

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
CONSOLIDATED EDISON COMPANY OF NEW YORK) Docket Nos. 50-247 SP
(Indian Point Unit 2)) 50-286 SP
)
POWER AUTHORITY OF THE STATE OF NEW YORK) February 2, 1984
(Indian Point Unit 3))

COMMENTS BY ALFRED B. DELBELLO,
LIEUTENANT GOVERNOR OF THE STATE OF
NEW YORK IN RESPONSE TO ATOMIC SAFETY
AND LICENSING BOARD REPORT OF OCT. 24,
1983, "RECOMMENDATIONS TO THE COMMISSION."

These comments are made in response to the Recommendations to the Commission that resulted from the Atomic Safety and Licensing Board Special Proceeding held in 1981-83 regarding safety issues at the nuclear reactors at Indian Point, New York. A Commission Memorandum and Order was signed on January 8, 1981, propounding seven questions relating to the safe operation of the Indian Point plants. The Nuclear Regulatory Commission Order was in response to a 1979 petition by the Union of Concerned Scientists and the New York State Public Interests Group to the NRC.

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PDR COMMS NRCC
CORRESPONDENCE PDR

Mr. Del Bello testified as an "interested state or municipality." He pre-filed written testimony in June of 1982 as Westchester County Executive and filed amended testimony and testified in person on January 14, 1983 in his capacity as former County Executive and Lieutenant Governor.

Before beginning discussion of the report, it should be pointed out that the credibility of this hearing was somewhat damaged early because of what was perceived as interference by the NRC as to the scope of the questions to be answered in the hearing. On petition by the licensees, the NRC narrowed the points of inquiry, interfering with the three-member hearing panel, headed by Administrative Judge Louis J. Carter. Judge Carter thereupon resigned. This stigmatized these hearings from the outset, and is typical of actions causing a credibility problem for the NRC with the general public.

Mr. Del Bello's response will consist of four points:

- 1) Despite progress, the existence of continuing problems with the emergency plans at Indian Point.
- 2) The need for expanded public information and participation in the emergency planning and drill processes.
- 3) The fallacy of using the "legal process" as a substitute for enforcement action.
- 4) The inadequacy of the "708 program" as the means for funding off-site emergency planning at Indian Point.

1) Continuing Problems with the Emergency Plans Despite Progress Made.

Questions 3 and 4 of the ASLB hearings dealt with the status of emergency planning, and improvements in off-site safety that might be needed. The ASLB Report lists quite concisely the problem areas remaining with emergency planning at Indian Point (page vi, Contention 3.1). These are:

- Lack of a workable Rockland County plan (since cited by FEMA as improved).
- Lack of full dissemination of multi-language public information brochures.
- Lack of full bus driver mobilization and training in Westchester County.
- Lack of completed plans for mobility-impaired individuals.
- No contingency plans for dealing with a severe winter snowstorm.
- School evacuation uncertainties, especially for young children.
- Lack of full agreement with congregate care sites as to their responsibilities.

The Report finally cites problematical or speculative areas such as the overall capacity of the roads for mass evacuation, the limited telephone and radio communications facilities, and difficulties of state control of the 50-mile ingestion pathway. These areas are constantly being worked on at various state and local levels. The ASLB hearings were not able to resolve these questions.

Toward resolving these and other problems, the ASLB makes several recommendations. Among these are implementation of a Safety Assurance Program, a loose parts monitoring system for Indian Point unit 3, calculating new time estimates for evacuation in severe weather, and better coordination with New York City.

These recommendations are well taken and should be supported. What is lacking, and has been lacking throughout the Indian Point emergency planning process, is firm, consistent follow-up enforcement by the NRC. These current findings and recommendations came out on October 24, 1983, over three months ago. Since then, no preliminary enforcement order or on-going work has been set in motion by the NRC to effectuate these recommendations. The State of New York does not have jurisdiction to order the licensees to implement the on-site recommendations, nor can the Administration order the licensees to pay more than the \$250,000 annual share they are required to pay under the 708 program. Yet many of these problems will require additional resources to resolve. This 3-month delay is typical of the whole problem of emergency planning that has eroded public confidence. A staff memo on the current status of the continuing emergency planning problems is included in this response as Enclosure 1.

Finally, it is my view that the exhaustive discussions of "probabilistic estimates" (Question 5) as to the likelihood of an accident at Indian Point and the "probable consequences," along with the comparisons of "risk levels" at other reactor sites, are all meaningless. The reason is that for all these complex analyses there is no use of the scientific method, by verifiable experimen-

tation, of any of these theories or models of either accidents or consequences. Everything is done from conceptual paradigms. It is interesting that in virtually every other major form of technology in our society, the scientific community can use physical experiments such as wind tunnels, crash tests, fire resistance tests, tensile strengths, etc. to determine the breakdown points of working components of whole systems. With nuclear power plants they have never been able to do that, to my knowledge. It is true that building and melting down a reactor for experimental purposes is hardly practical. But short of that kind of verifiable experiment, all risk estimates are speculative. In the final analysis, it is fairer to say that while the risks may be small, they are unknown. Therefore, the only possible prudent attitude toward safety, while these reactors operate, is to espouse a theory of constant safety improvement and eternal vigilance. The NRC should forget the numbers game and simply order the physical improvements as they appear to be reasonable and probably effective.

2) The Need for Continuing Public Participation in the
Emergency Planning and Drill Exercises

Nuclear fission-generated power is unique among technologies. No other heat generating technology is self accelerating, thus needing to be restrained rather than initiated and constantly fed new fuel. No other technology is so associated, wrongly or not, with the public anxieties that people have about weapons and radiation exposure. No responsible public spokesman for a utility

or government would ever say, for example, that a nuclear reactor "could blow up like a bomb," but polls in Westchester County indicate some people believe that, nevertheless (Seasonwein poll of August, 1982, indicating 18% believed reactors could blow up, at page 2 and Table 7).

Further, polls indicate that a majority of people in the four-county area around Indian Point don't believe that utility managers or government officials would tell them the whole truth about actual nuclear emergencies. Less than 30% of the public said they would believe "most" of what they were told by public officials and the utilities about nuclear emergencies at Indian Point (1981 Yankelovich, Skelly, and White, Inc. poll). Emergency plans involve a mass public response and can only work via a high degree of non-coercive public cooperation. Unfortunately, there is a "credibility gap" between public officials, the operating utilities and the general public.

The only way to deal effectively with this credibility gap is with total candor. Yet this is somewhat inapposite to the need for security for nuclear plants as protection against sabotage or the work of a lunatic. Candor requires greater, not less, direct public involvement. This includes even involving critics in emergency planning, those who would prefer to have nuclear plants closed. Critics are motivated to find real flaws in emergency plans, and so are helpful.

In a democratic society, the average citizen has a right to know what societal systems affect him or her. The only way

advanced, complex and possibly hazardous technologies will be acceptable to the public in the long run, whether nuclear or some other, is through a totally candid process of public information and debate.

Therefore, I recommend that the ASLB include in its recommendations to the NRC a greater requirement for on-going public involvement and public participation. Specifically, the emergency planning process ought to be opened, as much as is physically practicable, to the general public. Actual drills can only provide for limited observation, but full-scale public participation should be better simulated in future drills.

3) The Fallacy of Using the Legal Process as a Substitute for Enforcement Action

It is my observation that Regulatory agencies tend to favor judicial-type action over executive-type action. One only need look at the generally timid enforcement action by the NRC in the history of emergency planning at Indian Point to realize this. Rather than risk a "precedent-setting effect" of closing a reactor because of an admittedly defective emergency plan in August of 1981 and again in 1982, the NRC indulged in delay upon delay in achieving emergency planning standards to meet its own regulations. Each such delay was couched in the language that emergency planning is an "on-going process" rather than a state of preparedness. Because of the NRC's emphasis on process, there has been a much more lengthened emergency planning scenario than would other-

wise have occurred. One should acknowledge that recent actions by the NRC, such as those affecting the Byron plant in Illinois, have improved the NRC's image as an enforcement agency.

4) The Inadequacy of the 708 Program

Chapter 708 of the laws of 1981 was enacted over the resistance of the utility companies in New York as legislation to create a \$1.5 million nuclear emergency planning and preparedness fund at the state level. It is also fair to say that without pressure from the NRC, the chapter 708 program would probably never have been enacted.

Monies from this fund were levied against each operating reactor at a rate of \$250,000, payable on April 1st of each year. The State Radiological Emergency Preparedness Group (REPG), in the Health Department, allocates funds to local governments and local preparedness organizations on the basis of both formula fairness and need. Problems have been recognized with this fund, in that emergency planning resource needs are not uniform around the state. For example, the Nine Mile I, Ginna, and Fitzpatrick plants need far less funding than Indian Point. A flat \$250,000 assessment fee against all utilities is unfair to the upstate utilities, while by the same token the flat assessment is inadequate for Indian Point.

Secondly, there is concern by the utilities that some of this fee money will be used by local governments for non-radiological

planning functions. Both of these issues should be addressed by the ASLB in its recommendations to the oversight agency, the NRC, since emergency preparedness at Indian Point ultimately will not work without sufficient resources. Funding is within the scope of emergency planning. Governor Cuomo recommended in his 1984 State of the State Address that these 708 Program fees be doubled this year via legislative action.

Another approach worth considering is to simply deregulate the 708 program. The fixed funding amount per reactor per year could be deleted in favor of bilateral negotiations between utilities and the state and local governments, to determine the exact amounts needed to bring emergency plans up to standard. All parties could then verify the budget requirements needed before funding is awarded. Each utility would pay only site-specific costs, plus a share for state coordination. In that way, funding would be truly fair and adequate, and the costs for emergency planning would be internalized within the nuclear industry on a site-specific basis. Pressure from the NRC may again be necessary to obtain this necessary amendment. Due to federal pre-exemption authorities, the NRC should take an active lead on all such issues. There should also be an increase in federal resources for emergency planning in line with Governor Cuomo's recommendations to Congress and the NRC of August and September of 1983.

Conclusion

The ASLB hearings on Indian Point have pointed out in detail the complexity and high level of effort and resources required to develop an emergency plan of this type: the 400 plus organizations, the thousands of emergency workers, the vast amounts of specialized training and equipment needed, the public information and public transit systems needed, the problems with mobility-impaired, disabled, non-English speaking, seasonal, and institutionalized people. It is our contention that most of the public, the news media, and the NRC do not fully comprehend the complexity of 10-mile radius off-site emergency planning. For this reason, we are strongly urging the NRC Commissioners to attend the next scheduled drill for Indian Point in person, to view from the Emergency Operations Center how this plan operates, and what areas need continual attention. In that way, the knowledge and personal experience of the NRC Commissioners would improve and their important pre-emptive federal authority would be used to make the most rational and effective decisions possible.



STATE OF NEW YORK
OFFICE OF THE LIEUTENANT GOVERNOR
ALBANY 12224

Alfred B. DelBello
Lieutenant Governor

M E M O R A N D U M

TO: Alfred DelBello
FROM: Zac Gordon
DATE: February 1, 1984
RE: Status of Radiological Emergency Preparedness and
Planning for Indian Point.

In response to your request, I have analyzed the current status of seven problem areas identified in the October ASLB Report on Indian Point. The status of these areas is as follows:

ROCKLAND COUNTY PLAN

Currently, the State remains fully responsible for responding to a radiological emergency at Indian Point, insofar as any protective action is required for Rockland County. On February 7, the Rockland Legislature may vote to assume this responsibility for the State. At that time a transition period for turning over ultimate responsibility from the State to Rockland will begin. In a recent meeting with the Rockland Office of Emergency Services, the following rough timetable for this transition was outlined:

February 7	Rockland Legislature votes to re-enter the four-County Task Force and permit training of county employees.
February - May	Training of county personnel and preparation of initial draft county plan.
June - July	Submission of draft county plan to FEMA for review and approval.
August	Final preparation for four-county drill.
September	Four-county drill.
October - February	Preparation for FEMA sponsored four-county drill and revision of county plan.

March 1985

FEMA drill.

May

FEMA assessment of drill; if favorable the State withdraws from Rockland, assuming that the Governor is satisfied that the county can effectively respond to a radiological emergency at Indian Point.

PROBLEMS WITH PUBLIC INFORMATION BROCHURES

There is an ongoing effort to update and improve public information brochures for the four counties surrounding Indian Point. An informational slide and tape show has been developed for the counties to use in public education. In Rockland, specifically, public education is not as far along because of the County's withdrawal from the planning process. At this time, the Rockland County public information pamphlet is undergoing a major rework with substantial county input.

BUS DRIVER MOBILIZATION IN WESTCHESTER

At present, Westchester County has not signed any formal contracts with either bus companies or bus drivers pledging resources in the event of a radiological emergency. Bus companies have agreed, however, to work together with the county to develop such contracts. Mike McBride tells me this will not take place until the Transportation Safety Planning Group (TSPG) has completed its report entitled "Planning for Transportation Services." This report finalizes evacuation routes for the EPZ. It should be noted that the contract to be signed will only commit available buses and drivers to the plan. This is a potential problem since such a contract does not actually commit the necessary number of buses and drivers for an emergency. This same contract is being negotiated in Orange and Rockland. Putnam County is handling their own arrangements.

INCOMPLETE PLANS FOR THE MOBILITY IMPAIRED

TSPG is also addressing this issue. The location and number of mobility impaired individuals is being determined as well as the resources necessary to carry out an evacuation of this population.

CONTINGENCY PLAN FOR SEVERE WINTER STORM

To my knowledge there are no such plans in any of the four counties. TSPG has factored a worst case weather condition scenario into their evacuation travel time estimate. The maximum elapsed time estimated for a single wave evacuation is two and a half hours (Rockland).

SCHOOL EVACUATION PLANNING

The total transportation plan for Rockland County has been designed around the "go home" policy for school children, although there is no written confirmation of this policy to date. Implementation of the go home plan remains a problem in all counties. Rockland County school superintendents are sending letters to parents explaining the go home procedure and inviting parents to provide input on how to address the problems associated with such a plan (contacting parents, sending children home to empty homes). To date, two school districts have sent out letters to parents.

LETTERS OF AGREEMENT WITH CONGREGATE CARE CENTERS

Letters of agreement with congregate care centers remain incomplete. As you know, in a declared state of emergency the Governor may order any facility to be utilized for accommodating evacuees. The situation in Rockland is unique, since it is the only county with congregate care centers in another state (New Jersey). The American Red Cross is currently negotiating agreements with these centers.

BENJAMIN A. GILMAN
22ND DISTRICT, NEW YORK

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February 15, 1984

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CONTROL
RANKING MINORITY MEMBER

Mr. Nunzio J. Palladino
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

50-247

Dear Mr. Palladino:

I am writing in regard to a matter of the greatest import to my Congressional District as well as to the New York Metropolitan Area as a whole. I have previously contended that the Indian Point Nuclear Power Plant represents a substantial risk to the neighboring population. Clearly this has been borne out by recent events.

On February 9, 1984, Indian Point No. 2 was taken off line because two of the control rods appeared to have shifted positions. While the problem was quickly corrected, it did not end the difficulties. On February 11, 1984 the plant was taken off a second time in less than three days. This shutdown was a result of a breach in the steam generator pipes which separate the primary and secondary systems.

While the cause of the breach has not yet been confirmed, it has been brought to my attention that corrosion is a pervasive problem in the steam generator pipes of nuclear reactors. A possible cause of the corrosion lies in the inherent qualities of the inconel lined generator pipes and the red alloy with which it reacts. The resulting reaction causes a pitting to the steam generator pipes which separate the radioactive 'hot' water in the primary system with the radioactively free secondary system which empties into the environment.

Accordingly, I ask that you forward to my office an evaluation of the dangers involved with corrosion of the steam generator pipes. I speak not only to this specific incident, but to the problem at large. I further request the results of any tests which you have conducted to determine the integrity of these pipes.

~~8462240075~~

PLEASE REPLY TO:

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Mr. Nunzio J. Palladino

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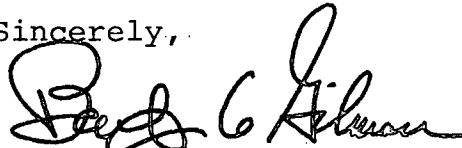
February 15, 1984

With over 15 million people living within a 50 mile radius of Indian Point, it is incumbent upon all who bear responsibility in its operation and oversight to keep those affected properly informed. Consequently, I look forward to your prompt response to this most pressing matter.

Thank you for your kind assistance.

With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin A. Gilman". The signature is fluid and cursive, with a large initial "B" and "G".

BENJAMIN A. GILMAN
Member of Congress

BAG:mr