

PDR



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

October 22, 1999

The Honorable Bob Graham
United States Senate
Washington, D.C. 20510

Dear Senator Graham:

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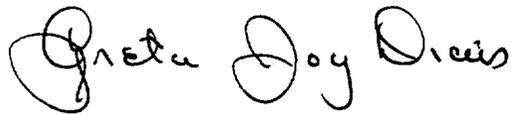
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Sincerely,

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Greta Joy Dicus

Enclosure: Summary



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The Honorable James M. Inhofe
United States Senate
Washington, D.C. 20510

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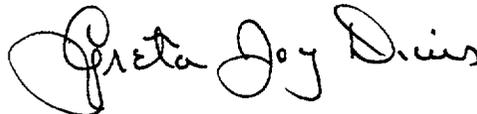
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The Honorable Joe Knollenberg
United States House of Representatives
Washington, D.C. 20515

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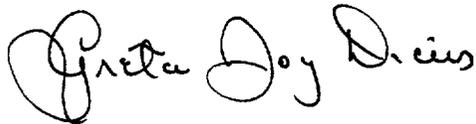
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The Honorable John M. Spratt, Jr.
United States House of Representatives
Washington, D.C. 20515

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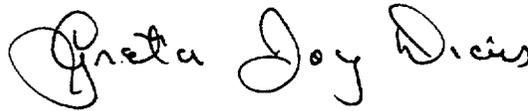
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The Honorable Pete V. Domenici, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510

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cc: Senator Harry Reid
Dr John F. Ahearne



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cc: Representative Peter J. Visclosky



CHAIRMAN

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Committee on Commerce
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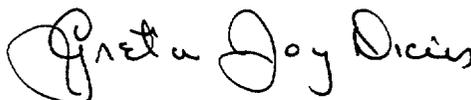
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cc: Representative Ralph M. Hall

Summary of Reactions to Key Recommendations in the CSIS Report

Introduction

The CSIS report focused on 13 issues that have proved to be central to the interactions among the NRC, the industry, and the interested public and it recommends improvements or changes addressing each of the 13 issues. The report acknowledges that ". . . many of the recommendations and conclusions made here were arrived at independently by the NRC and are already under consideration or in place" and its recommendations and conclusions largely confirm that the NRC is headed in the right direction. Additionally, the report makes clear that adequate resources should be maintained ". . . to make independent technical conclusions to support the rule changes it proposes."

The NRC's efforts continue with high priority. In addition, the NRC has implemented more improvements since the CSIS study froze its information base in January 1999. Examples of recent improvements include the start of pilot applications of the new reactor oversight process, enforcement policy changes generally consistent with those recommended in the report, rulemaking on event reporting requirements, rulemaking on the protection needed for permanently shut-down facilities, and the final decision on averted onsite costs for backfit analyses.

The Hearing Process

The discussion of the current NRC hearing process and description of the major issue to be resolved are generally consistent with the NRC's views on these matters. With respect to the report's recommendations on the hearing process, it is worth noting that during the course of the CSIS activities, the Commission directed the staff to undertake a major rulemaking effort that is to include substantial interaction with and input from stakeholders. As part of this effort, a workshop is being held on October 26, 1999. The objective of the rulemaking is to consider revisions to the NRC's hearing procedures and processes to make them more effective and timely. In general, the Commission has directed that the agency develop and make greater use of informal hearing processes¹ and has asked that a rulemaking proposal be provided for the Commission's consideration by December 1999.

License Transfers

The NRC recently promulgated regulations establishing an informal and streamlined hearing process for license transfers now codified in Subpart M to 10 CFR Part 2. Thus far, this new

¹ The CSIS report refers to formal, trial-type hearings as "adjudicatory hearings." Since "adjudicatory" hearing in normal legal usage refers to any process used to develop an evidentiary record on which an entity who is independent of the parties (e.g., a trial judge, a presiding officer, a hearing examiner, an Atomic Safety and Licensing Board) makes a decision and normally encompasses both formal, trial-type hearings and informal hearings, the report usage may be confusing. In this response, we will avoid reference to "adjudicatory" and simply use the terms "formal, trial-type hearings" and "informal hearings" as appropriate.

hearing process has worked well. In addition, we are developing guidance on how to determine whether a proposed transferee is technically and financially qualified, and have recently provided guidance on how to evaluate foreign ownership and control issues. On the related issues of electric utility deregulation and restructuring, we have held a number of meetings with nuclear industry representatives, State and Federal rate regulators, and other stakeholders to gain a broader perspective of their efforts. The overall effect of these measures has been to improve the preparedness of the NRC, our licensees, and the public for dealing with issues associated with electric utility restructuring.

Costs of Change

The CSIS report also makes clear that improvements are not without costs. The expenditure of resources in the past have enabled regulatory improvements such as (1) the broader and more uniform use of risk information and (2) the nuclear power plant aging program that helped resolve license renewal issues. The long-term gains from many of our initiatives will come at short-term costs. Yet, the agency's budget is the lowest it has ever been in real dollars, about two-thirds of what the agency had available at its founding. We have entered into cooperative research with EPRI and foreign countries to further extend our resources. Current initiatives and ongoing regulatory activities -- making more use of risk information; reviewing more applications for license renewal; making sure we have adequate research on which to base our new rulemakings; changing over to new ways to assess, inspect, and enforce; and finding better ways to engage all interested parties -- are taxing available NRC resources.

Public Participation

There was not unanimity among the participants in some areas. The two participants from public interest groups expressed concerns that (1) the license renewal process unfairly prohibits meaningful public participation by beginning the comment period before responses are received to any staff requests for additional information, (2) the public cannot meaningfully participate in the regulatory process without the availability of formal hearings with rights such as discovery and cross examination, and (3) the health and safety of workers and the public at decommissioned plants should be protected by the requirements of 10 CFR Part 72 rather than 10 CFR Part 50. The Commission strongly disagrees with the first claim. The issue is being litigated before a U.S. Appeals Court. With regard to the second, the NRC is of the view that, for some cases (e.g., hearings on enforcement matters), formal, trial-type hearings may be more appropriate. However, the NRC disagrees with the assertion that meaningful public participation is afforded only by formal, trial-type hearings. Finally, the NRC disagrees that the regulation of decommissioned plants should be administered under 10 CFR Part 72. Part 72 governs only the storage and transportation of waste; it is silent on the technical issues bearing on decommissioning a reactor. Those issues are addressed in Part 50 and in the agency's basic radiation protection standards, 10 CFR Part 20. Thus we see no safety advantage in the proposed change.

PRA: Backfit Rule: Averted Onsite Costs

The two public interest group participants also expressed opinions that (1) probabilistic risk assessments (PRAs) need to be improved by first developing "standards" and then reviewing

PRAs against those standards before any movement toward risk-informed regulation, (2) no basis was provided to support the allegations of backfit rule abuses, and (3) averted onsite costs should be included in backfit considerations. The NRC has issued guidance for the use of PRAs in licensing actions and we are working with the American Society of Mechanical Engineers and the American Nuclear Society to develop standards for various aspects of PRAs. The NRC is careful not to use PRAs for licensing actions beyond what the PRA quality will support. We also generally concur that many of the concerns about backfit rule abuses are historical and that the rule has generally been working well in recent years. As discussed above, the NRC has decided that averted onsite costs will be included in backfit analyses.

Conclusion

Improvements require concerted efforts from the NRC and the stakeholders. The NRC continually seeks ways to ensure that the resources of both the stakeholders and the taxpayers are focused on those issues with the greatest safety significance. We have instituted new and more effective inspection, assessment, enforcement, and rulemaking processes and we have candidly examined how we deal with stakeholders. Thus, it is important to note that the report confirms that the NRC is headed in the right direction.

The NRC's responsibilities are far broader in scope than the activities addressed in the report, which was limited to those issues relating directly to commercial nuclear power generation. The fact that these broader activities were not evaluated during the CSIS process does not minimize the importance of such issues as high-level and low-level waste handling and disposal, transportation of nuclear materials, isotope applications, and other areas. They, too, will continue to be priority issues for the NRC.

IDENTICAL LETTERS SENT TO:

The Honorable Pete V. Domenici, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510

cc: Senator Harry Reid
Dr. John F. Ahearne

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Power
Committee on Commerce
United States House of Representatives
Washington, D.C. 20515

cc: Representative Ralph M. Hall

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