

CORR: 03-0024

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*Merrifield*

## COMMISSION CORRESPONDENCE

### Correspondence Response Sheet

Date: February 3, 2003

*Concur subject to the  
attached edits of Commissioner  
Diaz as well as the  
attached additional edits.*

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

From: Annette Vietti-Cook, Secretary

*[Signature]*  
2/6/03

Subject: Letter to Senator Clinton responds to request for review of recent draft report prepared by James Lee Witt Associates, LLC, regarding emergency preparedness at Indian Point and Millstone facilities

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

Time: NOON

Day: Friday

Date: February 7, 2003

Comment: RESPONSE REQUESTED NLT WEDNESDAY,  
FEBRUARY 5, 2003... REQUEST FOR EXTENSION  
UNTIL MONDAY, FEBRUARY 10 PENDING

Contact: Patricia Milligan, NRR/EDO  
415-2223

*A/4*

Entered in STARS Tracking System ☒ Yes ☐ No



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

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

Dear Senator Clinton:

*on behalf of the U.S. Nuclear Regulatory Commission (NRC)*

I am responding to your letter, dated January 22, 2003, requesting that the ~~Nuclear Regulatory Commission (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.

As you know, at the Federal level, the Federal Emergency Management Agency (FEMA) is responsible for evaluating the radiological emergency planning and preparedness activities and oversight of off-site emergency preparedness for nuclear power plants. NRC regulations require that comprehensive emergency plans be prepared and periodically exercised to assure that actions can and will be taken to notify and protect citizens in the vicinity of a nuclear facility. The NRC has responsibility for the on-site emergency planning and requires licensees to have detailed procedures for handling accidents, making timely notification to appropriate authorities, and providing accurate radiological information. This responsibility involves direct assessment of on-site emergency planning and preparedness of the licensees that we regulate, in addition to oversight of plant operations and security.

The matters addressed in this draft report in large measure pertain to offsite planning and preparedness which, at least in the first instance, are matters within the purview of the <sup>FEMA</sup>

~~Federal Emergency Management Agency~~. While the 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 between FEMA and the NRC, it would not be appropriate for us to precede FEMA in assessing the draft report and its significance relative to offsite matters. Thus, while we have initiated a review of the draft report to understand its conclusions and their factual underpinnings, we are communicating with FEMA to ensure a coordinated and comprehensive evaluation within our well-established regulatory framework.

The NRC will work with FEMA and other Federal agencies, as well as Entergy, New York State, and County officials, in continuing efforts to strengthen 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, intends to be prepared to promptly respond to matters warranting action.

Sincerely,

.Richard A. Meserve



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

February 12, 2003

CHAIRMAN

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.

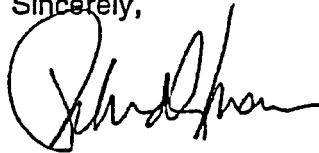
As FEMA assesses the implications of the draft Witt report and other relevant information on the state of emergency planning and preparedness, it is important to consider that significant steps have been taken to strengthen security of Indian Point and other nuclear plants since the September 2001 terrorist 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,

A handwritten signature in black ink, appearing to read "Richard A. Meserve", written over a horizontal line.

Richard A. Meserve