

July 24, 2002

Mr. David W. Denenberg  
Legislator, District 19  
Nassau County Legislature  
One West Street  
Mineola, NY 11501

Dear Mr. Denenberg:

In a letter dated June 17, 2002, the U.S. Environmental Protection Agency (EPA) responded to your letter of May 15, 2002, to President Bush, et al., concerning the Indian Point Energy Center (IPEC) and the Millstone Nuclear Power Station (Millstone). By its June 17 letter, EPA forwarded your requested actions to the U.S. Nuclear Regulatory Commission (NRC) for consideration. Specifically, you requested that IPEC and Millstone be immediately shut down. You also requested that: (1) an independent panel be convened to review the fuel storage vulnerabilities and risks, (2) security be deployed to the plant and a 10-nautical-mile no-fly zone be established around each station, (3) a defense and security system be designed to protect the no-fly zones and plants, and (4) an immediate and comprehensive revision of the emergency response plans for the licensees and local counties be conducted to account and prepare for terrorist attacks. Apart from these requests, you state that measures should be taken to order the licensees to immediately convert the spent fuel storage from a water-cooled system to a dry-cask system in a bunkered structure.

We understand and recognize that many of our fellow citizens are concerned that a U.S. nuclear facility could be a target of future terrorist action. Since the events of September 11, the NRC has sought to ensure the adequate protection of the nation's nuclear power plants, working in close coordination with the Office of Homeland Security, the Federal Bureau of Investigation (FBI), other intelligence and law enforcement agencies, the Federal Aviation Administration (FAA), United States military, State and local authorities, as well as with the operators of the plants. Although there have been no credible threats to any commercial nuclear facility in the United States, immediately following the September 11 attacks, the NRC advised plant operators to implement the highest level of security. All nuclear plants have complied with the NRC advisories, and continue to maintain heightened security. Moreover, on February 25, the NRC issued immediately effective Orders to all 104 commercial nuclear power plants licensed to operate which mandated compensatory security measures. The details concerning the specific actions are sensitive and, therefore, cannot be discussed in a public document, but they generally include increased patrols, augmented security forces and capabilities, additional security posts, closer coordination with law enforcement and military authorities, and more limited access of personnel and vehicles to the sites. In addition, Chairman Richard Meserve, with the full support of the Commission, has directed the staff to undertake a comprehensive review of our security regulations and procedures, including the basic assumptions of our current programs. The review will include a consideration of the potential consequences of a similar attack on a nuclear power plant, assess threats and determine the best protection methods and the need for additional compensatory measures. This review involves U.S. national security organizations, and is part of the broader review being undertaken by the Federal Government.

The State of New York has further augmented the security at IPEC with National Guard personnel and periodic State police surveillance. Further, the New York State Office of Public Security (NYS OPS), working with various Federal and State agencies, including the FBI, has assessed the long-term security needs at IPEC. The NYS OPS report made a number of recommendations to enhance security which the licensee has either implemented or is considering. The NRC continues to work with the other Federal and State agencies, and is monitoring all relevant information it receives on security matters at nuclear facilities. At the same time, the NRC and the Federal Emergency Management Agency (FEMA) have been working with NYS OPS, NYS Emergency Management Office, and other State and local agencies to enhance coordination involving security and emergency preparedness and planning.

Both the NRC and FAA have provided direction regarding flyovers of nuclear power plants to NRC licensees and general aviation pilots. On September 26, 2001, the FAA issued a Notice to Airmen (NOTAM) that advised pilots to avoid the airspace above or in the proximity to various structures, including nuclear power plants. It also indicated that pilots "should not circle as to loiter in the vicinity of such facilities." This NOTAM was reissued on December 19, 2001, to include military facilities. On October 6, 2001, the NRC advised licensees to report any flyovers that are considered too close to their sites or that are of a suspicious nature to the local FAA, local FBI, local law enforcement, and the NRC. This direction remains in effect today.

The NRC is also reviewing measures to bolster defenses and to establish new antiterrorism strategies in a thorough and systematic manner. The NRC is taking a realistic and prudent approach toward assessing the magnitude of the potential threat and the strength of licensee defenses. Even if it is determined that nuclear power plants should be defended against aircraft attack, the NRC cannot expect licensees to acquire and operate anti-aircraft weaponry. Protection against this type of threat may be provided by other means within the Federal government. Similarly, there might be other types of attacks which should properly involve governmental response because of the size of the assumed attacking force or the equipment that must be employed in defense. As a result, in developing policy, the NRC must differentiate between the licensee's defensive obligation and that which must be undertaken by the government. In light of the difficulty in protecting the numerous specific potential targets of an aircraft attack, the NRC believes that the Nation's resources devoted to protection against terrorist attacks by air should be primarily directed toward enhancing security at airports and within airplanes in flight.

Although we cannot rule out the possibility of future terrorist activity directed at one of our licensee's sites before implementing any potential enhancements to our safeguards programs, we believe that these facilities continue to operate safely and securely. Nuclear power plants have inherent capability to protect public health and safety through such features as robust containment buildings, redundant safety systems, and highly trained operators. They are among the most hardened structures in the country and are designed to withstand extreme events, such as tornadoes and earthquakes. We do not believe that suspending the operation of the IPEC and Millstone facilities is necessary at this time to provide adequate protection of public health and safety. The NRC is actively monitoring the situation and is prepared to take measures to ensure the continued safety of all nuclear facilities.

The NRC and FEMA are the two Federal agencies responsible for evaluating emergency preparedness at and around nuclear power plants. NRC regulations require that comprehensive emergency plans be prepared and periodically exercised to ensure that actions can and will be taken to notify and protect citizens in the vicinity of a nuclear facility. The NRC has regulatory responsibility for the onsite emergency planning and requires licensees to have detailed procedures for handling accidents, timely notification to appropriate authorities, and providing accurate radiological information. Likewise, the Federal lead role in evaluating offsite (e.g., State and local government emergency preparedness activities that take place beyond the nuclear power plant boundaries) radiological emergency planning and preparedness activities rests with FEMA.

FEMA has established the Radiological Emergency Preparedness Program to: (1) ensure that the public health and safety of citizens living around commercial nuclear power plants can be adequately protected in the event of a nuclear power station accident and (2) inform and educate the public about radiological emergency preparedness. In accordance with a Presidential Directive and Federal mandates, FEMA issues policy and guidance to assist State and local governments in developing and implementing their radiological emergency response plans and procedures. In addition to coordinated nuclear facility, State, and local emergency response planning, Federal agencies also have plans in place to coordinate their response activities and share their resources in support of State and local officials during an emergency. Coordination activities include joint planning and training sessions and exercise participation.

In late January 2002, the States of Connecticut and New York issued their annual letters of certification to FEMA. These letters informed FEMA that specific preparedness activities had been completed including training and updating State and local plans. We also understand that additional updates to the New York State and local plans are ongoing.

The NRC staff believes that spent fuel can be safely stored at IPEC and Millstone in the current system of spent fuel pools (SFPs). Although the buildings housing the SFPs are not as hardened as the reactor containment structures, the SFPs themselves are robust, and relatively small structures, and several are partially below ground level. The spent fuel is stored in racks resting on the floor of the pools and is covered by more than 20 feet of water. The pools are designed to prevent a rapid loss of water with the structure intact, and the pool water level and cooling system are monitored and alarmed in the control rooms. Thus, the time needed to respond to events involving the SFP is significantly longer than for other abnormal conditions. It is also easier to add water to the SFP from various sources because it is an open pool. The robust design and small size of the pools reduce the likelihood that a terrorist attack would cause damage of a magnitude sufficient to result in an offsite release of radioactive material. Further, offsite resources can be brought onsite to assist in response to an event. The added airport and aircraft security actions taken by the FAA since September 11 and the onsite security measures that have been enhanced to deal with land-based vehicle attacks further decrease the risk to the SFPs. If a spent fuel storage building was impacted and fuel damaged by falling debris, the pool water would reduce the release of radioactive material to the environment. The licensees also have an emergency response plan in place to mitigate the consequences to the public in the event of damage to the SFP or a draindown of the water in the pool.

When the NRC staff completes its reevaluation of the security requirements, we will be able to judge whether modifications to the SFP structures and enclosures are warranted and whether or not additional safeguards measures should be established. If so, the NRC will act accordingly. The SFPs are within the protected area of the facility and, are therefore, protected from certain external threats under the security provisions identified in the physical security plans.

Although the NRC has not received a request from the IPEC and Millstone licensees, the IPEC licensee has indicated that it is evaluating the possible construction of an independent spent fuel storage facility (dry-cask storage). In a public meeting on March 14, 2002, the licensee stated that it was expediting its engineering review for this facility.

Thank you for your interest in these concerns of importance to your legislative district, the Nation, and nuclear power plant security. If you should have any further questions, please feel free to contact me at 301-415-1353 or Patrick Milano at 301-415-1457.

Sincerely,

*/RA/*

Stuart A. Richards, Director  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

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