



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

OFFICE OF THE
GENERAL COUNSEL

July 30, 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
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 18 is appended hereto as Attachment 1.

On or about August 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 18" 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 Andrew S. Imboden formally invoking the deliberative process privilege with respect to the document in

Judge McDade
Judge Lathrop
Judge Wardwell

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July 30, 2010

Attachment 2. The Staff will preserve and maintain the privileged document identified in the log during the pendency of this proceeding.

Further, pursuant to 10 C.F.R. § 2.336(c), attached is the Affidavit of Robert F. Kuntz, 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 July 23, 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,



Brian G. Harris
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 18
Attachment 2 - Deliberative Process Privilege Log
Declaration of Andrew S. Imboden
Affidavit of Robert F. Kuntz

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index
 Supplement 18 - July 30, 2010

ID #	Accession Number	Document Date	Title
018-001	ML093340049	11/16/2009	Indian Point, Units 2 & 3, Telephone Conference Call Regarding Met Tower Data for SAMA Analysis.
018-002	ML101890053	7/8/2010	2010/07/08 Indian Point LR Hearing - RE: Call at 2:00 pm EDT
018-003	ML101890055	7/8/2010	2010/07/08 Indian Point LR Hearing - RE: Call at 2:00 pm EDT
018-004	ML101890056	7/8/2010	2010/07/08 Indian Point LR Hearing - Call at 2:00 pm EDT
018-005	ML101950430	7/14/2010	2010/07/14 Indian Point LR Hearing - NL-10-063 - LRA Amendment 9.pdf
018-006	ML102020027	7/24/2010	IR 05000003-10-09 on 06/22/10 - 06/24/10 for Indian Point, Unit 1, Buchanan, NY.

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 18 - July 30, 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-18-001	ML101760097	A. Stuyvenberg NRC/NRR	6/25/2010	E-Mail	2010/06/25 Indian Point LR Hearing - More fun. . .	Discussion of DSEIS Responses	17
DPP-18-002	ML101760137	A. Stuyvenberg NRC/NRR	6/25/2010	E-Mail	2010/06/25 Indian Point LR Hearing - EJ Responses	Discussion of DSEIS Responses	18
DPP-18-003	ML101760209	A. Stuyvenberg NRC/NRR	6/25/2010	E-Mail	2010/06/25 Indian Point LR Hearing - If time. . . IP assistance follow-up	Discussion of Draft responses to DSEIS Comments	3
DPP-18-004	ML101760539	A. Stuyvenberg NRC/NRR	6/25/2010	E-Mail	2010/06/25 Indian Point LR Hearing - SO responses	Discussion of Draft responses to DSEIS Comments	9
DPP-18-005	ML101800548	J. Jones SNL	2/8/2010	E-Mail	2010/02/08 Indian Point LR Hearing - Indian Point Task I Report - Deliverable	Discussion of Draft responses to DSEIS Comments	22
DPP-18-006	ML101800550	J. Jones SNL	12/8/2009	E-Mail	2009/12/08 Indian Point LR Hearing - Task I	Discussion of Draft responses to DSEIS Comments	22
DPP-18-007	ML101870333	A. Stuyvenberg NRC/NRR	7/6/2010	E-Mail	2010/07/06 Indian Point LR Hearing - IP Comments	Discussion of Draft responses to DSEIS Comments	2
DPP-18-008	ML101870717	A. Stuyvenberg NRC/NRR	7/6/2010	E-Mail	2010/07/06 Indian Point LR Hearing - IP questions for FSEIS	Discussion of comments for FSEIS	2
DPP-18-009	ML102030402	S. Klementowicz, NRC	7/22/2010	E-Mail	2010/07/22 Indian Point LR Hearing - Indian Point - 2.2.7 revision to update REMP data	Draft of FSEIS Section	5

July 30, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
ENERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247 & 50-286-LR
)
)
(Indian Point Nuclear Generating Units 2 and 3))

DECLARATION OF ANDREW S. IMBODEN

I, Andrew S. Imboden, do hereby state as follows:

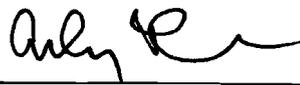
1. I am employed as the Branch Chief for Environmental Review and Guidance Update Branch of the Division of License Renewal (“DLR”) in the U.S. Nuclear Regulatory Commission’s (“NRC”) Office of Nuclear Reactor Regulation (“NRR”). I am serving as the Acting Director for DLR. My supervisory responsibilities 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. The documents are listed in Attachment 2 to the submission of the Staff’s Hearing File Index Supplement 18.
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. The documents contain either the Staff’s analyses, recommendations,

opinions, or evaluations, and may not necessarily reflect the final agency position with respect to the matters discussed therein. The documents comprise 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 the 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 the documents listed in Attachment 2 to the submission of the Staff's Hearing File Index Supplement 18.

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



Andrew S. Imboden

Executed in Rockville, Maryland
this 30th day of July, 2010

July 30, 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))

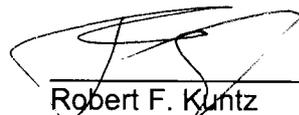
AFFIDAVIT OF ROBERT F. KUNTZ CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, Robert F. Kuntz, do hereby state as follows:

1. I am employed as a Senior Project Manager in the Division of License Renewal in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation. I am the Acting Branch Chief 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 July 23, 2010.

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


Robert F. Kuntz

Executed in Rockville, Maryland
this 30th day of July, 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))

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 18, and Affidavit of Robert F. Kuntz, dated July 30, 2010, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 18 – Deliberative Due Process Privilege, and Declaration of Andrew S. Imboden, dated July 30, 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 30th day of July, 2010:

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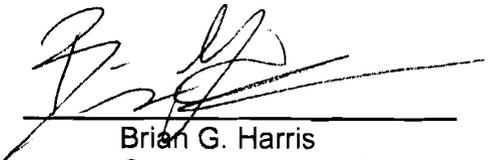
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Counsel for NRC Staff