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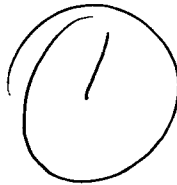
To: CINDY BLADEY From: Susan SHAPIRO
Fax: 301 492 3446 Pages: 6
Re: IP Fire Safety ~~Docket~~ Date: 6/3/13

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Docket D NRC - 2013-0063

5/7/2013

78 FR 26662



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6/3/13

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Re: Indian Point Fire Safety Exemption: Docket ID NRC-2013- 0063

In 2007, without soliciting any public announcement or allowing the public a chance to comment, the Nuclear Regulatory Commission (NRC) reduced the one-hour fire-safety requirement to 24 minutes for the electric cables that turn off the reactor in an emergency to avert a catastrophic meltdown. Since that time Richard Brodsky, Esq. and Sierra Club have challenged this fire-safety "exemption," which the NRC granted to Entergy for Indian Point. This changed a long-standing requirement that the electric cables, which control reactor shut down in an emergency, have physical insulation that lasts one-hour in a fire. Entergy and the NRC tested the insulation and found that it only lasted 27 minutes, rather than the one-hour it was supposed to, so instead of requiring it to be, they simply lowered the standard.

Brodsky (with co-plaintiffs Sierra Club) v. NRC challenged this exemption and the Court determined that the NRC had to either give the plaintiffs and the public a chance to participate in the "exemption" process or explain why they would not be given this opportunity. The NRC has opted to reopen the "exemption" proceeding.

In summary, here are our concerns.

1) The NRC must immediately require Entergy to retrofit the defective fire insulation to bring it into license compliance. It shocks the conscious and is grossly

negligent for the NRC since 2007 to allow Indian Point to continue operating in violation of fire safety license compliance, with only 24 minutes of fire protection, less than a standard commercial building in New York State.

2) The NRC and Entergy have already spent more money defending this "exemption" in Court than retrofitting the defective fire insulation, HemyC with fire insulation which functions for the required 1 hour. It has been conservatively estimated that retrofitting the defective fire insulation would cost approximately \$500,000, which is less than ¼ of the profits Entergy makes at Indian Point on a daily basis. The NRC's failure as a regulator to require this retrofit endangers \$8.5 trillion dollars of property value, 20 million lives and countless businesses in the 50 mile radius of Indian Point.

3) The NRC's refusal to require this retrofit increases the risk of an environmental disaster which would dwarf the BP Gulf oil spill, which was caused by another federal agency refusing to require a \$500,000 retrofit. The NRC claims to use a lessons learned approach as a regulator, this blatant refusal and delay of requiring this retrofit to bring Indian Point into license compliance, is clear proof that the NRC does refuse to learn any lessons from past environmental disasters.

4) To make matters even worse the location of the defective fire insulation, HemyC is within 500 feet of 2 natural gas pipelines

5) By its own regulations the NRC is not permitted to grant this exemption as it does not meet the standards of a "Specific Exemption" set forth in 10 CFR § 50.12.

6) It violates 10 CFR § 50.12(1) since it is not *Authorized by law and creates an undue risk to public health, and consistent with common defense and security*. The drastic 60% reduction of Appendix R fire safety standards is not authorized by law as an "exemption". It is more than 10% change which significantly increases reactor core melt frequency. This reduction of fire protection in this specific situation related to a cable necessary for safe shut down, fire insulation which will only work for 24 minutes unduly increases the risk of public health and safety of a radioactive exposure.

The cable tray area which is at issue relies on 9 inches of separation (instead of 20 feet) with automatic fire detection and *preaction* automatic water spray suppression and manual action of fire brigade.

The fire suppression for the cable tray area at issue is not an automatic water spray suppression is the system used and it is not a commonly used automatic sprinkler system with standing water already in the overhead piping ready to be released when heat activated, like the ones used in commercial and office buildings. Whereas, *preaction* automatic water spray suppression depends on smoke detectors which do not

cause the fire sprinklers to flow water. The smoke detectors sends a signal that triggers a release of water from a flood header into the piping, the water then travels to the location and is only then be released. This system depends on multiple components working together and communicating which could take several minutes to function. It is not really automatic and it relies solely on smoke detection.

Fire Experts know that smoke detectors are the least reliable component in any fire safety system.

7) Additionally Appendix R forbids credit to be taken for manual actions of a fire brigade within the first hour of a fire. It is unrealistic for a fire to be detected, a fire brigaded notified and activated, arriving on location and suppressing a fire within 24 minutes.

Even is the NRC uses the 805 standard it cannot guarantee that deliberate acts of arson, terrorist attacks or human error will not introduce transient combustibles into the area and, therefore cannot claim credit for the risk informed standard of 805.

The Common Defense and Security for nuclear plants is DEFENSE IN DEPTH, meaning there is a redundancy in the systems designed for safe shut down. Neither the NRC nor Entergy considered that the site of this dramatic fire safety reduction is within 350-400 feet of Two 36" (partially above ground) natural gas pipelines; nor the real and direct threat of a terrorist attack such a 9/11 or sabotage both of which could result in a fire that could not be contained within 24 minutes. Upon information and belief Indian Point on 9/11 the terrorists targeted Indian Point and flew directly over the plant.

Entergy's untenable, unsubstantiated and conclusory claim that reducing 1 hr fire protection to 24 minutes has no effect on the common defense and security, is not only inconsistent with common defense, it is inconsistent with common sense.

8) This exemption does not comply with the standards for an exemption set forth in §50.12(2), as there are no Special circumstance present.

- i) The Application of Appendix R does not conflict with other rules;
- ii) Appendix R serves the underlying purposes of the rule and is necessary to achieve the objective purpose of deterministic fire safety standards as required by Congress;
- iii) Compliance with Appendix R would not result in undue hardship; A cost of \$500,000 to retrofit, reroute or bring the plant into compliance is far from an undue hardship for a plant that has revenues of approximately \$2 Million dollars a day.

- iv) Reducing fire safety does not benefit public health and safety in any way, and instead dramatically increases the chance for irreparable economic and environmental damage.
- v) Entergy has not made a good faith effort to comply with the regulations and the exemption is permanent, not temporary.
- vi) It is not within the public interest to grant the reduction in fire safety based on the material circumstances not considered when Appendix R was adopted; the only material circumstance that was not considered that the HemyC insulation approved by the NRC was defective.

9) When the NRC granted the exemption it did not do an Environmental Impact Statement (EIS). They issued an Environmental Assessment and a Finding Of No Significant Impact (EA and FONSI). THE NRC NEEDS TO UNDERTAKE A FULL EIS.

10) The EA and FONSI are completely silent about the ways in which the exemption makes a terrorist attack more likely and make the consequences of a terrorist attack much worse. THE EXEMPTION'S RELIANCE ON MANUAL FIRE SUPPRESSION AND ADMINISTRATIVE CONTROLS WILL MAKE A TERRORIST ATTACK MORE LIKELY AND MORE DESTRUCTIVE.

11) The EA and FONSI do not contain any serious analysis of alternatives to granting or denying the application. They did not consider the alternative of upgrading the insulation, or shifting the fire safety program at IP to other methods. THE EA AND FONSI DIDN'T LOOK AT REASONABLE ALTERNATIVES TO THE EXEMPTION.

a) THE EXEMPTION IS NOT AUTHORIZED BY LAW.

b) THE EXEMPTION ENDANGERS THE PUBLIC HEALTH, SAFETY, AND NATIONAL DEFENSE AND SECURITY.

c) When it was originally approved, the exemption in 2007 the NRC considered only 11 documents in its possession that analyze its safety and health impacts. There are dozens and dozens of other such documents that show how dangerous and unnecessary the exemption is. THE NRC MUST CONSIDER ALL THE EVIDENCE AND DOCUMENTATION THAT RAISE QUESTIONS ABOUT OR SHOW THE EXEMPTION IS DANGEROUS.

d) THE NRC FAILED TO A HARD LOOK AT A WHOLE RANGE OF ISSUES RELATED TO THIS DECISION, AND SHOULD EITHER DO A FULL EIS OR DENY THE EXEMPTION AND REQUIRE AN IMMEDIATE RETROFIT OF THE DEFECTIVE HEMYC or IMMEDIATELY SHUT DOWN INDIAN POINT 3 UNTIL IT IS LICENSE COMPLIANCE.

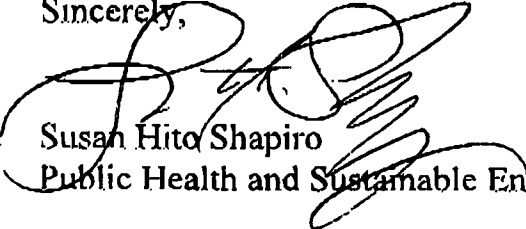
e) THE CURRENT PROCESS THE NRC IS NOW USING IS INCONSISTENT WITH THE COURT'S ORDER IN BRODSKY V. NRC.

f) A FULL PUBLIC HEARING IS NEEDED TO ADDRESS THIS MATTER.

Further delay by the NRC to require retrofit of the defective fire insulation, HemyC, which for over 15 year Congress has ordered shocks the conscious, is grossly negligent and is an arbitrary and capricious continuing violation of the Atomic Energy Act.

Thanks you for considering and addressing these concerns. Please let us know of your response.

Sincerely,



Susan Hito Shapiro
Public Health and Sustainable Energy

cc: NRC Chairwoman Allison Macfarlane
Richard Brodsky, Esq.