



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

January 29, 2010

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 12 is appended hereto as Attachment 1.

On or about February 5, 2010, 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 12" 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 -

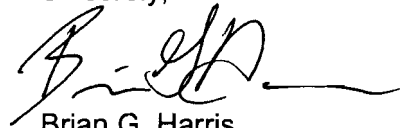
January 29, 2010

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 January 22, 2010.

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. Harris", with a long horizontal flourish extending to the right.

Brian G. Harris
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 12
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 12 - January 29, 2010

ID #	Accession Number	Document Date	Title
12-001	ML093620022	12/28/2009	2009/12/28 Indian Point LR Hearing - Telecon re Recent RAI Response
12-002	ML093620374	12/28/2009	2009/12/28 Indian Point LR Hearing - RE: Telecon re Recent RAI Response
12-003	ML093620438	12/28/2009	2009/12/28 Indian Point LR Hearing - RE: Telecon re Recent RAI Response
12-004	ML093641149	12/30/2009	2009/12/30 Indian Point LR Hearing - RE: Joint Application for CWA; Indian Point Units 2 and 3
12-005	ML093650243	12/31/2009	2009/12/31 Indian Point LR Hearing - RE: IPEC SAMA Letter
12-006	ML100040199	1/4/2010	2010/01/04 Indian Point LR Hearing - RE: IPEC SAMA Letter
12-007	ML100050741	1/5/2010	2010/01/05 Indian Point LR Hearing - FW: Conference Details (JAN 07, 2010--09:00 AM ET)
12-008	ML100081221	1/8/2010	2010/01/08 Indian Point LR Hearing - Week of Jan. 25th tentatively looks good. . .
12-009	ML100130180	1/13/2010	2010/01/13 Indian Point LR Hearing - Site Visit
12-010	ML100190222	1/14/2010	2010/01/14 Indian Point LR Hearing - Emailing: NL-10-013.pdf
12-011	ML100190223	1/19/2010	2010/01/19 Indian Point LR Hearing - RE: Emailing: NL-10-013.pdf
12-012	ML100192092	1/19/2010	2010/01/19 Indian Point LR Hearing - site visit
12-013	ML100200378	1/20/2010	2010/01/20 Indian Point LR Hearing - RE: Access Forms
12-014	ML100211165	1/21/2010	2010/01/21 Indian Point LR Hearing - RE: Impingement Date

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 12 - January 29, 2010

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	Document Date	Document Type	Title	Comment	Page Count
DPP-12-001	ML093561145	R. Palla NRC/NRR	12/22/2009	E-Mail	2009/12/22 Indian Point LR Hearing - FW: Output Files	Internal discussion regarding SAMA	2
DPP-12-002	ML093640949	S. Klementowicz NRC/NRR	12/30/2009	E-Mail	2009/12/30 Indian Point LR Hearing - DRAFT - License Renewal - Indian Point comment resolution	Internal transmission of draft FSEIS	28
DPP-12-003	ML100040198	R. Palla NRC/NRR	1/4/2010	E-Mail	2010/01/04 Indian Point LR Hearing - Followup Question re: SAMA ReAnalysis	Internal discussion regarding SAMA	3
DPP-12-004	ML100141724	R. Palla NRC/NRR	1/14/2010	E-Mail	2010/01/14 Indian Point LR Hearing - Draft FSEIS Insert Discussing Impact of IP Contentions on SAMA	Internal transmission of draft FSEIS	2
DPP-12-005	ML100190008	R. Palla NRC/NRR	1/19/2010	E-Mail	2010/01/19 Indian Point LR Hearing - FW: Draft FSEIS Insert Discussing Impact of IP Contentions on SAMA	Internal transmission of draft FSEIS	10
DPP-12-006	ML100190227	R. Palla NRC/NRR	1/19/2010	E-Mail	2010/01/19 Indian Point LR Hearing - FW: Letter of Technical Direction Re IP Site Visit	Internal discussion regarding SAMA	2
DPP-12-007	ML100190226	A. Stuyvenberg NRC/NRR	1/19/2010	E-Mail	2010/01/19 Indian Point LR Hearing - RE: Letter of Technical Direction Re IP Site Visit	Internal discussion regarding SAMA	2
DPP-12-008	ML100201194	A. Stuyvenberg NRC/NRR	1/20/2010	E-Mail	2010/01/20 Indian Point LR Hearing - App. G changes	Internal transmission of draft FSEIS	33
DPP-12-009	ML100201192	A. Stuyvenberg NRC/NRR	1/20/2010	E-Mail	2010/01/20 Indian Point LR Hearing - changes to chapter 5	Internal transmission of draft FSEIS	10
DPP-12-010	ML100201193	A. Stuyvenberg NRC/NRR	1/20/2010	E-Mail	2010/01/20 Indian Point LR Hearing - FW: Inserts to IP SEIS Chapter 5 and Appendix G	Internal transmission of draft FSEIS	14

January 29, 2010

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 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 submission of the Staff's Hearing File Index Supplement 12.

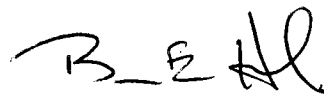
3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain pre-decisional information concerning the Staff's review of the license renewal application. All documents 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 submission of the Staff's Hearing File Index Supplement 12.

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

A handwritten signature in black ink, appearing to read 'B_E_Hol', is written over a horizontal line.

Brian E. Holian

Executed in Rockville, Maryland
this 29th day of January, 2010

January 29, 2010

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,)	
Units 2 and 3))	

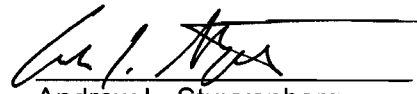
AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

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 January 22, 2010.

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 January, 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 12, Attachment 2 – Deliberative Process Privilege Log, Declaration of Brian E. Holian, dated January 29, 2010, and Affidavit of Andrew L. Stuyvenberg, dated January 29, 2010, 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 January, 2010:

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 (NYCDEC)
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

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

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

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

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

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: driese@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



Brian G. Harris
Counsel for NRC Staff