

March 24, 2004

The Honorable Beverly Ann Cook
Assistant Secretary for Environment, Safety and Health
U. S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-0119

Dear Ms. Cook:

During your testimony at the Defense Nuclear Facilities Safety Board (Board) hearing on February 9, 2004, I asked you to furnish the Board the specific waivers the Department of Energy (DOE) had granted to its defense facility contractors to DOE Order 440.1A.

The basis for that request, you will recall, was a discussion you and I had a week earlier regarding DOE Order 440.1A. At that time, I asked you how could you justify downgrading the safety requirements in that Order to non-enforceable guidance in your proposed Rule 851. You responded by saying, DOE was granting so many waivers to that Order that it made no sense to maintain it. I immediately asked you to supply the Board a list of those specific waivers. I reiterated that request at the hearing on February 9, 2004.

The Board over the years had been instrumental in helping to develop the contractor requirements set forth in DOE Order 440.1A for worker safety and I was concerned by your assertion that they were being waived. On March 11, 2004, you orally informed me that DOE Headquarters has not approved any waivers, but you were having difficulty obtaining this information from the field. I told you that I continue to want that information from the field if your assertion of many waivers is correct.

Sincerely,

John T. Conway
Chairman

c: Mr. Mark B. Whitaker, Jr.