

NOTATION VOTE

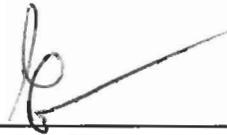
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Gregory B. Jaczko
SUBJECT: SECY-09-0090 – FINAL UPDATE OF THE
COMMISSION'S WASTE CONFIDENCE DECISION

Approved Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached None _____



SIGNATURE

7/22/10

DATE

Entered on "STARS" Yes No _____

Chairman Jaczko's Supplemental Comments on SECY-09-0090 Final Update of the Commission's Waste Confidence Decision

This update to our Waste Confidence Decision has been with the Commission for some time and understandably so given the complexity of the issues involved. Although Commissioner Svinicki and I have had the benefit of reviewing this rule for more than a year, our more recently confirmed colleagues have not. Thus, the Commission has taken the necessary additional time before moving forward with this proposal. I believe that time has proven very productive. Now that the full Commission has had the opportunity to become familiar with the lengthy history of our Waste Confidence Decision and fully consider the complexity of this matter, I propose the following path forward in hope of reaching a consensus on this important issue: The Commission (1) approve the Waste Confidence update, as revised below, and (2) direct the staff to conduct further analysis to support a future update to account for the possibility of additional, indefinite storage of spent nuclear fuel.

First, I propose approval of the issuance of a final rule revising our generic determination on the environmental impacts of storage of spent fuel at, or away from, reactor sites after the expiration of reactor licenses with the following revisions to 10 C.F.R. § 51.23 and Waste Confidence Findings (2) and (4):

§ 51.23: Temporary storage of spent fuel after cessation of reactor operation – generic determination of no significant impact.

- (a) The Commission has made a generic determination that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 60 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of that reactor in a combination of storage in its spent fuel storage basin and at either onsite or offsite independent spent fuel storage installations. Further, the Commission believes there is reasonable assurance that sufficient mined geologic repository capacity will be available in the foreseeable future.

Finding 2: The Commission finds reasonable assurance that sufficient disposal capacity, including but not limited to mined geologic repository capacity, will be available to dispose of the commercial high level waste and special nuclear fuel generated by any reactor in the foreseeable future.

Finding 4: The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 60 years beyond the licensed life of operation (which may include the term of a revised or renewed license) of that reactor in a combination of storage in its spent fuel storage basin and either onsite or offsite independent spent fuel storage installations.

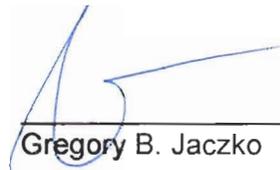
Second, I propose directing the staff to also begin a longer-term rulemaking effort that would address impacts of storage beyond 100 years. While I remain confident that we will achieve a safe and environmentally sound means to permanently dispose of the nation's spent nuclear fuel, I believe that the prudent course of action is to direct the staff to conduct further analysis and update the Waste Confidence findings to account for the possibility of additional, indefinite

storage of spent nuclear fuel. While I believe that the staff's analysis showing that storage will be safe and will not result in environmental consequences for 100 years should be more than adequate to account for the time until permanent disposal becomes available, an understanding of the consequences of storage for longer periods of time will be helpful in informing future Commission policy decisions on this subject. I therefore propose that the staff be directed to prepare an update to the Waste Confidence Findings and Proposed Rule to account for storage at onsite storage facilities, offsite storage facilities, or both, for more than 100 years, but no longer than 300 years, from the end of licensed operations of any nuclear power plant, which may include the term of a revised or renewed license.

Given the breadth of the analysis necessary to support a Waste Confidence update, the Commission should exercise its discretionary authority under 10 C.F.R. § 51.20(a)(2) to direct the staff to prepare a draft Environmental Impact Statement. The proposed rule and draft environmental impact statement should be sent to the Commission in an Information Paper five days before they are sent to the office of Federal Register to be published for public comment.

In light of the extensive environmental review that will be necessary to support this proposed rule, the lead responsibility for this rulemaking effort should be shifted from the Office of the General Counsel to the EDO's office. The staff should provide the Commission with updated budget estimates and timelines for this rulemaking. The Office of the General Counsel will continue to provide support to the staff for this rulemaking.

This is a difficult and challenging issue of national significance. I appreciate the staff's continued hard work, as well as the other Commissioners' thoughtful deliberations.



Gregory B. Jaczko

7 / 22 / 10

Date