



OFFICE OF THE
COMMISSIONER

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

May 28, 1982

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- ② RICH MATELO
- ③ DICK HOGG
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NOTE FOR: Richard DeYoung
Director, I&E

FROM: Vicki Harding, OCM ^{CAH}

SUBJECT: COMMISSION MEETING ON COOPER
ENFORCEMENT ACTION - 5/28/82

Attached are the questions Commissioner
Ahearne said he would provide you.

Attachment

① Copy for Jim H. (Action)

② Copy RCD/jhs

Questions from
Commissioner Ahearne

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PDR FOIA
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Cooper Enforcement Action

I do not have enough information to reach any firm conclusions. However, I felt some of the information (notably in the exhibits) suggests patterns of behavior which I find troubling. Among the more significant items that bothered me:

1. Failure of D-3 to take action in February 1982:

- According to D-3's statement "One or two days prior to February 8 I was informed that Individual D-2 had to respond to the NRC and I had conversation with Individual D-6 about it. He told me that he had made some checks and that the sirens 'would be installed,' indicating that they would be installed very shortly. . . I received a copy of the February 8 letter on a later date but did not talk to Individual D-6 about it."
- "One or two days prior to February 8" is after February 1. As project manager for the EWS, shouldn't he be held responsible for having knowledge the deadline was not met but apparently taking no followup action? (Perhaps a material false statement through omission?)
- This also suggests he had reasonable cause to believe the February 8 letter was not accurate. Did he deliberately fail to correct a false statement, or was he also guilty of "wishful thinking" (D-6, p. 3) in that he hoped the installation had occurred during the "one or two days"? Unfortunately, the statement taken from D-3 does not tie this issue down.

2. Accuracy of June 30, 1981 letter to the NRC drafted by D-4:

- A June 26, 1981 memo from D-3 to D-4 (Exhibit 1) includes the status of tone encoders for the fixed sirens: "Tone encoders which control the activation of the fixed sirens have been delayed. Due to a computer misprint at the factory only one (1) encoder was shipped with the sirens. Six (6) more encoders are due by July 3, 1981."
- According to D-4's statement, "Based on [the information in the 6/81 memo from D-3] I closed out the Cooper Nuclear Station early warning system as an action item and drafted the June 30, 1980 letter (LQA8100215)."

- However, the status as described in the June 30 letter is "The tone encoders which control the activation of the fixed sirens have been received" (Exhibit 2, 3rd page).
- Did D-4 fudge, did he have additional information which he didn't mention, or is he also guilty of "wishful thinking"? (Note that 6/26 is a Friday, 6/30 is a Tuesday, and 7/3 is a Friday.)

3. Role of D-5 in drafting February 8 letter:

- D-5 contends "I did not attend any of the NPPD meetings regarding either the formation or implementation of the Cooper Nuclear Station (CNS) Early Warning System (EWS)." (This is not mentioned in the investigative summary.) This is contrary to the statements of D-1, D-2, D-3 and D-6. According to D-5's statement, he became aware of the CNS EWS through reading correspondence. He also observed a test of the system and recalls talking to individual D-6 in the July-August 1981 time frame although he states "I do not specifically recall the exact conversations."

- However, he and D-4 (who closed out the EWS as an action item in 1981) took a call from NRC concerning the status of the CNS EWS. "Pretty much what we told Mr. Hackney was that the fixed and mobile siren units were installed and operational and had been turned over to the local governments" (emphasis added).

D-5 and D-4 seemed to go out of their way to suggest they were not involved. If so, why did they take the call from the NRC and make representations concerning the status of the system?

- D-5's statement also says "Mr. Hackney asked us to make our response in writing and I believe that same day I had conversation with Individual D-6 about the CNS EWS. . . The information that Individual D-6 provided to me as stated above, confirmed what we had already told Mr. Hackney to be true." It seems pretty clear D-5 talked to D-6 only after he and D-4 had represented to the NRC that the sirens were installed and operational. Do they routinely tell the NRC whatever the NRC wants to hear, did he have some other basis for the information, or was this another case of "wishful thinking"?

- D-5 also stated "I don't recall the exact circumstance, but Individual D-2 was informed of our commitment to the NRC to respond in writing what we had told Mr. Hackney and it was decided that I would draft the letter." Who decided and why? (Note that D-2 claims "Individual D-5 volunteered to draft the letter and he subsequently brought it to me for signature.")
- D-5's statements goes on to say "Based on the aforementioned conversation between myself, Individual D-4, and Mr. Hackney and the conversation that I had with Individual D-6 I wrote the February 8, 1982 (LQA8200081) letter to the NRC for Individual D-2's signature, stating in effect that the CNS EWS was installed and was operational."
- Certainly D-6 contributed to the misrepresentation. (Note D-2 states "I asked him, Individual D-5, if in fact the language in the letter was correct and he told me that he had checked with someone in Engineering (don't recall who) and they had assured him it was in fact correct.") However, the "aforementioned conversation between myself, Individual D-4 and Mr. Hackney" which is cited as part of the basis for the February 8 letter apparently preceeded the misrepresentations by D-6. D-4 and D-5 had already reached the conclusion the mobile siren units were installed and operational in that conversation.
- In light of this, why does the investigation report conclude "Contents of the aforementioned letter and briefing were based on information from the project's lead engineer, an NPPD employee, who admitted providing the information to upper management, knowing that it was not accurate" (Investigation Report, p. 3). The letter was supposed to simply document in writing a representation that had already occurred prior to the identified misrepresentation by D-6.
- As a side point "the briefing" refers to a March 9, 1982 briefing given by D-4. (Exhibit 6 is a handout from the briefing.) Note that D-3 states "I attended a meeting with both Individual D-4 and Individual D-6 prior to the briefing and Individual D-6 did state that the system was installed and was operational" while Individual D-4 states "The handout that I gave to the NRC (dated March 5, 1982) was basically a smooth copy that I made from a draft that was provided to me by Individual D-3 and which had been drafted by Individual D-6."

Also on the Friday before the briefing I received information verbally from Individual D-3 that the mobile siren system had been completed. The conversations I had with Individual D-3 left me with the opinion that the information he was giving to me had been given to him by Individual D-6." I find this interesting--particularly in light of item 1. (Note the investigative summary of Individual D-4's statement does not provide details sufficient to allow identification of this inconsistency.)

Perhaps the investigators or inspectors had sufficient information to discount my concerns. However, based on the information in the investigative report and exhibits, I question whether D-3, D-4, and D-5 were pushed sufficiently concerning their roles in this situation.