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Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

3

DISCUSSION OF IMPLEMENTATION OF
SUPERGRADE AUDIT REPORT

(Open to Public Attendance)

June 1, 1978

Pages 1 - 30

Prepared by:
C. H. Brown
Office of the Secretary

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4
5 DISCUSSION OF IMPLEMENTATION OF SUPERGRADE AUDIT REPORT

6 (Open to Public Attendance)
7

8
9 Commissioners' Conference Room
10 1717 H Street, N.W.
Washington, D. C.

11 Thursday, June 1, 1978

12 The Commission met pursuant to notice, at 10:30 a.m.,
13 Joseph Hendrie, Chairman, presiding.

14 PRESENT:

15 Chairman Hendrie
16 Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford

17 ALSO PRESENT:

18 S. Chilk
19 L. Gossick
D. Donoghue
20 J. Kelley
W. Dircks
21 K. Pederson
A. Rosenthal
22
23
24
25

P R O C E E D I N G S

CHAIRMAN HENDRIE: Good morning.

This morning our subject is Discussion of Implementation of Supergrade Audit Report.

Lee, go ahead.

MR. GOSSICK: All right, sir.

In February we sent down to you the results of the supergrade audit that we had been conducting over the past several months. In the paper we laid out an implementation plan that the staff proposed for implementing the recommendations or proceeding with the matter of supergrades and positions addressed by the audit report.

It was primarily a paper addressing the procedure. We were not taking any position on the actual, final number of supergrade positions that we were saying that we needed, or for that matter, with regard to any of the positions that the DAMANS people recommended be upgraded or downgraded. As you recall, there were some of both.

The paper also, we requested approval or your guidance with regard to the mechanism that was being proposed for treating the matter of appeals that might be made with regard to specific positions following the determination by the Division of Organizational Personnel on those positions. And that would, of course, involve both upward as well as any downward issues that were involved with regard to grade.

1 It was our position that we would not, at this time,
2 nor do we now suggest that we make any additional requests or
3 requests for any additional supergrade positions, or for
4 that matter at this point take any action with regard to the
5 upgradings or the downgradings. But we would, of course,
6 come back to the Commission with regard to where will we come
7 out on whether we need additional positions or on issues that
8 involve controversy over whether given positions should be
9 higher or lower than it is now established.

10 That in sum is the nature of the paper. As I
11 understood it, there are certain questions with regard to
12 the subject. Dan can review the audit itself, if you would
13 like just to refresh your memory, or however you would like
14 to proceed.

15 COMMISSIONER GILINSKY: Could we get a brief
16 rundown of the number of positions at the present time and
17 the number that were recommended by the contractor and what
18 we think the right number is, rather, that number being
19 different from the previous two numbers.

20 MR. GOSSICK: We are not really at a point to make
21 you a recommendation today, because we need to go through the
22 mechanism of addressing both the downgradings that are
23 involved as well as some of the upgradings which strangely
24 enough there is some disagreement on, on the part of
25 management.

 COMMISSIONER GILINSKY: Well, we do have a paper that

1 says: "Implementation of Supergrade Audit Report," and we
2 are asked to approve or not approve ---

3 MR. DONOGHUE: Yes. It is primarily, though,
4 procedural in nature. What we are saying is the way we
5 wanted to proceed was that the contractor's report, which we
6 view as a contractor's report and not having any weight with
7 respect to what the agency final determination ought to be,
8 would be reviewed by the Division of Organization and Personnel
9 and it would be determined whether they agree or disagree
10 with the conclusions and recommendations in the contractor's
11 report.

12 Then, in those cases where there is disagreement,
13 that is between the office director and the person involved
14 as to the proper grading, we propose setting up a performance
15 review -- position evaluation review committee whose function
16 would be then to hear the dispute, say between Personnel and
17 the DAMANS study and the position of the office director or
18 the person involved.

19 This would give a management perspective to the
20 study as it presently exists and to the personnel evaluation
21 which is more of a personnel mechanical evaluation as opposed
22 to a management input that this committee would give.
23 The committee would then make recommendations under the
24 proposal to the Executive Director, who would then make a
25 final decision on what the proper grade of that position is.

1 COMMISSIONER GILINSKY: Could I just stop you there.
2 That has not yet been done?

3 MR. DONOGHUE: None of that has been done.

4 COMMISSIONER GILINSKY: Well, what is it that the
5 Commissioner would be approving if he checked the "concurred"
6 box here?

7 MR. DONOGHUE: He would be approving the establish-
8 ment of the position evaluation review committee which would
9 hear the disputes between management and say the Office of
10 Organization and Personnel. And he would be approving the
11 fact that the Executive Director would make the final decision
12 based upon the recommendations of this review committee, the
13 input from the contractor and from the Division of O&P.
14 And that's -- presently, that's the way most ---

15 COMMISSIONER GILINSKY: But we would not, then, have
16 an opportunity to review the staff recommendations there,
17 because you are saying here ---

18 MR. DONOGHUE: Well, I think the Commission could say,
19 before the EDO makes a final determination that you would like
20 to have a review by the Commission. There is a dispute
21 between which an issue has been raised in terms of who should
22 make the final decision on these grades, particularly offices
23 reporting to the Commission and specifically, Mr. Rosenthal
24 on behalf of the Adjudicatory Boards and Panels, feels like
25 those positions should be determined, the final determination

1 should be made by the Commission as opposed to the EDO.

2 COMMISSIONER GILINSKY: Well, there is that issue,
3 but an earlier question here concerning the recommendations,
4 it seemed to me we were signing a blank check because the
5 recommendation was the Commission approve the requesting of
6 additional supergrade positions from OMB after the audit
7 report has been analyzed.

8 MR. DONOGHUE: Well, that's after the complete
9 analysis, which I'm talking about.

10 MR. GOSSICK: We would come back to you, as we have
11 always done. We would come to the Commission with the staff
12 recommendation that, okay, we think we can now justify "X"
13 number of additional positions and go back to OMB for it.

14 COMMISSIONER GILINSKY: Well then, what is the point
15 of approving that at this point?

16 MR. GOSSICK: Well, there were some arguments within
17 the staff that we ought to go directly now, right now, on the
18 basis of the audit report recommendations and request 25 new
19 positions, because that is in effect where they came out. Our
20 view is, "no, we think that's premature. We need to treat the
21 rest of this and then go back after we decided what we really
22 can justify with Commission concurrence and our approval and
23 see how we can make out with OMB."

24 MR. DONOGHUE: In some respects we could be overtaken
25 by events if the President's Civil Service Reform Bill goes into

1 or is passed which would establish a senior executive service.
2 That would automatically make the creation of all new, what
3 we would call supergrades now but which would be the SES would
4 be under the cognizance of the Office of Personnel Management
5 which would be established separately in this reorganization
6 plan.
7

8 So we, to some extent, would lose control over the
9 numbers, the evaluation of the position and the qualifications
10 of people that we would want to put in those positions.
11 It is probably likely that if we went to OMB right now with
12 any number, because of the pendency of this bill, they would
13 probably just tell us to hold off, because I don't think they
14 would be in any mood to create any additional supergrade
15 jobs which would in effect grandfather them in, because under
16 the bill existing supergrades can elect to go into the senior
17 executive service or not. If they do not, they retain their
18 supergrade status. So for a period of time there will be a
19 two-track system operating, because all new supergrade or
20 executive level positions will have to be into the SES and over
21 a period of time there won't be-- the supergrade system will
22 just wash away by the passage of time.

23 COMMISSIONER GILINSKY: Well, just glancing over
24 your recommendations here it seemed to me that 4 thru 7 tracks
25 your remarks about setting up a position evaluation review
committee and approving of the evaluation system and a training

1 seminar and so on. But 1 thru 3 seemed to me to ---

2 CHAIRMAN HENDRIE: Require at least number 4 to be
3 done first.

4 COMMISSIONER GILINSKY: I would think so, yes.

5 CHAIRMAN HENDRIE: And might better have been
6 phrased number 1, might better have been phrased then
7 the Commission approved preparation by the staff for Commission
8 review, perhaps of an appropriate request for additional
9 supergrade positions before they had been analyzed. And
10 similarly perhaps for 2 and 3. Because, if indeed it is
11 contemplated to come back -- if the Commission is to look
12 again at the results of the committee's thrushing out the
13 disputes, why ---

14 MR. GOSSICK: Well, there are a number that are not
15 really in dispute, and I guess the question here is: does the
16 Commission want to become involved in -- like, we have got some
17 vacant positions that we could downgrade and we really are
18 saying that based on the review by the staff that we would
19 propose to go ahead and downgrade those.

20 CHAIRMAN HENDRIE: Downgrading vacant positions may
21 be one of the relatively few easy steps that can be taken.

22 MR. GOSSICK: That's right.

23 COMMISSIONER KENNEDY: But it may not necessarily be
24 all that easy step. It may be easy to do, it may not be easy
25 to recover from. Having done it, you have done it and that does

1 not mean that you have made available that downgraded -- that
2 recovered supergrade for another position. And under the
3 current circumstances, it seems to me much more likely that that
4 would happen than not.

5 So it seems to me one ought not proceed on one piece
6 of the action without having considered the entire package.

7 MR. GOSSICK: One thing that we have to be careful
8 about is keeping the slots -- the number of total supergrade
9 slots that we are dealing with kind of separate from
10 within the supergrade range. There are certain upgradings and
11 downgradings that are involved. And that would not affect the
12 number of slots.

13 In other words, a 17 downgraded to a 16 because of
14 the review and ---

15 COMMISSIONER KENNEDY: Or a 16 downgraded to a 15.

16 MR. GOSSICK: That's a different matter. But
17 there are more recommendations ---

18 CHAIRMAN HENDRIE: Is there notable disadvantage to
19 holding that whole set of actions for final review and decision,
20 that would come at the time when there is a recommendation on
21 what to do about the disputed ups or downs. If there is not
22 a distinctive disadvantage in doing that, why I would be
23 inclined to agree with Commissioner Kennedy that it might be
24 better to take all ---

25 MR. DONOGHUE: Right, but then you see, the total
effect of the action, and like Commissioner Kennedy points out,

1 you haven't done something that you can't recover from.

2 If you find out in evaluating some other aspects in which we
3 really hadn't done that now.

4 MR. GOSSICK: Which really leaves us then with your
5 approval or guidance with regard to the review committee in
6 getting that process started, and particularly on how you
7 want to treat the positions at the Commission office level.

8 CHAIRMAN HENDRIE: Let's see, first of all sort of
9 take things one at a time and perhaps we can move ahead.

10 It seems to me that it is an eminently reasonable
11 proposition. I am looking now at page 8 of the paper which
12 is 78-97, and looking there at sort of the second half of
13 the recommendation. It seems to me an eminently reasonable
14 proposition in number 4 that the Commission approve establishing
15 a position evaluation review committee to assist the EDO in
16 deciding a request for review of disputed downgrading.

17 COMMISSIONER KENNEDY: I would suggest an amendment
18 there to take care of the question which Mr. Gossick rightly
19 raises, and that is what to do in such an effort about the
20 Commission staff offices.

21 CHAIRMAN HENDRIE: Well, I would like to deal with that
22 next, but what I would like to do ---

23 COMMISSIONER KENNEDY: Well, is this outfit not to
24 have anything to do with those people, those positions?

25 CHAIRMAN HENDRIE: That's the thing I would like to

1 determine in a minute.

2 At the moment I would like to get the Commission to
3 vote approval of that recommendation ---

4 COMMISSIONER KENNEDY: I'm trying to say I can't
5 until we dispose of the other matter, because it seems to me
6 we either have to say this outfit is not going to have
7 anything to do with it or that it is, and if it is, how it is.

8 MR. GOSSICK: I understood the Chairman to say just
9 staff offices on this one.

10 CHAIRMAN HENDRIE: I would like to deal with the
11 question of the Commission offices next.

12 What I'm going to propose to you is, first of all, for
13 the bulk of the offices -- staff offices such a committee is
14 a perfectly reasonable mechanism to help thrush out the
15 differing points of view and bring a recommendation forth.
16 After that I am going to recommend to you that for the Commission
17 offices, for the purpose of having a reasonable uniformity
18 across the thing that the same committee look at them.

19 I'm going to ask that the whole matter come back to
20 the Commission for final decision. But it seems to me the
21 concerns of having a representative group hear the arguments
22 and scratch their heads and decide what they think ought to be
23 done, that there is merit in having the same group of people
24 hear disputes across the whole range of the organization.

25 COMMISSIONER GILINSKY: But you are not including the
Boards in that category are you?

1 CHAIRMAN HENDRIE: I don't see why not.

2 COMMISSIONER GILINSKY: I guess I wouldn't.

3 COMMISSIONER KENNEDY: Do you want to include the
4 ACRS?

5 CHAIRMAN HENDRIE: What's different between the
6 Boards and say the Office of the General Counsel?

7 MR. ROSENTHAL: May I speak to that, because I feel
8 very strongly that there is a considerable difference.

9 The Boards perform adjudicatory functions. It seems
10 to me that it is extraordinarily important, and this importance
11 has been recognized over the years, and this Commission and
12 its predecessor that the wall of separation between the adjudica-
13 tory boards and the Commission staff, which in the final
14 analysis is a litigant before the Boards be maintained ---

15 CHAIRMAN HENDRIE: I'm sorry, the General Counsel
16 is not a litigant before the Boards.

17 What I'm saying is how do you distinguish yourself
18 from the other Commission offices?

19 MR. ROSENTHAL: I distinguish it on the basis of
20 the functions that are performed by the Boards. These functions
21 are adjudicatory functions. General Counsel is not a litigant
22 before the Board, but the Commission staff is.

23 CHAIRMAN HENDRIE: I'm sorry, I'm talking about
24 Commission offices and I am getting ready to recommend to the
25 Commission that whatever Board we establish to help thrush out

1 and bring to the Commission recommendations on up and
2 downgradings for staff offices, also look at similar disputes
3 at the Commission office level in order that the same sort
4 of standards be applicable and there be some reasonable
5 evenness of evaluation across the organization. And I don't
6 see what distinguishes your case from say, a dispute over
7 whether the General Counsel should be at this level or that
8 level.

9 COMMISSIONER GILINSKY: Well, we may not be doing
10 the right thing in the case of the General Counsel either,
11 but that's a separate matter again. But I think the
12 difference is clear on the case of the Board. You can't have
13 the staff setting in the extreme case, the salaries of the
14 Boards.

15 MR. ROSENTHAL: One of the ---

16 CHAIRMAN HENDRIE: Well, if the Commission is going
17 to make a decision, why they would be.

18 MR. ROSENTHAL: But I don't think the staff should be
19 even put in a position of having to make recommendations with
20 respect to what the appropriate grade level -- now, what we
21 are talking about concretely in this instance, because the
22 only positions on either panel, Licensing Board Panel or
23 Appeal Panel is affected by DAMANS' recommendation is the
24 position of Vice Chairman of the Appeal Panel, which has been
25 recommended for downgrading.

I do not think that given the fact that the staff,

1 and I don't know who is going to serve on the position, the
2 evaluation review committee, but these presumably are going
3 to be members of the NRC staff which is a litigant before
4 the Appeal Boards as well as the Licensing Boards. And I
5 think it puts the staff in an untenable position to be passing
6 judgment, even on a recommended basis, even though they may
7 not have the final word, be passing judgment on what is the
8 appropriate grade level for the Vice Chairman of the Appeal
9 Panel, before whom the staff regularly appears.

10 I think this is just the same thing as the Attorney
11 General being called upon to make recommendations as to what
12 appropriate salary levels the Federal Judges should be.

13 MR. DONOGHUE: But the Civil Service Commission
14 makes judgments now as to what the salary levels for the
15 administrative law judges ---

16 CHAIRMAN HENDRIE: Yes, I think what you are saying
17 is that the Civil Service Commission would really have no
18 right to set compensation and performance standards for
19 administrative law judges, because indeed, the Civil Service
20 Commission may, in certain circumstances, be a litigant before
21 one or another of these judges considering the wide range of
22 functions that they have.

23 I must say, you know, you work for the Federal
24 Government, as do the rest of us, Al, and there has to be
25 some reasonable personnel handling of your affairs. The Boards

1 are not divinely constituted. I'm sorry.

2 MR. ROSENTHAL: No, I certainly was not suggesting
3 divine constitution. I was suggesting that ---

4 CHAIRMAN HENDRIE: You know, what you want is a
5 standard which doesn't apply to any of the other 2500-odd
6 employees of the agency.

7 MR. ROSENTHAL: Now, let me put it concretely in
8 these terms.

9 If I go before a position evaluation review committee,
10 I will be going before them basically on a position which they
11 cannot evaluate. I think in the final analysis the Appeal
12 Panel stands in the role of a delegate of this Commission.
13 Whether the position of Vice Chairman of this Appeal Panel is
14 worthy of a grade 18 or not depends upon how this Commission
15 looks upon the function that is performed by the Appeal Panel
16 members. It is -- I would say it is a sui generis function.
17 It cannot be equated, in my judgment, to any -- there is no
18 position like this in the Executive Branch of the Government
19 except for the Review Board of the Federal Communications
20 Commission.

21 Now, we are a peculiar animal, we were set up by the
22 Commission to perform under the Commission delegation certain
23 responsibilities. I tend to think myself, and my case would
24 be that this position in the totality of circumstances warrants
25 the grade that is presently assigned to it.

1 Now, in the final analysis I don't think -- for me
2 to go before a position evaluation review committee and to
3 make that pitch, the committee incidentally is a litigant or
4 members or litigants before us, is very appropriate. I can
5 go before them and they can make a recommendation, but in the
6 final analysis, it seems to me the question as it applies to
7 this particular office is one that this Commission itself has
8 to face. It has to decide how it views its delegate. We are
9 a creation of this Commission to perform on a delegated basis,
10 Commission functions. And if it decides that that position is
11 not worthy in the totality of circumstances however it may
12 regard the Appeal Panel as being an 18, so be it.

13 CHAIRMAN HENDRIE: Look, this Commission is not free,
14 in my view, to assign grades to you or anybody else in the
15 organization, totally without regard to the context of the
16 rest of the Federal Government and grade levels and skill and
17 responsibility levels which establish a scale in all the
18 rest of the Federal Government. It seems to me that we are
19 required to operate under a personnel policy, which I'm sorry
20 to say include you and the Panels as well as Commissioners,
21 which establish that there are these scales and that when
22 we set a grade level on a job it has to have background
23 requirements, responsibility is attached to it and the general
24 aspect which is consistent with that sort of grade level in the
25 rest of the Federal Government.

1 Now, indeed the Commission ought to decide what
2 the grade should be for Board and Panel members and so on.
3 We can't do it in blind ignorance and just ignoring all of that
4 body of background which the personnel regulations of the
5 Federal Government require us to consider, it seems to me.
6 What we are talking about here then is a mechanism by which
7 the Commission will be advised on how to treat the particular
8 case. The one in your shop as well as the one in other people's
9 shops, both in Commission offices and EDO offices, Al. And
10 you know, what you are saying is you refuse to accept any
11 agency that the Commission might establish except the
12 Commissioners themselves.

13 Now, indeed we could sit down and review all of these
14 up and down gradings ourselves, but as in a good many other
15 things we think -- my view is it is helpful to have a group
16 of people on the staff who are knowledgeable, in this case in
17 personnel matters and in the sort of bench-marking and grading
18 that goes on, to look at it and say, well, this argument of
19 yours is good and we don't think much of this one and there
20 are these other considerations and here's our recommendation.
21 Then the Commission makes the final decision.

22 COMMISSIONER GILINSKY: Well, but you are assuming
23 that this is kind of a quantitative process and it is done
24 entirely dispassionately and so on.

25 CHAIRMAN HENDRIE: Well, in principle it is. In

1 practice it suffers from the inevitable difficulties that we
2 are human beings and, you know, there all of the snags and ---

3 COMMISSIONER GILINSKY: It is a matter of weighing
4 and I think we could safely entrust that.

5 CHAIRMAN HENDRIE: Well, if the Commission would
6 prefer that the Boards be set aside and treated in a different
7 matter, why, if the majority of the Commission feels that way,
8 why we certainly will do that.

9 What do you recommend for the other Commission offices?

10 MR. ROSENTHAL: I would let the other Commission
11 offices speak for themselves.

12 I would have to say in that regard that I perceive
13 a distinction between the other Commission offices and the
14 adjudicatory panels. As I see it there is clear warrant in
15 the case of the adjudicatory panels for the Commission to do
16 it itself. I think with respect to the other staff offices
17 the case is closer and reasonable minds could, as I would
18 perceive it, could reasonably differ. But I speak only for
19 the adjudicatory panels and more particularly, since the
20 only is immediately involved is the Appeal Panel, I speak
21 for it.

22 COMMISSIONER BRADFORD: Now, how are judges salaries
23 established in relation to the Justice Department. Does
24 Justice make any recommendations and then send those before
25 the Congress?

1 MR. ROSENTHAL: As far as I am aware, the answer
2 is "no". That would be a very sensitive business because the
3 Justice Department is in the business of appearing before the
4 courts.

5 CHAIRMAN HENDRIE: Well, I think there is a more
6 fundamental separation than that and it derives from the fact
7 that the Constitution establishes three independent branches
8 of the Federal Government. The judges fall into one and the
9 Justice Department in to another.

10 COMMISSIONER BRADFORD: First of all there was
11 a reason for that separation and we ought to consider whether
12 that reason is valid here, but on the other side it is also
13 true that the Attorney General has a substantial role in
14 picking judges. So whether or not he then helps to decide
15 how much they are paid, the Justice Department does have some
16 role in at least the initial ---

17 MR. ROSENTHAL: They have lifetime appointments.

18 COMMISSIONER BRADFORD: Once they are there it is
19 a very different matter.

20 MR. KELLEY: There is a provision of the Constitution
21 that says you can't cut their salaries while they are in office.
22 They have really got it made, except for inflation.

23 CHAIRMAN HENDRIE: Would that the Founding Fathers
24 had thought so well of us.

25 COMMISSIONER BRADFORD: The Founding Fathers never
thought of us at all.

1 CHAIRMAN HENDRIE: Let me see if I can direct the
2 discussion back where I was going which was first of all
3 to say that I believe the position evaluation committee, as
4 recommended by the staff is an eminently sensible thing to
5 do and I suggest that we approve that.

6 COMMISSIONER KENNEDY: I have serious reservations
7 about that until I know the composition. I first agree with
8 Allen that the Boards and Panels should be kept separately,
9 and I do not think and certainly from my own part, an impossible
10 burden, one which I could not bear, I feel I can't, bear
11 the responsibility for making a decision with respect to the
12 one instant matter for Boards and Panels. I think I can weigh
13 that one through on the basis of all the information available
14 to me and not suffer too greatly in the process. I would be
15 glad to do it this afternoon, as a matter of fact.

16 As to the other Commissions staff offices, I assume
17 we are going to discuss that and I would like to hear from them.
18 at some point.

19 CHAIRMAN HENDRIE: Could I return to the point at
20 issue, Dick, which is for the EDO offices, the staff offices ---

21 COMMISSIONER KENNEDY: The EDO offices, that is the
22 Commission staff ---

23 CHAIRMAN HENDRIE: All of the staff of the NRC
24 except those offices attached directly to the Commission level.

25 The motion before the house is approval of the

1 recommendation -- to have a policy recommendation.

2 COMMISSIONER KENNEDY: Yes.

3 CHAIRMAN HENDRIE: May I have a vote on that.

4 (A unanimous vote of "Yes".by the Commissioners.)

5 CHAIRMAN HENDRIE: Good, so ordered.

6 Now, let us discuss the question of whether said
7 Committee should review or not review any Commission offices.
8 And Al, since you are at the table, let's see what the Commission
9 division is on the Boards and Panels, although I guess there
10 is a single action of fact at issue there. The Boards and
11 Panels?

12 COMMISSIONER GILINSKY: Boards and Panels, I would
13 say no.

14 COMMISSIONER KENNEDY: No.

15 COMMISSIONER BRADFORD: No.

16 CHAIRMAN HENDRIE: I would say yes, but 3-1, you are
17 in the clear.

18 Sam, are you keeping track?

19 MR. CHILK: I am keeping track.

20 CHAIRMAN HENDRIE: I hope someone is totaling up the
21 score.

22 MR. CHILK: Yes, we are keeping track. We are keeping
23 track all the time.

24 CHAIRMAN HENDRIE: Good. Other Commission offices?

25 COMMISSIONER KENNEDY: I would like to hear the other

1 Commission offices on the subject.

2 Mr. Pederson, you are here.

3 MR. PEDERSON: Yes.

4 COMMISSIONER KENNEDY: Mr. Kelley, you are here.

5 May we hear from them?

6 CHAIRMAN HENDRIE: Of course.

7 Ken.

8 MR. PEDERSON: I preceive the problem with the
9 Boards and Panels. I must confess that I came today failing
10 to preceive this would be raised as an issue.

11 I concurred in the paper. I guess -- personally
12 speaking, I have no difficulty, philosophically or otherwise
13 having the DAMANS recommendations with regard to OPE reviewed
14 by this committee on grounds of consistency, if I have the
15 full assurance that the final decision will be made by the
16 Commission; that I have an opportunity to state my case to
17 the Commission if I have difficulty with the recommendation.

18 I would argue, however, for some degree of equal
19 treatment. If the decision is -- if my colleague from OGC
20 and my colleague from SECY argue that they should not go
21 before the board and win, I would hate to have the fact that
22 I didn't object, he is against me and have OPE appear.
23 I just cannot philosophically argue that I'm opposed to
24 having a review by the board.

25 CHAIRMAN HENDRIE: That's the disadvantage of going

1 first.

2 MR. PEDERSON: I understand that, and that is why
3 I was sort of looking at the ceiling when you ---

4 COMMISSIONER KENNEDY: On the other hand, you have
5 set a very high standard for the others.

6 MR. PEDERSON: That has never intimidated then in
7 the past, Commissioner.

8 CHAIRMAN HENDRIE: Okay. Jim.

9 MR. KELLEY: I have no objection to being reviewed
10 by the board.

11 MR. CHILK: I guess I do.

12 I feel kind of strongly as Allen does about the
13 fact that the Commission staff is an entity, works for the
14 Commission, that our resources, our grades, our duties are
15 Commission responsibilities; that we have the right to present
16 our cases to you. That we have the privilege of hearing your
17 decisions. You may go to EDO and ask for his advice in making
18 that determination or you may go to 7 other places and asking
19 for advice in making that determination. But I think it is
20 a Commission responsibility to take care of the Commission
21 staff and I feel rather strongly that that responsibility
22 should not be delegated to EDO.

23 COMMISSIONER KENNEDY: But isn't the entire staff
24 the Commission staff?

25 MR. CHILK: The entire staff is the Commission staff,

1 but there is an intermediate supervisor. We work directly
2 for five bosses and it is my belief that the staff ought to
3 be able to present its case to the five bosses and receive
4 decisions with regard to resources and including grade levels,
5 may ask for advice from others in helping reach that decision.
6

7 It is the procedure we followed in the past, the
8 budget and other places. I would like to see it continued.

9 CHAIRMAN HENDRIE: What is different here than the
10 budget procedure?

11 MR. CHILK: In the past, we have considered, I
12 don't know if the question really came up this past year, but
13 in the past we have considered the Commission offices -- the
14 Commission offices' resources have been discussed by the
15 Commission. They were not passed on by EDO.

16 MR. PEDERSON: Yes, but I believe the EDO and the
17 Budget Review Committee in the past have made recommendations.
18 I know last year there was a recommendation made with regard
19 to OPE's budget level by the EDO, the Budget Review Committee.
20 Those were recognized as being somewhat different, but nonethe-
21 less, a recommendation was made.

22 MR. CHILK: The Commission has asked EDO from time-to-
23 time to make recommendations on a number of matters, but the
24 basic handling of the matter has been between the staff and
25 the Commission. And two years ago there was kind of an argument
about that.

1 COMMISSIONER BRADFORD: Is there any reason why
2 this review group shouldn't include someone from Commission-
3 level offices?

4 MR. DONOGHUE: They should. If the Commission
5 level officer is being reviewed, they should include
6 Commission level.

7 MR. PEDERSON: I would second that.

8 COMMISSIONER KENNEDY: That would be a useful
9 amendment then, to the recommendations.

10 COMMISSIONER GILINSKY: I think that is a very good
11 idea.

12 COMMISSIONER KENNEDY: In such a case, I could then
13 support the recommendation if it were so amended.

14 CHAIRMAN HENDRIE: And do we have -- let's see.
15 The Congressional Affairs Office probably didn't anticipate
16 a need to come and defend themselves.

17 Do we have a member here ---

18 COMMISSIONER GILINSKY: I think they ought to be
19 reviewed.

20 CHAIRMAN HENDRIE: And I take it the Inspector and
21 Auditor didn't feel any need to send anyone either, so we
22 don't have them represented.

23 Gentlemen, I will recommend to you that -- I think
24 it is appropriate that there be someone from the Commission
25 offices on the review committee. And since the recommendations

1 of this review committee with appropriate commentary and
2 calling by EDO are going to come to the Commission for decision
3 on it all across the board, I will then recommend to you that
4 the Commission offices, with the exception if you like of the
5 Boards and Panels, be called by this committee and
6 recommendations be presented to us.

7 COMMISSIONER KENNEDY: I vote yes.

8 COMMISSIONER GILINSKY: What about the ACRS?

9 COMMISSIONER KENNEDY: Yes, where does that leave
10 the ACRS?

11 CHAIRMAN HENDRIE: Well, I assume the ACRS falls
12 in with the Commission offices.

13 COMMISSIONER KENNEDY: I would agree.

14 CHAIRMAN HENDRIE: Because what we are talking about
15 is not the members of the ACRS, but the members of the NRC
16 staff that are provided by the Commission in full time support
17 of the Committee activities.

18 Again, I note with the recommendation to come to the
19 Commission for final action it seems useful to me to have
20 some advice on these matters as we sit down and look at it
21 and if that advice can be across-the-board, I think it is
22 helpful.

23 COMMISSIONER BRADFORD: Have we heard from the ACRS
24 on this point at all?

25 MR. CHILK: I think they raised the same objection

1 that others are raising about direct appeal to the Commission,
2 I believe.

3 COMMISSIONER KENNEDY: The did, but it seems to me
4 that is provided for.

5 CHAIRMAN HENDRIE: Yes, their recommendation to
6 come to the Commission and the people who object to the
7 recommendations, I assume can come and complaint. God, they
8 can come and complain under an open-door policy quite apart
9 from any agreement specific here to this matter that we might
10 make today.

11 COMMISSIONER BRADFORD: Well, they haven't raised
12 the point and I don't know whether they were as alert to it,
13 perhaps as the Appeal Board was or not, but again, it does
14 seem to me that we expect a somewhat independent function
15 from them. If they themselves aren't concerned that that would
16 be compromised by this type of review, then obviously there is
17 no reason for us to pursue it a lot further. But I guess I'm
18 a little surprised that it isn't a point that they felt some
19 concern on as well.

20 CHAIRMAN HENDRIE: Yes, I would think no more so
21 than whatever concern they might have had that the DAMANS
22 study itself included Commission level offices as well as staff
23 level offices.

24 MR. DONOGHUE: The staff we are talking about would
25 be really no different than Sam Chilk, you know, providing the

1 same staff service to the Commission. The people who would
2 be reviewed would be just staff membership to the Chairman
3 and the members, and the Chairman and the members are not
4 subject to this review.

5 CHAIRMAN HENDRIE: Okay, now may I call your attention
6 to recommendations 5, 6, and 7 and see if I could encourage
7 us to approve them en blanc.

8 COMMISSIONER GILINSKY: What does that mean to
9 approve the supergrade evaluation system. This is our ---

10 MR. DONOGHUE: Our system. We have only got about
11 13 bench-mark jobs now. What we are saying is we need more
12 bench-mark jobs, we need some of the ones better defined.
13 In other words, this is an improvement of the evaluation system.
14 This was one of the recommendations that feel out of the DAMANS
15 study. They saw some weaknesses in the system and they
16 recommended that we ought to correct those.

17 COMMISSIONER KENNEDY: To narrow the range of judgmental
18 problems.

19 MR. DONOGHUE: Exactly, right.

20 COMMISSIONER GILINSKY: Now, 7 would not apply yet?

21 MR. DONOGHUE: No. We would tell the employees that
22 the Commission has approved the performance evaluation review
23 board and set up the mechanism for them to appear.

24 COMMISSIONER BRADFORD: Seven is pretty hard to
25 qualify.

1 CHAIRMAN HENDRIE: Well, considering the
2 communication networks, formal and informal within the group,
3 why it is inevitable but it is a help to have things come
4 down the official communication channel and try to present
5 a complete picture.

6 Would people then be willing to vote approval of
7 those three?

8 (A unanimous vote by the Commissioners.)

9 CHAIRMAN HENDRIE: Okay, so ordered.

10 Now, with regard to the first three recommendations,
11 I think -- it seems to me the sense of the discussion this
12 morning is that as a consequence of the review of the the
13 Committee that we have approved there will be recommendations
14 for Commission -- well, there will be recommendations for ups
15 and downs and total numbers and so on, and it is clear that
16 the Commission would like to see all of these things in due time.

17 So I believe it is implicit in our previous approvals
18 of 4 thru 7, particularly the discussion of recommendation 4,
19 there is an implicit agreement that one should move forward
20 and prepare recommendations on these things, but clearly we
21 are not at the stage where we want to say, go to OMB or ---

22 MR. GOSSICK: Oh, no.

23 CHAIRMAN HENDRIE: It seems to me that puts us now
24 on the matter of the supergrade in the position where you can
25 now take the next steps forward.

1 MR. GOSSICK: Right.

2 CHAIRMAN HENDRIE: And Allen, with regard to the
3 position in your shop, I'm going to leave it to my colleagues
4 on the majority side to decide that decision precisely how
5 they will form up their recommendation and get it going.
6 So if you want to help them on that ---

7 MR. ROSENTHAL: Well, we will, of course, submit
8 our position paper that.

9 CHAIRMAN HENDRIE: I thought I already had one from
10 you.

11 MR. ROSENTHAL: On the merits of the position.

12 CHAIRMAN HENDRIE: I see.

13 Do we need more discussion of this matter?

14 (No response.)

15 CHAIRMAN HENDRIE: Good, let us then turn without
16 breaking stride to the next item.

17 (Whereupon the Commission concluded their discussion
18 of the above entitled matter at 10:10 a.m. and moved on to
19 other business.)
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