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OFFICE OF THE ATTORNEY GENERAL

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November 25, 2003 (11:33AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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November 17, 2003

Sherwin E. Turk, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Request for document

Dear Sherwin:

1. Sandia National Laboratory has published *Technology Overview for Analysis of Aircraft Impact*, Attaway et al., SAND 2003-1952 (July 2003) ("Technology Overview"). Sandia has distributed the Technology Overview, voluntarily and unsolicited, to various contractors, consultants and interested parties. However, your October 17, 2003 letter confirms that you have not seen the July 2003 Technology Overview and have yourself requested a copy. While I understand that Sandia is serving as a consultant to the NRC Staff on the PFS aircraft crash consequences, we are informed that the Technology Overview is not specific to the PFS litigation and does not deal with the facts of the PFS litigation.

2. On October 1, 2003, Dr. Dianne Nielson, Executive Director of the Utah Department of Environmental Quality, informally requested a copy of the Technology Overview from Dr. Attaway, one of its authors. By telephone on October 16, 2003, Dr. Attaway informed Dr. Nielson that he would mail her a copy of the Technology Overview "for official use." Since you are not legal counsel for Sandia, we saw no reason to seek your permission for a Sandia document not prepared for this litigation. If we are mistaken and you do represent Dr. Attaway or the other authors, then we would expect, in the spirit of cooperation that the Board requires in this proceeding, that you expedite production to us of this July 2003 document.

Letter to Sherwin Turk
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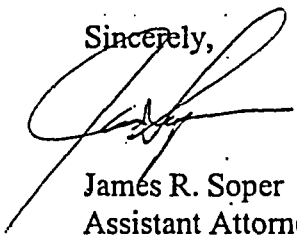
3. After contacting Dr. Nielson, apparently Dr. Attaway was then advised not to send the Technology Overview to her. By letter the following day, October 17, 2003, you informed State lawyers that any documents "pertaining to this matter" should be requested from you. Your letter further stated that you had requested the Sandia Technology Overview, you would review it promptly, and determine whether it would be made available. It is now more than six weeks since Dr. Nielson's request for the Technology Overview.

4. We have heard nothing further from you. We request that you either produce the Technology Overview to us or otherwise arrange to lift any restrictions placed on Dr. Attaway distributing the document.

As a party to perhaps one of the most important NRC reviews of aircraft impacts to fixed objects, the State of Utah has a need for access to documents it considers relevant to the presentation of its case to the Licensing Board. It would be highly irregular to have portions of the document redacted on the claim that the State does not have a "need to know" all material having any relevance to this subject. The NEI study which you previously provided was highly redacted based on the Staff's speculation of what our experts "need to know" in this area. The redacted version you provided was thus of limited use to our experts. Complete documents are needed for context, technical treatment of related matters, and full references. Therefore there is no reason why you should not produce a complete, unredacted copy of the Technology Overview.

Your attention to this issue at your first convenience is appreciated.

Sincerely,



James R. Soper
Assistant Attorney General

cc: service list