



August 21, 2014

Allison M. Macfarlane, Chairman
Kristine L. Svinicki
William C. Ostendorff
U.S. Nuclear Regulatory Commission
Washington, DC 20555
CMRMACFARLANE@nrc.gov
CMRSVINICKI@nrc.gov
CMROSTENDORFF@nrc.gov

SUBJECT: *Request for Postponement of Vote on Final Rule re: Continued Storage of Spent Nuclear Fuel Pending Resignation of Commissioner Magwood*

Dear Commissioners:

On behalf of 34 environmental organizations and individuals,¹ we are writing to request you to postpone, until after Commissioner Magwood's August 31 departure from the U.S. Nuclear Regulatory Commission ("NRC"), your tentatively scheduled August 26 Affirmation Session, in which you plan to address two extremely important safety and environmental matters: whether to adopt the draft Final Rule regarding Continued Storage of Spent Nuclear Fuel and whether to lift the stay of reactor licensing that you imposed in 2013, pending completion of your response to the U.S. Court of Appeals' decision in *New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012).

By postponing the Affirmation Session into early September, you will not delay the issuance of a Final Rule, which is not scheduled until October 3, 2014.² You will, however, alleviate the taint on the integrity of the NRC's decision-making process created by Mr. Magwood's continued participation in NRC safety and environmental decisions. As discussed in our previous correspondence, Mr. Magwood has created a real and apparent conflict of interest by pursuing and accepting a position with an international agency whose primary purpose is to promote nuclear power, at the same time he serves on a U.S. agency that is dedicated to protection of

¹ Alliance to Halt Fermi 3, Beyond Nuclear, Blue Ridge Environmental Defense League, Center for a Sustainable Coast, Citizens Allied for Safe Energy, Citizens Environmental Coalition, Citizens Resistance at Fermi 2, Coalition for a Nuclear Free Great Lakes, Don't Waste Michigan, Kay Drey, Ecology Party of Florida, Friends of the Coast, Friends of the Earth, Green States Solutions, Hudson River Sloop Clearwater, Indian Point Safe Energy Coalition, Captain Dan Kipnis, Missouri Coalition for the Environment, NC WARN, Nevada Nuclear Waste Task Force, New England Coalition, Northwest Environmental Advocates, Nuclear Energy Information Service, Nuclear Information and Resource Service, Nuclear Watch South, Physicians for Social Responsibility, Public Health and Sustainable Energy, Riverkeeper, San Clemente Green, San Luis Obispo Mothers for Peace, San Onofre Safety, SEED Coalition, Sierra Club Nuclear Free Campaign, and Southern Alliance for Clean Energy.

² See <http://www.nrc.gov/waste/spent-fuel-storage/wcd/schedule.html>.



public health and safety and the environment.³ If Mr. Magwood is permitted to participate in the upcoming vote, state and local governments and members of the public – who must live with the effects of the NRC's decisions – will have legitimate grounds to question whether Mr. Magwood unduly influenced the agency to gloss over the serious problems that attend the long-term storage and disposal of spent reactor fuel, in order to fulfill his new mission of promoting nuclear energy worldwide.

Despite his glaring conflict of interest, Mr. Magwood has refused our request that he recuse himself from NRC decisions relating to safety and protection of the environment.⁴ Therefore it falls to you, the other members of the Commission, to protect the integrity and credibility of your decision-making process by postponing this very important affirmation session until after Mr. Magwood's departure. Accordingly, we request you to postpone your affirmation session until after Mr. Magwood has left the agency.

Thank you for your consideration.

Sincerely,

[Electronically signed by]

Diane Curran

[Electronically signed by]

Mindy Goldstein

Turner Environmental Law Clinic

Emory Law School

1301 Clifton Road

Atlanta, GA 30322

404-727-3432

Fax: 404-727-7853

Email: magolds@emory.edu

Joint Counsel to Environmental Organizations

³ Letter from Diane Curran and Mindy Goldstein to William D. Magwood, IV re: Demand for Immediate Resignation from the NRC and Other Measures (June 18, 2014); letter from Diane Curran and Mindy Goldstein to Allison M. Macfarlane re: Request for Disqualification of Commissioner Magwood for Conflict of Interest and Disclosure of Relevant Documents (July 16, 2014). Last fall, at the same time he was serving as an NRC Commissioner, Mr. Magwood applied for and won the position of Director-General with the Organisation for Economic Co-Operation and Development's ("OECD's") Nuclear Energy Agency ("NEA"). The principal purpose of the NEA is to "further the development of the production and uses of nuclear energy." Statute of the OECD Nuclear Energy Agency, Article 1 (as amended on 13 July 1995), <https://www.oecd-nca.org/nca/statute.html>.

⁴ Letters from William D. Magwood, IV to Diane Curran and Mindy Goldstein (July 14, 2014).



Cc: William D. Magwood, IV
U.S. Nuclear Regulatory Commission
Washington, DC 20555
By e-mail to: William.Magwood@nrc.gov

Hubert T. Bell, Inspector General
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Hubert.Bell@nrc.gov

Sen. Barbara Boxer, Chairman
Committee on Environment and Public Works

Sen. Sheldon Whitehouse, Chairman
Subcommittee on Clean Air and Nuclear Energy

Dan Utech, Special Assistant to the President for Energy and Climate Change

Joosten, Sandy

From: Diane Curran <dcurran@harmoncurran.com>
Sent: Thursday, August 21, 2014 6:39 AM
To: CHAIRMAN Resource; CMRSVINICKI Resource; CMROSTENDORFF Resource
Cc: CMRMAGWOOD Resource; Bell, Hubert; Mindy Goldstein
Subject: Letter re Spent Fuel Storage Rule vote
Attachments: 2014-08-21 Curran-Goldstein Letter to NRC re Spent Fuel Vote.pdf

Dear Commissioners:

Attached please find a letter seeking postponement of your tentatively scheduled August 26 vote on the spent fuel storage rule until after Mr. Magwood's departure from the NRC.

Diane Curran

Diane Curran
Harmon, Curran, Spielberg & Eisenberg, L.L.P.
1726 M Street N.W., Suite 600
Washington, D.C. 20036
202-328-3500

