

October 16, 2002

Mr. C. Lance Terry
Sr. Vice President & Principal Nuclear Officer
TXU Energy
ATTN: Regulatory Affairs Department
P.O. Box 1002
Glen Rose, TX 76043

Dear Mr. Terry:

I am responding to your letter of August 6, 2002, regarding the Comanche Peak Steam Electric Station Public Radiation Safety Cornerstone White finding that is described in NRC Inspection Report Nos. 50-445/01-07; 50-446/01-07. The issue specifically concerned 11 examples in which radioactive material was inadvertently released from the radiologically controlled area. In your letter you stated that you do not agree with the safety significance of these violations and requested that I reverse the decision of the NRC Significance Determination Process (SDP) Appeal Panel that reviewed this finding. Additionally, you requested that the staff change the classification of this finding to very low safety significance (Green) and remove the current White input from future consideration when assessing Comanche Peak performance.

I have independently reviewed the facts associated with this issue, including the results of your initial appeal of the White finding, and considered the concerns you raised in your August 6 letter. You asserted in your letter that the Region IV appeal board disregarded the actual and potential safety significance of the events in question, and that the events had no credible safety significance.

In reviewing your appeal, I considered the following questions:

- Did the NRC staff follow the established SDP process in making its significance determination?
- Is the process appropriate?
- Was there an unintended consequence of the staff's determination that adversely affected your facility or other licensee facilities?

With respect to the first question, I found no information in your letter that had not already received due consideration in making the final significance determination. In addition, I determined that the NRC Region IV appeal board conducted a complete and thorough review of this issue and appropriately used the SDP in effect at the time to reach their final significance determination. Therefore, I have concluded that the staff appropriately adhered to the process established in determining the final significance of this issue, and addressed the concerns you raised within the framework of the SDP. I also have concluded that the Public Radiation Safety SDP was correctly applied by the staff, and that the staff reached the appropriate significance determination.

With respect to whether the current SDP process is appropriate, as you are aware, the staff has already undertaken a review of the Public Radiation Safety SDP, and public meetings have been held to discuss potential changes. Many of the issues discussed resulted from the dialogue we have had over the Comanche Peak issue. I understand there are questions as to how loss of control occurrences should be defined in the SDP. Specifically, the questions concern whether releases of licensed radioactive material from a radiation control area on-site, such as in your case, should be given the same significance as licensed radioactive material that was released from the facility. I have encouraged my staff to resolve these issues with the SDP expeditiously because other facilities could be affected in a similar manner.

Finally, with respect to the consequences of the staff's determination, in accordance with our assessment process, this finding will be removed from consideration of future agency actions at the end of the last quarter (i.e., September 30, 2002). As such, when the fourth quarter assessment information is posted on the NRC web site in January 2003, the White finding will no longer appear. Therefore, because a change in this finding's significance would have no consequence on the assessment of your performance, and changes to the SDP are presently being reviewed to address the concerns you have raised over this issue, I do not believe that a decision to change the staff's position on this matter is warranted, and it is proper for the staff's decision to proceed.

I appreciate your bringing this concern to my attention. We have all profited from the discussion of this issue and the likelihood that the Public Radiation SDP will evolve in a way that enhances public radiation safety and strengthens public confidence.

Sincerely,

/RA/

William D. Travers
Executive Director
for Operations

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/RA/

William D. Travers
Executive Director
for Operations

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MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: William D. Travers
Executive Director for Operations

SUBJECT: RESPONSE TO COMANCHE PEAK'S WHITE FINDING APPEAL

Attached please find my response to Comanche Peak's appeal of the White finding concerning inadequate radiological surveys to detect radioactive material. I plan to issue the letter on October 16, 2002.

Attachment: As stated

cc: SECY
OPA
OCA
OGC

CONTACT: Scott Morris, OEDO
415-1730

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