

August 26, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| In the Matter of                 | ) |                           |
|                                  | ) |                           |
| ENTERGY NUCLEAR OPERATIONS, INC. | ) | Docket Nos. 50-247/286-LR |
|                                  | ) |                           |
| (Indian Point Nuclear Generating | ) |                           |
| Units 2 and 3)                   | ) |                           |

ERRATA AND CLARIFICATION TO  
"NRC STAFF'S RESPONSE TO RIVERKEEPER'S MOTION  
FOR CLARIFICATION AND RECONSIDERATION OF LBP-08-13"

Counsel for the Staff of the Nuclear Regulatory Commission files this *errata* to clarify the context of a case it cited in its Response to Riverkeeper's Motion for Clarification and Reconsideration of LBP- 08-13 ("Response"). At page 7, the Response states: "The amended regulation's "clear error" standard is a high standard: "a 'clearly erroneous' finding is one that is not even plausible in light of the record viewed in its entirety", citing *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-5-19, 62 NRC 403, 411 (2005). What the Response did not make clear is the fact that the *Private Fuel Storage* case involved Commission review of a decision by the Atomic Safety and Licensing Board ("Board"). In order to put the quote from that case in the correct context, the second sentence on page 7 of the Response should be amended to include the phrase: "as the Commission explained in its discussion of the standard for review of Board decisions". As corrected, the second sentence on page 7 of the Response reads:

The amended regulation's "clear error" standard is a high standard: as the Commission explained in its discussion of the standard for review of Board decisions: "a 'clearly erroneous' finding is one that is not even plausible in light of the record viewed in its entirety."

We note that the applicant also quoted and cited the *Private Fuel Storage* case; however, the applicant made it made clear that the standard in that case was the standard for Commission review of Board decisions. Applicant's Answer to Riverkeeper's Motion for Clarification and Reconsideration of LBP-08-13 (Regarding SAMA Contention EC-2), August 21, 2008, page 10, fn. 44.

Counsel regrets any confusion the language in the original filing may have engendered.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a horizontal line and a small flourish.

Beth N. Mizuno  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 26th day of August, 2008

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "ERRATA AND CLARIFICATION TO 'NRC STAFF'S RESPONSE TO RIVERKEEPER'S MOTION FOR CLARIFICATION AND RECONSIDERATION OF LBP-08-13'", dated August 26, 2008, have been served upon the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 26th day of August, 2008:

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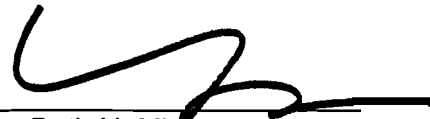
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A handwritten signature in black ink, appearing to read 'Beth N. Mizuno', written over a horizontal line.

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