



U.S. Department of Justice

Criminal Division

Deputy Assistant Attorney General

Washington, D.C. 20530

JAN 2 1985

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Honorable Morris K. Udall
Chairman
Committee on Interior and
Insular Affairs
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

On October 17, 1983, the Nuclear Regulatory Commission (NRC) submitted materials to your Committee which included a statement written in consultation with this Department. The full text of that statement is enclosed. We have subsequently received information pertinent to that statement which we feel constrained to call to the Committee's attention.

You will recall that a dispute arose in mid-1983 concerning whether this Department had notified the NRC in the fall of 1981 that it could proceed with its civil investigation of the so-called Hartman allegations relating to the operation of Unit 2 of the Three Mile Island (TMI) nuclear power plant. In a letter dated May 23, 1983, you asked the NRC to explain the discrepancy between its position and that of this Department.

In August 1983, an NRC official sought and obtained a meeting with officials of this Department to discuss how the Commission would respond to our inquiry. At that meeting, the NRC official represented that he had conducted an inquiry within his agency and had been unable to find any indication that the NRC had received the notification. Relying in good faith on that representation, the Department agreed to the enclosed statement which acknowledges the existence of a "disagreement" between the two agencies over whether the NRC "was advised in October 1981 it could proceed with its investigation...." It suggests that "a misunderstanding may have emanated" from a failure of oral communications.

We have subsequently received information which leads us to believe that the Department of Justice was misled by the NRC in that August 1983 meeting regarding the NRC's knowledge of our

conveyance in the fall of 1981 to the Commission that it could proceed with a civil investigation. Accordingly, this Department's concurrence with the NRC regarding the basis of the dispute between us appears misplaced because we relied on what we now believe to be erroneous information supplied to us by that agency.

At the present time, the Department of Justice is examining the matter to determine whether any NRC official involved with the submission of this information engaged in prosecutable criminal misconduct. Please understand that in view of our ongoing examination of this matter, we are not in a position to provide further details at this time. However, when that examination and any resulting action have been completed, we will be available to advise the Committee more fully about this matter.

Sincerely,

Victoria Toensing
Victoria Toensing
Deputy Assistant Attorney General
Criminal Division

cc: Honorable Manuel Lujan, Jr.
Ranking Minority Member