



RIVERKEEPER.

J.E. Dyer, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

June 3, 2007

Re: Follow up to June 13, 2007 Stakeholder meeting between NRC Relicensing staff and representatives of Riverkeeper, Inc. and Clearwater regarding Indian Point.

Dear Director Dyer:

I am writing on behalf of Riverkeeper to provide you with our comments regarding the content and conduct of the above-referenced meeting. Riverkeeper is appreciative of the efforts made by the NRC in recent months to have informational meetings with our staff and other stakeholders in the region regarding the Indian Point nuclear power plant. It signifies NRC's attempt to develop a more open dialogue between the regulator and the public – something Riverkeeper has been advocating for several years.

There were both positive and negative aspects of the June 13 meeting I would like to bring to your attention. On a positive note, NRC staffers Rich Barkley and Randy Blough were professional in their conduct and provided clear and concise answers to Riverkeeper's questions. Bo Pham also sought to be thorough in his discussions with us, yet there were certain aspects of the license renewal process that he seemed unable to address (detailed below). Our concerns lie primarily with Rani Franovich's knowledge base regarding the relicensing of nuclear power plants as well as her seemingly overt promotion of nuclear power (detailed below).

Firstly, I would like to bring to your attention two specific requests Riverkeeper made of the NRC at the June 13 meeting:

- 1) The generic informational public meeting on the NRC relicensing process be separated from the environmental scoping meeting for all pending and future relicensing applications, so that those communities hosting nuclear power plants have the same opportunity for public participation as that provided for Indian Point.
- 2) The environmental scoping meeting for Indian Point be held in July or early August to avoid a low turnout due to many New York metropolitan area residents being on vacation the last two weeks of August.

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We look forward a formal response to these requests in a timely fashion.

Secondly, as indicated above, we were generally pleased with the exchange of information between Randy Blough and Rich Barkley. However, Bo Pham and Rani Franovich showed either a lack of knowledge on certain issues of importance to Riverkeeper or showed disdain in answering our questions in a professional and honest manner. I address three instances below which Riverkeeper staff found disturbing.

Riverkeeper staff raised questions regarding the NRC's policy on environmental justice with specific questions regarding Entergy's application, which concludes there would be no environmental justice impacts should Indian Point receive a twenty-year license extension. Our questions pertained to the methodology required by the NRC to determine the area to be considered under environmental justice guidelines as well as the actual radius required to conduct an environmental justice impact statement. Neither Bo Pham nor Rani Franovich could definitively answer our questions and recommended we follow-up in a subsequent correspondence.

NRC staff should be well aware of the fact that Indian Point is located in the most densely populated metropolitan area in the U.S., and one of the most ethnically and economically diverse as well. Environmental justice is therefore an issue of significant importance in this process. It was disturbing to Riverkeeper attorneys and staff to learn that the NRC's highest ranking relicensing staff could not answer what seem to be rudimentary questions about the environmental review process that theoretically has examined environmental justice issues in the over forty license renewal reviews conducted thus far.

Riverkeeper thereby requests a thorough answer to the following questions:

- 1) What is the methodology upon which the NRC has based its environmental justice license renewal regulatory guidelines?
- 2) What is the radius required by the NRC for an owner/operator to conduct an environmental justice impact statement?

We look forward a formal response to these requests in a timely fashion.

As you may know, the Hudson River is home to the shortnose sturgeon, a species listed as endangered under the U.S. Endangered Species Act. As an environmental organization committed to protecting the Hudson River from pollution and adverse impacts on fish populations, Riverkeeper is concerned that Entergy's once-through cooling system, which kills a billion eggs, fish, and larvae annually through entrainment and impingement, is having an adverse effect on the fish population in general and specifically on the shortnose sturgeon. We asked Rani Franovich and Bo Pham several questions regarding the NRC's guidelines on impacts to aquatic species listed under the U.S. Endangered Species Act but neither was able to answer these questions satisfactorily. This was a troubling revelation, considering one full section of a relicensing application (Environmental Report, and subsequent Environmental Impact

Statement) requires the licensee to address environmental impacts from a twenty-year license extension, and Entergy's Environmental Report appears to lack an appropriate analysis of the impacts on the shortnose sturgeon from a twenty-year license extension.

The final issue I would like to bring to your attention is the seemingly arrogant attitude displayed by Rani Franovich during a segment of the meeting that focused on Entergy's analysis that the only feasible replacement alternatives for Indian Point are fossil fuel burning baseload plants. NRC guidance concludes that it is unreasonable to consider renewable energy sources to replace baseload plants because, for example, wind power alone could not replace Indian Point's electricity output. This is an outdated and disingenuous approach that ignores significant advances in renewable energy technologies, and recent independent studies which conclude that a combination of renewables, demand-side management and energy efficiency measures combined with some new generation could replace the 2,000 MW generated by Indian Point by the time the current licenses expire. Riverkeeper staff criticized Entergy's failure to accurately assess such alternatives, citing the 2006 National Academy of Sciences report.¹ Both Rani Franovich and Bo Pham defended Entergy's position, arguing that replacing Indian Point's power with a wind farm, for example, would be impossible. Their lack of knowledge on this issue was glaringly obvious and is itself of concern, but their outright defense of nuclear power in the ensuing discussion came across as a promotion of nuclear power not only to cure global warming but also as an answer to the nation's growing energy needs. According to the NRC's website, this type of advocacy for and promotion of nuclear power is in direct violation of the Reorganization Act of 1974, which was enacted by the U.S. Congress in order to address the conflicting nature of the Atomic Energy Commission's (AEC) dual mission of promoting and regulating the same industry:

The act [Atomic Energy Act of 1954] assigned the AEC the functions of both encouraging the use of nuclear power and regulating its safety. *The AEC's regulatory programs sought to ensure public health and safety from the hazards of nuclear power without imposing excessive requirements that would inhibit the growth of the industry.* This was a difficult goal to achieve, especially in a new industry, and within a short time the AEC's programs stirred considerable controversy. *An increasing number of critics during the 1960s charged that the AEC's regulations were insufficiently rigorous in several important areas, including radiation protection standards, reactor safety, plant siting, and environmental protection.*

By 1974, the AEC's regulatory programs had come under such strong attack that Congress decided to abolish the agency. *Supporters and critics of nuclear power agreed that the promotional and regulatory duties of the AEC should be assigned to different agencies.* The Energy Reorganization Act of 1974 created the Nuclear

¹ National Academy of Sciences, *Alternatives to the Indian Point Energy Center for Meeting New York Electric Power Needs* (National Research Council, 2006).

Regulatory Commission; it began operations on January 19, 1975.² (*emphasis added*)

Riverkeeper hereby requests that in future stakeholders' meetings NRC staff adhere to the guidelines established under the Energy Reorganization Act of 1974 and that in the analysis of Entergy's license renewal application, sec. Sec. 8.0 and 8.3, the NRC take into consideration the alternatives to Indian Point's energy output as identified by the 2006 National Academy of Sciences report.

Again, I appreciate the opportunity to meet with NRC staff throughout the relicensing process and hope that future meetings will produce meaningful and thoughtful discussions.

I look forward to a response at your earliest convenience.

Sincerely,



Lisa Rainwater, PhD
Policy Director

CC: P.T. Kuo
Rani Franovich
Bo Pham
Richard Barkley

² Nuclear Regulatory Commission website: <http://www.nrc.gov/about-nrc/history.html>, accessed June 27, 2007.