

October 27, 2006

Mr. David Lochbaum
Union of Concerned Scientists
1707 H Street Suite 600
Washington, DC 2006-3919

Dear Mr. Lochbaum:

This letter is in response to your letter to Mr. Donald Jackson, dated September 26, 2006. Your letter commented on circumstances discussed in NRC report 05000219/2006007. In your letter, you posit a relationship between the NRC's stated position on preconditioning of components and systems prior to tests or inspections undertaken by a licensee, and an incident that occurred during an NRC team inspection, detailed in the above referenced report. Briefly stated, you question whether the NRC position on preconditioning a component or system prior to a test, undertaken by a licensee, should have applied to a licensee employee who emptied containers of water from a drain prior to an NRC team entering the area for an inspection.

As discussed in the report, and at a public exit meeting, the NRC found the situation to be less than satisfactory, and portrayed it as a missed opportunity by the licensee and a poor reflection on their corrective action program. The situation represented a performance deficiency that had no impact on the safe operation of the plant. Consequently, no enforcement action was warranted. The containers were emptied by a technician sent to secure an area prior to NRC entrance. The purpose of the technician's visit to the area was to assure that potentially harmful situations were addressed in an enclosed, infrequently entered space prior to the NRC walking down the area. The NRC does not believe the containers were emptied in an attempt to mislead the NRC. The incident highlighted the need for the company to institute formal controls to monitor leakage captured in the containers.

The NRC team walked down dozens of areas and systems in the plant during the two weeks the team spent onsite. The NRC team also took advantage of opportunities, such as unexpected maintenance, to witness plant personnel exercise procedures. The team did not believe that any licensee actions impeded the NRC's observations in these areas. It should be noted that the resident staff regularly and spontaneously tour the plant as well.

As you point out in your letter, the NRC has issued various generic communications that frame the NRC's expectations about pre-conditioning of tests performed for the purposes of determining operability. NRC inspectors are expected to evaluate suspected pre-conditioning utilizing inspection guidance contained in Part 9900 of the NRC Inspection Manual: Technical Guidance, "Maintenance - Preconditioning of Structures, Systems, and Components Before Determining Operability," which is available at the NRC website in the document collections under "inspection manual." These references, however, do not apply to a visual inspection of an area by either the licensee or the NRC. Since our inspection, the licensee has formalized its monitoring of the bottles (which they had neglected to do in the years before our inspection). NRC resident inspectors and specialists have confirmed the implementation of the monitoring

and associated controls. Now that formalized monitoring is in place, any future unofficial and uncontrolled emptying of the bottles would, indeed, constitute pre-conditioning.

Although the NRC does not have a stated position on “pre-conditioning” of an area prior to NRC inspection, we share with you the same expectation that the area not be specially prepared by the licensee in advance. We have regulations that also clearly state it is unacceptable for a licensee or their representatives to mislead the NRC.

We trust this letter is responsive to your concerns. If you have any further questions or areas you wish to discuss, please call Mr. Richard Conte at 610-337-5183.

Sincerely,

/RA/

A. Randolph Blough, Director
Division of Reactor Safety

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