

ORIGINAL  
UNITED STATES  
NUCLEAR REGULATORY COMMISSION

---

---

IN THE MATTER OF:

DOCKET NO: 50-352-OL  
50-353-OL

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,  
Units 1 and 2)

LOCATION: PHILADELPHIA, PENNSYLVANIA PAGES: 20359 - 20483

DATE: TUESDAY, JANUARY 29, 1985

---

---

*TR-01 0/1  
Return Orig to E. Pleasant 1121-H/Sy.*

ACE-FEDERAL REPORTERS, INC.

8502040372 850129  
PDR ADOCK 05000352  
T PDR

Official Reporters  
444 North Capitol Street  
Washington, D.C. 20001  
(202) 347-3700

NATIONWIDE COVERAGE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

-----X  
 :  
 4 In the matter of: :  
 :  
 5 PHILADELPHIA ELECTRIC COMPANY : Docket Nos. 50-352-OL  
 : 50-353-OL  
 6 (Limerick Generating Station, :  
 Units 1 and 2) :  
 7 :  
 -----X

Commonwealth Court of Pennsylvania  
Ninth and Market Streets  
Courtroom No. 6  
Philadelphia, Pennsylvania

Tuesday, 29 January 1985

The hearing in the above-entitled matter convened,  
pursuant to recess, at 12:00 noon

BEFORE:

HELEN F. HOYT, ESQ. Chairwoman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

DR. RICHARD F. COLE, Member  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

DR. JERRY HARBOUR, Member  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

nations  
CR21800

## 1 APPEARANCES:

2 On behalf of Philadelphia Electric Company:

3 TROY B. CONNER, JR., Esquire  
4 ROBERT N. RADER, Esquire  
5 NILS N. NICHOLS, Esquire  
6 Conner and Wetterhahn, P.C.  
7 1747 Pennsylvania Avenue, N. W.  
8 Washington, D. C. 20006

9 On behalf of Limerick Ecology Action:

10 PHYLLIS ZITZER, President  
11 MAUREEN MULLIGAN, Vice-President  
12 Limerick Ecology Action  
13 Box 761  
14 Pottstown, Pennsylvania

15 On behalf of the Nuclear Regulatory Commission Staff:

16 DONALD HASSELL, Esquire  
17 Office of the Executive Legal Director  
18 U. S. Nuclear Regulatory Commission  
19 Washington, D. C. 20555

20 On behalf of the Commonwealth of Pennsylvania:

21 ZORI FERKIN, Esquire  
22 Governor's Energy Council  
23 Post Office Box 8010  
24 1625 Front Street  
25 Harrisburg, Pennsylvania 17105

26 On behalf of the Pennsylvania Emergency Management Agency:

27 RALPH HIPPERT  
28 B-151 Transportation and Safety Building  
29 Commonwealth Avenue  
30 Harrisburg, Pennsylvania 17105

31 On behalf of the Federal Emergency Management Agency:

32 MICHAEL HIRSCH, Esquire  
33 Associate General Counsel  
34 Room 840  
35 500 "C" Street, S. W.  
Washington, D. C. 20472

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES: continued

On behalf of the Friends of the Earth and pro se:

ROBERT ANTHONY  
P.O. Box 186  
103 Vernon Lane  
Moylan, Pennsylvania 19065

On behalf of the Prisoners of Greaterford Prison:

ANGUS R. LOVE, ESQ.  
Montgomery County Legal Aid Service  
107 E. Main Street  
Norristown, Pennsylvania 19401

Also present:

THEODORE G. OTTO, II, ESQ.  
Department of Corrections  
Office of the Chief Counsel  
Commonwealth of Pennsylvania Department of  
Corrections  
P.O. Box 598  
Camp Hill, Pennsylvania



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C O N T E N T S  
VOIR  
DIRECT   CROSS   DIRE

<u>WITNESS</u>			
Charles McGill			
by Mr. Conner	20,363		
by Ms. Zitzer			20,363
by Mr. Conner	20,364		
by Ms. Zitzer		20,369	
by Mr. Hassell		20,401	
Ralph Hippert			
by Ms. Ferkin	20,421		
by Mr. Hirsch		20,423	

E X H I B I T S

<u>EXHIBIT NO.:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
Commonwealth E-13	20,419	20,419

<u>INSERT:</u>	<u>PAGE NO.:</u>
Motion of Mr. Anthony	20,415

Recess. . . . .	20,415
Recess. . . . .	20,479

#1-mn-1

P R O C E E D I N G S

1  
2 JUDGE HOYT: The hearing will come to order. Let  
3 the record reflect that the parties to the hearing who were  
4 present when the hearing recessed are again present. At this  
5 time we have had filed with this Board a notice of appearance  
6 from Mr. Theodore G. Otto, III, Department of Corrections,  
7 Office of Chief Counsel in Camp Hill, Pennsylvania.

8 Mr. Love has not yet appeared, has he?

9 MS. FERKIN: Your Honor, I spoke with Mr. Love  
10 yesterday. I indicated to him that the first order of  
11 business today would be Mr. Conner's witness from Bucks  
12 County. I expect Mr. Love to show up around 12:30 today.

13 JUDGE HOYT: Very well. Mr. Conner, I believe  
14 that is the first order of business this afternoon is to have  
15 you present your rebuttal case if any.

16 MR. CONNER: We would like to call Mr. Charles  
17 McGill and while Mr. McGill is going up, I would note for the  
18 record that we have given the Board the return of service  
19 of the subpoena.

20 JUDGE HOYT: Yes. The record should further  
21 reflect that this subpoena and the return of service has been  
22 offered to the parties for their examination if they wish to.

23 Mr. McGill, please come forward to the witness  
24 table and raise your right hand, sir.

mnl-2

1 Whereupon,

2 CHARLES MCGILL,

3 was called as a rebuttal witness on behalf of the Applicant,

4 was first duly sworn, was then examined and testified as

5 follows:

6 DIRECT EXAMINATION

7 BY MR. CONNER:

8 Q Mr. McGill, would you state your name and address  
9 for the record, please?

10 A My name is Charles McGill. I live at Box 183,  
11 Rural Route 1, Bedminster, Pennsylvania.

12 Q Sir, do you have a position with Bucks County?

13 A I am the Director of Emergency Services for the  
14 county.

15 MS. ZITZER: Your Honor, LEA wishes to take the  
16 witness for a moment on void dire when it is appropriate.

17 JUDGE HOYT: Very well. Now is the time to  
18 proceed.

19 VOIR DIRE

XXXXXX

20 BY MS. ZITZER:

21 Q Mr. McGill, are you here pursuant to a subpoena  
22 from the Philadelphia Electric Company?

23 A Yes, I am.

24 Q Were you tendered witness fees for your appearance  
25 today?

1 A. I beg your pardon.

2 Q. Were you tendered witness fees or a check from  
3 Philadelphia Electric Company to come here today?

4 A. I have a check from Philadelphia Electric Company.

5 Q. Did you accept that check?

6 A. The check will be the property of Bucks County.

7 Q. What was the amount of the check that was tendered  
8 to you?

9 A. Forty dollars and change.

10 JUDGE HOYT: Ms. Zitzer, the return of service was  
11 offered to you. I will note that the service shows \$42.00  
12 tendered to this witness.

13 MS. ZITZER: Thank you. I have no further  
14 questions.

15 JUDGE HOYT: Very well.

16 THE WITNESS: I am sorry. You are correct, Your  
17 Honor. It is \$42.00.

18 JUDGE HOYT: All right. Mr. Conner, will you  
19 proceed?

20 BY MR. CONNER: (Resuming)

21 Q. Mr. McGill, how long have you been in charge of  
22 emergency planning for Bucks County?

23 A. I joined Bucks County Civil Defense in 1962 and  
24 from that time forward I have been responsible for planning.

25 Q. How long have you had your present title of

XXXXXX

1 Director of Emergency Services?

2 A. Eight years.

3 Q. Is there an emergency plan for Bucks County for  
4 general security and safety under the state law?

5 A. Yes, there is.

6 Q. How long has there been an emergency plan of this  
7 type in effect in Bucks County?

8 A. To be exact, I cannot say, at least 15 years if  
9 not longer.

10 Q. Has there been a plan prepared for Bucks County  
11 for radiological emergencies?

12 A. Yes, there has been. It is an annex to the basic  
13 plan.

14 Q. Do you mean Annex E of the state?

15 A. I was speaking of our own plan.

16 Q. Okay. It is an annex to the basic Bucks County  
17 Plan?

18 A. That is correct.

19 Q. All right. With regard to the radiological plan,  
20 did you participate in the November 20, 1984 exercise?

21 A. Yes, I did.

22 Q. By the way, sir, in your capacity as the emergency  
23 planner for Bucks County, did you participate in any way in  
24 the Three Mile Island planning in 1979?

25 A. Yes, sir. I was very much involved as a host county



1 for that incident.

2 Q What did you do in that connection?

3 A We were called on a Sunday morning, my assistant,  
4 Mr. Milts oand Ms. Yeager and I went to Lancaster. We were in  
5 the company of approximately 40 people of all sorts or callings,  
6 state police and other emergency coordinators from the various  
7 counties and a number of people who would be involved. The  
8 director of Eastern Area was in charge of the meeting and he  
9 laid out the plan and assigned responsibilities. My respon-  
10 sibility was to plan to receive 15,000 people in Bucks County  
11 and care for them for a limited period of time.

12 I returned to Bucks County on Monday morning. I  
13 addressed the Commissioners and they said to me, "Handle it."  
14 I used the Commissioners' Board Room and we called a meeting  
15 of school people, police, firemen -- rather, representatives  
16 of those organizations and anyone that would be involved with  
17 the reception of people.

18 The school people said the next morning I would  
19 have a list of the schools that could accommodate people and  
20 a listing of how many people and true enough, the next  
21 morning before nine o'clock, the schools delivered that paper.  
22 A sign painter was already making signs. Everybody was doing  
23 everything that they had to do. We were talking to the school  
24 people who would be in the reception area and so forth.

25 I would say that by Monday afternoon, we could

mnl-6

1 very readily have accommodated the 15,000 people from the  
2 Lancaster area.

3 Q Sir, I will have handed to you after showing this  
4 to counsel a document which has been received in evidence as  
5 Applicant's Exhibit E-4 which is the Bucks County Fixed  
6 Nuclear Facility Incidents Support Plan for incidents at the  
7 Limerick Generating Station dated October 1984.

8 (Document supplied to the witness.)

9 Have you seen it, sir?

10 A (Perusing document.)

11 Yes, sir. I have a copy of that plan.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

END#1

CR 21800

1/29/85

REE

Take 2

Page 1

1 Q Do you recognize that as the current draft  
2 of the plan for Bucks County for radiological emergencies?

3 A Yes, I do.

4 Q Sir, in your personal opinion, do you consider  
5 that this draft of the Bucks County plan to be capable  
6 of implementation for a host county to provide support  
7 to Montgomery County residents in the event an evacuation  
8 were necessary resulting from some event at Limerick?

9 A I find the question difficult to answer in a yes  
10 or no fashion.

11 My personal opinion is that if the basis of  
12 the plan, as established by Pennsylvania Emergency Management  
13 Agency, is a valid basis and that the people in Bucks County  
14 would not be in any way in peril or require evacuation  
15 or anything of that sort, the plan would be perfectly  
16 satisfactory so far as I am concerned.

17 The plan simply tells us how many people to  
18 expect, how they would be entering the county. And it is  
19 up to us from that point on to take care of the people as  
20 they come into the county. I feel very confident that we  
21 could do a very credible job.

22 Q Sir, if an accident were to occur at Limerick  
23 tomorrow which would require the evacuation of people  
24 from Montgomery County, would you use this current  
25 draft of the support plan to respond to the emergency, if so

1 requested by PEMA?

2 A In order to cooperate in the matter in which  
3 we should with our neighboring counties, I can see no  
4 other plan that I could possibly use.

5 MR. CONNER: We have no further questions.

6 JUDGE HOYT: Very well.

7 We will start with you, Miss Zitzer.

8 Would you have any questions of the witness?

9 MS. ZITZER: Yes, I do.

10 JUDGE HOYT: Please proceed.

XXXXXX

11 CROSS-EXAMINATION

12 BY MS. ZITZER:

13 Q Mr. McGill, I believe you stated you were  
14 familiar with the October 1984 draft of the Bucks County  
15 support plan; is that correct?

16 A That is correct.

17 Q Do you consider it to be a final draft?

18 A No plan is ever final. And at the present time,  
19 the plan as submitted to Bucks County is not acceptable  
20 to the county commissioners.

21 That would mean to me that the draft will have to  
22 be modified on information furnished to us by credible  
23 authorities.

24 Once that is done, we would again submit the  
25 plan to the commissioners. The plan as presented to me

1 certainly would be an integral part of any future plan.  
2 And I would doubt very seriously that any plan that was  
3 acceptable to the present board of commissioners would  
4 remain static over any extended period of time.

5 Q Did Mr. Bradshaw of Energy Consultants inform  
6 you at any time that he had determined that the October 1984  
7 plan for Bucks County was a final draft?

8 A A letter was addressed to me -- I don't know whether  
9 that letter says it is a final draft or not. The letter --  
10 yes, it did. The letter indicated that five copies of,  
11 quote unquote, the final draft were attached to this  
12 letter.

13 I never received that letter, nor the final draft,  
14 and I still have not received it.

15 My first indication that there was such a letter  
16 was, a person came into our office and requested a copy  
17 of the final draft. I did not have one.

18 I suppose the person thought that I was lying.  
19 I never did receive the draft that is now referred  
20 to as E-4. I assume that that is the same draft that was  
21 known as the final draft.

22 I did receive a copy from Mr. Reiser, who  
23 was down here testifying, and that is the first time that  
24 I did receive a copy.

25 I received another copy on this past Friday.



1 And, of course, the third copy was just presented to me.

2 MS. ZITZER: Your Honor, I am a little confused.

3 I would like to show the witness what has been received  
4 into evidence as Applicant's Exhibit E-4 and verify that  
5 this is the document he just referred to.

6 For the record, the date on this copy which  
7 we are providing him is October 1984.

8 The reason I am confused, I had previously asked  
9 him if he was familiar with that draft, and I thought that  
10 his answer was yes.

11 JUDGE HOYT: All right. Of course, you can  
12 present that to the witness, and it is being done now.  
13 The exhibit has also been shown to counsel for Applicant.

14 (Miss Mulligan distributes document.)

15 MS. ZITZER: Thank you, your Honor.

16 JUDGE HOYT: Now, Mr. Conner, what is the date  
17 on the copy that you have handed to the witness.

18 MR. CONNER: October 1984.

19 JUDGE HOYT: Has the witness had a chance to  
20 examine the document?

21 THE WITNESS: Yes, I have, your Honor.

22 JUDGE HOYT: Very well.

23 Now, Miss Zitzer, if you would like to  
24 continue your questioning.

25 BY MS. ZITZER:

1 Q Mr. McGill, what draft of the Bucks County  
2 plan had you been provided by Energy Consultants to the  
3 best of your recollection?

4 Was it draft 4, dated October 1983, or was it  
5 the draft which we just showed you a copy of, which is  
6 unnumbered, but it is dated October 1984 and it has been  
7 referred to as a "final" draft?

8 MR. CONNER: We would object to the form of  
9 this question. It is without a foundation. It probably  
10 is that draft 4 was dated in 1983, but I don't think that  
11 is in the record any place. But with that caveat, we have  
12 no objection to the witness answering, if he knows the  
13 numbers.

14 MS. ZITZER: That's fine.

15 JUDGE HOYT: Is that agreeable with you,  
16 Miss Zitzer?

17 MS. ZITZER: Yes, certainly.

18 JUDGE HOYT: Okay, Mr. McGill, if you can answer  
19 that.

20 THE WITNESS: Draft 4 is the plan with which  
21 I and my associates have been most familiar.

22 Do you wish to go further?

23 BY MS. ZITZER:

24 Q Have you reviewed the October 1984 draft  
25 of the Bucks County Support Plan?

1           A     If we are referring to the draft that has just  
2     been classified as E-4 or final draft?

3           Q     Yes, sir.

4           A     We have reviewed that draft. We have compared  
5     it very carefully with draft number 4. We find very,  
6     very limited changes in the final draft. Nothing to  
7     affect the plan in any manner.

8           Q     I believe you stated that the version of the  
9     plan that had been presented to the commissioners --  
10    I would like you to clarify which one it was because I am  
11    confused at this point about that -- was unacceptable to  
12    them.

13                    Could you inform us if they discussed this  
14    matter with you why they found that to be?

15           A     The draft number 4 was the first draft that  
16    was presented to the commissioners.

17                    The commissioners condemned the plan out of  
18    hand and their reasoning for the condemnation was that the  
19    basis of the plan was very questionable.

20                    They felt very much concerned and are still  
21    very much concerned about the safety and the welfare of  
22    the people of Bucks County.

23           Q     Have they discussed their concerns with you  
24    along this line?

25           A     Not to any degree personally. My understanding

1 of the commissioners' objection has been a result  
2 of more or less public meetings.

3 Q Mr. McGill, I believe you stated that there was a  
4 Bucks County emergency plan that had been developed  
5 by your office.

6 I would like to ask you if you are familiar  
7 with the January 1982 version of that plan?

8 A The revised plan as of January 1982?

9 Q Yes.

10 A Yes.

11 Q Are you aware that in that plan it states  
12 that there may be a hazard to the residents of Bucks  
13 County, even as far away as 25 miles from the Limerick  
14 Generating Station?

15 A I am not aware of that at all, no.

16 Q I believe you stated that the commissioners  
17 felt that the basis for the Bucks County support plan, as it  
18 currently existed, was questionable and that they had stated  
19 that they had concerns about the safety of the Bucks  
20 County residents.

21 Did they provide you with any particular  
22 reasons why they had those concerns?

23 A I believe the concerns of the commissioners are --  
24 scratch that.

25 The commissioners are concerned because they look

1 at a plan that has a ten-mile line drawn around it,  
2 number one. They say that anybody within that ten mile  
3 zone may be in danger of suffering illness or something  
4 from the radioactivity.

5 What happens to people that are at 11 miles?  
6 This is the type of questions that are posed to me.

7 The other things that enter into their concern  
8 is, there is no way of our knowing what the weather  
9 conditions might be at the time of a serious accident at  
10 the Limerick plant.

11 My personal feeling, if that means anything,  
12 is that the commissioners are really not sure or not  
13 satisfied that the basis on which the plan has been  
14 developed is a valid basis.

15 Q Have the commissioners informed you that in the  
16 Nuclear Regulatory Commission's final environmental  
17 statement, dated April 1984, there are concerns expressed  
18 relating to the risk to people living beyond the ten-  
19 mile radius.

20 MR. CONNER: We object to this question. It  
21 is kind of a complicated objection.

22 He has already said the commissioners didn't  
23 discuss much of anything with him. What he heard from  
24 them was in public meetings.

25 The second thing is, there is no foundation to show



1 that the Bucks County commissioners ever knew there  
2 was an NRC FES or that they had read it, let alone  
3 communicated the results or anything that might be in  
4 it to Mr. McGill.

5 Finally, if she is going to ask him about  
6 some passage in the FES, she should show it to him.

7 We object on all those grounds.

8 JUDGE HOYT: Miss Zitzer, if you have the FES  
9 here, you may use it to show it to the witness. And  
10 you will be given an opportunity to lay the foundation.

11 MS. ZITZER: Your Honor, I don't have it with  
12 me.

13 The reason that I brought it up was that I  
14 was trying to ascertain whether or not it was one of  
15 the reasons that the commissioners had stated that they had  
16 this concern.

17 I certainly --

18 JUDGE HOYT: Just a moment, Miss Zitzer.

19 Does any other counsel in the room have  
20 the FES with you?

21 Mr. Conner, do you have it?

22 MR. CONNER: Took it home.

23 JUDGE HOYT: Let's see if we have it.

24 We will go off the record just a moment while  
25 the copy is being obtained.

1 (Discussion off the record.)

2 JUDGE HOYT: During the interval that this  
3 hearing was off the record, the Board members tried  
4 to obtain copies of the FES, but we do not have it  
5 available as well. No other matters of substance occurred  
6 during that interval.

7 Miss Zitzer, if you can't lay your foundation,  
8 we don't have a copy, no other counsel have, I think we  
9 are going to have to sustain Mr. Conner's objection  
10 unless you want to move along.

11 MS. ZITZER: I would just like to clarify  
12 that I was only trying to ascertain if the commissioners  
13 had raised any concerns with particular regard to this  
14 document to the witness.

15 If he is not aware of that, there is no need  
16 to pursue it any further.

17 JUDGE HOYT: Well, just ask him then, Miss Zitzer.  
18 You bring up a document and then you leave the hearing  
19 in a dangling position.

20 We are not going to permit you to do that. You  
21 are going to have to be prepared to ask your questions.  
22 If you don't have the documents and you can't lay the  
23 foundation, the objection is sustainable.

24 MS. ZITZER: I agree.

25 BY MS. ZITZER:

1           Q     Mr. McGill, did the commissioners at any point  
2 in time bring to your attention the concerns stated  
3 in the Nuclear Regulatory Commission final environmental  
4 statement, dated April 1984, with regard to hazards  
5 that might be expected beyond the ten-mile EPZ  
6 in the event of a radiological emergency?

7           MR. CONNER: I object to this. There is  
8 no suggestion that the Bucks County commissioners ever  
9 even read the FES, or they wouldn't be so unsophisticated.  
10 But the point is, if Miss Zitzer is going to ask questions  
11 about a document, it is her responsibility to bring it  
12 in so that it can be examined.

13           I further object on the grounds that she  
14 is probably talking about the ingestion exposure pathway,  
15 instead of the plume exposure pathway, if anything at all.

16           So I object to this entire line as being without  
17 any foundation.

18           JUDGE HOYT: Mr. McGill, did you receive  
19 in Bucks County the Nuclear Regulatory Commission's  
20 Final Environmental Statement?

21           THE WITNESS: No, your Honor, we did not.

22           JUDGE HOYT: Very well.

23           Miss Zitzer, he does not have it. There will  
24 be no further questions asked on that matter.

25           MS. ZITZER: Thank you, your Honor.

1 I would like to ask Miss Mulligan to provide to  
2 the witness a copy of a document that has been received  
3 into evidence as LEA E-61.

4 She will show it to other counsel before  
5 handing it to the witness.

6 (Miss Mulligan distributes copy of document.)

7 I have a couple of extra copies if the Board  
8 would need that.

9 JUDGE HOYT: Thank you. We have one, Miss Zitzer.  
10 I appreciate it.

11 BY MS. ZITZER:

12 Q Have you had an opportunity to review the document  
13 which I just provided to you, Mr. McGill?

14 A Yes, I have.

15 Q Have you seen that document before?

16 A Yes, I have.

17 Q It is entitled Memorandum of Understanding  
18 Between Bucks County and the Pennsylvania Emergency  
19 Management Agency.

20 On what prior occasions before coming to the  
21 hearing today did you see this document?

22 A I beg your pardon?

23 Q I believe you stated that you had seen this  
24 document prior to coming to the hearing today?

25 A That is correct.

1 Q Could you inform us under what circumstances  
2 you became familiar with this document?

3 A I received a copy of the document in my office.

4 Q Have you discussed this proposed memorandum  
5 of understanding between the chairman of the Bucks  
6 County Board of Commissioners and the Director of the  
7 Pennsylvania Emergency Management Agency with any of  
8 the commissioners?

9 A I was present at the meeting between Mr. Patten  
10 and Mr. Fonash, when the discussions led to this  
11 agreement.

12 At a subsequent meeting, all the commissioners  
13 were made aware of this memorandum of understanding, and  
14 a discussion took place, and no action has been taken on it  
15 at the present time.

16 Q I believe the first sentence states that  
17 "This memorandum of understanding has been prepared to  
18 record that a meeting held November 7, 1984 between  
19 Bucks County and PEMA took place."

20 It further continues to say that "This  
21 memorandum further serves to confirm the following  
22 mutually-agreed support to be rendered by Bucks County  
23 as well as the conditions and stipulations under which  
24 said support would be provided."

25 Will you agree that the information contained



1 in the memorandum of understanding accurately reflects  
2 the discussion and agreement that took place?

3 A Yes. I have no problem with that.

4 Q To the best of your understanding, do the  
5 commissioners also share your view?

6 A The commissioners at the present time have  
7 taken no action. They are awaiting, I suppose, the  
8 results of this Board's meeting. They are awaiting  
9 the results of Judge Garb's decision in Bucks County  
10 about the building of the pump. They are waiting to find  
11 out what is the next step.

12 I don't think that the commissioners will take  
13 any action in the next month or two months relative  
14 to this.

15 Q The memorandum of understanding states  
16 that "Bucks County would agree to receive a certain  
17 number of evacuees from Montgomery County, provided  
18 that" -- and then there are a number of conditions  
19 stated in 1A, 1B, and 1C.

20 To the best of your knowledge, have those  
21 conditions been satisfied at the present time?

22 A I think I tried to explain this before.

23 The Bucks County commissioners are concerned  
24 about the safety and welfare of the people in Bucks County  
25 as a result of any major accident at the Limerick Power Plant.

1 They are concerned about that.

2 Q We --

3 A That is not to indicate in any way that if  
4 something happened at the Limerick Power Plant and  
5 people had to be taken care of by Bucks County,  
6 the Bucks County commissioners to a man would do everything  
7 possible to fulfill their role in taking care of those  
8 people.

9 Q I think we all understand that, Mr. McGill.  
10 Specifically pointing you to item 1A which  
11 says that "It is demonstrated to the satisfaction of  
12 the Bucks County Board of Commissioners that the plans  
13 developed by PEMA and Montgomery County for the  
14 evacuation of Montgomery County in the event of a disaster  
15 are feasible, capable of being implemented, and will  
16 not adversely impact upon the safety of persons residing  
17 or working within Bucks County."

18 My question to you is, in your opinion, has  
19 that condition, as stated in 1A, been demonstrated to the  
20 satisfaction of both yourself as the Bucks County  
21 emergency management coordinator and the Bucks County  
22 Board of Commissioners?

23 MR. CONNER: Objection.

24 MR. HASSELL: Objection.

25 MR. CONNER: Asked and answered.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JUDGE HOYT: I'm sorry, Miss Zitzer, would

you please repeat the question for me?

END 2

mn3-1

1 MS. ZITZER: I will summarize. My question is  
2 do you believe that condition 1(a) as I just read to you  
3 has been satisfied to your satisfaction and to the satisfaction  
4 to the Bucks County Board of Commissioners if you aware of?

5 MR. CONNER: Objection. That misstates what is  
6 in 1(a). There is nothing about it being developed to the  
7 satisfaction of anybody except the Board of Commissioners  
8 in that particular sentence and that is a different question  
9 than she asked before. The witness incidentally has already  
10 answered that he is satisfied with the plan.

11 MS. ZITZER: I don't believe that the witness  
12 provided an answer particularly with regard to item 1(a).  
13 I believe that the witness' testimony was specifically about  
14 the current Bucks County Support Plan as it is drafted  
15 and the current Bucks County Support Plan does not address  
16 the last part of the sentence in 1(a), specifically that  
17 it will not adversely impact upon the safety of persons  
18 residing or working within Bucks County.

19 I would simply like a yes or no answer if that  
20 is possible from the witness with regard to whether in his  
21 opinion as the Bucks County emergency coordinator and to the  
22 extent that he is aware of the opinion of the Commissioners  
23 whether or not the conditions stated at item 1(a) has been  
24 demonstrated to their satisfaction at this time.

25 MR. CONNER: That has been answered. The witness

1 testified that the Commissioners hadn't satisfied themselves  
2 as yet. The same question, just regurgitated.

3 JUDGE HOYT: Objection sustained.

4 BY MS. ZITZER: (Resuming)

5 Q Mr. McGill, have you yet determined whether or not  
6 the implementation of the Bucks County Support Plan as  
7 currently drafted will impact upon the safety of persons  
8 residing and working within Bucks County?

9 A On the basis on which this plan was developed  
10 the safety and the welfare of the people in Bucks County  
11 in my estimation are not at risk.

12 Q Do the Commissioners share your point of view?

13 A No, they do not.

14 Q Referring you to item 1(b) which addresses the  
15 concern of spontaneous evacuation from Philadelphia, I would  
16 like to know whether or not in your opinion the conditions  
17 stating that provisions must be made to establish sufficient  
18 traffic control points to insure that a concurrent evacuation  
19 of Bucks County if necessary would not be unduly impeded  
20 has been satisfied at this time?

21 A There has been no discussion about item (b) since  
22 the meeting with John Patten. The basis for this paragraph  
23 was brought up by Mr. Fonash and brought up in a manner to  
24 indicate that there would be confusion. It is my belief  
25 although I have no way of proving this that Mr. Fonash



mn3-3

1 subsequently realized why would people from Philadelphia ever  
2 want to come to Bucks County if we were in trouble.

3 Q Item 1 (c) states that the plans developed by PEMA  
4 and Bucks County for the reception and processing of  
5 approximately 24,000 evacuees from Montgomery County are  
6 deemed viable and adequate by the Bucks County elected  
7 authority. I would like to know first of all if you are  
8 familiar with the Federal Emergency Management Agency's  
9 evaluation of Bucks County's participation in the November 20th  
10 1984 exercise?

11 A. Yes, I am.

12 Q I would like to ask you if based on the activation  
13 of the county emergency operations center, one reception  
14 center and one mass care center that you believe that it has  
15 been demonstrated that Bucks County can implement the  
16 entire Bucks County Support Plan with which you are familiar?

17 A. The exercise did indicate that we have the  
18 capability of doing a very good job. The exercise was a  
19 very limited exercise in which we used key people. The thing  
20 that is not visible to anyone who is not really familiar with  
21 the workings of emergency service is the cooperation, the  
22 assistance and the willingness to serve that exists amongst  
23 the various responding agencies and I am talking about the  
24 police departments, the fire companies, the ambulance squads,  
25 the fire police, the school and so forth. You have to live

mn3-4

1 and work at my job over a number of years to know what type  
2 of cooperation is available to you. I have no doubt that if  
3 we had to go into a full-blown exercise that we could manage  
4 it.

5 The good thing about the limited exercise is that  
6 it did bring out some of the things that we would have to do.  
7 Sometimes you have to do things on the spur of the moment.  
8 The test exercise brought out a number of things that we  
9 should plan for that we had not thought about, incidental  
10 things, how to control people, how to separate people,  
11 how to take care of automobiles and all this type of thing.  
12 It was very well done and we did learn quite a bit from it.

13 Q Do you have any concerns about decontamination  
14 procedures at the mass care centers?

15 A Yes.

16 Q What are your concerns?

17 A The separation of people who are possibly  
18 contaminated from those who are not contaminated.

19 Q Do you intend to open a mass care center at the  
20 Delhaus High School if called upon to implement your plan?

21 A The Delhaus High School has been closed for a  
22 number of years.

23 Q Are you aware of whether or not that is still  
24 listed in the plan as a mass care center?

25 A I am aware of it and it really makes no difference

1 to me.

2 Q Do you believe that there are sufficient fire  
3 personnel to implement the decontamination procedures  
4 called for in the plan?

5 A Yes, I do.

6 Q Do you believe that you will have sufficient  
7 police to implement the traffic control points called for  
8 in the plan?

9 A In addition to the local police, we do have a  
10 fair size sheriff's department. I am quite sure that the  
11 Pennsylvania State Police would also assist us.

12 Q Are you aware that it calls for 37 police cars  
13 for traffic control points in the current plan?

14 MR. CONNER: Objection, unless she shows it to the  
15 witness so he can verify it.

16 MS. ZITZER: I am sorry. I couldn't hear what he  
17 was saying.

18 JUDGE HOYT: Yes. Would you show the witness the  
19 plan wherein that number of cars appears?

20 MR. CONNER: To speed it up, if the witness knows  
21 we have no objection to his answering the question.

22 JUDGE HOYT: Do you know, sir?

23 THE WITNESS: There is ample police cruisers in  
24 Bucks County to take care of the --

25 JUDGE HOYT: The question was not ample. The

mn3-6

1 question was 37 and we are going to find 37 in the book.

2 Just have Ms. Mulligan show it to the witness.

3 MS. ZITZER: It is on page 3-a-1 of the Bucks  
4 County Support Plan which has been received into evidence  
5 as Applicant's Exhibit number E-4. Ms. Mulligan will show  
6 it to the witness.

7 JUDGE HOYT: Show that to the witness then.

8 (Above-referenced document show to the witness  
9 by representative from LEA.)

10 MR. CONNER: We would object to the question  
11 in that this page number refers only to the number of men.  
12 It doesn't say anything about the number of police cars.

13 JUDGE HOYT: That is the basis of your objection,  
14 Mr. Conner, but we will have to wait until it is shown to the  
15 witness and he can't testify that it has 37 cars on there.

16 (Witness reviewing document.)

17 JUDGE HOYT: Ms. Zitzer, would you please ask your  
18 question again?

19 BY MS. ZITZER: (Resuming)

20 Q Do you believe that the 37 police cars required  
21 for traffic control points are available within Bucks County?

22 A That is correct.

23 MR. CONNER: If we are referring to this page, I  
24 have to object because there is nothing about police cars on  
25 this page.



mn3-7

1 JUDGE HOYT: Ms. Zitzer, have Ms. Mulligan show  
2 me the copy that she has given to the witness.

3 (Above-referenced document distributed to the  
4 Board.)

5 MS. ZITZER: The figures are contained under the  
6 column entitled, "Men" but it is LEA's position that there  
7 would be --

8 JUDGE HOYT: Is that 3-a-1, Ms. Zitzer?

9 MS. ZITZER: Yes, Your Honor.

10 (Board reviewing document off the record.)

11 JUDGE HOYT: How did you derive the figure 37?

12 MS. ZITZER: We added up the figures under the  
13 column "Number of Men." Also, attachment (b) --

14 JUDGE HOYT: The exhibit, of course, is in  
15 evidence and will speak for itself but the page that you have  
16 cited, 3-a-1, does not indicate number of cars. It has the  
17 heading "number of men." Now what is the other page?

18 MS. ZITZER: Attachment (b) lists the number of  
19 vehicles available. It is LEA's position that the policemen  
20 would need a vehicle to get to the traffic control points  
21 and I believe the witness did agree.

22 JUDGE HOYT: Are you speaking of tab (2) of  
23 attachment (b)? Is that the one you are referring to?

24 MS. ZITZER: Yes, I believe so, Your Honor.

25 JUDGE HOYT: All right, Ms. Zitzer. We have



1 appendix three, attachment "B" and that subject matter there  
2 is a multipage listing for the Bucks County Police Departments.

3 MS. ZITZER: Yes. I believe that lists the total  
4 number of vehicles available not the number of vehicles  
5 committed.

6 JUDGE HOYT: In what place in Bucks County,  
7 Ms. Zitzer?

8 MS. ZITZER: To the best of my knowledge,  
9 attachment "B" is a listing of all the available resources  
10 within Bucks County. Attachment "A" indicates the number of  
11 men to be assigned.

12 JUDGE HOYT: The police department of, for example,  
13 Bristol Township, has 40 police cars under the listing of  
14 number of vehicles on your copy of the document, Ms. Zitzer.

15 MS. ZITZER: Yes. That is the total available.  
16 That doesn't indicate what number have been assigned.

17 JUDGE HOYT: Your question dealt with the figure  
18 37 and on none of the documents and none of the citations  
19 to this particular exhibit, Applicant's Exhibit E-4, has  
20 that figure appeared.

21 MS. ZITZER: Attachment "A", when you add up the  
22 number of men, you come up with that figure.

23 JUDGE HOYT: That is correct, Ms. Zitzer, but your  
24 question dealt with number of vehicles and the objection  
25 goes to the number of vehicles. The objection stands and

mn3-9

1 it is sustainable, Ms. Zitzer, because none of the document  
2 pages that you have cited contain anything about the vehicles,  
3 the 37 vehicles, that you have maintained. It gives us the  
4 list of men and it gives us the list of police departments  
5 and the number of vehicles that each one of those police  
6 departments has some of which have as many as 40 vehicles.

7 MS. ZITZER: I believe the witness has answered  
8 the question satisfactorily, Your Honor.

9 JUDGE HOYT: The objection is sustained.

10 BY MS. ZITZER: (Resuming)

11 Q. Mr. McGill, would you agree that the plan calls  
12 for approximately 48 schools to be used as mass care centers  
13 in the event of a radiological emergency?

14 MR. CONNER: Here again, we would like a reference  
15 to the plan. Just pulling these numbers out of the air,  
16 I am not sure what this might mean.

17 JUDGE HOYT: Mr. Conner, we don't need any  
18 additional characterization. Ms. Zitzer, what page is the  
19 citation to in the exhibit? Again, I assume you are giving  
20 us E-4 and that is Applicant's Exhibit E-4?

21 MS. ZITZER: I believe this would be attachment "C",  
22 page 4-C-1.

23 JUDGE HOYT: All right. Thank you. Does the  
24 witness now have a copy of that exhibit before him?

25 (No response.)

mn3-10

1 JUDGE HOYT: Sir, do you have what has been called  
2 Applicant's Exhibit E-4? Is that the exhibit that you have  
3 in front of you?

4 THE WITNESS: Yes.

5 JUDGE HOYT: Very well.

6 THE WITNESS: And it is 4-C-1, is that the page?

7 JUDGE HOYT: That is correct, I believe.

8 THE WITNESS: I have it, yes.

9 JUDGE HOYT: Is that right, Ms. Zitzer?

10 MS. ZITZER: Yes.

11 JUDGE HOYT: Very well.

12 BY MS. ZITZER: (Resuming)

13 Q I believe at that page it indicates that 41  
14 schools will be used for mass care centers in Bucks County,  
15 is that correct?

16 A (Perusing document.)

17 Approximately 41, yes.

18 Q Other than the Delhaus High School which is no  
19 longer open, are there any other mass care centers listed  
20 that would not be able to be activated?

21 A There is one high school, the Wilson High School  
22 has a name change and again it doesn't mean anything. All  
23 the other schools would be perfectly satisfactory.

24 Q Have letters of agreement between the county and  
25 the school districts listed here been completed to authorize

1 the use of the school facilities as mass care centers in  
2 the event of a radiological emergency?

3 MR. CONNER: Objection. No foundation for saying  
4 that the school districts have to provide letters of agreement  
5 to the county.

6 JUDGE HOYT: I believe though, Mr. Conner, the  
7 question was had they been provided and if the witness knows,  
8 he will answer it. The objection is overruled.

9 BY MS. ZITZER: (Resuming)

10 Q Can you answer the question, Mr. McGill?

11 A There has been no effort on the part of the county  
12 to obtain signatures from school superintendents throughout  
13 the county and I question very seriously if that will ever  
14 be done. The working relationship we have with the school  
15 districts and with the intermediate unit of the county has  
16 been excellent. We have an excellent understanding. They  
17 have been helpful every time that we have needed them and I  
18 see no reason to burden them with writing to me and telling  
19 me what I know to be in existence from day to day.

20 The other thing is that the county has never  
21 required anything like this of the schools. The Red Cross,  
22 on the other hand, has gotten some agreements, written  
23 agreements from the school districts, because I suppose  
24 that is something that they have to do.

25 I have no intention of asking the schools for a



mn3-12  
1 written agreement.

2 Q Have you received any communication from the  
3 Centennial School District regarding the use of its facilities  
4 as listed in the plan?

5 A We had one letter from the Centennial School  
6 District that has nothing to do with their willingness  
7 to provide us assistance. It is just indicating to us  
8 that if we need their help, we are to go directly to them  
9 and ask for it, not to ask for the intermediate unit.

10 Q Have you done so?

11 A We have a very good relationship with the  
12 Centennial School District. We have talked to them on a  
13 number of occasions and we have no problem with the school  
14 district.

15 Q Specifically, have they approved the use of  
16 the William Tennett Log Collge? Excuse me, under item (2)  
17 on page 4-C-1 specifically the use of the William Tennett  
18 Junior/Senior High School and the Log College Junior High  
19 School, specifically has the Centennial School District  
20 approved the use of those facilities in the event of a  
21 radiological emergency?

22 A If you are coming back again do we have an agreement  
23 or do we have something written, no, we do not.

24 Q Have they indicated to you that they would --

25 A They they would not permit us the use of those



mn3-13

1 schools, no, they have not.

2 Q That was not my question. Have they indicated to  
3 you that they believe a formal agreement is necessary?

4 A No, they have not.

5 Q Have you discussed with the Commissioners your  
6 decision not to attempt to negotiate letters of agreement  
7 with the mass care centers listed in your plan?

8 A The Commissioners are very well aware of my  
9 position in that regard, yes.

10 Q Do they share your point of view to the best of  
11 your knowledge?

12 A It is very difficult for me to answer a specific  
13 question of that nature. The county commissioners place a  
14 great deal of trust in this person and I hope that I am able  
15 to live up to it.

16 Q But have they specifically discussed that matter  
17 with you?

18 A They have not specifically discussed that matter.

19 Q Have the county commissioners informed you of why  
20 they have not yet executed the memorandum of understanding  
21 with the Pennsylvania Emergency Management Agency?

22 A I tried my best to tell you that. The commissioners  
23 are very much concerned about the basis on which the plan was  
24 written. They do not intend at the present time nor as I  
25 indicated before, I do not see any change in the next month

mn3-14

1 or possibly the next two months or even longer. I don't see  
2 any indication of any change.

3 Q Have they indicated to you whether or not they  
4 believe that the conditions stated in the memorandum of  
5 understanding items 1(a), 1(b) and 1(c) have been addressed  
6 at this time to their satisfaction?

7 MR. CONNER: Objection. That is asked and answered.

8 JUDGE HOYT: Several times, Ms. Zitzer. The  
9 objection is sustained.

10 MS. ZITZER: I did not ask about 1(c). I did  
11 ask about 1(a).

12 JUDGE HOYT: Ms. Zitzer, the objection is  
13 sustained.

14 BY MS. ZITZER: (Resuming)

15 Q To the best of your knowledge, have the county  
16 commissioners determined that the Bucks County Support Plan  
17 in its current form is viable and adequate and can be  
18 implemented?

19 A The County Commissioners have --

20 MR. CONNER: I object to that as asked and answered.  
21 He said that they have not voted on it yet.

22 MS. ZITZER: I didn't ask if they voted on it.

23 JUDGE HOYT: Ms. Zitzer, I think this one was  
24 also one of the ones that has been asked and answered. Can  
25 we move along, please?

mn3-15

1 MS. ZITZER: Your Honor, that may be my last  
2 question. I did not ask if it had been voted on. I  
3 specifically asked if the Commissioners to the best of  
4 Mr. McGill's knowledge had yet determined whether or not  
5 the current draft plans were viable, adequate and whether  
6 or not the Bucks County Support Plan which is being reviewed  
7 in this proceeding can be implemented. I don't believe the  
8 witness has answered that question.

9 THE WITNESS: The Commissioner have not --

10 JUDGE HOYT: Sir, please, that answer will be  
11 stricken.

12 THE WITNESS: Oh, I am sorry.

13 JUDGE HOYT: Do not answer a question that is  
14 not pending before you.

15 THE WITNESS: Okay.

16 JUDGE HOYT: Ms. Zitzer, you have a ruling. It  
17 hasn't changed.

18 MS. ZITZER: I don't believe that question was  
19 asked. That is why I was waiting for a ruling.

20 JUDGE HOYT: Ms. Zitzer, the question was asked  
21 and the ruling was made. Would you like to ask your next  
22 question now?

23 BY MS. ZITZER: (Resuming)

24 Q Had the Commissioners discussed with you their  
25 concerns about potential spontaneous evacuation in Bucks

1 County when the emergency broadcast message is aired on  
2 KWY Radio?

3 A. I think I indicated before that the only thing  
4 that I would know about that would be what I have heard  
5 at general meetings. They have not discussed it directly  
6 with me.

7 Q. Could you be more specific what you have heard  
8 at the general meetings that you are referring to?

9 A. Yes. I have heard at meetings that people in  
10 Bucks County would be in danger if there were a spontaneous  
11 evacuation, that people would be coming up from Philadelphia,  
12 that people would be going here and there. Beyond that, I  
13 can't say.

14 Q. The meetings you are referring to, are you referring  
15 to meetings with the county commissioners or public meetings?

16 A. I am referring to public meetings.

17 Q. Mr. McGill, did anyone from Philadelphia Electric  
18 discuss your testimony with you prior to your coming to the  
19 hearing today?

20 A. Well, I have worked with Bob Bradshaw. He is not  
21 from the Philadelphia Electric Company in contributing to the  
22 development of this plan. No one from the Philadelphia  
23 Electric Company has coached me or anything of that sort  
24 or told me what to say. My commissioners have told me what  
25 to say. They told me to tell the truth and that is what I

1 am trying to do.

2 Q Do you believe that the current plan is --strike  
3 that. I believe you have testified that you believe the  
4 current draft plan is capable of being implemented. If so,  
5 why haven't you recommended approval to the commissioners  
6 of the current draft plan at this time?

7 MR. CONNER: Objection. It presupposes the  
8 witness has not done exactly that.

9 MS. ZITZER: I will rephrase the question.

10 BY MS. ZITZER: (Resuming)

11 Q Have you recommended that the Bucks County  
12 Commissioners approve the current draft of the Bucks County  
13 Support plan?

14 JUDGE HOYT: Thank you for the ruling, Ms. Zitzer.

15 MS. ZITZER: I am sorry.

16 JUDGE HOYT: You may rephrase the question.

17 MS. ZITZER: Thank you, Your Honor.

18 THE WITNESS: I have advised the commissioners or  
19 suggested to the commissioners that we do nothing at the  
20 present time except live with the work that has been done  
21 and the reason I am saying that, we have had activity in Bucks  
22 County which is very unsettling to me. I have no desire to  
23 write things, turn it over the public and then have somebody  
24 try to undo what we have tried to accomplish, number one.

25 Number two, I think the political climate in Bucks



mn3-18

1 County at the present time would be detrimental to the  
2 commissioners if we were to do anything further in the way  
3 of writing of a plan. I am perfectly satisfied to live  
4 with what we have until we have further information that  
5 would cause me to say we must modify this plan.

6 MS. ZITZER: No further questions.

7 JUDGE HOYT: Very well. Do we have any other  
8 questions? Ms. Ferkin, do you wish to examine the witness?

9 MS. FERKIN: No questions, Your Honor.

10 JUDGE HOYT: How about FEMA?

11 MR. HIRSCH: FEMA has no cross-examination,  
12 Your Honor.

13 JUDGE HOYT: How about the staff?

14 MR. HASSELL: The staff has a few questions,  
15 Judge Hoyt.

16 JUDGE HOYT: Very well. Proceed, Mr. Hassell.

17 BY MR. HASSELL:

18 Q Good afternoon, Mr. McGill. My name is Mr. Hassell.  
19 I am counsel for the NRC Staff. I have just a few questions  
20 for you, sir.

21 A Okay.

22 Q I believe you testified in response to a question  
23 from Mr. Conner that if there were an actual emergency that  
24 required an evacuation that with respect to applicant's  
25 exhibit E-4, the Bucks County Plan dated October 1984, I

XXXXXXX

mn3-19

1 believe you testified to the effect that you see no other  
2 plan that could possibly be used. Is that correct?

3 A. That is correct.

4 Q. So is it fair to then say that your testimony  
5 is yes, you would use that plan if there were an actual  
6 emergency tomorrow?

7 A. In order for us to function in a cooperative  
8 manner with Montgomery County and the other counties involved,  
9 we would have to follow that plan. We have no other choice.

10 Q. You were asked some questions concerning LEA  
11 Exhibit E-61 which is the memorandum of understanding between  
12 Bucks County and the Pennsylvania Emergency Management Agency.  
13 Specifically, I believe you were asked by Ms. Zitzer whether  
14 Bucks County Board of Commissioners had approved that MOU,  
15 do you recall that testimony, sir?

16 A. I am sorry. I didn't follow that, Mr. Hassell.

17 Q. Do you recall your testimony in response to a  
18 question from Ms. Zitzer, the LEA representative, as to  
19 whether the Bucks County Board of Commissioners had approved  
20 the memorandum of understanding between Bucks County and  
21 PEMA?

22 A. They have not done so nor have they signed it.

23 Q. Do you believe the failure of the Bucks County  
24 Commissioners to approve the MOU makes the Bucks County Plan  
25 unworkable?

A. No, sir, I do not.

1 Q You were asked some questions by Miss Zitzer  
2 concerning whether letters of agreement had been  
3 executed between Bucks County and school districts.

4 Do you recall that testimony, sir?

5 A Yes.

6 Q Based on your experience as an emergency  
7 planner in Bucks County, do you believe that the  
8 absence of letters of agreement with school districts  
9 would make the Bucks County plan unworkable?

10 A Absolutely not.

11 MR. HASSELL: No further questions.

12 JUDGE HOYT: Do you have any redirect?

13 MR. CONNER: No, ma'am.

14 JUDGE HOYT: Very well.

15 The Board has no questions of this witness.

16 Sir, thank you for your attendance at this  
17 hearing and for your testimony here today.

18 You are excused, sir.

19 MR. ANTHONY: May I be permitted to ask some  
20 questions?

21 JUDGE HOYT: Do the witnesses have any  
22 testimony relating to your contention, Mr. Anthony?

23 MR. ANTHONY: There was a question I wanted to  
24 ask because of the evacuation from the Pennsylvania  
25 Turnpike to King of Prussia, and I wanted --

1 MR. CONNER: We object to any suggestion  
2 of that. Mr. Anthony's contention is related to the southern  
3 end, if you will, of the EPZ, certainly not to Bucks  
4 County.

5 JUDGE HOYT: This county is not geographically  
6 located along those lines, if I remember the map  
7 correctly, Mr. Anthony.

8 MR. ANTHONY: The evacuation route is through  
9 King of Prussia on route 202 and on to the Schuylkill  
10 Expressway and then to the Pennsylvania Turnpike  
11 east into Bucks County.

12 JUDGE HOYT: Just a moment.

13 (Board conferring.)

14 JUDGE HOYT: Mr. Hippert, do you have a copy  
15 of that state map with the counties on it?

16 MS. FERKIN: What we have here, your Honor,  
17 is the copy of the Limerick Generating Station Evacuation  
18 Plan Map. From what I can tell, that does not indicate  
19 whether or not the evacuation route that uses the  
20 turnpike -- and I believe it is route 276 at this point --  
21 goes through Bucks County or not.

22 I think we would need a full state map to  
23 determine that.

24 JUDGE HOYT: That is what we have here on the  
25 bench, Miss Ferkin. I wonder if we could borrow the

1 expertise of Mr. Hippert here to give us the boundaries  
2 of it -- of that county.

3 And would you bring your map along with you to  
4 the bench, Mr. Hippert, show us where it is.

5 MR. ANTHONY: If it would help, I think  
6 the Neshaminy Mall Shopping Center is in Bucks County,  
7 and the exit to that would be from the Route 1  
8 interchange of the turnpike.

9 (Board conferring.)

10 JUDGE HOYT: Mr. Hippert, do you have the map  
11 of the state of Pennsylvania in front of you? We have  
12 asked you to indicate to us where on this map  
13 Bucks County is located.

14 You are indicating that it does not contain  
15 the intersection of the King of Prussia?

16 MR. HIPPERT: I can't see offhand what  
17 Bucks County has to do with King of Prussia.

18 JUDGE HOYT: Mr. Hippert, we don't want you  
19 to testify now. We just want you to tell us where Bucks  
20 County is on this map here and if in fact, the  
21 intersection at King of Prussia is located within the  
22 county.

23 Mr. Hippert has been joined at the bench by  
24 Miss Ferkin, Mr. Anthony, and Mr. Conner.

25 MR. HIPPERT: King of Prussia is obviously not in



1 Bucks County.

2 Most of Bucks County lies north of 276 which is  
3 the Pennsylvania Turnpike.

4 JUDGE HOYT: All right. That is all we  
5 wanted you to indicate to us, Mr. Hippert. Thank you.

6 All right, all the counsel and Mr. Hippert,  
7 thank you for the expert help with the map of the  
8 Commonwealth of Pennsylvania.

9 Mr. Anthony, it doesn't appear that any of  
10 this witness' jurisdiction lies within the area of  
11 the subject of your contention.

12 Unless you can indicate to us how it is your  
13 concern with that intersection at the King of Prussia,  
14 that evacuation route could be impacted by anything  
15 that this witness could testify to, the objection of  
16 the counsel for Applicant, Mr. Conner, will be sustained.

17 MR. ANTHONY: I can demonstrate that this would  
18 impact directly on King of Prussia because, in the first  
19 place, I am not even sure that the toll gates at King of  
20 Prussia can accommodate the flow of traffic on that  
21 evacuation route.

22 JUDGE HOYT: Mr. Anthony, please, what we are  
23 trying to do is find out if this witness has any testimony  
24 that relates to your contention. We are not interested  
25 in the substantive matters concerning your contention.

1           Those are matters that have come in earlier.  
2           But this, such as the toll gates or any other matters  
3           concerning that particular intersection around King of  
4           Prussia, whether or not this witness' testimony relates  
5           to anything in your contention. Unless we hear something  
6           from you, sir, the objection of counsel will be sustained.

7           MR. ANTHONY: Yes. What happens at  
8           Neshaminy Mall and Route 1 --

9           JUDGE HOYT: No, sir. That is not what I  
10          asked you.

11          I asked you, what is it that this witness'  
12          testimony can give you relating to that, how can Bucks  
13          County, which is not in any way related to this intersection,  
14          be involved?

15          I don't believe, if I recall the evacuation  
16          routes correctly, that it would be -- that the routes  
17          would impact that would be in any way involved with this  
18          county.

19          MR. ANTHONY: Well, the Neshaminy Mall is  
20          the destination. People moving along the turnpike from  
21          King of Prussia to reach Neshaminy would have to cope  
22          with whatever conditions the traffic are in on the turnpike  
23          and at the exit at route 1, which is to Neshaminy Mall.

24          This witness would know what the characteristics  
25          of traffic are at that --

1 JUDGE HOYT: Let's see if the witness knows  
2 that, Mr. Anthony.

3 You have heard the discussion, Mr. McGill.  
4 Do you have a response to that?

5 THE WITNESS: Neshaminy Mall, on Saturdays  
6 and Sundays, is a particularly busy interchange exit.  
7 It is not nearly so busy in the nights as Willow Grove  
8 would be or the intersection at -- the exit at 309.  
9 They are very busy and they do clog up.

10 We have not had any serious jam-ups at any  
11 time to my knowledge, or anything that required some  
12 action on the part of our agency or the police agencies.

13 It is a busy intersection. Under the  
14 conditions that would exist, the Pennsylvania Turnpike  
15 Commission, with whom we work every other month in  
16 emergency health and cooperate with them all the time  
17 during emergencies, would be very helpful to us, doing  
18 everything they could to add people to move traffic  
19 through that particular toll plaza, if necessary.

20 I wouldn't anticipate a serious problem there.

21 JUDGE HOYT: All right. Mr. Anthony, that  
22 seems to be the answer that the witness has. We just  
23 can't find that this is any further related to your  
24 contention.

25 MR. ANTHONY: I just wanted to ask, he said there

1 was congestion on heavy weekend shopping, whether that  
2 congestion amounted to lineups at the toll booths exiting  
3 the turnpike.

4 JUDGE HOYT: Mr. McGill, is that exit at the  
5 turnpike, is that within your county, sir?

6 THE WITNESS: Yes.

7 JUDGE HOYT: All right. Then you can answer  
8 the question.

9 THE WITNESS: You say that we do have  
10 traffic tie-ups? Yes, we have small lineups there, getting  
11 off on Saturdays and Sundays, with people going to the  
12 mall, that type of thing.

13 MR. ANTHONY: And if there were an emergency  
14 at Limerick at a time like that, would the traffic  
15 back up, would you expect it would back up in a similar  
16 way or more so and maybe the turnpike itself become clogged?

17 MR. CONNER: We object to this whole line  
18 of questioning. There is nothing in this contention.  
19 Neshaminy Mall is approximately ten miles east of  
20 King of Prussia, and the turnpike itself is not an  
21 evacuation route, and this whole thing is irrelevant  
22 to contention FOE-1.

23 JUDGE HOYT: All right, Mr. Anthony. I  
24 think we have given you full latitude on that.

25 That is all the questions, sir.



1 MR. ANTHONY: I would just like to correct  
2 Mr. Conner's statement, this is an emergency evacuation  
3 route for the route that is routed through King of  
4 Prussia. So he is mistaken, I believe, about that.

5 JUDGE HOYT: It is ten miles away, Mr. Anthony.

6 MR. ANTHONY: Well, I hope we never see the  
7 congestion.

8 JUDGE HOYT: The Board has no questions.  
9 Indeed, you are excused, sir. Thank you again for  
10 your testimony and for your attendance at this hearing.  
11 You are excused.

12 (The witness stood downs.)

13 JUDGE HOYT: The Board has not had an  
14 opportunity to read the response of the Commonwealth of  
15 Pennsylvania to the Greaterford inmates designation  
16 of John D. Case as an expert in the field of corrections,  
17 a pleading which was filed with the Board this morning.

18 We will take a brief recess in order to be  
19 able to at least look at this matter.

20 MR. LOVE: Could I also submit my supplemental  
21 response?

22 JUDGE HOYT: Yes. If you have something else,  
23 now is the time. Give us that, too, Mr. Love.

24 Did you have anything on that, Mr. Hassell?

25 Very well.



1 MR. ANTHONY: Judge Hoyt, I have another  
2 matter to bring up.

3 JUDGE HOYT: All right. What is it, Mr. Anthony?

4 MR. ANTHONY: I wanted to make a statement  
5 that I was not able to make last Friday.

6 JUDGE HOYT: Very well, Mr. Anthony, let me  
7 stop you right at that point.

8 No oral arguments have been ordered in this  
9 case. No oral arguments will be made in this case by  
10 any party. If you wish to make any argument, additional  
11 arguments, there has been a schedule filed for a  
12 findings of fact and conclusions of law.

13 If you wish to enter some sort of an argument  
14 at that time, then that would be the appropriate time.  
15 There will be no oral arguments made by any party on  
16 this record in this case.

17 The Board is in recess for a few minutes.

18 MR. ANTHONY: Judge Hoyt --

19 JUDGE HOYT: Mr. Anthony, I think I have  
20 answered your question. Do you have another question?

21 MR. ANTHONY: Yes. I have a written statement  
22 and I have a motion to submit, and there is a time factor  
23 here, so I would appreciate --

24 JUDGE HOYT: We have a secretary at the commission  
25 where you can file these things, Mr. Anthony. I am not

1 filing your motions for you. And filing them here is  
2 not going to be --

3 MR. ANTHONY: May I distribute the motion  
4 to the parties? I would like to give it to the Board.

5 JUDGE HOYT: You can give us anything you  
6 wish, sir. The Board will not take up any matters on this  
7 record. We have indicated what the agenda for the day  
8 would be.

9 The hearing is in recess.

XXXXX

10 (Recess.)

11 JUDGE HOYT: The hearing will come to order.

12 Let the record reflect that all the parties to the hearing  
13 who were present when the hearing recessed are again  
14 present in the hearing room.

15 Mr. Anthony, what you had filed with the  
16 Board immediately before we went into recess you listed  
17 as a statement of yours re the hearings on emergency  
18 planning and a motion to reconsider, I guess, the findings  
19 schedule, and then you want a motion to recall witnesses  
20 on whose cross-examination you were cut off.

21 Mr. Anthony, at no time was any party cut off.  
22 Time limits were set. When you exceeded those time  
23 limits, you understand that those time limits applied  
24 to everyone in this hearing. There were no distinctions  
25 made, if one counsel or representative had exceeded their

1 time, then the cross-examination was terminated at that  
2 point.

3 There is no attempt to cut off anyone.

4 I don't know whether you understand those  
5 time limits had been set and they were a matter of  
6 record. So I think you understand that.

7 The matter to recall witnesses. I believe,  
8 Mr. Anthony, you had, if you will look back at the  
9 record, we have been in session in these hearings since  
10 the middle of November. I hardly find that that is  
11 what you would call a limited hearing.

12 We have been on this record examining witnesses  
13 and presenting evidence -- having evidence presented  
14 to this Board for the better part of two and a half  
15 months. So I think that that is not correct.

16 MR. ANTHONY: I understand the Board has been  
17 through a lot, Judge.

18 JUDGE HOYT: Mr. Anthony, I haven't finished.

19 In addition, I just wanted to tell you that  
20 this Board is not under any time constraints. When we  
21 talk about time constraints -- I am trying to do this  
22 in somewhat of a lay fashion because I realize you are  
23 not an attorney -- when we talk about time constraints,  
24 all the members of this Board have other cases on their  
25 dockets. Each of the judges maintain a docket of cases.

1           We have to work hard to get our hearings together  
2 to have time to write decisions, to do our traveling,  
3 to do a number of things. There are no constraints on  
4 this Board insofar as this case was concerned.

5           Certainly, any reference that you have attached.  
6 here was not in any way connected to this Board.  
7 As a matter of fact, today is the first day I had seen  
8 this particular citation to the record. I am certain  
9 that I have that in the office, but I haven't seen the  
10 Commission's minutes that you have cited there from  
11 January 8 until today.

12           The witnesses that you would want to recall  
13 are witnesses who have testified very early in this  
14 case. In some cases, you were not present. You were not  
15 always present in this hearing room during the time that  
16 some of these witnesses testified. I can't recall  
17 which ones they were, and I wouldn't make any guess at it.

18           However, I think you have to realize that  
19 every case must have a person who manages the record.  
20 And that, of course, is the job of this Board.

21           We have attempted to be as fair as we can.  
22 It may not have seemed so to the individual parties,  
23 but in looking back over these some two and a half months,  
24 I can think of every counsel in this room who has at  
25 one time or another found exception with the Board which means



1 we must have been doing something right, since we  
2 succeeded in angering everyone.

3 That very briefly, in a lay fashion, is putting  
4 it to you that your motion has been denied in its  
5 entirety, and we thank you for the motion, and it will  
6 be incorporated into the record.

7 And the argument that you want to make, if  
8 I understand, you had an argument that you wanted to make  
9 to this court on substantive matters.

10 Those are the things that I indicated to you  
11 earlier could be filed under the same schedule that the  
12 findings of fact and conclusions of law.

13 MR. ANTHONY: Could I say a word, Judge Hoyt?

14 JUDGE HOYT: The denial is as to both your  
15 motions, and I will, on behalf of the Board, consider  
16 this to be a motion to reopen the record. If that is  
17 the ultimate intent of the motion, that, too, is denied.

18 All right, Mr. Anthony. Thank you very  
19 much for the motion. It will be incorporated into the  
20 record.

21 (INSERT)

22

23

24

25



Jan. 29, 1985

STATEMENT BY R.L. ANTHONY/FOE Re HEARINGS ON EMERGENCY PLANNING AND MOTION TO LB TO RECONSIDER THE FINDINGS SCHEDULE AND MOTION TO RECALL WITNESSES ON WHOSE CROSS EXAMINATION WE WERE CUT OFF.

---

STATEMENT. On 1/25/85 our cross examination of FEMA witnesses was cut off at one half hour. In order for the record to be complete and for the Board to have adequate information on our contention on which to make a decision and on which we could base findings, we needed at least another hour. We informed the Board and were overruled. We asked to make a statement and this request was denied by the Board.

We now state that the record on our emergency planning contention is incomplete because of the arbitrary and unreasonable limitations put on our cross examination of witnesses by the Board. This constitutes capricious and prejudicial action on the part of the Board. The Board thereby denied us due process in this hearing and violated our rights to be heard on the threats to our health, safety and interests, guaranteed to citizens under NEPA and the Atomic Energy Act.

There is evidence to show that this prejudice to our rights imposed by the Board could have been motivated by pressure to speed up the hearing and to arrive at a favorable, early decision to enable PECE to operate Limerick as soon as low power testing is completed. We quote the Board's statement as evidence of pressure for a speed up (tr. 14,041, 16-22), " ..all of us are being pushed to get time. We have commitments as to when we have to write decisions. " Further indication of NRC pressure to speed up the license process comes from the transcript of the Commission's meeting 1/8/85. On page 29 Chairman Palladino, in a discussion of the Limerick schedule, says, " Maybe you could enlighten me as to why it takes so long and then, presumably, the Commission would have another 30 days for its effectiveness decision. " On page 30 (1) he comments further... -- " this says four months. I was counting at most three months. " These remarks hint at the pressure under which the Board has been operating, from the top down.

We claim that this pressure and the pressure that the Board created for itself resulted in curtailed cross examination time, dictated by the Board, and this deprived us of our rights as a citizen intervener to question the witnesses and thereby build a complete record on our contention. This is a denial of due process and our rights to be heard under NEPA and AEA. We claim that the Board subverted the judicial process and caused prejudice against our case. We, therefore, now petition the Board to review its prejudiced rulings and make restitution to us as specified below.

MOTION 1. We move that the Board recall witnesses whose cross examination was cut off in an unreasonable, arbitrary and prejudicial manner by the Board with the result that the record is incomplete and injustice was done to the interveners' presentation of contentions. Specifically we move the Board to recall witnesses Klimm, Fewlass, Wagemann, Urbanik, PEMA and FEMA witnesses, and the witnesses from Montgomery County whom we did not examine at all, and to provide us time to adequately cross examine these witnesses.

MOTION 2. We move that the Board set aside the findings schedule which it set up and to re-schedule new findings dates following the the additional testimony of the recalled witnesses.

cc: NRC LB Judges, Counsel, Docketing Serv.  
PECo, PEMA, FEMA, LEA, PHILA., others on  
Serv. List.

Respectfully submitted,  
*Robert L. Anthony*  
Box 186, Moylan, Pa. 19065

(1.) Excerpt from NRC January 8, 1985 Commission Meeting transcript, provided by the Secretary 1/25/85.

30

1 period.

2 CHAIRMAN PALLADINO: Well, I guess I was thinking  
3 30 days for the first step, 60 days -- this says four months.  
4 I was counting at most three months.

5 MR. CHRISTENBURY: Well, in the normal course, two  
6 months for findings and two months for a decision. But here  
7 in terms of alerting the Commission to potential problems,  
8 here there are a number of circumstances where the emergency  
9 plans for the different counties and municipalities have not  
10 been approved, adopted, by the counties yet.

11 FEMA, I understand, has not completed their review  
12 until such time as the counties have adopted theirs. So,  
13 the testimony that FEMA is going to be operating will be  
14 somewhat dependent on that.

15 So, there are a number of potentials for delay in

1 JUDGE HOYT: Now, we have matters of the  
2 Greaterford Prison before us now.

3 Miss Ferkin, do you have any matter that you  
4 wish to bring up first?

5 MS. FERKIN: Yes. There are a couple of  
6 matters I think we could take care of. The first  
7 has to do with a letter that I distributed this  
8 morning to the parties here and to the Board.  
9 It is a letter or actually a packet of letters, dated  
10 January 23, 1985. It is from John Patten, the director  
11 of PEMA, to the chairman of the respective boards of  
12 commissioners from the three risk counties in the Limerick  
13 EPZ.

14 The reason I distributed this letter is that  
15 it was referenced in Mr. Hippert's testimony last week  
16 as a letter that was in the works, so to speak.

17 JUDGE HOYT: Did you intend to attach this  
18 as an exhibit to the record?

19 MS. FERKIN: No, your Honor, simply, we  
20 indicated last week that we would make the letter, when  
21 it was completed, available to the Board and the parties.

22 It might be helpful to make it part of the record.

23 JUDGE HOYT: I think it would be well to do  
24 so since it had been cited in the record.

25 MS. FERKIN: That would be fine.

1 JUDGE HOYT: Going back to Counsel's exhibit  
2 as a method of doing so.

3 MS. FERKIN: You mean something like  
4 Commonwealth Counsel Exhibit 1, in the same sense that  
5 we marked another letter in that same way?

6 JUDGE HOYT: That is what I had in mind.

7 MS. FERKIN: Let me just ask a procedural  
8 question, your Honor.

9 By so marking an exhibit, does that mean it  
10 can not be relied upon in proposed findings?

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

END 4



nations  
CR21800

#5-mn-1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JUDGE HOYT: That, of course, will be the question.  
I think maybe we had better put it into evidence, Ms. Ferkin.

MS. FERKIN: Certainly. You can either take my  
representation as to how it was prepared or we can have  
Mr. Hippert take the stand, whatever you prefer or we can  
stipulate.

JUDGE HOYT: Do we have any objection by any of  
the parties to include this in the record?

MS. MULLIGAN: No objection.

JUDGE HOYT: On behalf of LEA none. FEMA?

MR. HIRSCH: No objection, Your Honor.

JUDGE HOYT: The staff.

MR. HASSEL: The staff has no objection.

JUDGE HOYT: The applicant?

MR. CONNER: No objection.

JUDGE HOYT: All right. Let's give it a number  
and it will come in under a stipulation.

MS. FERKIN: I believe it will be Commonwealth  
Exhibit E-13 and it consists of the three letters, one to  
the Berks County Board, one to the Chester County Board and  
one to the Montgomery County Board of Commissioners.

JUDGE HOYT: I think that is better. Now it can  
be cited as evidence in the findings.

The packet of letters will be Commonwealth  
Exhibit E-13. They are all clipped together and if the



1 parties want to use them as exhibits in the findings we  
2 could further mark then 13(a), (b) and (c) if that would  
3 be of any value.

4 MS. FERKIN: Whatever is acceptable. We could  
5 mark them 13, 14 and 15 or whatever is acceptable to the  
6 Board.

7 JUDGE HOYT: That ought to do it. We will  
8 have it marked and received as Commonwealth Exhibit E-13.

9 (The document referred to  
10 was marked for identifica-  
11 tion as Commonwealth Exhibit  
12 No. E-13 and was received  
13 in evidence.)

14 JUDGE HOYT: Anything else?

15 MS. FERKIN: Yes. Last week in the testimony  
16 we also referred and explained the content of change five  
17 to Annex E. Since there is nothing in change five that  
18 impacts on the subject matter of any of the contentions  
19 we would not mark it as an exhibit. We indicated or  
20 Mr. Hippert indicated in his testimony last well that change  
21 five had been mailed to all holders of Annex E. I am simply  
22 indicating we have additional copies here in the room if any-  
23 body or the Board would like them.

24 JUDGE HOYT: Very well. In the event anyone  
25 wishes one, please see Ms. Ferkin.

XXXXXX

1 MS. FERKIN: One final matter. Last week there  
2 was testimony both by PEMA and I believe by county witnesses  
3 regarding the supplies of potassium iodide or KI that were  
4 available in the Limerick EPZ. I believe that is something  
5 that is referenced in FEMA's evaluation of the July, 1984  
6 exercise and there was some testimony on the stand about  
7 that.

8 JUDGE HOYT: Yes.

9 MS. FERKIN: We have some updated information as  
10 of yesterday or this morning regarding the status of the  
11 KI supply. We believe that would be important to the  
12 record on this particular point.

13 JUDGE HOYT: Do you have those figures or would  
14 you recall Mr. Hippert?

15 MS. FERKIN: Why don't we recall Mr. Hippert.  
16 I think it would be easier that way.

17 JUDGE HOYT: All right. It is your case,  
18 Ms. Ferkin, either way you want to proceed is acceptable  
19 to the Board.

20 MR. HIRSCH: Your Honor, while Mr. Hippert is  
21 taking the stand could I take care of one quick preliminary  
22 matter. We have had some discussion last Friday afternoon  
23 about distribution of FEMA Exhibit E-3 and there was some  
24 concern expressed by Your Honor that not all the parties  
25 to the proceeding may have had a complete copy of that

1 exhibit.

2 JUDGE HOYT: That is correct.

3 MR. HIRSCH: I have provided Mr. Hassell with a  
4 copy today and I have checked with all the other parties  
5 and with the Board and I believe everybody now has a  
6 complete copy of FEMA Exhibit E-3.

7 JUDGE HOYT: Very well. Thank you, Mr. Hirsch,  
8 for that information.

9 Mr. Hippert, you have been here throughout the  
10 proceedings and I think you are the only person who has  
11 been here other than the Board every day of the sessions.  
12 Perhaps we can just take a moment to thank you for your  
13 attendance at these hearings and also to acknowledge that  
14 you have taken the oath and that you are still under that  
15 oath.

16 Whereupon,

17 RALPH HIPPERT,

18 was called as a witness on behalf of the Commonwealth and  
19 having been previously duly sworn, was examined and testified  
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. FERKIN

23 Q Mr. Hippert, in the hearing sessions last week  
24 do you recall testimony regarding supplies of potassium iodide  
25 or KI for the Limerick Generating Station EPZ?

XXXX

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Yes, I do.

Q Do you have additional information on that point you would like to provide at this time?

A Yes. We have been advised by the Pennsylvania Department of Health that 10,500 units of KI are being purchased from Carter-Wallace and it is a shelf item and can be shipped in stock. The shelf life of the KI expires in 1987 but we believe that that shelf life can be extended.

In addition to the tablet form, the Department of Health has also ordered 364 units from a company called Roxanne. It takes about six weeks for the liquid material to be delivered. It has a shelf life until January 1, 1986. The liquid KI is for nursing homes and hospitals whereas the tablet form of KI is for the emergency workers.

Q Mr. Hippert, to the best of your knowledge will these supplies of KI both tablet and liquid that you have identified satisfy the need for KI identified by the Federal Emergency Management Agency in its evaluation of the Limerick Generating Station Radiological Emergency Response Plan?

A Yes.

MS. FERKIN: I have no further questions.

JUDGE HOYT: Very well. Any cross-examination by any party?

MR. HIRSCH: I have one question, Your Honor.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

XXXXXXX

JUDGE HOYT: Very well. Mr. Hirsch.

CROSS-EXAMINATION

BY MR. HIRSCH:

Q Mr. Hippert, do you know when these units of KI will be received by the recipient organizations?

A As soon as the 10,500 units are delivered from Carter-Wallace PEMA will break it down and deliver it to the counties involved. It will be delivered to the three risk counties and to the two support counties and thereafter the support counties and the risk counties distribute it according to their plan.

Q Do you have an estimate at this time when that will happen?

A My understanding from the Department of Health is that the tablet KI can be shipped almost immediately and that just as soon as we get it, it is a matter of a week or so that we could get it down to the counties.

MR. HIRSCH: Thank you. No further questions.

JUDGE HOYT: All right, sir. Anything else from any of the other counsel or the Board?

(No response.)

JUDGE HOYT: Very well. Thank you, Mr. Hippert. You are excused.

(Witness excused.)

JUDGE HOYT: I neglected to add that Mr. Nichols



1 also had been here throughout all the sessions of this case.  
2 I think those are the only persons that were with us through-  
3 out the hearing.

4 All right. Now can we get to the Graterford  
5 matter?

6 MS. FERKIN: I have nothing further.

7 JUDGE HOYT: Very well. Mr. Love, you have  
8 initiated this motion. Do you wish to make any additional  
9 argument, oral argument here this afternoon?

10 MR. LOVE: Just by way of introductory remarks,  
11 Your Honor, I per your instructions I was here yesterday  
12 at twelve o'clock and unfortunately I was the only one here.

13 JUDGE HOYT: Well, Mr. Love, we asked that you be  
14 notified and I was assured that that would happen. I can't  
15 where there are counsel coming in and out, it is very difficult  
16 and the Board doesn't run a message service and we attempt  
17 to keep everybody as informed as we can but it was obvious  
18 that if you choose not to be present and those announcements  
19 are made during the hearing that there is not much that we  
20 can do to help you.

21 MR. LOVE: I understand, Your Honor.

22 MS. FERKIN: For the record, Your Honor, the  
23 decision regarding the time of the hearing, I believe, was  
24 sometime around three o'clock on Friday. I did get in touch  
25 with Mr. Love -- or I tried to get in touch with Mr. Love.

1           However, that was not until about 4:30 and there was no  
2           answer in his office.

3                         JUDGE HOYT: Very well. All right. Now, Mr. Love,  
4           anything of substance?

5                         MR. LOVE: Per your request I have brought and  
6           given to the Board and sent copies to all interested parties  
7           my response to your request for further information. Briefly  
8           my response indicates that my expert, Mr. John Case, whom  
9           I contacted over the phone and unfortunately had to go to  
10          Pittsburgh so I couldn't meet with him in person, it was  
11          his opinion that the entire plan was necessarily in order  
12          to formulate our contention and he pointed out that he has  
13          21 years in the United States Marine Corps and during that  
14          time he received a top secret "Q" classification and he also  
15          has served 15 years as the warden of Bucks County Prison  
16          and based upon these and his other qualifications which are  
17          listed in his vitae which is attached to my motion that  
18          it was his opinion that all the information in the plan  
19          would be secure in his hands and it was relevant and  
20          necessary in order for us to formulate our contention in  
21          this matter.

22                         JUDGE HOYT: How does he answer, Mr. Love, the  
23          direction that the Board gave you on Friday that what we  
24          would like to have from your expert was for the expert to  
25          specify the information that was omitted in the plan and

1 the types of information. I believe on Friday you indicated  
2 such things as number of shackles and escape evacuation  
3 routes and we expected I would probably label as a laundry  
4 list of those needs that you wanted. We do not have that  
5 in your supplemental motion of Inmates at SCIG regarding  
6 full disclosure of evacuation plan for SCIG in your  
7 pleading this afternoon.

8 MR. LOVE: Part of the problem, Your Honor, is  
9 the fact that the document that we have received, the  
10 quote/unquote sanitized version of the plan is virtually  
11 to the large amounts of exclusions is virtually unreadable.  
12 Therefore, we don't really know the questions to ask because  
13 we have nothing to go on at this time.

14 JUDGE HOYT: An additional question of you,  
15 Mr. Love, and I will have to address it to you since Mr. Case  
16 is not here, what if any training, background in radiological  
17 evacuation plans has Mr. Case had?

18 MR. LOVE: To my knowledge he has none with  
19 regard to radiological evacuation. However, it is our  
20 opinion that an evacuation is an evacuation for the most  
21 part and he is familiar with the transport of prisoners  
22 in that he has worked in this field for 15 years and has  
23 testified in dozens of court cases as an expert witness  
24 regarding matters involving inmates and institutions.

25 JUDGE HOYT: Are any of the cases which were cited

1 in the qualifications of Mr. Case, which if any of those  
2 cases dealt with matters of evacuation or movement of  
3 prisoners, Mr. Love, if you know?

4 MR. LOVE: I couldn't really answer that question  
5 in particular.

6 I would like to point out though it is my  
7 understanding that this is maybe the second occasion in history  
8 that has ever required a prison to formulate an evacuation  
9 plan in response to a potential radiological emergency.

10 JUDGE HOYT: What was the other?

11 MR. LOVE: I understand that Camp Hill had to  
12 formulate such a plan in response to the Three Mile Island  
13 incident and it is to my knowledge after doing some research  
14 that there aren't any other such instances where this occasion  
15 has arisen.

16 JUDGE HOYT: Do you know what if any of the  
17 articles that were listed in Mr. Case's credentials that  
18 were involved in the movement of prisoners and I am particu-  
19 larly interested in those matters where he has been  
20 involved in movement of -- and I am not really qualified to  
21 characterize these -- I guess serious offenders, hardcore  
22 prisoners -- possibly in at least lay terms convey to you  
23 what I am looking for?

24 MR. LOVE: I would like to respond. The  
25 Commonwealth has responded to my motion and in it they have

1 stated that Mr. Case has little if any experience with the  
2 type of inmates that the Department of Corrections houses.  
3 I don't know if that is your point.

4 JUDGE HOYT: No. I was just asking you at this  
5 particular time, I would get to that later, but the matter  
6 that I had in mind here was trying to look at this list of  
7 the witness's credentials and in the published articles,  
8 none of these articles appear to be dealing with matters  
9 that would cover the evacuations or the handling of  
10 serious offender types of persons.

11 MR. LOVE: During his 15 years as warden of the  
12 Bucks County prison, I believe he has handled all types of  
13 inmates as anyone in Bucks County sentenced to any crime  
14 under the Pennsylvania Crimes Code must pass through the  
15 county system anywhere from six months to two years of time  
16 spent in that institution.

17 So he has certainly dealt with the types of  
18 individuals.

19 Now as to the evacuation of such, I do believe  
20 that you have to formulate sufficient plans for evacuation  
21 of your institution in the event of a fire or some other  
22 such emergency so I am quite certain that he is familiar  
23 with an evacuation plan of sorts and I am certainly sure  
24 that Bucks County Prison had such a plan in the case of  
25 any sort of fire or any other type of emergency that might



mn5-12

1 have arisen while he was the warden there.

2 So I do believe that he is familiar with this.

3 JUDGE HOYT: Do you know for a fact if he ever  
4 evacuated because of a fire?

5 MR. LOVE: I don't know for a fact that he ever  
6 evacuated for a fire.

7 JUDGE HOYT: Do you know what other educational  
8 qualifications in the field of knowledge that he may have?

9 MR. LOVE: I would note that he has had numerous  
10 training sessions regarding security and discipline of  
11 inmates and I believe that would qualify him accordingly.

12 JUDGE HOYT: Where was that and when?

13 MR. LOVE: In May of 1965 he took a course in  
14 security and discipline in prison at the Public Service  
15 Institute. He took an advanced course in --

16 JUDGE HOYT: Where is that located, Mr. Love?

17 MR. LOVE: The second to the last page under  
18 list of training. He took an advanced course in December of  
19 1967 on prison security. He has taken various courses in  
20 jail management. He was a member of the Governor's Justice  
21 Commission for nine years. He was the former director of  
22 the American Correctional Association and the National Jail  
23 Association.

24 So I think he is qualified in these matters.

25 (Board conferring off the record.)

mn5-13

1 JUDGE HOYT: We had indicated earlier the appearance  
2 of Mr. Otto had been made on this record. Mr. Otto, you  
3 have now joined Ms. Ferkin at the counsel table. We are  
4 interested also in having any additional argument from you  
5 this afternoon.

6 MR. OTTO: Initially I would like to say that we  
7 are happy to be here and I would like to let you know  
8 that we have brought along the deputy commissioner for the  
9 Department of Corrections, Erskind DeRamus, who is available  
10 if you would desire additional testimony on our response that  
11 we filed today.

12 Unfortunately, the Commissioner of Corrections  
13 had to be out of town so he was not available.

14 JUDGE HOYT: Perhaps we should bring on the  
15 witness and see if he has any additional questions that we  
16 could have him answer here if you wish to place him on the  
17 stand.

18 MR. OTTO: I personally do not have any particular  
19 other questions to ask him. His affidavit which is  
20 attached to our response covers all the points that we saw  
21 as being necessary to cover. If the Board has any further  
22 questions for him, he is available.

23 (Board conferring off the record.)

24 JUDGE HOYT: Yes. Let's have Mr. DeRamus come up  
25 here to the table. It isn't the intention of the Board to

1 swear this witness but we can if anybody wishes it be done.  
2 If you would just have a seat, sir.

3 MR. OTTO: I am going to hand Mr. DeRamus a  
4 copy of the statement.

5 JUDGE HOYT: Yes, please.

6 (Above-referenced document supplied to Mr. DeRamus.)

7 JUDGE HOYT: Mr. DeRamus, did you in any fashion  
8 participate in the development of this Graterford plan,  
9 evacuation plan?

10 MR. DeRAMUS: Initially, Your Honor, I was  
11 involved with the evacuation plan for the Graterford  
12 Institution.

13 JUDGE HOYT: Is the final plan that had been filed  
14 with this Board and is in what we call a sanitized version,  
15 is that the plan that you developed or aided in developing?

16 MR. DeRAMUS: I was involved with the overall plan  
17 and the sanitized version of the plan.

18 JUDGE HOYT: Are some of those matters that are  
19 deleted from the sanitized version done at your suggestion  
20 or initiation?

21 MR. DeRAMUS: It was done as a result of our  
22 meeting and our feeling that some of those items were of a  
23 security risk and that is the reason why they were deleted,  
24 not necessarily my personal but we had a meeting with our  
25 security staff along with the Commissioner of Corrections

1 at that particular time.

2 JUDGE HOYT: That was the concensus of the group  
3 then?

4 MR. DeRAMUS: Yes, it was.

5 JUDGE HOYT: Of those individuals who were present.

6 MR. DeRAMUS: Yes, it was.

7 JUDGE HOYT: Was that a long meeting or a short  
8 meeting?

9 MR. DeRAMUS: The meeting lasted over a period  
10 of probably three meetings so they were long meetings I would  
11 consider.

12 JUDGE HOYT: In other words, there was a great  
13 deal of consideration given to what was deleted?

14 MR. DeRAMUS: Yes, there was.

15 JUDGE HOYT: In looking at the sanitized version,  
16 there were blocks of matters deleted so that you couldn't  
17 even tell the subject matter that was under consideration  
18 being deleted. Was that done with forethought of was it  
19 just if it was in that paragraph everything went?

20 MR. DeRAMUS: First of all, Your Honor, as a  
21 professional, I apologize for that particular version of it.  
22 But we didn't have the time to go over it and retype it  
23 because type was of the essence. So we apologize for that.  
24 But that was the reason for it, not necessarily to take out  
25 anything, that was there that was not of any security reasons.

1 JUDGE HOYT: Am I hearing this then that there  
2 could have been a version of this plan in which somewhat  
3 more, perhaps not much more but something more, could have  
4 been released if there had been sufficient time to do a  
5 better editing job? Is that what I am hearing?

6 MR. DeRAMUS: That is my understanding or  
7 interpretation as to the reason why the version went out  
8 as it was.

9 JUDGE HOYT: You understand the position that this  
10 Board is in, Mr. DeRamus. We have to come up with either  
11 an order releasing this matter to the proponent of the motion  
12 under a protective order perhaps, has there been any effort  
13 or any movement on the part of your agency here in the  
14 Commonwealth of Pennsylvania to reach some sort of an  
15 accommodation with the counsel for the representative of  
16 these inmates?

17 MR. DeRAMUS: Not to my knowledge at this time,  
18 no. I have no knowledge of that.

19 JUDGE HOYT: In your opinion, could such an  
20 accommodation be reached by perhaps releasing somewhat more  
21 but something less than the complete plan?

22 JUDGE COLE: Under a protective order, of course.

23 MR. DeRAMUS: Would you state that again, please?

24 JUDGE HOYT: Just read it back, please. I like  
25 the way I said it the first time.



1 (The record was read back as requested by the  
2 reporter.)

3 MR. DeRAMUS: I am not in a position at this  
4 particular point to say that we would release more. We  
5 went over it as a group or as a committee or as a board  
6 and these were the conclusions that we came to at that  
7 particular time. I would think if more is to be released  
8 then that same board would have to convene again and have  
9 to be a collective decision of that board.

10 JUDGE HOYT: Thank you. Mr. Otto.

11 MR. OTTO: Deputy Commissioner DeRamus, the Board  
12 was asking something about the way in which this was  
13 edited, I believe, and your response was in apologizing  
14 for the way it was done and just to clarify that point, I  
15 want to ask you is your apology for the way it looked or  
16 the material that was edited?

17 MR. DeRAMUS: The way that it looked, not the  
18 material that was edited, no. I am sorry if I misinterpreted  
19 the question.

20 JUDGE HOYT: In other words, the headings would  
21 have gone regardless of how it was done, is that the idea?

22 MR. DeRAMUS: That is correct. I am sorry.

23 JUDGE HOYT: That is a point well taken, counsellor.

24 MR. OTTO: I have nothing further.

25 JUDGE HARBOUR: Deputy Commissioner DeRamus, my

1 name is Judge Harbour and I have just a short question to ask.  
2 Once the plan was developed has it been reviewed by anyone  
3 outside the Bureau of Corrections? Has it been forwarded  
4 to, for example, the Pennsylvania Emergency Management  
5 Agency?

6 MR. DeRAMUS: To my knowledge the answer is yes  
7 to your question, sir.

8 JUDGE HOYT: Do you know who reviewed it in the  
9 PEMA organization?

10 MR. DeRAMUS: No, I do not.

11 JUDGE HARBOUR: Has the information contained in  
12 the plan that was deleted in the sanitized version been  
13 released to anyone outside of some official capacity?

14 MR. DeRAMUS: I don't know, sir. I have no  
15 knowledge of who it was released to.

16 JUDGE HARBOUR: Is the information that has been  
17 deleted in the plan available from any other source?

18 MR. DeRAMUS: I don't believe so.

19 JUDGE HARBOUR: Thank you.

20 JUDGE HOYT: Ms. Ferkin, can you tell the Board  
21 how internally these plans are handled for special  
22 organizations, special schools and that sort of thing? Does  
23 PEMA get into the review of that and if so, how do you get  
24 into it? What is the mechanics of this?

25 MS. FERKIN: If you can give me couple of minutes

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

to consult with Mr. Hippert, I will do that.

JUDGE HOYT: Very well.

(Counsel for Commonwealth and PEMA conferring  
off the record.)

END#5

1 MS. FERKIN: Based on my consultation with  
2 Mr. Hippert, I can provide the following: It is my  
3 understanding that PEMA has been involved in the  
4 development of the radiological emergency response plans  
5 for Greaterford, essentially from square one.

6 It has been involved with the development of  
7 the plan and reviewed the final version of the plan  
8 before any distribution was made.

9 PEMA is also involved in determining what  
10 distribution of the plan is to be made, and that  
11 distribution has been a restricted one.

12 PEMA itself has possession of two unsanitized  
13 copies of the plan, again based on its intimate involvement  
14 with the plan and its need to be aware of all the  
15 facets of the plan in an emergency response.

16 FEMA, the Federal Emergency Management Agency,  
17 has also been provided two copies of the plan that are  
18 sanitized. They are not sanitized quite at the same --  
19 to the same level or in the same manner that the version  
20 that was made available to Mr. Love was sanitized.  
21 However, again, FEMA, based on its responsibility to  
22 review the radiological emergency response plan for  
23 Limerick, was provided such copies of the plan, on the  
24 same basis that FEMA was provided copies of, for example,  
25 the Pennhurst Institutional plan.

1 That is, again, a special institution within the Limerick  
2 EPZ that needed a special plan.

3 The counties that are involved in the  
4 implementation of the Greaterford plan have been provided  
5 copies of the plan; they have been provided sanitized  
6 copies.

7 I'm sorry. I understand they will be  
8 provided copies. Again, they will be sanitized.

9 JUDGE HOYT: And this is the what institute?

10 MS. FERKIN: I was referring to the counties.

11 I am assuming I am referring to the county emergency  
12 management agencies --

13 JUDGE HOYT: All right.

14 MS. FERKIN: Since they are the ones who will be  
15 involved in implementation.

16 JUDGE HOYT: Is there any reason why the  
17 sanitized version that was given to FEMA wouldn't be  
18 subject to perhaps a freedom of information request from  
19 the counsel for the inmates, and they could reach  
20 that version of the plan?

21 It seems to me that there has been a slip  
22 in security there somewhere.

23 MS. FERKIN: Not at all, your Honor.

24 JUDGE HOYT: Does FEMA have to, in accepting it,  
25 agree that they won't reveal it?



1 MS. FERKIN: The plans have been provided --  
2 version of the plan that has been provided to FEMA  
3 contains information that FEMA would need to fulfill  
4 its duty to determine the adequacy of the plan. There  
5 has been no slip in security or any other breach.

6 We still take the position that the information  
7 that was deleted from the plan made available to Mr. Love  
8 was deleted on the basis of the possibility of a breach  
9 of security if such information were made available to  
10 Mr. Love.

11 We do not have that same concern with the  
12 Federal Emergency Management Agency, given their duty  
13 to review these plans for their adequacy.

14 JUDGE HOYT: Mr. DeRamus, you have very  
15 impressive credentials here. We would like to ask you  
16 if, are you considered an expert in the transport  
17 of prisoners?

18 MR. DE RAMUS: No, your Honor. I wouldn't  
19 consider myself an expert. But I will say that I have  
20 had experience in doing so. As a matter of fact, part  
21 of my responsibility is approving transfers for inmates  
22 in the state system from one institution to the other,  
23 and also arranging transportation.

24 JUDGE HOYT: Have you had an opportunity to  
25 review the plan thoroughly and completely over the period of

1 the meetings that you were involved in and any subsequent  
2 look at that plan?

3 MR. DE RAMUS: Yes, I have, your Honor.

4 JUDGE HOYT: Are you satisfied that the  
5 evacuation of these prisoners at Greaterford could, under  
6 that plan, be held adequate, complete, and protect the  
7 welfare of those prisoners?

8 MR. DE RAMUS: Yes, I am. I am satisfied that  
9 it will do that.

10 JUDGE COLE: Did you participate similarly  
11 on the Camp Hill evacuation plan?

12 MR. DE RAMUS: Yes, I did. And I was the  
13 initiator of that plan, sir.

14 JUDGE COLE: Could you tell me what you mean  
15 by "initiator," sir?

16 MR. DE RAMUS: I was responsible for  
17 initiating the Camp Hill plan, organizing the plan  
18 for evacuation of the Camp Hill institution to another site.

19 JUDGE COLE: Does Camp Hill currently have a  
20 written evacuation plan similar to the plan for Greaterford  
21 Prison?

22 MR. DE RAMUS: It is the initial plan that we  
23 put together as a result of the Three Mill Island accident.  
24 That is still in place at Camp Hill.

25 JUDGE COLE: Thank you.

1 JUDGE HOYT: Are those prison plans, those  
2 evacuation plans, put under the same security that the  
3 Greaterford plan is being put under?

4 MR. DE RAMUS: Basically, yes. The answer is  
5 yes, basically.

6 JUDGE HOYT: Where do they vary then?  
7 Wherein does the plan vary, the security of it?

8 MR. DE RAMUS: Your Honor, I would have to take  
9 another look at it in order to answer your question.  
10 It has been awhile.

11 JUDGE HOYT: Does the character of the prisoners  
12 incarcerated in the various institutions have anything  
13 to do with it?

14 Does the character of the prisoners, the type  
15 of prisoners that are incarcerated in these various  
16 institutions, have something to do with how much security  
17 you need to have exercised?

18 MR. DE RAMUS: Yes, it does.

19 The high security cases, for instance, the  
20 capital cases and other cases that are in restrictive  
21 housing units would.

22 JUDGE HOYT: I'm sorry. I didn't get the last  
23 word.

24 MR. DE RAMUS: They would have a lot to do with it.

25 MR. OTTO: If I may --

1 JUDGE HOYT: Is Camp Hill similar to  
2 Greaterford then in that respect?

3 MR. DE RAMUS: It is similar. However,  
4 Greaterford is considered as a high security or a  
5 maximum security institution that houses some capital  
6 cases, prison cases, and also other long-term offender  
7 cases. So Greaterford would be considered as a high  
8 security institution, wherein Camp Hill may be considered  
9 as a medium type institution.

10 JUDGE HOYT: Is Greaterford then the highest  
11 security type of prison that you have in the  
12 Commonwealth of Pennsylvania?

13 MR. DE RAMUS: Greaterford, along with  
14 Pittsburgh and Huntington are the three high security  
15 institutions in Pennsylvania.

16 JUDGE HOYT: Are county prisons similar  
17 then to Greaterford in any respect of the types of  
18 prisoners that are incarcerated?

19 MR. DE RAMUS: I would not, your Honor,  
20 consider county prisons as being the type of  
21 institution that Greaterford is.

22 One of the reasons that I would not do so  
23 is because of the physical plant, one, and, two, because  
24 of the type of inmates that are housed at the county  
25 prisons.



1 JUDGE HOYT: How about the physical aspects of  
2 it? I don't understand why that is -- is it a different  
3 type of physical institution?

4 MR. DE RAMUS: Greaterford, being a walled  
5 institution, completely, and that is one of the reasons,  
6 and also the type of inmates that we classify for that  
7 particular institution.

8 JUDGE HOYT: Who classifies the prisoners?

9 MR. DE RAMUS: The Diagnostic and Classification  
10 Center Staff classifies the prisoners.

11 JUDGE HOYT: And you place all of the highest  
12 security problems in the three institutions of which  
13 Greaterford is one?

14 MR. DE RAMUS: Yes. That is normally the  
15 way that we do it.

16 And if I may add to that, I have the final  
17 approval for approving prisoners to go to any  
18 institution. And that is the way it is done.

19 Those three institutions are considered as the  
20 high security institutions, and that is where we place  
21 high security prisoners.

22 JUDGE HARBOUR: Are there any prisoners at  
23 Greaterford other than maximum security prisoners?

24 MR. DE RAMUS: Yes, sir. There are.

25 JUDGE HARBOUR: Can you tell me the approximate



1 proportion of the less than maximum or minimum security  
2 prisoners?

3 MR. DE RAMUS: I would, sir, have to go  
4 through the classification of these particular prisoners  
5 in order to give you that specific answer, as to the  
6 numbers.

7 JUDGE HARBOUR: Can you just estimate? Is it  
8 10 percent or 50 percent?

9 MR. DE RAMUS: I will estimate it as probably 60 to  
10 70 percent.

11 JUDGE HARBOUR: Are which category?

12 MR. DE RAMUS: The high security.

13 JUDGE HARBOUR: 60 to 70 percent are the high  
14 security?

15 MR. DE RAMUS: Yes, sir. I would estimate it.

16 JUDGE HARBOUR: Thank you.

17 JUDGE HOYT: Do you have any other questions  
18 that you wanted to ask, Mr. Otto, or Miss Ferkin?

19 MR. OTTO: I would like to just indicate that  
20 the institution at Camp Hill is not within the ten-mile  
21 plume zone of a nuclear facility and, therefore, it is  
22 my understanding our reporting requirements with regards  
23 to an evacuation plan were somewhat different.

24 Additionally, it is my understanding there  
25 wasn't really a plan in place when Three Mile Island had an

1 incident, and it was put together at that time as well.

2 JUDGE HOYT: This is really the first time you  
3 have ever had one like this, isn't it?

4 MR. OTTO: It is my understanding that this  
5 may be the first time in the entire country that there is a  
6 maximum security, walled institution within the ten-mile  
7 plume zone.

8 JUDGE HOYT: And it had to be our case.

9 (Laughter.)

10 MR. OTTO: If I might, I could ask  
11 Deputy Commissioner DeRamus, are you familiar with the  
12 Bucks County Institution or prison?

13 MR. DE RAMUS: Yes, I am.

14 MR. OTTO: Have you been present at that  
15 institution?

16 MR. DE RAMUS: Yes, I have.

17 MR. OTTO: And I believe it is very clear in  
18 your affidavit that you worked at the institution at  
19 Greaterford. Would you describe to the Commission the  
20 differences you have observed in those two correctional  
21 facilities?

22 MR. DE RAMUS: The Bucks County institution has a  
23 capacity of approximately -- I am going to say  
24 approximately 100 and some, 200 and some inmates; wherein,  
25 Greaterford has a capacity of 2,000 inmates. So that is just

1 a comparison as to numbers.

2 I have forgotten specifically what the capacity  
3 of Bucks County would be at this particular time.

4 The present population in Greaterford is 2360  
5 inmates presently at that particular institution.

6 JUDGE HOYT: Would you give me that again, please?

7 MR. DE RAMUS: 2360.

8 MR. OTTO: Is hat number rapidly growing?

9 MR. DE RAMUS: Yes, it is.

10 MR. OTTO: Could you comment as to what the  
11 Pennsylvania Prison Society is and whether or not that  
12 entails having care, custody, and control over maximum  
13 or medium security inmates?

14 MR. DE RAMUS: No.

15 The Pennsylvania Prison Society does not have  
16 care, custody, and control of inmates. To my knowledge,  
17 it is an organization that was established to aid inmates  
18 as far as being humane to them and they are kind of a  
19 watch dog organization in the state of Pennsylvania.

20 To my knowledge also, it was established and it  
21 is legislated to visit the prisons and evaluate them and  
22 make recommendations for change.

23 MR. OTTO: I have nothing further.

24 JUDGE HOYT: Do you have anything, Miss Ferkin?

25 MS. FERKIN: No, your Honor.

1 JUDGE HOYT: Mr. Love, do you have --

2 MR. LOVE: Yes, a few questions.

3 Mr. DeRamus, isn't it true that the individuals  
4 who are currently incarcerated in Greaterford, be they  
5 capital cases, be they life sentences, those individuals  
6 that committed those crimes in Bucks County were all at  
7 one time in the Bucks County Jail? Would that be a  
8 correct statement to make?

9 MR. DE RAMUS: If they are from Bucks County, yes.  
10 At some point or another, they would have come through  
11 Bucks County.

12 MR. LOVE: So then it is quite probable that  
13 Mr. Case has had custody of quite a number of people  
14 over the years who have or perhaps are still incarcerated  
15 in Greaterford State Correctional Institute; is that correct?

16 MR. DE RAMUS: That is correct.

17 MR. LOVE: Do you have personal knowledge of  
18 Mr. Case.

19 MR. DE RAMUS: I know Mr. Case.

20 MR. LOVE: How long have you known him?

21 MR. DE RAMUS: Since -- I guess since he has  
22 been in Bucks County. When he first went to Bucks  
23 County, that is when I became knowledgeable of Mr. Case.

24 MR. LOVE: Do you consider Mr. Case a  
25 trustworthy individual?



1 MR. DE RAMUS: Yes.

2 MR. LOVE: Do you have any reason to believe  
3 that he might breach a protective order, if the court  
4 allows him to review unsanitized version of this plan?

5 MR. DE RAMUS: No.

6 MR. LOVE: You indicate that --

7 JUDGE HOYT: I didn't hear the answer.

8 MR. DE RAMUS: No. I don't have any reason  
9 to believe that he would do anything.

10 MR. LOVE: You indicated that you were involved  
11 in the sanitization of this plan; is that correct?

12 MR. DE RAMUS: Yes.

13 MR. LOVE: If I might ask you one or two  
14 questions about this plan.

15 In Section G on page E17, dealing with the SCIG  
16 infirmary, it states, "The SCIG infirmary has a  
17 capacity for deleted patients."

18 MS. FERKIN: Your Honor, before Mr. Love  
19 continues, the witness does not have a copy of the  
20 plan in front of him.

21 JUDGE HOYT: Would you provide him one, please?

22 MR. LOVE: Could Miss Mulligan approach the  
23 witness with the plan?

24 JUDGE HOYT: Yes.

25 (Miss Mulligan approaches the witness.)



1 MR. LOVE: Do you see the section to which I  
2 am referring, the first sentence?

3 MR. DE RAMUS: Yes.

4 MR. LOVE: You stated earlier that it was your  
5 belief that the information deleted is not in the public  
6 domain and has not been published in any other source;  
7 is that correct?

8 MR. DE RAMUS: To my knowledge.

9 MR. LOVE: And are you saying that the number  
10 of patients or the capacity for patients in the  
11 Greaterford Hospital is not knowledge of public domain?

12 MR. DE RAMUS: To my knowledge, it is not. I  
13 don't have any reason to believe otherwise, sir.

14 MR. LOVE: Are you familiar with a publication  
15 entitled Greater Friends that comes out through a  
16 volunteer network at the station correctional institute  
17 at Greaterford?

18 MR. DE RAMUS: Yes, I am.

19 MR. LOVE: Are you familiar with the December '84-  
20 January 1985 issue?

21 MR. DE RAMUS: I am not sure.

22 MR. LOVE: I apologize for not having copies of  
23 this document. I would like to show the witness the  
24 document.

25 JUDGE HOYT: Very well.

1 (Miss Mulligan approaches the witness.)

2 JUDGE HARBOUR: Mr. Love, is this an inmates  
3 newspaper?

4 MR. LOVE: It is a volunteer's newspaper.  
5 People from the community who volunteer their time in the  
6 institution publish this in a bi-monthly basis, I believe.

7 JUDGE HARBOUR: But they are not inmates?

8 MR. LOVE: No. They are not inmates. There  
9 are contributions by inmates to the newsletter.

10 JUDGE HARBOUR: I assumed inmates could  
11 volunteer also.

12 MR. LOVE: Yes.

13 Mr. DeRamus, the third last paragraph on  
14 page 10, I believe it states, "The extended care or  
15 recovery unit has a 25-bed capacity."

16 Is that correct?

17 MR. DE RAMUS: I am not sure.

18 MR. LOVE: Well --

19 MR. HASSELL: Staff would have some concern  
20 to the extent that Mr. Love may be propounding a question  
21 that regardless of the answer may, in the witness' mind,  
22 involve a breach of security.

23 I sense that from the witness' response, so  
24 I am not sure that this area of examination --

25 JUDGE HOYT: Yes. Mr. Otto, your witness should

1 be protected in that fashion.

2 It is not the intention of this Board,  
3 which is faced with a very difficult problem, and we  
4 simply have to have something more than input that we  
5 have had. But we don't want to, at the same time,  
6 in any fashion disclose any information that is secure  
7 information to the Commonwealth of Pennsylvania.

8 MR. OTTO: Thank you very much.

9 I wasn't sure as to my ability to make  
10 objections along those lines, but certainly --

11 JUDGE HOYT: You are urged to do so, sir, in  
12 order to protect that.

13 MR. OTTO: Thank you.

14 Obviously, either in confirming or denying this  
15 to be an accurate figure, it would reflect upon the  
16 security interests involved in this case.

17 JUDGE HOYT: Yes. Thank you, Mr. Hassell, for  
18 noting that.

19 Mr. Love, I think we are going to have you  
20 steer away from that.

21 MR. LOVE: Could I just ask one further question  
22 regarding this issue?

23 JUDGE HOYT: You can ask it, but first let me  
24 hear it.

25 MR. LOVE: I would like to know what possible

1 -- why how many beds in the infirmary at Greaterford  
2 has to be classified information?

3 JUDGE HOYT: I have no idea, Mr. Love. That is  
4 because I don't know from an expert point of view.  
5 This witness does know from an expert point of view,  
6 and he does not wish to answer it. Therefore, I am  
7 not going to --

8 MR. LOVE: Could I just repose then one of  
9 my earlier questions?

10 JUDGE HOYT: Let's hear what it is.

11 MR. LOVE: I would like to know if he still  
12 feels that all the information deleted from this portion  
13 is still not within the public domain.

14 JUDGE HOYT: Would you respond to that, please?

15 MR. DE RAMUS: I am not sure of that, sir.

16 JUDGE HOYT: I think that was the answer originally  
17 as well, Mr. Love. And it hadn't changed.

18 I don't think it is either.

19 MR. LOVE: I have nothing further at this time.

20 JUDGE HOYT: Does FEMA have any questions?

21 MR. HIRSCH: Your Honor, FEMA supports the  
22 position of the staff which has been represented in the  
23 staff's response. FEMA has no questions of this witness.

24 JUDGE HOYT: That is the first time that has  
25 been noted that FEMA did take that position. Thank you



1 for advising us today of that.

2 Mr. Hassell, do you have anything?

3 MR. HASSELL: In terms of questions from this  
4 witness?

5 JUDGE HOYT: Yes.

6 MR. HASSELL: I think I may have a few, one  
7 or two.

8 JUDGE HOYT: Go ahead.

9 MR. HASSELL: Mr. DeRamus, would your background  
10 and experience at the state correctional facility in  
11 your opinion give you any insight if you were being  
12 considered for a position with a federal correction facility?

13 MR. DE RAMUS: Yes.

14 MR. HASSELL: I have no further questions.

15 JUDGE HOYT: Do you wish to ask any, Mr. Conner?

16 MR. CONNER: I have one, just a clarifying  
17 question. I am a little worried about the state of  
18 the record.

19 Mr. De Ramus, you were asked a question by  
20 Mr. Love about the fact that the Bucks County Jail  
21 would have held people who now may be in Greaterford or  
22 were in Greaterford coming from Bucks County.

23 Do I understand that your answer was referring  
24 to situations where they would be held in the Bucks  
25 County Jail prior and during trial and prior to sentencing



1 or did you wish to suggest that there was some other  
2 arrangement whereby convicted felons who would otherwise  
3 go to Greaterford would stay in the Bucks Jail for  
4 some reason?

5 MR. DE RAMUS: Your interpretation is correct, sir.

6 They are in Bucks County prior to conviction.  
7 After conviction, they come to the state system, if  
8 they have more than five years on their maximum sentence.

9 MR. CONNER: I gather that is the same way  
10 all over Pennsylvania?

11 MR. DE RAMUS: Yes, sir.

12 That is the law.

13 MR. OTTO: We also have provided some statistical  
14 information in our response filed today regarding the  
15 types and numbers of inmates housed at the Bucks County  
16 Prison during Mr. Case's stint as warden, and also  
17 information regarding the types and numbers of inmates  
18 maintained at the state correctional institution in  
19 Greaterford for the last years we have statistics that  
20 are published.

21 If I could have one further question from this  
22 witness?

23 JUDGE HOYT: Yes.

24 MR. OTTO: Deputy Commissioner DeRamus, would  
25 you please explain to the Board what a county prison does if

1 they have a problem inmate, someone acting out, or something  
2 of that effect?

3 MR. DE RAMUS: If a county prison has a  
4 problem with an inmate, if he is a security risk or  
5 if he is acting out and in a manner, if he is a medical  
6 inmate that they can't handle locally, they will ask  
7 us to take these particular individuals under our  
8 custody.

9 We have what is known as a transfer petition  
10 that they will petition me, in particular, to take  
11 these particular inmates because they have -- of the nature  
12 that I just previously mentioned.

13 Normally, we would do so.

14 MR. OTTO: Was this procedure in effect when  
15 Mr. Case was warden of Bucks County Prison?

16 MR. DE RAMUS: Yes, it was.

17 MR. OTTO: Does this procedure apply to pretrial  
18 inmates, post-conviction inmates?

19 MR. DE RAMUS: Yes, it does.

20 We use the term HVAs, holding for various  
21 authorities.

22 MR. OTTO: And I think we might have a little  
23 explanation of the term "acting out" for the people who  
24 are not used to this type of language. What does  
25 acting out mean?

1 MR. DE RAMUS: Okay. The inmate could be a violent  
2 type of inmate who has either brutalized other inmates  
3 or the staff.

4 MR. OTTO: Is it a possibility that an inmate  
5 is an escape risk another reason that they can be  
6 transferred to the state prison?

7 MR. DE RAMUS: Sure.

8 MR. OTTO: I have nothing further.

9 JUDGE HOYT: It wasn't the intention to  
10 omit Miss Mulligan who is representing LEA here, and  
11 if you want to ask a question, Miss Mulligan.

12 MS. MULLIGAN: Thank you, Judge Hoyt.

13 Do you know, does Mr. Case have a top  
14 secret Q ranking?

15 MR. DE RAMUS: I'm sorry. I have no knowledge  
16 or have no idea what that is.

17 MS. MULLIGAN: That is all. Thank you.

18 JUDGE HOYT: Mr. Love, you seem to have  
19 another question.

20 MR. LOVE: Two follow-up questions with  
21 respect to Mr. Conner's point.

22 Is it also true that while Bucks County would  
23 transfer individuals to Greaterford if they were problems,  
24 isn't it also true that Greaterford quite frequently transfers  
25 individuals to Bucks County for various things such as PCHA  
petitions, witnesses in cases, or a new case, things of this  
nature?

#7-mn-1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. DeRAMUS: They go as a result of court orders but not because Graterford transferred them.

MR. LOVE: But they do go there.

MR. DeRAMUS: The sheriff picks them up and takes them. There is a court order.

MR. LOVE: Regardless of their sentence.

MR. DeRAMUS: We don't have any authority.

MR. LOVE: So Bucks County then holds state prisoners from time to time on a regular basis, correct?

MR. DeRAMUS: Very few.

MR. LOVE: One further point. I assume that every county jail must an evacuation plan for fires and things of this nature, is that correct?

MR. DeRAMUS: I am not sure and I don't think it is true.

MR. LOVE: Through state law aren't they mandated evacuation plans for fires?

MR. DeRAMUS: I am not sure but I don't think it is true. We are revising the standards that will mandate emergency plans for all kinds of disasters.

MR. LOVE: Nothing further.

JUDGE HOYT: Ms. Ferkin, could you enlighten the Board what PEMA has done with this Graterford plan?

MS. FERKIN: What FEMA has done with it?

JUDGE HOYT: Yes, as to review.



mn7-2

1 MS. FERKIN: Prior to making any distribution of  
2 any version of the plan, FEMA reviewed it for its completeness  
3 of adequacy and ability to protect the safety of the inmates.

4 JUDGE HOYT: In presenting your case, you did not  
5 give us any indication of what findings if any PEMA had  
6 reached on that as to the adequacy of the plan, the plan  
7 being the Graterford plan. Could you do that before we  
8 close this record out?

9 MS. FERKIN: May we have a moment please, Your  
10 Honor.

11 JUDGE HOYT: Surely. Take as long as you need.

12 (Counsel for the Commonwealth and PEMA conferring  
13 off the record.)

14 JUDGE HOYT: All right. Ms. Ferkin, could you  
15 help me with that? The question is, what has PEMA done  
16 as to the review of the Graterford evacuation plan to  
17 determine the adequacy of the plan?

18 MS. FERKIN: As I indicated earlier, Your Honor,  
19 PEMA and the Department of Corrections -- it is now by the  
20 way a department and not a bureau.

21 JUDGE HOYT: Whatever that means, congratulations  
22 but let's answer the question.

23 MS. FERKIN: PEMA and the Department worked  
24 together in the development of the plan. There are certain  
25 aspects of the plan specifically security-related aspects the



mn7-3

1 Department has knowledge and expertise in. The Department's  
2 satisfaction with those aspects of the plan was key as far  
3 as PEMA was concerned. PEMA was concerned with other  
4 aspects of the plan particularly the evacuation routing  
5 that it, as an emergency response agency, would have the  
6 knowledge and expertise to determine whether it is adequate

7 So PEMA and the Department together believe the  
8 plan as it now stands is adequate to protect the inmates  
9 in a radiological emergency.

10 JUDGE HOYT: All right. Let's go over to FEMA  
11 now. Have you reviewed the plan? We didn't hear anything  
12 from your witnesses, Mr. Hirsch, as to what if anything had  
13 been done with the Graterford plan.

14 MR. HIRSCH: Your Honor, today was the first time  
15 I realized that FEMA had received a copy of a less expurgated  
16 version of the plan. To my knowledge Mr. Asher and Mr. Kinard  
17 have not reviewed the plan. I base that on their not having  
18 discussed this issue with me. I didn't realize that Your  
19 Honor was looking to the FEMA panel to address this panel in  
20 the hearing last week.

21 JUDGE HOYT: We had assumed that because you  
22 did not address the issue that it was simply one that you  
23 had not yet met but you don't know --

24 MR. HIRSCH: I don't know what the FEMA position  
25 would be and I didn't raise that issue with the FEMA panel

mn7-4

1 because I didn't think they were in the admitted contentions  
2 along these lines to be addressed by that panel when they  
3 testified last week.

4 JUDGE HOYT: Would it be possible for you to get  
5 a telephone call to Mr. Asher. I think they are here in  
6 Philadelphia.

7 MR. HIRSCH: Yes, they are. If I could excuse  
8 myself now, I would be happy to.

9 JUDGE HOYT: All right. Get what if anything  
10 FEMA has done with the Graterford plan.

11 MR. HIRSCH: I will find out right away.

12 JUDGE HOYT: All right.

13 JUDGE COLE: Mr. Hassell, do you know if the  
14 NRC staff received anything other than the sanitized version  
15 that was submitted to the Board?

16 MR. HASSELL: Not to my knowledge.

17 JUDGE COLE: Thank you.

18 MS. FERKIN: Your Honor, may I make just one  
19 comment based on Judge Cole's question.

20 JUDGE HOYT: Certainly.

21 MS. FERKIN: The directive that came from the  
22 Board I believe in the April 20th, 1984 order did not direct  
23 the Commonwealth to make a version of the Plan available to  
24 anyone except counsel for the prisoners and the Commonwealth  
25 did so and made it available to FEMA and the counties for

1 their own particular reasons based on their own particular  
2 duties.

3 JUDGE HOYT: Yes, I understand that. Mr. Otto,  
4 could you speak for the Department of Corrections and I  
5 assume that you can as their counsel here, would there be  
6 any point in trying to reach an accommodation with these  
7 prisoners and their counsel, Mr. Love, in releasing somewhat  
8 more than the sanitized version we now have but something  
9 less than the complete plan that would under a restrictive  
10 protective order satisfy the needs of the Department of  
11 Corrections as to the security and yet permit sufficient  
12 information to be available for counsel and the inmates to  
13 pose any contentions that they may wish to do?

14 MR. OTTO: Your Honor, unfortunately the short  
15 answer is I doubt it. I can give you some reasons if that  
16 would help for that position.

17 JUDGE HOYT: All right. Give me the reasons then.

18 MR. OTTO: Initially after discussing this with  
19 the Commissioner and the Deputy Commissioner for Corrections  
20 it is their expert opinion and it is supported in the  
21 affidavits that Mr. Case is not an expert in the field  
22 sufficient to properly or give any kind of an opinion as to  
23 the adequacy of our plan.

24 Obviously the information contained in our plan,  
25 the unsanitized version, we have utilized the same type of

mn7-6

1 procedures that we do on a daily basis. That is what we do  
2 for a living is move inmates and house inmates and certainly  
3 we are using those same types of procedures in our evacuation  
4 plan and if those were disclosed not only would we have the  
5 risk of disclosure not only during like an evacuation plan  
6 itself -- not only would we worry about how much the plan  
7 has been compromised at that time, but we would also have a  
8 daily fear that the inmate will have found out what types  
9 of restraints, the number of restraints, the number of  
10 correctional officers, the types of vehicles that are  
11 going to be used to transport them.

12 We do not give notice to our inmates as to when  
13 they are going to be transferred. They find out essentially  
14 the split second before they are transferred. This is for  
15 security reasons.

16 It is somewhat of an environment that is hard to  
17 describe adequately the types of security concerns. The  
18 information that is contained in the plan although Warden Case  
19 has a very high security clearance, if he can't comment  
20 accurately on the plan as to whether it is good or bad or  
21 adequate or inadequate or whether it will provide for the  
22 safety of the inmates or not, he is another person who  
23 has access to the plan and is at risk. He is another person  
24 who could disclose it.

25 JUDGE HOYT: Are you saying then that a protective



1 order is not sufficient with the consequences of violating  
2 a protective order a rather drastic course of action?

3 MR. OTTO: It could result in any range of  
4 possibilities from an escape of an inmate who is being  
5 transferred, an escape of an inmate from our Graterford  
6 Institution. I suspect that is probably one of the least  
7 dangerous possibilities. Obviously, death to our employees  
8 and the public-at-large is always at risk if a plan is  
9 compromised.

10 I don't want to sound melodramatic but I also  
11 want to emphasize the consequences that are there if the  
12 plan is compromised and also if it is disclosed at all  
13 to our inmates. It is by definition an adversarial  
14 type situation and at this point I think it is fair to say  
15 that the Department of Corrections does not believe that  
16 the counsel for the inmates has provided an expert who can  
17 actually provide useful commentary.

18 One example of that is certainly if someone had  
19 experience in developing evacuation plans or handling these  
20 types of inmates, they could come up with a list of things  
21 that they wanted to know more about, a specific list.

22 Yet, apparently the expert for the inmates has  
23 not been willing to do so. He wants to see the entire plan  
24 first.

25 JUDGE HOYT: Mr. Otto, in response to a question



mn7-8

1 I asked Mr. Love on January 23rd and I am citing page 19,705,  
2 the question was asked for a specific list and Mr. Love  
3 responded in part by saying, "Our primary concern, of course,  
4 is the availability of the buses and the various equipment  
5 needed to evacuate and then the evacuation schedule and  
6 particulars as to how it would be accomplished. That is  
7 primarily what I would assume our expert would be interested  
8 in as he is an expert in security matters being the warden  
9 of Bucks County Prison for 15 years."

10 There is no possibility then that the State if I  
11 understand you correctly is willing to make available the  
12 knowledge of the availability of the buses and the various  
13 equipment needed to evacuate or the evacuation schedule?

14 MR. OTTO: Unfortunately, that is the very heart  
15 of the type of information that we would want to remain  
16 confidential and not be disclosed outside the department.  
17 Although, we have had to disclose it to PEMA.

18 JUDGE HOYT: In continuing in the dialogue that  
19 I had with Mr. Love on that day on page 19,706 Mr. Love  
20 said, "What we are concerned with as I just stated is a safe  
21 evacuation of the inmates to a site that is not in the  
22 surrounding area." Is that also knowledge that you would  
23 not impart to the counsel and the expert?

24 MR. OTTO: Yes, Your Honor. That is also  
25 that type of information.

mn7-9

1 JUDGE HOYT: Mr. Love continued by saying, "Now in  
2 order to accomplish that, there must be 'x' number of buses.  
3 There must be 'x' number of shackles, 'x' number of handcuffs,  
4 various weapons I would assume would have to be available to  
5 assume a safe transport." None of the above is matters that  
6 you would release to these prisoners even under a protective  
7 order?

8 MR. OTTO: That is correct.

9 JUDGE HOYT: That is the bottom line.

10 MR. LOVE: May I comment on Mr. Otto's remarks?

11 JUDGE HOYT: Yes, please.

12 MR. LOVE: Two points I would like to make,  
13 Your Honor. Initially as has been said, this is the first  
14 instance of a maximum security prison within the ten-mile  
15 radius of a nuclear plant so I think that should be taken  
16 into consideration when we talk about who is an expert in  
17 radiological evacuation plans. There are none because  
18 it has never come before a court before.

19 Mr. DeRamus, himself, I believe pointed out that  
20 he doesn't consider himself to be an expert in these matters.  
21 So I think I would like the court to take that into  
22 consideration when they do decide who is an expert.

23 I would also like to point out that after I filed  
24 my initial response after receiving the sanitized version,  
25 I did not disclose my expert and I believe the Applicant

1 indicated that I should be ordered to do so five days  
2 after a decision was made on whether this information was  
3 released or not. In an effort to speed up these proceedings  
4 and as a courtesy to Ms. Ferkin I identified my expert and  
5 supplied his curriculum vitae to her last week and today  
6 I received for the first time her response which indicates  
7 that they do not feel that Mr. Case is such an expert.

8 I would only ask the Board that I be able to  
9 respond after discussing with Mr. Case his various expertise  
10 if I could be allowed to give a more detailed response as to  
11 the issue of whether Mr. Case is a qualified expert.

12 JUDGE HOYT: Yes. I think the Board would take  
13 that pleading, Mr. Love.

14 MR. LOVE: Thank you.

15 JUDGE HOYT: That is perfectly proper. Did you  
16 have some comment, Ms. Ferkin?

17 MS. FERKIN: My only comment would be that Mr. Love  
18 identified his expert to me I believe it was on Wednesday  
19 and I think Mr. Love knew at that point that the Commonwealth  
20 would be responding to the issue of Mr. Case's expertise  
21 among other things.

22 JUDGE HOYT: I think we will take the pleading  
23 from Mr. Love though in fairness and to complete the picture.  
24 Mr. Conner, to come back to you a moment, the concern that the  
25 Board has is the applicant is into this matter and it is your

1 application that is on the horns of this dilemma. It is a  
2 matter of first impression anywhere in the country we have  
3 been able to find no additional information and research  
4 that we have been able to do, given the vital interest  
5 that PECO has in this matter, indeed the prime interest in  
6 the application, if the applicant wishes to submit anything  
7 in addition to participate in aiding this Board in reaching  
8 its decision, the Board will entertain such pleadings.

9 MR. CONNER: I would like if I may just to update  
10 our position right now.

11 JUDGE HOYT: Very well.

12 MR. CONNER: Of course, in our response just a  
13 month ago we noted the existence of the ALAB decisions  
14 which talked about obtaining the qualified expert.

15 JUDGE HOYT: You are talking about the Diablo  
16 Canyon decision?

17 MR. CONNER: Yes.

18 JUDGE HOYT: The security plan, site security  
19 plan?

20 MR. CONNER: And Catawba, a little bit. We  
21 responded on that basis and now I think that the judicious  
22 handling of this by the Board has brought us to a position  
23 where the matter can be disposed of because several things  
24 all apply here. But the Board said to the would be  
25 intervenors, the Graterford prisoners, I will call them, that



1 you have the opportunity know that you have the sanitized  
2 plan to come up with the list of information that you need.

3 Now granted the sanitized plan in and of itself  
4 is not repleat with deatil and numbers. However, Mr. Love's  
5 answers and the filings that have been made do demonstrate  
6 a couple of things. One, there is certainly enough  
7 information in the sanitized version for a bona fide expert  
8 on handling prisoners particularly during transportation,  
9 somebody who would really understand this to have come up  
10 with the list of things he should have to frame contentions.

11 That is a distinction, I think, that must be  
12 made between the bare sanitized plan and the handling of it  
13 by a real expert in penalogy or whatever the correct word  
14 may be, in any event evacuating prisoners.

15 Here I think the Graterford prisoners have made  
16 their fatal mistake. The Board has given them the  
17 opportunity over and over again, really over the years, to  
18 be prepared to come into this case to support the  
19 contentions that they have talked about. They should have  
20 long since have been talking to Major Case or whomever else,  
21 that is not my department, to be prepared when the time  
22 came to come in. The Board has given them this opportunity.

23 They have not responded to the opportunity.  
24 They have only come in and said we need all the plan. That  
25 is a little suspect because Mr. Love himself irrespective of



mn7-13

1 what the validity of that newspaper type document that he  
2 referred to has with regard to data. He has indicated a  
3 knowledge of how the system really works. Now given that  
4 knowledge, he is an expert in this area, Mr. Love from a  
5 legal aspect, given that knowledge there is no reason why  
6 the Graterford prisoners could not have come up with what  
7 the Board gave them the opportunity to come up with, the  
8 list of the information, the list of needs that they would  
9 need to frame contentions. They have not done that.

10 They have merely said we need the whole plan.  
11 On this basis, we feel that they have failed to qualify  
12 as parties in this proceeding.

13 With regard to Mr. Case, we would have to agree  
14 that he has not made the showing that is required as an  
15 expert in this area. He has not shown that he is  
16 qualified in medium and maximum security prisoners to handle  
17 them on a transportation or certainly on a large scale basis.

18 The fact that he may have moved 39 prisoners  
19 for a work detail has nothing to do with moving almost ten  
20 times that many included the hardened felons from Graterford  
21 if that were ever necessary.

22 Moreover, he hasn't even shown he knows much  
23 about transporation as such. He knows nothing about radiation  
24 as such but here again that is hardly a significant matter  
25 for the plan because this is something, there are plenty

mn7-14

1 of experts to advise someone in charge of evacuation what  
2 to do.

3 So our point boils down to the fact that if  
4 they had a qualified expert he could have met the Board's  
5 opportunity to frame contentions or to provide the list  
6 of information. Having failed to do that, we submit  
7 that the petition of the Graterford prisoners should be  
8 dismissed and that the case go forward.

9 MR. LOVE: May I make two comments with regard  
10 to that?

11 JUDGE HOYT: Are you finished, Mr. Conner?

12 MR. CONNER: Yes. If you wanted to ask me about  
13 the status of the proceeding, obviously it is well established  
14 throughout this record, I think, that the mere cost of money  
15 alone for this is costing a million dollars per day for  
16 every day of delay and that has to ultimately be born by the  
17 ratepayers so that it is in everybody's interest to get this  
18 matter expedited. This is not something to be resolved at  
19 leisure.

20 I think everybody knows that except perhaps  
21 Mr. Love and that is why I am really making that point again,  
22 that it is urgent to us to conclude this proceeding. If the  
23 proceeding goes forward, we will have no alternative but to  
24 request an exemption from having the Graterford prisoner  
25 evacuation plan in the decision of the Board and would be

1 exempt -- the emergency plan be exempt on that point until  
2 ultimately resolved.

3 JUDGE HOYT: All right. Mr. Love.

4 MR. LOVE: Yes. With regard to Mr. Conner's  
5 remark that I have made some sort of fatal mistake. I  
6 point out that we filed our petition to intervene in  
7 September of 1981. It is now three and a half years later  
8 or four and half years later, whatever, and we didn't get  
9 this plan until December 20th.

10 Five days ago you requested me to find out  
11 some additional information regarding what my expert  
12 would need to review the plan. I placed a telephone call  
13 no more than an hour after you had made that request.  
14 Mr. Case was boarding a plane for Pittsburgh where he was  
15 leaving for five days.

16 I briefly reviewed the situation to him and  
17 he reiterated his position that he felt the entire plan  
18 was necessary.

19 He returned last night. I called him at his home.  
20 I asked him if he could be here today to respond in person,  
21 however, he had a meeting of the Pennsylvania Prison Society  
22 who is attempting to find a new director at 1:30 this  
23 afternoon and could not be in attendance.

24 Therefore, I take exception to Mr. Conner's  
25 remark that we have in any way, shape or form attempted to

1 delay this proceeding.

2 I don't want to get into an argument about the  
3 economics of this situation. There are many sides to this  
4 issue and that I am just going to let pass.

5 JUDGE HOYT: All right.

6 MR. CONNER: I would like to clarify the record.  
7 If I said that Mr. Love was delaying the hearing in the  
8 past, I did not mean it. I mean that it is important to  
9 us that the licensing not be delayed and that he had been on  
10 notice that the need of expert testimony would be required  
11 and that is what should have looked into some time before.

12 MR. HIRSCH: Your Honor, could I give you an update  
13 with respect to my call to Mr. Kinard?

14 JUDGE HOYT: Yes, please.

15 MR. HIRSCH: FEMA here in Philadelphia did  
16 receive its version of the plan. We are not sure exactly  
17 when it was but to the best of Mr. Kinard's knowledge it was  
18 some time in November of 1984. The plan has not been  
19 reviewed by FEMA and at this time, the FEMA office in  
20 Philadelphia felt that its greatest priority was to now that  
21 the hearing is over to review -- for the purposes of interim  
22 findings pursuant to the request of the Nuclear Regulatory  
23 Commission review -- the updated versions of the school  
24 district, municipality and county plans which we hope  
25 to complete that review by May 1st of 1985 and Mr. Kinard



1 represented that it would be his intention at that time  
2 to review the Graterford plan.

3 JUDGE HOYT: In your review then of those  
4 county plans, that will be the entire state plan, am I  
5 correct on that? Will you have then had an opportunity  
6 to review all of the state plans?

7 MR. HIRSCH: I am not sure I understand your  
8 question. We will not have necessarily be reviewing the  
9 Graterford plan in the course of our review of the county,  
10 school district and municipality plans which review we hope  
11 to complete by May 1st of 1985.

12 JUDGE HOYT: Very well. In other words, the  
13 specialized plans.

14 MR. HIRSCH: Yes.

15 JUDGE HOYT: Very well.

16 MR. HASSEL: Judge Hoyt, I have just one brief  
17 comment if I may.

18 JUDGE HOYT: Yes.

19 MR. HASSELL: I believe you indicated that you  
20 were going to provide Mr. Love some time to speak to his  
21 expert to address some of these matters, is that correct?

22 JUDGE HOYT: I don't think we had indicated that  
23 at this time.

24 MR. HASSEL: I am sorry. I must have misunder-  
25 stood. In any event, I think at some point unless the

1 Commonwealth of Pennsylvania considers it a security breach,  
2 I think it would be helpful for an appeal if there were an  
3 appeal on this matter that a general description of the  
4 kinds of information that have been omitted from this plan  
5 would be helpful for this record at some point.

6 JUDGE HOYT: That would have to come from the  
7 expert witness of Mr. Love, is that what you are saying?

8 MR. HASSELL: No. That would have to come from  
9 the Commonwealth.

10 JUDGE HOYT: Oh, from the Commonwealth.

11 MR. HASSEL: A general description of the kinds  
12 of information omitted --

13 JUDGE HOYT: That is part of what I don't think  
14 they are to reveal if I understood Mr. Otto correctly.

15 MR. HASSEL: As I understand it and if I have  
16 heard it correctly, they don't want to provide the actual  
17 details. What I am getting at is that there are some  
18 instances where you cannot tell at least in my view just  
19 from reviewing the sanitized version of the plan what the  
20 nature of the information is. One can get a general  
21 description of that without indeed providing the details  
22 of what it is.

23 JUDGE HOYT: Right, Mr. Hassell, and you recall  
24 that that was the intial types of questions that I went into  
25 with Mr. DeRamus, Deputy Commissioner DeRamus, here because

1 those were matters that we were interested in getting. As  
2 I understood it and correct me if I am in error there,  
3 Mr. Otto, that you did not want to even reveal the headings  
4 of the various sections all of which had been totally  
5 blacked out in the sanitized version of the evacuation plan.  
6 Am I correct or did I misread you?

7 MR. OTTO: No. You are correct with regard to the  
8 information deleted although I believe we could give some  
9 generalizations. It really goes over the same types of  
10 things we were going through in the transcript earlier  
11 this afternoon.

12 The types of things that have been deleted are  
13 the manpower requirements for escorting the inmates, the  
14 manpower requirements for doing whatever has to be done at  
15 the institution itself, the Graterford Institution, the  
16 manpower requirements at our relocation center or centers.

17  
18  
19  
20  
21  
22  
23  
24  
25  
END#7

1           Also, what else has been deleted is the  
2 modes of transportation that the inmates will have, where  
3 those modes of transportation will come from, whatever  
4 types of escorts these inmates will have as they are  
5 traveling, be it -- well, whatever types of escorts they  
6 will have, what type of communications equipment and  
7 what frequencies the communications equipment would use,  
8 the nature and types of restraints, if any, that certain  
9 classifications of inmates will be required to wear,  
10 again, if any.

11           The way, when we were having these meetings,  
12 and I did attend the meetings when we were discussing  
13 what to do, we were attempting to give an unclassified  
14 version that would illustrate the existence of a plan  
15 and that the plan had touched upon all the things that we  
16 thought were necessary in order to provide for a safe,  
17 secure evacuation of our institution, protecting not  
18 only the public but the inmates as well, and our employees.

19           The information that was deleted, if you will,  
20 is the nuts and bolts, the very specific type information  
21 as to who goes first, who goes last, again, the other  
22 things that we were just talking about.

23           Those are the types of things that were  
24 deleted. And those are only the types of things that  
25 were deleted from the plan.



1 MR. HASSELL: That is helpful from the  
2 staff's view, for the record.

3 JUDGE HOYT: Yes, I think so, too,  
4 Mr. Hassell. Thank you --

5 MS. FERKIN: Your Honor, on that point you  
6 might also want to refer to our December 13, 1984  
7 request for nondisclosure. There is there also a very  
8 general description of the information that was deleted  
9 from the plan.

10 JUDGE HOYT: Yes, I think also in the affidavit  
11 accompanying the December 13 -- there was additional  
12 information of that nature also.

13 MS. FERKIN: That is correct.

14 MR. CONNER: It might be well to note in  
15 the transcript at this place -- I think it is obvious  
16 to everybody -- but the so-called sanitized plan was  
17 attached to the memorandum in support of the Greaterford  
18 Prisoner's motion of December 24 for full disclosure.

19 So it is in the record in that sense.

20 JUDGE HOYT: Yes, I remember that.

21 MS. FERKIN: Is it possible for us at this  
22 point to excuse Mr. Otto and Mr. DeRamus? They have an  
23 obligation in Harrisburg.

24 JUDGE HOYT: Yes. If there are other obligations,  
25 it is not the intention to prevail upon them to exceed their

1 normal schedules.

2 The matters that the Board has to consider  
3 and have been working with throughout this hearing has  
4 had some unanswered questions, perhaps mechanics as much  
5 as anything.

6 We thank you very much, Mr. Otto, and you,  
7 Commissioner De Ramus, for your time and for your  
8 consideration.

9 MR. OTTO: If we can provide any further  
10 information or any additional testimony, we are available.

11 JUDGE HOYT: Yes. And we thank you both,  
12 gentlemen, for your coming here and for giving so much  
13 of your time. It has been very helpful. We appreciate  
14 it a great deal.

15 I suppose this is a bit of a difference in  
16 the way we would handle it, but very frankly, this was  
17 the only way that the Board could figure out to get the  
18 people in here and get the information and have the  
19 dialogue that we have had here this afternoon.

20 Thank you, gentlemen. Appreciate it.

21 MR. OTTO: Thank you.

22 JUDGE HOYT: While Mr. Otto and Commissioner  
23 DeRamus are leaving us, temporarily, I hope, the Board  
24 is going to recess and we are going to try and reach  
25 a decision that we would like to announce this afternoon.

1 I think that would respond to your concern,  
2 Mr. Conner, and if we can. We have some matters that  
3 we are simply going to have to discuss, and we will  
4 ask the parties to please stay somewhere within the general  
5 vicinity here. We will act as expeditiously as possible.

6 As I am sure you will understand, it is a  
7 difficult problem and it is a very difficult solution  
8 that we have to come up with.

9 Thank you. We are in recess.

10 (Recess.)

11 JUDGE HOYT: The hearing will come to order.

12 We have, for some days, labored over this  
13 decision, but we will announce our result this afternoon  
14 with some brief remarks to you, and then we will follow  
15 this up by a published order and decision, memorandum of  
16 order and decision.

17 The entire Board denies the motion of the  
18 Greaterford inmates for the full disclosure of the  
19 Greaterford evacuation plan. We base our decision,  
20 which we announce today, on the following facts:

21 One, the movement has been repeatedly urged to  
22 specify the information they need based on expert opinion  
23 which is beyond that provided in the "sanitized" version.  
24 Even today, this has not been done.

25 Two, case law based on the site security plan,

XXXXXX

1 while a guide, does not meet the issue here where the  
2 Board is concerned with hardened criminals, many of whom  
3 are capital cases. The men of those responsible for  
4 these prisoners' safety and welfare, the department of  
5 corrections, have formulated an evacuation plan with the  
6 Commonwealth of Pennsylvania's experts on emergencies,  
7 including radiological emergency response plans,  
8 to best insure the safety of these prisoners,  
9 the prison staff and the general public whose welfare,  
10 even absent an emergency, would be impaired if this  
11 complete evacuation plan were to be disclosed.

12 Three, this case is one of first impression.  
13 The Nuclear Regulatory Commission is an agency in the  
14 business of regulating nuclear power. No member of  
15 this Commission's Board possesses any expertise whatsoever  
16 in matters dealing with the prisons and their welfare.

17 We, therefore, adopt what the Supreme Court  
18 said in the Bell case -- that is Bell versus Wolfish,  
19 441 US 52(1979). We defer to those prison administrators  
20 who are responsible for maintaining internal order and  
21 discipline. We, too, are ill equipped to deal with  
22 matters of safety to prisoners and the general public.  
23 And accordingly, defer to those responsible state agencies  
24 and authorities, who perform these functions well and true.

25 Four, the need to protect the general public far



1 outweighs the needs of the Greaterford prisoners to have  
2 present access to full details of an evacuation plan  
3 which is to be implemented only in the event that a nuclear  
4 accident were to occur at Limerick.

5 Five, any contention based on the detailed  
6 information contained in the plans would, if necessity,  
7 violate even the most rigidly drawn protective order.  
8 Certainly the Board does not hold to the belief that  
9 an attorney would overtly disclose the plans, but to  
10 discuss any matter, underline any matter, with the  
11 prisoners in framing your contention might lead to  
12 an inadvertent disclosure which would compromise the  
13 integrity of the plan.

14 In addition, any litigation of the full  
15 Greaterford plan would build a record of information  
16 susceptible to yet more disclosures and potential harm  
17 to the general public.

18 This concludes the basis of our . . . .

19 We will hold you, Mr. Love, to 20 days, if  
20 you wish to file any contentions based upon the  
21 sanitized version.

22 MR. LOVE: I would like to ask for a stay  
23 pending appeal, and if that is denied, as they have been  
24 in the past, then I will go ahead and file the contention  
25 within 20 days.

1 JUDGE HOYT: Very well.

2 Are you making that as an offer now, to ask for  
3 a stay now?

4 MR. LOVE: Yes.

5 JUDGE HOYT: Very well.

6 The stay of this order would be denied,  
7 Mr. Love.

8 MR. LOVE: Then I will file a contention within  
9 20 days.

10 JUDGE HOYT: Thank you.

11 Very well.

12 MR. LOVE: I will also appeal.

13 JUDGE HOYT: Yes, Mr. Love. You have exercise  
14 of your full rights, of course.

15 Do we have any additional matters to bring up?  
16 I think everyone has rested their case now.

17 Do we have any additional matters that need to  
18 be discussed here before we close this record on this  
19 phase of the case?

20 MR. LOVE: One further point. Does this in  
21 any way affect my ability to use Mr. Case as an expert  
22 regarding the unsanitized version?

23 JUDGE HOYT: The Board did not reach any  
24 finding, as you heard the basis of what we are holding  
25 on our ruling, Mr. Love, as to Mr. Case. That is not being

1 in this order or will not be discussed in this order.

2 MR. LOVE: Thank you.

3 JUDGE HOYT: Do we have anything more before  
4 we recess -- close the record?

5 (No response.)

6 May we go off the record a moment.

7 (Discussion off the record.)

8 JUDGE HOYT: Back on the record.

9 I think we have given the last ruling that had  
10 to be made.

11 The Board finds that this hearing has been  
12 concluded and matters regarding the evacuation have been  
-13 terminated with this hearing. The hearing of all  
14 contentions before this Board is complete.

15 Thank you.

16 The record is closed.

17 (Thereupon, at 4:41 p.m., the hearing in the  
18 above-entitled matter was closed.)

19

20

21

22

23

24

25

CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the  
UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: Philadelphia Electric Company  
(Limerick Generating Station,  
Units 1 and 2)

DOCKET NO.: 50-352-OL and 50-353-OL

PLACE: Philadelphia, Pennsylvania

DATE: Tuesday, 29 January 1985

were held as herein appears, and that this is the original  
transcript thereof for the file of the United States Nuclear  
Regulatory Commission.

(Sigt) Rebecca E. Eyster  
(TYPED)Marilynn Nations, Rebecca E. Eyster

Official Reporter

Reporter's Affiliation:

Ace Federal Reporting, Inc.  
Washington, D. C.