

EDO Principal Correspondence Control

FROM: DUE: 04/22/02 EDO CONTROL: G20020182
DOC DT: 03/26/02
FINAL REPLY:

Representative Jim DeMint
(DOE Referral)

TO:

Vietti-Cook, SECY

FOR SIGNATURE OF : ** GRN ** CRC NO: 02-0233

Travers, EDO

DESC:

ROUTING:

Daily Plant Status Report and Daily Event Reports
be made Accessible from the NRC Web Site
(Fred Giffels)

Travers
Paperiello
Kane
Norry
Craig
Burns/Cyr
Collins, NRR
Virgilio, NMSS
Wessman, IRO
Reiter, CIO

DATE: 04/01/02

ASSIGNED TO: CONTACT:

EDO

Landau

SPECIAL INSTRUCTIONS OR REMARKS:

Commission approved response regarding this issue
on 3/28/02.

Ref. G20020140.

Template: SECY-017

E-RIDS: SECY-01

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Mar 29, 2002 16:27

PAPER NUMBER: LTR-02-0233 **LOGGING DATE:** 03/29/2002
ACTION OFFICE: EDO

AUTHOR: REP Jim DeMint
AFFILIATION: REP
ADDRESSEE: John Angell (DOE)
SUBJECT: DOE transmits letter requesting that the Daily Plant Status Report and Daily Event Reports be made accessible from the NRC web site

ACTION: Direct Reply
DISTRIBUTION:

LETTER DATE: 03/26/2002
ACKNOWLEDGED: No
SPECIAL HANDLING: OCA to Ack

NOTES: DOE REFERRAL
Commission approved response regarding this issue on 03/28/2002... to be signed by DEDM

FILE LOCATION: ADAMS

DATE DUE: 04/22/2002 **DATE SIGNED:**

EDO --G20020182



Department of Energy
Washington, DC 20585

March 26, 2002

The Honorable Jim DeMint
United States House of Representatives
300 E. Washington Street
Suite 101
Greenville, SC 29601

Dear Representative DeMint:

This acknowledges your letter to Mr. John Angell on behalf of your constituent, Mr. Fred Giffels, requesting that the Daily Plant Status Report and Daily Event Reports be made accessible from the Nuclear Regulatory Commission's website.

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

Ms. Annette Vietti-Cook
Secretariat
Nuclear Regulatory Commission
One White Flint North Building
11555 Rockville Pike
Rockville, MD 20852

If you have any questions, please contact me on (202) 586-8637.

Sincerely,

A handwritten signature in cursive script that reads "Octavia Gorham-Greenhill".

Octavia Gorham-Greenhill
Work Group Leader
Correspondence and Records Management
Office of the Executive Secretariat



005369

JIM DeMINT
4TH DISTRICT, SOUTH CAROLINA



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Congress of the United States
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Greenville Office of Congressman Jim DeMint
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Phone: 864-232-1141
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FAX COVER SHEET

To: Congressional - John Angell

Fax Number: 202 - 586 - 5754891

From: Cherith Norman

Date: 3-12-02

Pages: 1 of 7

Comments: _____

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JIM DeMINT
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March 12, 2002

Mr. John C. Angell
Assistant Secretary
Congressional and Governmental Affairs
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Angell,

I am writing on behalf of my constituent, Fred Giffels, about his company's request that the Daily Plant Status Report and Daily Event Reports be made accessible from the U.S. Nuclear Regulatory Commission's website again. Enclosed is a copy of his letter for your review.

I would greatly appreciate your addressing the questions and concerns mentioned in Mr. Giffels' correspondence, with respect to governing rules and regulations. I have assured Fred that I would write to emphasize my interest in his case and to help obtain a reply from your office.

Thank you for your help. Please feel free to call Cherith Norman of my staff at 864-232-1141 if you have any questions or need additional information. I look forward to your reply to our Greenville office.

Best regards.

Sincerely,

Jim DeMint
Member of Congress

Enclosure

FEB 07 2002



A Management/Technical Consulting Practice

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February 5, 2002

The Honorable Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Mailstop 016C1
Rockville, Maryland 20852

Dear Chairman Meserve,

I am writing again in the hopes of finding out the status of the NRC's decision whether to provide public access or a secured access via a full background check, to the Daily Plant Status Report and the Daily Event Reports that were removed from the NRC's website in the wake of the terrorist attacks of September 11, 2001. Again may we compliment the Commission on its measured response to the potential security threat in safeguarding documents whose full public access could be detrimental if used by terrorists.

Certainly, the new information that President Bush announced in his State of the Union speech that our nation's nuclear plants were considered as targets for attack requires a continued level of heightened alertness. As before, however, we at HGP want to emphasize four points with regard to document security issues, and specifically with regard to the Daily Plant Status Report and the Daily Event Reports. HGP contends that 1) these two reports should not be classified as risk significant for terrorist use, 2) the withholding of this information, therefore, constitutes an abrogation of a basic right to information protected by the Freedom of Information Act, 3) the withholding of this information is deleterious to several legitimate business concerns in our country (specifically it impacts our free markets), and 4) if the Commission continues to view these two reports as security sensitive, a screening method should be developed and implemented to allow legitimate businesses, based on background checks and security software, to have access to these reports.

Issue 1 - Risk Insignificance

As previously stated, HGP would argue that public access to the Daily Status Report and the Daily Event Reports would not heighten security risk at our nation's commercial nuclear sites. The most notable reasons countering the idea that these reports provide security risk are that:

1. the Daily Plant Status report provides operating status at a single point in time each morning making it impossible for the potential terrorist to be assured of continued operation during his review; and
2. a more significant risk—the forecasted timing of major outages—is not even provided in the subject reports and is readily available through contractor websites; and
3. at any commercial nuclear facility that has cooling towers, verification of the approximate current operating condition of that plant can be made more reliably from miles away by checking the water vapor exiting the towers (not to mention other passive ways to verify a commercial nuclear plant's status); and

4. radiological danger from a damaged plant could occur irrespective of the operating condition of the plant (especially if spent fuel pools or ISFSI's were the prime targets rather than the reactors).

Issue 2 – Right Infringement

These two reports were initially made public for a variety of reasons. Due to the nature of the industry, public awareness of such a high risk, safety related industry is important for control and accountability. By removing access to these and other reports, the public's right to information for management and operational monitoring is effectively curtailed.

Issue 3 – Retail Impairment

Certain businesses have used the information provided in the subject reports as necessary tools for ongoing operations and business decisions. For example, the reports provide data for due diligence in the merger/acquisition arena, for comparative purposes in litigation for management accountability, and for supply/demand purposes in the power trading industry. HGP's small business relied on these reports and has been severely debilitated by their removal from public accessibility.

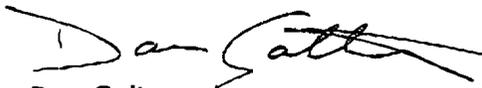
Issue 4 – Restricted Issuance

Security risk mitigation could be accomplished by screening the access to the subject reports. As we previously suggested, HGP would volunteer to be a beta test site for the new NRC access process. Company and individual background checks similar to those required for unescorted access at commercial nuclear facilities could be conducted very quickly. Qualifying firms could be granted password access to a secure portion of the NRC's website holding these reports and other previously accessible documents. Qualifying firms could also be required to purchase and utilize encryption software for any correspondence, downloading or storage of secure information. This would also provide our Governmental agencies with other much needed data.

As a small business working with much larger client firms, the NRC, and other state and federal agencies, we understand the complexities involving political, technical and economic factors in the decision-making process; however, we continue to believe that the disproportionate small number of companies which do have access to plant data that are being withheld from the market and the rest of the public, provides opportunity for market manipulation and other illegal activity. The rest of the public is being affected by this discrimination. Our points of contention and mitigation suggestions are legitimate, practical, appropriate and secure. We urge the NRC to evaluate our request and implement a policy that provides security without harming freedoms and business concerns on which we depend.

We would welcome the opportunity to discuss this with you or your staff.

Very truly yours,



Dan Salter
Director, East Coast Operations
HGP, Inc.

cc: The Honorable Strom Thurmond
The Honorable Jim DeMint
Fred W. Giffels, CEO, HGP Inc.
Randall S. Hitter, Esquire
File



A Management/Technical Consulting Practice

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October 24, 2001

The Honorable Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Mailstop 016C1
Rockville, Maryland 20852

SUBJECT: Impact of Lack Availability of NRC Daily Status Report on Small Business

Dear Sir:

My name is Fred W. Giffels, and I am CEO for HGP, Inc., a management/technical consulting firm that supports a wide range of clients in the energy industry. We are headquartered in Greenville, South Carolina. One of my staff attended the October 18, 2001 Commission meeting with many of the NRC Stakeholders in which you discussed the progress of regulatory reform. During the meeting, you stated that you would entertain suggestions concerning the NRC's dissemination of information to balance the necessary security requirements to protect the health and safety of the public with one of the fundamental rights of U.S. citizens to access governmental information. This letter serves to put forth several suggest for your review and consideration.

First, we at HGP wish to express our horror and sadness concerning the events of the September 11, 2001, terrorist attack on the World Trade Center and Pentagon. We also pledge our support to the United States and President Bush in the fight against terrorism in this country and throughout the world. We also want to congratulate the NRC on the excellent timing and handling of security issues stemming from the September 11, 2001, attacks. As Commissioner McGaffigan stated during the October 18, 2001 meeting, the NRC was very responsive in its communication with licensees and states in providing appropriate suggestions for security measures.

Likewise, we feel it was an appropriate step for the NRC to disable its website to review information that might be a catalyst to further potential attacks directed at commercial nuclear license holders in this country. However, we at HGP believe that certain information that is still unavailable to the public should not be so classified, and in fact is contributing to some of the financial uncertainty facing the nation and is directly harming our small business.

The Honorable Richard A. Meserve
October 24, 2001
Page 2

The NRC Daily Status Report provides a snapshot at one point in the day of the operational status of each U.S. commercial reactor. HGP *is a small business* and we *rely* on the Daily Status Report to support our clients and for internal technical research and manpower planning. We have relied on it based on that fundamental right to information that is protected by the laws established by our Congress (see Freedom of Information Act) and as tax payers are entitled to utilize.

It is somewhat puzzling to us that the Daily Status Report remains withdrawn from the NRC website. Given the ongoing deregulation and sale of many commercial nuclear plants, I understand why some of the new "unregulated" owners of commercial nuclear power plants want this information withheld. Presumably, this temporary withholding of information by the NRC was to review the threat that its public dissemination would pose. However, there are several reasons, which argue that publication of the NRC Daily Status Report is not a threat to the protection of public health and safety from nuclear endangerment. As many of us know, many U.S. plants are better equipped to respond to an event when they are full power versus in some other mode (hot shutdown, cold shutdown).

Even information concerning planned refueling outages can be better obtained from other sources. The timing of operating cycles and the schedules of contract labor provide more assurance of a unit's refueling status than the Daily Status Report. Certainly the potential terrorist does not check the Daily Status Report for upcoming refueling outages since that is not even something the Daily Status Report ever offered.

Furthermore, a more sure way of finding out whether a unit is operating, especially for the potential terrorist who may want an absolute answer, is to position someone at the site or even a mile away to watch for the plume of water vapor exiting the cooling tower(s).

If deemed necessary, we suggest that the NRC develop and expeditiously implement additional security measures that could be put in place. The NRC could password protect certain parts of the website, allowing access for only those passing a qualifying background check (a check similar to that required by licensees for unescorted access to a nuclear site which many of have gone through already). In this way the NRC can monitor use of the website while allowing only cleared companies access to the information. As a side benefit, our intelligence gathering agencies could track all authorized and any unauthorized users. We have this feature on our web site and would be glad to discuss how easy this is to implement.

Another change might be to publish the information with a day or two delay rather than withholding it entirely.

Publishing the Daily Plant Status on the NRC website will not increase risk for terrorist activity against the U.S. licensed commercial operating nuclear plants, but it is impacting the ability for small businesses like us to efficiently perform our jobs.

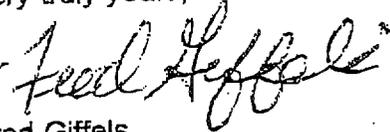
The Honorable Richard A. Meserve
October 24, 2001
Page 3

At the signing of the 1996 amendments to the Freedom of Information Act, President Clinton said, "this legislation not only affirms the importance, but also the challenge of maintaining openness in government." He went on to say that "our country was founded on democratic principles of openness and accountability, and for 30 years, FOIA has supported these principles."

We wish to appeal to you to recognize that this information you hold ought to be made public 1) to be in conformance with FOIA, 2) to stabilize the uncertainty it has created in the marketplace, and 3) because it provides no increased threat to the health and safety of the public.

Thank you for your consideration. Should you wish to discuss this matter with me, please do not hesitate to contact me. My telephone number is 864-370-0213.

Very truly yours,



Fred Giffels
CEO

cc: The Honorable Strom Thurmond
The Honorable Ernest Hollings
The Honorable Jim De Mint
The Honorable Governor Jim Hodges
Dan W. Salter
Randall S Hiller, Esquire
File

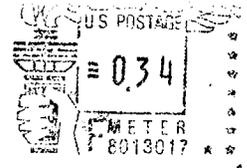
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P.S. We also use the NRC Web Page information to respond to our elected officials, especially Governor Hodges, when they express a concern or question.

UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVE., SW
WASHINGTON, DC 20585

OFFICIAL BUSINESS

ME



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Secretariat
Nuclear Regulatory Commission
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