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

OFFICE OF THE
GENERAL COUNSEL

June 7, 2000

The Honorable James M. Inhofe, Chairman
Subcommittee on Clean Air, Wetlands, Private Property and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

RE: Fields v. NRC, No. 1:98CVo1714 (EGS) (D.D.C., decided Feb. 7, 2000)

Dear Chairman:

Plaintiff in this lawsuit was a licensed operator at the Crystal River Nuclear Plant in Florida. In 1994, after becoming frustrated by his management's inattention to an alleged safety problem at the plant, plaintiff and a colleague conducted their own "experiment" to substantiate their safety concerns. The concerns turned out to be well-founded, and led to the NRC's imposition of a large civil penalty ($500,000) against Florida Power Company. The NRC took no enforcement action against plaintiff for his unilateral activity but in letters stated that his actions were unlawful and that the "ends do not justify the means."

Plaintiff and his colleagues lost their positions as licensed operators at Crystal River. Their efforts to gain reinstatment through the Department of Labor "whistleblower" process proved unsuccessful. Plaintiff then brought a pro se lawsuit against the NRC.

Plaintiff's initial complaint demanded correction of his NRC records under the Privacy Act. The district court (Sullivan, J.) denied Privacy Act relief on the ground that the Act does not serve as a vehicle for challenging agency action. Plaintiff then amended his complaint to allege Administrative Procedure Act (APA) and due process violations. The district court's latest order dismisses those claims on the ground that the agency had taken no action against plaintiff giving rise to legal claims -- i.e., no "final agency action" for APA purposes and no deprivation of a "liberty" or "property" interest for due process purposes.

Plaintiff has taken no appeal, and presumably has decided to pursue his grievance no further.

Sincerely,

John F. Cordes, Jr.
Solicitor

Senator Bob Graham

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