

July 3, 2003

The Honorable Richard Blumenthal
Attorney General
State of Connecticut
Hartford, CT 06141-0120

Dear Mr. Attorney General:

Your petition dated April 23, 2003, and addressed to the U.S. Nuclear Regulatory Commission (NRC) Executive Director for Operations has been referred to me pursuant to 10 CFR 2.206 of the Commission's regulations, along with the June 3, 2003, supplement to the petition. You requested that the NRC (1) order the licensee for the Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and 3) to conduct a full review of the facility's vulnerabilities, security measures, and evacuation plans and to suspend operations, revoke the operating license, or adopt other measures resulting in a temporary shutdown of IP2 and 3; (2) require the licensee to provide information documenting the existing security measures which provide the Indian Point facility with protection against terrorist attacks; (3) immediately modify the IP2 and 3 operating licenses to mandate a defense and security system sufficient to protect the entire facility from a land- or water-based terrorist attack; (4) order the revision of the licensee's Emergency Response Plan and the Radiological Emergency Response Plans of the State of New York and the nearby counties to account for possible terrorist attacks, and (5) take prompt action to permanently retire the facility if, after conducting a full review of the facility's vulnerabilities, security measures, and evacuation plans, the NRC cannot sufficiently ensure the security of the IP facility against terrorist threats, or cannot ensure the safety of New York and Connecticut citizens in the event of an accident or terrorist attack.

As the basis for your request, you state that (1) the IP Radiological Emergency Preparedness Plan (REPP) fails to adequately inform the public in the event of a radiological emergency and relies upon selective release of critical information and irrational and unenforceable secrecy; (2) the IP REPP fails to address voluntary evacuation as required by NRC guidance documents; (3) the IP REPP fails to address family separation in its analysis of evacuation times; (4) the IP REPP fails to meet requirements for protection of foodstuffs and drinking water in 50-mile ingestion exposure pathway emergency planning zone; (5) the evacuation travel time estimates for the IP REPP fail to meet NUREG-0654/FEMA-REP-1; (6) the IP REPP fails to address administering radioprotective drugs to general population; (7) the IP REPP does not adequately address the possibility of a terrorist attack; (8) IP and NRC personnel and resources confront "dual challenges" when ensuring security at an operational facility; (9) the spent fuel storage facility is vulnerable to terrorist attack; (10) the security forces at nuclear power plants have repeatedly failed to repel mock terrorist attackers; and (11) catastrophic effects (illness and fatality data, economic loss data, and environmental consequences) will result from a terrorist attack on IP.

Your office participated in a teleconference with our Petition Review Board (PRB) on June 19, 2003, to discuss your petition (transcript enclosed). The results of that discussion have been considered in the PRB's determination regarding your request for immediate action and in establishing the schedule for the review of your petition. The PRB has determined that the request will be treated pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206 of the Commission's regulations.

In response to your requests for immediate actions contained in items 1, 2, 3, and 4 above, the NRC has, in effect, partially granted your requests. Immediately after the September 11, 2001, terrorist attacks, the NRC issued numerous advisories to nuclear facilities, including IP2 and 3, to describe threat conditions and to recommend additional security measures. The licensees voluntarily implemented enhancements in response to these advisories and their own assessments. On February 25, 2002, the NRC issued orders to all commercial nuclear power plants to implement interim compensatory security measures for the high-level threat environment. In addition, the NRC has conducted a comprehensive review of its security and safeguards programs, including the design basis threat (DBT), in conjunction with the Intelligence Community, Federal law enforcement, the Department of Defense, the Department of Energy, the Department of Homeland Security, appropriately cleared State and local officials, and the industry. As a result, the NRC has recently issued orders to all plants, including IP2 and 3, modifying their licenses. On April 29, 2003, after extensive deliberation and interaction with appropriately cleared stakeholders, the NRC issued orders changing the DBT. The Commission believes that the DBT represents the largest reasonable threat against which a regulated private guard force should be expected to defend under existing law. Two other orders were issued to nuclear plants on April 29, 2003, regarding work hours, training, and qualification requirements for security personnel. 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.

Although we cannot rule out the possibility of future terrorist activity directed at one of our licensee sites, we believe that these facilities can continue to operate safely. Nuclear power plants are inherently rugged. 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 trained operators to prevent or limit the release of radioactive material in the unlikely event of a terrorist attack. Therefore, in light of the facility's defense-in-depth and the heightened security measures implemented in response to the events of September 11, we do not consider the immediate closure of IP2 and 3 necessary to provide adequate protection of public health and safety.

As provided by Section 2.206, we will take action on your request within a reasonable time. I have assigned Mr. Johnny Eads to be the petition manager for your petition. Mr. Eads can be reached at 301-415-1471 (e-mail: jhe@nrc.gov). Your petition is being reviewed by members of the NRC's Office of Nuclear Reactor Regulation. I have enclosed for your information a copy of the notice that is being filed with the Office of the Federal Register for publication. Although previously provided to you, I have also enclosed another copy of Management

Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," and the associated brochure NUREG/BR-0200, "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 50-286

Enclosures: 1. *Federal Register* Notice
2. Management Directive 8.11
3. NUREG/BR-0200
4. Transcript of June 19, 2003, Teleconference

cc w/encls: See next page

Indian Point Nuclear Generating Unit Nos. 2 & 3

cc:

Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," and the associated brochure NUREG/BR-0200, "Public Petition Process," prepared by the NRC Office of Public Affairs.

Sincerely,

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

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PACKAGE: ML031740705

ACCESSION NO: ML031740470
Federal Register Notice: ML031740675

*Previously concurred

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Management Directive 8.11: ML003670845
Transcript: ML

NUREG/BR-0200: ML013600445

Indian Point Nuclear Generating Unit Nos. 2 & 3

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