

May 1, 2007

Mr. Russell W. Goyette
7 Strathmere Street
Waretown, NJ 08759

Dear Mr. Goyette:

I am responding to your letter of March 21, 2007, in which you expressed concern about the Nuclear Regulatory Commission's (NRC) response in the 9th Circuit Court of Appeals regarding its area of responsibilities in defending plants against possible terrorist attack.

The NRC takes very seriously our mission of protecting public health and safety and promoting the common defense and security of the United States in all of our regulatory activities. With regard to the decision in the 9th Circuit Court of Appeals in the case of *San Luis Obispo Mothers for Peace v. NRC*, 449 F.3d 1016 (9th Cir. 2006), in our view, for NRC to analyze the potential impacts of terrorist attacks under National Environmental Policy Act (NEPA) would be inconsistent with the rule of reason because it diverts agency resources without a corresponding benefit. The agency already goes to great lengths to require licensees to protect their facilities against a terrorist attack and to mitigate the consequences of such an attack should one occur. Since 9/11, the NRC has ordered licensees to implement numerous additional security measures and has proposed several new regulations to address the potential consequences of radiological sabotage and terrorist attacks. Adding NEPA analysis to these already extensive regulatory efforts would divert agency resources, substantially complicate NEPA review and analysis, in large part due to the sensitive information involved, without producing new material information. Thus, in our judgment, including consideration of terrorism in the NEPA analysis does not further NEPA's goal of protecting the environment.

With regard to the defense of nuclear power plants, security at a nuclear power plant is achieved in layers, with multiple approaches concurrently at work – just as safety in nuclear power plants is accomplished through multiple back-up systems. A range of security measures is in place: well trained and armed security guards; physical barriers; intrusion detection and surveillance systems; and access controls. Another layer of protection is in place for coordinating threat information and response. The NRC works closely with the Department of Homeland Security, intelligence agencies, the Department of Defense, and local law enforcement. These relationships ensure that the NRC can act quickly on any threats that might affect its licensed facilities and allow effective emergency response should a serious terrorist attack occur. This defense-in-depth approach to security at nuclear power plants considers the issues you have raised, including the location and design of the plant, as well as the security of stored radioactive waste.

I disagree with your statement that “the NRC maintained that it was totally the responsibility of the military to provide defense.” The NRC has established regulations defining the design basis threat that each nuclear power reactor licensee's security force must be capable of defending against, as well as requirements for defensive strategies, mitigative measures, and integrated response against this design basis threat. In a terrorist attack scenario beyond the design basis threat, the NRC would rely on the aforementioned agencies to assist the licensee's security force in protecting the plant. Therefore, it is not totally the responsibility of the military to provide defense against a terrorist attack on a nuclear power reactor.

R. Goyette

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In closing, we believe that the NRC has taken several significant steps to raise the level of security at the nation's nuclear power plants. The NRC is committed to ensuring the continued protection of the public health and safety, the environment, and the secure use and management of radioactive materials. For more information on the NRC's actions, please visit our website at <http://www.nrc.gov/>.

Sincerely,

/RA/ J. Wiggins for

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

R. Goyette

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