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United States Senate

WASHINGTON, DC 20510

September 26, 1989

Mr. Victor Stello, Jr.
Executive Director
Office of Operations
U. S. Nuclear Regulatory Commission
1717 H Street, NW
Washington, DC 20555

Dear Mr. Stello:

The Senate has received your nomination to be Assistant Secretary of Energy for Defense Programs. Given the problems associated with the Department's defense-related activities, the importance of this nomination cannot be understated.

You are well aware that licensing of the Seabrook nuclear facility in my state has been contentious. I have followed the process closely with the objective of attempting to ensure that legitimate concerns associated with evacuation planning are addressed. At times, I have found this to be extraordinarily frustrating.

One of the more bizarre and unnerving incidents associated with Seabrook evacuation planning was the so-called "FEMA Flip-Flop". Federal regulations require the Federal Emergency Management Agency (FEMA) to provide "finding and determinations as to whether state and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented."

In June 1987, FEMA had concluded that the evacuation plans submitted by the State of New Hampshire did not provide adequate protection of the beach population surrounding the Seabrook facility. FEMA testimony at the time stated, "...it appears that thousands of people could be unable to leave during an accident at Seabrook involving a major release of radioactivity without adequate shelter for as much as the entire duration of the release." Unless the issue was resolved, FEMA concluded, the New Hampshire plans could not be deemed "adequate".

By March 1988, FEMA had reversed position on the sheltering issue.

Well over a year after FEMA's startling reversal, many details of the events which led up to it are unclear. Subsequent testimony, however, does suggest that the Nuclear Regulatory Commission (NRC) and you as its Executive Director may have had a role in influencing FEMA's reversal.

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Your pending nomination presents a splendid opportunity to clear up what actually happened. At issue are questions of judgement, respect for proper procedure and a commitment to the full protection of the public--all clearly germane to the Senate's deliberations for the post to which you have been nominated. I would therefore appreciate your responses to the following:

1. On what date did you first become involved in the emergency evacuation planning process for the Seabrook facility?

2. When were you first made aware of the FEMA official position filed with regard to Seabrook licensing in June 1987 that the New Hampshire LERP does not provide a "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency"?

3. Did you discuss the FEMA position with any other official of the Federal government, including FEMA, or the State of New Hampshire, on or after June 1987? If so, please give the date and nature of the discussion and with whom the discussion was held.

4. Did you direct, authorize or require any official from the NRC to take any action, pursue any question or suggest any change with regard to the FEMA position as released in June 1987, or the FEMA position as refiled in September 1987. If so, what action did you direct, authorize or request?

5. Please list all contacts between you or any other member of the NRC staff with officials of FEMA regarding evacuation planning at Seabrook. Please provide detailed information about the nature of the contact and what transpired.

6. In a deposition of Ed Thomas, a former FEMA official deeply involved in the Seabrook proceedings, he testified of a meeting held on January 19, 1988 at which you were alleged to have stated that the NRC would "engage in total war with FEMA if we [FEMA] didn't change our testimony in the beach population." Curiously, the Boston Globe reported on March 18, 1988: "Victor Stello, the NRC's top safety official, confirmed that 'Our attorneys and [FEMA's] attorneys worked together in the Seabrook case.' He said that his only involvement was a week ago, when he got a call from [FEMA Director Grant] Peterson advising him that FEMA was about to

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file testimony reversing its position. 'I got it, read it...and it sounded fine to me,' Stello said.'

A. How do you reconcile these conflicting accounts?

B. What was the extent of your personal involvement in discussions with FEMA on Seabrook emergency planning negotiations prior to March 1988?

7. Please provide copies of all NRC documents relating to negotiations or discussions with FEMA on emergency planning at Seabrook, including transcripts of meetings or notes from meetings involving officials from the two agencies.

8. Mr. Thomas has also testified that then-FEMA Assistant General Counsel Flynn told him during the week of January 18, 1988 that, "FEMA, in essence, was doing a 180-degree shift in its position with respect to the Seabrook beach population...that this had been promised at a meeting with the NRC's Victor Stello."

A. Are you aware of such an agreement?

B. Were you a direct party to such an agreement?

C. If such an agreement were entered into, please cite the legal basis for it, including how such an agreement would be consistent with FEMA's obligations under emergency planning regulations.

9. Testimony indicates that on January 15, 1988, you telephoned the FEMA Associate Director for State and Local Programs and Support, Grant Peterson, and that you "showed concern" about what you had heard of FEMA's testimony with regard to Seabrook (On January 13, FEMA counsel had indicated to Judge Smith that FEMA would be sticking with its original position with regard to the adequacy of emergency plans).

A. Who reported to you on the January 13 FEMA testimony to Judge Smith?

B. Please give your account of this conversation with Mr. Peterson and specify the nature of your "concern[s]".

I would appreciate a prompt response to this letter.

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Sincerely yours,


Gordon L. Humphrey, USS

GJH/gm