



OFFICE OF THE
GENERAL COUNSEL

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

May 29, 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
Dr. 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

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 Licensing Board's "Order (Granting Consent Motion Regarding Mandatory Disclosures)," dated January 30, 2009, at 1, the staff of the U.S. Nuclear Regulatory Commission ("Staff") herein notifies the Licensing Board and the parties that the hearing file has been supplemented for this proceeding. 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 Hearing File Index, Supplement 4 is appended hereto as Attachment 1.

On or about June 4, 2009, the newly identified documents in 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. The hearing file will be contained in a sub-folder entitled, "Indian PT Hearing File, Supplement 4" 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 an updated privilege log, 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

Judge McDade
Judge Lathrop
Judge Wardwell

- 2 -

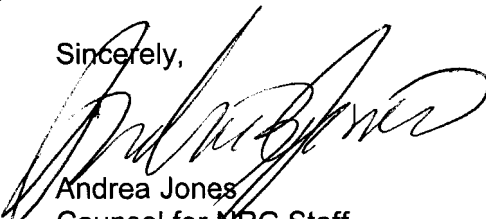
May 29, 2009

Attachment 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 as to documents identified by May 22, 2009.

Finally, the NRC Staff notes that it has made a good faith effort to identify and characterize all documents meeting the criteria of 10 C.F.R. § 2.336(b) and 10 C.F.R. § 2.1203 in this proceeding. In identifying these documents, the Staff does not concede their relevance to the license renewal issues to be decided in this proceeding.

Sincerely,



Andrea Jones
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 4
Attachment 2 - Deliberative Process Privilege Log
Attachment 3 - Proprietary and Sensitive Information Log
Declaration of Brian E. Holian
Affidavit of Andrew L. Stuyvenberg

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index
Supplement 4 - May 29, 2009

ID #	Accession Number	Document Date	Title
04-001	ML091350397	1/26/2009	2009/01/26 Indian Point LR Hearing - FW: Indian Point Conference Call-- call-in procedures
04-002	ML091350455	1/29/2009	2009/01/29 Indian Point LR Hearing - 17 safety problems found at Indian Pt.
04-003	ML091120802	4/22/2009	2009/04/22 Indian Point LR Hearing - Telecon on 4/27 at 1:00 pm EST
04-004	ML091170216	4/27/2009	2009/04/27 Indian Point LR Hearing - FW: Revised comparative pictures
04-005	ML091270867	5/7/2009	2009/05/07 Indian Point LR Hearing - FW: RE: Conference call time request
04-006	ML091400219	5/11/2009	2009/05/11 Indian Point LR Hearing - FW: RAI Fig 2
04-007	ML091330555	5/13/2009	2009/05/13 Indian Point LR Hearing - Draft RAI 3.4.2-2 related to the IP2 AFW pump room fire event open item
04-008	ML091350456	5/13/2009	2009/05/13 Indian Point LR Hearing - Hudson River Estuary meetings clarification
04-009	ML091350457	5/14/2009	2009/05/14 Indian Point LR Hearing - Fwd: Hudson River Estuary meetings clarification
04-010	ML091340299	5/14/2009	2009/05/14 Indian Point LR Hearing - RE: Entergy Indian Point Units 2 & 3 - Section 401 WQC - NOIA and RFI
04-011	ML091350174	5/15/2009	2009/05/15 Indian Point LR Hearing - Draft RAIs
04-012	ML091390874	5/19/2009	2009/05/19 Indian Point LR Hearing - RE: Teleconference Call Summary -- April 27, 2009
04-013	ML091390877	5/19/2009	2009/05/19 Indian Point LR Hearing - Teleconference Call Summary -- April 27, 2009

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 4 - May 29, 2009

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosures as predecisional, deliberative information. Pursuant to 10 C.F.R. § 2.336(b)(5),

ID #	Accession Number	Author Name/ Affiliation	Title	Document Date	Document Type	Comment	Page Count
DPP-04-001	ML091350413	D. Logan NRC/NRR	2008/07/25 Indian Point LR Hearing - simple answer	7/25/2008	E-Mail	Internal transmission of comments regarding EIS	4
DPP-04-002	ML091350412	D. Logan NRC/NRR	2008/08/04 Indian Point LR Hearing - information on cost of mitigation alternatives	8/4/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-003	ML091350410	D. Logan NRC/NRR	2008/09/16 Indian Point LR Hearing - RE: Convert ppt to mg/L	9/16/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-004	ML091350409	D. Logan NRC/NRR	2008/09/17 Indian Point LR Hearing - redbreast sunfish (<i>Lepomis auritus</i>)	9/17/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-005	ML091350407	D. Logan NRC/NRR	2008/09/18 Indian Point LR Hearing - RE: IP - Same para as last e-mail	9/18/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-006	ML091350405	D. Logan NRC/NRR	2008/09/19 Indian Point LR Hearing - RE: Impingement sampling at IP - from chapter 4	9/19/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-007	ML091350406	D. Logan NRC/NRR	2008/09/19 Indian Point LR Hearing - RE: Impingement sampling at IP - from chapter 4	9/19/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-008	ML091350404	D. Logan NRC/NRR	2008/09/19 Indian Point LR Hearing - RE: IP - Same para as last e-mail	9/19/2008	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-009	ML091350429	V. Cullinan PNNL	2008/11/12 Indian Point LR Hearing - Entrainment and Impingement	11/12/2008	E-Mail	Internal transmission of comments regarding EIS	9
DPP-04-010	ML091350428	V. Cullinan PNNL	2008/11/14 Indian Point LR Hearing - references	11/14/2008	E-Mail	Internal transmission of comments regarding EIS	5
DPP-04-011	ML091350423	H. Nash NRC/NRO	2008/12/15 Indian Point LR Hearing - RE: The bluefish question	12/15/2008	E-Mail	Internal transmission of comments regarding EIS	3
DPP-04-012	ML091350427	V. Cullinan PNNL	2009/01/05 Indian Point LR Hearing - RE: This might help. -Dennis	1/5/2009	E-Mail	Internal transmission of comments regarding EIS	10
DPP-04-013	ML091350398	D. Logan NRC/NRR	2009/01/08 Indian Point LR Hearing - RE: Question...	1/8/2009	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-014	ML091350426	V. Cullinan PNNL	2009/01/27 Indian Point LR Hearing - Responses to Question from Conference Call 1-27-09	1/27/2009	E-Mail	Internal transmission of comments regarding EIS	3

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 4 - May 29, 2009

ID #	Accession Number	Author Name/ Affiliation	Title	Document Date	Document Type	Comment	Page Count
DPP-04-015	ML091350392	D. Logan NRC/NRR	2009/02/20 Indian Point LR Hearing -	2/20/2009	E-Mail	Internal transmission of comments regarding EIS	7
DPP-04-016	ML091350390	D. Logan NRC/NRR	2009/03/17 Indian Point LR Hearing - Primrose path	3/17/2009	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-017	ML091350375	D. Logan NRC/NRR	2009/04/15 Indian Point LR Hearing - ENSR 2000	4/15/2009	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-018	ML091350372	D. Logan NRC/NRR	2009/04/29 Indian Point LR Hearing - NMFS's comments on the Indian Point biological assessment	4/29/2009	E-Mail	Internal transmission of comments regarding EIS	5
DPP-04-019	ML091350425	V. Cullinan PNNL	2009/04/30 Indian Point LR Hearing - Selection of RIS	4/30/2009	E-Mail	Internal transmission of comments regarding EIS	2
DPP-04-020	ML091350430	J. Ward PNNL	2009/05/07 Indian Point LR Hearing - Re: Conference call time request	5/7/2009	E-Mail	Internal transmission of comments regarding EIS	3

Attachment 3 - Indian Point License Renewal Hearing File Index
Proprietary and Sensitive Information, Supplement 4 - May 29, 2009

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain trade secrets, privileged or confidential commercial or financial information or to contain sensitive unclassified non-safeguards information (SUNSI), or personally identifiable information (PII). Pursuant to 10 C.F.R. §2.336(b)(5), the Staff is providing this log to identify the following documents, which are either designated proprietary or which have been withheld because they contain SUNSI or PII and are subject to protected status under Section 2.390.

ID #	Accession Number	Author Name/Affiliation	Title/Description	Document Date	Document Type	Comment	Page Count
04-001	ML091350370	D. Logan NRC/NRR	2009/05/07 Indian Point LR Hearing - FW: RE: Conference call time request	5/7/2009	E-Mail	Contains PII	3

May 29, 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))	ASLBP No. 07-858-03-LR-BD01

DECLARATION OF BRIAN E. HOLIAN

I, Brian E. Holian, do hereby state as follows:

1. I am employed as the Director of the Division of Licensing Renewal ("DLR") in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation ("NRR"). My supervisory responsibilities include oversight of the NRC Staff's review and evaluation of the Indian Point Nuclear Generating Station Units 2 and 3 license renewal application.

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 contained information concerning the Staff's pre-decisional deliberative process. Those documents are listed in Attachment 2 to the May 29, 2009 submission of the Staff's Hearing File Index Supplement 4.

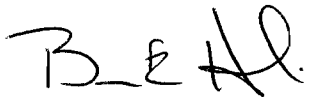
3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain pre-decisional information concerning the Staff's review of the license renewal application. All documents contain either Staff's analyses, recommendations, opinions, or evaluations, and may not necessarily reflect the final agency position with respect to the

matters discussed therein. Each of the documents comprises part of the deliberative process necessary for the Staff's review of the pending license renewal application.

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 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 has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to each of the documents listed in Attachment 2 to the May 29, 2009 submission of the Staff's Hearing File Index Supplement 4.

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



Brian E. Holian

Executed in Rockville, Maryland
this 29th day of May, 2009

May 29, 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
OPERATIONS, INC.))	
)	ASLBP No. 07-858-03-LR-BD01
(Indian Point Nuclear Generation Station,)	
Units 2 and 3))	

AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, Andrew L. Stuyvenberg, do hereby state as follows:

1. I am employed as a Project Manager in the Division of License Renewal in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation. I serve as a project manager for the Indian Point Nuclear Generating Station, Units 2 and 3 license renewal application ("LRA"). Among other things, I am managing the preparation of the hearing file and mandatory disclosures in connection with the LRA at issue in this proceeding.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the captioned proceeding have been disclosed, and that the disclosures are accurate and complete for documents identified as of May 20, 2009.

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


Andrew L. Stuyvenberg

Executed in Rockville, Maryland
this 29th day of May, 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. 50-247/286-LR
)	
(Indian Point Nuclear Generating)	
Units 2 and 3))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Letter to the Atomic Safety and Licensing Board regarding the Indian Point Hearing File, including: Attachment 1 - Indian Point License Renewal Hearing File Index Supplement 4, Attachment 2 – Deliberative Process Privilege Log, Attachment 3 – Proprietary and Sensitive Information Log, Declaration of Brian E. Holian, dated May 29, 2009, and Affidavit of Andrew L. Stuyvenberg, dated May 29, 2009, have been served upon the following through deposit in the NRC's internal mail system, with copies by electronic mail, or, as indicated by an asterisk, by deposit in the U.S. Postal Service, with copies by electronic mail this 29th day of May, 2009:

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Counsel for NRC Staff