



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

August 31, 2005

EA-05-098

Mr. Michael Kansler
President
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: RESPONSE TO REQUEST FOR INFORMATION ON ACTIONS TAKEN AT
THE JAMES A. FITZPATRICK NUCLEAR POWER PLANT TO ENSURE
EMPLOYEES ARE WILLING TO RAISE SAFETY CONCERNS

Dear Mr. Kansler:

By letter dated June 15, 2005, Entergy Nuclear Operations, Inc. (Entergy) responded to a Nuclear Regulatory Commission (NRC) request to provide information on the actions that Entergy has taken, and is taking, to prevent public knowledge of a U.S. Department of Labor, Office of Administrative Law Judges (ALJ), decision (Case No. 2003-ERA-00022) from having a negative effect on the willingness of James A. FitzPatrick Nuclear Power Plant (FitzPatrick) employees to raise safety concerns.

The NRC staff has reviewed your response, and on July 21, 2005, representatives from Entergy/FitzPatrick and the NRC held a conference call to discuss the June 15, 2005, letter. Those participating on the telephone call were:

NRC/Office of Enforcement
Lisamarie Jarriel
Robert Fretz

Entergy/FitzPatrick
David Wallace
Patrick Berry
Richard Bleyker

In the June 15, 2005, letter, Entergy stated that its management must continuously work to foster a safety conscious work environment (SCWE), an environment that assures that employees can raise safety concerns without fear of potential adverse effects. The licensee pointed to nuclear safety culture surveys performed by an independent contractor which indicated that FitzPatrick rated 'very good' to 'excellent' in the most recent assessments. Entergy's letter also stated that FitzPatrick employees continue to raise and document issues at a rate of 400 to 500 condition reports per month.

During the telephone call, the NRC staff asked if Entergy's evaluation had determined whether or not employees within the individual's former work group were raising issues at the same rate following the decision made by the ALJ. The NRC staff was concerned that site-wide statistics could mask a chilling effect within the former employee's work group. The licensee clarified that, while it had not reviewed the condition report data for specific organizations, Entergy had recently assessed the SCWE for this group and identified no concerns.

The licensee's June 15, 2005, letter further stated that all supervisory personnel at Entergy received SCWE training during the months of May and June 2005, and that this training was given by Entergy senior management. During the conference call, the NRC staff asked whether the potential chilling effect that might occur as a result of employee's knowledge of the ALJ decision was discussed during the recent training. The licensee responded by stating that the circumstances surrounding this case were reviewed during the supervisory training held in May and June. In addition, the licensee added that the case was briefly discussed at FitzPatrick during recent "station update" meetings with employees.

Finally, during the July 21, 2005, conference call, the licensee noted that the number of allegations at FitzPatrick are down over the past two years, while the number of issues addressed by the employee concerns program are increasing. Entergy sees this as a positive trend in that more people are willing to raise issues through internal processes implemented at FitzPatrick, rather than raise issues outside the organization.

Based on its review of the June 15, 2005, letter and the clarifying information provided during the telephone conference call on July 21, 2005, the NRC staff finds that Entergy was responsive to its May 16, 2005, request for information concerning the actions the licensee has taken, is taking, or plans to take to prevent public knowledge of the ALJ decision from having a negative effect on the willingness of all FitzPatrick employees to raise safety concerns. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

For questions concerning this letter, please contact Mr. Robert Fretz, NRC, Office of Enforcement at 301-415-1980 or via e-mail at rx@nrc.gov.

Sincerely,

/RA/

Michael R. Johnson, Director
Office of Enforcement

Docket No.: 50-333
License No.: DPR-59

cc: See next page

cc:

G. Taylor, CEO, Entergy Operations
M. Kansler, President, Entergy
K. Mulligan, General Manager, Plant Operations
O. Limpas, VP Engineering
B. O'Grady, VP Operations Support
M. Colomb, Director of Oversight
S. Bono, Director, Nuclear Safety Assurance
A. Halliday, Manager, Regulatory Compliance
J. Fulton, Assistant General Counsel
Supervisor, Town of Scriba
S. Lyman, Oswego County Administrator
C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law
P. Eddy, Electric Division, Department of Public Service, State of New York
P. Smith, President, New York State Energy Research and Development Authority
J. Spath, SLO Designee, New York State Energy Research and Development Authority
S. Lousteau, Treasury Department
T. Judson, Central New York, Citizens Awareness Network
D. Katz, Citizens Awareness Network

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* via email dtd 08/18/05

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