

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

In the Matter of	)	
	)	Docket Nos.
	)	50-247-LR
Entergy Nuclear Operations, Inc.	)	and 50-286-LR
(Indian Point Nuclear Generating	)	
Units 2 and 3)	)	October 11, 2012
	)	

**RIVERKEEPER, INC. MOTION FOR LEAVE TO FILE ADDITIONAL EXHIBITS  
CONCERNING CONTENTION RK-TC-2 (FLOW ACCELERATED CORROSION)**

In accordance with 10 C.F.R. § 2.323(a) and the Atomic Safety and Licensing Board’s (“ASLB”) direction during the September 24, 2012 prehearing teleconference, Riverkeeper, Inc. (“Riverkeeper”) requests leave to file five additional Riverkeeper Exhibits: RIV000127 to RIV000131.

**Argument**

Good cause exists for allowing Riverkeeper to file these additional exhibits because Riverkeeper’s expert witness, Dr. Joram Hopfenfeld has identified them as documents he intends to make reference to in the course of explaining his perspective regarding Entergy’s use of the CHECWORKS computer model at Indian Point.<sup>1</sup> Riverkeeper Exhibits RIV000127 to RIV000131 consist of the following documents:

- (1) Digby D. Macdonald, *The Point Defect Model for the Passive State*, J. of the Electrochemical Society, Vol. 139, Issue No. 12 (Dec. 1992) (RIV000127);

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<sup>1</sup> Official Transcript of Proceedings, Nuclear Regulatory Commission, Indian Point Nuclear Generating Units 1 and 2, Docket Number: 50-247-LR and 50-286-LR, ASLBP Number: 07-858-03-LR-BD01, Monday, September 24, 2012, Work Order No.: NRC-1902 Pages 1193-1251, at 1228-1229 (“Well if, for example, Entergy is going to make reference to documents, those documents should be marked as an exhibit and furnished to the parties as well as the Board. And, likewise, if Dr. Hopfenfeld has specific, a specific document that he would want to make reference to during the course of explaining his perspective, Riverkeeper should mark that as an exhibit and furnish that to the other parties and the Board.”).

- (2) Bryan Poulson and Russel Robinson, *The Use of A Corrosion Process to Obtain Mass Transfer Data*, Science, Vol. 26, No.4, pp. 265-280 (1986) (RIV000128);
- (3) G.J. Bignold, K. Garbett, R. Garnsey, & I.S. Woolsey, *Erosion/Corrosion in Nuclear Steam Generators*, in *Water Chemistry of Nuclear Reactor Systems 5*, Paper 1 (British Nuclear Engineering Society, 1980 (RIV000129));
- (4) Entergy Ultrasonic Examination Report, IPEC00020853 (RIV000130);
- (5) Jianrong Wang, Siamack A. Shirazi, A CFD based correlation for mass transfer coefficient in elbows, *Int'l J. of Heat and Mass Transfer*, 44 (2001) 1817-1822 (RIV000131).

These documents are relevant and have the potential to be discussed at the evidentiary hearing. Their admission is necessary to develop a full hearing record and will not cause delay or harm to any party. Riverkeeper has previously disclosed four of the documents to the parties.<sup>2</sup> The remaining document was provided by Entergy to Riverkeeper during the discovery process.<sup>3</sup>

It is of the utmost importance that the ASLB has a full record of all material and relevant evidence when rendering its relicensing decision.<sup>4</sup> Since the introduction of these exhibits will not expand the scope of the hearing, delay the hearing, or have any adverse effect on the

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<sup>2</sup> Proposed exhibits RIV000127 and RIV000129 were disclosed on January 30, 2009, in Riverkeeper initial mandatory disclosure log, and thereafter provided to Entergy and NRC Staff. *See* Riverkeeper Inc.'s Initial Mandatory Disclosure Pursuant to 10 C.F.R. § 2.336 (Jan. 30, 2009); proposed exhibit RIV000128 was disclosed on October 1, 2012 in Riverkeeper's monthly disclosure update, and provided to counsel for Entergy and NRC Staff on October 2, 2012 via e-mail. *See per* Riverkeeper, Inc. Mandatory Disclosure Update Pursuant to 10 C.F.R. § 2.336 (Oct. 1, 2012); proposed exhibit RIV000131, a publicly available document, was disclosed on October 9, 2012 in an interim disclosure update, upon Dr. Hopenfeld's consideration of referencing this document in his prospective presentation to the ASLB. *See per* Riverkeeper, Inc. Mandatory Disclosure Update Pursuant to 10 C.F.R. § 2.336 (Oct. 1, 2012). All four documents were again provided to the parties during Riverkeeper's consultation process.

<sup>3</sup> Proposed Exhibit RIV000130 is an Entergy documents identified and provided by Entergy as relevant to Contention RK-TC-2.

<sup>4</sup> *See Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-580, 11 N.R.C. 227, 230 (Atomic Licensing Appeal Board 1980) ("No conceivable good is served by making empty findings in the absence of essential evidence.").

proceeding, Riverkeeper respectfully requests these exhibits be admitted to ensure that the ultimate decision on relicensing is based on a complete record.

**Conclusion**

For the foregoing reasons, the ASLB should grant Riverkeeper leave to file RIV000127 to RIV000131 as additional exhibits. The five documents, with exhibit markers, accompany this filing.

Respectfully submitted,

***Signed (electronically) by Deborah Brancato***

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**Certification Pursuant to 10 C.F.R. § 2.323(b)**

In accordance with the ASLB’s July 1, 2010 Scheduling Order (at 8) and 10 C.F.R. § 2.323(b), I certify that I have made a sincere effort to contact other parties in this proceeding to explain to them the factual and legal issues raised in this motion, and to resolve those issues, and I certify that my efforts have been unsuccessful. While the State of New York and Clearwater do not oppose this motion, counsel for Entergy and NRC Staff have indicated they oppose the motion. Counsel for NRC Staff, Mr. Sherwin Turk, requested that Riverkeeper state that the Staff’s position is as follows: “The Staff objects to Riverkeeper’s late filing of these lengthy and highly complex proposed exhibits on the eve of hearing, fully 10 months after they were required to be filed under the Board’s Scheduling Orders. Riverkeeper’s untimely identification of these documents as proposed exhibits contravenes the Board’s Orders and would result in prejudice to the Staff and other parties, who have not had an adequate opportunity to study and address this proposed evidentiary material as had been contemplated in the Board’s scheduling Orders.”

*Signed (electronically) by Deborah Brancato*  
Deborah Brancato, Esq.

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**CERTIFICATE OF SERVICE**

I certify that on October 11, 2012 copies of Riverkeeper Inc.’s Motion for Leave to File Additional Exhibits Concerning Contention RK-TC-2 (Flow Accelerated Corrosion), Riverkeeper’s proposed exhibits (RIV000127-RIV000131), and an updated exhibit list (RIVR90001), were served on the following by NRC’s Electronic Information Exchange:

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October 11, 2012