

November 17, 2004

Mr. Fred R. Dacimo
Site Vice President
Entergy Nuclear Operations, Inc.
Indian Point Energy Center
295 Broadway, Suite 1
P.O. Box 249
Buchanan, New York 10511-0249

RI-2003-A-0036

Dear Mr. Dacimo:

On May 2, 2003, OI Region I initiated Case Nos. 1-2003-031 and 1-2003-032, to determine whether (1) a manager at the Indian Point Energy Center (IPEC) deliberately violated a site procedure when an employee took an NRC exam for possible senior reactor operator (SRO) certification without a classroom proctor present and (2) whether a former employee was discriminated against (employment terminated and grievance denied for employment reinstatement) as a result of raising concerns regarding the quality of IPEC's Operations Training Program and the quality of an NRC exam.

Based on the evidence developed during OI Case No. 1-2003-031, although it was determined that a site procedure was violated when the manager allowed the employee to take an NRC exam for possible SRO certification without a proctor being present, no violation of NRC requirements resulted. This case was not substantiated since a violation of NRC requirements could not be established.

Regarding OI Case No. 1-2003-032, OI did not substantiate that the former employee was discriminated against or inappropriately denied his/her request for issue resolution regarding the employment termination by IPEC for raising concerns regarding the quality of the IPEC Operations Training Program. OI found that the personnel action taken against the employee was a matter of work performance, and considered Entergy's actions to be legitimate and non-discriminatory.

The NRC is also aware that the individual filed a discrimination complaint with the U.S. Department of Labor (DOL) Occupational Safety and Health Administration (OSHA) regarding the same matter on August 15, 2003. On September 26, 2003, the Regional Administrator of DOL/OSHA's Region 2 Office in New York, New York, issued a finding that was not in the individual's favor. The individual appealed the DOL/OSHA finding to a DOL Administrative Law Judge (ALJ). Before the ALJ could reach a merit finding regarding this matter, the parties gained a mutually agreeable settlement. The ALJ issued a Recommended Order Approving the Settlement on October 5, 2004. The NRC has reviewed the DOL findings in this matter and finds no reason to alter its conclusion that discrimination was not substantiated.

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if any, will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Should you have any questions regarding this letter, please feel free to contact Mr. B. McDermott of my staff at (610) 337-5233.

Sincerely,

/RA/ Holian for

A. Randolph Blough, Director
Division of Reactor Projects

Enclosure:
10 CFR 9.23, Requests for Records

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