



Opinion to Stay

Subpoena Duces Tecum

Stephen B. Comley, Mansion Drive, Rowley, MA 01960

Pursuant to the provisions of Section 6(a)(4) of the Inspector General Act of 1978, Pub.L. 95-452 (5 U.S.C. App.1), as amended, you are hereby commanded to produce before Supervisory Special Agent, Kent E. Walker

an official of the Office of the Inspector General, at _____ the
United States Nuclear Regulatory Commission, Office of the Inspector General,
Mail Stop MNEB 6718, Washington, DC 20555.

On the 1st day of April, 1991, at 5 o'clock p.m. of that day, the following information, documents, recordings, reports, answers, records, accounts, papers and other data and documentary evidence: All tape recordings of telephone conversations between Stephen Comley and Roger Fortuna through January 31, 1989, and any and all transcripts of such telephone conversations.

IN TESTIMONY WHEREOF, the Inspector General of the
Nuclear Regulatory Commission has hereunto set his
hand at Bethesda, MD this 12 day
of March, 1991.

Davis C. Williams
Inspector General

Note: Failure to comply with this subpoena could result in a legal proceeding against you in which a court order compelling compliance will be sought. See Privacy Act notice on other side.

EXHIBIT A

PRIVACY ACT NOTICE. Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, you are advised of the following:

1. Authority for Solicitation of Information. The Inspector General Act of 1978, Pub. L. 95-452 (5 U.S.C. App. 1), as amended, authorizes the NRC Inspector General to issue subpoenas necessary in the performance of audits and investigations of the programs and operations of the NRC. Disclosure of the information specified in this subpoena is mandatory, subject to the valid assertion of a legal right or privilege.
2. Principal Purpose for Solicitation of Information. The Inspector General's principal purpose in soliciting the information is to promote economy, efficiency, and effectiveness in the administration of the programs and operations of NRC and to prevent and detect fraud, abuse, or mismanagement in such programs and operations.
3. Routine Uses of the Solicited Information. The routine uses of the solicited information are published in Volume 51 of the Federal Register, pages 33158-59, September 18, 1986.
4. Effect of Noncompliance. Failure to comply with this subpoena may result in the Inspector General requesting a court order for compliance. If such an order is obtained and you thereafter fail to supply the information, you may be subject to civil and/or criminal sanctions for contempt of court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on _____, 19____, at _____

I personally served this subpoena upon _____ by handing to and leaving with _____ a true and correct copy thereof.

(Signature) _____

(Title) _____

(Date) _____, 19____

ADMISSION OF SERVICE

I HEREBY ADMIT SERVICE of this subpoena on behalf of _____ and acknowledge receipt of a true and correct copy thereof on this date. _____

(Signature) _____

(Title) _____

(Date) _____, 19____

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Nov 8 1:35 AM '91

EXHIBIT

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Quinton & Day

UNITED STATES OF AMERICA,
Plaintiff,

v.

STEPHEN B. COMLEY,
Defendant.

CIVIL ACTION
M.B.D. NO. 91-11556-K

ORDER ENFORCING SUBPOENA OF THE INSPECTOR
GENERAL OF THE NUCLEAR REGULATORY COMMISSION

This matter having come before the Court on September 19, 1991, for hearing on the Petition to Enforce Inspector General of the Nuclear Regulatory Commission Subpoena, and Respondent's Opposition to the Petition, and the Court having heard the arguments of counsel and considered all of the submissions of the parties and of the amici, the Court makes the following findings and order, which are in addition to the findings issued orally by the Court on September 19:

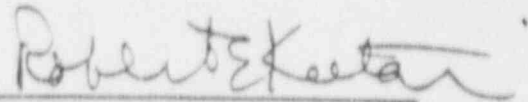
1. The subpoena issued March 12, 1991 by the Inspector General is regular on its face.
2. The subpoena was issued in connection with an investigation that is authorized by the Inspector General Act of 1978, as amended, ("the Act"), 5 U.S.C. App. 3, and issuance of the subpoena in connection with this investigation is authorized by § 6(a)(4) of the Act, 5 U.S.C App. 3, § 6(a)(4).
3. The subpoena was not issued in bad faith.
4. The subpoena is relevant to the Inspector General's investigation, is not overly broad, and adequately describes the

documents sought.

3. The subpoena does not violate respondent's First Amendment rights.

WHEREFORE, the respondent shall comply with the subpoena, and appear with the tape recordings and transcripts described therein, on November 22, 1991, at 10:00 a.m. at the Office of the United States Attorney, 1003 J.W. McCormack Post Office and Court House, Boston, Massachusetts.

Dated this *31st* day of *October*, 1991.

A handwritten signature in cursive script, reading "Robert E. Keeton". The signature is written in dark ink and is positioned above the printed name and title.

ROBERT E. KEETON
UNITED STATES DISTRICT JUDGE



Nuclear Information and Resource Service

1424 16th Street, N.W., Suite 601, Washington, D.C. 20036 (202) 328-0002

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*Organizations listed
for identification only

January 17, 1992

Hon. Ivan Selin
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Chairman Selin:

I am writing to ask you to act now to stop Steve Comley from going to jail.

I am sure you are familiar with many of the details of the bizarre Comley/Fortuna affair, so I won't repeat them here. In a nutshell, Mr. Comley may soon face contempt of court charges brought about by his refusal to release to the NRC alleged tape recordings he possesses of conversations between himself and Roger Fortuna.

While I have no knowledge of whether Mr. Comley even possesses such tape recordings, I would like to point out two issues.

First, the original subpoena for the tape recordings stemmed from a petty, wicked, thoroughly discredited NRC investigation of Mr. Fortuna led by former executive director Victor Stello. I remind you that, largely as a result of the Fortuna affair, Mr. Stello was forced to withdraw his name from a key Department of Energy post rather than face the embarrassment of certain Senate disapproval of his nomination. Congressional investigators have cleared Mr. Fortuna of any wrongdoing. Continuing with this investigation of Fortuna--one argument raised by the NRC in its quest for these tapes--is inexplicable.

The NRC also has raised the argument that these tapes may contain important, previously unreleased safety information about one or more reactors. Can anyone honestly believe that Mr. Comley would withhold relevant safety information? In fact, Mr. Comley has made a virtual career about raising safety allegations--some of which have proven correct. There can be no doubt in anyone's mind who

dedicated to a sound non-nuclear energy policy.

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has ever dealt with Mr. Comley that if he possessed relevant safety information, he would make it known as publicly and loudly as possible.

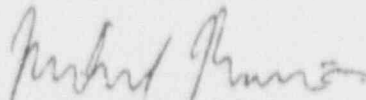
Absent a compelling reason for the NRC's pursuit of these alleged tapes, we can only assume that the NRC's real goal is the continued and damaging personal persecution of Mr. Comley and/or Mr. Fortuna. Neither deserves this, and the whole affair is continuing to besmirch the reputation of the NRC.

You appear to be making some efforts to improve the openness and honesty of the NRC. I ask you to take this necessary step in restoring your agency's image, and to immediately drop all charges and subpoenas against Mr. Comley and to take immediate action to ensure that he doesn't go to jail.

The idea of Mr. Comley spending time in jail at the NRC's insistence in conducting unfounded, bizarre, inexplicable investigations personally angers me like few things this agency ever has done. We will certainly not let his sentencing go unnoticed. Do you really want to make a hero out of him?

Mr. Comley could be sentenced at virtually any time. I therefore await your speedy reply.

Sincerely,



Michael Mariotte
Executive Director