

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 OCT -4 A10:38

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
METROPOLITAN EDISON COMPANY)	Docket No. 50-289
)	(Restart-Management Phase)
(Three Mile Island Nuclear)	
Station, Unit 1))	
)	

THREE MILE ISLAND ALERT'S RESPONSE TO LICENSEE'S
THIRD SET OF INTERROGATORIES AND THIRD
REQUEST FOR PRODUCTION (DIECKAMP MAILGRAM)

Interrogatory No. 19

In further supplementation to Three Mile Island Alert's response to Interrogatory No. 1 of Licensee's Second Set of Interrogatories:

TMIA currently intends to call as a witness in this proceeding David H. Gamble, P.O. Box 9290, Alexandria, VA., 22304-9998. Mr. Gamble was the criminal investigator from the NRC's Office of Inspector and Auditor who participated in the NRC investigation conducted in 1980 into licensee's alleged reporting failures. This investigation led to the issuance of NUREG-0760.

Mr. Gamble will testify as to the areas which the NRC investigation and report failed to address. Some of his criticisms of the investigation and the manner in which the investigation was conducted are listed in a memorandum he wrote to Norman C. Moseley, on January 26, 1981. See Gamble Memorandum

dum attached hereto as Exhibit 1.

The grounds for Mr. Gamble's opinions and the facts to which he is expected to testify are largely contained in the materials he reviewed in the preparation of the report, including the interviews conducted in the course of that investigation, many of which he attended or in which he participated. It is also expected that Mr. Gamble will review Licensee's responses to TMIA's discovery requests and depositions.

Interrogatory No. 20

See TMIA's Supplemental Response to Licensee's Second Set of Interrogatories and Second Request for Production, specifically TMIA's response to Interrogatory No. 2.

TMIA has within its possession and control no other documents other than those listed in that response, those listed in Interrogatory No. 20, and the Gamble Memorandum, attached hereto as Exhibit 1.

Respectfully submitted,

Joanne Doroshow/EP
Joanne Doroshow
The Christic Institute
1324 North Capitol
Washington, D.C. 20002
(202) 797-8106

Lynne Bernabei
Lynne Bernabei
Government Accountability Project
1555 Connecticut Ave. N.W.
Washington, D.C. 20036
(202) 232-8550

DATED: October 1, 1984

Attorneys for Three Mile Island Alert



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

January 26, 1981

MEMORANDUM FOR: Norman C. Haseley, Director
Division of Program Development and Appraisal, IE

FROM: David H. Corble, Investigator
Office of Inspector and Auditor *David H. Corble*

SUBJECT: IE INVESTIGATION INTO INFORMATION FLOW CONCERNING THE
THI ACCIDENT

Attached are my comments on the subject draft IE report which you transmitted to the Commission on January 17, 1981. Because my participation in the investigation was limited to potentially criminal aspects, this memorandum does not constitute, nor am I prepared to give, a thorough critique of the investigative effort. These comments are limited to those matters which obvious to me from a reading of this draft in the short amount of time that has been available to OIA; I have not addressed matters such as the enforcement actions being considered or the manner in which the investigation was conducted. I am providing these comments to you in this form because when I highlighted several to you on January 21, you responded that the comments were not substantial and therefore you had no intention of incorporating them into your report.

Attachment: As stated

cc w/att: J. Cummings, OIA
R. Fortuna, OIA
H. Lee, CC
R. Liefting, ELD

COMMENTS ON 1/17/81 DRAFT OF
IE INVESTIGATION RE TPI

1. Pp 2, 98, and 99 and the cover sheet must be revised to accurately reflect the extent of DIA's participation (i.e., as outlined in the Chairman's March 21, 1980, memorandum which directed the investigation. I understand from you that these changes will be made.
2. Throughout the report are conclusions which I do not feel are adequately supported by the report. While the opposite conclusion would not be justified either, the report confuses opinions with conclusions - implicit in the latter is that they have a factual basis. For example, at the end of the first paragraph on page 18 you "conclude" that none of the conflicts examined were the result of lying; however, it is just as reasonable based upon the facts presented in your report to conclude that they were the result of lying.
3. P. 1, para. 3, sentence 3, attempts to define the investigation's scope, but has two problems:
 - a. The statement presupposes that information did not adequately flow. This way of phrasing it is not appropriate for an introduction unless you had reached this conclusion before the investigation was initiated.
 - b. The sentence includes the flow of information to the state Government within the investigation's scope. My understanding of the scope was that it was not to include TH1's relationship with the state. Among the exchanges that led me to this understanding were your directions to those of us participating in the interviews of state officials to carefully restrict our questioning to prevent providing those state officials with a forum to air their difficulties in obtaining information from TH1. My understanding of the actual purpose of those interviews was to determine whether TH1 provided the state with information that was not provided to IIRC (which would indicate that TH1 may have withheld the information from IIRC). However, the report portrays the limited inquiry performed in this area as satisfying a greater scope. There are other sources which we did not attempt to explore (e.g., we abandoned the idea of interviewing the Lieutenant Governor because his schedule would not allow an interview when we wanted it; we did not track down whether any minutes were taken of TH1's briefing of the Lieutenant Governor). It seems strange to now take action based upon this restricted phase of the investigation.

4. P. 2, para. 3., sentence 2, refers to SIG depositions. Not all of Sie's interviews were depositions.
5. P. 3., the sentence which began on the previous page refers to a Congressional subcommittee, but it does not indicate which committee or which house of Congress the subcommittee is from.
6. P. 5., para 1, sentence 2, said "... all interviews were conducted under oath with a court reporter providing a verbatim transcript that about the interviews (informal prescreening or whatever you call them) of individuals such as Eldon Brunner which are not reflected anywhere in the report?

P. 12, para. 3. - The Regional Director must have told the IE Director more than the bare fact that the Regional Emergency Center had been activated. When you are reporting on investigation of information flow, this seems to warrant a little more detail here, especially because if the Regional Director provided this information to Headquarters at 8:00 a.m., IE would hardly be in position to cite TII for not providing the information.

8. Comment 02 above is generally applicable to the conclusions at pp 19-20. In addition:
 - a. Conclusions 04 and 05 relate to the State/TII relationship - see comment 03.b. above
 - b. Conclusion 07 speaks of NRC's having an ineffective system re info flow. It is interesting to compare this to the similar conclusions re Kat-Ed: conclusion 02 says Kat-Ed also had an ineffective system; however conclusion 03 goes further by saying that Kat-Ed personnel contributed to the information flow problems. Now back to conclusion 07: the report concludes that NRC's system was a problem, but it is silent on whether NRC personnel contributed to the info flow problems. This silence is strange in light of your expressed intentions to request a review of actions by NRC personnel as soon as this report is issued.

I do not recall that Marshall was interviewed, yet he appears to figure in on the knowledge of the EISV being open (see p. 36, par 2., which states that Higgins received his info on this area from Marshall).

10. P. 44, para 1, sentence 3, states "This conjecture, when combined with other information, suggested that the core may have been uncovered." This sentence is not clear: Are you stating that the conjecture did, in fact, suggest to someone (whom?) that the core may have been uncovered? or are you stating that in retrospect "so suggested?"

11. P. 47, para 1, lists "the testimony of Chwastyk and Kehler" as the third aspect pertinent to a discussion of the 28 psig containment spike. As your subsequent analysis indicates, there are others whose testimony is clearly pertinent to this issue; therefore, to only cite Chwastyk's and Kehler's testimony in this introduction may unduly narrow the readers' focus before they reach the subsequent discussion.
12. P. 48, para. 2, sentence 1, states that the reactor building pressure rose to 28 psig. Isn't it more correct to say that the pressure recorder indicated 28 psig? That is to say, isn't it possible that the explosion generated greater than 28 psig for an instant (I understand that there is some small time lag between actual pressure and the indication on the recorder. I would guess that even a fraction of a second's delay would mean that the actual pressure during an explosion may have been somewhat higher than the indicated pressure).
13. P. 48, para. 2, sentence 5, said that only two Hot-Ed employees (Chwastyk and Kehler) attributed the pressure spike, etc., to anything other than electrical faults or instrument malfunctions. This sentence fails to take Ilijas' comments into account (see pp 61-62).
14. P. 49, para. 2, summarizes knowledge of hydrogen and points out Chwastyk's and Kehler's different recollections. This discussion falls short of being complete by failing to mention others who recall hydrogen discussion on the day of the accident (i.e., Ilijas and Plumlee).
15. P. 51, para 1, sentence 2. You examined an alleged discussion not a possible discussion (IF did not independently explore the possibility the Yucca arose only because Chwastyk and Kehler have alleged that such a discussion took place). In addition, the alleged discussion was not just "in the presence of an NRC inspector" - it was either with or in the presence of an NRC inspector."
16. P. 51, para 1, sentence 5, states that only Chwastyk and Kehler even placed an NRC inspector in the control room. I believe others also said this (o.g., Zawa, Ross, Higgins, and Neely).
17. P. 52, para 2, sentence 2, states that Neely's discussion with Kehler was in April. In two subsequent interviews by OIA, Neely said this discussion was sometime after May 15, 1979 (OIA report pp 8 and 17). This same sentence described Kehler as "a Hot Ed employee." This is misleading. It is important that Kehler's name be used here because he is one of the Hot-Ed employees alleging that an NRC inspector was informed of the spike - if Kehler had felt Neely was the inspector, it would have been highly unlikely that Kehler would have confided this information in Neely (see OIA report P. 8, para 1, last sentence).

- 18 P. 52, para. 2, sentence 3, says that Neely turned Mahler's allegation "over to the IE investigation team, whose findings are contained in NUREG-0660." This sentence is also misleading. OIA's investigation found that, apparently through a misunderstanding, IE addressed the information licely provided by interviewing lies and nobody to date has interviewed Mahler specifically regarding the information he provided to Neely (OIA report pp. 20-21).
19. P. 53, para 1, quotes Higgins' description of why he may have missed the "thud." However, the report states that this is Higgins' explanation of why he was not aware of the spike on the pressure recorder. Obviously the quotation is not appropriate to answer the question posed in the report. This makes Higgins appear to be non responsive; however, if you furnished the complete quotation, the reader would see that Higgins was responding to a question about his knowledge of either the spike or the thud - his answer was apparently not intended to address his knowledge of the spike. You should use a quotation here in which Higgins directly addresses his knowledge of the spike itself (see, e.g., the OIA report of p. 12, para. 2 and p. 13, para. 1).
- 20 P. 54, para 1, sentence 3, mentions a Hiller/Marshall discussion regarding the thud - was Marshall interviewed?
- 21 P. 62, para 1, describes OIA's interviews of Plumlee and Sealingar. This paragraph has three problems:
- a. The first sentence says OIA interviewed several inspectors who went to TMI on the day of the accident. The rest of the matter is that OIA interviewed all of the inspectors who were at TMI by 1:50 (the time of the hydrogen explosion).
 - i. The second sentence said Plumlee "expressed several" concerns" during the interviews. It is interesting that Plumlee is the only interviewee whose responses are characterized as expressions of concerns - rather than recollections. While I recognize that the report ultimately dismisses Plumlee's statements, I would suggest that the narrative account of his statements be more objective.
 - d. The report only attributes Plumlee's statements to his OIA interviewing on December 2 and 3, 1980. However, when IE interviewed Plumlee on May 30, 1979, for NUREG-0660, Plumlee also stated that he learned "that the containment building has the hydrogen present in the atmosphere in a significant quantity" (Tr.5). Furthermore, Plumlee repeated and elaborated upon his statements when IE extensively reinterviewed him in January 1981. Consistent statements at various points of time (especially those closer to the event) add to the credibility of an interviewee.

72. P. 62, para. 2, "concern" #1 addresses knowledge of hydrogen by Region I personnel. This fails to state the important fact that this knowledge was reportedly held by Region I management.
73. P. 63, para. 2, lists two sources for Plumlee's belief that regional personnel had knowledge of hydrogen. The first is what he believed his branch chief said regarding hydrogen (this would obviously indicate knowledge by regional personnel). The second is Plumlee's own analysis; however, it does not necessarily follow that Plumlee would have concluded that regional personnel knew of hydrogen base upon his own ability to analyze the situation. A third factor which is not described in the report is the corroboration Plumlee reportedly received from Seelinger regarding the hydrogen samples early on the day of the accident. Seelinger's conversation undoubtedly reinforced Plumlee's belief that his branch chief had actually mentioned hydrogen during the briefing.
74. P. 65, sentence 3, states, "Plumlee was also certain that, when he told Callina of his conversation with Seelinger, Callina told him that there was already general speculation that the hydrogen burn had occurred" (emphasis added). During OIA's interviews (OIA report, P. 27, para 3-4), Plumlee said the pressure spike (not the hydrogen burn) was known.