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**U.S. HOUSE OF REPRESENTATIVES
 SUBCOMMITTEE ON ENERGY CONSERVATION
 AND POWER
 OF THE
 COMMITTEE ON ENERGY AND COMMERCE
 WASHINGTON, DC 20515**

April 18, 1985

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The Honorable Nunzio J. Palladino
 Chairman
 U.S. Nuclear Regulatory Commission
 1717 H Street, NW
 Washington, D. C. 20555

Dear Mr. Chairman:

As we discussed at the Subcommittee's April 17, 1985 hearing, I am very interested in the Commission's and NRC staff's relationship to the Department of Energy (DOE) and in particular, to the DOE Nuclear Task Force.

At the hearing, we discussed the need to investigate the circumstances and ramifications of the Commission's and DOE's contracts with International Energy Associates Limited (IEAL). To reiterate, my basic concern is that NRC may be compromising its statutorily mandated independence by contracting for studies on structural reorganization and nuclear policy with a company which is also advising DOE regarding issues on which it should pressure NRC. I am transmitting to you two versions of an IEAL report to DOE, as enclosures to this letter, which illustrate my concern.

I would also like to take this opportunity to inform you of three other related issues that I expect will be encompassed by your investigation.

First, in response to question 9 of my prehearing questions, NRC provided the Subcommittee with a copy of an "OL Review Management Report." The Subcommittee staff was informed that this document was not publicly available and contained confidential information about pending allegations and Office of Investigations (OI) investigations. The Commission's formal response states that this report "...identifies open OI investigations or inquiries. Public disclosure of this information could compromise ongoing OI

FOIA-85-357 (A1)

EDO — 000586

Assigned to OIA to prepare response for Chairman's signature ----SECY 85-319

The Honorable Nunzio J. Palladino
April 18, 1985
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investigations or inquiries." However, the Subcommittee had previously obtained a version of this report from the files of the DOE Nuclear Task Force. Your investigation should examine how this information was transmitted to DOE, if its contents were communicated to licensees, and whether NRC should have provided this document to DOE in the first place or should provide DOE with any information about contested adjudications and internal investigations that are not otherwise public. A copy of the document obtained from DOE is enclosed.

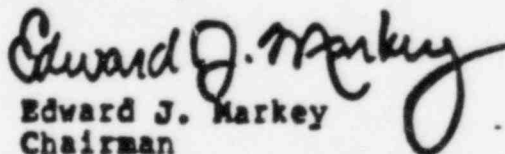
Second, the Subcommittee has obtained notes for a talk that the Director of the DOE Nuclear Task Force apparently gave to NRC's Region 1 Resident Inspectors. These notes are enclosed. Among the talking points is the following statement: "Important to do what we can consistent with Administration policy to get plants built!" Your investigation should examine whether this talk was appropriate, whether the Resident Inspectors have been provided with balanced view points, and what has been the extent of contact between DOE and NRC Regional offices and employees. A copy of the notes from this meeting are enclosed.

Finally, I would like to call your attention to the enclosed article "Is the NRC Licensing Unsafe Nuclear Power Plants" published in Gambit. This article raises a number of questions about the NRC's relationship to DOE including, but not limited to, the issue of whether NRC staff have been pressured, or felt pressured, by close DOE observation and participation in their activities. I would hope your inquiry will cover the points raised in this article.

Additionally, your investigation should include consideration of whether an internal policy should be developed to advise the Commission and NRC Staff on its communication and relationship with Executive Branch and Cabinet level agencies.

I request that a copy of the Office of Inspector and Auditor's investigation be provided to the Subcommittee when it is forwarded to the Commission. Please contact Richard A. Udell of my staff if additional information is desired.

Sincerely,


Edward J. Markey
Chairman

EJM:rmj

Enclosures

DKR Received 5/24/85



Making Legends
Errol LaBorde has
some new fabricated
local legends. Just in
time for April Fools
Day, page 11



**Assessing
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**In Search
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Gambit's travel
Travel Section is here!
And resorts, page 14

GAMBIT

The New Orleans Weekly Newspaper

Is the NRC Licensing Unsafe Nuclear Power Plants?

A Special Report by **Ron Ridenhour**,
beginning on page 15.

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By RON RIDENHOUR

THE RUSH TO LICENSE: MONEY VS. SAFETY

"There was a deliberate approach to expedite the licensing so that the problems, which by that time the NRC knew were very serious, could be essentially covered up on a schedule to please the commission..."

—Attorney
Lynn Bernabei

When the U.S. Nuclear Regulatory Commission issued a full power operating license to Louisiana Power and Light for its foundation-cracked Waterford III nuclear power plant on March 15, there were no public outbursts of surprise and only a few weary but determined cries of protest. Everyone who was paying any attention seemed to know that it was coming. There was a sea change at the NRC on the licensing of nuclear power plants in the early part of 1984. During the last year, according to intervenors around the country, congressional sources in Washington and several anti-nuclear lobbyists, there have been few if any technical or safety questions the NRC has found sufficiently serious to delay the licensing of any plant for long. No one involved in the questioning of Waterford had any reason to assume that it, too, would not be swept up in that same tide.

Gary Groesch, a spokesman for the joint intervenors, Save Our Wetlands and the Oystershell Alliance, believes there is more to the licensing of Waterford than meets the eye. "The NRC told Congresswoman (Lindy) Boggs that they would not act before the quality assurance and criminal investigations (at Waterford) were completed. They lied to her (NRC Chairman) Nunzio Palladino said they wouldn't act before the Appeal Board ruled. He lied. The industry is built on a foundation of lies and Waterford is the cherry on top." To Groesch and others like him, there is little question about what has been happening. The question is why?

Palladino and the NRC staff made the commitments he referred to sometime before Waterford was issued its low power operating license on December 18, Groesch said. Boggs told him and others at a later meeting between the congresswoman and the intervenors in New Orleans. A spokesperson for Boggs, however, said that NRC officials had assured her that "all of the technical tests and the criminal investigations were complete prior to the issuance of the low power license and that they have been re-reviewed and reevaluated since then and, according to the technical staff at least, have been addressed and resolved prior to the issuance of the full power license." At least a dozen criminal investigations have been opened over the last year dealing with allegations of wrongdoing by various levels of managers at Waterford during the plant's construction.

During the NRC meeting prior to the issuance of Waterford's full power license, however, two NRC engineers, Drs. John Ma and John Chen, disputed the contention that the safety questions arising from the cracks in Waterford's foundation had indeed been resolved. Ma and Chen had been the NRC's lead internal experts assigned to study the question of how the cracks that run through the center of Waterford's giant "floating" foundation would affect its ability to shut down safely

in the event of an earthquake, one of the NRC's fundamental safety requirements. Both men insisted that the discovery of the cracks changed all the previously used design assumptions about how the foundation would react under such circumstances. Ma and Chen both insisted that the plant is not safe to operate as it is.

But Ma and Chen were overruled by their NRC superiors. While the cause of the cracks was still not known and no acceptable engineering analysis of how the cracked foundation would respond in the event of an earthquake had been done, Dennis Crutchfield told the commissioners, he and other high level NRC decision makers believed the plant could safely be issued a full power operating license. Crutchfield is the director of a special NRC

respond during an earthquake. The new analysis would have to be completed, Crutchfield said, before Waterford would be allowed to restart following its first refueling outage, a period estimated to be about 18 months away. While he and others on the NRC staff agreed with P&L that the plant could begin full power operations as it is, Crutchfield told the commissioners, he conceded under persistent questioning from Commissioner James Asselstine that the central question—the question around which all the divisions within the NRC staff revolved—was the question of safety. John Ma and John Chen, the NRC's staff experts on the question of Waterford's foundation, believe that the cracks in the base may render it unsafe to operate before the answers about the cracks are known. The difference of opinion between Ma and Chen on the one hand and their own position, superiors of the two engineers eventually conceded, revolved around "scheduling." LP&L and the NRC wanted to get Waterford into full power operation as soon as possible. Waiting for the completion of the new engineering analysis of the cracks that was being required anyway would delay that indefinitely.

"Scheduling" getting the plants licensed, say intervenors at Waterford and other nuclear power plants all over the country, has taken precedence over what they believe is the NRC's primary mandate: protecting the public health and safety. What happened at the commission meeting on the licensing of Waterford, they say, has been happening during the deliberations for the licensing of every plant.

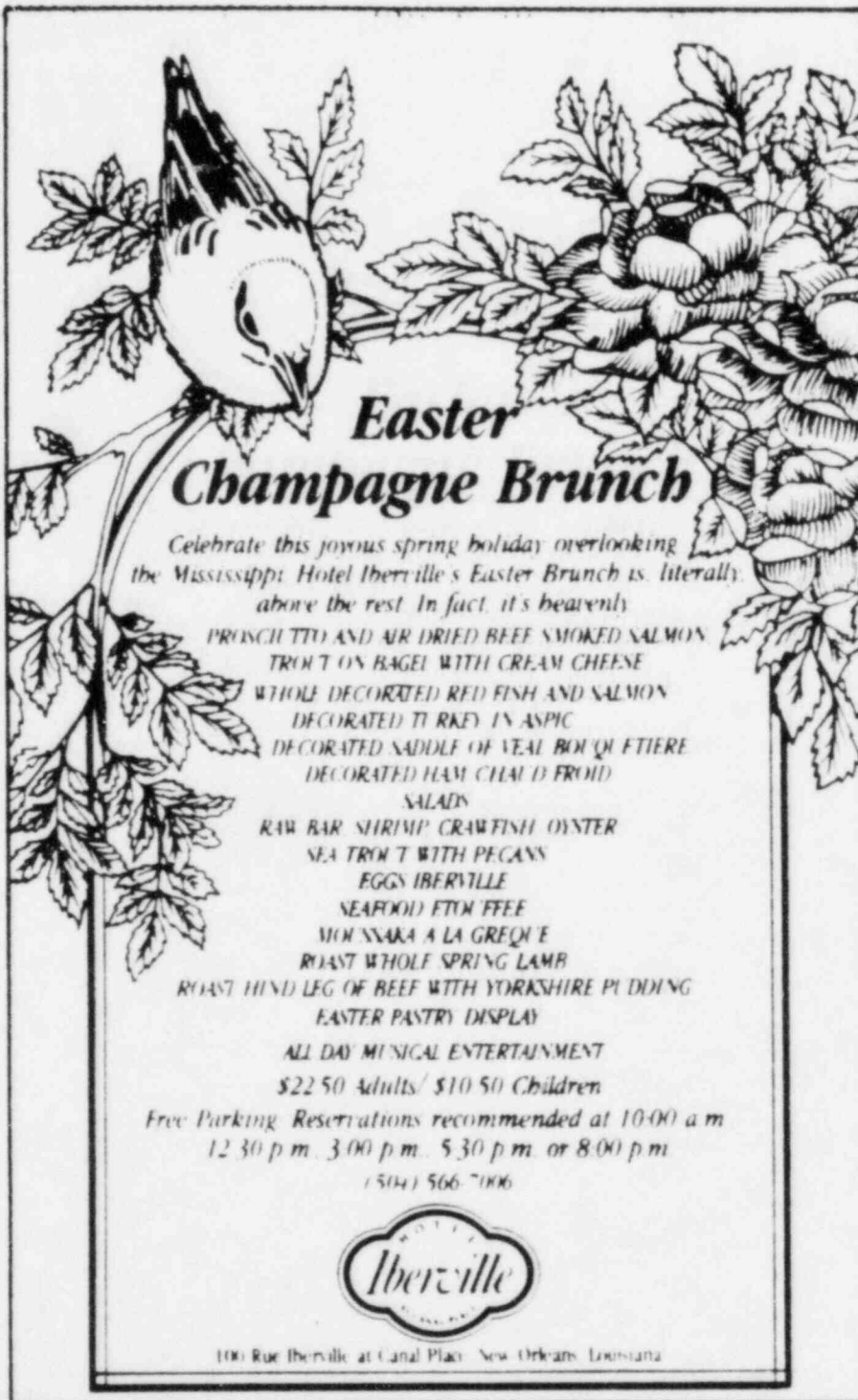
Attorneys for Gary Groesch and the other intervenors agree. "The licensing of Waterford," according to Lynn Bernabei, an attorney who represents Waterford's joint intervenors in Washington, "is one of the most egregious examples of the NRC's speed up in licensing. Their policy is to license plants no matter what, based on an artificial schedule that is designed to please the nuclear industry, even though there are clearly unresolved safety problems about the base mat, quality assurance and the character and integrity of the company managing it. They set up the task force in the spring of last year in order to license Waterford as quickly as possible. There was a deliberate approach to expedite the licensing so that the problems which by that time the NRC knew were very serious could be essentially covered up on a schedule to please the commission and that's what they did...to please the commission and the utility. That's what they set out to do and that's what they've done."

Bernabei, who works for the Government Accountability Project, a public interest law firm, believes that what happened at Waterford is simply a matter of NRC policy, which has steadily been shifting in favor of the industry since Ronald Reagan became president. Since coming into office Reagan has appointed all five



task force that was established on March 12, 1984. The Waterford task force, which numbered more than 60 people at its peak, was assigned to investigate the cracks in the plant's foundation and hundreds of other allegations of fundamental breakdowns in Waterford's safety program. The criminal investigations, which are being handled by a separate NRC office, arose from information developed by the task force.


A condition has been written into Waterford's full power license, Crutchfield told the commission, requiring LP&L to complete a new engineering analysis designed to determine how the cracked mat would



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NRC commissioners. Reagan has been an outspoken friend of nuclear power, and it is no surprise to any of the industry's experienced observers that a Reagan-appointed NRC is doing everything possible to accelerate the licensing of nuclear power plants.

But the Reagan program to expedite plant licensing has gone far beyond anything envisioned by even their most ardent critics in Congress and the anti-nuclear lobby. A five-month *Gambit* investigation has learned. Spurred by a series of events in January 1984 that the nuclear power industry, the utility industry and the financial community all saw as major calamities, the Reagan administration set in motion a series of steps early in 1984 that would eventually lead them into a concerted program to oversee the expediting of the licensing of more than twenty nuclear power plants, including Waterford and Grand Gulf.

By sometime in late March the Reagan administration established what was in effect a special nuclear intelligence unit in the Department of Energy. Called the Department of Energy Task Force on Nuclear Power Plant Construction, the unit was overseen by Reagan's former chief advisor on energy matters, Danny Bogue. The DOE Task Force monitored a wide range of activities in the NRC, analyzed the information and then provided it to Bogue, and then Secretary of Energy Donald Hodel, who in turn provided it to other members of the government.

Earlier, a special White House-backed organization called the White House Energy Council on Economic Affairs working group on nuclear power was established specifically to study ways to bail out a number of utility companies whose troubled nuclear construction programs were threatening to force them into bankruptcy. The DOE task force evolved directly out of the deliberations of the Cabinet Council group. The task force, *Gambit's* investigation has learned, soon began providing information directly to the Cabinet Council working group, which was in turn organizing meetings involving "every agency and department of the federal government." In each case the goal was to find ways to expedite the licensing of the troubled plants.

While the administration publicly claimed that it would not involve itself in the licensing decisions of specific plants in the decisions of local government regarding nuclear power, that claim was not true. Administration officials were in fact simultaneously mobilizing a wide range of elements of the federal government on behalf of specific utility companies, aggressively working behind the scenes to influence the decisions of the NRC, the public service commissions and other supposedly independent governmental bodies. Including, apparently, the Securities and Exchange Commission and the Federal Energy Regulatory Commission. The ultimate goal of all of their activities was to force the licensing of more than 20 troubled, contested and unfinished nuclear reactors. Once licensed, the administration next worked — and continues to work — to get the plants admitted into rate bases and onto utility bills.

Waterford and Grand Gulf, *Gambit* has discovered, played a critical role in the administration's plan. Although most of the story of that plan remains unknown, what is known, based on *Gambit's* investigation, raises sharp questions about the licensing of Waterford, Grand Gulf and many other nuclear power plants from New York to California.

1. Orders from the Top

Billie Garde and Darrell Eisenhutt, two of nuclear power's most tenacious gladiators, were having what Garde called "one of our heart-to-hearts" (talks) in mid-February over the future of the stalled Commanche Peak nuclear power plant in Glen Rose, Texas, on the outskirts of Dallas.

Garde, one of the most prominent and effective organizers and investigators in the campaign by intervenors to force utilities to live up to the NRC's quality, safety and environmental standards, was pressing Eisenhutt for an independent reinspection of Commanche Peak. Eisenhutt, who was the director of the NRC's Division of Licensing from May 1980 until his promotion on February 3, has the authority to order the reinspection Garde was demanding, but it wasn't a suggestion he was eager to accommodate.

Independent reinspections have become a buzzword for plant cancellation in nuclear industry circles. The last two plants ordered to conduct them, Zimmer in Ohio and Midlands in Michigan, ended up in big trouble as a result. Both were effectively cancelled by January 1984. Cincinnati Gas and Electric, the lead utility on Zimmer, announced plans on January 21, 1984, to convert Zimmer to a coal-fired generator. Work on Consumer's Power Company's two reactors in Midlands, Michigan, had been stalled for a year by that time, a direct result of an NRC-ordered independent reinspection. Consumer's was not finding the money to keep Midlands alive and the word was out in the financial community that Midlands would be officially abandoned soon if the money was not forthcoming — something few observers thought would happen in light of the staggering safety and construction deficiencies discovered during the reinspection of the plant.

Garde works for the Government Accountability Project (GAP), a Washington-based non-profit public interest law firm which has joined local intervenors in questioning the quality of construction at roughly a dozen nuclear power plants around the country, including Waterford 3. GAP, which was originally organized to represent government whistle-blowers, was instrumental in forcing the reinspections of both Midlands and Zimmer. Much of GAP's clout in Midlands, Zimmer and the other plants they are involved in comes from the whistle-blowers they represent. The whistle-blowers have been usually former construction workers and safety inspectors in the various plants involved. As at Waterford, they bring with them compelling evidence of shoddy workmanship and record keeping and plant construction managers who intimidate safety inspectors into looking the other way.

What the industry calls last minute allegations most often involve the reappearance of what whistle-blowers, intervenors and, frequently, NRC inspectors have called defective or substandard workmanship and/or the records required to back up good work. The construction and licensing delays that result invariably revolve around work that should have been made right at the time the problems with it were first pointed out, but were not. Although the specifics have varied, the issues at plants like Midlands, Zimmer, Waterford and Commanche Peak, according to Garde and others who have had experience at several

Much of the nuclear power industry's criticism of the NRC over the last few years has been aimed at what the industry calls over regulation and the credence the NRC process has sometimes given to last minute allegations. GAP, with its access to nuclear construction site whistle-blowers, their collateral allegiance to intervenors, access to attorneys, the courts and Washington's centers of anti nuclear power, is believed by the industry and many Wall Street observers to be nuclear power's most formidable opponent.



nuclear construction sites, have proven to be largely the same.

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Eisenhutt, as the NRC's Director of Licensing, has been the man on the firing line since 1980, taking shots from both sides. In that context, he and Billie Garde have come to know each other well. Garde has worked on Commanche Peak since GAP entered the case at the request of the local intervenors, a citizen's group called CASE. Citizens Association for Sound Energy. Independent reinspections, according to Garde, were not something Eisenhutt wanted to talk about during their mid-February conversation, but she continued to press the issue anyway. Finally, Garde told *Gambit* in a telephone interview, Eisenhutt laid it on the line.

"There are some things even I can't do," Garde said Eisenhutt told her. "There are some things that are beyond even my control and I'm telling you I cannot, I cannot — listen to me, Billie — I cannot order an independent reinspection of another plant in this country."

"What do you mean you can't do it," Garde said she asked.

"I can't," Eisenhutt reportedly responded. "There are now powerful forces

in this game that are beyond my control and there are a number of things I can't do. There will never be another independent reinspection of a nuclear power plant in this country."

"You mean at least in this administration?" Garde said she asked.

"You got it," she said. Eisenhutt responded, "And the instructions could not be coming from any higher in this country."

Eisenhutt denies the conversation ever occurred.

2. Black January

Black January sent a shudder through the corridors of Wall Street.

When the Washington Public Power Supply System (WPPSS), derisively referred to as WHOOPS by some, defaulted on \$2.5 billion in municipal bonds dedicated to two of the system's five reactors on July 22, 1983, some financial analysts predicted the collapse of the entire municipal bond market — an event which failed to develop. Close observers of the nuclear utility industry and companies with reactors under construction, however, knew then that the WPPSS bond collapse was merely the harbinger of the bad news that would begin to arrive in earnest during the winter, if not sooner.

But Black January — as that month in 1984 has become known within the industry — delivered body-blow after body-blow to the proponents of nuclear power, a pummeling for which even the most pessimistic analysts were not prepared.

Haymaker number one was delivered by the U.S. Supreme Court on January 11, 1984, when it refused to set aside a \$10 million dollar judgment against the Kerr McGee Corporation in the much-heralded

Karen Silkwood civil suit. That decision exposing nuclear facilities to punitive damages in state court civil suits, knocked the pins from under one of nuclear power's most cherished legal protections. During commercial nuclear power's infancy, utilities were reluctant to undertake a highly expensive and potentially hazardous new technology without protection from the liabilities of the accidents that might be down the road. In 1957 Congress passed the Price Anderson Act which prohibited federal law suits for punitive damages against nuclear utilities, a law the utilities claimed pre-empted state suits as well. The court's January 11 ruling laid that contention to rest. It was only the beginning.

One day later, January 12, it was revealed that the Securities and Exchange Commission was investigating the defaulted \$2.25 billion Washington Public Power Supply System bond sale. SEC investigators wanted to know whether top executives of WPPSS and the brokerage firms that sold its bonds had fully ascertained and disclosed the system's financial condition to the bonds' buyers. Naming Secretary of Energy Donald Model among others, as possibly complicit, allegations were being made that the system and its financiers had known at the time the bonds were issued that the now-cancelled units were not likely to be completed.

On January 13, the following day, the NRC struck. The Atomic Safety and Licensing Board (ASLB) for the nearly complete \$3.35 billion Byron Nuclear Power Station in Rockford, Illinois, refused to issue the nearly-complete plant an operating license, saying it had "no confidence" the plant was safe. The ASLB decision, which effectively blocked the plant from going into commercial operation, was the first of its kind in the NRC's history. The decision stunned the industry.

Waterford III and Louisiana Power and Light in New Orleans were next. A small weekly newspaper, *Gambit*, published its second article in five weeks on January 14 quoting high level safety records inspectors at the plant who alleged that top management had implemented and continued from the NRC a systematic program to falsify critical safety records. Similar allegations involving safety program breakdowns led to the Byron ASLB's refusal to license the plant.

Two days later, January 16, Public Service Company of Indiana announced the abandonment of the 50-percent completion \$2.5 billion Marble Hill nuclear power station, saying that the company was unable to obtain the \$5 billion in capital they estimated would be needed to complete the plant.

On January 17 *The New York Times* ran a story on the collective impact of the Atomic Safety and Licensing Board's refusal to license Byron and Public Service of Indiana's decision to abandon Marble Hill, saying that the decisions stunned the industry. In the same issue *The Times* ran another story naming Midlands, Zimmer, Seabrook and Shoreham as troubled reactors that were threatening to bankrupt the utilities building them. Analysts from several of Wall Street's most powerful and influential stock brokerage and investment banking houses were quoted blaming "regulatory delays" as the culprit for the industry's woes.

Another *Times* story ran the following day, January 18, quoting NRC officials describing cracks in the foundation of two buildings in the Midlands plant as being "too numerous to document." Midlands, it was clear, was not long for this world.

Consumer's Power could not soon come up with additional financing, a prospect which looked increasingly dim.

Cincinnati Gas and Electric announced their plans to convert the \$1.7 billion Zimmer reactor into a coal fired generating station on January 21, a plan, the company admitted, that was adopted in an effort to salvage some of their investment in the plant.

Three days later, January 24, the Philadelphia Electric Company announced an 18 month suspension of work on one of two reactors in its \$6 billion Limerick nuclear power station project. Financing was the problem, compounded by an order from the Pennsylvania Public Service Commission that the company raise the capital necessary for completion internally.

Within that two week period of mid-Black January, disaster seemed to be striking the nuclear power industry from all sides. While January's disasters mounted, the evening news had been alive with footage of hundreds of anti-nuclear protesters who gathered daily throughout the month to invade the Diablo Canyon reactor site in an effort to dramatize their opposition to its licensing. The industry's financing was under attack from the SEC. Its protection against damage suits had been stripped away by the Supreme Court. The NRC, long accused of destructive regulatory dilatoriness, continued to compound the industry's problems at Byron, Midlands, Zimmer, Seabrook and Shoreham — to name a few. The compounding effects of the NRC-inspired delays, the companies contended, were mountains of debt that threatened to crush the utilities building those plants and others, too. Byron, Midlands, Zimmer, Seabrook, Shoreham, Diablo Canyon, Limerick 2 and Waterford collectively represented more than \$26 billion. If you include Grand Gulf the figure tops \$30 billion. In the early part of 1984 every utilities analyst on Wall Street had his or her own list of plants that, for one reason or another, they were betting would not make it to full power operations. The lead utilities involved in Shoreham, Seabrook, Marble Hill, Midlands and Zimmer were genuinely threatened with bankruptcy. More so than others, but a critical misstep by any of them could have had fatal results.

Collectively, the beating nuclear power took in January, 1984 was to have far reaching effects, effects that ultimately threaten to send shock waves through community after community supplied with electricity by utilities with reactors under construction. But the shock waves from Black January hit Wall Street first.

3. Wall Street's Worries

Wall Street's stake in nuclear power and the utility industry is enormous. The utility industry's investment in nuclear power, according to *Forbes*, the magazine of the Fortune 500, is already \$125 billion with \$140 billion more still scheduled to be spent by the end of the decade. The electric utility industry's commitment to nuclear power, *Forbes* emphasized in its extraordinary February cover story on nuclear power, exceeded the federal government's investment in either the space program (\$100 billion) or the Vietnam war (\$111 billion). In one way or another, Wall Street — the huge brokerage firms, the investment banking houses, the

predominant New York commercial banks — touches it all.

Wall Street firms are generally broken down into two major functions: with brokerage and market analysis on one side and investment banking on the other. Certain firms specialize in one area or another, but the dominant houses are involved in both. Firms like Dean Witter, Salomon Brothers, Merrill Lynch Pierce Fenner & Smith, and Kidder Peabody, which are all heavily involved in some area of utility financing. Additionally, the great New York-based commercial bankers — Chase Manhattan, Manufacturers Hanover Trust, Citibank, Morgan Guaranty Trust, among others — are deeply involved as direct financiers to many of the utilities with nuclear construction projects that are or were in serious trouble in the dark days of Black January.

Utilities, for their part, are dependent on Wall Street to provide them with advice on how to structure their capital needs between short term debt (bank loans and lines of credit), long term debt (bonds) and equity (common and preferred stock issues). Their financial advisors, in turn, retain a fee for their guidance. In addition, their investment banker often facilitates the transactions, connecting Wall Street's short term lenders or major bond investors with utility borrowers. Again there is a fee. Additionally, the Wall Street firms may then refer the company to other analysts on their staff and that same firm will oversee or underwrite the issuance of either or both stocks and bonds for the particular company. Once again, there is a fee. Going one step beyond, utilities faced with ever expanding construction schedules have been increasingly turning to commercial bankers for lines of credit as the availability of money in the stock and bond markets has grown increasingly difficult to attract.

"Overall, utilities issue roughly half the common stock Wall Street issues annually," Scott Ridley told *Gambit* in a recent interview. Ridley has just finished a new book dealing in part with the relationship between Wall Street and the utility industry. The book, *Power Struggle*, is scheduled for publication by Harper and Row early next year. Ridley spent several months over the last year interviewing utilities analysts and investment bankers for that project. "Utilities generate more capital than they do electricity," Ridley said. "The investment banking part of all the main Wall Street houses get half their income from utilities. Half of the investment banking income traditionally comes from utilities."

About a third of utility financing is usually in the form of common and preferred stock, according to Ridley, quoting a generally accepted figure. That share is split just about evenly between common and preferred — and two thirds is in bonds, which is a much higher proportion of long term debt than is generally found in other large industrial enterprises. The idiosyncrasies of the monopoly utility business requires them to spread out their costs and amortize them over a number of years, forcing them to roll as much of their capital needs as possible into long term financing.

Wall Street's major financial institutions, in other words, are involved in every phase of utility financing, running the gamut from advising the companies to facilitating the transactions, arranging the loans and, for the commercial bankers, making the loans. Since their fees are a percentage of the value of the transactions on which they advise, underwrite or facilitate, the higher the dollar volume involved in any specific transaction, the more profitable it has been for the investment banking or brokerage firm that has handled it. In

that sense, according to financial community sources, nuclear power has been a great boon to Wall Street.

Nuclear power's voracious costs, however, combined with a steady drumbeat of construction delay, have made the capital market place increasingly unfriendly to the weakest companies. Those realities have pushed many utilities into seeking a higher and higher share of their capital needs in the form of revolving bank loans to finance bogged down nuclear construction projects. That development may be a critical link in understanding the pressures that have led to the Reagan administration's quiet but intense campaign to grease the skids on reactor licensing.

Washington-based economist Basil Copeland recently finished a not-yet-published study dealing with the relationship of the banking community to the nuclear utilities. Copeland's study is scheduled for publication soon by the Michigan State University's Institute of Public Utilities. This shift, Copeland believes, is a growing trend stimulated by the enormous costs of nuclear construction projects, which have in turn been compounded by breakdowns in reactor construction programs and the consequent delays in completing the projects.

Eugene Meyer, a vice president of Kidder Peabody, has become one of the financial community's most vocal public proponents of some sort of administration intervention to bail out nuclear power. Kidder Peabody, one of Wall Street's largest investment banking firms, is heavily involved with a number of nuclear utilities, including being one of the primary investment bankers for Middle South Utilities. The growing demand of nuclear utilities for capital from commercial banks, according to Meyer, is a matter of grave concern, especially in light of the simmering threat of bankruptcy for many utilities.

As Meyer tells it, the commercial banks of the nation have at stake the possibility of having to loan up to \$20 billion to the utilities within the next few years. The amount currently actually loaned, according to Meyer, is \$6 billion and growing. "In terms of national impact," he told *Gambit* in a recent interview, "it means that you've got a potential bad loan situation for the commercial banking community. If the utility companies are unable to attract capital from the stock market and bond market, then the balance gets loaned and the banks are in peril. Why are the banks in peril? Because that capital, which would normally come from the sale of either stocks or bonds, is not available from those sources. Because the money is not available there and because the necessity of borrowing it from the banks indicates an already weak utility, then the only place for the utility to obtain the capital to pay back the bank loans is from their own cash flow — which means massive rate increases." And that, says Meyer, "is what this is all about anyway: the public's resistance to paying those massive rate increases."

Basil Copeland's study, which examines in part the ramifications of potential utility bankruptcy, adds a new wrinkle, although he ultimately takes the same position as Eugene Meyer. Using what he calls a "rather crude analogy," Copeland compares the relationship between utilities and their bankers to the relationship between drug addicts and their dealers. "Much like the drug trade," he writes, "real control rests not with the grower, nor with the user, but with the dealer. In providing capital for a growing utility, the 'dealers' are the financial institutions that mediate between the investors and utilities. Any analysis of

whose interests would be served by preventing institutional collapse — bankruptcy — must at least consider the pivotal importance of financial institutions in providing the capital that is 'embarked' in the provision of public utility services."

Copeland goes on to argue that regardless of what happens to the utilities they serve, Wall Street "dealers" rarely run the risk of loss because of fluctuations in the value of the stocks and bonds they handle. "One fact not generally appreciated," he continues, "is that financial institutions are rarely at risk with respect to the market revaluations of the capital they provide a utility." Investment banks "merely 'peddle the paper,' i.e., underwrite a securities issuance with the expectation that they will be able to sell it quickly to individuals and institutions." The investors who buy the paper its dealers peddle are the people who take the risk, Copeland concludes. Commercial banks are similarly protected. "Commercial banks, which frequently provide funds for construction through revolving credit arrangements, are likewise insulated from market revaluations of their investment since the investment is carried as a liability at cost on the utility's balance sheet and is never traded."

Using the investors in Consumers Power Company and their ill-fated Midlands reactors as an example, Copeland points out that when the plant's problem became public in 1983 Consumers' stock was selling for about \$20 a share. As the problems of Midlands began to emerge, however, the stock began to plummet, coming to rest within a matter of months in the \$4-5 range. "The effect of a large portion of the Midlands investment has already occurred," Copeland concludes, "with the result that the value of their investment has already declined by about 75 percent. A similar analysis would show the same thing in lesser degree for bondholders."

So where do the big banks come in? With bankruptcy, according to Copeland, he believes, would do little additional harm to the stock and bond holders. They have already taken their losses. "Bankruptcy would however pose substantial additional risks for the utility's firm's other investors, i.e., its creditors — the banks."

Copeland, who won his spurs in utility economics analysis as a key participant in Arkansas' temporarily successful fight to escape from Grand Gulf in 1981, goes on to use Grand Gulf as one example of bank-supplied capital to finance nuclear construction, albeit the most extreme one. Middle South Energy, the Middle South Utilities subsidiary formed to finance Grand Gulf, arranged \$2.02 billion in bank loans to underwrite Grand Gulf's construction, all but \$13 million of which had been used by late 1984. The lenders are two consortiums of banks, one foreign (\$378 million) and one domestic (\$1.71 billion). The domestic bank consortium is headed by Manufacturers Hanover Trust, Citibank, Chase Manhattan, Continental Illinois, Bankers Trust, Chemical Bank and Morgan Guaranty Bank, which are seven of the country's largest commercial banks and which also hold the seven largest shares of the MSE action.

Continental Illinois was the scene of a tense, desperate federal bailout action in 1984 in which the Federal Reserve Bank came up with \$4 billion to prevent the bank's collapse. Continental Illinois' problems were in part a reverberation of the collapse of another bank in 1982: the \$200 million Penn Central Bank in Oklahoma. Both banks' problems were largely caused

by their participation what was called "bad energy loans."

According to Copeland, the greatest risk faced by bank capital involved in financing utilities and their nuclear construction projects. "It is not that it will not be repaid, although this is not a risk they can ignore, but that it will become unproductive during the pendency of a bankruptcy. As long as bankruptcy is avoided, not only do such loans remain productive, they do so without exposure to interest rate risk or capital loss."

Middle South Energy, Copeland points out, pays 110 percent of the sum of the prime rate and 1.3 percent for its domestic bank credit line. "Over \$1 billion of the total (\$4.3) billion spent to date for the Grand Gulf project represents capitalized interest expense, most of this being paid on floating rate bank financing." Banks stand to lose, he concludes, only in the event of bankruptcy. "Unlike the common and preferred shareholders of utilities with troubled nuclear projects (and, to a lesser extent, the bondholders as well), banks do not see the value of their investment decline. They do not suffer a capital loss unless the loan cannot be repaid. And that is an event understood to coincide with bankruptcy. Banks thus have compelling reasons to see financial collapse avoided at all costs."

Finally, Copeland adds the last piece to the puzzle. In the end, he believes, the question comes down to what decisions the utilities should make in order to minimize the losses incurred from the runaway costs of problem-plagued nuclear construction projects, leaving completely aside the larger questions of public health and safety that arise from the risk of poorly built plants. In most cases, he and a number of other observers have concluded, the share and bond holders of most of the companies in question — not to mention their ratepayers — would have been far better off had the utilities in question bailed out of the troubled plants and taken their losses early. But the banks, according to Copeland, have in many cases come to have a "controlling interest" in utilities with troubled nuclear power construction projects because "they can control access to funds that are crucial to avoiding insolvency."

There is, however, another mechanism of control over the decisions utilities make regarding their nuclear construction projects: interlocking directorates. Bank officers or members of the boards of directors of banks also sit on the boards of directors of the utilities. "Every utility I have ever examined," Copeland states, "has outside directors which establish either a direct or indirect financial interlock." Copeland does not allege that there is anything conspiratorial about this, only that these mechanisms exert strong, irresistible communities of common interest among the top decision makers who control the utilities. "A senior vice president of Citibank, for instance, which is the lead agent for banks providing the capital necessary to keep LILCO (Long Island Lighting Company, the builder of Shoreham) solvent, sits on LILCO's Board of Directors." Copeland goes on to cite several other examples, pointing out that it is even more common for "utility directorates to interlock with regional banks." But regional banks, in turn, "have interests and relationships that bind them to the large national banks, and this is thus a distinction with very little significance."

Nearly a quarter (23) of Middle South Utilities' 108 directors, for instance, are either officers or members of the boards of directors of banks in Louisiana, Missis-

sippi and Arkansas. It is a pattern, according to Copeland and others interviewed by *Gambit*, that is repeated over and over throughout the utility industry. "The interests that are likely being served in the effort to prevent institutional collapse," Copeland finally argues, "are thus those of the financial institutions that control utility access to capital and not specifically the interests of the utilities' investors per se and certainly not the interests of the consumers."

What it all means, in a nutshell, is that the critical questions of nuclear power come down to money. Who pays? Who loses? Who decides? Basil Copeland and Scott Rudley, among others, believe that in the final analysis those who control the money are making those decisions. Kidder Peabody's Eugene Meyer believes that he knows what their decision will be: the ratepayers. "In the long run," Meyer told *Gambit*, "the ratepayers will pay. There is no other blood to get out of the turnip."

In the days following Black January, however, with the utilities building Shoreham, Seabrook, Marble Hill, Zimmer and Midlands all talking bankruptcy — and with at least a dozen other utilities apparently teetering on the brink — the answer to the question of who would pay for the errors of nuclear power was not nearly so clear.

4. Enter the White House

Precisely when the first meetings between the White House, top Reagan administration officials and members of the financial community, the nuclear power industry and the utilities began on the question of how to stave off the nuclear bankruptcies is not clear. White House and other high level administration spokespersons have said that it was sometime in early in 1984, but beyond that they have little to say.

Sometime soon after the events of Black January, though, probably in February, President Reagan authorized the formation of a special White House effort to bail out nuclear power plants. It was called the White House Cabinet Council on Economic Affairs working group on nuclear power. The working group, which is still in existence, operates under the day-to-day direction of Assistant Secretary of the Treasury for Domestic Finance Thomas Healey and reports, according to Treasury Department spokesman Brian Benson, directly to President Reagan. Healey also reports to the Secretary of the Treasury, who was then Donald Regan.

Publicly, the administration says that the Cabinet Council working group was formed to find a way to save the utilities building the faltering Seabrook and Shoreham nuclear power plants, Public Service of New Hampshire, and Long Island Lighting Company (LILCO). Edwin L. Dale Jr., the assistant director for public affairs for the Office of Management and Budget, told *Gambit* that the Cabinet Council on Economic Affairs was "dealing with Seabrook and the financially troubled utilities, but there wasn't more than one or two of them." The question, according to Dale, "was whether REA (Rural Electrification Administration) could be indirectly used to help them out."

Eventually a plan was developed to bail out Public Service of New Hampshire in which REA played a key role, but the administration's efforts went far beyond bailing out Seabrook and Shoreham.

continued on following page

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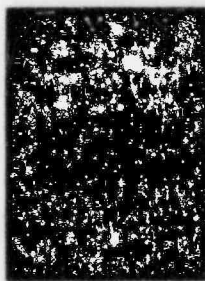
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Beyond the NRE, however, there were a number of other hurdles to clear. As in many plants, local officials opposed the project, sometimes from a small group of far-sighted local citizens, called intervenors, to larger and larger political coalitions. Some of these include the entire state and local government apparatus. Suffolk County, New York, the home of Shoreham, has achieved broad popular and powerful political support throughout the state, notably in the governor's mansion, in their opposition to Shoreham's emergency evacuation plan. The Kansas opponents of Wolf Creek is also opposed in Missouri has organized the entire state government, including every member of the state legislature, into public opposition to the plant. The companies have had to deal with a broad variety of hurdles thrown up by the various coalitions that oppose their reactors. The program put together by the Reagan administration created a mechanism to learn about, analyze, react to, and when

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possible, resolve the difficulties that lay between a reactor whose debts grew by a million dollars a day or more and a reactor that was in the rate base somewhere, being paid for by its customers.

At issue were competing interests: the top, decision-making executives of the financial community, the utilities, and the nuclear power industry vs. the rate payers for each utility and the public living in the vicinity of each plant.

On the public's end of the scale — at risk both through rate shock from the skyrocketing costs of almost every plant and, on the other side of jeopardy, from the potential threat to the public health and safety if a serious radiation leak accident should occur anywhere — was no one with access to the White House.

While exposure to an accident is a risk run by everyone living in a densely populated area within range of the wind patterns of a nearby reactor, it remains an uncertain and, according to the industry, highly improbable threat.

Rate shock, on the other hand, is an element of the new reality faced by every ratepayer whose utility has a nuclear power plant about to come on line. The bitter struggle between Louisiana, Mississippi and Arkansas over the \$4.3 billion combined cost of Grand Gulf units 1 and 2 is only one manifestation of the ratepayer anxiety currently gripping people in dozens of states. Even with phase-in schemes similar in most ways to those proposed by LP&L and NOPSI to soften the blow from Grand Gulf, bills for customers all over the country will likewise increase dramatically over the next several years, some threatening to double or triple by the early '90s. NOPSI's average cost per kilowatt hour will shoot from about 6.2 cents per kilowatt hour to roughly 16 cents plus per kilowatt hour by 1993, according to internal company estimates recently made public. Metropolitan areas all over the country — Long Island, Cincinnati, Kansas City, Houston, Dallas, Phoenix, Philadelphia, New Orleans, Jackson and Little Rock, to name a few — are faced with some variation on the theme — including the public outcry.

On the public health and safety side, everyone who would be affected by a radiation leak is potentially at risk — which might include a lot of people who aren't among the reactor's future ratepayers. New Orleans is one example. The city won't receive power from Waterford (if NOPSI and LP&L are not merged), but could receive what is called the plume, the trail of radioactive gases that are released in the case of an accident. NRC regulations require that each plant devise an emergency evacuation plan, but there is doubt that certain areas could be evacuated in time if an accident should occur. While that issue has not been successfully pursued in New Orleans, the city's routes of egress are clearly limited. Officials in Suffolk County, New York, the area surrounding LILCO's Shoreham plant, however, have waged the bulk of their battle against Shoreham on those grounds, insisting that it is physically impossible to evacuate Long Island in a timely manner should there be a serious radiation leak there — an event the utilities and the NRC insist is so unlikely that it is almost off the charts of probability.

In the end, though, most of the public opposition rests upon the reaction to rate shock. The costs were just going to be too high. As in New Orleans, Little Rock and Jackson, so it is in cities and boardrooms all over the country. No one wants to pay for these reactors. Or, to put it another way,

everyone wants someone else to pay.

At the other end of the scale stood the fortunes, futures and reputations of many of the country's largest industrial corporations, electric utility systems, banks and securities firms. Thousands of small institutions of various kinds as well as some of the country's largest insurance companies and pension funds are also heavily invested in the stocks and bonds of threatened nuclear utilities. If several large utilities should capsize simultaneously or even in the same general period of time, an event that looked very possible in February 1984, the consequences for some of those companies and their top-level executives were potentially grim.

Several top-level Reagan administration appointees are among the executives with a major stake in the outcome. Hodel and former Secretary of the Treasury Donald Regan both have deep personal roots in nuclear power. Secretary of State George Schultz and Secretary of Defense Caspar Weinberger also have strong ties to the industry, as do a number of sub-cabinet level administration appointees.

Regan is the former chief executive officer of Merrill Lynch, Pierce, Fenner & Smith, one of Wall Street's largest stock brokerage and investment banking houses. Merrill Lynch is also one of the Wall Street firms that has traditionally been most heavily involved in arranging the financing for utilities and their nuclear construction projects. Merrill Lynch, for example, has been heavily involved in underwriting stock and bond issues for Middle South Utilities, especially for Grand Gulf. Robert Hildreth, an executive with that firm, was one of the key functionaries involved in pulling together the administration-backed plan to bail out Seabrook that was finally adopted in June.

Hodel is the former chief executive of the Bonneville Power administration, the agency that was ultimately responsible for the creation of the Washington Public Power Supply System (WPPSS). WPPSS committed to building five nuclear reactors in the Pacific Northwest, whose projected costs had ballooned to \$20 billion as construction delays compounded their financial difficulties, eventually forcing the cancellation of two reactors and the mothballing of two more. When WPPSS and 88 municipal utility companies defaulted on \$2.25 billion municipal bonds being used to finance the two cancelled plants in July 1983, the largest bond default in U.S. history, Hodel is currently one of the defendants in a massive lawsuit revolving around that default. Known as the "BPA (Bonneville Power Administration) seduction suit," the suit alleges that the Bonneville Power administration, which Hodel then headed, coerced the 88 participating utilities into backing the defaulted bonds, according to Wall Street sources. In another extension of the Louisiana connection, Roth S. Leddick, Louisiana Power and Light's senior vice president, nuclear, the man hired in July 1983 to get Waterford 3 completed and licensed, held a similar position at one of the now mothballed WPPSS plants before coming to Waterford.

Weinberger and Schultz were both top executives at Bechtel, the San Francisco-based international engineering and construction firm. Bechtel is involved as either the architect/engineer or the constructor or both in 15 of the 37 reactors at 23 locations in which the administration eventually involved itself in trying to get licensed and into the rate base. Roughly \$24 billion has already been spent on the plants in which Bechtel is involved, with at least another

\$16 billion to go. Bechtel's plants are among the industry's biggest lemons. They include Grand Gulf, Midlands, South Texas, Wolf Creek, Limerick, Palo Verde, Callaway and WPPSS 1 & 2. Before he became Secretary of Defense, Weinberger was a vice president and a director of Bechtel's controlling Bechtel Group and their top legal adviser, Schultz, during the same period, was the president of the Bechtel Group and vice chairman of its board of directors.

These and other Bechtelians were either actively involved in the administration in the weeks following Black January and since, or they were actively involved as major architects of Reagan's first election campaign. Among the latter was Walter Wriston, who was then Citicorp chairman and later became a member of Bechtel's board. Until recently Bechtel also owned Dillon, Reed and Company, a large Wall Street banking firm.

At its most basic level the questions were the same everywhere. Who will pay? What are the risks? Who will take them? The public? Or the corporations — the banks, the utilities, the manufacturers and their shareholders and bondholders? One thing was for sure. Somebody was going to pay. That could not be avoided. The question everywhere was, who? There was another sure thing: during the days following Black January, nuclear power's proponents, the people who would all be on the hook in one way or another if the trends of the period continued, had plenty of access to the White House.

5. Hodel Takes Charge

During the months of March, April, May and June 1984, and perhaps at other times that are not yet known, top Reagan administration officials from the Departments of Treasury, Energy, Agriculture and the Federal Emergency Management Agency, the Office of Management and Budget, the White House Office of Science and Technology, plus others, met in a series of meetings with the groups of utilities that own both Seabrook and Shoreham, other meetings with members of the financial community and still other meetings with executives of the nuclear power industry — the architects, engineers, reactor manufacturers, etc.

Treasury Secretary Regan, who has since been named as Ronald Reagan's chief of staff, was also involved in a series of meetings with the same groups. It is not clear if Regan's meetings were in the context of the White House Cabinet Council on Economic Affairs working group on nuclear power or if he engaged in separate, additional meetings. White House spokesman Marvin Fitzwater referred Gamber to the Department of Treasury for comment on all questions regarding the Cabinet Council working group. Treasury spokesman Brian Benson steadfastly refused to discuss the contents of those discussions. Benson confirmed that the meetings occurred, but said the administration considered their contents, the time and place they occurred, the circumstances under which they occurred, who was in attendance and what administration policies evolved from or were affected by them "a private matter."

What is clear is that out of these discussions an administration plan evolved. The Department of Energy, under the watchful eyes of Energy Secretary Donald Hodel, was given the task of implementing the

program. Hodel was to be assisted by DOE's second in command, his immediate assistant, the man who, until only a few months earlier, had been Ronald Reagan's chief White House staff advisor on energy affairs, Deputy Secretary of Energy Dennis Bogue.

On May 8, Secretary of Energy Donald P. Hodel made several major elements of the administration's nuclear energy policy public. In a speech given in Washington to a conference of nuclear industry groups, the Nuclear Power Assembly, Hodel announced what *The New York Times* called a "series of steps to expedite the construction of new plants." Although *The Times* covered Hodel's address to the group, it and the rest of the press generally played Hodel's remarks as just another speech. No big deal. It was in fact the administration's public declaration of their blueprint for saving the nuclear power industry.

Hodel's plan, close examination suggests, was not aimed at expediting the "construction of new plants" at all. It was intended, rather, to expedite the bombing of the plants which were already under construction and preparing to apply for their operating licenses. The Reagan administration did not think the way to solve the problems of nuclear power, Hodel additionally told his audience, was for a federal financial bailout of the troubled utilities. "Let me emphasize," *The New York Times* quoted Hodel as telling the federation of nuclear power interests at their Washington conference, "that we do not support federal financial bailout assistance. Federal guarantees are not the solution." The administration had something else in mind. Along those lines, the Secretary of Energy called on the governor of New York to help the Reagan team bring Shoreham on line.

On that same day, May 8, he made his appeal official. Hodel sent a letter to New York Governor Mario Cuomo, urging Cuomo to participate in an emergency evacuation plan for Shoreham. The major issues continued to delay the plant's licensing. One had to do with the plant's giant emergency diesel generators, in which critical design flaws had been discovered in August 1983. The other had to do with an emergency evacuation plan for Suffolk County, the surrounding community. Suffolk County residents, quaking in the face of massive rate hikes once Shoreham was licensed and the conviction that there was no way to escape if the plant should have an accident, refused to participate in the preparation of an emergency evacuation plan for the reactor. They took the position that it simply isn't possible to get enough people away from Long Island quickly enough in the event of a serious accident at Shoreham.

Hodel, as part of the White House Cabinet Council on Economic Affairs working group's effort to save Shoreham, had been coordinating with the Federal Emergency Management Agency, the NRC and executives for the utility, LILCO, to try to find a way around Suffolk County's refusal to help draft an emergency evacuation plan. When the people of Suffolk County discovered that, it caused a political firestorm in New York that the administration quickly tried to minimize. The administration's attempts to circumvent county and state officials at Shoreham, however, was only one phase of the Reagan/Hodel plan.

Hodel outlined seven steps DOE was "prepared" to take. One was to "urge" the U.S. Nuclear Regulatory Commission to employ something called "readiness reviews" for reactors under construction.

cont. on next page

The goal, he said, was to identify "potential construction problems early." DOE also planned a number of other measures to expedite plant licensing that were outlined in the text of Hodel's speech, but went largely unreported.

One major advantage of the "readiness review" program, according to Hodel's speech, is that it would allow the NRC to close the allegations plaguing so many plants once and for all — and to do so before the eleventh hour of licensing. "It makes no sense," Hodel said, "for the environmental, safety, and quality issues that have been considered and satisfactorily resolved in the course of construction to be raised again and 're-litigated' even at the eleventh hour, when a safe plant is ready for operation."

Whether a plant was indeed safe for operation was precisely the point of debate at all of the plants that were in trouble. Many people disagree with Hodel's basic premise, which could fairly be characterized as the industry's point of view, that the environmental, safety and quality issues blocking the stalled plants had been "satisfactorily resolved" in the course of construction.

That a wide range of critics of the industry and the intervenors in each case charge, is precisely the problem. The environmental, safety and quality issues raised at many of the plants in question — Shoreham, Diablo Canyon, Waterford, Grand Gulf, Comanche Peak, Midlands, Byron, Catawba, for instance — have not been dealt with in many instances, except to cover up the breakdowns in the system. Some of those breakdowns, according to the intervenors and the former workers who made them public, have potentially profound implications for the public at large, both in terms of risk to the public health and safety and the threat to their pocketbooks.

What Hodel was calling eleventh hour "re-litigation" is, to the people fighting reactors all over the country on a variety of public health and safety grounds, something very different. They believe that it is a process Congress included in the law creating the NRC — and the Atomic Energy Commission before it — as the price extracted for agreeing to embark on the enormously expensive public spending campaign that was required to develop commercial nuclear power. The rules, put simply, allow any members of the public to intervene — thus the term "intervenor" — at any stage in the licensing to raise legitimate safety, quality and environmental issues regarding the construction or operation of a nuclear power plant if they can show that it threatens the public health and safety. The threshold of evidence becomes progressively more burdensome on the intervenor the closer a plant comes to full power operation.

Its purpose, intervenors around the country and some Congressional sources say, was to allow the public to resist the powerful economic and political forces who, the same sources say, now have a stake in the speediest, least scrutinized construction and licensing processes possible. That goal, the speedy, least scrutinized process possible, seemed to be at the heart of Hodel's plan.

Extending his theme of eliminating "eleventh hour re-litigation" of resolve issues, Hodel proposed to expedite the licensing process by allowing the NRC to block the raising of allegations dealing with breakdowns in the construction and quality assurance programs once they had been "resolved" during construction. The new rules would allow the re-opening of poten-

While he and others on the NRC staff agreed with LP&L that the plant could begin full power operations as it is, Crutchfield told the commissioners, he conceded under persistent questioning from Commissioner James Asselstine that the central question, the question around which all the dissent within the NRC staff revolved, was the question of safety. Jon Ma and John Chen, the NRC's staff experts on the question of Waterford's foundation, believe that the cracks in the base mat render it unsafe to operate before the answers about the cracks are known.



tially critical safety issues only if the allegations had already been verified.

Despite the industry's cry of "post Three Mile Island" rule changes, most troubled plants are far behind schedule, their critics argue, primarily because of a long list of each plant's failures to meet many of the more basic safety and construction standards established long ago by the NRC. In many cases, according to members of the anti-nuclear lobby and many others, those failures came to light only because intervenors were able to re-open a plant's licensing process, and, by doing that, forcing the existence of significant safety questions into the open.

At Waterford, in a local example, the cracks in the plant's foundation that the NRC has been investigating since June 1983, came to light, in part, because local intervenor Gary Groesch brought some records regarding the breakdown of Louisiana Power and Light's safety program at Waterford to the attention of a *Gambit* reporter. *Gambit's* follow-up on those records eventually led to the revelation of the cracks in Waterford's "floating" foundation and LP&L's tardy notification of the NRC regarding the cracks.

Groesch and the other intervenors in Waterford then filed a motion with the NRC's Atomic Safety and Licensing Appeal Board, asking the board to re-open the licensing hearing record on Waterford to investigate the cracks and their potential impact on plant safety. Such motions are one of the primary avenues members of the public, intervenors, currently have to raise questions concerning what Hodel called "environmental, safety and quality issues" that have already been "resolved in the

course of construction." LP&L has insisted since the first revelation that the cracks exist that they have no safety significance and, besides, the questions about them have already been resolved during the early construction process.

Nearly eighteen months later two NRC engineers filed affidavits with the NRC's Atomic Safety and Licensing Appeal Board for Waterford on February 28, 1985, one of the NRC safety advisory bodies that must okay Waterford's operating license. The NRC engineers said that new tests raised serious questions about Waterford's safety, showing that the cracks are much more numerous, that more of them are "through" cracks than previously thought, and that the cracks are twice as large as previously thought — larger than the minimum safety standards allow. The crack runs from top to bottom in some portions of the 12 foot thick foundation along a line that runs directly through its center. Under certain earthquake conditions, the two engineers said, the foundation could shear or literally break in half. LP&L's primary line of contrary argument, that the pressure applied by the soil piled along the plant's largely-entrenched outer walls, the "back fill," is dismissed as unsubstantiated.

Had Hodel's proposed new standard been in effect in 1983, it could have been used to block the Groesch motion to pursue the safety implications of Waterford's basement cracks. Instead, in the course of examining the question, NRC engineers have now concluded that Waterford could be unsafe.

Investigations have shown that in most instances the long chain of delays in each plant's construction program were the

direct product of the failure of the utility, the architect-engineer, the reactor manufacturer or some combination thereof to make sure that basic elements were done right. Changing NRC regulation has had an impact, but the problems now utilities are having are a direct result of not having implemented the most basic elements of the NRC safety program that have been in effect from the very beginning of their construction programs, back in the days more than a decade ago when what is now called the Nuclear Regulatory Commission was part of the Atomic Energy Commission (AEC).

Most of the deepest problems at both Waterford and Grand Gulf fall into that category. Although the reasons behind Waterford's cracking foundation remain unclear, for example, the factors that are believed to have contributed to the problem all deal with breakdowns in fundamental craft, professional and managerial skills — welding, inspections, engineering and oversight.

What was the AEC also included a number of other departments that were responsible for promoting nuclear power, either directly or by actually operating necessary links in the chain of interdependent associated nuclear technologies. Congress split up the AEC effective in January 1977 when it passed the Energy Reorganization Act, sending the regulatory elements off to become the NRC. Elements of the AEC that were operating links in the nuclear chain or otherwise involved in advocating nuclear power programs were spun off into a succession of agencies and eventually wound up in the Department of Energy, an office headed by assistant secretaries of energy. Congress wanted to prevent the conflicts of interests that inevitably arose between the AEC's split personnel — both advocate and overseer. Those old AEC roots of nuclear advocacy, *Gambit's* investigation shows, eventually came to play a major role in the Reagan campaign to save nuclear power. Hodel's plan, in effect, set aside through executive fiat the will of Congress expressed a decade earlier.

Three elements of the plan outlined in Hodel's May 8th speech were intimately related to the events in the realm of nuclear regulation and licensing that have since unfolded, events that include the licensing of both Grand Gulf and Waterford and several other reactors under presently setting, some say irregular and highly questionable, circumstances.

Hodel was establishing his own staff "mechanism" to monitor progress in the licensing of reactors currently under construction on a plant-by-plant basis. Additionally, Hodel said, he supported NRC Chairman Nunzio J. Palladino's March 20 memorandum. Those public declarations, combined with his assertion that DOE would "encourage and provide support to the NRC" to use readiness reviews carried with them the implicit understanding that DOE was going to become much more involved in the NRC's day-in-day operations.

Pivotal to Hodel's plan was the creation of what was in effect his own nuclear intelligence operation. Mentioned dead-end in his May 8 speech and ignored by all but the trade press was Hodel's "mechanism" for keeping tabs on the troubled plants. Hodel said that he had asked his "staff to establish a mechanism within the Department (of Energy) to ensure that problems with specific nuclear plants are brought to my attention." The purpose of the mechanism, Hodel said, in effect, was to allow him to coordinate all the elements of government, both state and local, with all the affected

private interests in the administration's effort to expedite the speedy licensing of the problem plants. "To coordinate the federal interests" and "be able to assist the the potential State, local and private interests that might come together to find solutions." The Reagan plan to solve the utility debt crisis was clear: the ratepayers would pay. The object was to get the plants on line and get them into the rate bases. The question was: how? Hodel's nuclear intelligence apparatus, his mechanism, was designed to answer that question.

6. Palladino's Push

Nunzio J. Palladino, the chairman of the NRC, issued a memorandum on March 20 calling on the NRC to adopt a specific policy, according to Hodel, "to handle last-minute allegations of safety, environmental and quality problems associated with plants nearing completion." Others, however, saw Palladino's memo as much more than that. They saw it as Palladino's declaration of an advocacy position in support of the utilities with troubled plants. By the time Hodel announced his support of Palladino's March 20 memorandum to his fellow NRC commissioners, it had ignited an uproar within the anti-nuclear and the nuclear neutral communities, particularly among the group of Washington-based specialists that included the majority of congressional staff experts.

Palladino's memo called on the other commissioners to join with him specifically to "take steps to both (a) reduce the delays at Shoreham and Limerick and (b) reduce the possibility that delays at other plants may arise." If delays did arise at other plants — and Palladino provided a list of seven other plants, including both Grand Gulf and Waterford, where such delays were anticipated — the chairman recommended a number of specific licensing actions to be undertaken by the NRC staff to minimize them.

Under the provisions of the Atomic Energy Act and the Energy Reorganization Act of 1974 the commissioners of the Nuclear Regulatory Commission sit as an adjudicators and policy setting board. They are charged to review the applications for full-power operations of the utilities building nuclear power plants and to oversee, through the NRC staff, their construction and operation. The commission's fundamental obligation under the law is to protect the health and safety of the public. When an applicant, such as LP&L for Waterford or Mississippi Power and Light for Grand Gulf, comes before the panel for review and approval of a license application, the commissioners are required to hear the positions of the utility, the NRC staff and the public, if the public wishes to be heard. Theoretically, the commissioners act as judges on licensing decisions and, as such, the law requires them to favor the positions of none of the parties over the others, not even that of their own staff.

Palladino's memo, therefore, raised alarm bells to everyone who had questions about the plants named in it specifically, and about what some saw as a formal shift away from the commission's required neutrality in general. Experienced observers of the NRC point out that eliminating licensing delay — a phrase that means different things to different people — had been a priority of Chairman Palladino since his nomination, but in early March 1984 the NRC's efforts to expedite licensing began to demonstrate a previously unknown direction and intensity.

Palladino's March 20 memo also outlined the earlier stirrings of the NRC's new devotion to expediting licensing. On March 9, according to the memo, William Dircks, the NRC's executive director of operations, reported to Palladino that Shoreham and Limerick 1 were going to be collectively "delayed" for an additional 14 months. Limerick 1 is a "near term" reactor on the outskirts of Philadelphia and the twin to the plant put on an 18-month hold in the waning days of Black January. Known throughout the NRC as "the EDO," Dircks reports directly to Palladino. There is some debate about which of the two, Palladino or Dircks, is the most powerful of the NRC's top officials, but no debate that between the two of them they have firm operational control of the agency.

A week later, March 16, Palladino's memo reports, Palladino alone met with key members of the NRC staff, its Office of General Counsel, the head of the NRC's administrative law judges and the chief administrative judge of Shoreham's Atomic Safety and Licensing Board, B. Paul "Tony" Cotter. During that meeting, Palladino reported four days later, he also learned that at least eight other plants, including Waterford and Grand Gulf, might be facing substantial gaps between their utility's target date for licensing and the actual date when the NRC would be able to legally justify the licensing under NRC regulations. That gap, the difference between the utility's target date for fuel loading and licensing and the NRC staff's estimate of when the actual licensing date would be, was the measure that Palladino, Hodel and the Reagan administration were all now using when they referred to "licensing delays." NRC staffers, intervenors and congressional sources agree that the utilities' estimates of when they would be ready in the past have been notoriously optimistic.

Also contained in the March 20 memo was a list of suggestions Palladino proposed as ways to streamline the licensing process for each of the ten named plants. The goal of his suggestions on every plant, Palladino said, was to "expedite" the NRC licensing process, an emphasis which seemed to presuppose that the problems at each plant could be resolved by simply shuffling the paper faster — a proposition hotly contested by two of the NRC's five commissioners, numerous congressmen and every intervenor.

Mentioned in the Palladino list was a brief description of the special NRC task force that would descend on Waterford on April 2, just two weeks later. Dircks ordered the task force created on March 12 to investigate a flurry of allegations of serious breakdowns in the safety and construction programs at Waterford and another one created to probe similar charges at another southern plant, Comanche Peak, near Dallas, Texas. Dircks, Palladino's memo said, "informed us that he has placed one senior executive in charge of identifying the problems and laying out solutions and schedules for getting to a licensing decision at each plant."

Palladino's March 20 memo created an uproar among those in Washington and elsewhere who were either outright anti-nuclear or highly skeptical of the industry's safety programs. Many found the revelation that Palladino met privately with the chairman of Shoreham's Atomic Safety and Licensing Board to discuss the topic of expediting Shoreham's licensing especially suspicious, a move they saw as an attempt by the chairman to improperly influence the licensing board's deliberations.

On March 28 Congressman Edward J.



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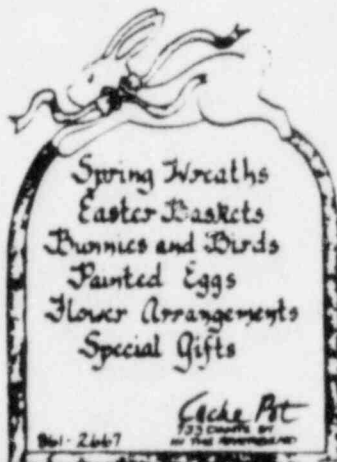
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Markey wrote Palladino a blistering letter warning Palladino against using the excuse of expediting licensing to "make a mockery" out of the licensing process. Markey, the openly anti-nuclear democrat from Massachusetts, then chaired the House Interior Committee's Oversight and Investigations Subcommittee, one of the House subcommittees authorized to oversee the NRC's operations. Markey said he feared that Palladino's suggestions for expediting licensing could be used to "circumvent" the "due consideration of genuine public health and safety issues." Palladino's proposals on Shoreham were specifically singled out by Markey, who asked the Chairman to recuse himself from the Shoreham case. Palladino's plan to expedite Shoreham's licensing led to a "reasonable inference" that he had prejudged the Shoreham case, Markey said.

Markey's letter also took Palladino to task regarding the delays the chairman complained about regarding the plan other than Shoreham. Palladino singled out for special, expeditious treatment by the NRC staff. "In each of the cases mentioned in your memorandum (i.e., Shoreham, Limerick, Waterford, Commanche Peak, Diablo Canyon, Byron, Midland, Palo Verde and Grand Gulf), I am aware of delays resulting from serious safety problems that were actually caused by the units and/or its contractors."

On May 17, during hearings before the House Interior Committee Subcommittee on Energy and the Environment, two NRC commissioners, James K. Asselstine and Victor Gilinsky, said that they thought Palladino acted improperly for his March 16 meeting with the NRC staff and the head of the NRC's administrative law judges on the topic of expediting plant licensing. NRC administrative law judges must ultimately decide the validity of safety, environmental and quality issues raised by intervenors, the same issues under attack from Hodel, the utilities and the administration in general as the source of "unnecessary" licensing delays. Asselstine and Gilinsky both charged that Palladino had "abandoned" his role as an unbiased judge of the merits of Shoreham's license application, becoming instead an "advocate" for a particular outcome in the case. "The issuance of a low-power decision within an unreasonably short period of time."

Congressional critics kept up the heat on Palladino throughout the spring and summer. There were more hearings before subcommittees chaired by Representative Richard Ottinger and Morris Udall in June and July concerning the way Palladino and two other commissioners, Thomas N. Roberts and Frederick M. Bernthal—all Reagan appointees—seemed to be pushing a number of plants towards licensing despite the existence of serious safety questions. The NRC staff, directed by Palladino and backed by the Roberts, Bernthal and Palladino majority on the commission itself, had rushed in decisions on Diablo Canyon, Shoreham, Grand Gulf and the restart of Three Mile Island Unit 1 with a speed and apparently deliberate ignorance of the past decade of federal law and regulatory practice that Congressmen Markey, Udall and Ottinger and Commissioners Gilinsky and Asselstine and their staffs, as well as the intervenors in each case, were vociferously criticizing.

But the industry has its friends in Congress as well. Chief among them is Tom Bevill, an Alabama Democrat who is reportedly the largest single congressional recipient of campaign donations from the nuclear power industry. Bevill is chairman of the House Subcommittee on

Energy and Water Development, the subcommittee that controls the NRC's purse strings. Bevil is famous in Washington for his tirades against the NRC, especially during appropriations hearings. In 1984 the NRC's appropriations hearings were held on March 22, just two days after Palladino's controversial memo was penned. In those hearings Bevil threatened to match the NRC's appropriations to number of licenses the commission issued — a threat most practiced NRC observers in Washington and elsewhere believe drew blood.

Intervenor at other plants all over the country, meanwhile, were raising similar complaints that the NRC — which they said had never been terribly careful about honoring their administrative and due process rights — were suddenly giving them the bum's rush in a fashion that was unprecedented, as they put it, "even for the NRC." Most intervenors believe that the NRC has always been vigorously pro-utility, but in the early part of 1984, they agree, there was a demonstrable sea change.

Although no one outside the NRC knew it at the time, Palladino's March 20 memo initiated a new, highly focused NRC campaign to expedite the licensing of all plants which their utility owners were scheduling for licensing within the next 18 months. It was a plan in which Waterford and Grand Gulf were to play prominent roles.

When William Dircks, the EDO, issued his March 12, 1984 memorandum outlining the creation of special NRC task forces to investigate hundreds of allegations charging the breakdown of the safety and construction programs at Waterford and Comanche Peak, the NRC's new era of expedited licensing apparently began. A designated senior executive, one of the approximately 70 top NRC executives, members of the Senior Executive Service, would be put in charge of each task force. The Waterford task force would be created and begin its investigation first. The designated senior executive, Dennis Crutchfield in the case of Waterford, was to be in charge of coordinating the total NRC effort. The goal was to expedite the plant's licensing. Everyone in the NRC with a box to be checked before Waterford could be licensed would be coordinated by Crutchfield.

That task force structure, with a designated senior executive, would be seized upon a few weeks later as the model for a major thrust of the NRC's program to expedite the licensing of all near term plants.

On April 6, 1984, William Dircks, the EDO, issued an order to Harold Denton, the NRC's director of nuclear reactor regulation, directing him to develop a seven-step "plant specific management plan" for every "NTOL" (near term operating license). NRC jargon meaning reactors that will be coming up for licensing soon. Referring to the task forces recently created to expedite the licensing of Waterford and Comanche Peak — "provide for an integrated approach to the completion of NRC regulatory activities associated with the pending licenses issuance" in Dircks' words — the EDO ordered Denton to prepare for a similar approach to all the other near-term plants and to report back to him by May 2 — the same day Secretary of Energy Donald Hodel was scheduled to address the nuclear power industry with what would turn out to be the administration's plan to bail out the nuclear power industry. Denton was instructed to determine the "realistic construction completion and

Many found the revelation that (NRC Chairman) Palladino met privately with the chairman of Shoreham's Atomic Safety and Licensing Board to discuss the topic of expediting Shoreham's licensing especially suspicious, a move they saw as an attempt by the chairman to improperly influence the licensing board's deliberations.



license issuance dates" for all NTOLs during the coming 12 months. He was also told to determine the "currently known and potential issues" that might come up at each plant and slow down its licensing, including all the various types of NRC inspections and investigations that might arise "and the potential for a large number of allegations."

Denton responded to Dircks on May 9, a day late, providing a list of 16 near-term plants and adding three more plants and a generic issue — the restart of San Onofre in California and Three Mile Island Unit 1, Midland and the Transamerica Delaval (TDI) Diesel review — to the list. In addition to Waterford, Comanche Peak and Diablo Canyon, which also had an NRC special management team already assigned to it, Denton suggested that similar efforts be assigned to five other plants — Wolf Creek in Kansas, Riverbend near Baton Rouge, Palo Verde in Arizona, San Onofre and TMI restart. Meanwhile, Denton said, special reports on the overall licensing status of each near term plant were being prepared.

Two weeks later, May 25, Dircks issued another order to Denton, this one requiring the development of an "integrated schedule of all NRC activities to ensure the speedy licensing of eight plants: Comanche Peak, Fermi 2, Wolf Creek, Diablo Canyon 2, TMI restart, Byron 1, San Onofre 1 restart and Limerick 1. All NRC offices that might develop issues that could slow down the plants — licensing, inspection, hearing and investigations — were to be polled. Four days later, May 29, Denton assigned a "designated senior executive" from the NRC's senior executive service roster to each plant on the list. Each was assigned full time to the task of developing schedules, etc., for the purpose of expediting the NRC's licensing of each plant.

Including Crutchfield at Waterford and Carl Berlinger, who was assigned full time to resolving the TDI diesel problem that plagued Grand Gulf, Shoreham and 11 other plants, the list of senior NRC executives assigned to expedite the licensing of a particular plant totalled 10. Each of them

was ordered to report to Darrell Eisenhuth, who was then the director of the Division of Licensing. Eisenhuth would in turn report to Denton, who would report to Dircks, who reports to Palladino.

Chairman Palladino's power to work his will within the NRC is generally seen as vast, although that is a relatively recent development, according to assessments made by commission and congressional sources who asked not to be named. It stems from the Energy Reorganization Act of 1980, which changed the relationship between the staff and the chairman. Under the terms of the act, the staff began to report directly to the chairman, through the EDO. The commission was to set policy, the staff was to do the work of implementing policy. The chairman would interpret what the policy was and direct the staff on how to implement it.

Whether Palladino as chairman or William Dircks as the executive director of operations has more power is a matter of opinion; between the two of them they are clearly the most powerful two people at the NRC. Palladino, by being able to direct the staff in the day-to-day management of the NRC's operations can, in effect, completely circumvent the rest of the commission on most issues and in most cases. Since the NRC's commissioners rely for nearly all of what they know about any given plant on information supplied by the staff, the chairman's control of the staff's day-to-day operations gives him broad powers to shape the vision of events presented to the other commissioners, according to these sources.

If any of the other commissioners want to direct the staff to undertake a particular course of action, the other commissioners must win a majority vote among themselves. The chairman, however, can either go for the vote — or simply direct the staff to pursue the course of action he dictates and then, if he chooses to, manage the way it is reported to the other commissioners by the staff.

Dircks, however, is not without his own

resources. Through his control of promotions, staff assignments and bonuses, Dircks is clearly the man the staff must reckon with.

One of the "reforms" of the Energy Reorganization Act of 1980 created an executive bonus system. It was intended to provide an incentive system to encourage excellence among the NRC's highest echelon managers, members of what is called the Senior Executive Service (SES). But the SES bonus system, according to people who have been watching it in action since it was created, backfired. Its structure plays right into the hands of a chairman, critics say, who wants to enforce staff adherence to what are apparently political and economic resolutions of technical safety questions. The SES system was devised to replace the top tiers of the old GS system: GS 16 through GS 18. There are currently 70 to 80 SESs in the NRC — Dircks is one and so are the next 70 or 80 down the line.

Only the SES officers, the "top line managers" are eligible for the bonuses — of which about 20 are awarded each year. They range in size from \$3,000 to \$15,000. There are usually only a few at the \$15,000 range, the norm being in the \$5,000 to \$9,000 range. Everyone else in the NRC including all the SESs who don't receive a bonus, are simply stuck. They make as much as they make and that's all there is. The bonuses are hotly sought after by the competing SESs, according to one source, and the decision is ultimately up to Dircks. Dircks decides who gets them and who doesn't. Sources on Capitol Hill and in the commission think that that plays a major role in keeping the staff in line on any line Dircks establishes — or Palladino establishes.

According to one source, that makes a big difference. The staff "comes down and briefs Palladino — and no one else — on a variety of issues regularly." How often they come down was unknown, but they come down frequently. Once the SESs, Dircks, and Palladino get in that office, it's just Palladino and whoever he wants to bring and Dircks and whoever he wants to bring. What they say, what they do, only they know. "It is quite a mechanism for control," the source observed, "and it looks to me like it works damn well."

7. Nuclear Intelligence

Although Secretary of Energy Donald Hodel's May 8 speech suggested differently, the administration's plan for saving the nuclear power industry, the utilities and their unfinished reactors had already been in action for nearly two months when Hodel announced the administration plan in early May.

Sometime in March — administration spokespersons have so far refused to provide a specific date — Hodel established something called the Department of Energy Task Force on Nuclear Power Plant Construction. Its staff was drawn from those elements of the Department of Energy that had once been part of the Atomic Energy Commission, primarily those working under then Assistant Secretary for Nuclear Energy Shelby Brewer. Brewer's principle assistant deputy secretary, Dr. Thomas Dillon, was named to head the task force. Dillon, whose staff set up shop in an office "right down the hall" from Hodel's office in the Forrestal Building, reported to Hodel through Danny Boggs, the man who had been Reagan's

principle White House advisor on energy matters until he was named the number two man in DOE the previous October. Boggs replaced Bechtel loyalist W. Kenneth Davis in that position and Davis returned to Bechtel.

Hodel's task force, what he referred to in his May 8 speech as DOE's "mechanism" to keep him informed on the progress of nuclear powers on a plant by plant basis, evolved directly out of the White House Cabinet Council on Economic Affairs working group on nuclear power, some administration spokespersons and others who were involved in the process have told *Gambit*, the same group that had been meeting with members of the financial community, the nuclear power industry and the utilities in their search for a safe exit from the nuclear morass. Hodel, with his extensive personal contacts in the utility industry, the financial community and the nuclear power industry from the days when he headed the Bonneville Power Administration, had been chosen to take the administration's lead on expediting the licensing of nuclear power.

Precisely when the administration began its concerted campaign of direct contacts with the NRC is not clear. Although Hodel's DOE task force was organized in part with that role specifically in mind, White House monitoring of the NRC and their decision-making process apparently began somewhat earlier.

Staffers associated with the White House Cabinet Council on Economic Affairs working group on nuclear power were intimately aware of the details of the NRC's Waterford task force plan "within hours" of its formulation — something veteran observers of NRC operations characterize as very unusual. White House officials may have actually helped formulate the Waterford task force plan themselves, according to a Wall Street source who asked not to be named. Mark Kerrigan, a budget auditor assigned to energy issues within the Office of Management and Budget, gave the *Gambit* source and others a detailed account of the plan less than 24 hours after it was devised in early March. According to *Gambit*'s source, Kerrigan was thoroughly knowledgeable and enthusiastic about the Waterford task force plan, so much so that the source said he thought that the plan had actually come from the White House, not the NRC.

Contacted by *Gambit*, Kerrigan denied having known anything about the Waterford plan last spring, saying that he had not "played an active role" in the Cabinet Council nuclear working group. He would be glad to talk about the Cabinet Council's efforts, Kerrigan said, but before he did he wanted to make sure that he was "covered." Before saying anything more, Kerrigan asked *Gambit*'s reporter to check with OMB's Office of Public Affairs before he would discuss the matter further. Contacted by *Gambit*, Edwin L. Dale, the assistant director for public affairs for OMB, responded that "Kerrigan doesn't know about any NRC stuff and won't talk about it."

Told of Kerrigan's denials, however, *Gambit*'s source insisted that he remembered the conversation very clearly. He was quite sure in his recollection that it was Kerrigan he spoke to. Kerrigan, he said, seemed to have had a thorough knowledge of the NRC plan for Waterford and had described it in some detail, outlining it as a plan to "expedite the process and make sure the (NRC) resources were applied so that answers could be found."

Hodel's Task Force on Nuclear Power Plant Construction, looking for its own answers, apparently began to stir into operation two to three weeks later. Although its specific beginning date remains unclear, Jerry Griffith, the director of one of DOE's offices from which staffers for the task force were drawn, said his calendar showed that the first DOE meeting to discuss Tom Dillon's new assignment was called for the morning of April 3, 1984 — three days before NRC Executive Director of Operations William Dircks ordered the NRC staff to take steps to duplicate the Waterford task force effort for several other near-term reactors. Working under the direction of Dillon, the DOE task force quickly began to establish a chain of contacts within the NRC and the utilities. The task force was specifically directed to follow what Dillon described to *Gambit* in a recent interview as "the realities" of the licensing process.

Although Dillon was not destined to remain with the task force long, he oversaw its initiation and the first "three or four months" of its early operations before leaving DOE to take a position in the nuclear power industry. Following his departure in late June, Gordon Chipman became the new task force director. Chipman had previously been DOE's deputy assistant secretary for breeder reactor programs, a position that had brought him into frequent contact with nuclear power industry executives. Dillon described Chipman as "very knowledgeable" and "a very appropriate guy to play the role." Chipman, responding through a DOE spokesperson, refused to speak to *Gambit* about the task force.

Dillon's staff began to gather information regarding all the remaining nuclear power plants that were under active construction and/or expected to be going into the "final licensing phases during the next, from that time, year to eighteen months." The emphasis at all levels of his staff's work, according to Dillon, was particularly aimed at discovering the issues that might delay a plant's licensing. The administration, acting through Hodel, wanted nuclear power plant licensing expedited and Dillon's task force was the advance unit to that end, Hodel's nuclear intelligence operation.

Dillon initially gathered a group of "six or seven" people from other areas of DOE for his core staff. They came from two primary areas of DOE planning, which provided people with expertise in utility economics and financial analysis, and nuclear engineers, people "who could understand technical issues associated with licensing the reactors." The task force core staff, who worked "just down the hall" from Hodel's office, were in turn supported by DOE with engineers, attorneys, specialists and upper echelon managers drawn primarily from the offices of the assistant secretary for nuclear energy (Shelby Brewer), the assistant secretary for planning and policy development (Jan Mares), and the assistant secretary for international affairs and energy emergency (Helmut Merklein), Dillon said. All three portfolios carry some responsibility for nuclear power operations or advocacy within DOE's normal organizational structure. Brewer, Mares and Merklein have all moved on to other positions since then.

DOE's public position has been to minimize the size of the task force. Spokesperson Barbara Flemming insisted in recent interviews with *Gambit* that the task force is composed of "only two dedicated" DOE staff people. A small sampling of DOE task force documents recently obtained by *Gambit*, however, show that between two

and three dozen DOE staffers have been providing reports and analyses or have otherwise been regularly contributing to the task force effort at any given time at least through late January 1985, although their numbers have now dropped to some extent.

Dillon's job, as he described it, was to oversee the collection of a vast array of raw data revolving around the economic, technical or political issues that might conceivably slow the licensing process of any one of the 20 plus plants the task force was keeping tabs on, issues that could threaten the survival of the utilities building them.

To that end, the task force was organized into what Dillon described as a "cross matrix approach." One person specializing in licensing issues and another specializing in "some of the economic parameters" were assigned to each plant. One of those two was assigned as the "primary point of contact" for each plant, although there might be different people somewhere in DOE following as many as a dozen different issues on each plant, anyone of which might hang up its license, all of them reporting into the task force regularly.

Task force staffers spent their days gathering information from two principal sources, according to Dillon: the NRC and the lead utility for each reactor. Collectively, they were ordered to establish a liaison with a single person for the utility and another for the NRC on each reactor and to deal only with that person. In some instances, according to Dillon, they also contacted friendly state utility regulators, although that was an area he described as "sensitive." Documents and interviews obtained by *Gambit*, however, suggest that Dillon's staff enjoyed a considerably wider range of contacts for most of the plants they were tracking.

The precise nature of the relationship between the task force and the NRC remains unclear. According to Dillon, his task force staff didn't have any more access to the NRC than anyone else. "They didn't have any more special access to the NRC than you would, but they exercised it regularly," Dillon said. "The people at the NRC were very cooperative in providing up to date information and it was always at our fingertips after we got started." He characterized the NRC people his staff spoke to as

cial, full time assignments. At least some DOE technical staff members were additionally assigned to "monitor" NRC deliberations on certain generic problems, such as the Transamerica Delaval diesel generator review, and given special access to NRC discussions and trips to plant sites from which the public would normally be excluded.

As the details of the economic and technical problems confronting each plant began to filter in, Dillon's staff began to



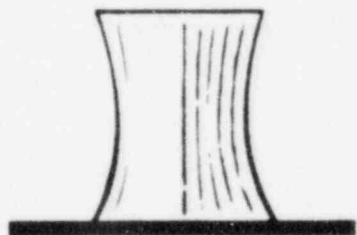
analyze and weigh the information. On technical problems that might delay a reactor's licensing they checked with DOE consultants, apparently seeking suggestions for arguments or solutions that could steer each plant around the snags. Other information was compared with what Dillon characterized as "other data bases." Dillon's own DOE financial and economic "experts" examined and weighed those category's problems facing every plant, seeking possible solutions on those fronts as well. All the information that came in was weighed and measured, according to Dillon, in the search for what was usable and what was not.

Once Dillon's group felt they had enough detail on each of the 20 plants, they originally set out to monitor; they began to prepare what he called "comprehensive data books," documents that collected together brief resumes of each plant's technical and financial status relative to licensing, with the emphasis always targeted on expediting the issuance of its license. The data books were and continue to be updated as developments demand, always looking toward licensing first and commercial operation and inclusion in the rate base second.

Gambit has obtained copies of versions of the first three comprehensive books produced by the task force. They contain detailed financial profiles on each company, including charts showing the history of the utility's dividend, stock and bond performances, their cash flow needs, the amount invested in their reactor construction programs, estimates of how much is still to be invested, etc. They also contain brief summaries of all upcoming political and regulatory events that will impact either their licensing or the plant's inclusion or exclusion from the rate base.

Precisely how Dillon's staff treated the information they received is not clear. His own accounts of that, as told to *Gambit*, appear to be contradictory. On one hand he insists that his mission was simply to provide an accurate assessment of what the licensing and financial issues on any given plant were. His staff's task, as Dillon tells it at one point, was simply to ensure that there was "good, accurate, dispassionate data and information" about the status of the 20 reactors nearing licensing. "The idea was," he said, "that we needed to have good, accurate, comprehensive data to support any policy decisions" the administration might be making.

While insisting that the information his group collected and the way in which it was presented was carefully tailored to be



"key people," people who would either know the information DOE wanted or who would be able to get it at a moment's notice.

Other sources, however, suggest that task force staff had access to information that the public could not normally expect to obtain. In addition to their regular contacts with each plant's NRC project manager, Dillon conceded that his staff "may have" been in regular touch with the senior executives the NRC designated to shepherd those nine most troubled plants through the process. Few people outside the NRC and the DOE task force even knew that those senior executives had been given spe-

"objective, reliable, factually accurate information," he at other times conceded that the data they collected was weighed and analyzed toward the goal of trying to "find out what the crucial issues were that might affect anything other than a normal progress" towards full power operations. "We were passing on information that we thought had been put in the right context. There was a very real attempt to do some prophesying of the technical and economic information in terms of what its validity was."

Dillon demurred when asked if the purpose of that information was to enable the administration to help facilitate licensing the troubled plants, which included all 20 that they were tracking. The administration was looking not so much at facilitating licensing, he said, but rather to see if "there were stages (in the licensing process) where the federal government, either directly or indirectly, was an inappropriate barrier." There was a "strong sensitivity" that the administration did not become "a facilitator to the extent that they would become an active party to a licensing proceeding or in any way appear to be contravening the NRC."

But there are signs sprinkled throughout Dillon's account of what happened to the information the task force gathered, as well as signals found at the NRC, which suggest otherwise. Task force documents obtained by *Gambit* since show clearly that the whole point of the task force was to collect information that could be used to influence NRC decisions on specific plants and specific issues.

When there was a conflict between the way the utility and the NRC saw a particular technical question that might be delaying a plant's progress towards full power operation, for instance, the task force took an approach that apparently differed from an objective assessment of a particular issue's validity. "If the utility and the NRC appeared to be seeing things oppositely," Dillon told *Gambit*, his staff "would try to get other information that could be brought to bear. We didn't ever try to bring it to the point of saying who is right and who is wrong. Just that here's this viewpoint, here's that viewpoint and here's this other information." Precisely what "this other information" might be and how it might be used was something Dillon declined to discuss.

Asked if DOE's task force was a nuclear intelligence gathering operation, Dillon again demurred but did not deny the suggestion. Calling the term "super-charged," Dillon said he "tended" to think of the group "as developing a factual and objective data base" rather than as an intelligence gathering operation. The task force was managed, he said, as a "fact finding activity," as opposed to a "policy activity."

Although task force staffers did not make them, policy decisions were nevertheless the fruit of their work. Dillon reported to Secretary of Energy Hodel through DOE's number two man, Danny Boggs. Both Hodel and Boggs received detailed briefings at least once and sometimes twice a week from Task Force members. The briefing sessions with Hodel, according to Dillon, usually concentrated on plants that were hot topics of the news day. Those with Boggs, however, were much wider ranging, more detailed and generally more frequent.

Danny Boggs was no stranger to questions of nuclear energy and national policy. During the first three years of the Reagan administration Boggs served in the White House as the president's number one

energy advisor. Boggs initially came to the White House as a senior policy advisor to the President in the Office of Policy Development, specializing in energy questions, before being promoted to assistant director of the Office of Policy Development and special assistant to the president. Boggs was generally understood around Washington, according to all the sources interviewed by *Gambit*, including DOE spokesperson Barbara Flemming, as "the energy guy in the White House."

But on September 9, 1983, two months after the WPPSS bond default and six months before the DOE Task Force on Nuclear Power Plant Construction was formed, Boggs was nominated by the president to be the deputy secretary of energy. He was confirmed by the Senate on October 28. Ed Rothschild, with Citizens Labor Energy Coalition, a Washington-based energy interest group, has dealt with Boggs regularly since the Reagan administration came to power. Rothschild describes Boggs as "a Chicago School, Harvard lawyer who would tell you that he interprets economic behavior in a very conservative, traditional manner. He believes that primarily market forces should determine economic outcome. He also thinks, therefore, that federal regulation ought to be at a minimum if not eliminated entirely and that regulation in the safety area, at least, should exist, for example on nuclear power, but it should be such that it doesn't make it too difficult for people who really want to get nuclear power off the ground to do the job that has to be done...in their terms. So he is basically from the non-federal and non-governmental interventionist school of thought."

Precisely what Boggs, Hodel and others in the administration did with the information being gathered by Dillon's — and later Chipman's — task force is not clear. Responding through a Department of Energy spokesperson, the former White House chief energy advisor refused to speak about his activities to expedite the licensing of problem nuclear power plants.

Boggs, however, was apparently DOE's prime mover and shaker, acting on his basic free-market instincts, the information provided by the task force and the president's mandate in the administration's campaign to salvage the industry.

Boggs worked "very closely" with the task force staff, which reported directly to him, according to Dillon. He in turn did a "great deal" of briefing of other people in and out of the administration regarding the status of the program to expedite licensing and the administration's efforts to that end. Armed with the information and analyses of the task force, Boggs was also a primary force in implementing the administration's policy to expedite the licensing process and to help the utilities in other ways. Exactly what actions he took, to whom he spoke, etc., remains unclear, although there are some hints to those questions contained in the DOE task force documents *Gambit* has obtained.

While the administration was assiduously working to convince the public that all matters relative to nuclear power and electricity rates were matters best left to the NRC, state and local authorities, Danny Boggs, Donald Hodel and other administration representatives were just as assiduously working behind the scenes in the interests of their friends in the financial community, the nuclear power industry and the utility industry.

All through the spring while the task force was collecting information from the NRC, the utilities, press clippings and "other data bases," the Reagan administra-

tion was simultaneously quietly organizing a broad campaign to bring all the resources of the federal government to bear on their goal of saving troubled reactors and the utilities they were threatening to submerge. Fruits of the task force effort were being quickly passed throughout the government via the mechanism of the White House Cabinet Council on Economic Affairs working group on nuclear power, working under the day-to-day direction of Assistant Secretary of the Treasury for Domestic Finance Thomas Healey. Staffers assigned to Healey's project were in daily telephone contact with Dillon's task force staff, according to Dillon, collecting "specific information on specific projects."

Healey's staff was additionally preparing and submitting for the task force staff's review and written comment "various drafts" of papers Dillon refused to characterize. Saying that the Cabinet Council working group's efforts are "privileged information," he would only say that the papers dealt with topics that went beyond information that "would impact financial decisions." What the purpose of those papers was or how they were used remains unclear.

During the same period, March to July 1984, Healey was busily convening a series of interagency meetings under the auspices of the Cabinet Council working group on nuclear power. "Almost every agency of government was represented" at those meetings, according to Dillon, who attended many of them. Asked about the subjects discussed, Dillon reiterated his position that the meetings were privileged, but said that those involving his task force revolved around issues concerning the nuclear power plants pushing for licensing. Spokespersons for the White House, the Department of Energy and the Department of Treasury have all refused to discuss the meetings.

While Dillon insisted that his task force efforts were strictly aimed at collecting information, he conceded that Healey's working group staff took the information provided by Dillon's staff, did "the processing of it," then "circulated it to all the federal agencies that were involved and concerned. Persons in those agencies, acting under Healey's coordination, would then act in ways that remain unclear. Treasury spokesman Brian Benko told *Gambit* that Healey refused to comment.

At the same time these staff activities of the Cabinet Council on Economic Affairs working group on nuclear power were going on, the Cabinet Council principals — Hodel, Treasury Secretary Donald Reagan, and high ranking officials of the Office of Management and Budget, the Federal Emergency Management Agency, the Department of Agriculture and others were meeting with executives from the utilities building Seabrook and Shoreham, the financial community and the nuclear power industry. The question under discussion was how to bail out Seabrook, Shoreham and all the other problematic reactors.

Hodel, Boggs and one other DOE official, Earl Gjelde, occasionally accompanied by Dillon, meanwhile, began to convene their own series of meetings with the financial community following Hodel's May 8 speech to the Nuclear Power Assembly. According to Dillon, at least "four or five" of these meetings took place between Hodel, et al., and groups of utilities analysts from several of the country's largest investment and commercial banking firms and some other "natural groupings" from the financial community. The character of the meetings, according to Dillon, was to help the financial community "separate



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fact from fiction in terms of what the administration's thinking was in this area. On the other hand, Dillon said, the administration hoped to learn from the final what "their true feelings were about" investments in nuclear power projects" and what they thought the "key issues" were "associated with uncertainty and risks of a federal order."

Hodel also maintained what Dillon called a "virtually unbroken string of contacts with the utility industry" throughout his tenure at DOE. In and of itself, most observers believe, there is nothing unusual about that, especially considering Hodel's long history as a top executive and consultant with the utility industry.

The key issue, according to several Gambit financial community sources, including Kidder Peabody's Eugene Meyer, has long been the questions of when and whether some of the most troubled plants are going to be licensed by the NRC. What if any commitments Hodel or other members of administration made to the banking and investment firms they were dealing with regarding getting the NRC on board are not now known. Nor is it known if any of the administration's representatives were passing on inside information to members of the financial community regarding possible pre-determinations on specific licensing issues by the NRC majority. DOE's Task Force on Nuclear Power Plant Construction, however, was clearly structured to pay nearly as much attention to the financial problems of the utilities building the endangered reactors as it was paying to expediting the NRC's licensing process. Documents now in Gambit's possession make it equally clear that the administration itself, through the mechanism of the task force, wanted badly to have an early warning system on how the NRC was going to decide certain issues regarding all of the troubled plants.

8. Riding Herd on TDI

Kenneth A. Trickett is an Episcopal priest who now lives in Pagosa Springs, Arizona, on the approach to the spectacular, barren grandeur of the Grand Canyon Dam and Lake Powell. In the spring of 1984, however, before Trickett retired from the Department of Energy as a nuclear engineer, he was detailed from his role in DOE's Office of Converter Reactor Deployment to a special assignment for DOE's Task Force on Nuclear Power Plant Construction. Trickett's assignment was to "monitor" the NRC's progress in resolving a major technical problem that was currently stopping two of the country's most problematic and expensive nuclear power plants, Grand Gulf and Shoreham, dead in their tracks: the Transamerica Desual Inc. emergency diesel generator failure.

In August 1983 engineers at the Shoreham nuclear power plant on Long Island were finishing routine testing on three giant emergency diesel generators when the crankshaft broke on the last engine. An NRC investigation of the diesels, manufactured by a company that had previously specialized in producing large marine engines, Transamerica Delaval Inc. (TDI), uncovered a number of design deficiencies and a substandard quality assurance program at TDI. The quality, design and durability of all models of TDI diesel generators consequently became suspect in the eyes of the NRC safety program.

TDI's design failure threatened a total of

13 reactors that had installed the massive generators. The diesel problem was on what the NRC calls the "critical path" for licensing on two other plants as well as Shoreham and Grand Gulf. Duke Power's Catawba in South Carolina, just across the state line from Charlotte, North Carolina, and Texas Utilities' Comanche Peak on the outskirts of Dallas, Texas. Until the TDI diesel issue was resolved none of the four would be issued an operating license.

NRC regulations require that each operating reactor have standby generators on site. If an off-site power failure should occur at the same time the plant was experiencing a loss-of-coolant accident — which could lead to a serious radiation release or even a meltdown — the emergency generators are designed to come on line automatically, energizing the reactor's emergency shutdown systems, which rely on pumping enormous volumes of water through the reactor core. Without reliable standby generators, according to long established NRC regulations known as GDC 17 (general design criteria), nuclear power plants are not allowed to operate. As problems at nuclear power plants go, the TDI diesel flames mount big league trouble for every plant that had them.

Discovery of the TDI problem at Shoreham prompted the NRC to organize a special "owners group" composed of representatives of each of the 13 affected plants. It was designed to help the individual utilities wrestle the problem towards resolution. On the NRC staff side, the commission established its own special TDI project group, which was likewise ordered to search for an acceptable technical solution in general as well as for each specific plant. At its peak, the owner's group had roughly 120 people working on the problem full time at an old ranch house near the site of the Shoreham plant, according to the NRC TDI project group leader.

Trickett, according to Carl Berlinger, NRC's TDI project group leader, was assigned to "keep tabs on the NRC" to find out whether or not the "TDI issue was a real problem" and whether or not "the NRC was proceeding as expeditiously as possible to resolve the issue. If it was a real issue," Berlinger was the NRC senior executive service officer Harold Denton assigned to steer this particularly troublesome issue out of the way of licensing plants like Grand Gulf and Shoreham. As he understood Trickett's "marching orders," Berlinger told *Gambit*, the DOE nuclear engineer was involved "to assure his management (at DOE) that in fact the NRC was not dragging its feet and causing any unnecessary delays in the licensing process."

Trickett, according to Berlinger and Dean Houston, who was the NRC project manager for Grand Gulf at the time, quickly began to attend all of the meetings between the TDI owner's group and the NRC's TDI project group. He also accompanied the NRC TDI project group on several site inspections at specific plants, including their trips to both Grand Gulf and Shoreham, the two plants where the ultimate resolution of the TDI issue became hotly contested public controversies.

Berlinger did not take to Trickett's presence kindly, both men told *Gambit*. As far as he was concerned Berlinger said, Trickett was somebody who was there to look over his shoulder, an implication he did not like. "I didn't need anybody telling me how to do my job," the NRC executive later said.

But someone at DOE had connections at the top of the NRC. A few days before Trickett called him the first time, Berlinger

received a similar call from Harold Denton, the NRC's director of the Office of Nuclear Reactor Regulation (NRR). The NRC officer ultimately responsible for all reactor licensing programs, the man one step removed from the NRC's executive director, William Dircks. Denton told Berlinger that he would soon receive a call from someone in the Department of Energy who would ask to sit in as an observer on all the TDI project group deliberations. If Trickett had any questions, Denton told Berlinger, "try to answer them." It was clear to him, Berlinger told *Gambit*, that somebody had coordinated with Denton about Trickett. Denton in turn asked Berlinger to be accommodating when Trickett called.

Berlinger insists that Trickett was an observer only, sitting in on the TDI technical discussions, going on the site inspections, and attending the joint meetings between the owner's group and the NRC staff and reporting back to his superiors in the DOE task force. Berlinger, Trickett and Houston all agree that Berlinger's reception of Trickett was cool at best. "The first time I called him," Trickett said of Berlinger in a telephone interview with *Gambit*, "he told me to drop dead." That was the way Berlinger remembered it also.

"He didn't come in here throwing his weight around," Berlinger said of Trickett. "There's nothing that I would have tolerated. When he first contacted me and asked if he could be on distribution lists and be notified of meetings and be able to attend meetings, I asked him why and he explained and I said, 'fine, you can come. You can participate as an observer. But the first time you interfere with what I'm doing, I'm going to ask you to leave.'" Despite his resentment of Trickett's presence, however, Berlinger apparently accommodated Trickett as long as Trickett wanted him to.

Trickett reported back faithfully and often to the Task Force on Nuclear Power Plant Construction. Based on the information now available to *Gambit*, the question that remains to be answered is not whether Trickett interfered with the process, but whether the information he supplied to the DOE task force was used to intervene or manipulate the process at a higher, more political and perhaps sophisticated level.

When Kenneth Trickett spoke to *Gambit* about his role with the task force, he denied that he or anyone else assigned to the task force was involved in trying to circumvent NRC safety, quality or environmental regulations. He conceded, however, that he was assigned to look for ways for "DOE to intervene" in the NRC licensing process. "People thought," Trickett said, "you know, is this a good potential item for DOE to use to intervene?"

Ultimately, Trickett told *Gambit*, he came to the conclusion that NRC's concerns about the TDI design and quality problems were well taken and he recommended to the task force that DOE leave the NRC task group alone. "I recommended that DOE not intervene," Trickett said. "To the best of my knowledge that was followed. But, when staff at the nuclear engineer level make those kinds of recommendations and they pass through all kinds of hands and a group of people down at the Forrestal (DOE's main office building in Washington) think about them, I haven't the foggiest notion of what happened other than an impression that that was never taken up as a subject for the Secretary of Energy to intervene on."

Trickett apparently knew more than he is willing to admit, however. *Gambit* has obtained a series of memos the DOE

nuclear engineer and then part-time priest wrote to the task force reporting on meetings of three associated groups working on the TDI issue: the NRC TDI task group, the TDI owner's group, and NRC commissioners. They suggest that DOE intervention in the TDI question was being actively pursued when some of the most controversial NRC licensing decisions involving the emergency generator issue were made. Among those was the widely criticized order the NRC issued on May 22, 1984, allowing Mississippi Power and Light to continue operating Grand Gulf at low power while one of their two TDI engines was torn down for inspection, the first time in U.S. nuclear regulatory history that had been done.

One Trickett memo, dated May 25, 1983, briefly reports a May 24 commission meeting called to discuss the precedent-setting NRC order issued two days earlier. The second section of the memo reveals Trickett's own analysis of the problem and his understanding of how the information he is providing to the task force will be used. Concluding that there are indeed serious technical problems with the diesels, he then turns to an analysis of the NRC's handling of a specific technical question on which the issue was finally decided, which is followed by an outline of actions being taken by the Department of Energy's program to move the NRC to a position that will expedite licensing of the TDI delayed plants.

One of the most vexing problems with the TDI diesels, aside from the problematic design of some models, was that the quality assurance of TDI's parts was poor and has not met NRC quality assurance standards. Cracked and broken parts, such as the crankshaft at Shoreham and cylinder heads at Grand Gulf, have been an area of special concern. In the extraordinarily complex world of nuclear regulation, critical safety issues often turn on the definitions used to set performance standards. That has been the case on the TDI issue. One of the major struggles between the owner's group and the NRC project group was just that: how to define an acceptable performance standard for TDI parts. The NRC standard at the time was "risk-free," a benchmark they were apparently willing to modify to "defect free."

According to Trickett's analysis, that standard was also too high for the utilities. "The major problem," Trickett reported, "is the NRC movement from 'risk free' (which is in itself unnecessarily restricted) to 'defect free' components and systems in the TDI diesel case. This will create an unacceptable and unnecessary analysis, inspection and NRC review burden upon the involved utilities."

Immediately following that assessment is Trickett's outline of DOE's response. "The DOE action being taken is:

- To determine what constitutes a reasonable technical approach to the TDI diesel problem through direct, informal contact with the involved industry and regulators.
- To develop, on a timely basis, recommendations to DOE management for DOE action as appropriate, such as high level meetings with the Commission and/or staff or participation in Commission meetings on licensing proceedings."

Darrell Eisenhutt, who was then the director of the NRC's Division of Licensing, told *Gambit* he had never heard of the DOE Task Force on Nuclear Power Plant Construction in an interview on March 18. Eisenhutt denied during the same conversation that he had ever told Billie Garde of

the Government Accountability Project that the decisions now being made within the highest echelons of the NRC were dictated by "powerful forces" issuing instructions that "could not be coming from anywhere higher in this country."

When pressed on the question of the DOE Task Force on Nuclear Power Plant Construction, Eisenhutt denied knowing anything about a DOE task force. "Periodically we hear there's a big task force was up in the high levels and then there's a different task force," Eisenhutt said. "The staff down here really doesn't hear anything about it. I've had categorically zero contact with the Secretary of Energy's office or any of his working groups, task forces, etc."

Pressed again, Eisenhutt again denied any knowledge of any DOE task force or that he had personally had any contact or communication whatsoever with anyone from the Department of Energy at all. "I'm not aware personally of any task forces that are working over there right now at all," he reiterated. He also denied having any knowledge of Kenneth A. Trickett, or of any efforts by DOE to monitor the NRC's TDI diesel project group and its progress. "Trickett?" Eisenhutt asked. "Never heard of him that I can recall." If Trickett had indeed been allowed to go to project group site visits, Eisenhutt said that would have been improper, but he himself was not aware of any such visits, any such person or any such DOE task force.

Memoranda written by Trickett or based on information supplied by Trickett for the task force in May, June, and July of 1984, however, including the one quoted above, suggest differently. An unsigned memo dated June 1, 1984, for instance, discussing the "TDI Diesel Status at Grand Gulf," seems to quote from a direct conversation with Eisenhutt in which the director of licensing explains the reasoning behind the acceptance of a new emergency diesel standard at Grand Gulf. The writer of the same memo is careful to distinguish at other points in the memo that the source of certain comments are from Mississippi Power and Light spokesmen, for instance. In another place MP&L is said to quote Harold Denton, the director of nuclear reactor regulation. Eisenhutt's boss. No such distinction is made in the reference to Eisenhutt's statements.

A hand-written memo penned by Trickett on July 3, 1984 refers to comments by an Eisenhutt assistant, Mark Williams. "Don't be optimistic," the note says, attributing the comments to Williams. "NRC not tied down."

Jerry Griffith was the deputy director of DOE's Office of Converter Reactor Deployment in 1984. Under normal conditions Kenneth Trickett reported to Griffith. When Trickett was assigned to the task force on Nuclear Power Plant Construction, however, he began to report directly to the task force and another of Griffith's subordinates, Dr. Peter Lang.

Griffith's office was one of DOE's repositories of nuclear engineering expertise. Five of Griffith's 29 full time staff people, all professionals, were "heavily involved" with various task force assignments. "There were a bunch of tasks going on," Griffith recalled, some of which are continuing. In addition to their assignment to "keep tabs on all the troubled plants" to try to assess if there was something the department could do to help," Griffith said, the Task Force has also been looking at "ongoing regulatory rule-making to see

if there is something the department could do. They are looking at emergency preparedness, source term — they've been into just about everything." Trickett agreed, telling *Gambit* that "there were umpteen items on the task force list and the TDI diesels were just one of them."

Source term refers to the spread of radiation that would occur after an accident in which a reactor's fuel was damaged — generally considered to be the severest form of accident at a nuclear power plant short of a meltdown. A joint industry-NRC study group has recently announced new studies which claim that the spread and lethality of radiation following such an accident is much less than previously thought. That group, according to Griffith, was originally brought together by DOE staffers, apparently working on task force assignment. The early meetings of the industry-NRC group actually met at DOE offices in the Washington area, Griffith said.

NRC's new assessment of the dangers of source term, which is being used in the struggle over emergency planning for the Long Island Lighting's Shoreham nuclear power plant between officials in New York and the utility, the NRC and the administration, is currently under attack from a variety of anti-nuclear and other interests. Documents have recently been unearthed on the task force involvement with the source term issue, according to sources in Washington, that show top level DOE personnel discussing how they can manipulate the NRC processes to produce the decision sought by the administration. Under source term, according to the source, the memo calls it a "technical-emotional-political problem" going on to discuss using DOE research laboratories to justify what the administration wants to do.

People on his staff who were given task force assignments, including source term, Griffith said, followed the same work pattern as Trickett: attending NRC staff and commission meetings, dealing with any special industry or utility groups that had been formed to address whatever NRC licensing issues they had been assigned to cover, following press accounts of their assigned issues, analyzing it all with an eye toward DOE intervention and ultimately reporting back to the task force and, through them, to Hodel and Danny Boggs.

Dean Houston was the NRC project manager for Grand Gulf between March and "October-November" of 1984. As project manager, Houston was responsible for drawing together all the required threads of safety evaluation at NRC headquarters, a major component in the final steps of the licensing process. As a result, Houston was deeply involved in the dispute between Mississippi Power and Light and the NRC staff over Grand Gulf's Trans-Alabama Delaval emergency diesels.

Throughout the early part of 1984 the NRC staff had been insisting that MP&L complete a tear-down inspection of their TDI diesels, a demand with which MP&L steadfastly refused to comply. Grand Gulf had been licensed to operate at low power since June 16, 1982. Besieged with one problem after another since that time, the Mississippi plant was finally running at low power in the late winter/early spring of 1984. With their reactor at last running and the entire Middle South system under intense financial pressure because of the construction problems at both Grand Gulf and Waterford, MP&L officials were loath to shut down for the required TDI inspection, something that was a condition of their low power license.

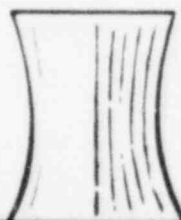
On May 1, 1984, the NRC staff issued an order requiring MP&L to complete the TDI tear-down inspection. Understanding that that order carried with it the collateral requirement that the reactor be shut down, the company refused. Sometime during that period, Dean Houston recently told *Gambit*, Jim Magheys, MP&L's vice president in charge of Grand Gulf's operations, "mentioned" to Houston that he would see if the DOE task force could do anything to help get MP&L over the TDI hump.

"MP&L made reference a time or two to this group (the DOE task force)," Houston told *Gambit*, "they had knowledge that this group was there and they evidently went to them to see what the group could do for them in any way, shape, or form to get them over some of these technical humps. I remember the guy on the diesel generators — he was asking me what DOE could do, how DOE could get into a position to shed some light on this particular subject."

Houston, who attended most of the NRC TDI project group meetings because of his role in Grand Gulf, had become a favorite of Kenneth Trickett. Trickett had developed a habit since being assigned to cover the emergency generator issue of spending long sessions with Houston pumping him for information about Grand Gulf in general and the TDI questions there in particular, according to Houston — an assertion Trickett at first attempted to deny when questioned about it by a *Gambit* reporter, but later conceded.

Precisely what, if anything, MP&L's pleas for help from the DOE task force had to do with the plan that issued forth a few weeks later allowing the company to continue to operate Grand Gulf at low power while one of their TDI diesels was torn down for inspection is not clear. During the interim, Trickett and other DOE servers of the NRC were sending the task force a steady stream of memos outlining the problems, the disputes and what appear to be suggestions on ways to satisfy the differences in MP&L's favor, including one memo that seems to closely reflect the position that was ultimately taken. Carl Berlinger, the NRC TDI project group leader, adamantly denied that DOE had anything to do with the final decision, insisting instead that the decision to let the plant continue to run while the engine was dismantled was a product of his project group with no input from the DOE.

Congressional testimony given by Darrell Eisenhuth, the NRC's director of the Office of Licensing, Harold Denton,



Eisenhuth's boss and the director of the Office of Nuclear Reactor Regulation, and NRC Chairman Nunzio Palladino, to whom both Eisenhuth and Denton finally answer, however, indicate that the Grand Gulf TDI decision was ultimately made at their level. Eisenhuth and Denton issued the order and then, after the fact, the commission, led by Palladino, voted 3-2 to uphold it.

Commissioners Victor Gilinsky and

James Asselstine, both of whom voted against the measure and criticized it harshly, were not even aware at the time that a DOE Task Force on Nuclear Power Construction existed, much less that its representatives were bird-dogging the entire range of decision-making processes that led to the Grand Gulf TDI order, according to Gilinsky and a spokesman for Asselstine. Nor did they know that the information collected by Kenneth Trickett and others was being funneled to people in DOE who were apparently in contact with the "high level" NRC officials who made that decision during the time when the decision was in fact made.

In an interesting "Dear Don" letter that may be related, Harry O. Reinsch, the president of Bechtel Power Corporation, the architect, engineer and prime contractor for Grand Gulf, wrote to Secretary of Energy Donald Hodel on August 3, 1984. It was three days after the NRC voted to issue Grand Gulf its full power operating license on July 31. Reinsch wrote to Hodel to, in part, thank him for his help in obtaining a full power operating license for Grand Gulf. "I would also like to express my personal appreciation for your efforts on Grand Gulf," Reinsch told Hodel, "which I believe were instrumental in the receipt of a full power license on Tuesday of this week."

9. Friendly Haven

It did not take long before utilities in trouble because of their nuclear construction programs began to turn to the DOE task force. The task force, under the watchful eye of Danny Boggs, and in turn, the White House Cabinet Council on Economic Affairs working group on nuclear power, together seem to have skillfully funneled their appeal to the appropriate level of government very quickly. At about the same time the task force was being organized, according to DOE's Jerry Griffith, executives from Public Service of Indiana stalled \$1.1 billion Marble Hill plant; approached DOE and the task force searching for a way to revive the comatose reactor. Although they have been unable to find a way to revive the plant so far, Griffith told *Gambit*, officials from PSI, DOE and other elements of the government and private sector, coordinating through the task force, spent a good deal of time and energy trying.

By late spring, early summer, Hodel and top members of the Department of Energy were actively circulating throughout the utility industry, the nuclear power industry and financial community, aggressively moving to resuscitate nuclear power's sagging prospects.

At Seabrook and Shoreham Hodel issued letters to affected stockholders, urging them to stand by the industry. He sent letters to the NRC urging them to adopt certain positions favoring quick licensing on particular plants, promising to have DOE attorneys issue legal decisions supporting certain actions on certain plants. One stockbroker, who asked not to be named, told *Gambit* that one of his firm's biggest clients, characterized as an investor with large holdings in most of the north-eastern nuclear utilities, was personally urged by administration sources to maintain those investments because the president's people were implementing a plan to get the nuclear power business back on its

feet. Among the steps he would advise, keep Seabrook going. Hodel assured the shareholders, would be to use emergency within the administration's grasp to block the importation of cheap Canadian hydro power into the New England area, hoping to frustrate the move to dump Seabrook. The Department of Energy and the Department of Defense would each argue against the Canadian power on national security grounds. Hodel assured major investors in Seabrook and its associated utilities, cheap foreign hydro power, they would say, — and now have said — is just this decade's equivalent of cheap foreign oil.

When the NRC's Office of General Counsel suggested that a "fair reading" of NRC regulations required that the intervenors in the restart of California's San Onofre reactor were entitled to a hearing on the issues they were raising, Gordon Chipman, the new task force director, issued a letter signed by Hodel offering to have DOE's attorneys issue a legal opinion saying that the intervenors were not entitled to a hearing. The NRC subsequently voted 4-1, denying the hearing.

In June the White House Cabinet Council on Economic Affairs working closely with Merrill Lynch and other major Wall Street firms, succeeded in producing an emergency bailout program to salvage Public Service of New Hampshire and its investment in Seabrook. Under the plan a new corporate entity was created, similar in many ways to Middle South Energy, the straw corporation created by Middle South Utilities to operate Grand Gulf. Seabrook's savior corporate structure is called Newbrook. It is in many ways like Grand Gulf, designed to be a regional generating station owned by a company with no other assets which will sell wholesale electric power to the utilities that subscribe to it.

Administration efforts designed to save LILCO and Shoreham continued meanwhile to pressure Suffolk County and New York state officials to play ball with LILCO's conceived and administered blessed emergency evaluation program for Shoreham. Task force efforts were continuing as late as March 8, 1985, seeking to have the Federal Emergency Management Agency schedule emergency evaluation drills for Shoreham, a move being fiercely resisted by Suffolk County officials and the governor of New York.

In mid-July the owners of the apparently doomed Midland twin reactors, Consumers' Power Company of Michigan, announced that they were making good on their threat to cancel the plants. Some negotiations between Consumers' and the Michigan Public Service Commission and a number of major corporate interests who had joined the fight against Midland under the organizational banner called ABATE continued for several weeks after that in a desperate, last-ditch effort to work out an agreement to salvage Midland, according to DOE documents obtained by *Gambit* and sources in the Michigan Public Service Commission. When those negotiations appeared headed for disaster the MPS's staff director, Roger Fischer, appealed to the task force for help. Fischer conferred in a telephone interview with *Gambit* last week. Hodel and his task force responded to Fischer's plea, moving quickly to arrange new negotiations between the parties, but those efforts sailed when the industry group, ABATE, refused to participate, Fischer said. He has been in regular contact with DOE's Task Force on Nuclear Power Plant Construction since last May, Fischer said, having spoken to them within the last month.

Harry O. Reinsch, the president of Bechtel Power Corporation, the country's largest nuclear construction firm, asked both Reagan and Hodel to intervene on their behalf in the days following the Midland decision. In Reinsch's "Dear Don" letter of August 3, 1984, he offers to "make" two Bechtel executives, Ken Davis and Frank Staszczek Jr., "available" to



Danny Boggs and the DOE task force. Davis was Boggs' predecessor as the number two man at DOE. In addition to thanking Hodel for his "instrumental" efforts in obtaining the operating license for Grand Gulf, Reinsch thanks Hodel for the task force's unsuccessful but concerted attempt to "act as a mediator" in the Midland case.

Arkansas Governor William Clinton also appealed to Reagan for help in the war between the states of Arkansas, Mississippi and Louisiana over the allocation of Grand Gulf in the proceedings with the Federal Energy Regulatory Commission (FERC). In a direct plea for President Reagan to assert his influence in FERC's deliberations on Grand Gulf, Clinton wrote to Reagan on August 21, 1984. Saying that both Grand Gulf cases before FERC intrude in an area of "basic retail rate setting" for utilities traditionally reserved for states, Clinton asked Reagan "to urge your appointees to the FERC not to erode that (state) authority under the guise of equalizing rates across state lines." FERC is by law an independent regulatory authority, similar in theory at least to the NRC. "Under normal circumstances," Clinton continues, "I would not ask you to communicate with the commissioners of a federal regulatory agency about a pending proceeding." Such communications are generally considered improper. The White House dispatched copies of Clinton's letter to the DOE task force and FERC under a "high priority" cover letter. How the task force acted on Clinton's letter is not known.

...

Middle South Utilities apparently found a particular friend in the task force. Task force documents obtained by *Gambit* show that Floyd Lewis, chairman of the board of Middle South Utilities, made at least three appeals to the task force and Danny Boggs in addition to their call for help on Grand Gulf's diesel generator issue, which apparently bore generous fruit. The first was last spring while the Mississippi Public Service Commission was preparing a series of show-cause hearings ordering Mississippi Power and Light, the MSU subsidiary in charge of building the twin Grand Gulf reactors, to convince the MPSC that Grand Gulf Unit 2 should be completed. Lewis and Middle South's Washington lobbyist, George White, asked Energy Secretary Hodel to testify on Middle South's behalf at the MPSC hearing. A series of task force memoranda in *Gambit's* possession show the deliberations within the task force on the pros and cons of Hodel's testimony.

First and foremost in their thoughts is how to maximize Hodel's appearance to

persuade the Mississippi commissioners to let Grand Gulf 2 go forward, while minimizing the political damage to both Middle South and the administration. One memo warns Hodel not to address the economics of Grand Gulf vs. possible alternatives because they are ultimately unknown and the costs of the reactor are expected to continue to increase. The memo also shows that DOE staffers have sought the advice of MP&L attorney Jim Child, who establishes the advisable parameters of Hodel's testimony, advice ultimately followed when Hodel did address the MPSC on July 10, 1984.

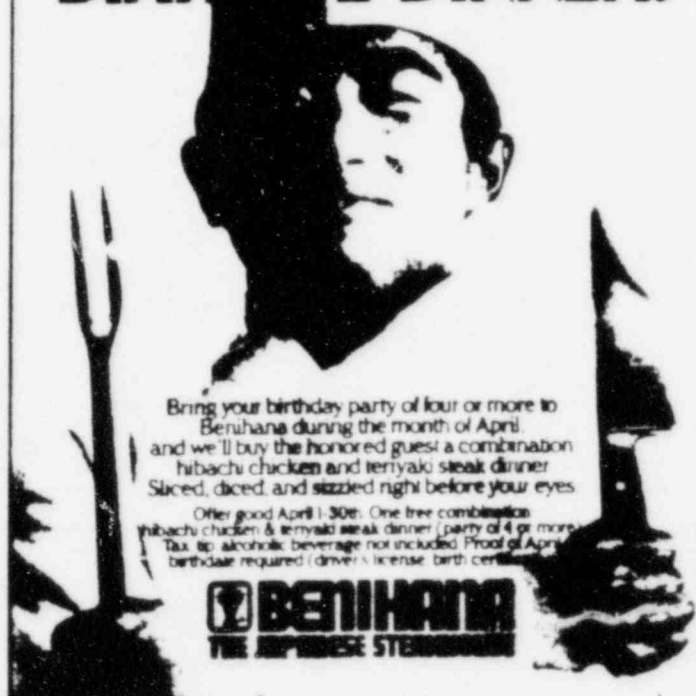
Apparently inspired by Middle South, a later task force memo, dated October 22, 1984, suggests that Hodel write to the Mississippi Public Service Commission and to Mississippi Governor Bill Allain urging them to work for the completion of Grand Gulf 2. Analyzing the politics of Mississippi's PSC, the substance of which appears to have come from Middle South sources, DOE official Thomas J. Grahame sizes up the PSC vote on Grand Gulf 2. "One of the three PSC commissioners (Lynn Havens) has announced he will vote for cancellation," Grahame writes, "and a second (Nelson Cochran, brother of the incumbent Republican senator) has indicated that he is leaning towards cancellation." Grahame goes on to lay out the positions of several Mississippi officials regarding the high and uncertain costs of nuclear power, concluding: "It is clear that the uncertainties about the ability to accurately predict the costs of nuclear power are among the most important factors driving events in Mississippi."

"In the case of Grand Gulf 2," Grahame continues, "with one of three Commissioners apparently the swing vote, leaning against completion, some uncertainties might be alleviated if the PSC knew of the substantial activities currently ongoing at DOE and at the NRC that are designed to prevent costly delays and bring more certitude to the regulatory process. These include work on source term and smaller emergency evacuation areas, readiness reviews, a possible backfit rulemaking and less minute allegations." Gordon Chipman, the DOE task force director since Dr. Thomas Dillon left DOE last June, subsequently submitted letters to Mississippi Governor Allain and MPSC Chairman W.D. Snyder for Hodel's signature. Both were drafted along the lines suggested by Grahame's memo. A covering memo to Hodel from Chipman and Jan W. Mares, who was by then DOE's assistant secretary for policy, safety and the environment and who has been heavily involved in task force efforts, urged that the letters be sent. Both letters, according to their covering memos, were "viewed as potentially decisive in obtaining a positive decision to complete the plant." A move by MPSC Commissioner Lynn Havens to call an MPSC vote to cancel Grand Gulf 2 was subsequently blunted.

MSU Chairman of the Board Floyd Lewis went to the task force well again in November. This time the problem was with the Securities and Exchange Commission (SEC). According to a task force memo dated Friday, November 16, 1984, Lewis visited Deputy Secretary Danny Boggs that day, asking him to intervene with the SEC in order to expedite consideration of three Grand Gulf financing issues then pending before the SEC totaling \$810 million, money which was to be solely dedicated to the completion of Grand Gulf.

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and \$250 million in pollution control, tax exempt bonds. Middle South Energy, according to the DOE memo, written by Max Ann Novak, Chipman's task force assistant, is the financial arm of Middle South Utilities that was created to hold and own Grand Gulf. MSE's only source of funding, according to the memo, "are the parent company and external financing. MSE has exhausted its lines of credit with banks (approximately \$2 billion) and had an \$80 million payment under their credit agreement with 88 commercial banks due on January 2, 1985."

Lewis' problem, according to his press, Boggs and Novak as related in the Novak memo, was that the Arkansas Public Service Commission had filed a motion to intervene in the case with the SEC, requesting a formal hearing before the federal securities regulators. Because the full faith and credit of Arkansas Power and Light was being pledged as part of the collateral on the three securities issues, APSC attorneys were alleging that MSE had not satisfied all the requirements of Arkansas state law in the \$810 million filings, a requirement under SEC regulations. Arkansas state law in turn requires that utilities issue securities of a certain value only after obtaining APSC permission — something that had not been done in this case, hence the APSC's request for an SEC hearing before allowing the issuance of the securities.

Someone on the SEC staff had already told a task force staff member, according to the memo, that the SEC had scheduled a meeting on the issue for the week of December 3, 1984, a fact that was not yet publicly known. If the SEC decided to grant Arkansas' motion for a hearing, however, it would delay the \$160 million stock offering for at least a month, pushing the sale into January of 1985 at the earliest. "However," Novak wrote, "even if they approve the financing on December 3, MSE must raise the \$160 million to purchase MSE stock by January 1, 1985."

It was therefore of great urgency to Middle South to avoid the SEC hearing sought by the Arkansas Public Service Commission. Precisely how the task force responded to Lewis' request is not clear, but within a few weeks the SEC issued the first of what APSC attorneys and the Washington counsel considered a series of rulings that were curious and got curious. The SEC denied Arkansas' motion for a hearing on the Middle South stock sale, allowing it to go forward. But they also said that their ruling implied no judgment about whether Arkansas law was or is being complied with. By the end of January 1985 the SEC had issued an additional three rulings, one each on the other two offerings Middle South was seeking in Grand Gulf and a supplemental ruling expanding on the first three. All of them contained what attorneys for the APSC considered curious language. By the last of the SEC rulings was issued in January, Wally Nixon, an APSC attorney, said in an interview, "I wondered if somebody from Middle South hadn't gotten to them in some way."

10. Banner Year

Nineteen eighty-four was a banner year for the licensing of nuclear power plants. More plants were issued licenses to load fuel, operate at low power and full power in 1984 than any other year since the accident at Three Mile Island occurred in 1979. Only three plants

received full power licenses in 1983, but in 1984 the trend began to change. It did because the NRC began to change the rules of the game radically.

Early in the year three plants that had been in the licensing pipeline from 1983 and were not particularly notorious as problem plants were issued licenses. La Salle 2, Susquehanna 2, WPPSS 2 were all issued full power licenses without raising any particular uproar. From then on, however, every plant processed by the NRC was on the watchlist of local intervenors, the Washington-based anti-nuclear lobby, the NRC and the DOE Task Force on Nuclear Power Plant Construction.

Diablo Canyon led the list. Rising against fierce local opposition, the repudiation of their own staff expert who had been assigned to investigate a new round of hundreds of allegations of fundamental quality and safety program breakdowns, and the advice of their staff attorneys, the NRC commissioners voted 3-2 to allow Pacific Gas and Electric's long-troubled reactor to begin low power testing.

Shoreham was the next test of fire. With the licensing process short-circuited by their TDI diesel problems, LILCO was making serious sounds of bankruptcy by early March and pressuring the NRC to allow them to go into low power testing anyway, bringing in an argument similar to the one eventually used to allow Grand Gulf to go forward despite their TDI problems. When the commission relented, issuing an order allowing Shoreham to begin low power operation despite the unresolved problems with their diesels several weeks later, the resulting outcry forced them to withdraw the order within a week.

A low power license was issued for Callaway, a plant in Missouri, on June 11. Catawba, another chronically plagued plant on the DOE task force and NRC watch list, was issued its fuel load and non-nuclear testing license on July 18. The dam broke, however, with the commission's vote on July 31 to issue Grand Gulf its full power license, followed three days later, August 2, with a similar vote for Diablo Canyon, a vote which was subsequently stayed by a federal court.

But that didn't matter to Wall Street. The financial community was searching for some sure sign that they had found new friends in the administration and the NRC. The events of Black January had shaken Wall Street to the core. "People were scared to death back in February and March," said an analyst for Paine Webber who asked not to be named. "Marble Hill closed. Zimmer went down, which no one could believe. Byron was denied a license, which was a debacle. Diablo Canyon was still on hold." Analysts up and down Wall Street, the source said, were speculating on how many plants would be cancelled, with some betting the number would be half of the currently scheduled plants.

"Now," he said, "there is a pervasive mood of optimism. Everybody feels that the NRC wants very badly to license these plants and that the only way they will fail to do that is if the courts stop them. It is now a whole different atmosphere. What really set this thing off was the licensing of Diablo Canyon and Grand Gulf and the takeoff was phenomenal. There was a wonderful rally beginning at the end of July — early August, really — and just closed about two weeks ago. It started in August, continued strong into September and October and has now petered out in November. Now, people are primarily concerned with what the regulators will do: how much of the costs of these plants will they allow to be plugged into the rate base?"

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Wall Street's mid-summer rally, in fact, began with the licensing of Grand Gulf. The NRC had telegraphed their intention a week earlier when NRC senior staff members Denton and Eisenhut testified before Congressman Morris Udall's hearing on Grand Gulf on July 24 that they intended to recommend the full power licensing of the plant at the commission meeting scheduled for July 31. The market began to move upwards the day before the scheduled Tuesday NRC vote on Grand Gulf, but when the commission actually voted to issue the chronically crippled reactor's license the next day, the market took off like a shot and did not look back for more than three months.

Subsequent actions by the NRC, meanwhile, did nothing to suggest that the market's reading of the commission's frame of mind was wrong. Between the licensing of Grand Gulf and the end of the year, Callaway was issued its full power license, the commission fought off the stay on Diablo Canyon's move to full power and six more plants, including Waterford and Shoreham, were issued fuel loading and/or low power licenses. Every one of them was on the NRC, DOE and Wall Street watch lists of plants that might not make it. The difference, everyone now agrees, is the change in the NRC's attitude.

Expedite became the by-word through-

out the NRC, a word passed and pushed by DOE's Task Force on Nuclear Power Plant Construction. Intervenor at plant after plant — Diablo Canyon, Shoreham, Byron, Catawba and Waterford, to name a few, found themselves faced with Atomic Safety and Licensing Board and Appeal Board and commission decisions piled one after another that simply dismissed their administrative procedure and due process rights to raise questions about the safety of the plants.

At Diablo Canyon the commissioners met in closed session and chose, against the advice of attorneys in their Office of General Counsel, to deny the intervenors a hearing on critical safety issues.

At Shoreham, when the chief judge of the Atomic Safety and Licensing Board scheduled hearings on the intervenors' contentions, which looked as though they might take months, the hearings were reassigned to another judge. The new judge ordered hearings on an "expedited basis," giving the intervenors only 11 business days between the beginning of the discovery process and the beginning of the hearings, all of which fell within the Easter holiday season, including Palm Sunday, Good Friday, Passover, and Easter.

At Byron, the intervenors received similar treatment, being rushed through their hearings in ten days with only a week to

prepare. At Catawba, there was a similar story. The intervenors at San Onofre were simply denied a hearing, as they were at Diablo Canyon. In proceedings for Three Mile Island Unit 1 re-start, Shoreham, Grand Gulf, Diablo Canyon and San Onofre, the commission ignored the advice of its staff attorneys to roll over the administrative procedure and due process claims of the intervenors.

At Waterford, the lesson has been the same. When the NRC issued LP&L its low power operating license on March 15, the Atomic Safety and Licensing Appeal Board had still not ruled on the intervenors' motion to reopen the hearing record on the problems with the plant's foundation, a decision their attorney believes will be reversed by the federal courts.

"They are so blatant about it," Lynn Bernabei told *Gambit* after the NRC's decision to issue Waterford a full power license before the Appeal Board had ruled on the safety significance of the plant's cracking foundation. "They are not even letting their own internal boards take a look at these questions because they know how the board will decide. They did it at Shoreham when they basically took issues away from the Appeal Board on the diesel generator issue by granting a low power license. The Appeal Board stepped in and stopped that, but it is pretty crazy that they set up these adjudicatory bodies, then not let them decide like they did at TMI when the question was whether the judge should be recused. The commission didn't want to let the Appeal Board touch that issue because they were afraid of what they were going to do, and they've done it at Waterford where there are serious technical and safety questions before the Appeal Board which they are taking very seriously, asking for filings. So they take it away from them and grant them a full power license in the midst of this huge controversy."

Meanwhile, the DOE Task Force on Nuclear Power Plant Construction is beginning to attract some attention it may not like. On March 26, 1985, Congressman Edward J. Markey, the new Chairman of the Subcommittee on Energy, Conservation and Power, Committee on Energy and Commerce, has written John S. Harrington, the new secretary of energy, who replaced Hodel when Reagan nominated him to become secretary of interior earlier this year, asking him for complete access to all of the task force internal documents and staff. Markey's letter upbraids Harrington for the activities of the task force regarding their activities on behalf of LILCO on Shoreham. A Markey aide obtained task force documents related to Shoreham last week. "These documents reveal that the task force has taken an active role in running interference for the Long Island Lighting Company in its attempt to implement an emergency plan for the Shoreham nuclear plant against the wishes of New York State and Suffolk County."

"This activity on the part of the task force is at odds with President Reagan's and your own pronouncements on this issue. It raises a serious concern as to whether the task force is out of control." Markey goes on to demand complete access to all of the task force's documents and files and a "detailed report on activities of the task force since its inception." Markey is now convinced that the activities of the task force and their relationship to the NRC requires a thorough airing, a spokesman on Markey's staff who asked not to be named said. That process has now begun.