

EDO Principal Correspondence Control

FROM: DUE: 03/18/02 EDO CONTROL: G20020090
DOC DT: 02/05/02
FINAL REPLY:

Dan Salter
HGP, Inc.

TO:

Chairman Meserve

FOR SIGNATURE OF : ** GRN ** CRC NO: 02-0116

Norry

DESC: ROUTING:

Request Status of Decision to Provide Public
Access to the Daily Plant Status and Daily Event
Reports Removed from NRC's Website

Travers
Paperiello
Kane
Norry
Craig
Burns/Cyr
Landau, OEDO

DATE: 02/24/02

ASSIGNED TO: CONTACT:
EDO Landau

SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECY-017

ERids: SECY-01

**OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET**

Date Printed: Feb 22, 2002 14:19

PAPER NUMBER:	LTR-02-0116	LOGGING DATE:	02/22/2002
ACTION OFFICE:	EDO		
AUTHOR:	Dan Salter (HGP Inc.)		
AFFILIATION:	SC		
ADDRESSEE:	CHRM Richard Meserve		
SUBJECT:	Requests status of decision to provide public access or secured access to the Daily Plant Status and Daily Event Reports removed from NRC's website		
ACTION:	Direct Reply		
DISTRIBUTION:	Chairman, Comrs.		
LETTER DATE:	02/05/2002		
ACKNOWLEDGED	No		
SPECIAL HANDLING:	SECY to Ack		
NOTES:			
FILE LOCATION:	ADAMS		
DATE DUE:	03/18/2002	DATE SIGNED:	

EDO --G20020090



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February 5, 2002

The Honorable Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Mailstop 016C1
Rockville, Maryland 20852

Dear Chairman Meserve,

I am writing again in the hopes of finding out the status of the NRC's decision whether to provide public access or a secured access via a full background check, to the Daily Plant Status Report and the Daily Event Reports that were removed from the NRC's website in the wake of the terrorist attacks of September 11, 2001. Again may we compliment the Commission on its measured response to the potential security threat in safeguarding documents whose full public access could be detrimental if used by terrorists.

Certainly, the new information that President Bush announced in his State of the Union speech that our nation's nuclear plants were considered as targets for attack requires a continued level of heightened alertness. As before, however, we at HGP want to emphasize four points with regard to document security issues, and specifically with regard to the Daily Plant Status Report and the Daily Event Reports. HGP contends that 1) these two reports should not be classified as risk significant for terrorist use, 2) the withholding of this information, therefore, constitutes an abrogation of a basic right to information protected by the Freedom of Information Act, 3) the withholding of this information is deleterious to several legitimate business concerns in our country (specifically it impacts our free markets), and 4) if the Commission continues to view these two reports as security sensitive, a screening method should be developed and implemented to allow legitimate businesses, based on background checks and security software, to have access to these reports.

Issue 1 – Risk Insignificance

As previously stated, HGP would argue that public access to the Daily Status Report and the Daily Event Reports would not heighten security risk at our nation's commercial nuclear sites. The most notable reasons countering the idea that these reports provide security risk are that:

1. the Daily Plant Status report provides operating status at a single point in time each morning making it impossible for the potential terrorist to be assured of continued operation during his review; and
2. a more significant risk—the forecasted timing of major outages—is not even provided in the subject reports and is readily available through contractor websites; and
3. at any commercial nuclear facility that has cooling towers, verification of the approximate current operating condition of that plant can be made more reliably from miles away by checking the water vapor exiting the towers (not to mention other passive ways to verify a commercial nuclear plant's status); and

4. radiological danger from a damaged plant could occur irrespective of the operating condition of the plant (especially if spent fuel pools or ISFSI's were the prime targets rather than the reactors).

Issue 2 – Right Infringement

These two reports were initially made public for a variety of reasons. Due to the nature of the industry, public awareness of such a high risk, safety related industry is important for control and accountability. By removing access to these and other reports, the public's right to information for management and operational monitoring is effectively curtailed.

Issue 3 – Retail Impairment

Certain businesses have used the information provided in the subject reports as necessary tools for ongoing operations and business decisions. For example, the reports provide data for due diligence in the merger/acquisition arena, for comparative purposes in litigation for management accountability, and for supply/demand purposes in the power trading industry. HGP's small business relied on these reports and has been severely debilitated by their removal from public accessibility.

Issue 4 – Restricted Issuance

Security risk mitigation could be accomplished by screening the access to the subject reports. As we previously suggested, HGP would volunteer to be a beta test site for the new NRC access process. Company and individual background checks similar to those required for unescorted access at commercial nuclear facilities could be conducted very quickly. Qualifying firms could be granted password access to a secure portion of the NRC's website holding these reports and other previously accessible documents. Qualifying firms could also be required to purchase and utilize encryption software for any correspondence, downloading or storage of secure information. This would also provide our Governmental agencies with other much needed data.

As a small business working with much larger client firms, the NRC, and other state and federal agencies, we understand the complexities involving political, technical and economic factors in the decision-making process; however, we continue to believe that the disproportionate small number of companies which do have access to plant data that are being withheld from the market and the rest of the public, provides opportunity for market manipulation and other illegal activity. The rest of the public is being affected by this discrimination. Our points of contention and mitigation suggestions are legitimate, practical, appropriate and secure. We urge the NRC to evaluate our request and implement a policy that provides security without harming freedoms and business concerns on which we depend.

We would welcome the opportunity to discuss this with you or your staff.

Very truly yours,

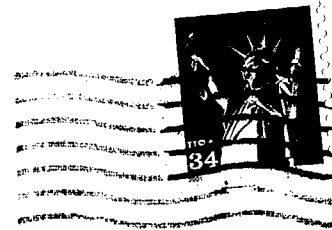


Dan Salter
Director, East Coast Operations
HGP, Inc.

cc: The Honorable Strom Thurmond
The Honorable Jim DeMint
Fred W. Giffels, CEO, HGP Inc.
Randall S. Hitler, Esquire
File



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