



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 25, 2021

BY ELECTRONIC MAIL

Greg Berlin, Esq.
Alston & Bird LLP
333 South Hope Street, 16th Floor
Los Angeles, CA 90071
Greg.Berlin@alston.com

Re: *Five Point Holdings, LLC et al. v. Tetra Tech, Inc. et al.*
No. 3:20-cv-1481-JD (N.D. Cal.)
TR-21-02

Dear Mr. Berlin:

Thank you for your letter of August 23, 2021 and your expressed willingness to work within the contours of our *Touhy* regulations. We will work to provide you with responsive nonprivileged materials that we are able to locate and are not already publicly available, as discussed below.

With respect to Request 1 of your subpoena, the Government has agreed (Response 5 to Tetra Tech's First Set of Requests for Production in *United States ex rel, Jahr v. Tetra Tech*, case no. 13-1835) to provide the NRC Office of Investigation Report concerning any falsification of soil samples at Hunters Point. It my understanding that you will have access to these materials through the central repository.

The Government has also agreed (Response 7) to make available documents relating to NRC investigations of Tetra Tech, including its investigations related to petitions to revoke Tetra Tech's license. We will likewise make available for your review any nonprivileged documents that we are able to locate concerning allegations of misconduct submitted to the agency concerning to Tetra Tech's work at Hunters Point, as identified in Requests 23, 29, and 31. We believe that these files, along with the Office of Investigation file referred to above, will satisfy your requests for documents, to the extent they exist, concerning persons referenced in your Requests who are not NRC employees, including Laura Lowman (Requests 2-6, 8, 14, 18); Thorpe Miller (Requests 6-7, 9-11, 14-17); Susan Andrews (Requests 12-13, 26-30, 32 36); Elbert Bowers (Requests 19-22, 24-25); Rick Zehensky (requests 37-41); and Joe Cunningham (Requests 41-44).

We will likewise endeavor to provide nonprivileged materials, to the extent not covered by other requests, responsive to Request 33 and, to the extent discernible, Requests 34 and 35. Please

Greg Berlin, Esq.

note that the three persons referenced in these requests (Messrs. Urban, Munoz, and Young) are no longer employed by the NRC.

I will advise you when documents are available for production and will communicate with you on a periodic basis concerning our efforts to locate responsive materials. I will also advise you if the time we spend on your request, independent of our efforts to produce documents in cases to which the United States is a party, approaches the 50-hour threshold. Should you have any questions, please feel free to call me at (301) 415-1956 or to contact me via email at andrew.averbach@nrc.gov.

Sincerely,

Andrew P. Averbach
Solicitor