

Blue Ridge Environmental Defense League

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34 GROUPS CALL FOR RESIGNATION OF NUCLEAR REGULATORY COMMISSION'S WILLIAM MAGWOOD

Failed to Recuse Himself on Key Votes: Pursuit of Job Promoting Nuclear Power Put NRC Commissioner at Odds with "Safety First" Requirement of U.S. Federal Law; Parallel Seen to OIG Investigation Into Job-Seeking Misconduct of Ex-Commissioner Merrifield.

WASHINGTON, D.C. – June 18, 2014 – Today a broad coalition of 34 public interest groups called upon Commissioner William D. Magwood to resign from his position on the United States Nuclear Regulatory Commission. The groups cited his recent taking of a job promoting nuclear power while serving on the U.S. Nuclear Regulatory Commission as the cause.

The groups contend that Magwood's continued presence on the NRC violates federal law governing the impartiality of judges. According to attorney Diane Curran, "Commissioner Magwood should resign because a reasonable person would question his independence and objectivity in applying NRC safety requirements or judging the significance of safety issues. Mr. Magwood has a conflict of interest whenever he is forced to consider a solution to a safety issue that could significantly increase the cost of nuclear power production and thus limit its viability in the marketplace."

According to the letter the groups submitted today to Magwood and his fellow Commissioners, Magwood "fatally compromised" his role as an independent safety regulator by failing to recuse himself from NRC safety decisions while negotiating for and accepting the position of Director-General with the Organisation for Economic Co-Operation and Development's (OECD) Nuclear Energy Agency (NEA). By charter, the NEA actively promotes the use of nuclear energy and the economic interests of its member governments, including governments that own or sponsor U.S. nuclear licensees and applicants.

The groups charge that Magwood's negotiation for and acceptance of the NEA position, while also serving as a safety regulator at the NRC, is "antithetical to the basic principles of the Energy Reorganization Act of 1974 that safety, not economics, must be the NRC's paramount consideration and that promotional policies shall be left to the U.S. Department of Energy (DOE)." The letter warns that "the blending of economic promotion with safety regulation is a root cause of the regulatory failures that paved the way for the Fukushima disaster in Japan."

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In addition to seeking Magwood's resignation, the letter also demands that Magwood retroactively recuse himself from any safety decisions he participated in after submitting his employment application to the NEA, approximately nine months ago. The letter charges that while Magwood's application to the NEA was pending, he had a "strong incentive" to improve his employment prospects "by avoiding safety decisions that would exacerbate nuclear power's ongoing economic difficulties." During the nine-month period since the NEA position was closed for further applications, Magwood voted against further research by the NRC technical staff on two important post-Fukushima issues: the adequacy of the scope of NRC's safety regulations and whether the NRC should order the expedited transfer of spent fuel from high-density storage pools into dry storage. Had Magwood voted in favor of further research into these safety issues, the research "could have led to the imposition of additional costly safety requirements on reactor licensees," posing a "conflict with the NEA's interests in minimizing reactor costs." Thus, the letter asserts that Magwood should recuse himself because "a reasonable person would question the objectivity of [Magwood's] vote against further inquiry by the Staff."

According to the letter, Magwood committed the same kind of mistakes that resulted in a negative Office of Inspector General (OIG) investigation of former NRC Commissioner Jeffrey Merrifield. The OIG found that former Commissioner Merrifield violated federal ethics rules by soliciting employment with the nuclear industry while serving as an NRC Commissioner, without recusing himself from decisions in which his prospective employer had a financial interest. In contrast, in a subsequent investigation of former NRC Chairman Dale Klein, the OIG concluded that Mr. Klein avoided creating a conflict of interest during his term on the NRC by "decid[ing] simply not to address any prospective employment offers while at NRC."

Finally, the letter demands that Magwood release all of the correspondence related to his job application to the NEA.

For the full text of the OIG findings in the case of Commissioner Merrifield go to <http://www.nirs.org/reactorwatch/licensing/magwoodletter61814.pdf> on the Web.

The signers of the letter to Commissioner Magwood are (in alphabetical order): Alliance to Halt Fermi 3, Beyond Nuclear, Blue Ridge Environmental Defense League, Center for a Sustainable Coast, Citizens Allied for Safe Energy, Citizens Environmental Coalition, Citizens Resistance at Fermi 2, Coalition for a Nuclear Free Great Lakes, Don't Waste Michigan, Kay Drey, Ecology Party of Florida, Friends of the Coast, Friends of the Earth, Green States Solutions, Hudson River Sloop Clearwater, Indian Point Safe Energy Coalition, Captain Dan Kipnis, Missouri Coalition for the Environment, NC WARN, Nevada Nuclear Waste Task Force, New England Coalition, Northwest Environmental Advocates, Nuclear Energy Information Service, Nuclear Information and Resource Service, Nuclear Watch South, Physicians for Social Responsibility, Public Health and Sustainable Energy, Riverkeeper, San Clemente Green, San Luis Obispo Mothers for Peace, San Onofre Safety, SEED Coalition, Sierra Club Nuclear Free Campaign, and Southern Alliance for Clean Energy.

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