

IndianPointEIS - Comments Attached

From: "Norris McDonald" <NorrisMcDonald@msn.com>  
To: <IndianPointEIS@nrc.gov>  
Date: 9/24/07 12:25 PM  
Subject: Comments Attached

Our (Norris McDonald, Dan Durett) comments are attached for the recent scoping meeting on the Indian Point License Renewal Application.

Norris McDonald, President  
African American Environmentalist Association  
9903 Calton Lane, Ft. Washington, MD 20744  
(301) 265-8185  
[www.aaenvironment.com](http://www.aaenvironment.com)

8/10/07  
72 FR 45075  
12

RECEIVED

2007 OCT -1 PM 3:18

RULES AND DIRECTIVES  
BRANCH  
USNRC

SUNSI Review Complete

Temp File = ADM-013

file://C:\temp\GW\00003.HTM

F-RIDS = ADM-03

Call = Pp plan (bnp)

J.S. Caverly (JSCI)

10/01/2007

**Mail Envelope Properties** (46F7E4E3.393 : 17 : 21395)

**Subject:** Comments Attached  
**Creation Date** Mon, Sep 24, 2007 12:25 PM  
**From:** "Norris McDonald" <[NorrisMcDonald@msn.com](mailto:NorrisMcDonald@msn.com)>

**Created By:** [NorrisMcDonald@msn.com](mailto:NorrisMcDonald@msn.com)

**Recipients**

nrc.gov

TWGWPO03.HQGWDO01

IndianPointEIS

**Post Office**

TWGWPO03.HQGWDO01

**Route**

nrc.gov

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	324	Monday, September 24, 2007 12:25 PM
TEXT.htm	1192	
IndianPointLRADanDurrettTestimony.doc		85504
IndianPointLRA Testimony.doc	74240	
Mime.822	222858	

**Options**

**Expiration Date:** None  
**Priority:** Standard  
**ReplyRequested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

**Junk Mail Handling Evaluation Results**

Message is eligible for Junk Mail handling  
This message was not classified as Junk Mail

**Junk Mail settings when this message was delivered**

Junk Mail handling disabled by User  
Junk Mail handling disabled by Administrator  
Junk List is not enabled  
Junk Mail using personal address books is not enabled  
Block List is not enabled

**African American Environmentalist Association  
New York**

Written Statement of

**Dan Durett**

Director

New York Office

African American Environmentalist Association

For the

**Environmental Scoping Public Meeting**

For

**License Renewal**

For the

**Indian Point Nuclear Power Plant**

Presented to the

**U.S. Nuclear Regulatory Commission**

**Office of Nuclear Reactor Regulation**

September 19, 2007

### **Introduction**

My name is Dan Durett and I am the Director of the African American Environmentalist Association New York Office (AAEA-NY). AAEA, founded in 1985, is an organization dedicated to protecting the environment, enhancing human, animal and plant ecologies and promoting the efficient use of natural resources. AAEA includes an African American point of view in environmental policy decision-making and resolves environmental racism and injustice issues through the application of practical environmental solutions. The New York Office was established in 2003.<sup>1</sup>

AAEA New York supports the 20-year License Renewal for the Indian Point nuclear power plant located in Buchanan, New York. AAEA expressed public support for nuclear power for the first time in 2001 after a two-year internal process of studying and debating the issue. AAEA was the first environmental organization to support nuclear power. I am a veteran environmentalist with 32 years experience working on environmental and energy issues.<sup>2</sup> My comments today address the Environmental Report of the License Renewal Application (LRA) and other environmental issues of concern to AAEA-NY regarding this proposed action.

AAEA-NY has members in the New York area. Members of AAEA live and work – and breathe the air in a Clean Air Act Nonattainment Area. Of particular import to AAEA-NY is the promotion of clean air in African American communities. Because nuclear power is emission-free and has a demonstrated safety record, whereas fossil-fuel power contributes to numerous health issues, AAEA-NY seeks to promote the safe use of nuclear power. AAEA-NY specifically supports the Indian Point 2 and 3 nuclear power facilities because these facilities provide significant electrical capacity to the State of New York with

---

<sup>1</sup> <http://groups.msn.com/aaeanewyork>

<sup>2</sup> <http://groups.msn.com/aaeanewyork/yourwebpage4.msnw>

## **AAEA Statement on Indian Point License Renewal Application**

minimal human, animal, air, water, and land impacts. My comments will address specific environmental justice issues and will expand upon the water permit issue included in Entergy's Environment Report (ER).

### **Environmental Justice**

Environmental justice is defined by AAEA-NY as the fair treatment of all people regardless of race or income with respect to environmental issues. AAEA-NY is deeply concerned with any policy or measure that impacts the air quality of the communities where it is based, or that affects the health of its members. Although AAEA-NY is concerned about air quality in all areas, we are particularly concerned with promoting clean air in African American communities because, in many instances, those communities suffer a disproportionate amount of total pollution.

The license renewal of Indian Point is vitally needed because if units two and three are not producing emission free electricity then the air pollution will increase throughout the region. Closure of Indian Point would result in compliance issues for the State with respect to the federal Clean Air Act State Implementation Plan ("SIP"). Additionally, Indian Point provides reliable energy without contributing pollutants that exacerbate asthma.

The New York State Department of Environmental Conservation's (DEC) Environmental Justice policy states that it is the general policy of DEC to promote environmental justice and incorporate measures for achieving environmental justice into its programs, policies, regulations, legislative proposals and activities. This policy is specifically intended to ensure that DEC's environmental permit process promotes environmental justice. (Environmental Justice Policy, Policy Statement CP-29, March 19, 2003).

In order to reduce the levels of impingement and entrainment of Hudson River fish, the Department of Environmental Conservation's ("DEC") Draft SPDES Permit could substantially limit the ability of Indian Point 2 and 3 to generate electricity, and may even lead to the closure of the facilities. Any substantial reduction in the amount of electricity generated by Indian Point 2 and 3 will spark demand for replacement electricity from nearby power plants.

## **AAEA Statement on Indian Point License Renewal Application**

Unfortunately, these nearby plants are, for the most part, pollution-emitting fossil fuel plants located in New York's low-income and minority communities. As production at these fossil-fuel plants increases, the air quality in and around these plants will further deteriorate, causing a spike in the incidences of respiratory and cardiovascular diseases in the communities where these plants are based. The Draft SPDES Permit, therefore, effectively places the interests of Hudson River fish eggs and larva over the health of New York's low-income and minority communities.

The following section specifically addresses the implications of the water permit because the ER, at Section 4.1, Water Use Conflicts, goes into great detail about the issue. Regarding this issue the ER states, "the vast majority of existing nuclear stations, including those stations undergoing license renewal, currently are or in the future will be undergoing comprehensive 316(b) review as EPA develops final 316(b) regulations for existing facilities in response to the recent remand of that rule."<sup>3</sup> EPA suspended the Cooling Water Intake Structure Regulations for existing large power plants on July 2, 2007. This suspension is in response to the 2nd Circuit Court of Appeals decision in *Riverkeeper, Inc., v. EPA*. In the meantime, all permits for Phase II facilities should include conditions under section 316(b) of the Clean Water Act developed on a Best Professional Judgment basis. See 40 C.F.R. § 401.14.<sup>4</sup>

### **AAEA Has Full Party Status in Indian Point Water Permit Process**

The ER addresses the National Pollution Discharge Elimination System (NPDES) status of Indian Point. This issue is of vital importance because an unacceptable permit could cause Entergy to close the facility, which would exacerbate environmental injustice in the region. We are submitting this

---

<sup>3</sup> ER Section 4.2.5 Analysis of Environmental Impact, Section 4.2.5.1 Background

<sup>4</sup><http://www.epa.gov/waterscience/316b> , Federal Register Notice (July 09, 2007) Implementation Memo (PDF) (1 page, 72K, About PDF; March 20, 2007)

## **AAEA Statement on Indian Point License Renewal Application**

information in the hope that NRC will utilize it for the EIS and will also see the important environmental justice implications of this facility.

AAEA sought and received full party status<sup>5</sup> in order to bring its unique perspective to the Indian Point 2 and 3 permitting process, and to raise the issue of environmental justice in this proceeding. In a report by the Natural Resources Council of America entitled: "*Environmental Stewardship for the 21<sup>st</sup> Century: Opportunities and Actions for Improving Cultural Diversity in Conservation Organizations and Programs*," it was found that African Americans comprise only 4% of the boards of directors and only 6% of employees at 61 surveyed conservation organizations. From this, it is clear that the African American perspective has heretofore been lacking from the environmental movement.<sup>6</sup>

The need for greater involvement from the African American community in the DEC permitting process has been recognized by the DEC itself. In September 1999, then DEC Commissioner John P. Cahill announced the creation of DEC's Office of Environmental Justice. This Office, which implements the DEC's Environmental Justice Program, seeks to "ensure that local communities are given an opportunity to express their concerns and that those concerns are considered when making decisions which potentially impact the environment and public health."<sup>7</sup> On March 19, 2003, the DEC issued Policy Statement CP-29: Environmental Justice and Permitting. In issuing this policy,

---

<sup>5</sup> <http://www.dec.ny.gov/hearings/11216.html>

<sup>6</sup> See also AAEA's Environmental Group Diversity Report Card 2003, available at: <http://www.aaenvironment.com/EnviroGroupReportCard.htm>.

<sup>7</sup> <http://www.dec.state.ny.us/website/ej/ejprogram.html>. (Last visited Feb. 10, 2004.)

## **AAEA Statement on Indian Point License Renewal Application**

the DEC stated that the policy was meant to “promote the fair involvement of all people in the DEC environmental permit process,” and further stated that:

It is the general policy of DEC to promote environmental justice and incorporate measures for achieving environmental justice into its programs, policies, regulations, legislative proposals and activities. This policy is specifically intended to ensure that DEC’s environmental permit process promotes environmental justice.

Allowing AAEA to participate in the Indian Point 2 and 3 permitting process will achieve the DEC’s goal of ensuring that the concerns of local communities, particularly low-income and minority communities be considered when making decisions that impact the environment and public health of these communities.

### **Fossil-Fuel Power Causes Serious Adverse Health Effects**

In 1999, coal-fired power plants in the United States emitted into the environment 11.3 million tons of sulfur dioxide (“SO<sub>2</sub>”), a criteria air pollutant that is correlated to asthma and impaired lung functions, 6.5 million tons of nitrogen oxides (“NO<sub>x</sub>”) which, when combined with other pollutants and sunlight, forms ozone, another lung irritant linked to asthma, and 1.9 billion tons of carbon dioxide (“CO<sub>2</sub>”), yet another contributor to increased ozone levels and global climate change.<sup>8</sup> This equates to approximately 60% of all SO<sub>2</sub> emissions, 25% of all NO<sub>x</sub> emissions, and 32% of all CO<sub>2</sub> emissions nationwide.<sup>9</sup>

These and other airborne pollutants emitted by fossil-fuel power stations may have a direct and significant effect on human health. In a study by Abt

---

<sup>8</sup> See Rachel H. Cease, ADVERSE HEALTH IMPACTS OF GRANDFATHERED POWER PLANTS AND THE CLEAN AIR ACT: TIME TO TEACH OLD POWER PLANTS NEW TECHNOLOGY, 17 J. Nat. Resources & Env’tl. L. 157, 158 (2002-2003); Martha H. Keating, AIR INJUSTICE, at 4 (October 2002) (attached hereto as Exhibit B).

<sup>9</sup> 17 J. Nat. Resources & Env’tl. L. at 158.

## **AAEA Statement on Indian Point License Renewal Application**

Associates, one of the largest for-profit government and business research consulting firms in the world, it was found that over 30,000 deaths each year are attributable to air pollution from U.S. power plants.<sup>10</sup> Another study found that air pollution from power plants was a contributing factor to higher infant mortality rates and higher incidences of Sudden Infant Death Syndrome (“SIDS”).<sup>11</sup> Research has further shown that pollutants from fossil-fuel power plants form tiny particles (called fine particulate matter) that are linked to diseases of both the respiratory and cardiovascular systems.<sup>12</sup>

Not surprisingly, air pollution has been characterized as one of the largest threats to public health.<sup>13</sup>

### **The Negative Health Effects of Fossil-Fuel Power Are Borne Disproportionately by African Americans**

Sadly, these serious health effects disproportionately fall on the shoulders of low-income and minority communities, including African American communities. For instance, the percentage of African Americans and Hispanics living in areas that do not meet national standards for air quality is considerably higher than that of whites.<sup>14</sup> Correspondingly, respiratory ailments affect African Americans at rates significantly higher than whites. Asthma attacks, for example,

---

<sup>10</sup> *Id.* at 159.

<sup>11</sup> See Martha H. Keating, AIR INJUSTICE, at 3 (October 2002).

<sup>12</sup> See *id.* at 4. See also Air Quality in Queens County: Opportunities for Cleaning Up the Air in Queens County and Neighboring Regions, at S-6, Synapse Energy Economics, Inc. (May 2003) (“Air Quality in Queens County”) (“Epidemiological studies tell us that on days when air pollution levels are high, more people get sick or die.”) (available at <http://www.synapse-energy.com/Downloads/Synapse-report-queens-air-quality-exec-summary-05-29-2003.pdf>); Children at Risk: How Pollution from Power Plants Threatens the Health of America’s Children, at 2, Clean Air Task Force (May 2002) (“Power plant emissions and their byproducts form particulate matter, ozone smog and air toxics. These pollutants are associated with respiratory hospitalizations, lost school days due to asthma attacks, low birth weight, stunted lung growth and tragically, even infant death.”) (available at <http://cta.policy.net/fact/children/>).

<sup>13</sup> Allison L. Russell, URBAN POLLUTANTS: A REVIEW AND ANNOTATED BIBLIOGRAPHY, at 3, New York City Environmental Justice Alliance 2000 (available at <http://www.nyceja.org/pdf/Urban.pdf>).

<sup>14</sup> See *id.*

## **AAEA Statement on Indian Point License Renewal Application**

send African Americans to the emergency room at three times the rate of whites (174.3 visits per 10,000 people for African Americans versus 59.4 visits per 10,000 people for whites), and African Americans are hospitalized for asthma at more than three times the rate of whites (35.6 admissions per 10,000 people for African Americans versus 10.6 admissions for every 10,000 people for whites).<sup>15</sup> Similarly, the death rate from asthma for African Americans is almost three times that of whites (38.7 deaths per million versus 14.2 deaths per million).<sup>16</sup>

### **New York's Minorities Pay the Price for Fossil-Fuel Air Pollution**

New York is no exception to this national crisis. In New York City, it is estimated that there are 2,290 deaths, 1,580 hospitalizations, 546 asthma-related emergency room visits, 1,490 cases of chronic bronchitis, and 46,200 asthma attacks yearly attributable to power plant pollution.<sup>17</sup> The New York City area has also been ranked as one of the top five U.S. metropolitan areas for particulate air pollution.<sup>18</sup> And again, these adverse effects disproportionately affect minority communities. In one study, nonwhites in New York City were found to be hospitalized twice as many times as whites on days when ozone levels were high.<sup>19</sup> Another study found that, of the 23 counties in New York State that fail to

---

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> See Death, Disease & Dirty Power: Mortality and Health Damage Due to Air Pollution from Power Plants, at 24, Clean Air Task Force (October 2000) ("Death, Disease & Dirty Power") (Exhibit C) (available at <http://cta.policy.net/fact/mortality/mortalitylowres.pdf>).

<sup>18</sup> See New York's Dirty Power Plants, Clear the Air – the National Campaign Against Dirty Power (available at <http://cta.policy.net/relatives/17841.pdf>). The Air Quality in Queens County Report states that "New York City ... [is] burdened with significant air quality problems" and "[t]he US EPA has determined that the NY metropolitan area ... is in 'severe nonattainment' for ozone." *Id.* at S-5.

<sup>19</sup> See Martha H. Keating, AIR INJUSTICE, at 4 (October 2002).

## **AAEA Statement on Indian Point License Renewal Application**

meet Federal air pollution standards, 37.7% of them are populated by people of color.<sup>20</sup>

That African Americans and other minorities are disproportionately affected by air pollution in New York is not surprising when considering the fact that the majority of air-polluting power plants in the New York metropolitan area are located in African American and other minority communities. Based on figures from the 2000 U.S. Census, only 12.3% of New York State is identified as being African American, and only 29.4% of the total population is classified as a minority. However, in communities that are predominantly minority, such as Queens, the Bronx, and Brooklyn, there are a disproportionate number of fossil-fuel power plants emitting criteria air pollutants. For example, there are approximately 1,563,400 people of color, 217,247 children living in poverty, and 40,248 children who suffer from pediatric asthma within 30 miles of the Lovett facility, a coal-fired power plant bordering the New York City metropolitan area.<sup>21</sup> In the Bronx, which is 35.6% African American and 88% minority, there are two power plants, Harlem River Yards and Hell's Gate. In Brooklyn, which is 36.4% African American and 64.2% minority, there are seven power plants, the 23<sup>rd</sup> and 3<sup>rd</sup> Plant, Brooklyn Navy Yard, Gowanus, Hudson Ave., Narrows, the North First St. Plant, and Warbasse Cogen. In Queens, which is 20% African American and 63.2% minority, there are six power plants, Astoria, Poletti, Far Rockaway, JFK Cogeneration, Ravenswood, and the Vernon Blvd. Plant. Queens is also ranked

---

<sup>20</sup> See Clear the Air: People of Color in Non-Attainment Counties (available at [http://cta.policy.net/fact/injustice/injustice\\_non\\_attainment.pdf](http://cta.policy.net/fact/injustice/injustice_non_attainment.pdf)).

<sup>21</sup> See Clear the Air: People of Color Living Within 30 Miles of a Specific Coal-Fired Power Plant (available at <http://cta.policy.net/relatives/20121.pdf>); Clear the Air, Power Plant Pollution Threatens the Health of New York's Children (June 11, 2002) (available at <http://cta.policy.net/relatives/20121.pdf>).

## **AAEA Statement on Indian Point License Renewal Application**

among the worst 10% of U.S. Counties in terms of its exposure to criteria air pollutants, and is one of two city boroughs that violate federal standards.<sup>22</sup> In the Air Quality in Queens County Report, it is stated that:

The concentration of generating capacity in Northwest Queens is exceptionally high for such a densely populated area. In addition, this community includes a high percentage of low-income people and persons of color. These demographics suggest that “environmental justice” concepts and policies should be taken into account when considering options for addressing air quality in Queens and in considering the siting of further sources of air pollution. The steam generating units in Queens are responsible for a large percent of the NO<sub>x</sub>, SO<sub>2</sub>, and CO<sub>2</sub> emitted in Queens.

In total, there are 24 power plants in the New York metropolitan area, only a handful of which are in areas where minorities do not comprise the majority of the population. One of these is the Indian Point power generating facility.<sup>23</sup>

### **Lost Production From Indian Point Will Be Replaced By In-City and Other Nearby Facilities**

If generation at Indian Point 2 and 3 were to be significantly limited or were to cease altogether, the lost electricity would most likely be replaced by nearby facilities, including the above-referenced in-city facilities and the Lovett coal-burning facility. For instance, in a study by Synapse Energy Economics, Inc., dated November 3, 2003 and entitled, *The Impact of converting the Cooling systems at Indian Point Units 2 and 3 on Electrical System Reliability* (attached hereto as Exhibit D), Synapse finds that New York electricity generators, particularly in-city generators, have excess capacity which would supplant capacity losses at Indian Point if Indian Point were brought offline. Similarly, in an August 2002 study by the TRC Environmental Group entitled, *Entergy Nuclear*

---

<sup>22</sup> See Air Quality in Queens County, at S-5.

<sup>23</sup> All population data compiled from the 2000 U.S. Census.

## **AAEA Statement on Indian Point License Renewal Application**

*Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC Emissions Avoidance Study* (the “TRC Report”), TRC concluded that “it is reasonable to assume that the majority of lost output [(if Indian Point were brought offline)] would be made up by increased generation of units nearest to the New York City/Westchester load pocket.”

### **Increasing Generation at Facilities Near Indian Point Will Increase Air Pollution in the Communities Where These Facilities Are Based**

The TRC Report further found that, if Indian Point is brought offline, the air quality in New York would decrease dramatically. For instance, if the gap created by Indian Point’s closure were to be filled by the power plants located in New York City, almost all of which are in predominantly minority communities, CO<sub>2</sub> plant emissions would increase by 101% (or 12,494,172 tons), SO<sub>2</sub> plant emissions would increase by 106% (or 8,020 tons), and NO<sub>x</sub> plant emissions would increase by 105% (or 16,107 tons). Even if replacement electricity were spread out more broadly, to include all of the Hudson Valley and New York City plants, CO<sub>2</sub> plant emissions would still increase by 57% (to 13,686,648 tons), SO<sub>2</sub> plant emissions would increase by 62% (to 35,961 tons), and NO<sub>x</sub> emissions would increase by 57% (to 20,258 tons).

And as the level of air pollution increases, so do the incidences of death and respiratory and cardiovascular ailments. For instance, in the National Morbidity and Mortality Air Pollution Study (“NMMAPS”), a team of investigators from Johns Hopkins University and the Harvard School of Public Health found, among other things, strong evidence linking daily increases in particle pollution to

## **AAEA Statement on Indian Point License Renewal Application**

increases in death in the largest U.S. cities.<sup>24</sup> Links have also been found between fine particle levels and increased hospital admissions for asthma, cardiovascular disease, pneumonia, and chronic obstructive pulmonary disease.<sup>25</sup> Stated bluntly in the Air Quality in Queens County Report, “Epidemiological studies tell us that on days when air pollution levels are high, more people get sick or die

Based on the above data and studies, it is clear that if Indian Point 2 and 3 were to be brought offline, forced to close, or if their production were limited, the void in electricity production would be filled by power plants located in minority communities, with a corresponding increase in the rates of asthma and other respiratory diseases, cardiovascular diseases, and even infant mortality in these communities.

### **The Benefits of Indian Point 2 and 3**

The Indian Point facilities, located in the affluent and predominantly white Westchester County, have a combined generating capacity of approximately 2000 megawatts (MW). The facilities provide approximately 20-30% of the electricity for New York City and its northern suburbs. And, unlike New York’s fossil-fuel burning facilities, Indian Point 2 and 3 do not pollute the air.

### **Draft SPDES Permit Hinders Indian Point’s Ability to Produce Non-Air-Polluting Electricity**

Several conditions of the DEC’s Draft SPDES Permit for Indian Point 2 and 3 significantly limit Indian Point’s ability to generate electricity for the State of New York. For example, Special Condition 28 of the Draft Permit requires the

---

<sup>24</sup> Cited in Death Disease & Dirty Power, at 14.

<sup>25</sup> *Id.*

## **AAEA Statement on Indian Point License Renewal Application**

construction of cooling towers. NYSDEC issued a draft SPDES permit for IP1, IP2, and IP3 in 2003 that, among other conditions, requires the design and, if appropriate, the installation of closed-cycle cooling systems for IP2 and IP3 if the site seeks and receives from NRC license renewals for IP2 and IP3.

AAEA understands that, under conservative estimates, it would take approximately 10 months of Indian Point being offline for a closed-cycle cooling system to be installed. AAEA further understands that the costs of installing cooling towers are sufficiently prohibitive so that Indian Point's owners may elect to shut down the plants rather than invest in the retrofit. Either way, the results will be devastating in terms of the pollution-related health effects when New York's non-clean burning plants scramble to replace the power lost by Indian Point 2 and 3. And since most of these plants are in African American and minority communities, the bulk of the adverse health effects – including asthma and other respiratory diseases, cardiovascular disorders, and even infant mortality – will be borne by these communities. For this reason, AAEA objects to any provision of the Draft SPDES Permit for Indian Point 2 and 3 that imposes any significant limit on the facilities' ability to generate clean-burning electricity, including Special Condition 28.

### **DEC Did Not Consider Environmental Justice in the Draft Permit**

The NRC is required to consider environmental justice in the preparation of an environmental impact statement. Unfortunately, the State of New York did not consider environmental justice in the current permit. Moreover, DEC is imposing a structure that could lead Entergy to close the facility. In the Draft SPDES Permit, the DEC concludes that cooling towers are the "Best Technology Available" ("BTA") to maximize fish protection at Indian Point. However, in making a BTA determination, DEC was required not only to attempt to maximize fish protection, but also to minimize or avoid "other impacts ... to the 'maximum extent practicable' to satisfy SEQRA as well as CWA § 316(b)." See Final

## **AAEA Statement on Indian Point License Renewal Application**

Environmental Impact Statement (“FEIS”). See also 6 NYCRR § 704.5 (“The location, design, construction and capacity of cooling water intake structures, in connection with point source thermal discharges, shall reflect the best technology available for *minimizing adverse environmental impact*”) (emphasis added); (“closed-cycle systems do not come without impacts, and those potential impacts must also be weighed for each site”); (“there are certain expenses associated with installing closed-cycle cooling”). Despite these acknowledgments, the DEC issued the Draft SPDES Permit without addressing the environmental justice impacts, which its decision would entail, particularly the significant adverse impacts that will result from a shift in power production from Indian Point 2 and 3 to existing fossil-fuel facilities. The DEC’s failure to consider these “other impacts” violates the SEQRA, 6 NYCRR § 704.5, and rendered the FEIS and the Draft SPDES Permit null and void.

### **AAEA MET THE LEGAL STANDARD FOR PARTY STATUS**

6 NYCRR § 624.5(b) allows a person to obtain party status by timely filing a petition, (i) identifying the proposed party together with the name(s) of the person or persons who will act as representative of the party; (ii) identifying the petitioner’s environmental interest in the proceeding<sup>26</sup>; (iii) identifying any interest relating to statutes administered by the department relevant to the project; (iv) identifying whether the petition is for full party or amicus status; and (v) identifying the precise grounds for opposition or support. Additionally, a petitioner must (i) identify an issue for adjudication which meets the criteria of 6

---

<sup>26</sup> Although the DEC’s regulations do not define the term “environmental interest,” the DEC has held that this term should be applied broadly. See *In the Matter of the Application of Stissing Valley Farms, Inc.*, 1996 WL 33142551, at \*3 (N.Y. Dept. Env. Conserv. Nov. 4, 1996).

## **AAEA Statement on Indian Point License Renewal Application**

NYCRR § 624.4(c) and (ii) present an offer of proof specifying the witness(es), the nature of the evidence the person expects to present and the grounds upon which the assertion is made with respect to that issue. AAEA's Petition for Full Party Status met these criteria. As discussed above, this Petition was brought by AAEA, and the President of AAEA, Norris McDonald, will act as its representative.

Second, AAEA has a strong environmental interest in this proceeding because AAEA is an environmental action group, with a chapter in Long Island, New York, with a stated goal of promoting clean air in low-income and minority communities by, among other things, supporting the safe use of nuclear energy. AAEA also has approximately 1,000 members in the New York area whose air quality may be impacted by the DEC's Permit for Indian Point 2 and 3. Further, AAEA has publicly supported Indian Point 2 and 3, due to its positive impact on New York's air quality, for several years. For instance, in May 2002, AAEA President Norris McDonald presented testimony before the Committee on Environmental Protection in opposition to Chairman James F. Gennaro's Resolution 64, which called for the immediate shutdown of Indian Point. AAEA also presented testimony on February 28, 2003, before the New York City Council's Committee on Environmental Protection, again opposing efforts to shut down Indian Point. And most recently, AAEA participated in the DEC's legislative hearing relating to Indian Point's Draft SPDES Permit.

Third, AAEA has an interest relating to the statutes administered by DEC, namely, AAEA seeks to ensure that those statutes are interpreted consistent with

## **AAEA Statement on Indian Point License Renewal Application**

the DEC's policy goal of promoting environmental justice. AAEA also has an interest in ensuring that, when DEC is required by statute or regulation to weigh adverse environmental impacts, it factor environmental justice into the calculation. In addition, AAEA believes that the reference to adverse environmental impacts in the regulation at issue, 6 NYCRR § 704.5, the best technology assessment, implicates the environmental considerations that AAEA has raised herein.

Fourth, AAEA's Petition made clear that it was seeking full party status.

Finally, AAEA's Petition made clear that it opposes the DEC's Draft SPDES Permit for Indian Point 2 and 3 to the extent the Permit imposes substantial limits on the facilities' ability to generate electricity, as these limitations will translate into increased levels of generation – *and* increased levels of air emissions – at nearby facilities, most of which are fossil-fuel facilities located in or near minority and low-income communities.

### **AAEA'S ISSUES FOR ADJUDICATION**

In order to qualify for party status, AAEA identified substantive and significant issues for adjudication, and presented an offer of proof specifying the witnesses and testimony it expects to present, and the grounds upon which the assertion is made with respect to the issue. Under 6 NYCRR § 624.4(c)(2), an issue is substantive "if there is sufficient doubt about the applicant's ability to meet statutory or regulatory criteria applicable to the project, such that a reasonable person would require further inquiry." An issue is significant "if it has the potential to result in the denial of a permit, a major modification to the

## **AAEA Statement on Indian Point License Renewal Application**

proposed project or the imposition of significant permit conditions in addition to those proposed in the draft permit.” 6 NYCRR § 624.4(c)(3).

AAEA submitted the following issues for adjudication:

- (1) Whether the DEC fully considered – as required – all adverse environmental impacts in formulating the Draft SPDES Permit for Indian Point 2 and 3, including air impacts on minority communities?
- (2) Whether the DEC would have issued a different permit had it adequately considered the negative impacts on air quality in low-income and minority communities that will result from any substantial reduction in generation at Indian Point 2 and 3?
- (3) Whether the failure to consider all adverse environmental impacts in formulating the Draft SPDES Permit for Indian Point 2 and 3, including air impacts in minority communities, renders the Permit unsupportable?

AAEA's issues for adjudication are substantive, given that they call into question the legality of the DEC's FEIS and Draft SPDES Permit for Indian Point 2 and 3, raise important public health and environmental justice concerns, and challenge the Draft Permit's compliance with the SEQRA and 6 NYCRR § 704.5 requirement that in issuing a permit, DEC consider *all adverse environmental impacts*. AAEA's issues for adjudication are also significant because they ultimately call for a major modification to the DEC's SPDES Permit for Indian Point 2 and 3, namely, eliminating those provisions of the Permit which would result in significant reductions in generation at Indian Point 2 and 3, including Special Condition 28 (the cooling tower requirement).

## **AAEA Statement on Indian Point License Renewal Application**

### Recommendation

AAEA-NY wants the DEC to eliminate the cooling tower provision in a water permit for Indian Point. Such a permit would eliminate the issue of possible closure of the plant and provide a more clear-cut status for NRC in considering the license renewal. Resolution of this situation will also provide a simpler situation for describing the position environmental justice impacts provided by Indian Point in the EIS.

### **Conclusion**

AAEA New York supports the 20-year License Renewal (ESP) for the Indian Point nuclear power plant located in Buchanan, New York. We support this renewal because the facility is a positive structure for mitigating ground level air pollution, global warming and environmental injustice.

# **African American Environmentalist Association**

Written Statement of

**Norris McDonald**

Founder and President  
African American Environmentalist Association

For the

**Environmental Scoping Public Meeting**

For

**License Renewal**

For the

**Indian Point Nuclear Power Plant**

Presented to the

**U.S. Nuclear Regulatory Commission**

**Office of Nuclear Reactor Regulation**

September 19, 2007

## **Introduction**

My name is Norris McDonald and I am the founder and president of the African American Environmentalist Association (AAEA). AAEA, founded in 1985, is an organization dedicated to protecting the environment, enhancing human, animal and plant ecologies and promoting the efficient use of natural resources. AAEA includes an African American point of view in environmental policy decision-making and resolves environmental racism and injustice issues through the application of practical environmental solutions.

AAEA supports the 20-year License Renewal for the Indian Point nuclear power plant located in Buchanan, New York. AAEA expressed public support for nuclear power for the first time in 2001 after a two-year internal process of studying and debating the issue. AAEA was the first environmental organization to support nuclear power and I was the first environmentalist to publicly support this technology. I am a veteran environmentalist with 28 years experience working on environmental and energy issues.<sup>1</sup>

The AAEA headquarters office is located in the metropolitan Washington, D.C., area and we also maintain a New York City chapter located in Long Island, New York.<sup>2</sup> AAEA also has chapters in other states and in other countries.<sup>3</sup>

Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC (hereafter referred to as "Entergy") has submitted an Environmental Report (ER) in conjunction with the License Renewal Application (LRA) to the U.S. Nuclear Regulatory Commission (NRC) to renew the operating licenses for Indian Point Units 2 and 3 (IP2 and IP3) for twenty years beyond the end of the current license terms. AAEA will comment on the contents of the ER and provide its own environmental perspective about the LRA.

---

<sup>1</sup> Mr. McDonald has published numerous articles on environmental issues, including: Global Warming and the African American Community (<http://www.blackelectorate.com/articles.asp?ID=629> & <http://www.blackelectorate.com/articles.asp?ID=630>); What A Good Energy Policy Means for Blacks (<http://www.blackelectorate.com/articles.asp?ID=508>); and South Africa Takes the Lead in Nuclear Energy (<http://www.blackelectorate.com/articles.asp?ID=524>).

<sup>2</sup> <http://groups.msn.com/aaeanewyork>

<sup>3</sup> Active: Nigeria, China, Hong Kong, Midwest, Southeast, Missouri. Inactive: Texas and Los Angeles

## **AAEA Statement on Indian Point LRA**

Of particular import to AAEA is the promotion of clean air in African American communities. Because nuclear power is emission-free and has a demonstrated safety record, whereas fossil-fuel power contributes to numerous health issues, AAEA seeks to promote the safe use of nuclear power. AAEA specifically supports the Indian Point 2 and 3 nuclear power facilities because these facilities provide significant electrical capacity to the State of New York with minimal human, animal, air, water, and land impacts. This public support started in 2001 and continues to this day. The fundamental reasons that AAEA supports nuclear power are:

- Nuclear power provides electricity safely and reliably,
- Nuclear power produces no smog forming emissions,
- Nuclear power produces no greenhouse gases,
- Spent fuel can be reprocessed for reuse,
- Yucca Mountain is acceptable as a repository for non-recyclable products,
- Nuclear power has an excellent quarter century safety record, and
- Nuclear power plants can use nuclear bomb warhead material as a fuel.

Indian Point is one of 103 other commercial nuclear power plants that provide 20 percent of our nation's electricity.

### **Environmental Justice**

Environmental justice is defined by AAEA as the fair treatment of all people regardless of race or income with respect to environmental issues. AAEA was among the participants at the U.S. Environmental Protection Agency in 1991 when environmental justice policies were first being considered by the agency. AAEA is currently promoting environmental justice locally, regionally and nationally.

The license renewal of Indian Point is vitally needed because if units two and three are not producing emission free electricity then the air pollution will increase throughout the region, which will exacerbate conditions in minority

## **AAEA Statement on Indian Point LRA**

communities already overburdened by pollution sites. Indian Point provides reliable emission free energy without contributing pollutants that exacerbate asthma. Closure of Indian Point would also result in compliance issues for the State with respect to the federal Clean Air Act State Implementation Plan ("SIP") and to meeting the requirements of the Regional Greenhouse Gas Initiative (RGGI).

AAEA is deeply concerned with any policy or measure that impacts the air quality of the communities where it is based, or that affects the health of its members. Comments being submitted by our New York Office address the specific environmental justice issues that are negatively affecting minority communities. Those comments will specifically list how the operation of Indian Point continually mitigates those negative effects.

### Environmental Justice Review

This section of the ER could be a little confusing to the casual observer. In one section it states, "The need for and the content of an analysis of environmental justice will be addressed in plant specific reviews." (4.22.2) The next section states, "Other than the above referenced finding, there is no requirement concerning environmental justice in 10 CFR Part 51." (4.22.3). The Background section then goes on to state, "The environmental justice review involves identifying off-site environmental impacts, their geographic locations, minority and low income populations that may be affected, the significance of such effects, and whether they are disproportionately high and adverse compared to the population at large within the geographic area, and if so, what mitigative measures are available, and which will be implemented. The NRC staff will perform the environmental justice review to determine whether there will be disproportionately high human health and environmental effects on minority and low-income populations and report the review in its SEIS." The section then comes full circle to state, "The staff's review will be based on information provided in the ER and developed during the staff's site-specific scoping process." (4.22.4). So Entergy is not required to develop the environmental justice analysis, but the NRC will conduct an environmental justice review based

## **AAEA Statement on Indian Point LRA**

on information provided by Entergy in the ER. Regardless, we agree with Entergy's assessment that, "there can be no disproportionately high and adverse impacts or effects on members of the public, including minority and low-income populations, resulting from the renewal of the IP2 and IP3 Operating Licenses." (4.22.6) We have one caveat. This section did not include the great environmental benefits that Indian Point provides to minority communities. Entergy is enhancing environmental justice and is fighting environmental injustice. It should be allowed to continue doing so for another 20 years:

### **Fossil-Fuel Power Causes Serious Adverse Health Effects**

In 1999, coal-fired power plants in the United States emitted into the environment 11.3 million tons of sulfur dioxide ("SO<sub>2</sub>"), a criteria air pollutant that is correlated to asthma and impaired lung functions, 6.5 million tons of nitrogen oxides ("NO<sub>x</sub>") which, when combined with other pollutants and sunlight, forms ozone, another lung irritant linked to asthma, and 1.9 billion tons of carbon dioxide ("CO<sub>2</sub>"), yet another contributor to increased ozone levels.<sup>4</sup> This equates to approximately 60% of all SO<sub>2</sub> emissions, 25% of all NO<sub>x</sub> emissions, and 32% of all CO<sub>2</sub> emissions nationwide.<sup>5</sup>

These and other airborne pollutants emitted by fossil-fuel power stations may have a direct and significant effect on human health. In a study by Abt Associates, one of the largest for-profit government and business research consulting firms in the world, it was found that over 30,000 deaths each year are attributable to air pollution from U.S. power plants.<sup>6</sup> Another study found that air pollution from power plants was a contributing factor to higher infant mortality

---

<sup>4</sup> See Rachel H. Cease, ADVERSE HEALTH IMPACTS OF GRANDFATHERED POWER PLANTS AND THE CLEAN AIR ACT: TIME TO TEACH OLD POWER PLANTS NEW TECHNOLOGY, 17 J. Nat. Resources & Envtl. L. 157, 158 (2002-2003); Martha H. Keating, AIR INJUSTICE, at 4 (October 2002) (attached hereto as Exhibit B).

<sup>5</sup> 17 J. Nat. Resources & Envtl. L. at 158.

<sup>6</sup> *Id.* at 159.

rates and higher incidences of Sudden Infant Death Syndrome ("SIDS").<sup>7</sup>

Research has further shown that pollutants from fossil-fuel power plants form tiny acidic particles (called fine particulate matter) that are linked to diseases of both the respiratory and cardiovascular systems.<sup>8</sup> Not surprisingly, air pollution has been characterized as one of the largest threats to public health.<sup>9</sup>

**The Negative Health Effects of Fossil-Fuel Power Are Borne Disproportionately by African Americans**

Sadly, these serious health effects disproportionately fall on the shoulders of low-income and minority communities, including African American communities. For instance, the percentage of African Americans and Hispanics living in areas that do not meet national standards for air quality is considerably higher than that of whites.<sup>10</sup> Correspondingly, respiratory ailments affect African Americans at rates significantly higher than whites. Asthma attacks, for example, send African Americans to the emergency room at three times the rate of whites (174.3 visits per 10,000 people for African Americans versus 59.4 visits per 10,000 people for whites), and African Americans are hospitalized for asthma at more than three times the rate of whites (35.6 admissions per 10,000 people for African Americans versus 10.6 admissions for every 10,000 people for whites).<sup>11</sup> Similarly, the death rate from asthma for African Americans is almost three times that of whites (38.7 deaths per million versus 14.2 deaths per million).<sup>12</sup>

---

<sup>7</sup> See Martha H. Keating, AIR INJUSTICE, at 3 (October 2002).

<sup>8</sup> See *id.* at 4. See also Air Quality in Queens County: Opportunities for Cleaning Up the Air in Queens County and Neighboring Regions, at S-6, Synapse Energy Economics, Inc. (May 2003) ("Air Quality in Queens County") ("Epidemiological studies tell us that on days when air pollution levels are high, more people get sick or die.") (available at <http://www.synapse-energy.com/Downloads/Synapse-report-queens-air-quality-exec-summary-05-29-2003.pdf>); Children at Risk: How Pollution from Power Plants Threatens the Health of America's Children, at 2, Clean Air Task Force (May 2002) ("Power plant emissions and their byproducts form particulate matter, ozone smog and air toxics. These pollutants are associated with respiratory hospitalizations, lost school days due to asthma attacks, low birth weight, stunted lung growth and tragically, even infant death.") (available at <http://cta.policy.net/fact/children/>).

<sup>9</sup> Allison L. Russell, URBAN POLLUTANTS: A REVIEW AND ANNOTATED BIBLIOGRAPHY, at 3, New York City Environmental Justice Alliance 2000 (available at <http://www.nyceja.org/pdf/Urban.pdf>).

<sup>10</sup> See *id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

### **The Benefits of Indian Point 2 and 3**

The Indian Point facilities, located in the affluent and predominantly white Westchester County, have a combined generating capacity of approximately 2000 MW. The facilities provide approximately 20-30% of the electricity for New York City and its northern suburbs. And, unlike New York's fossil-fuel burning facilities, Indian Point 2 and 3 do not pollute the air.

### **Applicant's Environmental Report**

The proposed action of renewing the operating license for Indian Point would lead to continued environmental benefits for the region. The alternatives to the proposed action: no action, decommissioning or utilizing alternative energy sources, will either have very negative environmental impacts or are not feasible. The proposed action is to renew the operating licenses for IP2 and IP3 for a period of twenty (20) years beyond the current operating licenses' expiration dates. For IP2 the requested renewal would extend the existing license expiration date from September 28, 2013 until September 28, 2033. For IP3 the requested renewal would extend the existing license expiration date from December 12, 2015 to December 12, 2035.

#### Physical and Chemical Environment

The lower Hudson River is a 152-mile tidal estuary and Indian Point is located 43 miles from the mouth. Two of the most serious issues around the plant are 1) it is located in a Clean Air Act nonattainment area and 2) serious PCB contamination occurred upriver and there are currently plans for mitigation. Regarding air issues, Indian Point is probably the most positive industrial structure in the region that provides valuable electricity service while adding no EPA criteria pollutants. In terms of the river, poison runoff from urban, suburban and rural sources is the principle threat to the river. The ER comprehensively covers the environmental issues related to the physical and chemical environments in the area. The ER also includes helpful information generated from years of environmental impact statements generated by the New York

## **AAEA Statement on Indian Point LRA**

Department of Environmental Conservation. The report provides extensive coverage of the endangered species in the area. The NRC Generic Environmental Impact Statement is utilized to establish characterization methods for fish populations and other environmental characteristics.

### Minority and Low Income Populations

The NRC performs environmental justice analyses utilizing a 50-mile radius around the plant as the environmental "impact site" and the four states (New York, New Jersey, Pennsylvania & Connecticut) individually when all or part of a block group is in those states as the "geographic area" for comparative analysis. The NRC Procedural Guidance for Performing Environmental Assessments and Considering Environmental Issues indicates that a minority population is considered to be present if either of the two following conditions exists: (1) The minority population in the census block group exceeds 50 percent. (2) The minority population is more than 20 percentage points greater in the census block group than it is in the minority percentage of the geographic area chosen for the comparative analysis. The NRC defines "minority" population as American Indian or Alaskan Native, Asian, Native Hawaiian or Pacific Islander, Black, other, multi-racial, the aggregate of all minority races, or Hispanic ethnicity. The ER includes significant demographic information related to minority and low-income populations.

Indian Point is, and has been, a positive environmental structure for minority and low-income people. This positive influence should be allowed to continue.

### Taxes, Local Land Use and Housing

The ER contains an exhaustive description of benefits it provides to local entities in terms of income. All of the counties around the facility are growing rapidly and will be challenged to meet electrical capacity needs and the aforementioned atmospheric regulations. Indian Point is a positive factor for growth in the region.

## **AAEA Statement on Indian Point LRA**

### History

The description of the history of the Indian Point site is illuminating. The construction and operation of the facility has added to the fine history of this site. The NRC should provide the license renewal requested so that the excellent emission free electricity can continue to flow throughout the region.

### Radioactive Waste Treatment Processes

We are satisfied that Entergy is taking the appropriate steps to manage its waste products. They are following the procedures for managing and storing liquid, gaseous and solid radioactive wastes. Entergy also initiated site preparation work in 2006 for dry cask storage. This Independent Spent Fuel Storage Installation (ISFSI) Facility will provide acceptable temporary storage until Yucca Mountain is ready to accept spent fuel. According to the ER, the ISFSI Facility will contain a 96' x 208' concrete storage pad, which will provide storage locations for 78 Holtec International HI-STORM 100S(B) Casks. The HI STORM Casks will be arranged in a 6 x 13 array with 75 storage locations allocated for the casks.

### IP2 and IP3 Gaseous Effluent Releases

The quantities of gaseous effluents released from the site are controlled by the administrative limits defined in the Offsite Dose Calculation Manual (ODCM). Entergy has operated the plant within ODCM parameters and we are satisfied that releases have never caused environmental harm.

### Employment

The work force at Indian Point consists of approximately 1,255 persons. The ER gives a comprehensive description of this workforce: where they live and how many employees live in a particular jurisdiction. AAEA wants these employees and future employees to have the opportunity to work at this electric power facility for an additional 20 years beyond 2013 and 2015. They probably do not consider themselves to be environmental justice activists, but by their functions, they are fighting environmental injustice.

GEIS Categories For Environmental Issues

The NRC identified and analyzed 92 environmental issues in its Generic Environmental Impact Statement (GEIS) that it considers being associated with nuclear power plant license renewal and has designated the issues as Category 1, Category 2, or NA (not applicable). Entergy lists 43 Category 1 issues that are applicable to the site. The NRC identified 21 issues as Category 2. Entergy lists 11 Category 2 issues that are applicable to the site. Regarding Not Applicable License Renewal Issues, NRC determined that its categorization and impact-finding definitions did not apply to electromagnetic fields (chronic effect) and environmental justice. However, the ER goes on to state that, "for environmental justice, NRC does not require information from applicants, but noted that it would be addressed in individual license renewal reviews (10 CFR Part 51, Appendix B, Table B-1, Footnote 6). Entergy has included environmental justice demographic information in Section 2.6.2.

Impingement and Entrainment

AAEA concurs with Entergy's conclusion on impingement and entrainment that withdrawal of water from the Hudson River for the purposes of once-through cooling at the site does not have any demonstrable negative effect on representative Hudson River fish populations, nor does it warrant further mitigation measures. (Section 4.3.6)

Heat Shock and Thermal Discharge Analysis

The ER states that Indian Point, "is complying with this permit, including limits and conditions established by the NYSDEC for thermal discharges...and the associated agreement to continue implementation of the fourth Consent Decree ensures that thermal impacts will satisfy the requirements of CWA 316(a) and will thus remain SMALL during the license renewal term. Therefore, no further mitigation measures are warranted. ." (Section 4.4.6) AAEA has no information to challenge this conclusion.

## **AAEA Statement on Indian Point LRA**

### Endangered Species

AAEA concurs with Entergy's conclusion regarding endangered species: "The continued operation of the site will not adversely impact any federally listed species which may exist on or pass through the site."

### Groundwater contamination

AAEA believes that any leakage of radiation into the groundwater is unacceptable. The site does not use groundwater in its operations or as a source of drinking water. Groundwater is not the source of drinking water for Peekskill or Buchanan. Current conditions of the radiological contamination appear to be largely limited to the general area beneath the facility. The ER provides extensive coverage of this issue. The information is satisfactory to AAEA and should be comforting to the public. The ER also states, "The investigation of the radionuclide contamination of the groundwater began in 2005, and although the investigation is on-going, Entergy and the NRC have concluded that although there appears to be some level of contaminated groundwater that discharges to the Hudson River, these levels do not exceed the effluent or radiological dose criteria established by the NRC. Entergy plans to continue to investigate groundwater contamination mitigation methods to determine their feasibility, as deemed appropriate by the NRC." (4.23.5) Thus, the current condition of this contamination should not be an impediment to license renewal.

### Alternatives Considered

AAEA supports the proposed action, opposes the no-action alternative, and believes that alternative energy technologies are not feasible for replacing the electricity output at the facility. The ER gives thorough coverage to these alternatives.

### Closed Cycle Cooling Alternatives

The ER examines four alternative technologies for heat dissipation: 1) evaporative ponds, spray ponds or cooling canals, 2) dry cooling towers, 3) natural draft cooling towers, and 4) mechanical draft wet cooling towers. A closed cycle cooling retrofit has never been performed on a nuclear power plant before and the consequences of trying are wildly unpredictable. The

## **AAEA Statement on Indian Point LRA**

consideration of these technologies is comprehensive in the ER. We oppose all of these technologies and fear that if any of them are imposed, it is our belief the company will choose to close.

### Natural Gas or Coal Replacement

AAEA believes these fossil fuel plants are not feasible at the Indian Point location. AAEA believes natural gas should be used to produce base-load electricity as little as possible. The site is not large enough to accommodate a coal plant.

### Water Permit (Water Quality 401 Certification)

The ER states, "NYSDEC has taken the position that it will require submission of an application for a new state water quality (401) certification in conjunction with the license renewal application, rather than relying on the SPDES permit as evidence of continued certification. To initiate the approval process, Entergy will file the Joint Application for Permit with the NYSDEC for the water quality certification at a date determined by the NYSDEC. The SPDES permit for discharges at the site expired on October 1, 1992. However in accordance with the New York State Administrative Procedures Act, Entergy filed a timely SPDES permit renewal application 180 days prior to the current permit's expiration date on April 3, 1992. Therefore, the SPDES permit has been administratively continued." This summary of the current status of Entergy's Indian Point water permit illustrates that the company is in compliance with the Clean Water Act. AAEA intends to participate in the future adjudication of this issue. There is also the matter of EPA finalizing regulations for determination of best available technologies for power plants.

### **Recommendation and Conclusion**

The license should be renewed. There are not environmental considerations that would merit refusal of the renewal. AAEA supports the License Renewal. The facility is an environmental asset for the local area, the state and the planet. The license renewal would promote environmental justice and mitigate global warming. The license would enhance New York's ability to meet its clean air requirements and global warming agreement.