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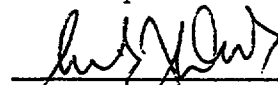
## COMMISSION CORRESPONDENCE

### Correspondence Response Sheet

**Date:** December 4, 2000

**To:** Chairman Meserve  
Commissioner Dicus  
Commissioner Diaz ✓  
Commissioner McGaffigan  
Commissioner Merrifield

I concur with the Chairman's comments, with the deletion of the two sentences as marked since they do not add value to the response.

  
Nils J. Diaz 12/5/00

**From:** Annette Vietti-Cook, Secretary

**Subject:** Letter to Congresswoman Kelly concerns Indian Point 2 NPP restart without formal approval from the NRC and prior to a scheduled inspection

**ACTION:** Please comment/concur and respond to the Office of the Secretary by:

**Time:** NOON

**Day:** Tuesday

**Date:** December 5, 2000

**Comment:** RESPONSE REQUESTED BY NOON, TUESDAY, DECEMBER 5, 2000

**Contact:** Patrick Milano, EDO/NRR  
415-1457

REC'D BY HJD Entered in STARS Tracking System ☒ Yes ☐ No

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95003 ~~supplemental~~ inspection. Furthermore, ~~in any event~~, the NRC is closely monitoring Con Edison's walkdowns and reviews of safety significant systems before restart. These walkdowns and reviews will help Con Edison determine its readiness for restart and correct any potential equipment issues.

In your November 16 letter, you suggest that the Commission should not allow IP2 to resume operation absent the Commission's formal approval. Like all licensed power reactors, IP2 is subject to the terms and conditions of its license and the Commission's regulations that specify the technical requirements for, and the restrictions on, plant operation. Although a facility may experience operational problems, ~~the licensee is permitted~~ <sup>authorized</sup>, under its license, to operate its facility within these strictures absent a Commission order that bars further operation. No such order has been issued to Con Edison for IP2, and the Commission has not found it ~~inappropriate to issue such an extraordinary order~~ necessary to do so in light of (1) the results of inspections to date, (2) the results of the NRC Inspector General's report, and (3) our ongoing oversight of the licensee's actions to prepare for eventual restart of the plant. ~~As long as the licensee proposes to operate in conformance with the license conditions and requirements, the licensee has a right to operate the plant and no formal Commission approval of restart is necessary. In fact, an NRC order to prevent restart would be viewed as arbitrary and capricious in these circumstances.~~ In our view, mandating formal Commission approval would be arbitrary and unnecessary to fulfill our regulatory responsibility.

~~However, I want to assure you that,~~ should the NRC find in the future that the licensee is not complying with regulations or ~~that there is a question whether the operation serves to~~ of not

The Honorable Sue W. Kelly

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maintaining reasonable assurance of public health and safety, the NRC will take appropriate action. Therefore, Con Edison is authorized to operate the facility in accordance with its license, following the restoration and testing of systems associated with the current outage. The NRC plans to augment its inspection coverage during Con Edison's prestartup preparations through initial power operations.

~~Enclosure: Con Edison's response to the Lessons Learned~~

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I trust that this letter addresses your concerns.

Sincerely,

Richard A. Meserve

~~Enclosure: Con Edison's response to the Lessons Learned~~