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To: Sheron, RES

AUTHOR: Paul Gunter

AFFILIATION: MD

ADDRESSEE: Gregory Jaczko

SUBJECT: Cancer study and request for NAS review for potential conflict of interest for NRSB Chair Richard Meserve

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Beyond Nuclear

6930 Carroll Avenue, Suite 400,

Takoma Park, MD 20912

Tel: 301.270.2209

Fax: 301.270.4000

Email: pau@beyondnuclear.org

Web: www.beyondnuclear.org

FAX TRANSMISSION COVER SHEET

DATE: May 3, 2010
TO: Gregory Jaczko, Chair, US NRC
FAX: 301-415-3504
FROM: Paul Gunter
RE: Cancer Study and request for NAS review for potential conflict of interest for NRSB Chair Richard Meserve

PAGES TO FOLLOW: 6 pages

Mr. Chairman:

The following copy of correspondence was sent to the National Academies of Science in request of a review for potential conflict of interest for Nuclear and Radiation Safety Board Chairman Dr. Richard Meserve as tasked to conduct a cancer study around US nuclear power plants.

Paul Gunter
Director, Reactor Oversight Project

Beyond Nuclear
6930 Carroll Avenue, Suite 400,
Takoma Park, MD 20912
Tel: 301.270.2209 Fax: 301.270.4000
Email: paul@beyondnuclear.org
Web: www.beyondnuclear.org

April 29, 2010

Kevin Crowley
Nuclear and Radiation Studies Board
The National Academies of Science
500 Fifth Street NW
Washington, DC 20001
By E-mail: nrsb@nas.edu

Supplemental Comments of Paul Gunter, Beyond Nuclear re: Study of Cancer Risk in Populations Living Near Nuclear Plants And Request for Review of a Potential Conflict of Interest by NRSB Chairman Richard Meserve

Dear Mr. Crowley:

I want to thank the Nuclear and Radiation Studies Board (NRSB) for providing the public the opportunity to speak at its April 26, 2010 meeting with regard to the proposed national cancer study around US nuclear power facilities as requested by the United States Nuclear Regulatory Commission (NRC).

I am providing a written supplement to my public comments for the record. On behalf of Beyond Nuclear, I am submitting a formal request that the National Academies of Science conduct a review of NRSB Chairman Dr. Richard Meserve for a potential conflict of interest as tasked to undertake the proposed cancer study around US nuclear power plants.

The stated mission of the NRSB in the proposed cancer study is to define the scope and methodology of the study, as well as possibly assist in the selection of the study panel members and supervise the panel to carry out the defined study to a conclusion. The NRSB, therefore, plays a critical and central role in the

design, scope, methodology, implementation and conclusions of the cancer study around past, present and future nuclear power plants.

The National Academies of Sciences (NAS) has established a policy and procedures for addressing potential conflicts of interest in preparing its reports. This policy is posted to the NAS website at http://www.nationalacademies.org/coi/index.html .

The NAS policy states, "It is essential that the work of committees of the institution used in the development of reports not be compromised by any significant conflict of interest. For this purpose, **the term "conflict of interest" means any financial or other interest which conflicts with the service of the individual because it (1) could significantly impair the individual's objectivity or (2) could create an unfair competitive advantage for any person or organization.** Except for those situations in which the institution determines that a conflict of interest is unavoidable and promptly and publicly discloses the conflict of interest, no individual can be appointed to serve (or continue to serve) on a committee of the institution used in the development of reports if the individual has a conflict of interest that is relevant to the functions to be performed."

We wish to bring the following matters of concern to the attention of the NAS and the NRSB regarding Dr. Meserve's employment, consulting services and promotional activities that to the best of our knowledge have not been publicly disclosed as potential conflicts of interest in regard to this cancer study and NAS report.

Since 2004, Dr. Meserve has served as Senior of Counsel with the law firm of Covington & Burling LLP which provides legal services to the nuclear power industry and is listed as providing "experienced counsel and advisory services in connection with nuclear matters arising at the state and federal level, including NRC procedures (governing site permits, certified designs, and consolidated licenses), NRC practice and licensing, legislative strategy, regulatory compliance, decommissioning, DOE programs bearing on the nuclear industry, the licensing of Yucca Mountain and related spent-fuel issues, terrorism-related requirements, and evolving risk-informed regulatory requirement." http://www.cov.com/industry/energy/nuclear/

Since 2006, Dr. Meserve has served on the Board of Directors of Pacific Gas & Electric Company (PG&E) and PG&E Corporation. PG&E owns and operates the Diablo Canyon Nuclear Power Plant Units 1 and 2 in San Luis Obispo,

California which could in principle be one of the nuclear facilities subject to the NAS cancer study. http://www.pgecorp.com/aboutus/corp_gov/directors/index.shtml

Since 2006, Dr. Meserve also serves on the Advisory Board of UniStar Nuclear Energy LLC (Constellation Energy and the French government-owned nuclear utility EdF). UniStar is actively pursuing the construction of new nuclear power plants in the United States. The Calvert Cliffs Unit 3 nuclear power plant in Lusby, Maryland is the UniStar reference application currently under licensing review by the US Nuclear Regulatory Commission Atomic Safety and Licensing Board for a Combined Operating License Application. Calvert Cliffs Unit 3 is the first of several Evolutionary Power Reactors (EPR) being proposed for construction in the United States. http://www.unistarnuclear.com/press/030906-press.html

Since 2008, Dr. Meserve has served on the Board of Directors of Luminant Holding Company LLC which is the parent company of the Comanche Peak nuclear power plant in Texas which in principle could be one of the nuclear power plants subject to the cancer study. http://people.forbes.com/profile/richard-a-meserve/63379

Dr. Meserve has most recently participated in and contributed to a paid advertising campaign on behalf of the nuclear industry aimed at lobbying Congress for more federal loans for the construction of new nuclear power plants. On April 21, 2010 in "An Advertising Supplement to the Washington Post," at page 6H, Dr. Meserve is the author of "U.S. Cannot Dismiss Nuclear Energy in Quest to Control Global Warming."

The Washington Post eight-page advertisement insert (Section H) identifies "The production of this supplement did not involve the Washington Post news or editorial staff." Dr. Meserve's efforts were therefore not solicited by the Washington Post.

To the best of our knowledge, the advertising supplement appeared only in the Washington Post which serves as a primary newspaper to the seat of the federal government and the members and staff of United States Congress.

The special advertising supplement features a front page advertisement by the Nuclear Energy Institute promoting nuclear power as "a zero greenhouse gas emitter while producing electricity."

Dr. Meserve, as a former US Nuclear Regulatory Commission Chairman and current President for the Carnegie Institute of Science, provides the only

additional contribution and commentary encouraging Congress to provide substantially more federal loans for the construction of new nuclear power plants.

The United States Congress is currently preparing legislation and is being lobbied by the Nuclear Energy Institute and industry promoters' effort to establish a "permanent financing platform" through federal loan guarantees for the construction of as many as 100 new nuclear power plants.

Dr. Meserve's contribution to this paid for advertisement and lobbying effort expressly focuses on securing more federal money from Congress for the nuclear industry effort to build new reactors.

His remarks in the advertisement which effectively lobby Congress for more federal loans to the nuclear industry include the following statements:

"Nuclear power also has advantage because it provides base-load electricity—it is available regardless of whether the sun is shining or the wind is blowing. As a result, our national energy policy should (indeed, must) include significant encouragement of nuclear power.

"The major challenge---and it is a very serious one---is financial.

"Given the societal importance of demonstrating that new nuclear power plants can be built on budget and on schedule and that they can perform economically, there is a clear federal role in supporting the first several plants. This can be accomplished by providing loan guarantees in which the utilities pay a premium (known as a "subsidy cost") that reflects the financial risk assumed by the government. The Department of Energy has issued the first such guarantee for the construction of two nuclear reactors at a site in Georgia and at least one more guarantee is imminent. The department is seeking money for further guarantees as part of it fiscal 2011 budget proposal.

"This funding should be a high priority if we are to facilitate the significant new construction that will be necessary if nuclear power is to contribute meaningfully toward halting the growth of greenhouse gas emissions.

"Nuclear power is an essential component of our energy future. We should encourage the construction of nuclear plants so that reductions in greenhouse gas emissions can be achieved."

Dr. Meserve's remarks on more federal funding of a national energy policy *"(indeed, must) include significant encouragement of nuclear power," "there is a clear federal role in supporting the first several plants," "This funding should be a high priority,"* and *"Nuclear power is an essential component of our energy future"* reveal a zeal and potential conflict of interest for his role as NRSB chair in the shaping and supervising of a cancer study around these same nuclear power plants. In fact, Dr. Meserve is compelling the readership in Congress to prioritize the allocation of more federal funds for new reactor construction without mentioning his role as NRSB chair and the upcoming study of cancer around these same facilities.

In our view, Dr. Meserve employment, consulting service and participation in a nuclear energy industry advertising and lobby effort for additional federal funding reveal a strong conflict of interest. During my oral presentation when questioned on how far and wide his Washington Post advertisement was disseminated he responded, "Not far enough."

The NRSB is being tasked to shape, assemble and impanel an impartial study on potential cancer incidence and mortality around past, present and future nuclear power plants, the board should disengage and distance itself from promotional and lobbying activities on behalf of the nuclear industry. Given that Dr. Meserve serves on the Board of Directors of a nuclear utility potentially subject to the study and is a partner in a law firm that offers counsel and serves as an advisor to the same nuclear power industry that is the subject of the NRSB cancer study and that Dr. Meserve has recently participated in an advertising and lobby campaign to financially benefit the same industry, we strongly believe that Dr. Meserve has significantly impaired his objectivity to impartially study cancer around nuclear power plants.

To that end, Beyond Nuclear formally requests that the National Academies of Science conduct a review of Dr. Meserve for these and other potential conflicts of interest. Should there be a finding of a conflict of interest, Dr. Meserve should recuse himself from all activities toward and related to the proposed cancer study around nuclear plants.

Thank you,
----/s/----
Paul Gunter, Director
Reactor Oversight Project

Attachment:
"U.S. Cannot Dismiss Nuclear Energy in Quest to Control Global Warming," Dr. Richard Meserve, Carnegie Institute, excerpt at page 6H, "An Advertising Supplement to the Washington Post," Washington Post, April 21, 2010

Cc:
National Academies of Science
Congressman Edward Markey, United States House of Representatives
Chairman Greg Jaczko, United States Nuclear Regulatory Commission