



OFFICE OF THE
GENERAL COUNSEL

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

June 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
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 5 is appended hereto as Attachment 1.

On or about July 7, 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 5" 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, which are appended hereto as Attachment 2. 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

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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 June 23, 2009.

The Staff has determined that a document that was previously withheld as containing sensitive privacy information, in the Staff's Supplement 4, Attachment 3, dated May 29, 2009 (Document ID No. 04-001), may be made publicly available. The document is identified as publicly available in Attachment 1 to this letter (Document ID No. 05-003).

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,

A handwritten signature in black ink, appearing to read "B. G. Harris", with a long horizontal flourish extending to the right.

Brian G. Harris
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 5
Attachment 2 - Deliberative Process Privilege 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 5 - June 30, 2009

ID #	Accession Number	Document Date	Title
05-001	ML091350370	5/7/2009	2009/05/07 Indian Point LR Hearing - FW: RE: Conference call time request
05-002	ML091460678	5/26/2009	2009/05/26 Indian Point LR Hearing - Indian Point Units 2 and 3 SER Related to License Renewal
05-003	ML091530544	6/2/2009	2009/06/02 Indian Point LR Hearing - May 11, 2009, NRC-Entergy Telecon Summary

Note: ID No. 05-003 is an unredacted version of ID No. 04-001, from the Staff's Fourth Supplement, Attachment 3.

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 5 - June 30, 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), the Staff is providing this log to identify the following documents, withheld under the "deliberative process" privilege.

ID #	Accession Number	Author Name/ Affiliation	Title	Document Date	Document Type	Comment	Page Count
DPP-05-001	ML091420030	D. Logan NRC/NRR	2009/05/22 Indian Point LR Hearing - RE: Comments	5/22/2009	E-Mail	Internal transmission of comments regarding EIS	2
DPP-05-002	ML091560467	D. Logan NRC/NRR	2009/06/05 Indian Point LR Hearing -	6/5/2009	E-Mail	Internal transmission of comments regarding EIS	4
DPP-05-003	ML091590321	D. Logan NRC/NRR	2009/06/08 Indian Point LR Hearing - FW:	6/8/2009	E-Mail	Internal transmission of comments regarding EIS	18

June 30, 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 June 30, 2009 submission of the Staff's Hearing File Index Supplement 5.


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 June 30, 2009 submission of the Staff's Hearing File Index Supplement 5.

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 30th day of June, 2009

June 30 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. 50-246 & 50-286-LR
OPERATIONS, INC.))	
)	ASLBP No. 07-858-03-LR-BD01
(Indian Point Nuclear Generation Station,)	
Units 2 and 3))	

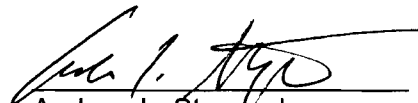
AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

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 June 23, 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 30th day of June, 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 5, Attachment 2 – Deliberative Process Privilege Log, Declaration of Brian E. Holian, dated June 30, 2009, and Affidavit of Andrew L. Stuyvenberg, dated June 30, 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 30th day of June, 2009:

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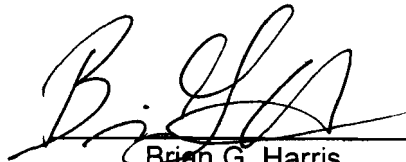
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