



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

February 6, 2004

Ms. Danielle Brian  
Executive Director  
Project On Government Oversight  
666 Eleventh Street, NW  
Suite 500  
Washington, D.C. 20001

Dear Ms. Brian

On behalf of the Nuclear Regulatory Commission (NRC), I am responding to your letter dated December 9, 2003, on a variety of subjects, including the design basis threat (DBT), Force-on-Force (FOF) exercises, and, in particular, the pilot exercise at the Indian Point nuclear power plant in Buchanan, New York. You referred to the meeting that you had with the NRC staff on issues related to Safeguards Information (SGI) on December 2, 2003. As discussed in that meeting, the purpose of protecting SGI is to help protect our Nation from unauthorized disclosure of information that could benefit terrorists. The unauthorized release of such information remains a serious concern for the NRC. Contrary to the statement in your letter, we do not designate SGI to stifle legitimate criticism. In fact, the NRC has a well-established policy of public involvement in the regulatory process that has contributed to ensuring the health and safety of the public. Furthermore, we strive to foster openness in all of our regulatory activities and, to that end, have incorporated openness as a performance goal in our Strategic Plan.

We continue to work closely with our licensees, including Entergy, and other stakeholders to ensure that nuclear power plants remain safe and secure. As I stated in my letters to Senators Schumer and Clinton, other members of the New York Congressional delegation, Governor Pataki, and local officials on August 7, 2003, based on my observations of the pilot FOF exercise at Indian Point, the licensee has a strong defensive strategy and defensive capabilities. The Indian Point security force personnel successfully protected the plant from repeated mock-adversary attacks during the exercise.

In your letter you raised a number of concerns, including the size and capabilities of adversaries that licensees are required to protect against in accordance with the DBT, the conduct of FOF exercises, and other related issues. As you know, the NRC recently revised the DBT. The NRC was deliberate in its consideration of DBT-related issues. During the process to revise the DBT, we engaged a number of organizations responsible for protecting the Nation's critical infrastructure, including the intelligence community, Federal agencies, States, local law enforcement officials, and licensees. Our decision concerning revisions to the DBT was based on classified and other sensitive information from the intelligence community and law enforcement agencies. It is not appropriate to discuss the rationale for our decisions in a public forum, or with unauthorized individuals, because the public release of SGI, classified information, and other sensitive information could allow it to be used for malevolent purposes. Based on all the information we considered, we believe the revised DBT issued by Order to our licensees on April 29, 2003, is an adequate and reasonable standard for a private security force to protect against. We review the adequacy of the DBT on an ongoing basis and make

changes when necessary. Your views on this issue are appreciated and will be taken into consideration.

It is important to note that capabilities exist to defend against threats that exceed the DBT. The NRC continues to work closely with the Department of Homeland Security and other Federal agencies, as well as with State and local law enforcement and emergency planning officials to ensure an overall integrated approach to the security of these critical facilities.

The NRC is transitioning from the Order that imposed additional security measures (February 25, 2002) to the Order that imposed the revised DBT for radiological sabotage (April 29, 2003). In the current pilot program on expanded FOF exercises, the NRC is using expanded adversary characteristics that go beyond the pre-September 11, 2001 DBT for radiological sabotage. The scenarios developed from these characteristics by licensees with review by the NRC staff are realistic, challenging, and representative of the enhanced threat. At the conclusion of the transition period in October 2004, the final revised DBT will be used as the basis for adversary characteristics in FOF security exercises to ensure adequate security.

You raised concerns about the format of the FOF exercises and, notably, what you perceive as a lack of realism, including timing and location of the attacks. Of course we recognize that FOF exercises cannot fully anticipate the nuances of real attack scenarios, particularly when the exercises must also ensure the safety of participants and the public. It would be unconscionable and completely unacceptable to have an exercise result in injury to participants or be the cause of a serious accident. The NRC, however, through the pilot exercise program, continues to work with licensees to enhance the realism of the exercises, while ensuring protection and safety of exercise participants and the public. The NRC notifies licensees in advance of FOF exercises for safety and logistical purposes and to provide adequate planning time for coordination of the efforts of two sets of security officers -- one for maintaining security of the facility, another for participating in the exercise. In addition, arrangements must be made for those individuals who will control and monitor the exercise.

Another concern you raised is the training and qualifications of the mock adversaries. Although the range of skills varied among mock adversary forces employed during the FOF exercises, the adversaries were advised by NRC's skilled contractors. This assistance is in addition to training in terrorism and combat tactics provided by their own employers. We continue to work in this area to improve the value of the exercises.

It is important to note that the FOF pilot program was focused on identifying elements of the FOF process that should be improved. Now that the pilot program has been completed and evaluated, a transition program of FOF exercises has been initiated by the NRC, the results of which will be used to establish and fully implement the NRC's FOF program. We have targeted a completion date of October 2004. All these activities should allow the NRC to accomplish the following:

- define the performance-based components of the exercise, including hardware, procedures, and artificialities;
- gauge the effectiveness of enhanced security measures at nuclear power plants against enhanced adversary characteristics;

establish interaction protocols with other Federal, State, and local law enforcement agencies likely to be involved in the overall protection of nuclear power plants; and  
implement effective FOF exercises, including improving pertinent adversary characteristics and qualifications of the mock adversaries.

The FOF exercises have been, and are intended to be, a primary means to conduct performance-based testing of a licensee's security force and its ability to prevent radiological sabotage. However, the NRC's security oversight program provides the overall assessment of plant security, and the FOF exercises only represent one component of NRC's assessment. Our approach to security reflects the NRC's "defense-in-depth" safety philosophy, in which requirements for plant safety features and mitigation strategies, security measures, and emergency preparedness are addressed in an integrated manner.

Recommendations made in your letter are being considered as part of the evaluation of the FOF pilot program. In fact, the NRC has adopted many recommendations from various sources, along with other observations and lessons learned from exercises conducted under this pilot, to develop and implement a more effective FOF program. When the transition program is completed at the end of October 2004, the lessons learned from both the pilot and transition programs will allow us to implement a much improved FOF exercise program.

We want to assure you that the NRC is committed to ensuring safety and security at Indian Point and all our licensees.

Sincerely,

A handwritten signature in black ink, appearing to read "Nils J. Diaz", written in a cursive style.

Nils J. Diaz