

**TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS
AND INTERNATIONAL RELATIONS
MARCH 10, 2003**

I appreciate the opportunity to speak on a very critical issue: the safety and security of the people who live and work near the Indian Point nuclear power plants. I thank Subcommittee chair, Congressman Christopher Shays, for his strong interest in this critical issue.

I have submitted a formal petition to the Federal Emergency Management Agency (FEMA) urging that the agency withdraw its approval of the flawed and inadequate Indian Point Radiological Emergency Preparedness Plan (REPP). I have also called for the shutdown of the Indian Point nuclear power plant until an adequate emergency preparedness plan is completed.

If FEMA does not act quickly and appropriately, I am considering specific legal action compelling the agency to comply with its own regulations and federal law, and to file a petition forcing the Nuclear Regulatory Commission (NRC) to suspend the Indian Point NRC license pending full review of the emergency preparedness plan.

Congress also can and should act. It should take legislative action to explicitly and clearly require a radiological emergency preparedness plan that will adequately protect public health and safety in the area surrounding Indian Point. It should also review and revise laws to prevent FEMA from approving a preparedness plan that fails to assess vulnerability to terrorist attacks, the need for public notification and exposure to contaminated food and water supplies. Finally, Congress should require FEMA and the NRC, upon a denial of certification by a state or local government of the emergency preparedness plan, to hold a hearing and formal review of the emergency preparedness plan. FEMA and the NRC would have the burden of proving that the plan meets all statutory and regulatory requirements. During the pendency of the hearing, either the plant should suspend operations or the federal government should assume responsibility for the security and emergency procedures of the nuclear power plant until an emergency preparedness plan is approved.

The Indian Point emergency response plan – more correctly, non-plan – is rightly a cause of alarm and outrage in New York. It is also a very immediate and urgent concern to many Connecticut residents.

The State of Connecticut has a compelling interest in the Indian Point emergency preparedness plan. Approximately one third of our population, our food and water supplies, and our major roads -- all are within the 50 mile radius of real and present danger. This area includes many of our largest cities and three of our most populous counties. In the event of a radiological release, our medical, transportation and other emergency services of Connecticut would be heavily involved.

Federal statutory law and FEMA regulations and guidances require that every nuclear power plant develop a plan that would specify evacuation plans and other steps to prepare for a release of radioactive materials. These plans must be approved by the state and FEMA as adequately protecting public health and safety. FEMA's past approval of the plainly inadequate Indian Point plan violates its own regulations and policy documents in seven specific areas:

1. THE INDIAN POINT REPP DOES NOT ADEQUATELY ADDRESS THE POSSIBILITY OF A TERRORIST ATTACK.

The essential premise of the REPP is that any radiological release from the facility would come from an accident in the reactor containment building. This assumption fatally compromises the REPP because it does not consider the impact of a deliberate (terrorist-caused) release that would have significantly different characteristics and effects. In his State of the Union Address, President Bush noted "we have found diagrams of American nuclear power plants and water facilities, [and] detailed instructions for making chemical weapons." President George W. Bush, State of the Union Address (January 29, 2002). The REPP never considers the possibility that emergency personnel might be busy elsewhere, or under attack themselves, or that the evacuation routes may be partially or completely destroyed. In a post-September 11th world, an 'emergency' plan that ignores these contingencies amounts to willful blindness.

2. THE EVACUATION TRAVEL TIME ESTIMATES FOR THE INDIAN POINT REPP FAIL TO MEET THE REQUIREMENTS OF THE NUCLEAR REGULATORY COMMISSION AND FEMA REGULATIONS.

The Nuclear Regulatory Commission and FEMA regulations require that both the licensee and the State and local governments meet specific requirements for the travel time estimates. However, as noted in the James A. Witt Associates Report (Witt Report), the REPP has several material weaknesses in this regard.

The REPP appears to be "based on the premise that people will comply with official government directions rather than acting in ... their best interest." (Report, p. vi) Further, the plans do not consider the effects of a terrorist attack, which could include simultaneous attacks on transportation infrastructure or other targets within the 10-mile or 50-mile radii. Unlike an accident, the purpose of a terrorist attack is to cause disruption and increase casualties. Therefore, preparation for a terrorist attack requires much different contingency plans than preparation for an accident. Finally, no mention is made in the REPP of the current transportation capabilities of Interstates 95 and 84. Both of these major roads have suffered

significant increases in average daily vehicle trips (ADVTs). “Congestion is endemic throughout the Coastal Corridor [area]. It is acute on the primary highways, Interstate Routes I-95 and 84, and U.S. Route 1 and CT Route 15, and particularly acute on the westerly portion of Interstate Route 95.” *Coastal Corridor Transportation Investment Area Twenty Year Strategic Plan For Transportation Investment Area*, Nov. 7, 2001, p. 6. Many of the Coastal Corridor [area] roadways were built neither to handle the volume of traffic that currently exists nor to accommodate the type of travel common today.” *Id.*

3. THE INDIAN POINT REPP FAILS TO ADDRESS VOLUNTARY EVACUATION AS REQUIRED BY NRC GUIDANCE DOCUMENTS

The Nuclear Regulatory Commission guidance for a REPP requires the consideration that during an evacuation, there will be other people who decide to evacuate even though they are not under order to do so. Evacuation by people who are not under an order to do so is called “shadow evacuation”.

The REPP does not address “shadow evacuation.” See Witt Report p. vi. “Shadow evacuation” is not mentioned, and from the descriptions of the computer model used, it is clear that “shadow evacuation” was not factored into the model. Accordingly, all calculations of evacuation times, road capacities, and other logistical concerns assume no additional usage or loads by those outside the zone who may decide to evacuate without either instruction or permission from authorities to do so.

4. THE REPP FAILS TO ADDRESS FAMILY SEPARATION IN ITS ANALYSIS OF EVACUATION TIMES.

In preparing the REPP, federal regulations require a logical, thorough and complete analysis of the information known about population is necessary for the REPP to meet the legal requirement to “adequately protect the public health and safety.” The Indian Point REPP assume two illogical behavior patterns that renders its evacuation times utterly useless

The REPP assumes that family members, particularly parents and school children, will be willingly separated in the event of evacuation. This presumption is contrary to everyday common sense and has a serious impact on evacuation timetables. The REPP blithely assumes that school children and their families would evacuate separately, and at the same time presumes that families would leave as one unit and utilize only one family car. In evacuation scenarios that take place during school days, these two situations contradict each other. When people decide to get their children before evacuating, this will obviously throw off the planned evacuation timetable. The REPP time estimates analysis also fails to address the situation where parents may have children in multiple schools, which may have different designated reception centers for each child.

There is a larger behavioral problem, however. The evacuation plan calls for separation of school children from their parents in the event of a radiological release that requires

evacuation. This will not happen. It defies explanation that plan believes parents will calmly leave their children in school or infants with daycare providers and climb into their private cars and drive to a designated disaster relocation area. What will happen is that people will seek to reunite *prior* to evacuation despite anything that governmental authorities try to do to stop this.

5. THE INDIAN POINT REPP FAILS TO ADEQUATELY INFORM THE PUBLIC IN THE EVENT OF RADIOLOGICAL EMERGENCY AND RELIES UPON SELECTIVE RELEASE OF CRITICAL INFORMATION AND SECRECY.

Federal law requires notification to the public of a radiological release, particularly when protective action is required. In addition, the plan needs to address means of maintaining order and control during the evacuation. However, the Indian Point REPP fails to accomplish these two tasks for the reason that it anticipates two separate forms of notice of evacuation: first, a non-public notification of public school administrators, followed by a second, later notice of evacuation. This first ‘secret notice’ is to evacuate children first and avoid the mass confusion of large numbers of parents rushing to the schools before leaving themselves.

As a matter of easily predictable fact, this “secret notice” approach will lead to confusion, panic and chaos. Most nuclear power plants were built, or at least designed, in the 1960s and 1970s. At that time, sirens, radio, television and landline telephones were the only effective means of public communications. As was evident on September 11th 2001, cell phones and other technologies that disseminated unofficial warnings created “information soup” regarding emergency efforts. If there is an emergency at Indian Point, individuals receiving advanced notice will immediately call spouses or friends to tell them to leave. Once word is out unofficially, it will spread virtually instantaneously. Attempts to control evacuation information through secrecy will fail, and will undermine confidence in the overall evacuation plan and cause huge problems with the timely evacuation of the area.

6. THE INDIAN POINT REPP FAILS TO MEET THE REQUIREMENTS FOR PROTECTION OF FOODSTUFFS AND DRINKING WATER IN THE 50 MILE INGESTION EXPOSURE PATHWAY EPZ.

The FEMA regulations require the state to assume the primary role in addressing radiological contamination of foodstuffs or the water supply, and to specify to the local governments how it plans to do so. There has been no such effort in the Indian Point REPP, which does not indicate which New York agencies are to be contacted or how these contamination assessment process will work. The Indian Point REPP does not even contain the maps locating crops, farms or water treatment centers, and indicates that they will not be made available. The Indian Point REPP is short on specific details essential to a plan protecting the water supply of numerous Connecticut residents and makes no provision regarding potential water and food contamination in Connecticut, an unacceptable situation.

7. THE INDIAN POINT REPP FAILS TO ADDRESS THE REQUIREMENT FOR ADMINISTERING RADIOPROTECTIVE DRUGS TO THE GENERAL POPULATION.

The Protective Response Planning Standards require the State and Local governments develop a plan to administer radioprotective drugs, such as potassium iodide (“KI”), to the general public. Some experts believe that radioprotective drugs, such as potassium iodide (“KI”), may have a protective effect if taken properly for radioiodines. Yet, the Westchester County REPP makes no provision for administering these drugs to the general public. Nor does the Rockland County REPP, stating that “KI will be available for emergency workers and captive populations” such as hospital and nursing home patients and staff and incarcerated populations. Neither the regulations nor the plan provide at all for the possibility that KI will be needed in Connecticut, beyond the 10 mile EPZ. Obviously, the need for KI use in Connecticut must be carefully evaluated and provision made for KI distribution if it is appropriate.

In conclusion, FEMA must comply with its legal obligations under 44 CFR § 350.13(a) and withdraw approval for the Indian Point REPP. I have formally requested that FEMA withdraw its approval because of the above-cited weaknesses and shortcoming of the emergency preparedness plan. I am prepared to take further legal action, if necessary, and work in conjunction with New York and Connecticut officials to ensure that there is a proper emergency response plan in place for Indian Point that adequately protects the safety and health of the citizens in this bi-state area. I urge Congress to take action to ensure a fair, secure process for review of emergency preparedness plans.

