

April 14, 2008

Mr. Thomas Gurdziel
9 Twin Orchard Drive
Oswego, NY 13126

Dear Mr. Gurdziel:

In your letter to the Executive Director for Operations of the Nuclear Regulatory Commission (NRC), dated March 10, 2008, you requested, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206 of the NRC's regulations, that (1) Indian Point Nuclear Generating Unit Nos. 2 and 3 licensed power level be reduced to 0%, (2) that the NRC impose sanctions on the Entergy/Indian Point management and ownership organizations, and (3) that NRC Enforcement employees who have not documented the Entergy performance as unacceptable be issued a letter of reprimand. Your request for items (1) and (2) cited the fact that Entergy Nuclear Operations, Inc. (Entergy), the licensee for Indian Point Nuclear Generating Unit Nos. 1, 2, and 3, is in violation of an NRC order to have backup power to the emergency sirens. Your request for item (3) cited the lack of enforcement taken for leakage into the ground of contaminated water from the spent fuel pool at Unit 1. Your petition was referred to the Office of Nuclear Reactor Regulation (NRR).

The NRC has taken a number of steps to have Entergy install an acceptable new emergency siren system with backup power. On January 31, 2006, the NRC issued a Confirmatory Order Modifying License (Order) to Entergy requiring the licensee to install backup power for the Indian Point siren system, as required by the Energy Policy Act of 2005, by January 30, 2007. On January 11, 2007, Entergy submitted a request to extend the deadline to April 15, 2007. On January 23, 2007, the NRC approved Entergy's request after finding that Entergy had made a good faith effort to comply with the Order and had demonstrated good cause to relax the Order. On April 13, 2007, Entergy submitted a second request to relax the Order, to extend the deadline to August 31, 2007. The NRC denied the request and stated that the NRC would consider action under the NRC's Enforcement Policy. On April 23, 2007, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty for \$130,000 (EA 07-092) to Entergy because of its failure to meet the April 15, 2007, deadline; Entergy paid the civil penalty. On July 30, 2007, the NRC issued an Order to Entergy requiring the new siren system to be approved by the Federal Emergency Management Agency (FEMA) and placed in service by August 24, 2007. On August 23, 2007, Entergy submitted a letter stating the new system was ready with the exception of FEMA approval. However, FEMA denied approval of the system in September 2007. On January 24, 2008, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty for \$650,000 (EA 08-006) to Entergy because of its failure to implement the previous orders; Entergy also paid that civil penalty and submitted a revised schedule for placing the new siren system in service. The new siren system is currently scheduled to be in service in August 2008. The NRC is closely monitoring Entergy's progress and will take additional enforcement as deemed necessary to ensure compliance with NRC Orders.

The NRR petition review board (PRB) has considered your petition request. The PRB's initial recommendation was that your petition request not be accepted for review pursuant to 10 CFR 2.206. The NRC staff informed you of this determination on March 27, 2008, at which time you indicated that you did not want to meet with the PRB on this matter. The PRB's final

recommendation is that your request not be accepted for review pursuant to 10 CFR 2.206 as explained below.

Your request that Units 2 and 3 be reduced to 0% power due to the failure to meet the Orders is not accepted for review pursuant to 10 CFR 2.206 because you have not provided facts sufficient to constitute a basis for the requested action. Specifically, you have provided no information to indicate that Entergy's failure to meet the Orders created adverse conditions which would warrant a plant shutdown. As the NRC noted in its April 13, 2007, letter to Entergy, the current siren system in service at Indian Point is capable of alerting the public of an event at the plant. NRC Region I will continue enhanced oversight of the existing system while the new system is completed. The NRC believes there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency in terms of alerting the public. Furthermore, you have provided no information to identify any violation of NRC requirements that would warrant a plant shutdown. As noted above, the NRC has taken appropriate enforcement action for the licensee's failure to meet the April 15 and August 24, 2007, deadlines.

Your request that the NRC impose sanctions on the Entergy/Indian Point management and ownership organizations is not accepted for review pursuant to 10 CFR 2.206 because you have not provided facts sufficient to constitute a basis for the requested action. Under NRC rules and regulations, enforcement action generally is not taken against unlicensed individuals except in cases of deliberate misconduct. See for example, 10 CFR 50.5. As you did not set forth any facts indicating deliberate misconduct, this request is not accepted for review pursuant to 10 CFR 2.206.

Your request that NRC Enforcement employees who have not documented the Entergy performance in question as unacceptable be issued a letter of reprimand is not accepted for review pursuant to 10 CFR 2.206 because it is not a request for enforcement action, but a request for disciplinary action against NRC employees. The PRB, however, has referred your letter to the NRC Office of the Inspector General, who is charged with investigating misconduct by NRC employees.

Thank you for your interest in these matters.

Sincerely,

/RA/

Ho Nieh, Deputy Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286

cc: See next page

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Ho Nieh, Deputy Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286

cc: See next page

Package: ML080920240 Incoming: ML080790492 Letter: ML080920228

OFFICE	LPL1-1/PM	LPL1-1/LA	LPL1-1/BC	DD/DPR
NAME	JBoska	SLittle	MKowal	HNieh
DATE	4/10/08	4/3/08	4/10/08	4/14/08

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LETTER TO MR. GURDZIEL DATED

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RidsEDOMailCenter

RidsOpaMail

RidsRgn1MailCenter

RidsAcrcAcnw&mMailCenter

cc: Plant Mailing list

Indian Point Nuclear Generating Unit Nos. 2 & 3

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