

May 18, 1990

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

Dear Senator Cranston:

I am responding to your April 17, 1990, letter to the Nuclear Regulatory Commission (NRC) Congressional Liaison, in which you forwarded concerns raised by your constituent, E. R. Hein. Let me assure you that the NRC has not relegated its responsibility for nuclear safety to the Institute of Nuclear Power (INPO) and we take our mandate to protect health and safety very seriously. Specific responses to your constituent's concerns are enclosed.

Original Signed By:
James M. Taylor
James M. Taylor
Executive Director
for Operations

Enclosures:

1. Response to Concerns Raised
by E. R. Hein
2. Incoming letter dated 4/17/90

Distribution:

See following page

*See previous concurrence

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RD-25
INPO

Response to Concerns Raised by E. R. Hein

Perspective of March 14, 1990 Congressional Hearing

The March 14, 1990, Congressional hearing cited in the letter, dated March 16, 1990, from E. R. Hein to Senator Cranston was a hearing entitled, "NRC Licensing Procedures Both Generally and With Regard to the Seabrook Nuclear Power Plant." The hearing held by the Subcommittee on General Oversight and Investigations of the House Committee on Interior and Insular Affairs was chaired by the Honorable Peter H. Kostmayer. It focused on the Commission's decision-making process regarding the Seabrook facility. The Subcommittee received testimony from the NRC, the Union of Concerned Scientists, and others.

Certain aspects of the Commission's testimony before the Subcommittee were limited because of the ongoing adjudicatory proceeding and litigation involving Seabrook offsite emergency planning issues. To ensure protection of the parties' due process rights the Commission could not discuss emergency planning issues. Close Congressional prodding of an agency's deliberative process when an adjudication is still in progress can constitute improper pressure on the agency and deprive the parties of their rights to due process of law. Additionally, the Commission's actions regarding authorization of a Seabrook full-power license are currently being reviewed in Federal court.

During the March 14, 1990 hearing, the Commission summarized the status of the emergency planning adjudication and provided the Commission's rationale for not discussing emergency planning issues with the Subcommittee. The Commission also responded to questions regarding the Institute of Nuclear Power Operations (INPO), certain INPO activities involving Seabrook, and weld radiographs made during the construction of Seabrook.

Concern #1 - "The NRC has turned many of its congressionally mandated regulatory functions over to the Institute of Nuclear Power Operators [sic] (I.N.P.O.), which is sponsored and controlled by the Nuclear Utilities it purports to regulate."

NRC Response - The congressionally mandated regulatory function of the NRC is to ensure that civilian uses of nuclear materials in the United States, as in the operation of nuclear power plants or in medical, industrial, or research applications, are carried out with proper regard and provision for the protection of public health and safety, of the environment, and of the national security. The NRC accomplishes its mission by licensing nuclear reactor operations, by licensing other activities involving possession and use of nuclear materials, and by conducting inspection and enforcement actions.

After the 1979 accident at the Three Mile Island plant, the 55 utilities owning and operating nuclear power plants joined together to create INPO, a private organization whose stated purpose is to upgrade the quality of operations and safety performance at nuclear power plants. One of INPO's methods of achieving improved performance is through the conduct of periodic team evaluations at all reactor facilities. After assessing the information gathered from these activities, the inspection team writes a report to the utility, which documents the strengths and weaknesses that the team observed. The utility is required to report back to INPO on the steps that the utility plans to take to address the observed weaknesses. INPO then reviews these items during subsequent evaluation visits. These INPO activities are independent of NRC activities.

In summary, the NRC has statutory responsibility for licensing and regulating nuclear facilities; NRC review and inspection activities ensure that licensees meet the applicable regulations. INPO is an industry-sponsored organization who states its purpose is to promote safety and reliability of the operation of nuclear power plants. The NRC has not turned over any of its regulatory functions to INPO.

Concern #2 - "The NRC has ambiguous rules for determining the adequacy of evacuation plans."

NRC Response - The Commission's emergency planning requirements, including evacuation plans, are clearly stated. In the text of the regulations, in rulemakings on the subject of emergency planning, and in adjudicatory decisions interpreting those regulations, the Commission has made clear that judgments on the adequacy of emergency planning are to be based on conformity with the 16 planning standards given in 10 CFR §50.47(b). Detailed criteria for evaluating emergency plans are contained in guidance developed jointly by NRC and FEMA, primarily in NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants." For offsite planning, the regulations provide that the Federal Emergency Management Agency (FEMA) shall make "findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented," (10 CFR §50.47(a)(2)).

Concern #3 - "The I.N.P.O. evaluation reports are not available to the public and in many cases are not even available to our representatives in congress."

NRC Response - As described in Item 1, above, the results of an INPO team evaluation are documented in a written report provided to the utility. INPO, as a private organization, has taken the position that its reports are private and should not be made public. Because the reports are treated as proprietary information, member utilities maintain that they feel free to accept and answer candid reports of weaknesses without becoming defensive and argumentative about the matters reported. Although INPO does not make its evaluation reports public and is not required to submit them to the NRC, our staff is able to review these reports on site at each reactor facility. These reviews are normally conducted by one of NRC's resident inspectors who is assigned full time at each licensed power reactor. NRC reviews are conducted to ensure that INPO reports do not contain any significant adverse safety information that was not previously revealed by our inspection program. In addition, by regulation, every utility must directly notify the NRC of any matter, including a finding by INPO, which indicates a condition that the utility's license would otherwise require them to report to the NRC. Thus, while INPO evaluation reports are private, we believe that the public safety is aided through the industry's INPO self-assessment initiative, as an addition to the NRC's direct inspection program, and the NRC's ongoing review of INPO activities.

Concern #4 - "When some nuclear power plants do not meet certain NRC requirements necessary to get a start-up or full power license, NRC changes the rules rather than require the operating utility to meet the safety requirements. This was well illustrated in the case of the Seabrook Nuclear Plant."

NRC Response - The NRC determined that Seabrook met all applicable licensing requirements when the full-power license was issued on March 15, 1990. Because of the long period of time that has passed since the Seabrook construction permit was issued in 1976, many licensing requirements (the "rules or safety requirements") have changed. Among the changes that affect the licensing process for Seabrook are new requirements established in response to the Three Mile Island accident, the resolution of unresolved safety issues, and the acquisition of additional operating experience.

The Seabrook license was issued after many years of review, public hearings, and onsite inspections. NRC has devoted more than 30,000 hours conducting field inspections at Seabrook, covering construction, preoperational testing, initial criticality, and low-power testing. Between May 1989, when the low-power license was issued, and December 1989, NRC spent more than 3,000 hours conducting field inspections at Seabrook. On the basis of an extensive inspection history, and the reviews and inspections conducted in the months just preceding the issuance of a full-power license, the staff found that Seabrook was capable of being safely operated at power levels up to the full-power limit.

GREEN TICKET NO.5415

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

Dear Senator Cranston:

I am responding to your April 17, 1990, letter to the Nuclear Regulatory Commission (NRC) Congressional Liaison, in which you forwarded concerns raised by your constituent, E. R. Hein. The NRC staff has responded to your constituent's concerns in the enclosure to this letter.

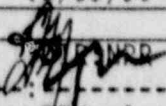
Sincerely,

James M. Taylor
Executive Director
for Operations

Enclosures:

1. Response to Concerns Raised by
E. R. Hein
2. Incoming letter dated 4/17/90

*See previous concurrence

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United States Senate
Washington, D.C. 20510

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I am responding to your April 17, 1990, letter to the Nuclear Regulatory Commission (NRC) Congressional Liaison, in which you forwarded concerns raised by your constituent, E. R. Hein. The NRC staff has responded to your constituent's concerns in the enclosure to this letter.

Sincerely,

James M. Taylor
Executive Director
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Enclosure:
As stated

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

Dear Senator Cranston:

I am responding to your April 11, 1990 letter to the Nuclear Regulatory Commission Congressional Liaison, in which you forward concerns raised by a constituent. A response to Mr. Hein's concerns, prepared by the Nuclear Regulatory Commission staff, is contained in the enclosure.

Sincerely,

James M. Taylor
Executive Director for Operations

Enclosure:
As stated

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Sen. Alan Cranston

TO:

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FOR SIGNATURE OF:

** GRN **

CRC NO: 90-0457

Executive Director

DESC:

ROUTING:

ENCLOSURE LETTER FROM E. R. HEIN CONCERNING
RELEASE OF INPO REPORTS

DATE: 05/01/90

ASSIGNED TO:

CONTACT:

No. 1

Murley

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LETTER DATE: Apr 17 90 FILE CODE:

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(INPO)

ACTION: Direct Reply

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SPECIAL HANDLING: None

NOTES: E.R. Hein

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