



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

September 7, 1983

MEMORANDUM FOR: Chairman Palladino

FROM: William J. Dircks
Executive Director for Operations

SUBJECT: REPORT TO THE CHAIRMAN ON ALLEGATIONS OF THOMAS APPEGATE
CONCERNING CONDUCT OF OFFICE OF INSPECTOR AND AUDITOR

This is in response to your August 4, 1983 memorandum requesting comments on the Hoyt-Aloot Report's findings and recommendations.

Detailed comments are being or have been prepared by Cummings, Keppler and Stello. My comments will be more general in nature. My references will be confined to Keppler and Stello in view of the reporting channel of Cummings to the Commission.

I read Mr. Stello's response, and he has made a number of comments that I believe call into question the basis for the set of findings and conclusions. I understand that Mr. Keppler is preparing his response and that he will submit it to the Commission within the next day or so. I hope that the Commission gives as much consideration to Stello's and Keppler's remarks as it gives to the views of Hoyt and Aloot.

The problem with a report such as this one, which appears to have strayed away from its assigned objectives, is that the damage it does to individuals may be irreparable. Few listen to the replies of the subjects of such reports. In looking back over the history of reports of allegations against senior managers of the agency, most of the charges wither away after scrutiny. The stain, however, remains on the reputation and standing of the staff member and, indeed, on the public view of the agency. This report looks like it will follow the usual pattern. There are no charges of violations of statute or regulation and it states that there were no "improprieties in fact" (whatever that term means). What appears to trouble the report writers is that the actions, decisions, words and thoughts of individuals made or taken in the heat of an operational situation do not seem to measure up to whatever personal standards of behavior or policy that the authors are able to come up with in the luxury of hindsight.

The report was unfair in its rather hard criticism of Stello and his alleged failure to carry out the Commission's policy on criminal investigations. When a report writer criticizes a staff member for not carrying out a policy, the least he should be compelled to do is to determine whether or not the Commission had agreed on a policy. In the case of criminal versus other types of investigations, the authors of this report have not done so. The

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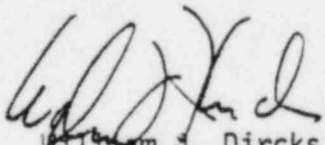
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result is policy making by investigative reporting. If the authors want the agency to adopt a policy regarding criminal investigations, then let them convince the Commission of the correctness of that policy proposal. But in advocating their position let them do it through our regular policy making process where the issues can be openly discussed and debated. They certainly should not use a report dealing with professional behavior of a staff member to advocate a personal policy preference.

This agency has been staffed with highly dedicated career public servants. They have taken an oath of office to serve the public in a highly emotionally and politically charged area. Their decisions will irritate and infuriate one or the other side. Charges by the losing party of foul play and accusations of sinister motives are the usual result of an NRC decision. We can expect that from vested interests. We should not tolerate such looseness from our own staff or leadership.

I know the Commission will review carefully the Hoyt-Aloot Report. I hope that it will give equal weight to the views and comments of Keppler and Stello. If it is convinced that Hoyt and Aloot are correct and the report is accurate and that the conclusions are based on sound regulatory and statutory grounds, then it should take clear and strong action against individuals. If, on the other hand, it finds that the bases of the findings and recommendations lack merit or that the investigators overstepped their mandate, then the Commission should also act and issue a clear statement of support for the parties whose professional reputation have been tarnished. It should, at the same time, emphasize that investigators will be held accountable for their investigations.

Wrongdoing should be sought out and punished. But each time the Agency subjects its staff to the ordeal of another free roaming investigation, without some consideration of the merit of the allegation, the source of the allegation and the reputation of the person against whom it is directed, it hastens the erosion of the basic foundation of the agency. That foundation is the relationship of mutual trust, loyalty, support and respect that must exist between the leadership and the staff of NRC.



William J. Dircks
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for Operations

CC: Commissioner Gilinsky
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal

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