

January 14, 2002

Mr. Ron LaVera  
476 Sheafe Road  
Wappinger Falls, NY 12590

SUBJECT: Your Letter Dated October 25, 2001, Regarding Indian Point 3 Nuclear  
Power Station

Dear Mr. LaVera:

In a letter, dated October 25, 2001, you questioned why the NRC did not issue a violation for the lack of licensee management response to a urine sample found stored in the refrigerator of the health physics technician's break room in 1999. This issue was discussed in a previous NRC letter to you dated October 5, 2001. In that letter we stated that no connection could be found between the stored urine sample and the use of adulterated samples. However, a follow-up deviation/event report (DER) was subsequently written that proposed changes to plant procedures to address the matter.

Although the DER was not written for approximately 15 months after identification of the stored urine sample, the NYPA investigation found that several managers who were knowledgeable of the sample indicated that they thought the incident had been documented. Subsequently, appropriate FFD procedures were revised to address the response expected by managers in instances such as this.

You also refer to at least two instances in the NYPA OIG report which you believe should have prompted management to request "for cause" testing. However, our review found that there is insufficient information in the report to conclude that licensee management would have been required by 10 CFR Part 26 to request "for cause" testing. Additionally, in the instance of the lost key to the locked high radiation area to which you refer, a DER was written and its disposition also did not provide a basis for the licensee to conduct a "for cause" test.

Although the licensee identified some poor practices and areas where programs could be enhanced, we determined that these problems did not constitute a violation of regulatory requirements. Therefore, after considering all aspects of this matter, the NRC determined that no enforcement action was warranted.

Ron LaVera

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Thank you for informing us of your concern. We feel that our actions in this matter have been appropriate.

If you have any questions or other comments regarding the performance of the NRC staff in reviewing this matter, you should contact the NRC Office of the Inspector General (OIG) directly at 1-800-233-3497.

Sincerely,

/RA/

Peter W. Eselgroth, Chief  
Projects Branch 2  
Division of Reactor Projects

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