



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

PDR-016

SEP 5 1984

Ms. Nina Bell  
Nuclear Safety Analyst  
Nuclear Information and Resource Service  
1346 Connecticut Avenue, NW  
4th Floor  
Washington, DC 20036

IN RESPONSE REFER  
TO FOIA-84-148

Dear Ms. Bell:

This is an eighth partial response to your letter dated March 1, 1984, in which you requested, pursuant to the Freedom of Information Act, six categories of information pertaining to the application of the "Sholly Amendment" to the consideration of the Three Mile Island-1 Steam Generator operating license amendment.

The documents listed on the enclosed appendix are being placed in the NRC Public Document Room (PDR). These documents will be filed in PDR folder FOIA-84-148 under your name.

The review of additional documents subject to your request has not been completed. As soon as the review is completed, we will inform you of our disclosure determination.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Felton", written over a horizontal line.

J. M. Felton, Director  
Division of Rules and Records  
Office of Administration

Enclosure: Appendix

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PDR FOIA  
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APPENDIX

DOCUMENTS BEING PLACED IN THE PUBLIC DOCUMENT ROOM

1. 12/5/83 Memo for William Dircks from James Asselstine re: THREE MILE ISLAND, UNIT 1, STEAM GENERATOR REPAIR PROGRAM - NO SIGNIFICANT HAZARDS CONSIDERATION AND LICENSE AMENDMENT (SECY-83-474) (1 page)
2. 1/14/83 Letter to Nunzio Palladino from Richard Ottinger re: Commission Authorization Act, PL 97-415 (2 pages)
3. 1/19/83 Letter to Richard Ottinger from Carlton Kammerer re: Nine questions (1 page)
4. 2/3/83 Letter to Richard Ottinger from Nunzio Palladino re: P.L. 97-415 (8 pages)
5. 3/2/83 Letter to Richard Ottinger from Nunzio Palladino re: P.L. 97-415 (9 pages)
6. 3/15/83 Letter to Nunzio Palladino from Alan Simpson, Gary Hart, and George Mitchell re: "Sholly" provision (3 pages)
7. 3/17/83 NRC-SECY Form Dec. 80 Memo to Chilk from Commissioner Asselstine re: SECY-83-16B (1 page)
8. 3/24/83 Letter to Nunzio Palladino from George Mitchell re: Reracking as it pertains to the Commission's proposed implementing regulations for Sholly provision (2 pages)
9. 1/16/84 Letter to Nunzio Palladino from Morris Udall re: Invitation to Commission to participate in oversight hearing on NRC's budget for FY 1984 and 1985 (2 pages)
10. 3/30/83 NRC-SECY Form Dec. 80 Memo to Chilk from Commissioner Asselstine re: 10 CFR Part 50 - March 29, 1983 Version (1 page)
11. 4/1/83 Memo to Gary Gilbert from Spiros Droggitis re: Clarification of SECY-83-16B Vote (1 page)
12. 4/4/83 Memo for the Record from Samuel Chilk re: STAFF REQUIREMENTS AFFIRMATION/DISCUSSION AND VOTE (1 page)
13. 4/6/83 Memo for Commission from Joseph Fouchard re: PUBLIC ANNOUNCEMENT OF SHOLLY AND TEMPORARY LICENSE AMENDMENTS (9 pages)
14. 4/22/83 Letter to Gary Hart from Nunzio Palladino ref: "Sholly" provision in FY 82-83 (2 pages)

-2-

15. 5/6/83 Memo for Commission from William Dircks re: STUDY ON SIGNIFICANT HAZARDS (4 pages)
15. 6/24/83 Letter to Nunzio Palladino from John Heinz re: Proposal by GPU to restart TMI Unit 1 (1 page)
16. 7/21/83 Letter to John Heinz from Carlton Kammerer re: TMI Unit 1 (1 page)
17. 7/1/83 Memo for Samuel Chilk from James Asselstine re: SECY 83-249 OCONEE UNIT NO. 3 SPENT FUEL POOL EXPANSION (1 page)
18. 7/12/83 NRC-SECY Form Dec. 80 Memo to Chilk from Asselstine re: SECY-83-249 OCONEE UNIT NO. 3 SPENT FUEL POOL EXPANSION (1 page)
19. 2/23/84 Statement by Commissioner James K. Asselstine (8 pages)
20. Undated Additional Views of Commissioner Asselstine (3 pages)
21. Undated Views of Commissioner James Asselstine on the NRC Staff's No Significant Hazards Consideration Determination on the TMI Unit 1 License Amendment Application for Steam Generator Repairs (16 pages)
22. Undated Excerpts from Memo to Asselstine from Pat Davis, Legal Assistant to Asselstine subject: Legislative History of Sholly Amendment (3 pages)
23. 6/9/81 SECY-81-366 (40 pages)
24. 8/8/81 SECY-81-366A (74 pages)
25. 8/15/83 SECY-83-337 (40 pages)
26. 11/18/83 SECY-83-474 (130 pages)
27. 3/9/84 SECY-84-108 (11 pages)
28. 2/9/84 Statement by Commissioner James Asselstine (4 pages)



## Nuclear Information and Resource Service

1346 Connecticut Avenue NW, 4th Floor, Washington, D.C. 20036 (202) 296-7552

March 1, 1984

Director  
Office Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-84-148  
Rec'd 3-2-84

### FREEDOM OF INFORMATION ACT REQUEST

To whom it may concern:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended, the Nuclear Information and Resource Service requests the following documents regarding the application of the "Sholly Amendment" to the consideration of the Three Mile Island-1 Steam Generator operating license amendment. Please consider "documents" to include reports, studies, test results, correspondence, memoranda, meeting notes, meeting minutes, working papers, graphs, charts, diagrams, notes and summaries of conversations and interviews, computer records, and any other forms of written communication, including internal NRC Staff memoranda. The documents are specifically requested from, but not limited to, the following offices of the NRC: Office of the Executive Legal Director (OELD), Office of the General Counsel (OGC), and Office of Nuclear Reactor Regulation (NRR). In your response, please identify which documents correspond to which requests set out below.

Pursuant to this request, please provide all documents prepared or utilized by, in the possession of, or routed through the NRC related to:

1. The impact of the application of the "Sholly Amendment" no-significant-hazards-consideration determination on the TMI-1 Steam Generator operating license amendment to other operating license amendments currently under consideration by the Staff;
2. The impact of the application of the "Sholly Amendment" no-significant-hazards-consideration determination on the TMI-1 Steam Generator operating license amendment to other operating license amendments which have received no significant hazards consideration determinations by the NRC Staff;

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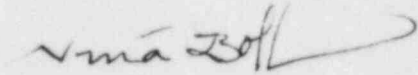
3. The implications of the application of the "Sholly Amendment" no-significant-hazards-consideration determination on the TMI-1 Steam Generator operating license amendment to any or all operating license amendments;
4. Analyses of the "Sholly Amendment" and interpretations of its application to operating license amendments;
5. Instructions to the staff for making "Sholly Amendment" proposed and final no-significant-hazards-consideration determinations; and
6. Any other documents which could be construed to be directives, analyses or interpretations of NRC's current "working law" with respect to "Sholly Amendment" no-significant-hazards-consideration determinations.

The documents requested must be made available under the Freedom of Information Act and are not exempt under Exemption 5. The Supreme Court recognized a distinction between pre-decisional documents, which are exempted, and post-decisional documents which are not exempted. NLRB v. Sears, Roebuck & Co., 421 U.S. at 151-53. The Court noted that it would be reluctant to consider "statements of policy and interpretations which have been adopted by the agency" and "instructions to staff that affect a member of the public" to be exempt under Exemption 5. Sears, supra. This is consistent with numerous court interpretations that the FOIA's Exemption 5 does not exist to protect an agency's "secret law." The statements made by the Office of General Counsel at recent Commission meetings demonstrate clearly that the counsel to the Commissioners believes that such a secret law is in effect. This law is currently governing decisions made by the staff of the agency in interpretation of the Sholly amendment and its implementing regulations. Moreover, it has the effect of affecting many members of the public, namely those who may be deprived of representation of their interests in a prior hearing on an operating license amendment. When such a hearing is being denied in favor of merely a right to a post hearing, it is not on the basis of existing law as written, but on the "secret" or "working" law interpretation presently being utilized by the NRC Staff.

In our opinion, it is appropriate in this case for you to waive copying and search charges, pursuant to 5 U.S.C. 552(a)(4)(A) "because furnishing the information can be considered as primarily benefiting the general public." The Nuclear Information and Resource Service is a non-profit organization serving local organizations concerned about

nuclear power and providing information to the general public.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nina Bell", with a long horizontal flourish extending to the right.

Nina Bell  
Nuclear Safety Analyst

cc: File




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

December 5, 1983

OFFICE OF THE  
COMMISSIONER

MEMORANDUM FOR: William J. Dircks  
Executive Director for Operations

FROM: James K. Asselstine 

SUBJECT: THREE MILE ISLAND, UNIT 1 (TMI-1) STEAM GENERATOR  
REPAIR PROGRAM - NO SIGNIFICANT HAZARDS CONSIDERATION  
AND LICENSE AMENDMENT (SECY 83-474)

I would appreciate receiving a list of the plants for which a license amendment has been issued in the past 5 years involving a steam generator modification or repair. The list should include a description of the activity associated with the amendment, and an indication of whether a "no significant hazards" determination was made. I would also appreciate the staff's judgment on the length of time a hearing would take on this TMI license amendment case.

cc: Chairman Palladino  
Commissioner Gilinsky  
Commissioner Roberts  
Commissioner Bernthal  
SECY  
OGC  
OPE

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112-100

# Congress of the United States

House of Representatives

Washington, D.C. 20515

January 14, 1983

The Honorable Nunzio Palladino  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Dr. Palladino:

Approximately two years ago, the Nuclear Regulatory Commission furnished the Congress with information which indicated that in the absence of temporary authority to issue operating licenses prior to the conduct or completion of any required hearing, severe economic penalties would result for several utilities and their ratepayers. Relying on this information, Congress provided such authority in the Nuclear Regulatory Commission Authorization Act, PL 97-415. As you know, delays have not materialized as projected, and the authority has proven to be unnecessary. To aid the Committee in assessing the effect of this legislation, please respond to the following questions by January 21, 1983.

1. Provide a list showing each nuclear reactor at which delay has been experienced between plant completion and initial criticality due solely to the administrative delays of the Commission. Please indicate the duration and reasons for each such delay.
2. For each of the fourteen reactors identified by the Commission in March, 1981, likely to experience delay in the issuance of an operating license which did not incur delay please provide an explanation of why the projected delay did not occur.
3. Of those reactors issued an operating license, including a low-power license, since January 1, 1981, did any experience problems which delayed power ascension as scheduled? If so, identify the reactor, describe the problem, and explain why such problem was not detected during the review of the application for an operating license prior to the issuance of the (low-power) operating license.
4. What actions has the Commission taken to improve its ability to detect problems such as those identified in the response to Question 3, prior to the issuance of the operating license?

interim reply dtd 1/19/83  
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Reply  
2/3/83  
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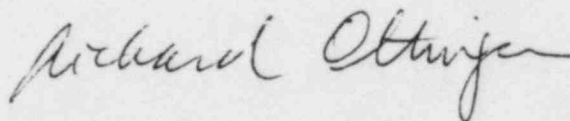
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5. Identify any nuclear reactor under construction which may qualify for application for a temporary operating license.
6. Provide a description of the procedures instituted by the Commission to verify information and projected schedules provided by the applicant.
7. For any reactor identified in the response to Question 5, please provide the date by which the Commission staff believe plant construction will be sufficiently complete to permit (a) fuel loading, (b) initial criticality, (c) five percent power?
8. For any reactor identified in the response to Question 5, please provide the dates of all meetings of the applicant and the Commission staff which occurred after July 1, 1982, concerning scheduling; together with a list of all participants and the agreed-upon schedule, if any. Provide the basis for any disagreement between the applicant and Commission staff on an estimated completion date, and any dissenting staff opinion and the basis therefor.
9. Please identify any reactor for which delay is projected between construction completion and issuance of a low-power operating license during FY 1984 and FY 1985, together with the reasons for such delay.

Thank you for your cooperation.

Sincerely,



Richard L. Ottinger



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75-1334

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

January 19, 1983

The Honorable Richard L. Ottinger  
United States House of Representatives  
Washington, DC 20515

Dear Congressman Ottinger:

The Commission has just received your letter of January 14, 1983, requesting answers to nine questions relating to reactor licensing delays over the past several years. Your letter asked for responses by the day after tomorrow. We regret that this is not possible.

The information you requested is not readily available in the format you requested. Responses to your questions must be compiled and reviewed by senior staff and Commission. We will try to do this as quickly as possible.

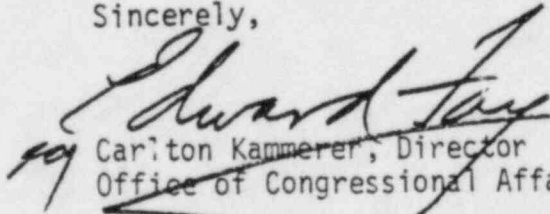
It is true that the Commission in requesting interim licensing authority from Congress two years ago cited projections showing the possibility of significant licensing delay. However, it is also true that during the nearly two years that the interim licensing legislation was under consideration by the Congress, the NRC was providing our principal oversight committees with monthly reports on the status of major licensing activities, including projected delays. These reports showed a steady reduction in the number of months of projected delay. During budget hearings in both 1981 and 1982, the Commission testified as to the extent of the delays then projected noting that a substantial reduction in projected delay had resulted from a combination of actions taken administratively by the NRC and more realistic licensee projections of construction completion dates. A more definitive discussion of these actions is contained in House Committee on Energy and Commerce Report 97-132 dated March 3, 1982. At the time of the Conference on the NRC authorization bill, the projected delay was zero.

The Commission is still preparing these licensing status reports on a quarterly basis at the continuing request of the House Appropriations Subcommittee on Energy and Water Development. A copy of the most recent report (showing a total projected delay of 3 months) has already been provided to your staff this week. However, I am enclosing another copy for your convenience.

We will endeavor to respond to your specific questions as quickly as practicable.

Sincerely,

8422009L

  
Carlton Kammerer, Director  
Office of Congressional Affairs

1-19-83

Enclosure:  
As stated



OFFICE OF THE CHAIRMAN

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

February 3, 1983

- Distribution: RMattson, RVollmer, HThompson, PCheck, BSnyder, KJohnson (EDO 12678), EDO 12678, GCunningham, LBarry, RDeYoung, HDenton/ECASE, PFine, PPAS, TSpeis

The Honorable Richard L. Ottinger United States House of Representatives Washington, D.C. 20515

Dear Congressman Ottinger:

This is a partial response to your letter of January 14, 1983 regarding the authority of the Commission, as contained in P.L. 97-415, to issue temporary operating licenses. The information was not readily available in the format you requested, and we regret that we were not able to respond within your requested time frame.

In order to provide you with information as quickly as possible, we are enclosing answers to Questions 5 through 9 of your letter. Responses to the remaining questions will be forwarded to you as soon as they are available.

It is true that the Commission, in requesting interim licensing authority from Congress two years ago, cited projections showing the possibility of significant licensing delay. However, it is also true that during the nearly two years that the interim licensing legislation was under consideration by the Congress, the NRC was providing our principal oversight committees with monthly reports on the delays. These reports showed a steady reduction in the number of months of projected delay. During budget hearings in both 1981 and 1982, the Commission testified as to the extent of the delays then projected, noting that a substantial reduction in projected delay had resulted from a combination of actions taken administratively by the NRC and more realistic licensee projections of construction completion dates. A more definitive discussion of these actions is contained in House Committee on Energy and Commerce Report 97-132 dated March 3, 1982. At the time of the Conference on the NRC authorization bill the projected delay was zero.

We will endeavor to respond to the remaining questions you asked as quickly as possible.

830219005 / 8PP

Sincerely,

Cleared with all Cmrs' Offices by SECY C/R. Original signed by (Cmr. Ahearne was unavailable to participate Nunzio J. Palladino in the final cover letter, his office had no comment) Ref.-CR-83-7

Nunzio J. Palladino

Handwritten notes and dates: 3, 1/12, C. Ahearne, N. J. Palladino, 2/3/83

Enclosure: Originating Office: EDO/NRR

Table with columns: OFFICE, SURNAME, DATE, Responses to Questions 5,6,7,8, and 9, SECY, OCA, OCM, OCM N. Includes handwritten initials and dates like 2/3/83.

Question #5

Identify any nuclear reactor under construction which may qualify for application for a temporary operating license.

Response

Any reactor under construction for which the following events are completed in 1983 may qualify for application for a temporary operating license:

- (1) NRC Safety Evaluation Issued
- (2) NRC Final Environmental Statement Issued
- (3) ACRS Letter Issued
- (4) Staff Supplemental SER Responding to ACRS Letter Issued
- (5) State, Local, or Utility Emergency Plan Filed
- (6) Construction Complete, and
- (7) ASLB Initial Decision Not Issued

Using current schedules, as reported to the Subcommittee on Energy and Water Development in January 1983, the Shoreham reactor would qualify.

Reactors could be added or deleted from this "qualified" list depending on the actual completion dates of certain events. For example, if the actual completion date of the Shoreham facility should slip into 1984, it would no longer be qualified. On the other hand, for any reactor otherwise qualified, but for which the ASLB initial decision is delayed beyond the construction completion date, then that reactor would qualify. Reactors in this latter category which could potentially qualify for temporary operating license consideration due to possible hearing delays include:

Waterford 3  
Comanche Peak 1  
Midland 1/2  
Byron 1  
Perry 1

Since there is currently no projected delay between the scheduled completion of construction and licensing of these plants, Questions 7 through 9 are answered only for the Shoreham facility. Any slippage in licensing will be identified to the Congress in our quarterly reports on the status of major licensing activities.

## Question #6

Provide a description of the procedures instituted by the Commission to verify information and projected schedules provided by the applicant.

### Response

Each near-term operating license (NTOL) applicant has been requested by the NRC to update its estimate of construction completion on a quarterly basis. To gain confidence that these estimates are realistic, the NRC is continuing, and, in fact, expanding efforts to independently verify these estimates and the projected schedules supplied by the applicants.

The NRC regularly conducts site visits of nuclear plant construction sites to review the construction progress and rate of progress and to assess the planning and progress of the pre-operational test program. These visits are conducted by NRC Caseload Forecast Panels consisting of one or more construction estimators, the Licensing Project Manager, the NRC Resident Inspector and a member of management from the Division of Licensing, Office of Nuclear Reactor Regulation. These visits are scheduled on the basis of the stage of licensing for each individual facility and on the probability of the facility to be affected by a regulatory delay. Twenty-five plants are scheduled for site visits during the next nine months. During these site visits, the NRC assesses the following progress indicators:

- (a) The status of design engineering and procurement activities.
- (b) Progress in installation of bulk commodities such as large-bore piping, small-bore piping, pipe supports and hangars, electrical raceways (cable tray, conduits), electrical cable and termination of electrical circuits since the previous Caseload Forecast Panel assessment.
- (c) Present installation rate of the bulk commodities itemized above.
- (d) Projected installation rates of the bulk commodities itemized above considering any perturbations which may affect those rates.
- (e) A site walkdown by the panel to verify applicant estimates and assess any possible difficulties in maintaining the scheduled installation rates.
- (f) The effect of any required rework of systems and commodities.
- (g) The applicant's pre-operational testing program.
- (h) Manpower loading on various construction activities.

With the information obtained during the site visit, the Caseload Forecast Panel prepares an independent estimate of construction completion (including testing) using construction estimating practices and curves common to the nuclear industry. A formal procedure for preparing this estimate has been prepared and is presently being reviewed by the NRC staff.

In cases where the Caseload Forecast Panel assessment indicates a deviation of greater than approximately six (6) months from the applicant's estimate of construction completion, a meeting between NRC senior management and senior representatives of the applicant is scheduled to resolve these differences. To date, this method has frequently resulted in the applicant involved agreeing that their estimates were too optimistic.

The NRC is committed to a continuing program of independently verifying applicant estimates of construction completion and will continue to resolve differences between applicant estimates and NRC estimates. Applicant estimates are reported quarterly to the House Appropriations Subcommittee on Energy and Water Development as the basis for operating license reviews.

Question #7

For any reactor identified in the response to Question 5, please provide the date by which the Commission staff believes plant construction will be sufficiently complete to permit (a) fuel loading, (b) initial criticality, (c) five percent power?

Response

Construction must be essentially complete for any reactor prior to authorizing fuel loading. Generally, at that date the license that is issued authorizes fuel loading and operation up to 5% power.

For the Shoreham facility, the staff believes that construction will be sufficiently complete by June 1983 to permit issuance of an operating license. For this reactor, initial criticality could then be achieved by July 1983 and 5% power operation by August 1983.

Question #8

For any reactor identified in the response to Question #5, please provide the dates of all meetings of the applicant and the Commission staff which occurred after July 1, 1982 concerning scheduling; together with a list of all participants and the agreed-upon schedule, if any. Provide the basis for any disagreement between the applicant and Commission staff on an estimated completion date, and any dissenting staff opinion and the basis therefor.

Response

SHOREHAM

On August 11 through August 13, 1982 the NRC staff met with the applicant, the Long Island Lighting Company (LILCo). The staff estimated a June 1983 date for fuel load while the applicant held to its December 20, 1982 date.

Participants:	<u>NRC</u>	<u>LILCo</u>
	W. Lovelace	W. Uhl
	J. Higgins	E. Youngling
	R. Gilbert	W. Museler

On September 27, 1982 an upper level management NRC staff/LILCo meeting was held. In this meeting the applicant revised its estimate to late first quarter 1983.

Participants:	<u>NRC</u>	<u>LILCo</u>
	H. Denton	W. Uhl
	W. Dircks	M. Pollock
	L. Barry	
	T. Novak	

On November 22, 1982 an NRC staff/LILCo management meeting was held to discuss schedules. The applicant continued to hold to a fuel load date of first quarter 1983, although it was pointed out that many review items remained to be closed out.

Participants:	<u>NRC</u>	<u>LILCo</u>
	J. Allan	M. Pollock
	R. Starostecki	E. Youngling
	T. Martin	W. Museler
	R. Gallo	
	A. Schwencer	
	S. Ebnetter	
	R. Gilbert	
	E. Weinkam	
	J. Higgins	
	P. Hanneß	



On January 10 thru January 13, 1983, the NRC staff met with the applicant and informed it that the NRC staff's estimate of fuel load for Shoreham Nuclear Power Station is June 1983, at the earliest.

## Participants:

NRC

R. Gallo  
E. Greenman  
R. Caruso  
S. Richards  
W. Bateman  
A. Cerne  
C. Coughlin III  
J. Higgins  
W. Raymond  
G. Rhoads  
C. Petrone

LILCO

J. Rivello  
W. Museler

On January 19, 1983, the applicant informed the ASLB that plant completion is estimated to be late second quarter/June 1983 at the earliest. The staff concurs with this estimate and there is no staff dissenting opinion.

Question #9

Please identify any reactor for which delay is projected between construction completion and issuance of a low-power operating license during FY 1984 and FY 1985, together with the reasons for such delay.

Response

No such delays are presently projected. During FY 1984 and FY 1985 there are 18 reactors for which the applicant is projecting completion of plant construction. The latest schedules provided to the House Committee on Appropriations indicate that Commission decision dates for these plants are scheduled to precede applicant construction completion dates, thus permitting timely issuance of a low-power license.

With the exception of four reactors for which the hearing is already completed or none was requested, the remaining 14 reactors are scheduled to have a hearing. While every effort will be made to complete the hearing on schedule, delays may occur. Additionally, for Catawba 1, the applicant informed us on January 19, 1983 that plant completion has been accelerated from November 1984 to May 1984. Since our licensing review and hearing schedule was originally established based on the later date, all aspects of the licensing process starting with the issuance of the staff's Safety Evaluation Report on February 6, 1983 must now proceed without delay in order for the plant not to incur a delay in receiving a low-power license.



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

OFFICE OF THE  
CHAIRMAN

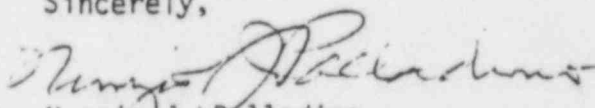
March 2, 1983

The Honorable Richard L. Ottinger  
United States House of Representatives  
Washington, D. C. 20515

Dear Congressman Ottinger:

I recently sent to you responses to some of the questions in your letter of January 14, 1983 regarding the temporary authority to issue operating licenses contained in PL 97-415. Enclosed are our answers to the remaining questions.

Sincerely,

  
Nunzio J. Palladino  
Chairman

Enclosure:  
Responses to Questions 1 thru 4

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## Question #1

Provide a list showing each nuclear reactor at which delay has been experienced between plant completion and initial criticality due solely to the administrative delays of the Commission. Please indicate the duration and reasons for each such delay.

## Response

The Commission recognizes that delays in licensing of a plant that can be described as administrative occurred for those plants which were near construction completion at the time of the TMI accident. For those few plants, a period of time did lapse before guidance could be provided on additional TMI requirements. Specific times associated with this type of delay are subjective to some degree. However, the staff has had discussions with the management of each utility, and has also reviewed the matter with members of the staff experienced in evaluating plant status, in order to establish reasonable estimates for this delay. The following are the plants for which this delay occurred:

<u>Plant</u>	<u>Estimated Delay (Mos)</u>
Sequoyah 1	3-4
North Anna 2	12-13
Salem 2	6-7

Since the issuance of the Farley 2 license in October 1980, no administrative delays of this type (TMI-related) have occurred in licensing of plants.

One other facility, Diablo Canyon 1, experienced a delay. Because of a protracted hearing, which extended beyond the point when the utility considered plant construction to be complete, Diablo Canyon 1 experienced approximately a six-month delay (from March 1981 to September 1981) in receiving a low power license. However, because of significant errors subsequently found in the seismic design of the facility (which led to withdrawal of the low power license), the plant is not yet considered ready for reinstatement of the operating license.

Commissioner Ahearne adds that he "would have preferred an answer in which staff explained the delay (both whether they are real and why they occurred). The NRC has been reluctant to address this issue. A recent example: the President of VEPCO announced that new NRC regulations priced North Anna 3 out of the market, and attributed \$950 million of the \$1.4 billion increase in the cost to new regulations. I requested the staff's comments on this claim. The EDO said the staff believes VEPCO overstated the costs, but that staff resources would have to be used to affirm or deny VEPCO's estimates. I asked agreement from the Commission that this be done. Although the Chairman supported this request, Commissioners Asselstine and Gilinsky opposed it. Consequently I continue to doubt NRC and utility estimates of regulatory delay, and have not seen any sound analysis supporting the estimates."

## Question #2

For each of the fourteen reactors identified by the Commission in March 1981, likely to experience delay in the issuance of an operating license which did not incur delay please provide an explanation of why the projected delay did not occur.

## Response

The table on the following page lists those plants and includes the following information reproduced from the March 1981 Bevill Report; the projected construction completion date and the projected delay at that time. The projected delays were contingent upon the plant being completed by the projected dates. The table also includes the current projected completion date, or the actual completion date, as well as the actual delay or currently projected delay.

There are a number of reasons why the delays projected in the March 1981 Bevill Report did not occur. First of all, not one of these plants was ready to operate by the applicants' completion date. In many cases where a delay was projected, actual plant construction was not accomplished as then projected. Also, the time scheduled for the hearing process was shortened by several factors, among which were amendments to the rules of practice, and a change to the immediate effectiveness rule which reduced the time between the ASLB initial decision and the Commission decision from three months to one month. In addition, the NRC instituted a Recovery Plan which resulted in expediting a number of reviews and in ensuring no unnecessary slippage of NRC schedules. In addition, the Director of NRR was given the authority to issue low power licenses, including the authority to issue low power licenses in contested cases prior to the Commission's immediate effectiveness decision. In order to reduce delays caused by FEMA review of emergency plans, the Director of NRR was authorized to issue low power licenses prior to final FEMA approval of offsite emergency plans as long as the staff had approved the applicant's onsite plan. A few plants had additional specific reasons for their reduced delay. These are given in footnotes to the table on the following page.

Table for Question 2 Response

<u>Plant</u> <sup>1/</sup>	<u>March 1981 Bevill Report</u>				<u>Current Schedule</u>	
	<u>Construction Completion</u>		<u>Estimated Delay (months)</u>		<u>Construction Completion</u>	<u>Actual or Projected Delay (months)</u>
	<u>NRC</u>	<u>Appl.</u>	<u>NRC</u>	<u>Appl.</u>		
San Onofre 2/3	10/81	6/81	6	10	C 2/82	0
Diablo Canyon 1/2	3/81	1/81	11	13	C 3/83 <sup>5/</sup>	0
McGuire 1/2	1/81	1/81	11 <sup>2/</sup>	11 <sup>2/</sup>	C 1/81	0
Shoreham 1	9/82	5/82	1	5	6/83 <sup>3/</sup>	0 <sup>3/</sup>
Summer 1	10/81	8/81	8	10	C 8/82	0
Susquehanna 1/2	3/82	6/81	8	17	C 7/82	0
Zimmer 1	4/82	11/81	3	8	9/83 <sup>4/</sup>	0
Waterford 3	10/82	10/82	3	3	5/83	0
Comanche Peak 1/2	12/82	12/81	2	14	6/83	0
Watts Bar 1/2	8/82	11/81	0	1	8/83	0

1/ For a multiple unit site; data shown are for the first unit.

2/ An eleven month delay in the full power decision was projected due to contentions before the Board which were subsequently rejected. Low power license issuance was 6/81; and full power license issuance was 7/81. The plant experienced problems during initial testing and was not ready for a low power license before June 1981.

3/ Applicant recently changed construction completion date to June 1983.

4/ Plant schedule has been impacted by construction deficiencies that resulted in the issuance of an, "Order to Show Cause and Order Immediately Suspending Construction", on 11/12/82.

5/ Low power license suspended in Nov. 1981. Present estimate for decision regarding reinstatement is March, 1983.

Question #3

Of those reactors issued an operating license, including a low-power license, since January 1, 1981, did any experience problems which delayed power ascension as scheduled? If so, identify the reactor, describe the problem, and explain why such problem was not detected during the review of the application for an operating license prior to the issuance of the (low-power) operating license.

Response

The response to this question is provided in the following two tables. Table 1, below, identifies the plants that have experienced problems which delayed power ascension, lists the amount of the delay, and defines the principal problem areas.

Table 2, on the following page, explains why such problems were not detected during the review of the application prior to issuance of the low-power operating license.

Table 1

<u>Plant</u>	<u>Delay in Achieving Full Power</u>	<u>Principal Problem Area</u>
Diablo Canyon 1	greater than 1 year	QA Program Deficiency
Salem 2	9 months	Emergency Plans - related requirements
Grand Gulf 1	7 months (in reaching 5% power)	Deficiencies in Surveillance Procedures
San Onofre 2	6 months (est'd)	Hardware Malfunctions
La Salle 1	5 months (est'd)	Hardware Malfunctions
Sequoyah 2	4 months	Hardware Malfunctions
McGuire 1	2 months	Hardware Malfunctions, Steam Generator Problem
Summer 1	1 month (est'd)	Steam Generator Problem

Table 2 for Question 3 Response

Problem	Why problem was not detected during review prior to issuance of the low power operating license
<u>1. QA Program Deficiencies</u>	
Discovery of misapplication of vertical seismic floor response spectra for certain components, systems and structures. (Diablo Canyon)	NRC staff review, among other things, is generally limited to determining that postulated seismic input values have been enveloped and the acceptability of the design methodology. Because of the depth of design and construction detail, the staff did not perform in-depth review of all applications of various response spectra used for the qualification of the many systems, components and structures.
<u>2. Hardware Malfunctions</u>	
a. Failure of Reactor Coolant Pump Seals. (San Onofre 2 & Sequoyah 2)	The staff review for operating license centers on implementation of plant and system design criteria. The staff review of the initial test program ensures that sufficient tests are conducted to verify that the plant can be operated in accordance with design requirements important to safety. Specific hardware malfunctions of the type listed here are caused by material failures, by manufacturing and installation errors, or by operational errors. Such failures are difficult or impossible to predict in advance. Detection of such "break-in" type malfunctions prior to full power operation is one of the objectives of the startup test program.
b. Malfunction of Control Rod Drive Latching Mechanisms. (San Onofre 2)	
c. Abnormal number of component leaks in the reactor coolant system. (McGuire 1)	
d. Unplanned outage for repair of a damaged hydrogen cooler in the main generator. The hydrogen cooler was damaged by water hammer during restoration of secondary systems following an unsuccessful loss-of-offsite power test. (McGuire 1)	
e. Main generator exciter failed - extensive repairs required. (Sequoyah 2)	
f. Valve malfunction in recirculation loop, and bearing wear in residual heat removal system pump. (McGuire 1)	



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Table 2 for Question 3 Response (Continued)

Problem	Why problem was not detected during review prior to issuance of the low power operating license
3. <u>Emergency Plans</u>	
Delays in completing the development and FEMA approval of Emergency Response Plans. (Salem 2)	This problem was detected during review prior to issuance of the low power operating license.
4. <u>Steam Generator Problem</u>	
Power restrictions due to potential tube wear problem in Model D steam generator. (McGuire 1 and Summer 1)	The staff audit review of this applicant's design did not include consideration of this aspect of the steam generator.
5. <u>Deficiencies in surveillance procedures.</u> (Grand Gulf)	Plant Technical Specifications which are finalized just prior to licensing identify specific surveillance requirements. Post-licensing audit of the adequacy of the procedures used by the licensee revealed deficiencies not normally found in other licensee's documents.

#### Question #4

What actions has the Commission taken to improve its ability to detect problems such as those identified in the response to Question 3, prior to the issuance of the operating license?

#### Response

The most common reasons for delays encountered in achieving power operations are those associated with equipment malfunctions or other operational difficulties. Such equipment malfunctions are difficult to predict in advance. Identification of system or equipment problems is one of the primary purposes of the start-up and preoperational test programs. Many of these malfunctions are identified during start-up tests which are scheduled to take place after licensing. The Staff does review the preoperational and start-up test programs prior to licensing to ensure that systems required for plant operation will be appropriately tested. Additionally, the Regional inspectors review the results of the completed test programs prior to licensing.

The fact that many of the equipment malfunctions are identified during preoperational test programs or during required surveillances reinforces the Commission's belief that exhaustive preoperational test programs are extremely important. Additional Staff efforts are in progress as a part of the Human Factors program to identify potential areas for improvement in licensee preoperational test programs.

In an effort to minimize equipment malfunctions caused by operational errors, the Commission has implemented several initiatives to improve plant training, staffing, and procedures. The NRC reviews an applicant's staffing, training, qualifications of operators prior to licensing and determines on a case-by-case basis whether additional experienced operators should be assigned to operating shifts during a licensee's initial start-up phase. Similarly, the NRC has focused more resources on the review and development of an applicant's emergency, operating, and surveillance procedures to minimize the potential for operational errors.

Finally, the Commission has taken actions to provide a higher assurance that the plant has been designed and constructed as expected. This augmented quality assurance effort will help reduce unexpected equipment malfunctions and, thus, reduce unexpected delays in achieving power operation. Elements of the current quality assurance improvement program include:

- (a) Organizational realignments within NRC have been made to combine within a single organization the functions of research, standards development and inspection program development for quality assurance at reactors.
- (b) An applicant for an operating license is requested to perform a comprehensive self-evaluation of the effectiveness of the quality assurance program for design and construction. In addition, the Chief Executive Officer or his designee is now required to certify, prior to issuance of an operating license, that the facility has been designed, constructed, and tested in accordance with the Final Safety Analysis Report and other license commitments.

- (c) For each new operating license application, the NRC staff will consider whether there is a need for additional inspections of selected areas based on an evaluation of the project's inspection and enforcement history.
- (d) Based on a case-by-case review of the above evaluations by the applicant and the NRC staff, an applicant may be requested to have an independent design review conducted.
- (e) The NRC will increase the resources allocated to the inspection of reactors under construction by an additional 0.3 (in FY 1983) and 0.5 (in FY 1984) staff years per unit under construction. The NRC will also complete development and implementation of planned revisions to enhance the effectiveness of its inspection activities.
- (f) The NRC will continue to interact with INPO in its development of industry initiatives, measure their effectiveness and adjust the corresponding NRC actions to provide for effective use of both industry and NRC resources.

In addition to these actions, the NRC will commence a long-term review for continuing evaluation of quality and quality assurance problems related to design, construction, testing and operations, and potential solutions to those problems and their impact on the adequacy of NRC quality assurance policies and programs.

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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, D.C. 20510

March 15, 1983

BAILEY GUARD, STAFF DIRECTOR  
JOHN W. YAGO, JR., MINORITY STAFF DIRECTOR

The Honorable Nunzio J. Palladino  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Chairman:

We are writing to you to express our concern about recent developments involving the Commission's proposed implementing regulations for the recently-passed "Sholly" provision in the Fiscal Year 1982-1983 NRC Authorization Act. Specifically, we are concerned about how the Commission may treat proposals to rerack spent fuel storage pools under these regulations.

As we understand the staff proposal currently before the Commission (SECY 83-16B), proposals to rerack spent fuel storage pools would be examined on a case-by-case basis and a determination made as to whether any given amendment poses "significant hazards considerations", based upon the "intrinsic circumstances" of each such case. Earlier versions of the proposed rule (e.g., SECY 83-16 and 83-16A), which designated reracking in the rule itself as an example of an amendment that the Commission considers likely to involve "significant hazards considerations", have been modified to give the Commission this case-by-case flexibility. We strongly oppose treatment of reracking proposals in this fashion, and urge the Commission to restore reracking in the rule itself as a specific example of an amendment that the Commission considers likely to involve "significant hazards considerations".

The Senate Committee could not have made more explicit its position that proposals to rerack spent fuel storage pools should not be treated as "no significant hazards considerations" amendments. As we stated very clearly in the Senate Report (S. Rpt. 97-113) accompanying the "Sholly" provision, "[t]he Committee anticipates, for example, that, consistent with prior practice, the Commission's standards would not permit a 'no significant hazard consideration' determination for license amendments to permit reracking of spent fuel pools."

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This requirement was based, in part, on an exchange between Senator George J. Mitchell and then-Majority Counsel James K. Asselstine during the Committee's markup of the NRC Authorization bill: The exchange, which follows, indicates that the NRC has consistently treated all reracking amendments as proposals that pose "significant hazards considerations":

Senator Mitchell: There is, as you know, an application for a license amendment pending on a nuclear facility in Maine which deals with the reracking storage question. And am I correct in my understanding that the NRC has already found that such applications do present significant hazards considerations and therefore that petition and similar petitions would be unaffected by the proposed amendment?

Mr. Asselstine: That is correct, Senator. The Commission has never been able to categorize the spent fuel storage as a no significant hazards consideration.

As this exchange indicates, the NRC, without exception, has treated reracking as an issue that poses "significant hazards considerations", and we would fully expect the Commission to continue this long-standing policy in promulgating the "Sholly" implementing regulations. In fact, as we noted earlier, the Senate Environment and Public Works Committee specifically addressed the reracking issue and very clearly stated its position that reracking should not be treated as a "no significant hazards considerations" issue. By doing so, and by further directing the NRC to promulgate criteria for making "no significant hazards considerations" determinations, the clear import of these dual directives is that, in promulgating its criteria, the Commission should take whatever steps are necessary, such as designating reracking as a specific example in the rule itself, to ensure that "the Commission's standards would not permit a 'no significant hazards consideration' determination for license amendments to permit reracking of spent fuel pools."

We note with some concern a suggestion made during the February 22nd Commission meeting that, since reracking proposals do not appear to fall under any of the criteria proposed by the staff for making such determinations, this failure to satisfy the criteria would warrant treating all such proposals as "no significant hazards considerations" amendments. For reasons already stated, we strongly disagree with this logic. To establish generic criteria, as the Commission proposes to do, and then conclude that proposals to rerack spent fuel storage pools do not appear to fit within any of the criteria, overlooks the clear expression of intent contained in the Senate Report that reracking proposals not be treated as "no significant hazards considerations" amendments.

Moreover, aside from the purely technical question of whether all reracking proposals pose "significant hazards considerations", we think that there are compelling public policy reasons, not the least of which is the extensive public interest in such proposals, why the Commission should not treat reracking amendments as "no significant hazards considerations" amendments. Accordingly, we urge you to reexamine the Senate Report, where the reracking issue was addressed with great specificity, and we are confident that, upon doing so, the Commission will reach the same conclusions as those reached by the Committee when it considered this issue.

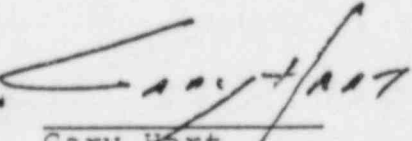
The Sholly amendment was adopted by the Congress for the very reasons first given by the NRC in its request for such remedial legislation--to give the Commission the authority to approve license amendments that pose "no significant hazards considerations" without having to hold a prior public hearing, notwithstanding the pendency of any request for such a hearing. As we emphasized in the Senate Report, "the Committee expects the NRC to exercise its authority under this section only in the case of amendments not involving significant safety questions." The Senate did not intend that the Commission classify reracking as such an amendment.

The exclusion of reracking from the category of amendments that are likely to involve "significant hazards considerations" and, equally importantly, the failure to cite reracking in the rule itself, rather than in the preamble to the rule, as a specific example of an amendment that the Commission considers likely to involve "significant hazards considerations" would, in our judgment, be clearly inconsistent with the intent of the Senate.

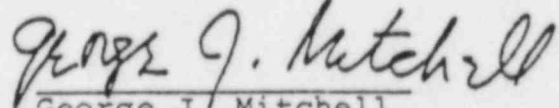
We thank you for your consideration of our views on this issue and look forward to working together with you as the Commission moves forward with its implementation of the "Sholly" provision.



Alan K. Simpson  
Chairman  
Subcommittee on  
Nuclear Regulation



Gary Hart  
Ranking Minority  
Member  
Subcommittee on  
Nuclear Regulation

Most sincerely,  


George J. Mitchell  
Member  
Subcommittee on  
Nuclear Regulation

AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

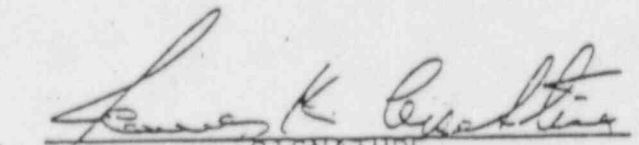
FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-83-16B - REVISED REGULATIONS TO IMPLEMENT LEGISLATION ON (1) TEMPORARY OPERATING LICENSING AUTHORITY AND (2) NO SIGNIFICANT HAZARDS CONSIDERATION (THE "SHOLLY AMENDMENT") - SECY-83-16 AND 83-16A

APPROVED \_\_\_\_\_ DISAPPROVED  \_\_\_\_\_ ABSTAIN \_\_\_\_\_  
NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:

ADDITIONAL VIEWS ON BOTH THE  
TEMPORARY OPERATING LICENSE RULE  
AND THE INTERIM FINAL SHOLLY RULE  
TO FOLLOW.

  
\_\_\_\_\_  
SIGNATURE  
3-17-83  
\_\_\_\_\_  
DATE

SECRETARIAT NOTE: PLEASE ALSO RESPOND TO AND/OR COMMENT ON OGC/OPE MEMORANDUM IF ONE HAS BEEN ISSUED ON THIS PAPER.

United States Senate

WASHINGTON, D.C. 20510

84-12  
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March 24, 1983

The Honorable Nunzio J. Palladino  
Chairman  
Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Dear Mr. Chairman:

I am writing to confirm our telephone conversation of March 23rd. I appreciate your making the effort to know further my views on the question of reracking as it pertains to the Commission's proposed implementing regulations for the Sholly provision in the Fiscal Year 1982-1983 NRC Authorization Act.

As I stated in our conversation, I believe the Senate Committee made explicitly clear its position that reracking should be listed in the rule as an example of an event that poses significant hazards consideration. The stipulation in the Senate Committee Report (No. 97-113) represents an unequivocal signal to the Commission which was in no way contradicted or opposed in the House or Conference Reports.

The letter of March 15 signed by myself and Senators Simpson and Hart clearly defines the basis for the unified Senate Committee position on the matter. Moreover, the letter expressly reflects our opposition to the Commission's proposed case-by-case approach to reracking (e.g. SECY 83-16B) or to any other approach which may allow a reracking case to be treated as posing no significant hazards consideration.

I would also reiterate that, should the Commission decide to exclude from the rule reracking as an example which poses significant hazards consideration, I will closely consider introducing legislation which would mandate this requirement by law. Such legislation would reaffirm for the Commission the determination already made by the Senate in the Committee Report, that the Commission should treat reracking as posing a significant hazards consideration.

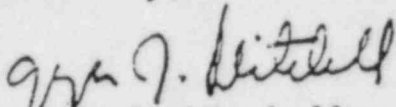
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The Honorable Nunzio J. Palladino  
March 24, 1983  
Page two

Again, I appreciated the opportunity to discuss this matter with you. I will look forward to reviewing the deliberations of the Commission on the Sholly rule.

Sincerely,

  
George J. Mitchell  
United States Senator