



OFFICE OF THE
GENERAL COUNSEL

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

October 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
ENERGY 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 9 is appended hereto as Attachment 1.

On or about November 6, 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 9" 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

- 2 -

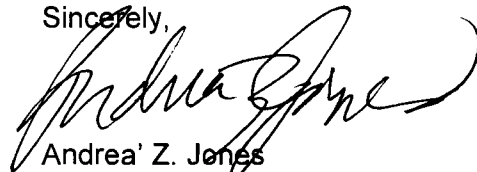
October 30, 2009

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 October 23, 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,

A handwritten signature in black ink, appearing to read "Andrea Z. Jones", written in a cursive style.

Andrea Z. Jones
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 9
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 9 - October 30, 2009

ID #	Accession Number	Document Date	Title
09-001	ML092530366	9/9/2009	2009/09/09 Indian Point LR Hearing - RE: Riverkeeper Letter to ACRS Re Sept. 10-12 Meeting to Discuss Indian Point LRA and FSER
09-002	ML092530612	9/10/2009	2009/09/10 Indian Point LR Hearing - RE: NHPA Section 106 Consultation Correspondence for Indian Point Proposed License Renewal
09-003	ML092660481	9/23/2009	2009/09/23 Indian Point LR Hearing - RE: Data Explanation
09-004	ML092670142	9/24/2009	2009/09/24 Indian Point LR Hearing - RE: NL-09-131 signed
09-005	ML092730080	9/25/2009	2009/09/25 Indian Point LR Hearing - ACRS Report
09-006	ML092710265	8/24/2009	2009/08/24 Indian Point LR Hearing - RE: Interim Decision

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 9 - October 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.

Item ID	Accession Number	Author Name/ Affiliation	Title	Document Date	Document Type	Comment	Page Count
DPP-09-01	ML092720218	R. Palla NRC/NRR	2008/11/19 Indian Point LR Hearing - RE: GSI 148 - IP3 Fire spray misdirection due to smoke	11/19/2008	E-Mail	Internal Transmission of Comments Regarding the SER	3
DPP-09-02	ML092720329	R. Palla NRC/NRR	2009/03/02 Indian Point LR Hearing - FW: State of New York dSEIS Contentions and Supporting Documents	3/2/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	62
DPP-09-03	ML092720289	J. Ramsdell NRC/Contractor (PNL)	2009/08/24 Indian Point LR Hearing - RE: Use of MACCS2 Code for Indian Point License Renewal - ASLB Decision - FYI	8/24/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	3
DPP-09-04	ML092720634	R. Palla NRC/NRR	2009/08/31 Indian Point LR Hearing - NYS Documents Table	8/31/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	3
DPP-09-05	ML092660503	R. Palla NRC/NRR	2009/09/23 Indian Point LR Hearing - General Discussion Regarding SAMA Analysis *** Attorney Client Privilege	9/23/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	6
DPP-09-06	ML092670144	A. Stuyvenberg NRC/NRR	2009/09/24 Indian Point LR Hearing - FW: NL-09-131 signed	9/24/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	19
DPP-09-07	ML092730069	K. Green NRC/NRR	2009/09/29 Indian Point LR Hearing - Final Comm Plan for Issuance of the ACRS Report on IP2 and IP3 LRA and Staff's SER	9/29/2009	E-Mail	Internal Transmission of Comments Regarding the SER/ACRS	8
DPP-09-08	ML092720210	R. Palla NRC/NRR	2009/09/29 Indian Point LR Hearing - FW:	9/29/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	85

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 9 - October 30, 2009

DPP-09-09	ML092730075	K. Green NRC/NRR	2009/09/29 Indian Point LR Hearing - RE: Final Comm Plan for Issuance of the ACRS Report on IP2 and IP3 LRA and Staff's SER	9/29/2009	E-Mail	Internal Transmission of Comments Regarding the SER/ACRS	8
DPP-09-10	ML092780234	A. Stuyvenberg NRC/NRR	2009/10/05 Indian Point LR Hearing - IP Comment Files (Please Respond)	10/5/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	3
DPP-09-11	ML092780391	J. Rikhoff NRC/NRR	2009/10/05 Indian Point LR Hearing - RE: IP Comment Files (Please Respond)	10/5/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	3
DPP-09-12	ML092860018	D. Logan NRC/NRR	2009/10/13 Indian Point LR Hearing - IP final SEIS	10/13/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	2
DPP-09-13	ML092870018	R. Palla NRC/NRR	2009/10/14 Indian Point LR Hearing - Annual Effluent Reports	10/14/2009	E-Mail	Internal Transmission of Comments Regarding the EIS	2

October 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 License 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 October 30, 2009 submission of the Staff's Hearing File Index Supplement 9.

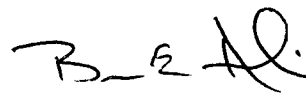
3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain pre-decisional information concerning the Staff's review of the license renewal application. All documents 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 October 30, 2009 submission of the Staff's Hearing File Index Supplement 9.

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 October, 2009

October 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 Generation Station,)	ASLBP No. 07-858-03-LR-BD01
Units 2 and 3))	

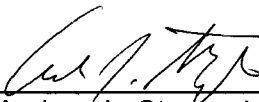
AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

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 October 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 October, 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 9, Attachment 2 – Deliberative Process Privilege Log, Declaration of Brian E. Holian, dated October 30, 2009, and Affidavit of Andrew L. Stuyvenberg, dated October 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 October, 2009:

Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Lawrence.McDade@nrc.gov

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16G4
Washington, DC 20555-0001
E-mail: OCAAMAIL.resource@nrc.gov

Dr. Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Richard.Wardwell@nrc.gov

Office of the Secretary
Attn: Rulemaking and Adjudications Staff
Mail Stop: O-16G4
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: Hearing.Docket@nrc.gov

Dr. Kaye D. Lathrop*
Atomic Safety and Licensing Board Panel
190 Cedar Lane E.
Ridgway, CO 81432
E-mail: Kaye.Lathrop@nrc.gov

Zachary S. Kahn
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: Zachary.Kahn@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, DC 20555-0001
(Via Internal Mail Only)

Kathryn M. Sutton, Esq.*
Paul M. Bessette, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004
E-mail: ksutton@morganlewis.com
E-mail: pbessette@morganlewis.com

Michael J. Delaney, Esq.*
Vice President – Energy Department
New York City Economic Development
Corporation (NYCEDC)
110 William Street
New York, NY 10038
E-mail: mdelaney@nycedc.com

Justin D. Pruyne, Esq.*
Assistant County Attorney
Office of the Westchester County Attorney
148 Martine Avenue, 6th Floor
White Plains, NY 10601
E-mail: jdp3@westchestergov.com

Daniel E. O'Neill, Mayor*
James Seirmarco, M.S.
Village of Buchanan
Municipal Building
Buchanan, NY 10511-1298
E-mail: vob@bestweb.net

Manna Jo Greene*
Hudson River Sloop Clearwater, Inc.
112 Little Market Street
Poughkeepsie, NY 12601
E-mail: mannajo@clearwater.org

William C. Dennis, Esq.*
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601
E-mail: wdennis@entergy.com

Mylan L. Denerstein, Esq.*
Janice A. Dean, Esq.
Executive Deputy Attorney General,
Social Justice
Office of the Attorney General
of the State of New York
120 Broadway, 25th Floor
New York, NY 10271
E-mail: mylan.denerstein@oag.state.ny.us
janice.dean@oag.state.ny.us

Martin J. O'Neill, Esq.*
Morgan, Lewis & Bockius, LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002
E-mail: martin.o'neill@morganlewis.com

John J. Sipos, Esq.*
Charlie Donaldson, Esq.
Assistants Attorney General
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, NY 12224
E-mail: john.sipos@oag.state.ny.us

Robert Snook, Esq.*
Office of the Attorney General
State of Connecticut
55 Elm Street
P.O. Box 120
Hartford, CN 06141-0120
E-mail: robert.snook@po.state.ct.us

Phillip Musegaas, Esq.*
Deborah Brancato, Esq.
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
E-mail: phillip@riverkeeper.org
dbrancato@riverkeeper.org

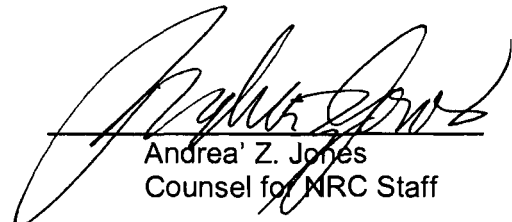
Elise N. Zoli, Esq.*
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, MA 02109
E-mail: ezoli@goodwinprocter.com

Ross H. Gould, Esq.*
10 Park Ave, #5L
New York, NY 10016
E-mail: rgouldesq@gmail.com

Daniel Riesel, Esq.*
Thomas F. Wood, Esq.
Ms. Jessica Steinberg, J.D.
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022
E-mail: driesel@sprlaw.com
jsteinberg@sprlaw.com

Joan Leary Matthews, Esq.*
Senior Attorney for Special Projects
New York State Department of
Environmental Conservation
Office of the General Counsel
625 Broadway, 14th Floor
Albany, NY 12233-1500
E-mail: jmatthe@gw.dec.state.ny.us

John Louis Parker, Esq.*
Office of General Counsel, Region 3
New York State Department of
Environmental Conservation
21 South Putt Corners Road
New Paltz, NY 12561-1620
E-mail: jlparker@gw.dec.state.ny.us



Andrea Z. Jones
Counsel for NRC Staff