LICENSEE - 30 MIN.

- WILLIAM KUHN, CHAIRMAN
GENERAL PUBLIC UTILITIES (GPU)
- PHILIP CLARK, PRESIDENT
GENERAL PUBLIC UTILITIES NUCLEAR CORPORATION
- GEORGE TROWBRIDGE, ATTORNEY
- ERNEST BLAKE, ATTORNEY

NORMAN AND MARJORIE AAMODT - 15 MIN.

TMIA - 15 MIN.

- JOANNE DOROSHOW
- LOUISE BRADFORD

UCS - 15 MIN.

- ELLEN WEISS

NRC STAFF - 25 MIN.

- HAROLD DENTON
- JACK GOLDBERG
- JAMES MURLEY
- BILL RUSSELL

(THE PARTIES MAY RESERVE TIME FOR REBUTTAL.)

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Meeting Title: Oral Presentations by Parties on
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Meeting Date: 8/15/84 Open ☒ Closed ☐

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