THE ASSEMBLY
STATE OF NEW YORK
ALBANY

STANLEY FINK
SPEAKER

March 27, 1981

Dr. Joseph Hendrie
Chairman
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, DC 20006

Dear Commissioner Hendrie:

In response to the accident at Three Mile Island in March 1979, the Commission began a process of upgrading the role of emergency planning as a means of protecting resident populations in the vicinity of nuclear power plants. The Commission appropriately acknowledged the need for improvements in emergency planning as a result of that accident. On November 3, 1980, the new NRC regulations went into effect. In its new rulemaking, the Commission stated that:

> The state of onsite and offsite emergency preparedness [must] provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiologic emergency. [Section 50.47(a)(1)]

As you know, the Indian Point site has the highest population density of any such site in the Nation. More than 200,000 people live within a ten-mile radius of the site and over 17 million people live within 50 miles. These extremely high population concentrations make emergency radiologic preparedness acutely important, yet extraordinarily difficult to accomplish.

The new NRC rulemaking requires that the upgraded plans be implemented by April 1, 1981, and any deficiencies be corrected with four months. The consequences of failure or inability to correct such deficiencies could mean shutting down the reactors onsite.

I am writing to you today to express my concern about the status of the emergency radiologic response plans for the Indian Point site which have been submitted to the NRC and FEMA. Specifically, I am concerned about notification, implementation and funding.

Notification

The new NRC rule requires the plan to have the capability to notify the public within 15 minutes after the State/local authorities have been notified of an accident by the reactor operator. While this requirement may seem important and even stringent, it completely overlooks the fatal flaw in the system which vests the reactor operator with the authority to notify State/local officials in the first place.

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The accident at Indian Point #2 last fall provides unequivocal proof of the essential fallacy of this system. The NRC and ConEd itself have both acknowledged the failure of ConEd as a licensee to provide prompt notification.

The NRC has not acted to change the structure of this vital link in the emergency planning system. As long as the reactor operator is responsible for initiating the process, the people will be in jeopardy. It is essential that an outside, independent expert be responsible for initial notification.

Implementation

The NRC has repeatedly assured the public that the standard for emergency planning be that "adequate protective actions in response to actual or anticipated conditions can and will be taken." However, on February 12, 1981, in testimony before the Assembly Special Committee on Nuclear Power Safety, which I chair, Mr. Alfred DelBello, Westchester County Executive, stated:

> We have established that the proposed emergency response plan for Westchester County will not work in its present form. It will not work because it is technically flawed in areas such as the transportation component, the uncertainty over hosting arrangements, and a number of other problems. . . .
>
> We are located in the most densely populated area of any nuclear facility in the U.S.A., alongside a very large river, adjacent to a New York City watershed of 18,000 acres, with only one or two roads running north or south, and hardly any roads running east or west. Are we really kidding ourselves that there is any level of protection that public officials can reasonably afford the public?

Given the essential geographic constraints of the site, I am concerned about the NRC's ability to assure that plans not only can but will be implemented. Approving a paper document that works in theory only will provide little solace and no protection should a radiation release occur.

Funding

The critical component of being able to implement an emergency radiologic response plan is the funding for staff and equipment. At the February 12 hearing of the Special Committee, Mr. Bruce McQueen, Executive Director of the New York State Disaster Preparedness Commission, stated:

> We have recently completed and forwarded for Federal review and comment the New York State Radiologic Emergency Preparedness Plan. . . . While this plan addresses the urgent need of the State for an expanded emergency response capability, this response capability is neither funded nor presently assured by Federal support or appropriate State sources.

The statement was reinforced by Mr. DelBello speaking for county government:

> Of even greater concern, however, is that we do not have the resources, the equipment or the personnel. We are not even close to having the resources to carry out anything in that plan. . . .

This year, I sponsored and the Assembly passed a bill which would provide funding for emergency radiologic response planning activities. That bill is now in the State Senate where it died last year. Thus funding the plan so that it can be fully implemented by July 1 1981, as required by the new NRC rule, is extremely problematic. Given the Senate's failure to act, the NRC can have no assurance that this plan will be adequately funded.

Conclusion

The NRC's mandate to the public is that emergency plans must provide reasonable assurances that the plans can and will be implemented in a radiologic emergency situation. However, there are several serious flaws and inadequacies in the plans, a few of which I have discussed in this letter.

I urge the NRC to objectively evaluate the Indian Point plan's ability to adequately protect the large resident population and the vital environmental resources that surround the Indian Point site. If the NRC finds that deficiencies cannot be corrected in the four-month period that has been established, then there can be no alternative but to close the site.

Sincerely,

Stanley Fink

STANLEY FINK
Speaker

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In closing, I would like to emphasize that we share your concerns regarding a "comprehensive program", and that our paramount interest in the area of emergency preparedness is assuring the public health and safety.

Sincerely,

Original Signed by
Brian K. Grimes

Brian K. Grimes, Director
Division of Emergency Preparedness
Office of Inspection & Enforcement

Enclosures:
1. Letter to A. DelBello dated 3/20/81
2. Letter of agreement dated 10/17/79
3. Letter of agreement dated 12/23/80

cc: Consolidated Edison Co. of New York, Inc.
Public Authority, State of New York

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