

December 20, 2001

Mr. Alex Matthiessen  
Executive Director  
Riverkeeper, Inc.  
25 Wing & Wing  
Garrison, NY 10524

Dear Mr. Matthiessen:

On November 8, 2001, you filed a Petition on behalf of Riverkeeper, Inc., et.al., with the U.S. Nuclear Regulatory Commission (NRC). You requested that the NRC: (1) order the licensee to suspend operations, revoke the operating license, or adopt other measures resulting in a temporary shutdown of the Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and 3); (2) order the licensee to conduct a full review of the facility's vulnerabilities, security measures and evacuation plans; (3) require the licensee to provide information documenting the existing and readily attainable security measures which protect the IP facility against land, water, and airborne terrorist attacks; (4) immediately modify the IP2 and 3 operating licenses to mandate certain specified security measures sufficient to protect the facility; and (5) order the revision of the licensee's Emergency Response Plan and Westchester County's Radiological Emergency Preparedness Plan (REPP) to account for possible terrorist attacks and prepare a comprehensive response to multiple attacks in the region which may impair the efficient evacuation of the area. In addition, you state that if, after conducting a full review of the facility's vulnerabilities, security measures, and evacuation plans, the NRC finds that it cannot sufficiently ensure the security of the IP facility against terrorist threats, the NRC should take prompt action to permanently retire the facility. Further, separately from the above issues, you request that the NRC order the licensee to undertake the immediate conversion of the current spent fuel storage technology from a water-cooled system to a dry cask system.

As the basis for your requests, you stated that (1) the IP facility is a plausible target of future terrorist actions, (2) actual threats against nuclear power plants have been documented, (3) IP is currently vulnerable to catastrophic terrorist attack, (4) a terrorist attack on IP2 and 3 would have significant public health, environmental, and economic impacts, and (5) the Westchester County's REPP is inadequate because it is based on erroneous assumptions.

The NRC has, in effect, partially granted your request in item for above. On September 11, 2001, the NRC quickly took action to enhance security at all nuclear facilities, including IP2 and 3. Immediately after the attacks, we advised all nuclear power plants to go to the highest level of security, which they promptly did. These facilities have remained at an appropriate and heightened security level since that time. The NRC continues to work with other Federal agencies, and is monitoring all relevant information it receives on security matters at nuclear facilities. We are prepared to make immediate adjustments as necessary to continue to assure adequate protection of the public.

We also understand and recognize that many of our fellow citizens are concerned that a U.S. nuclear facility could be a target of future terrorist action. In view of the recent unprecedented events, Chairman Richard A. Meserve, with the full support of the Commission, has directed the staff to undertake a top-to-bottom review of our security regulations and procedures, including the basic assumptions of our current programs. This review involves U.S. national security organizations, and is part of a broader review being undertaken by the Federal Government. As you may be aware, the State of New York's Office of Public Security worked with various Federal and State agencies, including the Federal Bureau of Investigation (FBI), to assess the long-term security needs at IP. As a result, an FBI report was prepared that provided several recommendations to enhance security. Many of the measures suggested by the FBI have been implemented by the licensee and others are currently under advisement.

Although we cannot rule out the possibility of future terrorist activity directed at one of our licensee sites before implementing any potential enhancements to our safeguards programs, we believe that these facilities can continue to operate safely. Nuclear power plants are inherently robust. Their design is based on defense-in-depth principles, and includes many features to protect public health and safety. For example, reinforced containment buildings and redundant safety systems would help assist trained operators in preventing or limiting the release of radioactive material in the unlikely event of a terrorist attack. Therefore, in light of the facility's defense-in-depth, the heightened security measures implemented in response to the events of September 11<sup>th</sup>, and the NRC's ongoing reevaluation of its safeguards regulations and programs, we do not consider the immediate closure of IP2 and 3 to be necessary to provide adequate protection for the public's health and safety.

Under normal circumstances, we closely follow Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," when reviewing requests for enforcement action; however, since your letter involves sensitive security issues, we are deferring application of certain public aspects of the MD 8.11 process pending further developments of our security review. Ordinarily, we give individuals who have petitioned the NRC an opportunity to provide additional information to the Office of Nuclear Reactor Regulation Petition Review Board (PRB) before determining whether a request is to be reviewed as a petition pursuant to 10 CFR 2.206. However, since your request is already being treated as a 2.206 Petition, and because of the sensitive nature of this information, we have determined that a public meeting or telephone conference with the PRB is not necessary or appropriate at this time.

We will take actions on your request within a reasonable time, using the 10 CFR 2.206 Petition process where possible. Mr. Patrick Milano has been assigned as the Petition Manager for your request. Mr. Milano may be reached at 301-415-1457 (email: [pdm@nrc.gov](mailto:pdm@nrc.gov)). Your Petition is presently being reviewed by members of the NRC's Office of Nuclear Reactor

A. Matthiessen

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Regulation. Enclosed for your information are: (1) a copy of the notice that is being filed with the Office of the Federal Register for publication; (2) a copy of MD 8.11; and (3) NRC brochure NUREG/BR-0200, Revision 4, "Public Petition Process," prepared by the NRC Office of Public Affairs.

Sincerely,

**/RA/**

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 286

Enclosures: 1. *Federal Register* Notice  
2. Management Directive 8.11  
3. NUREG/BR-0200

cc w/o encls: See next page

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Sincerely,

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Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

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cc w/o encls: See next page

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Document Name: Petition Ack Ltr - Riverkee~.wpd \*See previous concurrence

OFFICE	PDI-1/PM	PDI-1/LA	TECH ED*	PD4-1/PM	PDI-1/ASC	ERCT
NAME	PMilano	MO'Brien for SLittle	PKleene	JMinns	LRaghavan	RRosano
DATE	12/13/01	12/14/01	12/13/01	12/17/01	12/17/01	12/17/01
OFFICE	PDI/D	DLPM/D	ADPT/NRR	NRR/D		
NAME	EAdensam	JZwolinski	BSheron	BSheron for SCollins		
DATE	12/17/01	12/18/01	12/19/01	12/20/01		

OFFICIAL RECORD COPY

Indian Point Nuclear Generating Unit Nos. 2 & 3

cc:

Mr. Jerry Yelverton  
Chief Executive Officer  
Entergy Operations  
1340 Echelon Parkway  
Jackson, MS 39213

Mr. Fred Dacimo  
Vice President Operations  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Units 1 & 2  
295 Broadway, Suite 1  
P.O. Box 249  
Buchanan, NY 10511-0249

Mr. Robert J. Barrett  
Vice President - Operations  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Unit 3  
295 Broadway, Suite 3  
P.O. Box 308  
Buchanan, NY 10511-0308

Mr. Dan Pace  
Vice President Engineering  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Mr. James Knubel  
Vice President Operations Support  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Mr. Lawrence G. Temple  
General Manager Operations  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Unit 2  
295 Broadway, Suite 1  
P.O. Box 249  
Buchanan, NY 10511-0249

Mr. Joseph DeRoy  
General Manager Operations  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Unit 3  
295 Broadway, Suite 3  
P.O. Box 308  
Buchanan, NY 10511-0308

Mr. John Kelly  
Director of Licensing  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Ms. Charlene Fiason  
Manager, Licensing  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Mr. John McCann  
Manager, Nuclear Safety and Licensing  
Indian Point Nuclear Generating Unit 2  
Entergy Nuclear Operations, Inc.  
295 Broadway, Suite 1  
P.O. Box 249  
Buchanan, NY 10511-0249

Mr. Harry P. Salmon, Jr.  
Director of Oversight  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Mr. John Donnelly  
Licensing Manager  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Unit 3  
295 Broadway, Suite 3  
P.O. Box 308  
Buchanan, NY 10511-0308

Indian Point Nuclear Generating Unit Nos. 2 & 3

cc:

Mr. Thomas Walsh  
Secretary - NFSC  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Unit 2  
295 Broadway, Suite 1  
P.O. Box 249  
Buchanan, NY 10511-0249

Regional Administrator, Region I  
U.S. Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406

Senior Resident Inspector, Indian Point 2  
U. S. Nuclear Regulatory Commission  
295 Broadway, Suite 1  
P.O. Box 38  
Buchanan, NY 10511-0038

Resident Inspector's Office, Indian Point 3  
U.S. Nuclear Regulatory Commission  
295 Broadway, Suite 3  
P.O. Box 337  
Buchanan, NY 10511-0337

Mr. John M. Fulton  
Assistant General Counsel  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Ms. Stacey Lousteau  
Treasury Department  
Entergy Services, Inc.  
639 Loyola Avenue  
Mail Stop: L-ENT-15E  
New Orleans, LA 70113

Mr. William M. Flynn, President  
New York State Energy, Research, and  
Development Authority  
Corporate Plaza West  
286 Washington Avenue Extension  
Albany, NY 12203-6399

Mr. J. Spath, Program Director  
New York State Energy, Research, and  
Development Authority  
Corporate Plaza West  
286 Washington Avenue Extension  
Albany, NY 12203-6399

Mr. Paul Eddy  
Electric Division  
New York State Department  
of Public Service  
3 Empire State Plaza, 10<sup>th</sup> Floor  
Albany, NY 12223

Mr. Charles Donaldson, Esquire  
Assistant Attorney General  
New York Department of Law  
120 Broadway  
New York, NY 10271

Mr. Ronald Schwartz  
SRC Consultant  
64 Walnut Drive  
Spring Lake Heights, NJ 07762

Mr. Ronald J. Toole  
SRC Consultant  
Toole Insight  
605 West Horner Street  
Ebensburg, PA 15931

Mr. Charles W. Hehl  
SRC Consultant  
Charles Hehl, Inc.  
1486 Matthew Lane  
Pottstown, PA 19465

Mayor, Village of Buchanan  
236 Tate Avenue  
Buchanan, NY 10511

Mr. Ray Albanese  
Executive Chair  
Four County Nuclear Safety Committee  
Westchester County Fire Training Center  
4 Dana Road  
Valhalla, NY 10592

Indian Point Nuclear Generating Unit Nos. 2 & 3

cc:

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

Paul Gunter  
Nuclear Information & Resource Service  
1424 16<sup>th</sup> Street, NW, #404  
Washington, DC 20036

Edward Smeloff  
Pace University School of Law  
The Energy Project  
78 North Broadway  
White Plains, NY 10603

Michael Mariotte  
Nuclear Information & Resources Service  
1424 16<sup>th</sup> Street, NW, Suite 404  
Washington, DC 20036

Deborah Katz  
Executive Director  
Citizens Awareness Network  
P.O. Box 83  
Shelburne Falls, MA 01370

Marilyn Elie  
Organizer  
Citizens Awareness Network  
2A Adrain Court  
Cortlandt Manor, NY 10567

Tim Judson  
Organizer  
Citizens Awareness Network  
140 Bassett Street  
Syracuse, NY 13213

Kyle Rabin  
Environmental Advocates  
353 Hamilton Street  
Albany, NY 12210

Mark Jacobs  
Executive Director  
Westchester Peoples Action Coalition  
255 Dr. M.L. King Jr. Boulevard  
White Plains, NY 10601

U.S. NUCLEAR REGULATORY COMMISSION  
THE UNPLUG SALEM CAMPAIGN  
THE NATIONAL WHISTLEBLOWER CENTER AND MR. RANDY ROBARGE  
RIVERKEEPER, INC., ET AL  
RECEIPT OF REQUESTS FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by the following three petitions, the Nuclear Regulatory Commission (NRC) was requested to take immediate corrective actions to protect the public against the possibility of terrorists seizing control of a large commercial jetliner and crashing into a nuclear power plant in the United States.

1. From Mr. Norm Cohen, on behalf of the UNPLUG Salem Campaign, dated September 17, 2001.
2. From Mr. Michael D. Kohn, on behalf of the National Whistleblower Center and Randy Robarge, dated October 24, 2001.
3. From Messrs. Alex Matthiessen, and Karl Coplan, on behalf of the Riverkeeper, Inc., et al, dated November 8, 2001.

The petitioners requested that the NRC staff take certain specified compensatory measures, to protect the public and environment from the catastrophic impact of a terrorist attack on a nuclear power plant or a spent fuel pool.

These requests are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. These requests have been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on these petitions within a reasonable time.

Since the subject of these petitions involves safeguards matters, the NRC has decided not to make the petitions public or publicly discuss the petitions to avoid disclosure of potentially sensitive security information.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

Brian W. Sheron, Acting Director  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland  
this 20th day of December 2001