



Secretary of the Commission  
Sir:

in regards to 10 CFR 30, 40, 61  
70 & 72, Financial Responsibility.

The nuclear industry does not  
have to worry about financial  
responsibility as all costs are  
passed on to ratepayers &  
taxpayers.

The management & operators  
do not pay for violations, stoppages  
or spills. All costs are passed  
on to ratepayers & stockholders.

Financial responsibility  
Applicable to licensees is  
a myth & a farce!

Marvin Lewis  
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DS 10/11

Attn: Mary J. Gerner, 62355

William Allen Steel, 9604 MNB

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NOV - 8 1985

Acknowledged by card.....

pd

*This shows how farcical  
Nuclear Responsibility is!*

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Advisory Committee on Enforcement Policy.

U.S.N.R.C.

Washington, D.C. 20555

Sirs:

Please Accept this letter as my comments on the enforcement policy of

the NRC.

1. The NRC Policy on Enforcement has no effectiveness. The NRC depends upon fines and stoppages as the ultimate weapon to enforce its policy. Only in one or two cases at TMI has the Department of Justice been allowed to pursue criminal prosecution.

Fines are ineffective because the perpetrator does not pay the fine. The operator or manager guilty of the violation does not pay the fine. The fine is passed off to ratepayers, stockholders, or taxpayers. The actual person who committed the action may not get any remedial action at all. In fact at TMI, the person who entered the control room and ordered the pumps to be throttled which aggravated the accident, is not even known. The NRC leveled its fine and doesn't even appear concerned as to who the actual party that committed the act is. The guilty party is still probably in the employ of MET ED and active on the TMI island. Stoppages are not paid for by the guilty party. The Pennsylvania Public Utility Commission has just given Philadelphia Electric a rate increase (1-23-85) for replacement energy used while the Salem plant was out of commission due to errors of PECO management and operation.

Having ratepayers pay for stoppages does not seem every effective method to obtain compliance from the operating management and operating staff. Therefore there are no effective controls for NRC to implement its enforcement policy.

2. The attitude of the NRC Staff and Commissioners is a most important consideration to the Nuclear Industry. The attitude of the Commissioners is well displayed in the transcripts of the Commission meetings of the restart of TMI-1 (October 1981 thru Jan 26, 1984.) The Union of Concerned Scientists News Release of June 19, 1984, details many instances of questionable, biased or misplaced interest on the part of the Commissioners. In fact, the Commissioners appear more concerned with public reaction and company solvency than safety. The attitude of the Staff is even more problematical. I am enclosing a letter from Freida Berryhill of Wilmington DE detailing some discourtesies heaped upon intervenors by the NRC staff.

The attitude of the Commissioners, Staff and trial boards are all antagonistic to effective intervention. These same attitudes are also antagonistic and a barrier to effective enforcement. There is no incentive for licensees to comply when a) the attitude of the staff, commissioners and hearing boards are all obviously biased toward the licensee and against the intervenors. This is documented in the Kemeny and Rogovin Reports on the TMI accident and the attitude has only worsened as spelled out in the Commission Transcripts on the TMI restart.

3. Even assuming that the NRC has proper enforcement tools and attitude, which it obviously does not, the NRC does not have the staff and management to enforce policy effectively. These deficiencies include, but are not limited, the following:

In a Report to The Congress in September, The General Accounting Office described "Management Weaknesses Affect Nuclear Regulatory Commission Efforts To Address Safety Issues Common to Nuclear Power Plants" GAO/RCED - 84-149

The record of nuclear power under the Nuclear Regulatory Commission over the past 10 years makes imperative a full-fledged Congressional review and investigation. Numbers of well-informed observers have voiced the opinion that in embarking on promotion of nuclear power for electric generation, the wrong choice was made in the type of reactor in 1954.

The custom-made character of US commercial reactors has made a difficult if not impossible regulation of the industry by the NRC

The siting of large scale reactors of untested design close to densely populated regions makes it impossible to evacuate the public in the event of a severe accident.

The cost of numbers of nuclear plants, in part to incorporate needed safety design following the lessons of the Three Mile Island accident, threatens massive rate increases to the detriment of rate payers and the business and industrial community.

In spite of attempts to resolve safety engineering features of light-water reactors, schedules have slipped and the Advisory Committee on Reactor Safeguards has questioned the practice of allowing reactors to operate with unresolved safety problems.

More and more scientific studies indicate that levels of radioactivity to which employees in nuclear plants and the neighboring public is exposed will result in intolerable health effects - increases in cancer, infant mortality and genetic damage.

At every stage in the nuclear fuel cycle, higher and higher levels of radioactive releases are reported from the growing piles of uranium mill tailings to the frightening increase in low and intermediate nuclear wastes. With the stepped-up programs for procurement of nuclear weapons, the problem intensifies.

Despite attempts at reform, the list of license events at nuclear plants keeps increasing and even the heaviest fines fail to make management of nuclear operations take their responsibilities seriously. In the light of the fact that shut downs at reactors in Japan are only one-sixth the number of US shut downs for comparable reactors, clearly our nuclear reactors are not properly managed.



Now I shall try to answer those questions raised by the Committee.

1 . Prompt detection and correction of violations.

Using the undervoltage trip assembly failure at Salem as an example , I really do not believe that there has been any effect from the enforcement policy in developing promptness. The switches that failed had not been properly maintained in 10 years and they had given warning of failure several times in the proceeding months. I cannot see how anything in that situation can be characterized as promoting promptness. I think in that situation , the policy promoted sloth and procrastination. Overall the enforcement policy or lack of it promotes sloth and procrastination which are worsening.

2.Prompt reporting.

Prompt reporting also can be characterized as filled with sloth and procrastination. Even worse, much of the reporting is not done as a violation but as some less significant factor. Only slowly does the NRC then reclassify, if necessary to a violation. Many deficiencies in the Limerick Inspection reports were first included as an open item and only after long review upgraded to a violation.

3.Prevention of violations.

This is really a joke. There is no such thing as attempting to prevent violations in the enforcement policy. Surely there is no incentive for the licensee or his subcontractors to prevent violations. There is almost 100% assurance that they , themselves will not pay the fine and that the fine will be mitigated by the staff.

4. Safety record?

TMI#2 and the Salem ATWS are excellent examples of a lack of safety. The best safety record is at Marble Hill. It's cancelled. The only safety record that is sure is the safety record of a cancelled plant.

5. Morale:

Who cares. ? The NRC will not enforce anything because it can't.

6.Public confidence:

Those in the industry that have to keep their jobs:100%

Public at large: 0%

7.Willingness:

Who cares? The NRC will not pursue and the Union will help get you fired for opening your mouth.

Civil penalties are dumb because they are put upon the ratepayer, stockholder, or taxpayer. The management and the operator have no liability and therefore ~~not~~ no reason to fear penalties.

Sanctions should always be placed against offending individuals unless a clear company policy exists that the act was inspired by company policy. A statement from the individual that a particular manager caused his ~~belief~~ that an action was company policy shall be treated as a mitigating circumstance.

Regionalization has helped hide many violations from the public which does not have access to all the documentation in all areas. Regionalization has been a means to keep information from the general public and it is working.

Root causes of any problem are ignored or hidden by the NRC, Licensee or anybody else who cares to hide anything. We still do not know where all the TubeLine falsified materials went in nuclear power plants.

Licensees will identify nothing unless forced by the NRC or a breakdown in equipment.

Respectfully submitted,

*Marvin Lewis*

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7/24/85

# Union of Concerned Scientists

## NEWS RELEASE

June 19, 1984

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### SECRET TMI MEETINGS TRANSCRIPTS SHOW THE NRC IGNORES ITS RESPONSIBILITY

The U.S. Nuclear Regulatory Commission continues to avoid nuclear plant safety issues in its effort to find a rationale for prompt restart approval for Three Mile Island Unit 1. Transcripts of secret NRC meetings on the proposed TMI-1 restart indicate some commissioners fail to understand basic nuclear plant operations or the legal issues before them, and some prefer to decide the issues before the facts are in. The commissioners appear unwilling to consider the impact of revelations of the past two years involving TMI such as an operator-exam cheating scandal or criminal indictments for leak-rate test falsifications. They don't consider whether the plant should restart, but when.

In the Union of Concerned Scientists' view, the commissioners' efforts seem directed largely at avoiding substantive questions or potentially complicating factors and keeping such issues from public view. The transcripts indicate commission disdain for input from members of the public, although some input is required by law. These problems emerge as patterns, not isolated instances.

"Instead of government under the sunshine law, the commission provides government in dark corners," said Ellyn R. Weiss, UCS general counsel. "Until now, our work on this case has focused largely on the competence and integrity of GPU Nuclear," the utility that operates the plant. "But now we are forced to question the competence and integrity of the NRC."

FROM FRIEDA BERRYHILL

at all times; must be electrically cooled at all times; and must maintain the proper chemical balance at all times (Boron is added). It is inconceivable that the NRC did not consider this problem. The question was asked at the hearings for expansion, "What would happen to these pools if there were an accident at the plant, and the site would have to be abandoned? Who then would maintain the pools?"

At this point, let me mention that Peachbottom, also only thirty-five miles from Wilmington, has filed application for increase of spent fuel storage, from 2,220 assemblies to 5,623 assemblies, without intervention.

Concerning my intervention in the re-start of TMI II, Docket No. 50-289:

In early October of 1979, I received a telephone call from the NRC, requesting a meeting with me. I inquired as to the purpose of this meeting, and was told it was to "help" me with the contentions set forth in my intervention. My reply was that since I am not represented by counsel, I would not meet with them unless they could arrange a meeting in the presence of another intervenor.

The meeting was set for October 16, at 2 p.m., at the Rost Inn in Harrisburg. When I walked into the conference room, I was greeted by two NRC attorneys, two Metropolitan Edison attorneys, and two NRC staff members. (The other intervenor whom I had requested to be with me is Dr. Chauncey Kepford.)

In discussing my intervention, it became apparent to me immediately that the meeting was not designed to "help" me, but rather to destroy the validity of my intervention. I will not bore you with all of the ludicrous details, but I will be glad to discuss them with you at another time.

After about an hour, I told the gentlemen that I considered their treatment of me and my contentions to be harassment, and their required amendments to my petition to be unrealistic. For example, my contention that "Class 9" should be considered in these proceedings (you will understand why by reading my contention) was met with the following remark: "Mrs. Berryhill, you must now submit a paper in detail that describes why you feel that TMI II was a Class 9 accident." My answer was that I have read the thousand or so pages of NUREG-0600, and that I would simply resubmit their own document in support of this contention.

After about two and a half hours, I considered myself sufficiently harassed, and quietly left the meeting.

Please let me quote from Docket No. 50-289, a letter to the NRC by intervenor Marvin L. Lewis, of October 22, 1979:

"I was called and made arrangements to meet with the NRC staff in Harrisburg. I entered Room 106 on 10-16-79, at the Harrisburg Rost Inn at or around 7 p.m. I noted that the utility was there in the form of E. Blake. I asked the senior NRC lawyer if it was required that the utility be there.

Mr. Tourtelotte answered, 'Yes.'

I asked that he put it in writing that the utility was required to be there. Mr. Tourtelotte refused.

To clarify, I asked if he meant that the utility was required to be there but that he would not put it in writing.



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At this instant, Mr. Tourtelotte of the NRC started blowing bubble-gum bubbles in my face.

This is the first time that I have seen gross insult on the part of the NRC to dissuade public participation.

Gross insult is a culmination of a pattern used by the NRC to dissuade citizen participation. Elements of this pattern include but are not limited to the following:

(He continues with a description of seven examples of this pattern.)

When asked why he did not complain to the NRC about the "bubble-gum incident," Mr. Lewis explained that he did try to evoke a response to the incident, at the pre-hearing conference, but that he was abruptly stopped and very rudely interrupted by Chairman Ivan W. Smith when Chairman Smith said "I don't want to hear about that." This occurred in the presence of other intervenors and members of the international press.

On December 21, 1979, the NRC refused my intervention on the basis that, as Chairman of CNPP (Coalition for Nuclear Power Postponement), I had not identified specific individuals whom I represent. The NRC states "Mrs. Berryhill identifies none of the persons she serves as a symbol, and in fact does not even assert that she has been authorized to represent any of these persons in this proceeding. There is no information from which derivative standing may be inferred." Mrs. Berryhill was provided an opportunity to expand upon her statement of standing to intervene at the special pre-hearing conference, but she provided no further basis.

Let me make it very clear that neither at the meeting on October 16, 1979, nor at the pre-hearing conference on November 8, 1979, did the NRC alert me to the necessity or requirement of such authorization, a matter which I could have easily taken care of.

At the pre-hearing conference on November 8, I opened my statement by saying that as a citizen, perceiving the dangers of nuclear power, I have two choices open to me: One is to involve myself in the "system" and the regulatory process; the other is to take to the streets. I made it very clear that I have no intention of hampering, delaying, or in any way acting as a disturbing influence on the proceedings. As to my standing in the community, you yourself told me of the valuable service I provide for the citizens of Delaware. The University of Delaware INFO lists me as the only representative qualified to present the anti-nuclear point of view for public forums. The News-Journal Company has, for the past eight years, treated me as a respected and knowledgeable representative of the issues concerning nuclear power. In an editorial, dated September 25, 1979, the Journal states as follows: "Certainly there are many people -- the name of Delaware's Frieda Berryhill of the Coalition for Nuclear Power Postponement comes to mind -- who have taken great trouble to educate themselves about their cause and are able to present arguments on the basis of facts and logic."

Before I go any further, I would like to interject one more point that I made at the pre-hearing conference. I had just received a letter from the White House concerning Presidential Executive Order #12160 "Providing for Enhancement of Federal Consumer Program." The question was asked "What can we do for people and groups like yours?" I am enclosing a letter which I have written to Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, explaining the dire need for intervenor funding, particularly