

EDO Principal Correspondence Control

FROM: DUE: 05/28/08

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FINAL REPLY:

Peter Crane
Seattle, Washington

TO:

The Commission

FOR SIGNATURE OF :

** GRN **

CRC NO: 08-0258

Miller, FSME

DESC:

ROUTING:

ACMUI (Advisory Committee on the Medical Uses of
Isotopes) Position Intended to be Held by a
"Patient's Rights and Care Advocate"
(EDATS: SECY-2008-0274)

Borchardt
Virgilio
Mallett
Ash
Ordaz
Burns
Cyr, OGC
Hawkins, ASLBP

DATE: 05/06/08

ASSIGNED TO:

CONTACT:

FSME

Miller

SPECIAL INSTRUCTIONS OR REMARKS:

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Source: SECY

General Information

Assigned To: FSME

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Subject: ACMUI (Advisory Committee on the Medical Uses of Isotopes) Position Intended to be Held by a "Patient's Rights and Care Advocate"

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ACTION OFFICE: EDO

AUTHOR: Peter Crane

AFFILIATION: WA

ADDRESSEE: Chairman Kleins and Commissioners

SUBJECT: Concerns the Advisory Committee on the Medical Uses of Isotopes (ACMUI) and positions held by officials from the Pacific Northwest National Laboratory (PNNL)

ACTION: Direct Reply

DISTRIBUTION: RF, SECY to Ack

LETTER DATE: 04/24/2008

ACKNOWLEDGED No

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EDO --G20080315

April 24, 2008

Chairman Dale E. Klein
Commissioner Peter B. Lyons
Commissioner Gregory B. Jaczko
Commissioner Kristine L. Svinicki
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Klein and Commissioners:

The approach of another meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) makes this an appropriate time to draw your attention to an ongoing problem: the fact that the ACMUI position that was intended to be held by a "patient's rights and care advocate" has for the last several years been held by officials from the Pacific Northwest National Laboratory (PNNL) and its isotope program. However valuable their perspective may be – and I make no judgment on that – this is not what the Commission had in mind when it created the position in the early 1990's.

At that time, the Commission was concerned that the NRC regulatory staff and the regulated community too often seemed to take the same view of issues. It therefore felt, as a matter of ensuring that the process had checks and balances, that the addition of a strictly patient-oriented perspective would be valuable. Judith I. Brown, the first person to hold the patient advocate position on ACMUI, sometimes asked pertinent questions about patient needs and well-being that made a significant contribution. You need only read the old transcripts to find her raising sensible points that until then had not occurred to the NRC staff.

The current holder of the "patient's rights and care advocate" position, Darrell Fisher, Ph.D., is now the head of the Department of Energy's isotope production program, after spending 28 years at PNNL. He was appointed patient advocate in February 2007 to replace Robert Schenter, also formerly of PNNL, who is now the chief science officer of the Advanced Medical Isotope Corporation, based in Washington. Mr. Schenter was formerly Executive Director of the National Association of Cancer Patients (NACP), which certainly looks on the face of it like suitable preparation for the patient advocate position, and Mr. Fisher evidently used to be his assistant there. Nekita (Nicki) Hobson, who shows up on ACMUI transcripts from 2004 as holding the patient advocate position at that time, is also a former Executive Director of the NACP.

The hitch in all this is that the National Association of Cancer Patients – now defunct, it appears – was not the charitable organization that its name might imply. Rather, it was a 501(c)(4) lobbying group, and one of its major purposes seems to have been to

lobby for the low level waste disposal facility that the waste management firm U.S. Ecology wanted to site in the Mojave Desert.

The Ward Valley proposal came to nothing: in 1999, a court upheld the Interior Department's rejection of the plan. Whether the NACP had outlived its purpose, or for other reasons, the organization seems to have disbanded soon afterwards.¹ *Lifeline*, the NACP newsletter edited by Nicki Hobson, later to be the ACMUI patient advocate, published its last issue in July 2001, to judge by the NACP website, www.cancerpatients.org. Elsewhere, it is reported that Nicki Hobson was formerly an officer of U.S. Ecology.

I do not mean to disparage any of the individuals named above, and indeed, some of them have had personal experience with cancer. What I am suggesting, however, is that the Commission's purpose in the early 1990's is not being met by the appointment as "patient rights and care advocate" of persons with these kinds of credentials. One may believe in perfect sincerity that what is good for PNNL, or good for U.S. Ecology, is also good for cancer patients generally; but that is surely not the kind of primary, undivided focus on patient rights and patient care that the Commission had in mind.

Given all the above, the title "patient's rights advocate" no longer corresponds to reality. (It is perhaps telling that PNNL, in its own March 2007 announcement of Mr. Fisher's appointment to the ACMUI, said nothing about his being named "patient's rights advocate."²) My request to you, therefore, is this very modest one: that the Commission eliminate the title "patient's rights advocate," now that it has become a misnomer. This is simply an issue of truth in advertising. Please advise me at your earliest convenience how you plan to address this request. Thank you.

Sincerely,



Peter Crane
Counsel for Special Projects,
USNRC/OGC (retired)

¹ This may be why the NRC press release on Mr. Fisher's appointment, and the biography of him on the ACMUI website today, refer to him as having served with the "American Association of Cancer Patients," rather than the "National Association of Cancer Patients." Evidently, this was all so long ago that people have forgotten the organization's actual name.

² The PNNL press release said only that Mr. Fisher had been appointed to ACMUI. It explained: "Darrell was selected for this appointment because of his strong knowledge of radiation sciences. He specializes in the health effects and dosimetry-related exposure of radioactive materials. In addition, Darrell knows the medical uses of isotopes, has experience with patient advocacy organizations and has worked with cancer patients who have questions about different treatment methods."