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FINAL REPLY:

Joe F. Colvin
Nuclear Energy Institute (NEI)

TO:

Chairman

FOR SIGNATURE OF : ** PRI ** CRC NO: 02-0751

Chairman

DESC:

ROUTING:

Urges the NRC to Adhere to Commitment to Approach
the Area of Physical Plant Security, Including
Potential Changes to the Design Basis Threat (DBT)
and the Totality of Licensee Requirements

Travers
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DATE: 11/18/02

ASSIGNED TO: CONTACT:
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SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECy-017

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NUCLEAR ENERGY INSTITUTE

Joe F. Colvin
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

November 14, 2002

The Honorable Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
Mail Stop 016C1
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Chairman Meserve:

The purpose of this letter is to urge the NRC to adhere to its commitment to approach the area of physical plant security, including potential changes to the design basis threat (DBT) and the totality of licensee requirements in a comprehensive manner. Revisions to nuclear facility security should be in consonance with the federal government's development and implementation of a national defensive scheme. Regulatory bases for security should be established to achieve coherence and efficiency in the full scope of security related requirements.

The NRC has undertaken a number of positive steps to build upon the comprehensive security programs already in place prior to September 11, 2001. Through the development of Interim Compensatory Measures (ICM) covering the broad scope of security activities, the NRC has increased the level of preparedness at all nuclear sites and improved the overall protection of public health and safety.

The NRC also made a commitment to the Congress to undertake a "Top-to-Bottom" review of its security posture and regulations and then make recommendations for appropriate changes. This commitment was consistent with the expressed intention of the NRC to undertake a comprehensive review of security regulations prior to the events of September 11, 2001.

The industry fully supports the NRC's efforts to complete such a comprehensive review. However, we believe that the full engagement of industry expertise is essential to the success of the review and to the development of meaningful changes to security requirements that enhance security while ensuring that operational safety is not compromised. To date, dialog between NRC and industry has been on an issue-by-issue basis and then only after the NRC had arrived at an internally developed position. An integrated and comprehensive dialog is needed to produce a security posture that integrates all aspects of licensee and federal actions to



improve the overall effectiveness of security. Changes to the DBT and the security regulations should not be implemented until the full benefits of the review and industry expertise can be incorporated.

Two specific areas where NRC and industry expertise are necessary and would greatly enhance the effectiveness of overall security are as follows:

- A clear determination and establishment of the bases for protection of the public from potential terrorist activities is essential. As in the case of the design basis for the plants, the Part 100, Appendix A criteria could provide the basis for protection of the public for security. A well defined basis is needed in order that licensees can evaluate protective measures in a manner similar to that used in strategies to protect the public from reactor incidents and accidents. 10CFR73 requires licensees to take steps to protect the public against the possibility of radiological sabotage but the regulatory bases for protection of the public health and safety has not been clearly defined and as a result, effective evaluation of changes to security measures has been problematic.
- Determination of the boundaries between the protective strategies required of licensees and those of local, state and federal resources is needed to properly evaluate potential changes to security requirements. This review should also establish parameters of protection, such as the determination of the time that plant operators and security staff should be reasonably expected to protect the plant before assistance from outside resources can be reasonably expected to arrive.

The establishment of these fundamental bases prior to changes to regulations is consistent with the fundamental principles of good regulation established by NRC and consistent with testimony and speeches by the Commission before Congress and the public. For example, in your recent speech on September 11, 2002, to the Infocast Conference you stated:

“... There are limits to the defensive capabilities that should be expected of nuclear plant operators. ... There is no quick answer that can be developed by the NRC in isolation from other parts of the government.”

“... There needs to be an integrated national strategy to protect critical infrastructure of all types. The defense of nuclear facilities should not be viewed in isolation, but should be part of an overall national defensive scheme. ... Establishing and implementing an integrated national strategy will be an important task for the new Department of Homeland Security.”

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The NRC and the industry should work together with appropriate additional federal resources that can assist us in devising a comprehensive and effective approach to security for the threats that are now apparent. This approach will ensure that necessary changes are integrated as part of our national strategy to protect critical infrastructure and will also ensure that the improvements result in effective increases in protection of the public without unnecessary burden on licensees.

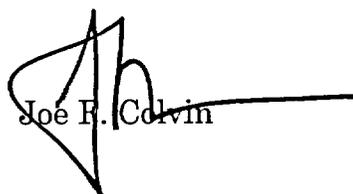
We are working with the Office of Homeland Security (OHS) to provide industry support to their efforts to define the overall protective strategies for all of our nation's critical infrastructure. We are developing an approach for consideration by OHS on how to define and implement a seamless protective strategy that reflects the appropriate capabilities of licensees, local, state and federal entities. We will commit the necessary senior industry personnel to work directly with OHS on this important initiative.

We believe that a necessary first step would be a meeting of key industry executives in a safeguards level meeting with you and your fellow Commissioners to establish a blueprint for success. A subsequent meeting with OHS will also be necessary to ensure that our collective efforts are fully integrated into national strategies. Following this initial meeting, we are prepared to commit the involvement of properly cleared and well qualified senior industry personnel to work with the NRC Commissioners and staff to complete a comprehensive review of the industry's security posture and the underlying regulations and bases.

We believe that these industry resources working together with the NRC and OHS can devise a security structure for nuclear facilities that will represent a true advance in security posture for the current and future threat environments consistent with evolving federal actions on a comprehensive national level for all critical infrastructures.

We look forward to working with the Commission to enhance overall plant security. Please contact me on how we can move forward on these important matters or if you have questions regarding this letter.

Sincerely,


Joe R. Colvin

Richard A. Meserve

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c: The Honorable Tom Ridge, Director, Office of Homeland Security
 The Honorable Spence Abraham, Secretary, U.S. DOE
 The Honorable Nils J. Diaz, Commissioner, U.S. NRC
 The Honorable Greta Joy Dicus, Commissioner, U.S. NRC
 The Honorable Edward McGaffigan, Jr., Commissioner, U.S. NRC
 The Honorable Jeffrey S. Merrifield, Commissioner, U.S. NRC
 Dr. William D. Travers, Executive Director for Operations, U.S. NRC