

July 27, 2004

Ms. Eva Brill  
323 Haines Road  
Bedford Hills, NY 10507

Dear Ms. Brill:

On behalf of the Nuclear Regulatory Commission (NRC), I am responding to your letter of June 20, 2004, to Chairman Diaz expressing concern about the radiological emergency response plans for Indian Point Nuclear Generating Unit Nos. 2 and 3. In your letter, you assert that the plans do not protect public health and safety pursuant to Federal Emergency Management Agency (FEMA) regulations detailed in Part 350 of Title 44 of the *Code of Federal Regulations* (44 CFR 350) and, thus, should not be certified. In addition, you requested a hearing on the plans.

The NRC's primary mission is to ensure protection of public health and safety. In addition, the NRC regulations set high standards for effective security programs at nuclear power plants and other sensitive nuclear facilities. In this regard, the NRC closely monitors nuclear power plants to ensure that they are maintained and operated in accordance with NRC regulations. Nuclear power plants are built of massive structures with thick exterior walls and interior barriers of reinforced concrete. The plants are designed to withstand tornadoes, hurricanes, fires, floods, and earthquakes. As a result, the structures inherently afford a measure of protection against deliberate aircraft impacts. The layers of protection offered by 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.

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.

In this regard, NRC regulations require that comprehensive emergency plans be prepared and periodically exercised to assure that actions can and will be taken to notify and protect citizens in the vicinity of a nuclear facility in the event of a radiological emergency. The NRC has responsibility for the onsite emergency planning and requires nuclear plant operators to have detailed procedures for handling accidents, making timely notification to appropriate authorities, and providing accurate radiological information. This responsibility involves direct assessment of onsite emergency planning and preparedness of the facilities that we regulate, in addition to oversight of plant operations and security.

Likewise, 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. Federal evaluation of

emergency preparedness is an ongoing process. FEMA is currently reviewing the results of the biennial exercise at Indian Point conducted on June 8, 2004. Preliminary findings by FEMA and NRC indicate that the June 8 exercise was successful in testing various emergency plan functions and the performance of onsite and offsite organizations was successful for protecting the public in the event of a radiological emergency.

In addition to the coordinated facility, local, and State emergency plans, Federal agencies 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.

The NRC considers public involvement in, and information about, our activities to be a cornerstone of strong, fair regulation of the nuclear industry. We recognize the public's interest in the proper regulation of nuclear activities and provide opportunities for citizens to be heard. On June 10, 2004, NRC and FEMA conducted a public meeting to discuss the initial observations from the Indian Point exercise. At the meeting, the public was given the opportunity to ask questions. However, there is no opportunity to request a hearing associated with the exercise. A hearing is an adjudicatory process regarding a licensing or enforcement action wherein an individual or affected party files a specific petition to intervene in accordance with NRC regulations. To learn more about the hearing process, please refer to Part 2 to Title 10 of the *Code of Federal Regulations* or visit our web site at <http://www.nrc.gov/what-we-do/regulatory/adjudicatory/hearing.html>. FEMA also has a similar process under its regulations in 44 CFR 352.5 and 352.6.

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

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