

February 27, 2009

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 & 50-286-LR
(Indian Point Nuclear Generating Units 2 and 3))

DECLARATION OF DARRELL J. ROBERTS

I, Darrell J. Roberts, do hereby state as follows:

1. I am employed as the Director of the Division of Reactor Safety ("DRS") in the U.S. Nuclear Regulatory Commission's ("NRC") Region I Office. As Director of the Division of Reactor Safety, NRC Region I, I am responsible for overseeing NRC inspection activities and licensee regulatory compliance for reactor facilities in the northeast United States (including the Indian Point Energy Center) in various technical functional areas including radiation protection, in-service inspection, engineering, fire protection, security, emergency preparedness, incident response, operator licensing, licensed operator requalification, and license renewal.

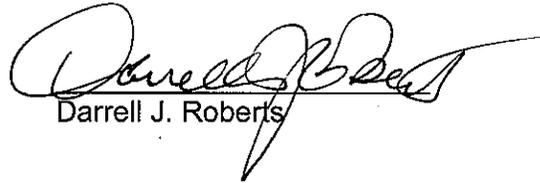
2. As part of their responsibilities in updating the hearing file and mandatory disclosures for these proceedings, NRC staff members under my supervision identified certain documents as privileged because they contain information concerning the Staff's pre-decisional deliberative process. Those documents are listed in Attachment 5 to the February 27, 2009 disclosure of documents related to groundwater issues, and other documents identified in Supplement 1 to the Staff's Hearing File concerning the Indian Point Units 2 and 3 license renewal application.

3. I have personally reviewed the documents identified as privileged in Attachment 5, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain pre-decisional information concerning the Staff's evaluation of Indian Point Energy Center groundwater issues and/or Indian Point Units 2 and 3 inspection and enforcement activities. All of these documents that have been identified as privileged contain Staff analyses, recommendations, opinions, or evaluations, and may not necessarily reflect the final agency position with respect to the matters discussed therein. Each of these privileged documents comprises part of the deliberative process necessary for the Staff's inspection and enforcement activities.

4. Further, I have determined that disclosure of these documents could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review, inspection or enforcement documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision had yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to each of the documents listed in Attachment 5 to the Staff's February 27, 2009 disclosure of groundwater-related documents, and other documents identified in Supplement 1 to the Staff's Hearing File concerning the Indian Point Units 2 and 3 license renewal application.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Darrell J. Roberts

Executed in King of Prussia, Pennsylvania
this 27th day of February, 2009