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DOCKETED  
USNRC

March 28, 2002 (3:00PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

March 18 2002

Mr. Richard A. Meserve, Chairman  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

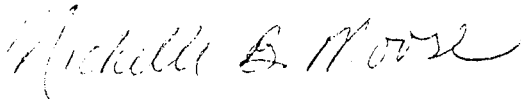
**Re: Section 2.714 Petition for Leave to Intervene and Request  
for a Hearing**

Dear Mr. Meserve:

Pursuant to C.F.R. Section 2.714(a)(1), the Pace Environmental Litigation Clinic, Inc. representing Riverkeeper, Inc., Petitioner in this matter, hereby submits to the Nuclear Regulatory Commission, a petition for leave to intervene and request for a hearing. This petition and request is in response to Consolidated Edison Company of New York, Inc.'s application for a one-time extension of a containment integrate leak rate test at Indian Point Nuclear Generating Facility, Unit No. 2 ("IP2").

At the time of the application, the Federal Register Notice (66 Fed. Reg. 44,161, Docket No. 50-247) did not disclose the fact there is rust in the dome. Based on recently acquired public knowledge that there is rust in the steel lining of the containment dome at IP2, Petitioner now petitions for leave to intervene and request for a hearing.

Sincerely,



Michelle B. Moore  
Legal Intern

Enclosures

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )  
 )  
ENTERGY CORPORATION )  
(Indian Point Nuclear Generating )  
Unit No. 2; Facility Operating License )  
DPR-26) )  
 )  
RIVERKEEPER, INC. )  
\_\_\_\_\_)

Docket No. 50-247

DOCKETED  
USNRC  
March 28, 2002 (3:00PM)  
OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**SECTION 2.714 PETITION FOR LEAVE TO INTERVENE  
AND REQUEST FOR A HEARING**

**I. INTRODUCTION**

Pursuant to C.F.R. § 2.714(a)(1), Riverkeeper, Inc. (hereinafter "Petitioner") hereby files its petition for leave to intervene and requests a hearing in response to an application to the United States Nuclear Regulatory Commission (NRC) for a one-time extension of a containment integrate leak rate test.

On July 13, 2001, the Consolidated Edison Company of New York, Inc. ("Con Edison"), the former licensee of Indian Point Nuclear Generating Facility, Unit No. 2 ("IP2"), sought leave for a one-time, five-year extension of the containment leak integrate rate test. Seven months later it became public knowledge that the steel lining of the containment dome at IP2 contains rust. A news article published in February 2002, reported that on February 5<sup>th</sup>, NRC asked the current licensee, Entergy Nuclear

Operations, Inc. (Entergy), to “prove that the rusted spots were not the result of a 6.5-square-inch leak area that would release radiation into the atmosphere in an emergency.”<sup>1</sup>

On August 22, 2001, NRC issued a proposed determination that the amendment request involved “no significant hazards consideration.”<sup>2</sup> The Federal Register Notice did not disclose at the time of this application that there is rust in the steel lining of the containment dome at IP2.<sup>3</sup> Therefore, Petitioner challenges the adequacy of Con Edison’s application and its failure to provide an adequate basis to determine no significant hazards exist.

## **II. SATISFACTION OF LATE-FILING STANDARDS**

Petitioner satisfies the standards for non-timely filings, which are set forth in 10 C.F.R. § 2.714(a)(1).

### **A. Petitioner Has Good Cause for Failure to File on Time**

Petitioner has good cause for filing a petition for leave to intervene and request a hearing. At the time NRC made its proposed determination in favor of Con Edison’s application, the Federal Register Notice did not disclose the rusted areas in the steel lining of the dome. In fact, the presence of rust in the dome did not become public knowledge until February 2002.

In its published application to NRC, Con Edison failed to mention areas “in the [IP2] containment building, and areas under the insulation on the walls that have rust.”<sup>4</sup> Instead Con Edison cited past IP2 leakage tests and stated that such tests indicated a

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<sup>1</sup> Roger Witherspoon, *Indian Point 2’s Rusted Lining Causes Concern*, JOURNAL NEWS, February 15, 2002 (quoting Entergy Vice President Fred Dacimo)(attached hereto).

<sup>2</sup> 66 Fed. Reg. 44,161 (2002).

<sup>3</sup> *Id.*

<sup>4</sup> Witherspoon, *supra* note 1.

“very leak-tight containment.”<sup>5</sup> Further, Con Edison assured NRC that “[p]erformance of the testing on the revised schedule [would] not have an adverse affect on the ability of the containment to perform its intended function.”<sup>6</sup>

Because Con Edison did not even discuss the rust in the dome in its application as published in the Federal Register, neither Petitioner nor NRC were aware of the problem until February 2002. Given the omission of this significant fact in the Federal Register, Petitioner has good cause for failure to file on time.

**B. There Are No Other Available Means to Protect Petitioner’s Interests**

There are no other means for Petitioner to protect its interest because there is no other party in the proceeding that seeks to require licensee to immediately conduct leakage tests in the containment dome at IP2. Furthermore, a hearing is the only forum in which Petitioner can request NRC to order licensee to immediately conduct containment leakage pressure testing at IP2 as required by its original license.

**C. Petitioner’s Participation Will Reasonably Be Expected to Assist in the Development of a Sound Record**

Petitioner’s participation in this proceeding may be expected to fully assist in the development of a sound record. Petitioner will provide independent engineering analysis showing the significance of the rust in the containment dome and the importance of performing the containment integrate leak rate test immediately to determine whether the containment structure has been comprised.

If a hearing is granted, Petitioner will provide expert testimony consistent with findings in the independent engineering report. Petitioner expects that expert testimony will provide more detail with respect to the specifics of the risk of rust in the

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<sup>5</sup> 66 Fed. Reg. 44,161 (2002).

containment dome and the importance of the ten-year integrate leak rate tests in an aging facility such as IP2.

**D. Petitioner Interests Will Not Be Represented by Existing Parties**

There are no other intervenors in this case, and therefore there are no other parties who can or will represent Petitioner's interests.

**E. Petitioner's Participation Will Not Broaden the Issues and Not Unduly Delay the Proceeding**

Petitioner's proposed independent engineering reports will not broaden the issues to be considered and not unduly delay this proceeding beyond the current timetable. The concise issue on this application is whether deferral of the required pressure testing might increase the consequences of an accident or other malfunction at IP2. Petitioner proposes to present additional evidence on the dome issue.

Con Edison filed its proposed amendment application and chose not to include any information regarding the presence of rust in the containment dome. Had Con Edison provided such information in its analysis in the first place, an appropriate analysis would already have been performed. Petitioner's proposal for immediate testing addresses this issue, which is already before the NRC.

**III. SATISFACTION OF ADDITIONAL STANDARDS FOR INTERVENTION**

Petitioner also demonstrates it has a substantial interest in the outcome of the proceeding.

**A. Petitioner Interest in the Proceeding**

Petitioner is a not-for-profit organization with 6,500 members dedicated to the protection and conservation of the Hudson River and its watershed. Many of Petitioner's

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<sup>6</sup> *Id.*

members live and work within a ten-mile radius of the Indian Point Nuclear Generating Facility Unit No. 2 and are concerned with the substantially higher probability and consequences of a potential radiation leak. The presence of rust in the containment dome indicates there may be a leak in the dome's steel lining as well as other age-related deterioration. Failure to identify such a leak would defer required repair measures, greatly increasing the safety risks to Petitioner's members. Failure to pass its pressure test will demonstrate an increased likelihood of a radiological release into the human environment. Therefore, Petitioner's members' health, safety and property interests are affected.

**B. The Result of the Proceeding Affects the Petitioner Interests**

If NRC denied the proposed amendment, licensee would be required to immediately conduct pressure tests in the containment area, thus addressing Petitioner's interest that there is currently no breach in the integrity of the dome.

**C. Petitioner Should Be Permitted to Intervene**

For the sole reason that Petitioner's members' safety is at issue, Petitioner should be permitted to intervene to insure the effectiveness of the IP2 dome. Petitioner's members' and their families live, work and attend schools near the IP2 Facility. Petitioner has a significant interest in protecting its members' property. A radiological emergency will substantially decrease the property value in the surrounding towns and villages.

Intervention will allow Petitioner to provide NRC with important information relevant to the rust stains so that NRC may make a full/informed determination. This information will include an independent individual engineering report outlining the

significance of rust in the steel lining of the containment dome and the importance of pressure testing at IP2. Therefore, Petitioner seeks to intervene to compel NRC to deny the proposed amendment and require immediate integrate leak rate testing in the containment dome at IP2.

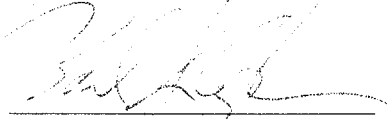
#### **IV. CONCLUSION**

For the foregoing reasons, Riverkeeper, Inc.'s petition for leave to intervene and request for a hearing should be granted.

Dated: White Plains, N.Y.  
March 18, 2002

Respectfully submitted.

RIVERKEEPER, INC.



Karl Coplan, Esq.  
Pace Environmental Litigation Clinic, Inc.  
78 North Broadway  
White Plains, New York 10603  
Attorney for Riverkeeper, Inc.

**The Journal News.com**  
The online information source for Westchester, Rockland and Putnam

## Indian Point 2's rusted lining causes concern

By ROGER WITHERSPOON

(c) THE JOURNAL NEWS

(Original publication: Feb. 15, 2002)

The U.S. Nuclear Regulatory Commission has asked for proof that rusted areas in the steel lining of Indian Point 2's containment building do not indicate holes in the massive concrete structure that could jeopardize its ability to protect the public.

Officials at Entergy Nuclear, which owns the nuclear power plant in Buchanan, said yesterday that the rust stems from water leaks inside the building, and that the building's structural integrity has not been compromised.

"There is no hole in my containment building," Entergy Vice President Fred Dacimo said. "But there is a thinner part of the steel liner than there would have been if there had not been any rust. There are areas that are very high in the containment building, and areas under the insulation on the walls that have rust, and they want us to better justify why those areas are OK."

Entergy was given 30 days on Feb. 5 to explain why it is certain the rust stems from water contamination inside the building, and poses no threat to the steel lining. The directive from Patrick Milano, project manager of the NRC's Office of Nuclear Reactor Regulation, told Entergy to prove that the rusted spots were not the result of a 6.5-square-inch leak area that would release radiation into the atmosphere in an emergency.

The rust has developed in the three-quarter-inch steel lining inside the reinforced concrete building.

During a catastrophic accident at a nuclear power plant, fuel would melt through the nuclear reactor's steel walls, creating a radioactive lava that would flow into water pooled on the building's floor. That would generate a radioactive steam explosion, instantly doubling or tripling the pressure inside and sending a steady plume of radiated steam through any hole in the containment building.

Containment buildings are pressure-tested every decade, though extensions can be granted for up to five years. Indian Point 2 is due to have a full pressure test in August, but has asked for a five-year extension, citing other, more important work that needs attention.

"We're reviewing that request," NRC spokesman Neil Sheehan said, "but we've asked for more information to justify the extension, particularly how the corrosion might impact a severe accident at the plant."

That information, Sheehan said, "could very well indicate there is no increased risk," and



Entergy, which also owns Indian Point 3, bought Indian Point 2 from Con Edison last Sept. 6 and has encountered a series of problems since then. The NRC considers Indian Point 2 to be the most trouble-plagued of the nation's 103 nuclear stations.

Dacimo said Entergy has spent "multiple millions of dollars" on repairs and the replacement of electrical system equipment that did not meet industry standards. The company intends to wait to repair the steam generator at Indian Point 2 until a scheduled shutdown in the fall, when it intends to replenish the fuel.

Until last week, Indian Point 2 also had been on probation for unacceptable mechanical, electrical and engineering training. The accrediting arm of the Institute of Nuclear Power Operations put the plant on probation last August and could have decertified the plant had it not passed a re-examination last week.

While the plant was on probation last October, four of Indian Point 2's seven control room room operating crews failed their relicensing exams. Two of the crews have since been removed from control room duty and the others have been retrained and retested, Dacimo said.

He said the company is continuing to revamp the training of its control room operators, who were trained under Con Edison.

Though Entergy has defended its operations in recent months as no threat to public safety, despite Indian Point 2's continuing problems, demands for Indian Point's shutdown have grown more vocal following the Sept. 11 terrorist attack on the World Trade Center.

Fearing that the plant could become a terrorist target, creating an unacceptable threat to the region, numerous environmental groups and elected officials and more than 7,000 residents in Westchester, Rockland and Putnam counties have signed petitions calling for the plant to be decommissioned.

The Indian Point Safe Energy Coalition, an organization of roughly 40 environmental and civic groups that want Indian Point closed, is holding a rally at noon tomorrow at Peekskill's Riverfront Green to further publicize their concerns and mark the anniversary of the accident in 2000.

"The events of Sept. 11 have ushered in a new world," U.S. Rep. Nita Lowey, D-Harrison, said yesterday. "We should begin the process of decommissioning the plant as soon as possible."

The NRC confirmed yesterday that it would soon order all nuclear plants to institute tougher security measures. Since Sept. 11, the agency has sent advisories to the plants and security improvements have been voluntary, Sheehan of the NRC said. The decision to require the security measures — which include increased vehicle searches and guards at the plants — is being made at the request of the White House, Department of Defense and the Office of Homeland Security.

"Because the ongoing terrorist threat has persisted so long," Sheehan said, "the administration feels it is prudent to formalize some of these requirements. The situation is not going to change any time soon. The terrorist threat is going to be with us."

an extension could be granted. Indian Point 3 has received a five-year extension for its next pressure test.

The current rust problem at Indian Point 2 is a lingering legacy of water corrosion that began on the steel lining about 15 years ago, said John McCann, manager of nuclear safety at Indian Point 2.

The building's air conditioning system uses Hudson River water for cooling and, when the the system's pipes began leaking, 200,000 gallons of water spread throughout the building before the leaks' source was found.

"It reached nine feet around the reactor, and the NRC wasn't too happy about that," said David Lochbaum, a nuclear safety analyst with the Union of Concerned Scientists. "They fixed the holes in the pipes, but didn't look at the damage from the water."

"In the last four or five years, we had to remove a lot of insulation looking for this," McCann said.

At the same time Entergy must work to defend the safety of the rusted steel and its request for a pressure test extension, the company this week had to notify the NRC and local officials of a small leak in one of its new steam generators. The leak, first noticed on Wednesday, is allowing radioactive water from the nuclear reactor to mingle with clean, pressurized water used to turn the giant, electric generating turbines. About a tenth of an ounce of radioactive water is pouring through the system daily, Dacimo said, though there is no immediate harm to the public.

Officials are not sure of the leak's exact source and are monitoring the problem.

News of the leak was publicized a day before today's two-year anniversary of the worst accident in Indian Point's history, when Indian Point 2 was owned by Consolidated Edison. On Feb. 15, 2000, a burst tube in an aging steam generator in Indian Point 2 sent 20,000 gallons of radioactive coolant into the clean water system. In addition, a small amount of radioactive steam was released into the atmosphere.

The 2000 leak began about 6 p.m., but was essentially ignored during a shift change, and coolant surged from the steam generator for more than an hour. The accident triggered the plant's first nuclear alert, prompting county officials to staff their emergency center and wonder if a radiation alert would trigger the need for an evacuation.

County Executive Andrew Spano said yesterday that an initial lack of information about the accident from Con Edison made it difficult to gauge the severity of the situation. At the time, he became critical of the plant's management and the NRC's oversight and threatened to sue to force the plant's shutdown.

"I wasn't the only one calling for its shutdown, but I was one of the most vocal," Spano said.

Spano later rescinded his call for a plant shutdown after receiving assurances from the NRC that the plant was safe.