



Nuclear Information and Resource Service

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October 20, 1989

Mr. Donnie H. Grimsley
Division of Rules and Records
Office of Administration and Resources Management
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-89-461
Rec'd 10-24-89

FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Grimsley:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended and 10 C.F.R. 9.8 of the Commission's regulations, the Nuclear Information and Resource Service requests the following documents regarding the down grading of a severity level III violation at Commanche Peak in NRC Inspection Report No. 50-445/88-47; 50-445/88-42. H. Shannon Phillips originally filed the violation regarding the sandblasting of the protective coating on the service water piping. The NRC later downgraded the violation to level IV. In a June 1989 memo to the NRC Phillips requested that the level III violation be reinstated.

NIRS requests that the NRC provide the June 1989 memo from Phillips to the NRC. While the NRC has not yet released this document to the public, a copy has been obtained by the Fort Worth Star Telegram and was the subject of the attached article.

Pursuant to and in compliance with 10 C.F.R. 9.41 of the Commission's regulations governing requests for waiver of fees, the Nuclear Information and Resource Service, herein after referred to as NIRS, puts forth the following information.

NIRS seeks the requested information solely to contribute to and help shape the public debate on nuclear issues.

NIRS intends to use the information in order to determine whether any further action is necessary.

NIRS is qualified to make use of the requested

dedicated to a sound non-nuclear energy policy.

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information. The staff has demonstrated the ability to interpret information and communicate that information in a form comprehensible to the general public. Members of the NIRS staff have published articles in such national journals as The Progressive, Nuclear Times, Newsday and The Bulletin of Atomic Scientists. NIRS has a working relationship with physicists, engineers, medical doctors and other respected professionals who contribute to the full understanding of technical records.

The information sought by NIRS, is not, to the best of our knowledge, in the public domain. The general public has displayed great interest in nuclear issues and the requested information will certainly increase the public's understanding of this matter.

NIRS has demonstrated its ability and commitment to inform the public on all important nuclear issues. NIRS regularly publishes two journals for which this information will be of use, the Nuclear Monitor and Groundswell. Since 1978, NIRS has been providing information on nuclear issues to the public, the press, members of Congress, state and local government officials as well as hundreds of citizens groups across the country. NIRS provides this information free of charge and has neither a commercial nor a private interest in the agency records sought.

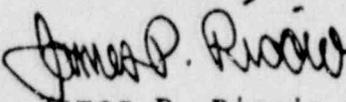
Under the amended fee waiver standard, NIRS is clearly entitled to a full waiver of all search, review and duplication fees. This standard calls for such a waiver, "if disclosure of the information is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. 552 (a) (4) (A) (iii).

In light of the foregoing, NIRS' request meets this standard on its face. NIRS has no commercial interest in this matter, but rather seeks this information to help the general public better understand the role of government in regulating the nuclear industry.

For all the reasons cited above, NIRS' request falls squarely within the Congressional intent in enacting the Freedom of Information Act and the fee waiver provision. We, therefore, ask that the Commission grant a full waiver for this FOIA request.

Thank you for your anticipated cooperation. If you have any questions in regards to this request, please feel free to contact me.

Sincerely,


James P. Riccio

TU accused of deceiving nuclear panel

BY STAN JONES
Fort Worth Star-Telegram

TU Electric misled the Nuclear Regulatory Commission about construction problems at Comanche Peak nuclear power plant in an effort to avoid a harsh reprimand for safety violations uncovered last year, a former NRC inspector has said.

Using "inaccurate and incomplete" information, the utility successfully persuaded top commission officials in Washington to overrule the recommendations of the agency's on-site inspectors and downgrade the severity level of a 1988 inspection report, according to the former inspector, H. Shannon Phillips.

Chris Grimes, who heads the nuclear agency's special projects office monitoring construction at Comanche Peak, said the allegations are being taken very seriously and, if confirmed, could possibly affect TU Electric's efforts next month to obtain a license from the agency to load nuclear fuel in the nuclear plant's Unit 1 reactor and begin operation.

"He's essentially telling us that the utility misled us about what they had done in response to previous violations," Grimes said in an interview. "We are concerned about whether there's reason to question the candor of the utility."

Phillips made the changes in an agency memorandum in June, which has since been turned over to the NRC's office of investigation for review.

The internal memo, a copy of which was obtained by the *Star-Telegram*, asks the regulatory agency to reverse its findings and reinstate those of Phillips, who had cited the utility last year with laxity in the handling of water pipe repairs at the \$9.1 billion plant.

TU Electric officials, who said they were unaware of Phillips' memo until contacted by a reporter, said yesterday that the company had not misled the commission.

"It's difficult to respond to a lot of details that we don't have," said TU spokesman Dick Ramsey in Dallas. "But we think there's no basis for saying we tried to mislead anybody on this."

Ramsey also said Phillips is no stranger to controversy. The former inspector, who retired in July, grabbed headlines two years ago when he said that officials of the regulatory panel's Region IV office in Arlington had harassed and intimidated Comanche Peak inspectors into downgrading inspection reports.

Phillips was fired during the height of the controversy but was reinstated after an internal investigation backed up several of the inspector's statements. As a result of the complaints by Phillips and other inspectors, oversight for Comanche Peak was transferred from Region IV to a special projects division of the NRC.

Billie Garde, an attorney who has closely monitored construction at the plant as counsel for an intervenor group, said she had conducted an independent review of Phillips' statements and had confirmed their accuracy. She said her findings further suggest that TU exerted pressure on top NRC management to downgrade Phillips' inspection findings, and she said that the agency was guilty of "regulatory complicity or laxness" for caving in.

"I think there was some heavy politicking done by TU of the NRC and it was successful," said Garde, who said she and a former plant opponent, Juanita Ellis, are drafting a letter to the nuclear agency to protest its actions.

She also took issue with the NRC's decision to refer Phillips' memo to the Office of Investigations rather than to act on it as part of the licensing process.

While under investigation, Garde said, Phillips' statements become confidential, preventing the agency from taking the issue into account in deciding if TU Electric deserves an operating license.

"I think that that was a decision that had as its intent to take the management attitude issues off of the plate and to try to make it a criminal issue," Garde asserted. "It is important when you're getting ready to put a plant on the line that the utility deal truthfully with the agency, regardless of the consequences."

At issue in Phillips' memo is TU Electric's oversight of repairs made in 1988 to the service water piping that provides cooling water from adjacent Squaw Creek Reservoir to many of the plant's reactor systems.

Utility engineers discovered in 1985 that a coating applied inside the metal pipes to prevent erosion had begun to blister and flake. The problem was reported to the nuclear commission in 1986, and beginning in April 1988, the utility hired an outside contractor to remove the coating with sandblasting equipment.

Midway through the repairs, involving 7,400 feet of piping, Phillips said that he warned the utility that the work was not being done properly and that it was possible the sandblasters could eat beyond the coating and damage the pipes.

According to Phillips, the utility ignored his warning and went on with the work. Soon afterward, TU's quality inspectors, which are responsible for ensuring that all construction or repairs meet strict NRC guidelines, certified the work as satisfactory.

On Aug. 2, after the pipes had been placed back in use, TU Electric discovered a half-inch hole in one of the pipes. Further investigation revealed damage to more than 650 feet of piping, some of which had to be replaced.

Phillips, in a September inspection report on the incident, found that the utility's quality control process had broken down and recommended that four "seventy level III" violations be leveled against the company.

Level III violations are among the toughest levied against a utility, reflecting the agency's position that the prob-

lems represent "significant concern." A fine is also imposed.

Grimes of the NRC said he agreed with Phillips' recommendations, as did H.H. Livermore, lead senior inspector, and Robert Warmick, assistant director for inspection programs at Comanche Peak.

However, TU Electric objected to the findings, arguing that the quality assurance problems were an isolated case in the piping incident.

In January, citing the utility's arguments, the offices of nuclear reactor regulation and enforcement in Washington downgraded the violations to severity level IV.

Grimes, who said he took part in the final decision, described the utility's argument as persuasive.

"The utility presented its case," Grimes said. "Two office directors decided, and the rest of us concurred on level IV."

But Phillips, in his June memo, said the utility did not disclose the whole truth about its quality assurance program to the agency.

The inspector produced an internal TU memo written by W.G. Guidemond, the utility's special assistant to the vice president for engineering, which Phillips said showed a pattern of shoddy inspection techniques by TU Electric.

He also said that the utility substituted "surveillances" for "inspections" on some construction, in which quality assurance personnel simply reviewed documentation of completed work rather than the actual equipment.

Grimes said this week that Phillips' argument may provide enough justification for upgrading the violations against the utility.

"Right now I'm tending to be inclined toward a severity level III again," Grimes said.

NRC officials in Washington, citing the confidentiality of the ongoing investigation, declined to comment yesterday.

Juanita Ellis, former director of Citizens Association for Sound Energy, which has headquarters in Dallas and has opposed licensing of the plant, described Phillips' allegations as "very disturbing."

"If accurate, they call into question whether or not TU has improved their attitude as much as we had hoped," she said.

Ellis and her organization dropped opposition to Comanche Peak last year in a \$4.5 million settlement agreement with the utility. As part of the agreement, however, Ellis has been allowed to participate in meetings with plant management and monitor its progress.

TU's Ramsey said yesterday that the utility was completely forthcoming with the regulatory agency on the pipe repair problems. He also said Phillips' statements dealt with paper work issues rather than actual safety problems involving plant equipment.

"The bottom line in all of this is do you have a product that will do the job when you get it through, and I think what we certainly do is satisfy ourselves that that's the case," Ramsey said, noting that the affected piping has been fixed.

TU Electric hopes to apply next month for a license to begin low-power operation at the nuclear plant's Unit 1 reactor. Comanche Peak is near Glen Rose, 45 miles southwest of Fort Worth.

Friday A.M., September 22, 1989 T
Fort Worth Star-Telegram