PO Box 295
El Prado, NM 87529
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US Department of Energy
Office of the General Counsel
GC-52
1000 Independence Avenue SW
Washington, DC 20585

To the DOE **General Counsel:**

I understand that the Price-Anderson Act is now under review for renewal. During its 44 years of existence it has been the greatest monument to hypocrisy in the US legal code. In both its announced intent and in its details it has continually been credited with benefiting the American public while it has actually provided financial protection for nuclear profiteers by limiting and picking up the tab for public liability. It does not insure the public against nuclear accident; in its only concession to American citizens, it simply allows claimants of nuclear damage to sue the federal government in strictly prescribed situations. Even in these cases, traditional defenses like sovereign immunity and statutes of limitations present towering obstacles to those **seeking compensation.** And where is the provision for citizens of other countries, subject to the US nuclear presence, to seek compensation?

The fact that sovereign immunity and time limitations obstacles are removed only in the case of an Extraordinary Nuclear Occurence (ENO) is one of those touted public benefits of Price-Anderson that proves to be, in fact, a mirage, since the foxes are minding this hen-house. With the power to declare an ENO residing solely with the Secretary of Energy or the NRC chairman, it is hardly surprising that no ENOs have ever been declared, not Three Mile Island, not the experimental releases from Hanford in the 40s that were greater than Chernobyl's.

A renewed Price-Anderson should, at the very least, transfer authority to declare an ENO to a body of representative experts and private citizens with no conflicts of interest. It should also lower the **outlandishly** high ceiling of requirements for what constitutes an ENO to where they are at least in line with EPA dosage limits for unconsenting private citizens.

Optimally, the ENO designation should be eliminated from this law. The very existence of Price Anderson, underwriting liability where regular commercial insurance companies refuse to take the risk, consitutes an admission that nuclear enterprise is extremely dangerous. Price Anderson is a nuclear subsidy in disguise. US

government agencies, DOE contractors, and nuclear power plants should not be allowed to hide behind sovereign immunity or statute of limitations defenses in nuclear incidents of any size. Even where incidents can be foisted off as "policy"--as in the case of the atomic veterans--citizens damaged by such cruel policy decisions should be entitled to seek compensation on a level legal playing field.

The 1988 amendments to Price Anderson also professed to benefit the public by requiring all nuclear damage claims to be settled in federal courts. It was argued that this change would make the litigation process more efficient and convenient for claimants, when in fact it stacks the deck against them. Federal courts are notoriously hostile to environmental or health damage claims against the federal government. And Price Anderson in its present form puts the friendlier state and local courts off-limits. This, too, should be changed. Put these cases back at the local level where judges are elected and/or are at least in closer touch with and more responsive to the needs of their constituents.

It is commendable that Price Anderson amendments have eventually required nuclear power plants to subsidize a token amount of public liability. However, the fact that the great bulk of this "retrospective self-insurance" need be paid only after a nuclear accident actually occurs adds up to an enormous incentive to cover up such accidents. The liability cap, above which America's 100 or so nuclear power plants are collectively not liable (in fact, nobody is liable), presently stands at about $9 billion, even while the cost of Chernobyl approaches a trillion. Who would pay for a disaster that size? Nuclear power plants are hardly being held accountable for the full magnitude of horror they are capable of perpetrating. And this lack of accountability in turn gives them little incentive to operate with utmost care and safety. The liability cap needs to be raised by many orders of magnitude, and the insurance pools to cover this liability should be financed in advance of unthinkable nuclear power accidents. Let the forces of the free and unsubsidized market place determine whether nuclear power plants survive and continue to churn out inconceivably deadly waste for which officialdom has yet to find a viable solution.

Meanwhile DOE nuclear weapons contractors, who do 80% of DOE business, assume no liability at all for any unfortunate fall-out from their businesses. There is also about a $9 billion cap on public liability (which should also be raised by many orders of magnitude) for accidents perpetrated by the nuclear weapons business, but in this case the full cost of that $9 billion is borne by the American taxpayer. Only an act

of Congress can provide more funds than $9 billion for any nuclear accident, and those funds, too, would be provided by the taxpayers. Surely such DOE contractors as GE and Westinghouse, both of whom can afford to buy major television networks, can also afford to buy their own nuclear insurance. So any renewed Price Anderson should raise the liability cap and require DOE contractors to finance their own insurance. As it is, they have no accountability and no incentive whatsoever to operate with safety. And if they can't afford their own insurance, wouldn't that prove beyond a doubt that the risks of nuclear profiteering, absent governmental bottle-feeding, far outweigh the benefits even for those who seek financial gain from the threat of mass destruction?

Sincerely,

Marilyn Gayle *Hoff*