

January 4, 2006

Janet Schlueter, Director  
Office of State and Tribal Programs  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

05 JAN 11 AM 7:12  
STP

Dear Ms. Schlueter:

I am writing to express concern about what appears to have been a breach in the agreed upon communication protocol between the U.S. Nuclear Regulatory Commission (NRC) and the State of New York with regard to dissemination of security related information. As I understand, on or just before December 23, 2005, the NRC issued an advisory to the operators of the six nuclear power plants in New York State regarding recently acquired terrorist threat information. However, the State of New York, and more specifically the New York State Office of Homeland Security (NYSOHS), was not apprised by NRC of this action. NYSOHS became aware of the issuance of an advisory only after receiving an alert from another federal agency. Then only after NYSOHS queried NRC on the matter was the State verbally apprised of the content of the advisory by the NRC.

Based on NRC guidance provided by Paul Lohaus's letter dated May 25, 2005 to State Liaison Officers and several related meetings with NRC staff, it was our understanding that the NRC had committed to share security related information involving New York State with the State, particularly the NYSOHS, in a timely fashion to allow for appropriate action by the State. While we strongly assert a "need to know", it also just makes good sense for threat information that warrants communication to facilities in New York to also be communicated to the State. As the NRC knows, the State has significant New York State Police and National Guard assets positioned at the three nuclear power plant sites in New York in direct support of the plants' security programs and capabilities. It is therefore critical that the State keep its troopers and soldiers as fully informed as possible about potential threats. In addition, the NRC should routinely advise the New York State Energy Research and Development Authority (NYSERDA), as the State's NRC Liaison Office, that such an advisory was issued and confirm that the details were provided to the NYSOHS as New York's primary contact for homeland security information.

In this particular case, despite NRC's determination that the threat was non-site specific, of doubtful credibility and non-actionable on the part of power plant operators, the threat did

Main Office  
Albany  
17 Columbia Circle  
Albany, NY 12203-6399  
Toll Free: 1 (866) NYSERDA  
Phone: (518) 862-1090  
Fax: (518) 862-1091

West Valley Site  
Management Program  
10282 Rock Springs Road  
West Valley, NY 14171-9799  
Phone: (716) 942-4387  
Fax: (716) 942-2148

New York City  
485 Seventh Ave., Suite 1006  
New York, NY 10018  
Phone: (212) 971-5342  
Fax: (212) 971-5349

Buffalo  
617 Main Street, Suite 105  
Buffalo, NY 14203  
Phone: (716) 842-1522  
Fax: (716) 842-0156

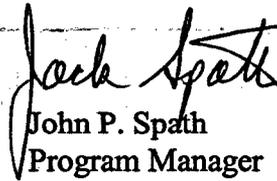
SISP Review Complete

STP-006 Template  
RPS: SPO5

include a New York element and the NRC did choose to disseminate it, advising the power plant operators to remain vigilant. The State does not dispute the NRC's decision to disseminate the threat information. However, the corresponding lines of communication that the State believed had been established with the NRC failed. I now request the NRC's assurance that a system is in place to prevent a recurrence of this lapse in communications, and to ensure that the State, primarily the NYSOHS, is advised by the NRC in a timely manner when security information or advisories involving New York are disseminated.

Your prompt attention to this matter would be greatly appreciated.

Sincerely,



John P. Spath  
Program Manager  
Low Level Radioactive Waste  
and Nuclear Coordination

cc: Eric Leeds, NRC Office of Nuclear Security and Incident Response  
Bob Bores, NRC Region I  
John Wray, NRC Region I  
Peter Smith, NYSERDA  
Paul DeCotis, NYSERDA  
Frank Tabert, NYSOHS  
Adela Salame-Alfie, NYS Department of Health  
Tom Fargione, NYS Emergency Management Office  
Paul Eddy, NYS Department of Public Service