



# Union of Concerned Scientists

50-247

July 13, 2000

Mr. Leonard A. Wiens, Petition Manager  
Office of Nuclear Reactor Regulation  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

**SUBJECT: INDIAN POINT 2 STEAM GENERATOR TUBE INTEGRITY AND  
THE HOPENFELD DIFFERING PROFESSIONAL OPINION**

Dear Mr. Wiens:

The second of the three items requested in our March 14<sup>th</sup> petition dealt with the concerns raised by the NRC's Dr. Joram Hopenfeld in a differing professional opinion. We asked the NRC staff to resolve Dr. Hopenfeld's concerns before permitting the Indian Point 2 plant to restart. That specific item was not accepted by the NRC staff as part of the petition. As we understand it, the NRC staff primarily rejected this item because Dr. Hopenfeld's concerns were being addressed under the NRC's differing professional opinion (DPO) process. As Mr. Samuel Collins told me, the NRC staff wanted to avoid unnecessary duplication of addressing the concerns via both processes. We accepted that basis in good faith.

We have recently learned that the DPO process for Dr. Hopenfeld's concerns has been derailed. It is our understanding that Mr. Robert Spence, who was Dr. Hopenfeld's nominee for the three-member SPO panel, has resigned from the panel because he felt unduly restrained in examining Dr. Hopenfeld's concerns. We also understand that the NRC's Office of the Inspector General, who was already conducting two separate inquiries into the DPO process, is aware of this latest development.

Mr. Spence's departure from the DPO panel raises reasonable doubt about the efficacy of the DPO process, or reinforces the doubts that had prompted the two OIG inquiries. Given this derailment of the DPO process for Dr. Hopenfeld's concerns, the petitioners ask that the NRC staff reinstate item (2) of our petition. We stand ready to participate in a Petition Review Board pre-meeting, if required, to discuss the need for reinstating this item to our petition.

As you know, the petitioners also have reservations about the efficacy of the 2.206 petition process—but at least it is a public process and not one cloaked in the secrecy of the DPO process. Faced with two problematic processes, we must choose the process that is the most public.

The petitioners feel that the NRC has established precedent for the actions we requested under item (2) of our petition. In 1996, the NRC had reasonable doubts about the efficacy of the safety culture at the Millstone nuclear plant. The NRC ordered Millstone's owner to bring in an independent entity to monitor the company's efforts to improve its employee concerns program. Given very similar reasonable doubts about the NRC's own DPO process, it seems to us to be perfectly reasonable for the NRC to permit

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independent monitoring of its efforts to resolve one NRC employee's concerns—namely, the steam generator concerns initially raised by Dr. Hopenfeld five (5) years before the NRC ordered Millstone's owner to get help.

The undersigned submits this letter on behalf of all of the petitioners: Nuclear Information and Resource Service, PACE Law School Energy Project, and Public Citizen's Critical Mass Energy Project.

Sincerely,



David A. Lochbaum  
Nuclear Safety Engineer

cc:    The Honorable Ben Gilman  
          The Honorable Maurice D. Hinchey  
          The Honorable Sue Kelly  
          The Honorable Nita Lowey  
          The Honorable Edward Markey  
          Chairman Richard A. Meserve  
          Hubert Bell, Inspector General  
          Hubert J. Miller, Regional Administrator  
          Paul Gunter  
          Jim Riccio  
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