

**Testimony of
New York State Attorney General Eric T. Schneiderman
on the
Waste Confidence Draft Generic Environmental Impact
Statement (DGEIS) and Proposed Rule**

October 30, 2013

Good evening. My name is Janice Dean. I'm an Assistant Attorney General in the New York State Attorney General's Environmental Protection Bureau. I offer comments tonight on behalf of Attorney General Eric Schneiderman. Attorney General Schneiderman thanks the NRC for the opportunity to comment on the Waste Confidence Draft Generic Environmental Impact Statement, which I will refer to as the "DGEIS," and the related rulemaking.

As you know, Attorney General Schneiderman led the coalition of states that brought a successful challenge last year to the Temporary Storage Rule in the United States Court of Appeals for the District of Columbia Circuit. This successful challenge resulted in NRC embarking on the DGEIS currently under evaluation. However, the DGEIS is significantly flawed.

The proposed environmental analysis concerns one of the most dangerous materials on the planet and the long term storage of that material in spent fuel pools here in Westchester County and at other nuclear power plants around the Nation. The Westchester storage site has the highest surrounding population of any such site in the Nation – more than 17 million people live within 50 miles of Indian Point and there are critical water resources and infrastructure developments close to the site.

The DGEIS recognizes that spent fuel pools are susceptible to fires and that a fire would have severe consequences comparable to those of a severe nuclear reactor accident. However, the DGEIS is critically flawed because it attempts to analyze those consequences generically for all nuclear facilities based on the modeled consequences of severe accidents at two nuclear power plants located in rural or less populated areas. Accident consequence factors specific to Indian Point – such as surrounding population, building density, critical infrastructure and proximity to significant surface drinking water supplies – have not been taken into consideration in assessing the consequences of a fire or other spent fuel pool accident.

Generic review of accident risk at Indian Point is inappropriate because the consequences of a spent fuel pool accident in the densely populated areas surrounding Indian Point are significantly greater than in the rural or less populated areas in which the reference plants are located. Either the NRC must conduct site-specific analysis of environmental impacts of a severe accident at the Indian Point spent fuel pools, or use

the Indian Point site, and not less-populated sites, as its baseline for spent fuel pool accident risk nationwide.

NRC also assumed – with no factual basis – that all nuclear waste would be gone from spent fuel pools by sixty years after the licensed life of a power plant. Currently, there is no available off-site location to store high-level nuclear waste from those facilities – or even an on-going process to identify such a site. As such, the DGEIS fails to meet the requirements of the Circuit Court's ruling by making decisions based on an unsubstantiated hope that the waste will be gone by then.

Attorney General Schneiderman led the successful challenge in 2012 to the Temporary Storage Rule because he believes that communities that serve as de facto long-term nuclear waste repositories deserve a full and detailed accounting of the environmental, public health, and safety risks. Unfortunately, he believes that the Waste Confidence DGEIS, as presented, fails to provide such a full and detailed accounting, and therefore, fails our communities. Attorney General Schneiderman looks forward to the Commission addressing the draft's deficiencies in this ongoing rule making process.

The Attorney General expresses his appreciation to the NRC for the opportunity to comment on the DGEIS, and looks forward to submitting additional written comments during the comment period.

Thank you.