

April 5, 2000

Mr. David A. Lochbaum
Union of Concerned Scientists
1616 P Street NW., Suite 310
Washington, DC 20036-1495

Dear Mr. Lochbaum:

I am responding to the Petition that you submitted pursuant to 10 CFR 2.206 to the U.S. Nuclear Regulatory Commission (NRC) on March 14, 2000, on behalf of the Union of Concerned Scientists, the Nuclear Information & Resource Service, the PACE Law School Energy Project, and Public Citizen's Critical Mass Energy Project. In the Petition, you requested that the NRC issue an order to Consolidated Edison Company of New York (Con Ed) preventing the restart of Indian Point Nuclear Generating Unit 2 (IP2), or modify the license for IP2 to limit it to zero power, until (1) all four steam generators are replaced, (2) the steam generator tube integrity concerns identified in Dr. Joram Hopenfeld's differing professional opinion (DPO)¹ and in Generic Safety Issue GSI-163 are resolved, and (3) potassium iodide tablets are distributed to residents and businesses within the 10-mile emergency planning zone (EPZ) or stockpiled in the vicinity of IP2.

As the basis for your request that the NRC prevent IP2 from restarting until all four steam generators are replaced, you state that IP2 is equipped with Westinghouse Model 44 steam generators and that all other operating power plants in the United States that were originally equipped with Westinghouse Model 44 steam generators have replaced them. You also state that the IP2 steam generators have had an average of 10 percent of their tubes removed from service and that many other tubes have crack indications. As the basis for your request that the NRC prevent IP2 from restarting until the DPO filed by Dr. Hopenfeld is resolved, you state that the length of time that we have taken to resolve this issue has undermined the NRC's four stated objectives: (1) maintain safety, (2) increase public confidence, (3) improve regulatory efficiency and effectiveness, and (4) reduce unnecessary regulatory burden. You also cite Idaho National Engineering Laboratory findings supporting Dr. Hopenfeld's opinion. As the basis for your request that the NRC prevent IP2 from restarting until potassium iodide tablets are distributed to people and businesses within the 10-mile EPZ, you state that the incident at IP2 demonstrated the potential for a more serious accident. You also state that distributing potassium iodide tablets could reduce the consequences from a postulated accident.

The NRC staff has determined that your request that the NRC issue an order to prevent Con Ed from restarting IP2 until all four steam generators are replaced meets the requirements of 10 CFR 2.206. I have assigned Leonard Wiens as the petition manager. He can be reached at 301-415-1495. I have enclosed for your information a copy of the notice that is being filed with the Office of the Federal Register for publication. A public meeting to provide an opportunity for

¹ The DPO process provides for the review of concerns raised by individual NRC employees who disagree with a position adopted by the NRC staff.

the Petitioners and the licensee to provide additional information and clarifications relevant to the Petition has been scheduled for April 7, 2000, at 1:00 p.m.

The staff has determined that your request that the NRC issue an order to prevent Con Ed from restarting IP2, or modify the license for IP2 to limit it to zero power, until the concerns raised in Dr. Hopenfeld's DPO and GSI 163 are resolved and until potassium iodide tablets are distributed to people and businesses within the 10-mile EPZ or stockpiled in the vicinity of IP2 does not meet the criteria set forth in NRC Management Directive 8.11, Part II, for review under 10 CFR 2.206 because they raise generic issues for which you have not provided sufficient facts specific to IP2 restart to support your request; therefore, these issues are being handled separately. Our understanding of Dr. Hopenfeld's DPO is that it is not specific to IP2. The staff has reviewed Dr. Hopenfeld's DPO and finds that it contains no immediate safety concern.

With regard to your request that potassium iodide tablets be distributed to residents and businesses within the 10-mile EPZ or stockpiled in the vicinity of the IP2 facility, on June 14, 1999, the Commission published a proposed rule in the Federal Register (64 FR 31737) for a 90-day public comment period. That proposed rule would require that consideration be given to include the use of potassium iodide as a protective measure for the general public as a supplement to sheltering and evacuation. The final rule is currently being considered by the Commission and should be published by mid-2000.

At the April 7, 2000, meeting you may provide information to support the plant specific nature of these two issues. Following that meeting, the NRC's Petition Review Board will reconsider its decision, based on any additional information provided by you or the other Petitioners.

In your Petition, you also provided comments and examples of problems with obtaining public documents from the Agencywide Documents Access and Management System (ADAMS). We have forwarded your comments and examples to the Office of the Chief Information Officer for action. The results of their review will be addressed separately.

We recognize your efforts to bring these issues to our attention and appreciate your interest in and concern for ensuring public health and safety and the continued safety of nuclear power reactors.

Sincerely,

/RA/

Roy P. Zimmerman, Acting Director
Office of Nuclear Reactor Regulation

Enclosure: Notice

cc w/encl: Licensee (w/copy of incoming 2.206 request)
and Service List

the Petitioners and the licensee to provide additional information and clarifications relevant to the Petition has been scheduled for April 7, 2000, at 1:00 p.m.

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With regard to your request that potassium iodide tablets be distributed to residents and businesses within the 10-mile EPZ or stockpiled in the vicinity of the IP2 facility, on June 14, 1999, the Commission published a proposed rule in the Federal Register (64 FR 31737) for a 90-day public comment period. That proposed rule would require that consideration be given to include the use of potassium iodide as a protective measure for the general public as a supplement to sheltering and evacuation. The final rule is currently being considered by the Commission and should be published by mid-2000.

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Sincerely,

/RA/

Roy P Zimmerman, Acting Director
Office of Nuclear Reactor Regulation

Enclosure: Notice

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and Service List

DOCUMENT NAME: Accession #ML003698932

* See previous concurrence

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UNITED STATES NUCLEAR REGULATORY COMMISSIONPOWER AUTHORITY OF THE STATE OF NEW YORKDOCKET NO. 50-286FACILITY OPERATING LICENSE NO. DPR-64RECEIPT OF PETITION FOR DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that by Petition dated March 14, 2000, Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists, the Nuclear Information & Resource Service, the PACE Law School Energy Project, and Public Citizen's Critical Mass Energy Project (Petitioners), has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Indian Point Nuclear Generating Unit 2 (IP2), owned and operated by the Consolidated Edison Company of New York (the licensee). The Petitioner requested that the NRC issue an order to the licensee preventing the restart of IP2, or modify the licensee for IP2 to limit it to zero power, until (1) all four steam generators are replaced, (2) the steam generator tube integrity concerns identified in Dr. Joram Hopenfeld's differing professional opinion (DPO) and in Generic Safety Issue GSI-163 are resolved, and (3) potassium iodide tablets are distributed to residents and businesses within the 10-mile emergency planning zone (EPZ) or stockpiled in the vicinity of IP2. (The DPO process provides for the review of concerns raised by individual NRC employees who disagree with a position adopted by the NRC staff.)

As the basis for the request that the NRC prevent the licensee from restarting IP2 until all four steam generators are replaced, the Petitioner states that IP2 is equipped with Westinghouse Model 44 steam generators and that all other operating power plants in the United States that were originally equipped with Westinghouse Model 44 steam generators have replaced them. The Petitioner also states that the IP2 steam generators have had an

average of 10 percent of their tubes removed from service and that many other tubes have crack indications.

As the basis for the request that the NRC prevent the licensee from restarting IP2 until the DPO filed by Dr. Hopenfeld is resolved, the Petitioner states that the length of time that the staff has taken to resolve this issue has undermined the NRC's four stated objectives: (1) maintain safety, (2) increase public confidence, (3) improve regulatory efficiency and effectiveness, and (4) reduce unnecessary regulatory burden. The Petitioner also cites Idaho National Engineering Laboratory findings that support Dr. Hopenfeld's opinion.

As the basis for the request that the NRC prevent the licensee from restarting IP2 until potassium iodide tablets have been distributed to people and businesses within the 10-mile EPZ, the Petitioner states that the incident at IP2 demonstrated the potential for a more serious accident. The Petitioner also states that distributing potassium iodide tablets could reduce the consequences from a postulated accident.

The request that the NRC prevent the licensee from restarting IP2 until all four steam generators are replaced is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time.

The request that the NRC prevent the licensee from restarting IP2 until the DPO filed by Dr. Hopenfeld is resolved and until potassium iodide tablets are distributed to people and businesses within the 10-mile EPZ or stockpiled in the vicinity of IP2 is not being treated pursuant to 10 CFR 2.206 of the Commission's regulations and shall be handled by separate correspondence.

A copy of the Petition is available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www/nrc.gov>).

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Roy P. Zimmerman, Acting Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 5th day of April 2000

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