



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

January 23, 1989

Mr. Michael D. Kohn
526 U Street N.W.
Washington D.C. 20001

Dear Mr. Kohn:

As a preliminary matter, please be advised that "Petitioners Joseph J. Macktal and S.M.A. Hasan Motion for Protective Order" which you filed before the Commission on December 7, 1988 has been referred to me for a response. The Commission's Statement of Policy on Confidentiality, 50 Federal Register 48506 (November 25, 1985) expressly provides for revocation of confidentiality and sets out the procedure to be followed. The Executive Director for Operations is authorized to revoke grants of confidentiality made by offices reporting to him. The Statement of Policy on Confidentiality directs that the NRC attempt to notify the confidential source of its intent to revoke confidentiality and to provide him/her with an opportunity to explain why such action should not be taken. The Commission policy has been incorporated into NRC Manual Chapter Appendix 0517, "Management of Allegations," Part II, page 22. This procedure has been followed in this matter.

Specifically, our letter of October 3, 1988 informed you of our reasons for considering the revocation of confidentiality granted pursuant to the two Confidentiality Agreements (Agreements) executed on March 5, 1986 and March 11, 1986 with your client, Mr. Joseph J. Macktal, Jr., i.e., because the substance of the technical concerns obtained pursuant to the Agreements had been made public. Consistent with NRC-0517, you were provided an opportunity to respond to us within 10 days regarding any reasons why the NRC should not take the proposed action. By letter dated October 9, 1988, you informed us that you did not have copies of the transcribed interviews in which Mr. Macktal provided information to the NRC and so you could not advise Mr. Macktal until you had been given an opportunity to review the transcripts.

Our letter of October 31, 1988 provided copies of the documents you stated were needed to advise your client and informed you that your October 9, 1988 letter did not provide information to change our intention to revoke the Agreements. Our letter also advised you that if we did not hear from you within 10 days that we would proceed with the proposed action and send you confirmation.

On November 14, 1988, Mr. Steven Kohn talked to Messrs. Grimes and McKee of the Office of Special Projects staff by telephone and discussed various aspects of the proposed revocation. During this discussion, Mr. Steven Kohn had several questions and requested an extension of the time in which to respond to our October 31, 1988 letter. The staff agreed to delay the decision on revocation until November 28, 1988. On November 18, 1988, the staff talked with you by telephone and responded to the questions raised by Mr. Steven Kohn. We have received no written response to our letter of October 31, 1988.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

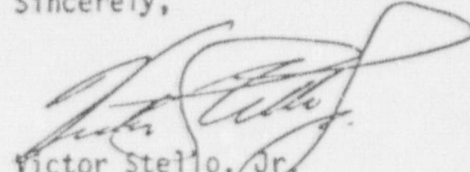
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Mr. Michael D. Kohn

- 2 -

We have carefully considered the arguments that you have presented on behalf of your client and determined that revocation of confidentiality is proper in this case. Accordingly, this letter constitutes our revocation of confidentiality granted pursuant to the Agreements with Mr. Joseph J. Macktal, Jr. effective on the date of this letter. As Mr. Macktal's attorney, we request that you provide him with a copy of this revocation so that he will be fully informed of the actions taken on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Victor Stello, Jr.", with a large, stylized flourish extending from the end of the signature.

Victor Stello, Jr.
Executive Director
for Operations