

**UNION OF
CONCERNED
SCIENTISTS**

September 24, 1998

Mr. Charles W. Hehl
Director - Division of Reactor Projects
United States Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406-1415

**SUBJECT: THE SAME CONCERNS ABOUT MOVING SPENT FUEL WITH THE
REACTOR BUILDING CRANE**

Dear Mr. Hehl:

By letter dated August 20, 1998, I raised four questions to the NRC regarding the use of the overhead crane to move irradiated fuel assemblies at the FitzPatrick nuclear plant. During a telephone discussion with Mr. David Lew of your staff on August 27, 1998, I raised a related question.

I have reviewed your response dated September 2, 1998. Your response fully answered two of the five questions. The remaining three questions have not been adequately addressed. It is particularly disturbing to me since I went to great lengths during the discussion with Mr. Lew to explicitly detail the deficiencies in the planned response. Rather than addressing those deficiencies, the NRC chose to dismiss my concerns and issue an inadequate response.

I will re-iterate my three outstanding concerns:

1. My original Question No. 1 in the August 20, 1998, letter involved vertical displacement. The context was abundantly clear from the letter that this meant displacement of a fuel assembly from the vertical plane (i.e., how much it could tilt). The NRC answer simply did not address the concern that I raised. Instead, the NRC response focused exclusively on how high the fuel assembly could be raised. My question did not state, or even imply, any concern whatsoever about this subject.
2. My original Question No. 3 in the August 20, 1998, letter and the fifth question raised during the August 27, 1998, telecon dealt with whether an unreviewed safety question was introduced. As I explained to Mr. Lew, the NRC imposed a civil penalty on the Perry licensee just last year after it discovered that this licensee had replaced an automatic safety feature with reliance on manual actions.¹ The NRC determined that this change constituted an unreviewed safety question, thus requiring formal review and approval by the NRC, because it altered the fundamental basis for the

¹ NRC letter to Centor Energy dated November 18, 1997 (Enforcement Action No. 97-430)

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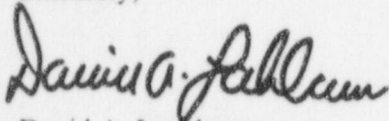
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NRC's original acceptance. Perry replaced automatic protection features with manual actions and got fined by the NRC. FitzPatrick replaced automatic protection features with manual actions and got the NRC's blessing. It is not clear to me why the NRC allows FitzPatrick to do things that it fined Perry for doing.

Since it appears that all of the irradiated fuel assemblies have already been moved at FitzPatrick, the answers to these outstanding questions are now moot. However, I intend to use this example of NRC inconsistency in ongoing discussions with Senate staffers on what is broken within the NRC's processes. I cannot determine whether the NRC was right when it fined Perry or right when it looked the other way at FitzPatrick – but it is obvious that the NRC was wrong on at least one of these occasions.

I am also sending a copy of this letter, along with my August 20, 1998 letter and your response, to the NRC Inspector General because I sincerely feel that your staff did not fulfill its mission. Your staff permitted the FitzPatrick licensee to move irradiated fuel assemblies in spite of legitimate safety concerns about such movement. I hope the NRC IG will look into this matter.

Sincerely,



David A. Lochbaum
Nuclear Safety Engineer

cc: Mr. Hubert J. Miller, Regional Administrator
Mr. Edward Baker, Agency Allegation Advisor
Mr. Hubert Bell, Inspector General