UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

December 7, 2000

IA-99-044

Mr. Thomas J. McGrath
[HOME ADDRESS DELETED
PURSUANT TO 10 CFR 2.790]

SUBJECT: REQUEST FOR INFORMATION

Dear Mr. McGrath:

This is a follow-up to my letter of February 18, 2000, and in response to your letter of February 9, 2000, in which you requested an extension of time to respond to a Notice of Violation (Notice) issued to you on February 7, 2000. Your request for an extension of time was based on your desire to review additional documents associated with this case in order to fully respond to the Notice. These additional documents were requested by Tennessee Valley Authority (TVA) on your behalf on February 8, 2000, and included: (1) NRC Office of Investigations Report (OI) No. 2-1998-013 and its related exhibits and transcripts; (2) the transcripts of the closed, predecisional enforcement conference held with TVA on December 10, 1999; and (3) the transcripts of the closed conferences conducted with you and another TVA manager on November 22, 1999. In your letter of February 9, 2000, you indicated that you had granted TVA permission to request copies of your conference transcripts.

The NRC has completed its review of the information requested by TVA. By letter dated December 7, 2000, the NRC released the requested information, subject to appropriate redactions to protect information, which if disclosed could constitute an unwarranted invasion of personal privacy. A copy of this correspondence including the released information is enclosed.

As our letter to TVA explains, certain documentary information, reviewed by OI and included as exhibits to the OI report, did not originate at NRC and is not otherwise publicly available. Such information, for example, includes U.S. Department of Labor (DOL) Wage and Hour Division documents, TVA Office of Inspector General reports, and other TVA generated information. NRC is not currently releasing these documents due to our lack of authority to do so, in the case of DOL documents, or the need for further coordination, in the case of the TVA documents. However, as described in the enclosed letter, TVA is in possession of both its own documents and DOL originated documents which have been provided to TVA by DOL. Requests for any of this additional information should be communicated directly to TVA.

Given the amount of investigative material involved, as indicated in our previous correspondence, you will have 45 days from the date of this letter in which to respond to the Notice. With the exception of the response time as modified by this letter, you should follow the instructions specified in the February 7, 2000 Notice when preparing your response.

This letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at http://www.nrc.gov/NRC/ADAMS/index.html (the Public Electronic Reading Room).

If you have any questions regarding this matter, please contact me at 404-562-4501.

Sincerely,

/RA/

Loren R. Plisco, Director
Division of Reactor Projects

Enclosure: NRC letter to TVA

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61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

December 7, 2000

EA-99-234

Tennessee Valley Authority
ATTN: Mr. J. A. Scalice
Chief Nuclear Officer and
Executive Vice President
6A Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

SUBJECT: REQUEST FOR INFORMATION

Dear Mr. Scalice:

This is a follow-up to my February 18, 2000, letter, and is in response to a February 8, 2000, letter from Mr. Mark J. Burzynski of Tennessee Valley Authority (TVA). In his letter, Mr. Burzynski requested copies of certain NRC records associated with the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) issued to the TVA on February 7, 2000. TVA advised that it was requesting these records in order to fully respond to the Notice. The specific documents requested included: (1) NRC Office of Investigations Report (OI) No. 2-1998-013 and its related exhibits and transcripts; (2) the transcripts of the closed, predecisional enforcement conference held with TVA on December 10, 1999; and (3) the transcripts of the closed conferences conducted with two TVA managers on November 22, 1999. TVA stated in its February 8, 2000 letter that the November 22, 1999, conference transcripts were being requested on behalf of and with the permission of the two managers who attended the conferences. Separate correspondence received from these individuals also acknowledged their coordination on the information to be released to TVA.

The NRC has completed its review of the information requested by TVA, and has deemed it appropriate to release the requested information as described below, subject to appropriate redactions to protect information, which if disclosed could constitute an unwarranted invasion of personal privacy. The three predecisional enforcement transcripts are included as Enclosures 1, 2, and 3. OI Report No. 2-1998-013 and associated exhibits and transcripts which originated at NRC are included as Enclosure 4.

As part of OI's review of this issue, certain documentary information, which did not originate at NRC and is not otherwise publicly available, was evaluated and included as exhibits to the OI report. Such information, for example, includes U.S. Department of Labor (DOL) Wage and Hour Division documents, TVA Office of the Inspector General reports, and other TVA generated information. A complete listing of these documents is provided in Enclosures 5 and 6, respectively.

With respect to DOL documents, the NRC has no authority to release this documentation. However, based on communications with DOL, it is our understanding that on February 11, 1998, TVA submitted a request for the DOL, Wage and Hour Division investigative file, and this request was responded to by DOL on April 29, 1998. Thus, TVA is in possession of the relevant DOL documents in this matter, and the withholding of this information by the NRC should not impede TVA's ability to respond Notice.

Regarding TVA originated documentation, we are not releasing this information at this time which presumably is already in TVA's possession. Prior to releasing the information publicly, we are asking TVA to make release/withhold determination for these records which are described in Enclosure 6. When making your recommendations to the NRC, a release determination should be made for each document. Where withholding is recommended, a clearly stated basis must be provided for your claim of withholding, and a bracketed copy the document should be provided which clearly identifies the information to be withheld.

TVA's letter of February 8, 2000, also requested the NRC to extend the time allotted for responding to the Notice from 30 to 45 days following the date of receipt of the requested information. Given the amount of investigative material involved, as indicated in our previous correspondence, TVA will have 45 days from the date of this letter in which to respond to the Notice. With the exception of the response time as modified by this letter, you should follow the instructions specified in the February 7, 2000 Notice when submitting you response. Within that same 45 days given for your response to the Notice, TVA should also provide NRC its release/withhold determinations for the TVA originated documents listed in Enclosure 6. This response should be submitted to Anne T. Boland, Enforcement Officer, Region II, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia 30303.

This letter and enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). In addition, the TVA originated documents will also be made available when a final NRC release determination is made. ADAMS is accessible from the NRC Web site at http://www.nrc.gov/NRC/ADAMS/index.html (the Public Electronic Reading Room).

If you have any questions regarding this matter, please contact me at 404-562-4501.

Sincerely,

/RA/

Loren R. Plisco, Director
Division of Reactor Projects

Docket Nos. 50-390, 50-327, 50-328,
50-269, 50-260, 50-296
License Nos. NPF-90, DPR-77, DPR-79,
DPR-33, DPR-52, DPR-68

Enclosures and cc's: See Page 3

Enclosures:
1. Predecisional Enforcement Conference transcript with TVA, held on December 10, 1999 (redacted)
2. Predecisional Enforcement Conference transcript with TVA Manager, held on November 22, 1999 (redacted)
3. Predecisional Enforcement Conference transcript with TVA Manager, held on November 22, 1999 (redacted)
4. NRC OI Report No. 2-98-013 and selected exhibits (redacted)
5. Listing of DOL originated documentation
6. Listing of TVA originated documentation

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cc w/encls:
Mark J. Burzynski, Manager
Nuclear Licensing
Tennessee Valley Authority
4X Blue Ridge
1101 Market Street
Chattanooga, TN 37402-2801

Edward J. Vigluicci
Office General Counsel
400 W. Summit Hill Dirve
Knoxville, TN 37902

cc w/o encls:
Karl W. Singer, Senior Vice President
Nuclear Operations
Tennessee Valley Authority
6A Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

Jack A. Bailey, Vice President
Engineering and Technical Services
Tennessee Valley Authority
6A Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

cc w/o encls: (Cont'd on Page 4)

cc w/o encls (cont'd):
N. C. Kazanas, General Manager
Nuclear Assurance
Tennessee Valley Authority
5M Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

Edward L. Nanney, Director
Division of Radiological Health
TN Dept. of Environment and
Conservation
3rd Floor, LNC Annex
401 Church Street
Nashville, TN 37243-1532

County Executive
Hamilton County Courthouse
Chattanooga, TN 37402-2801

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Predecisional Enforcement Conference Transcript
Tennessee Valley Authority
December 10, 1999

Enclosure 1

Predecisional Enforcement Conference Transcript
McArthur - November 22, 1999

Enclosure 2

Predecisional Enforcement Conference Transcript
McGrath - November 22, 1999

Enclosure 3

Office of Investigation Report No. 2-1998-013

Enclosure 4

Listing of Department of Labor Documents
(Cross Referenced to the NRC Office of Investigation Report No. 2-1998-013)

| | | |
|---|---|---|
| 1. | Exhibit 2: | DOL Complaint Letter, from Fiser, dated June 26, 1996 |
| 2. | Exhibit 4: | DOL Report of Investigation, dated March 27, 1998 |
| 3. | Exhibit 14: | DOL Interview Statement, dated September 27, 1996 |
| 4. | Exhibit 16: | DOL Deposition of Voeller, dated January 30, 1998 |
| 5. | Exhibit 17: | DOL Interview Statement by Harvey, dated March 27, 1997 |

Listing of Tennessee Valley Authority (TVA) Documents
(Cross Referenced to the NRC Office of Investigation Report No. 2-1998-013)

| | | |
|---|---|---|
| 1. | Exhibit 6: | TVA Office of the Inspector General (OIG) Report of Administrative Inquiry, dated November 25, 1996 |
| 2. | Exhibit 7: | Fiser's Resignation Form, dated September 5, 1996 |
| 3. | Exhibit 18: | TVA OIG Record of Interview with Harvey, dated July 12, 1996 |
| 4. | Exhibit 21: | Letter from TVA Senior Litigation Attorney, dated November 6, 1998 |
| 5. | Exhibit 22: | Announcement of Vacancies in the Manager and Specialist Pay Schedule - Revised Selection/Waiver Policy, dated March 23, 1993 |
| 6. | Exhibit 23: | TVA Business Practice BP-102, Management and Specialist Selection Process, dated September 30, 1993 |
| 7. | Exhibit 26: | TVA Memorandum to Grover, dated August 5, 1996<br>TVA Letter to Wallace regarding INPO Assignment for Grover, dated August 8, 1996<br>TVA Letter to INPO dated August 28, 1996 |
| 8. | Exhibit 28 | Vacant Position Announcement, Manager of Radiological Control, dated August 31, 1994 |