



Union of Concerned Scientists

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November 6, 2000

Mr. Loren R. Plisco, Chairman
Interim Implementation Evaluation Panel
U.S. Nuclear Regulatory Commission
Sam Nunn Atlanta Federal Center, 23 T85
61 Forsyth Street, SW
Atlanta, GA 30303-3415

SUBJECT: RESIGNATION FROM INTERIM IMPLEMENTATION EVALUATION PANEL

Dear Mr. Plisco:

It is with reluctance that I resign from the Interim Implementation Evaluation Panel effective immediately. It is hard for me to leave the panel because I feel an effective reactor oversight process remains the public's best protection and the industry has proposed various means of blunting the process. Nevertheless, I decided that it would be even harder for me to remain on the panel than to depart.

It became apparent to me during the panel's two-day meeting last week that the IIEP is less balanced than its predecessor, the Pilot Program Evaluation Panel (PPEP) upon which I had served. Throughout the PPEP, I was not alone in providing views to balance those of the industry representatives on the panel. For example, the representative from the Illinois Department of Nuclear Safety took the lead on certain issues while a member of the NRC staff (Mr. James Lieberman) established a position to the left of mine on cross-cutting issues.

The makeup of the IIEP is markedly different such that I felt the lone voice representing the "maintain safety" portions of the reactor oversight process against the persistent efforts of the numerous industry representatives on the panel to revise the process under the guise of the "reduce unnecessary burden" criterion. Twice during the IIEP meeting last Thursday, Mr. Steven A. Reynolds, representing NRC Region III on the panel, leaned over and asked me if I was going to object to the way an issue under discussion was being characterized. Mr. Reynolds was right each time in believing that an opposing viewpoint needed to be voiced, but I found myself unable, or unwilling, to be the lone voice on every issue.

The perfect example of the bias of the IIEP against the "maintain safety" criterion in favor of the "reduce unnecessary burden" criterion was the discussion during the meeting last Thursday about the Quad Cities YELLOW performance indicator (PI) in safety system unavailability. Mr. Krich explained that this PI went from GREEN to YELLOW in a single quarter because the 18-month surveillance test of the safety system failed. Taking half of the surveillance interval as the fault exposure time resulted in the unavailability of the system dropping to about 28%. The panel discussed whether it would be better to adjust the thresholds so that a single failed surveillance test would not cause a PI to step-change from GREEN to below WHITE or to redefine the fault exposure time to achieve the same result. There was

B116

November 6, 2000

Page 2 of 4

absolutely no discussion of whether the industry practice of reducing the surveillance frequency for safety systems is consistent with the "maintain safety" criterion. Another way to prevent GREEN to YELLOW jumps would be to test vital equipment more often than once every 18 months. But that option is not even being considered in the rush to "reduce unnecessary burden." If the "maintain safety" criterion was viewed as being equal to "reduce unnecessary burden" criterion, then the discussion would have at least examined all options. It did not.

The concerns that I did express during last week's meeting were summarily dispatched to the "parking lot," a kinder version of the paper shredder that is equally satisfying. It got so frustrating that you may recall I asked if I'd receive an award for the most "parking lot" items. The only award I wanted was resolution of my concerns.

In her presentation to the Commission on March 7, 2000, Dr. Jill Lipoti, Assistant Director of the Radiation Protection Department of Environmental Protection for the State Of New Jersey, posited that the reactor oversight process represented negotiation rather than regulation. If Dr. Lipoti is correct, the negotiators are the NRC staff and the industry representatives. The evidence strongly suggests that Dr. Lipoti is correct. For example, Mr. William Dean of the NRC staff reported that a formal mechanism was created for NRC inspectors and other staffers to ask questions or raise concerns about any aspect of the reactor oversight process. Mr. Dean also reported that a formal mechanism was created for industry representatives to ask questions or raise concerns. That mechanism is illustrated by the Frequently Asked Questions on the NRC website. No such mechanism, formal or informal, exists for members of the public to ask questions or raise concerns. Thus, it appears to UCS that the NRC staff is negotiating with the industry on revisions to the reactor oversight process and will merely communicate the results of those negotiations to the public as a *fait accompli*.

The IEP consisted of fifteen members. Even if panel was stacked 14-1 against my views, those are much better odds than I normally face when dealing with the NRC staff on nuclear safety issues. However, a series of NRC actions this year reduced my willingness to undertake these "easier" odds. A small sampling of these actions:

- The NRC inflicted ADAMS on the American public nearly one year ago. As has been often described by many people in numerous forums, ADAMS severely handicapped the public's ability to access information on important safety matters. The NRC thus made it much, much more difficult for the public to monitor the agency's so-called regulatory retreat and intercede when necessary. But before the damage inflicted by ADAMS is remedied, the NRC intends to proceed with a redesign project for its website. Thus, without restoring vision to the one eye blinded by ADAMS, the NRC proposes to tamper with the public's remaining eye.
- The NRC staff solicited my participation in a two-day workshop on nuclear plant decommissioning, then totally ignored the few concerns I raised. The NRC staff addressed the majority, if not the entirety, of the concerns expressed by industry representatives at this same workshop. This episode was particularly galling because I had specifically asked at the beginning of the workshop how comments would be addressed and was assured by the NRC staff that the meeting was being transcribed so that all comments could be captured.
- The NRC, at a pace that glaciers would find slow, is attempting to fix the public petition process of 10 CFR 2.206. The NRC staff has been blatantly unfair to petitioners during this change process. For example, while telling petitioners that they had to wait for Management Directive 8.11 to be revised to get minor reforms, the staff immediately gave licensees major rights and privileges that were not in the existing directive.

Such as?

November 6, 2000
Page 3 of 4

- Despite unified opposition to the informal hearing process by every national and local public interest organization, the NRC staff and the Commission continue to campaign for it. Worse still, the argument being put forth by the NRC staff and the Commission for the informal hearing process is that it will "enhance public confidence." Since we are vehemently opposed to it to the point of raising funds to fight it in court, it is especially aggravating to be repeatedly fed this falsehood.
- Speaking of falsehoods, there was the NRC staff miscue in Maine that prompted this infamous "Pinocchio Plan" cartoon and accompanying editorial in the *Lincoln County Weekly*.

Lincoln County Weekly

July 13, 2000

OPINION



THE PINOCCHIO PLAN

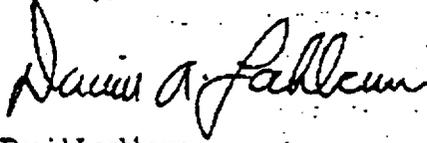
The NRC staff's disregard for meaningful public participation over the past year has left me feeling very much like the sucker suggested in the cartoon. There have been too many empty promises and bald-faced lies. I would rather leave the IIEP than risk being sucker-punched again.

Lastly, I want to acknowledge the efforts of Mr. Kenneth E. Brockman and many other NRC staffers who diligently strive for an effective reactor oversight process. It is because of them that I have hope that the obstacles to meaningful public participation may someday be lessened.

November 6, 2000

Page 4 of 4

Sincerely,



David Lochbaum
Nuclear Safety Engineer

P.S. - During my brief tenure on the IIEP, I found you to be a fair and capable Chairman. I hope that neither you nor anyone else views my resignation as negative commentary on your performance or abilities.

distribution:

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Mr. Hubert J. Bell
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