

381

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

29 P2:43

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

SUPPLEMENT TO THREE MILE ISLAND ALERT'S
 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
 OF MOTION FOR CERTIFICATION OF ORDER BARRING
 GILINSKY AND BRADFORD TESTIMONY

On November 19, 1984, TMIA filed a Motion for Directed Certification on the Exclusion of Testimony of Former NRC Commissioners Peter Bradford and Victor Gilinsky, and a supporting Memorandum of Points and Authorities. TMIA herein supplements its Memorandum in Support by adding two points of clarification.

At p. 27 of the memorandum, TMIA cites the Code of Federal Regulations, 10 CFR 0.735-26-27 as controlling individual rights and NRC responsibilities regarding questions, under the Ethics in Government Act, within the NRC's regulatory process. It has recently come to the attention of TMIA that the NRC has, in addition, developed specific procedures for the handling of Ethics in Government Act questions within the agency. These procedures must be adhered to before an administrative sanction, such as the striking of testimony, may be administered. See, Procedures to Enforce the Post-Employment Restrictions of the Ethics in Government Act of 1978, NRC Manual Chapter 4124, NRC App. 4124, Part III (1982), 10 CFR §0.735-3(a)(9). It is without question that these


8412010021 841129
 PDR ADDCK 05000289
 PDR
 G

DS03

strict procedures were not followed by the Licensing Board before disallowing the testimony of Bradford and Gilinsky in this case.

Second, it has also recently come to the attention of TMIA, upon a careful review of the hearing transcript of the May, 1979 Oversight Hearings conducted by the House Committee on Interior and Insular Affairs, Part 2 at pp. 190-191,¹ that Mr. Dieckamp also sent a copy of his mailgram to then Commissioner Kennedy, in addition to one to Commissioner Gilinsky. At the time TMIA's pleading was filed with the Appeal Board, TMIA was under the impression that, as stated in both Mr. Dieckamp's pre-filed written testimony,² and in NUREG-0760,³ only Commissioner Gilinsky was sent an official courtesy copy. However, while at least one other Commissioner received a copy, TMIA believes it is equally significant for purposes of examining Mr. Dieckamp's state of mind that upon NUREG-0760's release in 1981, Mr. Dieckamp did not challenge the factual premise of the report, and to this day, the single Commissioner to whom he recalls sending a copy, in fact forming a basis for his testimony, was Commissioner Gilinsky.

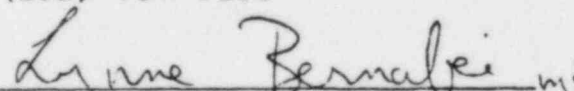
Respectfully submitted,


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

¹ Joint Mailgram Exhibit 29, pp. 190, 191.

² Testimony at p. 4.

³ NUREG-0760 at pp. 45, 117-1, 117-2.


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

Counsel for Three Mile Island
Alert

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

84 11 29 P2:43

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

Docket No. 50-289
(Restart Remand on Management)

I hereby certify that copy of the foregoing Three Mile Island Alert's Supplement to Memorandum of Points and Authorities in Support of Motion for Certification of Order Barring Gilinsky and Bradford Testimony was served by mailing a copy, postage prepaid, to the following:

Nunzio J. Palladino, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Thomas M. Roberts, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

James K. Asselstine, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Frederick Bernthal, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Lando W. Zech, Jr., Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* Administrative Judge
Gary J. Edles, Chairman
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* Administrative Judge
John H. Buck
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* Administrative Judge
Christine N. Kohl
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* Administrative Judge
Ivan W. Smith, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* Administrative Judge
Sheldon W. Wolfe
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* Administrative Judge
Gustave A. Linenberger, Jr.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing and Service Section (3)
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Appeal
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Michael W. Maupin, Esq.
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, VA 23212

* Jack R. Goldberg, Esq.
Office of the Executive Legal
Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Thomas Y. Au, Esq.
Office of Chief Counsel
Department of Environmental
Resources
505 Executive House
P.O. Box 2357
Harrisburg, PA 17120

Lynne Bernabei
Lynne Bernabei

* Ernest L. Blake, Esquire
Shaw, Pittman, Potts & Trowbridge
1800 M St. N.W.
Washington, D.C. 20036

Mr. Henry D. Hukill
Vice President
GPU Nuclear Corporation
P.O. Box 480
Middletown, PA 17057

Mr. and Mrs. Norman Aamodt
R.D. 5
Coatesville, PA 19320

Ms. Louise Bradford
TMI Alert
1011 Green Street
Harrisburg, PA 17102

Joanne Doroshow, Esquire
The Christic Institute
1324 North Capitol Street
Washington, D.C. 20002

Ellyn R. Weiss, Esq.
Harmon, Weiss & Jordan
2001 S Street, N.W., Suite 430
Washington, D.C. 20009

Michael F. McBride, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1333 New Hampshire Avenue, N.W.
Suite 1100
Washington, D.C. 20036

* Hand-Delivered