

June 13, 2000

The Honorable Maurice D. Hinchey
United States House of Representatives
Washington, D.C. 20515-3226

Dear Congressman Hinchey:

I am responding to your letter of April 5, 2000, regarding the recent steam generator tube failure at Indian Point Unit 2 (IP2) in Buchanan, New York. In your letter, you requested our support for an objective technical review of a number of issues. These issues include a Petition from the Union of Concerned Scientists (UCS), and a reevaluation of the emergency evacuation plan. You also requested that all outstanding safety issues be resolved before the NRC approves sale of the IP2 plant, that a copy of the IP2 Updated Final Safety Analysis Report (UFSAR) be forwarded to your office, and that the NRC hold a public meeting to address the concerns of citizens.

The NRC staff is reviewing the UCS Petition, filed under 10 CFR 2.206, that requested the NRC to issue an order preventing restart of IP2 until (1) all four steam generators are replaced, (2) the steam generator tube integrity concerns identified by Dr. Joram Hopenfeld in a differing professional opinion (DPO) are resolved and (3) potassium iodide tablets are distributed to residents and businesses within the 10-mile IP2 emergency planning zone. In an acknowledgment letter dated April 5, 2000, the staff informed UCS (and the other petitioners) that its request regarding replacement of the steam generators met the NRC criteria for review under 10 CFR 2.206 and that the remaining requests did not meet these criteria. As a result of an April 14, 2000, supplement to the original 2.206 Petition, the NRC is reconsidering review of the DPO and distribution of potassium iodide under 2.206. The staff plans to issue a supplement to its April 5, 2000 letter describing the results of this reconsideration.

The issues related to Dr. Hopenfeld's DPO and the distribution of potassium iodide are currently being reviewed by the NRC, irrespective of whether they are also addressed as part of the UCS petition under 10 CFR 2.206. The concerns raised by Dr. Hopenfeld are being addressed under the NRC's DPO process. This process provides for the formal review of concerns raised by individual NRC employees who disagree with a position adopted by the NRC staff. The issue of distributing potassium iodide in the vicinity of commercial nuclear power plants is also being considered under the NRC's rulemaking procedure. On June 14, 1999, the Commission published a proposed rule in the Federal Register (64 FR 31737) that would require consideration be given to include the use of potassium iodide as a protective measure for the general public as a supplement to sheltering and evacuation. The final rule is currently being considered by the Commission and should be published by late 2000.

Regarding the emergency plan for Indian Point, you requested an explanation of the roles of the NRC, the Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA), and other Federal agencies involved in developing the plan. You also stated that citizen input is crucial to emergency planning and expressed your concern that the emergency plans for the Indian Point area had been developed without such input.

Radiological emergency response plans for nuclear power plants are developed in accordance with the requirements and guidance of the NRC and FEMA, the two Federal agencies tasked to evaluate emergency preparedness at and around nuclear power plants. The NRC is responsible for assessing the adequacy of the onsite emergency plans developed by the utility, while FEMA has been assigned the responsibility of assessing the adequacy of the offsite emergency plans developed by the State and local governments. FEMA provides its findings and determinations to the NRC for the NRC's use in making health and safety decisions in its nuclear reactor regulation process.

The FEMA policy and procedures for the review and approval of State and local emergency plans are set forth in 44 CFR Part 350 of FEMA's regulations. As indicated in that regulation, there exists in each FEMA Region a Regional Assistance Committee (RAC) that consists of a FEMA regional representative who chairs the committee and representatives from various Federal agencies, including the NRC, EPA, Department of Health and Human Services, Department of Energy, Department of Transportation, U. S. Department of Agriculture, Department of Commerce, and other Federal agencies and departments, as appropriate. The RACs assist the State and local governments, who have the primary responsibility for developing the offsite emergency plans, in the development of their plans by reviewing and commenting on the plans and by observing and evaluating exercises of the plans. The New York State Emergency Management Office and the Orange, Putnam, Rockland, and Westchester County emergency management agencies are the primary organizations involved in the offsite emergency planning process for Indian Point.

In order to ensure that the emergency plans are adequate, evaluated exercises are conducted every 2 years to test the integrated capability of the onsite and offsite emergency response organizations to assess and respond to a radiological emergency at a nuclear power plant. The exercise objectives for the State and local government response organizations include the demonstration of the capability and resources to implement protective actions for school children within the plume exposure pathway emergency planning zone (EPZ). The exercise objectives also include the demonstration of the capability and resources necessary to control evacuation traffic flow and access to evacuated and sheltered areas. It should be noted that nuclear power plant exercises do not include public participation. The most recent exercises at Indian Point were a full participation plume exposure pathway exercise on June 24, 1998, and a post-plume, ingestion exposure pathway exercise on May 25-27, 1999. The plume exposure pathway exercise, as documented in the FEMA exercise report of December 1, 1998, included a satisfactory demonstration of the exercise objectives, including protective actions for school children and traffic and access control. A copy of the FEMA report is enclosed.

FEMA regulation 44 CFR Part 350 also includes provisions for public input to the planning process, including public meetings that are held in the vicinity of the plant by FEMA to acquaint the members of the public with the content of the State and local plans and to receive suggestions from the public concerning improvements or changes to the plans. Two such meetings were held by FEMA in July 1982 in conjunction with the initial development of the offsite plans. In addition, FEMA conducts a meeting in the vicinity of the plant following each exercise of the offsite plans. That meeting typically includes representatives of the State and local governments that participated in the exercise, representatives of the NRC and other appropriate Federal agencies, and the public and media as observers. The purpose of the post-exercise meeting is to discuss the evaluation of the exercise and to receive comments or questions from the public and the media. These comments are taken into consideration by

FEMA in its evaluation of the exercise and plans. The most recent such meeting at IP2 was conducted on June 26, 1998, following the June 24, 1998 full participation plume exposure pathway exercise. The State and county emergency management agencies in coordination with the utility also provide information to the public on a periodic basis, detailing when and how the public would be alerted and instructed about actions to take in an emergency.

Following the steam generator tube failure at IP2, the NRC dispatched an Augmented Inspection Team (AIT) to review the sequence of events, safety implications, and licensee's actions associated with the event. A copy of the AIT's report is enclosed for your information. The team noted that no radioactivity was measured off-site above normal background levels, and determined that the event did not impact the public health and safety. However, the AIT identified weaknesses at IP2 in the area of onsite emergency preparedness in connection with the licensee's response to the recent steam generator tube failure event. While some of the problems identified during this event, such as emergency response facility activation and accountability of onsite personnel, were new, other problems, such as emergency response organization performance, were similar to previously identified problems. As a result, the NRC conducted an onsite AIT follow-up inspection of the licensee's emergency preparedness program from May 15 to May 26, 2000. In addition, the NRC evaluated an onsite exercise conducted by the licensee on June 1, 2000, to demonstrate that these weaknesses have been successfully addressed and that the licensee's emergency preparedness program continues to meet regulatory requirements. FEMA has found that the offsite emergency plans and preparedness for Indian Point provide reasonable assurance that appropriate measures can be taken off site to protect the health and safety of the public in the event of a radiological emergency. FEMA provided its most recent confirmation of reasonable assurance to the NRC on February 28, 2000, following the ingestion exposure pathway exercise that was conducted by the State of New York on May 25-27, 1999. A copy of this FEMA report is also enclosed. Please note that the NRC has not yet performed a detailed review of either of the enclosed FEMA reports

In regard to your request that the NRC and Con Ed hold a public meeting to provide information to citizens in the surrounding communities, let me note that senior NRC management and staff held a public meeting with Con Ed on March 1, 2000, at the IP2 site to discuss a number of issues related to the steam generator tube failure. The NRC staff responded to questions from the public at the conclusion of this meeting. On March 14, 2000, the senior NRC Region I and Headquarters staff conducted a public meeting at the Peekskill Armory in Peekskill, New York. The purpose of this meeting was to provide the public with information regarding the event at IP2 and to answer their questions and concerns. A summary of the AIT's findings was presented at a public exit meeting on March 29, 2000. The NRC is planning to hold another meeting at the IP2 site to discuss the readiness of IP2 to restart. This meeting will be held shortly, before the restart of the unit. The meeting will be open to the public, and questions from the public will be welcome. We will inform you of the time and place of the meeting when it is scheduled.

With respect to your request that all outstanding safety issues be resolved before the sale of IP2 is approved, we have received no request for a transfer of the IP2 license. In the event that a license transfer is received, the NRC staff will do a thorough evaluation to ensure that the new licensee is financially and technically qualified to assume operation of the plant. Moreover, any commitments that Con Ed has made regarding plant operations or maintenance will transfer to the new licensee.

- 4 -

In regard to your request that you be provided with a copy of the UFSAR for IP2, I understand that Con Ed will send you a copy of this document on CD-ROM.

I want to assure you that the NRC will not approve restart of IP2 until Con Ed demonstrates that NRC requirements regarding steam generator operations have been met.

Sincerely,

/RA/

Richard A. Meserve

Enclosures: As stated