



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

February 24, 2006

Mr. Hubert Bell, Inspector General
Office of the Inspector General
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: NRC STAFF OVERSIGHT OF FERMI-2

Dear Mr. Bell:

Nearly five years ago, specifically on April 13, 2001, I wrote to you contending that the NRC staff had not followed its established policies and procedures in granting a Notice of Enforcement Discretion (NOED) to the owners of Fermi-2. That NOED permitted Fermi-2 to continue operating for up to seven more days while workers attempted to fix one of the emergency diesel generators that had broken due to incompetent maintenance and a poor modification.

The NRC staff did it again. By letter dated February 6 2006, they approved an amendment to the Technical Specification allowing a one-time extension of the seven-day limiting condition for operation with one emergency diesel generator out of service for up to an additional seven days. Fermi-2's owner requested the extension by letter dated February 5, 2006. In that letter, Fermi-2's owners informed the NRC that the additional time was needed to allow workers to repair damage caused to one of the emergency diesel generators by an improperly sized part recently installed in it. Specifically, the owner told the NRC:

Investigation has determined that the refurbished breaker installed in position 12EB-EB3, during this EDG 12 outage, had physical tolerance differences from the originally installed breaker. This dimensional difference [in other words, the replacement breaker was larger than the breaker it replaced] impacted the fit of the refurbished breaker into the EDG output breaker cubicle. EDG 11, 13, and 14 have had refurbished breakers successfully installed and tested.

and my favorite line from their letter:

Detroit Edison could not have reasonably foreseen exceeding the seven day Completion Time of TS LCO 3.8.1. [emphasis added]

Detroit Edison should have known from their own travails at Fermi-2 that when you put the wrong parts in the emergency diesel generators, they can break and fixing them takes time. That was the lesson they should have learned back in '01 with the NOED granted March 29, 2001, by the NRC staff.

In granting the amendment permitting the one-time extension, the NRC staff stated:

*Accordingly, the NRC staff has determined that the licensee made a timely application for the amendment, has not abused the emergency provisions of 10 CFR 50.91(a)(5), and **did not itself create the emergency.** [emphasis added]*

If Detroit Edison's workers installing the wrong sized breaker in the emergency diesel generator cubicle did not create the emergency, who or what did? It wasn't me. It wasn't anything I did. I'm reasonably sure it wasn't you and it wasn't anything you did. It obviously was Detroit Edison's own workers putting the wrong part in the wrong place. They and they alone created the emergency, contrary to the NRC's assertion. Consequently, the NRC staff should not have approved the amendment request because all of the requirements of 10 CFR 50.91(a)(5) were not met. Some of them were, but one of them was not.

It's too late to remedy this specific Fermi-2 error. But the Office of the Inspector General could look into why the NRC staff repeatedly ignores its own policies and procedures to allow Detroit Edison to continue operating Fermi-2 with emergency diesel generators that Detroit Edison workers broke. I know that the NRC staff has told OIG in the past (e.g., Davis-Besse) that it requires "absolute proof." Well, Detroit Edison sending in a letter saying they put the wrong sized breaker into an emergency diesel generator that subsequently failed because that breaker malfunctioned puts "absolute proof" in the hands of the NRC that Detroit Edison itself created the emergency. Unless, of course, the staff is laboring under the impression that written confessions don't equate to "absolute proof."

The NRC staff is ignoring the criteria and requirements in its regulations, policies, and procedures and doling out deferrals (i.e., Indian Point 2 steam generator inspection, Davis-Besse CRDM nozzle inspection, Fermi-2 broken emergency diesel generator circa 2001, Fermi-2 broken emergency diesel generator circa 2006, etc.) on one and only one criterion – the licensee must first ask for the deferral.

Sincerely,

A handwritten signature in black ink that reads "David A. Lochbaum". The signature is written in a cursive, flowing style.

David Lochbaum
Director, Nuclear Safety Project
Union of Concerned Scientists
1707 H Street NW, Suite 600
Washington, DC 20006
(202) 223-6133
(202) 223-6162, fax