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February 24, 1994

Mr. Ivan Selin
Chairman
Nuclear Regulatory Commission
Washington, DC 20555

Dear Chairman Selin:

In recent years, a number of personal injury claims relating to non-catastrophic radiation exposure have been brought against civilian, commercial nuclear power manufacturers, designers and builders and maintainers of nuclear radiation waste areas.

I am told that pursuant to Public Law 100-408, the Price-Anderson Amendments Act which was passed by Congress in 1988, such cases have been removed by the nuclear industry to federal court. Recent court decisions in TMI Consolidated Cases II, 940 F. 2d 832 (3rd Circuit 1991) and O'Conner vs. Commonwealth Edison, slip opinion 92-2889 have affirmed the removal of state claims to federal court.

I have been advised that five such claims have been removed to federal court and in each of them the Plaintiff lost on summary judgement motions notwithstanding deposition testimony of experts on behalf of the plaintiff. In each of these cases, the federal judge using a rule known as the Daubert rule excluded the plaintiff's expert testimony and would not allow the case to be considered by a jury.

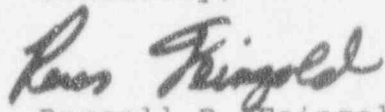
A constituent has raised concerns that the Price-Anderson act which Congress enacted as a system for public compensation in time of nuclear accident has, in effect, contributed to a shielding of liability for occupational, non-catastrophic exposures. I would appreciate knowing whether this issue has ever been explored by the NRC.

My constituent is interested in ascertaining the amount of compensation which has been paid by the civilian nuclear power industry to plaintiffs in such cases. Does the Nuclear Regulatory Commission collect such information or have access to such information, and if not, is it within the purview of another agency or commission?

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It seems that radiation exposures, resulting health claims and damage payments would be valuable information in reviewing the adequacy of federal regulations limiting occupational radiation exposure. Any information you can provide regarding the issues I have raised would be most appreciated. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Russ Feingold". The signature is written in dark ink and is positioned above the typed name.

Russell D. Feingold

March 31, 1994

The Honorable Russell D. Feingold
United States Senate
Washington, DC 20510-4904

Dear Senator Feingold:

I am responding to your letter of February 24, 1994, to Chairman Selin regarding the issue of personal injury claims under the Price-Anderson Act. As you may be aware, the Price-Anderson Act, Section 170 of the Atomic Energy Act of 1954, as amended, became law on September 2, 1957, and was most recently renewed on August 20, 1988. The Act has as its primary objective the assurance that adequate funds would be available to satisfy liability claims of members of the public in the unlikely event of a catastrophic nuclear accident, which has a very low probability of occurring.

The NRC staff has examined the issue of worker claims for occupational, non-catastrophic exposures and has concluded that to the extent that these claims are not filed under state or Federal workers' compensation acts, they are not precluded from being filed under the Price-Anderson Act. It is clear, however, from a review of the legislative history that the intent of the Price-Anderson Act was to provide coverage for claims by members of the public and not workers at a nuclear facility. It was assumed that nuclear workers would recover any claims through workers' compensation actions.

The nuclear insurance pools that provide the primary and secondary insurance policies furnished by reactor licensees as evidence of financial protection under the Price-Anderson Act have not released specific information to us about payments made to individual claimants. To our knowledge, no other governmental agency or commission has this information. If you have any further questions, we suggest that you contact the insurance pools directly. I have enclosed a copy of a 1993 speech by Mr. Joseph Marrone, Special Counsel to American Nuclear Insurers on the issue of worker radiation claims which I hope you will find helpful.

Sincerely, ^{Original signed by}
James M. Taylor
Executive Director
for Operations

Enclosure:

As stated

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