

**From:** Dennis Logan  
**To:** <IPNonPublicHearingFile@nrc.gov>  
**Date:** 12/10/2007 7:42:49 AM  
**Subject:** Fwd: Citing Past Troubles at Indian Point, State Urges Panel to Deny License Extension

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Dear Dennis:

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New York Times  
By JOHN SULLIVAN and MATTHEW L. WALD  
Published: December 4, 2007  
WHITE PLAINS, Dec. 3 — Attorney General Andrew M. Cuomo said on Monday that the state had asked the Nuclear Regulatory Commission to deny an application to extend the license of the Indian Point nuclear reactors, citing "a long and troubling history of problems."

Go to City Room » Mr. Cuomo, flanked by Lt. Gov. David A. Paterson and members of the Congressional delegation at a news conference, claimed that the nuclear plant, in densely populated Westchester County, could not be defended from a terrorist attack and that the surrounding area could not be evacuated if a major accident occurred. The state filed a 313-page petition on behalf of Mr. Cuomo and Gov. Eliot Spitzer on Friday.

Most recently, opponents' ire had been directed at the plant owner's belated progress in meeting federal deadlines to install warning sirens around the plant, which is on the Hudson River in Buchanan.

The state also contends that the application to extend the plant's license for 20 more years, which was filed on April 30 by the plant's owner, Entergy Nuclear, failed to account for pipes, cables and fire-protection systems that have deteriorated at the nuclear reactors, which began operation in the mid-'70s.

"I believe Indian Point should be closed and it should be closed now," Mr. Cuomo said at the news conference at the Westchester County administrative building.

Officials of the N.R.C. could not recall a previous occasion when a state had tried to intervene in a license-extension proceeding to block the extension. New York State owned Indian Point 3 from 1975 until 2000.

New Jersey has intervened in the relicensing of the Oyster Creek nuclear plant, and Vermont and Massachusetts both sought conditions on the license extension of the Vermont Yankee nuclear plant.

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a combined capacity of 2,069 megawatts.

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The license for the Indian Point 2 reactor expires in 2013, and Indian Point 3's license ends in 2015. But the licenses have been automatically extended until the commission issues its ruling. Indian Point 1 closed in 1974.

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John Sullivan reported from White Plains and Matthew L. Wald from Washington.

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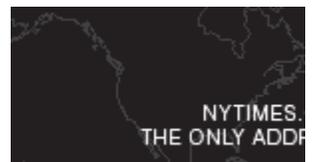
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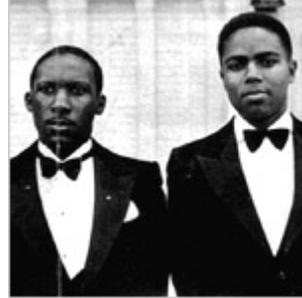
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STATE OF NEW YORK  
EXECUTIVE CHAMBER  
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**FOR IMMEDIATE RELEASE:**

December 26, 2007

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**GOVERNOR SPITZER AND ATTORNEY GENERAL CUOMO  
ANNOUNCE EFFORT TO HALT INDIAN POINT RELICENSING**

***Nuclear Regulatory Commission Should Consider Threat of Terrorism,  
Earthquakes, and Adequate Evacuation Plans; Westchester County, A.G. Blumenthal Join Filing***

Governor Eliot Spitzer, New York Attorney General Andrew M. Cuomo, and Westchester County Executive Andrew Spano today announced the submission of papers to deny the relicensing of the Indian Point nuclear power plant. The papers filed with the Nuclear Regulatory Commission (NRC) identify dangerous deficiencies – including those related to terrorism, earthquakes, evacuation plans, and the surrounding population density – in Entergy’s relicensing application for Indian Point.

"The Indian Point relicensing application wholly fails to address a number of crucial issues, and it should not be granted in its present form," said Governor Spitzer. "I have repeatedly stated that we should close Indian Point as soon as there is sufficient replacement power available, and in the interim we will continue to insist that all environmental, safety and security issues are fully evaluated and addressed, in order to protect the health and safety of the communities surrounding the plant."

Attorney General Andrew Cuomo said: "We cannot continue to roll the dice with the operation of Indian Point -- there is simply too much at stake. The NRC has repeatedly ignored the danger that Indian Point poses to New Yorkers – from its vulnerability to a terrorist attack, to its incapability to withstand potential earthquakes, to its lack of a plausible evacuation plan in the event of a catastrophe. We must do what is safest for New York and close Indian Point. Furthermore, opposing the relicensing in 2013 is only step one."

Lieutenant Governor David A. Paterson said: "Today’s state petition puts the well-being of the community surrounding Indian Point, and that of all New Yorkers, first by blocking renewal of Indian Point’s licenses unless the plant addresses longstanding environmental and safety concerns. The petition’s filing moves us closer to the day when our energy and power needs will be met by sources that are safe, efficient, economic and environmentally sound."

The petition to intervene released today focuses on a number of critical safety issues related to Entergy’s application and the NRC relicensing procedure:

- **Proximity to the most densely populated area in the United States:** Approximately 20 million people – about 6 percent of the nation’s population – live or work within fifty miles of Indian Point.
- **Susceptibility to a terrorist attack and other security risks:** The 9/11 Commission reported that al-Qaeda terrorists had specifically contemplated attacking nuclear power plants with aircraft, and two of the planes hijacked on September 11, 2001 flew near or over Indian Point. The NRC refuses to require Entergy to safeguard Indian Point against terrorist attacks from the air.
- **Vulnerability to geographic and seismic issues:** In July 2007, an earthquake in Japan forced the emergency shutdown of the world’s largest nuclear plant and resulted in the release of radioactive material into the air and water. Indian Point is located near a fault line in New York State and it was not designed to withstand the seismic forces that the U.S. Geological Survey says are possible within the surrounding region.
- **Lack of acceptable emergency warning system or evacuation plan:** 2006 marked the fourth straight year that Westchester, Rockland, and Orange Counties refused to certify county-based evacuation plans prepared by Entergy, in large part because safe evacuation of the area has been found to be highly unlikely, if not impossible.
- **Indian Point is aging:** After forty years of operation, Indian Point’s structures are aging. Malfunctioning electrical wires and transformers pose a risk to fire safety. The containment structure and reactor components have weakened over time, increasing the risk of a radioactive leak.  
Connecticut Attorney General Richard Blumenthal has also petitioned the NRC and requested a hearing.

Indian Point has a long history of safety incidents due to human error and equipment failure. Leaks of tritium and strontium-90 have seeped into the groundwater underneath the plant and there is evidence they have reached the Hudson River. In addition, the facility stores radioactive materials on-site because there is no long-term depository for high level nuclear waste.

The NRC process for renewing licenses has also been called into question. A report by the Inspector General for the NRC from September 6, 2007 states that, “Licensing reporting efforts need improvements,” and “those who read reports could conclude that regulatory decisions are not adequately reviewed and documented.” It also states that, “Licensees could enter into the extended period of operation without being in full compliance with license renewal terms.”

County Executive Andy Spano said: “I applaud Governor Spitzer and Attorney General Cuomo for taking the lead in opposing the relicensing of Indian Point and continuing to fight its continued operation. This is not only my position, but the position of our Board of Legislators which passed a resolution to that effect back in 2003. The efforts to intervene in this highly complex and time-consuming process are simply Herculean. We are proud to be standing together as we move ahead in this long process to protect the residents of Westchester County.”

U.S. Representative Nita Lowey said: “People of New York deserve to be safe, secure and assured that the federal government is holding Entergy accountable for its negligence through the relicensing process. Right now they have little reason to believe that is the case. I commend Governor Spitzer and Attorney General Cuomo for his efforts and we will all continue our work to ensure that Indian Point is being managed effectively.”

U.S. Representative Eliot Engel said: “It is unbelievable that the threats of terrorism would not be taken into consideration when relicensing a nuclear power plant in the most densely populated and economically vital area of the country. By ignoring Entergy’s track record of poor safety, its failure to

meet deadlines for siren systems, the lack of a credible evacuation plan, and the constant leaks of harmful chemicals, the Nuclear Regulatory Commission is seriously jeopardizing the safety of our environment and our loved ones. As the first Congress member to call for the closing of Indian Point, I strongly support Governor Spitzer and Attorney General Cuomo's decision to pursue legal action against the NRC, which is willfully disregarding its responsibilities to the plant workers, the millions of people who live in the affected area, and to our country."

U.S. Representative John Hall, who represents the town in which Indian Point is located, said: "Indian Point is everything a nuclear power plant shouldn't be - it has a history of operating problems, it has been leaking tritium and cancer-causing strontium-90 for several years, and it is located in the most densely populated region of the United States. Today's announcement underscores that our local, state and federal representatives are united in their determination not to let these or any other unsafe nuclear power plants in our state get a new 20-year lease on life from the NRC."

Alex Matthiessen, President of Riverkeeper, said: "With an evacuation plan declared 'unworkable and unfixable', inadequate protections against a terrorist attack, and an abysmal safety record, Indian Point poses an incalculable risk to public health and safety. With radiation leaking into the Hudson and outdated technology that kills over a billion fish each year, Indian Point is also a menace to our natural environment. Extending the operating license for this poorly regulated and accident-prone plant for another 20 years is simply unacceptable. We applaud Governor Spitzer and Attorney General Cuomo for committing the State of New York to a showdown with the NRC and Entergy on this critical issue."

Jason K. Babbie, Senior Environmental Policy Analyst for the New York Public Interest Research Group said: "Now the full weight of New York State will be rightfully telling the federal government to reject Entergy's Indian Point relicensing application. We don't need Indian Point's power and won't accept the risks from its continued operation. We applaud Attorney General Cuomo and Commissioner Grannis for their continued efforts protecting New Yorkers from this unnecessary public safety hazard."

Manna Jo Greene, Environmental Director of Hudson River Sloop Clearwater, said: "Clearwater applauds both Governor Spitzer and Attorney General Cuomo for taking action to deny Indian Point a new license. When they were first proposed, Clearwater strenuously opposed the construction of Indian Point Units 2 & 3 because they are located so close to such a densely populated region, less than 35 miles from midtown Manhattan. The virtual impossibility of evacuating the region in an emergency and Indian Point's history of serious problems -- including a steam boiler rupture, increasing leaks, blocked intake valves, transformer fire and failed siren systems -- are indications of a deteriorating facility that is unsafe to operate. With cleaner, safer more sustainable sources, including renewables and energy efficiency, readily available to replace the power from Indian Point, why continue to play Russian roulette with our future? Indian Point needs to be closed."

A three-member panel of administrative law judges referred to as the Atomic Safety Licensing Board is expected to decide in March 2008 on whether to grant or deny the petition for intervention submitted today by the Governor and the Attorney General.

The NRC was created by Congress in 1974 to regulate commercial nuclear power plants and other nuclear materials. Federal law allows the NRC to issue 40-year operating licenses for commercial power reactors, and NRC regulations allow reactors to apply for license renewals for additional 20-year periods. The NRC is led by five commissioners who are appointed by the President and confirmed by

the U.S. Senate for five-year terms.

Entergy's initial 40-year operating licenses for its two reactors, Reactor Unit 2 and Reactor Unit 3, expire in 2013 and 2015, respectively. On April 30, 2007, Entergy applied to the NRC for a 20-year license extension for its operating reactors. On August 1, 2007, the NRC began reviewing its application. Any final decision by the NRC regarding the relicensing of the Indian Point facility is reviewable by the federal Court of Appeals.

NRC's current relicensing regulations were developed in 1991 and 1995, when the NRC concluded that limiting the scope of its inquiry would make the relicensing process "more stable and predictable" for the licensees. These regulations seek to significantly limit the range of issues considered during a license renewal proceeding. Under these regulations, the NRC has granted approximately 49 licenses renewals, and it has yet to deny one.

#### Legal Background:

The petition for intervention is the latest in a series of actions taken to force the NRC to responsibly consider issues of safety at nuclear power plants, especially at Indian Point:

- On November 15, 2007, Attorney General Cuomo and the Attorneys General of five other states submitted a letter to the NRC expressing serious concerns about the NRC's continued disregard of critical safety issues during its relicensing process.
- On July 10, 2007, Attorney General Cuomo filed an amicus curiae brief in support of a challenge to the NRC originally brought by Westchester County Executive Andrew Spano and two New Jersey environmental groups. The petitioners seek to compel the NRC to evaluate all aspects that affect a nuclear power plant's safety before renewing a license. The case in which Attorney General Cuomo filed the brief is *Andrew Spano et al. v. U.S. Nuclear Regulatory Commission*. It is currently pending before the United States Court of Appeals for the Second Circuit.
- On May 14, 2007, Attorney General Cuomo filed a lawsuit against the NRC for its decision to exclude air attacks from a new regulation defining the types of threats that nuclear facilities must be designed to withstand. The NRC's exemption of air attack defenses contradicts its decision to require nuclear power plant owners to address water-borne, land-based, and cyber attacks. The lawsuit seeks to force the NRC to address the matter of air attacks in its regulation and is currently pending before the United States Court of Appeals for the Ninth Circuit.

To view a copy of the petition, please visit: <http://www.oag.state.ny.us> or <http://www.dec.ny.gov> .