

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

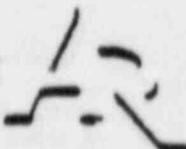
In the Matter of: CLOSED MEETING - EXEMPTION 5

BRIEFING ON AN INVESTIGATION AND A
PROPOSED ENFORCEMENT ACTION

DATE: December 22, 1981

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(28)

18 CHAIRMAN PALLADINO: We will start on Diablo
19 Canyon.

20 MR. DIRCKS: This may be a rambling type of
21 discussion, but I will bring you up to date on where we are
22 and how it got started and where we are today and where we
23 are going.

24 Most of the background is contained in this
25 memorandum that I sent to the Commission on December 17th.

1 It followed the November 3rd meeting that was held in
2 Bethesda and there was some discussion of the issue of
3 transfer of ^{draft}~~graph~~ material from Cloud to PG&E and the review
4 and commenting on material done by PG&E.

5 At one point there was a transmittal over from a
6 member of Congressman Udall's staff that we received and we
7 had NRR looking at this material to compare the draft page
8 against the report that we received from Mr. Cloud, the
9 final report.

10 Before we could even do the comparison,
11 Congressman Panetta's office called me and said they had
12 received copies of additional graph material from the staff
13 of Congressman Udall. Katherine Cook, who is the staff
14 member for Congressman Panetta indicated that he might want
15 to look into it personally.

16 My extent of looking into it personally was to
17 immediately get it into the hands of the appropriate parties
18 within the staff. I sent material down to the Commission.
19 We circulated it to the Boards, the Licensing Offices in our
20 Region and to the Governor's office and so on.

21 Also, I asked that an investigation be carried out
22 to determine how this whole matter would influence the
23 Commission discussions on the independence of the Cloud
24 audit.

25 Since having done that I have received additional

1 information. I received a memo from Commissioner Gilinsky,
2 Commissioner Ahearne, Commissioner Bradford, or copies of
3 it. The issue now seems to be how much did the parties at
4 the November 3rd meeting tend to mislead the Commission.

5 In discussing it with Dick, Bob Engleton and so
6 on, we would like to have the investigation focus on really
7 four major issues. These are objective type questions that
8 we want the investigation to look at.

9 Essentially the first one would be, if we could
10 answer the question, how much draft material did Cloud send
11 to PG&E, what was the extent of those reviews within PG&E,
12 who were the officers and members of the PG&E staff that
13 reviewed this material ---

14 MR. CASE: And what were the instructions.

15 MR. DIRCKS: And what were the instructions in any
16 back-up memoranda and so on. Here is draft material from
17 Mr. Cloud. Review it and here your instructions in
18 reviewing it. That is part of the first question.

19 COMMISSIONER BRADFORD: How do you go about
20 getting the instructions? Is that just part of the review
21 process? You don't serve any kind of written request,
22 subpoena or anything like that?

23 MR. DIRCKS: Not right now, and I can go into who
24 is doing the investigation.

25 The second major issue that we want to look at was

1 who attended the November 3rd meeting who were aware of the
2 exchange of information that might have occurred in
3 October. We have a list of those people and we have a list
4 of those people who are going to be interviewed and have
5 been interviewed.

6 The third major area is following the November 3rd
7 meeting the extent of any meetings, conferences, discussions
8 and instructions that might have followed that meeting in
9 regard to the issue of this question of the amount of
10 information exchanged before the November 3rd meeting.

11 We are interested in whether the transcripts had
12 been read. We did issue transcripts at the November 3rd
13 meeting. We were interested I think in whether or not
14 members of the meeting had read those transcripts, again to
15 give those people appropriate opportunity to come back and
16 correct the record if they wanted to, or that they had an
17 understanding of what was going on.

18 COMMISSIONER ROBERTS: I thought that had been
19 done.

20 COMMISSIONER AHEARNE: I thought some correction
21 did come in.

22 MR. CASE: I haven't seen any if it has.

23 COMMISSIONER AHEARNE: Not germane to this. I am
24 told that someone on PG&E did have one addition or
25 correction to the transcript record.

1 COMMISSIONER BRADFORD: But not with regard to
2 these pages?

3 MR. CASE: No.

4 MR. DIRCKS: Then the four issue or the fourth
5 point really started off almost to be the first, but now it
6 is down to the fourth issue in the priorities. What were
7 the effect of the changes on the final report in response to
8 those comments received in October. This gives us some idea
9 of how much influence those changes had in the report gotten
10 by us in November.

11 CHAIRMAN PALLADINO: Has the Cloud report gone
12 further in drafting? Is the final out?

13 MR. DeYOUNG: Yes.

14 MR. CASE: Even though they call it a draft, I
15 gather it is final. The one they sent they called draft.

16 CHAIRMAN PALLADINO: The one that was marked No. 1?

17 MR. CASE: No, the second, November 12th.

18 CHAIRMAN PALLADINO: That is the one we are trying
19 to determine how much ---

20 MR. DIRCKS: These are the four essential issues
21 that I thought we would like to have addressed by the
22 investigation. The question of did they try to mislead, did
23 they mislead, and did they lie, I would like to hold the
24 region immune from that discussion and take that issue up to
25 the Commission so that we can look at the record in the

1 investigation in and of itself and not try to force the
2 region into ---

3 COMMISSIONER AHEARNE: And reach a conclusion
4 based upon fact.

5 MR. DIRCKS: Yes, that is right.

6 From what I gather, most, if not all of the
7 interviews have been conducted. They were conducted by
8 essentially two people. One was Mr. Faulkenberry in the
9 region and the other one accompanying Mr. Faulkenberry was
10 Owen Shackleton who is an experienced investigator, eight
11 years with the FBI, 12 years in outside work, I guess in
12 private investigatory work, and eight years with the NRC.
13 So he is an experienced investigator capable of asking the
14 right questions.

15 With the exception of Mr. Norton, the interviews
16 have been conducted and transcripts of those interviews are
17 back here now and we are ---

18 MR. DeYOUNG: On the way.

19 MR. DIRCKS: Are on the way back now.

20 COMMISSIONER GILINSKY: Let's see, it says the
21 dates interviewed are December 18th for Mr. Norton.

22 MR. DeYOUNG: Yes, but he is to be reinterviewed
23 again on Monday.

24 MR. DIRCKS: We found there were two remaining
25 essential questions that need to be asked of Mr. Norton.

1 COMMISSIONER AHEARNE: Is he a PG&E employee?

2 MR. DIRCKS: No. He is a private attorney in
3 Phoenix. I gather in talking to Mr. Engleton that he
4 appeared for the interview with his own private attorney and
5 he also had the attorneys for the firm with him. From what
6 I gather this barrage of attorneys dampened the interview to
7 some extent and we went to go back and ask him more
8 questions.

9 COMMISSIONER ROBERTS: Were you intimidated?

10 MR. DIRCKS: Well, not intimidated, but I think we
11 cut short the interview. We should have asked more
12 questions and that is what we want to do.

13 COMMISSIONER BRADFORD: Have they had attorneys
14 present at all the interviews?

15 MR. DeYOUNG: No, only the first one.

16 COMMISSIONER BRADFORD: Norton was the only one?

17 MR. DeYOUNG: Just Norton as far as I know.

18 COMMISSIONER BRADFORD: Did the attorneys raise
19 objections to questions or were they just sitting there?

20 MR. DeYOUNG: They would ask questions. Would you
21 consider this to be a deposition, which neither of the two
22 people that we had there are lawyers and they just didn't
23 know what to respond to it. It is that type of interchange
24 that kind of dampened it.

25 COMMISSIONER AHEARNE: Are you sending a lawyer

*See
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this could be
misleading*

1 along for this one?

2 MR. DeYOUNG: Yes.

3 COMMISSIONER BRADFORD: The other interviews are
4 under oath though?

5 MR. DeYOUNG: All the interviews are under oath
6 and transcribed.

7 CHAIRMAN PALLADINO: Did you say the transcripts
8 are available except for Norton?

9 MR. DeYOUNG: Many of them are here and some of
10 them are on the way.

11 CHAIRMAN PALLADINO: They are available to us?

12 MR. DeYOUNG: If you wish.

13 COMMISSIONER GILINSKY: Does this get into any
14 sort of plausible explanations for any discrepancies?

15 MR. DIRCKS: The interviews?

16 COMMISSIONER GILINSKY: I mean do you offer
17 opportunity for someone to explain ---

18 MR. DIRCKS: --- his interpretation?

19 COMMISSIONER GILINSKY: Yes.

20 MR. DIRCKS: I think that is the line of questions.

21 COMMISSIONER GILINSKY: I see. So that is covered.

22 MR. DIRCKS: Yes.

23 COMMISSIONER AHEARNE: Norton has a private
24 attorney he has hired to represent ---

25 MR. DeYOUNG: PG&E.

1 MR. MURRAY: It is my understanding he is the lead
2 attorney on their licensing process in trying to get this
3 plant licensed.

4 CHAIRMAN PALLADINO: Did you have a question, Tom?

5 COMMISSIONER ROBERTS: No.

6 MR. DIRCKS: I think the process of the
7 investigation is to assemble these transcripts and put
8 together a report. We intend to have the report reviewed by
9 the staff out there. Is that right, Dick, you are
10 assembling a group out there?

11 MR. DeYOUNG: We have a peer group that will fly
12 there and review the report and the attending conclusions by
13 the Region V people. That group will consist of Ed Case,
14 Frank Miraglia, Kevin Cornell, Jim Lieberman, Roger Fortuna
15 and Jim Sniezek.

16 COMMISSIONER GILINSKY: What are these people
17 doing?

18 MR. DeYOUNG: It is a peer review to hear what the
19 region did in their investigation, the types of questions
20 and the results. The peer review are receiving copies of
21 the transcripts of all of the interviews to see if they went
22 far enough, deep enough and the conclusions they are coming
23 to are -- (Simultaneous Conversations - Inaudible) ?

24 CHAIRMAN PALLADINO: How many are on that peer
25 committee?

1 MR. DeYOUNG: Seven people.

2 COMMISSIONER AHEARNE: Are many are on the region
3 review team?

4 MR. DeYOUNG: Two plus the Regional Administrator.
5 (Laughter.)

6 COMMISSIONER AHEARNE: Why don't they fly here?

7 MR. DeYOUNG: They have a lot of material there.

8 MR. DIRCKS: The instructions on doing this
9 investigation have been pretty explicit and I repeat them
10 almost every day to Engleton. This had better be a good one.

11 (Laughter.)

12 MR. CASE: And any help you want just let us know,
13 and he said how about ten peer people to review the report.

14 MR. DIRCKS: He asked for help. He certainly
15 doesn't want to be told afterwards that we didn't pursue
16 something vigorously enough and we left an interview
17 dangling or we didn't interview the right people. For this
18 being the next investigation we want to show you want one
19 good one looks like.

20 COMMISSIONER ROBERTS: What would you see as the
21 time frame?

22 MR. DIRCKS: I think we anticipate having it to
23 the Commission by January 8th.

24 COMMISSIONER AHEARNE: So you will come in with a
25 briefing; is that right?

1 MR. DIRCKS: Yes.

2 COMMISSIONER AHEARNE: Is it possible to have
3 these two guys who do all the interviewing ---

4 MR. DIRCKS: They will be in.

5 MR. DeYOUNG: They will be here.

6 COMMISSIONER AHEARNE: At that time I will at
7 least ask you the answers to the questions I am asking. At
8 least for me it is important what PG&E had been told prior
9 to that November 3rd meeting about what kind of independence
10 did they have to maintain. Then when the report was
11 actually sent to us did they say here is an independent
12 report. To me that is one separate issue from on November
13 3rd did they mislead us.?

14 CHAIRMAN PALLADINO: Are you exploring those
15 particular points? I thought they were very good
16 questions. Are they being addressed in the investigation?

17 MR. DeYOUNG: Well, the interviews are almost
18 completed. See, that is the problem when you start on an
19 investigation.

20 COMMISSIONER GILINSKY: Which questions are we
21 talking about?

22 COMMISSIONER BRADFORD: The November 3rd questions.

23 COMMISSIONER GILINSKY: The principal question is
24 basically the subject of the entire investigation.

25 COMMISSIONER BRADFORD: Dick, were you saying the

1 question of the misleading of the Commission on November 3rd
2 came up too late to have been included in the interviews?

3 MR. DeYOUNG: Oh, no, no. They are pursuing that
4 in depth.

5 MR. DIRCKS: We will address to the extent we can
6 it very factually and very objectively, but I don't think we
7 want to come in with a conclusion from the staff --
8 (Simultaneous Conversations - Inaudible) ?

9 CHAIRMAN PALLADINO: No, I think -- (Simultaneous
10 Conversations - Inaudible) ?

11 COMMISSIONER BRADFORD: No, I understand and I
12 appreciate it.

13 MR. DIRCKS: That is the heart of the
14 investigation. That is why I think at least three of these
15 issues get to that.

16 COMMISSIONER AHEARNE: Fine. I gather, Dick, you
17 point was well the interviews are almost all over. But at
18 least from the standpoint of NRC, NRC can say had we told
19 PG&E anything about the level of independence.

20 MR. DeYOUNG: Oh, yes, we can do that. !

21 COMMISSIONER AHEARNE: We can also describe how
22 PG&E represented the report to us. ?

23 COMMISSIONER GILINSKY: That seems to me to be the
24 key. The problem isn't that they gave the report to PG&E as
25 far as I am concerned. They went and hired somebody and

They didn't
d
they couldn't

1 Cloud did a report for them and he turned it over to them.
2 I mean that, you know, is what is to be expected. But if
3 they came in here and said, you know, we don't have this
4 report and we are going to give it to you the minute we get
5 it, and if in fact it is true that they had it at that time,
6 well, that is pretty serious. That is a whole different
7 situation.

8 COMMISSIONER BRADFORD: But the two are
9 interrelated because if they came in and said we don't have
10 it, and furthermore it is an independent report, and one of
11 the proofs of how independent it is is we don't have it,
12 then whether or not we had told them it had to be
13 independent, you reach a point at which their representation
14 becomes a self-fulfilling requirement.

15 COMMISSIONER AHEARNE: That is why my other
16 question was how did they represent the report to us.

17 COMMISSIONER BRADFORD: Right.

18 COMMISSIONER GILINSKY: I was at the meeting. I
19 mean this is not part of the investigation of record, but my
20 own recollection is that one of the vice presidents got
21 rather upset that we were even suggesting that they might ---

22 MR. CASE: That was the lawyer.

23 COMMISSIONER AHEARNE: I read a transcript and
24 that was the ---

25 COMMISSIONER GILINSKY: He said he resented the

1 implication that they would handle it any other way, or
2 something like that.

3 COMMISSIONER AHEARNE: Yes. You are right. That
4 fits both the question of misleading -- (Inaudible.) ?

5 MR. DeYOUNG: Let me give you just a slight
6 comparison. Houston Lighting and Power in South Texas, they
7 requested a review to be done for them by Quadrex. They say
8 all I want to see is your final report. Don't send in any
9 drafts or anybody here to look. I want an independent,
10 completely unbiased report. Send us the final report. We
11 don't want to see anything else.

12 COMMISSIONER GILINSKY: I don't think they will do
13 that again.

14 (Laughter.)

15 MR. DeYOUNG: The comparison is with the --
16 (Simultaneous Conversations - Inaudible) ?

17 COMMISSIONER GILINSKY: I didn't mean to undermine
18 your point here. It seems to me the important thing here is
19 not so much whether they looked at the report or not, but
20 whether the whole thing was on the table or under the
21 table. In other words, if PG&E or Houston Lighting and
22 Power got this in a report and said, you know, we want to
23 take a look at the draft because we want to be sure it
24 covers the points we want to cover and we want to be sure it
25 is accurate. There is nothing with that as long as they

1 tell everybody that is exactly what they are doing.

2 MR. DeYOUNG: It appears from what we know now
3 that they talked to all the people that were at the November
4 3rd meeting that you attended. They had three people say
5 that when we get the report you will get it. We don't have
6 it yet. Of those three people two did not know of the draft
7 reports being circulated within PG&G. That was Norton and
8 Maneatis, the vice president.

9 The one who did know about it was Cloud himself,
10 and he has a terminology in his mind the report meant the
11 final report and it doesn't mean draft. When we give you
12 the report, the final report that PG&E will get it, too. It
13 will be at the same time. You will have it almost ---

14 COMMISSIONER BRADFORD: He was the only person at
15 the meeting who knew that drafts had been circulated?

16 MR. CASE: Oh, no, no. That isn't what he said.

17 MR. DeYOUNG: He is the only person that knew the
18 draft reports being circulated within PG&E who said at the
19 November 3rd meeting we don't have the report yet. When we
20 have it the NRC and PG&E will get it ---

21 COMMISSIONER BRADFORD: He wouldn't have said
22 that. He would have said they don't have it yet. But there
23 were others there who knew differently.

24 MR. DeYOUNG: But they didn't say that.

25 COMMISSIONER BRADFORD: But that is the Pilgrim

1 problem again, that if at some point you are just sitting
2 around while other people are saying something wrong
3 doesn't ---

4 MR. DeYOUNG: There is only one of the people that
5 they talked to that said that when he heard Norton make the
6 statements that we heard him make he knew it was wrong and
7 was distrubed by it.

8 CHAIRMAN PALLADINO: Who said that, Cloud?

9 MR. DeYOUNG: Rocca.

10 MR. DIRCKS: Jim Rocca.

11 MR. DeYOUNG: Jim Rocca.

12 MR. CASE: A PG&E guy.

13 MR. DeYOUNG: A PG&E man. He said he heard Norton
14 make those statements that we don't have copies of the
15 report. When we have them you will have them. Rocca said
16 he knew they had copies of the report, draft copies of the
17 report for a week or two. He was disturbed. Then Norton
18 made another statement volunteering to give us the reports
19 before PG&E got them. He said he got so disturbed by that
20 statement that he forget about the other ---

21 (Laughter.)

22 COMMISSIONER BRADFORD: But what did he do about
23 either of them?

24 MR. DeYOUNG: He didn't do a thing about them. He
25 forgot about them and got involved in the normal routine of

1 things and didn't do a thing about it afterwards.

2 COMMISSIONER GILINSKY: Did anyone inform Norton
3 at any point? *but he was interviewed on 12/18/81*

4 MR. DeYOUNG: We still have to question him.

5 MR. DIRCKS: That is why we want to go back and
6 ask Norton that question.

7 MR. DeYOUNG: It doesn't appear that anyone told
8 him.

9 MR. CASE: Also, as I understand, there were other
10 draft reports exchanged between Cloud and PG&E that we don't
11 have copies of, more than just the one draft that we do have.

12 CHAIRMAN PALLADINO: You mean earlier reports?

13 MR. CASE: Or maybe they were subsequent to what
14 we have, I am not sure, but they have more.

15 CHAIRMAN PALLADINO: But they haven't provided
16 misleading information about those reports yet?

17 (Laughter.)

18 MR. CASE: I don't know if they have said anything?

19 (Laughter.)

20 MR. DeYOUNG: But the experts will know all the
21 details when they get here to tell you in the first week in
22 January. From what I can see, and I have read only a few of
23 the transcripts that I have ---

24 COMMISSIONER GILINSKY: You will go back then and
25 find out whether any of these other people were subsequently

1 informed, or will the interviews cover that?

2 MR. DeYOUNG: The interviews have been completed.
3 From the few I have seen it appears that they asked the
4 right questions to respond to questions ---

5 COMMISSIONER GILINSKY: Were you subsequently
6 informed of this thing?

7 MR. DeYOUNG: The few that I have looked at they
8 do ask that.

9 MR. DIRCKS: And you discuss it afterwards.

10 CHAIRMAN PALLADINO: Suppose the peer group
11 suggests that you ought to have asked someone deeper
12 questions on an issue, do you intend to go back and try to
13 fix up the record?

14 MR. DIRCKS: Yes.

15 MR. DeYOUNG: Yes.

16 CHAIRMAN PALLADINO: In other words, the peer
17 group will have an impact on the quality of the
18 investigation.

19 MR. DIRCKS: Yes.

20 CHAIRMAN PALLADINO: Any more?

21 MR. DIRCKS: That is all we have right now.

22 COMMISSIONER BRADFORD: As a matter of technique,
23 are you confident that you get all of whatever written
24 materials there are related say to instructions that existed
25 within PG&E by the process of asking for it in the

1 interviews? Wouldn't it be more efficient to somehow serve
2 the company with a written request for all documentary
3 materials?

4 MR. MURRAY: You could do it certainly. I don't
5 know how confident they are that they are getting it all
6 through just asking.

7 MR. DIRCKS: We can follow up, say, as a follow-up
8 to our interviews in case we didn't ask for it in the
9 interviews, to turn over the documentation. That is a good
10 point.

11 MR. DeYOUNG: But would you put those kinds of
12 lawyer's words.

13 COMMISSIONER GILINSKY: Are you getting
14 cooperation in this?

15 MR. DeYOUNG: They are cooperating. They seem to
16 be fully cooperative. This question of their integrity and
17 their intent, they certainly don't like it and they let us
18 know in some of the interviews when we asked our closing
19 statement, or they will say so.

20 COMMISSIONER BRADFORD: Well, sure, but Norton was
21 just that vehement in the meeting; I don't like your
22 questions about the independence of this report. It is the
23 school of rhetoric.

24 CHAIRMAN PALLADINO: You say they don't like the
25 fact that you are questioning them on it, but do they like

1 the situation that they created? Otherwise they would to at
2 least tolerate your questions.

3 MR. DeYOUNG: That is part of the problem. I
4 don't think they realize it is their fault, some of these
5 things. They just keep doing this.

6 You know, we don't have a regulation against
7 dumbness, but ---

8 (Laughter.)

9 MR. DeYOUNG: You know, they just keep doing these
10 silly things.

11 CHAIRMAN PALLADINO: Well, but a material false
12 statement through dumbness -- (Simultaneous Conversations -
13 Inaudible)

14 COMMISSIONER AHEAENE: Dick is right, this is just
15 stupid.

16 COMMISSIONER GILINSKY: Is there any other
17 explanation other than this tying it to being a draft report?

18 MR. DeYOUNG: That is the only thing we are
19 getting from all the people we have talked to.

20 MR. DIRCKS: I think it is their attempt to make
21 sure that Cloud has a good factual basis to do his work.

22 COMMISSIONER BRADFORD: That is not November 3rd
23 though, Bill.

24 MR. DIRCKS: No, that is the October ---

25 COMMISSIONER BRADFORD: Right, that is why they

1 said it to him.

2 COMMISSIONER GILINSKY: That is why they looked at
3 it. I can understand that. Put how can they square their
4 statements?

5 MR. DIRCKS: I am not advocating this. I think
6 their view is ---

7 MR. CASE: All those that spoke up didn't know
8 except Cloud.

9 MR. DIRCKS: I think in order to carry out his
10 report, to make his report a good report, he was trying to
11 assure that he had the records on which to make it.

12 COMMISSIONER GILINSKY: Well, but that goes to the
13 question of whether or not to give it to him, and, you know,
14 that is arguable or reasonable or whatever.

15 MR. DIRCKS: I don't think he regards those things
16 as a report. He regards them as sort of strawmen and he is
17 asking to make sure that he has all the facts on which to
18 make his report.

19 MR. DeYOUNG: That is the one common thread
20 through all the interviews of all the people that were
21 spoken to that knew about it and had the reports. They did
22 not consider this the report. It was a draft. It was
23 something that they had a normal procedure for reviewing and
24 this was just a normal circumstance -- (Simultaneous
25 Conversations - Inaudible).

1 CHAIRMAN PALLADINO: That is when you provide
2 input. That is when you can get a report changed is in the
3 draft form. Once it is issued you can't get it changed.

4 MR. DeYOUNG: That is the dumbness factor, that
5 this is not a routine interchange of information. It is
6 something special and they should have had special
7 procedures. To this date Bob says that they do not have an
8 understanding of how Cloud's reports will be treated between
9 the two organizations. With all that has happened, they do
10 not yet have an agreed upon understanding of how they are
11 going to treat these reports back and forth, drafts of final.

12 COMMISSIONER GILINSKY: Pretty sad.

13 MR. DeYOUNG: Pretty sad.

14 CHAIRMAN PALLADINO: Any other questions or
15 comments?

16 COMMISSIONER BRADFORD: Just an observation.
17 Harold did mention in that meeting, and the context is a
18 little blurred, but he did use the word "draft." So I am
19 not even sure that Cloud can take much refuge in this
20 distinction between draft and final.

21 COMMISSIONER AHEARNE: The draft question came up
22 and it was Norton -- (Simultaneous Conversations - Inaudible)

23 COMMISSIONER BRADFORD: But Cloud is still in the
24 room then.

25 COMMISSIONER AHEARNE: Oh, sure, as were these

WHY DIDN'T
NRC TELL
THEM?

1 other guys.

2 CHAIRMAN PALLADINO: Any other questions or
3 comments?

4 Len.

5 MR. BICKWIT: There is a whole series of questions
6 that the Commission is going to have to address at some
7 point about the relationship of this investigation to the
8 ongoing comment period and the proceeding with respect to
9 restart. Questions like: Do you intend to release this
10 report? When the briefing takes place is it to be in open
11 session? Are parties going to be permitted to comment on
12 the report with respect to the Commission's approval function
13 under the Diablo Order?

14 In fact, we have requests to make comment on the
15 investigation. I will be coming around to talk to you
16 about that request. The Commission either has to consider
17 that now or if you want to end this meeting now maybe we
18 could take it up at the agenda planning session or
19 alternatively we may have to decide that we can't make
20 decisions on that until we see what the report says. But it
21 is an area of questioning that is not simply and is going to
22 have to be probed.

23 CHAIRMAN PALLADINO: Do you have several of these
24 questions written out?

25 MR. BICKWIT: No, but I could dictate them out.

1 CHAIRMAN PALLADINO: It might be helpful and then
2 we could at least confront them in our agenda session.

3 COMMISSIONER BRADFORD: Where does the other
4 process now stand. Have parties furnished their comments on
5 the proposed consultant and scope of now? Is that going on
6 now?

7 MR. CASE: It is going on, but I don't think we
8 have received that.

9 MR. BICKWIT: The comment period closes tomorrow.

10 CHAIRMAN PALLADINO: Except that we had a request.

11 MR. BICKWIT: That is right. We have a request
12 from the Governor's office to extend the comment period
13 until after this investigation comes in.

14 CHAIRMAN PALLADINO: They wanted seven days?

15 MR. BICKWIT: They want ten.

16 CHAIRMAN PALLADINO: Ten?

17 MR. BICKWIT: They want ten, yes.

18 CHAIRMAN PALLADINO: Is that not a question that
19 needs Commission ---

20 MR. BICKWIT: It needs an answer today.

21 CHAIRMAN PALLADINO: Does it need Commission
22 approval?

23 MR. BICKWIT: Yes.

24 CHAIRMAN PALLADINO: Is that something that is
25 definitive enough we could take it up now?

1 MR. BICKWIT: We could take up any aspect of this
2 now.

3 CHAIRMAN PALLADINO: But that isn't a very
4 specific question to be answered, whether or not we want to
5 give Governor Brown an additional several days.

6 MR. BICKWIT: I would say we should either answer
7 it now or we should answer it at the agenda planning
8 session, but we have got to answer it today.

9 COMMISSIONER BRADFORD: Well, is there any
10 negative side to that? In fact, we are not going to proceed
11 with the approval of the selection of the consultant until
12 we have this investigation in hand.

13 CHAIRMAN PALLADINO: It might add to the days.

14 MR. BICKWIT: It anticipates that you will make
15 this investigation public and that is a question that
16 deserves an answer in and of itself. My own inclination is
17 to do that, but normally investigations of this sort are not
18 made public.

19 CHAIRMAN PALLADINO: Why don't you include that
20 among the questions that we should address at the agenda
21 planning session and it gives people a chance to think about
22 that.

23 MR. BICKWIT: Fine.

24

25

1 CHAIRMAN PALLADINO: Well, thank you for your
2 patience.

3 We will stand adjourned.

4 (Whereupon, at 12:55 p.m., the meeting concluded.)

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March 14, 1983

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-83-130

rec'd 3/17/83

Director, Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20055

Dear Sir:

This is a request under the Freedom of Information Act, as amended, 5 U.S.C. § 552. On behalf of the Joint Intervenors in the Diablo Canyon Nuclear Power Plant licensing proceeding (In the Matter of Pacific Gas and Electric Company, Nos. 50-275, 323), I am writing to request a copy of the following documents:

(1) the April 23, 1982 request by the Nuclear Regulatory Commission to the Office of Inspector and Auditor to review the adequacy of the NRC investigation reported in NUREG-0862;

(2) the July 30, 1982 Memorandum from James J. Cummings, Director, Office of Inspector and Auditor, to Nuclear Regulatory Commission Chairman Palladino, entitled "Review of Investigation Reported in NUREG-0862";

(3) any and all drafts of the aforementioned July 30, 1982 Memorandum from Cummings to Palladino;

(4) any and all memoranda from Ronald Smith to Cummings which relate to or provide the basis in whole or in part for the aforementioned July 30, 1982 memorandum from Cummings to Palladino;

(5) all files of the Office of Inspector and Auditor for any and all investigations relating to Diablo Canyon Nuclear Power Plant and/or Pacific Gas and Electric Company.

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Director, Office of Administration
Nuclear Regulatory Commission
March 14, 1983
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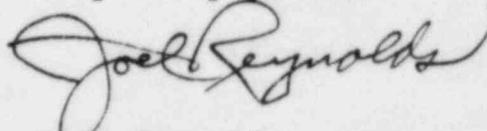
If you determine that some or all of the documents are exempt from release, please advise me as to which exemption(s) you believe covers the materials which you are not releasing and the reasons supporting that belief.

I am prepared to pay reasonable costs for locating and reproducing the requested documents. As you know, however, the amended Act permits you to reduce or waive the fees if it "is in the public interest because furnishing the information can be considered as primarily benefiting the public." 5 U.S.C. § 552(a)(4)(A). Because the public generally will benefit from and be served by full disclosure of the documents requested, I believe that this request plainly fits that category and ask that you waive any fees.

If you have any questions regarding this request, please telephone me at (213)470-3000.

As the amended Act requires, I will expect to receive a reply from you within ten (10) working days.

Very truly yours,



Joel Reynolds
Center for Law in the
Public Interest

Counsel to the Joint
Intervenors

JR:av