



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

Comm  
Con

July 6, 1979

Mr. Marvin Resnikoff  
Sierra Club  
Box 64, Station G  
Buffalo, New York 14213

Dear Mr. Resnikoff:

I am replying personally to your letter of January 18, 1979, concerning a memorandum I wrote in 1972. Memory falters at this distance and I have asked the staff to dredge up from the files what is available on this subject. The results of that search are appended, as well as copies of pertinent material from the NRC Public Document Room. It has taken longer to respond to you than I would have liked, but a number of pressing events have intervened and it has been difficult to find the time to prepare this reply.

The matter started in September 1972 when I received an anonymous letter about the NFS facility at West Valley, New York. The writer expressed concern about practices at the facility, particularly employee radiation exposures, and ended "Please check closely and unexpectedly! Thank you and Bless you--from one who cares." The writer had addressed the letter to me because there appeared to have been an article in the Buffalo Evening News on September 2nd that mentioned my name and organization, probably in connection with some reactor safety matter (I do not have the article). I have not included a copy of the anonymous letter with the documents enclosed. In 1972, the Operations staff decided against putting a copy of the letter in the Public Document Room since that would risk exposure of the writer. Even at this later time, I feel that is still a correct judgment and that protection of our confidential sources is a policy with overriding benefits.

The anonymous letter was obviously a sincere expression of concern and I thought something should be done about it. I was looking for some way to reply to my anonymous correspondent and suggested an inspection at NFS, with a press release to follow that could report any significant findings or violations, or a letter that I could write to the newspaper there about the NFS operation that would answer the anonymous letter. The NFS facility was not part of my responsibility, being licensed by another division and inspected by the Regulatory Operations staff, so I passed the letter on to the Director of Licensing with my suggestions in the memorandum you have cited (Enclosure A).

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Several notes from the files indicate the next actions. Copies of the anonymous letter and my memorandum were apparently passed on to Regulatory Operations (RO) and discussed at a staff meeting on September 18, 1972. See Enclosure B, a note from the Director of Regulatory Operations to the Director of Licensing; Enclosure C, a note from RO staff to the Director, RO; and Enclosure D, a note from the Director of Licensing to the Director, RO. These are all dated September 19th. Enclosure E, dated September 20, 1972, from the Director of Region I to his staff refers to discussions about making the letter public. I do not believe that I was present at those discussions.

I judge from the notes that an unannounced inspection of NFS had been planned for about that time and that it was decided to include the items in the anonymous letter in the inspection scope. Enclosures F and G, dated 9-22-72 (I think--the date is indistinct and could be 9-27-72) and 9-26-72, between RO staff note that the regional office had been directed to include the anonymous letter items in the inspection, that the inspection report should include reference to those items, that a decision on sending copies to the area newspapers would be made when the report was completed, that the report should go into the Public Document Room, and that a local Public Document Room should be established in the NFS area.

About this time, I must have sent the original of the anonymous letter to Regulatory Operations, along with my copies of the notes referenced above (see Enclosure H). I should note that my reconstruction of events in this matter is based on the material from the files--I do not recall any participation in the matter beyond the initial anonymous letter and my memorandum of September 12, 1972. I have asked members of the inspection staff to check my account, however, and they agree with it to the extent that they recall the events.

The inspection took place on September 19-23 and 26-29, 1972. On October 4th, RO staff reported a brief summary of the inspection to the Director, RO (Enclosure I). The summary notes that during the inspection, two items from the anonymous letter, stack leakage and the case of an NFS employee who had died earlier that year, had been investigated. With regard to the employee, there is a note on the exposure record of this individual during his employment at NFS (Enclosure J).

An inspection report draft was prepared, No. 50-201/72-03 (50-201 is the docket number of the West Valley facility), dated January 4, 1973 (Enclosure K). The inspector's evaluation (Enclosure L) was written on January 5, 1973. There is also a note between RO staff dated January 5, 1973 (Enclosure M), indicating that New York authorities were informed of the inspection results discussed in paragraph 17 of the draft inspection report.

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Based on the initial draft of the report, a letter noticing several apparent violations was sent to the licensee on January 5, 1973. A copy of this letter, taken from the Public Document Room, is Enclosure N. The licensee replied on January 26, 1973--see Enclosure O, also taken from the Public Document Room. (Where enclosures are from the Public Document Room, I have marked them "PDR" below the enclosure designation.)

On February 5, 1973, RO staff wrote to the licensee saying that the inspection report would be placed in the PDR unless the licensee identified proprietary material that should be withheld. (This is the usual practice with inspection reports.) This letter is Enclosure P, taken from the PDR. The draft report that was sent with the letter is Enclosure K.

The licensee wrote back to RO staff on March 12, 1973 (Enclosure Q) objecting to publication of the report. The licensee noted some errors in the report and objected particularly to inclusion in the report of some activities of a subcontractor regulated by New York State (item 17 in Enclosure K) and details concerning the deceased former employee (item 16 in Enclosure K).

RO staff did not agree that the report should be withheld, but did remove item 17 and limited item 16 to the comment that no radiological problems were observed in connection with the matters in the anonymous letter. The final inspection report, as given in Enclosure R, was sent to the licensee on March 30, 1973 (see Enclosure S) and forwarded to Headquarters (see Enclosure T). The licensee replied on April 5, 1973, (Enclosure U) and the final report was placed in the PDR.

Now let me turn to your questions. You have asked:

- "a) Did the unannounced inspection mentioned in paragraph 2 of the attached memo take place? If so, provide the date and send us a copy of the Inspection Report.
- "b) Was a news release submitted to the Buffalo Evening News? If so, provide a copy.
- "c) Or, was a detailed reply submitted to the News' letter columns? If so, provide a copy.
- "d) Provide us further memos between Deputy Secretary O'Leary and other persons concerning this matter, in particular, the response by O'Leary back to yourself.
- "e) Was the 'staging' of unannounced inspections and the issuance of press releases on selected parts an isolated instance of the AEC, now the NRC, or was it established policy?"

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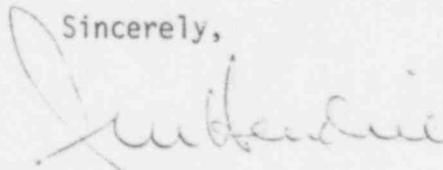
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With regard to your questions (a) and (d), the enclosed materials and the preceding discussion cover the situation as fully as I am able to do so. With regard to questions (b) and (c), no news release or letter to the newspaper resulted so far as I know.

With regard to question (e), inspections were not "staged" then that I know of, and certainly are not now. Most inspections were unannounced and it is my understanding that AEC did not routinely issue news releases about inspections. I would point out that the AEC is not "now the NRC." Any news releases by NRC about inspections would cover the whole inspection and all significant results.

I must say I have been bemused by your reaction, and that of the Union of Concerned Scientists, to my note of September 12, 1972. I was concerned about that anonymous letter and even though NFS was not my responsibility, I wanted to see some action on it and a public response about the matters in the letter. So I highlighted the letter and my thoughts on it to the Director of Licensing, and I think my view of the NFS operation at the time is clear from my note. I would have thought that was the response you would want to see from a regulator. Instead you regard it as "an unfortunate pattern," and one "not instilling public confidence." You surely cannot mean that you would have preferred me to take the bureaucratically safe course of just filing the anonymous letter or forwarding it without comment or emphasis, but that is the way your comments, which prejudice my answer here, come out.

Sincerely,



Joseph M. Hendrie

Enclosures:  
A-U

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