

EDO Principal Correspondence Control

FROM: DUE: / /

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DOC DT: 08/21/06

David Lochbaum
Union of Concerned Scientist

FINAL REPLY:
EDATS: SECY-2006-0149

TO:
Commission

FOR SIGNATURE OF : ** GRN ** CRC NO: 06-0430

DESC:
Security Sanction for Seabrook

ROUTING:
Reyes
Virgilio
Kane
Silber
Johnson
Cyr/Burns
Luehman, OE
Brenner, OPA

DATE: 08/30/06

ASSIGNED TO: CONTACT:
NSIR Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

EDATS

Electronic Document and Action Tracking System

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Initiating Office: SECY

General Information

Assigned To: NSIR

OEDO Due Date: NONE

Other Assignees:

SECY Due Date: NONE

Subject: Security Sanction for Seabrook

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Response:

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Originator Name: David Lochbaum

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Other Information

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Agency Lesson Learned: NO

OFFICE OF THE SECRETARY
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Date Printed: Aug 29, 2006 15:28

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ACTION OFFICE: EDO

AUTHOR: David Lochbaum
AFFILIATION: UCS
ADDRESSEE: CHRM Dale Klein
SUBJECT: For the record---security sanction for Seabrook

ACTION: Appropriate
DISTRIBUTION: RF

LETTER DATE: 08/21/2006
ACKNOWLEDGED: No
SPECIAL HANDLING: EDO/OPA for Appropriate Action

NOTES:
FILE LOCATION: ADAMS

DATE DUE: **DATE SIGNED:**

EDO --G20060754



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

August 21, 2006

Dr. Dale Klein, Chairman
The Honorable Edward McGaffigan, Jr., Commissioner
The Honorable Jeffrey S. Merrifield, Commissioner
The Honorable Gregory B. Jaczko, Commissioner
The Honorable Peter B. Lyons, Commissioner
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: FOR THE RECORD – SECURITY SANCTION FOR SEABROOK

Dear Mr. Chairman and Commissioners:

Eliot Brenner's letter dated August 7, 2006, to the editors of the Hampton Union and Portsmouth Herald recently posted to the "For The Record" section of the NRC's website puzzled and confuses us. We assume you were cognizant of the essence of Mr. Brenner's letter before it was mailed.

The second paragraph of Mr. Brenner's letter contained this sentence (in context about the size of the civil penalty imposed on Seabrook's owner):

What's important is that the nuclear industry was sent a clear message that the NRC will not tolerate security deficiencies.

This statement puzzles us. We had been led to believe from NRC's testimonies before various Congressional committees, NRC's security brochures (i.e., NUREG/BR-0314) and related paraphernalia, and from the rare times that the NRC's Office of Nuclear Security and Incident Response (NSIR) has been permitted by you to meet with the public that the frequent closed-door meetings between the NSIR staff and representatives of nuclear plant licensees and the non-licensee Nuclear Energy Institute provided adequate communications. Mr. Brenner's statement strongly suggests that all these secret meetings went for naught in that the nuclear industry still needs a "clear message" that NRC was serious about security. The Seabrook sanction, therefore, appears to be some bizarre sort of nuclear scarlet letter.

The very next sentence in Mr. Brenner's letter confuses us. He wrote:

Adverse publicity can act as a powerful deterrent.

We are not confused by this concept (indeed, we concede to some hope of provoking it with this letter), but are confused by Mr. Brenner's application of it to security matters. In August 2004, you established policy that deliberately removed security information from the reactor oversight process and other public arenas. If Mr. Brenner is correct, it appears your decision deprived Americans of this powerful acting deterrent over the past two years. Perhaps it is time to restore the security information to the ROP.

In addition, we struggle to comprehend the communication and deterrent values of a message delivered so late. The underlying problems at Seabrook were found and fixed in the late spring of 2005. The NRC did not dole out its associated communication and deterrent until nearly 15 months later. If you truly believe that the Seabrook sanction sent a "clear message" to the nuclear industry, you cannot justify waiting so long to deliver this important message. If you truly believe that the Seabrook sanction acts as a powerful deterrent, you cannot justify waiting so long to apply it.

The key part of Mr. Brenner's letter was not lost upon us. He wrote:

Because of the problem that we identified, Seabrook was subjected to far more scrutiny of its security so we could satisfy ourselves that it met our stringent requirements.

The NRC inspection effort that found the security problems at Seabrook and compelled them to be corrected is the "clear message" and "powerful deterrent" – not the subsequent NRC enforcement action. The subsequent NRC enforcement action did not find any security problems, did not fix any security problems, and for the reasons provided above, did not deliver any "clear message" or "powerful deterrent." The NRC enforcement effort was a complete and utter waste with no redeeming value.

This Seabrook sanction, and all too many other examples, demonstrates that the NRC's enforcement program needs repairs. The frenetic pace at which you rotate people through as Director of the Office of Enforcement can only impede the pace of regulatory reforms needed in the NRC enforcement program.¹ UCS is convinced the NRC's enforcement program needs reform and pledges to work with the Director of the Office of Enforcement, or the series of Directors of the Office of Enforcement, to right this wrong.

Sincerely,



David Lochbaum
Director, Nuclear Safety Project

¹ According to the US Department of Justice, the average sentence for persons convicted of felonies in State courts was 4 1/2 years (see <http://www.ojp.usdoj.gov/bjs/sent.htm>), a far longer stretch than the average residence time for persons appointed to be NRC's Director of the Office of Enforcement.