

SHOLLY, 9/10/81

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



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

Docket No. 50-289  
(RESTART)

INTERVENOR STEVEN C. SHOLLY  
MOTION TO REOPEN THE RECORD AND TO COMPEL THE  
APPEARANCE OF NAMED NRC STAFF PERSONNEL



Introduction

The Board and the parties should be in receipt of a motion from the Union of Concerned Scientists ("Union of Concerned Scientists Motion to Reopen Record, to Permit the Taking of Depositions, and for Costs Against the NRC Staff," dated 10 September 1981). For reasons similar to those advanced therein, Intervenor Steven C. Sholly hereby moves the Board to reopen the record and compel the appearance of NRC Staff personnel named herein.

Approximately four weeks ago, UCS came into possession

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of a document entitled, "Recommendations of TMI-2 IE Investigation Team (Operational Aspects)," dated September 1979. The document is an enclosure to a memorandum dated 10/10/79 from R. D. Martin (Leader, Operations Team, OIE - TMI Investigation) to J. M. Allan (Deputy Director, Region I), and was transmitted as an attachment to a memorandum dated 10/16/79 from James M. Allan to Norman C. Moseley.

The document first came to my attention during the preparation of a report under my direction at UCS concerned with the development of the TMI Action Plan. In attempting to compile all of the source documents listed in the Action Plan as references for specific Action Plan items, I came across references to two documents, one of which was the document cited in the paragraph immediately above. The references in the Action Plan to this document gave no indication that the recommendations from the IE Investigation Team were in any way different from and/or inconsistent with the related Action Plan requirements, nor was there any indication in the reference in the Action Plan that recommendations of the IE Investigation Team had been ignored in the Action Plan.

To obtain the document, I instituted a personal search of the TMI-1 and TMI-2 docket files in the NRC's Public Document Room in Washington, D.C. Unable to locate the document in this manner, I requested the assistance of PDR personnel in

conducting a search of NRC's computerized document control system records. Computer searches were conducted by searching the following types of information:

- A. Name-related searches for Allan, Sniezek, Moseley, Martin, and Grier.
- B. Title-related search on the Allan-to-Moseley memo, the Martin-to-Allan memo, and the report itself.
- C. Date-related search for 10/16/79 and 10/10/79.

None of these searches turned up the document. I was advised at that point by PDR personnel that the document was not in the Public Document Room. I then telephoned the NRC Region I office and Messrs. Moseley and Sniezek (who had received a copy of a related report on Radiological Aspects). Neither Mr. Moseley's nor Mr. Sniezek's offices were able to locate copies of the documents. Region I was unable at first to locate the documents, but later returned the call to state that the documents had been found, and that when the Region Office Director, Mr. Grier, returned from vacation on August 5th, that a decision would be made whether or not to forward the documents.

The covering memorandum (copy attached) indicates that

documents were sent to me on August 5, 1981. UCS received the documents on August 7, 1981. As noted in UCS's motion, both Mr. Pollard and Ms. Weiss were absent from the office for varying lengths of time from August 7 through 31. I waited for their return to consult with them regarding the document and its recommendations and on the legal requirements of a motion to reopen the record.

#### The Nature of the Document

The IE/TMI Investigation Team (Operations) report is clearly a significant document and clearly related to a variety of issues in this proceeding. From a comparison with the team which conducted the investigation resulting in NUREG-0600 (the IE Investigation which resulted in the \$155,000 fine against Licensee for violations related to the TMI-2 accident), it is clear that the Operations Team recommendations were made by essentially the same personnel (except Mr. James Creswell, who had by that time been assigned to the NRC's Special Inquiry Group investigation).

The recommendations apparently resulted from the Operations Team's intense investigation and review of the TMI-2 accident. Several of these recommendations relate to issues within the scope of Intervenor Sholly's contentions, as specified below.

## Relationship Between the Document and Sholly Contentions

### 1. Recommendation C.1.a.4, "Control Room Sound Recording System"

This recommendation compares favorably with Sholly Proposed Finding No. 160 ("Intervenor Steven C. Sholly Proposed Findings of Fact and Conclusions of Law on Plant Design Issues," 6/1/81, pages 75-77). This is a recommendation which the Staff witnesses expressed reservations about from a human factors standpoint (Tr. 10,498-99, Ramirez, Price). The recommendation in the Operations Team report is apparently made from the standpoint of preventing the loss of information which operators might not log during the sequence of events in a severe accident; indeed, the problem from which the team's recommendation flows is thusly stated:

"Information about occurrences during the accident when the operators did not record in their log could be alleviated by the use of tape recording of conversations or direct verbal recording." (Report, page 13)

This recommendation, which the NRC Staff never reported to the Board or the parties at the time it was made or during

the time when the human factors contention (Sholly Contention 15) was litigated, lends credence to the concept advanced in Sholly Proposed Finding No. 160 that the public interest in the safe operation of the plant (enhanced by audio or perhaps video taping, as recommended by the IE Operations Team) is at least significant, and would allow the Board to more properly weigh the merits and disadvantages of such a taping system. As the record stands now, the Board would be faced with evidence that could lead it to conclude that the human factors aspects of the system outweigh other factors in support of installing such a recording system.

2. Recommendation C.1.a.15, "Instrumentation Failure Modes"

The Operations Team recommended that NRC require instrumentation to fail in other than normal condition, and indicated its belief that the GDC require this to be the case. This issue was addressed during the litigation of the human factors contention (Sholly Contention 15), and the ICS contention (Sholly Contention 6-a). Sholly Proposed Findings addressed this issue at No. 53-54. Nowhere did the Staff put forward the position that the GDC do not permit mid-scale failures in plant instrumentation. Such a position clearly supports the

proposition that mid-scale failures should be eliminated.

3. Recommendation C.1.a.16, "Multipoint Recorders"

The Operations Team recommended that critical parameters be continuously recorded, and that multipoint recorders be used only for parameters of "general historical interest." This issue (the use of multi-point) recorders was raised during discovery with the Licensee. It has clear human-factors importance regarding the availability of information to plant operators, and should be considered to be within the scope of Contention 15 (human factors engineering review of TMI-1 control room). If I had been in timely possession of this report, I would certainly have included this issue within the scope of the contention explicitly, and would have attempted to adduce evidence by cross-examination. The recommendation should serve as sufficient reason to cause the Licensee to review its use of multipoint recorders in the control room and make appropriate changes to ensure that parameters with safety significance are continuously recorded.

4. Recommendation C.1.b.3, "ICS"

Contrary to the positions advanced by the Licensee and the Staff, and in support of the position advanced by Oak Ridge

National Laboratory in the draft review of the B&W reliability analysis (which the Board refused to take official notice of in a prior order), the Operations Team recommended for near-term implementation the development of requirements for a safety-related ICS, and to evaluate the continued operation of B&W plants without a safety-related ICS. The Team also recommended (complementary to NUREG-0667 recommendations which the Staff failed to implement) that additional shift personnel be considered for assignment to provide support in the case of ICS failure.

This recommendation carries strong support for the proposition that the current ICS is simply not reliable enough, a point heavily refuted by the NRC Staff and Licensee witnesses. Witnesses should be produced to address the reasons for this recommendation, and their testimony can be compared with prior testimony to determine the relative merits of their positions. Certainly, this recommendation demonstrates that the evidence is not as one-sided as the Staff and Licensee would have the Board believe.

The Record Should be Reopened and NRC Staff Witnesses Produced

The information contained in the Operations Team memo was not publicly available until I obtained a copy directly from Mr. Grier at Region I. The information contained therein is



sufficiently significant that it could cause the Board to alter its decision if included within the record. Information that could be further developed with the appearance of the following witnesses certainly has the potential for increasing the significance of the recommendations contained in the IE Operations Team report:

R.D. Martin, Operations Team Leader

R.J. Marsh, Operations Team Member

D.C. Kirkpatrick, Operations Team Member

D.R. Hunter, Operations Team Member

T.T. Martin, Operations Team Member

A.N. Fasano, Operations Team Member

In addition to reopening the record, the Board should request the NRC Staff to produce the above persons as witnesses to testify as to the recommendations contained in the Operations Team report. If the Staff resists the Board's request, the Board should make the appropriate findings and compel the appearance of the above-named individuals.

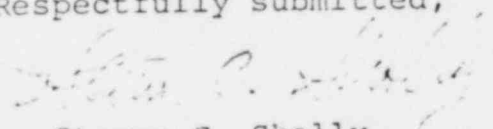
The NRC Staff bore a responsibility to bring these recommendations to the Board and parties' attention promptly, as it did voluntarily with regards to the NUREG-0600 report. It is inconsistent for the Staff not to have provided the recommendations of the same authors of NUREG-0600, especially considering the nature of the issues raised in the Operations

Team report and the relationship between these recommendations and several intervenors' contentions, including Intervenor Sholly, UCS, and others. Considering all of the documents that the Staff forwarded to the parties throughout this proceeding, this Intervenor must question the motives behind any decision not to promptly forward the Operations Team report to the parties. The Staff's obligations to keep the Board and the parties informed about developments so strongly related to the case is not limited only to developments favorable to the Staff and the Licensee.

In consideration of the foregoing, Intervenor Sholly hereby moves the Board to reopen the record on Sholly Contentions 6-a and 15, and compel the appearance of the named NRC Staff personnel to testify about the recommendations which they made in a report that was never publicly released and never brought to the Board's attention, namely the Operations Team report (as specified above).

Respectfully submitted,

DATED: 10 September 1981

  
Steven C. Sholly  
Union of Concerned Scientists\*  
1725 I Street, N.W., Suite 601  
Washington, D.C. 20006

\* For mailing purposes only; Intervenor Sholly continues to represent himself pro se in this proceeding.

## ROUTING AND TRANSMITTAL SLIP

Date

8/5/81

TO: (Name, office symbol, room number,  
building, Agency/Post)

Initials

Date

1. Steven Sholly  
Union of Concerned Scientists

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

## REMARKS

The attached memorandums are forwarded to you  
per your request.

Encl:

1. J. Allan memo to J. Snizek dtd 9/28/79, Subj:  
IE/TMI Radiological Investigation Team Recommenda-  
tions for "Long-Term" TMI Improvements and/or for  
Other Power Reactor Sites.
2. J. Allan memo to N. Moseley dtd 10/16/79, Subj:  
Operations Team Recommendations - IE/TMI Unit 2  
Investigation.

cc: J. H. Snizek  
N. C. Moseley

DO NOT use this form as a RECORD of approvals, concurrences, disposals,  
clearances, and similar actions

FROM: (Name, org. symbol, Agency, Post)

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215-337-5299

5041-102

☆ U.S. GPO: 1978-0-261-647 3354

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

September 10, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of

METROPOLITAN EDISON COMPANY

(Three Mile Island Nuclear  
Station, Unit No. 1)

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Docket No. 50-289  
(Restart)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Intervenor Steven C. Sholly Motion to Reopen the Record and To Compel the Appearance of Named NRC Staff Personnel" were served upon those persons listed below by deposit in the United States mail, postage prepaid, this 10th day of September, 1981:

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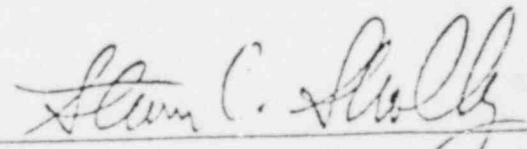
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