

## SHELDON, HARMON, ROISMAN &amp; WEISS

1725 I STREET, N. W.

SUITE 506

WASHINGTON, D. C. 20006

TELEPHONE  
(202) 833-9070

KARIN R. SHELDON  
GAIL M. HARMON  
ANTHONY Z. ROISMAN  
ELLYN R. WEISS  
WILLIAM S. JORDAN, III\*  
ADMITTED IN MICHIGAN ONLY\*

July 30, 1979



Joseph Hendrie, Chairman  
Victor Gilinsky, Commissioner  
Richard Kennedy, Commissioner  
Peter Bradford, Commissioner  
John Ahearne, Commissioner  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Gentlemen:

Having attended your meeting on Friday morning, July 27, on the order for Three Mile Island, Unit 1, I see that some questions exist among you as to the most desirable way to handle discovery in the TMI restart hearings. I will take the liberty of offering some observations on the proposed alternatives for discovery, based on my experience.

The alternatives proposed by the General Counsel's office strive to accomplish an objective with which I agree, namely to reduce to a minimum the time taken by discovery. However, in my opinion, Alternative B would certainly fail to achieve this goal. To the contrary, it is likely to increase the time required for the TMI proceeding.

First, getting a decision from a hearing board is often a slow process, and this proposal ensures that the Hearing Board will have to rule on each and every discovery request. The Board will be flooded by requests for discovery, will have to consider each separately and will have to write a decision on each. In addition, the hearing board has no guidance in the form of NRC precedents on how to balance the competing considerations whether a discovery is worthwhile. The novelty of the situation will cause added delay.

Second, the General Counsel's concern for the burden that discovery places on small intervenors is well-founded, but Alternative B will not eliminate that burden. On top of all the normal requests, motions, and responses will be added the need for discovery justifications, challenges to other parties' requests for discovery and appearances before

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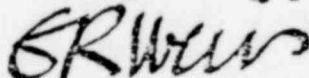
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the Board. NRC directions to the board to issue protective orders promptly as needed is the best guarantee that small intervenors will not be unduly harassed by discovery.

Other methods which might expedite discovery could be included in the order. A list of all documents relevant to the issues in the case could be provided to each party. The exchange of common kinds of information gained by discovery could be facilitated by stipulating that all parties must provide that information to all others, e.g., lists of witnesses and their qualifications. The normal discovery procedure is flexible enough that unnecessary delays could be eliminated by an aggressive Board.

I hope that in your effort to move the hearings along quickly, you will not adopt an untried discovery procedure, such as Alternative B, only to end up in a greater morass of delay and paper shuffling.

Very truly yours,



Ellyn R. Weiss

ERW/dmw