



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4805

September 18, 2017

The President
The White House
Washington, D.C. 20510

Re: OSC File No. DI-15-5254

Dear Mr. President:

In accordance with law, the U.S. Office of Special Counsel (OSC) is submitting to you a report of an internal investigation by the Nuclear Regulatory Commission (NRC). OSC requested this investigation and report after receiving information from NRC Reliability and Risk Engineer Lawrence Criscione that NRC failed to require the Oconee Nuclear Station in South Carolina and 18 other nuclear power stations to take appropriate measures to protect against the risk of flooding in the event of upstream dam failures.¹

The NRC's internal investigation found that NRC acted appropriately and within the scope of its oversight authority to ensure that the public is adequately protected from the risk of flooding at nuclear power plants located downstream from dams. NRC explained in its report that under the Atomic Energy Act, it is charged with ensuring "adequate protection" to the health and safety of the public from risks associated with this material. NRC concluded that the risks to public health and safety from dam-related flooding are very small. NRC's report found that at each of the 19 sites identified by Mr. Criscione, licensees are implementing strategies to mitigate the effects of potential external floods. The report details the plant-specific actions already taken for each site, as well as ongoing efforts at the plants.

Mr. Criscione provided extensive comments, including statements from four witnesses he identified as subject matter experts. Mr. Criscione strongly disputes the report's conclusion that NRC has taken appropriate action to address the serious risk posed to communities by the potential for flooding at nuclear power plants from upstream dam failures. He asserts that NRC did not follow its own policies and procedures in handling the flooding issue. He maintains, in particular, that the Oconee Nuclear Station is not safe from upstream dam failure. He strongly disagrees with NRC's decision to lower its assessment of the necessary flood barrier height for the Oconee Nuclear Station.

¹ Enclosed is a copy of NRC's report, supplemental report, and Mr. Criscione's comments. *See* 5 U.S.C. § 1213(c)

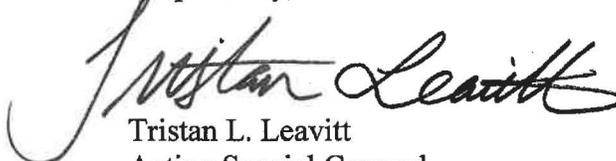
Mr. Criscione also disagrees with NRC's decision not to interview four NRC employees he suggested be interviewed as part of the investigation of his disclosures.

In response to the whistleblower's comments, OSC requested additional information from NRC about mitigation measures completed to date and the change in NRC's assessment of the appropriate height for the Oconee Nuclear Station's flood protection barrier. NRC assured OSC that after multiple detailed assessments of potential flooding it had concluded that the current flood protection barrier at the Oconee Nuclear Station provides adequate protection. In its report, supplemental report, and in a briefing to OSC staff, NRC described in detail the actions it has taken to address the risk of flooding from upstream dam failures and explained that it is continuing to monitor this issue. Thereafter, Mr. Criscione provided additional comments reiterating his concerns that the NRC's accepted risk assessment for catastrophic flooding, especially in light of recent weather events, is unacceptable for a nuclear facility.

OSC has determined that the report contains the information required by statute and that its findings are reasonable. However, Mr. Criscione and the other subject matter experts who provided comments raise serious concerns about NRC's findings, including its assessment of the risk of flooding at Oconee and the other nuclear power plants located downstream from dams. OSC acknowledges that NRC's work to monitor and address the risk of flooding at nuclear power plants is ongoing. OSC encourages NRC to carefully consider Mr. Criscione's and the other subject matter experts' comments and utilize their expertise, particularly with respect to the assessment of the flood barrier height for Oconee.

As required by law, OSC is submitting to you, the U.S. House Committee on Energy and Commerce, and the U.S. Senate Committee on Environment and Public Works the NRC report and Mr. Criscione's comments.² OSC is also making these documents available to the public.³ OSC's file is now closed.

Respectfully,



Tristan L. Leavitt
Acting Special Counsel

Enclosures

² See 5 U.S.C. § 1213(e)(3).

³ See 5 U.S.C. § 1219(a)(1); <https://osc.gov>.