

April 27, 2011

The Honorable Robert J. Duffy  
Lieutenant Governor of New York  
New York State Capitol Building  
Albany, New York 12224

Dear Mr. Duffy:

On behalf of the U.S. Nuclear Regulatory Commission (NRC or Commission), I am responding to your letter of March 24, 2011, regarding seismic risks at Indian Point Nuclear Generating Station Unit Nos. 2 and 3 (IP2 and IP3) and your meeting with senior managers in the NRC's Office of Nuclear Reactor Regulation (NRR), including the Director of NRR, Eric Leeds.

As you stated in your letter, Mr. Leeds has agreed to make IP2 and IP3 the top priority in the NRC staff's review of seismic hazards under Generic Issue (GI)-199, "Implications of Updated Probabilistic Seismic Hazard Estimates in Central and Eastern U.S. on Existing Plants." GI-199 is one of the generic issues that the NRC is evaluating as part of our well-established program to continually update our regulations based upon new information. The NRC began a review of seismic hazards using GI-199 after learning that data from the U.S. Geological Survey indicate that estimates of the potential for earthquake hazards for some nuclear power plants in the central and eastern United States have changed compared to previous estimates. While we have determined that currently operating plants safely address seismic hazards, we also determined that the recent seismic data and models warrant further study and analysis. This further analysis will allow the NRC to better understand the current seismic hazards and to decide whether to require licensees to make further improvements to their facilities in accordance with Title 10 of the *Code of Federal Regulations*, Section 50.109, "Backfitting." I can assure you that the NRC's review will cover both IP2 and IP3. As indicated in your letter, Mr. Leeds also affirmed that NRC staff will share data with New York's technical experts on this topic, and will allow State observation of NRC seismic inspections at Indian Point, in accordance with a memorandum of understanding between the NRC and the State of New York.

Your letter included comments regarding the seismic safety of the spent fuel pools (SFPs) at IP2 and IP3. SFPs are constructed of reinforced concrete, several feet thick, with a stainless steel liner to prevent any significant leakage. Due to their configuration, SFPs are rugged structures. The NRC has previously reviewed SFPs under GI-173A, "Spent Fuel Storage Pool for Operating Facilities." The SFPs at IP2 and IP3 are designed to the same seismic requirements and ground motion intensity as the containment building. A significant portion of the IP2 and IP3 SFPs are below grade level, and the SFPs are set on solid rock. Based on previous NRC reviews, the NRC staff determined that it is not necessary to include SFPs in the GI-199 review, and SFPs were therefore, not included in the GI-199 safety assessment the NRC issued in September 2010. Additionally, the Commission directed the staff to begin a senior level review of recent events in Japan. This task force will conduct a

systematic and methodical review of our processes and regulations to evaluate whether the agency should make any improvements to our regulatory system. This 90-day review will encompass such areas as natural disasters, station blackout, severe accident management and emergency preparedness.

As stated in NRC's Management Directive 5.2, "Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities," it is the policy of the NRC to cooperate fully with State Governments as they seek to respond to the expectations of their citizens that their health and safety be protected and that there be minimal impact on the environment as a result of activities licensed by the NRC. The NRC is committed to the timely disclosure of matters affecting the public and to fair and uniform agency interactions with the States, the public, and NRC licensees. The Commission fully supports this policy, and as I previously communicated to you I will personally visit the Indian Point site sometime in the near future.

Sincerely,

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Gregory B. Jaczko