

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
RUTH VAN MARK, MINORITY STAFF DIRECTOR

August 24, 2011

The Honorable Hubert Bell
Inspector General
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Inspector Bell:

We are writing to ask you to convene a formal investigation into the actions of Gregory B. Jaczko, the current Chairman of the Nuclear Regulatory Commission (NRC). In June, you issued a report, and later testified to Congress, concerning the Chairman's propensity to withhold information from the Commission, to ignore the will of Commission majorities, and to engage in behavior inappropriate for a chairman of a major federal agency. Later testimony revealed that his wrongful actions resulted in a Commission decision that reflected his policy determination solely because of his misleading actions. These inappropriate actions occurred primarily in the context of the Yucca Mountain licensing proceedings.

Once again, Chairman Jaczko seems to be engaging in additional acts to thwart Commissioners' ability to carry out their policy-making responsibilities, this time in the context of the Commission's response to the Fukushima accident.

First, it has come to our attention that the Chairman has abused, and apparently still continues to abuse, emergency authorities granted to him under Section 3 of the Reorganization Plan of 1980. Section 3 gave the Chairman "all the functions vested in the Commission pertaining to an emergency," but only with respect to emergencies "concerning a particular facility or materials licensed or regulated by the Commission." By assuming emergency powers in response to an incident at a foreign facility (i.e., a facility that is obviously not licensed or regulated by the NRC), the Chairman clearly exceeded his authority. Even now, it is not clear that the Chairman has ceased to exercise these powers even though the Near-Term Task Force has indicated there is "no imminent risk" to U.S. facilities. Moreover, the Chairman has apparently failed to keep the Commission informed "to the maximum extent possible," as required by Section 3(c), concerning any actions he has taken pursuant to emergency powers. Additionally, the Chairman failed to "render a complete and timely report to the Commission on the actions taken during the emergency"—something he has still not yet done.

Second, we believe the Chairman has acted inappropriately in exercising his responsibilities under Section 2 of the Reorganization Plan of 1980. This statute specifies that

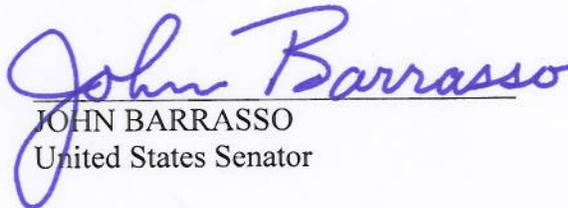
the Chairman shall be responsible for "assuring that the Executive Director for Operations (EDO) and the staff of the Commission are responsive to the requirements of the Commission in the performance of its functions." Apparently, Chairman Jaczko has disregarded this responsibility and inhibited the flow of information to the Commission. It is our understanding that the EDO prepared a paper to provide context and recommendations to guide the Commission's consideration of the task force recommendations. Such activities constitute a major part of the EDO's lawful and expected responsibilities. However, it is our understanding that the Chairman and his staff directed the EDO to strike the recommendations the EDO sought to provide the Commission and further directed NRC staff to alter several subsequent versions, with the final version actually being written by a member of the Chairman's personal staff. Apparently, Chairman Jaczko also directed the Secretary of the Commission to withdraw one of the versions which had been transmitted to the Commission, violating Internal Commission Procedures. The Chairman subsequently proposed his own roadmap and has made it public. Thus, the insights of the experienced head of the agency staff were withheld from the Commission and the public while the Chairman attempted to forge ahead on his own plans and perspectives. The fact that the SECY 11-0093 ultimately endorsed the EDO's recommendations does not pardon the Chairman's actions. The Chairman seems intent upon assuring that the EDO and NRC staff are responsive to his dictates, instead of being "responsive to the requirements of the Commission" (as explicitly required by Section 2 of the Reorganization Plan of 1980).

When testifying before the House Energy & Commerce Committee concerning your June report, you described the Chairman's behavior as "wrong." We are concerned that this pattern of wrong behavior has not only continued, but expanded beyond the Yucca Mountain issue to the Fukushima review process, and given this track record, we are concerned that it may involve other actions yet unknown. It seems clear that the Chairman has demonstrated a pattern of engaging in such wrong behaviors to further his own aims at the expense of his colleagues' legitimate expectations under law. Given the demonstrated propensity of the Chairman to mislead his colleagues and, as a result, the public on the true nature of his intents and purposes, we respectfully request your immediate, thorough, and fair attention to this matter.

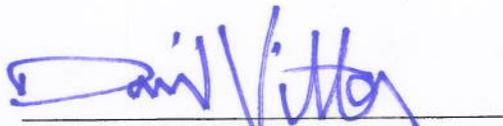
Sincerely,



JAMES M. INHOFE
United States Senator



JOHN BARRASSO
United States Senator



DAVID VITTER
United States Senator



JEFF SESSIONS
United States Senator