



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

The Honorable Harris Wofford
United States Senate
Washington, D.C. 20510

Dear Senator Wofford:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

In addition to the enclosed letter from me to Mr. Gary, the NRC staff is responding separately to some of the more specific comments in Mr. Gary's submissions of April 6, 7, and 20, 1994. A copy of the staff's response will be provided to you.

Sincerely,

Ivan Selin

Enclosures:
As stated

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PDR COMMS NRCC
CORRESPONDENCE PDR

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

The Honorable Joseph I. Lieberman, Chairman
Subcommittee on Clean Air and Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

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Ivan Selin

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

The Honorable Alan K. Simpson
United States Senate
Washington, D.C. 20510

Dear Senator Simpson:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

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Ivan Selin

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CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

The Honorable George W. Gekas
United State House of Representatives
Washington, D.C. 20515

Dear Congressman Gekas:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

In addition to the enclosed letter from me to Mr. Gary, the NRC staff is responding separately to some of the more specific comments in Mr. Gary's submissions of April 6, 7, and 20, 1994. A copy of the staff's response will be provided to you.

Sincerely,

Ivan Selin

Enclosures:
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CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

Mr. James P. Riccio
Staff Attorney
Critical Mass Energy Project
Public Citizen
215 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

Dear Mr. Riccio:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

In addition to the enclosed letter from me to Mr. Gary, the NRC staff is responding separately to some of the more specific comments in Mr. Gary's submissions of April 6, 7, and 20, 1994. A copy of the staff's response will be provided to you.

Sincerely,

Ivan Selin

Enclosures:
As stated



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

The Honorable Stephen R. Reed
Mayor of Harrisburg
Harrisburg, Pennsylvania 17101-1678

Dear Mayor Reed:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

In addition to the enclosed letter from me to Mr. Gary, the NRC staff is responding separately to some of the more specific comments in Mr. Gary's submissions of April 6, 7, and 20, 1994. A copy of the staff's response will be provided to you.

Sincerely,

Ivan Selin

Enclosures:
As stated



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

The Honorable Janice C. Stork
Mayor of Lancaster
Lancaster, Pennsylvania 17603-1599

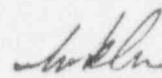
Dear Mayor Stork:

On behalf of the Commission, I am responding to your recent letter regarding the Director's Decision (DD-94-03) on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI).

Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and in response to your request for Commission review, we have carefully considered DD-94-03 issued in response to PICA's petition, as well as the points made in your letter and in the other correspondence to the Commission on this matter. As explained at some length in my letter to Mr. Robert Gary (enclosed), the Commission has decided not to take formal review of Director's Decision DD-94-03. For your information I have enclosed a copy of the Director's Decision.

In addition to the enclosed letter from me to Mr. Gary, the NRC staff is responding separately to some of the more specific comments in Mr. Gary's submissions of April 6, 7, and 20, 1994. A copy of the staff's response will be provided to you.

Sincerely,


Ivan Selin

Enclosures:
As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 6, 1994

CHAIRMAN

Mr. Robert Gary
Pennsylvania Institute for Clean Air
2211 Washington Avenue
Silver Spring, Maryland 20910

Dear Mr. Gary:

On behalf of the Commission, I am responding to your letter of April 6, 1994, regarding the Director's Decision on the petition filed by the Pennsylvania Institute for Clean Air (PICA) requesting the Commission's staff to take certain actions concerning the emergency plans for the Three Mile Island Nuclear Power Plant (TMI). Under the procedures for Commission consideration of review on its own motion (10 CFR 2.206(c)) and as you requested, the other Commissioners and I have carefully considered the Director's Decision, DD-94-03, issued in response to PICA's petition, as well as the points made in your submissions of April 6, 7, and 20, 1994, and in the other correspondence to the Commission on this matter. The Commission has decided not to take formal review of the Director's Decision.

Your letters criticize the Director's Decision for merely applying the NRC's emergency planning regulations when it appears that you wished to question the rule itself. Yet your petition and correspondence with the Commission presented no new basis for reconsidering the rule or its application in this case.

In discussing the NRC's policy towards the size of emergency planning zones (EPZs) for nuclear power plants, it might be helpful to first consider the role of emergency planning in the NRC's defense-in-depth approach to ensuring adequate protection of the public health and safety. Briefly stated, this safety philosophy (1) requires high quality in the design, construction, and operation of nuclear plants to reduce the likelihood of malfunctions in the first instance; (2) recognizes that equipment can fail and operators can make mistakes, therefore requiring safety systems to reduce the chances that malfunctions will lead to accidents that release fission products from the fuel; and (3) recognizes that, in spite of these precautions, serious fuel damage accidents can happen, therefore requiring containment structures and other safety features to prevent the release of fission products off-site.

As a result of the accident at TMI, emergency planning was strengthened as part of the defense-in-depth philosophy to provide that, even in the unlikely event of an off-site fission product release, there is reasonable assurance that adequate protective measures can be taken to protect the population around nuclear power plants. The Commission issued substantial revisions to

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its regulations concerning emergency planning, placing added emphasis on the interface between the utilities and the State and local governmental jurisdictions responsible for carrying out protective actions for the public. This emphasis included notification methods and procedures, emergency communications, public education and information, emergency facilities and equipment, accident assessment, and exercises and drills.

As explained in earlier NRC staff correspondence to you (November 3, 1993), the choice of the size of EPZs (about 10 miles in radius for the plume exposure pathway and 50 miles in radius for the ingestion pathway) represents a judgement on the extent of detailed planning that must be performed to ensure an adequate response to protect the public in the event of an accident. The size of the plume exposure pathway EPZ was based primarily on the following health and safety considerations: (1) projected doses from the design basis accidents that are considered during licensing of a facility would not exceed the Environmental Protection Agency's protective action guides (PAGs) for protection of the public outside the zone, (2) projected doses from most core damage sequences would not exceed the PAGs outside the zone, (3) for the most severe core damage sequences, immediate life-threatening doses would not generally occur outside the zone, and (4) detailed planning within 10 miles would provide a substantial base for expansion of response efforts in the event that it proved necessary.

In denying previous petitions for rulemaking to expand the plume exposure pathway EPZ (Citizen's Task Force of Chapel Hill, et al., DPRM-90-1, 32 NRC 281 (1990)), the Commission stated that protective actions could be carried out beyond the 10-mile EPZ, if necessary, without detailed planning for the following reasons: First, the 10-mile planning basis establishes an infrastructure similar to that of other community emergency organizations, such as police and fire departments that can be used in the event of an accident. Second, the radio and television emergency broadcast system messages that are required for prompt notification of the public within the 10-mile EPZ will reach beyond 10 miles. Third, if protective actions were necessary beyond 10 miles, the time available to take those actions would be significantly greater than the time available for taking protective actions close in to the facility. This significant additional time would permit the use of additional resources outside the 10-mile EPZ, including the Federal Government under the Federal Radiological Emergency Response Plan. Thus the concerns that you raised with respect to the City of Harrisburg are in fact addressed by these considerations.

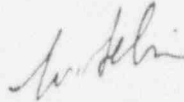
In conclusion, I wish to assure you that I and my fellow Commissioners have thoroughly considered your thoughtful comments, and those of others, on the issues raised in PICA's petition, the Director's Decision issued in response to that petition, and the subsequent comments on the issues.

Mr. Robert Gary

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The NRC staff is preparing a separate response to some of the more specific comments in your submissions of April 6, 7, and 20, 1994. The staff's response will be provided to you in the very near future.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ivan Selin", written in a cursive style.

Ivan Selin

TMI

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PICA

The Pennsylvania Institute for Clean Air

Office of the Senior Researcher, 2211 Washington Avenue
Silver Spring, Maryland, 20910 Telephone (301) 587-7147

Dr. Ivan Selin, NRC

April 6, 1994

Dear Dr. Selin,

PICA has received with dismay the denial of our 10 CFR 2.206 Request which pertains to expanding the 10 mile evacuation zone around Three Mile Island. As you know the 10 mile rule was made in the 1970's and since then several important things have happened. Chernobyl melted down, contaminated most of Russia and half of Europe. TMI Unit 2 was opened and it was found that 30 tons of fuel melted at temperatures up to 5100 F degrees, destroying 177 fuel assemblies and producing 2,000,000 gallons of highly radioactive water. Under these circumstances, it is not unreasonable to call for a reassessment of the 10 mile evacuation zone. This is particularly true since according to the National Three Mile Island Network they have an affidavit signed by Admiral Hyman Rickover's daughter-in-law saying that he admitted to persuading Jimmy Carter to suppress the most alarming aspects of the Kemeny Commission Report.

Even so, your Directors have decided that PICA's Petition to increase the zone and include the people of Harrisburg which lies just at its edge constitutes an inappropriate institution of proceedings under 10 CFR 2.206 because no substantial health or safety issue has been raised. Sir, I would respectfully submit that your Director's Decision is absolutely crazy by any standard. I respectfully request that you do not permit it to become the institutional position of the NRC.

Clearly the 10 mile rule is somewhat arbitrary as any rule would have to be which was based on distance alone. PICA's petition clearly raises an important health and safety issue, and one in fact that was raised in a similar manner by the City of Harrisburg in 1985. The institution of the proceedings was appropriate although at this point the proceedings have not been resolved in PICA's favor.

PICA's position is that the 10 mile rule is an essentially ethical and not a technical question. Therefore persons working at the NRC are no more intrinsically qualified to address or dispose of this question than any other informed citizen, legislator, or jurist. The "great deference" that is owed to the technical agencies is not owed to the NRC in this matter. Nor has the NRC given any reasons in support of its position. It has simply determined what the rule is, determined what the

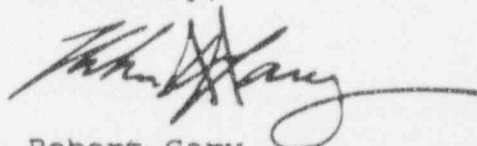
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compliance is, and determined that health and safety issues are adequately met by the present arrangement. This has no greater technical or moral value than PICA's determination that health and safety issues are not adequately met by the 10 mile rule as it applies around TMI. Lengthy restatements of the chronology of correspondence, and restatements of its substance, do not an argument make. No careful reader of the Director's Decision would feel that it contained any reasoning. It clearly is a document designed to bore the reader into submission and the iterate and reiterate the NRC's authority and the fact that the NRC has decided how things are going to be. The position of the state was incredible and unworthy of support and that's why PICA questioned it. The NRC has simply repeated it in detail and reaffirmed it in detail. The NRC has done nothing on its own to directly address the issues that PICA has raised. It has done no independent investigation. It has made no independent assessment of the ethical issue -- so far.

We have about three weeks. During that time the Commissioners might decide that it's better for them to address the issue now in the context of a 2.206 Request than it will be to address the issue later in the Senate Hearing Room or other forum. They might not accept the Director's Decision but instead take the matter up among themselves and consider whether it might be possible that PICA is actually right on this one and that getting those high population areas like Harrisburg into the federal plan is the right thing to do today in light of what we now know. In fact it is the only thing to do which is even remotely consistent with the NRC's Commission given the facts that have emerged since the 1970's when the 10 mile rule was made.

PICA wants a resolution that contains the maximum light the minimum heat. But our petition is not inappropriate. It is highly appropriate, and we want it respected and dealt with thoughtfully. If the Commissioners do that we feel there is a very good chance that we will get at least part of what we asked for. We think the revision of the 10 mile rule as it applies at TMI is an integral, organic, intrinsic responsibility of the Commission to proceed from its own initiative and perform. We have neither the ability nor the intention to drag the Commission to an appropriate result through a formal rulemaking. We have issued a wakeup call. Your duty requires you to heed the call at least at the level of giving careful consideration to our position as the Directors have not done.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Gary", with a stylized flourish extending from the end.

Robert Gary
Senior Researcher

TM!

PICA

The Pennsylvania Institute for Clean Air

Office of the Senior Researcher, 2211 Washington Avenue
Silver Spring, Maryland, 20910 Telephone (301) 587-7147

Principal Deficiencies in Director's Decision 94-C Concerning PICA's Request Under 10 CFR 2.206

April 7, 1994

by

Robert Gary, Senior Researcher

1. On the issue of whether the 10 mile evacuation zone is adequate considering the fact that it excludes 90% of the people of Harrisburg, the DD says on page 29 et seq. that 10 CFR 50.33 (g) calls for a 10 mile EPZ, as explained in NUREG-0396. The DD goes on to say that response measures will be expanded if conditions warrant it. Legal cases are then cited.

Deficiencies in Director's Position:

a. When a rule is being questioned, citing the rule as its own justification involves a logical error. If a rule could be its own justification, then no rule in force could ever be meaningfully questioned. The citation by the Directors of the very rule being questioned in this case has no probative value and should not be considered a substantive response on the issue of whether that rule is reasonable which was the issue raised by PICA.

b. One of the legal cases cited, Long Island Lighting Company, seems on its face to support, or at least be broadly consistent with PICA's position. In the present case 10% of Harrisburg is included in the 10 mile EPZ while 90% is excluded. The case says that a valid administrative consideration is avoiding EPZ boundaries that carve out small portions of governmental jurisdictions. There are two ways this could be done in the case of Harrisburg. One was to make the circle indented by excluding the 10% of Harrisburg that is presently included. The other is to make the circle bulge out to include all of Harrisburg, which is what PICA suggests. The dented circle course was not followed, but neither was the bulging circle course followed. Instead, a small portion of a governmental jurisdiction (The City of Harrisburg) was placed inside the EPZ, while most remained outside. The case does not support such an administrative determination. Planning simplicity and avoidance of ambiguity would require that Harrisburg be either in or out of the EPZ.

c. Harrisburg, a city of 52,000 people, is the Capitol of Pennsylvania, and has been traumatized in 1979 by a major accident at TMI. Since that accident there has been an accident at Chernobyl that contaminated vast areas of Europe and Russia, and there has been the opening and cleanup of TMI-2 which indicates that the 1979 accident was far more serious than originally reported. Some evidence exists that there was a cover up at the highest levels of the U.S. government in this regard. Under these circumstances, and when the 10 mile rule has been questioned in a Petition, it is incumbent upon the Directors to come forth with some positive justification for the rule and not merely citations to CFR, NUREG, and legal cases. The issue of why it is essential not to include Harrisburg in the EPZ was never substantively addressed and the Director's position on this point is therefore unpersuasive in light of the many justifications that have been provided for why Harrisburg should be included in the EPZ.

2. On the issue of whether military trucks can and should be incorporated into the evacuation planning for TMI, specifically for Harrisburg, the DD says on page 20 that PAARNG provides a battalion to assist each risk and support county, that Dauphin county gets one primary battalion with backup, that these battalions take 6 hours to mobilize, that the nearby military trucks are flatbed trailers, and that means and methods for evacuation are not the NRC's primary business in the first place. It is also stated on page 33 that under FRERP, DOD will provide assistance in accordance with DOD policies but that DOD is not intended as a first responder (citation given to 50 FR 46559, November 8, 1985).

Deficiencies in Directors Position:

a. PICA has stated that we are prepared to accept representations from military officers or others in the military chain of command as to the capacities of DOD or PAARNG to respond to an emergency. We are not prepared to accept the peremptory statements of PEMA, or FEMA on this matter. We have suggested that persons in the military chain of command be allowed to speak for themselves on what they can do. We have suggested that certificates from them would have high probative value on the issue of whether military units could be productively integrated into emergency evacuation planning for Harrisburg. The Directors have chosen to treat these suggestions as if they were preposterous. The Directors have not consulted with military leaders. Instead they cite administrative arrangements that were made in 1985 and have no direct bearing on Harrisburg. They also cite FEMA, who cites PEMA, who has had no contact with DOD at the Secretary of Defense level. The result is that no primary research was ever done by the NRC on this point. The DD contains no information that could not have been produced by clerical persons operating in a law library. PICA's 2.206 Petition was not filed to obtain paperwork from law clerks. It

was filed to stimulate new and useful connections within government and between government agencies. The Directors have failed to take any steps that would be considered authentic along these lines. Their response is unresponsive and should be set aside in favor of a more proactive response and one that is more genuine in addressing what PICA has suggested.

1. On the issue of whether \$500,000 is a reasonable amount for the entire Commonwealth of Pennsylvania including 33 risk counties and five nuclear sites to spend on radiological emergency preparedness, the DD says on page 28 that the NRC has no requirements concerning the size and allocation of budgets for offsite emergency response organizations, that PICA has not proven that \$500,000 is inadequate, and that NRC has no statutory authority to implement PICA's request.

Deficiencies in Director's Position:

a. When a rule is being questioned, citing the rule as its own justification involves a logical error. If a rule could be its own justification, then no rule in force could ever be meaningfully questioned. In this case we are talking about the absence of a rule. PICA has suggested that a rule be made. The Directors have denied the request based on the absence of a rule. This is an invalid denial because it entails a logical error.

b. PICA suggested that the Mayors and County Executives be surveyed to determine if they need more money than they are currently getting under Act 147 allocations to offset reasonable planning and safety expenditures which they have to make. This suggestion was treated as preposterous. Instead, the Directors decided that the matter could be handled very satisfactorily by clerical staff operating in a law library and gathering absolutely no primary research information pertinent to the substantive point. This is a case of inaction by the Directors. Instead of acting to see whether PICA is right, they relied on FEMA, who relied on PEMA, who relies on persons such a Senator Shumaker of the Pennsylvania State Senate who feels that the taxpayers or ratepayers should not be burdened with additional expenditures.

c. PICA has also suggested that in the absence of an acceptable and reasonable political response from the Pennsylvania Legislature, that the NRC federalize the collection and distribution of funds for radiological emergency planning and preparedness. Page 29 of the Director's Decision says that NRC has no statutory authority to do this, but that statement was retracted and corrected by phonecall from Mr. Ron Hernon, NRC on April 7, 1994, 1100 hrs. The page now reads as if that statement were not there, which suggests to PICA that perhaps the NRC or some part of the Executive branch does have the authority to federalize the collection and distribution of these funds if it

is considered appropriate.

d. Whether it is appropriate or not in this case is a function of the research that PEMA, FEMA, and the NRC Directors have declined to do. The Directors Decision is accordingly deficient on this point and the Commissioners should not permit it to stand as the institutional position of the NRC until some kind of actual factual genuine authentic primary research field survey has been made of the Mayors and County Executives to ascertain if their real needs are being covered by \$500,000 for 33 risk counties when much of that money is actually spent at PEMA headquarters on salaries and benefits for PEMA headquarters staff.

e. The money issue is important because it operates as a constraint on other specific issues that PICA has raised as deficiencies in the Pennsylvania operation. The lack of the warehouse, the lack of unscheduled drills, etc. The issue cannot be disposed of by saying that Pennsylvania passes FEMA's tests every year and thus since there's no inability to pass the tests there's no reason to increase the allocation above \$500,000. This argument would be entirely spurious if one took the position that FEMA is not a competent judge of site radiological emergency preparedness. That very premise is part and parcel of PICA's overall position. If we thought FEMA was doing a good job we wouldn't have filed a 2.206 Petition. We don't think FEMA knows what it is doing. We don't think passing FEMA's tests is any indication of anything. Therefore we don't agree that passing FEMA's tests is proof that \$500,000 is the right amount of money to protect 33 risk counties from 5 nuclear sites in a highly populous industrial state.

This letter has been confined to the principal deficiencies in the Director's Decision on what PICA regards as the three main points of its present position. There are all kinds of other little points which, in this context, are details.

Before closing this letter PICA wants make a statement about the work that the NRC has done on PICA's Petition so far. We think the system is bad but the people are good. Within existing guidelines, the Directors have provided us with a model 2.206 process. They and their staff have worked many and long hours to address the many points that PICA has raised in the traditional manner that the system provides.

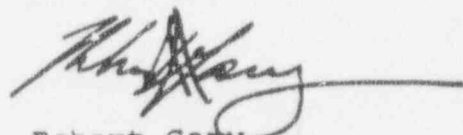
The system, however, is wrong. It does not provide for primary research. The NRC has no real capacity for going and getting new information or going and doing anything in response to a 2.206 Request. The response is a clerical staff response, done in a law library, based on what FEMA said and what PEMA said, and on citing rules and statutes, some of which are the very ones being questioned.

A better response would entail going and getting new information on a primary research basis and bringing it in at the NRC level. A better response would also entail a substantive and original discussion of the policy issues, in their technical, economic, and ethical dimensions -- in other words some actual consideration of the petition from a perspective above the clerical level. This consideration would incorporate the full powers of the NRC, and those that might be activated, or sought by NRC-initiated changes in the CFR's.

When a 2.206 Request raises major issues which are potentially valid, it should be analyzed from an proactive executive's eye perspective not from a "hands-tied" staffer perspective. 2.206 Requests are requests for action. The NRC should reorganize its response process so that more action can be provided. This might mean spending more money to do primary investigations and research and getting higher-level more action-capacitated people involved at the early stages.

Within the framework of a bad system, the Directors and their staff have done superb work on PICA's 2.206 Petition. They have been outstandingly courteous, helpful, fair, competent, open-minded, and professional right down the line. They have accomodated unusual requests from PICA such as the meeting February 2, 1994, well knowing that it would bring them more and more difficult work but in the interest of providing the fullest possible due process. They have consistently restated PICA's positions for the record in a generous, fair, and clear form. The people are not the problem here. The system is structurally arranged to be unresponsive and that is the problem. If the Directors could do more in response to a 2.206 like primary investigative research and real policy analysis, the 2.206 system be a more valuable adjunct to state and federal efforts to ensure public health and safety against the hazards of nuclear power generation.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Robert Gary', with a long horizontal flourish extending to the right.

Robert Gary
Senior Researcher
for PICA
The Pennsylvania Institute
for Clean Air

Statement Concerning the 10 Mile Rule
by
Robert Gary, Senior Researcher
PICA, The Pennsylvania Institute for Clean Air
April 20, 1994

The Director's Decision DD-94-03, Docket No. 50-289, License No. DPR-50 (10 CFR 2.206) issued March 31, 1994, says on page 32 that no information has been presented concerning anything that has happened since 1984 to justify changing the ten mile rule and including Harrisburg in the federal emergency evacuation plans for the Three Mile Island nuclear site.

The ten mile rule is a policy decision based on considerations of what is "appropriate", what is "sufficient" and what is "adequate" for the NRC to be in compliance with 10 CFR 50.47 (a) (1) et seq. which provides for "reasonable" assurances for public safety for citizens living around nuclear power plants.

The ten-mile rule was not found by dividing Maxwell's Equation by the Golden Proportion. It does not arise from mathematical calculations in physics or any other science. There is no person that holds a Ph.D. in appropriateness, sufficiency, adequacy, and reasonableness for public safety assurances around nuclear power plants. The question is a combined technical/ethical/policy question that has no experts, has no formula, and depends on what we want to do in light of the circumstances.

Since the mid-1980's three things have happened which the NRC knows about just as well as PICA knows about them and which bear on the question of what we want to do and what the circumstances are:

First: A nuclear reactor at Chernobyl melted down and contaminated half of Russia and half of Northern Europe.

Second: TMI Unit 2 was opened up and it was found from the physical evidence that the 1979 accident was far more serious than originally reported to the public. 30 tons of fuel melted at temperatures of up to 5100 F degrees -- twice the 2500 F degree temperature which NRC Commissioner Victor Gilinsky was quoted as saying would warrant full evacuation. Two million gallons of highly radioactive water was produced, which was later evaporated releasing very significant amounts of radiation. 177 fuel bundles were destroyed and much Xenon was produced and released.

Third: On July 18, 1986 Jane Rickover, daughter in law of Admiral Hyman Rickover, said in a sworn affidavit (attached) that Admiral Rickover had caused President Jimmy Carter to suppress information in the public report on the accident which indicated that the accident was far more dangerous than was ever made public.

As PICA understands the NRC's current position the ten mile rule was made in the late 1970's by people who do not have Ph.D.'s in what is appropriate, reasonable or adequate. Since then a reactor has melted and contaminated about a quarter of the planet with major radiation releases. But that's not enough to justify reconsideration of the ten mile rule. Since then, we find that the physical evidence from the accident at Three Mile Island in 1979 indicates a far more serious accident than was presented to the public. But that's not enough to justify reconsideration of the ten mile rule. Since then, we find out that maybe there was a conspiracy in the Oval Office of the White House to materially alter an official report the U.S. government so as to fraudulently conceal from the public the seriousness of the 1979 accident at Three Mile Island. But that's not enough to justify reconsideration of the ten mile rule.

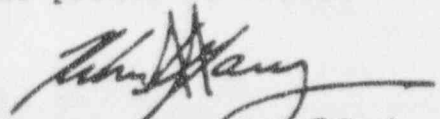
What would be enough? Do we have to lose a few hundred thousand people? Does the NRC have to be removed and replaced by a better Agency? Do some U.S. Senators have to be replaced? What would it take to obtain just a small moment of sweet reason in which we can re-assess whether 10 miles is still the line we want in the light of the circumstances we now know?

Why is re-assessment such a problem? Isn't thinking a natural act for human beings? Isn't survival a natural instinct? Doesn't the NRC have a duty to engage in thinking about such matters? Don't the citizens have a right to a thoughtful and responsive and accountable government?

Apparently not. The 2.206 process is being refined and developed. The final refinement apparently will be to do the thing by autoteller machine. Petitioners can drop their petitions into the machine and they will get back a ticket that says "The Rules You Have Questioned Are Indeed In Effect -- Have a Nice Day -- Thank You For Your Concerns About Environmental Matters"

This is the government that our forefathers died for. This is the government that is a shining light upon the hill for all nations to emulate insofar as they are able. This government was created of the People, for the People, and by the People. Responsiveness and accountability are woven into its very fabric, part of every clause of our Constitution, every stitch of our flag, every motive in our hearts. What happened to America? How did we get an Agency like the NRC? How did we get politicians who just don't have what it takes to stand up and be counted on issues that are vital to the lives and health and safety of the People they represent? PICA doesn't have those answers, but we urge people reflect on the questions.

There are very good reasons to reconsider the ten mile rule. Official refusal to do so is dereliction of duty of the most egregious kind. We urge the Commissioners to engage in reconsideration of our petition and of the points it raises including the ten mile rule.


20 APR 1994

Toronto, Canada
July 18, 1986

In May, 1983, my father-in-law, Admiral Hyman G. Rickover, told me that at the time of the Three Mile Island nuclear reactor accident, a full report was commissioned by President Jimmy Carter. He (my father-in-law) said that the report, if published in its entirety, would have destroyed the civilian nuclear power industry, because the accident at Three Mile Island was infinitely more dangerous than was ever made public. He told me that he had used his enormous personal influence with President Carter to persuade him to publish the report only in a highly "diluted" form. The President himself had originally wished the full report to be made public.

In November, 1985, my father-in-law told me that he had come to deeply regret his action in persuading President Carter to suppress the most alarming aspects of that report.

Jane Rickover
Jane Rickover

JANE RICKOVER appeared before me and swore as to the truth of the above statement.

Dated at Toronto this 18th day of July A.D. 1986

William F. Lamson
William F. Lamson Q.C.
Notary Public for the
Province of Ontario

