


June 14, 1989

MEMORANDUM FOR: Hugh L. Thompson, Jr., Deputy Executive Director
for Nuclear Materials Safety, Safeguards and
Operations Support

FROM:  Ben B. Hayes, Director
Office of Investigations

SUBJECT: JOSEPH J. MACKTAL, OI CASE NO. Q4-89-008

The following actions have been undertaken by OI in our attempt to interview Macktal concerning his settlement agreement with Brown and Root and his public reference to safety concerns regarding Comanche Peak.

- o OI attempts to arrange an interview with Macktal begin on May 10, 1989.
- o On June 5, 1989, Macktal is served with a subpoena to provide testimony on June 15, 1989, and produce any pertinent documentation.
- o Via letter dated June 9, 1989, Stephen M. Kohn, Counsel for Macktal, communicates to Hayes a Motion for protective order requesting postponement of the June 15th interview and advising that they consider Macktal a confidential informant to the NRC.
- o On June 12, 1989, Donald D. Driskill, Field Office Director, OI:RIV, confers with Kohn advising that OI would entertain a request to reschedule the interview of Macktal to accommodate their agendas, allowing up to a five day postponement. Kohn advises that he will attempt to reach Macktal concerning rescheduling the interview.
- o On June 12, 1989, OGC (Fitzgerald/Mullins), notified of communications with Kohn regarding the Macktal subpoena.
- o On June 13, 1989, OI:RIV again communicates with Kohn, during which Kohn advises that Macktal will not appear before NRC on June 15, 1989, and that he has just delivered a Motion to Quash the subpoena to the Secretary of the Commission and the Public Document Room. Kohn also advises that Macktal will only appear to testify if the following conditions are met:
 1. Interview must take place in Washington, D.C.;
 2. Interview must be conducted under a grant of confidentiality; and
 3. Kohn and Macktal must be given a minimum of 30 days notice of such interview.

AI/12

- o On June 13, 1989, OI:RIV advises Kohn that the conditions are unacceptable and that OI intends to take the necessary legal steps to enforce the subpoena. OI's position is captured in a letter sent via overnight mail to Kohn on the same date.
- o OGC (Fitzgerald/Mullins) notified of Kohn's conditions for the interview, the OI position on the matter, and the subsequent letter to Kohn. Appropriate documents provided to OGC at this time.
- o On June 14, 1989, at approximately 1:30 p.m., Mullins advised OI:HQ that there is no record of a Motion to Quash the Macktal subpoena on record in the Office of the Secretary.

This information is considered investigatory material and is not to be released outside the NRC without the prior approval of the Director, OI.

cc: J. Fouchard, PA
J. Bradburne, GPA/CA
J. Fitzgerald, OGC
D. Driskill, OI:RIV