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USNRC

PICA

The Pennsylvania Institute for Clean Air

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

DOCKED
BR...

John C. Hoyle
Secretary to the Commission
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

August 1, 1994

Dear Mr. Hoyle,

Please file the enclosed three items:

Letter to Dr. Selin

Letter to Director Russell from PICA

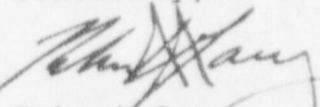
Letter to Director Russell from Mayor Reed

in the record of proceedings for PICA's 2.206 Request which resulted in Director's Decision DD-94-03.

We hereby officially request that those proceedings be reviewed by the Commissioners based on unilateral mistakes of fact made by the NRC and reflected in the Director's Decision at pages 29 and 30 and Director Russell's letter to PICA dated June 10, 1994.

These mistakes are highly german and material to the result reached by the Directors. They have been corrected as expeditiously as possible and in a timely manner by PICA and Mayor Reed.

We want an order providing for a Belated Commissioner's Level Reconsideration in our 2.206 Request. We regard the Director's Decision as invalid and nugatory and we think any Federal Court would so regard it.

Sincerely,


Robert Gary
Senior Researcher
for PICA

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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
Chairman
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

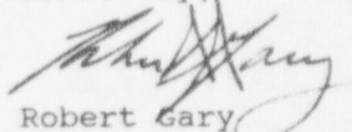
August 1, 1994

Dear Dr. Selin,

It turns out that the Director's Decision in DD-94-03 was based on incorrect assumptions and incorrect positions of fact taken by the NRC and corrected in a timely manner by PICA and Mayor Reed, see enclosed correspondence.

I trust that you will agree that information that is new to the NRC has been provided. Your objection in the past to giving PICA a Commissioner's Level Reconsideration has always been that we failed to come up with new facts or arguments that the Directors didn't consider. Well, now we have. So let's have a re-examination of this case by the Commissioners. PICA formally requests that its 2.206 Petition and the record connected therewith be reviewed formally by the NRC Commissioners and that an Order be entered providing for such belated re-consideration based on the emergence of facts that are new to the NRC due to a misapprehension of the facts on the NRC's part prior to and included in the Director's Decision. DD-94-03 should be regarded as invalid and nugatory due to the unilateral mistakes of fact by the NRC on which it is based. Due process requires a reconsideration of this decision and we will take whatever lawful steps are required to be sure that our issue is considered fairly, fully, and based on correct information.

Sincerely,



Robert Gary
Senior Researcher
for PICA

Encl: Mayor Reed's letter of July 27, 1994 (w/enclosure)
PICA's Letter to Dir. Russell August 1, 1994

PICA

The Pennsylvania Institute for Clean Air

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

Mr. William T. Russell, Director
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

August 1, 1994

Dear Director Russell,

You say in your letter to me of June 10, 1994:

With regard to emergency planning by the City of Harrisburg, Mayor Stephen R. Reed acknowledged in a letter too you dated February 8, 1993 that the City of Harrisburg does have an evacuation plan. His letter also stated that city officials have sufficient identified resources in the plan to evacuate portions of the city outside the emergency planning zone and have demonstrated limited mobilization of transporation resources during city-conducted exercises. (emphasis added)

But in his letter to you of July 27, 1994 Mayor Reed contradicts your position by saying:

We do not believe, however, that there are sufficient indentified resources to meet what would be the likely contingencies in the event that an evacuation would be ordered in this region as a result of a major event at Three Mile Island. Presently, the plan of this and every other community in this region, including the plan of Dauphin County, of which we are the county seat, is limited to the deployment of resources and the taking of evacuation actions in the ten mile radius area of TMI. (emphasis added)

You continue in your letter of June 10, 1994 by saying:

We continue to conclude that the state of emergency planning in the Harrisburg area, in

particular, as well as in other municipalities in the vicinity of TMI, offers reasonable assurance that the public will be adequately protected in the unlikely event of a radiological emergency at TMI, and that effective ongoing review provisions are in place to keep this planning at an acceptable level.

But again, this is contradicted by Mayor Reed's letter of July 27, 1994 where he says:

In truth, therefore, the "magic line" of the ten mile radius does not reflect the reality of what would occur in the event of a major radiological incident here. Our view is therefore simple but direct: emergency management planning around Three Mile Island should reflect what is the likely scenario rather than a bureaucratic belief that a ten mile radius area is adequate or more than sufficient. To accomplish planning for a likely scenario would involve the introduction of substantial additional resources to those which are already included in the county and various municipal emergency management plans here. It would also require added planning to accommodate the use and deployment of such resources.

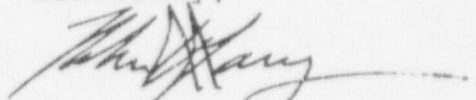
The mistakes of fact which you make in your letter of June 10, 1994 were also made by the Directors in their Decision and by Chairman Selin in his letters to PICA refusing to review that decision. These mistakes having been corrected it would be appropriate to review the Director's Decision at this time. Accordingly, PICA hereby requests a Belated Commissioner's Level Review of Director's Decision DD-94-03 based on mistake of fact by the Directors which was corrected in a timely fashion by PICA and Mayor Reed.

Both your letter and Dr. Selin's letters emphasize that a major factor in the NRC's refusal to review the Director's Decision is the lack of novelty in arguments presented by PICA. You say that PICA has provided "no information or argument that was not already supplied and considered before the Director's Decision was issued." And clearly the Director's Decision was based in part on the mistake you make in your letter of June 10, 1994, and which the Mayor has now corrected (see pages 29 and 30 of the original Director's Decision mailed to PICA where Mayor's letter of February 8, 1993 is quoted as it is in your letter to me on June 10, 1994, with the same mistaken interpretation which is corrected by the Mayor's letter of July 27, 1994.)

It appears that Mayor Reed's position is new to you. And you say that it is for lack of something new that the NRC refuses to review the Director's Decision. O.k. now you have something new. If you are, in truth operating from a position of good faith and honorable conduct, you will now grant today's request by PICA that the Director's Decision be reconsidered. If you are operating from a perspective of pure bureaucratic obfuscation and delay and refusal then you will find some new reason why the Director's Decision can't be reviewed. In any case, whether from PICA's 2.206 or from a 2.206 filed after S.1165 becomes law this issue will probably wind up in a Federal Court. The Judge is going to look at what you did in response to PICA. You may as well do the right thing now while it is an administrative matter and while the NRC still has a high degree of control over what remedy is granted and what the precise form of the remedy should be. You will have a lot less control if a Court finally has to decide this matter and the Court from the record is appalled at the bad faith and unfair dealing that the NRC brought to its handling of this issue when it was raised by PICA (i.e. now).

You told us what the standard was for getting review. You told us what would be news to you. We met the standard. Now we want review. If we don't get it, a lot of people are going to want to know why you should be funded as an Agency, why you should get \$541,417,000 for fiscal year 1995. Agencies that get appropriations are Agencies that do the People's business, that take action on behalf of the People. PICA has brought you a very valid part of the People's business and you've brushed us off with no real consideration. Keep going that way and it will be clear to everyone that the NRC has no business taking money from the American taxpayers. It provides no service. It provides no response. We are prepared to give up our status as a public charity so we can go to Congress and cut off your resources. No safety for the People of Harrisburg -- No appropriation for the NRC -- that seems fair to us. You need to get busy doing right, or get gone as an Agency. PICA may be a small organization, but we are the ones to make it happen.

Sincerely,



Robert Gary
Senior Researcher
for PICA

Enclosure: Letter of July 27, 1994 from Mayor Reed to Mr. Russell
with enclosed letter by Mr. Russell of June 10, 1994



Office of the Mayor

The City of Harrisburg
City Government Center
Harrisburg, PA 17101-1678

Stephen R. Reed
Mayor

July 27, 1994

Mr. William T. Russell, Director
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Russell:

Mr. Robert Gary of the Pennsylvania Institute For Clean Air has shared with me a copy of your recent June 10, 1994 correspondence, a copy of which is attached for your reference.

I believe it necessary and important to set forth the City of Harrisburg's view on the issue in question. We do, in fact, have an All-Hazards Emergency Management Plan which, of course, does cover a major radiological incident at Three Mile Island, given our proximity to the plant.

We do not believe, however, that there are sufficient identified resources to meet what would be the likely contingencies in the event that an evacuation would be ordered in this region as a result of a major event at Three Mile Island. Presently, the plan of this and every other community in this region, including the plan of Dauphin County, of which we are the county seat, is limited to the deployment of resources and the taking of evacuation actions in the ten mile radius area of TMI.

We know from the practical experience of the 1979 accident as well as by other means that if an evacuation actually was ordered for the ten mile radius area, there would be a simultaneous massive exodus from virtually all of the contiguous areas. In the case of the City of Harrisburg, the ten mile radius boundary includes the southern portion of this City but not the rest of Harrisburg. We have not the slightest doubt that, if an evacuation began, there would be mass movement by the rest of this City, clogging the evacuation routes and creating a demand for facilities, personnel, transportation vehicles and other resources far beyond that which have been provided for in the plan. This circumstance is not unique to the City of Harrisburg and, in fact, would almost certainly be the case in all the other municipalities in this region similarly located.

Mr. William T. Russell
Page Two
July 27, 1994

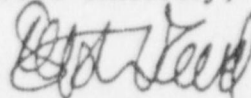
It is also our belief, based upon the practical experience of the 1979 accident, that even the mere suggestion that an evacuation was being considered or that such could occur as a result of an unfolding event at TMI, that people would begin an unscheduled and unauthorized evacuation of major proportion. This is precisely what occurred in 1979, when no mass evacuation was ever ordered. The estimates vary as to the actual number of persons who departed the area but it is not unreasonable to assert that the number was somewhere between 70,000 to 100,000 area residents. The Interstate highways and other main corridors were jammed for hours with departing vehicles, even amidst various assurances from Federal, plant and other officials that no such evacuation was warranted.

In truth, therefore, the "magic line" of the ten mile radius does not reflect the reality of what would occur in the event of a major radiological incident here. Our view is therefore simple but direct: emergency management planning around Three Mile Island should reflect what is the likely scenario rather than a bureaucratic belief that a ten mile radius area plan is adequate or more than sufficient. To accomplish planning for a likely scenario would involve the introduction of substantial additional resources to those which are already included in the county and various municipal emergency management plans here. It would also require added planning to accommodate the use and deployment of such resources.

Based upon this additional or new information being provided by the City of Harrisburg, we believe that the NRC should revisit the Director's Decision which reinforced the inadequate view that existing ten mile radius zone planning would fully meet the real needs of the region surrounding Three Mile Island.

With warmest personal regards, I am

Yours sincerely,



Stephen R. Reed
Mayor

SRR/psr-j



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

June 10, 1994

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

Dear Mr. Gary:

Your letter of May 9, 1994, to Chairman Selin has been referred to this office for response. The letter Chairman Selin sent to you on May 6, 1994, explains why the Commission had decided not to take formal review of Director's Decision DD-94-03. It would, therefore, not be productive to revisit the details and rationale for that decision at this time. I wish to assure you that, contrary to your statement that your petition has not been taken seriously, the issues you raised in your petition were considered by the U.S. Nuclear Regulatory Commission (NRC) and other involved agencies. Your letter of May 9 provides no information or argument that was not already supplied and considered before the Director's Decision was issued. Your letter, therefore, provides no basis for the NRC staff to reconsider the Director's Decision.

I would make a few remarks regarding the state of emergency planning in the vicinity of the Three Mile Island (TMI) Nuclear Generating Station. Your 10 CFR 2.206 petition of July 10, 1992, regarding deficiencies in the Dauphin County Emergency Plan, resulted in the principal organizations involved in emergency planning in the Harrisburg area taking a closer look at a number of issues, including transportation agreements and phone lists. The resultant reviews have hopefully provided added confidence in emergency preparedness to the citizens of that area. I believe that emergency planning in the Harrisburg area has been carefully scrutinized during the past 15 years as a result of the 1979 accident at TMI, Unit 2. As you know, the accident resulted in a number of new NRC requirements with regard to emergency planning, not only for TMI but for all nuclear power plants in the United States. One process that assures continuing adequacy of emergency planning in the area surrounding TMI is the biennial full-participation exercise. During these exercises, the Federal Emergency Management Agency (FEMA) evaluates the TMI offsite emergency plans (State, county, and municipalities). During the last full-participation exercise at TMI in May 1993, FEMA did not identify any deficiencies in the implementation of those plans.

With regard to emergency planning by the City of Harrisburg, Mayor Stephen R. Reed acknowledged in a letter to you dated February 8, 1993, that the City of Harrisburg does have an evacuation plan. His letter also stated that city officials have sufficient identified resources in the plan to evacuate portions of the city outside the emergency planning zone and have demonstrated limited mobilization of transportation resources during city-conducted exercises.

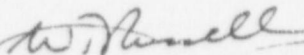
Mr. Robert Gary

- 2 -

June 10, 1994

We continue to conclude that the state of emergency planning in the Harrisburg area, in particular, as well as in other municipalities in the vicinity of TMI, offers reasonable assurance that the public will be adequately protected in the unlikely event of a radiological emergency at TMI, and that effective ongoing review provisions are in place to keep this planning at an acceptable level.

Sincerely,



William T. Russell, Director
Office of Nuclear Reactor Regulation

cc: See next page