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SUBJECT:	Indian Point Stakeholder petition for rulemaking		
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NOTES:	This is a petition for rulemaking, however, additional relief in the form of a 2.206 action and extension of time to review license renewal applications also requested		
FILE LOCATION:	ADAMS		
DATE DUE:		**DATE SIGNED:**	

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Chairman's Office
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Washington, DC 20555-0001

RE: Indian Point Stakeholders 2.202, 2.206, 2.802
Petition for Rulemaking and Other Remedy

Please find enclosed the Summary and Indian Point Stakeholder Petition for Rulemaking and Other Remedy., and a revised Request for a 60 day extension.

Sincerely yours,

Susan Shapiro, Esq.
FUSE

INDIAN POINT STAKEHOLDERS PETITION FOR RULE MAKING
SUMMARY

Indian Point Stakeholders, the undersigned parties, move the NRC for the following regulatory rule changes to correct regulatory inequities which suppress and/or eliminate citizens rights protected under the First Amendment of the Constitution of The United States of America, which in part assures that no law and/or regulation shall abridge a citizen's right to redress, due process and equal protection.

The current NRC regulations 10CFR Rules and Regulations, *Requirements for Renewal of Operating Licenses For Nuclear Power Plant and supporting rules, regulations and guidance documents* are prejudiced and biased, usurp Stakeholder rights and presume that license renewal is a foregone conclusion, so long as the licensee spends enough money, and follows guidelines essentially drafted by the powerful nuclear industry lobby, the Nuclear Energy Institute ("NEI").

The regulations promulgated by the NRC are in reckless disregard of the right of host communities and Stakeholders to be safe from governmentally imposed harm without due process of law. Most egregiously, the regulations, as applied by the NRC, *de facto* ignore the realities of population density; the obstacles of roadway congestion in the greater New York metropolitan region (which, among other things, will impede access to and egress from the Indian Point facility); unworkable evacuation plans; manifestly deficient sheltering options; grossly inadequate regional first responder and other emergency response capability; the extent to which dangerous amounts of radiation could reasonably be likely to spread; the risks posed to women, children, and babies; utter disregard of factors which will uniquely affect special populations; and other factors which would materially degrade public health and safety in the event of a measurable release. Instead, it is petitioners' contention that the regulations fail to present a single reason for which an application for license renewal would be denied.

Stakeholders rights to any real and meaningful pathway to adequate redress have been abridged, mitigated, usurped and diminished to a point of non-existence.

The undersigned petitioners move that the NRC issue an order, effectively and immediately, enjoining the NRC from considering any new license applications until the NRC regulations are revised to protect the Constitutional First Amendment Rights, as well as the Equal Protection and Due Process Rights of Stakeholders.

Indian Point Stakeholders

2.202, 2.206, 2.802 Petition for Rulemaking and Other Remedy

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC, 20555-0001
Attn: Rulemakings and Adjudications Staff
Executive Director for Operations

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SECTION A (OTHER REMEDY)

As is outlined, and allowed under 10 CFR Rules and Regulations, sections 2.206, 2.802 and 2.202 the plaintiff parties hereafter referred to as petitioners/intervenors (each co-signer is to be considered a separate and equal party to the requests contained herein, rather than treated as a part of a singular collective group), move the NRC for necessary and rightful relief, and regulatory rule changes to correct regulatory inequities which are suppressing and or eliminating citizens rights protected under the First Amendment of the Constitution of The United States of America, which in part states and assures that no law and/or regulation shall abridge a citizen's right to redress, due process and equal protection.

- The First Amendment of the United States Constitution (*http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmenti*) protects the right to freedom of religion and freedom of expression from government interference. See U.S. Const. amend. I. Freedom of expression consists of the rights to freedom of speech, press, assembly and to petition the government for a redress of grievances, and the implied rights of association and belief. The Supreme Court interprets the extent of the protection afforded to these rights. The First Amendment has been interpreted by the Court as applying to the entire federal government even though it is only expressly applicable to Congress. Furthermore, the Court has interpreted, the due process clause of the Fourteenth Amendment as protecting the rights in the First Amendment

- (*http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmenti*) from interference by state governments. See U.S. Const. amend. XIV (*http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentxiv*).

Petitioners herein allege and claim, that the NRC's 10 CFR Rules and Regulations, section 54 (REQUIREMENTS FOR RENEWAL OF OPERATING

LICENSES FOR NUCLEAR POWER PLANTS) is in fact and deed prejudiced and biased upon its face. Said section of the 10 CFR regulations usurps the Stakeholder rights of host communities and their citizens by presuming, even dictating, only one conclusion,: license renewal for every reactor.

The title of this section is "Requirements for Renewal of Operating Licenses For Nuclear Power Plants" and is not "Regulations For License Renewal Consideration", or "License Renewal Application and Review Regulations."

This section of 10 CFR Rules and Regulations presents license renewal as a foregone and given conclusion, as long as the NRC's licensee spends enough moneys and follows guidelines effectively written by the powerful nuclear industry lobby, the Nuclear Energy Institute ("NEI").

Further, the regulations promulgated by the NRC are in reckless disregard of the right of host communities and Stakeholders to be safe from governmentally imposed harm without due process of law. Most egregiously, the regulations, as applied by the NRC, *de facto* ignore the realities of population density; the impediments presented by roadway congestion (including the impediments presented to access to and egress from the Indian Point site); an unworkable evacuation plan, manifestly deficient sheltering options; grossly inadequate regional first responder and other emergency response capability; the extent to which dangerous amounts of radiation could reasonably be likely to spread; the risks posed to women, children, and babies; utter disregard of factors which will uniquely affect special populations; and other factors which would materially degrade public health and safety in the event of a major radiological release. Indeed, petitioners point out that, in fact and deed, said section (54) of the 10 CFR Rules and Regulations does not present a single section in the regulation outlining even one reason for which an application for license renewal could or would be denied.

On February 13, 2003, the NRC modified their relicensing regulations 10 CFC Part 2. The new regulations bar the public from any meaningful participation in the relicensing process. It eliminates the rights of the public and elected officials to full on the record hearings, present expert witness testimony, conduct cross examination of the NRC and plant operators and conduct discovery.

The Atomic Energy Commission ("AEC") was restructured into the NRC because the AEC has become captured by the nuclear industry, Today, the NRC has once again become a defacto agent of the nuclear industry and it's powerful lobbying arm the NEI.

From the onset, Stakeholders rights to any real and meaningful pathway to adequate redress have been abridged, mitigated, usurped and diminished to a point of non-existence.

The NRC is currently not enforcing many of it's own regulations, and/or makes changes in its regulations to suit the dereliction of the NEI. The NRC has not enforced remediation or levying fines for unmonitored leaks, has changed fire safety rules, has failed to enforce quality control inspections, has changed evacuation standards as proposed by the NEI, has refused to provide back power for sirens (only due to

Congressional Legislation back power is now required at Indian Power, however the NRC has been lack in oversight and enforcement to ensure the operator meet statutory deadlines), and have grandfathered in public health and safety, in violation of public policy.

To protect the health and safety of the public we the undersigned petitioners make the following allegations as relates to the safety and structural stability for an order effectively and immediately suspending said licenses until such time as the safety and infrastructure weaknesses at said facilities can be remedied to a point of full compliance with all LOCAL, STATE and FEDERAL LAWS.

We also hereby move that this commission issue an order, effectively and immediately, enjoining consideration of any new license applications until the NRC regulations are revised to protect the Constitutional First Amendment Rights, as well as the Equal Protection and Due Process Rights of Stakeholders.

ALLEGATIONS

1. Various and assorted radiation - including, strontium-90, cesium, and tritium leaks have been reported or have been discovered at the facilities, yet the times of commencement, source(s), extent and causes of the leaks remain unidentified at specific areas of said plant/reactor locations associated with each individual and separate licensee. Entergy and the NRC's assurances of NO IMMEDIATE DANGER do not adequately address concern related to these leaks.

In a time span now of nearly three years, Entergy has not been able to locate, let alone stop, these leaks. A complete investigation of the spent fuel pool has not been accomplished due to the overcrowding of spent fuel pools beyond the original Design Basis as permitted by the NRC.

Notably, in the past two months, additional NEW LEAKS have been identified to local officials, but again with the same ineffective response from both the licensee to the effect that they will place the leaks on the Action Plan, and work to identify their source. This response does not constitute effective action, as the result is that there continues to be unmonitored radiological releases into the environment.

If a licensee cannot locate the source of a leak, the licensee cannot repair it. If a leak cannot be located, the effect upon the environment increases . The manifest consequence is that the leaks will worsen as the unmitigated and unmanaged problem contributes to an ever more rapid decline of plant stability and integrity. Without proper identification and aging management of the leaks, which will only increase with continued freezing and thawing, the "passive" structure, systems and components of the plant will continue to weaken to the point of critical failure.

Said leaks indicate valve, pipe or infrastructure weaknesses, corrosion and decay. Stated simply, if a licensee cannot even locate a leak, let alone repair it to a point

of compliance with local, state and federal laws, then it cannot by fact and deed have an effective aging management plan

Assurances by the NRC and Entergy that they will continue to investigate the leaks after issuance of a renewal license are wholly inadequate, untenable, and inequitable. Under current NRC regulations the there is no requirement that said leak sources be found and remediated prior to license renewal. It is criminally negligent of the NRC to allow for the plants to continue operation, and obtain license renewal when the plant is operating with unmonitored leaks placing it in violation of NRC regulations governing releases of radioactive liquids from nuclear power plants into water (Title 10 of CFR) Part 50 Appendix A, Criterion 60, 64 and Subsections 20.1301, 20,.1302, Appendix B of Part 20, 50.34a, 50.36a Standards, EPA Drinking Water Regulations Title 40 of CFR) and New York State Environmental Conservation Law 6 NYCRR 701.1, 6NYCRR 701.15.

The current NRC regulations allow the operator to determine at some future date, after issuance of the new superceding license, the method by which they will investigate, remediate and/or manage the leaks, this is contradiction with basic tenet of contract law. The new license is a contract which will be based on an agreement to agree, which is non-binding, indefinite, vague and invalid and prima facia NOT an agreement under well established law.

Therefore until the leaks are found and fully remidiated the NRC cannot issue a new superceding license and the current regulations inadequately address this concern, otherwise any new superceding license will be nullified

2. Contrary to the NRC's wrongful attempts to keep spent fuel and fuel pools

outside the scope of the license renewal application process, leaking and overcrowding (even under NRC dense pack allowances) of Indian Point 2's spent fuel pool-is considered within scope by 10 CFR Rules and Regulations, Part 54.4 section 1, sub-section (iii) which reads, "The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 50.34(a)(1), § 50.67(b)(2), or § 100.11 of this chapter, as applicable.

For our purposes in this section of the Petition, we are concerned with these key allegations as relates to the spent fuel pools:

- Spent fuel pools leaks provide an increasing indication that the structural integrity of the walls and/or floor of said facility could cave and/or break apart, particularly in the event of an event involving a strong impact, intense heat, fire or explosions .

- Spent fuel pools are more than a convenient storage space for dangerous spent fuel rods. They are integral to the operation of the plants as they are needed for fuel disposition from/refueling of the reactor itself. .Further, the NRC Rules and Regulations require there to be sufficient spent fuel pool space available for EMERGENCY off load of a reactor's entire hot fuel contents.

- Leaks in said fuel pools place the licensee's ability to accomplish such an emergency task in grave jeopardy. Numerous examples of flood damage have demonstrated that a liquid saturated wall can succumb to water-caused structural degradation and suddenly collapse. Until the spent fuel pool leaks can be located, repaired and certified as structurally safe for the purpose intended, the only reasonable action that the NRC can and should take is license suspension. Said suspension should include any delay of forward movement on the processing of their license renewal application, since such a license suspension would *de facto* show the licensee unfit to obtain said license until the aforementioned problem(s) had been adequately addressed (adequate meaning in FULL COMPLIANCE of all local, state and federal laws and regulations).

- Security infrastructure at the plant due to an NEI directed and weak Design Basis Threat (DBT) or Power Reactor Security Requirements (PRSR) are woefully inadequate to protect the aforementioned spent fuel pools in the case of a nuclear incident. 10 CFR 54.4 Section 1, sub-section (iii) is contradictory in scope, as well as arbitrary and capricious in nature, as there is a world of difference in the charges assigned licensees with respect to the words prevent or mitigate.

- Indian Points guard towers and glass enclosure inside the reactor facility (including the control room) employ materials (like bullet resistant glass) that are obsolete and cannot protect against many standard issue weapons employed by well trained, fanatical and financed terrorists. Examples of such weaponry include, the rocket launched grenades being sought by terrorist in the uncovered plot to attack Fort Dix in New Jersey, and readily available armor piercing ammunition that can be found at many gun shows throughout America. The inadequate structural stability of these Safety-related systems, structures, and components which are those relied upon to remain functional during and following design-basis events, places at grave risk Entergy's ability to maintain and protect the spent fuel pool structures in a fashion that would protect and/or mitigate off site exposures.

3. Spent fuel pools are - as shown by the Indian Point engineering drawings - a structural part of the nuclear reactor facility, and the NRC cannot, to accommodate its licensees and the NEI's desires, treat the spent fuel pools as independent structures detached from the licenses under which reactors operate. If the spent fuel pools are leaking, and the leaks have not been identified, there is every reason to believe that the leaks are at vulnerable connection runs between the reactor and the pool, as liquid leaks rarely follow a straight line.

The NRC has a duty and responsibility to err on the side of public health and safety, and so must assume until proven otherwise, that these leaks are coming from the reactor(s) as a whole, and/or underground piping throughout the plants, rather than only from the component part of the plant know as the spent fuel pool.

4. On April 7th, a pipe leak of tritium steam was accidentally discovered because workers saw steam rising from the ground. Sam Collin's of the NRC, has acknowledged that tritium has been and continues to be found in the non-radioactive side of the plant,

yet these releases have been and continue to be unmonitored in violation of NRC regulations.

5. Indian Point has a lengthy history of safety and security problems that date back virtually to the inception of its operation Entergy's stewardship of the site:

December 29, 2001 Bird may have led to plant's shutdown, It may have dropped wire on critical. A bird with a loose grip may have caused the Indian Point 2 nuclear power plant to shut down earlier this week.

February 23, 2001 Leak of non-nuclear pump prevents return to full power. A hole was discovered in a high-pressure pipe on one of two critical pumps and another hole was discovered in the outlet pipe on one of the main feedwater.

April 21, 2001 Indian Point 2 staff who claimed fatigue were fired from jobs The U.S. Nuclear Regulatory Commission is investigating policy of allowing security guards at Indian Point 2 to be fired if they refuse to work mandatory overtime because of fatigue

September 21, 2001: NRC admits uncertainty that the nation's 103 plants could withstand the same kind of impact that leveled the World Trade Center .

December 21, 2001 The Indian Point 2 nuclear power plant has extensive mechanical problems, an unacceptably high repair backlog and personnel in need of improved training and supervision, federal regulatory officials say.

December 27, 2001 The nuclear reactor at Indian Point 2 had an automatic emergency shutdown early yesterday triggered by problems in the plant's electrical systems.

February 15, 2002 Rust at Indian Point 2 probed NRC wants to know if steel lining of building weakened. A coolant leak from the steam generator at Indian Point 2 was discovered by the plant's owner in November 2001.

June 5, 2002: Testimony before the U.S. Senate states that security guards at the nation's 104 nuclear power plants are not equally paid, trained or armed. Some earn less than janitors and carry shotguns that would be no defense against terrorists with automatic weapons, say lawmakers and security experts.

June 24, 2002 Agency was warned that Indian Point 2 tubes could rupture. For nearly a decade before a tube failure triggered the first emergency in the history of Indian Point 2, the U.S. Nuclear Regulatory Commission ignored repeated internal warnings that the industry's integrity tests for steam generator tubes were faulty and could not adequately detect dangerous cracks, agency documents show.

September 11, 2002: Entergy shuts down Indian Point 2 to prevent a growing hydrogen gas leak from reaching potentially explosive levels in the air outside the nuclear power plant.

November 16, 2002 A powerful circuit breaker that governs the 1,000 megawatts of electricity flowing from the Indian Point 3 nuclear power plant burned out early yesterday, causing the plant's immediate shutdown.

December 20, 2002
NRC won't rule out tampering at Indian Point 3. The FBI investigated last week's coolant pump shutdown at Indian Point 3 to determine if sabotage played a role, the regional head of the agency confirmed yesterday. FBI concluded the problem was mechanical and not criminal or terror-related.

January 10, 2003: The Witt Report, an independent study of the evacuation plan commissioned by Governor George Pataki, is made public. Report states evacuation plan can't protect public.

January 13, 2003 Pump failure shuts down Indian Point 3 The Indian Point 3 nuclear power plant was shut down because of a water pump failure. The pump failure occurred at 6:15 a.m. when another pump was out of service for maintenance,

March 3, 2004 Ex-software official faults safety system at Indian Point 2, and alleges that the electrical wiring for the critical safety and operating systems at the Indian Point 2 nuclear power plant violate federal regulations and could be inoperable following an accident or assault.

April 9, 2003: Justice Thomas W. Keegan orders the State Department of Environmental Conservation to issue a draft permit for Indian Point's cooling system by Nov. 14, in response to a lawsuit brought by Assemblyman Richard Brodsky, Clearwater , Riverkeeper, Pete Seeger, and others. Millions of fish eggs, larvae, and young fish are killed every year by the power plant's water-intake system.

April 28/29, 2003: Mechanical problems cause Reactor 2 to trip due to offsite electrical problems on April 28. On April 29 a fire breaks out in Reactor 3; it took over 45 minutes to bring the fire under control. Both reactors are taken off-line.

April 30, 2003 Fire forces shutdown of power plant. A morning fire in the non-nuclear, power-generating section of Indian Point 3 forced the shutdown of the power plant yesterday, a day after Indian Point 2 also stopped producing electricity.

May 1, 2003: Over 175 first responders state they cannot guarantee safety of residents.

June 24, 2003 Failed electrical breaker forces shutdown of Indian Point 3 Indian Point 3 could be offline for several days after a failed electrical breaker at a substation across the street led to the nuclear power plant's automatic shutdown, the plant's owner said yesterday.

July 2003: NRC reports that IP 2 & 3 received 28 whistleblower complaints for 2002, a 22 percent increase. 75% of the complaints primarily involved issues of security. National median was four.

August 12, 2003: NRC launches investigation into cause of 9 unplanned shutdowns at IP during the past 18 months. The national average is less than one unplanned shutdown per reactor.

September 8, 2003: The Union of Concerned Scientists and Riverkeeper formally petition the Nuclear Regulatory Commission (NRC) to order the immediate shutdown of both nuclear power reactors, because the plant's drainage pits (also known as containment sumps) are "almost certain" to be blocked with debris during an accident.

September 9, 2003: NRC conducts a special inspection of IP's emergency-alert system to examine a discrepancy between Entergy and the 4 EPZ counties over the reliability of 154 sirens.

September 13, 2003: Nearly 600 electrical workers at Indian Point ask a federal court to block managers from shifting them between the Indian Point 2 & 3. The electrical workers claim that cuts in the work force have led to unsafe working conditions and poses safety issues for the public. Local 1-2 of the Utility Workers Union of America requests a restraining order against Entergy Nuclear Operations, a subdivision of Entergy Nuclear Northeast.

September 16, 2003: Project on Government Oversight (POGO) releases a letter it sent to the NRC criticizing the agency for making the security tests at Indian Point nuclear plant too easy. The letter based criticism of the "force-on-force" test on information gathered from participants and observers of the test.

October 22, 2003: An Entergy official admits on NRP-affiliate station WAMC that there is no updated seismic hazard analysis for Indian Point.

December 22, 2003: The Nuclear Regulatory Commission issues a report that examined numerous unplanned outages at Indian Point. The report reveals that during the August 14th blackout key back-up systems were not in operation. The NRC found that Entergy had not corrected a known problem with some of the plant's back-up diesel generators. As a result the diesel generators, needed to power air-conditioning to cool emergency response equipment, failed during the blackout.

March 1, 2004: William Lemanski – a town councilman of Tuxedo, NY and a retired software manager at Indian Point 2 publicly announces at a town board meeting his concerns regarding improperly sorted electric cables at the Indian Point 2 nuclear power plant.

May 2004: For the first time in US nuclear power history, the NRC ends the public's right to a hearing on safety issues.

June 2, 2004: Dr. Erik Larsen, medical director of the STAT Flight emergency helicopter operation at the Westchester Medical Center , raises concerns that the facility could "fall apart" with as few as 50 people seeking treatment after an accident at Indian Point.

June 2004: The 9/11 commission and its witnesses divulge that additional air-based terrorist attacks have already been attempted, that more major attacks are likely in the near future, and that nuclear power plants are top al-Qaeda targets.

June 23, 2004: Entergy employee raises concerns that emergency sirens may not operate properly during hot summer days.

July 22, 2004: The 9/11 commission report suggests that the 9/11 plot's ringleader had considered crashing a commercial airliner into a nuclear power plant in the New York area. The report explains that Mohamed Atta, who piloted one of the planes that hit the World Trade Center , "considered targeting a nuclear facility he had seen during familiarization flights near New York ."

September 2, 2004: Entergy announces plans to cut work force at Indian Point by up to 500 workers.

September 2, 2004: Indian Point 2 shutdown for valve failure.
Indian Point 2 shuts down Improper water levels in a steam generator close nuclear reactor The Indian Point 2 nuclear reactor was shut down early yesterday because of problems maintaining proper water levels in one of the plant's four steam generators.

September 15, 2004: Indian Point 2 shutdown for valve failure.

September 24, 2004: Indian Point 2 shutdown for valve failure.

October 19, 2004: A labor dispute at Indian Point 2 triggers a sickout by approximately 40 electricians and other craft union workers after several workers were fired for allegedly raising safety concerns.

November 2004: Up to 300 Indian Point workers are exposed to asbestos. Charles Pencola, a steam-fitter who has worked at Indian Point for 35 years, said Entergy managers declined to stop work in the area until the problem was properly corrected.

December 3, 2004: Indian Point 2 is shutdown for welding problems.

December 10, 2004: Emergency sirens fail to rotate properly.

January 24, 2005: IP guard discovered drunk while acting as a safety supervisor at a firing range where other Entergy security workers were undergoing firearms training on the job at Indian Point. He receives a two week suspension.

February 10/11, 2005: Control rods fail to load properly at Indian Point.

February 14, 2005: Due to Entergy's improper handling of radioactive waste, an Indian Point shipment of low-level radioactive waste is discovered leaking upon arrival at the Barnwell Waste Management Facility in Barnwell , South Carolina . According to the NRC at least one worker was exposed to radioactive materials; this is in violation of South Carolina laws regulating the handling of nuclear waste at the Barnwell facility.

May 8, 2005 Indian Point 3 operational after automatic shutdown The Indian Point 3 nuclear power plant was shut down after employees working on a switch triggered a valve to close, cutting off water in a steam-generating system.

May 18, 2005: NRC issues a Notice of Violation to Entergy Nuclear, Indian Point 2, following an inspection revealing that Entergy failed to respond adequately to a buildup of nitrogen gas in the safety injection pump system, which controls water flow in the emergency backup cooling system. The buildup of nitrogen gas had continued for 77 days before the NRC notified Entergy of the seriousness of the problem, knocking out one pump completely and damaging two others.

June 18, 2005 Nitrogen leak kept cooling device from operating. Human error led to inert nitrogen collecting around a backup cooling pump and stopping it from operating properly.

July 2005: Power to Indian Point's emergency siren system is knocked out on two different occasions, once for six hours before officials were aware of the problem.

July 29, 2005 : Entergy Nuclear NE publicly commits to replacing the malfunctioning emergency siren system, following repeated failed tests and power outages earlier in the summer– mandates that Indian Point's sirens have reliable backup power.

August/September 2005: The emergency siren system fails to operate properly during testing on several occasions, due to problems with Verizon's phone lines and software failures that resulted in all of Rockland County 's sirens failing to sound for nearly an hour.

August 1, 2005: NRC issues a "White Finding" to Entergy for their failed response to a nitrogen gas leak first discovered in April 2005.

September 20, 2005: NRC and Entergy notify the public that radioactive water is leaking from IP2's spent fuel pool. The leak was discovered by contractors excavating earth from the base of the pool in preparation for the installation of a new crane, for use in transferring spent fuel from the pool to dry cask storage. Entergy first discovered the leak twenty days earlier, but did not notify the public,

September 29, 2005 Control rod drops at Indian Point 3. Indian Point 3 workers had to slow the nuclear reactor down by 35 percent yesterday after a control rod from the heat-

generating fuel assemblies dropped into place on its own and without warning, federal regulators and company officials said. Indian Point 3's 53 control rods act as a braking mechanism on the nuclear reaction,

October 2-9, 2005: Indian Point 3 is completely shut down following control rod malfunction. The electrical switch the NRC believes caused the problem is replaced.

October 5, 2005: Entergy notifies the NRC that a sample from a monitoring well located in the IP2 transformer yard shows tritium contamination that is ten times the EPA drinking water limit for the radionuclide, and is consistent with tritiated water from a spent fuel pool. The monitoring well had not been checked since its installation in 2000, following the transfer of IP's ownership from ConEd to Entergy.

October 7, 2005 Indian Point 3, was taken off the state's power grid Saturday after a control rod for the unit's fuel assembly fell into a braking position.

October 18, 2005 : The NRC and Entergy confirm that the radioactive leak discovered in August is greater than initially believed. The radioactive isotope, tritium, has been discovered in five sampling wells around Indian Point 2, while the leak at the spent fuel pool has increased to about two liters per day. Exposure to tritium increases the risk of developing cancer. The company plans to test more wells, inspect the liner of the leaking fuel pool, and install additional monitoring wells.

October 18, 2005: A test of the Indian Point sirens failed again today. Ten of 15 sirens in Orange County and another four of the 156 total sirens within the 10-mile evacuation zone failed to sound during the routine test.

November 26, 2005 : The tritium leak at IP2 remains unsolved, nearly three months after its discovery. Entergy's use of underwater cameras and divers to visually inspect and test for leaks at three locations on the steel liner's surface yield no results. Entergy must now employ different cameras to inspect the liner near the bottom of the pool, where the radiation is too high for a human diver to enter.

December 1, 2005 : Entergy reports to the NRC that an initial sample from a new monitoring well five feet from the wall of the IP2 Spent Fuel Pool shows tritium levels in the groundwater at thirty times the EPA limit, the highest level of tritium contamination yet discovered. In addition, the NRC announces that preliminary tests of tritiated water found in the IP1 Pool Collection System contain too much tritium to be from the IP1 Pool, suggesting that tritium-laced water is being collected in the IP1 Drain from another, unknown source. The NRC does not know where the leak is coming from, how long it has been leaking, or the extent of groundwater contamination under the plant.

December 24, 2005 Plant was shut down for a day to repair faulty valve seal, The valve regulates the flow of nonradioactive water to one of the plant's four steam generators.

March 3, 2006 Indian Point 2, the 1,000-megawatt nuclear-powered generator had to be shut down when a contractor erecting a scaffolding hit an electrical switch 10 feet off the ground and triggered the reactor's braking mechanism.

July 5, 2006 Indian Point 3 was automatically shut down when an electrical relay in the main generator tripped.

July 8, 2006 Electrical short under transformer triggered a shutdown. Technicians found that worn wiring underneath a huge transformer caused the automatic shutdown.

July 22, 2006 Indian Point 3 was shut down because of an electrical mishap involving pipes that carry high-voltage wiring underneath the plant's main generator.

August 24, 2006 Faulty valves trigger shutdown of Indian Point 2 drainage problem with discharge valves in a 10,000-gallon tank of nonradioactive water.

November 16, 2006 Indian Point 2 shut down yesterday afternoon when a low-voltage electrical conductor malfunctioned, which automatically stopped the nuclear plant's huge generator. It's the third time since December that the 33-year-old reactor had to be shut down for mechanical problems.

December 1, 2006 Indian Point 2 was shut down yesterday about 8:30 a.m to allow workers to repair a 1-inch steel alloy pipe that leaked nonradiated steam and water in the containment building that houses the nuclear reactor.

February 8, 2007. The nuclear plants had to declare a low-level emergency when leaves and branches clogged up an intake structure that channels water from the Hudson through the plant to cool nonradioactive machinery.

February 24, 2007 Cracked fuel rod found at Indian Point 2 in the reactor's spent-fuel pool yesterday morning.

March 1, 2007 Control room operators unexpectedly shut down the Indian Point 2 nuclear power plant for the fifth time in 15 months after water levels in its steam generators suddenly dropped below normal.

April 4, 2007 A steam generator problem prompted workers to manually shut down the nuclear plant.. A problem with one of the two main boiler feed pumps that send water to the plant's steam generators malfunctioned and left water levels too low.

April 7, 2007 An explosion and fire in a transformer yard at the sprawling complex in Buchanan. The initial reports - explosion, fire, shutdown - were enough to scare the bejesus out of anybody living or working within 100 miles of the plant.

April 24, 2007 A new leak of the radioactive isotope tritium has been discovered at Indian Point, coming from an underground steam pipe near the Indian Point 3 turbine building.

May 3, 2007 Indian Point 3 shutdown for repair a voltage regulator on the non-nuclear side of the plant. The problem may be related to the plant's most recent shutdown after an April 6 explosion and fire in the unit's 900,000-pound transformer, but plant officials said the problem couldn't have been detected until the main generator reached normal operating levels.

May 30, 2007 Indian Point 2 interrupts power production due to steam generator problems . A broken water valve is part of a system that feeds water to four generators, producing the steam that turns turbines to make electricity.

Notwithstanding, the NRC has refused to take into consideration the totality of problems in its evaluation of the plant, focusing instead on each problem as a severed and discrete issue. This approach, based on its regulations, defies common sense and results in the elevation of technicality over public health and safety. For this reason, petitioner seeks and order from the NRC suspending all licenses for the Indian Point facility reactors until the site is in full compliance with all local, state and federal laws, statutes, rules and regulations. Because of the willful disregard to these issues on the part of the licensee the license suspension order as allowed under 10 CFR 2.202 should be effective immediately, pending further review and/or a hearing.

6. 10 CFR Part 54 which outlines regulations for relicensing, and it's underlying rules, regulations and guidelines such as NEI 95-10, and NUREG 1800 as examples, and the scoping criteria used therein to decide what is and/or is not in scope, and how or when licensees will deal with certain failure, aging, and structural issues fails to meet the requirements of the Atomic Energy Act 0f 1946 and 1954, and further, both the NRC, and its licensee Entergy are egregiously taking advatage of the "born secret" sections of these laws to thwart and/or eliminate meaningful public involvement in the process, and have defacto eliminate our right to redress. More importantly, the NRC's entire relicensing process, and the rules and regulations therein, and the issues they eliminate from scope such as the evacuation plan, and attack from a determined and well armed group of terrorists, and the aftermath from same are in complete and full violation of the most basic tenet of said Atomic Energy Act of 1954 and it amendments which instructs and demands the following:

Sec. 2. Findings.
42 USC 2012.
Findings.
The Congress of the United States hereby makes the following findings concerning the development, use and control of atomic energy: 2

a. The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

b. was redacted

c.3 The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

d. The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest **and in order to provide for the common defense and security and to protect the health and safety of the public. (emphasis added)**

e. Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

Elimination from license renewal consideration by the host community Stakeholders of all security issues, including but not limited to, the DBT, as it relates to a facility being considered for relicense, full inclusion as in scope the evacuation and sheltering plans that are a full part and parcel of a nuclear reactor facility, allowing unresolved safety and aging issues addressed in generic safety letter, and exclusions from various sections of the rules, and giving licensees the right to push issues off into some future point after relicensing, even though issues (such as failing welds, leaking spent fuel pools, over crowded spent fuel pools, rusting reactor vessel, failing vessels heads, and a host of other issues) leave said reactor out of compliance with their own DB, and in violation of 10 CFR rules and regulations amounts to dereliction of duty on the part of the NRC, and means the rules for relicensing have been designed and built in such a fashion that they in their current format cannot meet the basic tenets of the Atomic Energy Act in protecting the health and safety of the public. The licensing of a nuclear reactor states they must have a workable evacuation plan, and must meet certain citing criteria, and these stipulations are there to meet the mandate of the Federal Atomic Energy Act. When a licensee goes through relicense, their old license is retired, and a new SUPERCEDING one is issue. It is obvious, that to meet the spirit, and the letter of the law as defined in the Atomic Energy Act, the 10 CFR Part 54 rules and regulations regarding relicensing, and all underlying and supporting documents and guidelines, including NEI 95-10 must be rewritten in such a fashion as to provide for the protection of human health and the safety of the public.

This basic steering principle and guideline of the federal law under which NRC gains and draws its existence and right to operate cannot be met without restoration of meaningful public access to the relicensing process, cannot be met as long as the rules are written in such a fashion as to remove from relicensing consideration the very issues that go to the heart of protection of health and safety of the public (DBT full and open review, all security issues on the table during relicensing process, all segments and components of the plant in scope, evacuation plan components, including actions during a significant even or a terrorist attack, and shielding issues as well as on and off site abilities to adequately act to all of the above must be restored to the relicensing process).

7. Specifically with Indian Point, agreements were reached that envisioned decommissioning of IP1 occurring after the shut down of the IP2 reactor, and the host community reasonably expected that date to be no later than sometime in the year 2012. However, Neil Sheehan has stated that the agreement which put Indian Point into Safestor till IP2 is shut down and decommissioned, which would make it impossible for IP1 to be decommissioned in a timely fashion, and in time to meet the 60 year decommissioning schedule. Therefore, it has become obvious that the 10 CFR Part 54 rules needs to be changed in such a fashion that such agreements cannot be carried over and included in a relicense. We therefore seek to have the rules changed in such a fashion that Indian Point One must be fully severed and removed from IP 2 and IP 3, with those separately owned LLC facilities and their licensees can operate without help and or use of components in a Safestor facility. We ask for a retroactive rule change that only allows such agreements to remain in effect during the term of ORIGINAL operation only for all nuclear facilities licensed by the NRC. This is in keeping with the Atomic Energy Act basic tenet of protecting the publics health and safety.

The decommissioning of IP1 is linked to the decommissioning of IP2, and due to the extend of the leaks from both IP1 and IP2, into the bedrock fissures under the plant the current decommissioning fund is wholly inadequate. As per 10 CFR50.75(f)(1) for Year Ending December 31, 2006 the decommissioning funds for IP1 are $252.24 million; IP2 $303.01 million and IP3 $441.30 million. These funds reflect a 1% increase since 2002, despite the fact the All Urban inflation rate from 2002 -2006 is 2.9%. These funds have not been properly adjusted for inflation, in fact they are 200% short of meeting that criteria, and also have not been adjusted to compensate for the newly discovered underground contamination, as evidenced the attached maps created by Entergy, Appendix A.

As required by the below regulations, the decommissioning funds must be adjusted pursuant to TITLE 10—ENERGY CHAPTER I--NUCLEAR REGULATORY COMMISSION PART 50--DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES--Table of Contents

Sec. 50.75 Reporting and recordkeeping for decommissioning planning. (4) If necessary, the cost estimate, for power and non-power reactors, shall also include plans for adjusting levels of funds assured for decommissioning to demonstrate that a reasonable level of assurance will be provided that funds will be available when needed to cover the cost of decommissioning.
(2) Each power reactor licensee shall at or about 5 years prior to the projected end of operations submit a preliminary decommissioning cost estimate which includes an up-to-date assessment of the major factors that could affect the cost to decommission.
(i) The decommissioning alternative anticipated to be used. The requirements of Sec. 50.82(b)(4)(i) must be considered at this time;
(ii) Major technical actions necessary to carry out decommissioning safely;
(iii) The current situation with regard to disposal of high-level and low-level radioactive waste;
(iv) Residual radioactivity criteria;

(v) Other site specific factors which could affect decommissioning planning and cost.

Varying radiation cleanup standards and the possibility that NRC will approve alternative decommissioning methods are two of the most significant factors that add uncertainty to estimates of future decommissioning costs. Depending on future circumstances, for example, plants decommissioned according to NRC's radiation cleanup standards could also have to meet more stringent EPA or state standards, potentially increasing the cost of decommissioning. EPA has indicated that if NRC does not tighten its standards. In addition, the state New York has already adopted radiation cleanup standards stricter than NRC's. These stricter standards will require Entergy to incur significant additional decommissioning costs.

The GAO Report 04-32 found that IP1 had insufficient decommissioning trust fund balances or insufficient contribution rates to its decommissioning funds, and the currenting funding for decommissioning for IP 2 and IP3 (insert amount) have not been increased despite the large underground radioactive leak into the bedrock and that is leaching into the Hudson River.

NRC officials acknowledged that since the leak is in bedrock it cannot be dug out or blasted out to decontaminate the site, but said they would have to "chisel" it out. If in fact, OSHA permits this, the amount of funds and time this would take are undefined and therefore until such time the Operator increases the decommissioning.

Part of the aging management critera includes that adequate funds are available, and guarantee by the parent company, therefore the necessary funds must made committed to the decommissioning fund prior to the NRC event considering the relicensing application.

REMEDY AND/OR ACTIONS SOUGHT UNDER

10CFR 2.206 and 2.202

Section B (Formal Petition For Rule Making)-Part A, all its points of law and opinion, as well as the allegations contained therein are incorporated into Part B as if fully written herein.

As reported and alleged in section A of this 10 CRF 2.802 and 10 CFR 2.202 and 2.206 Citizens Petition for Remedy, the 10 CFR Rules and Regulations (part 54) are biased and prejudiced upon their face, violate various citizen Stakeholders civil rights, specifically narrows and or abridges our First Amendment right to redress, due process and equal protection under the law, and further, the Scope of Inclusion for license renewal applications has been narrowed (by demand of the NEI) as to have eliminated

from consideration in the license renewal process most if not all of the problem areas of reactor facilities, and their operations that threaten human health and the environment. These include: the realities of population density; the obstacles of roadway congestion in the greater New York metropolitan region (which, among other things, will impede access to and egress from the Indian Point facility); unworkable evacuation plans; manifestly deficient sheltering options; grossly inadequate regional first responder and other emergency response capability; the extent to which dangerous amounts of radiation could reasonably be likely to spread; the risks posed to women, children, and babies; utter disregard of factors which will uniquely affect special populations; and other factors which would materially degrade public health and safety in the event of a major radiological release, as well as the elimination of security/DBT reviews as relates to a terrorist attack. For this reason, we the undersigned petitioners seek the following Rule Making changes as relate to 10 CFR 54.

PART 54--REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

Title of this section is to be changed to read:

Requirements For Operating Nuclear Power Plant License Renewal Application Reviews and Decision

Authority: Secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs 201, 202, 206, 88 Stat. 1242, 1244, as amended (42 U.S.C. 5841, 5842), E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR, 1995 Comp., p. 391.

Source: 60 FR 22491, May 8, 1995, unless otherwise noted.

General Provisions

§ 54.1 Purpose.

This part governs the issuance of renewed operating licenses for nuclear power plants licensed pursuant to Sections 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242).

New Language:

This part governs the review and decision making process for license renewal applications of operating nuclear power plants licensed pursuant to Sections 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242).

§ 54.3 Definitions.

(a) As used in this part,

Current licensing basis (CLB) is the set of NRC requirements applicable to a specific plant and a licensee's written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis **(insert here the additional words, "and DBT [Design Basis Threat])** (including all modifications and additions to such commitments over the life of the license) that are docketed and in effect. The CLB includes the NRC regulations contained in 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, 100 and appendices thereto; orders; license conditions; exemptions; and technical specifications. It also includes the plant-specific design-basis information defined in 10 CFR 50.2 as documented in the most recent final safety analysis report (FSAR) as required by 10 CFR 50.71 and the licensee's commitments remaining in effect that were made in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations or licensee event reports.

Integrated plant assessment (IPA) is a licensee assessment that demonstrates that a nuclear power plant facility's structures and components requiring aging management review in accordance with § 54.21(a) for license renewal have been identified and that the effects of aging on the functionality of such structures and components will be managed to maintain the CLB such that there is an acceptable **(Change the word acceptable to the words "verifiable and de acceptable")** level of safety **(add, " as determined by the Stakeholders of the host community within a 50 mile radius of a licensed facility, in a graded fashion with citizens within the ten mile radius closest to the plant carrying the most weight")** during the period of extended operation.

Nuclear power plant means a nuclear power facility of a type described in 10 CFR 50.21(b) or 50.22. **(Add, "and any and all structures, equipment and/or personnel necessary for its safe and secure operation, including documents and/or safety and security related plans meant to protect the environment, human health and safety, such as the DBT and Evacuation Plans specific to a licensed nuclear facility.**

Time-limited aging analyses, for the purposes of this part, are those licensee calculations and analyses that:

(1) Involve systems, structures, and components within the scope of license renewal, as delineated in § 54.4(a); **and all components, systems or work product that affect directly/indirectly the care, protection, security and maintenance of same.**

(2) Consider the effects of aging;

(3) Involve time-limited assumptions defined by the current operating term, for example, 40 years **(add, "plus the additional time that would be covered under a license renewal application being reviewed, should it be granted.")**;

(4) Were **(Change the word were to are.)** determined to be relevant by the licensee in making a safety determinations**, including, but not limited to evacuation plans and security measures meant to protect public safety, and/or structural stability of these antiquated reactors**;

(5) Involve conclusions or provide the basis for conclusions related to the capability of the systems, structures, and components to perform its **(Change the word its to their.)** intended functions, as delineated in § 54.4(b); and

(6) Are contained or incorporated by reference in the CLB.

(b) All other terms in this part have the same meanings as set out in 10 CFR 50.2 or Section 11 of the Atomic Energy Act, as applicable.

Add:

(7) Time-limited analyses must be proved by and independently hired expert chosen by the host community, and paid for by the licensee.

(8) Time-limited analysis that contradict NRC and industry positions that admit to inadequate knowledge as relates to specific aging issues shall be deemed worthless...license renewal applications must be based on trust, and trust requires truthfulness, even if that means admitting you have no clue.

§ 54.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel **(add, "and released into the Federal Registry for comment and public hearings")** will be recognized to be binding upon the Commission.

§ 54.7 Written communications.

All applications **(add, "including all underlying documents and citations")**, correspondence **(add, "including emails, notes and memos, both intra and inter office"**, reports, and other written communications shall be filed in accordance with applicable portions of 10 CFR 50.4 **(and shall be provided in full to all stakeholders living within a 50 mile radius of the facility seeking relicense at the sole expense of the licensee")**.

§ 54.11 Public inspection of applications.

Applications and **(add, "all underlying")** documents submitted to the Commission in connection with renewal applications may **(Change the word may to must.)** be made available for public inspection in accordance with the provisions of the regulations contained in 10 CFR Part 2.

§ 54.13 Completeness and accuracy of information.

(a) Information provided to the Commission by an applicant for a renewed license or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant must be complete and accurate in all material respects.

(b) Each applicant shall notify the Commission of information identified by the applicant as having, for the regulated activity, a significant implication for public health and safety or common defense and security **(add, "including knowledge or public accusations of inadequate evacuation/emergency plans, inadequate protection from proposed shielding in place plans, and security shortcomings that would keep the licensee from being capable of protecting the site, and repelling a terrorist attack consisting of no less than 18 attackers."**. An applicant violates this paragraph only if the applicant fails to notify the Commission of information that the applicant has identified as having a significant implication for public health and safety or common defense and security. Notification must be provided to the Administrator of the appropriate regional office within 2 working days of identifying the information **(add, "in writing with copies sent to all local and state elected officials."**. This requirement is not applicable to information that is already required to be provided to the Commission by other reporting or updating requirements.

§ 54.15 Specific exemptions.

Exemptions from the requirements of this part may be granted by the Commission in accordance with 10 CFR 50.12. **(Add, "only after the suggested Exemption has been published in the Federal Registry, and stakeholder community has been given the chance to submit comments, hold public hearings, and exhausted any and all administrative and legal remedies available by law.)**

§ 54.17 Filing of application.

(a) The filing of an application for a renewed license **(add, "must be for a singular reactor, unless said reactor is held under a singular license that covers more than one reactor, and all applications for a renewed license)** must be in accordance with Subpart A of 10 CFR Part 2 and 10 CFR 50.4 and 50.30.

(b) Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to know is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, is ineligible to apply for and obtain a renewed license. **(add, "Licensees cannot skirt this issue by placing the reactor license in a LLC (Limited Liability Corporation) to skirt and/or make a mockery of this rule.**

(c) An application for a renewed license may not be submitted to the Commission earlier than 20 years **(Change 20 years to five years.)** before the expiration of the operating license currently in effect.

(d) An applicant may combine an application for a renewed license with applications for other kinds of licenses.**(Delete this entire section.)**

(e) An application may incorporate by reference information contained in previous applications for licenses or license amendments, statements, correspondence, or reports filed with the Commission, provided that the references are clear and specific **(Add, "only if said referenced material is easily attainable by members of the stakeholder community)**.

(f) If the application contains Restricted Data or other defense information, it must be prepared in such a manner that all Restricted Data and other defense information are separated from unclassified information in accordance with 10 CFR 50.33(j) **(Add, "but said Restricted data must be made available to those granted intervener status)**.

(g) As part of its application, and in any event before the receipt of Restricted Data or classified National Security Information or the issuance of a renewed license, the applicant shall agree in writing that it will not permit any individual to have access to or any facility to possess Restricted Data or classified National Security Information until the individual and/or facility has been approved for such access under the provisions of 10 CFR Parts 25 and/or 95. The agreement of the applicant in this regard shall be deemed part of the renewed license, whether so stated therein or not.

[60 FR 22491, May 8, 1995, as amended at 62 FR 17690, Apr. 11, 1997]

§ 54.19 Contents of application--general information.

(a) Each application must provide the information specified in 10 CFR 50.33(a) through (e), (h), and (i). Alternatively, the application may incorporate by reference other documents that provide the information required by this section. **(Add, However, the reference documents must be made readily available to stakeholders who are reading and preparing comments on the application.)**

(b) Each application must include conforming changes to the standard indemnity agreement, 10 CFR 140.92, Appendix B, to account for the expiration term of the proposed renewed license.

§ 54.21 Contents of application--technical information.

Each application must contain the following information:

(a) An integrated plant assessment (IPA). The IPA must--

(1) For those systems, structures, and components within the scope of this part, as delineated in § 54.4, identify and list those structures and components subject to an aging management review. Structures and components subject to an aging management review shall encompass those structures and components--

(i) That perform an intended function, as described in § 54.4, without moving parts or without a change in configuration or properties. These structures and components include, but are not limited to, the reactor vessel, the reactor coolant system pressure boundary, steam generators, the pressurizer, piping, pump casings, valve bodies, the core shroud, component supports, pressure retaining boundaries, heat exchangers, ventilation ducts, the containment, the containment liner, electrical and mechanical penetrations, equipment hatches, seismic Category I structures, electrical cables and connections, cable trays, and electrical cabinets, excluding, but not limited to, pumps (except casing), valves (except body), motors, diesel generators, air compressors, snubbers, the control rod drive, ventilation dampers, pressure transmitters, pressure indicators, water level indicators, switchgears, cooling fans, transistors, batteries, breakers, relays, switches, power

inverters, circuit boards, battery chargers, and power supplies; and

(ii) That are not subject to replacement based on a qualified life or specified time period.

(2) Describe and justify the methods used in paragraph (a)(1) of this section.

(3) For each structure and component identified in paragraph (a)(1) of this section, demonstrate that the effects of aging will be adequately managed so that the intended function(s) will be maintained consistent with the CLB for the period of extended operation.

(b) CLB changes during NRC review of the application. Each year following submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB of the facility that materially affects the contents of the license renewal application, including the FSAR supplement.

(c) An evaluation of time-limited aging analyses.

(1) A list of time-limited aging analyses, as defined in § 54.3, must be provided. The applicant shall demonstrate that--

(i) The analyses **(Add the word must.)** remain valid for the period of extended operation;

(ii) The analyses have been projected to the end of the period of extended operation **(Add, "and proved to the stakeholder community that analyses sound** ; or

(iii) The effects of aging on the intended function(s) will be adequately **(define adequate as used here...should include as part of definition "in a fashion that protects the environment, human health and safety...")** managed for the period of extended operation.

(2) A list must be provided of plant-specific exemptions granted pursuant to 10 CFR 50.12 and in effect that are based on time-limited aging analyses as defined in § 54.3. The applicant shall provide an evaluation that justifies the continuation of these exemptions for the period of extended operation **(Add, "and stakeholders at time of licensing review will have adequate opportunity to challenge each singular exemptions merits)**.

(d) An FSAR supplement. The FSAR supplement for the facility must contain a summary description of the programs and activities for managing the effects of aging and the evaluation of time-limited aging analyses for the period of extended operation determined by paragraphs (a) and (c) of this section, respectively.

§ 54.22 Contents of application--technical specifications.

Each application must include any technical specification changes or additions necessary to manage the effects of aging during the period of extended operation as part of the renewal application. The justification for changes or additions to the technical

specifications must be contained in the license renewal application.

§ 54.23 Contents of application--environmental information.

Each application must include a supplement to the environmental report that complies with the requirements of Subpart A of 10 CFR Part 51 **(Add, and any applicable local, state and federal statutes that have jurisdictional control on part or all of licensees activities.**.

§ 54.25 Report of the Advisory Committee on Reactor Safeguards.

Each renewal application will be referred to the Advisory Committee on Reactor Safeguards for a review and report. Any report will be made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure. **(Add,"Said Advisory Committee shall include one person from local government, and one person from the local grassroots activist community as full voting site specific members of said review committee.")**

§ 54.27 Hearings.

A notice of an opportunity for a hearing will be published in the Federal Register in accordance with 10 CFR 2.105. In the absence of a request for a hearing filed within 30 days by a person whose interest may be affected, the Commission may **(Add the word not.)** issue a renewed operating license without a hearing upon 30-day notice and publication once **(Delete the word once.)** in the *Federal Register.*

§ 54.29 Standards for issuance of a renewed license.

A renewed license may be issued by the Commission up to the full term authorized by § 54.31 if the Commission finds that:

(a) Actions have been identified and have been or will be taken with respect to the matters identified in Paragraphs (a)(1) and (a)(2) of this section, such that there is reasonable **(Delete word reasonable, as it is vague and ambiguous, far to subjective, and open to interpretation.)** assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the CLB, and that any changes made to the plant's CLB in order to comply with this paragraph are in accord with the Act and the Commission's regulations. These matters are:

(1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified to require review under § 54.21(a)(1); **(Add, "in a fashion that protects the environment, human health and safety as the first priority,")** and

(2) time-limited aging analyses that have been identified to require review under § 54.21(c).

(b) Any applicable requirements of Subpart A of 10 CFR Part 51 have been satisfied.

(c) Any matters raised under § 2.335 have been addressed.

[69 FR 2279, Jan. 14, 2004]

§ 54.30 Matters not subject to a renewal review.

(a) If the reviews required by § 54.21 (a) or (c) show that there is not reasonable assurance during the current license term that licensed activities will be conducted in accordance with the CLB, then the licensee shall take measures under its current license, as appropriate, to ensure that the intended function of those systems, structures or components will be maintained in accordance with the CLB throughout the term of its current license. **(Add, "Such findings during License Renewal Application review will be cause for immediate rejection of said application, but will not preclude licensee from reapplying at a later date and time.")**

(b) The licensee's compliance with the obligation under Paragraph (a) of this section to take measures under its current license is not within the scope of the license renewal review.

§ 54.31 Issuance of a renewed license.

(a) A renewed license will be of the class for which the operating license currently in effect was issued.

(b) A renewed license will be issued for a fixed period of time, which is the sum of the additional amount of time beyond the expiration of the operating license (not to exceed 20 years) that is requested in a renewal application plus the remaining number of years on the operating license currently in effect. The term of any renewed license may not exceed 40 years.

(c) A renewed license will become effective immediately upon its issuance, thereby superseding the operating license previously in effect. If a renewed license is subsequently set aside upon further administrative or judicial appeal, the operating license previously in effect will be reinstated unless its term has expired and the renewal application was not filed in a timely manner.

(d) A renewed license may be subsequently renewed in accordance with all applicable requirements. **(Delete this entire section, communities should not be forced into hosting dangerous facilities for more than one license renewal opportunity. This would clear the ambiguity surrounding the maximum time a community must host a nuclear facility).**

§ 54.33 Continuation of CLB and conditions of renewed license.

(a) Whether stated therein or not, each renewed license will contain and otherwise be subject to the conditions set forth in 10 CFR 50.54.

(b) Each renewed license will be issued in such form and contain such conditions and limitations, including technical specifications, as the Commission deems appropriate and necessary to help **(Delete the word help.)** ensure that systems, structures, and

components subject to review in accordance with § 54.21 will **(Delete the word will.)** continue to perform their intended functions for the period of extended operation. In addition, the renewed license will be issued in such form and contain such conditions and limitations as the Commission deems appropriate and necessary to help**(Delete the word help.)** ensure that systems, structures, and components associated with any time-limited aging analyses will **(Delete the word will.)** continue to perform their intended functions for the period of extended operation.

(c) Each renewed license will include those conditions to protect the environment that were imposed pursuant to 10 CFR 50.36b and that are part of the CLB for the facility at the time of issuance of the renewed license. These conditions may be supplemented or amended as necessary to protect the environment during the term of the renewed license and will be derived from information contained in the supplement to the environmental report submitted pursuant to 10 CFR Part 51, as analyzed and evaluated in the NRC record of decision. The conditions will identify the obligations of the licensee in the environmental area, including, as appropriate, requirements for reporting and recordkeeping of environmental data and any conditions and monitoring requirements for the protection of the nonaquatic **(Delete the word nonaquatic, as all environmental issues must be monitored as required by law under the Clean Water Act)** environment.

(d) The licensing basis for the renewed license includes the CLB, as defined in § 54.3(a); the inclusion in the licensing basis of matters such as licensee commitments does not change the legal status of those matters unless specifically so ordered pursuant to paragraphs (b) or (c) of this section.

§ 54.35 Requirements during term of renewed license.

During the term of a renewed license, licensees shall be subject to and shall continue to comply with all Commission regulations contained in 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, and 100, and the appendices to these parts that are applicable to holders of operating licenses **(Add, "as well as any/all local, state and federal laws, rules and/or statutes pertaining to their business/license activities.")**.

§ 54.37 Additional records and recordkeeping requirements.

(a) The licensee shall retain in an auditable and retrievable form for the term of the renewed operating license all information and documentation required by, or otherwise necessary to document compliance with, the provisions of this part.

(b) After the renewed license is issued, the FSAR update required by 10 CFR 50.71(e) must include any systems, structures, and components newly identified that would have been subject to an aging management review or evaluation of time-limited aging analyses in accordance with § 54.21. This FSAR update must describe how the effects of aging will be managed such that the intended function(s) in § 54.4(b) will be effectively maintained during the period of extended operation.

§ 54.41 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of the following acts--

(1) The Atomic Energy Act of 1954, as amended.

(2) Title II of the Energy Reorganization Act of 1974, as amended or

(3) A regulation or order issued pursuant to those acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under Section 234 of the Atomic Energy Act--

(1) For violations of the following--

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

§ 54.43 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violations of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in Part 54 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in Part 54 that are not issued under Sections 161b, 161i, or 161o for the purposes of Section 223 are as follows: §§ 54.1, 54.3, 54.4, 54.5, 54.7, 54.9, 54.11, 54.15, 54.17, 54.19, 54.21, 54.22, 54.23, 54.25, 54.27, 54.29, 54.31, 54.41, and 54.43.

We further demand that further changes and rewrites of the 10 CFR Rules and Regulations supporting and or a part of the license renewal process occur as are necessary, including abandonment of, as well as elimination of any mention of the biased and nuclear industry serving NEI 95-10, so as the NRC brings itself, and its relicensing process back into legal line with the basic tenets of the Atomic Energy Act per the the requirements of, and to correct the shortcomings petitions identified in Part 6 of their allegations. Specifically, we seek to have all land, building, parts, components, security issues, evacuation and public protection issues brought back into scope, and further to give public meaning involvement in the process, it is hereby moved that NRC reactor

licensees must create and fund a Host Community Legal Defense Fund, or the NRC must eliminate its unfair and overly burdensome rules and regulations which require host communities to hire very expensive experts to support their contentions. Especially since the know shortage of qualified nuclear experts sees almost all of them unable or unwilling to testify against the industry because they work for the industry and it would create a conflict of interest. This reality makes it often impossible for host communities to support their contentions under NRC overly burdensome criteria designed in a deliberate fashion to favor their licensees, rather than protect human health and safety. Said host community legal defense fund should be created with a one million dollar donation from each licensed nuclear material production, nuclear reactor, or nuclear waste storage licensee in the United States of America, with yearly mandatory payments into the Host Community Legal Defense Fund by each licensee of $500,000 adjusted upwards for inflation. Said Legal Defense Fund should be administered by a non-governmental not for profit, such as NIRS.

Purpose and Goal of Our Petition:

As members of the Stakeholder community (defined as those living, working, traveling or visiting within the 50 mile radius circle of Indian Point) are filing this Formal Petition for Rule Making to create positive change in the wording of Section 54, so that the current bias and prejudice in favor of licensees are eliminated, and our Constitutional Rights to meaningful, unabridged redress as more fully delineated in the First Amendment are restored to the NRC's regulatory process as relates to all issues directly and or indirectly related to the relicensing of nuclear reactors. Further, we wish to broaden the Scope of the Relicensing Process in such a fashion as to restore to its rightful place the goal of protecting the environment, human health and safety. For these reasons, the Petitioners below seek the actions and rule changes as have been defined above.

Respectfully Submitted,

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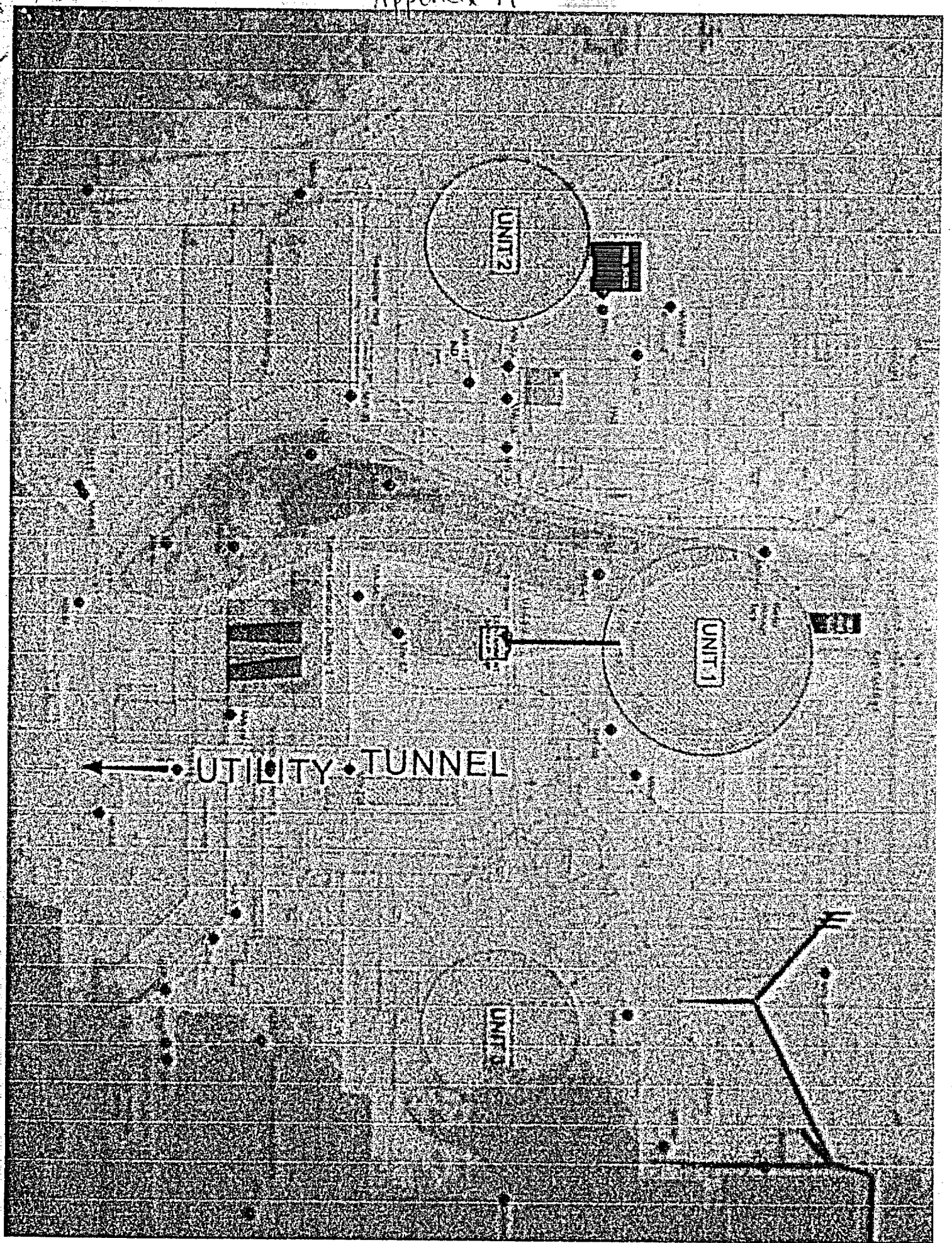
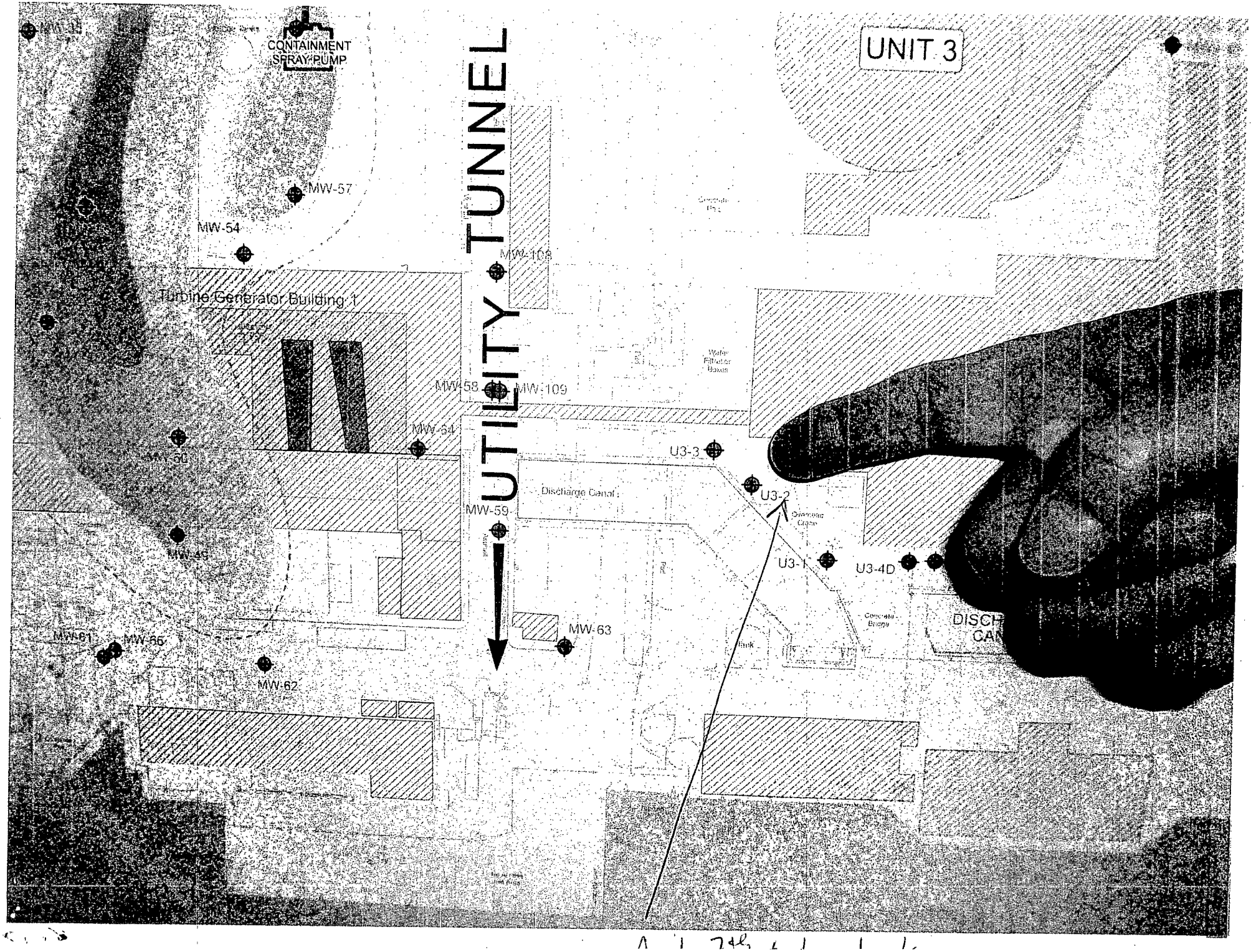
Appendix A



UNIT 2
UNIT 1
UTILITY TUNNEL
UNIT 3
HOSPITAL
RIVER


CONTAINMENT SPRAY PUMP
UNIT 3
UTILITY TUNNEL
MW-57
MW-54
MW-108
Turbine Generator Building 1
MW-58
MW-109
MW-64
MW-50
U3-3
U3-2
Discharge Canal
MW-59
MW-49
U3-1
U3-4D
MW-63
MW-61
MW-56
MW-62

UNIT 2
UNIT 1
UTILITY TUNNEL
UNIT 3
N
NOT TO SCALE