

**From:** Marjorie McLaughlin  
**To:** Alp@nyserda.org; jps@nyserda.org; michael.balboni@chamber.state.ny.us;  
Paul\_eddy@dps.state.ny.us  
**Date:** 05/31/2007 3:13:29 PM  
**Subject:** NRC response to Riverkeeper letter

Good Afternoon,

Today, NRC issued a letter to Ms. Lisa Rainwater of Riverkeeper, Inc. This letter responds to her communication to us dated May 2, 2007. I have attached both her letter and our response below. Both letters are publicly-available in ADAMS at the following accession numbers:

Incoming letter from Riverkeeper, dated May 2, 2007: ML071290020  
NRC Response, dated May 31, 2007 : ML071510052

Please contact me with any questions.

Regards,  
Marjorie

Marjorie McLaughlin

Regional State Liaison Officer  
USNRC Region I

610-337-5240 (Office)

(b)(6) [redacted]

610-337-5354 (Fax)

Ex b

**Mail Envelope Properties** (465F1E59.E9D : 10 : 25965)

**Subject:** NRC response to Riverkeeper letter  
**Creation Date:** 05/31/2007 3:13:29 PM  
**From:** Marjorie McLaughlin

**Created By:** MMM3@nrc.gov

<b>Recipients</b>	<b>Action</b>	<b>Date &amp; Time</b>
chamber.state.ny.us PM michael.balboni ( <u>michael.balboni@chamber.state.ny.us</u> )	Transferred	05/31/2007 3:13:43
dps.state.ny.us PM paul_eddy ( <u>Paul_eddy@dps.state.ny.us</u> )	Transferred	05/31/2007 3:13:43
nyserda.org PM alp ( <u>Alp@nyserda.org</u> ) jps ( <u>jps@nyserda.org</u> )	Transferred	05/31/2007 3:13:43

<b>Post Office</b>	<b>Delivered</b>	<b>Route</b>
		chamber.state.ny.us dps.state.ny.us nyserda.org

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	1358	05/31/2007 3:13:29 PM
Riverkeeper Response.pdf	85958	05/31/2007 3:05:38 PM
050207 Riverkeeper letter.pdf	148299	05/31/2007 3:12:38 PM

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All Information

May 29, 2007

Lisa Rainwater, Ph.D.  
Indian Point Campaign Director  
Riverkeeper, Incorporated  
828 South Broadway  
Tarrytown, New York 10591

Dear Ms. Rainwater:

This is in response to your letter dated May 2, 2007. We appreciate your comments and feedback relative to our meeting with representatives of your organization and Clearwater on April 18, 2007. We took this initiative to enable more direct communication with your staff to convey information specific to your interests. While you identified some aspects that did not fully meet your expectations, we hope that our initiative was generally beneficial. The matters you raised in your letter were discussed with Mr. Phillip Musegaas of your organization; and Messrs. John White and Karl Farrar of this office, on May 18, 2007. The following addresses your specific concerns:

1. You requested that any public meetings on the groundwater leak investigation be held in late 2007 so that the planned expanded environmental sampling of the Hudson River could be included in the agenda.

Currently, we have no plans to conduct the groundwater meeting before August of this year. While we cannot make a specific commitment as to when we would hold a public meeting to discuss the groundwater leak investigation at Indian Point, we agree that the results of the special environmental fish sampling would be of public interest. Accordingly, we will consider your request to hold such a meeting at a time which would allow discussion of the results of that initiative.

2. You questioned how we determined whether the Hudson River is being used for drinking water.

New York State Department of Health (NYS/DOH) is the authority on drinking water intakes from the Hudson River, and we relied upon it for information in this area. According to NYS/DOH, there are six water systems taking water from the Hudson River for potable water use in Ulster and Dutchess County, none of which are currently affected by liquid releases from the Indian Point Energy Center. Other communities that take water from the Hudson are even further north in Warren and Saratoga Counties. Further, NYS/DOH indicated that though the Chelsea pumping station in Dutchess County was used several years ago, it is not currently used; there are no plans to use it in the future.

NRC's interest in whether the Hudson River is used as a source of potable water is to assure that Entergy applies the appropriate method for assessing annual dose to the public from liquid effluents from Indian Point. Currently, the best available information, as provided by NYS/DOH, indicates that there is no potable water intake on the Hudson River that is currently affected by liquid effluent releases from Indian Point. In the absence of any known current potable water pathway, Entergy appropriately calculates annual public dose from liquid effluent releases to the Hudson River by assessing the aquatic food pathway. If the expected public exposure pathway changed, e.g., a potable water pathway for exposure to liquid effluents from Indian Point was known to exist, Entergy would be required by NRC regulatory specifications to apply the appropriate dose assessment model for the actual conditions, as specified in "Calculation of Annual Doses to Man from Routine Releases of Reactor Effluents for the Purpose of Evaluating Compliance with 10 CFR Part 50, Appendix I Rev. 1" (<http://www.nrc.gov/reading-rm/doc-collections/req-guides/power-reactors/active/01-109/01-109.pdf>).

3. You raised questions concerning the basis for the NRC enforcement action issued to Entergy on April 23, 2007, for its failure to implement an Emergency Notification System (ENS) with backup power at Indian Point by April 13, 2007, as required by an NRC Confirmatory Order. Specifically, you questioned (1) how the NRC determined the amount of the \$130,000 civil penalty issued to Entergy for this violation; (2) whether daily civil penalties should have been assessed; and (3) whether the NRC will levy further civil penalties if the siren system is not operational by a certain date.

Consistent with its Enforcement Policy, the NRC, prior to determining the amount of a civil penalty, first classifies the violation into one of four severity levels, with Severity Level I being the most significant and Severity Level IV being the least significant. Civil penalties are normally assessed for violations that are classified at Severity Level I and II and are considered for Severity Level III violations. In this case, the NRC determined that the violation did not warrant a Severity Level I or II classification since the violation did not constitute a matter of "very significant regulatory concern." This matter was not considered a "very significant regulatory concern," since the existing Emergency Notification System was expected to be capable of alerting the general public in the vicinity of Indian Point in an emergency condition. However, the NRC did consider this violation to be of "significant regulatory concern" given that there was a requirement to have a system with backup power by the specific time imposed by the NRC Confirmatory Order; and a specific mandate by Congress in Section 651(b) of the Energy Policy Act of 2005.

After classifying this violation at Severity Level III, the NRC utilized Tables 1.A and 1.B of its Enforcement Policy to determine that the base civil penalty for this violation was \$65,000. The NRC exercised its discretion and doubled the civil penalty amount because Entergy not only failed to achieve compliance with the Confirmatory Order by January 30, 2007, which was the date to which Entergy consented when the Confirmatory Order was issued; but also failed to achieve compliance by April 15, 2007, which was the revised due date after the NRC granted Entergy an extension.

The NRC reserves the imposition of daily civil penalties up to the statutory maximum for particularly significant violations, e.g., violations with actual consequences to public health and safety or the common defense and security, repetitive significant violations, and willful violations involving senior licensee officials. In this particular matter, the NRC concluded that the \$130,000 civil penalty was consistent with the NRC enforcement policy and commensurate with the significance of the violation. As noted in the NRC letter transmitting the April 23, 2007, civil penalty, the NRC will use Entergy's response to this enforcement action, in part, to determine whether further enforcement action is necessary to ensure compliance with NRC requirements.

4. You raised questions as to why we discussed with you, but did not provide copies of, the graphical information that Entergy considered preliminary and proprietary.

In order to provide your organization an enhanced discussion of some of the more technical aspects of the groundwater investigation at Indian Point, NRC used graphical presentations, developed by Entergy, that were still in the process of review and were not considered ready for general public distribution. While we recognized that the graphical material could not be made publicly available at that time, it was important to us to be able to discuss the conditions at Indian Point with the best existing information that was available. However, since Entergy used the same materials for its informational display at the Annual Assessment Meeting on April 26, 2007, we will examine the validity of Entergy's bases for continuing to consider the materials as proprietary information. Notwithstanding, we expect that Entergy's final groundwater investigation report, including supporting information, will be publicly available upon submittal to the NRC.

We hope that this response is helpful, addresses your interests, and provides sufficient perspective on our actions in these matters.

Sincerely,

/RA/

Samuel J. Collins  
Regional Administrator

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Sincerely,

/RA/

Samuel J. Collins  
Regional Administrator

**SUNSI Review Complete:** JRW **(Reviewer's Initials)** **ADAMS ACCESSION NO. ML071510052**  
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DATE	05/21/07	05/22/07	05/24/07	05/23/07	05/29/07

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EDO Principal Correspondence Control

FROM: DUE: 05/29/07 EDO CONTROL: G20070320  
DOC DT: 05/02/07  
FINAL REPLY:

Lisa Rainwater  
Riverkeeper

TO:

Chairman Klein

FOR SIGNATURE OF : \*\* GRN \*\* CRC NO: 07-0324  
Dyer, NRR

DESC:

ROUTING:

NRC to Reverse Decision to Limit Public  
Participation in Relicensing of Nuclear Power  
Plants

Reyes  
Virgilio  
Kane  
Ash  
Silber  
Ordaz  
Cyr/Burns  
Collins, RI

DATE: 05/08/07

ASSIGNED TO: CONTACT:

NRR Dyer

SPECIAL INSTRUCTIONS OR REMARKS:

Commission to review prior to dispatch. Add EDO  
and Commission on for concurrence.

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

Date Printed: May 08, 2007 10:32

PAPER NUMBER: LTR-07-0324 LOGGING DATE: 05/07/2007

ACTION OFFICE: EDO

AUTHOR: Lisa Rainwater

AFFILIATION: NY

ADDRESSEE: Dale Klein

SUBJECT: Request that the NRC reverse its decision to limit public participation in the relicensing of nuclear power plants

ACTION: Direct Reply

DISTRIBUTION: RF, SECY to Ack

LETTER DATE: 05/02/2007

ACKNOWLEDGED No

SPECIAL HANDLING: Made publicly available in ADAMS via EDO/DPC

NOTES: Commission should review response prior to dispatch

FILE LOCATION: ADAMS

DATE DUE: 05/08/2007

DATE SIGNED:



1037  
RIVERKEEPER.

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07/18/07 PH 4:08

Dale Klein  
Chairman  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, Maryland 20852-2738

May 2, 2007

Dear Chairman Klein:

Riverkeeper is formally requesting that the Nuclear Regulatory Commission (NRC) reverse its decision to limit public participation in the relicensing of nuclear power plants, and reinstate its policy of providing at least three public meetings during the license renewal process.

On April 30, 2007 Entergy Nuclear Northeast submitted its license renewal application for the Indian Point nuclear power plant located in Buchanan, New York. According to information obtained from the NRC's website on the status of reactor license renewals, agency staff reduced the number of public meetings in the license renewal review schedule beginning in August 2006 with the Fitzpatrick application from three to two, greatly diminishing the public's ability to understand and participate in the nuclear power plant license renewal process. This was accomplished by combining the initial public information meeting on the license renewal process and the meeting on environmental scoping into one meeting, held several months after the application is submitted. License renewal schedules prior to Fitzpatrick, such as for Vermont Yankee and Pilgrim, ensured that the public information meeting took place approximately a month after the application was submitted, much sooner than the current schedule provides. This change does a disservice to the public in two critical ways.

First, combining the meetings does not allow the public time to use knowledge about the environmental review process they would have learned in the initial information meeting to augment comments made at the environmental scoping meeting, which would have taken place several months later. Instead, the public is expected to learn about the renewal process during the first half of the meeting, and make substantive scoping comments during the second half. This abridged process virtually guarantees that the quality and quantity of public comments and questions will be diminished.

Second, combining two public meetings into one undoubtedly results in less actual time for the public to ask questions and submit comments. This clearly reduces the number of

concerned citizens who will be able to fully participate at a single meeting. Notwithstanding the public's continuing opportunity to file written comments on the scoping process, that is no substitute for a live public forum at which citizens can ask specific questions of the NRC staff.

In a time when the NRC is attempting to improve its public image and increase public confidence in its ability to oversee the nuclear industry, limiting public participation in a crucial process such as the relicensing of a nuclear power plant does little to increase public faith in the agency charged with protecting public health and safety regarding the operation of nuclear facilities.

We live in a society based on democratic principles. The public deserves the right to participate fully in this democratic process – cutting corners denies this right. Therefore, we urge the NRC to reinstate its policy of providing at least three public meetings, including separate license renewal process and scoping meetings during the renewal reviews of nuclear power plants, beginning with Indian Point.

We look forward to receiving a response from your office.

Sincerely,



Lisa Rainwater, PhD  
Indian Point Campaign Director

CC:  
Commissioner Merrifield  
Commissioner Lyons  
Commissioner Jaczko  
Commissioner McGaffigan  
Sam Collins, Regional Administrator, Region 1