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James Knubel
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March 3, 2000
IPN-00-020

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

Subject: Indian Point 3 Nuclear Power Plant
Docket No. 50-286
PETITION PURSUANT TO 10 CFR 2.206, SAFETY CONSCIOUS WORK
ENVIRONMENT AND CORRECTIVE ACTION PROCESS AT INDIAN
POINT UNIT 3

Dear Sir:

This letter is provided to address issues raised in a 2.206 petition from the Union of Concerned Scientists (UCS) regarding the New York Power Authority (NYPA) Indian Point 3 Nuclear Power Plant.

In their petition (Reference D. Lochbaum to W. Travers, Feb. 10, 2000) the UCS requested that NRC order NYPA to do the following:

1. Perform a comprehensive assessment of the corrective action process at Indian Point 3. This assessment would include surveys of the workers' training and awareness of the ACTS and DER processes.
2. Perform a comprehensive assessment of the work environment at Indian Point 3. This assessment would include surveys of worker perceptions of their freedom to report safety problems and of management's openness in receiving such reports.
3. Implement timely remedial actions as appropriate based on the results from the two assessments.

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Regarding Item 1:

NYPA believes that there is no basis on which to require a comprehensive audit of the Indian Point 3 Corrective Action Program, given the audits that have already been completed, the results of these audits, and the program enhancements already underway.

In 1999, NYPA conducted a QA audit of the Indian Point 3 Corrective Action Program (A99-01I, 4/9/99) which concluded "The Indian Point 3 Corrective Action Program complies with 10CFR50 Appendix B, Technical Specifications and the Final Safety Analysis Report" but noted that there were several areas requiring improvement. As a result of this Audit and NRC inspections, the Corrective Action Program was made an Area of Concern by the NYPA Safety Review Committee and a second audit of this area was conducted by QA in late 1999 (A99-08I, 1/14/00). This audit also concluded, "The Indian Point 3 Corrective Action Program complies with 10CFR50 Appendix B, Technical Specifications and the Final Safety Analysis Report." It also concluded that the program has been effective in meeting its regulatory requirements in preventing the recurrence of significant conditions adverse to quality.

The second audit in 1999 (A99-08I) was performed by a six person team led by the NYPA QA Director. Other members included the Manager of Oversight from another nuclear power utility and an outside consultant specialist. Although areas for improvement were identified, the audit concluded that the Indian Point 3 Corrective Action Program meets regulatory requirements and that ownership of the program had improved since the last audit. Recommendations for improvement are currently being tracked to completion with the Corrective Action Program.

An industry organization has also provided a NYPA requested assist visit addressing the Corrective Action Program during the week of February 14, 2000. Any additional recommendations for improvement resulting from this assist visit will be monitored for effective implementation.

The NRC conducted team inspections at Indian Point 3 including the corrective action program in 1998 (Inspection Report 50-286/98-81, June 15, 1998) and in 1999 (Inspection Report 50-286/99-06, August 9, 1999). In the 1998 inspection, the NRC concluded (section E.7.3 Corrective Action Timeliness and Effectiveness) "Problems regarding corrective action effectiveness and timeliness have previously been identified by NYPA and the NRC, but the team's review of corrective action program items did not find additional problems." The report further noted that previously identified weaknesses were being addressed.

As noted in the 1998 NRC inspection, "NYPA requested an industry organization assist visit in the area of corrective action effectiveness, which took place in March-April, 1998." The 1998 industry organization assist noted Corrective Action Program strengths in the area of DER threshold for initiation, timeliness of DER screening and timeliness of DER evaluation. Some areas for improvement were also noted.

In the 1999 inspection, the NRC concluded (section E.7.2, Root Cause Analysis and Corrective Action Program Review) "The root cause evaluation and corrective action program were generally effective."

In summary, this demonstrates that the Corrective Action Program at Indian Point 3 currently complies with NRC requirements, that NYPA has been performing assessments of the program generally consistent with the actions requested in item one of the 2.206 petition, and that the NRC has been monitoring the effectiveness of these activities. There is no basis for further regulatory action at this time.

Regarding Item 2:

In Item 2, UCS requests a "comprehensive assessment of the work environment at Indian Point 3," citing alleged violations and deviations in the area of employee discrimination. NYPA does not concur with UCS's basis for the requested action.

UCS contends that an employee who formerly worked in the Operations Review Group at Indian Point 3, Rebecca Green, was subject to an abusive work environment that led her to request a transfer from the group. This allegation is the subject of an ongoing Section 211 proceeding. There has been no finding of any discrimination toward Ms. Green. In fact, the Department of Labor concluded after an investigation by OSHA that Ms. Green had not been discriminated against for raising safety concerns. Ms. Green's situation at Indian Point 3 accordingly does not provide any indication that discrimination has occurred in contravention of safety conscious work environment expectations.

UCS also refers to an NRC letter of August 17, 1999, citing an apparent violation of 10CFR50.7 involving a Performance Supervisor at Indian Point 3. For the reasons identified in NYPA's correspondence of September 29, 1999 (IPN-99-105), and at an NRC predecisional enforcement conference on September 17, 1999, NYPA does not believe there was a violation in this case.

In any event, NYPA has taken comprehensive measures to address the work environment at its nuclear sites, generally consistent with UCS's request. For example, in an NRC letter (C.W. Hehl to J. Knubel, October 23, 1998, subject: Chilling Effect) the NRC asked NYPA to describe the actions we were taking to assure that a matter pending at the time was not having a "chilling effect" on the willingness of other employees to raise safety and compliance concerns within our organization and as discussed in NRC Form 3. In a letter (James Knubel to A. Randolph Blough, January 14, 1999, IPN-99-003, Indian Point 3 Nuclear Power Plant, Docket No. 50-286), NYPA committed to conduct a nuclear safety culture assessment by an independent organization to evaluate the safety conscious work environment at Indian Point 3 in the spring of 1999 and that the results of the assessment would be shared with the NRC Senior Resident Inspector. The NRC acknowledged the appropriateness of this action in a letter (A. Randolph Blough to James Knubel, February 11, 1999) to NYPA. The 1999 assessment results would be compared to a previous assessment conducted in 1996.

The 1999 survey was conducted by SYNERGY Consulting Services at Indian Point 3 Nuclear Power Plant, James A. FitzPatrick Nuclear Power Plant and the headquarters White Plains office of NYPA. SYNERGY is well-respected and very experienced in assessments of work environment safety consciousness, having conducted more than seventy assessments at more than thirty nuclear facilities, including nuclear power plants and federal facilities. The survey results were provided to the NRC Senior Resident Inspectors in July 1999. SYNERGY's prior experience included the benchmark evaluations at the Indian Point 3 and James A. FitzPatrick (JAF) plants in 1996.

The SYNERGY evaluation method included a survey questionnaire including sixty multiple choice questions with two hundred sixteen total sub-parts that explored the dimensions of the nuclear safety culture and other aspects of the work environment. The areas addressed in this assessment included worker perceptions of their freedom to report safety problems and of management's openness in receiving such reports. The workers at the sites and nuclear support personnel at headquarters were included in this assessment. There were also opportunities for write-in comments. More than one thousand responses to this questionnaire were received and evaluated in the spring of 1999. After evaluation of questionnaire responses, a representative cross-section of seventy NYPA personnel was interviewed in depth concerning these matters.

The conclusions of the survey of the personnel performing nuclear activities at NYPA included the following:

- NYPA's Nuclear Safety Culture (NSC) is in the good to very good range.
- The Safety Conscious Work Environment (SCWE) is generally very good.
- The Indian Point 3, the White Plains office and JAF sites do not have a chilled environment, based upon almost all workers feeling free to raise potential nuclear safety concerns. For example, 98.9% of survey respondents stated that they would inform their supervisor of a safety or quality concern. In addition, 95.7% of respondents indicated that if they were not satisfied with the supervisor's response, they would escalate the issue to higher levels within management. These findings place NYPA in the "very good to excellent" range. A few organizations showed opportunities to improve their work environments. Accordingly, we have taken local actions to provide additional assurance that these organizations meet our high standards and improve towards site norms.
- Focused attention on specific areas can further improve attitudes.

When results of the survey and interviews at Indian Point 3 were compared to the results from 1996 and all of the contractor's results from their clients over the last several years, there was an improvement, over the 1996 results and the results were in the second quartile compared to all of the contractor's clients. Therefore, there is no basis for further regulatory action at this time. NYPA has already accomplished what is requested in item 2 of the petition and has provided the results to the NRC.

Nonetheless, a number of recommendations were made to improve even further the SCWE at NYPA. The status of several initiatives is discussed in our response to item 3 below.

Regarding Item 3:

Findings and recommendations from the audits described above (A99-01I and A99-08I) have been entered into the IP3 Corrective Action Program as 'Controlled Action Commitments' (ACTS). The first audit (A99-01I), completed in April 1999 resulted in 11 DER's and 8 recommendations. The second audit (A99-08I), completed in January 2000 resulted in 12 DERs and 18 recommendations.

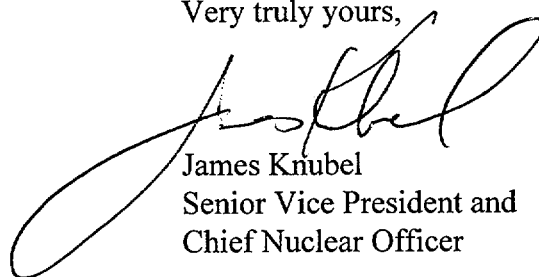
In addition to the above actions, a comprehensive business strategy to improve the Corrective Action Program at IP3 has been developed. NYPA would welcome the opportunity to discuss this strategy with you.

A number of initiatives related to SCWE have already been implemented. For example, training of managers and supervisors in their responsibilities concerning SCWE has been conducted by a law firm with extensive experience in this area, and NYPA instructors. The training was provided at Indian Point 3, JAF, and in White Plains and comprehensively addressed safety conscious work environment expectations and non-discrimination obligations. Procedural changes to strengthen the SPEAKOUT (employee concerns) program have been completed and a number of additional actions are in progress.

In addition, following the NRC letter of August 17, 1999, in which the NRC identified the apparent violation of 10CFR50.7 discussed above, NYPA management (on September 9, 1999) issued a memorandum (J. Knobel to Nuclear Generation) reaffirming management's commitment and expectations with respect to SCWE. This memorandum merely reiterated a policy that had been previously established in numerous policies and procedures, as also identified at the September 17, 1999 predecisional enforcement conference.

In conclusion, the NRC has outlined its criteria for evaluating a § 2.206 petition in its Management Directive 8.11, "Review Process for 10 C.F.R. § 2.206 Petitions" (revised October 7, 1999) and in the corresponding Handbook 8.11. According to the Handbook, a § 2.206 petition must contain a request for enforcement action and specific facts that constitute the bases for taking the particular action requested. The petitioner must provide support, beyond bare allegations and references to matters that have already been the subject of NRC staff review. See Handbook 8.11 at Section II.B. Against this threshold, the UCS petition should be denied. As shown by NRC inspections and NYPA internal audits, the Indian Point 3 Corrective Action Program meets regulatory requirements. Periodically, weaknesses in the Corrective Action Program are identified and resolved. This does not warrant or necessitate an order from the NRC. In addition, with respect to SCWE, the actions which UCS has asked the NRC to require of NYPA at Indian Point 3 have already been addressed by NYPA and the NRC. Initiatives have been taken as part of our normal process of managing our facilities in a safe manner compliant with regulatory requirements. Accordingly, the petition should be denied.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Knubel', written over the typed name and title.

James Knubel
Senior Vice President and
Chief Nuclear Officer

cc: Regional Administrator
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