

August 31, 2000

Mr. David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street, NW, Suite 600
Washington, DC 20006

Dear Mr. Lochbaum:

I am responding to the supplemental information regarding the Petition dated March 14, 2000, that you submitted pursuant to 10 CFR 2.206 to the U.S. Nuclear Regulatory Commission (NRC) on behalf of the Union of Concerned Scientists, the Nuclear Information & Resource Service, the PACE Law School Energy Project, and Public Citizen's Critical Mass Energy Project. This supplemental information consisted of a letter from Mr. Riccio dated June 12, 2000, and letters from you dated June 29 and July 13, 2000. In addition to discussing the request that the NRC issue an order to Consolidated Edison Company of New York, Inc. (Con Ed), preventing the restart of Indian Point Nuclear Generating Unit No. 2 (IP2), or that the license for IP2 be modified to limit it to zero power, until all four steam generators are replaced, these supplements expressed additional concerns related to the operation of IP2. Specifically, the June 12 and 29 letters expressed concerns related to the adequacy of emergency planning drills and exercises at IP2, and requirements to conduct full-participation emergency exercises every 2 years. The July 13 supplement requested that the NRC reinstate the resolution of Dr. Hopenfeld's Differing Professional Opinion (DPO) for review under 10 CFR 2.206.

My previous letters to you dated April 5 and June 26, 2000, confirmed that the request to order IP2 to remain shut down until all four steam generators are replaced and until potassium iodide tablets are distributed to people and businesses within the 10-mile emergency planning zone or are stockpiled in the vicinity of IP2 met the criteria to be considered under 10 CFR 2.206. These issues are currently being reviewed by the staff. The Petition Review Board (PRB), during a meeting on July 20, 2000, determined that your request that IP2 not be permitted to restart until after a full-participation emergency preparedness exercise has been successfully completed meets the criteria for review under 10 CFR 2.206. As with your other requests that are being reviewed under Section 2.206, we will take action on your request within a reasonable time, and, in any event, before plant restart.

In the June 12 supplement, it was requested that IP2 not be allowed to restart until concerns identified in an internal Federal Emergency Management Agency (FEMA) memorandum dated May 12, 2000, are addressed. Specifically, it was requested that NRC and FEMA re-evaluate the adequacy of the IP2 emergency planning drills and that a new, more realistic exercise be conducted. However, in a letter to the NRC dated June 20, 2000, FEMA clarified the positions stated in the internal FEMA memorandum, and confirmed that FEMA continues to find that there is reasonable assurance of the adequacy of offsite emergency preparedness at IP2. In addition, we determined that the performance issues discussed in the FEMA memorandum had been addressed when we inspected the onsite emergency preparedness at IP2 during our Augmented

Inspection Team inspection (Inspection Report No. 05000247/2000-002), and a special emergency planning inspection (Inspection Report No. 05000247/2000-006), subsequent to the steam generator tube failure event. Both of these inspections found that the licensee's onsite emergency planning program provided adequate onsite emergency preparedness. Based on these reports, the issues raised in this supplement had already been the subject of NRC staff review at IP2 and the information provided in the supplement was not sufficient to warrant further inquiry. The staff considers the issues raised in your June 12 supplement to have been resolved at IP2.

With regard to reinstating your request that Dr. Hopenfeld's DPO be resolved before allowing IP2 to restart, you asserted that the resignation of a DPO panel member raised doubts about the efficacy of the DPO process, and that, therefore, the PRB should reconsider its rejection of Dr. Hopenfeld's DPO for review under the 10 CFR 2.206 process. However, as stated in our June 26, 2000 letter, the PRB rejected your request because it did not meet the 10 CFR 2.206 criteria. Dr. Hopenfeld's concerns were generic in nature, and the information you had provided was not uniquely applicable to IP2 to support the assertions raised in your 10 CFR 2.206 Petition. Your July 13 supplement did not provide any information to alter that determination, and, therefore, this issue will not be included for review under 10 CFR 2.206.

As you may be aware, on July 20, 2000, the Advisory Committee on Reactor Safeguards (ACRS) was requested to serve as the equivalent of our DPO ad hoc panel. A meeting of this ACRS subcommittee will meet in the October-November 2000 timeframe to review Dr. Hopenfeld's DPO. This meeting will be open to public observation.

We appreciate your interest in and concern for ensuring public health and safety and the continued safety of nuclear power reactors.

Sincerely,

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Enclosure: Notice

cc w/encl: Licensee (w/copy of incoming 2.206 supplements)
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Sincerely,

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

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UNITED STATES NUCLEAR REGULATORY COMMISSION
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
DOCKET NO. 50-247
FACILITY OPERATING LICENSE NO. DPR-26
RECEIPT OF ADDITIONAL INFORMATION RELATING TO
PETITION FOR DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that additional information has been submitted in support of a Petition dated March 14, 2000, filed by Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists, the Nuclear Information & Resource Service, the PACE Law School Energy Project, and Public Citizen's Critical Mass Energy Project (petitioners). The petitioners requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Indian Point Nuclear Generating Unit No. 2 (IP2), owned and operated by Consolidated Edison Company of New York, Inc. (the licensee). The petitioners requested that the NRC issue an order to the licensee preventing the restart of IP2, or that the license for IP2 be modified to limit it to zero power, until (1) all four steam generators are replaced, (2) the steam generator tube integrity concerns identified in Dr. Joram Hopenfeld's differing professional opinion (DPO) and in Generic Safety Issue 163 are resolved, and (3) potassium iodide tablets are distributed to residents and businesses within the 10-mile emergency planning zone (EPZ) or stockpiled in the vicinity of IP2. The original Petition was published in the Federal Register on April 11, 2000 (65 FR 19398). Previously, supplemental information consisting of a letter from Mr. Lochbaum dated April 14, 2000, a letter from Mr. Riccio dated April 12, 2000, and information provided at a public meeting on April 7, 2000, was acknowledged by letter dated June 26, 2000, and published in the

Federal Register on July 14, 2000 (65 FR 43789). Subsequent to these supplemental letters, additional information and requests were received by letters dated June 12, June 29, and July 13, 2000.

As stated in the original and second Federal Register notices, the requests that the NRC prevent the licensee from restarting IP2 until all four steam generators are replaced and until potassium iodide tablets are distributed to people and businesses within the 10-mile EPZ or are stockpiled in the vicinity of IP2 are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. On the basis of information provided in the June 29 supplement, the NRC staff determined that the request that IP2 not be permitted to restart until after a full-participation emergency preparedness exercise has been successfully completed meets the criteria for review under 10 CFR 2.206. As provided by Section 2.206, action will be taken on this request within a reasonable time.

In their June 12 supplement, the petitioners requested that IP2 not be allowed to restart until concerns identified in an internal Federal Emergency Management Agency (FEMA) memorandum dated May 12, 2000, are addressed. Specifically, the petitioners requested that NRC and FEMA re-evaluate the adequacy of the IP2 emergency planning drills and that a new, more realistic exercise be conducted. However, in a letter to the NRC dated June 20, 2000, FEMA clarified the positions stated in the internal FEMA memorandum, and confirmed that FEMA continues to find that there is reasonable assurance of the adequacy of offsite emergency preparedness at IP2. In addition, the NRC staff determined that the issues raised in this supplement had already been the subject of NRC staff review at IP2 and that the information provided in the supplement was not sufficient to warrant further inquiry.

In the July 13 supplement, the petitioners requested the reinstatement of their request that Dr. Hopenfeld's DPO be resolved before allowing IP2 to restart, asserting that the resignation of a DPO panel member raised doubts about the efficacy of the DPO process, and that, therefore, the Petition Review Board should reconsider its rejection of Dr. Hopenfeld's DPO for review under the 10 CFR 2.206 process. However, the NRC staff rejected this request because it did not meet the 10 CFR 2.206 criteria. Dr. Hopenfeld's concerns were generic in nature and the information the petitioners had provided was not uniquely applicable to IP2 to support the assertions raised in their 10 CFR 2.206 Petition. The information in the July 13 supplement did not provide any information to alter that determination, and, therefore, this request will not be treated pursuant to 10 CFR 2.206 of the Commission's regulations.

Copies of the Petition and additional information are available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www/nrc.gov>).

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Roy P. Zimmerman, Acting Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 31 day of August 2000

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