

December 15, 2011

The Honorable Jeff Sessions
326 Russell Senate Office Building
Washington DC 20510

Dear Senator Sessions;

I am pleased to respond to your question on the need to invoke Emergency Powers at the Nuclear Regulatory Commission under the Reorganization Plan of 1980. I served as Chairman from July 2006 until May 2009, during which time I never invoked Emergency Powers, even though the NRC Operations Center was activated into "monitoring" mode on several occasions. It was not unusual for the NRC Ops Center to be in monitoring mode during adverse weather conditions, particularly during hurricane season in the Gulf area, something I am sure you can appreciate. The Ops Center would remain in monitoring mode for the duration of the hurricane or weather event.

Weather was not the only trigger. I recall one time when the Ops Center was activated when a wayward airplane was unresponsive to radio instruction, and whose flight path approached some of our power plants. While this particular incident was resolved, at no time would I have felt it necessary to suspend Commission procedures and invoke Emergency Powers. I would also point out that during every "monitoring mode" incident, one of my senior staff, as well as a senior staff member from each of the Commission offices, were expected to participate in all briefings and conference calls for the duration of the emergency. In this manner, I fulfilled my statutory obligation to keep the Commission fully informed on all current matters.

Given a situation similar to the incident at Fukushima, I can see no reason to invoke Emergency Powers because nothing in the incident would have required a suspension to the normal Commission procedures. Moreover, I do not believe that suspending the law, which is what Emergency Powers allows, is something taken casually or in response to an incident in a foreign country that has little or no threat to the U.S. It is my understanding that former Chairman Richard Meserve declared Emergency Powers during 9/11 (a real crisis on American soil), but did so in consultation with his fellow Commissioners. Moreover, he understood the strength of providing five voices instead of one, and he assigned his fellow Commissioners duties to help coordinate the NRC response. Chairman Meserve exercised both leadership and a collegial approach.

As stated in the beginning, I never declared Emergency Powers and had I done so, I would have so stated in writing, would have called my fellow Commissioners, and most importantly, solicited their support for my actions. Furthermore, I would have indicated when that authority was expected to end, and would never have excluded my fellow Commissioners from the Ops Center, as has been reported during the Fukushima event.

Please let me know if you need any additional information.

A handwritten signature in blue ink, appearing to read "Dale Klein".

Dale Klein, Ph.D., P.E.
Associate Vice Chancellor for Research
The University of Texas System
601 Colorado Street, Room 302
Austin, Texas 78701