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FINAL REPLY:

Senator Joseph I. Lieberman
Senator Christopher Dodd

TO:

Chairman Meserve

FOR SIGNATURE OF :

** PRI **

CRC NO: 03-0120

Chairman Meserve

DESC:

ROUTING:

Emergency Preparedness Program for Indian Point

Travers
Paperiello
Kane
Norry
Craig
Burns/Cyr
Miller, RI
Zimmerman, NSIR

DATE: 03/07/03

ASSIGNED TO:

CONTACT:

NRR

Collins

SPECIAL INSTRUCTIONS OR REMARKS:

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Mar 06, 2003 10:44

PAPER NUMBER: LTR-03-0120 **LOGGING DATE:** 03/06/2003
ACTION OFFICE: EDO

AUTHOR: Joseph Lieberman
AFFILIATION: SEN
ADDRESSEE: Richard Meserve
SUBJECT: Express concerns about the emergency preparedness program for the Indian Point nuclear power plant

ACTION: Signature of Chairman
DISTRIBUTION: Chairman, Comrs, RF, OCA to Ack

LETTER DATE: 02/25/2003
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DATE DUE: 03/20/2003 **DATE SIGNED:**

United States Senate

WASHINGTON, DC 20510

February 25, 2003

The Honorable Richard A. Meserve
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

The Honorable Joseph Allbaugh
Director
Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20472

Dear Chairman Meserve and Director Allbaugh:

We are writing to express our very serious concerns about the emergency preparedness program for the Indian Point nuclear power plant. The Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) bear primary responsibility, with the critical support of State and local emergency management personnel, for comprehensive emergency planning to protect the hundreds of thousands of citizens of Connecticut and New York who live in close proximity to the Indian Point plant.

We are greatly troubled by a series of recent events that calls into serious question FEMA's ability to effectively evacuate and protect residents surrounding the Indian Point plant under the plant's approved 2001 emergency preparedness plan. A brief recital of recent events is:

- ❖ **Release of the Draft Witt Report:** On January 10, 2003, James Lee Witt Associates, Inc., a research firm founded by a former FEMA head, released a comprehensive draft assessment of emergency preparedness for the area surrounding the Indian Point plant and for that portion of New York in close proximity to the Millstone Plant in Connecticut. The draft report, which is expected to become final following a short period of public comment, finds that "the current radiological response system and capabilities are not adequate to . . . protect the people from an unacceptable dose of radiation in the event of a release from Indian Point, especially if the release is faster or larger than the design basis release."
- ❖ **FEMA Denial of the New York Petition to Withdraw FEMA Approval of the Current Plan:** On June 17, 2002, New York Assemblyman Richard L. Brodsky, with others, filed a petition with FEMA to withdraw FEMA's approval of the

2001 Indian Point emergency preparedness plan, or to hold public hearings to undertake a review of the plan. The petition alleged that the Indian Point plan is not adequate to protect public health and safety as required by federal law. On January 28, 2003, despite the conclusions of the Witt Report and FEMA's own findings cited below, FEMA denied the petition. In essence, FEMA concluded that it could more effectively assess Indian Point's state of preparedness from the results of a September 24, 2002 readiness exercise that it had conducted at the plant.

- ❖ **FEMA's Own 2002-2003 Planning Review:** On January 15, 2002, FEMA Region II released to the State of New York the results of its periodic review of the New York State and County Radiological Emergency Response Plans and Procedures. On December 3, 2002, following work with the State of New York and the affected counties over the course of the year, FEMA Region II sent the State of New York a list of remaining concerns with Indian Point emergency planning. According to the letter, these concerns included the failure of the State of New York and counties to submit letters of certification of the availability of resources needed by the counties to respond to an incident at the plant; the lack of an adequate work plan for joint news center procedures and public education; the need for an up-to-date evacuation time estimate reflecting new demographics; and the lack of emergency plans for individual school district, pre-school and day care centers.

- ❖ **New York's Annual Plant Certification:** By January 31, 2003, the State of New York was required to submit its annual certification of the adequacy of the requisite State and local preparedness and training activities relative to the Indian Point plant. On January 30, 2003, the State of New York informed FEMA Region II that it could not provide the annual certification for the Indian Point plant because it had not received supporting documentation from four counties. According to the State of New York, each county executive "referenc[ed] concerns about the adequacy of the current emergency planning as discussed in the Witt report" On February 3, 2003, FEMA Region II responded that by failing to provide the annual certification, the State of New York has not satisfied the federal process for confirming State compliance with FEMA and NRC emergency planning standards. FEMA Region II regarded this action as an impediment to its ability to work constructively with the State and local communities to improve emergency preparedness, and made more difficult FEMA's ability to reach a conclusion regarding the emergency preparedness of the Indian Point plant. On February 4, 2003, the State of New York responded that as a home-rule state, it could not render a judgment on local emergency preparedness efforts where local governments are not comfortable in doing so themselves; and the missing certification "does not have a material impact on the ability of existing emergency plans to be implemented."

- ❖ **FEMA Region II's February 21, 2003 Emergency Planning Report:** On February 21, 2003, FEMA Region II released a report concerning the emergency

preparedness of the Indian Point plant. (This discussion is based on the executive summary of the report posted on the FEMA website as of February 22, 2003; FEMA has transmitted a more detailed report to the State of New York.) With regard to the September 24, 2002 readiness exercise conducted at the Indian Point plant, FEMA Region II made no finding that rose to the level of a federal deficiency. With regard to planning issues in general and the draft Witt report, FEMA Region II prepared written responses to major findings. In substance, the federal agency concluded:

FEMA believes that the draft State report raises a number of issues that should be considered for enhancing the level of preparedness in the communities surrounding the Indian Point Energy Center. These include better education of the public, more training of offsite responders and improved emergency communications. Some of these issues should be evaluated for their applicability program-wide. However, FEMA also believes that a number of issues raised by the State report are not supported by FEMA's own exercise evaluations, plan reviews and knowledge of the REP [radiological emergency preparedness] program.

FEMA commits to review of the final Witt assessment. The FEMA report concludes that "FEMA, in the absence of fully corrected and updated plans for counties and the State, cannot provide 'reasonable assurance' that appropriate measures can be taken in the event of a radiological emergency." Finally, if the State of New York is unable to provide completed plans by May 2, 2003, with an appropriate schedule of corrective actions, FEMA Region II will notify FEMA Headquarters that assurance cannot be provided as to the adequacy of the plans to protect public safety and health, with more significant action (apparently) to follow.

The inescapable conclusion from this recital of recent events is that more than a year has passed since knowledgeable emergency management authorities identified significant basic deficiencies in the Indian Point emergency preparedness plan, without final resolution of those deficiencies to ensure the safety and security of the communities surrounding the Indian Point plant. The safety of Connecticut and New York residents should be of paramount importance and there appears to be unanimous agreement that the existing emergency preparedness plan for Indian Point falls short.

We ask that FEMA take immediate action to address the agreed-upon deficiencies recognized in FEMA's February 21, 2003 report. If FEMA, the State of New York, or affected counties have already resolved some or all of the deficiencies, this information should promptly be effectively communicated to the citizens of Connecticut and New York and to responsible local officials. We urge FEMA to review the final Witt Report carefully and to work with the State of New York and the affected counties to resolve remaining conflicts as to plan deficiencies. We request that FEMA work with the State of New York and the affected counties to resolve all planning issues expeditiously, certainly before May if this is possible. Further bureaucratic deadlock in addressing

fundamental safety and security concerns jeopardizes the integrity of the FEMA and NRC emergency planning and certification process. We request that the NRC ensure the expeditious resolution of this matter.

All of us are keenly aware of the understandable increase in concerns about the safety and security of nuclear power plants in the wake of September 11, 2001. The imminent likelihood of war with Iraq and the increase in the terrorist alert warning level to Code Orange, have heightened the importance of adequate emergency planning to ensure public safety and the security of nuclear power plants like Indian Point. That is why it is vital that FEMA act with alacrity to assure the security of this plant and protect the public.

Thank you for your consideration and prompt response to the important issues raised in this letter.

Sincerely,



Joseph I. Lieberman
United States Senator



Christopher Dodd
United States Senator