

**Studies of Nuclear Hazards
and Constitutional Law**

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21 January 2006

Dr. Carl J. Paperiello,
Office of Nuclear Regulatory Research
U.S. Nuclear Regulatory Commission
Rockville, Md.
by telefax, 301-415-5153

Dear Gentlemen:

I have sent your office a series of three letters offering my notes and commentary on my conference with five of your colleagues, Messrs. Lauben, Meyer, Borjack, Voglewede, and Scott, held on January 9th -- my letters dated January 13 (revision of the original letter sent on Jan. 12th), and two postscripts, dated January 12th and 18th. My letters were addressed to each of those men as well as to you and Jim Wiggins. I have phoned Norm Lauben to mention the result of a scoping calculation I made for a BWR Loss-of-Coolant Accident without a reactor scram, since I raised a questions about that accident in the conference: my question of whether or not that accident has ever been calculated for the potential course it could take. In my call to Mr. Lauben I learned that he has not seen my letters, and did not know that my letters are addressed to him as well as to you. He said that he has not been given to read my letters, nor a copy of them for his information, as was my intention by including his name among the addresses.

I request, therefore, that you make a copy of my three letters, and circulate the copy, including the drawings and other sheets that were sent with my letters, and circulate the material to the others among the addressees, and that your secretary or you inform me by e-mail that this has been done -- richard.webb@t-online.de. I simply would like to pay due regard to each person who participated in the conference, considered as an individual.

As I mentioned in the conference, but rather impromptuously, I have found in my research of the UNITED STATES CONSTITUTION, that the Atomic Energy Act is unconstitutional; and therefore, I do not recognize the Nuclear Regulatory Commission as a lawful entity. However, I respect each individual who is employed in that government agency (NRC) as a fellow citizen or human being, and merely hope that each of you in your respective activities do what is right -- what you know to be right. I have urged that each of you examine the CONSTITUTION, and especially Article VI, respecting the required oath to support the Constitution, and make your own study of

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the Constitution, and form your own judgment as to the conformance or non-conformance of the Atomic Energy Act to the Constitution.

I mentioned in the conference that I took an oath to support the Constitution when I was commissioned as a U.S. naval officer (commissioned by President John F. Kennedy in May 1963); and I acted to support the Constitution, when I opposed the Vietnam war as unconstitutional and otherwise wrong, by writing and issuing an essay on the Constitution, proving that the President Johnson's order to attack North Vietnam is unconstitutional — the President not being vested by the Constitution with power to make War. That essay was delivered to the United States Senate in 1966, while I was on active duty in Washington. (I delivered that essay to the Chairman of the Committee on Foreign Relations, J. William Fulbright in violation of the Navy Regulations, as I determined that those regulations were also unconstitutional.) Later in 1968, I took the oath to support the Constitution again, when I received an Atomic Energy Commission fellowship to study for the doctorate in nuclear reactor physics and engineering at Ohio State University. True to that oath, I undertook at Ohio State University a study of the Constitution with respect to the Atomic Energy Act, after I began to suspect that the Atomic Energy Act is also unconstitutional, and then concluded that the Act is indeed unconstitutional — the Congress of the United States not being vested with any power to promote industry or technology, nor any broader or general powers. I promptly wrote and published a treatise setting forth the proof of my conclusion, titled, *The Unconstitutionality of the 1954 Atomic Energy Act*, toward fulfilling my oath (solemn promise) to support the Constitution of the United States of America. My doctoral dissertation in its Preface declares my conclusion that the Atomic Energy Act is unconstitutional. Soon after I issued my treatise on the Constitution and the 1954 Atomic Energy Act, my Atomic Energy Commission fellowship was terminated; but I never appealed to try to restore it, since I wanted not to receive any more money expended on the basis of an unconstitutional law. I had to borrow money from a state bank, in order to support my family and myself to complete my studies and research for the doctorate.)

Also, Chapter 13 of my book *The Accident Hazards of Nuclear Power Plants*, titled, "Who should decide?", gives a short proof of the unconstitutionality of the Act. In the conference I said that I have perfected my analysis of the Constitution, and will write up a treatise giving my final, perfected analysis, to prove my assertions. In the conference I urged that each of the NRC officers study the Constitution, first by reading it, and then by studying the book by Samuel Pufendorf, *The Law of Nature and Nations* (1729) that was the book used in the federal Convention in Philadelphia in 1787 to form and write the Constitution; for that book is necessary in order to learn the definitions of all of the terms used in the Constitution; and then on the basis of such a study, form your judgment. Be careful, however, not to assume that the Constitution is what the Supreme Court says it is. We have to know what is the *Judicial Power* which is vested by the Constitution in the Courts of the United States.

As I have said, I must regard all of you as individuals, and appeal to you to do what you honestly judge what is right with respect to my several requests, including

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requests for documents that are set down in my letters. (And what is *right* has to include to obey and support the Constitution of the United States; as well as to act so as not to put the inhabitants of America under any danger of nuclear catastrophes) I do hope that you will provide the documents which I have specified; but also that you undertake vigorous research of the various matters that I have mentioned in my letters in addition to what pressing safety issues which you know to be of pressing concern

I have received the telefaxed letter of January 19th from Jim Wiggins, and I must say that my opinion about your office's response to my letters is mixed: On the one hand, it is good that Mr. Wiggins has provided me with some (but very limited) information about documents that give data on the measurements of the core thermocouples in the Three Mile Island unit-2 reactor during the accident; but on the other hand, his/NRC letter is disappointing to me, as you have disregarded my concerns about the lack of mathematical calculations of various reactor accident potentialities mentioned in the conference and in my letters, and the several other matters that I have asserted in my letters, such as whether or not the 42 kilograms of plutonium that was produced in the TMI-2 reactor before the accident was ever investigated for its distribution in the reactor system at the final state of the reactor.

I can imagine that your office is swamped with works to undertake and to complete that pertain to the "pressing safety issues" of the NRC for which your office has been engaged. I find in my many years of research of the nuclear accident hazards that every question requires an enormous research work of documentation acquisition, analysis, mathematical modelling making, and developing, computer programming, and computer calculations, and the study of experimental data, etc. I can imagine how difficult your work is, to research the "pressing safety issues" – issues which are aimed, I think, at keeping the nuclear plants running without accidents, but also promoting the further development and permanent use of nuclear energy in America, and therefore, imposing on the People of America continued risks of catastrophic nuclear accident. (Do you just disregard the summaries of my analysis and estimations of the nuclear accident hazards that are given in the website which I have cited?

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I know from my own nuclear engineering experience that nuclear power plants can be designed, made, operated, and maintained without accident, if all of the required procedures, specifications, training, qualifications, and other cares are observed. However, accidents can happen. I am happy that there has not been any serious accident in America since TMI in 1979. I think that the NRC activities must have something to do with that fortunate experience. Although I also think that the dedicated engineers of the companies that operate the nuclear power plants and that of the companies of the great multitude of industries that supply the nuclear plants, and the other workers and managers of the plants and suppliers, are to be credited primarily for the so-far accident free operations since TMI. But accidents can still happen.

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An office of research in a government nuclear supervisory office is not immediately concerned with the safe operation of nuclear power plants, for that is the province of another department. And so, the research office ought to study and research all that affects the safety of the public, or the risks of catastrophic accidents which the people now live under. To not have any regard, for example, for my recommendation to calculate the potential course of a BWR loss-of-coolant accident with a failure of an automatic reactor scram, is to take chances with the health and security of the inhabitants of America, and all other forms of life besides the human. For an analogy, your disregard of my recommendations (and requests that analyses be made) is like walking across the street without looking both ways -- without caring for what could happen, if one does not look both ways for approaching fast automobiles, trucks or buses.

I should add that Mr. Wiggins letter does not offer one engineering justification for disregarding the various matters asserted in my letters -- not one specific point -- not one technical point or argument. He even uses a ridicule of sorts by characterizing the data on the Three Mile Island nuclear accident as "30 year old data" and "historic issues," as if I am a history "buff." I think I made it clear that the official analyses of the TMI accident are void of what happened after the first 16 hours of the accident! Reactor accidents can happen! In 1985 (June 9th or 5th), a repeat of the TMI reactor accident happened in the Davis-Besse reactor: a complete loss of feedwater. And again, as in the TMI accident, the PORV stuck open! But unlike the TMI accident, the operators promptly shut off the PORV venting by closing the block valve. But then that mishap took another course that was potentially more dangerous than TMI: The pressurizer nearly filled water solid before the auxiliary feedwater supply was finally and fortunately activated -- within about a minute or four before going water solid. For the safety valves and the PORV at Davis-Besse (and all other nuclear power plants) were (and still are) not designed to pass water! Had they been pressed to release water under excessive pressure, those valves could have been damaged and stuck closed, and the reactor system would then have suffered a rapid and potentially explosive pressure rise. I refer to the graph of computer results that I included with my first letter showing the potential rapid rise in pressure in such a condition!

I do not know what all mishaps have occurred since TMI; but if you think that you have not "sufficient resources to re-examine 30- year old data and information," as Mr. Wiggins has declared in his letter to me, then the NRC officers ought not to be permitting the continued operation of nuclear power plants; for his statement means that you do not know what could happen in each of the various accident possibilities that I have mentioned in my letters and in the conference, and also those defined in my book and other writings issued since 1976, and those also which are summarized in the website that I offered that gives a summary of my research as of 1996 -- www.technidigm.org/webb

I request some cooperation to find and obtain documentation related to the Three Mile Accident. I refer to my letters. Besides the core thermocouple data, I wish to have a copy of the NRC and B&W reports on the Long-Term Cooling of the TMI Unit 2

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reactor that was issued by the NRC in 1979 or perhaps a year or two later — a copy of the original reports was given to me in my meeting with Dr. Roger Mattson on April 26, 1979, the day before the reactor was (reportedly) put into natural circulation. I also request a copy of the documents dated 04/25/79, 04/28/79, and 04/30/79 on the list of document titles which Mr. Wiggins kindly attached to his letter. May I request that you telefax me those particular three documents on the core thermocouples?

My telefax is 49 8262 960236.

Sincerely yours,



Richard Webb

P.S. Errata: My Jan. 18th letter contains a typo error. the word "hold" should be changed to read "hole" - the postulated hole in the core barrel of my diagram supposition.