

March 22, 2004

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 writing in response to the issues raised both at our recent meeting and in your letter dated January 22, 2004. It was a pleasure meeting with you and I believe that our exchange of information was extremely productive.

In your letter, you requested information regarding the findings documented in an NRC special inspection report issued on December 22, 2003. The purpose of the special inspection was to review electrical disturbances and unplanned shutdowns, including the August 14, 2003 electrical grid failure at the Indian Point Energy Center in Buchanan, New York. You also requested assistance from the NRC in addressing the control of nuclear materials and in supporting the "Dirty Bomb Prevention Act."

As you are aware, the NRC has maintained a heightened level of regulatory oversight at Indian Point over the past several years in response to various performance issues that were identified at the facility. The NRC staff conducted special inspections on numerous occasions to ensure performance issues were being addressed by the licensee, Entergy. Heightened inspection efforts and other oversight activities, including performance review meetings with senior licensee officials, were conducted within agency guidelines which call for escalating oversight at plants with performance problems.

It is in this context that the staff undertook the special inspection last year, focusing on electrical disturbances and unplanned shutdowns that occurred at the station. The majority of electrical disturbances that affected the plant resulted from equipment problems in the nearby, off-site switchyard. The staff concluded in the December 22, 2003 inspection report that, prior to last summer, Entergy had been slow in addressing these issues. However, Entergy is now making better progress working with Consolidated Edison, which maintains much of the switchyard equipment.

The special inspection also examined circumstances surrounding emergency response facility equipment failures that occurred during the August 14, 2003 electrical grid failure. As documented in the December 22, 2003 special inspection report, the backup diesel generators for both the Unit 2 and Unit 3 Technical Support Centers (TSCs) failed to function, resulting in loss of some emergency response communication and automated data acquisition capabilities. During the special inspection, NRC inspectors confirmed that Entergy had taken appropriate actions to repair the Unit 3 TSC diesel generator and had installed a temporary diesel generator to supply backup power for the Unit 2 TSC. Entergy identified modifications and repairs that

need to be made to the permanent Unit 2 TSC diesel generator. These repairs are expected to take several months to complete. In the interim, the temporary diesel will remain installed.

While emergency responders were able to perform necessary functions during the electrical grid failure, the TSC diesel generator failures illustrated weaknesses in Entergy's corrective action program. In February 2000, the licensee identified that there was a potential for the Unit 2 TSC diesel generator to be overloaded under some conditions. The Unit 3 TSC diesel generator failed when tested in April 2003. The need for corrective action was identified in both cases, and work was planned. However, the August 14, 2003 electrical grid failure occurred before the corrective actions were completed.

For the past several years, NRC performance assessments have identified weaknesses in the corrective action programs at Indian Point. In response, Entergy made substantial efforts to address this situation, and the condition of plant safety equipment has improved as a result. Nonetheless, corrective action and maintenance backlogs at both Indian Point units remain relatively high, indicating that continued Entergy attention is needed. We will continue to monitor these efforts closely through an enhanced on-site inspection staff and senior NRC management involvement. The enclosed NRC annual assessment further discusses the corrective action program and includes the inspection plan for Indian Point Units 2 and 3 (Enclosure 1).

It is important to note that NRC inspectors assess licensee corrective action programs through a risk-informed sampling process. NRC looks at issues in various areas important to plant safety such as mitigating systems and emergency preparedness. During the past several years, the NRC has examined a number of emergency preparedness issues, most notably issues identified following the February 2000 steam generator tube failure that resulted in several NRC "White" significance findings (i.e., findings of low to moderate significance). The issues associated with the TSC diesel generators that existed prior to the August 14, 2003 electrical grid failure were not among the sample selected for more in-depth review. Based on reviews performed after the electrical grid failure and in accordance with our established process for determining the significance of an issue, the staff concluded that the failures of the TSC diesel generators were of very low safety significance. This determination was based on the fact that emergency responders were able to perform necessary functions using pre-established compensatory measures during the event. Regardless of the low safety significance, interim measures and longer term corrective actions are appropriately underway.

With respect to your request for documents related to identification and correction of the problems with the TSC diesel generators, the documents examined during the special inspection are described in the enclosed inspection report (Enclosure 2). These included such documentation as condition reports and maintenance work orders, as well as operating and emergency plan implementing procedures. These are licensee documents that were reviewed on site during the inspection and are not in our possession. We believe the information important to our assessment is provided in the December 22, 2003 inspection report. However, if you desire to review the specific corrective action documents associated with the TSC diesel generators, we can facilitate that review.

You also urged the Commission to work with Congress to enact S. 350, the "Dirty Bomb Prevention Act." The legislation, which you introduced, would increase the NRC's authority to ensure the tracking, recovery, and storage of radioactive materials that could be used to create a dirty bomb. The Commission strongly supports the objectives of S. 350 consistent with the legislative proposal that we submitted informally to the Congress last year. A copy of the NRC proposal is enclosed (Enclosure 3). The NRC proposal would expand NRC's jurisdiction to encompass discrete sources of radium-226 and certain discrete sources of naturally occurring or accelerator-produced radioactive material that are produced, extracted, or converted for use in commercial, medical, or research activities. NRC regulation of these materials would give us the ability to include these materials in a national program aimed at providing a consistent level of protection and preventing these materials from being used in radiological dispersal devices. Last year, the Department of Energy and the NRC, working with other Federal agencies, completed an extensive evaluation of the security of sensitive radioactive material that addressed most of the elements in S. 350. Following this evaluation, the NRC took numerous actions, within our existing authority, to increase the security of radioactive materials that could be used in dirty bombs. The NRC established a Material Security Working Group and a Material Security Steering Committee to work with the States to enhance security of high risk radioactive sources, develop a national source tracking system, and address needs of other agencies in monitoring high-risk radioactive sources. In addition, the NRC is developing new rules to enhance controls on the import and export of these sources through advance notifications. As the NRC continues to strengthen its regulatory regime through administrative actions, we are prepared to work with the Congress to further enhance regulatory controls over radioactive materials that could be used in radiological dispersal devices.

We hope this letter responds to your specific questions. Emergency preparedness and response capabilities are important for the protection of the public, and the NRC has been placing increased emphasis on these areas. Please feel free to contact me with any further questions or concerns.

Sincerely,

/RA/

Nils J. Diaz

Enclosures:

1. March 3, 2004 Annual Assessment Letter
2. December 22, 2003 Inspection Report
3. NRC Proposed Legislation
on the Control of Nuclear Materials