



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

March 30, 1982

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MEMORANDUM FOR: Chairman Palladino  
Commissioner Gilinsky  
Commissioner Ahearne  
Commissioner Roberts

FROM: James J. Cummings, Director  
Office of Inspector and Auditor *James J. Cummings*

SUBJECT: INQUIRY INTO NRC'S HANDLING OF THE HAYWARD  
TYLER PUMP COMPANY INSPECTION/INVESTIGATION

On March 25, 1982, in connection with OIA's inquiry into the Hayward Tyler Pump Company matter, Chairman Palladino asked (1) What, if anything, did NRC do improperly?, and (2) What did NRC do that could be perceived as being an impropriety?

OIA's response to these questions are as follows:

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 HTPC 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.

cc: W. Dircks, EDO  
J. Collins, RO IV