



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

December 4, 1984

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Herzel H. E. Plaine, General Counsel
John E. Zerbe, Director, OPE
FROM: Samuel J. Chilk, Secretary *df*
SUBJECT: SECY-84-431 - TMI-1 RESTART -- HEARINGS
ON ACCURACY OF DIECKAMP MAILGRAM AND
AND ADEQUACY OF LICENSEE'S TRAINING
PROGRAM

This is to advise you that the Commission (with all Commissioners agreeing) has approved your recommendation that the Commission allow the hearing to continue with the scope unchanged.

Chairman Palladino and Commissioners Zech and Bernthal also provided additional comments in their vote sheets of November 25, 14, and 21, 1984 to which you should respond as appropriate.

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech

NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-251 - LICENSEE'S REQUEST FOR STAY OF ALAB-772
(MANAGEMENT DECISION IN TMI-1 RESTART PROCEEDING)

APPROVED ✓ DISAPPROVED _____ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

Samuel J. Chilk

SIGNATURE

6-25-84

DATE

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

AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-330B - REVISION: REVIEW OF ALAB-772 (THE MANAGEMENT
DECISION IN THE TMI-1 RESTART PROCEEDING) AND ALAB-738
(REOPENING ON HARTMAN ALLEGATIONS)

APPROVED _____ DISAPPROVED ✓ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

My DISSENTING VIEWS WILL FOLLOW.

James K. Asselstine
SIGNATURE

9-6-84
DATE

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

AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-317 - LICENSEE'S REQUEST FOR STAY OF ALAB-772
(MANAGEMENT DECISION IN TMI-1 RESTART PROCEEDING) AND TMIA
REQUEST TO LIFT STAY OF ALAB-738 (DECISION REOPENING RECORD
OF HARTMAN ALLEGATIONS)

APPROVED ✓ DISAPPROVED _____ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

Samuel J. Chilk
SIGNATURE
8-6-84
DATE

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NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-323 - REVIEW OF ALAB-774 -- IN THE MATTER OF
METROPOLITAN EDISON COMPANY

APPROVED 1 DISAPPROVED _____ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

James K. Buehler
SIGNATURE

9-7-84

DATE

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MEMORANDUM IF ONE HAS BEEN ISSUED ON THIS PAPER.

NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-431 - TMI-1 RESTART -- HEARINGS ON ACCURACY
OF DIECKAMP MAILGRAM AND ADEQUACY OF LICENSEE'S
TRAINING PROGRAM

APPROVED ✓ DISAPPROVED _____ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

James K. Asselstine
SIGNATURE
11-15-84
DATE

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AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

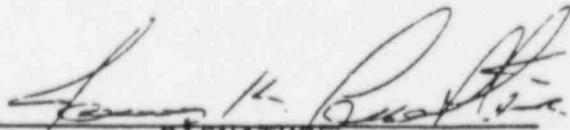
FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-475A - REVISED TMI-1 ORDER

APPROVED _____ DISAPPROVED ☒ _____ ABSTAIN _____
NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

My dissenting views to follow.



SIGNATURE
2-12-85

DATE

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MEMORANDUM IF ONE HAS BEEN ISSUED ON THIS PAPER.

AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

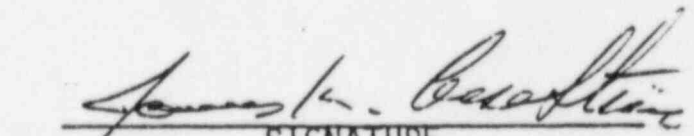
FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-475 - WHETHER FURTHER HEARINGS ARE WARRANTED
IN TMI-1 RESTART PROCEEDING ON ISSUES OTHER THAN
TRAINING AND DIECKAMP MAILGRAM

APPROVED XX in part DISAPPROVED XX in part ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS: See attached



SIGNATURE
1-18-85

DATE

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

SECY 84-475 -- FURTHER HEARINGS IN TMI-1

I still maintain that we should not have taken review of the Appeal Board decision or of any of these other miscellaneous TMI-1 issues. The Appeal Board decision should have been allowed to stand and the other issues should have been remanded to the boards to make a reopening determination. However, since no one agreed with that course, my vote on Secy 84-475 is set out below.

I approve OGC's recommendation to allow the training and mailgram hearings to continue. I also approve OGC's recommendation that we reopen the record on the TMI-2 leak rate allegations. However, I would also reopen the record for hearings on several other issues: TMI-1 leak rate issues, the staff's change in position, and the Parks issues.

I would not limit the scope of any of the reopened hearings merely to discovering the involvement of GPUN employees now in operational positions at TMI-1. While many potentially involved individuals are no longer involved in activities at TMI-1 there appears to be no legal bar to the licensee returning such individuals to duty at TMI-1. Also, some of the involved individuals are employed at other plants or are involved in activities at TMI-2. I think we should use the opportunity of the reopened hearings to develop as complete a record as possible about the activities of everyone involved. Also, an issue in the TMI-2 leak rate hearings should be whether management in any way contributed to the creation of the atmosphere which permitted or encouraged leak rate falsification and violation of procedures. This inquiry will not be possible under the limited scope of the TMI-2 leak rate hearings proposed by OGC.

NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-85-51 - MOTIONS TO DISQUALIFY JUDGE IVAN SMITH
IN TMI-1 RESTART PROCEEDING

APPROVED ✓ DISAPPROVED _____ ABSTAIN _____
NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

Samuel J. Chilk
SIGNATURE
2-8-85
DATE

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

ROBERT W. EDGAR
7TH DISTRICT PENNSYLVANIA

2352 RAYBURN HOUSE OFFICE BUILDING
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(202) 225-2011

88 NORTH LANSOWNE AVE.
LANSOWNE PENNSYLVANIA 17033

DEL CO EXCHANGE (215) 825-1111
PHILA EXCHANGE (215) 725-1111

TMI-1

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 15, 1985

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

Dear Chairman Palladino:

As a member of the Pennsylvania Congressional delegation, I have followed with interest the Commission's progress in hearings on the Three Mile Island (TMI) nuclear plant near Harrisburg, Pennsylvania. It is my understanding that the Commission will meet in the near future to consider a possible restart of TMI Unit 1.

I am deeply concerned by the recent revelation that Ivan W. Smith, chairman of the Atomic Safety and Licensing Board responsible for judging the case for restart, has compromised his impartiality by intervening on behalf of a TMI supervisor found guilty of cheating on a reactor operator license test. As you are no doubt aware, Mr. Smith sent a letter to US District Court Judge Sylvia Rambo asking for special consideration for the supervisor.

Mr. Smith's actions clearly make him ineligible to continue his service on the Licensing Board, and his removal as chairman and board member should be immediate. Moreover, his actions may have invalidated the fairness and impartiality of the entire proceeding.

In this environment, I frankly find it amazing that the Commission is moving towards a vote on the restart of Unit 1. Throughout the hearing process, questions have been raised as to how well the safety of the people of Pennsylvania is being protected. Now we are faced with an act which has compromised an entire section of the process, yet the Commission blithely ignores the event. The replacement of Mr. Smith and a thorough review of the Board's work must precede any decision on restart.

I hope that you will suspend any plans to vote on a TMI restart so as to

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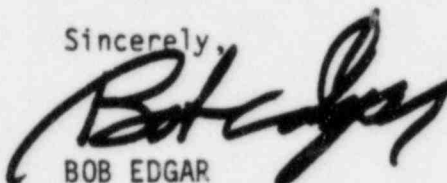
The Honorable Nunzio J. Palladino

Page 2

January 15, 1985

fulfill your duty to protect the health and welfare of the people of my state. No decision on TMI can be considered fair in the current climate of bias and partisanship. I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Edgar", written over the word "Sincerely,".

BOB EDGAR
Member of Congress

BE/da

cc: Commissioner Bernthal
Commissioner Roberts
Commissioner Asselstine
Commissioner Zech

United States Senate

WASHINGTON, D.C. 20510

January 16, 1985

Chairman Nunzio J. Pallidino
Commissioner Thomas M. Roberts
Commissioner James K. Asselstine
Commissioner Frederick M. Bernthal
Commissioner Lando W. Zech, Jr.
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Gentlemen:

I understand that the NRC will convene today, January 16, 1985, to discuss the need for further hearings before a decision is made on the restart of TMI Unit 1.

I have consistently urged the Commission itself to hold and complete the necessary proceedings so that issues relating to authorizing restart of Unit 1 could be resolved with finality. Despite the passage of almost six years since the accident, the NRC has yet to take any conclusive action regarding these issues.

There are still concerns that the issue of management integrity has not yet been thoroughly addressed by the NRC. On November 9, 1984, the Licensing Board ruled that it would not permit the testimony of former NRC Commissioners Peter Bradford and Victor Gilinsky to be introduced in subsequent hearings on the Dieckamp "Mailgram" issue despite its potential effect. I believe that all interested parties should be given the opportunity to present testimony and evidence before a restart decision is made.

Until all outstanding questions about the accuracy of information reported by the utility during the accident and its aftermath are thoroughly investigated, Pennsylvanians will be doubtful and anxious of whatever decision is made about Unit 1. As it stands, the two principal reports on the issue reach opposite conclusions on the issue of withholding information. The Report of the Majority Staff of the Committee on Interior and Insular Affairs concludes that information was intentionally withheld. The NRC's investigation of the issues concludes that no information was intentionally withheld.

The NRC simply must not make a restart decision until all safety and management integrity issues have been conclusively resolved. I urge the Commission and each of you individually to expedite this process. By prior letters, I have repeatedly urged the Commission to do this; it remains essential today.

Sincerely,

Arlen Specter
Arlen Specter

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lp

PM:boa

clg

1-16-85

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

January 24, 1985



OFFICE OF THE
SECRETARY

MEMORANDUM FOR: John E. Zerbe, Director
Office of Policy Evaluation
Herzel H.E. Plaine, General Counsel
FROM: Samuel J. Chilk, Secretary *[Signature]*
SUBJECT: STAFF REQUIREMENTS - DISCUSSION OF NEED FOR
AND IMPACT OF FURTHER TMI-1 HEARINGS, 2:00
P.M., WEDNESDAY, JANUARY 16, 1985, COMMIS-
SIONERS' CONFERENCE ROOM, D.C. OFFICE (OPEN
TO PUBLIC ATTENDANCE)

The Commission met to consider the draft order in SECY-84-475
(Whether Further Hearings are Warranted in TMI-1 Restart
Proceeding on Issues Other Than Training and Dieckamp Mailgram)
to conclude CLI-84-18.

The Commission voted unanimously to grant Congressman George
Gekas (R-Pa.) of the 17th Congressional District several
minutes to address the Commission with respect to the subject
of the meeting.

Chairman Palladino requested that Commissioners provide their
comments on the draft order as soon as possible.
(OCM)

Chairman Palladino requested staff to provide a revised order
for Commission action within two weeks.
(OPE/OGC) (SECY Suspense: 1/30/85)

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
Commission Staff Offices
EDO
PDR - Advance
DCS - 016 Phillips

8501310073

clm

TMI-1

132

Lower Swatara Township Board of Commissioners

Franklin D. Linn, Sr., President
George D. Hinkle, Jr., Vice President
George W. Hickernell
Charles E. Ash
Janet B. Wells

1499 Spring Garden Drive, Middletown, Pennsylvania 17057
Phone (717) 939-9377

January 31, 1985

The Nuclear Regulatory Commission
7920 Norfolk Avenue
Washington, D.C. 20555

Gentlemen:

On behalf of the Lower Swatara Township Board of Commissioners, Dauphin County, Pennsylvania, we strongly support the position taken by Governor Richard Thornburgh in calling for the removal of Nuclear Regulatory Commission Administrative Law Judge Ivan W. Smith as head of a three-member federal panel considering the restart of Three Mile Island's Unit I reactor.

Mr. Smith's appeal for leniency in sentencing a former TMI employee, James R. Floyd, convicted on two counts of cheating, totally transcends professional and ethical strictures and has impaired Mr. Smith's capabilities of rendering a fair and impartial decision when considering the subject of restart. We as elected officials cannot condone personal viewpoints that have even the slightest semblance of potential conflicts of interest. The appearance of capitulating to special interests and issues of epidemic impact affecting the safety and welfare of millions of people cannot and should not be tolerated from any official serving in a public capacity.

Mr. Smith should voluntarily resign as chairman of the Atomic Safety and Licensing Board or be removed by appropriate action of the Nuclear Regulatory Commission.

Sincerely,

Franklin D. Linn Sr.

Franklin D. Linn, Sr.
President
Board of Commissioners

FDL:jh

CC: Governor Richard Thornburgh

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1p

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1-31-85

GEORGE W. GEKAS
17th DISTRICT PENNSYLVANIA

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEES:

CRIMINAL JUSTICE—RANKING MINORITY MEMBER

CONSTITUTIONAL AND CIVIL RIGHTS

SELECT COMMITTEE ON AGING



Congress of the United States

House of Representatives

Washington, D.C. 20515

February 12, 1985

REPLY IF ANY TO

WASHINGTON OFFICE

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WASHINGTON, D.C. 20515
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☐ HERMAN SCHNEEBEL FEDERAL BUILDING
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WILLIAMSPORT, PENNSYLVANIA 17703
(717) 327-8181

28 NORTH FOURTH STREET
SUNBURY, PENNSYLVANIA 17801
(717) 286-6417

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

OFFICE
LOCKE

Dear Chairman Palladino:

The Nuclear Regulatory Commission has scheduled a public meeting on Wednesday, February 13, 1985 -- tomorrow -- to consider and affirm an order on the importance and impact on the possible restart of the Unit One reactor at Three Mile Island of those TMI hearings presently in progress or under review by the NRC.

While this matter before the Commission on Wednesday certainly represents one of the most important of the TMI saga to date, one issue of greater preeminence has appeared which must receive your immediate attention: the disqualification of administrative law judge Ivan W. Smith.

Judge Smith's recent letter to Judge Sylvia H. Rambo requesting leniency for James R. Floyd was an admission of bias which certainly cannot go unnoticed. By expressing his "personal" desire about the outcome of the Floyd case, Smith discarded the robes of judicial impartiality. But, even though his actions now show the tint of his personal, not judicial, opinion, Smith still maintains judicial stature in the Three Mile Island review.

The fact of Smith's letter to Judge Rambo is enough to cast a cloud over the entire TMI proceeding in which Smith participated. The absence of any action -- by the NRC or Smith himself -- to remove him from the hearing board after such an appearance of bias jeopardizes the validity of any future -- and past -- hearings on Three Mile Island. Any future actions by Smith as the administrative law judge considering the restart of TMI Unit 1 would be called into question. Both sides of the issue, and especially the general public, are being dealt a great disservice by this lack of proper action.

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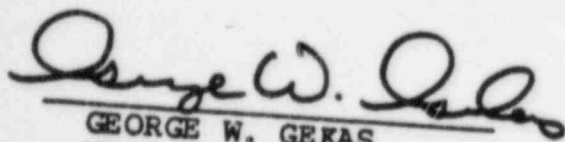
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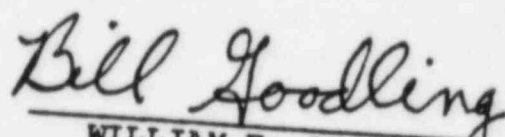
Mr. Nunzio Palladino
PAGE 2
February 12, 1985

We, as representatives from the towns and counties surrounding Three Mile Island, beseech you to resolve the Ivan Smith question before continuing with any other aspect of consideration. And, following the resolution of that matter, we feel that the Nuclear Regulatory Commission should consider the question of restart only and not until the full and satisfactory completion of all hearings and matters related to Three Mile Island now pending before the Nuclear Regulatory Commission.

Thank you for your time and consideration of our views.

Very truly yours,


GEORGE W. GEKAS
Member of Congress


WILLIAM F. GOODLING
Member of Congress

GWG/wac