

February 12, 2003

The Honorable Hillary Rodham Clinton
United States Senate
Washington, D.C. 20510

Dear Senator Clinton:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter of January 22, 2003, in which you requested that the NRC review the recent draft report prepared by James Lee Witt Associates, LLC, for the Governor of the State of New York, regarding emergency preparedness at the Indian Point and Millstone facilities. You also requested that the NRC begin making changes to Federal regulations, as recommended in the draft report, and to make you aware of any additional statutory authority the NRC would require to make such changes.

The NRC has received a copy of the draft Witt report. The matters addressed in the draft report in large measure relate to offsite planning and preparedness, which, at least in the first instance, are matters within the purview of the Federal Emergency Management Agency (FEMA). While any judgment as to the overall state of emergency planning and preparedness is for the NRC to reach, in keeping with the longstanding Memorandum of Understanding (MOU) between FEMA and the NRC, we look initially to FEMA for its views on the draft report relating to offsite preparedness. One important issue which falls under our purview relates to plant security and the effect of potential terrorism. We consider it appropriate to comment on this issue as it figures prominently in the conclusions of the draft Witt report.

While we appreciate and recognize the effort that went into the draft report we believe the draft report appears to give undue weight to the impact of potential acts of terrorism on emergency planning and preparedness. Emergency preparedness programs are designed to cope with a spectrum of accidents, including those involving rapid, large releases of radioactivity. Emergency preparedness exercises have invariably included large releases of radioactivity that occur shortly after the initiation of events. Necessary protective actions and offsite response are not predicated on the cause of events. Whether releases from the plant occur as a result of terrorist acts or equipment malfunctions, emergency plans guide decision makers and responders in the same way. Preliminary results from our vulnerability studies do not indicate an increased source term or quicker release from terrorist-initiated events than is already addressed by the emergency planning basis required by NRC regulations and in place at Indian Point.

As FEMA assesses the implications of the draft Witt report and other relevant information on the state of emergency planning and preparedness, it is important to consider that significant steps have been taken to strengthen security of Indian Point and other nuclear plants since the September 2001 terrorist attacks. While all nuclear power plants have been required for many years to have security programs to defend against violent assaults by

well-armed attackers, numerous additional steps have been taken since September 2001 to thwart terrorist acts. The NRC issued orders in February 2002 to all operating nuclear power plant licensees to implement compensatory security measures for the current threat environment and also required licensees to take actions deemed appropriate to ensure continued improvements to existing emergency response plans. We have been working closely with numerous federal agencies (including FEMA, the Department of Defense, the Department of Homeland Security, the Department of Energy, the Federal Bureau of Investigation, and the Federal Aviation Administration), as well as with State governments, to enhance the security of nuclear facilities and activities.

The NRC will work with FEMA and other Federal agencies, as well as Entergy, New York State and county officials, in continuing efforts to ensure adequate emergency planning and preparedness. We understand from our discussions with FEMA that its assessment of the most recent offsite emergency planning exercise, which will give due consideration to input from the Governor, will be issued in the next several weeks. The NRC, in turn, will promptly respond to matters warranting action. With regard to your particular interest in the need for additional regulatory authority to implement changes, at this time in the review and evaluation of the Witt report, we are unaware of any statutory changes that may be required to protect public health and safety.

Please feel free to contact me with any further questions or concerns.

Sincerely,

/RA/

Richard A. Meserve