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September 25, 1978

TO: Participants in the Hearing, Docket No. RM 50-7

SUBJECT: In the matter of amendment of 10 CFR Parts 11, 50, and 70  
CONCLUDING STATEMENT OF THE NRC STAFF

A review of subject document is attached. I feel that the Staff Concluding Statement is, at best, a capricious treatment of the testimony patiently presented, at considerable expense, by the participants.

I am deeply disappointed by this manifest failure of these processes which were conceived to provide a forum and mode of redress for citizens injured by government. I sincerely hope that the opponent participants in this hearing will accept the inherent risk in strong opposition to authority, to express to the NRC and to appropriate Congressional representation a rejection of the attitude and action of the Nuclear Regulatory Commission.

Don F. Hanlen

Enclosure: Review (6 p.)

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c. The mechanism by which an insider can accomplish the release postulated (Section 2.6) for a power reactor is not at all clear. Given the "opportunity", what is it he does? The implication seems to be instigation of a LOCA.

d. Modest "physical protection devices" (page 27, line 21) will surely work even better in a power reactor security structure than they will in a research reactor security structure.

e. The citations by NRC on page 2, line 14, ff, are an unacceptable ploy to imply that major industrial elements concur with the NRC position. Industry has always screened its potential employees, and the cited testimony in fact and in unpropagandized context clearly contradicts the Staff position.

While it is abundantly evident that the NRC Staff "continues to believe that a government administered access authorization program is necessary," the Staff produced no evidence of any substance to support its position, and no argument of consequence to negate the actual and present position and practice of industry as carefully explained by the corporations so deviously cited. The NRC Staff abuse of this material out of context is to be deplored.

Section 1.3: The NRC position, as derived from the Atomic Energy Act of 1954 and rationalized herein, is highly suspect and highly specious.

a. NRC continues to undermine the conduct of nuclear research in the United States, despite the explicit admonition in the Act. The softening of the NRC position in paragraph 2.6 of the Staff statement in no way meets the spirit or letter of the ACT. Regulatory harassment characterized by the forced (in self defense) participation in these hearing by university, research and training reactor facilities (which they can ill afford) violates the explicit admonition of the Act: the excepted research reactors (page 28, line 8) which will still be forced to meet the conditions of the proposed rule are THE major nuclear research reactors in this country. Already reduced to tertiary impotence by regulation, all hope for keeping even a lagging pace in nuclear research relative to France, Germany, Russia and many, many other nations will be lost. Our dependence upon foreign oil will soon be matched by a total dependence upon foreign nuclear research.

b. The rationalization by which the staff incorporated power reactors in the sabotage/diversion umbrella is difficult to follow, hence to critique. Technically, however, the definition of Special Nuclear Material should clearly except power reactors, because the SNM is just not available -- not to an insider nor an outsider. It is so unavailable in fact, that we don't even want to mess with extracting it!

c. That act of sabotage of a power plant which is so devastating is not at all evident, as I suggested earlier.

d. Interruption of the supply of electricity to federal users is a remarkable rationalization. On that basis, the security clearance game reaches astronomical proportions. The many ways one can interrupt power transmission are almost uncountable, but includes the communities of farmers, ranchers, hunters, hikers, archeologists, etc. Just incidentally, the last way one might go about the assignment of interrupting power (to the feds or anybody else) would be an attack on a Central Station Nuclear Steam Generator or its hard-to-reach spent fuel element. Most any day, special plant or highline would be easier

e. The statement by Mr. Rogers doesn't make the content factual. Mr. Rogers' opinion is respected and of continuing interest, and is also quite acceptable in part. However, the problems of fuel processing plants should not be coupled to the problems of nuclear power plants carelessly. They are two distinct and different matters.

f. It seems appropriate that Congress, not NRC provide a proper framework for these devious security incursions into our way of life. Using Mr. Rogers' statement to completely revise the definition of SNM lies somewhere between ridiculous and suspicious.

Section 2.1.1:

"The probability of an act of radiological sabotage by an insider is presently considered unquantifiable."

"The fact that no radiological sabotage has occurred does not mean that it will not occur."

"It is necessary to presume that such an act could occur."

SIC SEMPER TYRANNY

Section 2.1.2: In the fuel cycle sector, the problem is identified and is being handled. The Staff position statement is correct, but who needed it?

Section 2.1.3: In the area of transportation, today and always the issues of safety preempt all other issues. What seems strange is the strength of the Staff position and the recommended courses of action for nuclear power plants, where accomplishment is simple; whereas in the matter of transportation the problems are complex, real and unresolved by the weak Staff action. What we will be doing, apparently, is maximizing the regulatory red tape, thus assuring the widest possible broadcast of intent to move material; followed by clearly marking for the benefit of a potential terrorist the shipment and vehicle, including characterization of the contents as a matter of interest for the terrorist's assessment of whether he should divert, or simply spread the material around

Section 2.2: Long and tedious rationalizations lead the Staff to the conclusion that alternative programs to the one they postulate just won't do. Perhaps the federally controlled security investigation is best, but recent events as well as history point up the indisputable fact that security leakage by federally cleared persons is not unusual. There does not seem to be any substantive evidence that the simple NAC would not be as effective as the present system of federally controlled investigations. By the cited testimony (paragraph 2.2.2), past behavior is the best indicator. Logic tells us that if a subject is not clever enough to escape detection, the agency records will reflect his error, hence potential unacceptability. If subject is clever and escapes detection, the field investigation will probably not be effective, for his error is not a matter of record.



An NAC would presumably include national agencies. Thus, the name/social security files would be pulsed for class information. Only if certain key issues surfaced would investigation beyond the agency check be necessary. It seems, therefore, that the Staff position is unnecessarily arbitrary and capricious, and its rationale once more specious.

Section 2.3: Here, as in several other areas, NRC seems willing to compromise tight security simply because tight security is not really possible, or is difficult to achieve. But, when is the likelihood greater for successful, destructive incursion of outsiders coupled with the insidious insider if not during the outage activities?

These compromises for administrative/political reasons make the entire NRC proposal suspect. If the threat exists, it must be handled. It is pointless to schedule loose security periods (as this rationale of this section generically does) for the benefit of the (chimerical) terrorist.

Section 2.4: From this section one can wonder just what actual criteria will apply. It appears probable that similarly devious behavioral actions, brought to light by investigative processes, could be adjudicated differentially, e.g., from a perspective of cultural or environmental backgrounds.

Notwithstanding such subjective issues, the statistics on unfavorable action on security clearances begs the question, why bother? Historically, fewer than one tenth of one percent of the clearance applications were denied. An interesting statistic would be; of those cleared, how many violated the conditions of their clearance? I suggest that the number of cases of violation of security conditions by cleared individuals is many times the number of denied clearances. Glaring examples of violation of security at the highest levels have been newsworthy over the past few years. There must be thousands of cases of proven, intentional violation of security responsibilities.

Section 2.5: Interestingly, the discussion herein identified "additional compartmentalization," as one of the protective measures against the insider. Basically, compartmentalization is the only real protection, that is, making the succession of events leading to effective terrorist action without interdiction an unreasonable sequence, or negligible success probability. Practically speaking, sufficient compartmentalization already exists for most nuclear power plants. Conceivably, some plants could benefit by modest administrative changes to their already existing compartmentalization.

Section 2.6: Of the various problems engaged by NRC relating to this hearing, the issue of non-power reactors is least effectively engaged. Whether the question is

- Diversion
- Radiological sabotage
- Insider

it is far simpler, more probable and more effective to terrorize from a research reactor scenario than from a power reactor. This section limits the prompt cause possibilities to a "relatively large quantity of explosives," and simply brushes the problem away.

A basic objection to this section is the implication for power reactors, and in particular the means of release to the environment of significant contamination. If not explosives, what? The implication seems to be stored energy, as if stored energy were easily taged to inundate the civil population. Certainly, if it is standard practice to allow dubious characters free run of power train containment when the primary system is hot (thermodynamically and radiologically), then stored, potential energy should be a consideration. But such a practice is wrong, and I doubt that power utilities allow "untested" personnel into any of their power train systems, nuclear or otherwise except under controlled conditions. Further, if there are abuses of this type, they are easily corrected, and do not involve the elaborate security program extant and/or proposed.

Exclusion of research reactors from this rule making is a good idea, even though they are more vulnerable to and practicable for terrorism. Power reactors should also be excluded, leaving only fuel reprocessing, including the transportation involved.

Even when diversion is the issue, research reactors do not represent, and were not shown in the hearing to be a significant problem. To suppose that the cores of several reactors will be "collected" by a terrorist group whose actions then will be undetectable and unresolvable in the months necessary to go from SNM reactor fuel to SNM bomb material, is utter nonsense!

The six reactors which will be required to conform to the conditions of the proposed rule present an interesting contrast:

- At least two will be shut down, even though they may also face incredible difficulties in disposing of their present formula quantities of SNM.
- The quality of the neutron spectrum of another two will be sharply affected, as will the potential for future upgrading of the systems to stay with the state of the art as defined by the leaders in nuclear research in France, Germany, Japan, Russia and elsewhere.

By and large, upon implementation of the necessary changes based on the proposed regulations, there will be significant reductions in training reactor availability, sharp reductions in the quality of U.S. nuclear research, and elimination of the United States as a serious contributor to fundamental non-weapons nuclear R & D.

Perhaps one of the more amusing outgrowths of the crushing burdens being imposed by Regulatory as a result of anti-nuclear pressure groups will be the continued decline in non-weapons (true) research. There will be no effect upon weapons R & D. The United States will become even more academically isolated from the basic scientific world -- perhaps ostracized is the word.

Section 3.1: In the final analysis, it is difficult to understand what person, who really qualifies as an "insider" for effectivity, won't meet the conditions of this section. Based on other (statistical) data discussed earlier, the probability of the insider being eliminated by the security investigation is remote. Accordingly, all the extra-facility measures one can take leave the nuclear facility no less vulnerable than before. Only compartmentalization remains as a practical, effective system.

Of course, that's the way our present systems (in industry) work now.

Section 3.2: Ibid

Section 3.3: As a participant in these hearings for the research reactor community, it behooves me to breathe a sigh of relief and tiptoe quietly away. As a thoughtful person, I cannot do that.

I agree completely with the conclusion of this section, which divorce most research reactors from the proposed rule, but disagree totally with the incredible rationalizations that placed research reactors in an exempt status while making safe, well-attended power reactors the butt of this regulatory practical joke.

Section 3.4: For those conditions wherein significant adverse radiological or diversionary results are a consequence of terrorism, the ONLY proper resolution is military. Military air shipments are the clearest example of a sane nuclear policy if the terrorist threat exists. Similarly, where fuel reprocessing is threatened by terrorist activity, only the military should be charged (and trusted) with the welfare of the public.

If terrorism is real, let our defense be federal forces, not private mercenaries.

Section 3.5: Finally, based on the published implementation schedule for this proposed rule, a terrorist will be quite clear on what must be done and by when.

Ridiculous!

If there is a problem, please correct it now. On the other hand, if terrorism is on the same schedule as Regulatory, it appears that you know enough to interdict it far short of overt facility involvement.

So, let's get the military to stop terrorists. Then we won't need all those extra investigators and guards and clerks to process all of these new people and the paper they require/generate besides.

Section 4: In conclusion, NRC clearly failed to make its case. The proposed rule should be abandoned.



## REVIEW OF STAFF'S CONCLUDING STATEMENT

It now seems clear that the purpose of the hearing was not to review the character and wisdom of proposed rule makings, but rather to institutionalize the basic Nuclear Regulatory Commission position. There were no technical concessions of significance derived from the hearing. The abandonment of the ludicrous and untenable position regarding airline pilots, and the second thoughts with respect to the value of psychological testing were in the direction of greater arrogations. The "grandfathering" concession, the incredible delays for implementation of the proposed fiat, and the conclusions regarding non-power reactors were political concessions. Without these concessions, it is probable that industry could and would have stimulated a major Congressional review of Regulatory's clear preemption of legislative prerogatives.

It would be appropriate and interesting to submit the Staff's Concluding Statement to an academic review for the purpose of characterizing the intrinsic logic (or lack thereof) of the presentation. The rationale and the conclusions of the staff are specious -- are simply not coupled logically to the major premises, nor to the general testimony, nor even to the testimony of some of the staff witnesses.

The opposition testimony of all witnesses other than the staff notwithstanding, the Nuclear Regulatory Commission will apparently move ahead in its assumption of constrictive and absolute power over the (nuclear) energy industry. It does not appear that industry, the Department of Energy, nor the Executive department can find the means or the will to be heard for the people. Without comment on intent, I submit that the NRC, through continuing efforts characterized by this hearing, is adversely and unnecessarily throttling the nuclear industry, and thereby any hope for United States energy independence in our time.

The abandonment of the concept of using psychological testing has at least one unfortunate impact -- for we lose a tool for examination of the Regulators. It would be of signal interest to identify the consistent characteristics of career regulators. In the spectrum of these police-related activities, the nature of personality/motivational relationships and commonalities to other, less sophisticated police forces might prove to be worth considerable study.

The following comments relate to the respective paragraphs of the Staff's Concluding Statement, as indicated. Not all paragraphs are included.

Section 1.2: The concept of the "insider" is an unexamined major premise. Of course, once granted, the "insider" concept is clearly an important consideration. However:

a. The more knowledgeable the insider, the lower is the probability of his existence (See Sections 2.2.2 and 3.1). It follows that the person who becomes authoritative enough (knowledge and position) to accomplish significant sabotage, won't.

b. Particularly with regard to power plants, the "opportunity" (page 2, line 5) is enigmatic. To do what? Several successive events would be necessary to do anything inimical to the health and safety of the public. The probability of successful pursuit of the several steps without interdiction by other, white-hat insiders is someplace between remote and negligible.