

ORIGINAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO: 50-289 (CH)

GENERAL PUBLIC UTILITIES NUCLEAR
(Three Mile Island Nuclear
Station, Unit Number 1)

LOCATION: HARRISBURG, PENNSYLVANIA

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13 Washington, D. C. 2003614 On behalf of the Nuclear Regulatory
15 Commission Staff:16 GEORGE E. JOHNSON, ESQ.
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18 U. S. Nuclear Regulatory Commission
19 Washington, D. C.

20 On behalf of TMIA:

21 MS. LOUISE BRADFORD
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25

P R O C E E D I N G S :

1
2 JUDGE MARGUILES: Please come to order. Good
3 morning, ladies and gentlemen. We have scheduled for today
4 the final prehearing conference in the proceeding docketed by
5 the Nuclear Regulator Commission as number 50-289 (CH) in the
6 matter of General Public Utilities Nuclear, Three Mile Island
7 Nuclear Station Unit Number 1. The object of the proceeding
8 as set forth in the Notice of Hearing of September 5th, 1985,
9 is to determine whether the condition imposed on the Charles
10 Husted, an employee of the utility, by the Appeal Board in
11 ALAB 772, disallowing him from having supervisory
12 responsibility for training unlicensed personnel should be
13 vacated and whether concerns about his attitude and integrity
14 should prevent him from future employment as a licensed
15 operator, licensed operator instructor or training
16 supervisor.

17 The purpose of this final prehearing conference
18 is to do in advance what is possible to permit a fair and
19 orderly disposition of the proceeding. To that end the
20 parties have already met on May 12, 1986, and they have come
21 to some agreements, some of which they are certain of, some
22 of which are tentative, which have been incorporated in a
23 letter dated May 19, 1986. It was prepared by Mr. Maupin,
24 and he sets forth what he believes to be the meeting of the
25 minds of the parties.

1 A copy was delivered to me at 9:30 last night.
2 I have reviewed it, and we will go into it right after we
3 take appearances.

4 Who appears for staff?

5 MR. JOHNSON: I am George E. Johnson, and I am
6 counsel for the NRC staff in this proceeding.

7 JUDGE MARGUILES: Who appears for Mr. Husted?

8 MR. MAUPIN: Michael W. Maupin, and M. Christina
9 Hensley.

10 JUDGE MARGUILES: Who appears for General Public
11 Utilities Nuclear?

12 MR. BLAKE: Ernest Blake, of Shaw, Pittman,
13 Potts & Trowbridge, of Washington, I am pinch hitting for Ms.
14 Bauser, who is ill today. With me is Mr. Scott Barat.

15 JUDGE MARGUILES: Thank you.

16 Who appears for TMIA?

17 MS. BRADFORD: Louise Bradford.

18 JUDGE MARGUILES: Have the parties seen the
19 letter?

20 MS. BRADFORD: Yes, sir.

21 MR. JOHNSON: Yes, sir.

22 MR. BLAKE: Yes, sir.

23 JUDGE MARGUILES: Good. Does it substantially
24 set forth the agreement between the parties, without going
25 into specifics? I assume there may be different nuances and

1 different emphases that you may wish to put on things or
2 change things. But, basically, does it comport to your
3 understanding?

4 MS. BRADFORD: I believe this is an accurate
5 representation of what took place at our meeting on the 12th.

6 MR. JOHNSON: I would agree. It's a faithful
7 representation.

8 MR. BLAKE: We agree.

9 JUDGE MARGUILES: I think it would simplify
10 things if we bound a copy into the record, and we would have
11 it there to refer to and there won't be any question about
12 it.

13 Do you have any additional copies, if the
14 reporter needs additional copies?

15 MS. HENSLEY: Yes, sir.

16 JUDGE MARGUILES: Thank you.

17 MR. MAUPIN: Perhaps I ought to say for the
18 record, Mr. Blake has pointed out to me that on page 4 of the
19 letter under item 6, the reference to a letter of February
20 12, 1986, should have been to a letter of February 17, 1986.

21 JUDGE MARGUILES: The change will be made. A
22 copy of the letter dated may 19, 1986, from Mr. Maupin to me,
23 will be bound into the record.

24 (The document follows.)

25

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Honorable Morton B. Margulies
Administrative Law Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
General Public Utilities Nuclear
(Three Mile Island Nuclear Station, Unit No. 1)
Docket No. 50-289(CH)

Dear Judge Margulies:

Representatives of TMIA, GPU Nuclear, the NRC Staff and Charles Husted met in Harrisburg, Pennsylvania on May 12, 1986, and discussed the forthcoming prehearing conference. Mrs. Bauser and Mr. Barat (GPUN), Ms. Bradford (TMIA), Mr. Johnson (the Staff), and Ms. Hensley and I (Husted) were present. The participants agreed that I should report to you on the results of our meeting, and that is the purpose of this letter.

As was the case with our report of February 17, 1986, each of the other parties has seen only the first draft of this letter. They will see this copy only when you see it. If I have misstated any views, the matter can be dealt with at the prehearing conference.

1. Identification of witnesses.

Each party will call or may call the witnesses listed below under its name.

(a) Mr. Husted

Charles Husted
Mr. P
Paul Christman
Nelson Brown
Sam Newton
Robert Long

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(b) NRC Staff

Keith Christopher
Raymond Smith (Mr. Smith is ill, and it may
transpire that he will be unable to attend)
Peter Baci
Donald Haverkamp
William Ward
Richard Matakas

(c) GPU Nuclear

No witnesses planned at this time

(d) TMIA

If Messrs. Husted, P, Christman and Brown and all of the witnesses listed under (b) above appear at the hearing, TMIA will not seek the attendance of any other witness.

2. Confidentiality.

Mrs. Bauser reported at our meeting Mr. P's request that the parties agree to a mechanism that will provide some protection to the identity of Mr. P when he testifies. Mr. Husted does not oppose this wish. The Staff and TMIA took the tentative position that they are opposed to any mechanism that would deny public access to any part of the hearing. Ms. Bauser asked the Staff and TMIA to consider whether it would be acceptable to them if (a) the parties were to agree to continue to use the designation "P" during the hearing and (b) photographs were prohibited while Mr. P was on the stand. The Staff and TMIA responded that they would consider that proposal and be prepared to state their views on it at the prehearing conference.

3. Order of Proof.

The parties agree that it would be most helpful to the Board and in the compilation of a relatively orderly record if the live testimony were to proceed roughly on an issue-by-issue basis. Accordingly, the parties recommend the order for live testimony set out below. The parties recognize that this approach will require Mr. Husted to take the stand three times. The parties also recognize the possibility that duplicative cross-examination could result, but the parties believe that the proposed Trial Plan requirement, discussed below, will tend to avoid most such problems. The parties propose that the pre-filed testimony of

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each witness be offered into evidence as a whole when he takes the stand.

<u>Issue</u>	<u>Order of Witnesses</u>
Solicitation of exam answer	Baci and Ward (panel) P Husted
Attitude, forthrightness and cooperation	Stipulation of fact (see Item 8, below) Christopher and Smith (panel) Christman Matakas Husted
Husted's performance	Haverkamp Brown Newton Long Husted

The parties further agree that on the date when pre-filed testimony is required to be filed, each party should serve on you and on the other parties a relatively simple Trial Plan, which should consist of a list of the party's affirmative case witnesses, whether the case is made on direct or on cross-examination, and the subjects on which each will testify. For example, Mr. Husted would file a list of his witnesses and the subject matters on which each would testify, while TMIA would submit for each witness a list of the subject matters into which it would propose to inquire on cross-examination.

4. Order of cross-examination

The parties recommend that Mr. Husted's witnesses be cross-examined in the following order: first by GPU Nuclear, then by the Staff, and finally by TMIA. Staff witnesses should be cross-examined first by TMIA, then by GPU Nuclear and finally by Mr. Husted.

5. Stipulation of documents.

The parties exchanged or compiled lists of proposed documents at the meeting on May 12. Each has agreed to study the others' proposals and respond promptly. Our self-imposed goal for agreeing on a stipulation with respect to the admission of

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documents into evidence is May 23, 1986. We can report that, with respect to the great majority of the documents proposed by the parties, we do not anticipate any disagreement about admission.

6. Identification of issues.

The parties remain content with the statement of factual issues set out in my letter to you of February 12, 1986, under Item 2(b).

7. Pre-filed testimony.

The parties presently anticipate that each witness who plans to appear will serve written, pre-filed testimony on the other parties and on you.

8. Stipulation of fact.

The parties are attempting to reach agreement on a stipulation of fact with respect to the attitude that Mr. Husted appeared to convey during his December 10, 1981 appearance before the Special Master. The Staff presented a draft of such a stipulation at our May 12 meeting. I provided the parties with a revised draft on May 13. The parties anticipate that we can reach a suitable agreement on this matter. We will make every effort to do so by May 20, and if we miss that deadline we will try to have it completed by May 23, when we also hope to have the stipulation with respect to documents completed.

9. Prior testimony.

The parties believe that the question of admissibility of prior testimony has now reduced itself to a matter of the prior testimony of three witnesses, namely Messrs. Ward, P and Husted.

(a) Mr. Ward

Mr. Husted's position is that Mr. Ward's testimony should not be admitted as a whole for any purpose. The Staff will not offer Mr. Ward's testimony unless Mr. Ward appears as a witness. GPU Nuclear agrees with Mr. Husted's position. TMIA's position is that Mr. Ward's prior testimony should be admitted as a whole for the purpose of establishing the truth of its contents regardless of whether Mr. Ward appears.

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(b) Mr. Husted's position with respect to Mr. P's testimony is identical to his position with respect to Mr. Ward's testimony. The Staff believes that Mr. P's testimony should not be admitted for the truth of the matters asserted therein unless he appears at the hearing. GPU Nuclear's position is identical to that of Mr. Husted. TMIA's position is identical to its position with respect to Mr. Ward's testimony.

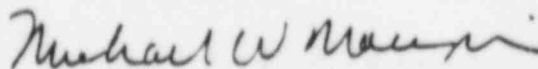
(c) Mr. Husted

Mr. Husted's position is that his prior testimony is admissible for the purpose of establishing, in connection with the forthrightness issue, what his prior testimony was. The Staff agrees with Mr. Husted's position. GPU Nuclear also agrees with this position but wishes to undertake an effort to identify more precisely those portions that should be admitted for this purpose and those that are irrelevant for this purpose. TMIA's position is identical to its position with respect to the testimony of Messrs. Ward and P. GPU Nuclear will attempt to identify the portions of Mr. Husted's testimony that should be admitted for the purpose of establishing his prior testimony and report back to the parties promptly.

10. Schedule.

The parties agreed to recommend to you that the date for filing pre-filed testimony be extended to June 9, 1986. As I reported above, we will attempt to complete a stipulation as to documents and a stipulation of fact on the question of attitude by May 23, 1986.

Yours very truly,


Michael W. Maupin

42/341

cc: Secretary, USNRC,
Attention: Chief, Docketing
and Service Section
Deborah B. Bauser, Esq.
George E. Johnson, Esq.
Ms. Louise Bradford
Atomic Safety and Licensing Board Panel
Atomic Safety and Licensing Appeal Board

1 JUDGE MARGUILES: We will proceed with each of
2 the paragraphs. If there are any differences or anything
3 that needs clarification, we will do so.

4 In paragraph 1, Ms. Bradford, you say if those
5 people appear at the hearing you will not seek the attendance
6 of any other witnesses.

7 Is it your intention to call any of these
8 individuals as witnesses, if you can tell us?

9 MS. BRADFORD: TMIA had identified the first,
10 Mr. Husted, Mr. P and Mr. Brown as witnesses they intend to
11 call, in addition to the staff witnesses listed there. That
12 was prior to having reviewed some of the documents that were
13 a part of the package that Mr. Husted was requesting a
14 stipulation on those documents.

15 If in fact -- I believe, and I don't want to
16 jump ahead, because there is a section ---but TMIA would want
17 to question additional witnesses, were those documents
18 introduced.

19 JUDGE MARGUILES: Let me back up a little. You
20 say if they appear you will not seek their attendance, which
21 deals with their being present at the hearing. My question
22 goes as to whether you intend to call them as witnesses, or
23 you will just cross-examine them.

24 MS. BRADFORD: I will just cross-examine them if
25 they appear as the witnesses of another party.

1 JUDGE MARGUILES: Is there anything else in
2 regard to paragraph 1 that the parties may wish to discuss?

3 MR. JOHNSON: Yes, sir. I have a few days ago
4 talked to Raymond Smith, and he informs me that his doctors
5 don't recommend his travel, and he believes that he is too
6 ill to testify. He is very seriously ill.

7 And so I advised him, if possible, to supply us
8 with a written statement from the doctor. And he said he
9 would attempt to do that, but it would take a few days. And
10 so I hope to have that.

11 But the staff doesn't intend to produce Mr.
12 Smith, because he's very seriously ill.

13 JUDGE MARGUILES: Thank you.

14 We next move to paragraph 2, Confidentiality.
15 Do the parties have anything further they wish to add to the
16 paragraph?

17 MR. JOHNSON: Yes. The staff has considered the
18 proposal, the alternative proposal made by counsel for GPU
19 Nuclear, and that is that no pictures be made of Mr. P while
20 he testifies and that his name not be used; the designation
21 Mr. P be used. And we agree to that form of protection.

22 MS. BRADFORD: Judge Marguiles, TMIA is not
23 prepared to agree to the proposals that were offered by GPU.

24 MS. BAGGETT: In 10 CFR 2.751 it requires a
25 public hearing. Could you tell us, Mr. Blake, what your

1 authority is for seeking to proceed on that basis?

2 MR. BLAKE: It wasn't our intention to make it
3 anything less than a public hearing in every respect, that
4 is, with his appearance and the public allowed to attend and
5 fully reported and transcribed and available to anyone
6 thereafter. So I don't know that by using the designation or
7 by limiting the pictures we have really offended the policy
8 in favor of public proceedings.

9 On the other hand, it is simply an attempt to
10 follow up on this fellow's request to us, here, not because
11 he is being questioned about his particular role or
12 integrity, but rather as a factual witness for us so that we
13 can have a complete record.

14 He's just worried about his family and the
15 prospects of having a higher profile than would be necessary
16 in this area. And if we could accomplish it, I think frankly
17 we would wind up with a more comfortable witness and,
18 therefore, a more complete record.

19 In terms of legal foundation for the request to
20 be made, I guess I see none, Judge Marguiles. And to the
21 extent because of TMIA's objection to it we are unable to
22 proceed this way, and there is more notoriety that attaches
23 to this or a higher profile attaches, I am disappointed. And
24 I hope that it doesn't lead to his discomfort by whatever
25 comfort he gets out of this vehicle resulting in a less

1 adequate record than we otherwise would all have available to
2 us.

3 JUDGE MARGUILES: Has he ever appeared in a
4 proceeding without using the designation "P?"

5 MR. BLAKE: Not to my knowledge. He did appear
6 during the course of the restart proceeding and he appeared
7 using the designation P there. Whether or not he was ever
8 deposed or appeared as a witness in any other litigation, I
9 don't know, Judge Marguiles. I can't think of any at the
10 moment.

11 Now, it's not as though his confidentiality
12 still attaches even from that restart proceeding. In a
13 subsequent phase of the restart proceeding that
14 confidentiality was removed for virtually all of the
15 individuals, he included. So Mr. P as a name and that it has
16 been disclosed publicly is known, and there is not a -- you
17 are not going to breach some prior confidentiality agreement.
18 It's simply a matter of the profile that would attach to his
19 appearance.

20 JUDGE MARGUILES: You are not representing him
21 here today, Mr. Blake, are you?

22 MR. BLAKE: No, I represent GPU Nuclear. As an
23 employee, he came to us and made that request.

24 JUDGE MARGUILES: I will reserve decision on
25 that.

1 Is there anything else under paragraph 2?

2 MR. JOHNSON: Your Honor, the staff initially
3 opposed the first suggestion of GPUN that the proceeding be
4 made in camera. We felt that this was inconsistent with the
5 regulation which requires public hearings, except for proper
6 showing. So we initially opposed the request.

7 But after some discussion in our previous
8 meeting, this alternative was suggested, and we felt that it
9 preserves the public nature of the hearing while protecting
10 legitimate privacy interests of this particular individual.
11 So we determined that it would be appropriate to agree to the
12 stipulation of this limitation.

13 JUDGE MARGUILES: Wouldn't you say it's unusual,
14 Mr. Johnson, as a practice?

15 MR. JOHNSON: It's unusual, yes. We had a
16 similar situation in the Catawba proceeding in the Quality
17 Assurance issue, where there were some craftsmen from the
18 Catawba plant who were willing to testify on the so-called
19 Welder B issue. But while they were willing to testify in
20 public session, did not want any pictures taken of them,
21 presumably so that their fellow workers would not be able to
22 recognize them.

23 And so I wasn't completely surprised at such a
24 proposal, because individuals seek to protect themselves and
25 their families at the same time coming forward with evidence

1 in a proceeding. So that particular case seemed like a close
2 analogue to this one.

3 JUDGE MARGUILES: Let's move on to 3, the Order
4 of Proof. If this procedure best meets the position of the
5 parties, I have no objection to it.

6 In terms of the trial plans, does that extend to
7 exchanging information on cross-examination in terms of what
8 you plan to go into on cross-examination?

9 MS. BRADFORD: Judge Marguiles, I think it was I
10 who brought up the trial plan at the meeting of the parties.
11 And what I recall when we used this method before was that
12 there would just be areas designated by each name. Mr. Blake
13 can correct me if I am wrong.

14 JUDGE MARGUILES: And that is satisfactory to
15 the parties?

16 MR. MAUPIN: That is my understanding.

17 JUDGE MARGUILES: It would involve exchanging
18 the information among all the parties, including the area of
19 cross-examination to the extent that you expect to develop
20 it?

21 MR. MAUPIN: Yes.

22 JUDGE MARGUILES: As long as that is understood
23 by everyone, I have no problem with it.

24 MS. BRADFORD: I had only one hesitation. In
25 other proceedings there have been objections to TMIA asking

1 questions. And I see that there is a comment in here
2 concerning duplicative cross-examination. I just want to
3 make sure that if we use this method, TMIA will not be
4 foreclosed from duplicative cross-examination that comes
5 about as a result of using this method of presentation.

6 JUDGE MARGUILES: What would be your purpose in
7 asking duplicative questions?

8 MS. BRADFORD: Well, it might be that -- excuse
9 me. I was incorrect in using the term "duplicative"
10 cross-examination.

11 It might be that a witness is appearing on one
12 issue, but that he might have information or TMIA might
13 believe that information could be developed on another issue.
14 That might be the only time that the witness would be
15 appearing, and so although he was appearing to testify on a
16 discrete issue, TMIA would reserve the right to question him
17 on another issues.

18 JUDGE MARGUILES: What do the parties have to
19 say about that?

20 MR. MAUPIN: My own memory of our meeting is
21 that that sort of questioning was permissible. We groped
22 around for some process by which the cross-examiner would
23 give advance notice to other counsel in the case of their
24 intent to ask a witness questions on subjects other than the
25 one on which that witness was principally prepared to

1 testify. And we arrived at this trial plan idea precisely
2 with that thought in mind.

3 For example, I think I used the hypothetical
4 case in our meeting when we were discussing the potential
5 problem we foresaw, what if one, Mr. Johnson has designated
6 witnesses here that would testify on direct testimony on the
7 subject of solicitation of exam answers, what if Ms. Bradford
8 wanted to ask those witnesses whether they had any knowledge
9 of Mr. Husted's performance of his job assignments from 1980
10 to 1985, for example.

11 I think we agreed that that questioning would be
12 permissible, provided that Ms. Bradford would advise us in a
13 general way in the trial plan that she intended to ask the
14 staff witnesses on solicitation those questions on staff
15 performance.

16 MS. BRADFORD: My only reservation, Judge
17 Marguiles, goes to the fact that information might be
18 developed during the proceeding, itself, which I had not been
19 able to anticipate in my trial plan. And in that case I
20 would not want to be foreclosed from questioning a witness at
21 his only appearance.

22 But what I am saying is that information might
23 be developed that would require that TMIA ask questions on an
24 issue for which the witness was not appearing.

25 JUDGE MARGUILES: What would preclude TMIA from

1 making the witness her own witness? Is there anything in the
2 agreement that would preclude that, assuming that she didn't
3 describe it in her plan in terms of what she intended to
4 cross-examine the witness on totally?

5 MR. MAUPIN: I guess my reaction is, why would
6 she do that under this arrangement? It seems to me that the
7 arrangement we have here would enable each of us to elicit
8 the testimony that we wish to elicit or hope to elicit from
9 each of the witnesses.

10 JUDGE MARGUILES: Well, if there are any
11 surprises, we will handle them as they come up. The plan
12 seems to be sufficiently comprehensive.

13 Moving on to paragraph 4, the Order of
14 Cross-Examination, have the parties contemplated how the GPU
15 or the TMIA witnesses would be cross-examined, if any were
16 produced, or is that too speculative at this point and we
17 need not go into it?

18 MR. MAUPIN: I have in my mind that my notes,
19 which I do not have with me, will show that we did discuss
20 what we would do with respect to GPU Nuclear witnesses,
21 whether there would be any. But I don't remember what we
22 agreed upon, and I don't think we discussed what we would do
23 if TMIA were to produce --

24 MS. BRADFORD: I think other than a general
25 statement that the party most adversary to the party

1 presenting the witness would cross-examine last, would be
2 last in order, I don't think we discussed specifics.

3 MR. JOHNSON: That is my recollection, too, that
4 the one principle that came out was that which Ms. Bradford
5 mentioned.

6 MR. MAUPIN: My hunch is that if either of those
7 parties was to produce a witness, we could agree using the
8 guideline Ms. Bradford just described fairly readily.

9 JUDGE MARGUILES: Of course, we can't anticipate
10 every possibility and there is no reason to attempt to, and
11 the solution is adequate.

12 Moving on to paragraph 5, Stipulation of
13 Documents. It appears that the parties will be able to get
14 together on that item. Is there any comment?

15 MS. BRADFORD: I am not as hopeful as Mr. Maupin
16 appears to be in his last sentence. At the time that we met
17 was the first opportunity, in fact, when Mr. Maupin
18 distributed the list of proposed documents that Mr. Husted
19 would be presenting.

20 And since that time I have had an opportunity to
21 examine those documents. And it's TMIA's position that if
22 those documents were introduced, we would not be able to
23 stipulate to them, and would need to cross-examine the author
24 of the documents.

25 JUDGE MARGUILES: Does that change things, Mr.

1 Maupin?

2 MR. MAUPIN: Well, I think what that may well
3 change, that could very well change the list of witnesses
4 under item 1, it seems to me.

5 I suppose, well, I had hoped that the parties
6 could talk after this prehearing conference to some extent
7 about the documents we discussed at the last meeting. It
8 would be important to me, for example, to know whether every
9 person, whether TMIA would insist on having every person who
10 has signed everyone of these documents.

11 A great number of them are evaluations that were
12 done over the years. They are typically signed by an
13 immediate supervisor, who I think in most cases would have
14 filled the document out, then signed off on again by a
15 supervisor of that supervisor and then perhaps signed off on
16 by still a superior supervisor.

17 If what Ms. Bradford is saying is that in case
18 of every document she would want every person produced who
19 signed those documents, that would frankly seem unnecessary
20 to me.

21 If she is saying that the principal author of
22 the document ought to be produced, it may well be that when
23 we sit down and compare the documents against the witness
24 list already proposed, that we will find that witnesses will,
25 in the natural course of things, be available to sponsor and

1 answer questions about the lion's share of these documents.

2 MS. BRADFORD: Judge Marguiles, I am most
3 interested in the principal author. Since I -- and I might
4 be incorrect here, but I have made the assumption that the
5 reviewer of the document has discussed with the principal
6 author before the -- the document before they signed off on
7 it. So that the person of interest would be the principal
8 author.

9 I looked through this list, and I see that some
10 of the principal authors of these documents are already
11 identified as witnesses. And I see from the revised listing
12 that Mr. Newton is now a definite, definitely going to be
13 produced as a witness.

14 There are others, however, who are principal
15 authors of documents and at this point they are not
16 anticipated as witnesses. I think that -- TMIA feels it is
17 extremely important that they be allowed to cross-examine
18 those principal authors of these documents. We would not be
19 interested in the reviewers.

20 JUDGE MARGUILES: From what time on would you be
21 interested in having the principal authors present?

22 I don't know what timeframe you are speaking
23 about in terms of the documents, but if they go back before
24 the alleged incidents, would you need the principal authors
25 for something like that?

1 MS. BRADFORD: I believe so, because this is,
2 again, just a presumption on my part, but I assume that Mr.
3 Husted is seeking to make a case that he, prior to his '81
4 appearance and investigation was an adequate or better than
5 adequate worker as demonstrated by his evaluations.

6 And the listing here goes back to '78. I think
7 that's the earliest date. I am not sure. And we would
8 expect or we would want to cross-examine the authors of
9 every -- of all of these documents that Mr. Husted intends to
10 introduce.

11 MR. BLAKE: Judge Marguiles?

12 JUDGE MARGUILES: Yes. .

13 MR. BLAKE: I believe that GPU Nuclear
14 supplemented some discovery responses as recently as last
15 week which took some of these evaluations back to the '74
16 timeframe. I think there were just a handful of them, maybe
17 four.

18 MS. BRADFORD: Right.

19 MR. BLAKE: That's the timeframe. Is it your
20 position you would want to go back to whenever?

21 MS. BRADFORD: If, indeed, Mr. Husted intends to
22 introduce those documents --

23 MR. BLAKE, Therefore, you would want to
24 cross-examine all the way back?

25 MS. BRADFORD: Exactly.

1 MR. BLAKE: Okay.

2 JUDGE MARGUILES: Is there any point in
3 discussing it further at this time?

4 MR. MAUPIN: I don't think so. We might, if we
5 get a break at some point this morning, we might talk among
6 ourselves for a moment about how we might proceed. Perhaps
7 we could come up with some sort of suggestion to you before
8 we terminate this conference.

9 JUDGE MARGUILES: That won't present any
10 problem.

11 Am I correct, Ms. Bradford, that your concern
12 only relates to the evaluation reports? I don't know what
13 other documents you intend to stipulate as to.

14 MS. BRADFORD: I believe all of these documents
15 are evaluation reports of one type or another.

16 MR. MAUPIN: I think that's true, with the
17 possible exception of some notes of an interview of one
18 witness. But I believe there would be an independent basis
19 for admitting those.

20 JUDGE MARGUILES: Moving on to 6, Identification
21 of Issues. That does not require any discussion that I can
22 see.

23 MR. JOHNSON: The staff only had a comment. We
24 agreed to the order. We propose grouping the issues in this
25 manner, because we felt that the crux of the question on

1 attitude, forthrightness and cooperation was whether Mr.
2 Husted withheld information during the first interview with
3 the NRC investigators, or the second interview with NRC
4 investigators, or at the hearing.

5 And, therefore, since the overall question was
6 did he initially, and then did he continue, or at some later
7 point withhold pertinent information which he should have
8 presented, that these issues were all enter related in that
9 fashion and that it would be useful to look at these issues
10 in that light.

11 MS. BRADFORD: Judge Marguiles, I don't have the
12 February 17th letter with me here today. But inasmuch as,
13 and I am not quite sure, what I believe Mr. Johnson to be
14 saying is that the attitude issue was not an issue here, is
15 that --

16 MR. JOHNSON: I did not say that.

17 MS. BRADFORD: Okay. Then I will reserve my
18 comment until I have an opportunity to reread item 2 B.

19 JUDGE MARGUILES: If you want to take a look at
20 the letter, you may do so.

21 MS. BRADFORD: Thank you.

22 (Pause.)

23 JUDGE MARGUILES: Do you have anything further
24 on that, Ms. Bradford?

25 MS. BRADFORD: No, no, I don't.

1 JUDGE MARGUILES: Seven, the Prefiled Testimony.
2 In regard to the prefiled testimony, do all the parties agree
3 to continue with the hearing date of June 23rd?

4 There has been no discussion to change that
5 date, has there?

6 MR. JOHNSON: No, sir

7 MR. MAUPIN: I want to raise in connection with
8 that this possible problem. One of the witnesses, Mr.
9 Newton, had advised us that he might have to serve on active
10 reserve duty during the week of June 23rd. He advised Ms.
11 Hensley, on Friday when I was over there at the office, that
12 that has now become a fact.

13 Indeed, he is scheduled to serve on active duty
14 on the entire week of the 23rd, and I have not talked with
15 him since she received that message. I therefore don't know
16 whether he would be able, for example, to peel off the last
17 day of his reserve duty, perhaps, and come here for a hearing
18 or on some earlier day.

19 One of the questions I wanted to raise this
20 morning just without knowing whether the answer would turn
21 out to be important, is whether the parties, well, it's
22 foreseeable to me that the hearing could be completed, say,
23 by the 26th without Mr. Newton's -- otherwise completed
24 without Mr. Newton's having appeared, and we want him to
25 appear.

1 I wonder if it would be agreeable to the parties
2 and whether they have an available date during the week of
3 the 30th in which he might appear.

4 Let me be quick to say, to reemphasize, I don't
5 know when he might be available during the week following his
6 return from active reserve duty. I am simply asking whether
7 it would be acceptable to you, if necessary, to have an
8 additional appearance during that following week and, if so,
9 whether there is any day we ought to avoid in talking with
10 him.

11 JUDGE MARGUILES: Well, I think it's important
12 that we go ahead with the June 23rd date. Everything is
13 geared to that date. And for one witness, we shouldn't delay
14 the hearing.

15 If need be, I don't see any problem in terms of
16 coming back the following week, if we can come up with a date
17 that is agreeable to the parties. Certainly, if we could fix
18 a time for him to come in and, if necessary, take him out of
19 turn, let's do so during the week of the 23rd.

20 MR. MAUPIN: I will make that my first priority.
21 If that can't be done, are there any dates that I should -- I
22 assume that you would prefer to get it done as quickly during
23 the week of the 30th as possible, if it's necessary to do it
24 that week, at all.

25 JUDGE MARGUILES: Well, for me, it doesn't have

1 to be on Monday. But let's get it over with that week.

2 MR. MAUPIN: All right.

3 MR. JOHNSON: That is the 4th of July comes
4 during that week.

5 MR. MAUPIN: It comes pretty late that week,
6 doesn't it?

7 MR. BLAKE: Friday.

8 MR. JOHNSON: It comes Friday.

9 JUDGE MARGUILES: Is the witness' reserve duty
10 in this area, do you know?

11 MR. MAUPIN: I think when we last talked he told
12 us that there were several possible duty stations. I believe
13 he told us he thought that he would end up in New England or
14 Norfolk.

15 MS. HENSLEY: Norfolk, Virginia.

16 JUDGE MARGUILES: I think it would be unlikely
17 that he would be able to make it in -- during the week of the
18 23rd.

19 MR. MAUPIN: I am afraid that may be the case.

20 Well, I haven't heard any date I should avoid
21 during the week of the 30th except the 4th, thus far.

22 MS. BRADFORD: I would just like to comment that
23 as soon as possible, the earliest possible date, since I,
24 personally, there is A board, or at least sitting on the
25 steam tube issue. And their hearing is somewhat geared to

1 how soon this hearing is completed.

2 And I had given them a date as to when I thought
3 this hearing would be completed, and I would be free to
4 participate on that date. Should that schedule slip in any
5 way, I would need to notify that board. So I would
6 appreciate as soon as possible some indication of when Mr.
7 Newton could appear.

8 MR. JOHNSON: Could I just ask what were the
9 dates of his reserve duty?

10 MR. MAUPIN: The week of the 16th and the week
11 of the 23rd.

12 MR. JOHNSON: Thank you.

13 MR. MAUPIN: All right, then, I will try for the
14 week of the 23rd. And if that is impossible, I will try to
15 arrange for his appearance as early as we can during the week
16 of the 30th. I will report to you all as soon as I have a
17 recommendation.

18 JUDGE MARGUILES: Thank you. The parties
19 understand that the prefiled testimony is due June 1st.

20 MR. MAUPIN: Well, we had a recommendation to
21 you in paragraph 10 of this letter that I call your attention
22 to.

23 JUDGE MARGUILES: I don't have any problem with
24 that June 9th date.

25 How would that affect you, Mr. Johnson, in terms

1 of advising the parties and myself as to what position you
2 plan to take in the proceeding? Will that affect you, any?

3 MR. JOHNSON: Yes.

4 JUDGE MARGUILES: My recollection was that you
5 were to notify us within seven days of the start of the
6 hearing.

7 MR. JOHNSON: Right.

8 JUDGE MARGUILES: Would that affect you, any?

9 MR. JOHNSON: It would, but I think we can still
10 do that.

11 MS. BRADFORD: I notice that the requirement of
12 filing of trial plans, which in the draft of his document was
13 to be scheduled at the same time as the filing of prefiled
14 testimony, is no longer there. And I am wondering if that
15 was just an omission, or if there was some reason why that
16 has been --

17 MR. MAUPIN: I think it simply appears at a
18 different place, doesn't it? It appears in the -- on page 3
19 it says, "The parties agree on the date when prefiled
20 testimony is required to be filed. Each party should serve
21 on you and on other parties a trial plan."

22 MS. BRADFORD: Excuse me. I am sorry, Mr.
23 Maupin.

24 JUDGE MARGUILES: We will change the date for
25 filing the testimony to June 9th, 1986. That is the due

1 date. We will not change the requirement that as the staff,
2 in terms of notifying the parties and me as to your position
3 in this matter.

4 MR. JOHNSON: Yes, sir.

5 JUDGE MARGUILES: Do the parties wish to comment
6 as to 8, Stipulation of Fact?

7 MR. MAUPIN: May I say one more thing on item 7?

8 JUDGE MARGUILES: Yes.

9 MR. MAUPIN: This really may not be necessary.
10 I think item 7 was intended to say that for each witness
11 who's designated in this document, that is, the March 19th
12 document as a witness or potential witness we would file
13 prefiled testimony.

14 It may well be depending on the outcome of our
15 talks of documents and supporting witnesses for those
16 documents and given the time constraints that we would not
17 want to file prefiled testimony for each of the witnesses
18 whose sole purpose is to be cross-examined about documents.

19 I suggest we discuss that among ourselves along
20 with the question of additional witnesses who might appear
21 for that purpose and then report back to you on whether we
22 think they should have prefiled testimony.

23 JUDGE MARGUILES: That sounds like the sensible
24 thing to do.

25 Do the parties wish to comment as to the

1 stipulation of fact?

2 MS. BRADFORD: TMIA has a comment, Judge
3 Marguiles.

4 JUDGE MARGUILES: Please make it.

5 MS. BRADFORD: TMIA could not be a party to the
6 stipulation as it now exists. It is TMIA's position that
7 this proposed stipulation tends to trivialize the issue of
8 attitude, which was a fundamental part of the appeal board's
9 decision to impose the condition. And as such, I am somewhat
10 concerned that the issue would not be treated adequately in
11 this proceeding.

12 JUDGE MARGUILES: How does the stipulation read
13 as to what he testified to, question and answer?

14 MR. MAUPIN: What the stipulation attempted to
15 do, I think the stipulation was born in the idea that the
16 appearance that one gave at some time in the past while
17 speaking in some particular place is a matter that is sort of
18 difficult of proof.

19 If we could agree among ourselves for the sake
20 of moving this proceeding along, that the appearance the
21 witness gave at that time in the past to a reasonable
22 observer, if that could be agreed on, then we could move on
23 to the more substantive matter or perhaps more important
24 matter of what prompted the witness to appear the way he did
25 and what stresses was he under, what pressures was he under.

1 We are simply just trying to see if we can reach
2 some basis for getting the fact of how he would have been
3 perceived at that time by a reasonable person out of the way.
4 It does not jump out at one from a reading of the transcript.
5 I mean, just speaking hypothetically, one can read the
6 transcript and what was said in the past and sometimes miss
7 the flavor of what was being seen by the observers.

8 We were simply trying to reach agreement as a
9 factual matter for purposes of this record on what was being
10 seen from time to time by reasonable observers.

11 MR. JOHNSON: Your Honor, I was the one that
12 initially proposed the stipulation. And it was my feeling, I
13 agree with Mr. Maupin's comment. But also, it appeared to me
14 from reviewing the record that the parties were in essential
15 agreement as to how Mr. Husted appeared at the former
16 proceeding.

17 And as a result of the agreement there didn't
18 seem to be much utility to get the observers of his testimony
19 to testify to what people were willing to stipulate. And so
20 it would save time and resources and simplify the trial to
21 stipulate. It's a standard type of thing one would seek to
22 stipulate to. I would hope we could still do that.

23 I don't know what Ms. Bradford's problem is, but
24 it was drafted and Mr. Maupin redrafted parts of it. In
25 order to limit the stipulation's covering to the appearance

1 so that the proof of those things as to which people may
2 reasonably disagree could be adduced at the hearing, that was
3 what in fact was Mr. Husted's attitude and what were his
4 motivations and what bearing that may have on the ultimate
5 issues. It seems to me that is a reasonable position, given
6 the circumstances.

7 JUDGE MARGUILES: Is it something you feel you
8 still can negotiate, Ms. Bradford?

9 MS. BRADFORD: Well, I think it depends in part
10 on the next issue, issue 9, which deals with the introduction
11 of portions of the record.

12 But in addition to that, if this stipulation
13 does not take into account Mr. Husted's attitude at the time
14 of his investigation and the deposition, all of which were --

15 This is not an insignificant issue. It was, as
16 I said before, one of the reasons that the decisionmakers in
17 the earlier proceeding arrived at the decisions that they
18 made. And I would not want to stipulate away or to, as I
19 said before, trivialize that issue. It is part of an overall
20 pattern.

21 And I think in large part it will depend on
22 whether those portions of the record, the previous record,
23 are made a part of this record, which the record, of course,
24 will speak for itself as to Mr. Husted's attitude at the
25 hearing.

1 JUDGE MARGUILES: I think it would be
2 appropriate to take a 10-minute recess at this point. This
3 is not the recess for you to conduct your negotiations on
4 those evaluation reports, but just an opportune time to take
5 a 10-minute recess.

6 (Recess.)

7 JUDGE MARGUILES: Moving to 9 A, as to Mr.
8 Ward's testimony, are these three different positions by Mr.
9 Husted, TMIA and staff?

10 What I am getting at, is Mr. Husted saying under
11 no circumstances should Mr. Ward's testimony be admitted in
12 its entirety?

13 MR. MAUPIN: Yes, sir, at least none that I can
14 think of. And I have not been very satisfied with this
15 statement, to tell you the truth. I am sad to say I couldn't
16 improve on it much.

17 The reason I used the words "as a whole," I was
18 simply trying to distinguish between a wholesale admitting of
19 the testimony for the purpose of proving the truth of its
20 contents on the one hand, and on the other a use of it for, a
21 use of parts of it for particularized purposes contemplated
22 by the rules of evidence. Impeachment, for example, I
23 suppose being the most notable use one might anticipate.

24 JUDGE MARGUILES: Do you agree with that, Mr.
25 Johnson?

1 MR. JOHNSON: Well, we have a slightly different
2 position, I believe. We don't contemplate introducing all of
3 his testimony, wholesale.

4 Unfortunately, I haven't had an opportunity to
5 talk to Mr. Ward at this time, so I really do need to do that
6 before I determine what his testimony is going to look like.

7 But one of the possibilitys that we might pursue
8 is that he might wish to adopt certain portions of his
9 testimony, in which case his prefiled testimony might
10 incorporate that prior testimony, which would then, perhaps,
11 constitute part of his prefiled testimony in this proceeding.
12 And we would seek to introduce that as substantive evidence
13 in this proceeding.

14 JUDGE MARGUILES: You wouldn't be looking to do
15 that in terms of his testimony as a totality, that
16 everything --

17 MR. JOHNSON: Probably not. Apart from what --
18 In other words, we are treating this as you suggested, as a
19 de novo proceeding, in which the prior record doesn't have
20 any standing, apart from its getting into evidence in this
21 proceeding.

22 It seems to me that any document that Mr. Ward
23 prepared prior to this proceeding he could adopt as his
24 prefiled testimony, and then be questioned on it. I mean,
25 subject to its admissibility, and he may do that.

1 JUDGE MARGUILES: Then your position is closer
2 to Mr. Maupin's than to Ms. Bradford's?

3 MR. JOHNSON: Yes, in that sense. We would not
4 suggest that his testimony ought to be admitted as some kind
5 of independent evidentiary thing.

6 MS. BRADFORD: Judge Marguiles, I might just
7 point out that Mr. Ward's testimony as a whole, I think, as
8 it is stated here, that TMIA, TMIA's position is that it
9 should be admitted as a whole, that's a little misleading.
10 Only as Mr. Ward testified with regard to issues surrounding
11 Mr. Husted, not the whole of his testimony which had to do
12 with other issues in the prior hearing.

13 JUDGE MARGUILES: Well, I could only discuss
14 this very tentatively, because I haven't seen the testimony
15 and I don't know how it will be offered or for what purpose
16 it will be offered. But it's clear to me that to put in any
17 portion of it, Mr. Ward will have to be there in terms of
18 testifying at the oral hearing. That his prior testimony
19 could not be placed in the record for the truth of it without
20 him appearing and standing cross-examination on his
21 testimony.

22 To the extent it would be admissible, it would
23 depend upon the circumstances as to whether it's subject to
24 any exclusionary rules or not. We would have to look at it
25 in those terms.

1 Do you require any further discussion of it, or
2 does that satisfy the parties?

3 MR. JOHNSON: It satisfies me, Your Honor.

4 JUDGE MARGUILES: Ms. Bradford?

5 MS. BRADFORD: Well, I am a little disadvantaged
6 because I don't know, you have just said it is subject to
7 exclusionary rules, and I expect I need to look at those
8 exclusionary rules, since I am not familiar.

9 JUDGE MARGUILES: When I say exclusionary rules,
10 exclusionary rules of evidence, such as hearsay and relevancy
11 and things of that sort.

12 I would make the same ruling in regard to B, as
13 to Mr. P's testimony.

14 It would appear to me in regard to C, all the
15 parties are in agreement. Is that correct? The only
16 difference among the parties is zeroing in on the more
17 relevant testimony. And I would agree with the position of
18 the parties.

19 MR. MAUPIN: I am not sure we are as close
20 together as you might have inferred, Your Honor. If I
21 understand --

22 Well, my position is that the prior testimony is
23 admissible for the purpose of demonstrating what it was. If
24 we are going to confront, for example, an issue of
25 forthrightness, we have to ask, forthrightness of what? And

1 in order to determine what, we have to have the prior
2 testimony before us.

3 I believe, though she can speak for herself, my
4 impression is that the position of Ms. Bradford on this issue
5 is that Mr. Husted's testimony, any of his prior testimony
6 that is in any way relevant to any of the issues in this
7 proceeding, ought to be admitted as a whole for the sake of
8 proving the truth of what he said.

9 And except where, my view is except where one
10 might want to use that prior testimony for, for example,
11 impeachment, since Mr. Husted is going to be here to testify
12 anew, and to be cross-examined, I can't think of any reason
13 why his prior testimony ought to be admitted as a whole for
14 the purpose of proving the truth of what is in it.

15 MS. BRADFORD: Judge Marguiles, let me just
16 state that the problem I am having is that the further, we
17 are now five years beyond the time when that testimony was
18 given. Clearly, all of the witness' recollection of events
19 was better at the time. One's memory does not improve,
20 moving further away from the event.

21 And at the time all of these witnesses who are
22 anticipated here and listed under item 9 were cross-examined,
23 they were under oath. And each party, although I recognize
24 Mr. Husted did not have representation, did not have an
25 opportunity to cross-examine, but I would submit that GPU's

1 position at the time was almost identical to that of Mr.
2 Husted.

3 And these witnesses were cross-examined and
4 their testimony at that time was better just by the fact that
5 they had a better recollection or were closer to the event,
6 itself.

7 JUDGE MARGUILES: Well, I have ruled before and
8 will continue to rule in regard to Mr. Ward and Mr. P's
9 testimony, that it's something we are hearing de novo. Mr.
10 Husted was not represented at the proceeding. There is
11 nothing to indicate that he designated GPU to represent him.

12 And without Mr. P and Mr. Ward appearing to be
13 cross-examined, their prior testimony would not be
14 admissible.

15 Do you wish to be heard, Mr. Johnson, on Mr.
16 Husted's prior testimony?

17 MR. JOHNSON: Yes. It's a somewhat complicated
18 matter. But I think the question of Mr. Husted's
19 forthrightness at the prior proceeding cannot be litigated
20 without admitting the testimony to show what his testimony
21 was. The questions that were raised in people's minds, in
22 the adjudicators' minds had to do with his inconsistent
23 testimony and his credibility based on what he said. That is
24 a factual issue in this proceeding.

25 It's our position that we can't adjudicate that

1 question without having the record admitted for that purpose,
2 to have it in evidence to show what he said.

3 Our problem with admitting it for all purposes,
4 that is, to show the truth of the matters asserted, is that
5 it's a conundrum, in fact, that that's the very question that
6 is raised. That is, is it truthful testimony? So that if we
7 were to say it should be admitted for the truth of the
8 matters asserted, we go around in a circle and we get
9 nowhere, because if one assumes that it is inconsistent, then
10 what is the significance?

11 You could argue, I guess, that if we admit it
12 for the truth of the matters asserted, we would assume that
13 each inconsistent answer was truthful and, therefore, it's
14 inconsistent if they were indeed inconsistent, and we don't
15 really gain anything by saying let's admit it for the truth
16 of the matters asserted.

17 So our position was, let's get it in there so
18 that we can talk about it and determine whether it was
19 forthright or not.

20 JUDGE MARGUILES: How about to the extent the
21 statements are admissions against interest, if that may be
22 the case? Would you not admit those for the truth of the
23 matter?

24 MR. JOHNSON: I'd say that was a possible
25 theory, to avoid hearsay.

1 JUDGE MARGUILES: The answer may very well be
2 that we can't decide the matter for all purposes. We could
3 look to admitting it at this stage in terms of establishing
4 what his prior testimony was.

5 It may develop in looking at it that it goes
6 beyond that, that for some reasons it can be admitted for the
7 truth under established rules of evidence. And to the extent
8 that it cannot, it will not.

9 So I don't think we could make a blanket
10 decision with the information that we have before us, other
11 than going up to the point of saying that it is admissible to
12 establish what his testimony was and from which the
13 allegations have come out.

14 MR. JOHNSON: Yes, sir.

15 JUDGE MARGUILES: Mr. Blake, I haven't been
16 calling upon you, but I know that if you wish to be heard,
17 you would make yourself heard.

18 Now, with those rulings, Ms. Bradford, does that
19 help you any with paragraph 8, Stipulation of Fact?

20 MS. BRADFORD: Yes. My only concern was that
21 the issue of his attitude at the hearing not become divorced
22 from his attitude over the entire proceeding, that is, from
23 the time of the investigation.

24 And it just seemed to me that some of the
25 language here -- but, in any case, that would be cured by

1 having the testimony of Mr. Husted accepted into this record.

2 JUDGE MARGUILES: Well, at this point we are
3 just speaking about accepting it for limited purposes,
4 purpose of it establishing what he testified to. And not for
5 the truth of it for all purposes, depending upon what he
6 testified to and as to whether those areas are admissible
7 under the rules of evidence.

8 MS. BRADFORD: But it seems to me that his
9 attitude would be apparent and it would be a factual thing
10 from reading the prior record, that portion of the prior
11 record in which he testified. And under those circumstances
12 I would be in agreement to signing this stipulation.
13 Stipulate that in fact it does -- the prior record does show
14 that he appeared to have a poor attitude when he testified in
15 a prior hearing.

16 JUDGE MARGUILES: Well, I can't suggest whether
17 or not you sign that stipulation, Ms. Bradford. I explained
18 what my ruling is or what the ruling I expect to make is, and
19 I can't really go beyond that.

20 MS. BRADFORD: I understand. Perhaps I should
21 confer with someone else and prior to signing the
22 stipulation, or discussing it further with the other parties.

23 JUDGE MARGUILES: Is there anything further in
24 that area in terms of 9?

25 MR. JOHNSON: I think it was our understanding

1 that we would attempt to reach the stipulation by the end of
2 this week. And I would assume that if we don't, we would
3 inform you. Or if we do we will inform you.

4 JUDGE MARGUILES: We have discussed 10, the
5 schedule. With that, we have covered all the elements in the
6 letter.

7 I think it would probably be appropriate at this
8 time to take a 20-minute recess, or longer if you need it,
9 and discuss whatever you want that you think needs going over
10 before we adjourn for the day, including the matter of the
11 production of witnesses on those evaluation reports.

12 Will 20 minutes do it for you? Do you want half
13 an hour?

14 MR. BLAKE: Will you be in this room where we
15 can report to you?

16 JUDGE MARGUILES: Yes.

17 (Recess.)

18 JUDGE MARGUILES: Do you wish to report back on
19 your conference?

20 MR. MAUPIN: Well, first of all, Judge, with
21 respect to the stipulation of the fact as to attitude, we are
22 not going to reach an agreement on that today.

23 But we have an understanding whereby Ms.
24 Bradford will get back in touch with the other parties
25 through me, Friday. And if we end up with a stipulation, we

1 will of course file it with you.

2 With respect to the documents that we might wish
3 to have made a part of the record and any additional
4 witnesses that might be necessary to sponsor them, I think I
5 can report that I am tentatively of the view, and I doubt
6 this will change, that we can make an adequate case on the
7 issue of Mr. Husted's job performance through the witnesses
8 that we have already designated in the letter that we
9 delivered to you last night.

10 I think the parties believe that the most useful
11 thing to attempt to do, the most useful thing to do would be
12 to forego our efforts to agree on a stipulation as to
13 admissibility and, instead, to include in what we once
14 described as our simple little trial plan, an additional
15 item.

16 And that would be a designation of the documents
17 each of us will attempt to have admitted into evidence at the
18 hearing and include with the designation of those documents
19 the name of the witness through which we would hope to have
20 admitted each of those documents.

21 JUDGE MARGUILES: Well, it may not solve the
22 ultimate question, but it certainly eliminates the element of
23 surprise.

24 Is that the sum and substance of it?

25 MR. MAUPIN: We labored mightily and produced a

1 peanut.

2 JUDGE MARGUILES: Is there anything further?

3 MR. JOHNSON: No, sir.

4 JUDGE MARGUILES: I do want to express my
5 appreciation for the efforts that you have put forth, and it
6 shows. It may not be a hundred percent, but it's pretty
7 close. Thank you, very much.

8 We will recess until the hearing on June 23rd.
9 If there are any changes in your position, please notify me
10 as soon as you possibly can. Thank you, very much.

11 (Whereupon, the hearing was recessed at 11:35
12 a.m.)

CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

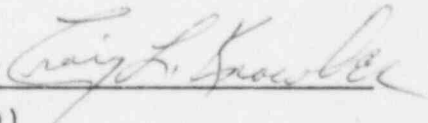
NAME OF PROCEEDING: GENERAL PUBLIC UTILITIES NUCLEAR
(Three Mile Island Nuclear
Station, Unit Number 1)

DOCKET NO.: 50-289 (CH)

PLACE: HARRISBURG, PENNSYLVANIA

DATE: TUESDAY, MAY 20, 1986

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) 
(TYPED)

Official Reporter

Reporter's Affiliation