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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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AFFIRMATION/DISCUSSION AND VOTE

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PUBLIC MEETING

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

Friday, September 7, 1984

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

COMMISSIONERS PRESENT:

- NUNZIO PALLADINO, Chairman of the Commission
- THOMAS ROBERTS, Commissioner
- JAMES ASSELSTINE, Commissioner
- FREDERICK BERNTHAL, Commissioner
- LANDO ZECH, JR., Commissioner

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- S. CHILK
- A. BATES
- J. ZERBE
- R. LEVI
- H. PLAINE

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P R O C E E D I N G S

1
2 CHAIRMAN PALLADINO: Good morning, ladies and
3 gentlemen. This is an Affirmation/Discussion and Vote
4 session on two issues related to TMI-1.

5 Before we take up the two matters scheduled for today,
6 let me take a moment to explain what these matters are.

7 Today, we will address two adjudicatory orders
8 which concern ALAB-772, the decision of the Appeal Board
9 rendered in May 1984, which held that additional management
10 integrity hearings were needed on three issues:

11 First, the adequacy of training in light of the
12 cheating episodes.

13 Two, TMI-1 leak rate data falsification, and

14 Three, the Dieckamp mailgram of May 1979.

15 The two orders which we intend to vote on today
16 address:

17 First, the licensee's petition of June 22, 1984
18 requesting Commission review of ALAB-772 and,

19 second, the licensee's motion of June 13, 1984
20 to stop all further hearings in the interim.

21 These orders address related matters as well, which
22 the Secretary will describe shortly.

23 I wish to make it clear that we are not now making
24 a decision on or considering the ultimate question of
25 restart of TMI-1.

1 On August 15, at the conclusion of oral presentations
2 before the Commission, I noted that we had scheduled this
3 meeting to consider the options before us. The approach we
4 are about to vote on would call for Commission review of
5 specified issues and no restart decision before the Commission
6 completes that review.

7 With that introduction, if there are no other
8 opening remarks by my fellow Commissioners, I would propose to
9 turn the meeting over to the Secretary.

10 All right, Sam. Could you proceed, please?

11 MR. CHILK: The first paper is SECY-84-317, entitled
12 Licensee request for stay of ALAB-772, Management Decision in
13 TMI-1 Restart Proceeding, and the TMIA request to lift the
14 stay of ALAB-738, the decision reopening the record of the
15 Hartman allegations.

16 In this paper, the Commission is being asked to
17 act on an order which addresses two pending requests in the
18 TMI restart proceeding.

19 The first is a request from the Licensee for a stay
20 of the remanded hearings ordered by the Appeal Board on
21 May 25 on the management issues, which is ALAB-772, and the
22 second is a request by Three Mile Island Alert that the
23 Commission lift the stay on the reopened hearings on the
24 Hartman allegations, ALAB-738.

25 All Commissioners -- the Chairman, Commissioners

1 Roberts, Asselstine, Bernthal and Zech -- have approved an
2 order which (1) denies the Licensee request for a stay of the
3 remanded hearings ordered by ALAB-772 and grants the TMI
4 request to lift the stay on the reopened hearings on the
5 Hartman allegations. The order contains some modifications
6 that were suggested by Chairman Palladino in the revision
7 process.

8 Would you please affirm your votes?

9 CHAIRMAN PALLADINO: Aye.

10 COMMISSIONER ASSELSTINE: Aye.

11 COMMISSIONER ROBERTS: Aye.

12 COMMISSIONER BERNTHAL: Aye.

13 COMMISSIONER ZECH: Aye.

14 MR. CHILK: The second paper is SECY-84-330B, it's
15 a review of ALAB-772, the Management Decision in the TMI
16 restart, and ALAB-738, reopening of the Hartman allegations
17 in which the Commission is being asked to act on an order
18 taking review of certain issues in ALAB-772 and in ALAB-738.

19 The Chairman, Commissioners Roberts, Bernthal, and
20 Zech have approved an order as modified by Commissioner Zech
21 and Commissioner Bernthal, which indicates that the Commission
22 will review the ALAB's decision on three issues to determine
23 if further hearings are warranted.

24 These issues, as the Chairman explained, include
25 the adequacy of the licensee training program; the mail-a-gram

1 from Herman Dieckamp to Congressman Udall regarding pressure
2 spike, and the leak rate practices at TMI.

3 The Commission has also decided to review whether
4 the Appeal Board had the authority to remove Mr. Husted from
5 supervisory duties insofar as the training of non-licensed
6 personnel is concerned, without providing him notice and an
7 opportunity for a hearing.

8 In addition, the Commission has decided to take
9 review of whether in view of the changed circumstances
10 further hearings are required in the Hartman allegations as
11 directed by the Appeal Board in 738.

12 And finally, the Commission has decided to review
13 whether any of the information discussed in the staff's
14 evaluation of management integrity, which is NUREG-06-80,
15 Supplement 5, requires further hearings.

16 The Commission in this manner will decide whether
17 further hearings are required and if so, what their scope
18 should be.

19 As the Chairman also indicated, the Commission has
20 decided not to rule on whether to lift the immediate
21 effectiveness of the 1979 shutdown orders until after it has
22 decided what further evidentiary hearings, if any, are
23 required in the restart proceeding.

24 If the Commission decides that further hearings
25 are required, it will decide whether public health-safety

1 interests require completion of those hearings prior to a
2 decision on lifting the effectiveness.

3 Commissioner Asselstine has disapproved the order
4 and will provide separate views.

5 COMMISSIONER ASSELSTINE: I might just make a brief
6 comment, Sam. In my own view, this is a mistake. I think
7 the Appeal Board's decision is reasonable. We ought to get on
8 with these hearings. In fact, I think the hearings on the
9 management competence and integrity issues ought to be re-
10 opened. I think Governor Thornburg is absolutely right and
11 we ought to get on with it.

12 I think the course the Commission is on could well
13 end up delaying things further than just going ahead and re-
14 opening the hearings at this point.

15 I also have a concern with the standard that the
16 Commission is asking the parties to address for reopening
17 the record in this order. It is a higher standard than the
18 Commission has required in the past and I don't understand
19 why the Commission, given the fact that these parties have
20 already met the standard for reopening once in the Appeal
21 Board's decision, are now trying to increase that standard
22 in order to deny the parties an opportunity to get a
23 hearing on the management competence and integrity issues.

24 Those points will be discussed in greater detail
25 in my views which will be available later this morning.

1 CHAIRMAN PALLADINO: Any other comments?

2 COMMISSIONER BERNTHAL: No.

3 MR. CHILK: To reiterate the votes, the Chairman,
4 Commissioners Roberts, Bernthal and Zech have approved the
5 order. Commissioner Asselstine has disapproved it. Would you
6 please affirm your votes?

7 COMMISSIONER BERNTHAL: Let me make just one
8 comment, Sam. I want to make clear that I have not made any
9 decision to deny any parties an opportunity to be heard on
10 any issue, including management competence and integrity
11 issues. We have chosen to take review of these decisions
12 and the Commission, having solicited comments from the parties,
13 will then decide what to do.

14 COMMISSIONER ASSELSTINE: You have also chosen to
15 require that the parties meet a higher standard than was
16 required of parties in the past.

17 MR. CHILK: Would you please affirm your votes as
18 I have indicated?

19 CHAIRMAN PALLADINO: Aye.

20 COMMISSIONER ROBERTS: Aye.

21 COMMISSIONER BERNTHAL: Aye.

22 COMMISSIONER ZECH: Aye.

23 COMMISSIONER ASSELSTINE: Aye.

24 MR. CHILK: Thank you.

25 CHAIRMAN PALLADINO: Thank you. Any other comments?

1 MR. CHILK: I have nothing further.

2 CHAIRMAN PALLADINO: Well, this completes the
3 matters to be considered in today's meeting. But before
4 closing the meeting, let me summarize what I believe we have
5 done today.

6 In summary, a majority of the Commission has
7 decided to review the Appeal Board's Management Integrity
8 Decision, ALAB-772. In taking this review, the Commission has
9 decided to determine what, if any, further hearings are needed
10 in this restart proceeding and what issues will be addressed
11 in any further hearings.

12 The Commission will not make a decision on whether
13 or not to lift the TMI-1 shutdown order before it completes
14 its review of ALAB-772 and decides whether further hearings
15 are needed.

16 In the interim, the management integrity hearings
17 that have been ordered by the Appeal Board, including the
18 hearings on the Hartman allegations, will be allowed to
19 proceed.

20 Under the approach adopted today, the Commission's
21 next step is to undertake and complete the review of
22 ALAB-772 and the question and scope of further management
23 integrity hearings. This step includes receiving written
24 briefs from the parties to the restart proceeding and making
25 the decision after review.

1 I hesitate to express an opinion on how long it
2 will take to complete the review and make a decision. Past
3 experience indicates that the time involved might range from
4 90 to 150 days.

5 When we have completed that review, the Commission
6 would be prepared to say whether and if so, what further
7 hearings are needed on management integrity or other related
8 matters. At that time, the Commission should also be able to
9 say at what point it would be prepared to make a decision on
10 whether or not to lift the shutdown order.

11 The key questions to a restart decision which we
12 should be able to answer at that time when we have completed
13 our review are:

14 One, what further hearings, if any, are needed and
15 on what issues.

16 Two, if further hearings are to be held on specified
17 issues, must some or all of those hearings be completed before
18 deciding whether to authorize the restart of this plant.

19 Unless other Commissioners have further comments?

20 COMMISSIONER ZECH: I would just like to say that I
21 believe that this is a responsible position on the part of the
22 Commission in order to ensure that we take really an extra
23 step to get the parties' views on the remaining issues. And I
24 believe this is the position of the majority on the
25 Commission and I believe it is a responsible step to really try

1 to allow further deliberate hearings from the parties
2 concerned.

3 CHAIRMAN PALLADINO: All right. Any other comments?
4 If not, any other matters to come before us?

5 MR. CHILK: I have nothing else.

6 CHAIRMAN PALLADINO: All right, then we will stand
7 adjourned. Thank you.

8 (Whereupon, at 10:20 a.m. the meeting of the
9 Commission was adjourned.)

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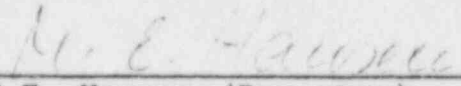
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9 M.E. Hansen (Reporter)

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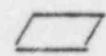
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