Paul M. Blanch PE
Energy Consultant

23 March 2020

David Skeen
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear David:

I have reviewed the following document (ML20078L380) from the NRC:

Briefing on Agency Practice and Procedure Issues:
U.S. Nuclear Regulatory Commission (NRC) Expert Evaluation Team on the
Concerns Pertaining to Gas Transmission Lines at the Indian Point Nuclear Power Plant
March 18, 2020

It appears the team's direction is to have Sandia National Laboratories preform a risk analysis. I have no problem with this approach however I question "analyzing natural gas pipeline rupture phenomena and consequences" as the sole guidance when there is clear federal law and regulations how to evaluate the pipelines' impact on public safety. Anything less than full compliance with laws and regulations is unacceptable.

It is the clear mission that PHMSA has the sole responsibility for pipeline safety oversight similar to the NRC's role nuclear safety oversight, although past actions by both agencies actions have been questionable.

Restated PHMSA's mission is:

> *PHMSA's mission is to protect people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to our daily lives. To do this, the agency establishes national policy, sets and enforces standards, educates, and conducts research to prevent incidents.*

And the NRC's mission is:

> *The U.S. Nuclear Regulatory Commission regulates the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of the public health and safety, to promote the common defense and security, and to protect the environment.*

Both PHMSA and the NRC allegedly accomplish their missions by assuring compliance with its regulations. (10 CFR 50 and 49 CFR 192 et seq)

It is not within the NRC's jurisdiction to assure that pipelines comply with federal regulations any more than PHMSA assuring compliance with NRC's regulations.

It is however the NRC's responsibility to assure the pipelines do not challenge its mission of providing "… *adequate protection of the public health and safety…*"

From the enclosed direction it appears the NRC it about to charter Sandia National Laboratories to conduct yet one more "risk assessment." We have had risk assessments conducted by Entergy, Algonquin, NRC, PHMSA, the State of New York and me. None of these risk assessments followed any established criteria or contained any direction or acceptance criteria. There is regulatory and industry consensus of conducting a risk assessment and that is specified in 49 CFR 192.917 and 935 and the Pipeline Safety Act of 2016. This is the only accepted methodology for conducting a risk assessment of gas lines.

While I have no issues with Sandia, they must comply with these well-established regulations, established by rulemaking and incorporated into federal regulations.

There is only one means to achieve a valid risk assessment for the pipelines and that is dictated by the Pipeline Safety Act of 2016 and 49 CFR 192. Specifically, 49 CFR 192.917 and 935 provide detailed requirements for a risk assessment and compliance

It is my position that a risk assessment be conducted following the Pipeline Safety Act of 2016 and 49 CFR 192. The result must then be reviewed by Sandia Laboratory for compliance and then the NRC makes the determination of "reasonable assurance of adequate protection of public health and safety…" PHMSA should also concur the assessment is in compliance with its regulations.

My letter of February 25, 2016 to the Inspector General outlined my concerns with the NRC's handling of the issues associated safety issues related to the gas lines at Indian Point.

I expect your team to address these significant issues. Specifically, the issues addressed in my letter to the IG as follows: (pasted from my letter to the OIG)

- The NRC violated its procedures and regulations in multiple ways when analyzing, approving, submitting and overseeing Spectra Energy's Algonquin Incremental Market (AIM) project and existing gas pipeline at Indian Point.
- The NRC staff is aware of docketed false statements made by Entergy to the NRC with respect to this issue, violating NRC directives, did not refer the matter of false statements by a licensee to the NRC's Office of Investigations.
- The NRC knowingly misled FERC and the public, thereby putting at risk 20 million people in the vicinity of Indian Point, by claiming to FERC that there was no additional risk associated with the proposed new 42-inch gas pipeline. The analysis relied upon by the NRC staff was not conducted in accordance with established industry standards.
- In June 2015, the NRC verbally rejected, without adequate review, my allegation that the Indian Point plants were operating in an unanalyzed condition by claiming these issues have been addressed. This is a false statement by the NRC Staff. The staff rewrote my allegation to fit its desired conclusion thereby circumventing the material facts and evidence I had presented.
- The NRC provided its final approval to FERC and stated that the inspectors "performed an independent analysis" and "the NRC staff concluded that safety-related SSCs inside the SOCA would not be exposed to conditions exceeding the threshold for damage." No persons on the inspection team had any experience with gas line dynamics or piping and instrument diagrams of the proposed gas line. The NRC's "expert" was not part of the inspection team.

Requested Investigation:

The following areas, among others, related to the NRC's regulation of and its handling of allegations and petitions questioning the safety of the natural gas lines proposed and buried gas lines in the near proximity of Indian Point Nuclear Power Plant warrant an immediate investigation by your Office of the Inspector General (OIG):

1. Did the NRC follow its guidance of MD 8.11 for 10 CFR 2.206 petitions when rejected my petition for consideration with 46 documented open and unresolved issues?

2. My October 2014 10 CFR 2.206 petition alleged deliberate misconduct and inaccurate information provided by Entergy to the NRC. Were these allegations and other instances of alleged false statements by Entergy referred to and investigated by the Office of Investigations as required by MD 8.11?

3. Why did, and still does NRC fail to consider the possible flammable content of the million gallon fuel oil tanks?

4. Was my allegation of June 2015 properly handled consistent with past NRC practices and MD 8.5?

5. Has the buried section of the existing gas lines been analyzed for possible impact on the control room, switchgear room and other vital structures?

6. Have the dynamics of the new pipeline been properly analyzed considering the thermodynamics of the gas system, leak detection, compressor dynamics, historic events and piping system interconnections?

7. Was an accepted industry methodology employed for a risk assessment as provided in 29 CFR Appendix C to § 1910.119 – "Compliance Guidelines and Recommendations for Process Safety Management" or similar methodology?

I expect your team to address these issues that were not addressed by the Inspector General's report.

I have extensive experience at Millstone, Maine Yankee and Indian Point with "Safety Culture" and a limited knowledge of Root Cause Analysis.

If these types of culture problems were identified at an NRC licensee facility, the NRC would impose its Inspection Procedure 95003 for a total assessment of the culture problem. One vivid example of this culture is the NRC's failure to take any action against Entergy for clear violations of 10 CFR 50.5 and 50.9 related to deliberate mis-conduct and supplying the NRC with inaccurate and incomplete information.
Rather than trimming the poison ivy, the NRC needs a complete evaluation of its culture that I have personally observed over the past 30 years. My personal opinion is that the NRC's

safety culture is in dire need of a formal assessment, repair and can only be addressed by the imposition of an evaluation similar to IP 95003

The AIM pipeline may present a risk to the plants however I believe the risk with the most significant consequences is from the existing lines running adjacent to the Unit #3 control and switchgear rooms. These lines are located in a High Consequence Area (HCA) therefore require a risk assessment as dictated by Pipeline Safety Act of 2016 and 49 CFR 192.

A loss of the control and switchgear rooms will compromise reactor and spent fuel pool integrity with no provisions to recover, even with the post Fukushima changes.

I am in full agreement with the New York letter to the NRC Chair with the exception of "…we urge the NEC to require a new Part 50.59 review of all 3 pipelines." "Changes, tests, and experiments." A Part 50.59 review is not appropriate at this time.

During the 3/20/20 meeting I believe I stated the plants are still operating in an unanalyzed condition, in spite of the EDO's position taken from an inapplicable, 30-year old document. The statement by the EDO and the Chair's statement to Congress must be clarified as it provided mis-leading information by failing to consider today's failure rates and potential consequences.

My concerns with the risk analysis will only be satisfied when this analysis is conducted by an independent party such as Sandia Laboratory and reviewed the National Academy of Sciences as recommended by the New York Office of the Attorney General**.** This review will assure compliance with applicable United States Codes and regulations specified in 49 CFR 192.

On a directly related matter are there any plans to place the 26" line back in service in the future and if so, would the utility be obligated to conduct a new risk analysis or 50.59 evaluation prior to restoring flow in the line given that there are open questions regarding the adequacy of the previous risk assessment/ 50.59 evaluation?

From my perspective from my review of the FEIS there is more protection provided to the American bittern, pied-billed grebe, savannah sparrow, red bat, eastern cougar, ground beetle, American kestrel, eastern box turtle, eastern hognose snake, Jefferson salamander "complex," pine barrens tiger beetle and human remains than for the living humans residing within the potential radius of the AIM pipeline.

For your information questions have been raised related to the applicability of various regulations of 49 CFR 192. I am enclosing Attachment 1 to this letter that are excerpts from the Final Environmental Impact Statement (FEIS) that discusses a sampling of these commitments to 49 CFR 192 designed to protect the public and the environment.

Sincerely,

Paul M. Blanch

Paul M. Blanch
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West Hartford, CT 06117
860-922-3119

Attachment 1

49 CFR 192 statements from FEIS

Note there are no discussions contained within this document for compliance with individual parts of 49 CFR 192

4.12.1 Safety Standards

PHMSA is mandated to provide pipeline safety under 49 USC Chapter 601. The OPS administers the national regulatory program to ensure the safe transportation of natural gas and other hazardous materials by pipeline. It develops safety regulations and other approaches to risk management that ensure safety in the design, construction, testing, operation, maintenance, and emergency response of pipeline facilities. Many of the regulations are written as performance standards that set the level of safety to be attained and allow the pipeline operator to use various technologies to achieve the required safety standard. PHMSA ensures that people and the environment are protected from the risk of pipeline incidents. This work is shared with state agency partners and others at the federal, state, and local level. PHMSA provides for a state agency to assume all aspects of the safety program for intrastate facilities by adopting and enforcing the federal standards. A state may also act as PHMSA's agent to inspect interstate facilities within its boundaries; however, PHMSA is responsible for enforcement actions. For the AIM Project, New York and Connecticut are interstate agents that have been delegated authority to inspect interstate natural gas pipeline facilities. OPS federal inspectors perform inspections on interstate natural gas pipeline facilities in Massachusetts and Rhode Island.

PHMSA pipeline standards are published in 49 CFR Parts 190–199. Part 192 of 49 CFR specifically addresses natural gas pipeline safety issues. Under a Memorandum of Understanding on Natural Gas Transportation Facilities (Memorandum) dated January 15, 1993 between PHMSA and the FERC, PHMSA has the exclusive authority to promulgate federal safety standards used in the transportation of natural gas. Section 157.14(a)(9)(vi) of the FERC's regulations require that an applicant certify that it will design, install, inspect, test, construct, operate, replace, and maintain the facility for which a Certificate is requested in accordance with federal safety standards and plans for maintenance and inspection. Alternatively, an applicant must certify that it has been granted a waiver of the requirements of the safety standards by PHMSA in accordance with section 3(e) of the Natural Gas Pipeline Safety Act. The FERC accepts this certification and does not impose additional safety standards. If the Commission becomes aware of an existing or potential safety problem, there is a provision in the Memorandum to promptly alert PHMSA. The Memorandum also provides for referring complaints and inquiries made by state and local governments and the general public involving safety matters related to pipelines under the Commission's jurisdiction.

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The pipeline and aboveground facilities associated with the AIM Project would be designed, constructed, operated, and maintained to meet or exceed the Pipeline and Hazardous Materials Safety Administration's Minimum Federal Safety Standards in 49 CFR 192 and other applicable federal and state regulations. The regulations include specifications for material selection and qualifications;

2.3 CONSTRUCTION PROCEDURES

The AIM Project would be designed, constructed, operated, and maintained to conform to, or exceed, the minimum federal safety standard requirements of PHMSA in 49 CFR 192,[4] and other applicable federal and state regulations, including U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) requirements. These regulations are intended to ensure adequate protection for the public. Among other design standards, Part 192 specifies pipeline material and qualification, minimum design requirements, and protection from internal, external, and atmospheric corrosion.

[4] Pipe design regulations for steel pipe are contained in subpart C, Part 192. Section 192.105 contains a design formula for the pipeline's design pressure. Sections 192.107 through 192.115 contain the components of the design formula, including yield strength, wall thickness, design factor, longitudinal joint factor, and temperature derating factor, which are adjusted according to the project design conditions, such as pipe manufacturing specifications, steel specifications, class location, and operating conditions. Pipeline operating regulations are contained in subpart L, Part 192.

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Each weld is inspected by an independent certified Non Destruction Test technician to ensure its structural integrity is consistent with 49 CFR 192 of PHMSA's regulations. X-ray or ultrasonic images are taken and processed on site for virtually instantaneous results. Those welds that do not meet the Algonquin's specifications would be repaired or replaced and re-inspected.

The pipeline is coated to prevent corrosion. The pipe lengths would be coated (usually with a heat-applied epoxy) at a coating mill prior to being delivered to the Project. The ends of each piece are left bare to allow for welding. After welding, the weld area is field coated by the coating crew. Because pipeline coatings are electrically insulating, the coating is inspected using equipment that emits an electric charge to ensure there are no locations on the pipeline with a defect in the coating.

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2.6 OPERATION, MAINTENANCE, AND SAFETY CONTROLS

Algonquin would operate and maintain the newly constructed pipeline facilities in the same manner as they currently operate and maintain their existing systems in compliance with PHMSA regulations provided in 49 CFR 192, the FERC guidance at 18 CFR 380.15, and the maintenance provisions in Algonquin's E&SCP. Algonquin would add three full-time permanent workers for operation of the proposed and modified facilities.

Based on the identified estimated emissions from operation of the proposed Project facilities and review of the modeling analysis, the Project would result in continued compliance with the national ambient air quality standards (NAAQS), which are protective of human health, including children, the elderly, and sensitive populations (see section 4.11.1). The Project facilities would also be designed, constructed, operated, and maintained in accordance with or to exceed PHMSA's minimum federal safety standards in 49 CFR 192. These regulations, which are intended to protect the public and to prevent natural gas facility accidents and failures, apply to all areas along the proposed pipeline routes regardless of the presence or absence of minority or low income populations.

The pipeline and aboveground facilities associated with the AIM Project would be designed, constructed, operated, and maintained in accordance with or to exceed PHMSA's Minimum Federal Safety Standards in 49 CFR 192. The regulations are intended to ensure adequate protection for the public and to prevent natural gas facility accidents and failures. PHMSA specifies material selection and qualification; minimum design requirements; and protection of the pipeline from internal, external, and atmospheric corrosion.

Algonquin would hydrostatically test the new pipeline segments in accordance with PHMSA pipeline safety regulations in 49 CFR 192 prior to placing the pipeline facilities into service. Algonquin estimates a need for a total of about 10,082,645 gallons of water to conduct the hydrostatic testing for the Project (9,610,245 gallons for pipeline testing and 472,400 gallons for aboveground facilities). Most of this water would be obtained from municipal sources, but some would be appropriated from the old Verplanck Quarry Lake in New York. However, to our knowledge none of the projects listed in table 4.13-1 would be expected to use water from the Old Verplanck Quarry Lake at the same time or at all. Following testing of the pipeline, the water would be discharged into dewatering structures located in upland areas and within the construction work area in accordance with the AIM Project E&SCP and the hydrostatic testing BMPs provided by agencies. Therefore, long-term impacts on surface water sources would not be anticipated as a result of hydrostatic testing activities, and we expect the cumulative impacts of the projects listed in table 4.13-1 on surface and groundwater resources to be minor.

4.13.9 Reliability and Safety

Impact on reliability and public safety would be mitigated through the use of the PHMSA Minimum Federal Safety Standards in Title 49 CFR 192, which are intended to protect the public and to prevent natural gas facility accidents and failures. In addition, Algonquin's construction contractors would be required to comply with the OSHA Safety and Health Regulations for Construction in Title 29 CFR 1926. We received several comments about potential cumulative impacts relative to safety between the proposed Project and WPP's proposed West Point Transmission Project. We evaluated the risk associated with constructing and operating transmission lines and natural gas pipelines in close proximity in section 4.12.3. It is not uncommon for natural gas pipeline facilities to parallel existing utility rights-of-ways, including electric transmission rights-of-way and there are established methods for minimizing the risks of these configurations. Algonquin has conducted surveys and collected information on the location and size of existing power line structures within the proposed right-of-way corridors, tower footing locations and dimensions, and wire heights (lowest point between towers) and would design or modify its construction technique on the AIM Project with sufficient offsets to eliminate the risk of heavy construction equipment interfering with overhead high-voltage electric transmission lines during construction and operation. Where possible, Algonquin would offset its pipeline trench by 50 feet to avoid any potential damage to electric transmission towers; and in those areas that this offset could not be

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5.1.12 Reliability and Safety

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The pipeline and aboveground facilities associated with the AIM Project would be designed, constructed, operated, and maintained to meet or exceed the Pipeline and Hazardous Materials Safety Administration's Minimum Federal Safety Standards in 49 CFR 192 and other applicable federal and state regulations. The regulations include specifications for material selection and qualifications; minimum design requirements; and protection of the pipeline from internal, external, and atmospheric corrosion. By designing and operating the Project in accordance with the applicable standards, the Project would not result in significant increased public safety risk.

2.3 CONSTRUCTION PROCEDURES

The AIM Project would be designed, constructed, operated, and maintained to conform to, or exceed, the minimum federal safety standard requirements of PHMSA in 49 CFR 192,[4] and other applicable federal and state regulations, including U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) requirements. These regulations are intended to ensure adequate protection for the public. Among other design standards, Part 192 specifies pipeline material and qualification, minimum design requirements, and protection from internal, external, and atmospheric corrosion.

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Algonquin would operate and maintain the newly constructed pipeline facilities in the same manner as they currently operate and maintain their existing systems in compliance with PHMSA regulations provided in 49 CFR 192, the FERC guidance at 18 CFR 380.15, and the maintenance provisions in Algonquin's E&SCP. Algonquin would add three full-time permanent workers for operation of the proposed and modified facilities.

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1.2.4 U.S. Department of Transportation – Pipeline and Hazardous Materials Safety Administration

PHMSA is the federal agency responsible for administering the national regulatory program to ensure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline under 49 USC Chapter 601. PHMSA's Office of Pipeline Safety (OPS) develops regulations and other approaches to risk management to ensure safety in design, construction, testing, operation, maintenance, and emergency response of pipeline facilities. The OPS is responsible for ensuring that Algonquin's proposed facilities are designed, constructed, and operated in compliance with the safety standards that the agency has established for natural gas pipeline facilities.

2.3.2 Aboveground Facility Construction Procedures

The AIM Project aboveground facilities would be constructed in compliance with the same federal regulations and guidelines as the pipeline facilities, and in accordance with the specific requirements of applicable federal and state approvals. Construction activities associated with these facilities would include clearing, grading, installing concrete foundations, erecting metal buildings, and installing piping, metering facilities, and appurtenances. Initial work at the new M&R stations would focus on preparing the sites for equipment staging, fabrication, and construction. Following foundation work, station equipment and structures would be brought to the site and installed, using any necessary trailers or cranes for delivery and installation. Equipment testing and start-up activities would occur on a concurrent basis.

Although Algonquin has stated that sufficient qualified EIs would be available to implement their environmental inspection program, it has agreed to participate in a third-party Environmental Compliance Monitoring Program for sensitive environmental areas of the AIM Project. Under this program, Algonquin would fund a contractor, to be selected and managed by the FERC staff, to provide environmental compliance monitoring services. The FERC Third-party Compliance Monitor would provide daily reports to the FERC staff on compliance issues and make recommendations to the FERC Project Manager on how to deal with compliance issues and construction changes, should they arise. FERC staff would also conduct periodic inspections. As discussed in section 4.0, use of a third-party Environmental Compliance Monitoring Program would be particularly appropriate along the Haverstraw to Stony Point Take-up and Relay, Stony Point to Yorktown Take-up and Relay, Southeast to MLV 19 Take-up and Relay, and West Roxbury Lateral segments and related aboveground facilities due to concerns about construction in residential and commercial areas, the Hudson River crossing, and potential blasting. Development of the program would occur prior to construction.

2.6 OPERATION, MAINTENANCE, AND SAFETY CONTROLS

Algonquin would operate and maintain the newly constructed pipeline facilities in the same manner as they currently operate and maintain their existing systems in compliance with PHMSA regulations provided in 49 CFR 192, the FERC guidance at 18 CFR 380.15, and the maintenance provisions in Algonquin's E&SCP. Algonquin would add three full-time permanent workers for operation of the proposed and modified facilities.

As shown on figure 4.3.2-1, the Croton Watershed would be crossed by the Stony Point to Yorktown Take-up and Relay segment between MPs 10.0 and 12.3 in the Town of Cortlandt and by the Southeast to MLV-19 Take-up and Relay segment between MPs 0.0 and 0.1 in the Town of Southeast. Algonquin would sequence construction activities to minimize the amount and duration of an open right-of-way within the watershed. Algonquin would use a separate construction crew to work in the 2.3-mile-long stretch within the watershed and has also committed to an environmental inspection and compliance monitoring program to monitor and enforce compliance with all permit conditions to protect the environment during construction (see section 2.5). In addition, Algonquin is working with the NYCDEP to develop a Stormwater Pollution Prevention Plan (SWPPP) that addresses NYCDEP's requirements for constructing within a New York City watershed.

8. Beginning with the filing of its Implementation Plan, Algonquin shall file updated status reports **on a weekly basis for the AIM Project until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

   a. an update on Algonquin's efforts to obtain the necessary federal authorizations;

   b. the current construction status of each spread of the Project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;

   c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);

   d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;

   e. the effectiveness of all corrective actions implemented;

11. **Within 30 days of placing the authorized facilities for the Project into service**, Algonquin shall file an affirmative statement, certified by a senior company official:

    a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or

    b. identifying which of the Certificate conditions Algonquin has complied with or will comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

The FERC is the federal agency responsible for authorizing interstate natural gas transmission facilities under the Natural Gas Act, and is the lead federal agency for the preparation of this EIS in compliance with the requirements of the National Environmental Policy Act. The U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers (USACE), and the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, participated as cooperating agencies in the preparation of the EIS. A cooperating agency has jurisdiction by law or has special expertise with respect to environmental resource issues associated with a project.