

March 8, 2008

**PRM-35-18
(70FR75752)**

DOCKETED
USNRC

Chairman John Dingell
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

March 19, 2008 (11:12am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Attention: Richard Miller

Dear Chairman Dingell:

In my letter to you of January 13, 2008, describing the NRC's failure to act on a petition for rulemaking filed by me in 2005, I chose not to mention that my petition, along with all the public comments submitted on it, had disappeared from the NRC website sometime last year, and that the NRC's posted list of pending petitions also did not include my petition. I did so because at the time I wrote, I was still giving the agency the benefit of the doubt, and thinking that these omissions from the website were the result of bureaucratic error, not design.

In the meantime, however, I have had to reconsider this view. I have been telling the NRC staff since October 2007 of these omissions, and asking them politely to post the missing information, but to no avail. On January 6 of this year, I wrote to the NRC Chairman and Commissioners, urging them to act on my petition one way or the other, and also to correct the omissions from the website. Not only has there been no change in the website and no acknowledgment of my letter, it seems that the NRC has chosen not to register it on its ADAMS system, in which such correspondence is normally filed and made accessible to the public. I am forced to the reluctant conclusion that the NRC is deliberately hiding the ball.

Lending support to this view is the very similar experience of the State of Nevada. On July 18, 2007, the Nevada Attorney General, Catherine Cortez Masto, wrote to NRC General Counsel Karen Cyr, pointing out what appeared to be "discriminatory treatment" in the NRC's handling of petitions for rulemaking filed by Nevada. Not only was the NRC not acting on long outstanding petitions for rulemaking, it was failing to publish newer ones for public comment, and also failing, despite repeated requests, to include them on the NRC website's list of pending petitions. Describing one such petition, the Nevada Attorney General wrote: "Although six months have elapsed, the NRC's website listing of pending petitions offers no indication to the public that any such petition was ever filed...."

I respectfully suggest that in its pending investigation of the NRC, the Energy and Commerce Committee ascertain whether there is a pattern and practice of keeping the public ignorant of filings that the NRC views with disfavor. At present there is no way of knowing whether the State of Nevada and I are the only petitioners whose submissions to the NRC have been kept from public knowledge in this way.

Template = SECY-067

SECY-02

I have no expectation that the NRC Commissioners will in the end act favorably on my petition, but whichever way they ultimately decide the issue, in the meantime they have no right to be concealing the petition's existence from the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Crane".

Peter Crane
Counsel for Special Projects, USNRC (retired)

cc: Chairman Ed Markey
Chairman Bart Stupak
Chairman Frank Pallone
Chairman Dale Klein, NRC