



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

August 31, 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 September 7, 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](http://ehd.nrc.gov/EHD_Proceeding/home.asp). The hearing file will be contained in a sub-folder entitled, "Indian PT Hearing File, Supplement 19" 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 a document 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 the document in Attachment 2. The Staff will preserve and maintain the privileged document identified in the log during the pendency of this proceeding.

Judge McDade  
Judge Lathrop  
Judge Wardwell

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August 31, 2010

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 August 24, 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 19  
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 19 - August 31, 2010

ID #	Accession Number	Document Date	Title
019-001	ML102150217	7/27/2010	2010/07/27 Indian Point LR Hearing - Emailing: NL-10-076.pdf

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 19 - August 31, 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-19-001	ML102160455	A. Stuyvenberg NRC/NRR	8/4/2010	E-Mail	2010/08/04 Indian Point LR Hearing - INFO: Two Notes on IP FSEIS Sections	Discussion of draft FSEIS sections	2
DPP-19-002	ML102350515	D. Logan NRC/NRR	8/23/2010	E-Mail	2010/08/23 Indian Point LR Hearing - Conversation of possible effects of Indian Point on Indiana bat	Discussion of draft of FSEIS	12

August 31, 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 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 a document as privileged because they contained information concerning the Staff’s pre-decisional deliberative process. The document are listed in Attachment 2 to the submission of the Staff’s Hearing File Index Supplement 19.

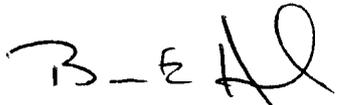
3. I have personally reviewed the document identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that it contains pre-decisional information concerning the Staff’s review of the license renewal application. The document contain 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 document 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 the document 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 document listed in Attachment 2 to the submission of the Staff's Hearing File Index Supplement 19.

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 31<sup>st</sup> day of August, 2010

August 31, 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 Station,	)	
Units 2 and 3)	)	

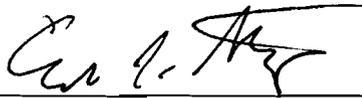
AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING  
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

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 August 24, 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 31<sup>st</sup> day of August, 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 19, and Affidavit of Andrew L Stuyvenberg, dated August 31, 2010, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 19 – Deliberative Due Process Privilege, and Declaration of Brian E. Holian, dated August 31, 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 31<sup>st</sup> day of August, 2010:

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