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Chairman Greta J. Dicus
Commissioner Nils J. Diaz
Commissioner Edward McGaffigan, Jr.
Commissioner Jeffrey S. Merrifield
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Dear Chairman Dicus and Commissioners:

I have had the opportunity to review the Commission's answers to Congressional questions dealing with potassium iodide (KI). (These were forwarded by letter of September 10, 1999, from Chairman Dicus to Chairman Joe Barton of the Subcommittee on Energy and Power of the House Commerce Committee.) The answers are troubling in several respects, in particular the way they represent, or purport to represent, the views of the Federal Emergency Management Agency (FEMA).

For example, question 15(B) asked whether, if there was anything in NRC policies barring NRC from paying for state stockpiles of KI, the NRC had reexamined those policies. The NRC's reply stated that both the NRC and FEMA "are currently reexamining earlier positions and policies regarding KI." I wonder whether this answer was cleared with Director Witt of FEMA. His letter to the NRC of April 29, 1999, could hardly have been blunter:

Your abrupt retreat from repeated promises to the Federal community, states and the public is apparently based on a misapprehension of FEMA's authorizing legislation and a disregard of our view -- and that of other FRPCC agencies -- that regional potassium iodide stockpiles will not enhance radiological emergency preparedness. ... FEMA has always opposed the notion that Federal regional stockpiles of potassium iodide would be effective in the event of a release from a nuclear power plant. ... Regional stockpiles of potassium iodide would complicate, not strengthen radiological emergency preparedness.

I have not seen a word from FEMA since April 29, 1999, to suggest that Director Witt is reconsidering his position. Perhaps the Commission knows something I do not know, but if this answer was not cleared with FEMA, and we are seeing yet another misrepresentation by the NRC of FEMA's stance, someone should quickly apologize to Director Witt and correct the record with the Congress. I'm sure that FEMA has not forgotten the memorable Commission meeting of November 5, 1997, when the NRC staff had to apologize humbly for having "misrepresented" -- the NRC staff's own word -- FEMA's position on KI. (If the Commission had only been willing to draw the obvious conclusion from that unprecedented day in the agency's history, and assign the KI issue to a new team, it might not have found itself, less than a year later, having to withdraw the staff's assessment of KI, NUREG-1633, in the face of withering criticism from the health departments of New York State and Ohio, and from me.)

Question 17 quoted Director Witt's letter of April 29, 1999, and then asked why the NRC disputed FEMA's position. The NRC's answer included the following:

[T]he NRC believes that regional stockpiles may be a prudent and reasonable approach to making KI available to emergency response officials in the very unlikely event of a severe reactor accident that includes a significant early radioiodine component. **The NRC is confident, based on a long record of coordination and cooperation between the two agencies, that the NRC and FEMA staffs will successfully resolve the KI stockpile issue.** [Emphasis added.]

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This amounts to a statement that regardless of Director Witt's unequivocally stated position, the NRC is confident from past experience that it can bring the FEMA staff around. If I were Director Witt and I saw this, I would not be pleased to have my views so casually flicked aside, nor would I appreciate the suggestion that my staff can be induced to take positions contrary to my own. My experience of the FEMA staff is that it has been principled and responsible on KI, and I see no reason why it should want to compromise away its Director's firmly held position. But it would not surprise me to learn that the NRC staff was attempting to rush the FEMA staff into such a deal, perhaps hoping to present Dr. Meserve, the incoming NRC Chairman, with a *fait accompli*. Is it likely, though, that any such plan would receive Director Witt's approval, after his letter of April 29?

It seems, regrettably, that nothing can penetrate the present Commission's cocoon of self-deception where KI is concerned. Director Witt did everything to make the Commissioners understand FEMA's position short of physically shaking them by the shoulders. Surely at this point he must be asking himself, "What part of 'NO!' didn't they understand?"

Let me offer a few additional comments on the NRC's answers:

-- **Cost of buying KI.**

The NRC was asked in question 16(A) what KI would cost. One needs to know something of the background to appreciate how artful and evasive the NRC's answer was.

Instead of answering the question directly -- that is, with a simple declarative sentence saying that "the cost would be X" -- the Commission reported what the staff *said* in November 1998 that a KI program would cost. It also reported that at that time, the NRC staff reported an increase in the price of KI.

The problem is that there is reason to doubt whether the NRC's staff's November 1998 figures were accurate even when first provided. For just a month later, in December 1998, I sent the Commissioners a memo, attaching an e-mail from Harvey Brugger of the Ohio Department of Health, which in turn attached an e-mail from a Swedish firm that was offering KI in bulk at six cents per pill, with a 10-year shelf life. These documents are in the rulemaking docket.

If the NRC is not now using a price of six cents per pill as the estimated cost of KI, what price is it using, and why? If the Commission, despite its nominal commitment to "Openness," declines to answer the question, then let this letter be construed as a Freedom of Information Act request for the following information: (1) the estimated price per pill, at current prices; (2) the estimated number of pills that would be required; and (3) the estimated shelf life.

The Commission's statutory obligation is to keep the Congress "fully and currently" informed. Using outdated information that may not have been accurate even when it was current falls far short of that.

The NRC also said that according to the 1998 figures, the cost of supplying KI to all states with nuclear power plants would be "about \$3.25M in a given year, with replacements every seven years." The "given year" is the first year; spread over seven years, the annual cost is \$450,000, and over ten years, it is \$325,000. Unfortunately, I know all too well how cleverly the NRC sometimes crafts sentences when KI is the subject, and the way snippets of these sentences later get quoted in misleading ways. (See, for example, the NRC staff's use of the phrase "no new information," when it was trying, even after the flood of Chernobyl-related childhood thyroid cancers in Eastern Europe, to stave off any reexamination of the 1985 federal policy on KI.) In future, we can expect to see statements that the NRC has advised the Congress that the cost of a KI program would be "about \$3.25M in a given year," when the real answer should be the cost per year, a fraction of that \$3.25M figure.

-- **Money spent by NRC studying KI.**

The first sentence of the answer to question 16(B) said that the "total amount of NRC spending on the KI issue exceeds \$2.6M for last 10 years." No doubt it does exceed \$2.6M; but the real question is, *by how much* does it exceed that figure? If the answer is that it exceeds it by a substantial amount, then this answer does not seem to meet the standard of "fully" informing Congress.

The detailed answer that followed this first sentence spoke only of NRC staff and contractor expenditure, leaving the reader to assume that this was the sum total of the agency's costs. In fact, a great deal of time has also been spent on the issue by Commissioners, their staffs, and, presumably, agency lawyers as well. How much did their time cost the agency? And what about the cost of producing draft NUREG-1633, the staff assessment that had to be withdrawn? Why leave out the cost of the 12-member KI Core Group, created to try to revise and rehabilitate that document? Why omit the price of that group's week-long trip -- what some would call a boondoggle -- to Tempe, Arizona, last winter? And what about the cost of all the NRC's interactions with FEMA and the FRPCC on KI issues over the last ten years?

The casual reader will have no reason to know or suspect any of this, however. The busy Congressional staffer will think that the NRC has answered the question, and will understand the NRC to have said that it spent \$2.6 million dollars studying KI, a figure safely below the \$3.25 million estimated cost of buying KI. No doubt it would have been awkward and embarrassing if the answer had confirmed the NRC staff's 1994 prediction -- made at a time when the wind from the NRC Chairman's office was temporarily blowing in a different direction -- that it would be cheaper to buy KI for the nation than go on studying whether to do so. (Any Commissioner needing a copy of that 1994 staff paper can undoubtedly get one from Dr. Congel, who is listed on it as the contact person.)

Before leaving the subject of the cost of studying KI, I should also mention, though this is not within the scope of the Congressional question, the substantial extra costs that FEMA and all the other agencies of the FRPCC have had to bear, thanks to the NRC's grievous mishandling of the KI issue. NRC misinformation, delay, and broken commitments on KI have not only resulted in leaving American children inadequately protected, compared to the children of other developed countries, they have also placed unnecessary additional financial burdens on other agencies of the Federal community. In the name of saving money on KI, the NRC has wasted an extraordinary amount of its own and others' resources.

-- Who must consider KI under the proposed rule?

The rulemaking petition dealt with emergency plans, which are normally prepared by *states*. (Only when a state refuses to prepare a plan does a utility-prepared plan come into the picture.) But the answers to questions 16(B) and 17 referred to the proposed rule as requiring *licensees* to consider using KI as part of their emergency planning. Was this an innocent mistake, or was the Commission trying to bolster claims that the NRC's proposed rule burdens licensees and is therefore a backfit?

I am sorry to say that the answers to the Congressional questions suggest that the present leadership of the Commission has learned nothing at all from past embarrassments or from Director Witt's efforts to make it comprehend its folly. Oblivious to all warnings, it has once again taken a bad situation for itself and managed to make it even worse.

Sincerely,



Peter Crane

cc: James Lee Witt, Director, FEMA
The Honorable Joe Barton, Chairman
Representative Ralph M. Hall
Representative Edward J. Markey
Senator John Kerry
Dr. Richard Meserve