

James A. Farley Middle Schools  
Stony Point, New York

May 12, 1976

Chairman  
Nuclear Regulatory Commission  
Bethesda, Maryland

Re: Safety - Con Edison's Indian Point #3

Dear Sir:

As the student representative of the students attending James A. Farley Middle Schools, Stony Point, New York, I hereby request that the Nuclear Regulatory Commission schedule a new hearing concerning the safety features of Con Edison's nuclear power plant - Indian Point #3 located at Indian Point, New York.

As concerned young citizens, we feel that our views as well as our parents' views regarding the safety of Indian Point #3 were not heard due to the crass disregard of your agency's concern for citizens' interests. Its no wonder the youngsters of today and apparently the current breed of candidate are anti-Washington. The facts are as follows:

1. In February 1976, we collected 1,115 (adult) signatures on a petition demanding an investigation of the safety of Indian Point #3.
2. We presented them to our local New York Assemblyman Connor.
3. The Nuclear Regulatory Commission decided to come to White Plains and hold hearings on April 21, 22 and 23 to decide whether the area was seizmologically safe, concerning the Ramapo Fault.
4. Eleven days before the hearings, the NRC licensed Indian Point #3.
5. April 26 - 29 the hearings were held in Bethesda. However, on April 23, both Mr. Voight for Con Edison and Mr. Fleischaker for the Citizens Committee for the Environment made motions to return to White Plains.
6. On April 29, it was decided by Mr. Farrar that the NRC would remain in Bethesda because there was little interest

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and poor participation. Letters had been written asking Mr. Farrar to hold a few hearings at night so that people could attend. Most people work during the day but the NRC never responded except to say on April 21 (Mr. Farrar) that his office had been deluged by mail demanding the hearings to be held in White Plains.

We sincerely urge that your agency hold new hearings so that the citizens who will be most affected by any potential nuclear holocaust be heard.

Very truly yours,

*Maria S. Valdesmi*

cc: Hon. J. Javits  
U.S. Senator - N.Y.  
Hon. ~~J.~~ Buckley,  ~~Jr.~~  
U.S. Senator - N.Y.  
Hon. Benjamin Gilman  
U.S. Congressman - N.Y.

*Assemblyman Robert Connor*



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

*Docket*

MAY 12 1976

Docket Nos.: 50-3  
50-247  
50-286

Anthony Z. Roisman, Esq.  
Roisman, Kessler and Cashdan  
1712 N Street, N.W.  
Washington, D.C. 20036

Dear Mr. Roisman:

As you are no doubt aware, various organizational elements of the Nuclear Regulatory Commission have and are responding to the several assertions and inferences in your letter of April 9, 1976. The Appeal Board assigned to the Indian Point seismic proceeding is looking into the questions you have raised about the USGS appearance in that proceeding. Secondly, the Commissioners are considering generically the nature and extent of the Staff's obligation to coordinate and disclose information that may be relevant to more than one pending proceeding. And finally, the Staff in this letter will provide you with such response to your letter of April 9 as may be appropriate with regard to the individual pending proceedings discussed therein.

With respect to the Indian Point seismic proceeding, Mr. Fleischaker of your firm has been furnished copies of all relevant documents in the possession of the Staff concerning USGS participation in that proceeding, including a copy of a USGS letter of April 16, 1976, which confirms the statements Mr. Case made to you in a telephone conversation of April 14 concerning the USGS involvement. Regarding that telephone conversation, there are enough important differences between the statements made by Mr. Case during that discussion and those reported in your April 19 letter to the Appeal Board, that the record deserves clarification.

At the outset, Mr. Case did not inquire as to why you had not contacted him instead of the Chairman; rather, he asked why he had not been contacted first, to be followed by a contact with the Chairman if you were not satisfied with his answers. Next, Mr. Case informed you that it was the hearing schedule that did not permit USGS participation in the Indian Point seismic proceeding rather than because of any actions by the Staff, as your letter implied. As a basis for support of this statement, the availability of summary minutes of the meetings between the Staff and USGS which relate to the Survey's

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participation in that proceeding was also discussed in the telephone conversation (not "all correspondence, memoranda of meetings or phone calls and any other communications between the Staff and USGS bearing directly on the issues involved in the Indian Point proceeding," as your letter states). Mr. Case indicated during the telephone conversation that he did not believe any such meeting summary minutes were available, but that he would check with the Staff and USGS to confirm his impression.

Subsequently, it has been verified that no such minutes were prepared by either the Staff or USGS. However, as the Appeal Board discussed at length in its April 15 letter to Mr. Fleischaker, the transcript of the September 25, 1975 prehearing conference on the Indian Point seismic issues clearly shows that the Staff was in the process of attempting to obtain USGS agreement to participate in that proceeding. For example, the transcript shows on pages 87-88 that Staff counsel stated the following:

"We definitely feel that the Geological Survey should participate in this proceeding and give their expert views with respect to what they feel and their opinions on the issues.

"Now, we have been in contact with the Survey and we have attempted to engage them once again as our consultants with respect to what the issues might be in this proceeding."

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"I can [not] represent that the USGS will participate. We are urging them to do so. They are a strongly independent agency and we can only attempt to persuade."

Mr. Case did state during his telephone conversation with you that statements contained in the draft USGS reports on Pilgrim Station concerning the Cape Anne earthquake Unit No. 2 transmitted to NRC on December 12, 1975, and February 11, 1976, were obviously relevant to the Indian Point Unit Nos. 1, 2, and 3 seismic proceeding. He also stated that the question that remained concerning those draft reports was related to the time at which USGS' views contained therein should be considered sufficiently firm to be made publicly available.

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The USGS draft report on Pilgrim Station Unit No. 2 transmitted to the NRC on December 12, 1975, was not only in draft form but was incomplete in that it covered "only geology not seismology," in the words of the transmittal letter. Although the draft report did discuss certain geological considerations related to the Cape Anne earthquake, we were orally informed by the USGS that, in addition, active consideration was being given at that time to the extent to which known regional seismological characteristics might affect the extent of influence of this earthquake. Based on these facts, we decided that it was not appropriate to make the partial and tentative USGS views publicly available at that time. Subsequently, the draft USGS views on the seismology of the Pilgrim site region were transmitted to NRC on February 11 and received on February 19, 1976, and both the geologic and seismic USGS draft reports were placed in the Public Document Rooms within ten days of receipt of the draft seismic report.

As you point out, although the Staff had earlier placed the draft USGS reports in the Public Document Room in February 1976 and voluntarily disclosed the existence of the reports to you on March 9, 1976, it did not provide you (in your capacity of representing a party in the Indian Point proceeding) with direct service of the documents in question. The nature and extent of the NRC Staff's obligation, if any, to provide such information to the parties and Boards in ongoing proceedings is currently being reviewed on a generic basis by the Commission. As noted in the Chairman's letter to you of April 29, 1976, you will be informed of the results of this review.

With regard to your essentially duplicative complaint about not receiving the same draft USGS reports on Pilgrim Unit No. 2 (in your capacity of representing a party in the Seabrook proceeding), two additional points are warranted. First, statements concerning the Cape Anne earthquake similar to those in these draft USGS reports on Pilgrim are contained in the USGS report on the Seabrook site itself. This report is appended to Supplement No. 2 to the Seabrook Safety Evaluation Report which was admitted into evidence in that proceeding on May 28, 1975. When asked about these statements during the reopened Seabrook hearing on February 23, 1976, Staff seismologists stated that they believed them to be consistent with the Staff's position regarding the Cape Anne earthquake. Second, even if these statements by USGS were construed to be at variance with the Staff's position regarding seismic-structural correlations in New England,

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this would in no way affect the adequacy of the seismic design of Seabrook since the record in this proceeding clearly shows that the Staff and USGS are in agreement concerning the required seismic design basis for the Seabrook facility.

In summary, the facts surrounding the Seabrook and Indian Point proceedings with regard to the draft USGS reports on Pilgrim Station Unit No. 2 cannot and should not be stretched to support a charge of lack of candor on the Staff's part as alleged in your letter of April 9. If you have any other facts which you believe support such an accusation, I would expect you to promptly bring them to my attention.

Sincerely,

Original Signed by  
Ben C. Busche

cc: All parties on the service lists for:

Boston Edison Co., et. al. (Pilgrim Nuclear Generating Station, Unit No. 2)

Public Service Co. of New Hampshire, et. al. (Seabrook Station, Units 1 and 2)

Consolidated Edison Co. of New York, Inc. and Power Authority of the State of New York (Indian Point, Units 1, 2 and 3)

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ROISMAN, KESSLER AND CASHDAN

1712 N STREET, NORTHWEST

WASHINGTON, D. C. 20036

(202) 833-9070

PHYLLIS L. QUANDER  
ADMINISTRATIVE SECRETARY

9 April 1976

ANTHONY Z. ROISMAN  
GLADYS KESSLER  
DAVID R. CASHDAN  
KARIN P. SHELDON  
CLIFTON E. CURTIS  
DAVID S. FLEISCHAKER  
MERIDETH WRIGHT (ADM. FLORIDA)

Marcus Rowden  
Acting Chairman  
Nuclear Regulatory Commission  
Washington, D.C.

Dear Marc:

I am writing to you about a matter of great concern to me and to the general public. The foundation of public confidence in nuclear reactor safety has of necessity had to rest upon the public's confidence in the regulatory staff. If the staff were open and candid in doing its job, if it avoided the temptation of becoming an advocate for or against nuclear power and focused instead on being an advocate of full and complete disclosure of all relevant information, it would be doing its job. I and other citizens might disagree with the results but we would not and could not disagree with the integrity of the staff.

As you realize, the recent resignation of Robert Pollard has called into question the integrity of the staff process and the NRC has filed an extensive, if not an adequate, response to Mr. Pollard's well-documented concerns. The purpose of this letter is not to further pursue that particular subject but to call your attention to another example of where the staff has practiced less than full candor and has, I believe, demonstrated a fundamental weakness in the manner in which the licensing portion of the staff is managed.

It should be a principal duty of the director of reactor licensing to see that facts developed by the staff in one proceeding are fully disclosed in other proceedings whether they are favorable or unfavorable to the staff conclusions and whether their disclosure will or will not delay completion of the hearing.

Marcus Rowden

9 April 1976

page 2

In seismic analyses the staff routinely seeks the advice of the United States Geological Survey. Yet on October 30, 1975, the USGS advised Mr. Edson Case that as a result of meetings with him they understood that the staff did not want USGS to participate in the required hearings on Indian Point 1, 2 and 3. In the proceeding, the staff, in conflict with the position of the New York State Geological Survey, contends that an earthquake of MMVIII at Cape Ann, Massachusetts in 1755 was associated with a particular tectonic structure and/or province such that pursuant to 10 C.F.R., Part 100, Appendix A, it need not be used as the design basis earthquake for the Indian Point site.

What the staff has failed to do is to directly and voluntarily advise the parties or the Board in the Indian Point proceeding that on December 12, 1975, the USGS sent the staff a letter in the Pilgrim 2 proceeding containing a draft USGS report which concluded (p. 7):

"Additionally, the Cape Ann earthquake cannot be referred to any known structure or structures on the southeastern Platform based on present understanding. It is also doubtful that with the present state of knowledge of structural geology offshore, the Cape Ann earthquake can be definitely located in an area either north or south of the faults bounding the north side of the Boston basin."

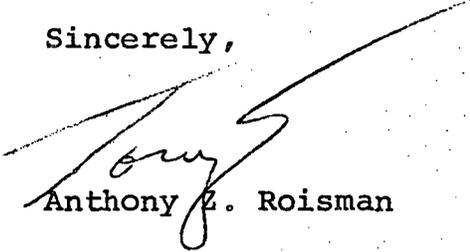
In the course of a deposition on March 9, 1976, in the Indian Point proceeding (p. 37) and in the course of cross-examination in the Seabrook proceeding on February 23, 1976 (pp. 11911-11921) the staff disclosed the existence of the USGS document in the most general terms and did not produce the document itself.

I am at a loss to see how the staff could, if it were fulfilling its legitimate duty, fail to serve on all parties to the Indian Point and Seabrook proceedings the USGS document of December 12, 1975 and could instead depend upon cross-examination and discovery to uncover this highly relevant opinion. The seriousness of this matter is compounded by the staff decision to not call the USGS to participate in the Indian Point proceeding.

Marcus Rowden  
9 April 1976  
page 3

I request that you immediately investigate this matter and more generally attempt to ascertain from Mr. Rusche what specific written procedures he has established to assure that all data developed in any licensing proceeding or otherwise is freely made available in other proceedings where its relevance is apparent. Inasmuch as I believe this is a matter of grave generic concern, I am forwarding a copy of this letter to the ACRS for their own investigation.

Sincerely,



Anthony E. Roisman

cc: David Okrent

All persons on the service lists for:

- Boston Edison Co. et al. (Pilgrim Nuclear Generating Station, Unit No. 2)
- Public Service Co. of New Hampshire, et al. (Seabrook Station, Units 1 and 2)
- Consolidated Edison Co. of New York, Inc. and Power Authority of the State of New York (Indian Point, Units 1, 2 and 3)

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WASHINGTON, D. C.

May 6, 1976

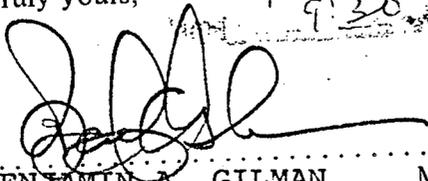
Congressional Liaison  
NRC  
Washington, D.C. 20555

The attached communication is submitted for your consideration, and to ask that the request made therein be complied with, if possible.

If you will advise me of your action in this matter and have the letter returned to me with your reply, I will appreciate it.

Ms. Irene Dickinson  
71 Pine Avenue  
Ossining, New York  
10562

Very truly yours,

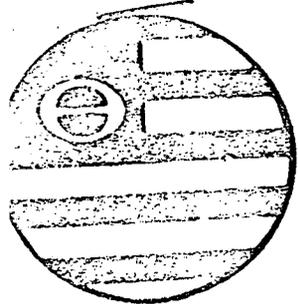


BENJAMIN A. GILMAN M.C.

26th District.

kak

J.



Citizens Committee

For Protection Of The Environment

71 PINE AVENUE

OSSINING, NEW YORK 10562

914-762-1362

May 4, 1976

Congressman Benjamin Gilman  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Gilman,

Enclosed is a sketchy summary from my observations at the four-day session of the seismic hearings in Bethesda last week. You will note that the Appeal Board ruled that all remaining sessions will be in their Bethesda headquarters. Our group is urging people to ask that they reconsider and bring the proceedings, at least the part dealing with the "capability" of the Ramapo fault, back to the local area.

Anything you can do to persuade Mr. Farrar and his Board would be most appreciated. He insists that attendance at the White Plains sessions does not warrant returning --along with his other reasons. Actually, it is no credit to the NRC and its Appeal Board that there were any people in attendance at the White Plains sessions. Our group and others from Rockland and Westchester contacted the press and media. The hearings were well covered by the press and it was through that reporting that the constituency of the Indian Point area were informed. It is not probable that the same will happen with the hearings tucked away (securely) on the fifth floor of the NRC Appeal Board headquarters in Bethesda.

Many thanks for your excellent statement at the April 22 session. Our group appreciates you taking the time to be there in person.

Enclosure

Sincerely,

*Irene P. Dickinson*

Irene P. Dickinson  
CCPE Coordinator