

To: J. O'Reilly
From: EDO

Congress of the United States

House of Representatives Pg. 143

Washington, D.C. 20515

July 27, 1984

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The Honorable Nunzio J. Palladino
Chairman
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chairman:

I am writing this letter as a member of the Energy and Environment Subcommittee.

I have reviewed with interest and concern the Office of Investigation's (OI) March 5, 1984 report, "Grand Gulf Nuclear Power Plant: Possible Deliberate and Willful Material False Statements Regarding RO and SRO License Examination Applications" (Case No. 2-83-037).

I would like to bring an aspect of this report to the Commission's attention. My concern involves whether officials of the Nuclear Regulatory Commission's (NRC) Region II office acted properly in handling this case. There are two questions of potential concern. First, did Region II officials unnecessarily and/or inappropriately share information with the licensee? And second, did Region II officials authorize a return to operations, and/or allow continued operation, subsequent to learning that the qualifications of Grand Gulf reactor operators were probably falsified and the operators potentially unqualified?

Concerning the first question, the OI report appears to indicate that Region II officials informed the licensee that discrepancies in reactor operator qualification cards could constitute a material false statement prior to Region II's October 18, 1983 formal request for an OI investigation. Although the OI report indicates that Region II officials apparently began to view the situation as a possible material false statement between January 1983 and August 1983, this information was shared with the licensee both in August 1983 and at a September 23, 1983 meeting, and the plant was permitted to return to power on September 25, 1983, prior to requesting the OI investigation or otherwise resolving this matter.

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OIA for action

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Significantly, the OI report reveals that by sharing this conclusion--that discrepancies in the qualification cards were being regarded as possible material false statements--with the licensee at a September 23, 1983 meeting, Region II caused a Vice-President of the Mississippi Power and Light (MP&L) Company to subsequently refuse to provide a letter addressing this issue to NRC that was brought to that meeting with the intention of being provided to the agency. Hence, it would appear that by sharing suspicions or possible conclusions of potentially criminal conduct with the licensee, company officials at that time refused to turn over information and possible evidence to NRC.

These circumstances are reminiscent of another case in which the U.S. Department of Justice (DOJ) criticized NRC for diminishing the chances for successful prosecution. In a March 7, 1980 letter to NRC, DOJ wrote the following harsh words which appear appropos in this case:

...gratuitous and apologetic concessions and admissions, and gratuitous disclosures of evidence and theories prior to the completion of an investigation, could deservedly or undeservedly suggest a basic confusion as to who the respective clients are. The clients, of course, are the public--the millions of persons who cannot afford to retain lawyers and law firms to represent them before the NRC and who have no other persons to protect their interests.

Second, I am troubled by the ensuing course of events by which MP&L was allowed to restart Grand Gulf on September 25, 1983 and operate through November 8, 1983. According to the "Chronology of Licensing Activities" provided to me by the Commission, low power testing was completed during this time period. However, by August, 1983, and certainly no later than September 23-30, 1983, Region II was aware of the erroneous operator training records and had reason to suspect the competence of Grand Gulf's reactor operators. Region II's October 18, 1984 Request for Investigative Assistance states that this case is one that "...involves the submittal of false information to the NRC on a subject that could be material to the granting of licenses to operators."

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Indeed, a December 28, 1983 memorandum from Executive Director for Operations William J. Dircks to Commissioner Victor Gilinsky reveals that had NRC known that the operator training records had been falsified, that not only would these operators not have been licensed, but, the low power license itself would not have been issued. The Commission's regulations at 10 CFR §50.100 and Section 186 of the Atomic Energy Act, as amended, would allow suspension or revocation of a license for this type of material false statement. It is therefore difficult to understand how Region II officials could have, in good conscience and in compliance with the Commission regulations and the law, allowed Grand Gulf to operate subsequent to determining that the adequacy of operator training was at best unknown, and quite possibly, inadequate. To be sure, four reactor operators (including two Senior Reactor Operators) had to be removed from active duty at Grand Gulf in November 1983. Nevertheless, the plant was allowed to continue operations and a Confirmation of Action letter on this subject was not sent by Region II until December 5, 1983.

I expect the Commission to conduct a thorough investigation of these events and determine whether Region II acted appropriately and within NRC procedures and regulations. I would also appreciate a full and detailed response to the issues and concerns discussed above.

If the Commission believes that this letter should not be made public, please contact me within ten days with a written explanation for why the public interest would be better served by maintaining this letter's confidentiality.

Thank you for your attention to this matter.

Sincerely,

Ed Markey
EDWARD J. MARKEY
Member of Congress

EJM/sru

cc: The Honorable Morris K. Udall