Admiral Len Hering on Holtec, Wash, DC (May 13, 2019)

(*Transcription of Statement*)

ENVIRONMENTAL AND ENERGY STUDY INSTITUTE (EESI): "Decommissioning: A New Era in the U.S. Nuclear Power Industry; a Critical Need for Congressional Oversight," Environmental and Energy Study Institute (EESI) Congressional Briefing, cosponsored by Beyond Nuclear, Hudson River Sloop Clearwater, Natural Resources Defense Council, Nuclear Energy Information Service, Nuclear Information and Resource Service, Riverkeeper, et al, Rayburn House Office Building, Washington, DC, U.S., May 13, 2019. https://www.c-span.org/video/?460643-1/nuclear-power-oversight.

REAR ADMIRAL LEN HERING (Ret)

Rear Adm. Leendert Hering (Ret), Advisory Board Member, Center for Climate & Security

Thanks for the opportunity to talk today. I am here, I'm a proud surface warrior and a former nuclear weapons handling and nuclear weapons safety and nuclear weapons security officer. I am not a nuclear engineer. I have spent my years working in a world where safety and risk are always in the forefront of everything that I have done. Working in dangerous environments requires that everyone involved is properly trained, exercised and prepared, both to conduct the operation in accordance with properly approved and tested rules and regulations and be prepared to react to conditions when those regulations fail to produce the desired outcome. In other words, respond to a disaster. I have learned to examine risk and inspect what you expect. I have learned that training and adherence to the rules is paramount to both safety and success. I have also learned that when you violate or alter safety conditions, you seriously place your people and yourself at risk.

Throughout my career, I have found that rules and regulations are written for a purpose; in my business, primarily because somebody had lost their lives.

But the more I looked into this self-regulated system of oversight, I found that condition that I just mentioned not to be adhered to. Almost not at all. Modifying and altering safety conditions that were clearly established to define safety conditions seem to be waivered or exempted without significant review or testing to ensure the risk factor that originally was required the rule to be put in place was, in fact, compromised by its change.

In August of last year, SONGS had a near miss (SONGS is San Onofre Nuclear Generation facility) {*San Onofre Nuclear Generating Station}* had a near miss when a 54 ton container nearly fell 18 feet into its concrete holding facility. While that in itself should scare you, and it should, that is not what scared me.

What scared me is that we would not have been told about the incident unless a whistleblower had come out in public hearing to tell the world that he couldn't stand by and not hear what had happened in that public hearing. If it were not for him, we would not have been made aware that this situation had occurred. And I am convinced that in this self-regulated process, that it would have been kept to a mere minimum at best.

Since that time I have focused my attention on learning more. And what I have uncovered is, to be honest, astounding.

I have come to realize that the handling of the most hazardous material known on the face of the Earth was, in fact, being handled like any other commercial waste product. I have found that basic safety requirements have been waived or *contorted* in favor of expediency and cost. I have found that regulations that are meant to provide the necessary safeguards for the material are often lessened or waived to provide shortcuts for solution.

Many that I have reviewed have been issued without a thorough study or an open discussion amongst experts and engineers. I have witnessed numerous exchanges of credible experts in the field of oceanography, seismic geology, physics, metallurgy, chemistry, nuclear engineering, and many more,

have their concerns be blatantly disregarded or ignored by the regulatory commission and those in the process. I have seen a total disregard for peer review and a concise scientific research when there is a difference of opinion amongst the experts involved. Perceptions of difference are not included as part of the process.

The trust and confidence of the community and the experts within it have been eroded by the smug and unprofessional manner in which the safety and scientific concerns of those involved have been addressed.

NRC Regulatory Regulation Title X Part 72 are – or should I say *were* –deliberately drafted to make sure this highly dangerous material was handled in the most secure and safe manner possible. However, over the course of the last few decades, regulations have been weakened, allowing for exceptions that are simply and clearly *not* in the best interest of our safety.

Besides the siting issue, and I won't get into that (San Onofre is actually in a bay referred to by early settlers as "Earthquake Bay," 100 yards from the 5 {*Interstate-5*} and 100 feet from today's oceanfront), probably the most egregious relaxation in my review is that provided by the thin wall container system and the loading process chosen to house the material for some, if not all, of an indeterminable timeframe.

Of the 10 clear requirements established under Title X, the thin wall container *only* provides a surety of 1. And the system used to transport and load those containers into their storage has extremely high likelihood of scratching, denting, or gouging the wall of that container, which, from a metallurgical perspective, provides for the opportunity for severe corrosion problems, which ultimately result in a potential breach of that container; a situation that the NRC themselves have acknowledged but failed to detect on its approval. As a matter of fact, a former engineer revealed that, had known this potential existed, they would have never approved it. What that tells me, is they have put into place a system for the movement of a 54 ton container that they had not tested, evaluated, or, in fact, seen. These thin wall containers have no internal monitoring and no capability to be currently offloaded or transported – a *specific* requirement of Title X. The only way to determine if there is failure is when the external monitors in the concrete cask detect a radiation problem. The problem here is that those sensors are in environments which are naturally ventilated.

How is that possibly safe?

Today, regardless of this fact, there are nearly 2500 of these canisters buried throughout the United States. I have uncovered countless instances where concerns have gone unanswered or, worse, ignored. Hearings to address local problems are often held outside of the region and comments by the public are limited to 3 minutes. And the comments or questions are preselected by the {*NRC*} staff, not by the individuals in presence. These issues are extremely complex. They deserve more than a 3 minute opportunity. And they deserve better review.

Blatant violations of procedures have been uncovered, yet little to no action has been taken.

While findings reveal wrongdoing, the violator is permitted to continue operations without real serious consequences. Recently the NRC handed down a $116,000 fine that was *considered* a flagrant violation. While it was the first in a long string of gotchas, for those of you who are watching the fine, I can tell you that $116,000 is nothing more than symbolic. This was levied on a company that made more than $3 billion on ratepayers' monies.

About a month ago there was a hearing held in Congress questioning the FAA about its oversight of Boeing and potential collusion therein. While this situation may sound less than acceptable, I would contend that the situation at the NRC is *twice as bad*. I have often referred to it as being in court where a 5-time DUI individual is telling the judge that he will never do it again. "Trust me." And the judge is *stupid* enough to believe him.

In the world I come from, teams are made up of individuals who, first, received specific training and equipment, the procedure's there to operate, and the safety for a role that they are about to play in the hands of other members of the team. Once they prove themselves proficient, they are considered

qualified to then join the team, with similarly trained individuals, who are then given the opportunity to train and learn as a team. Extensive exercise scenarios are conducted, and each member learns what the other member must do in order to provide a safe environment. Once that level is reached, they undergo an extensive testing and evaluation period to prove that they are certified to conduct operations without fear of placing themselves or others at risk.

That is what you might have expected, or expect, of the Nuclear Regulatory Commission in moving a 54 ton container of highly radioactive material. Well, guess again.

While regulations imply that that *should* have happened, what I found is it be far from the truth. I couldn't believe it. As a matter of fact it was revealed to me that the operator of the lift equipment the day the incident took place was chosen to perform the duties not because of his expertise in the handling equipment, but because his rad {*radiation*} count was the lowest of the team. I have even found out that the OSHA inspectors who were on site were not nuclear certified, that they were simply industrial engineers. These people have never trained before, exercised with dummy equipment, or passed any significant training requirement that provides them the safety requirements to handle nuclear material. They were, for all practical purposes, hired off the street. Worse, they had never drilled together or received *any* training on what to do should there have *been* an accident. The list goes on and I only have another minute.

There is a bigger concern, and it is of a point, and that is, for 9 years, in the last part of my career, I was a General Court Martial authority as a Regional Commander. After close examination of the conditions of both oversight provided by the regulatory authority and the documented repeat offenses found, if asked by my seniors, I would be forced to conclude that I had lost all trust and confidence in their ability to remain in command. I would recommend a complete investigation be conducted. I would recommend a cessation of all operations and a relief of the chain of command responsible for the disregard and blatant changing of standards and safety conditions and operating procedures.

I hate to say this, but it's time for the Congress to address the problem and accept there is no walking away from a nuclear accident. Failure to address the concerns for a national solution that involves our nuclear waste problem is critical.

Today we are creating waste sites that, should something happen, it will leave portions of this country uninhabitable for, not if hundreds, but *tens of thousands* of years.

And if the worst should happen, that there be an explosion – and I'm not saying there would or could or would, but the risk is always there – maybe tens of thousands or hundreds of thousands could lose their lives.

The Congress needs to retake control and make sure these regulations are adhered to and that the oversight of Congress to change or approve any modifications thereunto is done so *only* with their approval. The oath of office demands it of them. We The People, especially those I represent in Southern California, have lost faith and confidence when it comes to how SONGS and the Nuclear Regulatory Commission is upholding the standards that we expect to be applied when our safety is considered.

Thank you.