



The Conservation Foundation

March 10, 1989

Samuel Chilk
Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Request for LSS Advisory Committee Responses to the
Questions from Commissioner Curtiss

Dear Secretary Chilk:

This is in reply to your recent correspondence with members of the Licensing Support System Advisory Committee for which I served as lead convenor and facilitator. Enclosed are the responses I have received from members of the Committee.

You have requested answers to certain questions framed by Commissioner Curtiss respecting particular terms upon which most of the Committee agreed, and you have emphasized Commissioner Curtiss' wish that such answers not be negotiated or the subject of lengthy discussion by the Committee. NRC staff prepared a strawman answer to each of the Commissioner's questions. Some of the Committee members' responses are based, in part, on the strawman.

Commissioner Curtiss in his memo to you, which you have sent along, asks for "the views of the Committee as a whole, where consensus exists, and of individual members where there is no consensus." In his questions, however, Commissioner Curtiss often asks for the underlying purpose and intent of a number of specific provisions of the agreement supported by most of the Committee, including NRC staff. I would take this opportunity to suggest that such an inquiry is in fundamental conflict with the purpose, and indeed the measure of success, of the Committee. The Commission created the Committee and, at least implicitly, charged it to negotiate. It must have been understood, as the Committee itself always recognized, that the negotiations process might yield specific agreements which individual Committee members would explain in varying terms, and that some agreements might be entered by Committee members in order to secure other agreements or overall agreement. This is a healthy dynamic and is common in most forms of negotiation, including negotiations among legislators and administrative rulemakers. Regulatory negotiations, after all, in large measure, mirror other more conventional negotiations processes.

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Thus, to survey the members of the Committee individually and discourage them from negotiated replies by isolating the issues and the members, risks the very agreements that the Committee was able to achieve at the Commission's behest. Perhaps, in the future, as is done in other legislative and rulemaking processes, it would be better practice to limit post negotiation inquiries to the specific terms of the agreement and any explanatory material already at hand, such as in this case the supplemental information and minutes of Committee meetings.

Sincerely,

Howard S. Bellman _{GLS}

Howard S. Bellman
Senior Fellow

Enclosures

cc: Members of the LSS Advisory Committee