



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

OFFICE OF THE
GENERAL COUNSEL

October 28, 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 21 is appended hereto as Attachment 1.

On or about November 4, 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 21" 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 documents in Attachment 2. The Staff will preserve and maintain the privileged documents identified in the log during the pendency of this proceeding.

Judge McDade
Judge Lathrop
Judge Wardwell

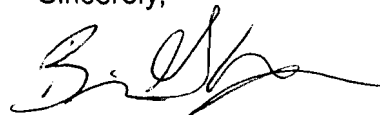
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October 28, 2010

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 October 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 stylized flourish at the end.

Brian G. Harris
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 21
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 21 - October 28, 2010

ID #	Accession Number	Document Date	Title
021-001	ML102730624	9/28/2010	2010/09/28 Indian Point LR Hearing - IPEC SPDES and WQC: Thermal Status - Email 2 of 2
021-002	ML102730630	9/28/2010	2010/09/28 Indian Point LR Hearing - IPEC SPDES and WQC: Thermal Status - Email 1 of 3
021-003	ML102730633	9/28/2010	2010/09/28 Indian Point LR Hearing - IPEC SPDES and WQC: Thermal Status - Email 3 of 3
021-004	ML102740588	10/1/2010	2010/10/01 Indian Point LR Hearing - Follow-up to today's call
021-005	ML102790324	10/1/2010	2010/10/01 Indian Point LR Hearing - Follow-up to today's call
021-006	ML102790325	10/6/2010	2010/10/06 Indian Point LR Hearing - RE: Requested Data?
021-007	ML102800605	10/7/2010	2010/10/07 Indian Point LR Hearing - RE: Requested Data?

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 21 - October 28, 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-21-001	ML102710668	A. Stuyvenberg, NRC/NRR	9/28/2010	E-Mail	2010/09/28 Indian Point LR Hearing - INFO: Call with NMFS re: EFH	Internal discussion regarding EFH	2
DPP-21-002	ML102730278	D. Logan, NRC/NRR	9/30/2010	E-Mail	2010/09/30 Indian Point LR Hearing - RE: ACTION: Call with NMFS tomorrow	Internal discussion regarding EFH	2
DPP-21-003	ML102730328	A. Stuyvenberg, NRC/NRR	9/30/2010	E-Mail	2010/09/30 Indian Point LR Hearing - RE: ACTION: Call with NMFS tomorrow	Internal discussion regarding EFH	3
DPP-21-004	ML102730634	A. Stuyvenberg, NRC/NRR	9/30/2010	E-Mail	2010/09/30 Indian Point LR Hearing - Forwarding: Thermal Background	Internal discussion regarding thermal plumes	2
DPP-21-005	ML102740003	A. Imboden NRC/NRR	10/1/2010	E-Mail	2010/10/01 Indian Point LR Hearing - Re: Forwarding: Thermal Background	Internal discussion regarding thermal plumes	3
DPP-21-006	ML102740143	A. Stuyvenberg, NRC/NRR	10/1/2010	E-Mail	2010/10/01 Indian Point LR Hearing - FW: Missing sections of FSEIS	Internal discussion regarding draft FSEIS	3
DPP-21-007	ML102780463	A. Stuyvenberg, NRC/NRR	10/5/2010	E-Mail	2010/10/05 Indian Point LR Hearing - RE: enviornmental impact on fish around IP	Internal discussion regarding EFH	3
DPP-21-008	ML102790328	A. Stuyvenberg, NRC/NRR	10/6/2010	E-Mail	2010/10/06 Indian Point LR Hearing - INFO and A REQUEST: Two parts re: NMFS	Internal discussion regarding EFH	3
DPP-21-009	ML102790550	D. Logan, NRC/NRR	10/6/2010	E-Mail	2010/10/06 Indian Point LR Hearing - RE: INFO and A REQUEST: Two parts re: NMFS	Internal discussion regarding EFH	3

Attachment 2 - Indian Point License Renewal Hearing File Index
Deliberative Process Privilege, Supplement 21 - October 28, 2010

ID #	Accession Number	Author Name/ Affiliation	Document Date	Document Type	Title	Comment	Page Count
DPP-21-010	ML102790551	A. Stuyvenberg, NRC/NRR	10/6/2010	E-Mail	2010/10/06 Indian Point LR Hearing - RE: INFO and A REQUEST: Two parts re: NMFS	Internal discussion regarding EFH	3
DPP-21-011	ML102790644	D. Logan, NRC/NRR	10/6/2010	E-Mail	2010/10/06 Indian Point LR Hearing - RE: INFO and A REQUEST: Two parts re: NMFS	Internal discussion regarding EFH	4
DPP-21-012	ML102800134	A. Stuyvenberg, NRC/NRR	10/7/2010	E-Mail	2010/10/07 Indian Point LR Hearing - RE: INFO and A REQUEST: Two parts re: NMFS	Internal discussion regarding EFH	4
DPP-21-013	ML102810057	A. Stuyvenberg, NRC/NRR	10/8/2010	E-Mail	2010/10/08 Indian Point LR Hearing - FW: Requested Data?	Internal discussion regarding EFH	6
DPP-21-014	ML102930628	D. Logan, NRC/NRR	10/20/2010	E-Mail	2010/10/20 Indian Point LR Hearing - NMFS EFH recommendations for Indian Point - Notes	Internal discussion regarding EFH	6

October 28, 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 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 21.


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 it contains 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 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 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 21.

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. Holian", written over a horizontal line.

Brian E. Holian

Executed in Rockville, Maryland
this 28th day of October, 2010

October 28, 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))	

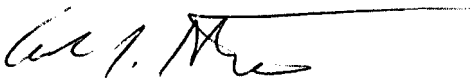
AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

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 October 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 28th day of October, 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. 50-247/286-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 21, and Affidavit of Andrew L Stuyvenberg, dated October 28, 2010, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 21 – Deliberative Due Process Privilege, and Declaration of Brian E. Holian, dated October 28, 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 28th day of October, 2010:

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Brian G. Harris
Counsel for NRC Staff