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June 29, 1989

BY TELECOPIER

Lawrence Chandler, Esq.
Assistant General Counsel of
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Office of General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chandler:

This is to confirm the substance of conversations yesterday and today concerning the letter, dated June 28, 1989, from E. William Brach to Roger Adelman of this firm, proposing an NRC inspection of Meredith Corporation, Pressure Vessel Nuclear ("PVN"). As you know, that letter was sent following conversations on June 27 between Mr. Adelman and Mr. Houghlin and yourself, which were prompted by the appearance on June 26 of NRC inspectors at the PVN offices in New Jersey. Those inspectors, Messrs. Ray Cilimberg and Steve Matthews, had with them a copy of the criminal indictment against PVN, William Lanza, and others (No. 89-157, U.S. District Court, District of New Jersey), and they told PVN representatives that they wished to inspect documents and interview witnesses about matters covered in the indictment.

At the outset, I must reiterate that our clients, PVN and its President, William Lanza, wish to cooperate with the NRC and comply, to the extent possible, with its request for access to certain records as set forth in Mr. Brach's June 28 letter. Furthermore, we remain hopeful that to that end, we can reach some accommodation with you which will address the concerns of the NRC as well as those of our clients which derive from their status as defendants subject to a pending criminal indictment. Unfortunately, the result of our conversations to date has been an indication that the NRC is unwilling to make any accommodation to address, or even recognize the relevance of, our clients' constitutional rights as defendants under criminal indictment.

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Mr. Brach's June 28 letter seeks access to the entire universe of materials which are "associated with" all PVN-produced components and transactions over which the NRC may have jurisdiction under 10 CFR Part 21, from 1983 to the present. Thus, the NRC now seeks, without limitation, "unfettered access to the [PVN] facility and records" "to review records associated with basic components supplied to the nuclear industry by [PVN] from 1983 to the present," as well as "contact with [PVN] personnel [to obtain] information necessary to find and understand the nature of the records which are the subject of this inspection." Mr. Brach's letter, which we received at approximately 4:30 p.m. yesterday, informed us that NRC inspectors would arrive at the PVN offices to begin the requested inspection, at or after 12:00 p.m. today, June 29.

Our purpose in this letter is not to challenge the NRC's general authority to make such a request in the normal case, although that may in fact be subject to dispute; rather, it is to emphasize that this is not the normal case, since the subjects of the inspection are now under criminal indictment. Clearly, the inspection request contained in Mr. Brach's letter goes far beyond the originally requested inspection of materials "related to the criminal indictment"; those are a finite set of materials, as to which it may have been relatively easy to arrange for NRC review while accommodating our concerns about our clients' constitutional rights. The scope of the inspection requested in Mr. Brach's letter, however, is open-ended, unbounded, and raises even more concerns about our clients' rights.

In an effort to explore possible ways to reach an accommodation that would address our concerns and the need to protect our clients' constitutional rights, we made several requests in our discussions with you and your colleagues.

We requested that the NRC: (a) provide some additional specificity as to its purpose in requesting the inspection, or as to the records or types of records it wished to review; or (b) otherwise further define or narrow its very broad inspection demand. This request was intended to help us in our attempt to accommodate the NRC's actual interests and purposes while at the same time protecting the defendants under indictment.

We believe this request is reasonable in light of two facts. First, to our knowledge, the NRC's prior routine inspections of PVN in 1988 and early 1989, gave rise to no negative "findings," notices of violation, or other notification to PVN of any significant concerns on the part of the NRC. Thus, for example, if the NRC now has a particular concern related to something that was not reviewed in prior inspections, or arising out of a

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transaction that occurred subsequent to those inspections, perhaps the pertinent information could be isolated and provided under circumstances that would not infringe upon our clients' rights.

Second, the matters discussed in the criminal indictment, which the inspectors and your colleagues have acknowledged triggered this recent NRC inspection demand, do not involve "basic components" as defined in the NRC's regulations, nor do they involve transactions with the nuclear industry. Thus, at first glance, the matters discussed in the indictment do not appear to be of concern to the NRC. If, however, those matters are of concern to the NRC, or there are particular items or areas that, in light of the indictment, the NRC now has concerns about, perhaps we could reach an accommodation that would address those NRC concerns without infringing upon our clients' rights.

In our conversation yesterday and this morning, the NRC refused to provide any additional specificity of any sort. You and your colleagues merely repeated that the NRC wanted access to all the files covered by the global request in Mr. Brach's letter.

In an effort to bring other involved parties into the discussion, we asked if the NRC had discussed this matter with representatives of the Department of Justice, and if so who. This request was intended to enable us to pursue with those persons our concerns related to the criminal indictment being prosecuted by that Department. Both yesterday and again this morning, the NRC refused to disclose the identities of the Department of Justice representatives with whom NRC personnel have discussed this matter.

In a direct effort to provide the NRC full access to PVN materials as requested but at the same time protect our clients' constitutional rights, we asked whether the NRC would agree not to turn over to the Department of Justice materials or information from the requested inspection. You stated yesterday that the NRC would not agree to such a proposal. Indeed, you told us that you could not guarantee that materials would not be turned over to the Department of Justice. Similarly, this morning your colleagues said that they would not withhold from the Department of Justice materials obtained in the requested inspection if they believed they contained evidence of criminal acts. Moreover, Mr. Walter Timpone, the Assistant U.S. Attorney who is handling the pending criminal case against our clients, informed us today that he would consider using materials obtained by the NRC pursuant to an inspection such as you have proposed as evidence against our clients in that pending case. Clearly, our

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concerns about the potential infringement of our clients' rights in the pending criminal case are very real ones.

Finally, in an effort to allow all parties to continue to explore possible avenues of accommodation, and to provide us with a reasonable opportunity to review the situation and consider our clients' position and available legal remedies, we requested that the NRC's demand for access at noon today be extended. Again, the NRC refused.

Last evening Mr. Houghling requested that as a matter of courtesy, we inform the NRC this morning whether access would be granted to the PVN offices at noon today. I informed your colleagues at approximately 9:15 this morning that the requested access would not be granted today, in light of the NRC's position as communicated to me this morning, and our continuing -- and thus far unaddressed -- concerns about our clients' constitutional rights as defendants under criminal indictment. I also explained that as a practical matter, the requested access could not be granted today because Mr. Lanza, Mr. Adelman, and others were involved in meetings concerning the pending criminal case and therefore were not available in any event. Your colleagues indicated that the NRC inspectors would be called and that the unnecessary trip to the PVN offices could be avoided.

At that point, I asked what the NRC intended to do next concerning this matter. I was told that it would consider various options and make a decision about future actions. Your colleagues would not tell me what options would be considered, nor would they commit to providing us with any advance notice concerning any action that might ultimately be decided upon. They did say that they intended to speak with representatives of the Justice Department today (although they again refused to identify the individuals), and that we may be contacted directly by Justice personnel.

We would welcome the opportunity to discuss this matter further with the NRC or with the Department of Justice. As noted, we wish to work out an accommodation that adequately and reasonably addresses the concerns and rights of all parties involved in this matter.

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Please do not hesitate to contact me or Roger Adelman of this office if you wish to discuss this matter further. We would also appreciate the courtesy of advance notice of any additional action the NRC may decide to take that could affect our clients. We would provide the same courtesy to you.

Sincerely,



Karla J. Letsche