

1 ORIGINAL

2 UNITED STATES OF AMERICA

3 NUCLEAR REGULATORY COMMISSION

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7 In the Matter of:

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9 MEETING BETWEEN NRC AND GPU ON EMERGENCY
10 PREPAREDNESS DEFICIENCIES

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22 Location: Bethesda, Maryland

Pages: 1-48

23 Date: August 16, 1984

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25 B409100152 B40821
PDR ADOCK 05000289
F PDR

CERTIFICATE OF PROCEEDINGS

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the NRC COMMISSION

In the matter of: MEETING BETWEEN NRC AND GPU
ON PREPAREDNESS DEFICIENCIES

Date of Proceeding: AUGUST 16, 1984

Place of Proceeding: BETHESDA, MARYLAND

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GEORGIA PINKARD

Official Reporter - Typed

Georgia Pinkard / JPB

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
MEETING BETWEEN NRC AND GPU
ON PREPAREDNESS DEFICIENCIES

BETHESDA, MARYLAND
THURSDAY, AUGUST 16, 1984

The meeting in the above entitled matter
was convened at 1:20 p.m., pursuant to notice.

APPEARANCES:

- J. STOLZ
- J. GOLDBERG
- D. MATTHEWS
- R. WILKERSON
- J. PATTON
- R. ZAHLER
- R. LONG
- G. GIANGI

1 discuss this afternoon and that's it.

2 MR. LONG: Thank you, John. I'm Robert Long,
3 Vice-President of the Nuclear Assurance Division of
4 GPU Nuclear. I have with me George Giangi, who's
5 Manager of Emergency Preparedness for GPU Nuclear.
6 Courtney Smythe, who is our licensing manager at TMI-I.
7 Ken Henderson who is a consultant to us in the
8 emergency preparedness area and Bob Zahler who is a
9 lawyer with Kay Sholer...excuse me, Shaw, Pittman, Evans.
10 Shaw, Pittman who's been...Mr. Zahler has been our
11 counselor throughout the emergency preparedness hearings.

12 John, we asked for a meeting with you and
13 your staff about a month ago because we perceived that
14 there was varying interpretations of what it was that
15 was required to close out a second time certification
16 Item 144.

17 Our understanding of the problem was being
18 raised by the staff, was that certification Item 144
19 was being reopened as the result of the, the results
20 of the November 16, 1983 exercise. And in early
21 discussions we had the impression that the staff would
22 be able to certify that Item No. 144 was closed out
23 if we did an appropriate exercise which would demonstrate
24 the communications capabilities which had been
25 questioned in the original ASLB hearings.

1 Those questions were raised by the Commonwealth
2 of Pennsylvania. They were identified in the PID as
3 Item 210-G to get 2010-G. And Mr. Zahler has, who was
4 and George here, Giangi who were involved who have
5 pointed out that they, they arose out of concerns from
6 an early exercise in June of '81, in which some of the
7 communications equipment didn't function properly. In
8 some cases, people didn't have the right numbers, those
9 kinds of particular communications problems. I won't
10 take the time to hear any initial comments, review all
11 that in detail, but it still is our understanding after
12 doing a rather detailed examination of the, the record
13 of the testimony of the FEMA witnesses in the ASLB
14 hearing of the Pennsylvania's proposed findings in the
15 partial initial decision, that the focus of that concern
16 was on a demonstration in the communication equipment.
17 And that the people, themselves, could use that
18 equipment effectively, that they had available the, the
19 telephone numbers and the names and the proper context.

20 It seems to us that there may be a disconnect
21 between what we perceive as the requirement and how
22 perhaps the NRC staff has read the FEMA category 8
23 items.

24 We had a meeting with Mr. Wilkerson and
25 members of his staff on June 13th, I believe it was, of

NRC/112
Tape 1
C.R.

1 this year in which we reviewed the Category A deficiencies
2 with them and we clearly understood after that discussion
3 that their concerns went beyond the communications
4 aspects which are really stated in those Category B
5 findings, particularly the second one for Daulphin and
6 the first two for Lancaster, the only two remaining for
7 Lancaster.

8 We understood at that time from them that they
9 were looking for a full demonstration of the County
10 EOC's capability fully manned with their volunteers as
11 well as their permanent staff showing not only that they
12 could use the communication equipment. They had the
13 telephone numbers available, but they also could
14 exercise command capability.

15 I've been concerned that when you read and
16 Bob Wilkerson knows this, that when you read the words
17 in the Category A deficiencies, they seem to, as Mr.
18 Dir^{ck} said in his June 25th memorandum, very closely
19 describe problems similar to those identified in previous
20 exercises and those leading to the original requirement
21 of the ASLB which the words are, that this was a
22 communications kind of issue similar to that that had
23 occurred before.

24 With FEMA's cooperation, with the NRC region
25 staff awareness, we did do two exercises, as you know.

NRC/112
Tape 1
C.R.

1 We sent you a letter I think dated July 25th that
2 indicated that on June 18th we had done an exercise that
3 involved Daulphin and Lancaster County, exercising the
4 communications aspects of the Category A deficiencies.
5 That those that are stated, really, but not exercising
6 the command capability, not staffing up fully.

7 Identified some problems in that. Again, in
8 reviewing the testimony and the information leading up
9 to that PID requirement, it appears that the FEMA
10 staff was suggesting a need for many exercises, if you
11 will, many drills of aspects of emergency preparedness
12 that made sure that things like your communications
13 capabilities, your telephone list are all correct before
14 you enter into a full exercise.

15 So, we, we felt that the June 18th was trying
16 to do that. John Patton from PEMA also cooperated so
17 that we had both FEMA and PEMA observers. Following
18 that June 18th exercise, we then assisted both
19 Daulphin and Lancaster Counties through mainly
20 Mr. Henderson's effort as a consultant to us to take
21 some corrective actions to make sure their call out
22 lists were correct, to give them some forms to keep logs
23 on since they, they hadn't perhaps had that formalized
24 as much as it was desirable.

25 And we then scheduled another exercise on

1 July 17th, which involved all five risk counties, again,
 2 with the cooperation of FEMA and PEMA. In this, we
 3 particularly wanted to demonstrate that Daulphin
 4 County could take over the role of notifying the other
 5 risk counties in the event PEMA was not able to perform
 6 that function.

7 We also wanted to demonstrate that Dau~~l~~phin
 8 County could, indeed, contact all of their municipalities
 9 as well as Lancaster County doing that, although they
 10 had done that successfully in the June exercise as
 11 well.

12 Following that exercise, we submitted to you
 13 the letter dated July 25th which indicated that we
 14 felt that the communications aspects and going well
 15 beyond actually the original communication concerns of
 16 the PID had been demonstrated and that as indicated by
 17 the state in their submittal to FEMA back in December,
 18 when did it...no, April it went in, yes...in April of
 19 this year that clearing of the Category A deficiencies
 20 would be done in, in the way it said in that statement
 21 is by Dau~~l~~phin County in a table top exercise to be
 22 conducted during the third quarter. That's targeted
 23 for September. We do not have a specific date for it.
 24 And that the Lancaster County deficiencies, Category A
 25 deficiencies would be cleared in the, in the Peach

NRC/112
 Tape 1
 C.R.

1 Bottom exercise schedule for October 17th.

2 So, since we were getting conflicting, at
3 least appearing to us conflicting indications of what
4 was happening, we felt like it would be helpful to us
5 to have a discussion with FEMA and PEMA and NRC
6 represented so that we could clearly understand what's
7 expected of, of the counties. As you well know, there
8 are no deficiencies that I'm aware of in GPUN's nuclear
9 emergency plan. This has to do with the total response
10 of an emergency, but we have been and will continue to
11 assist the counties and the state in carrying out their
12 plans effectively. So, we'd really like to have a
13 discussion of what it is that really needs to be done
14 and whether there is this mismatch which we perceived
15 and, if so, can we get it straight.

16 MR. STOLZ: Well, as you know, we're really,
17 we're really talking about the somewhat narrow focus
18 on communications drills because that's the subject of
19 the certification item that we have to handle. That
20 obviously doesn't cover all of the Category A deficiencies
21 identified by FEMA. It's only those deficiencies that
22 relate to the communications drills.

23 And our understanding is that there's one
24 such outstanding item identified for Daulphin County
25 and two for Lancaster County. So, we're talking about

1 just those three items.

2 You know, the staff relies on FEMA for its
3 evaluation on oversight evaluations of emergency
4 preparedness and, again, in this case we're relying on
5 a FEMA report to us regarding the results of any, any
6 exercise that you'll perform for which you want a
7 rating.

8 So, possibly, the best thing we can do is
9 to invite, invite FEMA's remarks here with respect to
10 the July 17th exercise which is the last one you've
11 cited that you feel deserves a report card and that
12 we can hear directly from Mr. Wilkerson and Gloria
13 Joyner on what their remarks might be about how you
14 performed and what more you may have to do.

15 MR. WILKERSON: Okay. Let me, let me make
16 a point of clarification, first. Our Category A
17 deficiencies were not recognized during the exercise
18 process as part of the certification Item 144 issue.
19 There is a certain degree of correlation there and it's
20 my understanding of certification Item 144 is that it
21 relates to the, the hardware capability and to some
22 degree, a very limited degree, the man hardware
23 interface question and that is restricted rather
24 rigidly to the operators of equipment as opposed to
25 any decision process.

1 As you've pointed out, our deficiency
2 identifications in Lancaster County, when you read the
3 full body of the report and also in Daulphin County,
4 are concerned about a broader man communication system
5 interface; that is, the decision process, the ability to
6 not only transmit but to, to take administrative or,
7 or decision, type of decisions based on that.

8 We did observe to some degree the drills, and
9 I will turn them as drills if that's acceptable, the
10 communications drills that were held June 18th I believe
11 and July 17th. I have received in the last several
12 hours by facts a set of comments by the region, although
13 I must admit at this point that I left the office
14 without having read them. My verbal understanding is
15 that the drills of July 17th represented a dramatic
16 improvement over the performance of June 18th. And
17 in the formal reports, there were several questions by
18 NRC, might well certify the functionality of that
19 communications capability.

20 I have to hasten to add that that does not,
21 in our opinion, for our purposes, remove the Category A
22 deficiencies. We can comment as to the scope of the
23 communications drills but we've tried to be very clear
24 with all parties involved that the communications
25 drill would not, in our opinion, suffice as evidence for

1 us to, to remove the Category A deficiencies in order to
2 satisfy this Category A deficiencies.

3 There were a number of comments made in
4 hearings yesterday which I'm sure all the parties were
5 aware of as to the relationship between certification
6 Item 144 in the Category A deficiencies as to what
7 would suffice. It is not FEMA's position to issue a
8 finding, a ruling or a recommendation as to whether or
9 not the Category A deficiencies should be removed
10 before the certification Item 144. That's the NRC
11 staff and Commission decision or action.

12 I can provide within a matter of about 36
13 hours a finding to the Commission or the Commission
14 staff on the results of the most recent exercise, the
15 July 7th...correction, the most recent drill, the
16 July 17th communications drill which did involve the
17 five risk counties and paralleled at least from a
18 hardware standpoint Dauphin County's assumptions
19 of what I will term net control responsibility during
20 the communications process.

21 MR. STOLZ: Bob, would you be able to sift
22 out the, the results of the drill on July 17th with
23 respect to the communications aspects of that drill
24 in your...

25 MR. WILKERSON: Well, I think it's FEMA's

1 position at this point that the drill of July 17th
2 directly parallels the communications aspects. It did
3 not really go beyond the points that at least if you
4 break the Category A deficiencies down into comments
5 within the exercise report, did not go beyond the man
6 machine interface, if you will, that is involved in
7 physical operation of the communications system; that is,
8 that they did not involve a decision type apparatus.
9 It was an automatic transfer of information and net
10 control type of function.

11 So, that I would think that what happened on
12 July 17th directly relates in its entirety to the
13 communications issue as opposed to the decision issue.
14 So, it certainly had...any comments we have would deal
15 solely with the communications and the communications
16 drill.

17 MR. STOLZ: But, again, relating to the
18 results that you cited back from the November '83
19 exercise with respect to communications. Have you
20 completed your evaluation yet of the July 17th exercise
21 to be able to say one way or the other whether or not
22 the results of the July 17th exercise completely cover
23 the deficiencies cited back in November of '83.

24 MR. WILKERSON: We neither feel that the
25 substance of the July 17th exercise does or was intended

1 to relate to the citations that we made in the November
2 exercise of 1983. It was my understanding that that
3 was not its intention. We've done everything we
4 possibly could to be clear with GPU and the Commission
5 staff as to what things we thought would be a require-
6 ment of that.

7 Our evaluation was not intended for that
8 purpose. So, that I can provide you with, with
9 information as to what occurred and what our opinion
10 of it was on July 17th. I would not use that finding
11 or report to you as a clearance mechanism of the
12 deficiencies that were cited in the November exercise.

13 MR. STOLZ: Do you feel there may be some,
14 still some residual communications deficiencies which,
15 which were previously cited but not yet have been
16 tested?

17 MR. WILKERSON: To be perfectly clear for the
18 record, I only, I cannot say that I feel they're
19 (inaudible) I can only say that I have not evaluated
20 to determine that they were not at this point.

21 MR. LONG: John,...this is Bob Long...it
22 seems to me that the conversation between the two of
23 you is exactly the concern that I wanted to bring up
24 in the meeting.

25 I hear, I hear you asking the question, you

1 didn't use the words but I hear you asking the question,
2 are the Category A communication deficiencies cleared
3 and Bob Wilkerson of FEMA is saying, no, they are not.
4 That's exactly the answer I would expect him to say
5 because I don't believe they are either.

6 What we think is happening is that you're
7 not asking the right question. As long as you ask him
8 are the Category A deficiencies cleared, he's going to
9 say, no, as he should because they are not. If you
10 ask him, if the (inaudible) and I think I also heard
11 him say he would give you the answer, if you were to
12 ask him, did the licensee satisfactorily demonstrate
13 their ability...not the licensee...in this case, did
14 the county and the state, the outside groups, satisfactorily
15 demonstrate that they could perform the exercise that
16 was described in the July 18th exercise or drill, we'll
17 call it. I'll stick with Bob's, call it a drill.

18 We had some objectives for that drill which
19 we believed were addressed at certification Item 144 and
20 the communications aspects of the Category A deficiencies
21 of FEMA. And if you were to ask him did we demonstrate
22 successfully we had accomplished those objectives, I
23 think his answer is going to be, yes, they did. They
24 have satisfied those objectives limited in scope, and
25 then he's going to qualify it, as he should, to say

1 but the overall Category A deficiencies still have to be
2 cleared in a later full scope exercise.

3 And I guess our question to the NRC staff
4 is, you know, are you willing to ask that question
5 or are you insisting that the Category A deficiencies
6 must be cleared for you to certify that 144 is again
7 closed? Cause if that's the position the staff has,
8 certification Item 144 cannot be closed until we do
9 these big exercises and close the Category A.

10 So, that's, that's exactly the problem. I
11 think we're right on the nub. We're right on target.
12 And we need to understand because we, we have to try
13 to influence the agencies to do what needs to be done
14 to get this plant ready to restart.

15 MR. STOLZ: Dave, would you please get into
16 this?

17 MR. MATTHEWS: I'm Dave Matthews, Acting
18 Chief of the Emergency Preparedness Branch. I can
19 clarify what you're inferring to be a, a conflict
20 on this issue.

21 I have made this clarification in several
22 forms and at times directly to, to George Giangli. The
23 staff's position on this is that, and it was, we thought,
24 very clearly stated in the Dir^{el}'s to Commission
25 memorandum, is that there is sufficient coincidence in

1 the types of problems observed in the June '81 drill
2 which prompted...I think it was June '81. Is that
3 right, George?

4 MR. GIANGI: June 2nd, yes, sir.

5 MR. MATTHEWS: June 2nd...that prompted the
6 hearing board's concerns on the communications issues
7 and resulted in certification Item 144, PID 2010-G.
8 There's sufficient coincidence between the types of
9 problems which prompted that concern and the resulting
10 certification item and the types of deficiencies; in
11 particular, the three Category A deficiencies, two in
12 Lancaster and one in Daulphin, related to communication
13 type problems.

14 That the staff is of the position and opinion
15 that the resolution of those three Category A deficiencies
16 are necessary for the staff to certify to the Commission
17 resolution of Item 144. And we would be looking to
18 FEMA to provide us conclusions with regard to those
19 Category A deficiencies on those three points before
20 we will go to the Commission and indicate that that
21 item has been resolved.

22 In addition, we are sufficiently concerned
23 because of FEMA's report to us on the significance of
24 the Category A deficiencies in Daulphin County, that that
25 is also a necessary and sufficient condition for us, again,

1 to go to the Commission on a broader scale and recommend
2 restart or the lifting of the immediate suspension
3 order for TMI, Unit 1.

4 Bob, do you have any further comments?

5 MR. WILKERSON: Yes, this is Bob Wilkerson.
6 I want to clarify because I'm not sure who was present
7 during the hearings yesterday, and I want to make sure
8 that all the parties have the information.

9 During the Commission meeting yesterday, I
10 did make the statement that before we could take any
11 clarification action on the Category A deficiencies
12 that it would require completion and an evaluation of
13 the two exercises in question, Lancaster County and
14 Daulphin County.

15 And I did indicate to them that we expected
16 that the earliest (inaudible) expedited fashion, when
17 we could expect to provide them with documentation
18 on those exercises would be approximately 30 days after
19 each respective exercise.

20 I was questioned by I believe Commissioner
21 Asselstine as to in the case of Daulphin County whether
22 that would simply be a table top exercise where there
23 would be additional activity. I want, for the record,
24 to, to clarify so that there's not any miscommunication
25 between FEMA and the utility. My comment was that it

1 would go beyond a table top. My reason for making that
2 statement is that it will not involve solely a, our
3 definition of a table top situation which is where
4 people sit around and talk about the decision process
5 but will also involve some interactive decision making
6 as well as that communications drill.

7 I don't believe that's substantively different
8 from our previous discussions with GPU, but for the
9 point of the record, I would like to clarify that. So,
10 that much of this was discussed and if not resolved,
11 resolved by acquiescence yesterday.

12 MR. MATTHEWS: And the position...this is
13 Dave Matthews...the position that was just expressed
14 by me was also the position expressed by Mr. Jordan in
15 front of the Commission yesterday afternoon.

16 MR. LONG: Yeah, this is Bob Long. Dave, I
17 heard that, and I'm, you may think that was communicated
18 to me, but...or to George, but that's simply not so.
19 There were communications that occurred, all of them by
20 telephone, that indicated that closing the Category A
21 deficiencies was not what was required.

22 Jack Thorpe and I had several conversations
23 with John Stolz. I clearly had an indication, I per-
24 ceived it, maybe that's not what he meant, but I
25 clearly perceived that focusing on the, the hardware, the

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software to the extent of the paper's right, aspects that are, indeed, what the June 2nd '81 concern was all about, was sufficient to carry out or to close, reclose certification Item 144. Otherwise, we wouldn't have gone to the effort to do the 18th of June drill and the 7th of July drill. Those were designed to try to do something. And we had thought we had indications from, from members of the NRC staff that said that could be done.

Now, again, I've got to make sure I misunderstood what you said. I heard you say that the Daulphin category A-1 is also a condition for a restart certification.

MR. MATTHEWS: Not, let's be careful with our terms. I said for the staff to be able to recommend to the Commission that from an emergency preparedness standpoint it can support the lifting of the immediate suspension order on TMI-I. I did not say certify.

I did not confuse that issue with any restart certification nor any adjudicatory issue.

MR. ZAHLER: This is Bob Zahler from Shaw, Pittman, representing GPU Nuclear. Dave, if I understood your last point because the Dir^{ck}'s memorandum is clear. At Page 7 it says, instead the staff would propose to deal with this deficiency,

1 referring to the one you've just indicated for Dauyphin
2 County through FEMA separate and apart from the TMI-I
3 restart proceeding.

4 If I understood what you just said, though,
5 outside of that proceeding but with respect to lifting
6 the immediate effectiveness, immediate effected suspension
7 order, you would have to have that concern resolved
8 before you would support lifting the immediate effective
9 suspension order.

10 Maybe my question is more directly addressed
11 to Jack Goldberg because I think it's a legal question.
12 I have a very difficult time with that position.

13 MR. MATTHEWS: Well, you did hear me
14 correctly.

15 MR. ZHALER: Okay. The legal basis for the
16 immediate effective shutdown which was an extraordinary
17 action that the Commission took in suspending the
18 TMI license without granting a hearing was some very
19 particular identified concerns which the staff made
20 known to the Commission. Those concerns could not
21 possibly have been the Dauyphin County concern
22 identified in November of 1983 because it's some
23 four and a half years later.

24 Therefore, what we recognize that the
25 Dauyphin County deficiency is an item that needs to be

1 closed and needs to be resolved. And we intend to
2 follow through on that.

3 As a matter of legal position, I cannot
4 understand how that could be the basis for not lifting
5 an immediately effective suspension order made back in
6 1979.

7 I guess I'd like to hear the staff response,
8 but I have one other comment that I want to make while
9 I've got the microphone in my hand for a second.

10 With respect, with respect to the three
11 Category A deficiencies that you're apparently telling
12 us you want resolved before you can certify to the
13 Commission...

14 MR. MATTHEWS: With regard to Item 144, that's
15 right.

16 MR. ZAHLER: Yeah, with regard to Item 144.
17 I think it's important to listen to what Bob Long and
18 Bob Wilkerson are saying and understand the differences.
19 If one reads literally what FEMA wrote for those
20 three Category A deficiencies, we agree entirely that
21 they seem very similar to the problem that was
22 identified in the June 2nd '81 drill and, therefore, that
23 led to restart certification Item 144.

24 We believe that if you read those items
25 literally and you look at the drills that were run in

1 June and July of this year, that those drills resolve
2 those concerns; however, as FEMA has told us and as
3 we understand and as Bob Long indicated, the concerns
4 recognized in those three Category A deficiencies go
5 beyond what's just reflected in the words. To the
6 extent that they do, they no longer parallel the
7 problems identified in the June '81 drill that led to
8 restart Item 144.

9 And with respect to that matter, that is
10 where these three Category A deficiencies no longer
11 parallel, no longer relate to the concerns identified in
12 1981, we believe that what the staff should do is
13 treat that the same way it is treating the one Category A
14 item that doesn't relate to communications which is
15 outside of the restart process and outside of the
16 certification process.

17 The bottom line is and GPU understands this,
18 there is no communications drill that we could run
19 that would satisfy those Category A deficiencies. We
20 clearly understood that. That was not the intent of
21 those communications drills.

22 The intent of those communications drills
23 was to fully satisfy all of the concerns identified as
24 a result of the June '81 drill that led to restart
25 Item 144 to the extent that they showed up again in the

1 November '83 drill.

2 And I believe, if I understood Mr. Wilkerson
3 correctly, that if asked that question, FEMA would
4 indicate that that is what happened. We're not looking...
5 we talk about the man machine interface, and I under-
6 stand what that is, but it's a drop more than that.
7 I mean these drills reflected log keeping, record
8 keeping, calling the right numbers in all of those
9 things.

10 Those are precisely the concerns identified
11 by the licensing board from the June '81 drill that
12 led to restart Item 144. The other aspects that FEMA
13 is concerned about that are included among these
14 three Category A deficiencies were not concerns
15 identified either by FEMA as a result of the June '81
16 drill or the Commonwealth in their proposed finding
17 that led to this restart condition or the board in its
18 licensing decision.

19 If I could take a second, Bob Long referred to
20 it but the testimony of the FEMA witnesses back in '81
21 that was relied upon by the Commonwealth for this
22 restart decision is very clear. It's very specific.
23 For the record so you can look it up, it appears at
24 Pages 22,754 through 758. And it's essentially the
25 testimony of Mr. Vern Adler and Rick Bass (ph) from

1 FEMA, and what they talk about there is: Mr. Adler: I
2 would emphasize the importance of drills. And he's using
3 the word drills precisely the way Mr. Wilkerson did,
4 not exercises.

5 So, that what we are talking about in a lot
6 of cases are drills and table top exercises across the
7 board. In this particular case, to drill the coordination
8 aspects among all three levels, state, county, county
9 to municipality and county to state, why do these drills
10 and table top exercises have to be done prior to the
11 full scale exercise?

12 In order...and Mr. Hardy at this point also
13 responds...in order to go into full scale exercise which
14 test the systems as it says so in NUREG 0654, the
15 integrated capability, you should not go to such a
16 situation, an integrated full scale exercise, without
17 having drilled your own internal responsibilities
18 and broken it down into drills, possibly even of
19 segments smaller. So, for instance, you're a state
20 agency, you would not want to go into full scale
21 exercise, not having drilled your own responsibilities
22 within your agency.

23 What FEMA was talking about and what was
24 suggested to the licensing board and what's fully
25 reflected in the licensing board were these small

1 separate communications drills to isolate on that
2 particular aspect. We have no misunderstanding. Those
3 drills are never going to resolve the Category A
4 deficiencies identified by FEMA.

5 And if that's where we are, we're a total log^{ged} ^{heads}
6 ~~ahead~~, but our position, I think it's more directed
7 to the NRC than it is to FEMA at this point is that our
8 reading of the Dir^k's memorandum was that to the extent
9 the problems identified in '83 were the problems
10 identified in '81 which are reflected in the testimony
11 to some extent that I just read you and the FEMA report
12 on that drill, that those need to be resolved so that
13 we can recertify Item 144 cause you certified it once
14 before.

15 MR. MATTHEWS: I correct that. We didn't
16 certify it to the Commission.

17 MR. ZHLER: You certified it to us. You
18 said you were going to certify it to the Commission.

19 (PAUSE)

20 MR. LONG: This is Bob Long, again.

21 UNIDENTIFIED SPEAKER: Let's, let's wait till
22 Mr. Goldberg is back.

23 MR. LONG: Just so...this is Bob Long...got
24 a letter from John Stolz (inaudible) dated July 25, 1983,
25 that says, we consider each of the following items

1 complete, list them including 144 communications drill.
2 So, you may have not certified to the Commission. We
3 understood that it had been certified, that you were
4 satisfied with what was required of us.

5 I think...

6 (OFF THE RECORD)

7 MR. ZAHLER: Dave, let me...this is Bob
8 Zahler...let me add one other thing. Courtney Smythe has
9 given me a copy of a document...

10 (OFF THE RECORD)

11 MR. ZAHLER: This is Bob Zahler, again.
12 Just on the restart certification question, Courtney
13 Smythe has given me a document. I have in front of
14 me a complete listing of all the restart certification
15 items. It's got in the upper right-hand corner a
16 date of 1-31-84. My understanding was that this was
17 an attachment that went to the Commissioners as part
18 of a SECY paper, so that it was a communication from the
19 staff to the Commissioners.

20 And under 180...144 communications, under the
21 column completion documentation, the indication is
22 NRC letter 7-25-83, which I believe is the letter that
23 Dr. Long just referred to, under review status/remarks
24 complete. Under NRC inspection, yes (FEMA).

25 I guess I'm very surprised to hear the staff

1 position today that they had never certified this item
2 to the Commissioners because every indication we've got
3 is that this item was certified to the Commissioners.
4 It's a small item. And because I understand what
5 you're saying now is that new events have reopened that
6 certification.

7 But let me tell you why in some respects
8 it's important to us, at least in one regard. The
9 extent of the drills that were run that enabled you to
10 certify this in the first place represents an
11 approximation, and I would say a one to one approxima-
12 tion, if you will, of the nature of the drills and the
13 work that must be done to recertify it.

14 And I will tell you that if you compare
15 the drill that was run on July 17th, it is more
16 extensive and more complete than any of the drills that
17 were run that were relied upon to close this Item 144
18 the first time around. Therefore, I don't understand
19 how it is that the staff can now maintain that something
20 else more is needed when what we've now done this time
21 through is greater than what was done the first time.

22 The reality of the situation is TMI at some
23 point, hopefully, is going to be operating. Over its
24 lifetime history we expect that there will be Category A
25 deficiencies. And if the staff position is going to be

1 because of the unique proceeding that we went through,
2 that everytime there's a Category A deficiency at TMI,
3 you immediately suspend its operating authority. That's
4 wholly inconsistent treatment.

5 All we want to do is be treated like every
6 other operating plant. The Commission has established
7 that that's the basis on which TMI is to be treated.
8 We've got some Category A deficiencies. We're working
9 to resolve them.

10 Our reading of the Dirk's memorandum and I
11 believe it is a fair, full and complete reading, said
12 as to those aspects of the Category A deficiencies
13 that parallel what led to restart certification Item 144,
14 we've got to reclose that item for a second time. We'll
15 give you that.

16 But as to those items which at the time that
17 the Dirk's ^{dc} memorandum was written, you believe to be
18 just one Category A item which did not relate to restart
19 Item 144. The staff was willing to treat that outside
20 of the restart proceeding.

21 All we're suggesting to you is having now
22 spoken to FEMA and having now understood that FEMA
23 views those three Category A deficiencies as something
24 more than just what led to restart Item 144, that what
25 you should do is ask FEMA for an appraisal as to an

1 evaluation sufficient for you to close 144 and as to
2 any residual or remaining parts of those three
3 Category A deficiencies plus the fourth Category A
4 deficiency resolve it outside of a hearing process.

5 MR. GOLDBERG: Bob,...this is Jack Goldberg...
6 I think we understand your position. Now, let us
7 explain what our position is.

8 MR. ZAHLER: Fair enough.

9 MR. MATTHEWS: Let me make...Dave Matthews...
10 let me make one point. The date of the Dirk's^{sk'}
11 memorandum that we've been discussing to the Commission
12 is dated June 25, 1984. And notwithstanding any
13 tabulation of items closed or open that may have been
14 provided, my view is that the June 25th memorandum
15 clearly indicates that the staff is not prepared to
16 certify Item 144.

17 Two issues. One, that memorandum, I believe,
18 particularly with regard to the phrasing on Page 5,
19 made it clear that demonstration of the Category A
20 deficiencies being resolved is necessary for the staff
21 to certify Item 144.

22 Two, with regard to the remaining Dau~~x~~phin
23 County deficiency, that one related to their lack of
24 adequate participation or their failure to participate
25 fully in the November exercise, that was characterized

1 in the Dir^{ck}'s memorandum to the Commission of June 25th
2 as an issue outside of, I believe the phrase was the
3 restart proceeding. And the Commission, that was the
4 last communication to the Commission on that issue until
5 yesterday afternoon, at which point it was made
6 expressly clear to the Commission that that issue stands
7 in the way of the staff's recommendation to them
8 regarding possible restart of TMI-I, and it must be
9 resolved to FEMA and the staff satisfaction before they
10 would find themselves in a position of being able to
11 recommend restart.

12 MR. ZAHLER: Jack, I clearly understand the
13 staff position. I've got one big question mark which is,
14 why. The first statement of Dave's was with respect
15 to the three Category A deficiencies relating to
16 communications necessary to close them out to certify
17 Item 144.

18 And the question is, if both, if FEMA tells
19 you, and I think they have today, and if we tell you
20 our understanding is, that those three items involve
21 much more than closing out 144. Why is it that the
22 staff needs to close out those three Category A
23 deficiencies to certify 144?

24 I mean I'm not going to argue with you that
25 that's your reading of the Dir^{ck}'s memorandum. I didn't

1 have it, but fair enough. That's your reading of it.
2 The question I now pose is, why did you need from FEMA
3 a letter closing out all three of those Category A
4 deficiencies when FEMA will tell you that there is much
5 more in those deficiencies than what relates to Item 144
6 to close it out.

7 And the second question I have for you is,
8 if you tell me that the last communication you gave
9 to the Commissioners yesterday was that this other
10 Dauxphin County item stands in the way of restart, I
11 still want to know why? I mean your initial statement to
12 me was that it precluded lifting the immediately effective
13 suspension order, and I think I was very direct with
14 you. I don't understand that as a matter of law. And
15 I would like to know how it is that that item stands in
16 the way of lifting the immediately effective suspension
17 item.

18 MR. MATTHEWS: In terms of the staff's
19 recommendation of the Commission that that be their
20 action?

21 MR. ZAHLER: Yes.

22 MR. MATTHEWS: Go ahead, Bob.

23 MR. WILKERSON: Bob Wilkerson. I'd like to
24 make two points for clarification, if I could, in terms
25 of FEMA's position.

1 One is what we can provide you. We can
2 provide you with a report that outlines our understanding
3 of the objectives of the July 17th report and our
4 evaluation of the performance against those objectives.

5 I do not intend to make a statement here
6 today that that exercise was or was not successful or
7 that drill was or was not successful. I cannot bias
8 that process in a meeting. This was a meeting, not a
9 hearing. And I have to make that very clear.

10 The other is FEMA's ability or responsibility
11 or willingness to, to certify, to view the NRC, the
12 relationship between those category A deficiencies
13 and certification Item 144. Neither will I do that.

14 I will explain to you my understanding of
15 the requirements to fill the Category A deficiencies.
16 You must make the judgment, NRC, as to whether that
17 exceeds or parallels certification Item 144.

18 MR. GOLDBERG: This is Jack Goldberg. Bob,
19 we're not going, FEMA is not going to correlate the
20 drill in their report, the 144, and we're not going to
21 do it either right now.

22 What we're going to do is when we get a
23 report from FEMA that all the deficiencies are resolved,
24 then we'll be in a position to state to the Commission
25 what our, what our, what our position is on lifting the

1 suspension with respect to the emergency planning concerns.

2 It's our position that FEMA has to be
3 satisfied that there are no more emergency planning
4 deficiencies before we'll be in a position to support
5 restart.

6 MR. MATTHEWS: Now, I'd like to add another
7 comment. I believe with regard to the approach that
8 you are suggesting upon me, that you are asking me to
9 slice the bread too thin with regard to emergency
10 preparedness at TMI.

11 And I think in light of GPU's chief executive
12 officer's statements yesterday with regard to you
13 attempting to create a model facility and situation,
14 that that would argue against you attempting to convince
15 myself and other parties that the type of deficiencies
16 that were identified originally and the November 16th
17 drill are not common enough to allow me to continue
18 to raise concerns about the satisfaction of a Category A
19 deficiency.

20 MR. LONG: This is Bob Long. Use these
21 words to Bob Wilkerson back in June. Mr. Kuhns and
22 Mr. Clark used these words to the Commission yesterday.
23 Restart TMI-I is vital to us.

24 The issues here are not under our control.
25 We cannot control Dauphin County. We have tried for

1 months since the initial report came out to get them
2 to participate in a full table top exercise which would
3 clear completely the Category A deficiencies. We have
4 not been able to do that.

5 You, the Commission, can hold us responsible
6 for that since we're the only ones you can hold
7 responsible. You have no clout over Dau~~x~~phin County
8 either.

9 And the statement made to the Commission
10 yesterday I found shocking in the sense that this
11 meeting was asked for a month ago. It takes place the
12 day after the Commission's meeting in which you added
13 on as I've just, I recognized it yesterday, Dave, there
14 was a new wrinkle there that I had never heard before,
15 without us having an opportunity to discuss it.

16 I think we could, in all fairness, show that
17 we're not trying to shave things thin. We're trying
18 to understand what the Commission expects of Dau~~x~~phin
19 County and the State of Pennsylvania in demonstrating
20 their emergency preparedness and how that relates to
21 our restart decision.

22 What I hear you saying today and what clearly
23 went through my mind yesterday is that right now the
24 schedule, if what you're saying is irrevocable, I hope
25 it's not, perhaps it is. Maybe once a statement is made

1 to the Commission that makes it irrevocable. But if
2 that's the case, then the earliest possible startup
3 date for us would be November 17th.

4 Since Bob says with best effort it's going
5 to take him 30 days. I'm assuming that's 30 calendar
6 days, not 30 working days. 30 calendar days to
7 respond to the October 17th Peach Bottom exercise.

8 Now, you must understand that that gives
9 us great concern. That gives Mr. Clark great concern.
10 In light of all the other issues that we've had to try
11 to address to get approval to restart this unit, that
12 one which is out of our control, outside of our ability
13 to implement, to do something about ourselves except
14 by persuasion, should become the critical path item.

15 MR. GOLDBERG: Well, you may be right, Bob.
16 That's the situation that you're in. With respect to
17 your comment earlier about Category A deficiencies not
18 being a basis to shutdown an operating reactor and
19 your desire to treat it as other operating reactors are,
20 once you're operating, that should be the case. But
21 like it or not, TMI-I has been different from operating
22 reactors from the time that the proceeding was
23 instituted with respect to every issue that's within
24 the scope of the restart proceeding. Emergency
25 planning is one of them.

1 So, it's not a legal basis within the context
2 of this proceeding to argue that, that Category A
3 deficiencies is not a basis to not (inaudible) to the
4 operating license.

5 MR. ZAHLER: A couple of things. One, Jack,
6 in all fairness, I think your statement just before
7 Dave Matthews, the time before, that you, that the staff
8 position was that you need to clear the Category A
9 deficiencies before restart, is different and is
10 inconsistent with the Dir^{ck}'s memorandum.

11 With respect to Dave's view that we're asking
12 him to cut it too thin, not at all. We fully understand
13 the seriousness of the Category A deficiencies. We're
14 not attempting to avoid resolving the Category A
15 deficiencies.

16 In some respects, I think you're right. I
17 am making a legal argument to you that resolution of
18 the whole of a Category A deficiencies is not within the
19 restart proceeding. Let me explain why that's not
20 cutting it too thin or that's not asking for special
21 treatment.

22 The Commission's action in revoking the
23 operating authority of TMI without a hearing was an
24 extraordinary action, justified in the public health
25 and public interest. The staff position and the staff

1 has written it a number of times to the Commissioners
2 what...

3 MR. GOLDBERG: I said it yesterday.

4 MR. ZAHLER: And Jack writes it all the
5 time and says it all the time, is that whatever the
6 concerns that led to that extraordinary action are
7 gone, the immediate effectiveness nature of that order
8 has to be removed.

9 The concerns being identified by FEMA today
10 just could not have been part of the concerns that led
11 to the suspension of that operating authority. We're
12 not contesting the right of the staff to insist that we
13 dot every i and cross every t to resolve those matters.

14 I am, however, and I don't think it's merely
15 a technicality or slicing the bread too thin, arguing
16 that it is denying us our fair treatment before the
17 Commission to throw these items in as conditions to
18 restart. That was not the intention of the Commission
19 in '79. I don't believe it could possibly be the
20 position of the Commission today. It's not consistent
21 with what their lawful authority is.

22 One last thing in terms of cutting it too
23 thin and trying to shave corners, and I get exercised
24 about this everytime we talk about emergency planning
25 at TMI because I've been involved in at least in '79.

1 I think if you go back and you ask Jack
2 (inaudible), you ask Steve Chestnut, you ask Phil
3 Cantner, you will find that emergency planning at
4 TMI has never been a shortcut item, has never been an
5 item where we sought to cut resources or get by with
6 the minimum.

7 I think the people at GPU and TMI have done
8 a fantastic job in emergency planning. It's based on
9 my experience with all of our other clients, not the
10 whole industry, but a whole bunch of our other clients
11 in emergency planning, and I guess it rackles me when
12 people at least talk about emergency planning and say
13 that GPU's tried to cut corners cause that's just not
14 the case. It's not the case today. We're not proposing
15 any special treatment today.

16 But what we are asking is that we be treated
17 with fairness in accord with what the Commission
18 ordered in 1979. The bottom line is I understand the
19 staff position. In some cases it sounds like a
20 (inaudible) case or direction. This is the way it's
21 going to be.

22 I will tell you that my own view in response
23 to my question why is that you haven't told me why.
24 You've said this is the way it's going to be. My
25 question to you was, if there is more involved in those

1 three Category A deficiencies than what was necessary
2 to certify restart Item 144, why must the rest of them
3 be closed? I don't think I got an answer to that
4 question. I understand your position, but I didn't
5 get an answer to that question.

6 MR. GOLDBERG: This is Jack Goldberg. I
7 don't think there's any doubt that one of the Commission's
8 concerns when they suspended the license was emergency
9 planning. If we stop looking at the trees and step
10 back.

11 It's our position now that emergency planning
12 deficiencies have to be resolved before the staff is
13 going to support restart. We think it was clearly
14 contemplated by the Commission when they suspended the
15 license that TMI-I would not restart until it had an
16 emergency plan without any deficiencies present.

17 MR. MATTHEWS: And let me clarify, again, two
18 points. One, your comments seem to indicate that you
19 inferred that my statement with regard to slicing the
20 bread too thin was an implication associated with GPU's
21 dedication or involvement or commitment to emergency
22 preparedness. That is not what I said nor intended.
23 I was speaking with regard to making what I view to
24 be narrow distinctions between deficiencies with regard
25 to a certification item in the legal sense and what I

1 view to be deficiencies with regard to FEMA's ability to
2 certify...I shouldn't use that word...to confirm to us
3 that there are no deficiencies that would interfere with
4 adequate protection of the public health and safety.

5 MR. GOLDBERG: Let me add another thing. There's
6 144 and then there are possible other deficiencies.
7 FEMA is not going to be in a position to address 144
8 per se at this time. And we're not going to be able to
9 do that either.

10 What we're going to do is when FEMA is
11 satisfied that there are no emergency planning
12 deficiencies, no Category A deficiencies, we will take
13 that and we'll then state to the Commission our position
14 on, on restart.

15 You are correct that in a certain respect
16 this differs from what was said in the Dirk's memorandum
17 of June 25th on that fourth Category A deficiency which
18 doesn't deal with communications. This is something
19 different. You're right. But it's, you know, this is
20 not the final word on it.

21 We, we stated our current position yesterday
22 to the Commission, and we're trying to do that again
23 today.

24 MR. LONG: Jack, let me...this is Bob Long
25 again. We had Lancaster County agree to do a full

1 table top exercise which could have demonstrated their
2 abilities had it been done properly to clear the
3 Category A deficiencies in mid-July.

4 We had gotten them to agree to do that in spite
5 of the fact that they're scheduled to play at Peach
6 Bottom in October. We didn't do that because we had
7 the understanding from the NRC staff communications,
8 various ones of us, sailor to lawyers, me to John Stolz,
9 George to others that if we did the communications
10 drill that we did do on July 17th, that that would get
11 at the research item.

12 What I'm here right now is that had I done
13 that in July and had Lancaster County done it properly
14 and had PEMA and FEMA sacrificed which they both would
15 have had to do to observe but we even had them agree
16 that they could do this, then I could be cutting off
17 at least a month from this date in the future.

18 And if you get the impression that that makes
19 me angry and distressed, you've got the right
20 impression. It does, indeed.

21 MR. GOLDBERG: I, I haven't been involved
22 in the history of this. It may be that you did some
23 things on an understanding of what our position was,
24 but for whatever reasons, it's history now.

25 This is what our position is, as we stated

1 yesterday, as we tried to explain today. And that's, you
2 know, that's really all I can say.

3 MR. ZAHLER: This is Bob Zahler. Jack, I
4 want to respond to your concern about looking at the
5 forest and not the trees in terms of emergency planning.
6 Even accepting that, the Commission's order that lift,
7 that lifted the operating authority of TMI on immediately
8 effective basis identified five short-term emergency
9 planning items and two long-term emergency planning items.

10 I can't recall it exactly, but one of those
11 two long-term emergency planning items was generally
12 improve emergency effectiveness around TMI. It was
13 clearly recognized from day one when that order was
14 issued that restart might take place well before those
15 long-term order items were completed.

16 Now, time has overtaken all that, and I'm not
17 making an argument to you on that, but I want to point
18 out to you that your statement that the Commission
19 expected that every last deficiency in emergency
20 planning be resolved before restart of TMI is inconsistent
21 with the August '79 order.

22 In fact, if you look at the five short-term
23 order items compared to the status of emergency
24 planning today, even given all of those Category A
25 deficiencies, we are so far beyond that and so far

1 beyond those items that there is no comparison.

2 If you want to look at the ball park picture
3 and talk about the forest, I would ask you to go ask
4 *Jack Lee*
Joe Row who was there in '79 to get a comparison of
5 the state of emergency planning in April or September of
6 '79, the state of emergency planning today around TMI.

7 It is so far improved and so much greater
8 that if that was the concern, that's been resolved.

9 (PAUSE)

10 MR. GOLDBERG: Would it be your position that
11 if TMI-I were in the status of a near term operating
12 license rather than an operating reactor with a suspended
13 license that they would be getting an operating license
14 with Category A deficiencies?

15 MR. ZAHLER: Absolutely not, but the
16 Commission, that was precisely the issue addressed to the
17 Commission during the TMI proceeding. And the answer
18 that came back was we were not to be treated like a
19 near term operating license. I mean that's written in
20 black and white in the Commission order.

21 I agree with you, if we're a near term
22 operating license and we had a Category A deficiency,
23 we don't get a full power license. We might get a low
24 power license because you don't need offsite planning.
25 We don't get a full power license.

1 But my position to you is from day one it's
2 been clear we were not to be treated as a near term
3 operating license. We have never been treated as a
4 near term operating license in this proceeding. Oh,
5 let me take it back. When the staff tried it, the
6 Commission said, no.

7 And, therefore, I don't expect us to be
8 treated like a near term operating license. Absolutely
9 not.

10 MR. MATTHEWS: We'd like a caucus (inaudible).

11 MR. STOLZ: Let me clarify a few things.

12 (OFF THE RECORD)

13 MR. STOLZ: Let me summarize a clarification
14 then with respect to the points you've raised here,
15 Bob. At yesterday's meeting with the Commission, the
16 staff clearly went beyond the points raised in the
17 letter of June 25th.

18 My discussions with you over the phone,
19 Bob, at that time I was following what we had described
20 here in this June 25th letter. So, that, that is
21 probably the point of confusion that arises.

22 We, we were discussing meeting the, the,
23 those aspects of the Category A deficiencies that
24 related to communications drill. Yesterday's meeting,
25 it's clear that the staff's position as presented to the

1 Commission not only included those items but included
2 all the Category A deficiencies that were described in
3 this letter. I guess that's it.

4 I think the, I think if you wish to go
5 beyond the group that's presently here in this room,
6 the staff, you're going to have to take that, that up
7 among yourselves.

8 MR. LONG: Okay, John, this is Bob Long.
9 I guess I do have one request. I would hope that
10 either, I would like for the NRC to ask FEMA for a
11 report on the July 17th drill so that you have something
12 that's out of Bob Wilkerson's office, not just the
13 region report but that you have a report to you on
14 performance of the Counties in the July 17th drill.

15 MR. STOLZ: Bob, the reason we're, don't want
16 to ask FEMA for the results of the July 17th drill is
17 because we're quite aware that that drill does not
18 encompass all of the things that we indicated we wanted
19 to be cleaned up at yesterday's Commission meeting.

20 So, that even if FEMA were to provide this
21 report, it would not be sufficient to cover all the
22 deficiencies that we, the staff wants to clear up
23 and provide a certification of the Commission for
24 restart.

25 We're, we're only, we're only addressing part

1 of the package if we, if we get FEMA to give us a
2 report.

3 MR. LONG: We understand that.

4 MR. STOLZ: The ground rules were, were
5 encompassed as per the June 25th letter. I think there
6 would be some merit to your request but now that I'm
7 aware that we have, have expanded our position as a
8 result of a Commission's meeting yesterday, it seems
9 like just an exercise to request FEMA to provide a
10 report that will not be a sufficient basis for us, the
11 staff, to make a conclusion.

12 MR. LONG: That wouldn't be the only
13 exercise involved in this whole exercise, believe me.
14 I, I think...I just want to express our appreciation
15 for Bob Wilkerson and his staff and John Patton and you
16 and your staff for meeting with us.

17 We understand what's expected of us. We will
18 do what's expected of us. We always have. We'll
19 continue to do that. We will try to find ways to clear
20 the FEMA Category A deficiencies which will not make
21 that item a holding critical path item for a restart
22 action on the part of the Commission.

23 And beyond that, I don't know as there's much
24 we can do. It's not one, as I've said, that we have
25 under our direct control, but we will do our best to

1 work with the agencies involved to get an effective and
2 timely clearance of those Category A deficiencies.

3 (PAUSE)

4 MR. ZAHLER: Let me just make one statement
5 because I want GPU's position to be clear. I understand
6 that the NRC staff, at least you've indicated today,
7 you're not going to ask FEMA for that report on the
8 July 17th drill.

9 Our position, however, is that we would like
10 you to ask them for that report. I'll be very frank
11 with you. The effect of you not asking them for that
12 report forecloses our ability, and I'm not sure that
13 we would do it, but forecloses our ability to pursue
14 what we believe to be the proper interpretation of how
15 this should be resolved at any higher level or different
16 level.

17 And I guess I'm a little surprised that the
18 staff would take that position. I can tell you during
19 the restart proceeding itself the staff on a number of
20 occasions asked FEMA for interim reports on the status
21 for emergency planning at TMI, well knowing that those
22 interim reports did not resolve all issues but requested
23 those reports so that the process could continue.

24 And I guess our view is we would like you to
25 ask for them. I can't force you to do that, but I just

1 wanted our position to be clear. Thank you.

2 MR. MATTHEWS: I understand your position
3 in that regard. Our position is based upon FEMA's
4 May 23, 1984 letter, which indicated the steps with
5 which FEMA understood that the County and PEMA were
6 going to proceed on with regard to the resolution
7 of those Category A deficiencies.

8 And when those steps have been taken as
9 committed to in that May 23, 1984 letter, we expect
10 FEMA to come forward to us to indicate that those
11 steps have been taken and the associated results of
12 those steps.

13 Thank you.

14 MR. STOLZ: Thank you.

15 (WHEREUPON, THE AFOREGOING MEETING ENDED
16 AT 2:40 P.M.)
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