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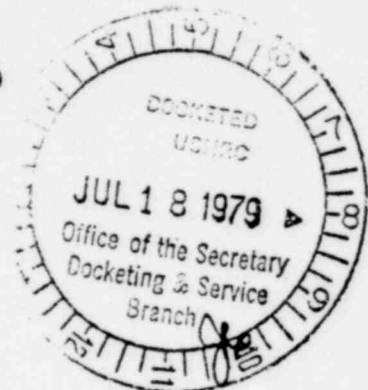
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ADMITTED IN MICHIGAN ONLY \*

NRC PUBLIC DOCUMENT ROOM

July 17, 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



RE: Three Mile Island Unit 1

Gentlemen:

I have just learned that the Commission may issue an order either today or in the near future establishing the issues and procedures for the hearings on start-up of Three Mile Island Unit 1, and that it intends to do so without affording the public or the parties to the proceeding any opportunity to comment. In fact, the only persons advising the Commission at this crucial stage are the staff, which will be one of the parties to the proceeding.

This course of action is unwise, unfair, and in our opinion, probably illegal. The NRC's rule prohibiting ex parte communications applies to "any ... matter which has been noticed for hearing or concerning which a hearing has been requested. . . ."

It requires an exceedingly tortuous and evasive interpretation of the literal words of the rule to avoid applying it to this proceeding. The Commission's Order of July 2, 1979 announced that a hearing will be held. That order made any further requests for hearings or intervention either premature or unnecessary. By its own action, the Commission created a proceeding subject to the ex parte rule. In addition, we understand that requests for hearing were filed by C. Kepford and/or J. Johnsrud and are pending.

One possible alternative for the Commission would be to adopt now a procedure similar to that used in initial licensing cases. That is, the NRC should publish a notice

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U.S. Nuclear Regulatory Commission

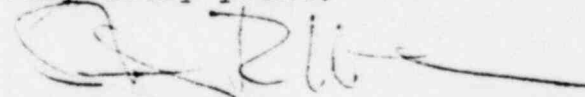
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in the Federal Register establishing a Hearing Board, explaining the proceeding, and noting that certain issues will be determined by the Board whether or not they are raised by any party. Those would include at a minimum the sufficiency of the short and long-term measures to improve safety at TMI-1, the managerial and technical competence of the licensee and the financial qualification of the licensee. (This list of issues is far from exhaustive.) The Order would go on to provide a reasonable period of time for the filing of Petitions to intervene and an answer and would provide that the Hearing Board would rule on the pertinence of any other issues raised by the parties.

In contrast, the Commission has listened thusfar to only one party, and is allowing that party to determine the issues in the case. Both as a matter of law and as a matter of policy, this is a grave mistake. It would prejudice this proceeding from the beginning and undo much of the salutary effect of the Commission's original intent in ordering hearings prior to the start-up of TMI-1.

Very truly yours,



Ellyn R. Weiss

ERW/dmw

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