



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

July 23, 1991

Mr. Richard E. Dow
586 N. Clinton
Stephenville, Texas 76401

In the Matter of
RICHARD E. DOW
Docket Nos. 50-445, 50-446

Dear Mr. Dow:

This letter is to inform you that, unless you take prompt steps to bring yourself into compliance with the Nuclear Regulatory Commission's Order of June 20, 1991, (CLI-91-09), which required your production for copying of certain documents and records on July 10, 1991, the NRC will request the United States Department of Justice to seek an order from a United States District Court enforcing the subpoena. You have not complied with the Commission's Order. Based on events and newspaper reports to date, it appears that you have decided not to comply with the Commission's Order upon the mistaken belief that the NRC seeks to learn the identity of unnamed sources and that the subpoena authorizes your arrest.

Please contact me at (301) 492-1694 before August 7, 1991, in order to arrange for compliance with the subpoena no later than September 4, 1991. These dates have been selected to permit adequate time for you to produce all relevant documents and all 16 tapes. The NRC seeks the subpoenaed documents and records in order to investigate allegations of safety violations made through you to the NRC over a period of several months in 1991. That information is essential to evaluate the safety allegations and is, according to your representations, relevant to the public health and safety.

The subpoena commanded production of two categories of documents and records: (1) those which you allege contain information concerning safety-related deficiencies at the Comanche Peak Steam Electric Station and (2) the telephone numbers or addresses of persons whom you had already named during the interview of April 10, 1991, with members of the NRC Staff.

Please be assured that the NRC has not sought, and does not now seek, to learn the identity of those unnamed persons whom you represented as wishing to remain anonymous. The NRC simply wishes to contact those persons you have already explicitly named.

~~RETURN TO REGULATORY CENTRAL FILES~~

DESIGNATED ORIGINAL

Certified By JB

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Accordingly, the subpoena requested only the means to contact named individuals, not the identity of unnamed individuals.¹

Moreover, the Staff will take all reasonable measures to maintain the confidentiality of any individual you have already named as possessing relevant information, unless that individual explicitly informs the NRC that confidentiality is not requested. NRC Manual Chapter 0517 requires certain measures to protect the confidentiality of sources, including: (1) not revealing the identity of an alleged to individuals inside the NRC except upon a need to know basis, (2) not revealing the identity of an alleged to the licensee or the public unless the alleged has no objection to the release of his/her identity, and (3) not revealing the identity of a source granted confidentiality, except in extreme circumstances such as those necessary to prevent an imminent threat to public health and safety, pursuant to an order or subpoena issued by courts of law or similar legal entities, or pursuant to a written Congressional request. Moreover, the Staff is required, to the extent possible, to conduct any evaluation of alleged safety violations in a manner such that the source of the allegation is masked and not reasonably traceable to any particular individual. If you wish to discuss the details of procedures for protecting confidentiality, please raise that matter when you contact us.

The Order established a date of July 10, 1991, for production of the records and documents at the NRC Region IV offices in Arlington, Texas. By letter dated July 5, 1991, addressed to the NRC Chairman, you requested an alternate location on the grounds that you were fearful that your life and safety would be in danger if you returned to Texas. By letter dated July 8, 1991, to you from Stephen Lewis, Senior Supervisory Enforcement Attorney, Office of the General Counsel, the Staff agreed to permit compliance by your appearance on July 10, 1991, at 10:00 a.m. at either the Commission's headquarters in Rockville, Maryland or at any NRC Regional office. Although we were not able to be in direct contact with you, we were informed by an intermediary that she had provided you with a copy of Mr. Lewis' letter and that you had elected to comply by appearing at NRC headquarters. However, you did not

¹ Although the Commission's Order addressed your First Amendment association rights as they relate to the identity of your sources, the Staff has not sought, and does not now seek, the identity of individuals you do not wish to name. As you are well aware, the Staff, in its Response to your Motion to Quash, did not request the Commission to go beyond the explicit request of the subpoena for the telephone numbers and addresses of individuals already named by you. Perhaps you inferred from the Commission's discussion regarding the identify of unnamed sources that the Staff wishes to learn the identity of unnamed sources. Nonetheless, even a mistaken impression that the Staff wished to obtain such information does not justify defiance of the entire subpoena.

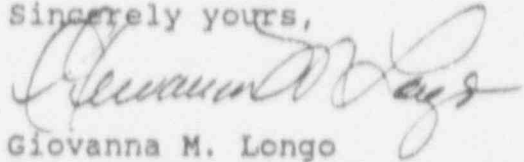
appear and produce documents on July 10th. In subsequent telephone calls to the NRC you stated that you would produce the subpoenaed documents and records on the afternoon of July 15, 1991, at the NRC headquarters offices. Again you did not appear as promised, and the Staff has received no communication from you to explain your failure to appear.

Please be assured that the subpoena issued by the NRC staff and the Commission's Order denying your motion to quash provides no arrest authority to any law enforcement agency. A subpoena is merely a command to produce documents, records or testimony. The NRC's goal is to obtain information you claim to have concerning your allegations of safety violations at Comanche Peak Electric Steam Station and to evaluate those safety allegations. Moreover, in view of your concerns for personal safety, the Staff does not require your appearance at the production of documents and records, and is willing to accept the materials from a representative of your choice.

Pursuant to the Commission's Order, the NRC Staff will coordinate plans for receipt and review of the documents and records with the Office of Inspector General (OIG), by arranging for the OIG's presence at the receipt of documents and records.

We look forward to hearing from you in response to this letter so that the NRC can receive the information essential to proceeding with an evaluation of the matters you have raised.

Sincerely yours,



Giovanna M. Longo
Enforcement Attorney
Office of the General Counsel

cc: David C. Williams
Inspector General
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

George Edgar, Esq.
Newman & Holtzinger, P.C.
1615 L. Street, N.W., Suite 1000
Washington, DC 20036

Juanita Ellis
President, CASE
1426 S. Polk Street
Dallas, TX 75224