

TESTIMONY OF  
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HOUSE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
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My purpose this morning is to discuss our investigation of various allegations regarding the Hayward-Tyler Pump Company of Burlington, Vermont.

This testimony addresses the interfaces which occurred between the NRC Staff, at both the Regional and Headquarters level, and representatives of the Hayward-Tyler Pump Company. Accompanying me today are Mr. John Collins, Regional Administrator of NRC Region IV; Mr. Karl Seyfrit, Deputy Administrator of NRC Region IV; Mr. Uldis Potapovs, Chief, Vendor Program Branch, Region IV; Mr. Richard Herr, Investigator, Investigation and Enforcement Staff, Region IV; Mr. Richard C. DeYoung, Director of the Office of Inspection and Enforcement; Mr. James Sniezek, Deputy Director of the Office of Inspection and Enforcement; and Mr. James Cummings, Director of the Office of Inspector and Auditor. These gentlemen are knowledgeable regarding what transpired during the various meetings between representatives of the Hayward-Tyler Pump Co. and the NRC subsequent to NRC receipt of allegations regarding the Hayward-Tyler Pump Co. on October 30, 1982. After presentation of NRC's written testimony we will be pleased to answer any questions the Subcommittee may have.

Upon receipt of allegations regarding matters subject to NRC jurisdiction, the NRC pursues the allegations to a sufficient degree to determine the validity of the allegations and whether or not a safety problem is involved or NRC requirements are violated. If a safety problem is involved or NRC requirements are violated, the NRC ensures that appropriate corrective action is taken.

Such was the course of action we took when on October 30, 1981 our Office of Inspection and Enforcement was notified by Commissioner Bradford's Office that a newspaper reporter had indicated that several employees of the Hayward-Tyler Pump Co. had stated there were problems with the pumps being manufactured at the plant. The NRC Region IV office was informed of the allegations on the same day. On November 2 the NRC Region IV office contacted the reporter to discuss the general substance of the allegations. The reporter did not provide the names of the employees but indicated he would encourage them to contact the NRC.

On November 10 Region IV was informed by Congressman Markey's staff that a second reporter had affidavits from former Hayward-Tyler Pump Co. employees detailing allegations against the Company. The staff member agreed to supply copies of the affidavits to the NRC upon receipt. Upon contact of the second reporter by NRC Region IV, the reporter refused to provide additional information and suggested that the NRC recontact Congressman Markey's staff. Upon contact, the staff suggested NRC Region IV defer its investigation until receipt of the affidavits.

On December 17 NRC Region IV received Congressman Markey's December 11 request for an investigation, which forwarded the affidavits from the former employees of the Hayward-Tyler Pump Co. NRC Region IV developed plans for an investigation and a special inspection. The investigation was to determine the validity of the allegations, which involved management failure to support the QA program, use of improper adhesives, hiding of records from NRC inspectors,

lack of qualified welding inspector on the second shift, and falsification of records. The inspection was to establish whether past and present manufacturing practices were consistent with codes, purchaser contracts and NRC requirements, and to assess the technical significance of any deficiencies.

During the month of January and early February 1982, NRC Region IV investigators interviewed about 38 present or former employees of the Hayward-Tyler Pump Co., examined appropriate records and observed operations in progress at the manufacturing facility.

On January 26, 1982 representatives of the Hayward-Tyler Pump Co. met with Mr. Collins and representatives of the Office of Inspection and Enforcement and the Office of the Executive Legal Director to express their resolve to correct any problems identified during the NRC investigation. They informed the NRC that they had initiated their own internal investigation into what had transpired and were evaluating the adequacy of their existing QA program. On February 12, Hayward-Tyler representatives met with Mr. Collins and his staff in the Region IV office to discuss the results of the company's internal investigation. It was at this meeting that the company was provided copies of the draft NRC Region IV inspection report and investigation report for proprietary review. Region IV representatives advised the company that the reports were preliminary in nature and subject to change as the data was further analyzed by the NRC. The Company was also informed that they would have to take action to notify the purchasers of the pumps regarding the potential problems. The actions are subject to NRC approval.

On February 18, Mr. Collins briefed me and representatives of the Office of Inspection and Enforcement, and Nuclear Reactor Regulation regarding the findings of the NRC investigative and inspection efforts. As a result of that briefing it was decided that certain aspects of the NRC effort should be expanded. The NRC Region IV investigative effort continued through February and into early March.

On February 24, Mr. Seyfrit and staff met with representatives of the Hayward-Tyler Pump Co. to assure that corrective actions would be implemented by the company and that other measures would be taken by the company to notify purchasers of the pumps. On February 25, accompanied by the Executive Legal Director and Deputy Director of the Office of Inspection and Enforcement, I met with company representatives at their request. During the meeting the Hayward-Tyler Pump Co. representatives commented that they appreciated the cooperation of NRC Region IV in expediting the investigation since any ongoing investigation is disruptive to operations. The company also expressed concern that, based on the February 12 and 24 meetings with NRC Region IV personnel, the preliminary investigation findings regarding management knowledge of QA program violations and safety significance of the violations might not be supported by the facts. The company also asked the NRC to note that the management of the company had changed since the time of the NRC inspection and investigation. Our response to the company representatives was that we would look into the matter and attempt to assure that our findings would be substantiated in the Inspection and Investigation Reports. No suggestions were made by the company that NRC change the reports or statement of findings and no commitments were made by the NRC representatives to make a change. At the conclusion of the

meeting, Mr. Sniezek called Mr. Seyfrit, the Deputy Regional Administrator, and reviewed the content of the meeting and asked him to make sure that we were not making unsupported findings. Within another day or so I talked to John Collins, the Regional Administrator, and gave him a report of the meeting. I have since found out that another draft of the proposed letter transmitting the findings of the Inspection Report has been prepared and that there have been at least two changes incorporated in the letter. I have been told that both changes were made to conform the letter to the factual content of the Investigation Report. This letter is still subject to further changes pending completion of the Headquarters review.

On March 4, I became aware that the draft inspection and investigation reports had been provided to representatives of the Hayward-Tyler Pump Co. during the February 12 meeting. After I conferred with the Regional Administrator, Mr. Collins requested that because of the sensitivity of this case that further inspection and investigative activities be transferred to the Office of Inspection and Enforcement and that the Office of Inspector and Auditor investigate the circumstances surrounding the release of the draft reports to the company representatives.

I acted upon Mr. Collins' request on March 5. The investigation by the Office of Inspector and Auditor has since been completed. NRC Region IV has completed documenting all their inspection and investigation work on this matter. The documentation has been forwarded to the Office of Inspection and Enforcement where a determination will be made as to what additional NRC action, if any,

will be necessary to verify the allegations and ensure that the matter is properly resolved from both the safety and enforcement standpoint. This effort is being conducted under the direction of the Senior IE Investigator, supported by IE investigators and engineers, and entails the following specific determinations:

- ° whether the investigation and inspection were conducted in a technically adequate manner
- ° whether sufficient work has been conducted to date to resolve the allegations
- ° what further investigation and inspection activity needs to be conducted
- ° whether issues of criminality are involved
- ° whether, and what type, enforcement action is warranted

On March 24, the staff briefed the Commission on the safety significance of the problem and provided the Commission with the following conclusions:

- ° No immediate safety concerns have been identified with the pumps manufactured by the Hayward-Tyler Company.
- ° Only one pump has been installed at an operating nuclear power plant. That pump is installed as a third pump in a spent fuel cooling system. Its failure would not render the cooling system inoperable.

- ° The pumps sent to plants under construction can and will be verified as to adequacy for their intended service prior to issuance of an operating license to these facilities.
- ° We are presently looking into the issue of spare parts manufactured by the company and where these parts were shipped.

On March 30, the Director of the Office of Inspector and Auditor provided the Commission his report and the following statement of conclusions and recommendations. I shall quote directly from his memorandum.

- " ° Clearly, on February 12, 1982, Region IV officials should not have released drafts of the inspection and investigative reports, the draft transmittal letter to the inspection report and the draft Notice of Nonconformance. Notwithstanding whether or not we have specific regulations or guidance addressing this point, common sense should have dictated against this decision, given the totality of the circumstances.
- ° Both the EDO and regional officials - given the frequency and informality of the various meetings and phone conversations with Mr. Rowden, et al - should have confirmed by memo or letter the substance and merits of these contacts.
- ° Throughout the investigation and inspection there was less than the proper arms length distance between NRC and the vendor and his attorneys. This distance should have been maintained not only because of the competing interest that exists during an investigation but particularly because of the fact that NRC officials were dealing with former associates who were also former senior officials of the NRC. Failure to maintain this distance subjects inspection and investigation reports to the charge that they lack independence and/or objectivity.
- ° Following from the previous points we are left with the indisputable fact that the vendor was successful in effecting softening changes to a proposed NRC transmittal letter - and the perception by some that this was done to accommodate a former boss.
- ° Finally, while the changes did in fact soften the letter I do not believe that regional officials knowingly made these changes simply to accommodate the vendor or Mr. Rowden. Moreover, although the changes to the proposed transmittal letter probably would not have been made absent the tactics employed by HIPC and their attorneys, I believe regional officials made the changes in good faith believing they were on point and valid.

With regard to recommendations, it is my opinion that OIA's inquiry into the various aspects of the handling of the HTPC investigation/inspection substantiates to a large degree what has been brought to the Commission's attention in the past, to wit, the NRC investigative program is below par. The primary reason for this situation is not a people problem, as we have many fully trained and competent investigators in the field, but rather we lack comprehensive policy and procedures with regard to NRC field investigations. For example, I do not believe there is region-wide agreement with regard to such practices as entrance conferences, exit conferences and similar practices as they pertain to investigations.

An immediate solution to this problem would be the formation of an Office of Investigation, reporting directly to the EDO or to the Director, OIA. Current regional investigators would report directly to this office and the office would serve as a service organization to the five regions. The clear advantage of having this office report directly to the EDO would be that major line functions of the agency would continue to report to the EDO and OIA would retain its total overview function. The major advantage of having this office report to the Director, OIA, lies in the fact that many field investigations deal with whether or not the regions have done a proper job and this reporting arrangement would avoid the situation where the EDO is looking at and appraising one of his own operations.

I do not believe we can avoid coming to grips with this issue any longer."

(End of Quote)

Following up on the recommendations of the Auditor, we have taken the following actions:

- ° no draft investigation reports will be issued without the explicit approval of the Executive Director.
  
- ° any meetings held between representatives of organizations or individuals under investigation will have a written summary of the meeting prepared and placed in the files of the investigation.

With regard to the recommendation to establish a separate Office of Investigation reporting to either the Director of Inspector and Auditor or to the Executive Director, I should report that the Commission is currently considering a set of options dealing with this question.

The Commission has met twice with the staff on the issue of the Hayward-Tyler Pump investigation. The Commission has reviewed this testimony and it supports the actions, conclusions and recommendations contained in it.

This completes my prepared testimony. I and the other members of the NRC staff will be happy to respond to your questions.