

DOCKETED  
USNRC

March 19, 2009 (8:00am)

March 18, 2009

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

\_\_\_\_\_)  
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

**RIVERKEEPER, INC.'S PRESERVATION OF RIGHT TO AMEND  
CONTENTION TC-2 – FLOW ACCELERATED CORROSION BASED  
UPON NRC STAFF'S SAFETY EVALUATION REPORT WITH OPEN ITEMS**

Riverkeeper, Inc.'s ("Riverkeeper") Contention TC-2 alleges deficiencies in Entergy Nuclear Operations, Inc.'s ("Entergy") program for management of flow accelerated corrosion ("FAC").<sup>1</sup> In particular, Riverkeeper criticized Entergy's reliance on the CHECWORKS computer code and Entergy's failure to specify the method and frequency of component inspection or criteria for component repair or replacement.<sup>2</sup> Riverkeeper emphasized the fact that Entergy's License Renewal Application ("LRA") merely identified components susceptible to FAC and then made vague statements about the program to manage the effects of this aging phenomenon.<sup>3</sup>

The Atomic Safety and Licensing Board ("ASLB") admitted Riverkeeper Contention TC-2 on July 31, 2008, finding, *inter alia*, a genuine dispute regarding a material issue since, although Entergy alleged to have a FAC program consistent with NUREG-1801, Generic Aging

<sup>1</sup> See Riverkeeper, Inc.'s Request for Hearing and Petition to Intervene in Indian Point License Renewal Proceeding, November 30, 2007 (hereinafter "Riverkeeper's Petition"), at 15-23.

<sup>2</sup> See *id.* at 19-23.

<sup>3</sup> See *id.* at 19, 23; see also LRA, Appendix A at A-24, Appendix B at B-54 (briefly explaining Entergy's FAC program as an existing program to certain steel components carrying certain fluids which involves (a) evaluation to determine critical locations, (b) initial inspections to determine extent of thinning, and (c) follow-up inspections to confirm predictions, or repair or replace components as necessary).

Lessons Learned (“GALL Report”), it did not state where in its LRA it discussed the details of the aging management program elements for FAC, “e.g., the parameters to be monitored or inspected, detection method for aging effects, trending, acceptance criteria, corrective actions, etc.”<sup>4</sup>

In January 2009, the U.S. Nuclear Regulatory Commission Staff (“NRC Staff”) issued its Safety Evaluation Report with Open Items (“SER”).<sup>5</sup> On February 12, 2009, the ASLB granted a joint motion filed by intervenor’s for a date certain by which to file new or amended contentions related to the SER and related Audit Report,<sup>6</sup> deeming such contentions timely if filed on or before March 18, 2009.<sup>7</sup> Generally, amending an existing contention is appropriate when new/materially different information arises.<sup>8</sup>

In the SER, the NRC Staff discusses its review of Entergy’s FAC program.<sup>9</sup> The SER and Audit Report indicate that the NRC Staff made various requests for clarifications of Entergy’s FAC program, to which Entergy obliged, offering explanations, although Entergy never made new commitments beyond those articulated in the original LRA.<sup>10</sup> In addition to requesting clarifications from Entergy, the NRC Staff also audited various onsite “basis documents.”<sup>11</sup> Based on this information, the NRC Staff assessed the acceptability of Entergy’s FAC program.

---

<sup>4</sup> See *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-08-13, 68 NRC \_\_\_ (slip op. July 31, 2008), at 167-68.

<sup>5</sup> Safety Evaluation Report With Open Items Related to the License Renewal of Indian Point Nuclear Generating Unit Nos. 2 and 3, Docket Nos. 50-247 and 50-286 (Jan. 2009).

<sup>6</sup> Audit Report for Plant Aging Management Programs and Reviews, Indian Point Nuclear Generating Unit Nos. 2 and 3, Docket Nos. 50-247 and 50-286 (“Audit Report”).

<sup>7</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), ASLBP No. 07-858-03-LR-BD01 (Granting Petitioners’ Joint Motion for an Extension of Time) (Feb. 12, 2009).

<sup>8</sup> See 10 C.F.R. § 2.309(f)(2)(i)-(iii).

<sup>9</sup> SER at 3-18 to 3-28; Audit Report at 13-23.

<sup>10</sup> SER at 3-18 to 3-28; Audit Report at 13-23; see also Reply to Request for Additional Information Regarding License Renewal Application (Steam Generator Tube Integrity and Chemistry), NL-08-004 (Jan. 4, 2008), at 1, Attachment I, pages 2-3

<sup>11</sup> SER at 3-19; Audit Report at 13.

By reviewing onsite documents, the NRC Staff was able to delve into details of Entergy's FAC program beyond those provided in the LRA, and was, thus, able to make judgments about the particulars of Entergy's program.<sup>12</sup> However, because these documents have not yet been made available, Riverkeeper is not in a position to assess this apparently more detailed information about Entergy's FAC program as it bears upon Contention TC-2. Riverkeeper has specifically requested the documents reviewed by the NRC Staff's onsite audit team so that we may do so. A copy of Riverkeeper's document request is attached hereto as Exhibit "A." Based on our review of the SER and Audit report alone, there is no "new" or "materially different" information warranting an amendment to Riverkeeper's existing contention at this time.

However, in an abundance of caution, Riverkeeper respectfully requests that the ASLB recognize Riverkeeper's right to amend Contention TC-2 once it has had a chance to review the aforementioned documents.

---

<sup>12</sup> SER at 3-18 to 3-28; Audit Report at 13-23. For example, the NRC Staff indicates that Entergy's FAC program includes applicable acceptance criteria for evaluating in-scope components and applicable corrective actions (repair, replacement, or re-evaluation) for components projected to exhibit unacceptable FAC-induced wall thinning, although does not discuss specifics. *See* SER at 3-18 to 3-28.

Respectfully submitted,

s/ Deborah Brancato for

Phillip Musegaas, Esq.  
Hudson River Program Director  
Riverkeeper, Inc.  
828 South Broadway  
Tarrytown, NY 10591  
914-478-4501 (ext. 224)  
[phillip@riverkeeper.org](mailto:phillip@riverkeeper.org)

s/ Deborah Brancato

Deborah Brancato  
Staff Attorney  
Riverkeeper, Inc.  
828 South Broadway  
Tarrytown, NY 10591  
914-478-4501 (ext. 230)  
[dbrancato@riverkeeper.org](mailto:dbrancato@riverkeeper.org)

# **Exhibit A**

February 20, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

\_\_\_\_\_  
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

**RIVERKEEPER INC.'S FIRST REQUEST FOR  
DOCUMENTS FROM ENTERGY NUCLEAR OPERATIONS,  
INC.'S INITIAL MANDATORY DISCLOSURE LOG**

Pursuant to 10 C.F.R. § 2.336(a)(2)(i), Riverkeeper Inc. ("Riverkeeper") hereby requests copies of the following documents from Entergy's IPEC Mandatory Disclosure Log – Enclosure 2:

Document Numbers:

508

568

601

606

669

2858 through 2966

2982 through 3699

3844 through 3845

3868 through 3915

3917 through 4011

4019 through 4030

4124

4139 through 4142

4158 through 4287

4295 through 4332

4367 through 4424

4563 through 4598

4620

4625 through 4748

4776 through 4900

Furthermore, the Nuclear Regulatory Commission (“NRC”) Staff’s January 2009 Audit Report for Plant Aging Management Programs and Reviews identifies several relevant documents that were reviewed onsite and not taken into the possession by the NRC. These documents are ostensibly listed in Entergy’s disclosure logs, however, due to the general descriptions provided, Riverkeeper is not able to identify which particular documents on the log correspond to those listed in the Audit Report. Therefore, Riverkeeper respectfully requests that Entergy identify where in its Mandatory Disclosure Log the following documents are located so that Riverkeeper may request copies of them, or, in the alternative, accept this as a formal request for these documents and provide copies accordingly:

<b>Location in NRC Staff Audit Report</b>	<b>Document</b>	<b>Title</b>	<b>Revision or Date</b>
Page 13	IP-RPT-06-LRD07	Aging Management Program Evaluation Report – Non-Class 1 Mechanical, Flow-Accelerated Corrosion Program	Rev. 2
	IP-RPT-06-LRD05	Operating Experience Review Report	Rev. 1
	EN-DC-315	Flow Accelerated Corrosion Program	Rev. 0
	ENN-CS-S-008	Pipe Wall Thinning Structural Evaluation	Rev. 1
	ENN-NDE-9.05	Ultrasonic Thickness Examination	Rev. 1
	050714b-01	IP2 CHECWORKS FAC Model	Rev. 1
	IP-RPT-05-00407	IPEC Snapshot Self-Assessment Report for Condition Report LO-IP3LO-2005-0328	Rev. 0
	94-10.1-05	CHECWORKS Global Input	Rev. 2
	QA-08-2004-IP1	Audit Report 2004	

Page 52	IP-RPT-06-LRD02	Aging Management Program Evaluation Report – Class 1 Mechanical, Fatigue Monitoring	Rev. 2
	IP-RPT-06-LRD05	Operating Experience Review Report	Rev. 1
	WCAP-12191	Transient and Fatigue Cycle Monitoring Program Transient History Evaluation Final Report for Indian Point Unit 2, July, 1992	Rev. 2
	WCAP-12937	Structural Evaluation of Indian Point Units 2 and 3 Pressurizer Surge Lines, Considering the Effects of Thermal Stratification	May 1991
	2-PT-2Y015	Thermal Cycle Monitoring Program	Rev. 1
	3PT-M051	Plant Operation Information	Rev. 9

Respectfully submitted,

Phillip Musegaas  
 Phillip Musegaas, Esq.  
 Hudson River Program Director  
 Riverkeeper, Inc  
 828 South Broadway  
 Tarrytown, NY 10591  
 914-478-4501 (ext. 224)  
[phillip@riverkeeper.org](mailto:phillip@riverkeeper.org)

Deborah Brancato  
 Deborah Brancato  
 Staff Attorney  
 Riverkeeper, Inc.  
 828 South Broadway  
 Tarrytown, NY 10591  
 914-478-4501 (ext. 230)  
[dbrancato@riverkeeper.org](mailto:dbrancato@riverkeeper.org)



March 18, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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

**CERTIFICATE OF SERVICE**

I certify that on March 18, 2009 copies of the foregoing "Riverkeeper, Inc.'s Preservation of Right to Amend Contention TC-2 – Flow Accelerated Corrosion Based Upon NRC Staff's Safety Evaluation Report with Open Item" were served on the following by first-class mail and e-mail:

Lawrence G. McDade, Chair Atomic Safety and Licensing Board Panel Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:Lawrence.McDade@nrc.gov">Lawrence.McDade@nrc.gov</a>	Judge Kaye D. Lathrop 190 Cedar Lane East Ridgeway, CO 81432 E-mail: <a href="mailto:Kaye.Lathrop@nrc.gov">Kaye.Lathrop@nrc.gov</a>
Richard E. Wardwell Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:Richard.Wardwell@nrc.gov">Richard.Wardwell@nrc.gov</a>	Michael J. Delaney, V.P. – Energy New York City Econ. Development Corp. 110 William Street New York, NY 10038 E-mail: <a href="mailto:mdelaney@nycedc.com">mdelaney@nycedc.com</a>
John J. Sipos, Esq. Assistant Attorney General Office of the New York Attorney General for the State of New York The Capitol Albany, NY 12224 E-mail: <a href="mailto:John.Sipos@oag.state.ny.us">John.Sipos@oag.state.ny.us</a>	Martin J. O'Neill, Esq. Kathryn M. Sutton, Esq. Paul M. Bessette, Esq. Mauri T. Lemoncelli, Esq. Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Ave. N.W. Washington, D.C. 20004 E-mail: <a href="mailto:martin.oneill@morganlewis.com">martin.oneill@morganlewis.com</a> <a href="mailto:pbessette@morganlewis.com">pbessette@morganlewis.com</a> <a href="mailto:ksutton@morganlewis.com">ksutton@morganlewis.com</a>

<p>Diane Curran, Esq.  Harmon, Curran, Spielberg &amp; Eisenberg, LLP  1726 M. Street NW, Suite 600  Washington, DC 20036  E-mail: <a href="mailto:dcurran@harmoncurran.com">dcurran@harmoncurran.com</a></p>	<p>Office of Commission Appellate Adjudication  U.S. Nuclear Regulatory Commission  Washington, D.C. 20555  E-mail: <a href="mailto:OCAAMAIL@nrc.gov">OCAAMAIL@nrc.gov</a></p>
<p>Office of the Secretary  Rulemakings and Adjudications Staff  U.S. Nuclear Regulatory Commission  Washington, D.C. 20555  E-mail: <a href="mailto:HEARINGDOCKET@nrc.gov">HEARINGDOCKET@nrc.gov</a></p>	<p>William C. Dennis, Esq.  Entergy Nuclear Operations, Inc.  440 Hamilton Avenue  White Plains, NY 10601  E-mail: <a href="mailto:wdennis@entergy.com">wdennis@entergy.com</a></p>
<p>Stephen C. Filler, Board Member  Hudson River Sloop Clearwater, Inc.  303 South Broadway, Suite 222  Tarrytown, NY 10591  E-mail: <a href="mailto:sfiller@nylawline.com">sfiller@nylawline.com</a></p>	<p>Manna Jo Greene  Hudson River Sloop Clearwater, Inc.  112 Little Market Street  Poughkeepsie, NY 12601  E-mail: <a href="mailto:Mannajo@clearwater.org">Mannajo@clearwater.org</a></p>
<p>Justin D. Pruyne, Esq.  Assistant County Attorney, Litigation Bureau  Of Counsel to Charlene M. Indelicato, Esq.  Westchester County Attorney  148 Martine Avenue, 6<sup>th</sup> Floor  White Plains, NY 10601  E-mail: <a href="mailto:jdp3@westchestergov.com">jdp3@westchestergov.com</a></p>	<p>Joan Leary Matthews, Esq.  Senior Attorney for Special Projects  New York State Department  of Environmental Conservation  625 Broadway, 14<sup>th</sup> floor  Albany, New York 12233-5500  E-mail: <a href="mailto:jlmatthe@gw.dec.state.ny.us">jmatthe@gw.dec.state.ny.us</a></p>
<p>Zachary S. Kahn, Esq., Law Clerk  Atomic Safety and Licensing Board Panel  U.S. Nuclear Regulatory Commission  Washington, D.C. 20555  E-mail: <a href="mailto:Zachary.Kahn@nrc.gov">Zachary.Kahn@nrc.gov</a></p>	<p>Thomas F. Wood, Esq.  Daniel Riesel, Esq.  Ms. Jessica Steinberg, J.D.  Sive, Paget and Riesel, P.C.  460 Park Avenue  New York, NY 10022  E-mail: <a href="mailto:driesel@sprlaw.com">driesel@sprlaw.com</a>  <a href="mailto:jsteinberg@sprlaw.com">jsteinberg@sprlaw.com</a></p>
<p>Robert D. Snook, Esq.  Assistant Attorney General  55 Elm Street, P.O. Box 120  Hartford, CT 06141-0120  E-mail: <a href="mailto:Robert.Snook@po.state.ct.us">Robert.Snook@po.state.ct.us</a></p>	<p>John L. Parker, Esq.  Regional Attorney, Region 3  New York State Department of  Environmental Conservation  21 South Putt Corners  New Paltz, NY 12561  E-mail: <a href="mailto:jlparker@gw.dec.state.ny.us">jlparker@gw.dec.state.ny.us</a></p>

<p>Elise N. Zoli, Esq.          Goodwin Procter, LLP          53 State Street          Boston, MA 02109          E-mail: <a href="mailto:ezoli@goodwinprocter.com">ezoli@goodwinprocter.com</a></p>	<p>Janice A. Dean, Esq.          Assistant Attorney General          Office of the Attorney General          120 Broadway, 26<sup>th</sup> Floor          New York, NY 10271          E-mail: <a href="mailto:Janice.dean@oag.state.ny.us">Janice.dean@oag.state.ny.us</a></p>
<p>Sherwin E. Turk          Beth N. Mizuno          Brian G. Harris          David E. Roth          Andrea Z. Jones          Office of General Counsel          Mail Stop: 0-15D21          U.S. Nuclear Regulatory Commission          Washington, D.C. 20555-0001          E-mail: <a href="mailto:Sherwin.Turk@nrc.gov">Sherwin.Turk@nrc.gov</a>;  <a href="mailto:Beth.Mizuno@nrc.gov">Beth.Mizuno@nrc.gov</a>; <a href="mailto:brian.harris@nrc.gov">brian.harris@nrc.gov</a>;  <a href="mailto:David.Roth@nrc.gov">David.Roth@nrc.gov</a>; <a href="mailto:andrea.jones@nrc.gov">andrea.jones@nrc.gov</a>;</p>	<p>Daniel E. O'Neill, Mayor          James Seirmarco, M.S.          Village of Buchanan          Municipal Building          236 Tate Avenue          Buchanan, NY 10511-1298          E-mail: <a href="mailto:vob@bestweb.net">vob@bestweb.net</a></p>
<p>Mylan L. Denerstein, Esq.          Executive Deputy Attorney General          120 Broadway, 25<sup>th</sup> Floor          New York, NY 10271          E-mail: <a href="mailto:mylan.denerstein@oag.state.ny.us">mylan.denerstein@oag.state.ny.us</a></p>	

/s/ 

Deborah Brancato

March 18, 2009