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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
METROPOLITAN EDISON COMPANY, ET AL.)
(Three Mile Island Nuclear Station,)
Unit No. 1))

Docket No. 50-289
(Restart)

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NRC STAFF RESPONSE TO AAMODT MOTIONS
FOR INVESTIGATION OF LICENSEE'S REPORTS
OF RADIOACTIVE RELEASES DURING THE
INITIAL DAYS OF THE TMI-2 ACCIDENT AND
POSTPONEMENT OF RESTART DECISION
PENDING RESOLUTION OF THIS INVESTIGATION

Mary E. Wagner
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July 11, 1984

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I. INTRODUCTION

By motion dated June 21, 1984, Intervenors Marjorie and Norman Aamodt (Aamodts) have requested that the Commission (1) order an investigation of the Licensee's reporting of radioactive releases during the TMI-2 accident and (2) delay its decision on whether to permit TMI-1 to operate until such an investigation is completed and various allegations concerning Licensee's reporting of radioactive releases are fully examined.^{1/} For the reasons set forth below, the NRC Staff opposes the Aamodt Motion.

^{1/} Aamodt Motions For Investigation of Licensee's Reports of Radioactive Releases During the Initial Days of the TMI-2 Accident and Postponement of Restart Decision Pending Resolution of This Investigation, June 25, 1984 (Aamodt Motion).

II. DISCUSSION

A. The Allegations Are Unsupported by Reliable Evidence

The Aamodts allege that, based on their own informal "survey"^{2/} of residents in the area of TMI-2 at the time of the accident, certain adverse health effects are demonstrated among those residents, which adverse health effects are traceable to radioactive releases from TMI-2 on March 28, 29, and 30, 1979. Aamodt Motion at 1.^{3/} The Aamodts claim that their interviews show a higher than average cancer death rate among residents, numerous other radiation-related health effects, and plant growth abnormalities. The Aamodts conclude that these "observations", based upon their own survey, constitute "compelling evidence of release of airborne radioactive material during the accident at TMI-2 orders of magnitude greater than have been acknowledged by the Licensee, the NRC Staff or the Commonwealth of Pennsylvania." Id. The Aamodts then use these same observations as the sole basis for a further conclusion that it is "likely" that Licensee intentionally destroyed records of airborne releases of radioactive materials, intentionally minimized estimates of core damage and resultant source terms during the TMI-2 accident, and has continued to deceive the public. Id. at 1-2.

^{2/} The Aamodts make no claim that their survey is statistically valid or scientifically constructed.

^{3/} The Aamodt Motion is accompanied by unsworn "affidavits" by several individuals among those surveyed. The Staff assumes that those individuals would be willing to provide sworn statements, if asked.

Allegations of adverse health effects and other similar issues were raised by numerous groups in the aftermath of the accident at TMI-2. They have been investigated by the Nuclear Regulatory Commission, independent investigatory bodies, and the Commonwealth of Pennsylvania, and found to be without merit.^{4/} Nothing presented in the Aamodts "survey" gives cause to question the conclusions previously reached, much less present a challenge to the accuracy of Licensee's reporting of releases.

The Aamodts also claim, erroneously, that despite repeated assertions by residents of the areas over which plumes passed that significant radiation effects were experienced by them, "not a single evaluation of these claims has appeared on the record of the Restart Proceeding." Id. at 3. While health effects claims were not evaluated in the management phase of the restart proceeding, there was extensive testimony, in the emergency planning phase of this proceeding, on claimed thyroid abnormalities and potential fetal health effects downwind of the plant (see, e.g., 14 NRC 1211, 1493, 1593-96). Those claims were found by the Licensing Board to be without merit.

In short, claims of adverse health effects from radiation releases during the TMI-2 accident have, in fact, been investigated by several

^{4/} See Report of the President's Commission on the Accident at Three Mile Island, October 1979, pp. 34-35; Three Mile Island, A Report to the Commissioners and to the Public (Rogovin), January 1980 Vol. II, Part 2, § II.B; NUREG-0558, Population Dose & Health Impact of the Accident at the Three Mile Island Nuclear Station, May 1979. See also NUREG-0636, The Public Whole Body Counting Program Following the Three Mile Island Accident, December 1980; NUREG-0738, Investigation of Reported Plant & Animal Health Effects in the Three Mile Island Area, October 1980; Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), LBP-81-59, 14 NRC 1211, 1595 (1981).

bodies and found to be unsubstantiated, and the Aamodts have not presented any other "evidence" to support their "belief" that Licensee has repeatedly deceived the public. The Aamodts have failed to demonstrate that any further investigation, either of alleged higher levels of radioactive releases during the TMI-2 accident, of alleged health effects from such releases or of alleged Licensee deception in reporting such releases, is warranted.

B. No Nexus is Established Between the Alleged Adverse Health Effects and the Alleged Deception by Licensee

The Aamodt Motion contains several unsupported statements and conclusions to the effect that it is "more likely" that records of airborne releases of radioactive materials were intentionally destroyed, rather than lost, by Licensee; that estimates of core damage and resultant source terms were intentionally minimized to deceive the public; and that Licensee continues to deceive the public today by asserting that no human injury has been caused by the TMI-2 accident. Aamodt Motion at 1-2. These statements are no more than sheer speculation by the Aamodts, and entitled to no weight whatsoever in view of the Aamodts' failure to establish any relationship between alleged health effects and a deliberate act of deception by Licensee against the NRC, the Commonwealth, and the public at large. This is especially so in light of the fact that all the credible studies of releases and dose rates at the time of the accident confirm that there were essentially no resulting adverse health effects due to exposure to radiation. Further, these totally unsupported beliefs simply offer no basis for the Aamodts' ultimate conclusion, presumably drawn from their speculation based on their "survey", that Licensee's present management does not possess the necessary integrity to operate TMI-1 safely.

C. Even if the Commission Were to Order an Investigation, A Delay of the Commission's Restart Decision Is Not Appropriate

Even if the Aamodts' Motion established that some further investigation into radioactive releases at the time of the TMI-2 accident were warranted, there is no basis for the Commission to defer^{5/} or delay a decision on TMI-1 restart pending the completion of such an investigation. This is because there is no relationship between the Aamodts' claims regarding accident releases and any issue in the restart proceeding. Although the Aamodts attempt to link their claims regarding accident releases to the restart proceeding through the issue of Licensee integrity, the basis for such a link - the Aamodts' belief that accident releases and dose effects were higher so that Licensee must

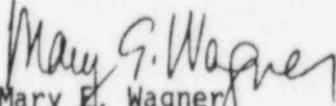
^{5/} It is unclear whether the Commission's standards for a stay of a licensing board decision are applicable here, where intervenors are seeking deferral by the Commission of a prospective decision on the question of restart of TMI-1. In any event, although the Aamodts motion does not address the factors to be considered in determining whether a stay is warranted, the test to be applied for a stay, laid down in Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958), is not met here. Under the Virginia Petroleum Jobbers test, four factors are examined: 1) has the movant made a strong showing that it is likely to prevail on the merits? 2) has the movant shown that, without such relief, it will be irreparably injured? 3) would the issuance of a stay substantially harm other parties' interests in the proceeding? 4) where does the public interest lie? The Aamodts have made no showing that they are likely to prevail on the merits of their claim that releases during the TMI-2 accident were under-reported, ignoring the results of prior inquiries into many of the same areas; intervenors claim no irreparable injury; further delay in this proceeding could likely delay restart of the TMI-1 facility, causing substantial harm to licensee; and the public interest favors a speedy resolution of this case. In sum, the Aamodts have failed to make a showing that any of the four factors of Virginia Petroleum Jobbers, if applicable, weigh in favor of granting a stay of a Commission decision on restart pending completion of the further investigation requested by the Aamodts.

have wrongfully under-reported releases - is sheer speculation by the Aamodts, is unsupported, and is contrary to the consistent findings and conclusions of the many and varied investigatory bodies which closely scrutinized radioactive releases, doses and radiation-induced health effects in the aftermath of the TMI-2 accident. Absent any demonstrated connection between the Aamodts' claims regarding TMI-2 accident releases and issues in the TMI-1 restart proceeding, any further investigation into TMI-2 accident releases, even if warranted, should not in any way delay a decision on TMI-1 restart by the Commission.

III. CONCLUSION

For the reasons set forth above, the Aamodt Motion should be denied in all respects.

Respectfully submitted,


Mary E. Wagner
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 11th day of July, 1984.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO AAMODT MOTIONS FOR INVESTIGATION OF LICENSEE'S REPORTS OF RADIOACTIVE RELEASES DURING THE INITIAL DAYS OF THE TMI-2 ACCIDENT AND POSTPONEMENT OF RESTART DECISION PENDING RESOLUTION OF THIS INVESTIGATION" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 11th day of July, 1984:

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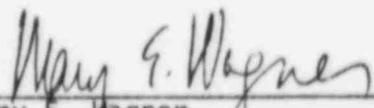
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