

United States Senate

WASHINGTON, DC 20510-3802

August 18, 1994

Mr. Dennis K. Rathbun  
Director  
Office of Congressional Affairs  
Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Rathbun:

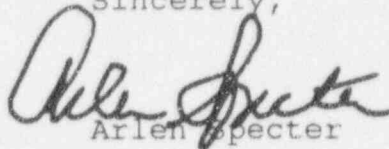
I am writing to you on behalf of Robert Gary of Silver Spring, MD. Mr. Gary has contacted my office regarding his interest in obtaining a Commissioner's Level Reconsideration of Director's Decision DD-94-03.

I have been informed by Mr. Gary that additional information concerning the City of Harrisburg's Emergency Management Plan was unavailable to the NRC during its original consideration of DD-94-03. Mr. Gary has expressed to me his interest in the NRC's reconsideration of this decision after further reviewing the July 27, 1994 correspondence from Harrisburg Mayor Stephen Reed to the NRC. Enclosed is correspondence provided to me by Mr. Gary.

Please accord Mr. Gary's concern all due consideration. I would appreciate your responding directly to him regarding this issue and forwarding a copy of that response to Michael Kulis of my staff.

Thank you for your attention to this matter.

Sincerely,

  
Arlen Specter

AS/mk  
Enclosure

Robert Gary, Esq.  
Apt 301  
2211 Washington Avenue  
Silver Spring, MD 20910

Senator Arlen Specter  
Attn Mike Kulis  
530 Hart Senate Bldg  
Washington DC 20510-3802

August 1, 1994

Dear Senator Specter,

Please take whatever action is needed to ensure that the NRC provides Belated Commissioner's Level Reconsideration of DD-94-03 for the reasons set forth in the enclosed correspondence.

There is no earthly reason why any organization should get \$541,417,000 of U.S. taxpayer money if it is utterly unresponsive to the People's business. PICA brought the NRC an important item of great concern to the people of Harrisburg. We don't think they should be funded if they don't pay attention to our legitimate concerns.

I ask you for help, putting aside all issues of Republican and Democrat, as a man of honor, as a fellow member of the Pennsylvania Bar, as a protector of the People, and as a Senator that has never let his constituents get less than proper consideration by any government Agency. The man who went to Federal Court to make sure the Navy Yard workers in Philadelphia got a square deal is not going to walk away from the People of Harrisburg when their very lives are at stake.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Gary", with a stylized flourish at the end.

Citizen Robert Gary

Enclosure: Letter from Mayor Reed to Director Russell (NRC)  
dated 27 July 1994 with enclosure

# PICA

The Pennsylvania Institute for Clean Air

Office of the Senior Researcher, 2211 Washington Avenue  
Silver Spring, Maryland, 20910 Telephone (301) 587-7147

Mr. William T. Russell, Director  
Office of Nuclear Reactor Regulation  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

August 1, 1994

Dear Director Russell,

You say in your letter to me of June 10, 1994:

With regard to emergency planning by the City of Harrisburg, Mayor Stephen R. Reed acknowledged in a letter too you dated February 8, 1993 that the City of Harrisburg does have an evacuation plan. His letter also stated that city officials have sufficient identified resources in the plan to evacuate portions of the city outside the emergency planning zone and have demonstrated limited mobilization of transporation resources during city-conducted exercises. (emphasis added)

But in his letter to you of July 27, 1994 Mayor Reed contradicts your position by saying:

We do not believe, however, that there are sufficient indentified resources to meet what would be the likely contingencies in the event that an evacuation would be ordered in this region as a result of a major event at Three Mile Island. Presently, the plan of this and every other community in this region, including the plan of Dauphin County, of which we are the county seat, is limited to the deployment of resources and the taking of evacuation actions in the ten mile radius area of TMI. (emphasis added)

You continue in your letter of June 10, 1994 by saying:

We continue to conclude that the state of emergency planning in the Harrisburg area, -in-

9408180089 3pp.

particular, as well as in other municipalities in the vicinity of TMI, offers reasonable assurance that the public will be adequately protected in the unlikely event of a radiological emergency at TMI, and that effective ongoing review provisions are in place to keep this planning at an acceptable level.

But again, this is contradicted by Mayor Reed's letter of July 27, 1994 where he says:

In truth, therefore, the "magic line" of the ten mile radius does not reflect the reality of what would occur in the event of a major radiological incident here. Our view is therefore simple but direct: emergency management planning around Three Mile Island should reflect what is the likely scenario rather than a bureaucratic belief that a ten mile radius area is adequate or more than sufficient. To accomplish planning for a likely scenario would involve the introduction of substantial additional resources to those which are already included in the county and various municipal emergency management plans here. It would also require added planning to accomodate the use and deployment of such resources.


The mistakes of fact which you make in your letter of June 10, 1994 were also made by the Directors in their Decision and by Chairman Selin in his letters to PICA refusing to review that decision. These mistakes having been corrected it would be appropriate to review the Director's Decision at this time. Accordingly, PICA hereby requests a Belated Commissioner's Level Review of Director's Decision DD-94-03 based on mistake of fact by the Directors which was corrected in a timely fashion by PICA and Mayor Reed.

Both your letter and Dr. Selin's letters emphasize that a major factor in the NRC's refusal to review the Director's Decision is the lack of novelty in arguments presented by PICA. You say that PICA has provided "no information or argument that was not already supplied and considered before the Director's Decision was issued." And clearly the Director's Decision was based in part on the mistake you make in your letter of June 10, 1994, and which the Mayor has now corrected (see pages 29 and 30 of the original Director's Decision mailed to PICA where Mayor's letter of February 8, 1993 is quoted as it is in your letter to me on June 10, 1994, with the same mistaken interpretation which is corrected by the Mayor's letter of July 27, 1994.)

It appears that Mayor Reed's position is new to you. And you say that it is for lack of something new that the NRC refuses to review the Director's Decision. O.k. now you have something new. If you are, in truth operating from a position of good faith and honorable conduct, you will now grant today's request by PICA that the Director's Decision be reconsidered. If you are operating from a perspective of pure bureaucratic obfuscation and delay and refusal then you will find some new reason why the Director's Decision can't be reviewed. In any case, whether from PICA's 2.206 or from a 2.206 filed after S.1165 becomes law this issue will probably wind up in a Federal Court. The Judge is going to look at what you did in response to PICA. You may as well do the right thing now while it is an administrative matter and while the NRC still has a high degree of control over what remedy is granted and what the precise form of the remedy should be. You will have a lot less control if a Court finally has to decide this matter and the Court from the record is appalled at the bad faith and unfair dealing that the NRC brought to its handling of this issue when it was raised by PICA (i.e. now).

You told us what the standard was for getting review. You told us what would be news to you. We met the standard. Now we want review. If we don't get it, a lot of people are going to want to know why you should be funded as an Agency, why you should get \$541,417,000 for fiscal year 1995. Agencies that get appropriations are Agencies that do the People's business, that take action on behalf of the People. PICA has brought you a very valid part of the People's business and you've brushed us off with no real consideration. Keep going that way and it will be clear to everyone that the NRC has no business taking money from the American taxpayers. It provides no service. It provides no response. We are prepared to go up our status as a public charity so we can go to Congress and cut off your resources. No safety for the People of Harrisburg -- No appropriation for the NRC -- that seems fair to us. You need to get busy doing right, or get gone as an Agency. PICA may be a small organization, but we are the ones to make it happen.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Gary", with a long horizontal flourish extending to the right.

Robert Gary  
Senior Researcher  
for PICA

Enclosure: Letter of July 27, 1994 from Mayor Reed to Mr. Russell  
with enclosed letter by Mr. Russell of June 10, 1994



## Office of the Mayor

The City of Harrisburg  
City Government Center  
Harrisburg, PA 17101-1678

Stephen R. Reed  
Mayor

July 27, 1994

Mr. William T. Russell, Director  
Office of Nuclear Reactor Regulation  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Mr. Russell:

Mr. Robert Gary of the Pennsylvania Institute For Clean Air has shared with me a copy of your recent June 10, 1994 correspondence, a copy of which is attached for your reference.

I believe it necessary and important to set forth the City of Harrisburg's view on the issue in question. We do, in fact, have an All-Hazards Emergency Management Plan which, of course, does cover a major radiological incident at Three Mile Island, given our proximity to the plant.

We do not believe, however, that there are sufficient identified resources to meet what would be the likely contingencies in the event that an evacuation would be ordered in this region as a result of a major event at Three Mile Island. Presently, the plan of this and every other community in this region, including the plan of Dauphin County, of which we are the county seat, is limited to the deployment of resources and the taking of evacuation actions in the ten mile radius area of TMI.

We know from the practical experience of the 1979 accident as well as by other means that if an evacuation actually was ordered for the ten mile radius area, there would be a simultaneous massive exodus from virtually all of the contiguous areas. In the case of the City of Harrisburg, the ten mile radius boundary includes the southern portion of this City but not the rest of Harrisburg. We have not the slightest doubt that, if an evacuation began, there would be mass movement by the rest of this City, clogging the evacuation routes and creating a demand for facilities, personnel, transportation vehicles and other resources far beyond that which have been provided for in the plan. This circumstance is not unique to the City of Harrisburg and, in fact, would almost certainly be the case in all the other municipalities in this region similarly located.

910926048 Jpp.

Mr. William T. Russell  
Page Two  
July 27, 1994

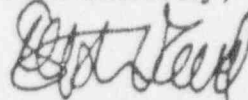
It is also our belief, based upon the practical experience of the 1979 accident, that even the mere suggestion that an evacuation was being considered or that such could occur as a result of an unfolding event at TMI, that people would begin an unscheduled and unauthorized evacuation of major proportion. This is precisely what occurred in 1979, when no mass evacuation was ever ordered. The estimates vary as to the actual number of persons who departed the area but it is not unreasonable to assert that the number was somewhere between 70,000 to 100,000 area residents. The Interstate highways and other main corridors were jammed for hours with departing vehicles, even amidst various assurances from Federal, plant and other officials that no such evacuation was warranted.

In truth, therefore, the "magic line" of the ten mile radius does not reflect the reality of what would occur in the event of a major radiological incident here. Our view is therefore simple but direct: emergency management planning around Three Mile Island should reflect what is the likely scenario rather than a bureaucratic belief that a ten mile radius area plan is adequate or more than sufficient. To accomplish planning for a likely scenario would involve the introduction of substantial additional resources to those which are already included in the county and various municipal emergency management plans here. It would also require added planning to accommodate the use and deployment of such resources.

Based upon this additional or new information being provided by the City of Harrisburg, we believe that the NRC should revisit the Director's Decision which reinforced the inadequate view that existing ten mile radius zone planning would fully meet the real needs of the region surrounding Three Mile Island.

With warmest personal regards, I am     \*\*

Yours sincerely,



Stephen R. Reed  
Mayor

SRR/psr-j



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 10, 1994

Mr. Robert Gary  
The Pennsylvania Institute for Clean Air  
2211 Washington Avenue  
Silver Spring, Maryland 20910

Dear Mr. Gary:

Your letter of May 9, 1994, to Chairman Selin has been referred to this office for response. The letter Chairman Selin sent to you on May 6, 1994, explains why the Commission had decided not to take formal review of Director's Decision DD-94-03. It would, therefore, not be productive to revisit the details and rationale for that decision at this time. I wish to assure you that, contrary to your statement that your petition has not been taken seriously, the issues you raised in your petition were considered by the U.S. Nuclear Regulatory Commission (NRC) and other involved agencies. Your letter of May 9 provides no information or argument that was not already supplied and considered before the Director's Decision was issued. Your letter, therefore, provides no basis for the NRC staff to reconsider the Director's Decision.

I would make a few remarks regarding the state of emergency planning in the vicinity of the Three Mile Island (TMI) Nuclear Generating Station. Your 10 CFR 2.206 petition of July 10, 1992, regarding deficiencies in the Dauphin County Emergency Plan, resulted in the principal organizations involved in emergency planning in the Harrisburg area taking a closer look at a number of issues, including transportation agreements and phone lists. The resultant reviews have hopefully provided added confidence in emergency preparedness to the citizens of that area. I believe that emergency planning in the Harrisburg area has been carefully scrutinized during the past 15 years as a result of the 1979 accident at TMI, Unit 2. As you know, the accident resulted in a number of new NRC requirements with regard to emergency planning, not only for TMI but for all nuclear power plants in the United States. One process that assures continuing adequacy of emergency planning in the area surrounding TMI is the biennial full-participation exercise. During these exercises, the Federal Emergency Management Agency (FEMA) evaluates the TMI offsite emergency plans (State, county, and municipalities). During the last full-participation exercise at TMI in May 1993, FEMA did not identify any deficiencies in the implementation of those plans.

With regard to emergency planning by the City of Harrisburg, Mayor Stephen R. Reed acknowledged in a letter to you dated February 8, 1993, that the City of Harrisburg does have an evacuation plan. His letter also stated that city officials have sufficient identified resources in the plan to evacuate portions of the city outside the emergency planning zone and have demonstrated limited mobilization of transportation resources during city-conducted exercises.

4106150328 5pp

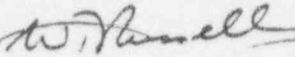
Mr. Robert Gary

- 2 -

June 10, 1994

We continue to conclude that the state of emergency planning in the Harrisburg area, in particular, as well as in other municipalities in the vicinity of TMI, offers reasonable assurance that the public will be adequately protected in the unlikely event of a radiological emergency at TMI, and that effective ongoing review provisions are in place to keep this planning at an acceptable level.

Sincerely,



William T. Russell, Director  
Office of Nuclear Reactor Regulation

cc: See next page

# PICA

The Pennsylvania Institute for Clean Air

Office of the Senior Researcher, 2211 Washington Avenue  
Silver Spring, Maryland, 20910 Telephone (301) 587-7147

Senator Harris Wofford  
Attn: Sara Kaplaniac  
521 Dirksen Senate Building  
Washington DC 20510-3803

August 10, 1994

OPEN LETTER DISTRIBUTED TO PRESS

Dear Senator Wofford,

Here is some suggested text for a letter to Dr. Ivan Selin of the NRC to help us get the due process to which we are entitled:

The Pennsylvania Institute for Clean Air has recently received an adverse Director's Decision on its request that Harrisburg be designated a Contingency Planning Area auxiliary to the Emergency Planning Zone around Three Mile Island.

The Commission has indicated that it believed that Mayor Reed does have a plan for the evacuation of Harrisburg and does have adequate resources to carry out that plan. The Commission also indicated that the reason it has refused to grant a Commissioner's Level Reconsideration of the Director's Decision is that PICA has offered no new facts and no new arguments since the Director's Decision was made.

However, on July 27, 1994 Mayor Reed sent a letter to the Commission saying that he does not have a plan for the evacuation of Harrisburg and he does not have adequate resources to carry out such a plan even if a plan existed.

I feel that the letter of July 27, 1994 from Mayor Reed constitutes new information and the basis for a new argument. Therefore it justifies an order providing for a belated

commissioner's level reconsideration of the Director's Decision in PICA's case on that issue. If the Commissioners feel that it is not appropriate for them to reconsider the Director's Decision at this time, I would like to know why.

By sending such a letter you would be indicating to your constituents in Pennsylvania that you are not exclusively interested in massive health reform proposals but that you are also interested in the workaday, routine issues that affect public health or in this case prevent injury to the public health. It is not unreasonable for people to hope for consistency from their political leaders. Protecting the health of the people of Harrisburg is very consistent with protecting everybody's health.

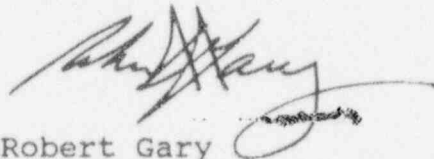
Another factor that plays a role in this case is the issue of whether a government agency should take any part of its agenda or any part of its priorities from the People expressed through their representatives. Maybe we have reached a day when government agencies can generate 100% of their own agendas and priorities and receive 541,000,000 from the American taxpayers to pursue those agendas with no input from the People and nothing in the agendas that actually addresses the People most immediate concerns. You serve on the Committee in the Senate that oversees the NRC. You voted to report out a Bill to appropriate half a billion dollars to them. You come from Pennsylvania where Harrisburg is located. It is not unreasonable to ask you to address the concerns of the People, or make sure the Agency does.

In this case, there is every reason to believe that our substantive issue which is the extension of the Emergency Planning Zone to include the 57,000 People of Harrisburg (who are located right on the ten mile line) has only been addressed by a youthful attorney working for the Directors. This young attorney was never given any authority to say "yes" to PICA but was simply told to write a legal opinion concluding "no". In fact there is no portion of the NRC budget that is allocated to taking the actions that would be required if they were ever to say "yes" to a 2.206 Request. They really have no choice under their own budget. They have to say "no". There's no need for the Directors to really consider these matters they just send them down to the law office to be answered. PICA has received letters signed by all kinds of high ranking officials in the course of its Request process, but we are convinced they were all written by the same youthful attorney in the law office who has absolutely no discretion in this matter to come to any other conclusion except "no".

We don't think that our issue is a detail. We don't think it is so small and insignificant that it is unworthy of genuine authentic consideration by the Commissioners. We think the ten mile rule was made in 1979, and that it was improvident, as it applies to Harrisburg, on the day it was made. We think the now, 15 years later, plenty of things have happened to justify reconsideration of the rule. We think that in all the letters we've gotten from the NRC, there hasn't been a particle of information to suggest that standing pat on that rule is a reasonable or sensible thing to do. We think that the Directors made a serious error in their published opinion (namely that Mayor Reed has a plan and adequate resources to evacuated Harrisburg) and that we corrected that error in a timely fashion so that a Commissioner's level reconsideration is appropriate at this time. We want that due process. We know you are busy. If there were somewhere else we could go to get our due process, we wouldn't bother you with this matter. But you are in the key position here, because you ran for the Senate, because you are from Pennsylvania, because you serve of the EPW Committee.

We earnestly request that you take an interest in our issue. We hope you will consider, strictly on the merits, whether the Commissioners should address the issue we have raised. If you feel, as we do, that this is not a detail, and it shouldn't be handled by a junior legal staffer, then we hope you will take appropriate action to make sure that people who have the authority to say "yes" look at our petition and give it careful consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Gary", with a stylized flourish extending from the end.

Robert Gary  
Senior Researcher  
for PICA