



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

July 28, 1983

cc: R. Starostecki  
 T. Martin ✓  
 R. Keimig  
 J. Gutierrez  
 8/5/83-TEM

*Seckin*  
*Ros*  
*Rosen*  
*Stella*  
*Denton*  
*Deputy*  
*Mohr*  
*Stunnenberg*

MEMORANDUM FOR: Herzel Plaine, General Counsel  
 FROM: James J. Cummings, Director  
 Office of Inspector and Auditor  
 SUBJECT: HARTMAN CASE

Because of the Commission's July 14, 1983, letter to Congressman Udall regarding the so-called Hartman allegations and your possible future conversations with Department of Justice (DOJ) officials on the same subject, I thought it might be useful to identify and review some of the major issues:

First, the fact is that almost three and one-half years after referral and despite all requests by NRC for expeditious handling - including a recent letter from Chairman Palladino to Attorney General Smith - this investigation continues to be firmly aground at the grand jury stage with DOJ still unwilling to commit to a prospective completion date.

Second, while DOJ may theoretically contend that the continuing nature of their investigation should not impair the NRC's ability to address and resolve the TMI restart issue, this is just not so. The practical facts of life are that DOJ's investigation could result in criminal indictments. This eventuality, depending on the nature of any indictment, could be a major factor in the TMI restart decision. Furthermore, as long as the DOJ's investigation continues, NRC's Office of Investigations will in all likelihood not be able to fully and expeditiously investigate the Hartman allegations. Individuals connected with this matter who perceive themselves as being targets of the DOJ criminal investigation may avoid NRC's interview by simply asserting a Fifth Amendment privilege.

Third, legal complications notwithstanding, it is clearly in the public interest that the NRC be informed of all information that is significant to the restart question, including such information developed as a result of a DOJ investigation. It appears unlikely that this information will be provided and will need to be developed independent of the DOJ investigation.

Fourth, in addition to my May 31, 1983, letter to Mr. Jensen, I will provide you a detailed chronology with regard to DOJ's assertion that (a) NRC was only asked to curb its investigation, and (b) DOJ gave us permission to restart our investigation in October 1981. I have no qualms about banging heads with DOJ on these two issues however such an encounter is not likely to encourage DOJ to cooperate with us on the more important issue of committing to bring their investigation to a speedy conclusion.

Several weeks ago I discussed this matter with Commissioner Asselstine who suggested that if DOJ makes similar requests in the future that NRC should insist that such requests be made in writing at the Deputy Assistant Attorney General level. I agree, and in retrospect, I should have insisted on such a letter.

Attachments:

- A. Chronology
- B. Chronology

cc: Commission (4) w/atts  
W. Dircks, EDO w/o atts  
V. Stello, EDO w/atts  
B. Hayes, OI w/atts