



PROJECT ON GOVERNMENT OVERSIGHT

Exposing Corruption. Exploring Solutions.

July 21, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

The Project On Government Oversight (POGO) is a nonpartisan independent watchdog that champions good government reforms. POGO's investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable, open, and ethical federal government. We are writing to highlight Nuclear Regulatory Commission Commissioner William Magwood's glaring conflict of interest and urge you to seek his immediate resignation.

Commissioner Magwood announced this past March that he is leaving the NRC to become Director-General of the Organisation for Economic Co-operation and Development's Nuclear Energy Agency (NEA), an organization that promotes nuclear energy.

The NEA is a multinational agency whose 31 member states account for 90 percent of nuclear energy-generating capacity around the world. The NEA's mission is to promote nuclear energy and influence government decision-making about nuclear energy. Several NEA member governments sponsor or even own U.S. nuclear licensees and applicants, and thereby have a vested economic interest in promoting nuclear energy here in the United States, and around the world.

With this move, Magwood will make a complete revolution through the revolving door—a practice you prohibited with Executive Order 13490, the Ethics Pledge. Furthermore, Commissioner Magwood's situation might also violate federal conflict of interest laws and regulations related to negotiating or arranging prospective employment. For example, 18 U.S.C. § 208, the basic criminal conflict of interest statute, prohibits an executive branch employee from participating personally and substantially in a particular government matter that will affect the employee's financial interest, which includes arrangements concerning prospective employment.

In addition to the possible illegality of Magwood's move, there are a number of other issues to consider. Magwood announced that he intends to stay on the Commission until an undisclosed departure date (he takes his position to head the NEA in September). This situation raises a conspicuous and unacceptable conflict of interest because Commissioner Magwood, whose new position will involve promoting the industry that he now serves to regulate, may not be able to

vote impartially on matters before the NRC. Serving two masters, and being too lax on key safety issues, was the primary reason the old Atomic Energy Commission was abolished in 1974.

The top priority of NRC commissioners must be the effective regulation of the nuclear industry, and they must not have a pro-industry slant. By taking a position at the NEA, Commissioner Magwood is now essentially serving two masters: those who seek to regulate nuclear energy and those who seek to promote it. This situation creates a personal conflict of interest for him that threatens the safety of nuclear energy in the United States.

Additionally, the NRC has used federal laws regarding the impartiality of judges to evaluate the impartiality of its commissioners. These laws require a judge's recusal from a case when his or her impartiality is in question. Commissioner Magwood's acceptance of the Director-General position at the NEA creates a potential bias towards protecting the NEA's interest in expanding the nuclear energy industry. If, in the coming months, Commissioner Magwood is faced with a decision that pits an important safety measure against increased costs to the nuclear energy industry in general or his new employer specifically, he might not be able to render an unbiased judgment. Even if Magwood were to recuse himself from any issues regarding the nuclear energy industry, that might restrict him from effectively performing as an NRC commissioner. His only reasonable option is to resign immediately.

This is not the first time we have questioned Magwood's ability to be impartial as an NRC Commissioner. In 2009, POGO wrote to you about documented ethics violations involving then-Commissioner Jeffrey Merrifield. The government investigation found that Merrifield violated ethics laws by voting on issues that potentially benefitted prospective employers, including his future employer, the Shaw Group. POGO's letter stated:

The NRC's conflict of interest problems don't end with Mr. Merrifield's departure: as one nuclear industry insider leaves the Commission, another one is entering via the revolving door. We urge you to re-evaluate your decision to nominate William Magwood to a vacant Democratic seat on the Commission.

POGO opposed Magwood's nomination to the NRC, because he was "actively involved in efforts to advance nuclear industry business opportunities domestically and abroad" between 2005 and 2009. Magwood founded Advanced Energy Strategies, which promotes the development of the nuclear industry, and he was the president of Secure Energy North America Corporation, a company that develops new ways to finance nuclear power in the United States. According to Magwood, during the first two years of his tenure at the NRC, he was required to recuse himself from participating in any particular matter relating to his former clients in the energy sector. With his acceptance of the position at NEA, Magwood will yet again be in the position of recusing himself from any matters related to the NES or any of its members.

Unfortunately, Magwood's connections to the industry are too entrenched to ignore, especially with his acceptance of a position where he will be required to promote nuclear power. We urge you to seek Magwood's resignation and free the NRC of any actual or apparent conflict of interest.

Thank you for your consideration of the matter. If you have any questions or need additional information, please contact me at (202) 347-1122.

Sincerely,



Danielle Brian
Executive Director

cc: Mr. Hubert T. Bell
Inspector General
U.S. Nuclear Regulatory Commission
Washington, DC 20555