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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

NRR

2.206 Public Petition Conference Proceeding - Indian Point 2

Thursday, July 20, 2000

1 *Ms. Black*
SPEAKER: Did somebody else join the bridge?

2 MR. LOCKBAUM: Yeah. This is David Lockbaum.

3 SPEAKER: Okay. Hello, David.

4 MR. LOCKBAUM: Hi.

5 SPEAKER: [Inaudible.]

6 *Ms. Black*
SPEAKER: David, did you get the inspection report
7 on ^{EP}~~[inaudible]~~?

8 MR. LOCKBAUM: Yes, I did. Thank you.

9 SPEAKER: Good. Thank you.

10 SPEAKER: [Inaudible.]

11 *Ms. Black*
SPEAKER: Who just joined the bridge?

12 MS. CAMPBELL: This is Patricia Campbell at
13 Winston & Strawn, representing ConEd.

14 *Ms. Black*
SPEAKER: Okay.

15 SPEAKER: [Inaudible.]

16 *Ms. Black*
SPEAKER: Who else just joined the bridge?

17 MR. GUNTHER: I'm Paul Gunther, Nuclear
18 Information and Research Service.

19 *Ms. Black*
SPEAKER: Good morning.

20 MR. GUNTHER: Good morning.

21 *Ms. Black*
SPEAKER: Patricia, are you the only
22 representative from ConEd who's going to be on the call
23 today?

24 MS. CAMPBELL: Possibly.

25 *Ms. Black*
SPEAKER: Okay.

1 Who else just joined?

2 MS. HARRISON: This is Lee Ann Harrison from
3 Region I.

4 ~~SPEAKER:~~ *Ms. Black* Okay. Good morning.

5 SPEAKER: [Inaudible.]

6 SPEAKER: All right.

7 SPEAKER: [Inaudible.]

8 ~~SPEAKER:~~ *MR. WIENS* Dave Lockbaum, this is *LEN WIENS* [inaudible]. Are
9 we expecting both Jim Riccio and Ed Sweloff to be joining
10 us?

11 MR. LOCKBAUM: Yes, I believe so, yes.

12 ~~SPEAKER:~~ *MR. WIENS* Okay. Thanks.

13 ~~SPEAKER:~~ *Ms. Black* Can you say something else again? I'm
14 trying to put the volume up here?

15 MR. LOCKBAUM: Yes. I'm expecting both Jim and Ed
16 to call in this morning.

17 ~~SPEAKER:~~ *Ms. Black* Okay.

18 The volume isn't working too well on the
19 speaker-phone, but we'll deal with it.

20 ~~SPEAKER:~~ *Ms. Black* Who else joined the bridge?

21 ~~SPEAKER:~~ *Mr. Curran* Yeah. This is Nick in Congresswoman Sue
22 Kelly's office.

23 ~~SPEAKER:~~ *Ms. Black* Good morning.

24 ~~SPEAKER:~~ *Mr. Curran* Good morning.

25 SPEAKER: [Inaudible.]

1 MR. RICCIO: Hello.

2 *Ms. Black*
~~SPEAKER~~: Hi. Is this Jim Riccio?

3 MR. RICCIO: Yes, it is. Hey, Suzie.

4 *Ms. Black*
~~SPEAKER~~: Good morning.

5 MR. RICCIO: How are you?

6 *Ms. Black*
~~SPEAKER~~: Good.

7 MR. RICCIO: Who are we waiting on?

8 *Ms. Black*
~~SPEAKER~~: Ed ~~SW~~ Meloff and perhaps -- I don't know
9 if there's anybody else from ConEd who's going to join or
10 not, but as soon as Ed gets on, we'll start.

11 MR. RICCIO: Okay.

12 Could I ask a couple questions before we get
13 going?

14 *Ms. Black*
~~SPEAKER~~: Yes.

15 MR. RICCIO: Apparent violation?

16 Does that apparently mean NRC is going to take
17 enforcement action?

18 *Ms. Black*
~~SPEAKER~~: Lee Ann, do you want to answer that?

19 MR. RICCIO: I had not seen the term before.

20 MS. HARRISON: I'm not sure that we're using that
21 term, but apparent violation would mean something we're
22 considering for enforcement action but yet we haven't
23 determined -- you know, we need to do --

24 MR. RICCIO: Okay.

25 MS. HARRISON: -- whether or not it violated any

1 requirements.

2 In the past, we used to use "apparent" for -- when
3 we were considering escalated enforcement.

4 MR. RICCIO: Uh-huh.

5 MS. HARRISON: But we got away from that now.

6 MR. RICCIO: I'm just trying to get the new
7 terminology down.

8 MS. HARRISON: Right. Yeah.

9 *Mr. Gunter*
SPEAKER: While we're asking questions, I'm having
10 some trouble with the whole issue of failure to implement as
11 being a less safety-significant item.

12 I'm trying to distinguish the difference between
13 failure to implement and dereliction of duty. Can you give
14 me some sense of what the difference is?

15 *Ms. Harrison*
SPEAKER: Failure to implement, dereliction of
16 duty.

17 *Ms. Black*
SPEAKER: Maybe what we ought to do is have
18 somebody from our *inspection* branch contact you here.

19 *Ms. Harrison*
SPEAKER: Someone familiar with -- very familiar
20 with writing 0610-star and the revised oversight program.

21 *Ms. Black*
SPEAKER: Okay.

22 Mr. Gunther, can I have somebody contact you on
23 that?

24 MR. GUNTHER: Sure.

25 *Ms. Black*
SPEAKER: What's the phone number?

1 MR. GUNTHER: Well, let's see. I'm actually
2 writing at home today.

3 When would they be calling? Today or tomorrow?
4 If they can call me tomorrow --

Ms. Black
5 ~~SPEAKER~~: Okay.

6 MR. GUNTHER: 202-328-0002.

Ms. Black
7 ~~SPEAKER~~: 328-0002.

8 MR. GUNTHER: Uh-huh.

Ms. Black
9 ~~SPEAKER~~: In D.C.

10 MR. GUNTHER: Uh-huh.

Ms. Black
11 ~~SPEAKER~~: Okay.

12 All right.

13 Well, do you want me to wait longer for Mr.
14 Sweloff or do you just want to begin?

MR. Lochbaum
15 ~~SPEAKER~~: I think we can get started, and if he
16 calls in, that would be fine.

17 MS. BLACK: Okay.

18 So, good morning.

19 This is a telephone conversation with the
20 petitioners and the licensee to provide the petitioners an
21 opportunity to give us additional information on their
22 petition regarding Indian Point 2.

23 We have three letters to discuss today -- the June
24 12th letter, which I understand you're either going to
25 withdraw or ask the PRB to continue to -- to consider that

1 as a supplement; the June 29th letter regarding the
 2 operational assessment and the full participation exercise
 3 at Indian Point; and the July 13th letter regarding the
 4 different professional opinion issue.

5 I'd like to start this morning by identifying --
 6 asking everybody to identify themselves and also remind you
 7 that, when you speak, if you could remember to say your name
 8 so that the transcript is clear who is speaking.

9 My name is Suzanne Black. I'm chairman of the
 10 Petition Review Board and Deputy Director of the Division of
 11 Licensing Project Management in NRR.

12 MR. GOLDBERG: Jack Goldberg from the Office of
 13 the General Counsel.

14 *MR. WIENS Len WIENS, I'm*
 14 ~~SPEAKER: [Inaudible]~~ the petition manager for the
 15 petition.

16 *MR. KANTOR Falk K*
 16 ~~MR. KANTOR: Paul~~ Kantor from the emergency
 17 planning staff in NRR.

18 MS. GIBSON: Cathy [inaudible] Gibson from the
 19 section chief, emergency preparedness and health physics in
 20 NRR.

21 MR. SUBBARATNAM: Ram Subbaratnam, agency
 22 coordination for 2.206 petition.

23 *MR. GORKO Herb Gorko, Projects.*
 24 *MS. ADAMSAM Eleanor Adamsam*
 24 ~~SPEAKER: Ellen [inaudible]~~, Project Director for
 25 PD-1, NRR.

Ms Shoop *Undine Shoop*

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SPEAKER: I'm ~~Jean~~ [inaudible], Office of the EDO.

MS. BLACK: Okay.

Region I?

MS. HARRISON: Lee Ann Harrison, Project Engineer for Indian Point 2, Region I.

MS. BLACK: Thank you.

MR. LOCKBAUM: David Lockbaum, Nuclear Safety Engineer for the Union of Concerned Scientists.

MR. GOLDBERG: Paul Gunther, Nuclear Information and Resource Service.

MR. RICCIO: Jim Riccio, Public Citizen.

MR. CARNEY: Nick Carney, Congresswoman Sue Kelly's office.

MS. BLACK: Is there anyone from the licensee?

MS. CAMPBELL: This is Patricia Campbell from Winston & Strawn, representing ConEd.

MS. BLACK: Okay.

Thank you.

Well, with that out of the way, would you like to begin, Mr. Lockbaum?

MR. LOCKBAUM: Yes, I would.

Thank you.

MS. BLACK: Uh-huh.

MR. LOCKBAUM: I appreciate the efforts of Mr. ~~Williams~~ *WIEUS* and Mr. Zimmerman to get me the inspection report,

1 and also the other petitioners. I did get it and had time
2 to take a look at it.

3 In reviewing it, there were some problems
4 identified.

5 I know of three potential white findings, as you
6 know, indicated in that report, which doesn't mean that will
7 be the final determination, but at least, preliminarily,
8 they've been identified as items that require further NRC
9 engagement at this point.

10 MS. BLACK: Mr. Lockbaum, some of the people here
11 were having trouble hearing you. We were wondering if you
12 can get closer to the phone.

13 MR. LOCKBAUM: Without eating it, I can't get too
14 much closer.

15 [Laughter.]

16 MS. BLACK: Okay.

17 SPEAKER: [Inaudible.]

18 MR. LOCKBAUM: Instead of getting closer to it,
19 I'll try to talk louder.

20 MS. BLACK: Okay.

21 MR. LOCKBAUM: We've looked at this latest
22 inspection report with the three, right now, white findings,
23 and we think that that doesn't give us quite enough
24 assurance to withdraw the June 12th proposed supplement or
25 the June 29th letter which also dealt with emergency

1 preparedness.

2 Particularly calling attention to page 4 of 5 of
3 our June 29th letter, right in the middle of the page, we
4 talk about Appendix E to 10 CFR, Part 50, which states that
5 each licensee at each site must conduct an exercise of its
6 own site emergency plan every two years.

7 We think that, since ConEd and New York Power
8 Authority are separate licensees, although they occupy the
9 same site, that ^{law} ~~fraudible~~ requires -- or that regulation
10 requires ConEd, as a licensee, to conduct a full-scale
11 exercise every two years.

12 Its last full-scale exercise was conducted in June
13 of 1998, so they're already overdue for another one.

14 We think the latest problems, both in the real
15 emergencies that they've had in the last year and in the
16 emergency inspection report, provides additional grounds,
17 over and above the regulatory requirements, that would
18 basically dictate that this site should conduct one of these
19 on-site emergency plans prior to restart of Indian Point 2.

20 Moving on to the issue of the July 13th letter, it
21 is our understanding that the petition -- excuse me -- the
22 Differing Professional Opinion Board panel that was set up
23 to review the issues raised by Dr. Hopenfeld has run into a
24 problem in that one of its members, particularly the member
25 that was nominated by Dr. Hopenfeld to serve on that panel,

1 has essentially resigned from the panel because he was of
2 concerns over how that process was ongoing.

3 That was an item -- the resolution of Dr.
4 Hopenfeld's issues was raised in our original petition. It
5 was not accepted by the PRB, primarily because there was
6 another process -- ^{specifically it} ~~I think it was~~ the DPO process -- that
7 was addressing Dr. Hopenfeld's concerns.

8 It now appears that that other process that was
9 thought to be a duplicative process isn't working very well,
10 and since it is not working, we felt that it is entirely
11 reasonable to now address those issues and require what we
12 sought in the original petition, that that issue needs to be
13 resolved prior to restart of Indian Point 2.

14 So, that's basically where we are on the three
15 letters that are the subject of today's call.

16 MS. BLACK: Okay.

17 Does the staff have any questions they'd like to
18 ask?

19 [No response.]

20 MS. BLACK: And does the licensee have any
21 questions that they have of a clarifying nature?

22 ^{Ms. Campbell} SPEAKER: Not at this time.

23 MS. BLACK: Okay. Thank you.

24 Mr. Lockbaum, would any of the other petitioners
25 like to add anything to what you've told us this morning?

1 MR. GUNTHER: This is Paul Gunther, Nuclear
2 Information Resource Service.

3 I do have a question that has come up with regard
4 to the July 14th inspection report, and it has to do with --
5 there are three findings in here that I note that relate to
6 security guard training and procedures, and my question is,
7 did the NRC -- I note that they had a finding in the
8 emergency preparedness cornerstone, but my question has to
9 do with regard to any action on the part of the safeguards
10 cornerstone as a result of these findings.

11 MS. BLACK: Could I ask Lee Ann Harrison to get in
12 touch with Mr. Gunther and answer those type of questions
13 separate from this Petition Review Board?

14 MS. HARRISON: Sure, I'll be happy to do that.

15 MS. BLACK: Okay. And you have his number from
16 earlier, 202-328-0002.

17 MS. HARRISON: Okay.

18 MS. BLACK: Tomorrow I think he'll be at that
19 number.

20 Right, Mr. Gunther?

21 MR. GUNTHER: I will be also out at White Flint
22 tomorrow, as well, up at Rockville.

23 So, we'll have to work on, you know, making a link
24 here.

25 MS. BLACK: Okay.

1 MS. HARRISON: Okay. Yeah, I'll get in touch with
2 you.

3 Thank you.

4 MR. RICCIO: And this is Jim Riccio from Public
5 Citizen.

6 Just to bolster our argument a bit, I guess the
7 reason we really wanted to see a new drill run is that
8 basically you're having repetitive findings that haven't
9 been corrected from previous discussion reports, and if you
10 -- you know, I went back and looked at the September '99
11 review, and there were -- there there were, again, repeated
12 problems with training and communication, and those
13 instances were themselves repetitive, and then I had a
14 question about what NRC is going to do about the fact that
15 -- or how it's going to be addressed, basically, that in the
16 event they had problems with the cool-down rate -- and
17 again, in the simulation, they had problems with the
18 cool-down rate at the reactor, and actually, the cool-down
19 rate in the simulation was worse than the actual event,
20 apparently.

21 I was just wondering how that is going to be
22 addressed within the scope of NRC's reviews.

23 MS. BLACK: I'll tell you what, Jim.

24 Can we -- we'll answer that letter -- or that
25 question -- either in a letter or could we have somebody

1 call you back on that?

2 MR. RICCIO: That would be fine. It was in the --
3 just basically, it was another part of the inspection report
4 that we were reviewing.

5 MS. BLACK: Yeah. I'm sorry. We just don't bring
6 people to these Petition Review Boards to answer any
7 questions.

8 We're just here to gather information.

9 MR. RICCIO: Okay.

10 Well, I would hope that, if there are any further
11 reviews conducted, that hopefully we're not going to allow
12 these guys to restart until they can at least prove they can
13 shut down the reactor without violating any regulations.
14 We're dealing with a relatively old vessel, as well, and as
15 you well know, cool-down -- excessive cool-down can threaten
16 the vessel.

17 So, I'd at least like to see it addressed before
18 restart.

19 I'm not adding something to the petition. I'm
20 just hoping to see that it's clarified somewhere in a
21 further inspection report.

22 MS. BLACK: Okay. And would you like us to get
23 back to you on this, or would you like us just to consider
24 this in our deliberations?

25 MR. RICCIO: I'd like to actually have you guys

1 get back to me on this one.

2 MS. BLACK: Okay.

3 MR. GUNTHER: This is Paul Gunther.

4 I think that what Jim's raised is similar to my
5 concern in that the inspection report raises the potential
6 issue affecting another cornerstone. In this case, it might *be*
7 mitigating systems, and while it's raised in this inspection
8 report, I don't understand if, in fact, the issue raised in
9 the inspection report has affected or colored these other
10 cornerstones.

11 MS. BLACK: Okay.

12 We've already got that thought in our notes here
13 and on the transcript, and the region will be calling you on
14 that issue.

15 Anything else relating to the petition?

16 MR. LOCKBAUM: This is David Lockbaum. Not from
17 my angle.

18 MS. BLACK: And this is Suzanne Black, and I have
19 been violating my own rules on identifying myself before I
20 speak.

21 MR. GUNTHER: This is Paul Gunther again.

22 Just for the transcript, I'd like to have some
23 clarification on what the -- in terms of the NRC's
24 definition of failure to implement as a less
25 safety-significant issue. I'd like some clarification of

1 what the difference is between failure to implement and
2 dereliction of duty.

3 As we would note, particularly abandoning some of
4 these stations without relief when, in fact, they were
5 required, that, I think, is a much more serious action than
6 what the NRC has defined.

7 So, we'd like some clarification on that.

8 MS. BLACK: Yes. And we were going to have the
9 region contact you on that -- or the inspection branch, I'm
10 sorry, our inspection branch in headquarters.

11 Did somebody else just join the bridge?

12 SPEAKER: Yes. Good morning.

13 This is Ed [inaudible], licensing manager, and
14 also, Bill Blair is in the room, licensing engineer at
15 Indian Point station.

16 MS. BLACK: Okay.

17 I think we're just about wrapping up, so you will
18 have to read the transcript to find out what happened, but
19 --

20 SPEAKER: Okay. Fine.

21 MS. BLACK: Is that true, Mr. Lockbaum?

22 Are you complete with your -- completed your
23 presentation?

24 MR. LOCKBAUM: This is David Lockbaum. Yes, I'm
25 done.

1 Thank you.

2 MS. BLACK: Okay.

3 Well, that concludes this portion of the meeting,
4 and thank you for participating.

5 SPEAKER: Fantastic. Thank you.

6 ~~SPEAKER:~~ *MR. RICCIO* Thank you.

7 MS. BLACK: All right.

8 ~~SPEAKER:~~ *MR. RICCIO Hey Dave - Paul?* [Inaudible.]

9 ~~SPEAKER:~~ *MR. GUNTER* We're going to get off. This is a
10 recorded line, you know.

11 ~~SPEAKER:~~ *MR. RICCIO* I know. I just wanted to get

12 ~~[Inaudible]~~ *Dave*. The other thing is, too, we should nail them
13 on the non-cited violations.

14 They use non-cited violations to come after these
15 guys, and they're obviously not having an impact, and we can
16 draw it back to the South Texas reports from when South
17 Texas was one of the problem plants, and one of the root
18 causes of -- according to NRC, one of the root causes of
19 South Texas' problems was the fact that they weren't paying
20 attention to NRC's lower threshold and, you know, use of
21 non-cited violation ^{and} level fours.

22 ~~SPEAKER:~~ *MR. GUNTER* Yeah.

23 Maybe we ought to put this on a non-recorded line.

24 ~~SPEAKER:~~ *MR. RICCIO* Oh, I don't care. Let them know it.

25 I'll touch base.

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Hang up.
MR. GUNTER
SPEAKER: Okay.
MR. RICCI
SPEAKER: I'll talk to you.
Bye-bye.
[End of tape.]

CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: 2.206 Public Petition
 Conference Proceeding
 Indian Point 2

Case Number:

Place of Proceeding: Rockville, MD

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission transcribed by me from recorded tapes provided by the Nuclear Regulatory Commission, and that the transcript is a true and accurate record of the foregoing proceedings to the best of my belief and ability.



Tamara Shipp

Transcriber

Ann Riley & Associates, Ltd.