



**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2000-158

1

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

David Parrish

DATE

APR 26 2000

**PART I. -- INFORMATION RELEASED**

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES **A,B** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES **A,B** Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

**PART I.A -- FEES**

- AMOUNT \*  You will be billed by NRC for the amount listed.  None. Minimum fee threshold not met.
- \$  You will receive a refund for the amount listed.  Fees waived.
- \* See comments for details

**PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE**

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

**PART I.C COMMENTS (Use attached Comments continuation page if required)**

Since an enclosure to record number A/3 is copyrighted, you are not being provided a copy of this record. The copyrighted record will be available for inspection only at the NRC's Public Document Room.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2000-158

APR 24 2001

**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES  
**B**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.

Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.

Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.

Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).

The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).

Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:

Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)

Attorney-client privilege. (Confidential communications between an attorney and his/her client)

Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.

Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.

(A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).

(C) Disclosure would constitute an unwarranted invasion of personal privacy.

(D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.

(E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.

(F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.

OTHER (Specify)

**PART II.B -- DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Dennis K Rathbun	Director, Office of Congressional Affairs	Appendix B			✓

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A  
RECORDS BEING RELEASED IN THEIR ENTIRETY  
(\*INDICATES COPYRIGHTED RECORDS)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	4/25/97	Letter to S Jackson from J McCain (2 pages), June 4, 1997 Letter to J McCain from S Jackson (3 pages), 5/6/97 Letter to J McCain from D Rathbun (1 page)
2.	1/5/95	Letter to D Rathbun from J McCain (1 page), 10/26/94 Letter to J McCain from P Birnie (2 pages), 1/30/95 Letter to P Birnie from W Russell (3 pages)
3.	6/17/96*	Letter to J McCain from S Brooks (1 page), 6/4/96 Letter to D Forrister from J McCain (1 page) 9/30/95 Letter to J McCain from P Birnie (1 page) enclosing <b>copyrighted 9/18/95 The Nuclear Monitor</b> (2 pages), 7/17/96 Letter to J McCain from J Taylor (4 pages), 6/28/96 Letter to J McCain from D Rathbun (1 page), 7/17/96 To OCA from D Mossburg (1 page)

**APPENDIX B  
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	7/28/93	Letter to J McCain from B Betancourt <b>(RELEASE)</b> (1 page), 7/9/93 Letter to E Cecchetti from J McCain <b>(RELEASE)</b> (1 page) 5/23/93 Letter to Senator McCain from D Matthews (1 page) <b>(WITHHOLD PART, EX. 6)</b> , 8/24/93 Letter to J McCain from J Taylor (2 pages) <b>RELEASE</b>
2.	4/6/93	Letter to J McCain from R Pettit (1 page) <b>(WITHHOLD PART, EX. 6)</b> , 9/16/93 Letter to J McCain from D Rathbun (1 page) <b>(RELEASE)</b> , 9/22/93 Letter to J McCain from D Rathbun (2 pages) <b>(RELEASE)</b>

EDO Principal Correspondence Control

FROM:

DUE: 05/12/97

EDO CONTROL: G970316

DOC DT: 04/25/97

FINAL REPLY:

Senator John McCain

TO:

Chairman Jackson

FOR SIGNATURE OF :

\*\* PRI \*\*

CRC NO: 97-0411

Chairman

DESC:

ROUTING:

CONCERNS REGARDING A URANIUM TAILINGS PILE NEAR  
THE COLORADO RIVER IN MOAB, UTAH

Callan  
Jordan  
Thompson  
Norry  
Blaha  
Burns  
Bangart, SP  
Merschhoff, RIV

DATE: 05/01/97

ASSIGNED TO:

CONTACT:

NMSS

Paperiello

SPECIAL INSTRUCTIONS OR REMARKS:

AI

ACK



JOHN McCAIN  
ARIZONA

CHAIRMAN, COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
COMMITTEE ON ARMED SERVICES  
COMMITTEE ON INDIAN AFFAIRS

## United States Senate

241 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0303  
(202) 224-2235

1839 SOUTH ALMA SCHOOL ROAD  
SUITE 375  
MESA, AZ 85210  
(602) 491-4300

2400 EAST ARIZONA  
BILTMORE CIRCLE  
SUITE 1150  
PHOENIX, AZ 85016  
(602) 952-2410

450 WEST PASEO REDONDO  
SUITE 200  
TUCSON, AZ 85701  
(520) 670-6334

TELEPHONE FOR HEARING IMPAIRED  
(202) 224-7132  
(602) 952-0170

April 25, 1997

Shirley Ann Jackson  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Ms. Jackson:

I am writing because I am very concerned about a uranium tailings pile near the Colorado River in Moab, Utah. I understand that remediation proposals are currently under consideration by the Nuclear Regulatory Commission (NRC) and a final Environmental Impact Statement (EIS) will be issued soon.

According to media reports, this tailings pile is located in the river's flood plain. I further understand that the spring flows are expected to be the highest in 15 years and that some environmental groups believe the site poses a threat to the Colorado River. I ask that you work with the EPA to ensure the area is secured from the Spring flows.

I am also concerned about how to remediate the tailings pile in the long-term and want to be sure that any action comports with the Clean Water Act. Therefore, I have contacted the Environmental Protection Agency to ask that they evaluate any proposed remediation to ensure that the Colorado River is protected.

I understand that the NRC is poised to issue an EIS which does not require moving the uranium tailings pile but, instead, would cap the materials in place. I am extremely concerned that, given the proximity of these harmful materials to the Colorado River, a flood event could lead to its contamination.

Therefore, in accordance with all appropriate rules, regulations and ethical guidelines, I ask that you take all steps necessary to ensure that any long term plan for remediation of the tailings pile protects the Colorado River and that, in the interim, the Colorado River is protected against any risks that may be posed by an excessive spring flow.

The Colorado River is a vital natural resource. I am sure that you agree that we must do all we can to protect it from pollution.

Sincerely,

A handwritten signature in cursive script that reads "John McCain". The signature is written in dark ink and is positioned above the printed name.

John McCain  
United States Senator

JM/bsl



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

June 4, 1997

Distribution:

LJCallan  
EJordan  
HThompson  
PNorry  
JBlaha  
C. Paperiello, NMSS  
M. Fliegel, NMSS  
E. Merschhoff, RIV  
R. Bangart, SP  
GT970316  
EDO r/f

The Honorable John McCain  
United States Senate  
Washington, D.C. 20510-0303

Dear Senator McCain:

I am responding to your letter of April 25, 1997, in which you expressed concern about a uranium mill tailings pile near the Colorado River in Moab, Utah. The mill is owned by Atlas Corporation, which holds Nuclear Regulatory Commission (NRC) license SUA-917. Your letter raises several concerns related to the vulnerability of the tailings pile to damage from Colorado River floods and the subsequent consequences to the river.

The Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, as amended, established the framework for NRC regulatory authority over uranium mill tailings. In accordance with UMTRCA, the Environmental Protection Agency (EPA) promulgated standards for the reclamation of tailings piles, and NRC conformed its regulations to those EPA standards. The NRC requirements appear in Appendix A to 10 CFR Part 40 (Part 40). Part 40 requires that the tailings reclamation be designed to be effective in the control of radiological hazards for 1000 years. NRC standards also require that this 1000-year control be achieved without reliance on active maintenance. In the review of licensees' proposed reclamation plans and the ability of the plans to meet the 1000-year standard, NRC considers natural phenomena that may pose a threat to the tailings piles, including the potential for erosion by floods and runoff from precipitation.

In March 1997, following review of the Atlas reclamation design, the NRC staff concluded that it met the applicable standards in Part 40. The staff's conclusions on flooding and erosion are documented in its Technical Evaluation Report (Enclosure). The NRC review considered not only floods on the Colorado River, but also floods on Moab Wash, a nearby ephemeral stream, as well as the capability of the pile's drainage system to convey runoff from intense local precipitation without disturbing the tailings. The staff concluded that Colorado River floods do not present an erosion threat to the tailings because 1) there is a narrow gorge two miles downstream that restricts flow, resulting in a backup of flood waters upstream; 2) due to the backup, water will spread over a large area, particularly on the Moab side of the river, and this large flow area results in low velocities; and 3) dense vegetation near the tailings pile will keep velocities low. Floods in Moab Wash present a greater erosion threat to the tailings pile than floods from the Colorado River, and the erosion protection design addresses that threat.

Your letter also raised concerns about the effects of this year's spring flood, which is expected to be greater than normal. Presently, it is not clear if the spring flood will exceed the 1984 flood, because spring runoff depends on highly variable factors such as snowpack, temperature, and coincident rainfall amounts. However, even if the 1984 flood were exceeded, no erosion or damage to the pile is anticipated because there is a temporary

Originated by: [M. Fliegel, NMSS]

cover that will avoid tailings contact with the river, and, as stated above, floods on this reach of the Colorado River are non-erosive. It should be noted that the 1984 flood reached the toe of the tailings pile with no adverse erosion consequences.

It is possible that during a flood a small amount of the contaminated leachate in the tailings may seep into the river. The leachate contains heavy metals, uranium, and ammonia, but the amounts that could seep into the river during a flood would be insignificant given the large amount of dilution that would occur.

The NRC has worked closely with the EPA Denver office in the preparation of the Final Environmental Impact Statement. This working relationship has helped NRC understand and address all concerns raised by EPA as a result of EPA's review of the Draft Environmental Impact Statement. In addition, the NRC is waiting for the Fish and Wildlife Service (FWS) to prepare a final Biological Opinion under Section 7 of the Endangered Species Act. This is the last piece of information NRC needs to issue the Final Environmental Impact Statement. At present, FWS is scheduled to provide NRC with a draft Biological Opinion no later than mid-June 1997. Once this is received, NRC will work with FWS and Atlas, if appropriate, to develop a final Biological Opinion.

As part of its evaluation of groundwater cleanup at the site, NRC will ensure that groundwater contaminants are cleaned up to the applicable standards. Currently, near-surface groundwater between the tailings pile and the river is contaminated and some of this contamination is seeping into the Colorado River. As a result there is a small mixing zone in the Colorado River with elevated levels of some constituents, with ammonia being of greatest concern. This contamination is a remnant of mill operations from decades ago; it exists independently of whether the tailings are moved, and will slowly flush into the Colorado River. This situation is a short-term impact that should be substantially improved once reclamation, including an impermeable cover to reduce infiltration into the tailings, is complete, and the groundwater is cleaned up to appropriate standards. The State of Utah, as an EPA permitting State, is responsible for the regulation of ammonia in both the groundwater at the site and the Colorado River. NRC plans to follow closely the State of Utah review of the ammonia situation.

In summary, the NRC agrees that the Colorado River is a vital natural resource that must be protected. Toward that end, the NRC staff will ensure that the reclamation plan proposed by the Atlas Corporation provides reasonable assurance that public health and safety and the environment are protected. If I can be of further assistance, please contact me.

Sincerely,



Shirley Ann Jackson

Enclosure:  
Technical Evaluation Report

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**Final  
Technical Evaluation Report  
for the Proposed Revised  
Reclamation Plan for the Atlas  
Corporation Moab Mill**

**Source Material License No. SUA 917  
Docket No. 40-3453  
Atlas Corporation**

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**U.S. Nuclear Regulatory Commission**

**Office of Nuclear Material Safety and Safeguards**

**March 1997**





UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 6, 1997

The Honorable John McCain  
United States Senate  
Washington, DC 20510

Dear Senator McCain:

This is to acknowledge receipt of your letter dated April 25, 1997, concerning a uranium tailings pile near the Colorado River in Moab, Utah.

Please be assured that we are working on a response and a reply will be forwarded to you as soon as possible.

Sincerely,

A handwritten signature in cursive script that reads "Dennis K. Rathbun".

Dennis K. Rathbun, Director  
Office of Congressional Affairs

EDO Principal Correspondence Control

FROM:

DUE: 01/26/95

EDO CONTROL: 0000023

DOC DT: 01/05/95

FINAL REPLY:

Sen. John McCain

TO:

Dennis Rathbun, OCA

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 95-0025

Russell

DESC:

ROUTING:

ENCLOSES LETTER FROM PATRICIA BIRNIE RE USE OF  
DEFECTIVE FIRE RETARDANT "THERMO-LAG" AT  
PALO VERDE'S THREE REACTORS

Taylor  
Milhoan  
Thompson  
Blaha  
Cyr, OGC  
JCallan, RIV

DATE: 01/12/95

ASSIGNED TO:

CONTACT:

NRR

Russell

SPECIAL INSTRUCTIONS OR REMARKS:

Reply direct to Constituent  
w/cc to Sen. McCain & mark envelope  
ATTN: Grant Seiffert.

A/2

ACB



JOHN McCAIN  
ARIZONA

COMMITTEE ON ARMED SERVICES  
COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
COMMITTEE ON INDIAN AFFAIRS  
SPECIAL COMMITTEE ON AGING

## United States Senate

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450 WEST PASEO REDONDO  
SUITE 200  
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(602) 670-6334

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(602) 952-0170

January 5, 1995

Mr. Dennis K. Rathbun  
Director, Congressional Affairs  
Nuclear Regulatory Commission  
Washington, DC 20555-0001

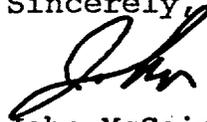
Dear Mr. Rathbun:

I have enclosed an inquiry which I have received from Ms. Patricia Birnie of Tucson, Arizona.

I would greatly appreciate it if you would review this material within existing rules, regulations and ethical guidelines. Please send a prompt response addressing this issue directly to my constituent, and provide me with a copy of the response for my records.

PLEASE SEND THE COPY TO THE ATTENTION OF: Grant Seiffert in my Washington office, 111 Russell Senate Office Building, Washington, D.C. 20510. Thank you very much for your kind assistance and cooperation.

Sincerely,



John McCain  
United States Senator

JM/ges  
Enclosure

# GE Stockholders' Alliance

for a sustainable nuclear-free future

94 OCT 31 PM 2:34

October 26, 1994

1302 W. Ajo Way, # 313  
Tucson, AZ 85713-5727  
(602) 573-0658  
(602) 573-0681 Fax

Senator John McCain  
U.S. Senate  
Washington, D.C. 20510

Re: USE OF DEFECTIVE FIRE RETARDANT "THERMO-LAG" AT,  
PALO VERDE'S THREE REACTORS

## Chair

Patricia T. Birnie

## Board of Advisors

Greg Bischak  
National Commission for  
Conversion & Disarmament

Donnell W. Boardman, M.D.  
Center for Atomic  
Radiation Studies

E. Cooper Brown  
National Committee for  
Radiation Survivors

Michael Closson  
Center for Economic Conversion

Scott Denman  
Safe Energy  
Communication Council

Kay Drey  
Missouri Coalition  
for the Environment

Valerie Heinonen, OSU  
Interfaith Center on  
Corporate Responsibility

Judith H. Johnsrud, Ph.D.  
Environmental Coalition on  
Nuclear Power

Charles Komanoff  
Komanoff Energy Associates

Admiral Gene LaRocque  
Center for Defense Information

Paul L. Leventhal  
Nuclear Control Institute

Michael Mariotte  
Nuclear Information and  
Resource Service

Grigsby Morgan-Hubbard  
Energy Consultant

Miles H. Robinson, M.D.  
Citizens for Health Information

J. Andy Smith, III, Ph.D.  
National Ministries  
American Baptist Churches, USA  
CERES

William Winpisinger  
International Association of  
Machinists and Aerospace Workers

Faith Young  
Energy People, Inc.

Affiliations for Identification  
Purposes Only

Dear Senator McCain:

Arizona's three reactors at Palo Verde were built using significant amounts of Thermo-Lag as protection against fires.

Recent revelations about inadequate testing and false claims about Thermo-Lag have led to a federal indictment of the manufacturer on criminal charges.

Yet the Nuclear Regulatory Commission has been slow to demand replacement of this defective material, even though Thermo-Lag obviously does not meet the NRC regulations. In fact that so-called insulation is actually combustible under certain circumstances.

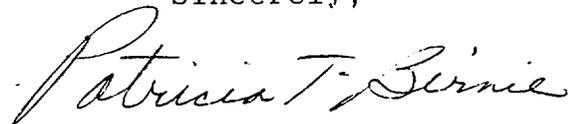
Safety systems of nuclear power plants are far too important to play around with. The purpose of the NRC is to protect the health and safety of the public.

Please use your influence to demand that the safety requirements of the NRC be implemented. All reactors using Thermo-Lag should be shut down until all of that defective material is REPLACED WITH EFFECTIVE FIRE RETARDANT MEETING NRC STANDARDS.

Please inquire about the status of Thermo-Lag replacement at all three units at Palo Verde, and send me a report of your findings. From my discussion with Arizona Public Service officials, I am not convinced that the utility is correcting the problem as quickly as I believe it should be.

Thank you for your prompt attention to this urgent and important matter. I look forward to your response.

Sincerely,



Patricia Birnie, Chair



# GE Stockholders' Alliance

*for a sustainable nuclear-free future*

October 21, 1994

1302 W. Ajo Way, # 313  
Tucson, AZ 85713-5727  
(602) 573-0658  
(602) 573-0681 Fax

Director of Nuclear Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

To the Director of Nuclear Regulation:

We are dismayed that the Commissioners and staff at the NRC have been slow to respond to the safety crisis presented by the widespread use of faulty insulation, THERMO-LAG, and in fact are compounding the issue by their acceding to utility pressure to allow continued use of this material.

The NRC presents itself as a regulatory agency whose first priority is protecting the public health and safety in regard to the licensing and operation of nuclear power plants. The NRC established stringent performance standards for insulation materials that protect vital electrical cables for both ampacity rating and how long it must resist fires. The NRC has known since 1982 that Thermo-Lag fails these standards. Even when the NRC knew that this material is combustible, the NRC still has failed to act in the public interest. It is outrageous that public safety has been compromised by NRC inaction and seeming complicity with utilities (who seek to avoid costly replacement of the faulty material). In fact, its use may even exacerbate conditions that could cause a fire since fraudulent ampacity ratings allowed utilities to use smaller cable than design requirement, therefore allowing the cable to overheat and its own insulation to deteriorate.

The NRC has stated that fire at some nuclear power plants can contribute as much as 50% of the risk of a core meltdown. The NRC also states that a typical nuclear reactor will have three to four significant fires during its licensed lifetime.

How can the NRC retain any public credibility to know the facts above, not insist that utilities uphold NRC performance standards, and further, to allow some utilities to add more Thermo-Lag? PLEASE, NO MORE COMPROMISES!

WE INSIST THAT YOU ORDER ALL UTILITIES USING THERMO-LAG TO HALT OPERATIONS UNTIL IT HAS BEEN REMOVED AND REPLACED WITH EFFECTIVE FIRE RETARDANT MEETING NRC STANDARDS.

WE DEMAND THAT THIS LETTER BE TREATED AS A SHOW CAUSE PETITION UNDER 10 CFR 2.206.

Sincerely,



Patricia Birnie, Chair

cc: NRC & Elected Officials

## Chair

Patricia T. Birnie

## Board of Advisors

### Greg Bischak

National Commission for  
Conversion & Disarmament

### Donnell W. Boardman, M.D.

Center for Atomic  
Radiation Studies

### E. Cooper Brown

National Committee for  
Radiation Survivors

### Michael Closson

Center for Economic Conversion

### Scott Denman

Safe Energy  
Communication Council

### Kay Drey

Missouri Coalition  
for the Environment

### Valerie Heinonen, OSU

Interfaith Center on  
Corporate Responsibility

### Judith H. Johnsrud, Ph.D.

Environmental Coalition on  
Nuclear Power

### Charles Komanoff

Komanoff Energy Associates

### Admiral Gene LaRocque

Center for Defense Information

### Paul L. Leventhal

Nuclear Control Institute

### Michael Mariotte

Nuclear Information and  
Resource Service

### Grigsby Morgan-Hubbard

Energy Consultant

### Miles H. Robinson, M.D.

Citizens for Health Information

### J. Andy Smith, III, Ph.D.

National Ministries  
American Baptist Churches, USA  
CERES

### William Winpisinger

International Association of  
Machinists and Aerospace Workers

### Faith Young

Energy People, Inc.

Affiliations for Identification  
Purposes Only





UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 30, 1995

Ms. Patricia Birnie, Chair  
GE Stockholders' Alliance  
1302 West Ajo Way # 313  
Tucson, Arizona 85713-5727

Dear Ms. Birnie:

I am responding to your letter of October 26, 1994, to Senator John McCain regarding the use of Thermo-Lag at Palo Verde Nuclear Generating Station, Units 1, 2, and 3. Senator McCain forwarded your letter to the U.S. Nuclear Regulatory Commission (NRC) and requested that we respond directly to you, keeping his staff informed of our response.

In your letter, you summarize several issues regarding the Thermo-Lag material and the NRC staff's response to the concerns you raised in your petition of October 21, 1994, pursuant to 10 CFR 2.206, regarding this material. The staff responded to your October 21, 1994, petition by letter of December 15, 1994, denying your request for an immediate shutdown of all reactors where Thermo-Lag fire barrier material is installed, but noting that the substantive points raised in your petition would be further addressed in a Director's Decision under Section 2.206. A copy of the staff's December 15, 1994, letter is being forwarded to Senator McCain.

Additionally, in your letter to Senator McCain, you inquired about the status of Thermo-Lag replacement at the three Palo Verde units. By letter dated September 23, 1994, the NRC required that the licensee of Palo Verde, Arizona Public Service (APS), pursuant to Section 50.54(f) of Title 10 of the *Code of Federal Regulations*, submit additional information regarding Generic Letter (GL) 92-08, "Thermo-Lag 330-1 Fire Barriers." In its response dated December 22, 1994, APS stated that all of the actions recommended in GL 92-08 to resolve the Thermo-Lag fire barrier concern were scheduled to be completed by December 30, 1995.

APS also stated that it has significantly reduced the amount of Thermo-Lag relied on for compliance with NRC fire protection requirements by reevaluating the engineering analyses and crediting operator actions. In addition, the licensee is considering the following alternatives to achieve compliance with the NRC fire protection requirements:

- (1) upgrade existing Thermo-Lag configurations to conform to tested configurations specified in the Nuclear Energy Institute Application Guide;
- (2) use fire modeling in conjunction with baseline test results to demonstrate that existing configurations provide adequate protection; and

Ms. Patricia Birnie

- 2 -

January 30, 1995

- (3) evaluate the plants' safe-shutdown analysis to determine the feasibility of taking credit for the nonclass auxiliary feedwater pump. A successful evaluation would eliminate the need for fire-rated Thermo-Lag in the main steam support structure building.

The NRC staff is reviewing these actions. Nevertheless, at this time, the compensatory measures, such as fire watches, coupled with other fire protection features, provide an adequate level of fire safety until completion of these actions.

Sincerely,

Original Signed By  
WILLIAM T. RUSSELL

William T. Russell, Director  
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529,  
and STN 50-530

cc: Senator John McCain  
111 Russell Senate Office Bldg.  
Washington, DC 20510-0303

**DISTRIBUTION:** See attached list

DOCUMENT NAME: BIRNIE.LTR

\* See previous concurrence

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NAME	DFoster-Curseen	BHolian <i>pk</i>	MMejac*	TQuay <i>for</i>	CMcCracken*	
DATE	1/27/95	1/27/95	1/20/95	1/27/95	1/19/95	
OFFICE	OGC	D:DRPW	ADP <i>RPZ</i>	M <i>NRR</i>		
NAME	LChandler*	JRoe*	RZimmerman <i>1/27</i>	<i>R</i> Russell		
DATE	1/25/95	1/25/95	1/27/95	1/30/95		

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EDO #0000023

FD-2 Rtg (w/incoming)

J. Taylor

J. Milhoan

H. Thompson

J. Blaha

J. Callan, RIV

W. Russell/F. Miraglia

R. Zimmerman

A. Thadani

J. Roe

D. Crutchfield

K. Bohrer

T. Quay

B. Holian

L. Tran

D. Foster-Curseen

M. Gamberoni

K. Cyr, OGC

OPA

OCA

SECY #CRC-95-0025

NRR Mail Room (EDO #0000023 w/incoming) (012/G/18)

N. Olson

T. Gibbons

A. B. Beach, RIV

K. Perkin, RIV, WCFO

S. West

EDO Principal Correspondence Control

FROM:

DUE: 07/10/96

EDO CONTROL: GT96474

DOC DT: 06/04/96

FINAL REPLY:

Sen. John McCain  
(6/17/96 DOE Referral)

TO:

Forrister, DOE

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 96-0652

Executive Director

DESC:

ROUTING:

ENCLOSES LTR FM PATRICIA BIRNIE, GE STOCKHOLDERS'  
ALLIANCE RE TVA'S WATTS BAR

Taylor  
Milhoan  
Thompson  
Blaha  
Ebnetter, RII

DATE: 06/26/96

ASSIGNED TO:

CONTACT:

NRR

Russell

SPECIAL INSTRUCTIONS OR REMARKS:

Put EDO and Chairman on for concurrence.  
Chairman's Office to review response prior  
to dispatch.

Mark envelope ATTN: Bridget Lanouette.

A/3

ACB





**Department of Energy**  
Washington, DC 20585

JUN 17 1996

The Honorable John McCain  
United States Senate  
Washington, D.C. 20510

Dear Senator McCain:

This will acknowledge your recent letter in which you referred a letter from your constituent:

Ms. Patricia Birnie  
Chair  
GE Stockholders' Alliance for a  
Sustainable Nuclear-Free Future  
1302 West Ajo Way, #313  
Tucson, AZ 85713

Because the subject of your constituent's letter does not fall within the purview of the Department of Energy, we have forwarded your letter to:

Mr. William M. Beecher  
Director  
Office of Public Affairs  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Sincerely,

A handwritten signature in cursive script that reads "Sheila L. Brooks".

Sheila L. Brooks  
Work Group Leader  
Correspondence and Records Management  
Office of the Executive Secretariat



JOHN McCAIN  
ARIZONA

COMMITTEE ON ARMED SERVICES  
COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
COMMITTEE ON INDIAN AFFAIRS

## United States Senate

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(602) 491-4300

2400 EAST ARIZONA  
BILTMORE CIRCLE  
SUITE 1150  
PHOENIX, AZ 85016  
(602) 952-2410

450 WEST PASEO REDONDO  
SUITE 200  
TUCSON, AZ 85701  
(520) 670-6334

TELEPHONE FOR HEARING IMPAIRED  
(202) 224-7132  
(602) 952-0170

June 4, 1996

Dirk Forrister  
Assistant Secretary for Congressional Public  
and Intergovernmental Affairs  
Department of Energy  
1000 Independence Avenue  
Room 7A145  
Washington, DC 20585

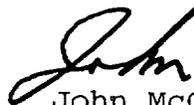
Dear Mr. Forrister:

I have enclosed an inquiry which I have received from  
Patricia Birnie of Tucson Arizona.

I would greatly appreciate it if you would review this  
material within the existing rules, regulations and ethical  
guidelines. Please provide me with a prompt response addressing  
this issue.

PLEASE MARK THE ENVELOPE TO THE ATTENTION OF: BRIDGET  
LANOUILLE in my Washington office, 241 Russell Senate Office  
Building, Washington, D.C. 20510. Thank you very much for your  
kind assistance.

Sincerely,



John McCain  
United States Senator

Enclosure  
JM/dtw

# GE Stockholders' Alliance

for a sustainable nuclear-free future

95 OCT 10 AM 11: 09

1302 W. Ajo Way, # 313  
Tucson, AZ 85713-5727  
(520) 573-0658 Phone  
(520) 573-0681 Fax

September 30, 1995

Senator John McCain  
241 Russell Senate Office Building  
Washington, D.C. 20510

## Chair

Patricia T. Birnie

## Board of Advisors

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National Commission for  
Conversion & Disarmament

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J. Andy Smith, III, Ph.D.  
National Ministries  
American Baptist Churches, USA  
CERES

William Winpisinger  
International Association of  
Machinists and Aerospace Workers

Faith Young  
Energy People, Inc.

Affiliations for Identification  
Purposes Only

Re: INVESTIGATE TVA BOONDOGGLE

Dear Senator McCain:

According to the enclosed informative article, the U.S. taxpayer may soon be forced to provide a massive bailout to rescue TVA from bankruptcy and subsidize TVA's wasteful and non-productive nuclear power program.

The August 1995 GAO report states that TVA is \$26 billion in debt in addition to \$14 billion in non-producing assets tied to its nuclear power program. Watts Bar I reactor has cost \$6.8 billion so far, and is still not complete. If finished, its costs will cause rate shock to users and further complicate a serious economic hemorrhage which TVA mis-management has caused.

I urge you to insist on an independent and thorough investigation of mismanagement of the whole TVA program with special emphasis on their nuclear components, including Watts Bar. A study commissioned by Greenpeace offers a solution: Scrap Watts Bar I and switch to wind and/or natural gas to meet any new power needs. TVA could become a showcase of how to turn red ink into black and still provide low cost power to users.

If the treatment of the two grandmothers mentioned in the article is any reflection of how TVA is being run, then we are in deep trouble. It is outrageous that the two women (and the son of one) were treated so viciously. It makes a mockery of our supposedly democratic system.

Please don't let the taxpayers pay for another scandal. Please help turn TVA around and stand on its own feet.

Sincerely,



Patricia Birnie, Chair



---

# The Nuclear MONITOR

*A Publication of the Nuclear Information & Resource Service*

---

Editor: Michael Mariotte

Staff: Diane D'Arrigo, Cindy Folkers,  
Paul Gunter, Shoshana Beth Konstant,  
Mary Olson

*2 The Nuclear Monitor, 9/18/95*

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

July 17, 1996

The Honorable John McCain  
United States Senate  
Washington DC 20510

Dear Senator McCain:

I am responding to your letter of June 4, 1996, to the Department of Energy (DOE), which DOE forwarded to the U.S. Nuclear Regulatory Commission (NRC). In your letter, you transmitted an inquiry dated September 30, 1995, from Ms. Patricia Birnie. Ms. Birnie raised concerns about the potential effect on the U.S. taxpayer of the debt currently borne by Tennessee Valley Authority (TVA) and the costs associated with its nuclear power program, particularly costs to complete construction of the Watts Bar Unit 1. She stated that if Watts Bar Unit 1 is finished, its cost would cause a rate shock to users. She requested an investigation of the TVA program, with special emphasis on Watts Bar, and apparently endorses a proposal to scrap Watts Bar and replace it with wind and natural gas energy sources. She also expressed concern about the treatment of Ms. F. Young and Ms. J. Honicker at a TVA board meeting on August 30, 1995.

Following completion of plant construction and a rigorous preoperational testing program, the NRC approved and issued a low-power operating license to TVA for Watts Bar Unit 1 on November 9, 1995. Following successful completion of reactor startup and low-power testing, an operating license for full-power operation of the plant was issued on February 7, 1996.

In general, the issues raised by Ms. Birnie concerning the effect of TVA debt on the U.S. taxpayer, the economic costs of electricity to consumers, and economic alternatives to the use of the Watts Bar plant are beyond the regulatory purview of the NRC. The NRC does evaluate the financial qualifications of certain types of licensees pursuant to 10 CFR 50.33(f). In 1972, the NRC performed a financial qualification review of TVA under this regulation and found them acceptable prior to granting TVA a construction permit to construct the Watts Bar facility. However, the Commission revised its regulations in 1982 (Federal Register at 47 FR 13750) to eliminate this review for electric utility applicants. Specifically, applicants licensed under 10 CFR 50.21(b) and 10 CFR 50.22 are exempt from financial qualification reviews in the revised version of 10 CFR 50.33(f). This exemption was based on the fact that electric utilities either have their rates regulated or they are able to set their own rates. Watts Bar Unit 1 was licensed to operate under 10 CFR 50.22. Therefore, the NRC did not review TVA's financial qualifications at the time it evaluated the operating license application for Watts Bar Unit 1.

The Honorable J. McCain

- 2 -

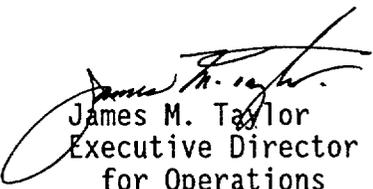
The NRC staff does, however, review utility financial information, along with reports and periodic updates found in the financial trade press. NRC uses this information to determine whether financial ratings, trends, or major changes in expenditure philosophy and other key economic issues could be indicative of present or future stresses on a licensee that could potentially affect public health and safety. All power reactor licensees are required to submit their annual financial reports pursuant to 10 CFR 50.71(b). Moreover, on June 21, 1996, the NRC staff issued Administrative Letter 96-02, in part, to remind licensees of their responsibility to assure that information regarding their financial qualifications and decommissioning funds assurance that may have a significant implication for public health and safety is promptly reported to the NRC. The NRC staff considers the overall financial well-being of the utility rather than a breakdown and correlation of specific liabilities, expenditures, and assets. The NRC staff attempts to distinguish changes and trends in major economic factors relative to a licensee's overall financial health rather than assess detailed accounting data for specific plants. The financial information, in combination with other performance indicators, may warrant additional NRC inspection activity at specific sites. The NRC staff believes that NRC's inspection program will be effective in this regard in identifying potential operational safety problems. The NRC staff intends to use this approach with TVA, as necessary.

With respect to the potential need for a bailout of TVA, we do not believe that the levels of TVA's debt necessarily indicate that TVA has, or will have, serious financial problems. Unlike its neighboring utilities, which are investor owned and can, therefore, issue stock, TVA must rely on debt or internally-generated cash to provide funds for financing capital projects. The NRC notes that Moody, a major debt-rating company, has consistently rated TVA's bonds as "Aaa." (See, for example, Moody's Public Utility News Reports, November 7, 1995, p. 4882.) This is Moody's highest rating and indicates that it believes that TVA has substantial underlying financial strength adequate to be able to repay the principal and interest on its bonds.

Ms. Birnie provided no information that suggested that the attendance of Ms. F. Young and Ms. J. Honicker at the TVA board meeting involved any safety-related aspects pertaining to operation of Watts Bar Unit 1. Accordingly, we consider those events to be beyond the scope of the NRC's regulation of the Watts Bar Nuclear Plant.

I trust this information is useful in responding to Ms. Birnie's concern. Please do not hesitate to contact us if you have any questions on this matter.

Sincerely,

  
James M. Taylor  
Executive Director  
for Operations

The NRC staff does, however, review utility financial information, along with reports and periodic updates found in the financial trade press. NRC uses this information to determine whether financial ratings, trends, or major changes in expenditure philosophy and other key economic issues could be indicative of present or future stresses on a licensee that could potentially affect public health and safety. All power reactor licensees are required to submit their annual financial reports pursuant to 10 CFR 50.71(b). Moreover, on June 21, 1996, the NRC staff issued Administrative Letter 96-02, in part, to remind licensees of their responsibility to assure that information regarding their financial qualifications and decommissioning funds assurance that may have a significant implication for public health and safety is promptly reported to the NRC. The NRC staff considers the overall financial well-being of the utility rather than a breakdown and correlation of specific liabilities, expenditures, and assets. The NRC staff attempts to distinguish changes and trends in major economic factors relative to a licensee's overall financial health rather than assess detailed accounting data for specific plants. The financial information, in combination with other performance indicators, may warrant additional NRC inspection activity at specific sites. The NRC staff believes that NRC's inspection program will be effective in this regard in identifying potential operational safety problems. The NRC staff intends to use this approach with TVA, as necessary.

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Sincerely,

*Original signed by*  
*James M. Taylor*  
 James M. Taylor  
 Executive Director  
 for Operations

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\*SEE PREVIOUS CONCURRENCE

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DATE	07/5/96	07/5/96	07/5/96	07/03/96	07/5/96	07/03/96
OFFICE	ADP	NRR	EDO	ODA	OCM **	
NAME	RZimmerman	WRussell	JTaylor		SJackson	
DATE	7/5/96	7/5/96	07/1/96	07/1/96	07/ /96	

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\*\* Approved by Commissioners  
 7/17/96

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

June 28, 1996

The Honorable John McCain  
United States Senate  
Washington, DC 20510

Dear Senator McCain:

This is to acknowledge receipt of your letter dated June 4, 1996, transmitting correspondence from your constituent, Patricia Birnie, regarding problems at Watts Bar Nuclear Power Plant.

Please be assured that we are working on a response and a reply will be forwarded to you as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis K. Rathbun".

Dennis K. Rathbun, Director  
Office of Congressional Affairs

July 17, 1996

~~EDO -~~  
OCA

The Commissioners have reviewed and concurred in the proposed response to Senator John McCain's letter dated June 4, 1996 concerning a constituent's request for an investigation of the TVA program.

Doris Mossburg, SECY



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555  
EDO Principal Correspondence Control

FROM:

DUE: 08/18/93

EDO CONTROL: 0009210  
DOC DT: 07/09/93  
FINAL REPLY:

Sen. John McCain  
(Referred by 7/28/93 ltr fm DOE)

TO:

Ann Cecchetti, DOE

FOR SIGNATURE OF:

\*\* GRN \*\*

CRC NO: 93-0696

Executive Director

DESC:

ROUTING:

ENCLOSES LETTER FROM DAVID MATTHEWS CONCERNING  
THERMO-LAG

Taylor  
Sniezek  
Thompson  
Blaha  
Knubel

DATE: 08/05/93

ASSIGNED TO:

NRR

CONTACT:

Murley

SPECIAL INSTRUCTIONS OR REMARKS:  
MARK ENVELOPE ATTN: WALTER LOHMAN.

B11  
ACB





**Department of Energy**  
Washington, DC 20585

**JUL 28 1993**

*EA  
17-F-2*

The Honorable John McCain  
United States Senate  
Washington, D.C. 20510

Dear Senator McCain:

This will acknowledge your recent letter in which you referred a letter from your constituent:

David Matthews

Because the subject of your constituent's letter does not fall within the purview of the Department of Energy, we have forwarded your letter to:

Mr. Joseph J. Fouchard  
Director  
Office of Public Affairs  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Betancourt".

Bonnie Betancourt  
Director of Special Projects  
Office of the Executive Secretariat

JOHN McCAIN  
ARIZONA

## United States Senate

WASHINGTON, D.C. 20510

July 9, 1993

Ms. E. Ann Cecchetti  
Ofc. of Congressional Affairs  
U.S. Department of Energy  
Forrestal Building, Rm. #7B138  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Dear Ann:

I have enclosed an inquiry which I have received from David Matthews of Tempe, Arizona.

I would greatly appreciate it if you would review this material and provide me with a prompt response addressing this issue.

PLEASE MARK THE ENVELOPE TO THE ATTENTION OF: Walter Lohman in my Washington office, 111 Russell Senate Office Building, Washington, D.C. 20510. Thank you very much for your kind assistance and cooperation.

Sincerely,

  
John McCain  
United States Senator

JM/wl  
Enclosure

EX 6  
5/23/93

1993 MAY  
Dear Senator McCain,

NRC and Thermo-lag

I am writing to ask you to take action with the Nuclear Regulatory Commission and to investigate the continued lack of action to eliminate Thermo-lag. Last year, the Texas Utilities found Thermo-lag was failing standard American Nuclear Insurers fire tests. NRC's documented reaction was to change the tests!

Thermo-lag appears to be a real safety risk - it is widely used in local nuclear power stations and I am personally concerned about that.

Please investigate this and try to get Thermo-lag replaced.

Sincerely,

David Matthews.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

August 24, 1993

The Honorable John McCain  
United States Senate  
Washington, D.C. 20510

Dear Senator McCain:

I am responding to your letter of July 9, 1993, in which you forwarded a letter from Mr. David Matthews of Tempe, Arizona, regarding Thermo-Lag fire barriers. The U.S. Nuclear Regulatory Commission (NRC) is pursuing technical and regulatory issues pertaining to the use of Thermo-Lag fire barriers in commercial nuclear power plants.

The need to ensure the long-term adequacy of Thermo-Lag fire barriers is a serious issue. The NRC staff understands the safety and technical issues and has established action plans to address each issue. We have issued guidance and generic information to the industry, sponsored tests at the National Institute of Standards and Technology, and reviewed in detail the information submitted by licensees with Thermo-Lag installed in their plants.

The NRC assessed the safety significance of the Thermo-Lag issues and ensured that compensatory measures have been taken by the utilities to maintain plant safety and protect the public health and safety until the deficiencies are corrected. Compensatory measures, such as fire watches, provide a level of safety equivalent to that provided by fire barriers which meet NRC fire protection regulations. The NRC also recognizes that testing criteria are needed to determine if the standards are met. Upon reviewing the test methods and acceptance criteria used by licensees, vendors, and testing facilities to qualify Thermo-Lag fire barriers, the NRC determined that the existing NRC guidance for qualification testing needed clarification. On July 23, 1993, the NRC published the revised guidance in the Federal Register for public comments. We are confident that the proposed criteria will enable us to better assess the current capabilities of Thermo-Lag as installed in plants throughout the industry.

The Nuclear Management and Research Council (NUMARC) is conducting additional Thermo-Lag fire barrier tests on behalf of the industry. The NRC staff reviewed the test program proposed by NUMARC, witnessed initial construction activities, and will continue to closely monitor all phases of the program. The NRC staff and the industry will use the results of these tests to assess further corrective actions, which may range from upgrades and repairs of current barriers to replacement of some barriers. Recent plant-specific tests performed by two licensees, Texas Utilities Electric Company and Tennessee Valley Authority, have demonstrated that Thermo-Lag fire barriers can be configured and upgraded to meet the NRC fire protection requirements.

August 24, 1993

The Honorable John McCain

-2-

The NRC Chairman and Commissioners recently appeared before the Congressional Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce. Thermo-Lag issues, as they relate to safety in commercial nuclear power plants, were discussed in detail during the hearing. Reports on the progress of NRC and industry actions to resolve these issues will be submitted quarterly to the Subcommittee.

The NRC staff and industry continue to devote significant amounts of resources and attention to the resolution of the Thermo-Lag issues. The Commission places high priority on the timely resolution of these issues. The staff has determined that the compensatory measures taken by licensees are adequate for the immediate future, and therefore that the use of Thermo-Lag does not pose an immediate threat to public health and safety. The Commission will continue to take all actions necessary to ensure that the public health and safety are protected.

Sincerely,

Original signed by  
James J. Blaha

James M. Taylor  
Executive Director  
for Operations

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DOudinot  
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PMadden  
SWest  
IMiller  
ATHadani  
MVirgilio  
MCallahan  
LNorton  
GMulley

*Handwritten:* D.NRR  
TMurley  
#18/13 8/16/93

NRR:ADT      DD:NRR      EDO  
WRussell\*    FMiraglia\*    JSniezek      JTaylor  
8/13/93      8/13/93      8/ /93      8/23/93

\*See previous concurrence

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CMcCracken\*  
8/11/93

D:DSSA  
ATHadani\*  
8/12/93

[G:\THERMOLA\ZGT9210.DO]

*Handwritten:* CCA JP  
8/24/93



JOHN McCAIN  
ARIZONA

## United States Senate

WASHINGTON, D.C. 20510

September 1, 1993

Mr. Dennis K. Rathbun  
Dir., Ofc. of Cong. Affairs  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Dennis:

I have enclosed an inquiry which I have received from Royce Pettit, Jr. of Tempe, Arizona.

I would greatly appreciate it if you would review this material within existing rules, regulations and ethical guidelines. Please provide me with a prompt response addressing this issue.

PLEASE MARK THE ENVELOPE TO THE ATTENTION OF: Grant Seiffert in my Washington office, 111 Russell Senate Office Building, Washington, D.C. 20510. Thank you very much for your kind assistance and cooperation.

Sincerely,



John McCain  
United States Senator

JM/rt  
Enclosure

9-1-93

  
April 6, 1993

EX6

The Honorable John S. McCain,  
111 Russell Building,  
Washington, D.C. 20510

Dear Senator McCain,

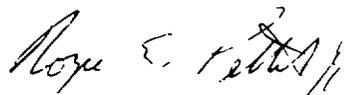
For many years I have been an emergency planner, and Radiological Defense Officer, on the Maricopa County Department of Emergency Management staff. Since joining the staff in 1977 I have been involved in the emergency planning related to the Palo Verde Nuclear Generating Station (PVNGS). At this time I wish to request your assistance in bringing to the attention of the Nuclear Regulatory Commission (NRC) some problems being caused by their local personnel.

In 1980 the NRC and the Federal Emergency Management Agency published jointly NUREG-0654/FEMA-REP-1, a joint direction for the response by state and local governments and nuclear generating stations to an emergency at such installations. It included the requirement to establish a joint emergency news center (JENC), where all information to the public and to the media would be coordinated. The essential requirement for this had been evident in the misleading information gathered from varying sources during the Three Mile Island unit 2 accident in 1979. In our annual exercises this has proved itself time and again.

However, in the March 14 Alert at the PVNGS and again in today's dress rehearsal for the evaluated exercise next month the NRC has released news information which has not been coordinated with the state and local representatives in the JENC. The information does not necessarily agree with that generated by local government or the station, and in a real event would negate the advantages of giving clear information to the media. This is contrary to their own (NUREG-0654) procedures.

Could you please call this to the attention of the NRC at the Washington level. In this manner, perhaps all government levels could better inform and advise our citizens.

Sincerely,



Royce E. Pettit, Jr.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 16, 1993

The Honorable John McCain  
United States Senate  
Washington, D.C. 20510

Dear Senator McCain:

This is to acknowledge receipt of your letter dated September 1, 1993, transmitting correspondence from your constituent, Royce Pettit, regarding the lack of coordination and communication between the public and the media.

Please be assured that we are working on a response and a reply will be forwarded to you as soon as possible.

Sincerely,

A handwritten signature in cursive script, reading "Dennis K. Rathbun".

Dennis K. Rathbun, Director  
Office of Congressional Affairs



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 22, 1993

*Edm.*

The Honorable John S. McCain  
United States Senate  
Washington, DC 20510

Dear Senator McCain:

I am responding to your letter of September 1, 1993, regarding an inquiry from your constituent, Royce E. Pettit, Jr., of Tempe, Arizona. He indicated that there were two instances where the Nuclear Regulatory Commission (NRC) had released news information that was not coordinated with the state and local representatives.

The NRC and the Federal Emergency Management Agency (FEMA) criteria (NUREG-0654/FEMA-REP-1) call for a news media center, including space for state and local public information staff, and for the timely exchange of information among spokespersons. We make every effort to achieve this timely exchange of information in real events and emergency exercises.

The NRC had no previous indications of any problem during the March 14 alert at the Palo Verde Nuclear Generating Station, Unit 2. During the alert the NRC Public Affairs Officer in Region V closely coordinated his press activities with Palo Verde public affairs personnel, who were receiving most of the press inquiries and providing most of the press information. The circumstances of the event resulted in NRC activating a Base Team in the Regional office in Walnut Creek, California. Our Public Affairs Officer received copies of all status reports, draft and final press releases from the Joint Emergency News Center in Phoenix by telefax, and commented as necessary. This included direct consultation with a representative of the Arizona Radiation Regulatory Agency to resolve an apparent difference of opinion related to the description of the event.

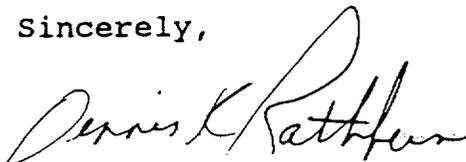
NRC responded directly to some media inquiries, using information from the NRC Base Team monitoring the event and verifying its consistency with information from the News Center. No separate news releases were issued by NRC.

The NRC was not a player in the April 6 drill. We have been unable to identify any NRC public affairs activity related to that drill.

We will contact Mr. Pettit to discuss the matter further in the interest of improving communications and cooperation among federal agencies, the licensee, and state and local officials, as well as with the news media and public.

Thank you for bringing this matter to our attention. If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, reading "Dennis K. Rathbun". The signature is written in dark ink and is positioned above the typed name.

Dennis K. Rathbun, Director  
Office of Congressional Affairs