

2000-0326

3



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Tami Sheheri

DATE

NOV 20 2000

PART I. -- INFORMATION RELEASED

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments section.

APPENDICES

Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.

APPENDICES
D, E

Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.

Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.

APPENDICES
D, E

Agency records subject to the request are enclosed.

Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.

We are continuing to process your request.

See Comments.

PART I.A -- FEES

AMOUNT *

You will be billed by NRC for the amount listed.



None. Minimum fee threshold not met.

\$

You will receive a refund for the amount listed.



Fees waived.

* See comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

No agency records subject to the request have been located.

Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.

This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

FOIA/PA 2000-0326

NOV 20 2000

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES

E

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.

Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.

✓ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

✓ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.

Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).

The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).

✓ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:

✓ Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)

Attorney-client privilege. (Confidential communications between an attorney and his/her client)

✓ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.

✓ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.

(A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).

✓ (C) Disclosure would constitute an unwarranted invasion of personal privacy.

(D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.

(E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.

(F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.

OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Samuel J. Collins	Director, Office of Nuclear Reactor Regulation	E/1, E/2 & E/3	XX		
Dennis K. Rathbun	Director, Office of Congressional Affairs	E/4 & E/5	XX		
Sandra M. Joosten	Executive Assistant, Office of the Secretary	E/6			XX

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

APPENDIX D
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	11/19/98	Letter from Sen. Lieberman to Chairman Jackson. (1 page)
2.	1/12/00	Letter from Chairman Meserve to Sen. Lieberman regarding attached 11/29/99 letter from Sens. Lieberman, Dodd & Gejdenson with concerns about Millstone.

**APPENDIX E
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	05/31/95	Letter from Chairman Selin to Sen. Lieberman regarding security at nuclear power plants. (2 pages) Portion withheld, EX. 3
2.	02/06/96	Letter from Sen. Lieberman to Chairman Jackson regarding constituent's concerns about spent fuel assemblies. (5 pages) Portions withheld, EX. 6 & 7C
3.	03/06/96	Letter from J. Taylor to Sen. Lieberman regarding constituent's concerns about neutron-absorbing pins in spent reactor fuel assemblies. (10 pages) Portions withheld, EX. 6 & 7C
4.	10/20/95	Letter from Sen. Lieberman to James Taylor enclosing letter from constituent with concerns about Millstone. (9 pages) Portions withheld, EX. 6
5.	03/02/95	Letter from James Taylor to Sen. Lieberman responding to attached 01/19/95 letter submitting resumes of two constituents. (5 pages) Portions withheld, EX. 6
6.	06/10/96	Letter from Dennis Rathbun to Sen. Lieberman, released , attaching 06/04/96 Staff Requirements memo from J. Hoyle to J. Taylor regarding SECY-96-096: DOL PROCESS RECOMMENDATIONS FROM THE REVIEW TEAM FOR PROTECTING ALLEGERS AGAINST RETALIATION RECOMMENDATIONS, portions withheld, EX. 5. (3 pages)

JOSEPH I. LIEBERMAN
CONNECTICUT

COMMITTEES:
ARMED SERVICES
ENVIRONMENT AND PUBLIC WORKS
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate
WASHINGTON, DC 20510-0703

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TOLL FREE: 1-800-225-5605
INTERNET ADDRESS:
senator_lieberman@lieberman.senate.gov
HOME PAGE:
<http://www.senate.gov/~lieberman/>

November 19, 1998

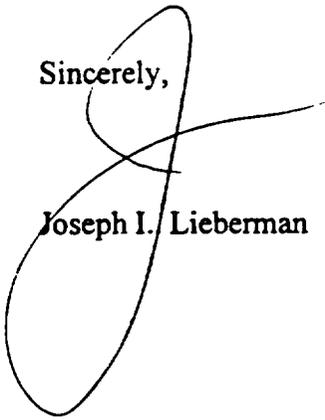
The Honorable Shirley Jackson
Chair
Nuclear Regulatory Commission
Washington, D.C.

Dear Chairman Jackson:

I want to commend you for your quick action in reinstating the NRC's anti-terrorism testing program. As you know, I have a long history of involvement on the issue of protecting nuclear power plants from possible terrorist attacks, and I appreciate your prompt response to my request that you review the staff's decision to terminate the program.

I look forward to continuing to work with you next Congress on the many important initiatives you have undertaken.

Sincerely,


Joseph I. Lieberman

REC'D BY SECY

3 DEC 98 10:23

D/1



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

January 12, 2000

Distribution:
WTravers
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The Honorable Joseph I. Lieberman
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

I am responding to your letter dated November 29, 1999, in which you, Senator Dodd, and Congressman Gejdenson raised questions regarding corrective action program issues identified in two recent Nuclear Regulatory Commission (NRC) inspection reports at Millstone Unit 2.

As you are aware, Millstone Unit 2 restarted earlier this year following an extended shutdown. During the shutdown, the licensee devoted a significant amount of effort to improving the corrective action program. The licensee instituted a program that established a low threshold for the identification and documentation of problems, in order to capture problems at an early stage and address them.

The NRC staff has continued to evaluate the implementation of the licensee's corrective action program and continues to view it as generally effective. Because of a low threshold for reporting and correcting plant conditions, several thousand condition reports were issued by Millstone by the end of 1999. Although the underlying issues involved in these instances are minor in nature, since these missed opportunities occurred within a short period of time and appeared to warrant increased licensee management attention, the concerns were highlighted in recent NRC inspection reports. Similar issues have been identified at other operating reactor facilities. These issues are dealt with as they are identified, in accordance with their safety and risk significance.

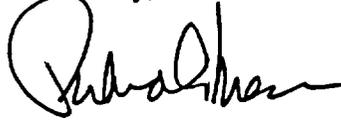
As part of our continuing enhanced oversight at Millstone, the NRC formed the Millstone Assessment Panel in July 1999 to provide heightened NRC oversight of performance monitoring, assessment and inspection of the Millstone facility. Members of this internal panel include management and staff representatives from our Headquarters Office in Rockville, Maryland, and the Region I Office in King of Prussia, Pennsylvania. At meetings on July 15 and November 8, 1999, the panel discussed the licensee's recent failures to initiate condition reports to ensure that effective follow on corrective actions would be taken. The specific issue you discussed in your letter, the failure to initiate a condition report when a procedure was not correctly followed during a Unit 2 startup, was discussed in detail. Although the panel agreed that this issue was not risk significant, failing to initiate condition reports was a concern because it was a repeat problem. As a result, the panel recommended that an NRC corrective action team inspection be conducted at Millstone. This team inspection has been scheduled for the first quarter of 2000. Additionally, following the panel meetings, the Region I Administrator, Mr. Hubert Miller, toured the Millstone station. During his visit, Mr. Miller discussed the staff's concern in this area with licensee senior management.

Originated by: [RUrban, RI]

D/2

In closing, the NRC staff will continue to monitor the licensee's progress in addressing corrective action program issues. I trust this reply responds to your concern.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Meserve". The signature is written in a cursive style with a large initial "R" and a long horizontal flourish at the end.

Richard A. Meserve

Congress of the United States
Washington, DC 20515

November 29, 1999

The Honorable Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Meserve:

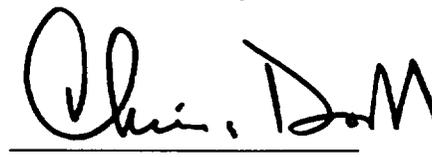
We are writing with regard to the NRC Combined Inspection 50-245/99-09; 50-336/99-09; and 50-423/99-09, issued on November 3, 1999. The NRC inspection of the Millstone Units 1, 2, and 3 identified a repeated violation of the requirement to generate a condition report. We are writing to express our concern about this issue, and to request your assistance and continued vigilance in correcting this problem.

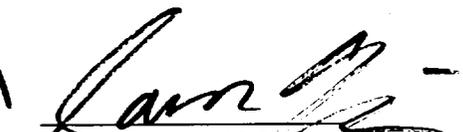
In the report, Millstone Inspection Directorate Mr. James C. Linville identified a failure to initiate a condition report to document that reactor criticality occurred during the Unit 2 reactor startup. The report further states that "this is an additional example of our concern at Unit 2 regarding the failure to initiate condition reports, which was highlighted in our last inspection report." The September 20 NRC inspection documented at least four instances where condition reports were not generated for degraded equipment.

As the recent Inspection Directorate described, a condition report is critical to ensure that the cause of the problems is identified, evaluated, and that corrective action is taken to prevent recurrence. We are very concerned that appropriate action is taken to ensure that condition reports are regularly filed and used to ensure that corrective responses are timely and effective. We are writing to request that the NRC continue to closely monitor this issue at the Millstone facilities. We also would like to know what additional steps the NRC will take if an additional violation occurs, and whether this problem has been identified at other facilities. If you have any questions about this request, feel free to contact us directly, or contact Alys Campaigne, at 224-4041.

Sincerely,


JOSEPH I. LIEBERMAN
U.S. SENATOR


CHRISTOPHER J. DODD
U.S. SENATOR


SAM GEJDENSON
U.S. CONGRESSMAN

REC'D BY SEC
6 DEC 99 3:33



~~SAFEGUARDS INFORMATION~~

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

May 31, 1995

Cys: Taylor
Milhoan
Thompson
Russell
Paperiello
EDO -321
SECY
OCA
RDube

The Honorable Joseph I. Lieberman
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

I am responding to your letter of April 27, 1995, in which you asked for a status report on implementation of the Nuclear Regulatory Commission's rule on protection of nuclear power plants against the malevolent use of vehicles. As you know, these vehicle control measures must be in effect by February 29, 1996.

All licensees have submitted the required summary of the measures that they will implement. All have confirmed that their vehicle control measures meet the design goals and criteria specified in the rule, and none have proposed alternative measures. The staff has reviewed most of these summaries in sufficient detail to confirm that the planned measures are in compliance with the rule. The remaining reviews are expected to be completed in June 1995.

The Commission cannot fully answer your questions related to the Oklahoma City attack because we have not yet received explicit estimates of that explosive force. In cooperation with the Department of Energy, the Commission has requested technical data from the Federal Bureau of Investigation and other Federal agencies. We hope that the technical data will be received shortly, but it was not immediately available because the bombing is subject to an ongoing criminal investigation.

From various media sources, we currently understand that the Oklahoma City bomb was [REDACTED] for which nuclear power plants must design their new vehicle control measures. Since that attack, the Commission has been considering the possible implications of such larger explosive forces upon nuclear power plant safety. Our preliminary analysis indicates that if plants with the new measures in place were subjected to similar explosive forces from a vehicle, nuclear power plants would still be able to shut down the reactor and establish stable plant conditions. However, in the new scenarios we have evaluated, some plants may require personnel to use alternate means to cool down the plant to the desired long-term plant condition following shutdown. Although this situation

~~SAFEGUARDS INFORMATION~~

(Originated by: RDube, NRR)

Portions withheld - E/L
EX.3

requires our review and consideration for possible further action, public health and safety remain protected throughout such scenarios. No reactor core damage or radiation release would result.

Following the receipt of full technical information from law enforcement authorities and the completion of our subsequent analysis, the Commission will reevaluate the new vehicle control measures and their implementation schedule. If at that time the Commission decides to modify implementation of the new rule, we will inform you.

The Commission has been concerned about this issue since the vehicle intrusion into the protected area of the Three Mile Island power plant and the bombing at the World Trade Center in 1993. Immediately after the Oklahoma City attack, the Commission recommended that nuclear power plants heighten their security awareness. This heightened awareness is in addition to established physical security systems, a trained on-site guard force, and completed contingency planning. For several years the Commission has also required nuclear power plants to have contingency plans for protection against vehicle bombs which could be put into effect with 12 hours notice if advance warning of a threat is received.

The Commission is proceeding as planned with the new rule on the protection of nuclear power plants against the malevolent use of vehicles to enhance the security of nuclear power plants. We are also reviewing all new issues raised by the Oklahoma City attack for appropriate additional action as information is received.

Sincerely,



Ivan Selin

112A

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ENVIRONMENT AND PUBLIC WORKS
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-0703

February 6, 1996

Ms. Shirley Jackson
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

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in accordance with the Freedom of Information
Act, exemptions b7C
FOIA- 2000-0326

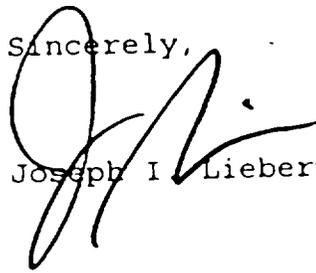
Dear Ms. Jackson:

I'm enclosing copies of letters which I recently received
from one of my constituents, Jof EX6-7C

She has requested my assistance in obtaining information on the history and use of poison pin placement to reduce reactivity in spent fuel assemblies. In addition, she would like to obtain a list of NRC licensed reactors that have requested spent fuel pinning to meet reactivity guidelines for increased or continued spent fuel placement in pool or other storage as well as information concerning the environmental impact from an accidental spent fuel pool criticality in Pool #666. Specifically, she has requested information about the environmental impact from an accidental spent fuel pool criticality in Pool #666 (Navy spent fuel) which was done but not published in the DEIS for Idaho National Engineering Labs (INEL) Spent Fuel Pool #666. She also recently learned of the existence of an unpublished study done by the NRC on the environmental impact from a worst case spent fuel pool accident greater than what the NRC has previously considered. She would like a copy of this for her review and believes that the Office of Nuclear Materials Safety might have conducted such a study just after the recent holidays.

I would appreciate your assistance in obtaining the information requested by my constituent.

Thank you for your attention to this matter.

Sincerely,

Joseph I. Lieberman

JIL:vh
Enclosures

E/2

Date: December 21, 1995

TO: Senators Joseph Lieberman and Christopher Dodd

FROM

EX. 677C

RE: Poison Pin Placement in Spent Fuel Assemblies and Spent Fuel Pool Safety Issues

We appreciate all the support you have given us in our past dealings with the NRC in these matters. Without your support, our 1992 appeal to the NRC for a public hearing concerning the Millstone 2 spent fuel pool redesign might not have been given NRC panel review. Even though the NRC finally refused in September 1993 to hold a public hearing on the matter we were able to learn much from the process that I hope we can use to assist others in current and future decisions affecting safe management of spent fuel.

We believe the use of poison pins may become common place as aging reactor pools fill and neutron absorbing materials currently in use in spent fuel pools become ineffective through degradation.

Since pinning spent fuel allows more radioactivity to be stored in an area without the NRC requiring increased safety measures it is of immediate concern to [redacted] that we learn as much as we can about this process. I hope that you can help us obtain needed information soon.

EX 677C

On December 20, 1995 I requested from John Kopech (NRC Public Affairs) information on the history and use of poison pin placement to reduce reactivity in spent fuel assemblies. Mr. Kopech did not know when or if he could respond to my request. Today Mr. Kopech was able to respond to our request for a list of NRC licensed facilities that can insert poison pins into spent fuel assemblies prior to spent fuel pool or dry cask storage or shipment: his response was Fort Calhoun in Region 4 and Millstone 2 in Region 1*.

*Fort Calhoun used spare control rod assemblies to accommodate the reactivity requirements in the storage of spent fuel in its pool. For more information call Breck Henderson at NRC Region 4 or the utility. At Fort Calhoun the control rods contain boron and when fully inserted into control rod guide tubes stop any [?] reactivity. Millstone 2 used two borated stainless steel rods in each assembly to meet pool criticality requirements.

He was unable to provide [#1] a list of NRC licensed reactors that have requested spent fuel pinning to meet reactivity guidelines for increased or continued spent fuel placement in pool or other storage.

Also he cannot provide us with access to the [#2] environmental impact from an accidental spent fuel pool criticality in Pool #666 (Navy spent fuel) which was done but not published in the [#3] DEIS for Idaho National Engineering Labs (INEL) Spent Fuel Pool # 666. I have no idea how to obtain the criticality study and have been unsuccessful in my attempts to obtain a copy of the DEIS.

Just this month I learned of the existence of an unpublished study done by [#4] NRC on the environmental impact from a worst case spent fuel pool accident greater than what the NRC has previously considered. Mr. Kopech felt Bill Russell in Nuclear Reactor Research or Carl

-EX 677C

12-21-95 00:31PM 1000 #18

Papparello in Office of Nuclear Materials Safety might have conducted such a study and suggested I call Marty Virgilio (415-3226) after the holidays.
Your assistance in obtaining #1 - #4 for our review would be greatly appreciated

We need your full cooperation in the following matter:

Request:

Until a worst case spent fuel pool accident is studied, published and given public and peer review that includes possible accident scenarios given the hindsight accumulated from 10 years of actual experience, **we ask your help in ensuring that the NRC acts conservatively by excluding the neutron poison effects attributable to borated materials in their calculation of criticality safety margins for spent fuel storage areas.**

Background:

Because some worst case reactor accident scenarios have been studied where most of the radioactivity of the reactor core is released there is some information available for emergency planning. But this is not so for fuel storage areas where radioactivity contents may exceed what is contained in the reactor. Therefore it is imperative that the NRC act conservatively when licensing waste storage areas to contain more radioactivity than an operating reactor.

Because of our intervention in the Millstone 2 spent fuel pool redesign (1992 -1993) and subsequent discovery by Consumer Power of Pallsades' Boraflex samples unexpected degradation (90% rather than 5%), we know that the use of this material can be unreliable in preventing inadvertant criticality in the spent fuel pools. In 1994 I learned that the military cons ders the use of borated materials unreliable in preventing inadvertant criticality in waste storage. In 1995 I spoke with an engineer at INEL, who said seismic studies which include borated steel may be questionable because of the difficulty in obtaining consistent data on steel containing boron. Such material is used in some spent fuel pool racks. The NRC by allowing credit for presence of boron in steel or in rubber (Boraflex) when calculating criticality safety margins seems to be acting outside of good science.

We hope you will support us in this request through avenues open to you as senators from Connecticut, where NRC licenses allow Northeast Utilities to store over 10 billion curies of long lived radioactive spent fuel at its Millstone and Haddam Neck pools.

EX67C

Date January 16, 1996

TO Senators Joseph Lieberman and Christopher Dodd

FROM [

7 EX 6+7C

We need your full cooperation in the following matter:

Request:

A worst case spent fuel pool accident that includes accident scenarios now considered possible given the hindsight of 10 years of experience has yet to be studied, published and given public and peer review. Until this is done we need your help to ensure that the NRC acts conservatively when calculating criticality and cooling safety margins for spent fuel storage areas. The NRC should be required to exclude the neutron poison effects attributable to borated materials in the calculation of criticality safety margins since these materials are proving unreliable. The NRC should also be required to exclude the use of the emergency core cooling system when calculating the cooling capacity of the spent fuel pools.

We give our complete support to the January 15th demands of Citizens Regulatory Commission for a shutdown of Millstone 1 because of Northeast Utilities and NRC violations of safety practices in the spent fuel pool area. *See attached Press Release from CRC.

Background

Because some worst case reactor accident scenarios have been studied where most of the radioactivity of the reactor core is released there is some information available for emergency planning. But this is not so for fuel storage areas where the total radioactivity contents may exceed what is contained in a reactor. Therefore it is imperative that the NRC act conservatively when licensing waste storage areas to contain more radioactivity than an operating reactor.

During our intervention in the Millstone 2 spent fuel pool redesign (1992-1993) and subsequent discovery by Consumer Power of Palisades' Boraflex samples unexpected degradation (90% rather than 5%), we learned that the use of this material can be unreliable in preventing inadvertent criticality in the spent fuel pools. In 1994 I was told that the military considers borated material behavior unreliable and does not use borated materials in preventing inadvertent criticality in waste storage. In 1995 an engineer at Idaho National Engineering Labs (INEL) said studies which include borated steel may be questionable because of the difficulty in obtaining consistent data on steel containing boron. Such material is used in some spent fuel pool racks and may flaw not only the criticality studies but the seismic studies as well. The NRC by allowing credit for presence of boron in steel or in rubber (Boraflex) when calculating criticality safety margins seems to be acting outside of good science.

We hope you will support us in this request through avenues open to you as senators from Connecticut, where NRC licenses allow Northeast Utilities to store over 10 billion curies of long lived radioactive spent fuel at its Millstone and Haddam Neck pools.

Date December 21, 1995, with January 16, 1996 update

TO Senators Joseph Lieberman and Christopher Dodd

EX 6+7C

FROM

7
EX 6 F 7C

RE Poison Pin Placement in Spent Fuel Assemblies and Spent Fuel Pool Safety Issues

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EX 6 F 7C

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"Fort Calhoun used spare control rod assemblies to accommodate the reactivity requirements in the storage of spent fuel in its pool. For more information call Breck Henderson at NRC Region 4 or the utility. At Fort Calhoun the control rods contain boron and when fully inserted into control rod guide tubes stop any [?] reactivity. Millstone 2 used two borated stainless steel rods in each assembly to meet pool criticality requirements."

He is unable to provide [#1] a list of NRC licensed reactors that have requested spent fuel pinning to meet reactivity guidelines for increased or continued spent fuel placement in pool or other storage. Also he cannot provide us with access to the [#2] Study of the environmental impact from an accidental spent fuel pool criticality in Pool #666 (Navy spent fuel) which was done but not published in the [#3] DEIS for Idaho National Engineering Labs (INEL) Spent Fuel Pool # 666.

This month I heard that [#4] the NRC recently completed an environmental impact study of a worst case spent fuel pool accident greater than what the NRC has previously considered, but it is not available for public review. Mr. Kopech felt Bill Russell (Nuclear Reactor Research) or Carl Papperello (Office of Nuclear Materials Safety) might have conducted such a study and suggested I call Marty Virgilio (415-3226) after the holidays.

1/13/96 update Marty Virgilio who works in Nuclear Reactor Research referred me to Steven Jones at 415-2833 NRC 1-800-368-5642 Left a voice message asking for #1 and #4 MEM

Your assistance in obtaining #1 - #4 for our review is still needed

EX 6 F 7C

01-17-96 11:14AM 1003 #14



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

March 6, 1996

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions b7C
FOIA- 2000-0326

The Honorable Joseph I. Lieberman
United States Senate
Washington, D.C. 20510-0703

Dear Senator Lieberman:

I am responding to your letter of February 6, 1996, concerning a request for information from your constituent, Ms. [REDACTED] regarding the use of neutron-absorbing pins in spent reactor fuel assemblies and the evaluation of postulated events related to spent fuel pools. We have enclosed information that we believe is responsive to her request. Most of this information has already been provided to [REDACTED] either verbally or by mail. b7C
EX7C

With regard to the use of neutron-absorbing pins, John Kopeck of our Office of Public Affairs informed [REDACTED] during their December telephone conversation that these pins had been credited in satisfying the required sub-critical margin for fuel stored in the spent fuel pools at Millstone, Unit 2, and at Fort Calhoun. Previously, the NRC staff had sent detailed information to [REDACTED] regarding the use of neutron-absorbing pins to meet reactivity requirements and related spent fuel pool issues at Millstone, Unit 2, in a letter dated May 15, 1995 (Enclosure 1). In Enclosure 2 to this letter I have provided additional general information regarding the crediting of neutron-absorbing materials in satisfying the required subcritical margin for irradiated fuel storage facilities and transportation casks. b7C
EX7C

Because the NRC does not regulate U.S. Department of Energy (DOE) activities involving storage of irradiated naval reactor fuel at the Idaho National Engineering Laboratory (INEL) and because the NRC staff does not have direct access to information regarding those activities, the staff did not conduct an evaluation of the environmental impact of postulated events involving irradiated fuel at that facility. However, I have listed a contact at INEL who can provide information on those activities and the associated environmental impact statements in Enclosure 3.

Steven Jones of our Office of Nuclear Reactor Regulation spoke with [REDACTED] on January 17, 1996, in response to her message requesting studies of postulated spent fuel pool accidents or events that have consequences more severe than those events typically considered during reactor licensing. Mr. Jones, who is the technical contact for our current spent fuel pool activities, informed her of two documents describing the results of studies in the requested area, both of which are complete and publicly available: NUREG-1353, "Regulatory Analysis for the Resolution of Generic Issue 82, 'Beyond Design Basis Accidents in Spent Fuel Pools'," April 1989 (Enclosure 4); and Information Notice 93-83, Supplement 1, "Potential Loss of Spent Fuel Pool Cooling after a Loss-of-Coolant Accident or a Loss of Offsite Power," August 24, 1995 (Enclosure 5). b7C
EX7C

NUREG-1353 describes the evaluation of event frequency and the estimation of radiological consequences for postulated events impacting spent fuel pools.

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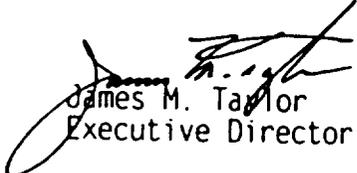
Honorable J.I. Lieberman

-2-

including events that may cause a complete loss-of-cooling capability or a complete loss of spent fuel coolant water. Information Notice 93-83, Supplement 1, describes the specific findings with respect to postulated loss of spent fuel pool cooling events at Susquehanna Steam Electric Station. The NRC staff is unaware of any other studies, in progress or complete, by any of our program offices that would be responsive to [REDACTED] request. 62
EX 7A

I trust that this letter and its enclosures provide sufficient information to satisfy your constituent's request.

Sincerely,


James M. Taylor
Executive Director for Operations

Enclosures:

- (1) Letter from P. F. McKee, USNRC, to [REDACTED] May 15, 1995: 62
EX 7C
- (2) Credit for Neutron-Absorbing Materials in Irradiated Fuel Storage Facilities
- (3) Contact for Information on Spent Fuel Storage at INEL
- (4) NUREG-1353
- (5) Information Notice 93-83, Supplement 1

Honorable J.I. Lieberman

-2-

including events that may cause a complete loss-of-cooling capability or a complete loss of spent fuel coolant water. Information Notice 93-83, Supplement 1, describes the specific findings with respect to postulated loss of spent fuel pool cooling events at Susquehanna Steam Electric Station. The NRC staff is unaware of any other studies, in progress or complete, by any of our program offices that would be responsive to [redacted] request. *let*
EX 7C

I trust that this letter and its enclosures provide sufficient information to satisfy your constituent's request.

Sincerely,
original signed by James M. Taylor
James M. Taylor
Executive Director for Operations

Enclosures:

- (1) Letter from P. F. McKee, USNRC, to [redacted] May 15, 1995 *let - EX 7C*
- (2) Credit for Neutron-Absorbing Materials in Irradiated Fuel Storage Facilities
- (3) Contact for Information on Spent Fuel Storage at INEL
- (4) NUREG-1353
- (5) Information Notice 93-83, Supplement 1

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

May 15, 1995



Dear

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EX 7C

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EX 7C

This letter is in response in part to concerns you raised to the NRC on behalf of the Cooperative Citizens Network on December 22, 1994. The specific concerns which we address in this letter were referred to us by Mr. David Vito of Region I of the Nuclear Regulatory Commission. They include (1) the capacity and adequacy of the Millstone Unit 2 spent fuel pool cooling system and (2) the use of mathematical models to predict the performance of spent fuel pool storage racks. Your other concerns were addressed in Mr. Vito's letter to you of January 23, 1995. In addition, during a telephone conversation of February 22, 1995, with Mr. Vito you raised additional concerns regarding the itinerary of the ongoing Millstone Unit 2 outage which include the following:

1. What activities were being done during the current outage.
2. Why the outage has taken so long.
3. How these activities have affected spent fuel capabilities/integrity.
4. How long the full core has been offloaded and why.
5. What fuel assemblies have been "pinned" so they could be placed in the reconstituted fuel slots in the spent fuel pool.

Regarding your concerns about the spent fuel pool cooling system capacity, the NRC staff has examined previously issued safety evaluations that document the basis for NRC acceptance of license changes regarding the use of the spent fuel pool at Millstone Unit 2. The NRC staff uses the guidance contained in the NRC's "Standard Review Plan" (NUREG-0800) to determine appropriate criteria to evaluate the acceptability of proposed changes to a facility's license. Section 9.1.3 of NUREG-0800 applies to the spent fuel pool cooling and cleanup system. With regard to cooling system capacity, this section specifies that the temperature of the spent fuel pool should be kept at or below 140°F for the maximum normal heat load with the normal cooling system in operation, assuming a single active failure, and the temperature of the spent fuel pool should be kept below boiling for the maximum abnormal heat load (reactor vessel defueled and full-core transferred to the spent fuel pool) without considering a single failure. Section 9.1.3 of NUREG-0800 specifies a particular method for calculating the maximum normal and abnormal heat loads. However, other methods are permitted, and heat loads calculated based on plant specific spent fuel inventories are generally more accurate and more conservative. The NRC staff independently evaluates the calculated decay heat loads.

~~_____~~ ⁶⁸ EX 7C -2-

Although license Amendment Numbers 109, 114, 117, and 172 have granted recent license changes affecting the use of the spent fuel pool at Millstone Unit 2, Amendment Number 114 imposed additional restrictions on refueling operations in the Technical Specifications that formed the basis of staff acceptance of spent fuel cooling capacity for the increased calculated decay heat loads. This amendment modified the Millstone Unit 2 Technical Specifications to require: (1) 72 hours of decay prior to initiating fuel transfer from the reactor vessel, (2) two operable trains of the spent fuel cooling system when the most recent refueling offload has decayed less than 504 hours, and (3) maintenance of the reactor in the cold shutdown or refueling operational modes when the most recent refueling offload has decayed less than 504 hours. In the cold shutdown and refueling operational modes, Northeast Nuclear Energy Company (the licensee) determined and the NRC staff agreed that a single loop of the shutdown cooling system, which is a high capacity system designed with a permanent capability for supplemental spent fuel cooling, could adequately cool the reactor vessel and maintain the spent fuel pool temperature below 140°F for the normal maximum heat load and below boiling for the abnormal maximum heat load. With greater than 504 hours of decay time for the most recent fuel offload, a single normal spent fuel cooling system pump with two heat exchangers is capable of maintaining the spent fuel pool temperature below 140°F for the normal fuel offload, and the full capacity of the normal spent fuel cooling system is adequate to prevent boiling of the spent fuel pool for a full-core offload. Therefore, the NRC staff concluded that the spent fuel cooling capability satisfied the guidance of Section 9.1.3 of NUREG-0800. Operating experience substantiates this conclusion. This conclusion constitutes an NRC staff position.

The imposition of a new or different regulatory staff position is governed by 10 CFR 50.109, "Backfitting." This regulation allows the imposition of a new or different regulatory staff position with adequate justification when: (1) a substantial safety benefit at a justifiable cost would result from the imposition of a new or different staff position; (2) a modification is necessary to bring a facility into compliance with its license, rules or orders of the Commission, or written licensee commitments; or (3) regulatory action is necessary to ensure adequate protection to the health and safety of the public. Based on the information available to the staff through communication with you and the licensee, and through inspection, the staff has concluded that imposition of a new or different regulatory staff position is not justified with respect to spent fuel cooling system capacity at Millstone Unit 2. Specifically, use of an alternate system for supplementary cooling of spent fuel when that system's other functions are not continuously required (i.e., use of the shutdown cooling system to supplement spent fuel cooling capability in the cold shutdown and refueling operational modes) or the existence of a short time to reach spent fuel pool boiling conditions in the event of a loss of all spent fuel pool cooling when redundant spent fuel pool cooling systems are available do not themselves justify imposition of a new staff position based on a safety enhancement, compliance, or adequate protection basis.

[REDACTED]

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EX 7C

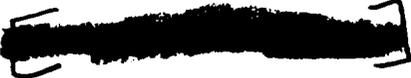
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Your concern that the approval of the spent fuel pool rerack was based on unsubstantiated mathematical models was addressed in the NRC staff affidavits to your contentions that were brought before an Atomic Safety and Licensing Board (ASLB) in late 1992. These contentions were evaluated on their merit and subsequently dismissed by the ASLB on July 9, 1993. In particular, the ASLB found that your concern about the condition of the Boraflex, which is used as a neutron absorber in the Millstone Unit 2 racks, was adequately addressed and that the Boraflex was very conservatively modeled in the criticality analysis. The degradation of Boraflex in the Palisades spent fuel pool that you refer to occurred in the Boraflex surveillance coupons, not in the actual fuel storage rack. Subsequent testing of the actual storage racks confirmed that the Boraflex maintained the required subcriticality margin in the Palisades spent fuel pool.

You also requested that criticality monitors be installed in the spent fuel pool. Because of the large number of stored fuel assemblies, the installation of criticality monitors in the pool is not feasible since an extremely large amount of instrumentation would be required. In addition, for special nuclear material stored beneath underwater shielding, the regulations do not require monitoring systems using gamma- or neutron-sensitive radiation detectors that would energize audible alarm signals if accidental criticality would occur. I refer you specifically to 10 CFR 70.24, of which I am enclosing a copy. However, please be advised that there are area radiation monitors in the spent fuel pool area which would alert personnel to increased radiation levels. These are required by the Millstone Unit 2 plant Technical Specifications.

If you would desire to pursue your concern further, the regulations do allow any interested person to petition the Commission to issue, amend or rescind any regulation. I am enclosing the specific regulation, 10 CFR 2.802, which addresses this rule.

Regarding your concerns about the itinerary for the ongoing Millstone Unit 2 outage, the licensee went into a normal refueling outage for Millstone Unit 2 at the beginning of October 1994. The main purpose of the outage was to (1) perform a normal refueling of the reactor, (2) perform the second 10-year inservice inspection of the reactor vessel, (3) perform preventive maintenance on equipment, (4) perform surveillance on equipment as required by the Technical Specifications, (5) restore degraded equipment such as the selected areas of the service water piping, (6) perform maintenance on equipment as required, (7) make modifications to systems as required by changes in the Technical Specifications, and (8) perform the containment integrated leak test as required by the Technical Specifications. Early in the outage the core was fully unloaded with all of the fuel going into the spent fuel storage pool and other components stored in other protected areas in the containment to allow for the inservice inspection of the reactor vessel. The inservice inspection of the vessel has been completed. Refueling was planned for the month of April 1995. The licensee has had some problems due to unexpected events and has chosen to prolong the outage. This delay of restart has not affected the



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EX7C

integrity of the spent fuel capabilities or integrity of the fuel. As a matter of interest, due to the long storage of the most recently offloaded fuel from the core in the spent fuel storage pool, the heat load in the spent fuel pool has greatly reduced from what it was immediately following the core unload.

With regards to your concern of what fuel assemblies have been "pinned" so that they could be placed in the reconstituted fuel slots in the spent fuel pool, no fuel in the cans that contain reconstituted fuel have been modified with "pins." I assume you are referring to Amendment No. 172, which modified the Technical Specifications relating to the spent fuel pool by removal of the cell blockers in Region C, thus increasing by 234 fuel assemblies the storage capacity of the spent fuel pool. To accommodate the reactivity requirements, the required burnup of fuel in Region C was increased and neutron absorbing (poison) rodlets (pins) are required to be introduced in fuel assemblies not meeting the maximum burnup requirements for fuel assemblies without rodlets. This Amendment has been implemented during this refueling outage.

We hope this information provides you assurance that the NRC carefully monitors the operations, including storage and handling of fuel, of Millstone 2 as well as other NRC-licensed facilities to ensure that the public health and safety is protected. If you have additional questions on this matter, feel free to contact us.

Sincerely,

Original signed by:

Phillip F. McKee, Director
Project Directorate I-3
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

- Enclosures: 1. 10 CFR 70.24
- 2. 10 CFR 2.802

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Credit for Neutron-Absorbing Materials in Irradiated Fuel Storage Facilities

Criticality in storage areas for irradiated fuel assemblies is prevented by maintaining a substantial subcritical reactivity margin. The analysis that confirms this reactivity margin assumes conservative bounds for parameters affecting reactivity and considers uncertainties in the analysis. This practice provides a high confidence that the reactivity analysis results conservatively bound the actual reactivity margin.

Wet Storage of Irradiated Fuel in Pools

For wet storage of irradiated assemblies, maintenance of a geometrically safe configuration is the preferred method to achieve the necessary reactivity margin, but physical systems or processes may also be credited (Appendix A to 10 CFR Part 50, General Design Criterion 62). The staff has found that credit for fixed neutron absorbers in wet fuel storage racks, neutron absorbers that are an integral part of fuel assemblies, and the decrease in reactivity caused by long-term neutron irradiation in the reactor core are also acceptable means to achieve the necessary reactivity margin. Credit for neutron absorbing material is based on either the ability to periodically monitor the neutron-capture effectiveness of the material through testing or the ability to verify the position of the material in the fuel storage array combined with high confidence that the material will retain its neutron-capture effectiveness.

Boraflex is one material that is commonly placed within the walls of the storage cells in the spent fuel storage racks to reduce reactivity. Because of the known degradation problems with Boraflex, the storage racks containing Boraflex at Millstone 2 have been subject to two extensive testing campaigns whereby neutron attenuation testing (blackness testing) was used to determine the condition of the Boraflex. The results of this testing provided assurance to the staff that the actual state of the Boraflex has been conservatively enveloped in the criticality analysis. In order to maintain continued assurance, the NRC is in the process of issuing a Generic Letter (GL) to all licensees. This GL requests that licensees with fuel storage racks containing Boraflex provide an assessment of the physical condition of the Boraflex and ascertain that the required subcritical margin can be maintained for the lifetime of the racks.

One region of the Millstone 2 spent fuel pool (Region C) was evaluated assuming the use of borated steel poison rods inserted into the spent fuel assemblies. The use of borated steel for structural material in spent fuel pools has not been approved in the United States. However, its proposed use in Millstone 2 was strictly for reactivity control and the borated steel was not being used as a load-bearing material. The rods require a unique tool for removal and, therefore, cannot be inadvertently removed from the fuel assemblies once inserted. The licensee also maintains surveillance of the rods through procedural controls. The rods can be verified to be in position by visual inspection from above the spent fuel assemblies. Therefore, the staff considers the rods to essentially be an integral part of the fuel assembly and acceptable for reactivity reduction.

NRC Licensed Reactors That Have Requested Spent Fuel Pinning for Wet Storage

As previously discussed the NRC has approved the use of borated steel pins in spent fuel assemblies for reactivity control at Millstone 2. In addition, the NRC has approved to use control rods in their stored spent fuel assemblies for reactivity control at Fort Calhoun. In the calculations the staff used a boron loading that was based on conservative depletion assumptions. In addition, after installation, a non-removable clip was attached to tie the control rod and the fuel assembly together, thereby preventing subsequent inadvertent removal of the control rod. On the basis of the conservative depletion assumptions and the mechanical latching of the control rods, the NRC found that reactivity credit for control rod insertion was acceptable.

Cask Storage and Transport of Irradiated Fuel

The NRC staff has not approved any casks for the transport or storage of spent fuel where credit in the criticality analysis was given for the discrete placement of poison pins within the spent fuel assemblies.

AVAILABILITY OF INFORMATION ON SPENT FUEL STORAGE
AT IDAHO NATIONAL ENGINEERING LABORATORY

Information regarding U.S. Department of Energy (DOE) activities involving storage of irradiated naval reactor fuel at the Idaho National Engineering Laboratory (INEL) is available by contacting Mr. Doug Empey of Lockheed-Martin Idaho Technologies, operator of INEL for DOE, at 800 708-2680, or by writing to Mr. Empey at:

Lockheed-Martin Idaho Technologies
ATTN: Doug Empey
P.O. Box 1625
Idaho Falls, Idaho 83415-3695

JOSEPH I. LIEBERMAN
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October 20, 1995

Mr. James Taylor
Executive Director
Nuclear Regulatory Commission
Washington, D.C. 20555

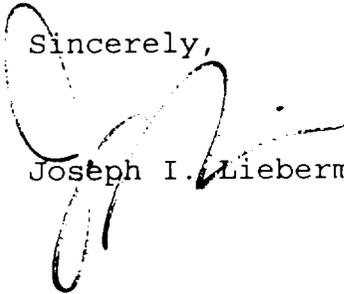
Dear Mr. Taylor:

Enclosed is a response I received from Mr. Thomas Bonanno concerning the letter he received from you on August 14, 1995.

I would appreciate your review of this letter and a response to the points raised by Mr. Bonanno.

Thank you for your attention to this matter.

Sincerely,


Joseph I. Lieberman

JIL:vh
Enclosure

Information in this record was deleted
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FOIA- 2000-0326

EDO --- 000774

E/4



Thomas M. Bonanno

EX 6 ~~XXXXXXXXXX~~

August 30, 1995

The Honorable Joseph I. Lieberman
316 Hart Senate Office Bldg
Washington, DC 20510-0703

Dear Senator Lieberman:

On August 14, 1995 I received your acknowledgement of receipt of a copy of a correspondence dated July 11, 1995, forwarded to you from Mr. James M. Taylor, Executive Director for Operations, U.S. Nuclear Regulatory Commission, (herinafter NRC). Please find a copy of Mr. Taylor's letter enclosed.

Because of the numerous inconsistencies in Mr. Taylor's letter regarding my complaint, I am providing you with the following facts and documents so that you may know the truth concerning these matters.

In brief reiteration of the details of my complaint: I received a head injury while working in the reactor vessel cavity at Unit I of the Millstone Nuclear Power Station, (herinafter MP I). The injury was the direct result of the use of faulty disassembly equipment; equipment known to be faulty by station management and yet still utilized; equipment that had been malfunctioning the entire work shift prior to mine; equipment I was instructed to utilize without anyone forewarning myself or my co-workers of it's poor design or it's repeated malfunctions earlier in the day.

When I refused to take responsibility for the accident I was informed that I would be "paid back".

When symptoms from my injury indicated a neurological examination was in order, the head nurse for MP I's parent companies, Northeast Nuclear Energy Co. and Northeast Utilities, (hereinafter NNECO and NU respectively), requested that I be examined by a specific neurological office, a request that I complied with.

The neurosurgeon by whom I was examined, Dr. Stanley G. Pugsley Jr., not only withheld pertinent medical information from the insurance carrier, but also provided grossly erroneous information regarding my injury, resulting in the loss of my contingent Workman's Compensation Insurance coverage. (I shall expand upon the medical details later on within this letter.)

I filed a grievance, by telephone, to Region I of the NRC on February 28, 1992. At that time I cited the willfull misconduct of MP I personnel, NNECO and NU personnel, C.N. Flagg Power, Inc. personnel, (herinafter CNF), and labor union personnel. One month later NRC staff forwarded correspondence to me directing me to grieve the situation to the U.S. Department of Labor, (herinafter DOL), Wage and Hour Division. I followed this written directive, unaware that I was being led into a duplicitous process.

Mr. Taylor states in the first paragraph of his letter, "... the NRC staff referred Mr. Bonanno's specific concerns with NRC staff performance to the NRC Office of Inspector General (OIG). The staff does not have access to information regarding the status of OIG investigations."

While "the staff" is unaware of the status of OIG investigations, Mr. Taylor's office is fully cognizant of the status of the OIG investigation in my case and has been since May 23, 1995. I have enclosed a copy of a letter, dated May 18, 1995, (please note that the April 18, 1995 date on the document is a typographical error), that I sent via U.S. Postal Service certified mail to Mr. Taylor's office. The purpose of this correspondence was to appeal a Freedom of Information Act decision, (hereinafter FOIA), a decision that denied my access to documents related to my case. As you will note, my justification for appeal was in fact a letter sent to me by Mr. Leo Norton, Assistant Inspector General for Investigations of the NRC. Mr. Norton determined "that an OIG investigation was not warranted" in my case.

Mr. Taylor obviously wants you to believe that he is not privy to the conduct of OIG personnel involved in my case, a conduct, as you will note from details that I shall subsequently apprise you of, that mirrors the conduct of other NRC employees whom have been involved with my complaint.

In paragraph two of page one Mr. Taylor writes, "His initial concerns were received on February 28, 1992, although the industrial safety accident in which he received his injury occured ten months earlier."

He fails to mention that for that ten month period I was most forbearing and attempted to come to a non-hostile resolution. Mr. Taylor knows, by virtue of my narrative to DOL, as well as my conversations with Mr. Roy Fuhrmeister

and Mr. William Raymond of the NRC, that I offered NU, CNF, and labor union officials repeated opportunities to rectify the situation. (The record bares that my solution was simply to insure that all inconsistencies in Dr. Pugsley's medical reports to the insurance carrier were corrected and clarified so that I would be protected by the contingent medical benefits provided by Workman's Compensation Insurance coverage).

While Mr. Taylor correctly informed you of the time span between my injury and my complaint to the NRC, he elected, presumably for effect, to conceal the events of that ten month period.

Mr. Taylor further states in paragraph two, "According to Mr. Bonanno, the then Region I Senior Allegation Coordinator allegedly informed him that an NRC Office of Investigations (OI) review of his alleged harassment, intimidation and discrimination (HI&D) would occur. However, the NRC has no record that such a statement was made."

In paragraph six he additionally expands, "With respect to Mr. Bonanno's contention that he was promised an NRC investigation of his issues by the Region I employee that received his concerns, we do not authorize our employees to make promises regarding the initiation of an OI investigation. We have no evidence that such a verbal promise was made to Mr. Bonanno. The employee does recall indicating that OI typically conducts investigations of HI&D matters."

The Senior Allegation Coordinator Mr. Taylor refers to is in fact Mr. Roy Fuhrmeister, with whom I registered my initial complaint on the afternoon of Friday, February 28, 1992. Upon my completion of detailing the complaints and concerns that I had, Mr. Fuhrmeister informed me that my allegations reflected criminal conduct had taken place. Mr. Fuhrmeister then told me to expect to hear from NRC criminal investigators. Mr. Fuhrmeister then informed me that although it was late in the afternoon, he would attempt to have NRC criminal investigators contact me that very day. He further stated that if I in fact did not hear from these investigators that very afternoon, that I would hear from them the following Monday. Mr. Fuhrmeister then asked me to call the NRC Resident Inspector at Millstone Point and relate to him the details that I had just related to himself. I did so immediately and spoke at length with Mr. William Raymond, NRC Inspector at Millstone Point.

Mr. Taylor has attempted to mislead your office by

trying to convince you that I was merely informed of OI's "typical" conduct. I would hardly consider Mr. Fuhrmeister's comments to me as an account of the "typical" functions of OI. (Please be advised that if in the course of your investigations anyone disputes my testimony, you need only provide me with a date, time, and location for which I may submit myself for polygraphic scrutiny.)

The actual reason that OI did not investigate my complaint, as ordered by Mr. Fuhrmeister, can be found in Mr. William Raymond's summarization of my initial complaint, dated 3/3/92, a copy of which is enclosed. On page four Mr. Raymond states in Section A, item 12, "the claim is settled with the insurance company, and the alleger has assurance that he will get compensation for future medical problems from the injury." Mr. Raymond, in writing, willfully subverted the salience of my complaint; the fact that I had been deliberately misdiagnosed by a neurosurgeon and subsequently denied the contingent benefits of Workman's Compensation Insurance Coverage, a fact that stands to this very day. Mr. Raymond's ruse gave OI an "official" account of a complaint that allowed them to dismiss the complaint as ridiculous.

Mr. Taylor claims in paragraph three, "The NRC did not conduct an in-depth inspection of Mr. Bonanno's concerns with the allegedly malfunctioning tool which caused his injury because our initial review concluded the concern was an issue of industrial safety versus nuclear and, as such, was outside of the NRC's regulatory purview. Consistent with the Memorandum of Understanding between the NRC and the Occupational Safety and Health Administration (OSHA), this issue was not referred to OSHA since it did not represent a serious or repetitive safety issue." He adds in paragraph five, "While we are sympathetic to the injury he suffered, the regulation of such industrial safety issues is outside of NRC purview."

The truth concerning OSHA issues and NRC oversight of the same is quite contrary to Mr. Taylor's assertion. Region I of the NRC does in fact have OSHA Liason Representatives. The Head OSHA Representative for NRC Region I is Dr. Walter Pasciak. The NRC-OSHA representative that regularly inspects the Millstone Nuclear Power Station is Mr. Ron Nimitz. Both Dr. Pasciak and Mr. Nimitz are authorized to issue orders regarding compliance with OSHA laws within NRC Region I jurisdiction. Dr. Pasciak and Mr. Nimitz are further authorized to issue written citations for OSHA violations at commercial nuclear power generating facilities within NRC Region I. The reason for selected NRC employees to also represent OSHA lies in the fact that

exposure to nuclear radiation and radioactive contamination would pose potentially great risks to the average OSHA Representative who does not deal with these risks as part of his normal job function. I discussed the NRC-OSHA liason relationship with Dr. Pasciak by telephone on April 2, 1992, from 12:50 to 1:35 P.M.

Mr. Taylor certified in paragraph three, "... this issue was not referred to OSHA since it did not represent a serious or repetitive safety issue." What Mr. Taylor has disingenuously concealed here is the fact that this decision was made without anyone in any capacity within the NRC ever interviewing anyone who was involved with the disassembly process of the MP I reactor vessel, either immediately prior to the time of my injury, or anyone physically present at the time of my injury. Mr. Taylor is fully aware that NRC conduct in this instance was not only cavalier, but also complicit with NU, CNF, labor union, and subsequently DOL personnel in the obstruction of justice.

Paragraph five of Mr. Taylor's letter states in part, "Mr. Bonanno has not demonstrated to DOL that he has suffered any retaliation in this matter for reporting this incident to the NRC as noted in DOL decisions in his case by the DOL District Director, an Administrative Law Judge, and the Secretary of Labor (SOL). The decision of the SOL subsequently has been upheld by the U.S. Court of Appeals of the Second Circuit."

The fact of the matter is that my complaint to DOL did not revolve around the premise that I suffered retaliation for reporting an incident to the NRC, but rather because I refused to accept responsibility for the willfull safety negligence of NU personnel, a complaint that, pursuant to 10 CFR 50.5, falls under the authority of the NRC.

Mr. Taylor also erroneously claims that the SOL's decision was upheld in Appeals Court. The U.S. Court of Appeals dismissed my case because of filing technicalities.

While Mr. Taylor derives sanctuary from the aforementioned DOL decisions, the following facts and documents deserve your utmost attention. Please find enclosed the following three reports.

The first is an accident report, dated 4/8/91, filed by M.L. Corazelli, R.N., at the time of my injury. As you will note, Ms. Corazelli reported my injury to be located "... on occipital part of skull ...". Ms. Corazelli not only rendered an accurate anatomical report but did so in the field immediately following the accident. To the best of my knowledge Ms. Corazelli made this rendering without the

benefit of any medical reference manuals.

The next two reports were filed by Dr. Stanley G. Pugsley, Jr., Neurosurgeon. The first of these two reports, dated May 17, 1991, is Dr. Pugsley's original medical report. Dr. Pugsley's office forwarded this report to The Travelers Insurance Company, the Workman's Compensation Carrier that covered the expenses of my injury. As you will note in Dr. Pugsley's report, he referred to the anatomical region of my injury firstly as "the vertex", and secondly as the "right paramedian vertex", neither of which is true. He further went on to state that the sustained headache I had been experiencing was a "presumable sinus related headache".

This report prompted The Travelers to inform me that I would not be entitled to the contingent benefits of Workman's Compensation because I suffered from pre-existing conditions. I was informed that Dr. Pugsley would need to file an addendum report in order to rectify the status of my insurance benefits. Please find enclosed a copy of Dr. Pugsley's addendum report, dated January 25, 1992.

While Dr. Pugsley did state, in his second report, that I did not suffer from sinus headaches, he still neglected to cite the proper anatomical proximity of my injuries. He further neglected, as in his first report, to report the symptoms I had experienced that prompted the hospital emergency room physician to order a CATSCANNER Examination and Dr. Pugsley's evaluation. (These symptoms were a numbness in my jaw and a soreness in my tongue.) Dr. Pugsley's addendum report did not allay any of the confusion that The Travelers had with this case.

It is my understanding that for a licensed practicing neurosurgeon to be unable to differentiate, on a medical report, between the "right paramedian vertex" and the "occipital" area of the skull reflects either a gross incompetence on the physician's part or a willfull misrepresentation. It is my further understanding that for a physician to omit key symptomatic data from a medical report also reflects either gross incompetence or sinister conduct on the part of the physician.

While Mr. Taylor finds relief in the DOL decisions he mentions, the fact remains that the DOL, in writing, has been complicit with NRC employees in the obstruction of justice. While the NRC was willfully derelict in order to protect NU, CNF, and labor union, (both management and membership of Millwrights and Carpenters Local Union No. 24 and AFL-CIO General Presidential Maintenance Agreement management and delegates), personnel, the DOL aided and

abetted all of the aforementioned individuals in their willfull misconduct.

(Inasmuch as several years of "investigations" and the involvement of multiple U.S. Government officials have not brought about any sort of accountability process for Dr. Pugsley to answer to, the potential exists for many men, women, and children to be grossly misdiagnosed by Dr. Pugsley if he is in fact incompetent as a physician. The potential also exists for men, women, and children to be the victims of willfull misdiagnosis if Dr. Pugsley is not incompetent but rather a man of nefarious character. Because these possibilities clearly exist and NRC and DOL officials have promoted their existence, I shall be availing information and documents relating to Dr. Pugsley and my case to any attorneys who may have malpractice suits pending against Dr. Pugsley. I am chagrined that NU, CNF, labor union, NRC, and DOL personnel will probably be held accountable for their actions in my case in unrelated litigative proceedings rather than the appropriate forums as provided by law.)

While the preceeding information and documents provide you with an insight relating to the lack of forthrightness in Mr. Taylor's response, there are additional grievous issues that have not been addressed.

I would be most appreciative if you would have your staff contact me at the earliest possible convenience. Some of the matters I would like to discuss would include but not be limited to:

1. Any U.S. Securities and Exchange law violations committed by NRC and NU employees regarding their conduct in my case.

2. The introduction of other U.S. investigative agencies to conduct unbiased investigations regarding any violations of U.S. law committed by any of the aforementioned individuals.

3. The possibility that the safety negligence that caused my injury is in fact an inherent design flaw that is common to the associated hardware of numerous nuclear reactor vessels throughout the country, thusly prompting NU and the NRC to resort to illegal conduct in order to protect other licensees as well as the vessel designers and manufacturers.

4. Additional willfull misrepresentation by NRC employees in my case as evidenced in documents I have procured from the NRC via the FOIA.

5. The most effective manner in which to generate media exposure regarding the conduct of U.S. Government employees in this case.

In closing, I have one additional request I would like to make of you. Please find enclosed two letters, one dated August 24, 1994 and the other dated October 19, 1994. As you will note they are FOIA requests addressed to Atty. Vonda L. Marshall at the executive offices of the DOL. To date, I have received no response at all concerning either of these requests. I would appreciate if you would kindly remind the executive offices of the DOL that not only are they legally bound to comply with my request, but that they must also provide me these documents in the same edited state as provided to the Respondents of the mentioned cases.

Respectfully yours,


Thomas M. Bonanno

TMB

cc: Sen. John H. Chafee
Sen. Max Baucus
Mr. James M. Taylor
file

U.S. Postal Service Express Mail No. EF292602203US

March 2, 1995

W100
K ECA

The Honorable Joseph I. Lieberman
United States Senate
Washington, DC 20510

Dear Senator Lieberman:

I am replying to your letter of January 19, 1995, which included resumes of two of your constituents, Alan Robertson and Charles Nowak.

In keeping with overall reductions in the Federal civilian workforce, positions within NRC are extremely limited at this time. However, we have sent application materials and information about the NRC to your constituents so that a determination can be made regarding appropriate employment opportunities.

Thank you for your interest in the U.S. Nuclear Regulatory Commission.

Sincerely,

Original signed by
James M. Taylor

James M. Taylor
Executive Director
for Operations

DISTRIBUTION:

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Act, exemptions 6
FOIA- 2000-0326

DIRECTORY/SUBDIRECTORY : AUTOS:RIB
DOCUMENT NAME : ED000106

WITS/EDO/OP TICKET NO. : EDO 0106
SUBJECT FILE FOLDER NAME:

Secy	TechEd	OP/RIB	OP/RIB	OP/RIB	OP/OD	OP/OD
PCelenza	<i>W</i>	TYingst	CMarcy	JCTemens	JMcDermott	PBStd
2/11/95	2/17/95	2/16/95	1/95	2/14/95	2/17/95	02/17/95

EDO	OCA
JM Taylor	<i>W</i>
2/17/95	2/12/95

OFFICIAL RECORD COPY

E/5
[Handwritten signature]

JOSEPH I. LIEBERMAN
CONNECTICUT

COMMITTEES
ENVIRONMENT AND PUBLIC WORKS
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-0703

SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-4041

STATE OFFICE

ONE COMMERCIAL PLAZA
21ST FLOOR
HARTFORD, CT 06103

203 240 3566
TELE-FAX 1 800 225 5605

January 19, 1995

Mr. Dennis K. Rathbun
Director
Office of Congressional Affairs
Nuclear Regulatory Commission
Washington, DC 20555

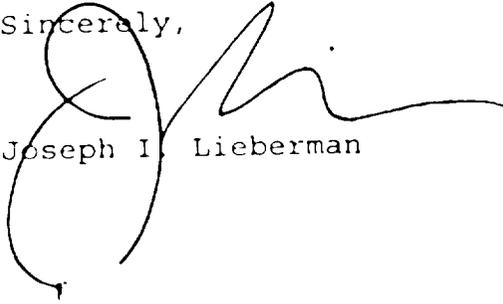
Dear Mr. Rathbun:

Enclosed please find a letter and resume from two constituents of mine, Alan Robertson and Charles Nowak, who seek employment at the Nuclear Regulatory Commission.

They are currently work for the DON Supervisor of Shipbuilding at Electric Boat shipyard in the Nuclear Quality Assurance Division. Both men face the prospects of losing their job due to the downsizing by the Department of Defense.

I thank you for your consideration of their applications.

Sincerely,



Joseph I. Lieberman

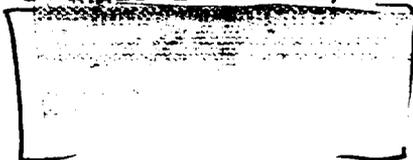
78923

— ALAN H. ROBERTSON —

3748011 (ms.) #

EX. 6

CHARLES E. NOWAK, JR.



78924

374805

EX 6

Alan H. Robertson

Thirty-three years in nuclear power industry including twenty-one years in Nuclear Quality Assurance. Six years as shipfitter- graduate apprentice.

Certified Level II in the following: Piping, Mechanical, Structural/Civil, System and Laboratory Testing, Procurement/Receiving Inspection, Audits and Procedure Review.
Certified Level III in Post-Tensioning operations.

Previous Employers and Locations:

General Dynamics Corp./EBDiv
Bechtel Power Corp.
Stone and Webster Engineering Corp.
Supervisor of Shipbuilding, Dept. of Navy

Millstone Point Unit's II & III	Waterford, Ct.
Grand Gulf Nuclear Station	Port Gibson, Ms.
North Anna Power Station	Mineral, Va.
Nine Mile Point II	Lycoming, N. Y.
Riverbend Nuclear Station	St. Fran., La.
Palo Verde Nuc. Gen. Station	Palo Verde, Az
Supv. of Shipbldg.	Groton, Ct.

Charles E. Nowak, Jr.

Twenty-one years in nuclear power industry both commercial and government including fifteen years in Nuclear Quality Assurance. Six years nuclear pipefitter- graduate apprentice.

Certified Level II in the following: Piping, Welding, Mechanical, Structural, Pipe Supports, Hydro/Pneumatic Testing, System Turnover, Instrumentation, Procurement, Receiving, Non-Destructive Testing, Audits, Procedure Review, Electrical Terminations, ASME Section XI VT,1,2,3,4.

Previous Employers and Locations:

General Dynamics Corp./EBDiv
Daniels International Corp.
Bechtel Power Corp.
Stone and Webster Engineering Corp.
Supervisor of Shipbuilding, Dept. of Navy

Callaway Nuclear Plant	Fulton, Mo.
Limerick Generating Station	Sanatoga, Pa.
Nine Mile Point II	Lycoming, N. Y.
Millstone Point Unit III	Waterford, Ct.
Supv. of Shipbldg.	Groton, Ct.

OPINIONS OF READERS *THE Day 09 Nov 94*

Nuclear Regulatory Commission in bed with the utilities

To the Editor of The Day

The United States Nuclear Regulatory Commission, recently evaluated the performance of Millstone Nuclear Power Station complex located in Waterford and operated by Northeast Utilities. The evaluation, called the Systematic Assessment of Licensee Performance, covered plant operations from April 4, 1993, to July 2, 1994. This NRC report strongly criticized Northeast Utilities' poor operation of the Millstone Nuclear Plants. This report should concern Connecticut citizens.

In a program on C-SPAN last year, the NRC chairman stated, "They (Millstone Station) have had a history of not handling their employees very well when the employees came up with concerns at the station," and, "Whistleblowers are a very important source of safety information, both to the utilities and the NRC, and very bad things have happened."

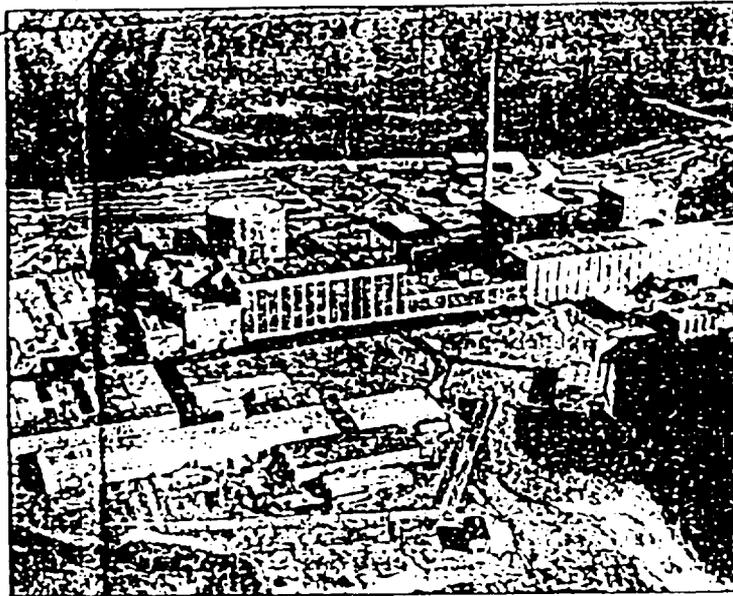
I have been employed by NU for 12 years, as a station electrician at Millstone Station, Unit One. Since May of 1993, I have raised dozens of undisputed nuclear safety concerns with the NRC. Since then, I have been subjected to a continuing program of harassment, retaliation, and discrimination by all levels of management at NU, and the NRC has yet to take any enforcement action against NU.

Alarming conversation

In a recent conversation with an NRC inspector, he stated that violations in procedure compliance, work order control and tagging control are occurring on a daily basis. He further indicated that unless someone is seriously injured or killed by the utility, the NRC is not going to do anything. These comments are agonizing to me and should be to the public, also.

It has been a documented fact, as outlined in the inspector general's report for the NRC, that NU has the second highest number of whistleblower complaints nationally.

In a recent Associated Press article (Aug. 31), Thomas T. Martin, regional administrator for NRC's Region 1, was quoted from a letter he wrote to NU: "The historic lack of management effectiveness in



Day file photo

■ Millstone Nuclear Power Complex, Waterford

resolving employee concerns at Millstone has adversely impacted overall performance at the site." In the same article, John Opeka, executive vice president of NU's nuclear program, was quoted as saying, "This problem area is one of our toughest challenges and may require an additional year or two to adequately address."

Well, Mr. Opeka makes me, as a whistleblower, feel very comfortable with that statement. Just think, only one or two years of harassment left.

Recently, I supplied the NRC with a number of indisputable nuclear safety concerns. I received a telephone call two weeks later indicating that the NRC was not going to investigate most of my concerns. They were just going to turn most of my concerns over to NU. Is that like putting the wolf in charge of the henhouse?

Clearly, Connecticut citizens should be deeply concerned about NU's continuing problems at Millstone Nuclear Power Station and the inaction by NRC. I urge Connecticut citizens to contact U.S. Sen. Joseph Lieberman at 1-800-225-5005, or write to President Clinton asking that the NRC be dissolved and another agency take over because, clearly, NRC is not concerned about the safety of the public.

Anthony J. Ross
Waterford

101 10/21-EX-5
Sally
T. Kelly



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

June 10, 1996

The Honorable Joseph Lieberman
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

As discussed with your staffer, Joyce Rechtschaffen, the Staff Requirements Memorandum 96-096 is enclosed for your information. Please note that the Commission considers the SRM to contain sensitive information, and therefore requests that you preserve its confidentiality by restricting access to you and your staff.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As Stated

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5
FOIA- 2000-0326

E/4



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

June 4, 1996

OFFICE OF THE
SECRETARY

MEMORANDUM TO: James M. Taylor
Executive Director for Operations

FROM: *John C. Hoyle*
John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-96-096 - DOL
PROCESS RECOMMENDATIONS FROM THE REVIEW TEAM
FOR PROTECTING ALLEGERS AGAINST RETALIATION
RECOMMENDATIONS C-1, C-2, C-3, AND C-6 OF
NUREG-1499

The Commission has approved the revised letter to the Secretary of Labor, as indicated in the attachment. The staff should proceed with the recommended actions in the subject SECY paper and inform the Commission:

- 1) |
- 2) |
- 3) |

Ex. 5

Attachment:
As stated

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
OGC
OCA
OIG

SECY NOTE: THIS SRM AND SECY-96-096 CONTAIN SENSITIVE INFORMATION AND WILL BE LIMITED TO NRC UNLESS THE COMMISSION DETERMINES OTHERWISE.

Do not release

The Honorable Robert B. Reich
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Secretary Reich:

As you are aware, in 1994 the NRC Nuclear Regulatory Commission conducted a study to reassess ~~the NRC's~~ our program for protecting allégers against retaliation for raising safety concerns. The final report, published as NUREG-1499, contained several recommendations ~~were made~~ that impacted the Department of Labor and ~~which have been that the NRC staff subsequently discussed with the DOL staff.~~ ~~Department.~~ Some of the recommendations involve amending Section 211 of the Energy Reorganization Act of 1974 (ERA) to change the statutory time frames associated with DOL investigations and adjudications and to provide immediate reinstatement based on a DOL investigation finding of discrimination, making the Section 211 process similar to that which is provided under the Surface Transportation Assistance Act and the Federal Mine Safety and Health Act. The recommendations also proposed transferring the Wage and Hour Division investigational responsibilities for Section 211 discrimination complaints to the Occupational Health and Safety Administration and to have DOL's investigative office defend its findings of discrimination in the DOL adjudicatory process. These recommendations were made to provide ~~for the purpose of providing~~ better protection to employees who raise safety concerns and to reduce the potential for a chilling effect on other employees who may desire to raise concerns.

The Commission appreciates the Department's support for legislative changes as expressed by the March 26, 1996 letter from Assistant Secretary Bernard Anderson and Assistant Secretary Joseph Dear. ~~We The Commission~~ strongly supports and encourages the Department's efforts to transfer the responsibility for investigating Section 211 complaints to OSHA. ~~We The Commission~~ also supports the proposed rulemaking to implement amendments to the ERA in order to provide discretionary authority for DOL to be a party to DOL adjudications where discrimination has been found by a DOL investigation. Consequently, we have directed the NRC staff to develop draft legislation to amend Section 211 and to coordinate this effort with both the DOL and the Office of Management and Budget.

~~The Commission has directed our General Counsel and staff to develop draft legislation to amend section 211 and to coordinate this effort with both the Department and Office of Management and Budget.~~

Again, the Commission expresses its appreciation for the support the Department and your staff in the Wage and Hour Division and OSHA ~~has~~ have given to these recommendations. We look ~~and looks~~ forward to continue working closely with DOL in this important area.

Sincerely,

Shirley Ann Jackson

CC:
Assistant Secretary Anderson
Assistant Secretary Dear