

June 12, 2023

Sen. Tom Carper, Chairman  
Committee on Environment and Public Works  
United States Senate  
513 Hart Senate Office Building  
Washington, DC 20510

Sen. Shelley Moore Capito, Ranking Member  
Committee on Environment and Public Works  
United States Senate  
172 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito,

As Congress considers a forthcoming vacancy at the U.S. Nuclear Regulatory Commission (NRC), we urge Congress to carefully consider the qualifications and record of any nominee.

We oppose confirming Commissioner Jeff Baran to another five-year term. Commissioner Jeff Baran's term ends on June 30, 2023. Commissioner Baran's voting record shows a strong preference for overly burdensome regulations that hinder the deployment of new nuclear energy, and harm the environment in the process.

Nuclear energy has tremendous bipartisan support — specifically new advanced reactor technologies that are rapidly approaching demonstration and deployment. Congress has provided billions of dollars in funding to preserve and expand nuclear energy, and the Biden-Harris administration has identified advanced nuclear as an essential component of its ambitious climate strategy. These next five years will be crucial to the successful rapid deployment of nuclear energy.

The purpose of the NRC is to license and regulate the use of radioactive material in the United States to provide reasonable assurance of adequate protection of public health and the environment. Over the long course of his tenure at the Commission, Commissioner Baran's record demonstrates that he interprets that mission as justifying an excessive degree of precaution and duplicative processes that delay or discourage the construction and operation of nuclear plants, without offering a significant benefit to public safety. Recently, he has expressed strong support for modernization, but his well-established voting record contradicts those words and shows a clear resistance to risk-informed regulation. For specific examples, see the attached fact sheet.

The NRC has been implementing a strategy for modernization since 2016 — entirely during Baran's tenure. Commissioner Baran is often the sole dissenting vote on risk-informed policies to enable the safe use of advanced nuclear technologies. On multiple occasions, Commissioner

Baran not only opposes common sense staff recommendations to establish efficient and effective regulatory policies, he has supported reversing previous staff and Commission decisions or adding new costly requirements that would do nothing to improve nuclear safety.

Commissioner Baran has served for nearly 9 years. It is not common for someone to serve for a third term as a Commissioner. Only two of the 33 past Commissioners have served longer than 10 years. If re-appointed for another 5-year term, he could become the longest-serving Commissioner in the history of the NRC. Such a long tenure should be reserved for an exemplary Commissioner, who is driving and preparing the NRC for the future.

The status quo is not acceptable, and the NRC needs to be led by Commissioners who acknowledge the evolution of nuclear energy technologies and, in turn, the importance of modernizing the NRC to provide an informed, thorough, and timely review of regulatory matters to maximize the general welfare of the public. Continued service of Commissioners who inhibit modernization should be a thing of the past.

We disagree with calls to rush through the confirmation process to avoid a vacancy at the Commission. The primary objective should be to nominate the best candidate for the position.

In light of the increasing threat of public health impacts, energy security, and climate change, regulatory practices that unnecessarily deter carbon-free energy can no longer be considered harmless. Going forward, NRC Commissioners must fully internalize the irrefutable fact that unwarranted delays to nuclear deployment pose risks to the public and the environment they are sworn to protect. Rather than confirm Commissioner Baran, we strongly support considering an alternative candidate with the necessary vision, qualities, and character to lead the NRC into the future and address the imminent challenges faced by our country and the world.

Thank you,



## Commissioner Baran Voting Record Fact Sheet

Commissioner Baran has proven on multiple occasions that he prioritizes the unnecessary overregulation of nuclear energy above the protection of the environment. This fact sheet contains several examples of his voting record that show Commissioner Baran being the sole vote against reasonable steps to improve the efficiency of the NRC's regulations, hindering the deployment of new nuclear, which is necessary for combating climate change.

**(1) Commissioner Baran was the sole<sup>1</sup> vote against<sup>2</sup> updating NRC's guidance for siting smaller and safer advanced nuclear reactors that would allow advanced reactors to more easily replace shut-down fossil-fuel power plants.**

Transitioning old coal-fired power plants to cleaner nuclear power plants is an essential step for environmental justice because it provides a healthy pathway to stability for a community that is dependent upon a power plant, while decarbonizing US energy use. Current NRC regulations were developed with large light water reactors in mind, and may be a barrier to replacing fossil-fueled plants that existed closer to people, regardless of the safety risks (or lack thereof) of operating a specific type of reactor in more densely populated areas.

**(2) Commissioner Baran was the sole vote against<sup>3</sup> an NRC staff proposal to align emergency preparedness requirements with the reduced risk associated with advanced reactors.**

Imposing the same emergency planning requirements on smaller, safer reactors as what is applicable to today's large reactors is not technically justified and would impose extra costs on new reactors. The Advisory Committee on Reactor Safeguards (ACRS) found<sup>4</sup> that there are "no technical obstacles at this time to the rulemaking and recommend that it move forward."

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<sup>1</sup> [NRC ADAMS Accession Number: ML22194A890](#)

<sup>2</sup> [NRC ADAMS Accession Number: ML22194A869](#)

<sup>3</sup> [NRC ADAMS Accession Number: ML19351C728](#)

<sup>4</sup> [NRC ADAMS Accession Number: ML18291B248](#)

**(3) Commissioner Baran was the sole<sup>5</sup> vote against<sup>6</sup> developing a commonsense environmental review document for advanced reactors.**

The NRC staff proposed, and the Commission approved, the development of a Generic Environmental Impact Statement (GEIS) for advanced reactors to provide for a faster and more efficient environmental review process by taking into account the reduced environmental impacts (such as reduced water use or modular construction techniques) associated with new reactor technologies compared to today's large, light-water reactor technologies.

**(4) Commissioner Baran opposed<sup>7</sup> streamlining environmental regulations**

Commissioner Baran seems to believe that any effort to streamline environmental reviews would be problematic. He wrote:

*I do not support guidance changes aimed at reducing the length and detail of National Environmental Policy Act environmental reviews. The agency has often struggled with including sufficient detail in these important reviews. Efforts to "streamline" environmental impact statements would be counterproductive and could have significant adverse unintended consequences.*

**(5) Commissioner Baran supported<sup>8</sup> planning for extremely unlikely hypothetical accidents.**

The NRC staff found in NUREG-2161 that a release from a spent fuel pool accident after a severe earthquake at a reference plant could occur about one time in 10 million years or lower. While Commissioner Baran accepts those findings,<sup>9</sup> he nevertheless comes to the conclusion that such events should be taken into account during radiological emergency planning.

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<sup>5</sup> [NRC ADAMS Accession Number: ML20265A151](#)

<sup>6</sup> [NRC ADAMS Accession Number: ML20252A162](#)

<sup>7</sup> [NRC ADAMS Accession Number: ML19283C650](#)

<sup>8</sup> [Questions for the Record for Jeffery Baran, Senate Committee on Environment and Public Works Hearing Entitled, "Hearing on the Nomination of Jeffery Baran to be a Member of the Nuclear Regulatory Commission" May 10, 2023](#)

<sup>9</sup> [Questions for the Record for Jeffery Baran, Senate Committee on Environment and Public Works Hearing Entitled, "Hearing on the Nomination of Jeffery Baran to be a Member of the Nuclear Regulatory Commission" May 10, 2023](#) at p. 2

**(6) Commissioner Baran supported<sup>10</sup> basing<sup>11</sup> the new 10 CFR Part 53 on the current 10 CFR Parts 50 and 52, even though the new framework was supposed to be innovative.**

The Nuclear Energy Innovation and Modernization Act (NEIMA) directed the NRC to develop a new technology-inclusive regulatory framework for advanced reactors. The current nuclear reactor regulations were developed with one type of technology in mind: large light-water reactors. As such, a departure from the status quo was required to meet the mandate in NEIMA; however Commissioner Baran approved a rulemaking plan that would base the new regulatory framework on the existing frameworks and guidance.

**(7) Commissioner Baran supported unnecessarily increasing regulations on the current fleet of reactors**

One of Commissioner Baran's repeatedly stated concerns is that new, advanced reactor designs do not have any operating experience, yet even with the legacy fleet of reactors with decades of experience, he votes for increasing regulatory burden and oversight. For example, he voted to increase inspection frequency on the currently operating fleet.<sup>12</sup>

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<sup>10</sup> [NRC ADAMS Accession Number: ML20254A149](#)

<sup>11</sup> [NRC ADAMS Accession Number: ML19340A056](#)

<sup>12</sup> [NRC ADAMS Accession Number: ML22202A422](#)