

Paul M. Blanch PE

Energy Consultant

Monday, January 10, 2022

Daniel H. Dorman
Executive Director for Operations
United States Nuclear Regulatory Commission
Washington D.C. 20555-0001

Dear Mr. Dorman:

I am responding to your letter dated December 21, 2021. Your letter was in response to two unrelated safety issues identified in my letters dated November 12 and 22, 2021. One letter requested a meeting in accordance with Commission approved policy (“NRC Policy on Meetings with the Public”) and the second letter requested the Commission to reject SECY-21-0083, "Planned Revisions to the Review Process for Title 10 of The Code of Federal Regulations 2.206 Petitions, Management Directive 8.11 and the Associated Desktop Guide.” Your response failed to adequately address either of the issues in my two letters.

From a recent FOIA response it appears the NRC staff at the Office of Public Affairs (OPA), is determined to combine and conflate two separate issues. The first issue, (SECY 21-083), is the sole responsibility of the Commission¹, and not the Staff or OPA attempting to obfuscate both issues. The second issue, “NRC Policy on Meetings with the Public” appears to be a shared responsibility between the Staff and the Commission.

Your December 21 letter ignored the basic question: Why are my comments, along with Senator Gillibrand’s office and Public Watchdogs being ignored, and then discarded in spite of two very clear, official NRC written transcripts? ².

Following my brief presentation and concerns articulated in these public meetings, Greg Suber stated and transcribed:

“That we have taken their recommendations to heart and that we are proposing changes that address, to the extent practicable, the principal

¹ Commission Policy Statement on Enhancing Participation in NRC Public Meetings

² Portions of transcripts enclosed as Attachment 1

recommendations or comments that we received from Mr. Blanch and others.”

Once again, this is a typical NRC assurance and an example of the NRC promising what it thinks the public wants to hear, and then totally ignoring its pledges. I would appreciate responses to all of the issues I raised in the transcripts of the meetings on the 2.206 process (excerpts enclosed as Attachment 1)

Therefore, I am once again formally requesting the Commission to delay approval of SECY 21-0083 until the issues discussed in these meetings on the 10 CFR 2.206 process are properly addressed.

Secondly, in my November 12, 2021, letter to you, I requested a public meeting in the area of San Onofre to discuss spent fuel issues following the guidance outlined in the NRC’s [*Principles of Good Regulation*](#)³ and its Policy of Enhancing Participation and engenders the trust of the public.

Your response mentioned four meetings related to San Onofre, none of which addressed or complied with the Commission’s recent policy. What’s more, no meaningful public dialogue was permitted at those meetings

Your letter of December 21, 2021 provided some reasonable responses however, it fails to address either of the issues presented to you in my correspondence dated November 12, 2021 and November 22, 2021 and fails to restore public confidence and trust.

Specifically, I am formally requesting a public meeting⁴ in late February or early March of this year to address safety issues with the storage and integrity of the spent fuel. I am also requesting that the NRC delay approval of SECY 21-0083 until the issues discussed in the meetings on the 10 CFR 2.206 process are properly and publicly addressed.

³ See *Principles of Good Regulation* at [ML20282A656.pdf](#)

“Demonstrate the Principles of Good Regulation in performing the agency’s mission. To be successful, the NRC must not only excel in carrying out its mission but must do so in a manner that engenders the trust of the public and stakeholders. The Principles of Good Regulation—independence, openness, efficiency, clarity, and reliability—guide the agency. They affect how the NRC reaches decisions on safety, security, and the environment; how the NRC performs administrative tasks; and how its employees interact with each other as well as with external stakeholders. By adhering to these principles, the NRC maintains its regulatory competence, conveys that competence to stakeholders, and promotes trust in the agency. The agency puts these principles into practice with effective, realistic, and timely actions.”

⁴ 4 With the resurgence of the most recent strain of COVID, I would consider a “Zoom” type or similar NRC program to meet the latest requirements of the NRC Policy on Meetings with the Public

I fully understand, given the wide spread of the COVID virus, a face to face meeting may not be possible. I would consider a “web based” video and audio meeting⁵ the intent of the recently revised Commission Policy.

Without this meeting, public confidence, trust and NRC credibility will continue to degrade further jeopardizing the nuclear industry.

Very truly yours,



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Cc: Chairman Hanson
Commissioner Wright
Commissioner Baran
Senator Gillibrand
Inspector General Robert Feitel
Representative Levin
Representative Peters

⁵ In contrast to prior NRC meetings where the video was via the internet and the audio was via phone call in.

Attachment 1

Excerpt from Transcript October 20, 2020 Meeting

Paul Blanch:

Good afternoon David and all those other people. I've got no questions, but I have very significant comments.

Being that I was the initiator of this whole thing with the Inspector General and the author of the 2.206 petition, I probably have significant knowledge. At the beginning of the meeting, the words "public confidence in the process" were mentioned. From my relationship with those people that have submitted 2.206 petitions,

I think if you want to improve public confidence you should find out what public confidence those people over the past number of years have in this process. I know if you asked me, my confidence is zero.

Now, let me first of all get to an issue that has not been properly resolved. If we look at the OIG Event Inquiry, I think it's 16-024 whatever. I was working on it this morning and this is something everyone's got to take to heart. In that OIG Event Report or Inquiry, there were **14 times it mentioned that inaccurate information was provided by the NRC, (*Emphasis added*)** primarily to me.

There was also one or two statements that talked about how the NRC misrepresented information. Now I would have thought after my discussions with Dave Skeen and everything, that that would have raised a flag, and we, the NRG, would have really determined a way to make sure that anything that is sent to the petitioner is accurate, complete, so on, and so forth.

Now a petition was filed on February 4th by Public Watchdogs and, of course, I was the author of that. That petition had to do with flooding of the FSC system with 73 canisters being potentially flooded. We received a

letter from Kevin Williams, dated September 1st of this year, that contained incredible amounts of inaccurate and incomplete information. Totally, totally bogus. Regarding that letter, as you have previously discussed before it went out, I would have expected some type of interest independent review to assure that the rejection of the petition was properly justified by the references provided in the rejection letters. We will have a response to that.

However, again, after all of this and everything I have been through with Indian Point, the Inspector General, and everyone that's been involved here, we're still getting inaccurate, incomplete, and in some cases, intentionally misleading information. That's a serious accusation that I'm making, and I'll deal with that. When the NRC is either rejecting or proposing to reject a petition, which is my case here on that September 1st letter, or the final director's decision, what assurance do we have that the information provided in these documents is in fact complete and accurate?

As of September 1st, the NRC continues to intentionally mislead members of the public and the millions of residents, especially around the San Onofre Plant.

We had it with the Indian Point Plant, but it's just Deja vu and the NRC needs to look at that. I will be outlining all the false information that was provided by the NRC in a response within the next week. It's incredible. We have technical specifications that are obsolete, and these are referenced in the response that absolutely cannot be met. These are legal licensing documents **whereby the NRC is misleading us, the public, myself, and my client and nothing has improved.** *(Emphasis added)*

I apologize for sounding so negative, but I've been working on my response to Mr. Williams' letter for the past few days and interfacing with other federal agencies. That's all (unintelligible).

Scott Burnell: Paul. Thank you, Paul. Again, Scott Burnell from Public Affairs. Whenever you submit your letter, the staff will review it. They did take a great deal of time in putting together an extensive letter closing out the petition and the staff does stand by that. Do you have any specific?

Paul Blanch: (Unintelligible).

Scott Burnell: Was it a question regarding the recommendations that we're discussing today?

Paul Blanch: Absolutely, the petition was not closed out. It was just rejected. So, it was never even accepted.

Excerpt from Transcript June 8, 2021

NRC 2.206 meeting

Paul Blanch: Well, thanks very much for this opportunity.

This is the first meeting that I've heard about on the 2.206 process. I think in some respects you are missing the boat.

I was obviously the one who initiated the OIG investigation and numerous meetings with them as I'm sure the NRC staff has had with them.

Subsequent to the report that came out in February of last year, I spent quite a bit of time working with David Skeen and his executive management team on recommendations, primarily on technical issues. I've also had a few meetings with Petition Review Boards.

And again, I don't think that what is being proposed here is going to address the questions I have and certainly some other people have who are not on this particular phone call.

One or two of the issues that were clearly identified in the Inspector General report but never addressed in any of your slides. Our statements in the IG report, such as the NRC provided an inaccurate description of the work the NRC conducted to assess the stakeholders' concern.

Inaccurate information, you know, as a licensee we have either 50.5 or 50.9. And when a licensee submits inaccurate information to the NRC, there are sanctions and civil penalties and criminal penalties that could be imposed on the licensee.

Now here we have the NRC providing what I call a politically correct name, inaccurate, incomplete information to the public that the NRC serves.

And here we have a meeting to address some of the issues, or the major issues, in the OIG report. To me, this is one of the major issues and how do we stop the NRC from putting out inaccurate information which, if it went the other way, sanctions and criminal penalties could occur?

The other statement that the OIG report said, NRC misrepresented the assumptions using the follow-up bounding analysis. Again, we're talking NRC putting out bad information to the petitioner.

Something needs to be done. It needs to be done and sanctions need to be imposed on those people that are responsible. This is not acceptable to me as a member of the public.

Now, moving on to some of the other issues I have. And I received - well I have two Petitions essentially open. One has to do with the flooding analysis San Onofre Nuclear Power Station in California.

That Petition was rejected because the NRC determined it was a previously analyzed event. Nothing could be further from the truth. How do we prevent the NRC from making these false statements, and I do mean false statements, and incomplete information to the petitioner?

I mean, the BS that was put out in the Kevin Williams September 1st letter was just absolutely **incredible, inaccurate, incomplete.** (*Emphasis added*) We need to stop that.

The second Petition was submitted in October of 2020. This

Geri Shapiro: Thank you. Geri Shapiro, senior adviser to Senator Gillibrand and working on Indian Point in particular for 20 years.

It's just troubling to me the last statement that this is not the forum. And I know Greg tried to explain what would be the appropriate forum.

I just want to get some kind of timeline when Mr. Blanch and Mr. Langley's issues that they've raised, which I've heard them raise before, when they will be addressed. And truthfully, hopefully it'll be in my lifetime and I'm going to be 80.

So, you know, just I would like some clarity and some specific answers about

Petition is also being rejected on the same basis. We've had a preliminary rejection already by email.

And the other thing this group really, really needs to take a careful look at, 2.206 clearly stated, whether I agree with it, but it is a rule, that for a petitioner once there is a director's decision, there is no appeal by the petitioner.

The NRC in some of their communication with me has inferred that the nonacceptance of a Petition cannot be overruled, appealed, reconsidered or anything else. That is not stated in the rule itself, 10 CFR 2.206.

Another problem we have, when we have a problem, a safety problem, regulatory compliance or any problem, be it a family problem, a problem with our children or whatever, we always find that a dialogue works best.

Now we went through within the past two months a two-hour presentation with the NRC and the Petition Review Board on the issue of credible events and not credible. And I believe it was 18 times I was told I am not allowed to ask any questions.

That just shuts off any dialogue. That has got to be resolved. In your Management Directive 8.11, it allows the licensees to ask questions as well as other participants in the meeting. But the petitioner who has the concern, and I was told emphatically eight times, we have a video of it, that we cannot ask questions.

How can we solve a problem, and we do have outstanding two major problems, the one on the flooding of San Onofre and the one on the definition and how is it used for credible events?

I have a simple question that I want to ask and that has to do with a dry cask. I talked to Andrea Kock and asked her, what is the impact should the canister that contains the spent fuel should it lose its helium overpressure. And she said, I can't answer that because it's in the 2.206 process.

Now, here we have a Catch-22. Directors can't answer my question. They tell me go through the 2.206 process. I go through the 2.206 process, and what am I told? We can't answer any questions.

So the resolution, I believe, that if a Petition either, well, is not accepted for consideration because it has been whatever the reasons are given in Management Directive 8.11, analysis has already been conducted.

If that is going to be the NRC's position that the analysis has already been conducted, that analysis, or at least the summary - now I agree or admit that on the flooding analysis Holpak has

determined it not to be proprietary, that doesn't prohibit the NRC attesting to the fact that here are the results. Here's a summary of the results of the analysis and this is why your Petition is rejected. All I get in the rejection is that analysis has already been conducted. That is not the right way to do business. We both have problems, both the NRC and us members of the public. And if we can't have an open dialogue to discuss the problems, all we're going to do is lock horns and bang heads. And that's what we've been doing.

And it was the OIG report that alluded to some of these facts that are not being addressed. And I just read some of them to you. Go back to the OIG Report 16-024. And don't cherry-pick the easy problems. Go to the big problems where the NRC is putting out misinformation, inaccurate and incomplete information and in my words, absolute lies.

What is being done as far as sanctions to those people that are causing this and what is being done to prevent that from recurring? Again, those are the major issues I have.

It's just that every time, and I've probably in my life over the last 30 years submitted maybe 8 or 10 Petitions, some of them accepted and some rejected, but all of them obviously have been rejected by the director. We as the public just don't stand a chance.

Look at the statistics that I presented. Back in 1993 based on an Inspector General's report and my testimony before the U.S. Senate, only two Petitions out of 400 plus were ever accepted. And the numbers have gotten worse since that time.

We need to change the process. Don't pick the low-hanging fruit that you're doing right now. Get to the root cause of the process and the problem. Get the NRC to tell the truth.

And if they're going to say an analysis has already been conducted then provide a copy of the analysis or a summary of the analysis if it happens to be security-related or proprietary information but just don't tell us. We put a lot of time and trouble into these Petitions, believe me.

And I know we cause a lot of heartaches and headaches with the NRC. But when we get to this stonewalling each other - and I think I've been open as indicated by my communication with the OIG and Dave Skeen's team and the PRBs and so on and so forth, I've been more than cooperative. I've been open.

And I get Mr. Williams up there telling me in a somewhat controversial manner, Mr. Blanch. You're not allowed to ask any questions, that's not part of 2.206. That's part of the 8.11 process that was developed. And I know this to be a fact in conjunction. by - well first of all by the NRC and in conjunction with NEI, which at the time might have been NUMARC.

So the public is blocked, totally blocked in public meetings. This is the only time I've had a chance to fully vent. And if I sounded too harsh, I apologize. But I think I've got good points. I've got valid points. And I hope that the NRC will take these points very seriously.

They are being transcribed. This transcription will be circulated. And I thank you for your time. And I'd like to hear what the other commenter has to say. And I am done. And again, thanks again for your time.

Brett Klukan: Thank you very much, Mr. Blanch. I'm going to turn it over to Greg for a response. So, with that, Greg or Gregory.

Gregory Suber: Hey, so I will kind of respond at the end. And I'm just willing to forego that for right now and listen to the comments

from the other commenter. But I have taken some notes and I am going to address some of Mr. Blanch's points, which I really appreciate.

Page 21 from transcript

Gregory Suber: Okay. So thanks for that question. And I believe in substance the issues that were raised in the 2.206 Petition for Indian Point, you know, they have been resolved.

And the staff they conclude even though there were flaws maybe in the process and in the way we did the review and dispositioned the Petition, that the pipeline it is safe. So from that perspective, there really isn't very much more to disposition in 2.206 from a technical standpoint.

The changes that we're implementing that address the process that's still ongoing. And at the end of the presentation, I had a slide that would go through the next steps, but I'll just briefly speak to that now.

So what we have now is we have the report. We have communication from the public. We have incorporated those in two stages and have proposed changes to both the Management Directive and the Desktop Guide.

Now, the Desktop Guide is the thing that the staff uses as a reference to actually go through the process. So those are directions to the staff. And we're proposing, you know, a good deal of revision to the changes in the Desk Guide to make sure that some of the shortcomings that we experienced in dispositioning the Indian Point 2.206 Petition will not be repeated moving forward.

So I think we have been responsive. I know that, you know, that there are still some ongoing concerns with SONGS. Now, sorry if you don't like it, but the proper place to disposition that is in the PRB for SONGS.

But I do hope that we have acknowledged number one, that we have listened to all of our external stakeholders. **That we have taken their recommendations** (*Emphasis added*) to heart and that we are proposing changes that address, to the extent **practicable, the principal recommendations or comments that we received from Mr. Blanch and others.** [*Emphasis Added*]

Comments below from Senator Gillibrand's office page 20 of transcript:

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Chairman Resource

From: Paul Blanch <pdblanch@comcast.net>
Sent: Monday, January 10, 2022 12:06 PM
To: CMRWright Resource; CMRBARAN Resource; Chairman Resource; Geri Shapiro; Krsek, Robert; Feitel, Robert; Spicher, Terri; david.dorman@nrc.gov; Burnell, Scott; Suber, Gregory; Campbell, Kevin; Bartley, Malion
Cc: Paul M. Blanch; David Lochbaum; Old Nuke; Nina Babiarz; Charles Langley; Peter D. Wolf; Stephen Kent; Greg Jaczko; Hering R. Sr.; Lampert Mary; James Lampert; cathy iwane; Donna Gilmore; Buckberg, Perry; Manna Jo Greene; Billie Garde
Subject: [External_Sender] Response to EDO letter of December 21, 2021
Attachments: 20220110 Response to Dorman.pdf

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