
From: SMartinelliGHS
To: SMartinelliGHS, bnm1@nrc.gov, david.roth@nrc.gov, brian.harris@nrc.gov, andrea.jones@nrc.gov, OGCMailCenter@nrc.gov, HearingDocket@nrc.gov, ocaamail@nrc.gov, wdennis@entergy.com
CC: acer8sac@comcast.net, remyc@optonline.net, gclary@lohud.com, deb@nukebusters.org
Sent: 8/25/2009 9:56:29 P.M. Eastern Daylight Time
Subj: Demand for Payment, Notice of Intent to Sue

Intent to Sue

For the reasons more fully outlined below, Sherwood Martinelli hereby formally demands payment for the following costs and damages as are related to the expected license renewal for the NRC licensee sites IP1, IP2, and IP3 and known collectively as Indian Point.

Dear NRC and Entergy:

For the following reasons, I am seeking and demanding legal redress in 1. amount of \$400,000 dollars (four hundred thousand dollars) to cover the costs of adequately preparing my property for a potential "Sheltering in Place" incident in my home located at 351 Dyckman, Peekskill, NY 10566 should a nuclear incident (terrorist attack or significant accident) occur at the Indian Point site between now and the time the three reactors are eventually decommissioned. This estimated costs that have instituted this demand for payment and notice of my intent to sue are as follows:

A bare bones shelter (<http://www.bomb-shelter.net/index.html>) (does not include the costs of zoning variances, nor costs of installation is listed for \$168,000 and will provide barely adequate space for my wife, I and our six cats for an extended period of time. Estimated legal costs for getting zoning

approvals is \$25,000. Other necessary upgrades (heating system, fuel tanks, water and waste water storage tanks and their installation has an estimated cost of \$80,000. Basic survival supplies to prepare the Shelter have a cost of (as example, the CDC site recommends being prepared to Shelter in place for up to 15 days OR LONGER) \$27,000 for a total start up cost of \$300,000. The additional \$100,000 being sought is the estimated cost of yearly upkeep, maintenance and preparation of the Shelter so that it is always in "Shelter In Place" condition, ready to be used when Entergy or the NRC order us to be sheltered in place during a nuclear incident at Indian Point.

Reasons For This Demand For Payment and Notice of Intent to Sue

1. Citizens in the 25 mile radius of death that is the PEAK FATALITY zone, including both my wife and I had a reasonable expectation that Decommissioning of all three licensed reactors at Indian Point would have commenced no later than 2015, but the NRC's nationwide rubberstamping of license renewal applications has pushed out the date of potential Decommissioning of these problem plagued reactors at least 20 additional years, and documents found on the NEI, EPRI, NRC and Entergy websites would lead the average citizen to believe the NRC actually plans on granting a second 20 year license extension to this crumbling and decaying set of reactors. When one compares the costs (average out over 40 years), \$10,000 a year to protect HUMAN LIFE, to make sure we have an adequate Nuclear Shelter should it be required, this sum is a reasonable demand necessary to cover the costs of keeping my family safe as a direct result of Entergy continuing to do business three scant miles from my home.
2. The NRC in conjunction with FEMA and its licensees has made a charade out of the Federal Guidelines and requirements for a workable Emergency Evacuation Plan. In fact and deed, Entergy Officials and members of the NRC staff have both admitted at public meetings held in the host community that the Indian Point Emergency Evacuation Plan WILL NOT WORK (emphasis added) if there is any kind of a significant event occurring on the Indian Point licensees site(s).
3. Furthermore, the nuclear industry, NEI, EPRI and the NRC have finally admitted in various public forums that "Sheltering in Place" would more than likely be the preferred action to be implemented should a nuclear accident or terrorist attack on a nuclear reactor site occur. This new means of dealing with the safety of the General Public, our families and our pets is a dramatic change that places members of the general public, and specifically my wife and I should a accident or terrorist attack occur at Indian Point in grave danger unless we have adequate access to a certified Nuclear Fall Out Shelter...it is also noted here, that the NRC has only required the licensee to have SPACE TO SHELTER 20 Percent of the citizens in the case of a significant nuclear event at the site.
4. The current suggestions for sheltering in place fail miserably in protecting myself, my wife and our cats. As one example, the NRC staff, the staff of Entergy and the State Emergency Responders have refused to answer a simple question...if there is a significant nuclear event at Indian Point during a significant winter storm, how long would the average citizen have before they started feeling the effects of thermal shock, started seeing hyperthermia set in. Instead of answering the question, they condescendingly suggested we buy with our own funds the necessary supplies and equipment to survive THEIR ACCIDENT should we be ordered to "Shelter in Place" as a result of a serious nuclear incident at the Indian Point facility. Such a suggestion places an unfair FINANCIAL BURDEN on us as citizens, places a demand on us as stakeholders to absorb the costs of Entergy doing business in our community, forces a costs on us as citizens because NRC is unwilling to enforce their rules and regulations in 10CFR, because FEMA has wrongfully signed off on an evacuation plan that is doomed to failure.
5. Since "Sheltering in Place" is now the preferred method of dealing with the citizens should a nuclear incident occur, it is only fair that the costs of being able to SAFELY SHELTER IN

PLACE be born by the NRC and it's licensees. The set up costs for such preparation, having an adequate place in which to survive a nuclear incident at Indian Point without negative impacts to our health, the yearly costs of maintaining such a facility are extensive as has been outlined above. It is only fair that those creating the need for such expenditures pay those expenditures.

For this reason, I am making a demand for payment and giving notice of intent to sue against both Entergy, and the NRC, and am encouraging every citizen in every host community in America to follow suit to file suits as Pro Se litigants in their own local courts. I am further making this demand for payment in preparation of filing suit to protect my rights and health as a citizen of the United States of America. Entergy, the NRC and even the Federal Government have a duty to protect human health and the environment.

This duty takes on special importance in communities across America where citizens are having the NRC force them to play host to dangerous nuclear facilities for an additional twenty years of operation.

A license renewal, continued operation of these facilities places new and unexpected risks on host communities, on citizens living in the peak fatality zone. It is only fair that the NRC and its licensees pay the costs incurred by citizens who seek to adequately prepare themselves for the accident we are constantly told to be ready for...as example, the constant testing of the Emergency Notification System. For these reasons, Sherwood Martinelli hereby makes a demand for the sum of \$400,000 to build and maintain a personal Shelter at his residence located at 351 Dyckman Street in Peekskill, NY. Failure to respond with payment of this Demand in 30 days, failure to open up meaningful dialogue towards settlement will result in further legal action to protect my rights, protect my health, and to assure I have the capability of obeying SAFELY a Federal Governmental Agency order to "Shelter in Place" when the time comes, and trust me, the time will come, if not in my own neighborhood, then in another host community that has wrongfully been forced against their will to play host to a aging, failing nuclear reactor for 20 additional years.

Respectfully Submitted,

Sherwood Martinelli
351 Dyckman Street
Peekskill, NY 10566

Certificate of Service:

A true and accurate copy of this letter has been sent the NRC, as well as to legal counsel for Entergy. As a courtesy, additional copies were sent out to various INTERESTED PARTIES including members of the press.

Respectfully,

Sherwood Martinelli
351 Dyckman Street
Peekskill, NY 10566
smartinellighs@aol.com

William C. Dennis*
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601
(E-mail: wdennis@entergy.com)

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16G4
Washington, DC 20555-0001
(E-mail: ocaamail@nrc.gov)

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
(E-mail: hearingdocket@nrc.gov)

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
(E-mail: OGCMailCenter@nrc.gov)

Beth N. Mizuno, Esq.
David E. Roth, Esq.
Brian G. Harris, Esq.
Andrea Z. Jones, Esq.
Office of the General Counsel
Mail Stop: O-15D21
U.S. Nuclear Regulatory Commission

Washington, DC 20555-0001

(E-mail: bnm1@nrc.gov)

(E-mail: david.roth@nrc.gov)

(E-mail: brian.harris@nrc.gov)

(E-mail: andrea.jones@nrc.gov)

([148.184.200.145]) with mapi; Wed, 26 Aug 2009 08:15:29 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: "Julian, Emile" <Emile.Julian@nrc.gov>
To: "Champ, Billie" <Billie.Champ@nrc.gov>, "McKelvin, Sheila"
<Sheila.McKelvin@nrc.gov>, "Mike, Linda" <Linda.Mike@nrc.gov>
CC: "Giitter, Rebecca" <Rebecca.Giitter@nrc.gov>, "Greathead, Nancy"
<Nancy.Greathead@nrc.gov>, "Lewis, Linda" <Linda.Lewis@nrc.gov>, "Pierpoint,
Christine" <Christine.Pierpoint@nrc.gov>, "Vietti-Cook, Annette"
<Annette.Vietti-Cook@nrc.gov>
Date: Wed, 26 Aug 2009 08:15:27 -0400
Subject: FW: Demand for Payment, Notice of Intent to Sue
Thread-Topic: Demand for Payment, Notice of Intent to Sue
Thread-Index: Acol8Xj99EdahBKCQV667ckL56P5TAAVNW3g
Message-ID:
<CEEA97CC21430049B821E684512F6E5ECA5644F662@HQCLSTR01.nrc.gov>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach: yes
X-MS-Exchange-Organization-SCL: -1
X-MS-TNEF-Correlator:
<CEEA97CC21430049B821E684512F6E5ECA5644F662@HQCLSTR01.nrc.gov>
MIME-Version: 1.0