

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'84 OCT 18 A11:35

Docket No. 50-289 SP  
(Restart - Management Phase)

OFFICE OF SECRETARY  
DOCKETING & SERVICE

Three Mile Island Alert ("TMIA"), at the time of applying for a subpoena for Mr. Lowe, stated that it proposed to depose Mr. Lowe concerning matters related to the Dieckamp mailgram issue.

Licensee in its announcement of Mr. Lowe as a witness stated no more than Mr. Lowe would testify that he, as a licensee consultant, was the person who recognized the significance of the pressure spike in the late evening of March 29, 1979. Those of Mr. Lowe's documents made available in the Document Room relate largely to his calculations and analysis on the evening of March 29, 1979 to determine whether the spike indicated the production or combustion of hydrogen at 1:50 p.m. on March 28, 1979. Licensee has made no further supplementation of its response to indicate the nature and substance of Mr. Lowe's testimony.

8410180571 841017  
PDR ADCK 05000289  
C PDR

DSO.

8410180571 841017  
PDR ADCK 05000289  
G PDR

DSO3

TMIA, through its examination of Mr. Lowe's documents and through depositions of Richard Bensei and James Moore largely discovered the outlines of Mr. Lowe's testimony regarding his analysis of the spike on the evening of March 29, 1979.

On October 11, 1984, for the first time, TMIA learned that licensee intended to call two additional witnesses, Dr. Zebrowski and Mr. VanWhitbeck. Both proposed witnesses worked separately from Mr. Lowe on different projects during the period beginning on March 29. Dr. Zebrowski worked on the National Safety Analysis Center ("NSAC") analysis of the accident. Mr. VanWhitbeck worked, according to deposition testimony taken in the course of this proceeding, on the Task Force set up by Mr. Dieckamp the early morning of March 29, 1979, to investigate the accident. Neither, to TMIA's knowledge, worked with Mr. Lowe on his calculations and analysis on the evening of March 29. Both witnesses are alleged to know something about the technical personnel's state of knowledge and Mr. Dieckamp's state of mind.

TMIA therefore seeks to depose Mr. Lowe concerning his analysis and his relationship or communication with these two additional witnesses. Certainly if it is not Mr. Lowe but others who realized the significance of the pressure spike, or if others have information different from Mr. Lowe's about the state of knowledge of Mr. Dieckamp and licensee, TMIA is entitled to test Mr. Lowe's relationship with these other witnesses and determine how and why his knowledge or information differs from theirs. Similarly, TMIA is entitled to learn what communications existed between Mr. Lowe and the two additional witnesses.

Moreover, newly-discovered evidence requires the deposition of Mr. Lowe. Mr. Abramovici, one of the group of five GPU Service Corporation engineers sent to the TMI site on March 28,

1979 was deposed on Monday, October 15, 1984 at Harrisburg. He testified that he was present at a meeting on the afternoon of Thursday, March 29, 1979, at which George Kunder discussed his concern that the reactor building contained hydrogen above the design limit. Present at the meeting was Richard Wilson, the GPUSC official who headed the Task Force set up by Mr. Dieckamp on the morning of March 29, 1979 based on information given Mr. Dieckamp by Mr. Arnold on March 28. Also present at the meeting was Mr. Lowe, who was retained by licensee as a consultant the previous day. Mr. Dieckamp also was present at the site in order to assist in a site tour for a Congressional delegation.

Apparently site personnel, as well as Mr. Lowe, discussed at that meeting the production of hydrogen and the option of putting into operation the hydrogen recombiner. In addition, Mr. Wilson is reported to have said at this meeting that licensee assumed that the core was seriously damaged.

TMIA believes it has the right to depose Mr. Lowe to determine his knowledge about this meeting and therefore the credibility of the licensee's position that no site personnel on March 28, 1979, interpreted the pressure spike to indicate the generation or combustion of hydrogen or to indicate core damage. It appears from Mr. Abramovici's testimony that licensee had determined that hydrogen had been produced in quantities above the design basis of four percent and that licensee was taking steps to reduce the hydrogen. Certainly the bases for licensee's conclusion and whether the pressure spike was a factor leading licensee to reach this conclusion is relevant evidence.

In addition, TMIA believes that if licensee did in fact

learn at an earlier time of the production of hydrogen and yet maintains at this hearing that it did not learn of the production of hydrogen until the late evening of March 29 or March 30, its and its consultant's credibility is damaged. Evidence concerning licensee and Mr. Lowe's credibility is relevant and critical to the Board's decision in this matter.

Therefore, TMIA requests that this Board deny licensee's motion to quash on the ground that the information sought from Mr. Lowe is relevant information of which TMIA has only recently learned Mr. Lowe has knowledge.

TMIA cannot further specify the areas of its inquiry other than in accordance with licensee's brief description of Mr. Lowe's intended testimony. Only if licensee further specifies Mr. Lowe's expected area of testimony can TMIA more particularly describe the subject matter of Mr. Lowe's deposition.

In addition, TMIA believes the record reflects that it acted expeditiously to take Mr. Lowe's testimony in deposition once it learned that Mr. Lowe had information beyond that originally represented by licensee as relevant to this proceeding. In particular Mr. Lowe has information regarding his relationship to and communication with the two new proposed licensee witnesses and information about the Thursday, March 29, 1979 afternoon meeting at which the production of hydrogen beyond design limits was discussed.

TMIA requests this Licensing Board deny licensee's motion to quash and order that Mr. Lowe's deposition and production of documents proceed in accordance with the subpoena and subpoena duces tecum issued.



Respecfully submitted,

Joanne Doroshow / KB  
Joanne Doroshow  
The Christic Institute  
1234 North Capital Street  
Washington, D.C. 20002  
Telephone: 202/797-8106

Lynne Bernabei  
Lynne Bernabei  
Government Accountability Project  
1555 Connecticut Avenue, Northwest  
Suite 202  
Washington, D.C. 20036  
Telephone: 202/232-8550

Attorneys for Three Mile Island  
Alert

DATED: October 17, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of )

METROPOLITAN EDISON COMPANY )

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

Docket No. 50-289 SP

(Restart - Management Phase)

I hereby certify that a copy of the foregoing Three Mile Island Alert's Response to L. H. Hisee's Motion to Quash Subpoena of William Lowe has been served this 17th day of October 1984, by mailing a copy, first class postage prepaid to the following:

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

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

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

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

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

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

John A. Levin, Esq.  
Assistant Counsel  
Pennsylvania Public Utility  
Commission  
P.O. Box 3265  
Harrisburg, PA 17120

\* Ernest L. Blake, Jr.  
Shaw, Pittman, Potts & Trowbridge  
1800 M Street, 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, Esq.  
The Christic Institute  
1324 North Capitol Street  
Washington, D.C. 20002

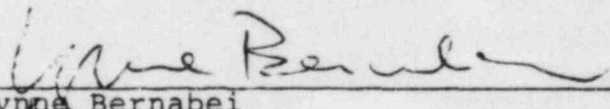
Michael F. McBride, Esq.  
LeBoeuf, Lamb, Leiby & MacRae  
1333 New Hampshire Avenue, N.W.  
Suite 1100  
Washington, D.C. 20036

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

Ellyn R. Weiss, Esq.  
William S. Jordan, III, Esq.  
Harmon, Weiss & Jordan  
2001 S Street, Northwest  
Suite 430  
Washington, D.C. 20009

TMI-PIRC Legal Fund  
1037 Maclay  
Harrisburg, Penn. 17103

\* Hand Delivered

  
\_\_\_\_\_  
Lynne Bernabei