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The Honorable Ivan Selin
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Selin:

SUBJECT: THE STAFF'S RECOMMENDATIONS ON THE REGULATORY IMPACT
SURVEY REPORT

During the 377th meeting of the Advisory Committee on Reactor Safeguards, September 5-7, 1991, we discussed the staff's proposed SECY-91-172, Regulatory Impact Survey Report-Final, dated June 7, 1991. This matter was also discussed during our August 8-10, 1991 meeting, and by our Subcommittee on Regulatory Policies and Practices on September 3, 1991. During these meetings, we had the benefit of discussions with representatives of NUMARC, INPO, and the NRC staff. The following comments are made in response to a Staff Requirements Memorandum dated November 6, 1990, containing the request that "the ACRS should review the survey results and proposed corrective actions and provide comments to the Commission."

We have often commended the staff for its initiative in conducting the Regulatory Impact Survey, which provided a substantial body of information and impressions from which regulatory improvements could be generated. SECY-91-172 is a first step toward planning these improvements. It is viewed by both us and the staff as an interim document. It is in large part aspirational, and generally confined to laying out programs to meet the concerns that emerged from the survey. While some of those programs (like training) are already in place, most are not, so this letter must also be regarded as incomplete. We do regard the subject as important, since appropriate response to the survey can set the tone for the interaction of the NRC and its licensees, improving mutual confidence, and thereby contributing to nuclear safety for many years.

The Regulatory Impact Survey and its impact will constitute a major development in nuclear regulation. We therefore think it important that this unique opportunity for substantial improvement be translated into more effective protection of the public health and safety, and into a more productive use of regulatory resources.

There are a number of areas to which we would like to call special attention as the process continues.

- 1) The Commission has issued clear instructions to the staff, through the Safety Goal Policy Statement, the Severe Accident Policy Statement, and related documents, that regulatory actions should be studied for their conformance with the Safety Goals, and their priorities determined through analysis. We hope to see more

evidence of the impact of these directives, as these programs crystallize.

- 2) One of the well known problems identified in the Survey is that many regulatory initiatives appear as individual items, judged on their own merit by their own proponents within the staff, with inadequate coordination. The staff offers more management control as a solution to this problem, and we will have to see if that is adequate.
- 3) A major product of the survey was a related concern about the sheer burden of the cumulative impact of the many requirements imposed on the licensees, each of which may be meritorious. The staff response bypasses this issue by concentrating on organization and scheduling, rather than pruning. The problem of setting priorities among issues, so that the most significant (in terms of safety) receive most attention, and the least important none at all, still needs work.
- 4) One of the major issues is the ill-defined dividing line, in practice, between informal advice and formal direction to a licensee by the staff. The path of least discomfort for a licensee is all too often to simply comply with suggestions from the staff, whether regional or headquarters. Since no one is infallible, and informal advice is often not documented, this is an undesirable arrangement. The staff response to this problem is to step up management involvement, and to enhance staff training. It remains to be seen if this will be enough. Regulation through suggestion is a major problem.
- 5) There is little in SECY-91-172 dealing with the complex of coherence questions that still bedevil the agency, and which we have addressed in our series of letters on the subject.
- 6) The question of the technical competence of the staff is an uncomfortable one, but must be raised in an atmosphere in which staff influence is so great. We would like to see more recognition in the staff that there may be a problem. We do not assert that there is, only that it is an important subject.
- 7) We are sorry to see the SALP issue decoupled from the others. The staff position is that the Commission has spoken on SALP, so it is a closed matter. We think it is closely related to the questions we are dealing with here, and should be part of the package, if only at the Commission level. We have not retracted our earlier recommendations on SALP.

Since so much of the content of SECY-91-172 is aspirational, and since there is a normal tendency for past good intentions to be swallowed by current problems, we think it especially important that the Commission establish some sort of feedback mechanism, to

keep track of progress on these matters. Perhaps it would be appropriate to commit now to a new survey in a few years. Whatever the mechanism, it would be unfortunate to squander this opportunity for progress, through inattention. We would, of course, be happy to help.

Sincerely,

David A. Ward
Chairman