



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

December 8, 1978

CHAIRMAN

The Honorable Morris K. Udall
Chairman
Subcommittee on Energy and Environment
Committee on Interior and Insular Affairs
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

In response to your letter of September 18, 1978 concerning Lee V. Gossick's testimony on July 29 and August 8, 1977, the Commission has met to discuss the questions you asked. We have reached the following conclusions.

1. Does the Commission believe that on July 29 and August 8, 1977 Mr. Gossick to the best of his ability presented truthful and complete testimony in responding to questions asked by Committee members?

We accept Mr. Gossick's position that his testimony was truthful to the best of his ability, i.e., that what he said was what he believed to be correct. In accepting this proposition, we must explicitly acknowledge that we are finding the testimony to be truthful in the sense just stated without finding it to be wholly correct. The dictionary contains several definitions of the word truthful, but as we understand the question, it comprehends an assessment of Mr. Gossick's intention.

We believe, however, that the testimony was not complete. At the July 29th hearing, we believe that Mr. Gossick should have been more expansive -- either by detailing the limits of his knowledge of the matter, or by clearly defining what he meant by the word "evidence." At the August 8th hearing, we believe that Mr. Gossick should have limited his testimony to the period covered by the NURE report (post-1968) and, in the absence of a clearly stated Commission view, should not have volunteered a Commission position on the Apollo/NUREG matter. Also, he should have indicated that Commissioner Gilinsky objected to the flat phrase "no evidence."

2. Does the Commission believe that on July 29, 1977 Mr. Gossick had a responsibility to present a more accurate description of the NRC's state of knowledge about NUMEC; e.g., a statement more consistent with the Conran Task Force report and attachments thereto?

The Nuclear Regulatory Commission is required by law to keep the Congress "fully and currently informed." We have agreed, and Mr. Gossick has agreed that his testimony fell short of this requirement. Mr. Gossick had an obligation to give the Subcommittee as accurate and full responses to its questions as he was able. Furthermore, he had an obligation to prepare himself for his appearance to the best of his ability under the circumstances, including familiarizing himself with all relevant documentation such as the Conran Task Force Report and attachment. We do feel that two additional factors warrant consideration --

- Preparation for the July 29th hearing occurred during a period when Mr. Gossick was "the NRC" -- i.e., in the absence of a quorum of Commissioners, he assumed responsibility for running the Agency -- a position for which he had not been prepared, especially in light of the fact that the EDO's position had not historically been involved in or kept familiar with all major actions of the NRC.

- The NRC staff members who prepared questions and answers for Mr. Gossick believed the "no evidence" statement was correct; the "no evidence" statement had appeared in various earlier documents prepared by the staff.

Therefore, on July 29, 1977, Mr. Gossick was ill-prepared to give a more accurate description. We all agree we would prefer he had -- but it is not possible to conclude that on the 29th he should have been prepared to -- there were too many items, particularly focusing on Mr. Conran and allegations about the way he had been treated, for Mr. Gossick to absorb all issues.

3. Does the Commission believe that Mr. Gossick's testimony on July 29 and August 8, 1977 and his subsequent response to Committee inquiries (including the testimony on February 27, 1978) meets the standards of performance the Commission expects of its Executive Director?

Review by the Commission indicates that Mr. Gossick's testimony did not meet the standards expected of the Executive Director in communicating with the Congress since ambiguity and inaccuracy have been determined to be included in that testimony. However, we believe the ambiguity and

inaccuracy to be attributable in part to institutional failures by the Nuclear Regulatory Commission. In some respects, the Commission believes Mr. Gossick's testimony departed from the high standards which we expect from the Executive Director. On July 29th he should have detailed so much of the Apollo/NUMEC matter as he then knew, or clearly defined the phrase "no evidence." On August 8th, in the absence of a clearly stated Commission position, he should not have reflected a Commission position on the Apollo/NUMEC matter. On August 2nd there had been a lengthy meeting to review release of the MUF data. At this meeting, Commissioner Gilinsky stressed he found "no evidence" unacceptable - that it needed qualification such as "no conclusive evidence." Although Mr. Gossick was at the small meeting that followed, none of the participants is sure that Mr. Gossick was present throughout the entire meeting when Commissioner Gilinsky went over the CIA briefing. However, the earlier discussion alone should have been enough to alert him to Commissioner Gilinsky's concerns about "no evidence" and he should have mentioned them on August 8th.

4. Does the Commission believe this is [a] matter where disciplinary action is required?

In its deliberations on this matter, the Commission has discussed the question of whether disciplinary action is required. We believe that appropriate actions have already been taken; namely, Mr. Gossick was formally requested to correct the record of the July 29 and August 8, 1977 hearings. In making this request, the Commission informed Mr. Gossick of its conclusions that his testimony on July 29th was inherently ambiguous and had the potential to mislead, and his August 8th testimony in the matter of evidence of diversion was incorrect. This was a public reprimand. We believe this to be adequate disciplinary action as far as Mr. Gossick is concerned.

In an additional direction to Mr. Gossick, which was also sent to the senior staff, the Commission has given specific guidance which reaffirms the Commission's commitment to full and complete disclosure and absolute candor in our relationships with members of Congress and its Committees.

Finally, you requested a clarification of the Commission's instructions to Mr. Gossick on the precise manner in which he was to correct the record. On August 11, 1978, a letter was sent to Mr. Gossick requesting that he act to correct the records in the two hearings (July and August 1977 hearings). As an enclosure to that letter was the memorandum to Gossick and Office Directors captioned "Testimony Before the Congress." Subsequently, on August 16, 1978, Mr. Gossick provided the Commissioners with the two letters he sent to correct the records as we had requested. Copies of all the documents mentioned above are enclosed for information.

The Honorable Morris K. Udall

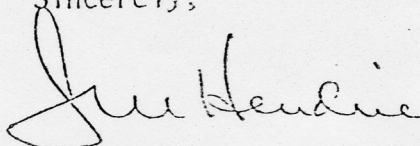
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The Commission did not give Mr. Gossick any detailed guidelines for accomplishing this task. If the Subcommittee considered it appropriate, the Commission will request Mr. Gossick to submit revised testimony. Mr. Gossick was not requested to correct any testimony other than that of the July 29 and August 8, 1977 hearings.

After over a year of review of this issue, we sincerely hope this letter can serve to close these questions. Regarding the much more fundamental question as to what, if anything, happened at Apollo/NUMEC, the answers are not clear. The NRC does not have a direct connection with that incident, although we are interested in learning lessons from it. Consequently, the NRC will continue to request information on the incident and, this time, keep the Executive Director informed. Obviously, there are many people familiar with the information that exists on this subject who seriously suggest a diversion occurred, and they have arguments that do have substance. We have seen no hard proof, one way or the other, but there are various circumstantial items that keep the question unanswered.

As you know, Commissioner Gilinsky has chosen to answer your September 18th letter separately. Further, Commissioners Kennedy, Bradford, and I expressed individual views in the context of your February 27, 1978, hearing. While concurring in this letter, each of us still holds those separately expressed views as well.

Sincerely,



Joseph M. Hendrie

Enclosures:

1. Ltr. 8/11/78 to Gossick
w/encl.
2. Ltrs. 8/16/78, Gossick to
Subcommittees

cc: The Honorable Robert Bauman