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May 20, 2013
05:28:13 AM '13

Mr. William M. Dean
Administrator of Region 1
Nuclear Regulatory Commission
2100 Renaissance Boulevard, Suite 2100
King of Prussia, PA 19406

Dear Administrator Dean:

I appreciate your time and effort in responding to my two requests of NRC; first that you conduct an Independent Safety Assessment of Indian Point modeled after (but not necessarily identical to) the ISA conducted at Maine Yankee in 1996. Learning from accidents and close calls since 1996 should be integrated into any new ISA. In addition I asked that meetings between NRC and the public be recorded so that there are official records of such meetings. Often times stakeholders bring to light legitimate concerns about the operator and the agency that should be part of the public record of activities by federal agencies.

While I appreciate your time and effort in this response, I am very disappointed in that response and I believe that your response simply reinforces the perceptions that I and many other involved stakeholders have of the NRC's arrogance and lack of transparency.

Specifically, your inference that NRC's Reactor Oversight Process (ROP) is highly effective and adequate and should reassure stakeholders is far from what I believe. There is much evidence to show that NRC performs inspection reviews at levels far lower than what should be acceptable if your primary responsibilities include maintaining regulatory high standards and protecting the health & safety of the public. Among the evidence is:

- Despite increased NRC presence at Indian Point due to less than stellar performance over time, NRC never identified that spent fuel pools were leaking until 2005, when the operator began excavation to start the process of moving spent fuel assemblies to dry cask storage. Your agency still has no idea for how long the unknown leaks existed or how much irradiated water seeped and pooled under the plant and migrated into the Hudson River. These releases included strontium, cesium, nickel, cobalt, and of course, tritium.
- In 2007, the transformer at IP3 caught fire and according to the report in the NY Times, your agency "increased its level of inspections... and warned the entire industry to improve transformer maintenance." The result was that in November 2010, the same type of transformer at IP 2 exploded and caught fire and released diesel oil into the Hudson, for which the State fined the operator \$1.2 million. Where was NRC follow-up to prevent a repeat scenario at the same facility?
- In 2011, after the start of the still unfolding Fukushima Dai-ichi multiple meltdowns, it was reported in the Journal News that at Indian Point 2
 - hydrogen containment devices, which are supposed to be tested every other year, haven't been tested for five years

- fire protection equipment was in locations that are not "seismically designed" or protected from a quake;
 - Inspectors identified potential vulnerabilities associated with seismic events
- A lack of scheduled inspections also resulted in a shutdown when intake pipes were clogged from ice and debris. Who is checking the scheduled maintenance procedures for regulators who are supposed to demand compliance?
- The agency did not force the operator to complete a Severe Accident Mitigation plan and the Atomic Safety and Licensing Board agreed with a challenge by the State of New York, that the Nuclear Regulatory Commission had closed its review of the plant prematurely, and that severe environmental disasters could not be treated as impossibility.

You may be of the opinion that everything is just fine at Indian Point, the plant with the highest population density of any in this country and that your agency's work is impeccable, but that opinion is not shared by me nor by many stakeholders who have observed your service. From my perspective the agency is more dedicated to the promotion of the industry than to the protection of the public. In fact, your own OIG said that the agency gave undue weight to operator financials at the expense of public health and safety when Davis-Besse came within a quarter inch of breach of containment in the early 2000's. And when Samuel Collins, who was the senior person at Davis-Besse and ignored on-site staff's request for a shutdown to evaluate the buildup of corrosion, became Regional Administrator at Region 1, he granted a fire safety exemption to Entergy when the Hemyc fire wrap was found to fall far short of the one hour protection requirement rather than force the operator to spend less than a million dollars to retrofit with better fire wrap protection. The cost would be less than one day's profits. Is that what the NRC refers to as "lessons learned?"

It should be noted that your OIG was also very critical because NEI refused to run sustainability tests on Hemyc when NRC asked them to, so NRC had to do its own testing. Do you believe that a regulatory body should simply lick its wounds when the industry's lobbying organization tells it that they do not want to test materials that are critical to safe shutdowns? Does that instill confidence from affected stakeholders?

If you have such great confidence that your ROP is adequate and that the plant is operating with full regulatory standards being met, then I would think that you would want to conduct an ISA with outside experts involved to prove your premise and eliminate the stakeholders' great doubt in the agency's integrity and efficacy.

To me your response tries to maintain NRC as sacrosanct from outside and truly independent evaluations.

I also think that your response to the request to have all public meetings recorded so that there is actually a public record is even more indifferent to the public's need to have meaningful public input and their right to transparency. The fact that you "assume no new safety issues [will be] raised" is dismissive and inaccurate. In fact the public has often raised safety issues which the staff has not known about or considered; for example, at the recent hearing the staff did not know about an internal failed force-on-force drill which took place on April 30, 2013.

You feel that a simple sound recording of these infrequent openings to the public does not warrant monetary expenditure? But you want the public to believe that you have the public good as a primary responsibility? At a minimum, transcripts of the public comments are necessary to fulfill the NRC's obligation to include the stakeholders, the public, in its review as required by the Atomic Energy Act ("AEA"). Without either recordings or transcripts the Commissioners, who are not present at the Annual Assessment meetings, do not and cannot consider public input. This failure violates the very premises of the AEA. To this stakeholder it seems more likely that you do not want public commentary to be available to others who cannot attend because our commentary is often warranted and accurate and reasonable. But you and the agency still protect your fiefdom from public view under the premise that it is not cost effective. If costs are a concern, NRC can require the operator, Entergy, to provide funding for the necessary transcriptions or recordings.

When Chairman Macfarlane came to have dialog with stakeholders from this reactor community, we appreciated it and hoped that her visit would be a positive step in promoting a better relationship between the agency and the public, but your response certainly does not justify our optimism. That is unfortunate.

With all due respect, your positions are unacceptable to me and portray a federal agency that is more of an industry champion than a public servant which clearly violates the intent of the AEA.

Sincerely,

A handwritten signature in black ink that reads "Gary Shaw". The signature is written in a cursive, flowing style.

Gary Shaw
9 Van Cortlandt pl
Croton on Hudson, NY 10520
Member of the Leadership Council of Indian Point Safe Energy Coalition

A hard copy is being mailed to you, to Diane Screnci and all those listed on the following page.

cc:

NRC Chairman Allison Macfarlane
Mary Woollen – Director of External Engagement,
Office of the Chairman
Representative Nita Lowey
Representative Eliot Engel
Representative Sean Patrick Maloney
Senator Kirsten Gillibrand
Senator Charles Schumer
Assemblyman Tom Abinanti
Assemblywoman Sandra Galef

Stakeholders present at the meeting with the
Chairman:

- Jeanne D. Shaw IPSEC and WESPAC
- Susan Shapiro – Radiation and Public Health Project and PHASE
- Manna Jo Greene – Environmental Director of Clearwater
- Paul Gallay – President of Riverkeeper
- Alice Slater – Abolition 2000
- Marilyn Elie – IPSEC and WestCAN