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

December 19, 1979

MEMORANDUM TO: Dick Vollmer, AD/SEP, NRR

FROM: Stephen F. Eilperin, Solicitor

SUBJECT: PROPOSED DRAFT SETTLEMENT IN CITY OF LANCASTER, ET AL. V. NRC, No. 79-1368

The City of Lancaster has sent us a December 7 draft settlement agreement which I would appreciate your comments on. Since I was away on vacation, this is the first chance I have had to send you the City of Lancaster proposal.

I have the following problems with the proposed agreement. My comments are keyed to the City of Lancaster paragraph numbers.

1. Our commitment on a programmatic environmental impact statement should refer to and be no broader than what is promised in the Commission's policy statement. Additionally, "accident generated water" is probably too broadly defined. I would especially appreciate your thoughts on how best to define "accident generated water".

2. I do not think that we can commit on an absolute basis to no discharge of water through 1981. We have to have some allowance for emergencies. Additionally, the Commission held out the possibility that it would take interim action, e.g., purging gases or processing high level waste water, prior to completion of the programmatic impact statement. I do not think we can have a flat-out commitment that no action will be taken until a programmatic statement is completed.

3. & 4. These seem to be of concern to the utility and not to us. Probably 1982 should be defined more precisely as January 1, 1982 and there seems to be a typo in the second sentence on page 3. The word "to" should be "by".

5. Thirty days' notice of Commission meetings seems excessive. Compliance with the Sunshine Act should be all that is required. Most importantly, the kind of hearing that the City of Lancaster would want prior to the disposal of accident generated water is very unclear since 42 U.S.C. 2239(a) provides in different circumstances for adjudicatory hearings or hearings of lesser formality.

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I intend to advise the Commission not to settle on the terms proposed by the City of Lancaster. However, since there may be an opportunity to do some further negotiation with the City, I would appreciate your thoughts on the settlement proposal at your earliest convenience.

cc: John Collins, DSE

Enclosure:
Draft Settlement