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

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JJC MEMORANDUM FOR: James J. Cummings, Director
Office of Inspector and Auditor
FROM: *Roger A. Fortuna*
Roger A. Fortuna, A/D for Investigations
Office of Inspector and Auditor

SUBJECT: IE INSPECTORS' ALLEGED FAILURE TO REPORT INFORMATION
RE MARCH 28, 1979, HYDROGEN EXPLOSION AT TMI-2

your
In response to Victor Stello's October 23, 1980, request we have interviewed Region I Inspector Donald Neely (Enclosure 1) and he provided us with all his notes regarding Three Mile Island (TMI) from March 28, 1979, to date (see Exhibits to Enclosure 1).

As you are aware, in response to the Chairman's March 21, 1980, memorandum to the EDO, the General Counsel, and you, IE is investigating the exchange of information between Met-Ed and NRC on March 28, 1979, with a focus on whether a further civil penalty of Met-Ed is justified. One of the three issues identified at the outset of this investigation was Met-Ed's alleged failure to report the "containment pressure spike," i.e., hydrogen explosion. One of the key themes of Met-Ed personnel interviewed during various TMI accident investigations, has been that one or more NRC inspectors were present in the control room and were alerted to the explosion when it occurred. IE's attention was recently directed at Neely when Joseph Chwastyk of Met-Ed identified Neely by name for the first time on September 3, 1980. IE's request that OIA interview Neely was spurred by their suspicion of (1) his veracity during their October 7, 1980, interview of him and (2) apparent alterations on the notes he provided to IE on October 22, 1980.

Although our interview should dispel some of IE's concerns about possible alterations to Neely's notes, it is in no way depositive of the issue of whether IE inspectors were notified of the explosion. Enclosure 2 highlights some of the lines of inquiry which should be pursued in order to resolve this issue. Note that any decision on whether to pursue this issue fully must take into account (1) IE's needs from an enforcement standpoint, (2) the public interest in knowing what actually occurred, and (3) the interest in either proving or disproving the allegations to remove the cloud that exists over the heads of any innocent inspectors that have been accused directly or indirectly.

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Enclosures 3 and 4 are transcripts of interviews of Neely by the Special Inquiry Group. Neely provided us with these transcripts because IE could not locate copies through the Central Files.

Enclosures:

1. Rpt of Interview - Neely
2. ~~Open Lines of Inquiry~~ *DELETED*
3. SIG Interv of Neely et al dtd 9/25/79
4. SIG Interv of Neely et al dtd 9/26/79

REPORT OF INTERVIEW

Donald R. Neely, Inspector, Performance Appraisal Branch, Region I, Office of Inspection and Enforcement (IE) was interviewed on October 27, 1980, by Roger A. Fortuna and David H. Gamble of the Office of Inspector and Auditor (OIA). Neely was advised of his right against self-incrimination as required by the Attorney General's memorandum of June 4, 1980. Neely then consented to being interviewed.

Neely was advised that IE had expressed a concern to OIA that the notes he sent to IE Headquarters via telecopy may not have been exact copies of his original notes taken at Three Mile Island (TMI) on March 28, 1979. When requested, Neely immediately retrieved a somewhat battered gift box from the two-drawer file cabinet in his office. Neely removed the following documents from the box and provided them to OIA:

- A small green bound book (Exhibit A).
- A stapled set of 15 pages of notes on white, lined paper (Exhibit B).
- A stamped set of 19 pages beginning with a form entitled "Facsimile Request", (Exhibit C).

Neely said that Exhibits A and B together represent all the notes he took on March 28 and he has made no deletions, additions, or other changes to them. Neely believed it was when he moved from the Unit 1 to the Unit 2 control room that he discontinued taking notes in the bound book (Exhibit A) and began taking them on a pad of paper in a vinyl notebook (See Exhibit B).

Neely pointed out that Exhibit C includes photocopies of Exhibits A and B, together with the administrative form used to telecopy material from the regional office to headquarters. Neely said he paginated Exhibits A and B consecutively without regard to the pre-existing pagination on Exhibit B. He said this was to assure that all copies were received via the telecopy process and to provide a point of reference in case anyone wished to call him to discuss the notes. Neely said he performed this pagination at the same time he wrote "Sent to Moseley" on the first page of the notes. OIA noted that both such markings were made by a red, felt-tipped pen.

Neely said the only one he has provided these notes to was Gregory Yuhas who was working on IE's "NUREG-0600" investigation of the TMI accident. Neely believed that, in addition to Yuhas' own interest, Yuhas was obtaining copies at the request of Oliver Lynch who was working for the Special Inquiry Group (SIG).

Neely was asked whether he was interviewed any time in addition to the following: May 2 and 5, 1979 by IE; August 22, 1979, by Senator Hart's staff; September 25-26, 1979, by SIG; October 12, 1979, by SIG; and

October 7, 1980, by IE. Neely only recalled being contacted somewhat informally by Lynch when the SIG first came to the TMI site. Neely said the September 25-26, 1979, SIG interviews were actually panel discussions between five IE personnel (including Neely) and Messrs. North, Lynch, and Miraglia of SIG. Neely said they discussed recommendations for improvements in the health physics (HP) area.

Neely reviewed and provided to OIA the balance of his box of material on TMI (Exhibit D). He said that many of the documents were actually other people's notes which he somehow came into possession of.

INVESTIGATORS' NOTE: OIA's review of Exhibit D revealed no other documents that appeared to be notes taken on March 28, 1979. Exhibit D includes a number of documents that are not notes, e.g., documents relating to travel and other administrative matters.

Neely was reinterviewed by OIA on October 28, 1980. Neely was reminded of his right against self-incrimination and he again consented to being interviewed.

Neely confirmed the information he had provided to OIA the previous day. Neely provided OIA with two more documents he had located (Exhibits E and F).

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Neely was advised that part of the suspicion of his notes was generated by the length of time he had taken to provide them. Neely offered the following account of the delay.

Neely recalled he was first contacted by John Craig of IE headquarters in, he believed, the week of September 29 - October 3, 1980. Neely said he has since learned that Craig works for Norman Moseley, Director, Division of Reactor Operations Inspection, IE. Neely said Craig and he had a quite casual conversation. Neely recalled Craig said something to the effect of "we would like to ask you some questions about the March 28, 1979, pressure spike" and then asked Neely if he could come to headquarters the following week. Neely said he told Craig that, because he was on a priority project with the TMI appraisal, he (Neely) would have to get clearance with James Allen, Deputy Director, Region I. Finally Neely worked out the scheduling problems and was cleared to go to headquarters for Performance Appraisal Branch training in the week of October 6-10. Neely said he told Craig he would "drop in" when he was at headquarters for the training. Neely said he had no idea that IE was going to depose him and he did not know that he was supposed to bring his notes or any other records. Neely said that he called Craig's number in the morning of October 7 when he was in Bethesda. He said that Craig was not there, so he told Craig's secretary that he was in Bethesda. Neely said he later received a message at the training center that Craig had called and asked him to come down during his lunch break. Neely related that when he arrived in Moseley's office, he was somewhat surprised to be confronted by a number of people, including a court reporter. Neely said that they later contacted him and asked him back in the afternoon. — He recalled that, as he entered the room the second time, the interviewers were joking about putting away the rubber hoses. He said that he was then asked for his records and told to send them when he returned to his office.

Neely said he was in Bethesda until October 9 when he went to TMI. He said he was back at Region I on Friday, October 10, 1980, but he spent virtually the entire day meeting with Boyce Grier (Director, Region I) and other regional management personnel regarding the TMI appraisal. Neely said the TMI appraisal project was designated a priority project by James Snizek (another IE division director) and Victor Stello (Director, IE); therefore, locating his notes became a lesser priority. —

Neely said that Monday was a holiday. He said he tried to get into his filing cabinet a number of times during the week of October 14 - 17, but could not. Neely explained that he never locked his cabinet because there was no key for it, but Peter Knapp had accidentally leaned against it and locked it. He said that Knapp and others also attempted unsuccessfully to get into the cabinet. Neely said he reached Craig's secretary on October 16 and told her that he could not get the records Craig wanted, but that he would be down to IE headquarters for a meeting the following day. On October 17, Neely met with Snizek and then with Stello for a short meeting at 5:30 pm. Neely said Stello had a meeting with Moseley immediately afterward. Neely said that he passed Moseley, who had been waiting in the next room, as he left. Neely said Moseley saw him and waved, but Moseley did not say anything to him about the notes or anything else.

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Neely said he located Exhibits E and F in one of the many cardboard boxes beside his desk. He said the box containing Exhibits A, B, C, and D was in his filing cabinet in his office. He said all his records regarding TMI have at times been stored at various places at TMI. Neely said the records were with him at TMI during the first two weeks after the accident. He said he did not return to TMI then for another two or three weeks. He recalled that he then worked different shifts at TMI until about May 15, 1979, when he was appointed lead HP man at the newly-established satellite Regional office at TMI. Neely recalled that during this earlier period his records were left laying out on a table in the supervisor's office in the Unit 1 control room. He said that NRC as well as licensee personnel had free access to his records.

Neely said that he was at TMI from May 15, 1979, until finally relieved of duty about November 1979 to begin preparations for the HP appraisal. He said that his records were at TMI during this time with the exception of at least one period when his file was back at the regional-office. Neely said that sometime around the beginning of this period, they (i.e., Neely and his staff) were assigned office space on the Unit 2 turbine deck. He said this space was shared with the licensee's maintenance staff. Neely said that all NRC HP personnel had access to his records during this time. He said they tried to keep the file cabinet locked to preclude access by licensee personnel, but they had trouble with one staff member who often failed to lock it.

Neely said they moved to the complex of NRC trailers in June or July 1979, right after the IE NUREG-0600 investigative team moved out. He said that his records were then moved into the trailer; they were not locked in cabinets, but the trailer was locked. He said licensee cleaning personnel and other NRC staff had access to the trailer. Neely noted as an example of the recordkeeping that they found many NUREG-0600 documents in the closets when they moved in.

He said there was another move at TMI during a time he was away from the site. He related that other NRC employees placed things from his desk into a box and set it aside for him.

One final move which Neely said his TMI records have undergone was within the regional office building. He said the move had to be accomplished with some haste and this only contributed to the disarray of his records.

Neely said the only individual who he knows actually looked through his records was Yuhas. He said this occurred at the TMI site around June 1979. He repeated that he believed Yuhas may also have provided information to Lynch. Neely said that he physically gave the records to Yuhas and, because he trusted Yuhas, he did not verify that all pages were there when they were returned.

Neely said that these exhibits represent all his records regarding TMI and that he has not destroyed any of his records. Neely said he was not aware of any records being missing; however, he conceded that, given the extent of access to his records by others, material could be missing without his knowledge.

Neely was then asked if he had seen the transcript of his October 7, 1980, interview by IE. He said he had not. Neely indicated that he recently received a memorandum from Moseley asking him to review and make corrections to the transcript. However, Moseley mistakenly sent him the transcript of an IE interview of James Higgins.

Neely's attention was then directed to line 15 at page 11 of the investigators' copy of the transcript of his October 7 interview. Neely was asked what took place during the "Discussion off the record." Neely said he was not aware of any words being spoken then. He only recalled that Craig held a spiral stenographic pad close to Moseley and pointed to something on the page. He said Moseley nodded and the questioning resumed.

Neely was then asked to read the transcript from line 17 at page 11 to line 5 at page 13 and to further explain this event.

Neely said that the next time he returned to the TMI site after information had come out in the newspapers about the pressure spike allegedly having been brought to the attention of NRC, he went to the Unit 2 control room to find out where the instrument that recorded containment pressure was located. Neely said that he did this out of curiosity; he believed it was sometime after May 15, 1979. Neely said that he asked Brian Mehler of the Metropolitan Edison Company, whom he had not known, where the instrument was. Neely recalled that Mehler pointed it out and then they began talking casually with each other. Neely related that Mehler said that NRC knew about the pressure spike and even their own (i.e., Metropolitan Edison) management knew. Neely said Mehler also talked about the fact that "they" (unspecified) cut the chart out for that period. Neely said he did not pursue the matter because it was outside his jurisdiction but, because it appeared to be an allegation, he reported it (he believed on the same day) to Tony Fasano who was at TMI on a special investigative assignment. Neely said Fasano later told him that he (Fasano) had talked to Mehler and checked this out; Fasano reportedly concluded that Mehler had his dates mixed up. Neely observed that, even if Mehler was correct about an NRC inspector having been informed, Mehler did not indicate to Neely that he felt Neely was the inspector involved.

Neely said that the items listed at page 6 of Exhibit B, which is entitled "ARMS Read Out," correspond to various monitoring instruments in the control room. He said that he listed the readings he took at 1300 hours beside the name of the monitor. He said that in order to see historical changes, he wrote the readings he took at 1430 hours right beside the earlier readings. Neely pointed out that he wrote "1430" and the second set of readings in red felt-tip pen so they would be readily distinguishable.

Neely said he was present in the control room between 1300 and 1430 hours. He said he overheard some radiological readings coming in over the radio. He said this is probably how he obtained the readings listed at 1410.

Neely said that initially he and Higgins were the only NRC personnel in the Unit 2 control room. He recalled they took turns manning the telephone - with a Metropolitan Edison employee occasionally helping. Neely said Higgins was primarily on the telephone because the line was established to communicate operations information - the HF line was out of Unit 1.

Neely said the next NRC personnel to arrive were Raymond Smith and Walter Baunack; he recalled that Smith began manning the telephone immediately upon his arrival. Neely recalled that Richard Keimig arrived sometime later. Neely said he definitely would have recognized any other Region I employees; however, there were no others in the Unit 2 control room until sometime later.

OIA drew Neely's attention to Joseph Chwastyk's recent identification of Neely as the inspector he had informed about the pressure spike. Neely noted that he is the only inspector that was present in the Unit 2 control room early that afternoon who has subsequently (i.e., after the first couple weeks) been back at TMI for any considerable amount of time. Smith, Baunack, and Higgins have not been back to TMI. Neely said he just finished on August 8, 1980, an inspection which essentially declared TMI's HP program a disaster for restart and which blamed the problem on Unit 2. Neely said it may be interesting to determine the date Chwastyk stated that Neely was the inspector involved and compare that to when Neely performed this inspection.

INVESTIGATORS' NOTE: Chwastyk identified Neely in an IE interview on September 3, 1980.

EXHIBITS:

- A. Notes from March 28, 1979 re TMI.
- B. Notes from March 28, 1979 re TMI.
- C. "Facsimile Request" with notes as transmitted on October 22, 1980.
- D. Balance of Neely's records re TMI.
- E. Additional records re TMI.
- F. Additional records re TMI.

OPEN LINES OF INQUIRY

IE INSPECTORS' ALLEGED FAILURE TO REPORT INFORMATION
RE MARCH 28, 1979, HYDROGEN EXPLOSION AT TMI-2

1. Corroborate Neely's statements to OIA on October 27-28, 1980.
- Interview Gregory Yuhas re his alleged June 1979 review of Neely's notes.
 - Interview Oliver Lynch re his alleged (1) obtaining of Neely's notes through Yuhas and (2) interview of Neely for SIG (i.e., to obtain his summary of the interview, etc.).
 - Interview Craig, etc., re circumstances of Neely's invitation to come to headquarters (e.g., whether Neely was, in fact, instructed to bring his notes with him the first time).
 - Interview Snizek/Stello re whether Neely's other assignment was of such a priority as Neely indicated.
 - Interview Knapp re locking Neely's filing cabinet (establish date).
 - Interview Gody re unlocking Neely's filing cabinet (establish dates) - note that Gody was unavailable when OIA attempted to contact him on October 28, 1980.
 - Interview Mehler and Fasano re Neely's and Fasano's conversation with Mehler sometime after May 15, 1979.
2. Review prior interviews of Met-Ed personnel who recall NRC inspector in control room.
- Correlate information that indicates there may have been two - not just one - inspectors informed.
 - Reinterview re any inconsistencies.
 - Confront with pictures and/or in person identification.

3. Review prior interviews of other inspectors on site early on March 28, 1979.
 - a. Establish potential range of inspectors (generally considered to be only Neely or Higgins, but see SIG Report re Nimitz).
 - b. Reinterview re any inconsistencies.
4. Review original notes of all inspectors within range of possibilities.
 - a. Interview/reinterview as necessary to obtain clarification.
 - b. Compare with notes as submitted previously to NRC management and the various TMI investigative groups.
5. Cross interview Chwastyk re the circumstances of his viewing of Neely (who he was with, when, and who was the NRC person he subsequently informed).

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One final move which Neely said his TMI records have undergone was within the regional office building. He said the move had to be accomplished with some haste and this only contributed to the disarray of his records.

Neely said the only individual who he knows actually looked through his records was Yuhas. He said this occurred at the TMI site around June 1979. He repeated that he believed Yuhas may also have provided information to Lynch. Neely said that he physically gave the records to Yuhas and, because he trusted Yuhas, he did not verify that all pages were there when they were returned.

Neely said that these exhibits represent all his records regarding TMI and that he has not destroyed any of his records. Neely said he was not aware of any records being missing; however, he conceded that, given the extent of access to his records by others, material could be missing without his knowledge.

Neely was then asked if he had seen the transcript of his October 7, 1980, interview by IE. He said he had not. Neely indicated that he recently received a memorandum from Moseley asking him to review and make corrections to the transcript. However, Moseley mistakenly sent him the transcript of an IE interview of James Higgins.

Neely's attention was then directed to line 15 at page 11 of the investigators' copy of the transcript of his October 7 interview. Neely was asked what took place during the "Discussion off the record." Neely said he was not aware of any words being spoken then. He only recalled that Craig held a spiral stenographic pad close to Moseley and pointed to something on the page. He said Moseley nodded and the questioning resumed.

Neely was then asked to read the transcript from line 17 at page 11 to line 5 at page 13 and to further explain this event.

Neely said that the next time he returned to the TMI site after information had come out in the newspapers about the pressure spike allegedly having been brought to the attention of NRC, he went to the Unit 2 control room to find out where the instrument that recorded containment pressure was located. Neely said that he did this out of curiosity; he believed it was sometime after May 15, 1979. Neely said that he asked Brian Mehler of the Metropolitan Edison Company, whom he had not known, where the instrument was. Neely recalled that Mehler pointed it out and then they began talking casually with each other. Neely related that Mehler said that NRC knew about the pressure spike and even their own (i.e., Metropolitan Edison) management knew. Neely said Mehler also talked about the fact that "they" (unspecified) cut the chart out for that period. Neely said he did not pursue the matter because it was outside his jurisdiction but, because it appeared to be an allegation, he reported it (he believed on the same day) to Tony Fasano who was at TMI on a special investigative assignment. Neely said Fasano later told him that he (Fasano) had talked to Mehler and checked this out; Fasano reportedly concluded that Mehler had his dates mixed up. Neely observed that, even if Mehler was correct about an NRC inspector having been informed, Mehler did not indicate to Neely that he felt Neely was the inspector involved.

Neely said that the items listed at page 6 of Exhibit B, which is entitled "ARMS Read Out," correspond to various monitoring instruments in the control room. He said that he listed the readings he took at 1300 hours beside the name of the monitor. He said that in order to see historical changes, he wrote the readings he took at 1430 hours right beside the earlier readings. Neely pointed out that he wrote "1430" and the second set of readings in red felt-tip pen so they would be readily distinguishable.

Neely said he was present in the control room between 1300 and 1430 hours. He said he overheard some radiological readings coming in over the radio. He said this is probably how he obtained the readings listed at 1410.

Neely said that initially he and Higgins were the only NRC personnel in the Unit 2 control room. He recalled they took turns manning the telephone - with a Metropolitan Edison employee occasionally helping. Neely said Higgins was primarily on the telephone because the line was established to communicate operations information - the HP line was out of Unit 1.

Neely said the next NRC personnel to arrive were Raymond Smith and Walter Baunack; he recalled that Smith began manning the telephone immediately upon his arrival. Neely recalled that Richard Keimig arrived sometime later. Neely said he definitely would have recognized any other Region I employees; however, there were no others in the Unit 2 control room until sometime later.

OIA drew Neely's attention to Joseph Chwastyk's recent identification of Neely as the inspector he had informed about the pressure spike. Neely noted that he is the only inspector that was present in the Unit 2 control room early that afternoon who has subsequently (i.e., after the first couple weeks) been back at TMI for any considerable amount of time. Smith, Baunack, and Higgins have not been back to TMI. Neely said he just finished on August 8, 1980, an inspection which essentially declared TMI's HP program a disaster for restart and which blamed the problem on Unit 2. Neely said it may be interesting to determine the date Chwastyk stated that Neely was the inspector involved and compare that to when Neely performed this inspection.

INVESTIGATORS' NOTE: Chwastyk identified Neely in an IE interview on September 3, 1980.

EXHIBITS:

- A. Notes from March 28, 1979 re TMI.
- B. Notes from March 28, 1979 re TMI.
- C. "Facsimile Request" with notes as transmitted on October 22, 1980.
- D. Balance of Neely's records re TMI.
- E. Additional records re TMI.
- F. Additional records re TMI.