

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Nov 27, 2012 10:43

PAPER NUMBER: LTR-12-0719

LOGGING DATE: 11/26/2012

ACTION OFFICE: (ED)GC

To: Leeds, NRR
Ref. LTR-12-0014
Cys: OGC
Merzke, OEDO

AUTHOR: Joe Carson

AFFILIATION:

ADDRESSEE: Chairman Resource

SUBJECT: Broken Covenant of Civil Service Reform Act of 1978...

ACTION: Appropriate

DISTRIBUTION: Copy to Chrm, Comrs

LETTER DATE: 11/24/2012

ACKNOWLEDGED No

SPECIAL HANDLING:

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

Template: SECY-017

E-RIDS: SECY-01

Joosten, Sandy

From: Joe Carson [jpcarson@tds.net]
Sent: Saturday, November 24, 2012 3:54 PM
To: CHAIRMAN Resource; CMRSVINICKI Resource; CMRAPOSTOLAKIS Resource;
CMRMAGWOOD Resource; CMROSTENDORFF Resource
Subject: eventually, "bystanding" can have negative career impact
Attachments: nrc-macfarlane.pdf

Dear NRC Commissioners,

I have been bringing these concerns to you for quite some time now. "Bystanding" is how I describe your (in)actions to date. I think the American public and nuclear profession deserve (much) better and do not intend to be reticent in saying so. I attribute only fear and greed to your inactions, not devotion to duty. Your careers, as mine, are not particularly important relevant to rule of law and a trustworthy civil service - two essential parts of adequate nuclear safety.

Respectfully,

Joe Carson, PE
Knoxville, TN

November 24, 2012

Honorable Alison Macfarlane, Chairman
Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: "Broken covenant" of Civil Service Reform Act of 1978, your oath to "faithfully discharge the duties of your office," and rules of professional conduct for professional geologists¹

Dear Chairman Macfarlane,

I am a longtime member of the American Nuclear Society. Your interview with it was the cover story of its November 2012 monthly publication, "Nuclear News." I am a deeply concerned licensed professional engineer (PE) who is a 35+ year-long nuclear professional and member of the federal civil service.

My concerns *should* deeply concern you and motivate you to take whatever action necessary - including publicly resigning from Nuclear Regulatory Commission (NRC) if necessary - to persuade President Obama to comply with his primary statutory duty to NRC employees, "to take any action....necessary," to ensure: 1) they can effectively bring forward concerns in the legally authorized ways, and 2) they are adequately protected from reprisal and other types of prohibited personnel practices (PPPs).^{2 3}

¹ See www.broken-covenant.org for eye-glazing civil service detail.

² See 5 U.S.C. section 2301(c) for this Presidential statutory duty. It exists because Congress created a complex statutory scheme, involving multiple independent agencies performing complementary duties, in the Civil Service Reform Act of 1978 (CSRA) and subsequent federal Whistleblower Protection Act of 1989 (WPA). The President has to take the actions necessary to ensure the complex system is working. He has not and it is not - the federal civil service is battered and America is much diminished and more threatened as the result.

³ I contend the U.S. Office of Special Counsel (OSC) is a 34 year-long lawbreaking fraud, enabled by 34 years of lawbreaking by U.S. Merit Systems Protection Board, leaving the President "in the dark" about such fundamental issues in the federal civil service, including the inability of agency heads to meaningfully comply with their duty to "prevent PPPs."

More relevant to nuclear safety at NRC-licensed facilities, OSC fraudulently claims that: 1) employees of NRC-licensed facilities cannot bring concerns involving NRC to it, 2) that employees of the federal agency, Tennessee Valley Authority (TVA), cannot bring their nuclear concerns to it (although OSC agrees that NRC employees may bring TVA nuclear concerns to it, go figure), and 3) that it cannot formally consider anonymous concerns. OSC relies on two 1981 opinions of the Office of Legal Counsel, 1981 WL 30900 and 30880, in making these claims,

If you are serious about your oath of allegiance by which you became Chairman of the NRC, you will “faithfully discharge the duties of your office,” by directing appropriate NRC staff to understand my concerns, their basis in fact and law, their relevance to NRC’s mission and to your primary statutory duty to NRC employees to “prevent prohibited personnel practices.”⁴ If you do, I believe you will agree that you simply cannot now meaningfully perform that duty because the President, the U.S. Office of Special Counsel, and U.S. Merit Systems Protection Board are not properly complying with their respective, complementary and essential, duties.

An alternative way to demonstrate you are serious about your oath of allegiance would be to file a professional misconduct complaint against me with the Tennessee State Board of Architectural and Engineering Examiners for making public statements about “broken covenant” and its attendant great harm and risk, inconsistent with its expectations of the PE’s it licenses. I wish to be accountable to my oath as a PE and my oath of allegiance to U.S. Government, as bizarre as that may seem.

You choose to become a geologist. Your resume does not state whether you are a licensed professional geologist. If you are, then I contend that you are a legally obligated “mandated reporter” about my concerns. Why? Because I am publicly claiming to you that you are unable to meaningfully comply with your statutory duty to “prevent prohibited personnel practices” in the NRC because of 34 years of lawbreaking involving Presidents, Special Counsels of the U.S. Office of Special Counsel and Board members of the U.S. Merit Systems Protection Board.⁵

I should not be a PE, a nuclear professional, or hold a highly sensitive “Q” clearance if I am making irresponsible public claims of such lawbreaking and its terrible impact on America’s health, safety, security and welfare. You should not be Chairman of the NRC if you blow me off.

Thank you for whatever consideration you deem my concerns to merit.

Respectfully,

Joseph Carson, PE
10953 Twin Harbour Drive
Knoxville, TN 37934 865-300-5831

even though these opinions were legislatively overturned in 1989 by the WPA, see 5 U.S.C. section 1213(g)(1).

⁴ See 5 U.S.C. section 2302(c) for this duty, your most fundamental one to NRC employees.

⁵ See Rule 2.1.3 of the Code of Ethics of the American Institute of Professional Geologists (AIPG), www.aipg.org/about/ethics.htm