



UNITED STATES  
 NUCLEAR REGULATORY COMMISSION  
 ATOMIC SAFETY AND LICENSING APPEAL PANEL  
 WASHINGTON, D.C. 20555

March 30, 1989

SUPPLEMENTAL MEMORANDUM FOR: ✓ Chairman Zech  
 Commissioner Roberts  
 Commissioner Carr  
 Commissioner Rogers  
 Commissioner Curtiss

FROM: *MS* Alan S. Rosenthal

SUBJECT: INQUIRY INTO ALLEGED TRAVEL  
 ABUSE BY NRC EMPLOYEES

In our March 20, 1989 joint memorandum to Chairman Zech, copies of which were sent to the other Commissioners, Mr. Herr and I noted the understanding we reached respecting the Office of Inspector and Auditor investigation (I87-31) concerned with alleged travel abuse by NRC employees. Because, prior to my assumption of any responsibility for it, that investigation had been completed with the exception of the typing of the final report, it was agreed that OIA would prepare that report and then submit it to me for my review. Upon that review, I could sign the report as prepared, revise it, or hold it in abeyance pending further investigation.

In accordance with that agreement, on March 28, 1989 I was furnished the report prepared by OIA. My close examination of that report, including all attachments thereto, has led me to append my signature without amendment. In a nutshell, it appears to me that there was a sufficient inquiry into both (1) the allegation regarding transportation to the Waterford facility that triggered the investigation; and (2) the circumstances attendant upon the transportation supplied to NRC officials by a utility in connection with the visit of those officials to the Comanche Peak facility. I am equally persuaded that the conclusions reached on each subject is amply supported by the fruits of the inquiry.

There is, however, one conclusion that warrants brief additional comment. The observation that NRC reimbursement for the Comanche Peak transportation was calculated on an erroneous basis rests upon information obtained by OIA in an interview of \_\_\_\_\_ in the NRC Office of the General Counsel. As noted at page 8 of the report (see also attachment 32), \_\_\_\_\_ advised OIA that \_\_\_\_\_ office had received an opinion from the Office of Government Ethics to the effect that reimbursement should have been based on a

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pro rata allocation among all passengers in the airplane of the actual cost of the transportation provided by the utility. (The NRC reimbursement had been based, instead, upon the expense that the government would have incurred had commercial air transportation been employed by the NRC officials in question.) went on, however, to point out that the opinion had been provided verbally and that, to knowledge, there is no written guidance on the subject.

It seems to me that, if the Commission is prepared to allow in some future situations the resort by NRC employees to utility-supplied air transportation,<sup>1</sup> the Office of Government Ethics should be called upon to provide a more formal expression of its opinion on the reimbursement matter. Although the judgment it orally supplied does not appear unreasonable, a case nonetheless might be made for the quite different approach to reimbursement followed by the NRC in connection with the Comanche Peak transportation. That is particularly so given the difficulties that could be encountered in arriving at the actual cost to the utility of a particular air trip. I would think, for example, that different accounting procedures would produce quite different results in that regard. Ascertaining the cost of equivalent commercial air transportation should not present the same difficulties. In these circumstances, and assuming it is either appropriate or obligatory to take our cue from the Office of Government Ethics, a written opinion from that office (containing a full explanation of the reasoning underlying its conclusions) manifestly is warranted.

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<sup>1</sup> On this score, I wholeheartedly endorse the OIA view that there is a potential perception problem associated with such resort and, therefore, specific guidance in this area is desirable.