

July 18, 2003

Ms. Madelyn Wils, Chairperson
Community Board No. 1 - Manhattan
49 Chambers Street, Suite 715
New York, NY 10007-1209

Dear Ms. Wils:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter dated April 28, 2003, forwarding a resolution by the City of New York Community Board No. 1 regarding the Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point). In your letter and resolution, the Town Board requested that the NRC: (1) order the closure of Indian Point, (2) arrange for the removal of the radioactive waste, and (3) plan to replace the power produced by Indian Point.

NRC regulations set high standards for effective security programs at nuclear power plants and other sensitive nuclear facilities (described in Part 73 of Title 10 of the *Code of Federal Regulations*). The NRC has required protection of licensed facilities against sabotage or attack since the agency's inception. Security has been an important part of the NRC's regulatory activities, with defense-in-depth as the guiding design and operating principle. NRC regulations ensure that nuclear power plants are among the most hardened and secure industrial facilities in our nation. The many layers of protection offered by robust plant design features, sophisticated surveillance equipment, physical security protective features, professional security forces, and access authorization requirements provide an effective deterrence against potential safety or security problems related to terrorist activities that could target equipment vital to nuclear safety.

Since the terrorist attacks of September 2001, the NRC has sought to ensure the continued protection of the nation's nuclear power plants, working in close coordination with the Federal Bureau of Investigation (FBI), the Department of Homeland Security (formerly the Office of Homeland Security), the Federal Aviation Administration, the Department of Defense, State and local authorities, and other intelligence and law enforcement agencies. NRC coordination with these agencies remains ongoing.

The NRC has taken a number of steps to improve the already high level of security at the nation's nuclear power plants, including more training for security guards and requiring additional guards at the plants. Other NRC actions include issuing: (1) Orders formalizing certain security enhancements, security force fitness-for-duty and training improvements, and design-basis threat revisions, (2) more than sixty advisories to licensees to describe threat conditions or recommend additional measures, and (3) an NRC Threat Advisory and Protective Measures System, consistent with the Homeland Security Advisory System, to rapidly respond to changes in the national threat environment. These and other actions make nuclear power plants even better protected than what had been the best protected commercial facilities prior to the September 11, 2001, attacks.

The effectiveness of these security programs has been verified by the NRC, as well as other authorities, including the FBI and authorized State organizations. NRC continues to take other actions including a pilot program to test force-on-force exercises. Upon completion of the pilot, we plan to resume the force-on-force exercises on a 3-year cycle. These exercises are designed to test the adequacy of licensee security programs. A force-on-force exercise is planned at Indian Point in the near future. We also continue to inspect the facilities to confirm the enhanced security actions and activities taken by the licensees.

Although any security program is open to improvement, the NRC considers the Indian Point facility to be operated safely and the current security posture to be strong. On the basis of the actions taken to date, the NRC does not feel that the operation of the Indian Point facility should be suspended. The NRC continues to actively monitor safety and security at Indian Point and is prepared to take measures to ensure the continued safety of Indian Point and all of our nation's nuclear facilities.

In its resolution, the Board referred to a radioactive spillage into the Hudson River. Indian Point and other nuclear power plants are allowed, within strict limits, to release water into nearby waterways. These releases must be accounted for and documented to assure that limits are not exceeded. Further, environmental monitoring programs are designed to detect radioactive material in the environment. NRC routinely inspects these programs. We believe that the Board is referring to an unplanned discharge that occurred on February 21 and 22, 2000, as the result of inadequate flushing of a section of piping before releasing water through that piping. While the Commission is concerned with any unplanned release of radioactivity, we assure you that the amount of activity discharged in this case was well below allowable limits. The NRC staff has conservatively estimated the amount of whole-body exposure that any member of the public could have received as a result of this unplanned discharge to be approximately .001 millirem, or roughly 100,000 times lower than the allowable annual exposure to a member of the public from naturally occurring background radiation.

Regarding the Board's concerns about spent fuel pool cooling, the NRC staff believes that spent fuel can be safely stored at Indian Point in the current system of spent fuel pools. These pools are robust structures constructed of very thick concrete walls with stainless steel liners. The spent fuel rods at Indian Point are stored at the bottom of the pools and are covered by more than 20 feet of water. As long as the fuel rods are covered by water, it is not possible for the rods to melt or burn. The risk of a breach that could drain a spent fuel pool below the level of the fuel rods is extremely low because the pools are partially below grade in all three of the pools. The risk of uncovering the fuel due to a loss of cooling that could cause the water in the pool to boil off is also very low because it would take a significant period of time for this to occur - at least 12 hours for fuel that was recently removed from the reactor, longer for fuel removed during previous outages. Several backup sources of water, some of which do not require power from off-site, could be used to keep the fuel rods covered during this time. NRC's ongoing comprehensive safeguards and security program review includes consideration of potential consequences of terrorist attacks using explosives or other methods of attack on spent fuel pools. Additional information regarding spent fuel pools can be found on the NRC website at <http://www.nrc.gov/waste/spent-fuel-storage/pools.html>.

Regarding the Indian Point offsite emergency response plans, the Federal Emergency Management Agency (FEMA) has not yet made a final determination on the adequacy of the plans. As you may know, Federal oversight of radiological emergency planning and preparedness associated with commercial nuclear facilities involves both FEMA and NRC. While NRC has overall responsibility, FEMA takes the lead in reviewing and assessing offsite planning and response and in assisting State and local governments. NRC reviews and assesses the licensee's onsite planning and response. We work closely with and support FEMA in its assessment of offsite emergency preparedness.

Federal evaluation of emergency preparedness is an ongoing process. Earlier this year, FEMA provided the final exercise report for the Indian Point biennial exercise conducted in September 2002 and updated its review of emergency response plans that were revised in 2002. In the report FEMA identified a number of areas requiring corrective action, but did not identify any issues that would preclude protection of public health and safety. FEMA identified information it needed from the State and counties in order to provide an up-to-date review of the emergency plans.

Federal law establishes the criteria for determining whether offsite plans and preparedness provide reasonable assurance that appropriate measures can and will be taken to adequately protect the public in the event of a radiological emergency. FEMA is currently reviewing State and county documents, as well as other information, to make this determination for Indian Point. If FEMA should find that the State or local plans are not adequate or cannot be implemented, we will review those findings in conjunction with our assessment of the emergency plans and make the final determination regarding reasonable assurance at the Indian Point Energy Center. We are closely monitoring the steps being taken by FEMA, the State, counties, and the plant operator, Entergy, to address the emergency preparedness concerns at Indian Point.

The Board stated that the Indian Point was nearing the end of its 40-year operating license. The current operating licensees for Indian Point Units 2 and 3 will expire in 2012 and 2015, respectively. The 40-year license term was initially selected by the NRC on the basis of economic and antitrust considerations, but not on technical limitations. In accordance with NRC regulations, a licensee can request a renewal of its operating license for an additional 20 years. The license renewal process comprises a detailed review for both safety and environmental issues and includes opportunities for the public's participation. As of this date, the Entergy has not applied to the NRC to renew the licenses for Indian Point.

M. Wils

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The Board's issues about electrical energy projections and planning for replacement power are not within the jurisdiction of the NRC and would be better addressed to State or local authorities, such as the New York State Public Service Commission.

I hope that this letter has been responsive to your concerns.

Sincerely,

/RA/

Cornelius F. Holden, Jr., Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

M. Wils

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