



MEMORANDUM

DATE: May 11, 2022

TO: Christopher T. Hanson
Chairman, Nuclear Regulatory Commission

FROM: Robert J. Feitel
Inspector General

SUBJECT: Reply to the NRC's Response to the Office of the Inspector General's (OIG) Event Inquiry into the NRC's Oversight of the Auxiliary Feedwater System at Diablo Canyon Nuclear Power Plant, OIG Case No. 20-025

Thank you for the agency's timely response to our Event Inquiry into the NRC's Oversight of the Auxiliary Feedwater System at Diablo Canyon Nuclear Power Plant (OIG Case No. 20-025). We appreciate the time the NRC staff took to identify several opportunities to improve inspector training on corrosion under insulation, refresh inspectors on relevant topics in the NRC Inspection Manual, and review inspector qualification requirements and inspection procedures.

We are, however, compelled to reply to the staff's claim that certain information in the OIG's report is factually inaccurate,¹ as well as to the Office of Public Affairs' (OPA) News Release asserting that the report contains a "number of factual errors."² Our instant reply is limited in scope to these claims of factual inaccuracies and errors; claims which misrepresent certain information in the OIG's report, and appear intended largely to distract from the important and overarching oversight issues we have raised.

¹ Specifically, we are referring to the "Factual Corrections" section on pages 2–3 of Enclosure 1 to the staff's "Assessment of the Office of Inspector General Event Inquiry into the U.S. Nuclear Regulatory Commission's Oversight of the Auxiliary Feedwater System at Diablo Canyon Nuclear Power Plant" (May 3, 2022) (ADAMS Accession No. ML22108A166), as well as the staff's response to our finding on the number of "direct inspection" hours of the auxiliary feedwater system, which appears on pages 6–7 of the same document.

² OPA News Release 22-019 (May 3, 2022) (available at <https://www.nrc.gov/reading-rm/doc-collections/news/2022/22-019.pdf>).

The OIG stands by the information in our report. Our report is backed by a well-documented investigation, as well as extensive document reviews, corroborating sworn statements, and analysis from our technical staff. As we explain below, the staff's claims of factual inaccuracies and errors in our report rely on semantical arguments or unsubstantiated assertions, and they do not raise genuine questions of accuracy.

The staff first claims the OIG inaccurately stated that the auxiliary feedwater (AFW) system leak involving Diablo Canyon's Unit 2 caused the unit to shut down on July 23, 2020. The staff states that in fact "the unit was shut down on July 17 due to a hydrogen leak on the main generator cooling system," and it refers to Enclosure 2 to its response, which provides a timeline of events related to the leak.³

The staff's response is puzzling, because on page 2 of our Event Inquiry report, we state clearly that Unit 2 was *not* producing electrical power when licensee employees discovered the AFW system leak on July 23, using almost the exact same language as the staff.⁴ Thus, the staff should have well understood that the references to a "shutdown" elsewhere in our report are not intended to suggest the AFW system leak caused Unit 2 to lose electrical power on July 23. The staff should also have acknowledged, in our view, that both the NRC's standard technical specifications for Westinghouse-designed reactors⁵ and the licensee's Updated Final Safety Analysis Report⁶ describe Mode 3 (which Unit 2 entered on July 17) as a "hot *standby*" condition, and Mode 4 (which Unit 2 entered on July 23) as a "hot *shutdown*" condition. In other words, consistent with what we stated in our report, Unit 2 can properly be said to have *shut down* on July 23. While the staff's claim that Unit 2 shut down six days earlier could also be deemed accurate in the sense that a "trip" or "scram," such as Unit 2 underwent on July 17, is also often referred to as a "shutdown" in industry parlance,⁷ we are nonetheless surprised that the staff accused the OIG of an inaccuracy, when our statements align with relevant terminology from the licensee's and the NRC's own technical documents.

³ See Enclosure 2, "Timeline of Events" (ADAMS accession no. ML22108A165).

⁴ We state: "At the time of discovery, Unit 2 was not producing electricity because the licensee was addressing a hydrogen leak in the Unit 2 Main Generator, but the AFW system was in service providing coolant to the unit."

⁵ See Standard Technical Specifications, Westinghouse Plants, Rev. 5 STS (NUREG-1431), Vol. 1, at 1.1-8, Table 1.1-1 (listing reactor modes, with Mode 3 being "Hot Standby" and Mode 4 being "Hot Shutdown") (available at <https://www.nrc.gov/docs/ML2125/ML21259A155.pdf>). Diablo Canyon has two Westinghouse-designed, 4-loop pressurized-water nuclear reactors, <https://www.nrc.gov/info-finder/reactors/diabl1.html>.

⁶ See Diablo Canyon Power Plant, Units 1 & 2, Updated Final Safety Analysis Report, Rev. 24 (Sept. 2018) at 6.5-13, 6.5-18, 10.4-9 (referring to Mode 3 as "Hot Standby"); *id.* at 3.3-3, 3.3-5, 3.3-28 (referring to Mode 4 as "Hot Shutdown") (ADAMS accession no. ML19231A071).

⁷ See, e.g., Reactor Safety Information Topics—Operating Reactor Scram Trending (available at <https://www.nrc.gov/reactors/operating/ops-experience/scrums.html>).

Next, the staff objects to our statement that, “[a]fter the event, the NRC issued the licensee a notice of violation. . . .” The staff is correct that the NRC did not issue the licensee a *formal* Notice of Violation after the event. The staff did, however, notify the licensee through its October 29, 2020 inspection report of a *violation* of station procedure tied to the event, which it designated a “finding” under the NRC’s Reactor Oversight Process, as well as an unrelated finding and a non-cited violation. The key point, which does not depend on the mechanism of transmission, is that after the event, the NRC staff formally notified the licensee of a failure on its part that may have caused or contributed to the event. Moreover, the staff’s characterization of the licensee’s violation has little bearing on the conclusions and recommendations in our report, which focus on the staff’s, rather than the licensee’s, actions related to the AFW system leak.

The staff additionally claims that, as they appear in the OIG’s report, “[s]enior NRC official’s statements were taken out of context.” This claim is simply false. We can assure you we did not take these statements out of context, because the statements were recorded, professionally transcribed, and given under oath. Additionally, OIG investigators thoroughly review all statements given under oath to ensure the statements are accurately quoted and characterized in our reports. Above all, the OIG prides itself on its integrity, which includes accurately characterizing the information we receive, whether it is through document review, sworn statements, or otherwise. Like all OIGs, we do not have a stake in whether the results of our investigations reflect well or poorly upon the agency. Our responsibility is simply to report what we find without fear or favor, without bias, and with objectivity, and we do so with a highly trained and conscientious staff.

The staff also disputes our analysis of the number of hours inspectors spent directly inspecting Diablo Canyon, claiming that time spent on activities such as document review counts as “direct inspection.” In our report, however, we specifically refer to “direct inspection” as a physical walkdown of the areas in question, not a review of documentation.⁸ This is consistent with Inspection Procedure (IP) 71111.04, section 03.02, which distinguishes a walkdown inspection from ancillary activities such as document reviews. This is also consistent with statements we obtained from inspectors and other NRC officials, who said they view “direct inspection” as referring to the walkdown inspection. In any event, regardless of the staff’s current position, we welcome the commitment in its response to review IP 71111.04 “to determine if the wording in the procedure can be clarified so that internal and external stakeholders may better understand its objectives and requirements regarding the extent of physical walkdowns.”

Setting aside these unwarranted claims of factual inaccuracies and errors in our report, we would like to turn to an area of agreement between the staff and the OIG. In an agencywide announcement sent on May 3, 2022, the Executive Director for Operations stated, “In short, the [staff’s] review of the OIG event inquiry determined that the Reactor Oversight Program and its associated inspection program continue to provide reasonable assurance of adequate protection of public health and safety. . . .”⁹ Indeed, the OIG did not take issue with that determination in

⁸ OIG Case No. 20-025 at iii, 7–9.

⁹ Message from the EDO – Staff Assessment of Diablo Canyon OIG Report (May 3, 2022) (available at <https://intranet.nrc.gov/announcements/standard/general-interest/message-from-the-edo-%E2%80%93>

our report and, at this juncture, continues to not take issue with that determination. In fact, the OIG states explicitly on the first page of our report that “the licensee has remedied the AFW system failure and made improvements to the system, and DCNPP continues to operate safely.” On the same page, we also state that “the NRC has since verified that the AFW system complies with regulatory requirements.”

The role of an Inspector General is to provide agency oversight. That oversight, by necessity, involves occasionally pointing out shortcomings and opportunities for improvement in agency programs and operations. Therefore, we encourage the staff to consider the constructive criticism and possible insights we offer as views that are informed by our unique role, our unique access to investigatory material, and the well-settled concept that OIG oversight ultimately benefits the agency and its personnel.

The OIG will continue to strive to help the NRC become more efficient and effective in achieving its own important goals. Going forward, it is our hope that the agency will understand there are oversight issues on which reasonable minds may disagree, without attacking the credibility or integrity of the message, or the messenger. Certainly, the agency is not required to accept the advice of the OIG, with the obvious caveat that it should carefully consider our advice, and ensure the agency has fully addressed any oversight issues we have raised.

Thank you for the agency’s feedback on our report. We look forward to our continued work together.