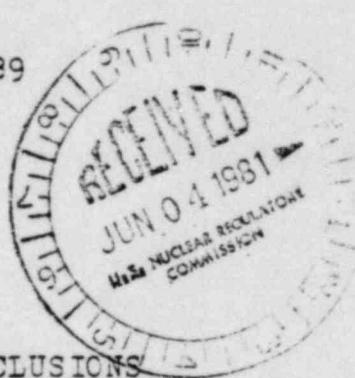


LEWIS 6/1/81.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION.
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the matter of }
METROPOLITAN EDISON COMPANY } Docket No. 50-289
(Three Mile Island Nuclear } (Restart)
Station No. 1) }



INTERVENOR LEWIS's PROPOSED FINDINGS OF FACT AND CONCLUSIONS

OF LAW

ON THE LEWIS CONTENTION(FILTERS) AND RELATED FINDINGS OF FACT.



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INTRODUCTION AND BACKGROUND.

A. Commission Orders.

1. The Board used its discretionary powers to investigate many areas not specifically ordered to investigate by the August 9, 1979 Commission Order and notice of hearing. One such area was the Lewis Contention on filters.

The Board ruled that Mr Lewis had not shown standing in the proceeding and therefore dismissed most of Mr Lewis's contentions. However, as a matter of discretion, the Board did allow Mr Lewis to intervene solely with respect to his contention of the adequacy of the TMI#1 filter system for radioactive effluents-- a contention not advanced by any other party.

B. Interest.

2. Mr Lewis petitioned for intervenor status. He declared that his interest was his own life. The Board presumed this meant the protection of his own life. He supported his interest by pointing out that Wash 740 , "Theoretical Possibilities and Consequences of Major Accidents in Large Nuclear Power Plants", described a possible accident that could cause his death in Philadelphia 150 KM away from TMI#1. He also pointed out that his interest was specific to him in that he referred only to his own life.

3. Subsequently the Commission has issued many orders referring to Class 9 accidents such as . . . included in the Wash 740 report. Due to the NRC's new policy on including certain Class 9 accidents in Licensing proceedings, we cannot now continue to deny Mr Lewis full intervenor status. Mr Lewis is herewith granted full intervenor status. He is directed to petition within 15 days of the final order for any relief that he requires to alleviate any harm that might have been caused him or the record by the Board's previous denial of full intervenor status.

C. Effect of Bias.

4. There are many biases that humans are subjected to and are part of being human. However, Biases that can do damage to the record of this Hearing are a concern to this Board. The Board is particularly concerned with improper bias on the part of the staff. An inkling of this bias was suggested and answered in our Memorandum of April 24, 1980. Subsequently, other

evidence of the staff's improper bias became evident to the Board.

5. The staff's improper bias appears widespread. In the matter of Florida Power and Light Company, (St Lucie Nuclear Power Plant No 2) ALAB 335 Decision June 29, 1976 The staff mislead the intervenors and the Licensing Board.

6. Staff lawyers have presented witnesses specifically to "frustrate a fair MEPA review." In the matter of Duke Power Company, (Amendment to Materials License SNM 1773 for Oconee Nuclear Station Spent Fuel Transportation and Storage at Maguire Nuclear Station) Docket No 70-2623 Initial Decision Oct 31, 1980.

7. This Board will not be frustrated in a fair review of any point, and this Board will not be mislead. To ensure that the staff does not mislead this Board and does not frustrate a fair review, the testimony of the staff's witnesses will be judged very harshly. Similar restraints will be placed on Mr Tourtellotte's submissions so that he may not have the opportunity to frustrate a fair review as happened at the Oconee Initial Decision. This is especially pertinent as Mr Tourtellotte was the staff lawyer at Oconee as well as the present hearings.

D. HIGH EFFICIENCY PARTICULATE AIR FILTERS. (HEPA)

8. HEPA filters were not extensively discussed in the direct or cross-examinations. The Board therefore makes no rulings on the HEPA part of the filters specifically .

E. Vent Header.

9. The vent header is a manifold and associated piping that gaseous effluents are routed through.

10. The vent header did leak at TMI#2 during the accident on 3-29-79. The Licensee has embarked upon a program of leak reduction. Tr. 9936(Barley)

11. The Board rules that the leak reduction program be formalized as a Technical Specification.

12. The Board finds that the make-up system, which includes a vent header, is used to transport hydrogen in a TMI#2 type scenario out of the reactor cooling system and into the make-up tank. Tr.9952 (Barley) and Tr.9919 at 4.

13. The venting of hydrogen and the equipment used in the venting of hydrogen are concerns of the Board. As hydrogen venting was and is a major concern in the accident at TMI#2, the Board rules that the vent header must be safety grade to ensure the operability of equipment that can be called upon to vent hydrogen during an accident.

Tr. 9952 (Barley) "With the hydrogen within the reactor coolant system, there was every intent to remove hydrogen from the system, and one of the mechanisms used was to transport it to the makeup tank."

14. The staff shall study the makeup system referred to by Witness Barley, and designate that all associated equipment that will be used to move hydrogen in a TMI#2 accident be safety grade.

F. Charcoal.

15. The Board finds that there is no reason to believe that future loads of charcoal will not be degraded by conditions at TMI#1 any less and perhaps more than past loads of charcoal.

16. Normal maintenance includes painting. Therefore normal maintenance can expose charcoal to paint fumes that will degrade the charcoal's efficiency for iodine removal. This finding is in direct contradiction to the Staff Witness. Tr .9978 (Stoddart) "The plants that I have seen under construction have placed the charcoal after every possible exposure to such fumes has occurred." (See Para 7 above for our rationale for judging the testimony harshly.)

17. The Board rules that testing of charcoal efficiency be carried out every 18 months or at refueling shutdown, whichever comes first. The Board further rules that the charcoal testing be incorporated in a Technical Specification prior to restart. This ruling is in answer to the staff admission. Tr. 9965 (Stoddart) "We do have a Regulatory Guide 1.140 which recommends that filters and absorbers be tested at 18 month intervals, but does not require that testing."

18. The Board is not impressed with the changing numbers on the efficiency of iodine retention on charcoal.

19. We find that the iodine removal efficiency reported on the Licensee's Testimony is contradictory. The Board adopts the values of 56% to 69.5% as indicative of the charcoal efficiency at TMI#2. We also note that other numbers are tendentious.

Tr.9919 at 5 Itschner et al.

20. The Board app~~ri~~iates. Witness Itschner attempts at meteorology. His answers to the questions put to him were correct only as far as he answered . Many answers left out pertinent points.

a. TMI is an Island situated on water. Therefore , the relative humidity will be higher than it isrecorded on dry land as at the Harrisburg airport.Tr. 9930 (Peletier)

b. Although air is heated as it enters a building in the winter, it will be slightly cooled as it enters a shady building inthe summer.Tr. 9931 (Itschnner)

c. Pennsylvania is not a desert state. The average relative humidity is well above 30% especially in the middle of a river.

21. The Board disregards Witness Ischner and Witness Peletier's attempts at quantifying the relative humidity as seen by the charcoal filters.

I hereby certify that a true and correct copy of "Intervenor Lewis's Initial Proposed Findings of Fact and Conclusions of Law" were placed in the USMail on o. " Jun 1, 1981.
NUCLEAR REGULATORY COMMISSION

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