

October 29, 2008

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

SUBJECT: Indian Point

Dear Mr. Gurdziel:

I am responding to your September 26, 2008, letter to U.S. Nuclear Regulatory Commission (NRC) Chairman Dale E. Klein. You raised issues regarding the timeliness and effectiveness of NRC actions. Specifically, you discussed NRC's timeliness on regulatory actions, commented on the NRC's decisionmaking philosophy, and asked whether the NRC is focused on the proper issues.

Thank you for your comments on the timeliness of licensee event reporting and other reports. In the instances you mentioned, the guidance of Title 10 of the Code of Federal Regulations (10 CFR) Section 50.73, "Licensee Event Reports," requires licensees to submit a report within 60 days for issues involving safety-related equipment. In these cases, the information is not immediately needed to ensure the continued safe operation of the plant, but the extra time allotted allows the licensee to collect information regarding troubleshooting, extent of condition, and vendor analysis to provide a more complete and accurate report. For special inspections, 45 days are allowed for the inspection team to compile the final report. However, if the inspection reveals findings of significance or raises any immediate concerns that could affect public health and safety, the inspection team may develop an expedited report detailing these specific findings. In addition, the NRC continuously strives to ensure its decisions are effective and efficient.

You also commented on the use of alternative dispute resolution (ADR) instead of fines. ADR includes a variety of methods for resolving conflict outside of court using a neutral third party. The NRC public Web site at www.nrc.gov/aboutnrc/regulatory/enforcement/adr.html contains more information about ADR. The ADR technique employed by the NRC in the case of the San Onofre firewatch that you cited was mediation. In requesting ADR for this case, both the NRC and the licensee noted that a high number of substantiated, willful violations occurred during a short time period and believed that both parties' interests could be served by engaging in ADR. The NRC has been utilizing ADR since August 2004 and believes that it has resulted in improved plant safety due to the broader and more comprehensive corrective actions that result when compared to the traditional enforcement process. As with all ADR settlement agreements, the terms and conditions are confirmed by an order and become part of the facility's license. As a result of the ADR session with San Onofre, the NRC issued a confirmatory order obligating the licensee to a series of concrete steps necessary to building and maintaining a robust safety culture. It is the NRC philosophy that while sometimes fines are appropriate, measures such as ADR have longer-term effectiveness in terms of ensuring safety and developing an appropriate safety culture.

Your final comment was that the NRC focuses exclusively on issues affecting safety-related systems at the expense of issues that, while not safety-related, may indicate deeper problems with the safety culture at the plant. The NRC takes the issue of nuclear plant safety very seriously. NRC staff and resident inspectors use a variety of inspection tools and risk-informed methods to determine the safety implications of events and ensure our licensees have the appropriate safety culture. The NRC staff routinely examines and screens a full range of issues that occur throughout the industry to identify any trends and their implications for safety.

I appreciate your concerns in these matters and the time you have taken to raise them to the NRC.

Sincerely,

/RA/

Bernard White, Acting Chief
Operating Experience Branch
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

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