



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 15, 1999

The Honorable Tom DeLay  
United States House of Representatives  
Washington, D.C. 20515-4322

Dear Congressman DeLay:

7C This is in reference to our letter to you dated March 20, 1998. That letter responded to your correspondence dated February 19, 1998, written on behalf of your constituent [REDACTED]. In your February 19 letter, you urged the NRC to provide an Office of Investigations (OI) report to [REDACTED] prior to a predecisional enforcement conference with South Texas Operating Company, a licensee of the Commission. In our March 20 letter (which is enclosed herewith), we provided you with the reasons why OI reports are not normally made available to enforcement conference participants until after the NRC initiates a formal enforcement action. In addition, we advised you that the NRC staff would be reexamining its practices regarding the timing of the release of OI reports and would provide you with the outcome of that review.

Following our letter to you, the staff undertook a thorough reevaluation of its current practices with respect to the release of OI reports to licensees and subjects of investigations for purposes of predecisional enforcement conferences. The staff conducted a public meeting on May 26, 1998, to address the issues involved. As a result of that review, the staff recognized that there are substantive arguments supporting both a decision to release OI reports for purposes of enforcement conferences, and to withhold them. Release of investigative information in the OI report to conference participants may result in a more fruitful exchange of information at the conference, and thereby might enhance the fact-finding function of the proceeding. However, providing full disclosure of the agency's investigative information, including the identity of witnesses, has the potential to undermine the agency's investigative process.

To strike a proper balance between these competing interests, and after consulting with the Commission, the staff has determined that it should change its practice with respect to the release of investigative information to predecisional enforcement conference participants. The staff will offer to provide to conference participants a detailed summary of the information that forms the basis for the staff's preliminary conclusion that a violation of NRC regulatory requirements occurred. While that information will be derived primarily from OI's report of investigation, the report itself will not be released until after the NRC reaches a formal enforcement decision. The staff believes that this approach best accommodates the needs of licensees and other subjects of investigations to better prepare for the conference, while preserving the agency's legitimate interests in protecting its investigative process.

The Honorable Tom DeLay

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We hope that this letter adequately addresses the concerns you have expressed. Please contact us if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "William D. Travers". The signature is written in a cursive style with a large, sweeping initial "W" and a long, horizontal stroke extending to the right.

William D. Travers  
Executive Director for Operations

Enclosure: As stated

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\*See previous concurrence

CRC- 98-0178

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