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February 19, 1988

The Honorable Lando W. Zech, Jr.  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C.

Dear Chairman Zech:

This is in response to your letter of February 11, 1988, regarding the request of the Subcommittee on General Oversight and Investigations for documents relating to the NRC's investigation of alleged wrongdoing at the Tennessee Valley Authority. Specifically, the Subcommittee has requested a draft report by the Office of Investigations (and related documents) regarding alleged material false statements by Steven White, director of the nuclear program of the Tennessee Valley Authority.

The NRC has refused to provide the requested information at this time, indicating that the Subcommittee will have to wait to receive the documents until the Department of Justice has completed its "prosecutorial review." The Commission's withholding of these documents causes us great concern for a number of reasons.

The Subcommittee is legally entitled to the requested documents. At no point have you suggested otherwise. Thus, the NRC is withholding documents which it is legally obligated to provide. Delay on the premise of "prosecutorial review" is de facto denial of those documents.

The Subcommittee has repeatedly assured the NRC that we will treat the documents most carefully. We have repeatedly assured the Commission that we would not want to do anything that would detract from the ability of the government to pursue appropriate criminal and/or civil actions. We have provided these written assurances in good faith, and notwithstanding our legal entitlement to the documents. Particularly under these circumstances, it is difficult to credibly assert that simply

providing the Subcommittee with documents would jeopardize civil or criminal actions.

I am also very troubled by the coincidence between the Commission's withholding of the requested documents and the upcoming Commission decision on whether to restart TVA's Sequoyah 2 plant. As you are aware, NRC's Office of Investigations conducted an inquiry to determine whether Steven White willfully made material false statements to the NRC regarding compliance of another of TVA's power plants, Watts Bar, with Appendix B of NRC's regulations. It is a matter of public information that after a lengthy and rigorous investigation, the NRC's own investigators have concluded that Mr. White had indeed intentionally made material false statements to the NRC. By your letter to us of February 4, 1988, you essentially confirmed this fact. Had this not been so, the NRC would not have referred the case to the Justice Department.

It is our understanding that the Commission expects to meet very shortly, perhaps as soon as February 24, 1988, to discuss and possibly to decide whether to allow the Sequoyah 2 plant to resume operation. Presumably that decision will be based at least in part on representations made by Steven White. It is unfortunate that the NRC has chosen to withhold documents specifically regarding the credibility of the individual under whose supervision Sequoyah 2 falls. It is our hope that NRC's intended delay in providing the documents is not related to the anticipated resolution of the Sequoyah 2 issue. The immediacy of the decision on Sequoyah 2, however, only serves to emphasize the importance of the NRC's refusal to provide the Subcommittee with documents to which it is legally entitled.

There is an additional issue of great significance. This Subcommittee has long been concerned with the disregard shown by the Commission for the role of the Office of Investigations (OI). By investigating wrongdoing on the part of licensees, OI performs a critical function. As an "audit" agency, the NRC relies heavily on the truthfulness and accuracy of statements by utilities as to the safety of their power plants. Intentional false statements by a licensee to the NRC directly bear upon the safety of all of the plants it operates. If a licensee has intentionally lied to the NRC regarding one of its plants, the credibility of assertions as to the safety of that or other plants must be called into question.

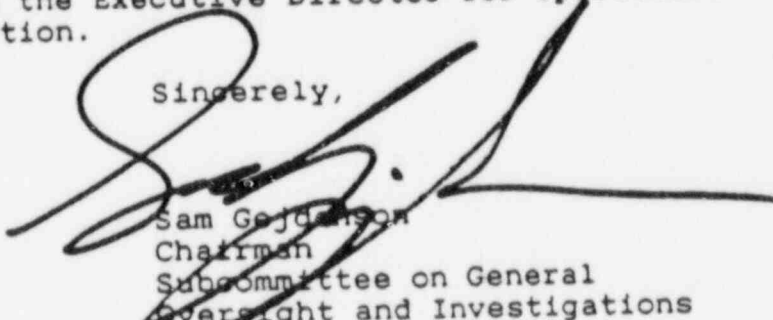
Recognition of the link between licensee wrongdoing, e.g., willfully lying, and the safety of nuclear plants was one of the primary reasons for the creation of OI. For the Commission to act in disregard of the OI findings would be a very serious matter. The NRC has itself recognized that the long-standing problems at TVA are management related. Even the former head of NRC's special team assigned to TVA, James Keppler, was reported

to have said that White must be cleared before NRC will agree to restart Sequoyah. "We have to have that issue resolved before we can conclude satisfactorily that Sequoyah can be operated safely" (James Keppler as reported in The Chattanooga Times, 10/31/87).

I do not see how the Commission can act on the Sequoyah 2 restart until the issue of Steven White's credibility has been fully resolved. While the Subcommittee is clearly entitled to the requested documents, we are willing to suspend our request pending prosecutorial review in this one situation, provided certain conditions are met. If the NRC will provide the Subcommittee with clear, unequivocal assurances that the Commission 1) will not vote on restart of Sequoyah 2 prior to completion of prosecutorial review by the Justice Department, and 2) will provide the Subcommittee with the requested documents within 2 days of completion of prosecutorial review, the Subcommittee is willing to defer its request for the documents in question, pending completion of such review by the Justice Department. Please provide us with such assurances, in writing, by February 22, 1988. If the NRC is unwilling to extend the necessary assurances, please provide us with the requested information by February 22, 1988, accompanied by an explanation of the Commission's intended course of action on restart of Sequoyah 2 as it relates to the Steven White matter.

Pursuant to conversations between Subcommittee staff and NRC's Office of Congressional Affairs, our January 28th request for information regarding the TVA investigation should be read to include the memorandum from the Executive Director for Operations requesting the OI investigation.

Sincerely,



Sam Gejdenson  
Chairman  
Subcommittee on General  
Oversight and Investigations