

September 15, 2003

Chairman Nils J. Diaz
Commissioner Edward McGaffigan, Jr.
Commissioner Jeffrey S. Merrifield

SUBJECT: VOTES OF NO CONFIDENCE IN NUCLEAR REGULATORY COMMISSION

Dear Chairman and Commissioners:

The Nuclear Regulatory Commission (NRC) lists “improving public confidence” as one of its four strategic goals. Yet, Mrs. Patricia G. Norry, Deputy Executive Director for Management Services at the NRC, conceded to a group of us at the July 22nd meeting on public interfaces that the agency does not measure its progress against this goal, despite the goal having been established several years ago. The purpose of this letter is to make our views on this goal crystal clear to you:

WE LACK CONFIDENCE IN THE NUCLEAR REGULATORY COMMISSION.

The primary factors, in no particular order, for our votes of no confidence are:

- The Commission has held more “closed” meetings per the Sunshine Act regulation in the past three years than in the prior 15 years combined. The Commission cannot gain our confidence by hiding from us.
- The safety culture within the NRC is deplorable, as evidenced by recent surveys that report nearly half the NRC’s work force is reluctant to raise safety concerns and a third of those who voice safety concerns feel they have been retaliated against for it. The public cannot trust NRC management when so many NRC workers do not.
- The NRC recently revised its public meeting process to provide expanded opportunities for public attendees to ask questions or express concerns. But the agency has not backed up this initiative with ways for its staff to provide meaningful responses to public input. Public confidence is not improved when the NRC simply makes it easier for us to provide input that is then ignored.
- For most US nuclear power plants, the NRC makes but one appearance each year to meet with the public. The agenda for these “public” appearances is determined by the NRC *and the plant owner*. Members of the public cannot suggest items for the agenda and the NRC staff often refuses to discuss issues raised by the public that are not on the NRC/plant owner’s agenda. The NRC must engage us on safety matters of concern to us to warrant our confidence.
- During an NRC-sponsored workshop on public communications in December 1997, every public stakeholder in attendance, including several of the signatories to this letter, praised the agency for its Public Document Rooms (PDRs) and website. The NRC responded to that praise by stopping the flow of information to local PDRs, inflicting ADAMS on the world, and re-designing its website to make it virtually useless. The NRC cannot gain our confidence by using our praise for the agency to plan its next attacks on public participation.

- The public petition process, 10 CFR 2.206, continues to be a mockery of a meaningful way for the public to engage the agency regarding possible enforcement actions against the agency's licensees. This mockery will continue as long as the public lacks a formal appeal process, either within the NRC or outside it, for Director's Decisions. To have confidence in the NRC, we need the basic right of appeal decisions we feel are wrong, just as the nuclear industry currently has the right to appeal NRC decisions it feel is wrong..
- The NRC prepared an order to shut down the Davis-Besse nuclear plant for safety inspections, then shelved it. Documents obtained under the Freedom of Information Act clearly indicate that the NRC knew at the time that it was violating four of the five criteria it had established for such safety decisions. The NRC cannot deliberately violate its own safety principles and gain our confidence.
- Following the tragic events of 09/11, the NRC revised security measures for nuclear facilities through a series of closed-door meetings with plant owners and trade group representatives. The NRC rebuffed every attempt by public stakeholders to engage in these important policy discussions, even to the point where the agency refused to listen to our concerns. The NRC cannot ignore us and gain our confidence at the same time.
- Following the tragic events of 09/11, the NRC removed considerable material from the public arena. Some of this material returned to the public arena after review, but much material remains in limbo awaiting the agency's final decision on where to draw the line on publicly available information. The reaction is understandable, but the NRC continues to proceed with 'business as usual' on licensing matters even though the public's ability to participate has been severely impaired. The NRC should have suspended all but emergency licensing actions until it finalized the post-09/11 line and returned material on the right side of the redrawn line to the public arena. The NRC could restore our confidence by distributing the 09/11 burden more equitably between us and its licensees instead of placing the majority of the 09/11 burden on our shoulders.
- In licensing proceedings since 09/11, intervenors, including several signatories to this letter, have contended that existing or proposed nuclear facilities lack proper protection against sabotage and acts of malice. The NRC has steadfastly dismissed these contentions on the grounds that such assertions are incredible. At the same time, the NRC restricts access to information and policy discussions based on the very real threat of sabotage and acts of malice. The NRC cannot gain our confidence by taking contradictory stances as needed to prevent public participation.
- Since June 1998 when the US Senate threatened to slash the agency's budget, the NRC put its primary focus on the business objectives of the nuclear industry instead of on public health and safety. The Davis-Besse debacle can be traced to this lost focus, given that the agency failed to ensure resident inspector staffing at Davis-Besse that conformed to even its lowered staffing requirements. The improper focus also delayed resolution of long-standing safety issues including steam generator tube integrity, fire protection, and pressurized water reactor containment sump reliability. **The NRC cannot gain our confidence when its priority is financial safety instead of reactor safety.**

- In July 1998, an NRC senior manager cancelled the agency's force-on-force testing program of nuclear power plant security even though the program had not yet examined every plant site and the testing to date had revealed serious deficiencies. The ensuing public outcry forced the agency to reinstate the testing program. The same NRC senior manager then zeroed out the budget for the NRC security tests, even though a plan to replace it with an industry self-assessment program had not been piloted. Very shortly after 09/11, the same NRC senior manager recommended that the Commission relax its security measures – even as the nation's commercial air fleet was grounded – because they were costing nuclear plant owners too much money.* This NRC senior manager suffers from more than a security blind spot. After an NRC inspection at the D C Cook nuclear plant in Michigan revealed problems so serious that both reactors had to be immediately shut down in September 1997 for repairs, this senior manager went to the NRC manager responsible for the inspection program and the NRC staffer leading the D C Cook inspection team – not to congratulate them for their fine job of protecting public health and safety but to chastise them. Later, this NRC senior manager ordered the NRC staff, in writing, not to bother plant owners with more than a single set of questions about reactor safety issues. When Indian Point 2's owner provided inadequate answers to questions about steam generators in 1999, this edict prevented the NRC staff from following up to ascertain the true facts. They allowed the plant to operate past a December 31, 1999, deadline without the required steam generator inspections. Less than 60 days later, the plant experienced an accident involving the steam generators. This NRC senior manager was also primarily responsible for the aforementioned flawed decision regarding Davis-Besse. The NRC cannot gain our confidence when led by senior managers who repeatedly demonstrate bad judgment.
- Several nuclear reactors have been relicensed by the NRC for 20 more years of operations and many others are planning to seek relicensing. The NRC's license renewal rule depends on a determination by the agency that the applicant has an adequate aging management program for important systems, structures, and components. Adequate aging management means that the condition of equipment is monitored and it is repaired or replaced before it fails. Indian Point's broken steam generator tube (2000), Summer's leaking hot leg pipe (2000), Oconee's broken control rod drive mechanism nozzles (2001), Quad Cities' broken jet pump (2002), and Davis-Besse's broken reactor vessel head are but a sampling of growing evidence that aging management programs aren't working. The NRC cannot gain our confidence by ignoring evidence that its basis for granting license extensions is fundamentally flawed.
- The NRC's responses to allegations we have submitted, whether based on our own concerns or based on concerns brought to us by plant workers, have gotten worse over the past two years, declining to the point where many of us believe the NRC's allegation process is not viable. Many of the responses simply fail to address the issues raised. The NRC cannot gain our confidence solely by giving lip service to safety allegations we submit.
- The NRC is moving towards risk-informed regulation. Yet, the agency has neither established nor endorsed quality standards for the risk assessments that provide input for risk-informed regulatory decisions. The NRC cannot gain our confidence with "garbage in, garbage out" as a regulatory precept.

* The NRC's Inspector General determined that this NRC senior manager is solely responsible for the fact that the NRC Chairman issued false information to the public related to this matter.

We respectfully ask you to direct your staff to develop an action plan for addressing these factors. The action plan must include assignments for tasks within the plan and target deadlines for completion of the tasks. To help ensure that these tasks are completed in a timely manner, we ask that you direct your staff to provide you, and the public, status reports on the action plan every six months until the final task is completed. You must realize that failure of the agency to properly respond to these identified issues will only serve to reinforce our current lack of confidence.

Sincerely,

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