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The Honorable Kenneth M. Carr
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Carr:

SUBJECT: COHERENCE IN THE REGULATORY PROCESS

In our last report to you on this subject, dated November 24, 1989, we listed a number of problems, but deferred any recommendations until we had had a chance to speak to the EDO. This occurred so late in our December meeting that it was impossible to prepare a report on this important subject with the care that it deserves. We therefore beg your indulgence while we defer still another month.

Nonetheless, we have been briefed at this meeting on one of the increasingly important elements of the process--the SALP ratings and their use --and believe it appropriate to single out the subject for individual treatment. We know you are aware of some of the problems of external misuse of the ratings; we wish to address instead the internal purpose of the ratings themselves, from the viewpoint of coherence of the regulatory process.

The SALP ratings are extremely important to the licensee, for both economic and other reasons; it is therefore essential that the process through which they are determined be as objective and credible as it is possible to make it. We recognize that there is not available a set of fully objective performance indicators and that any rating system must therefore have an element of subjectivity. It is then doubly important that the procedures incorporate a set of credible checks and balances to minimize the effect of the personal predilections of the board members.

Instead we learned from this briefing that the process is almost entirely (we were told 80%) in the hands of the Regional Administrator, who not only appoints most of the board from among his own personnel, but is even free to reject an SALP rating he doesn't like, and reconstitute the board as he wishes. The rating therefore provides still another weapon for the Administrator to enforce his personal views, effectively free of restraint. There is no appeal procedure. Even with the best of Regional Administrators this strikes us as unwise--with the worst it could make a mockery of coherent regulation.

During our briefing, we were variously told that the purpose of an SALP rating is to advise the Regional Administrator (though he signs it), and then to help him advise the licensee. At the end it wasn't clear which. We were also told that a licensee must exhibit a steady improvement to keep his SALP rating constant, then that he needn't, and finally that he did. If true, that is not consistent regulation. Improvement toward what end? You may wish to read the transcript of our meeting.

We could continue, but the message is that your staff has created a process which is out of control. If indeed all the questions we asked

have reasonable answers, they were not known to the responsible staff elements, even during a prepared briefing devoted to the subject.

On this isolated example of incoherence, we think you should make a clear statement of the purpose of SALP ratings, insist that your staff implement that purpose and no other, insist that the staff not use the ratings as weapons to enforce obedience to idiosyncratic policies that are not yours, greatly dilute the Regional autarchy in the process, and institute a workable set of checks and balances. Abuses of SALP abound, and they bring no credit to the regulatory process.

We also believe that this is a sufficiently important problem to justify consideration of suspension of the program and issuance of no new SALP ratings until enough reform measures are instituted to lend credibility to the process.

Sincerely,

Carlyle Michelson
Acting Chairman