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FINAL REPLY:

Don Moniak
Blue Ridge Environmental Defense League

TO:

Chairman Meserve

FOR SIGNATURE OF : ** GRN ** CRC NO: 02-0143

DESC: ROUTING:

NRC Website, FOIA and Openness Issues

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DATE: 02/28/02

ASSIGNED TO: CONTACT:
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SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

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February 23, 2002

Chairman Richard Meserve
Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Re: NRC Website, FOIA, and Openness Issues.

Dear Chairman Meserve:

This letter is in regard to the Nuclear Regulatory Commission's (NRC) unwritten rules and policies for public access to agency information since September 11. Agency documents recently obtained by the Blue Ridge Environmental Defense League (BREDL) from the Commission's "ADAMS" library raise serious questions in two areas:

- **The legitimacy of the Commission's statements regarding the complete erasure of the agency's nrc.gov web site, and the subsequent replacement with a newly designed website.** According to an agency contractor report from August 2001, plans were already in place to replace the website with a newly designed version. The current version matches that proposed version. When did the Commission decide to use this new design? Is the reason for lack of access to information today caused by website construction rather than document scrutiny?
- **The criteria for making the determination that information "might be useful to a terrorist" and therefore must be withheld from the public.** In response to a Freedom of Information Request, the Commission recently released the names and license numbers of every licensed nuclear power plant operator in the United States to a private "headhunting" firm from Louisiana. Is it the policy of the NRC to release documents that provide no benefit to the public and violate privacy concerns?

Background

One month after the September 11, 2001 terrorist attacks on the World Trade Center and the Pentagon, the Nuclear Regulatory Commission (NRC) took drastic actions to limit public access to information that was available on its electronic information portals, i.e. nrc.gov and the ADAMS electronic library. The NRC justified this massive censorship by stating that it was in response to the events of September 11, and "*in support of our mission to protect public health and safety, we are performing a review of all material on our site.*"¹

The Commission then proceeded to wipe-out <http://www.nrc.gov>, although access to ADAMS was restored in a few days for the very few who know how to use it and have the capabilities to use it. Letters flooded the NRC for taking this action, and included one from

Congressman Edward Markey of Massachusetts.

In a less publicized action, the Commission also ordered at least one contractor to shut down public access to NRC information. In an email response this week, the manager of the NRC's Nuclear Materials Event Database (NMED) informed me that "Yes, after September 11, the NRC asked me to password protect the entire website." This website, operated from the Department of Energy's INEEL, already limited access to the actual database—but now took the draconian action of shutting off all access.

On October 18, at the tail end of a news release regarding a potential terrorist threat to the Three Mile Island Nuclear Power Plant, the NRC also announced:

"NRC's website, which was closed down last week, was restored Wednesday with a limited amount of information. Taking down the agency website was a precaution to make sure it did not contain information that could be helpful to terrorists. As the agency's review continues, other information and documents deemed non-sensitive will be added to the site."²

According to Webster, "restoration" means "a return of something to a former, original, normal, or unimpaired condition." Since the October 18 version of nrc.gov bore little resemblance to the October 10 version, and provided a fraction of the information, the use of "restored" to describe the sanitized new site was a lie by the agency to the American public.

The Commission continued to mislead the public and even the Congress. In its November 13 response to Congressman Edward Markey, the NRC made the following statements in regard to the website "restoration:"

- It currently makes available many, but not all, categories of documents that were formerly available.
- Among the listing of materials "accessible" to the public was "access to the agency document management system (ADAMS) containing more than 125,000 publicly available documents."
- Our review of the remaining materials is proceeding in a deliberate and systematic manner. We will continue to restore material to the website that is deemed appropriate.
- "We agree with you that no classified or sensitive safeguards information belongs on the website at any time. To our knowledge none has been found in the current review and we do not expect to find any. Nonetheless, the objective of the shutdown of the site and the ongoing review is to avoid facilitating the information-gathering processes of those seeking to harm the United States of America, while simultaneously providing for meaningful public participation in the NRC regulatory process."³

These comments were misleading and puzzling for the following reasons:

- It created the contradictory and hypocritical spectacle of the Commission allowing public access to 125,000 documents via the internet-in-the-internet ADAMS electronic document library--notoriously inefficient and user-unfriendly ADAMS system--while simultaneously blocking public access to the actual Internet.

- While no sensitive information was found in the “current review,” in an ADAMS “lessons-learned” report issued one month later, the agency revealed that, in June 2001, it “became aware that about 700 documents designated as sensitive and/or non-publicly-available had been incorrectly placed in the ADAMS Publicly Available Records System (PARS). In September 2001, the IG issued an audit report on this subject.” A search for this audit report in ADAMS yielded no results.

Most interestingly, it turns out the new website was in reality a redesigned website and that the NRC had been planning to introduce this prior to September 11, 2001. In a contractor report of August, 2001 is Appendix F Redesigned NRC Web Site Prototype Home Page. This appears identical to today’s home page.

Violation of Privacy and Another Security Mistake by the NRC

The NRC’s credibility on security issues is further eroded and undermined by the release of **release of privacy information that is also “of use to a terrorist.”** I recently downloaded the response to FOIA request 2002-0088. On January 7, 2002, Chad Burski of *Management Recruiters International of St. Charles Parish* submitted a *FOIA Inquiry* for:

“a list of individuals who have an SRO License from 1997 to present. I would like them sorted first by Facility Name, then by the name of the individual and the effective date of their license.”

The home page for Mr. Burski’s firm, at <http://www.mrinow.com/>, describes the company as:

- *“Bringing together the best in the Electrical Power and Petro-Chemical industries.”*
“We pride ourselves on confidentiality, attention to detail, follow-up and ethics.”

Under the “clients section,” the company is identified as *“part of Management Recruiters International (MRI). MRI completes 34,000 placements each year in every major industry, at every level and for almost every major company. Our 5000 search and recruitment specialists, most with experience in the industries they serve, have earned their reputations as highly specialized industry experts. They interact in the marketplace on a daily basis, locating, screening and recommending exceptional talent.”*

On January 31, 2002 the NRC’s FOIA office responded with five documents, all printouts from the NRC’s *Operating Licensing Tracking System*, and each printout containing, by Nuclear Power Plant, the full name, license type, license number, license effective date, and license expiration date. The fact that this request was honored raises some serious questions.

By releasing this information, the NRC released it to everyone. Not only does this violate the privacy of these individuals and expose them to unwanted solicitations by any number of hucksters and schemers, the fact is that any organized group with a propensity to violent action can target these essential safety personnel in any number of ways that the Commissioners, as alleged security authorities, can hopefully see clearly. If not, I suggest a review of <http://www.whistleblower.org>, where the Government Accountability Project highlights past problems with the courting of nuclear weapons security personnel by militia groups.

The role of Reactor Operators in preventing catastrophic accidents is well established

and needs no elaboration here. Personal opinions regarding nuclear power are outweighed by the need for a deep commitment to a safety culture at the NRC. Few, in any, people in the public interest and environmental community would have objected if the NRC had simply denied this FOIA request on the basis of privacy issues rather than subjecting hundreds of reactor operators to the solicitations of a job recruiter.

In summary, BREDL looks forward to your responses to the questions posed in the opening paragraph of this letter, and also welcomes any comments on these issues. Hopefully the Commission will accelerate its schedule for returning unclassified information to the NRC website and cease burdening the public with regulator secrecy.

Sincerely,

Don Moniak.

¹ <http://www.bredl.org/sapc/Offsite/2001-6.htm> features quotes from the NRC announcements on the original website.

² NRC Office of Public Affairs. No. 01-124 October 18, 2001
**THREAT TO THREE MILE ISLAND NUCLEAR PLANT DEEMED NON-CREDIBLE;
NRC MONITORING CONTINUES AND WEBSITE RESTORED**

³ Item ID: 013250076
Accession Number: ML013050403
Document Date: 11/13/01
Title: LTR-01-0532: Ltr to Rep. Markey re: temporary shutdown of NRC website
Author Affiliation: NRC/OCM
Document/Report Number: CORR-01-0181