

Citizens' Oversight Projects (COPs)

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August 28, 2019

ref media: M1920



COMMENTS TO THE NRC REGARDING CITIZEN ADVISORY BOARDS (CABS) TO PROVIDE OVERSIGHT OF DECOMMISSIONING ACTIVITIES.

This letter provides our comments regarding the establishment of Citizen Advisory Boards (CABS) to provide oversight over the decommissioning of nuclear plants and continued nuclear waste storage to the Nuclear Regulatory Commission (NRC).

Inherently an oversight role

At Citizens' Oversight, we share the view that in a democracy such as ours, the government is owned by the people. The Freedom of Information Act (FOIA), for example, describes this as the rationale for providing documents to the public. We citizens own our government, and everything it creates.

As a result, it is the function of the citizenry to also provide oversight over the government that it owns. In this case, the government has delegated much of its decision-making function to for-profit investor-owned utility (IOU) monopolies that are regulated by, in this case, the California Public Utilities Commission (CPUC) with regard to the rates they may charge. Many of the decisions made by the IOUs are not determined by the oversight on nuclear safety provided by the NRC nor are they governed by the rate-making authority of the CPUC. As a result, there is no organ of our government that provides direct oversight of the decisions made by the IOUs. This is specifically the case in the decommissioning process, which does not directly affect rates, and the NRC only reviews actions with regard to safety, and says frequently that almost any option is just as safe as any other.

We put a great deal of trust in these IOUs which frequently are more interested in their next quarterly report than they are in how their decisions may affect the community for thousands of years. For this reason, the establishment of CABS is a very small step in the right direction. It can certainly help to fill the gap in oversight, as long as they are structured so they actually have the credibility, independence, and are empowered to produce results.

Two Models

In California, we have vastly different two different models for providing oversight. The utility-run Community Engagement Panel (CEP – <https://www.songscommunity.com/>) for San Onofre, and the Diablo Canyon Independent Safety Committee (DCISC – <http://www.dcisc.org>) which was established as a result of a CPUC settlement.

The two models function vastly differently along several criteria.

Criteria	San Onofre CEP	Diablo Canyon DCISC
Independence	Poor – members selected by utility; utility sets agenda and runs it as a public relations effort.	Excellent. Members are not chosen by utility and funding is from CPUC.
Credibility	Poor – members have really no background in the topic and there is no associated training.	Excellent. Members have specific nuclear plant background.
Decision making process	None. There are no decisions made, no advice, nothing.	Members vote and decide their position.
Investigative Power	None. Utility found to have lied to the group and there is nothing it can do short of make trouble in the media.	Yes, the utility must respond to their requests for information, and can hire consultants, etc.
Interaction with the public	Lousy. Public given 3 minutes for comments and chair routinely interrupts their comments. No ability for the public to influence the agenda. Questions are not answered – if at all – until the end of the meeting, no chance for follow up.	Better. Body does not routinely interrupt presentations and can immediately follow up and converse with the members of the public.
Useful for the public	Improvement needed. It is still useful for the public and has provided a way for whistle-blowers to come forward and expose at least one near-drop catastrophe.	More useful because its independent nature allows it to ask the tough questions that the CEP avoids.
Visibility	Provides livestream and archived videos of meetings but it is difficult to download the videos.	Aired on SLO-SPAN county television and videos are also archived and can be downloaded.
Reporting	No reports are generated	Produces annual reports
Bottomline	Largely theater with small opportunities for the public to be effective. Does not reach decisions or offer advice, cannot investigate. No real power.	More substantial, with decision-making power, can reach positions and hire consultants, can investigate and has real power.

The Community Engagement Panel model should be avoided if at all possible. Unfortunately, we see now that the Diablo Canyon Nuclear Power Plant has also established a “fake” oversight body along the lines of the CEP.

Key to improve this is INDEPENDENCE. The CABs should not be controlled, established, funded and used by the utilities as a part of their PR campaign. The CABs should have a mechanism for the public to have a say in the agenda. Interaction with the public should be truly interactive and not just providing the

utility position and talking points.

The CABs should take on the responsibility of providing structured oversight over the decisions that are not controlled by the NRC nor by the regulatory agency such as the CPUC. For example, the NRC does not control WHERE a spent-fuel facility may be built, only the fact that it must be designed and run so it meets safety requirements. Similarly, the CPUC or other regulatory agency mainly controls the establishment of fair and equitable rates. But the decommissioning is normally collected and invested so it can be available at decommissioning. The NRC regulates only the nuclear safety portion of these funds. Remarkably, the spent fuel installation is not considered under its purview of nuclear-safety related activities.

The CABs should be empowered to consider SAFETY issues when the NRC does not have a differentiating opinion. For example, WHERE an ISFSI (Independent Spent Fuel Storage Installation) may be built is not something the NRC has an opinion on. Similarly, the NRC does not mandate that nuclear plants are built at all. The NRC does not have an opinion about whether a spent fuel pool or a dry cask storage system should be built because the NRC considers them equally safe. The CABs should be able to create a position on the issues before it and should not be a pawn of the utility.

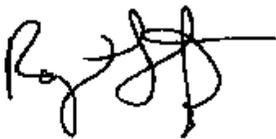
The Community Engagement Panel Model should not be used.

A body that is a tool of the utility and their PR department must not be the way these are run in the future. If you ask people who run the CEP at San Onofre, they have been hand-picked by the utility and frequently “trouble-makers” are cast off the panel so they will instead be a shield for the utility rather than a means for the public to provide meaningful oversight.

It is our job to provide oversight. The CABs should enable that.

The CEP says it is for a “two way flow of information” rather than a mechanism for the public to provide meaningful oversight. Please do not continue the CEP model and instead adopt a model more like the DCISC.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ray Lutz', with a stylized flourish extending to the right.

Raymond Lutz
National Coordinator, Citizens' Oversight Projects