

EDO Principal Correspondence Control

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FINAL REPLY:

EDATS: SECY-2006-0076

Alan G. Hevesi
Office of the State Comptroller
State of New York

TO:

Chairman Diaz

FOR SIGNATURE OF :

** PRI **

CRC NO: 06-0216

Chairman Diaz

DESC:

Action Plan Regarding an Independent Safety
Assessment of Indian Point

ROUTING:

Reyes
Virgilio
Kane
Silber
Dean
Burns
Dyer, NRR
Zimmerman, NSIR
Collins, RI
Cyr, OGC
Schmidt, OCA

DATE: 05/03/06

ASSIGNED TO:

CONTACT:

EDO

Shoop

SPECIAL INSTRUCTIONS OR REMARKS:

Ref. G20060360.

EDATS

Electronic Document and Action Tracking System

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Initiating Office: SECY

General Information

Assigned To: OEDO

OEDO Due Date: 5/12/2006 5:00 PM

Other Assignees:

SECY Due Date: 5/16/2006 5:00 PM

Subject: Action Plan Regarding an Independent Safety Assessment of Indian Point

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ADAMS Accession Numbers

Incoming:

Response:

Package:

Document Information

Originating Organization: State/Local Officials/Groups

Originator Name: Alan G. Hevesi

Incoming Task Received: Letter

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Date Response Requested by Originator: NONE

Addressee: Chairman Diaz

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Special Instructions: Ref. G20060360.

Other Information

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Agency Lesson Learned: NO

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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LOGGING DATE: 05/03/2006

ACTION OFFICE: EDO

AUTHOR: Alan Hevesi

AFFILIATION: NY

ADDRESSEE: Nils Diaz

SUBJECT: Urges the Commission to reconsider the course of action planned by the NRC in response to the request by Sen. Hillary Clinton regarding an Independent Safety assessment of the Indian Point nuclear facilities...

ACTION: Signature of Chairman

DISTRIBUTION: RF, SECY to Ack

LETTER DATE: 04/26/2006

ACKNOWLEDGED: No

SPECIAL HANDLING: Comr. Correspondence

NOTES:

FILE LOCATION: ADAMS

DATE DUE: 05/16/2006

DATE SIGNED:

EDO --G20060463

ALAN G. HEVESI
COMPTROLLER



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

110 STATE STREET
ALBANY, NEW YORK 12236

April 26, 2006

Nils J. Diaz, Ph.D.
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Dr. Diaz:

I urge the Commission to reconsider the course of action planned by the NRC in response to the request by New York Senator Hillary Rodham Clinton for an Independent Safety Assessment of the Indian Point Nuclear facilities. The situation warrants a comprehensive, independent review. Your March 28, 2006 correspondence to Senator Clinton does not commit the NRC to such a review and leaves unaddressed several critical issues.

The Reactor Oversight Program you describe appears quite thorough, and the additional oversight afforded this facility is welcome. It does not respond, however, to many safety issues and to the long-standing local concerns expressed by community leaders, environmental groups and the county executives of the affected communities. These larger dynamics make an Independent Safety Assessment similar to the one conducted for the Maine Yankee Power Plant an essential addition to the review plan you put forth.

In 2003, James Lee Witt Associates, LLC released a report raising serious concerns about emergency planning and preparedness. Records maintained by my Office show that \$976,153 was paid for this report. In response to the draft report, your predecessor, Chairman Meserve, noted that the majority of the matters were in the purview of the Federal Emergency Management Agency (FEMA) and cited a long-standing MOU through which the NRC relies on FEMA for its assessment. At the same time, the letter noted that "any judgment as to the overall state of emergency planning and preparedness is for the NRC to reach."¹ Your March 28 correspondence fails to address this responsibility of the Commission.

¹ Letter from Chairman Richard A. Meserve of the Nuclear Regulatory Commission to Sen. Hillary R. Clinton, February 12, 2003, accessed April 12, 2006 at <http://www.nrc.gov/reading-rm/doc-collections/news/2003/03-005i.html>.

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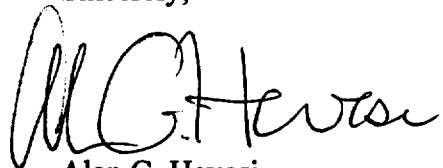
Given concerns raised about FEMA decision making in recent months, the NRC must redouble its efforts to ensure the protection of those who live near the facility. It is reasonable for the State of New York, and particularly its residents affected by emergency plans, to question FEMA's reasonable assurance declaration of the adequacy of emergency plans when most State and local officials responsible for the implementation of the plans have rejected them. It is equally reasonable to ask the Commission to question its reliance on this declaration.

As I understand it, the unprecedented Independent Safety Assessment of Maine Yankee was the result of a review by the NRC's Inspector General that implied possible "significant weaknesses in NRC review and approval processes."² It seems significant potential weaknesses exist regarding the decision making by the NRC relative to Indian Point, as well.

Former NRC Chairperson Shirley Ann Jackson responded to the IG's report, and concerns raised by the Governor of Maine, by directing the creation of a team to conduct an Independent Safety Assessment. The team involved NRC specialists, expert contract support, independent consultants and representatives from the State. It is obvious that the review you have outlined could not possibly cover the same issues and weaknesses as an ISA by a team of multi-disciplinary composition.

I urge you to appoint a diverse team of experts to initiate an inclusive and thorough review not only of Indian Point operations, but of decision making by the NRC and FEMA, as well as the broader safety concerns. Given the NRC's ultimate responsibility for the overall state of emergency planning and preparedness, legislation should not be required for the NRC to initiate such a review.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan G. Hevesi". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Alan G. Hevesi

² Report of The Maine Yankee Lessons Learned Task Group, issued December 1996, accessed April 12, 2006 at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/1997/secy1997-042/1997-042scy.html>.