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HARRISBURG

January 22, 1985

James Asselstine, Commissioner
Nuclear Regulatory Commission
1717H Street, Northwest
Washington, D.C. 20555

Dear Commissioner Asselstine:

Two weeks ago I wrote to you regarding the dismissal or replacement of Administrative Law Judge Ivan Smith. I have not yet received the courtesy of an acknowledgement of my letter. In addition, I have learned from newspaper accounts that the Nuclear Regulatory Commission may be addressing Three Mile Island issues at scheduled meetings on January 28 and 31, 1985.

I have attached a copy of Ivan Smith's letter to Judge Sylvia H. Rambo. I am quite puzzled by the notations, acknowledgements and dates that I have circled in red. Quite obviously, Ivan Smith filed a copy of his letter with the Nuclear Regulatory Commission. Quite obviously, Ivan Smith believed that the Nuclear Regulatory Commission would have no problem with his letter. Quite obviously, Ivan Smith was wrong in writing to Judge Rambo. Because the attached letter has become so controversial in Pennsylvania, I certainly hope that you have already read it. The letter was filed with the Nuclear Regulatory Commission; I therefore assume it to be public knowledge.

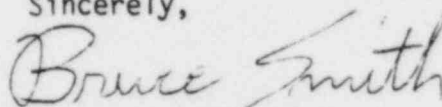
I again strongly protest Ivan Smith serving as Administrative Law Judge any longer. His authorship of this controversial letter and sitting as an impartial judge is best illustrated in the contradiction of two consecutive sentences within his own letter: "It is adequate to assure that the operators of Three Mile Island are persons of competence and integrity. Many weeks of public NRC hearings have been devoted to the issue of TMI management integrity and operator competence and, in fact, hearings on that very issue are still in progress." How can Ivan Smith possibly assure Judge Rambo of the competence and integrity of the operators of Three Mile Island while the public hearings on management integrity were still in progress? It is impossible!

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Commissioner Asselstine
January 22, 1985
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According to NRC regulations, Ivan Smith will be the first person to judge whether or not he should be dismissed or removed from office. Ivan Smith was so certain that his attached letter was within the law that he provided a carbon copy to the Nuclear Regulatory Commission. He, above all, should not be the one to judge himself. Even President Nixon was not permitted to judge himself. You as a Nuclear Regulatory Commission member are the last hope for justice in the case of Ivan Smith. Regardless of how he decides, he must answer to someone higher. Hopefully, you - in your position of responsibility - will see that justice is done.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Smith". The signature is written in dark ink and is positioned above the typed name.

Bruce Smith

BS:kut
Attachment

11125 Powder Horn Drive
Potomac, Maryland 20854
December 27, 1984

DOCKETED
USNRC

DOCKET NUMBER
PROD. CONTROL FILE

50-289 SP

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED JAN 2 1985

Honorable Sylvia H. Rambo
U.S. District Judge
% Robert Ruth, Probation Officer
U.S. Probation Office
Federal Building
3rd and Walnut
Harrisburg, Pennsylvania 17108

Re: United States v. James R. Floyd
Crim. No. 84-00099 (M.D. Pa.)

Dear Judge Rambo:

I hope that the Court will be lenient with James R. Floyd. As an administrative law judge with the Nuclear Regulatory Commission, I have served since August 1979 as the Chairman of the Atomic Safety and Licensing Board presiding over the proceeding considering the proposed restart of Three Mile Island Unit No. 1. Much of this proceeding has involved issues of the integrity and competence of the managers and operators of Three Mile Island Nuclear Station. I have been informed that the recommendation contained in the Board's decision of July 27, 1982 (16 NRC 281, 344-55) brought about the investigation and subsequent indictment of Mr. Floyd.

While serving as Chairman of the Three Mile Island Licensing Board I have had an excellent opportunity to gain some insight into the events and the affected persons following the 1979 accident at the station. I hasten to add, however, that I know nothing about Mr. Floyd except the information produced on the public hearings most of which is set out in our July 1982 decision. Also, my comments are personal and I do not speak for the Nuclear Regulatory Commission or for any other person.

I have basically two grounds for believing that leniency is appropriate. The first pertains to the background against which Mr. Floyd's actions should be judged. Mr. Floyd worked very hard in the months following the accident. He possesses excellent technical skills. Management depended very heavily upon him in addressing the many problems needing solution on the island. I have always felt that Mr. Floyd's deception was an impulsive act and that it was not motivated by personal ambition. He could have sought relief from his other duties in order to train properly for the requalification examination, to his personal benefit. He could have passed easily without deception. One senses he neglected his examination responsibilities out of a misguided but altruistic effort to attend to matters of perceived greater urgency. In addition, he apparently felt that he was well qualified notwithstanding his licensing status.

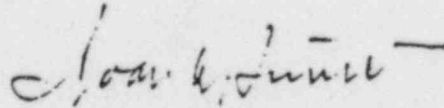
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My second reason for hoping for lenient treatment for Mr. Floyd is that severe punishment is not necessary as a deterrent. I recognize that, whatever his motive, cheating on the requalification examination was a very serious matter and cannot be condoned or appear to be condoned. However, Mr. Floyd's damaged career and public humiliation will be seen by others as too high a risk and price for any gain from cheating.

More important, however, a severe criminal penalty against Mr. Floyd, in my personal view, is not needed to insure the integrity of the NRC operator licensing process at Three Mile Island, nor would it be useful. The civil regulatory scheme presently administered by the NRC is exceedingly thorough. It is adequate to assure that the operators of Three Mile Island are persons of competence and integrity. Many weeks of public NRC hearings have been devoted to the issue of TMI management integrity and operator competence and, in fact, hearings on that very issue are still in progress. I have confidence that the NRC administrative regulatory process, with extensive public participation, will provide an orderly and reliable mechanism for assuring that any problems caused by deception respecting Three Mile Island will have been identified and resolved. Deception in the future is very unlikely. A severe sentence for Mr. Floyd would add nothing.

Sincerely,



Ivan W. Smith

cc: William J. Fulton, Esq.
Herzel E. Plaine, General Counsel, NRC
Parties to TMI-1 proceeding