

Congress of the United States
Washington, DC 20515

DOCKETED
USNRC

March 16 2007

March 19, 2007 (445pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

The Honorable Dale E. Klein
Chairman
Nuclear Regulatory Commission
11555 Rockville Place
Rockville, MD, 20852

Dear Chairman Klein:

We are writing to urge the U.S. Nuclear Regulatory Commission (NRC) to alter its unsupportable policy that prohibits the consideration, during licensing proceedings, of the environmental consequences of accidents at or attacks on high-density spent nuclear fuel storage pools at nuclear power plants.

As you know, on August 25, 2006 the Massachusetts Attorney General (AG) filed a petition for an NRC Rulemaking to amend its regulations to ensure that environmental impact statements (EISs) for nuclear power plant licensing decisions consider the vulnerability of high-density spent nuclear fuel storage pools to serious accidents caused by a wide range of factors including natural phenomena, operator error, equipment failure, and terrorist attacks. The AG filed the petition because the NRC rejected the AG's previous request for hearings on the environmental risks associated with the high-density spent fuel storage pools in the individual license extension hearings for the Pilgrim and Vermont Yankee nuclear power plants. The NRC held that the issue was not subject to a hearing because the NRC's own regulations already have made a generic finding that high-density storage of spent fuel poses no significant risks, and therefore do not require the NRC to evaluate them as part of the hearing process.

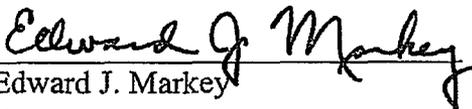
The NRC's generic finding of no significant risk is contradicted by both technical analysis and legal precedent: The National Academy of Sciences recently issued a report entitled *Safety and Security of Commercial Spent Nuclear Fuel Storage* that concluded that terrorist attacks on spent nuclear fuel facilities are possible, and could result in the release of large amounts of radioactive material into the environment. And last year, the Ninth Circuit U.S. Court of Appeals decided, in *San Luis Obispo Mothers for Peace v. NRC*, 449 F.3d 1016 (9th Cir. 2006), that the NRC must address the environmental impacts of terrorist attacks in environmental assessments or Environmental Impact Statements in its licensing decisions. The Supreme Court has decided that it will not hear this case, which means that the Ninth Circuit decision will stand for all nuclear facilities contained within the Ninth Circuit. It makes no sense to limit the holding to some nuclear facilities in one part of the country but not others. The NRC should require that these environmental impacts be evaluated for all nuclear facilities involved in a licensing process.

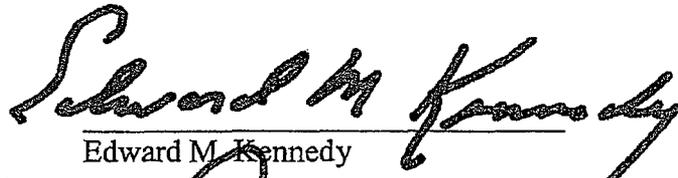
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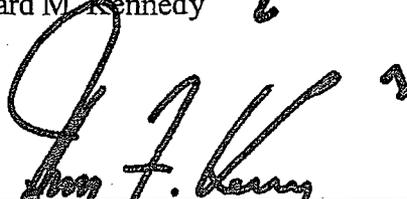
In light of the significant new information presented by the Massachusetts AG regarding spent fuel pool accident vulnerability, as well as the terrorist attacks of 9/11, it is no longer credible for the NRC to ignore the potential consequences of a catastrophic event when it is assessing whether to approve the construction of new nuclear facilities or to revise or extend the licenses for existing nuclear facilities. We therefore urge you to grant the Massachusetts petition, and move expeditiously to proceed with promulgating new regulations that will apply nationwide.

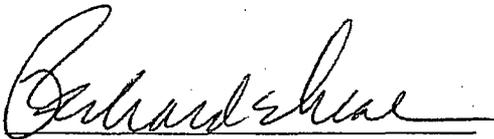
Sincerely,

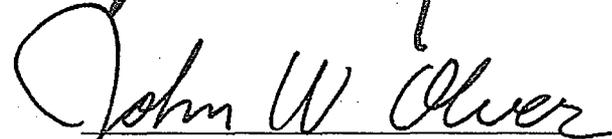

Edward J. Markey


Edward M. Kennedy


Barney Frank


John F. Kerry

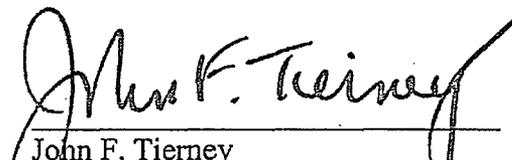

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