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SANTA BARBARA · SANTA CRUZ

January 9, 1995

UCLA SCHOOL OF MEDICINE
HARBOR · UCLA MEDICAL CENTER
DEPARTMENT OF RADIOLOGY
1000 CARSON STREET
TORRANCE, CALIFORNIA 90509

Maria Lopez-Otin
Federal Liaison, OSP
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Lopez-Otin:

Thank you for sending me NRC's Draft Environmental Justice Implementation Plan for comment.

I understand the intent of the President's Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population". However, I disagree with what you are doing and are proposing to do because it is really nothing but an expensive farce, the costs for which will be borne by licensees who pay exorbitant User Fees already and should not be asked to pay more for a silly reason.

NRC's current regulations preclude adverse effects from licensed activities to any member of the public, regardless of race, religion, national origin, or socioeconomic level. NRC's requirements are so overly restrictive that classic issues of "environmental justice" do not occur in NRC regulated activities, or at least not for the great majority of them. While an exception may be made in the case of the restricted release of a site after decommissioning, the radiation level to be set is so foolishly low as to be, in my opinion, scientifically unjustifiable. A decommissioned site giving the most irradiated person ten times NRC's proposed limit would still have no adverse effect (it is less than the increase in radiation dose he would incur by moving from Washington, D.C. to Denver.) I find it difficult to imagine any situation in which NRC is not already in compliance with Executive Order 12898; Chairman Selin need not do anything more. Being "holier than the Pope" with our User Fee money does not seem credible or justifiable at this time.

I participated in an Enhanced Participatory Rulemaking regarding decommissioning standards. I did so at NRC's request because of the need to balance out the antinuclear crazies from Greenpeace. The whole futile exercise was an expensive farce. Antinuke Indians were brought in for "tribal opinions". The opinions were scientifically invalid and irrational. The antinuclear terrorists are simply using this attempt at "political

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correctness" to further their own goals. This has nothing to do with consideration of valid differences of opinion based on good science, nor does it have anything to do with "environmental justice".

The NRC is an independent agency because it is supposed to have the scientific competence and testicular/ovarian fortitude to do that which is scientifically appropriate. The NRC is supposed to be able to justify the safety of its decisions loudly, clearly, and with scientific excellence to anyone who challenges these decisions. This latest NRC fad of wallowing in the stupidity of uneducated public "opinion" is interesting. Has NRC lost the intellectual competence to do its job and defend its reasoning? Have NRC employees figured out that by ratcheting up requirements to a more and more restrictive level, much to the delight of the pseudoenvironmentalists, that these employees are doing nothing more than generating pseudowork for themselves to justify pseudoemployment at real salaries? I rather think that this is exactly what is going on, not "environmental justice".

The problem with this sort of behavior is that NRC has plunged itself into a death spiral. Three planned TVA reactors were abandoned, due in large part to "regulatory costs". To my knowledge, there are no new power reactors being planned in this country for NRC to regulate.

The last I heard was that about 20% of materials licensees had dropped their licenses when User Fees jumped a few years ago. Between "Managed Care" and the "Medical" Section budget overrun of 50% this past year, I expect more medical licensees will bite the dust, raising fees, and causing more to drop licenses. Sr-90 eye probes are leaving NRC States; many small licensees can only afford to offer this technology in sensible Agreement States.

We have no high level waste sites, but only an empty threat of a possibility in 15 years. We have no low level waste sites being planned in NRC States. One of the largest builders and operators of LLRW sites in the United States will not build one in an NRC State under any circumstances. One wonders why you have a "waste" group at all.

I certainly wouldn't mind if the NRC regulated itself out of existence, but it is a real pity to destroy the whole nuclear industry as you go.

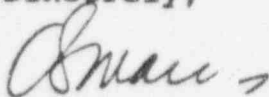
Chairman Selin has all the intellect and courage he needs to do the right thing if he feels like it. Let him declare the truth.

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that NRC achieved "environmental justice" a couple of decades ago, and spend his time and our money fixing the dreadful situation that is occurring in the Materials Program and the Agreement States Program.

Thank you for the opportunity to comment on this draft plan.

Sincerely,



Carol S. Marcus, Ph.D., M.D.
Director, Nuclear Med. Outpt. Clinic
and
Professor of Radiological Sciences
UCLA

cc: Chairman Ivan Selin
Commissioner E. Gail de Planque
Hugh Thompson, Deputy EDO, NMSS

Enclosure

CSM:sfd



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555-0001

NOTE TO: ADDRESSEES

DRAFT ENVIRONMENTAL JUSTICE IMPLEMENTATION PLAN

I believe the enclosed Draft Environmental Justice (E.J.) Implementation Plan and the transmittal memorandum to Ms. Kathy Aterno, are self-explanatory. I am expecting the draft Council on Environmental Quality (CEQ) guidelines on how to integrate E.J. into the National Environmental Policy Act (NEPA) process within the next two weeks. I intend to update the NRC's Draft Implementation Plan when I receive the CEQ guidelines. However, if you would like to provide comments on the enclosed, I would appreciate them by the end of January.

The President's Executive Order No 12898 establishes February 11, 1995 as the due date for the final draft of the plans. We plan to solicit comments on the NRC's February 11, 1995, updated environmental justice implementation plan.

A handwritten signature in cursive script, appearing to read "Maria Lopez-Otin".

Maria Lopez-Otin
Federal Liaison
Office of State Programs

Enclosure:
As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20546-0001

December 12, 1994

Ms. Kathy Aterno, Chair
Environmental Justice Subcommittee
on Policy and Coordination
Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20451

Dear Ms. Aterno:

The enclosed Draft Environmental Justice Implementation Plan is submitted by the Nuclear Regulatory Commission (NRC) in compliance with the President's Executive Order No. 12898 "Federal Actions to Address Environmental Justice in Minority populations and Low-Income Population." The draft plan indicates NRC's commitment to implementing the Council on Environmental Quality (CEQ) guidelines on how to take environmental justice into account when preparing documents under the National Environmental Policy Act. However, since the CEQ guidelines are yet to be made available to the NRC, the draft plan endeavors to comply with the Executive Order by building upon existing NRC policies and commitments. Thus, we again urge that the CEQ guidelines be finalized as soon as possible.

If you have any questions, I can be reached at (301) 504-2598.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Lopez-Otin".

Maria E. Lopez-Otin
NRC Subcommittee Member

Enclosure:
As stated

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ENVIRONMENTAL JUSTICE IMPLEMENTATION PLAN

Introduction:

The Nuclear Regulatory Commission (NRC) was created by the Energy Reorganization Act of 1974 as an independent regulatory agency. The mission of the NRC is to assure that civilian uses of nuclear materials in the United States---in nuclear power plants, fuel cycle plants, and in medical, industrial and research applications---are carried out with proper regard for the protection of the public health and safety, of the environment and of national security. The NRC is not a "land management" agency, i.e., it neither sites, owns, nor manages facilities or properties. Therefore, the President's February 11, 1994, Executive Order "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population" and the accompanying Presidential memorandum have been determined to primarily apply to our efforts to fulfill the requirements of the National Environmental Policy Act (NEPA) as an integral part of NRC's licensing process.

In this regard, the NRC has committed to following the Council on Environmental Quality (CEQ) guidelines on how to take environmental justice¹ into account under NEPA. However, pending receipt of these guidelines, the NRC has developed its initial environmental justice implementation plan based on the five principles discussed below.

Background:

The President's Executive Order directs all Federal agencies to develop, according to prescribed timetables, strategies for assuring environmental justice in their programs, policies, and activities. The Presidential memorandum to all agencies is a reminder of relevant provisions of existing law, including the requirement to consider, when environmental impact statements and other environmental documents are prepared, the effects of Federal actions on minority and low-income communities. Although independent agencies, such as the NRC, were only requested to comply with the Executive Order, the Chairman, in his March 31, 1994 letter to the President, indicated that the NRC would endeavor to carry out the measures set forth in the Executive Order, and the accompanying memorandum.

In addition, the Executive Order directed the Administrator of the Environmental Protection Agency (EPA) to convene, by May 11, 1994, an interagency working group (IWG) to develop the general guidance that Federal agencies are to use in identifying disproportionate effects on minority and low-income populations. To assure Government-wide consistency, the IWG is to coordinate with, and serve as a clearinghouse, for each Federal agency as it

¹ The NRC is using the working definition of environmental justice as suggested by the Environmental Protection Agency's Environmental Justice Office. Thus, for purposes of this document, environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income or educational level with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

develops its particular environmental justice strategy. The NRC has been a participant in the IWG, its Subcommittee on Policy and Coordination and the task forces on "Implementation" and Definitions and Standards" since their inception, and has identified an internal NRC Environmental Justice Working Group. To date, the NRC has submitted all work products to the EPA on time, and shared information with myriad Subcommittee and Task Force members. This draft Environmental Justice Implementation Plan reflects our participation in these discussions.

Principles of Environmental Justice Implementation:

The goal of the NRC's Environmental Justice Implementation Plan is to integrate environmental justice into the conduct of all pertinent activities at the agency. Thus, the first three principles are institutional in nature and serve as the foundation for the last two principles which are operational in nature, i.e., they address specific activities. The principles emulate the "Principles of Good Regulation" which have been part of NRC policy for several years.

Continue senior management involvement

The NRC Environmental Justice efforts will continue to provide guidance in this area. An Environmental Justice Coordinator will be appointed to ensure appropriate policy information flow among the different entities within the NRC, as well as with outside interested parties.

Openness and Clarity

Nuclear regulation is the public's business, and must be transacted publicly and candidly. Agency positions should be readily understood and easily applied.² This is of particular import when dealing with environmental justice issues. Public scoping meetings as part of the NEPA process demonstrates this principle.

Seeking and Welcoming Public Participation

The NRC maintains regular communication with a broad spectrum of entities, such as the States, Indian Tribes, members of the public and other Federal agencies. Outreach programs such as the Enhanced Participatory Rulemaking, which addresses the use of Site Specific Advisory Boards for decommissioning are being implemented. The NRC management is committed to improving our outreach efforts with stakeholders, such as minority and low-income communities, and welcoming their input.

² From the agency's "Principles of Good Regulations" issued in January 17, 1991, announcement #6.

Integration of Environmental Justice into NRC's NEPA Activities

NRC is committed to implementing the CEQ guidelines on this subject. It is our belief that the key factor for environmental justice is assessing to whom the benefits, and the costs, will accrue, i.e., we believe the most difficulty will occur in evaluating the extent to which the minority or low-income communities will receive a share of the economic benefits of a project and the extent to which they are specifically impacted by a proposed project.

Continue Review and Monitoring of Title VI Activities

The NRC's financial assistance programs under Title VI of the Civil Rights Act of 1964, are limited to funding training and travel under Section 274 of the Atomic Energy Act of 1954 as amended, in connection with States assuming certain regulatory authority over specified nuclear materials, and the award of grants for the support of basic and applied scientific research and for the exchange of scientific information. 10 CFR Part 4 calls for nondiscrimination with respect to race, color, national origin or sex in any program or activity receiving Federal financial assistance from the NRC. NRC is committed to monitoring this activity.

Current Activities where NRC is implementing environmental justice:

The NRC's statutory offices---the Office of Nuclear Reactor Regulation which regulates nuclear power plants; the Office of Nuclear Materials Safety and Safeguards which regulates materials uses; and the Office of Nuclear Regulatory Research responsible for rulemakings and confirmatory research---were requested to assess their existing environmental activities and to endeavor, even without the CEQ guidelines, to integrate environmental justice into these activities. Below is a summary of these efforts.

- Currently, the staff of the Office of Nuclear Reactor Regulation (NRR) is reviewing the issue of environmental justice in its supplement to the Final Environmental Statement Related to the Operation (FES-OL) of the Watts Bar Nuclear (WBN) site. In preparing this supplement to the FES-OL, NRR will solicit input on accrued benefits, as well as, any burden from negative impacts from operation on the WBN site on low-income/minority groups. The WBN site review will provide the NRC with a means to begin assessing the effectiveness of its NEPA process in addressing environmental justice issues for operating reactors. Additionally, the "Environmental Standard Review Plan for the Environmental Review of Construction Permit Applications for Nuclear Power Plants," ESRP (NUREG-0550), will include staff review guidance on evaluation of environmental justice. NRR intends to utilize workshops and media announcements to solicit input from affected minority communities. NRR anticipates gaining considerable information in this project relative to demonstrating the feasibility of addressing environmental justice issues.

- NRR conducts an extensive public scoping process (i.e., workshops, local town meetings, etc.) in the preparation of environmental impact statements for major licensing actions in order to solicit input from the public on the issues to be reviewed. This scoping process will attempt, to the maximum extent possible, to include specific solicitations from minority and low-income communities on environmental justice issues. Additionally, environmental impact statements are published in draft in order to solicit public comments prior to the proposed actions being taken. Public comment and opportunity for hearing are solicited via Federal Register notice.
- Louisiana Energy Services (LES) applied to the NRC in January 1991, for a license to build a uranium enrichment plant in Homer, Louisiana. Northern Louisiana is an economically depressed area, and the proposed site at Homer is populated almost entirely by African Americans. The Office of Nuclear Materials Safety and Safeguards (NMSS) issued the Draft Environmental Impact Statement in November 1993. Since the Executive Order had not been issued there was no discussion of environmental justice in the Draft EIS. The Final Environmental Impact Statement was issued in August 1994. It contains a discussion of environmental justice, including a description of the surrounding neighborhoods, the site selection process, possible discrimination, and possible disproportionate impact. The statement concludes that there is no evidence of discrimination, and that there will be no significant disproportionate impacts on minorities or economically disadvantaged persons. The issue of environmental justice is one of several to be litigated in an NRC adjudicatory hearing in early 1995.

In the future, NMSS believes that a separate section on environmental justice should be included in each environmental impact statement. However, including environmental justice pending receipt of the CEQ guidance will be based in large part on the lessons-learned from the LES licensing hearing.

- As appropriate, the Office of Nuclear Material Safety and Safeguards conducts public meetings related to a facility. These meetings are noticed in local papers and anyone can attend and participate. Written comment on rulemakings and draft Environmental Impact Statements are solicited from the general public. These programs could be expanded to attempt to identify and notify interested minority groups, and specifically invite them to comment on proposed NRC actions.
- The Office of Nuclear Regulatory Research (RES) is using an enhanced participatory process for developing radiological criteria for decommissioning. As part of this process, the NRC conducted a series of seven workshops from January through May 1993. Workshop participants represented a broad spectrum of interests including interests related to environmental justice.

The resulting proposed rule on Radiological Criteria for Decommissioning, published for comment on August 22, 1994 (59 F 43200), requires that a Site Specific Advisory Board (SSAB) be convened in cases where a licensee proposes to request restricted release of the site. The purpose of the SSAB is to allow affected parties to advise the

licensee regarding the proposed decommissioning. Membership of the SSAB would, to the extent that representatives are willing to participate, include representatives from citizen, environmental, environmental justice, and other public groups; State and local governments; and Indian Nation or other indigenous people that have treaty or statutory rights that could be affected.

Follow-Up Activities:

This draft plan is being submitted to the IWG on December 11, 1994 as called for in the President's Executive Order. The NRC is soliciting comments on the draft plan from the IWG. The IWG is expected to provide its comments before the February 11, 1995 date when the proposed final plan is due. The current draft plan will be placed in the NRC's Public Document Room, and will be shared with stakeholders as appropriate. After the comments on the draft plan are received, analyzed, and appropriate modifications made, we intend to propagate the proposed final plan to affected populations, through specialized media, workshops, or focus groups. The proposed final plan will also be published for comments in the Federal Register.