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MEMORANDUM FOR: Parties to TMI-1 Restart Proceeding
FROM: Samuel J. Chilk, Secretary
SUBJECT: LIST OF INTEGRITY ISSUES IN RESTART
PROCEEDING

The Commission has requested that the parties to the restart proceeding be provided with the enclosed "List of Integrity Issues." The Commission has decided to provide the parties twenty days from the date of this memorandum to submit comments on whether the list is accurate and complete, with the exception of issues referred to OI which have not been made public, whether the listed issues are considered by the parties to be resolved or unresolved, and which unresolved issues in their opinion must be resolved before a restart decision. In this regard, the Commission anticipates that, for each issue considered important and unresolved, the party expressing that view will set forth in detail (1) the basis for the view that the issue is important to the TMI-1 restart decision and (2) the steps which, in the judgment of the party, remain to be taken before the issue would be resolved. In this regard, the parties should be attentive to the standards for reopening the record for those issues which have already been litigated before the Licensing and/or Appeal Boards. To assist the parties in that endeavor, the Commission is providing the following explanation of the origin and purposes of the list.

The list was prepared by the NRC's Office of General Counsel (OGC) and Office of Policy Evaluation (OPE) at the request of Commissioner Asselstine. His request was for a list of any and all issues in this proceeding which could bear on the integrity question, without regard to significance, status, or resolution. Commissioner Asselstine believes that preparation of such a list will assist the Commission in making a decision on whether TMI-1 should be allowed to restart by providing everyone with an understanding of what the integrity issues are. After a complete set of issues is identified, the Commission can proceed to determine the significance of those issues, if any, to a restart decision. After the significance of these issues is determined, they will be reflected in a proposed plan of action on TMI-1 Restart.

The list is no more than a compilation of issues as phrased by OGC and OPE which have as their basis facts or disputes about

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facts raised during the restart proceeding or thereafter, and which at face value appear to have some possible connection with management integrity. Many of the items, as raised in the proceeding, did not specifically concern integrity, and were not addressed as such by the Licensing Board. For instance, the Licensing Board addressed the adequacy of the training program in its Partial Initial Decision on management, LBP-81-32, 14 NRC 381 (1981), without discussing whether licensee's performance with regard to its training program reflected on its integrity. Even though no party argued that such performance bore on integrity, OGC and OPE have placed this item and others like it on the list because they may conceivably bear on integrity.

In addition, it should be noted that some of the items are based on NRC rules or other general requirements, while some are based on issues raised by the parties that NRC requirements should be increased, at least for this case. No attempt has been made to differentiate the two. For example, the question regarding failure to require 100% test scores (JB4) is based on a contention by a party rather than a general NRC requirement.

It is important to emphasize that no attempt was made to evaluate the significance or current status of any of the listed items. Some of these issues have already been addressed in various forums, e.g. before the Licensing Board, Appeal Board, and/or Commission. The list was prepared by reviewing the Licensing Board's decisions on management and cheating, the Special Master's report, and other relevant documents, with the intent of listing any item that might conceivably bear on integrity in order to develop a tentative list, to be commented on by the parties.

Origins of the Issues

- I. The issues listed as "Items Raised in Original Management Hearing" under Roman Numeral I of the attached list relate to the Licensing Board's Partial Initial Decision on management issues. LBP-81-32, 14 NRC 381 (1981).
 - A. The source of Item IA, "Information Flow" Issue, is the Commission order, CLI-80-5, 11 NRC 408 (1980), which directed the Board to examine thirteen specific management issues. Information flow was issue 10 of the Commission's specified list of issues.
 - B. The training issues listed under Item IB are based on issues arising from party (Aamodts and CEA) contentions, with the exception of Item IB6, which

arose from staff's review of the GPU v. B&W trial record.

- C. The set of issues regarding pre-accident maintenance listed under Item IC is based on issues raised as part of party (TMIA) contentions.
 - D. The role of financial considerations as they may have improperly influenced technical decisions (Item ID) stems from Issue (6) of the Commission's order CLI-80-5.
 - E. The issue of whether a May 9, 1979 mailgram from Mr. Dieckamp to Congressman Udall was a material false statement (Item IE) stems from staff investigation of the accident (see NUREG-0760).
 - F. The issue of the Hartman allegations, Item IF, originated from staff investigations. See IIIA below.
- II. The items listed under Roman Numeral II on the attached list, Issues Raised by the Cheating Incidents, relate to the Special Master's Report and the Licensing Board's Partial Initial Decision on the cheating incidents.
- A. The source of Item IIA, Adequacy of Management Response to Cheating, is the Licensing Board's Memorandum and Order dated October 14, 1981, which listed management response as an issue to be considered by the Special Master in the reopened proceeding on the cheating incidents. The first four such items under IIA were raised by parties or the Special Master. The fifth subitem, IIA5, alleged improper coaching of witnesses, has been raised by a party (Aamodts) in filings with the Commission.
 - B. The issue regarding management's knowledge of and/or involvement in cheating (Item IIB) also comes from the Licensing Board's list of issues to be considered by the Special Master.
 - C. The Licensing Board also directed the Special Master to examine the extent of cheating (Item IIC). The first two subitems under IIC are the broad issues which follow from an inquiry into the extent of cheating. The third subitem concerning Mr. Husted arose from his testimony before the Special Master.
 - D. With regard to the training and testing program issues under Item IID, the Licensing Board directed

the Special Master to examine the adequacy of licensee's testing program. This examination also developed concerns about the training program.

- E. The issue of the sufficiency of licensee's system for certifying candidates (Item IIE) was listed by the Licensing Board as an issue to be considered by the Special Master. The last two subitems under IIE were raised by the parties.

III. The items under Roman Numeral III have all been raised since the close of the hearing.

- A. Item IIIA, the Hartman Matter, was raised again by staff and parties from the review of the GPU v. B&W trial record. See IF above.
- B. Item IIIB, TMI-1 Leak Rate Issue, was raised by the staff.
- C. Item IIIC, Parks/King/Gischel Allegations on Technical Violations and Harassment and Intimidation, was raised by the allegers and brought forward by GAP.
- D. Item IIID, Timely Reporting of Documents, was raised by the staff and parties.
- E. Item IIIE, Keaten Report Issue, was raised by a party (TMIA) and staff from the review of the GPU v. B&W trial record.
- F. Item IIIF, GPU v. B&W Trial Material Review, consists of issues raised by the staff and parties (TMIA, Aamodts and UCS). Four items under IIIF which have been referred to OI have been deleted at OI's request.
- G. Item IIIG, Boring Brothers Allegations, was raised by the allegers to Senator Hatch.
- H. Item III I, Quinn Allegations, was raised directly with the staff by Quinn.
- I. Item IIIH, Unattended Radiation Worker Examinations and Answer Keys, was raised by the Aamodts in a motion to reopen.
- J. The first issue under the final item, IIIJ1, concerning schedule of implementation of long-term requirements, was raised by Commissioner Gilinsky in his draft separate views, which were provided to the parties on June 23, 1983. The last

item, IIIJ2, concerning recent procedural violations found in Region I inspection reports, is based on those reports.

Commissioner Asselstine does not agree with the majority's decision to delete from the attached list certain issues which have been referred to the Office of Investigations for further investigation. He believes that deleting these issues frustrates the purpose of obtaining comment by the parties on the list -- to assure that the Commission has a complete and accurate list of the integrity issues that must be addressed as part of the TMI-1 restart proceeding. Commissioner Asselstine also does not believe that seeking comment by the parties on the deleted issues would adversely affect the ongoing OI investigations.

Commissioner Gilinsky agrees with Commissioner Asselstine's views.

Chairman Palladino does not agree with the majority's decision to delete from the memorandum requesting parties' comments the status of the issues listed. He believes that the status of the issues would have provided important background to the parties and would help them in commenting on the issues. An example of the type of information that would have been provided is the underscored part of Item IE in the list of origins (as indicated below):

"E. The issue of whether a May 9, 1979 mailgram from Mr. Dieckamp to Congressman Udall was a material false statement (Item IE) stems from the staff investigation of the accident (see NUREG-0760) and was mentioned by one party (TMIA) during the Board hearing on management. Both the I&E investigation and the Licensing Board found that the mailgram did not constitute a material false statement. See 14 NRC at 556."

Chairman Palladino finds it difficult to understand why this type of information would not be useful to the parties. He believes that, at least, such information should be provided upon request of any of the parties, especially since the memorandum requests the parties to be attentive to the standards for reopening the record for those issues which have already been litigated before the Licensing and/or Appeal Boards.

Enclosure:
As stated

ENCLOSURE

List of Integrity Issues

I. Items Raised In Original Management Hearing

A. Whether Licensee Withheld Information During the Accident (the "Information Flow" Issue).

1. Was information wilfully withheld?
2. Were any current GPU Nuclear personnel involved in any wilfull withholding?
3. Did licensee's response to the accident indicate a lack of forthrightness inconsistent with its responsibilities to the NRC, the Commonwealth, and public health and safety?
4. Are steps taken by licensee subsequent to the accident sufficient to ensure a better information flow in the future?

B. Is Licensee Committed to Establishing an Adequate Training Program?

1. Does the delay in obtaining a TMI-1 replica training simulator reflect adversely on management's attitude toward training?
2. Does the amount of time that TMI-1 operators will spend annually in simulator training reflect adversely on management's attitude toward training?
3. Does management's failure to establish a training program that is equivalent to a college curriculum reflect adversely on management's attitude towards training?
4. Does failure to require operators to attain a 100% test score on the NRC's operating license exam reflect adversely on management's attitude toward training?
5. Does licensee maintain an adequate awareness of operator attitude, foster morale and ensure an appreciation of the significance of operator actions?

6. Was the 1978 training program in violation of NRC requirements, and, if so, was management aware of this (Book investigation)?
 7. Has licensee taken adequate corrective steps with regard to any identified deficiencies?
- C. Did Management Pursue Activities Prior to the Accident That Endangered Public Health and Safety?
1. Did GPU defer safety-related maintenance and repair beyond the point established by its own procedures?
 2. Did GPU drastically cut its maintenance budget?
 3. Did GPU fail to keep accurate and complete maintenance records?
 4. Did GPU have an inadequate and understaffed QA/QC program related to maintenance?
 5. Did licensee require extensive use of overtime in performing safety-related maintenance? If so, did this lead to poor quality safety-related maintenance?
 6. Has licensee taken adequate corrective steps regarding any identified deficiencies?
- D. Possible Influence of Financial Considerations on Technical Decisions
1. Are there indications that financial considerations had an undue influence on TMI operations prior to the accident?
 2. If there was any improper influence, has licensee taken adequate steps to assure that this will not recur?
- E. Whether the Mailgram Sent by Mr. Dieckamp to Congressman Udall on May 9, 1979 Regarding the "Pressure Spike" Was a Material False Statement
1. Did Dieckamp know there had been a pressure spike at 1:50 p.m. on March 28, 1979 at the time he wrote to Udall?

F. Hartman Allegations

1. Hartman allegations regarding possible falsification of leak rate data were raised in proceeding, but not addressed. They will be discussed infra.

II. Issues Raised By The Cheating Incidents.

A. Adequacy of Management Response to Cheating.

1. Did management wilfully constrain the NRC investigation by having management representatives sit through NRC interviews?
2. Did management conduct a thorough investigation to determine who cheated?
3. Did management impose appropriate sanctions on those who cheated?
4. Has management taken appropriate steps to make it more difficult for one to cheat?
5. Did management break the sequestration agreement and improperly coach GPU employees who testified in the reopened hearing?

B. Management's Knowledge of and/or Involvement in Cheating.

1. Did management encourage, condone or participate in the cheating?
2. Did Ross attempt to keep the proctor away from the examination room for a prolonged period of time to facilitate cheating?
3. Did Ross unreasonably broaden the answer keys?

C. Extent of Cheating.

1. Does the extent of cheating reflect adversely on management's integrity and ability to operate the plant consistent with public health and safety?
2. Do TMI-1 operators have sufficient integrity to perform their duties?

3. Does Husted have sufficient integrity to supervise training of unlicensed individuals?

D. Training and Testing Program.

1. Is licensee's administration of its operator training and testing program sufficient to provide confidence in the integrity of management?
2. Is licensee committed to improving the quality of its training program?

E. Licensee's System for Certifying Candidates.

1. Is licensee's system for certifying competency of operator candidates seeking to obtain or renew licenses sufficient?
2. Did management improperly certify VV to the NRC in 1979?
3. If VV was improperly certified, who was responsible for making the certification decision? Was upper management involved?

III. Items Raised Since Close Of Hearing

A. Hartman Matter.

1. Was leak rate data at TMI-2 falsified?
2. Who was involved in any falsification?
3. Did management have knowledge of, encourage or condone falsification? If so, who in management was involved.
4. Why didn't licensee thoroughly investigate matter?
5. What impact does the criminal indictment have?

B. TMI-1 Leak Rate Issue.

1. Was leak rate data at TMI-1 falsified?

2. Who was involved in any falsification?
3. Did management have knowledge of, encourage or condone falsification? If so, who in management was involved?

C. Parks/King/Gischel Allegations on Technical Violations and Harassment and Intimidation.

1. Did licensee follow procedural requirements relating to clean-up?
2. Was management intending to cut corners to the detriment of safety?
3. Did management or others attempt to intimidate or harass individuals who questioned whether procedures were being followed? If so, who in management was involved?

D. Timely Reporting of Documents.

1. Did GPU provide the NRC on a timely basis with copies of the RHR/BETA Reports, Keaten Report and the Hartman investigation report (Faegre and Benson Report)?

E. Keaten Report Issue.

1. Did management modify the draft Keaten Report for the purpose of projecting a more positive view of management?
2. Do any such changes indicate an unwillingness on the part of management to accept responsibility and take corrective actions?

F. GPU v. B&W Trial Material Review

1. Does Frederick's testimony reflect on the sufficiency of his integrity to serve as supervisor of operator training?
2. Does Zewe's change in testimony indicate sufficient integrity to serve as Radwaste Operations Manager?

3. Does GPU's decision prior to the accident to reduce operator training and thus possibly violate training program commitments reflect adversely on management integrity?
4. Did licensee recognize that prior to the accident there were serious deficiencies in plant hardware/and its training and maintenance program, yet fail to take appropriate corrective actions?
5. Did Arnold's testimony before the Licensing Board mislead the Board by implying that the utility was improving its maintenance and training programs?
6. Does licensee's decision not to bypass the condensate polisher reflect on management integrity?

G. Boring Brothers Allegations.

1. Were welders with inadequate qualifications working at TMI?
2. If so, what was management knowledge and role?

H. Unattended Radiation Worker Examinations and Answer Keys

1. Whether discovery of unattended examinations and answer keys raised questions about licensee's training commitments?

I. Psychological Testing Allegations (Quinn Allegations)

1. Did management improperly assist a potential GPU employee to pass psychological tests?

J. Technical Issues

1. Does GPU's schedule of implementation of long-term items adversely reflect on management's character?

2. Do the apparent procedural violations in latest Region I inspection reports indicate inadequate management attention?