

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 07/31/08
SERVED 07/31/08

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Kaye D. Lathrop
Dr. Richard E. Wardwell

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.

(Indian Point Nuclear Generating
Units 2 and 3)

Docket Nos. 50-247-LR and 50-286-LR

ASLBP No. 07-858-03-LR-BD01

July 31, 2008

ORDER

(Striking WestCAN's Request for Hearing)

Introduction

Westchester Citizen's Awareness Network, Rockland County Conservation Association, Public Health and Sustainable Energy, Sierra Club - Atlantic Chapter, and Richard L. Brodsky (collectively, "WestCAN") filed a Petition for Leave to Intervene and Request for Hearing on December 10, 2007.¹ Since then, the level of candor displayed by WestCAN during the preliminary stages of this proceeding has been far below what is expected and required. Indeed, as explained below, WestCAN has repeatedly misrepresented facts in pleadings filed with this Board.

Having made that finding, we conclude that because of WestCAN's appalling lack of candor, it would be impossible for the Board to meet its responsibilities under 10 C.F.R. § 2.319 to conduct a fair, orderly, and efficient adjudicative hearing with WestCAN as a participant. Accordingly, we strike WestCAN's Request for Hearing.

¹ WestCAN Petition for Leave to Intervene with Contentions and Request for Hearing [hereinafter WestCAN Petition] (Dec. 10, 2007).

Background and Relevant Facts

Commission regulations, 10 C.F.R. § 2.302(b), require that all documents offered for filing in our proceedings be accompanied by an accurate certificate of service. Nevertheless, the accuracy of certificates of service and the submission of multiple, non-identical copies of pleadings has been a recurring problem in this proceeding. As a result, the Board has issued several Orders reminding all participants of what was required of them in this regard, explaining in detail why these requirements were necessary, and warning of the consequences if they failed to comply.

More specifically, the Board repeatedly warned litigants that service must be properly made, and that certificates of service must be accurate and complete, including the identity of the persons served, the address to which the filing was sent, the method of service, and the signature (in writing or electronic) of the person who has certified that service has been made as specified on the certificate. This Board repeatedly stated that the parties to this litigation must not be left uncertain regarding to whom, and when, pleadings have been provided.²

Moreover, on February 1, 2008, in an Order directed to WestCAN the Board stated:

[P]roper filing and service of documents is essential in a complex proceeding such as this [and that] inconsistent, incomplete, and confusing filings [] place an enormous burden on the Board, other litigants, and even members of the Petitioners' organizations who wish to follow the case. [Accordingly], it is unfair to all current and potential parties in this litigation, and it detracts

² See, *inter alia*, Licensing Board Memorandum and Order (Administrative Matters and Directing Parties Attention to Requirements for Proper Service) (Oct. 29, 2007) (unpublished); Licensing Board Order (Authorizing FUSE to Submit a Section 2.335 Petition) (Nov. 21, 2007) (unpublished); Licensing Board Order (Denying an Extension of Time Within Which To File Requests For Hearing) (Nov. 27, 2007) (unpublished); Licensing Board Order (Granting an Extension of Time To Clearwater Within Which To File Requests For Hearing) (Nov. 27, 2007) (unpublished); Licensing Board Memorandum and Order (Denying Entergy's Motion to Strike But *Sua Sponte* Striking FUSE's Multiple Requests For Hearing) (Nov. 28, 2007) (unpublished); Licensing Board Order (Denying an Extension of Time Within Which To File Requests For Hearing) (Nov. 28, 2007) (unpublished); Licensing Board Order (Granting An Extension Of Time Within Which To File Requests For Hearing) (Nov. 29, 2007) (unpublished); Licensing Board Order (Censure of Sherwood Martinelli) (Dec. 3, 2007) (unpublished).

from the Board's ability to give proper consideration to the substance of the [pleading].³

Immediately thereafter, also on February 1, 2008, having repeatedly explained to the participants in this litigation the need for certificates of service to be accurate and complete, we dismissed Friends United for Sustainable Energy (FUSE) from this litigation because, *inter alia*, it had filed an inaccurate certificate of service.⁴ With the WestCAN warning and the FUSE dismissal freshly in the record, it is astonishing that the attorneys representing WestCAN would submit a false certificate of service. But, they did.

WestCAN submitted a Reply to the Answers to WestCAN's Petition that had been submitted by the Applicant and the NRC Staff.⁵ This pleading had originally been due on February 1, 2008, but WestCAN requested and was granted an extension of time until February 15, 2008, within which to file its Reply.⁶ If WestCAN had been unable to meet that revised deadline it could have: (1) requested another extension; (2) filed the unfinished/unedited pleading as it existed when the deadline arrived and sought leave to substitute a completed/polished draft at some future date; (3) filed the pleading after the deadline accompanied by a motion explaining the reasons why the pleading was late and requesting that the Board consider it; or (4) not filed this optional pleading. Any of these options would have been a legitimate course.

³ Licensing Board Order (Concerning Certain Exhibits Submitted by WestCAN) at 2 (Feb. 1, 2008).

⁴ See Licensing Board Order (Granting the NRC Staff's Motion to Strike FUSE's Superseding Request For Hearing) (Feb. 1, 2008) (unpublished).

⁵ Reply of Petitioners' Westchester Citizen's Awareness Network (WestCAN), Rockland County Conservation Association, Inc. (RCCA), Public Health and Sustainable Energy (PHASE), Sierra Club - Atlantic Chapter (Sierra Club), and Richard Brodsky (Feb. 15, 2008) [hereinafter WestCAN February 15th Reply].

⁶ Licensing Board Order (Granting Extension of Time to File a Reply) (Feb. 1, 2008).

WestCAN did not, however, choose these, or some other legitimate course. Instead, although WestCAN did not complete work on its Reply until after the deadline had passed, it submitted the pleading accompanied by a certificate of service that falsely represented that the Reply had been submitted on time. Thereafter, when repeatedly asked by the Board for an explanation of its inaccurate certificate of service,⁷ rather than providing an honest explanation, WestCAN continued to misrepresent what it had done and attempted to obfuscate the record.

Accompanying WestCAN's February 15th Reply was a certificate of service, signed by one of the attorneys representing WestCAN, which stated that the Reply had been served on, inter alios, the three members of the Board assigned to adjudicate this case, the Board's Law Clerk, and the NRC Staff on February 15, 2008, by electronic mail. As will be discussed below, the certificate of service was materially false.⁸

On February 27, 2008, WestCAN again submitted a certificate of service for its February 15th Reply. This certificate of service was different from the certificate that had accompanied the earlier submission of this pleading in that it stated that, in addition to service on the Board by electronic mail, the Reply had also been served "on the following addresses provided below, this 15th day of February 2008 by DHL courier service" (emphasis added).⁹ Unlike the earlier certificate this document represented that service had been made on the Board Members via

⁷ See Licensing Board Order (Relating to the Service and Content of WestCAN's Reply Dated February 15, 2008) (Mar. 7, 2008) (unpublished) [hereinafter First Order – March 7th]; Licensing Board Order (Second Order Relating to the Service and Content of WestCAN's Reply Dated February 15, 2008) (Mar. 24, 2008) (unpublished) [hereinafter Second Order – March 24th]; Licensing Board Order (Third Order Relating to the Service and Content of WestCAN's Reply Dated Feb.15, 2008) (unpublished) (Apr. 1, 2008) [hereinafter Third Order – April 1st].

⁸ WestCAN's February 15th Reply was not served on the Board Members, or its Law Clerk, either electronically, or by DHL overnight express, on February 15, 2008.

⁹ WestCAN Revised Certificate of Service (Feb. 27, 2008). We note that the addresses listed included separate entries for each of the three Administrative Judges and the Board's Law Clerk, including the address in Colorado for Judge Lathrop.

“DHL courier service.” However, the Board Members and our Law Clerk had not received this pleading either electronically or via DHL. Once again WestCAN had misrepresented how service had been made.¹⁰

The Board then questioned the accuracy of WestCAN’s certificates of service and directed that an explanation be provided.¹¹ On March 7, 2008, WestCAN submitted a document identified as the “Second Revised Certificate of Service,”¹² which was the third non-identical certificate of service submitted by WestCAN for its February 15th Reply. In this document, WestCAN certified that its Reply had been served on, inter alios, each of the three members of the ASLBP Board assigned to adjudicate this case, the Board’s Law Clerk, and the NRC Staff on February 15, 2008, via DHL overnight express. Unlike the earlier Revised Certificate of Service, this document did not represent that WestCAN’s February 15th Reply had been served electronically on any of the Board’s Members or the Board’s Law Clerk. WestCAN’s Second Revised Certificate of Service was also materially false.¹³ At this point, WestCAN had submitted three different versions of the certificate of service for its February 15th Reply, none of which was accurate.¹⁴

Although we directed WestCAN to answer specific questions, and to provide tracking

¹⁰ See Petitioners’ WestCAN et al. Reply to the Atomic Safety and Licensing Board Order of March 7, 2008, Exh. E, (March 21, 2008) [hereinafter WestCAN March 21st Reply].

¹¹ First Order – March 7th.

¹² WestCAN Second Revised Certificate of Service (Mar. 7, 2008). Although we had directed WestCAN to answer specific questions and to provide tracking documents from the overnight courier service (First Order – March 7th at 6), this document was submitted without any explanation and without the documentation that the Board had directed WestCAN to provide.

¹³ Contrary to this revised certification, WestCAN’s February 15th Reply was not served on the Board Members, or its Law Clerk, by DHL overnight express on February 15, 2008.

¹⁴ At this point, the Board had been served a copy of WestCAN’s February 15th Reply only via Federal Express which was received on February 21, 2008.

documents from the overnight courier service that was used to perfect service,¹⁵ the Second Revised Certificate of Service was submitted without accompaniment or explanation.¹⁶ This submission did not provide any reason why WestCAN's February 15th Reply had originally been submitted with a certificate of service that did not accurately describe how the pleading was served, and this submission did not include tracking documents that would show when the documents were received by the overnight courier service.¹⁷

On March 12, 2008, WestCAN submitted an additional pleading.¹⁸ Although the cover letter accompanying this pleading stated that it was "not made in place of or in reference to the [] Board Order issued March 7, 2008," it did address issues raised in that March 7th Order. Specifically, it stated that "[a] revised Certificate of Service was filed because the February 15, 2008 Certificate was rendered incorrect due to Petitioners inability to electronically submit the document on the 15th of February 2008."¹⁹ In addition, enclosed with this pleading as Exhibit A were copies of what appeared to be receipts for the shipment of documents by WestCAN to the NRC Office of the Secretary, NRC Staff Counsel, and Entergy's Counsel. These receipts were not tracking documents, did not show when the packages were received by DHL, and did not

¹⁵ First Order – March 7th at 6.

¹⁶ The submission of this document may have been in response to the NRC Staff Answer to Entergy's Motion to Strike (Mar. 3, 2008). However, given that WestCAN offered no explanation for the submission of this document, their motivation is unknown.

¹⁷ We note that the DHL tracking documents appear to have been available for submission had WestCAN desired to do so. Entergy Nuclear Operations, Inc. ("Entergy") filed a pleading (Entergy Motion to Strike WestCAN's Reply (Feb. 22, 2008)), in which it represented that WestCAN's Feb 15th Reply had been deposited with DHL at 6:53 pm on Monday, February 18, 2008, citing DHL tracking Document 53769121442. Although directed to do so in three separate orders from this Board, WestCAN did not produce DHL tracking documents to contradict this claim or explain why it could not secure such documentation.

¹⁸ Reply to NRC Answer to Entergy's Motion to Strike the Reply Brief of Petitioners' [WestCAN] (Mar. 12, 2008).

¹⁹ Id. at 11.

reference a shipment of any documents to any member of the Board or to our Law Clerk.

On March 21, 2008, WestCAN submitted another pleading that discussed the service of its February 15 Reply.²⁰ This document began by stating that “[p]etitioners submit this reply in response to the Motion to Strike submitted by Entergy . . . on February 22, 2008.”²¹ In that pleading WestCAN stated that: “[p]etitioners placed its Reply Brief with Exhibits in a DHL box on Friday, February 15, 2008.”²² This was yet another false statement.

Having previously ordered WestCAN to provide the tracking documents that would verify that they had made service as represented in the Second Revised Certificate of Service, and not having received either copies of those documents or an explanation regarding why they could not be produced, we again directed WestCAN to produce the tracking documents and to explain why these documents were not provided in response to the Board’s March 7th Order.²³

WestCAN once again ignored the Board’s directive, submitting a response on March 25, 2008, that provided neither copies of the tracking documents nor an explanation of why the DHL tracking documents had not been provided in response to our March 7th Order.²⁴

We then issued yet another Order directing WestCAN to, inter alia, provide copies of “DHL tracking documents relating to the submission to the Board of WestCAN’s February 15 Reply.”²⁵ To avoid any claim of confusion, we went on to describe the tracking documents as “those documents generated by DHL which reflect when the packages containing WestCAN’s

²⁰ WestCAN March 21st Reply.

²¹ WestCAN March 21st Reply at 1.

²² WestCAN March 21st Reply at 2.

²³ Second Order – March 24th at 2.

²⁴ Petitioners’ WestCAN et al. Reply to the Atomic Safety and Licensing Board Order of March 24, 2008 (Mar. 25, 2008) [hereinafter WestCAN March 25th Reply].

²⁵ Third Order – April 1st at 6 (emphasis in original).

pleadings that were addressed to the Board and/or the Board's Law Clerk, were received by the courier service, and the disposition of those packages, specifically to whom and when they were delivered."²⁶ We also directed WestCAN to "submit an explanation for the discrepancies in the three different certificates of service that were represented as accurately describing the manner by which" WestCAN's February 15th Reply had been submitted to the Board.²⁷

WestCAN responded on April 7, 2008.²⁸ In this pleading WestCAN stated that: "WestCAN's [February 15th] Reply was perfected by service of the original and two paper copies to the Office of the Secretary of the Commission which was deposited in the DHL courier box on February 15th. The receipt is attached as Exhibit A."²⁹ The receipts enclosed as Exhibit A were not the tracking documents that the Board directed WestCAN to produce, did not indicate when the documents were received by DHL, and did not reflect service on the Board.

Later in their April 7th Reply, WestCAN stated that it was their understanding that service on the Board was accomplished by serving the Office of the Secretary of the Commission.³⁰ Although each of the three non-identical certificates of service previously submitted by WestCAN listed the names and addresses of the three Administrative Judges and the Board's Law Clerk as persons upon whom service had been made, WestCAN now asserted that we had not been served because WestCAN did not believe that such service was necessary.

While we find this statement to be implausible, even if true it does not explain why, if

²⁶ Id.

²⁷ Id.

²⁸ Petitioners' WestCAN et al. Reply to the Atomic Safety and Licensing Board Order of April 1, 2008 and Motion for Revision of Certificate of Service (April 7, 2008) [hereinafter WestCAN April 7th Reply].

²⁹ Id. at 2.

³⁰ Id. at 3.

WestCAN believed that the Board members need not be served, each of the three certificates of service reflected that they had in fact been served. Again, the issue here is not whether service was properly made but rather whether, after several warnings regarding the need for accuracy in certificates of service, WestCAN misrepresented what had been done.³¹

In addition to our questions regarding the certificate of service, in the Board's March 7th order, we directed WestCAN to provide:

A brief statement explaining the differences, if any, between the version of the WestCAN's Reply that was sent to Staff Counsel at 12:00 am, February 16, 2008, and the version of the WestCAN's Reply that was sent to the NRC Hearing Docket at 12:53 am, and/or between the version of WestCAN's Reply that was sent to the Board via Federal Express on February 20, 2008. If there were differences, an explanation of what those differences were, what caused or otherwise led to the transmission of nonidentical versions of the Reply, and an explanation of how and when WestCAN learned that nonidentical versions of its Reply had been sent to participants in this litigation, and what action WestCAN took to notify the recipients of the discrepancies.³²

From WestCAN's responses, we were able to determine what had actually occurred, as opposed to what WestCAN repeatedly certified had occurred.

The Board received WestCAN's March 21st Reply via electronic mail. That submission

³¹ WestCAN explains that they drew the conclusion that service need not be made on the Board Members from an Order we issued on February 1, 2008. Licensing Board Order (Concerning Certain Exhibits Submitted by WestCAN and Associated Petitioners) (Feb. 1, 2008) (unpublished). In that Order we noted that "[d]ocuments may be served on the Board and the Parties in hard copy, on CD-ROM, or as files attached to e-mail messages." *Id.* at 3. We offered the litigants in this proceeding three alternatives for serving the Board and the Parties. No honest reading of our February 1st Order could lead to the conclusion that service of pleadings on the Board and the Parties was optional. It is impossible to credit that WestCAN's counsel honestly drew their stated conclusion from this language. The credibility of this claim is further undercut by the fact that it was first articulated by WestCAN eight weeks after the February 15th Reply was submitted and in response to the third Board Order requesting an explanation of how service of that pleading was perfected. In addition, as noted above, the addresses listed on the certificates of service included separate entries for each of the three Administrative Judges and the Board's Law Clerk, including the address in Colorado for Judge Lathrop. The certificate did not just include a single address for the Secretary of the Commission.

³² First Order – March 7th at 6.

contained a table of contents that listed as Exhibit F the following: “Redline version of WestCAN’s Reply Brief and Exhibits highlighting the differences between the 12:00 a.m. compared to the 12.53 a.m., paper copy, and CD-ROM submissions.”³³ Although the exhibit was listed in the Table of Contents, the Board did not receive a copy of WestCAN’s Exhibit F on March 21, 2008. Thereafter, on March 24, the Board received a second submission of WestCAN’s March 21st Reply. This submission enclosed 2 copies of a document identified as WestCAN Exhibit F, Part 1. The first of these 2 attachments was identified as “3.21.08 Exhibit F Part 1 REDLINED OCUMENT.pdf” and consisted of 556 KB. The second of these two attachments was identified as “3.21.08_ Exhibit F Part 1_REDLINED WestCAN_ Reply_ Brief_Final.pdf” and consisted of 477 KB. When opened, neither document, as received by the Board, was in fact a redlined document, and WestCAN offered no meaningful explanation of why two non-identical, somewhat differently paginated versions of Exhibit F, Part 1, were enclosed with the submission, how they were different, and which, if either, was intended to be an operative part of their Reply.

Also, as part of WestCAN’s March 21st Reply the Board received an attachment that was identified as “3.21.08 Exhibit F Part 2 WORD DOCUMENT.pdf” which consisted of unnumbered pages that apparently were being represented as being excerpts from a Word Document transmitted to the NRC Staff at midnight on February 15, 2008.³⁴ Various portions of the text of WestCAN Exhibit F, Part 2 were highlighted in yellow. An inadequate explanation of Exhibit F, Part 2 was made by WestCAN. The Board, and the parties to this litigation, were left to make what we could from these documents without meaningful guidance from WestCAN.

Upon review, the Board concludes that the highlighted portions of Exhibit F, Part 2

³³ WestCAN March 21st Reply, Table of Contents.

³⁴ The heading only states: “WORD DOCUMENT 12:00AM Submission.”

identify editorial changes between the two versions of Exhibit F, Part 1. Using Exhibit F, Part 2, the Board determined that specific portions of the text contained in the 556 KB version of Exhibit F, Part 1 that had been sent electronically to the NRC Staff on February 25, 2008, were deleted from the 477 KB version. In addition, several exhibit numbers were changed between the two versions, language placed in footnotes in the 556 KB version was placed in the text in the 477 KB version, formatting changes were made between the two versions, and changes in the language used appear.

From the Board's review of these documents, we conclude that WestCAN electronically submitted a version of their reply to the NRC Staff Counsel at midnight on February 15, 2008 (Exhibit F, Part 1 – 556 KB version), that editorial changes were made in the version of the Reply that had been sent to the NRC Staff, and a revised version of the pleading was sent by e-mail to other participants in this litigation on February 16, 2008 (Exhibit F, Part 1 – 477 KB version).³⁵

The paper copies of WestCAN's February 15th Reply that were received by the Office of the Secretary on February 19, 2008, via DHL, and the copies of that pleading that were received by the Board and our Law Clerk via Federal Express on February 21, 2008, were consistent with the February 16, 2008, electronic version.

It is clear from our review that the differences between the two versions of WestCAN's February 15th Reply were the result of intentional editing and could not have been, as WestCAN represented, the result of an electronic error in transmission. After the 556 KB version was sent electronically at midnight on February 15, 2008, the document was edited. Thereafter, it was the edited version that was sent via DHL to the Secretary of the Commission and later, via Federal Express, to the Board.

³⁵ As a result, Counsel for the NRC Staff was left to craft a response to a pleading that misidentified numerous exhibits.

Since the editing was not completed until February 16, 2008, the edited version could not have been deposited with DHL on February 15, 2008. However, it is not the initial inaccuracy in WestCAN's certificate of service that is the basis for the action we take today. Rather, it is the lack of candor and integrity WestCAN demonstrated by submitting false and misleading information in response to the Board's three orders which attempted unsuccessfully to get a clear, honest explanation of how WestCAN's February 15th Reply was served.

The repeated certification by WestCAN that this pleading was submitted on the date that it was due, February 15, 2008, was false. The explanation of how the February 15th Reply had been served that was offered by WestCAN in its April 7th Reply was false. To allow the continuation of such mendacity would be inimical to the conduct of a fair, orderly, and efficient proceeding.

Conclusion

The matters presented in this proceeding are too important to have the time and attention of the Board and the parties wasted by WestCAN's unwillingness to consistently deal in a forthright manner. We cannot conduct a fair, orderly, and efficient proceeding if we can not rely on the integrity of the parties, and WestCAN has repeatedly demonstrated that we can not rely on their attorneys to be credible in their dealings with the Board and the parties. Accordingly, in the interest of conducting a fair, orderly and efficient proceeding, we strike WestCAN's Request for Hearing.³⁶

³⁶ See 10 C.F.R. § 2.319(g) and (q).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247/286-LR
)
)
(Indian Point Nuclear Generating Station,)
Units 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (STRIKING WESTCAN'S REQUEST FOR HEARING AND DISMISSING WESTCAN FROM THIS PROCEEDING) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Kaye D. Lathrop
190 Cedar Lane E.
Ridgway, CO 81432

Sherwin E. Turk, Esq.
Beth N. Mizuno, Esq.
David E. Roth, Esq.
Jessica A. Bielecki, Esq.
Marcia J. Simon, Esq.
Karl Farrar, Esq.
Brian Newell, Paralegal
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Arthur J. Kremer, Chairman
New York AREA
347 Fifth Avenue, Suite 508
New York, NY 10016

Docket Nos. 50-247/286-LR
LB ORDER (STRIKING WESTCAN'S REQUEST FOR HEARING AND DISMISSING
WESTCAN FROM THIS PROCEEDING)

Michael J. Delaney, Vice President - Energy
New York City
Economic Development Corporation
110 William Street
New York, NY 10038

Robert D. Snook, Esq.
Assistant Attorney General
of the State of Connecticut
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Martin J. O'Neill, Esq.
Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Mauri T. Lemoncelli, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Thomas F. Wood, Esq.
Daniel Riesel, Esq.
Counsel for the Town of Cortlandt
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022

Daniel E. O'Neill, Mayor
Village of Buchanan
James Seirmarc, M.S., Liaison to Indian Point
236 Tate Avenue
Buchanan, NY 10511

Nancy Burton
Connecticut Residents Opposed to
Relicensing (CROIP)
147 Cross Highway
Redding Ridge, CT 06876

Charlene M. Indelicato, Esq.
Westchester County Attorney
Justin D. Pruyne, Esq.
Assistant County Attorney
148 Martine Avenue, 6th Floor
White Plains, NY 10601

Janice A. Dean, Assistant Attorney General
Office of the Attorney General
of the State of New York
120 Broadway, 26th Floor
New York, NY 10271

Andrew M. Cuomo, Esq.
Attorney General of the State of New York
John J. Sipos, Esq.
Assistant Attorney General
The Capitol
Albany, NY 12224-0341

Joan Leary Matthews, Esq.
Senior Counsel for Special Projects
Office of General Counsel
New York State Department of
Environmental Conservation
625 Broadway
Albany, NY 12224

Docket Nos. 50-247/286-LR
LB ORDER (STRIKING WESTCAN'S REQUEST FOR HEARING AND DISMISSING
WESTCAN FROM THIS PROCEEDING)

FUSE USA
Heather Ellsworth Burns-DeMelo
John LeKay
Remy Chevalier
Belinda J. Jaques
Bill Thomas
351 Dyckman Street
Peekskill, New York 10566

Elise N. Zoli, Esq.
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, MA 02109

Diane Curran, Esq.
Counsel for Riverkeeper, Inc.
Harmon, Curran, Spielberg,
& Eisenberg, LLP
1726 M. Street NW, Suite 600
Washington, DC 20036

Riverkeeper, Inc.
Phillip Musegaas, Esq.
Victor Tafur, Esq.
828 South Broadway
Tarrytown, NY 10591

Westchester Citizen's Awareness Network
(WestCan), Citizens Awareness Network
(CAN), etc.

Mylan L. Denerstein
Executive Deputy Attorney General
Social Justice
Office of the Attorney General
of the State of New York
120 Broadway, 25th Floor
New York, NY 10271

Susan H. Shapiro, Esq.
21 Perlman Drive
Spring Valley, NY 10977

Richard L. Brodsky
Assemblyman
5 West Main Street
Suite 205
Elmsford, NY 10523

Sarah L. Wagner, Esq.
Legislative Office Building, Room 422
Albany, NY 12248

Docket Nos. 50-247/286-LR
LB ORDER (STRIKING WESTCAN'S REQUEST FOR HEARING AND DISMISSING
WESTCAN FROM THIS PROCEEDING)

Manna Jo Greene, Director
Hudson River Sloop Clearwater, Inc.
112 Little Market St.
Poughkeepsie, NY 12601

Stephen C. Filler, Board Member
Hudson River Sloop Clearwater, Inc.
303 South Broadway, Suite 222
Tarrytown, NY 10591

[Original signed by Christine M. Pierpoint]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 31st day of July 2008