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UNITED STATES NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

RELATED CORRESPONDENCE

October 10, 1984

DOCKETED  
USNRC

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Washington, D.C. 20009

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In the Matter of  
METROPOLITAN EDISON COMPANY, ET AL.  
(Three Mile Island Nuclear Station, Unit No. 1)  
Docket No. 50-289 *SP*  
(Restart Remand on Management)

Dear Mr. Jordan:

This letter is a follow-up to our telephone conversations of last week, and a response to your letter to me of October 4 (attached). Our conversations and your letter concern some handwritten notes of an NRC Staff psychologist, which notes the Staff has determined to be personal notes of the employee and not agency records, and therefore not under the control of the NRC Staff and not subject to discovery. See British Airports Authority v. CAB, 531 F. Supp. 408 (D.D.C., 1982); Porter County Chapter of the Izaak Walton League, Inc. v. AEC, 380 F. Supp. 630 (N.D. Ind. 1974). See also 10 CFR § 2.790(a), note 8.

Your letter reflects that, in my first telephone conversation with you on October 4, I informed you that a determination had been made that the notes in question were responsive to your request. However, it should also be noted that I also informed you later that day of the British Airports case which had held that such personal notes were not agency records and therefore not subject to discovery or FOIA requests.

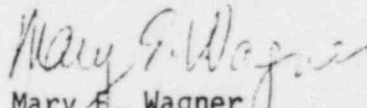
You have objected to the fact that the Staff does not identify these notes in its response to your first document request. You have construed your document request as seeking to elicit personal notes as well as NRC agency records. In view of the cases cited above, there is no reason for the Staff to construe document requests as you suggest or to identify documents which clearly are not agency records. As I explained to you, in responding to a document request, the Staff does not identify, nor does it search for, documents other than agency records. Under your construction, the Staff should have interposed an objection to any interpretation of the request that would encompass other than NRC agency records. For the reasons stated, I do not agree with your construction and do not believe such an objection is necessary. Even if the Staff had objected to the request, however, the notes in question (as well as any other personal notes that may or may not exist) would not have been identified, since they are not agency records.

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Let me assure you that I have spoken to the psychologist who is in possession of the notes at issue to inform her of UCS' position that the notes should not be destroyed, and she informed me she had no intention of destroying her notes.

I hope this letter provides some clarification of the Staff's position on this matter.

Sincerely,

  
Mary E. Wagner  
Counsel for NRC Staff

Attachment: As stated

cc: TMI-1 service list