



OFFICE OF THE  
GENERAL COUNSEL

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 30, 2009

Administrative Judge  
Lawrence G. McDade, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Dr. Richard E. Wardwell  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Kaye D. Lathrop  
190 Cedar Lane East  
Ridgeway, CO 81432

In the Matter of  
ENTERGY NUCLEAR OPERATIONS, INC.  
(Indian Point Nuclear Generating Station Units 2 and 3)  
Docket Nos. 50-247-LR and 50-286-LR; ASLBP No. 07-858-03-LR-BD01

Dear Administrative Judges:

Pursuant to the Atomic Safety and Licensing Board's December 18, 2008 Memorandum and Order (Addressing Requests that the Proceeding be Conducted Pursuant to Subpart G), slip op. at 13, and the telephone conference call held on January 14, 2009, the staff of the U.S. Nuclear Regulatory Commission ("Staff") herein notifies the Licensing Board and the parties that a hearing file has been created for this proceeding. The hearing file includes materials required pursuant to 10 C.F.R. § 2.1203, as well as the Staff's mandatory disclosures produced pursuant to 10 C.F.R. § 2.336(b) and (c). Materials in the hearing file may be accessed through the Agencywide Documents Access and Management System ("ADAMS"). An index containing the ADAMS accession number, date, and title or description of each item in the hearing file is appended hereto as Attachment 1.

On or about February 4, 2009, the hearing file will be made available via the Electronic Hearing Docket ("EHD"), which may be accessed at the following URL:  
[http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp). The hearing file will be contained in a sub-folder entitled, "Indian PT Hearing File" in the "Indian\_PT\_2&3\_50-247&50-286-LR" folder of the EHD.

In addition, as required by 10 C.F.R. § 2.336(b)(5), the Staff is producing two privilege logs, identifying documents withheld under the deliberative process privilege and documents containing proprietary, sensitive, or privacy-related information, which are appended hereto as Attachments 2 and 3, respectively. Also attached is the Declaration of Brian E. Holian formally invoking the deliberative process privilege with respect to each of the documents in Attachment

L. McDade  
K. Lathrop  
R. Wardwell

- 2 -

January 30, 2009

2. The Staff will preserve and maintain the privileged documents identified in these logs during the pendency of this proceeding.

Further, pursuant to 10 C.F.R. § 2.336(c), attached is the affidavit of Andrew L. Stuyvenberg, certifying that all relevant materials required by this section have been disclosed, and that the disclosures are accurate and complete for documents identified as of January 23, 2009, except with respect to Consolidated Contention Riverkeeper EC-3/Clearwater EC-1, as set forth in the Licensing Board's Order of January 30, 2009.

Finally, in preparing to make these initial disclosures, the Applicant, Riverkeeper and the Staff have each located a large volume of documents pertaining to historic groundwater contamination issues at the Indian Point site, including Unit 1 and Unit 2 spent fuel pool leaks, which may be relevant to Consolidated Contention Riverkeeper EC-3/Clearwater EC-1. In the interest of cooperation, the Staff has agreed to identify such additional documents in its possession, notwithstanding the Staff's belief that it need not identify such documents in this proceeding under 10 C.F.R. §§ 2.336(b)-(c) or 2.1203(b). The Staff will identify documents pertaining to groundwater contamination issues at the Indian Point site, in addition to the documents identified in the current set of initial disclosures, on or before February 28, 2009, in accordance with the Licensing Board's Order of January 30, 2009.

Sincerely,



Marcia J. Simon  
Counsel for NRC Staff

Enclosures: Hearing File Index  
Privilege Log - Deliberative Process  
Privilege Log - Proprietary or Sensitive Information  
Affidavit of Andrew L. Stuyvenberg  
Declaration of Brian E. Holian

cc: Service List