

1. 4-18-06 Riverkeeper Notifies Entergy Nuclear Northeast of Intent to Sue

FROM: RIVERKEEPER

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**RIVERKEEPER NOTIFIES ENTERGY NUCLEAR NORTHEAST OF INTENT TO
SUE FOR VIOLATIONS OF FEDERAL TOXIC WASTE LAW AT INDIAN POINT**

*Environmental Watchdog Group Takes Action As Radioactive Cocktail Continues to
Leach into Hudson River and Groundwater, Violating Federal Environmental Law*

Tarrytown, N.Y. Today Riverkeeper, the Tarrytown-based environmental organization, celebrating its 40th year of protecting the Hudson River and the watershed from polluters, announced its intent to sue Entergy Nuclear Northeast for violating the Resource Conservation and Recovery Act (RCRA). This federal statute requires operators of industrial facilities to notify the Environmental Protection Agency (EPA) when they discover a leak of hazardous substances, such as radioactive isotopes, from their facility and to remediate the environmental damage in a timely manner. Entergy Nuclear failed to notify EPA when they discovered the leak of contaminated water from the Indian Point 2 spent fuel pool, thereby avoiding the involvement of EPA in the leak investigation and remediation process. Croton residents Gary Shaw and Charlie Kane are co-plaintiffs in this pending litigation. Under the citizen suit provisions of RCRA, Riverkeeper must notify the defendant sixty days prior to filing suit.

“This case stands at the very heart of Riverkeeper’s 40-year mission to protect the Hudson River and the watershed from polluters who put financial profit over the health and safety of citizens and our environment,” said Alex Matthiessen, Riverkeeper’s President. “For four decades, we have used the law to force violators to clean up their act, and as we embark on the next 40 years we will continue to do so. The future of the Hudson River and the Hudson Valley depends on it.”

The Notice of Intent to Sue letter (NOIS) maintains that Entergy failed to notify the EPA within 24 hours of a confirmed release of a hazardous substance from an underground storage tank, pursuant to 40 CFR 280.61(a). The ongoing radioactive leak originates at least partly from Indian Point 2 Spent Fuel Pool, and was initially discovered on August 26, 2005 during an onsite excavation project. It took the Nuclear Regulatory Commission and Entergy over 20 days to notify elected officials and the public of the leak, which contains levels of tritium, strontium-90, and cesium 137 – among other dangerous

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radioactive isotopes – well above allowable EPA limits. Entergy received confirmation of the presence of Cesium-137 and Strontium-90 in the leaking water on October 24, 2005.

“The law is very clear regarding the release of hazardous substances and the notification process – a polluter must notify the EPA within 24 hours of discovery,” noted Phillip Musegaas, Policy Analyst at Riverkeeper. “EPA retains regulatory authority over waste storage tanks containing radioactive materials – to ensure the proper level of oversight and agency expertise is brought to bear in case of a leak or spill such as this. While Entergy may have broken public trust and confidence a long time ago, here they’ve broken the law. We are fully prepared to seek enforcement of the regulation by the courts, to make sure the leak is stopped and the environmental damage addressed.”

On March 21, the NRC and Entergy announced that Strontium-90 had been discovered in wells near the Hudson River at levels 3 times higher than EPA allowable levels. Entergy and the NRC have confirmed on repeated occasions that a large plume of contaminated groundwater coming from the IP2 spent fuel pool is leaching toxic radioactive isotopes into the Hudson River.

“Our local communities need to be assured that the corporation that owns and operates Indian Point is doing everything possible to stop and clean up this radioactive plume,” added Lisa Rainwater, Indian Point Campaign Director. “We also need to know that Entergy is following the letter of the law – anything less suggests they are failing to be good and responsible corporate neighbors to the local community. In failing to follow federal notification regulations, they’re failing the communities that use the Hudson River to recreate and that rely on clean water for their families.”

Gary Shaw, a resident of Croton, frequents the Hudson River with his wife, an artist, combing the river’s shores for natural materials such as driftwood to be used in her artwork. “I have joined with Riverkeeper and Charlie Kane in this action,” explains Gary Shaw, “because I am concerned about the on-going release of elements such as Strontium-90 into the Hudson River that borders Croton. My wife is an artist whose work these days consists largely of wood sculptures from Hudson River driftwood. I am concerned that with the collecting and carving she does, that she will be exposed to elements contaminated by radioactive toxins, especially when carving, which creates very small and inhalable particles.”

Charlie Kane, a lifetime fisherman on the Hudson River, has joined Riverkeeper due to his growing concerns over the impacts of radioactive waste on the fish population. “With great sadness, public perception, public monies, and the work of many are now jeopardized by the leak of radioactive pollutants from the Indian Point nuclear plant into the Hudson River,” commented Kane. “This great resource for visitors to the Hudson Valley, commercial and recreational fishing, boating and swimming, among other activities we enjoy, has been degraded by the failure of Entergy to perform their due diligence in keeping pollutants of any kind from entering the Hudson River.”

Riverkeeper, Inc., Gary Shaw, and Charlie Kane place Entergy Corporation, including Entergy Operations, Inc., Entergy Nuclear Operations, Inc., and Entergy Nuclear Indian Point 2, LLC, (collectively "Entergy Corporation") on Notice of Its Intent to Sue for violations of the Solid Waste Disposal Act ("SWDA"), 42 § 6991 et. Seq. Specifically, the letter gives notice of Riverkeeper's intent to sue for past, present and continuing violations of regulations promulgated pursuant to SWDA § 7002 (a)(1)(A), 42 U.S.C. 6972 (a)(1)(A). Entergy Corporation has violated such regulations by failing to notify the Federal Environmental Protection Agency ("EPA") of a leaking deferred underground storage tank ("UST") in violation of EPA regulation 40 CFR 280.60 et. Seq. Section 7002 (b)(1) requires that sixty days prior to filing a citizen suit for violations of the SWDA in federal district court, notice be given to the alleged violator, the U.S. Environmental Protection Agency, and the state in which the violations occur.

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About Riverkeeper

Riverkeeper is a member-supported, not-for-profit environmental organization dedicated to safeguarding the ecological integrity of the Hudson River and the watershed areas that provide drinking water to New York City and parts of four upstate counties by tracking down and stopping polluters. Since its founding in 1966, Riverkeeper has investigated and brought to justice hundreds of environmental lawbreakers. For more information, please visit www.riverkeeper.org.

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