

May 9, 2011

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-LR/286-LR
)	
(Indian Point Nuclear Generating)	
Units 2 and 3))	

NRC STAFF'S ANSWER TO THE STATE OF NEW YORK'S
MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323(c), the NRC Staff ("Staff") hereby responds to the "State of New York Motion to Compel NRC Staff to Produce Documents Relied Upon in Staff's Final Supplemental Environmental Impact Statement" (Motion") filed by the State of New York ("State" or "New York") on April 22, 2011.¹

New York's Motion paints an unfair picture of the Staff's thorough and diligent compliance with its document disclosure obligations in this proceeding. As set forth in the Affidavit of David J. Wrona, attached hereto, to the best of its knowledge, information and belief, the Staff has disclosed or listed in its privilege logs, all documents in the possession and control of its employees or consultants that are potentially responsive to the State of New York's SAMA-related document requests, with two exceptions: (1) the Staff's privilege logs do not list potentially responsive documents that are protected from disclosure by the work product ("WP") doctrine and/or attorney-client ("AC") privilege, unless those documents are also subject

¹ This Answer is filed pursuant to an extension of time afforded by the Atomic Safety and Licensing Board ("Board") on April 29, 2011. See (1) "Order (Granting NRC Staff's Unopposed Motion for Extension of Time and Providing Instructions for Submission of Documents for In Camera Inspection" ("Order") (Apr. 29, 2011); (2) "NRC Staff's Unopposed Request for An Extension of Time to Respond to the State of New York's Motion To Compel The Production Of Documents" (Apr. 27, 2011).

to the deliberative process privilege (in which case, the deliberative process privilege was asserted), and (2) the Staff has recently obtained certain potentially responsive documents that were not previously disclosed or identified as privileged; the documents falling within these two exceptions are listed in Appendices B and C to the Staff's Answer and are being provided to the Board for its in camera inspection. (Wrona Affidavit at 2-3).

For the reasons set forth herein and in the Affidavits and documents submitted herewith,² the Staff submits that (a) the State's Motion lacks substantial basis and should be denied; (b) the State has failed to show the requisite "compelling need" for it to gain access to documents which are protected by the predecisional deliberative process privilege ("DPP"), and those documents should therefore be withheld from disclosure, and (c) DPP documents (or portions thereof) which are also protected from disclosure by the work-product and/or attorney-client privilege should be withheld from disclosure regardless of their eligibility for protection under the deliberate process privilege.

BACKGROUND

A. Procedural History

On April 23, 2007, Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant") filed its application to renew the operating licenses for Indian Point Units 2 and 3 ("IP2" and "IP3") for an additional period of 20 years. As part of its license renewal application ("LRA"), Entergy

² Attached hereto are (1) **the Affidavit of Donald G. Harrison** (describing the Staff's review of SAMA issues, including Sandia and ISL's work); (2) the **Affidavit of Brian E. Holian** (asserting privilege for newly disclosed documents); (3) the **Affidavit of David J. Wrona** (describing the Staff's document production); (4) **Appendix A** (listing the Sandia- and ISL-related SAMA documents which the Staff has previously identified and withheld under the deliberative process privilege – some of which are now designated, as well, as protected from disclosure by the attorney-client and/or work product privileges); (5) **Appendix B** (listing potentially responsive documents that were withheld from disclosure based on the work product, and/or attorney-client privileges; and (6) **Appendix C** (listing additional Sandia-related documents that were recently transmitted to the Staff, which the Staff asserts should be withheld from disclosure under the deliberative process, work product, and/or attorney-client privileges. In addition, the Staff is providing herewith, to members of the Board and the Board's Law Clerk, one CD containing the documents listed in Appendix A, and one CD containing the documents listed in Appendices B and C, for the Board's in camera review.

submitted an "Environmental Report" ("ER"), pursuant to 10 C.F.R. §§ 51.53(c) and 54.23. On November 30, 2007, the State of New York filed its petition for leave to intervene in the proceeding, in which it set forth 32 safety and environmental contentions concerning the LRA.³

On July 31, 2008, the Board granted the State's petition and admitted many of its contentions – including New York Contentions 12 and 16, which challenged Entergy's analysis of Severe Accident Mitigation Alternatives ("SAMA") using the "MELCOR Accident Consequence Code System" ("MACCS2") code.⁴ In brief, Contention 12 challenged Entergy's estimated decontamination and clean-up costs; Contention 16 challenged Entergy's population projections, and its use of the ATMOS module in its MACCS2 analyses.

On December 22, 2008, the Staff issued its Draft Supplemental Environmental Impact Statement in this proceeding,⁵ in which it presented its draft evaluation of the site-specific environmental impacts of license renewal for IP2 and IP3; included therein was a preliminary evaluation of Entergy's SAMA analysis, completed with the assistance of Information Systems Laboratories, Inc. ("ISL").⁶ On February 27, 2009, New York filed its contentions challenging the Draft SEIS, including Amended Contentions 12-A and 16-A (challenging the DSEIS

³ "New York State Notice of Intention to Participate and Petition to Intervene" (Nov. 30, 2007).

⁴ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-08-13, 68 NRC 43, 100-02, 110-13 (2008).

⁵ "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Draft Report for Comment," NUREG-1437, Supplement 38 (Dec. 2008) ("Draft SEIS" or "DSEIS").

⁶ See DSEIS, Chapter 5 and Appendix G.

evaluation of Entergy's SAMA analysis).⁷ On June 16, 2009, the Board admitted Amended Contentions 12-A and 16-A (in part).⁸

On December 11, 2009, Entergy submitted a revised SAMA analysis ("SAMA Reanalysis") to the NRC, in which it revised its meteorological data inputs to correct a discrepancy that the Staff had identified in its review of Entergy's MACCS2 code SAMA analyses.⁹ On February 25, 2010, the State filed four contentions regarding Entergy's SAMA Reanalysis: Amended Contentions 12-B and 16-B (applying Contentions 12/12-A and 16/16-B to Entergy's SAMA Reanalysis), and New Contentions 35 and 36.¹⁰ By Order dated June 30, 2010, the Board admitted Amended Contentions 12-B and 16-B (in part), as well as new SAMA Contentions 35 and 36.¹¹

On December 3, 2010, the Staff issued its Final Supplemental Environmental Impact Statement, presenting its final evaluation of the environmental impacts of license renewal for IP2 and IP3, including a final evaluation of Entergy's revised SAMA analysis.¹² In addition,

⁷ See "State of New York Contentions Concerning NRC Staff's Draft Supplemental Environmental Impact Statement" (Feb. 27, 2009) ("DSEIS Contentions"). On March 18, 2009, the State filed comments on the DSEIS, including comments on SAMA issues that mirrored its contentions in this proceeding.

⁸ "Order (Ruling on New York State's New and Amended Contentions)" (June 16, 2009), at 3-7.

⁹ Letter from Fred Dacimo, Vice President/License Renewal (Entergy Nuclear Northwest), to NRC Document Control Desk (Dec. 11, 2009) (Subject: License Renewal Application – SAMA Reanalysis Using Alternate Meteorological Tower Data, Indian Point Nuclear Generating Unit Nos. 2 & 3).

¹⁰ "State of New York's New and Amended Contentions Concerning the December 2009 Severe Accident Mitigation Alternative Reanalysis" (March 11, 2010).

¹¹ "Memorandum and Order (Ruling on the Admissibility of New York's New and Amended Contentions 12B, 16B, 35, and 36)" (June 30, 2010), *interlocutory review denied*, CLI-10-30, 72 NRC ____ (Nov. 30, 2010). On January 14, 2011, New York filed a motion for summary disposition of Contentions 35 and 36; cross-motions for summary disposition of those contentions were then filed by Entergy and the Staff on February 3 and 7, 2011, respectively. Those motions are currently pending before the Board.

¹² "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Final Report," NUREG-1437, Supp. 38, Vols. 1-3 (Dec. 2010) ("Final SEIS" or "FSEIS"), at Ch. 5 and Appendix G.

inasmuch as New York had filed comments on the DSEIS that mirrored the issues which it had raised in Contentions 12/12A/12B and 16/16A/16B, the Staff addressed those issues in FSEIS Appendix G, citing an analysis of the State's contentions which had been developed with its assistance by Sandia National Laboratories ("Sandia" or "SNL"). See discussion *infra*, at 11-14. On February 3, 2011, New York filed Amended Contention 12-C, seeking to apply Contentions 12/12-A/12-B to the FSEIS SAMA evaluation.¹³ Responses to Amended Contention 12-C have been filed,¹⁴ and a Board decision on admissibility is pending.

B. Document Disclosures

On December 18, 2008, the Board issued an Order scheduling a prehearing conference to be held by telephone on January 14, 2009, for the purpose of developing an "Initial Scheduling Order." Therein, the Board, *inter alia*, directed the parties to "provide the mandatory disclosures required under 10 C.F.R. § 2.336 as soon as possible," and requested that the parties be prepared to provide "a progress report and a projected time table for providing the remaining disclosures required under 10 C.F.R. § 2.336" at the prehearing conference.¹⁵

In accordance with the Board's Order, a telephonic prehearing conference was held on January 14, 2009, at which a number of procedural matters were discussed. See Tr. 748-83. As pertinent here, the Board set January 30, 2009, as the date for the parties' initial disclosures

¹³ See "State of New York's Motion for Leave to File New and Amended Contention 12-C Concerning NRC Staff's December 2010 [FSEIS] and the Underestimation of Decontamination and Clean Up Costs Associated with a Severe Reactor Accident in the New York Metropolitan Area" (Feb. 3, 2011). The State did not seek to amend Contention 16-16-A/16-B to address the FSEIS SAMA evaluation.

¹⁴ See (1) "NRC Staff's Answer to State of New York Contention 12-C Concerning the Final SEIS Evaluation of Decontamination and Clean Up Costs in a Severe Accident" (Mar. 7, 2011); (2) "Applicant's Answer to New York State's Amended Contention 12C Concerning [SAMA] Analysis" (Mar. 7, 2011).

¹⁵ "Memorandum and Order (Scheduling Prehearing Conference and Ruling on New York State's Motion Requesting Consideration of Additional Matters)" (Dec. 18, 2008), at 1.

– and “stated that it had no objections to the provisions of the Letter Agreement filed by the parties memorializing mandatory disclosure protocols agreed to by all parties.”¹⁶

The parties’ agreed-upon document disclosure protocols – which the Board approved on January 14, 2009 – included the explicit agreement by all parties that:

(a) the parties’ mandatory document disclosures may be limited to the “final documents” that they develop” (Disclosure Protocols, ¶ 1 at 1; emphasis added);

(b) the disclosures “need not include drafts” (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents)” (*Id.*; emphasis added);

(c) the parties “agreed to waive the requirement in 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5) to produce a privilege log for documents asserted to be protected from disclosure under the attorney work product and/or attorney-client privileges” (*Id.*, ¶ 3 at 2; emphasis added); and

(d) “the parties, as applicable, will produce lists identifying any documents that are withheld under the executive or deliberative process privilege” (*Id.*).¹⁷

Consistent with these approved Disclosure Protocols and the Board’s instructions, on January 30, 2009, the Staff submitted the hearing file and its initial set of disclosures – consisting of approximately 1,174 documents; a log of 491 documents withheld under the deliberative process privilege; and a log of eight documents withheld under the privilege for proprietary/sensitive information.¹⁸ Since then, the Staff has filed 28 updates or supplements to

¹⁶ “Memorandum and Order (Summarizing Pre-Hearing Conference)” (Feb. 4, 2009), at 3 and n.5, citing “Agreement of the Parties Regarding Mandatory Discovery Disclosures (Jan. 13, 2009), submitted to the Board by Counsel for Entergy on behalf of all parties, by letter dated January 13, 2008 [*sic*, 2009] (hereafter, “Disclosure Protocols”) (**Attachment 1** hereto). See *also* Tr. 771 (**Attachment 2** hereto).

¹⁷ These document disclosure protocols govern the Staff’s (and other parties’) mandatory document disclosures under 10 C.F.R. § 2.336. During the prehearing conference, Staff Counsel indicated that the Staff would “produce any logs that we’re required to produce under the agreement reached by the parties with respect to documents that are withheld under a privilege.” Tr. at 772-73. Chairman McDade responded, “Okay. Consistent with Paragraph 3 of Mr. Bessette’s letter” – to which Staff Counsel replied, “Yes.” Tr. at 773. See Attachment 2.

¹⁸ Letter from Marcia J. Simon, Esq. (NRC Staff Counsel), to the Board (Jan 30, 2009).

its hearing file and mandatory disclosures, consisting of approximately 1,422 documents; logs of 419 documents withheld under the deliberative process privilege; and logs of 14 documents withheld under the privilege for proprietary/sensitive information. In sum, the Staff's hearing file and mandatory disclosures, to date, identify a total of approximately 2,596 publicly-available documents, 910 documents withheld under the deliberative process privilege, and 22 documents withheld under the privilege for proprietary/ sensitive information.¹⁹ No documents were identified as subject to the attorney-client or work product privileges, as no such designation was required under Paragraph 3 of the parties' approved Disclosure Protocols.²⁰

C. The Instant Controversy

On several occasions during the past year, Counsel for the State contacted Staff Counsel, stating that the State did not find any documents related to its SAMA contentions in the Staff's disclosure logs. Thus, on August 31, 2010, Counsel for New York (John Sipos) informed Staff Counsel (Sherwin Turk) that the State had been unable to find documents related to Contentions 35 and 36 in one set of Staff disclosure logs, dated July 2010.²¹ In response, Staff Counsel (Brian Harris) informed Mr. Sipos that "[t]he Staff has disclosed all documents in its possession pertaining to the Indian Point [LRA] in accordance with 10 C.F.R.

¹⁹ These totals were tabulated from the Staff's updates and supplements to its hearing file and mandatory disclosures during the period of February 27, 2009 - April 29, 2011. Each of these documents was reviewed for relevance and privilege during the hearing file/ mandatory disclosure process. See Affidavit of David J. Wrona, at 1-2. This process included the efforts of one or more technical members of the Staff, Staff managers (privilege review), and at least one (and usually two) Staff attorneys. The Staff recently discovered that its March 2011 update failed to list four documents (included in the totals above) which the Staff had, in fact, made publicly available; that supplement will be corrected shortly.

²⁰ The Disclosure Protocols require only that "final documents" be produced, and state that the disclosures "need not include drafts (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents)" (Disclosure Protocols, ¶ 1 at 1; emphasis added). The Staff could have, but has not, sought to rely on this provision with respect to the documents at issue here, given its agreement to "produce lists identifying any documents that are withheld under the executive or deliberative process privilege." *Id.* Presumably, all parties other than the Staff, unless they are asserting a claim of deliberative process/executive privilege, omitted such drafts from their disclosure logs.

²¹ Letter from John Sipos, Esq. to Sherwin Turk, Esq. (Aug. 31, 2010) (**Attachment 3** hereto).

§ 2.336(b)," including documents related to Entergy's SAMA Reanalysis (the subject of Contentions 35 and 36), and he pointed to examples of where such documents were listed.²² This matter appeared to have been resolved, without any motion to compel.

Three months later, on January 28, 2011, Counsel for New York (Susan Taylor) called Mr. Turk, stating that New York did not find any documents regarding Sandia's review of the State's SAMA contentions in the Staff's disclosures – although she conceded that she had not yet looked at the privilege logs; she committed to review the privilege logs, and Mr. Turk committed to see if there were any other documents that had not been identified.²³ On January 31, Counsel for New York (Janice Dean) expanded this request to include ISL documents.²⁴ On March 7, 2011, Ms. Dean informed Mr. Turk that she saw "no Sandia

²² Letter from Brian G. Harris, Esq. to John J. Sipos, Esq. (Oct. 12, 2010) (**Attachment 4** hereto). Mr. Harris stated, "[f]or example, such documents were identified in the Staff's 11th disclosure supplement, dated December 30, 2009, and its 12th disclosure supplement, dated January 29, 2010, among others."

²³ See E-mail message from Sherwin Turk to Andrew Stuyvenberg (Jan. 28, 2011) (**Attachment 5** hereto) (redacted, in part, under the attorney-client and work product privileges). An unredacted version of Attachment 5 is being provided to the Board for in camera review.

²⁴ Letter from Janice A. Dean to Sherwin E. Turk (Jan.31, 2011), at 1; emphasis added (**Attachment 6** hereto). Ms. Dean stated, in part:

[T]he State requests all documents prepared by Sandia, including but not limited to computer input/output files, sensitivity studies of any computer models or the input assumptions that were used, validation of any computer models or the input assumptions that were used, correspondence between NRC Staff and Sandia regarding the consultation, a copy of any contract or task assignment between NRC and Sandia or any such document prepared in consultation with Sandia, during the Staff's review of Entergy's Indian Point relicensing application conducted pursuant to [NEPA]. . . .

In addition . . . [t]he State . . . requests that Staff produce all documents prepared by [ISL], or prepared in consultation with [ISL], during the Staff's review of Entergy's Indian Point relicensing application conducted pursuant to the NEPA.

Id. at 1-2. In making this request, the State recognized that "it is not a precondition for the Staff to produce the material under 10 C.F.R. § 2.336(b)," but argued that "as a party," the Staff is required to "disclose all information within the scope of 10 C.F.R. § 2.336(a) responsibilities which clearly include the kind of documents it has yet to disclose regarding Sandia's work on admitted Contentions 12/12A/12B and 16/16A/16B." *Id.* (emphasis added).

documents referenced in the Staff's FSEIS were logged on Staff's most recent hearing file update," and she requested that the "referenced documents" be produced.²⁵

On March 7, 2011, Mr. Turk responded to Ms. Dean, stating, in part, that the Staff was "reviewing the Staff's disclosure logs to determine if any additional documents should have been, but were not, disclosed."²⁶ On April 18, 2011, Mr. Turk spoke with Ms. Dean and informed her that the documents which the State requested "have already been logged" and "appear on the privilege log, perhaps more than once"; Ms. Dean stated that she could not find those documents in "a quick review of the last five hearing docket updates," and she requested that Staff Counsel provide a reference to where the documents appear.²⁷

On April 18, 2011, Mr. Turk responded to Ms. Dean's message of April 18, informing her (a) that the Staff had already identified the Sandia and ISL documents, including "the specific document mentioned in [her] letter (Sandia's evaluation of New York's SAMA contentions, discussed in the FSEIS)"; (b) that these documents had been identified in Mr. Harris' letter of October 12, 2010 (pointing to Supplements 11 and 12); and (c) that the Staff had undertaken a new "time-consuming review" and "found numerous ISL and Sandia documents" in five of the Staff's privilege logs.²⁸ Finally, Mr. Turk indicated that the specific document sought by the State was protected from disclosure under the work product doctrine:

²⁵ E-mail message from Janice Dean to Sherwin Turk (Mar. 7, 2011); emphasis added (**Attachment 7** hereto).

²⁶ E-mail message from Sherwin Turk to Janice Dean (Mar. 7, 2011) (**Attachment 8** hereto).

²⁷ E-mail message from Janice Dean to Brian Harris (Apr. 18, 2011) (**Attachment 9** hereto).

²⁸ E-mail message from Sherwin Turk to Janice Dean (Apr. 18, 2011) (**Attachment 10** hereto). Mr. Turk identified 19 ISL documents, as DPP-00-37, DPP-00-39, DPP-00-53, DPP-00-54, DPP-00-57, DPP-00-65, DPP-00-66, DPP-00-67, DPP-00-82, DPP-00-98, DPP-00-147, DPP-00-155, DPP-00-161, DPP-00-164, DPP 00 165, DPP-00-168, DPP-00-191, DPP-00-209, and DPP 00-243; and he identified 19 Sandia documents, as DPP-18-005, DPP-18-006, DPP-14-003, DPP-12-004, DPP-12-005, DPP-12-006, DPP-10-001, DPP 10 002, DPP-10-004, DPP-10-005, DPP-10-006, DPP-10-007, DPP-10-011, (continued. . .)

[T]he Sandia document which was specifically mentioned in your letter [*i.e.*, Sandia's evaluation of New York's SAMA contentions, discussed in the FSEIS] . . . was referenced in the FSEIS as a report prepared in preparation for litigation in response to the State's SAMA contentions, rather than as part of the Staff's review of the Applicant's SAMA analyses. That document was identified in the Staff's disclosure logs at DPP 18 005; in addition, the document was discussed in substantial detail in the FSEIS, allowing the State to understand the Staff's views of the State's SAMA contentions.

(Attachment 9).

On April 20, 2011, Ms. Dean responded to Mr. Turk, asserting that his E-mail message of April 18 was unresponsive and that the Staff's claims of privilege "are inapplicable."²⁹ Further, she dismissed Mr. Turk's reference to the Staff's numerous privilege logs, asserting that "none of these references, with minor exceptions, reflect disclosure of the documents the State is seeking"; and she contested the applicability of the deliberative product privilege and/or work product doctrine to the Staff's documents.³⁰

On April 22, 2011, the State filed the instant motion to compel.³¹ By Order of April 29, 2011, the Board directed the Staff to electronically submit to the Board for in camera inspection, (a) "those documents it has claimed as privileged (as well as any newly identified documents for which the NRC Staff desires to withhold or claim as privileged) that were generated or reviewed

(. . .continued)

DPP-10-012, DPP-09-002, DPP-09 004, DPP-09-005, DPP-09-008, and DPP-09-013 – noting that "other instances of such disclosures . . . might be found in a more thorough review of the disclosure logs."

²⁹ Letter from Janice Dean to Sherwin Turk (Jan.31, 2011), at 1 (**Attachment 11** hereto). Ms. Dean explained that [t]he State seeks documents Sandia generated, prepared and reviewed in analyzing the State's DSEIS comments and contentions, including any computer analyses, provided to NRC [and] . . . documents Staff references and discusses in the FSEIS." *Id.* at 2; emphasis added.

³⁰ *Id.* at 1 and 2-4.

³¹ On April 29, 2011, Ms. Dean requested that the Staff include with the documents produced for in camera review, the additional documents which were identified as privileged in the Staff's April 29, 2011 update to the hearing file (Supplement 27); Staff Counsel committed to do so. See E-mail message from Sherwin Turk to Janice Dean (May 2, 2011) (**Attachment 12** hereto). Those documents are included in Appendix B.

by [ISL] and/or [Sandia] in conjunction with the NRC Staff's environmental review of [Entergy's LRA] that are the subject of New York's Motion to Compel", and (b) "a justification for and an explanation of why a privilege is applicable to each document." *Id.* at 2.

DISCUSSION

In the following discussion, the Staff presents, first, a summary of the respective roles performed by ISL and Sandia in connection with the Staff's review of SAMA issues in this proceeding; second, a discussion of applicable legal principles; and third, an explanation why the Staff believes that its assertions of privilege should be upheld by the Board.

A. Review of SAMA Issues by the Staff and Its Consultants.

As set forth in 10 C.F.R. § 51.20(b)(2), the NRC prepares an environmental impact statement ("EIS") in connection with its review of nuclear power reactor license renewal applications, in accordance with the National Environmental Policy Act of 1969, as amended ("NEPA"), 42 U.S.C. § 4321, *et seq.* Pursuant to 10 C.F.R. §§ 51.70, 51.71, 51.90, and 51.91, the Staff publishes a Draft and Final EIS for any such action, presenting its evaluation of the environmental impacts of license renewal.

In performing its evaluation of the environmental impacts of license renewal, the Staff routinely employs its own experts, as well as experts retained under contract with outside entities. As set forth in the attached Affidavit of Donald G. Harrison, in June 2007, the Staff contracted with ISL, to assist the Staff in its evaluation of the SAMA analysis submitted by Entergy in its LRA for IP2 and IP3.³² Specifically, ISL was tasked to perform a "Preliminary Evaluation," in which it would "conduct a preliminary review of the applicant's SAMA analysis";

³² "Statement of Work for J-4064 Task Order No. 35, Review of Severe Accident Mitigation Alternatives (SAMAs) for Indian Point License Renewal Application," attached to Letter from Joyce A. Fields, Division of Contracts, Office of Administration (NRC) to James Meyer (ISL) (June 22, 2007). The Statement of Work contains confidential financial information that is exempt from disclosure under 10 C.F.R. § 9.17(a)(4).

“document the results of the preliminary evaluation with possible open items in a draft TER [Technical Evaluation Report]”; “identify any additional information needed to resolve possible open items”; and “support interactions with the applicant” for any requests for additional information that may be issued. ISL was also tasked to perform a “Final Evaluation,” to “update the draft TER to include discussions reflecting the resolution of any previously identified open items, and overall conclusions of the review”; and incorporate NRC comments in the final TER.”³³ ISL delivered its Preliminary Evaluation and Final Evaluation in or before December 2008. ISL’s work product was reviewed and augmented by the Staff, and was then cited in the Staff’s Draft SEIS, published on December 22, 2008.³⁴ To the best of the Staff’s knowledge, no further work was performed by ISL with regard to the Indian Point SAMA analysis, after publication of the Draft SEIS. (Harrison Affidavit, at 2).

Following the publication of the Draft SEIS, the Staff undertook to evaluate the merits of the State’s SAMA contentions and to commence preparations for hearing on those contentions. The Staff developed a work proposal to obtain assistance from Sandia National Laboratories (“Sandia” or “SNL”) in addressing the State’s contentions, given its expertise in use of the MACCS2 computer code (contested in the State’s contentions). The Staff defined the purpose of Sandia’s work as follows: “The objective of this effort is to obtain technical expertise from SNL to assist the NRC in addressing SAMA contentions stemming from the ASLB decision to admit two contentions from the State of New York, including the hearing process for Indian Point license renewal application.”³⁵ On July 14, 2009 – seven months after the Staff published

³³ On June 25, 2007, the Staff transmitted a separate contract to ISL, securing ISL’s assistance in the Staff’s review of certain safety issues for the IP2/IP3 LRA (Contract No. NRC-03-03-038, Task Order No. 36) (“Review of Indian Point [LRA] – Scoping and Screening Balance of Plant”).

³⁴ See DSEIS at 5-4 (“[t]he NRC staff performed its review with contract assistance from Information Systems Laboratories, Inc.”).

³⁵ “Statement of Work,” JCN J-4245, at 1.

its DSEIS – Sandia transmitted to the Staff a work proposal to provide technical assistance to the Staff in its assessment of the State's contentions and in preparing for and testifying at evidentiary hearings on the contentions.³⁶ (Harrison Affidavit, at 3).

Under this contract, Sandia's experts were tasked to "conduct an assessment of the potential impacts of the issues raised in the contention[s] on the conclusions of the [Applicant's] SAMA analysis," and to document its results in an initial and final technical report. (RFP J4245 at 4). In this regard, Sandia was, *inter alia*, to "review key documents related to the admitted contentions," the manner in which the Applicant treated certain parameters in its inputs to the MACCS2 code, and the impact of the State's contentions on the Applicant's conclusions. *Id.* Additional tasks were to be performed, all in connection with the Staff's assessment of the issues raised in the State's contentions – including any "follow-on contentions," motions for summary disposition, supporting affidavits and technical analyses, and preparing and presenting testimony at the evidentiary hearings. *Id.* at 4, 5-6. This work was to be performed in conjunction with expert members of the NRC Staff employed in the Division of Risk Assessment and Staff Counsel. (Harrison Affidavit, at 3-4).

As Sandia's assessment of the State's contentions progressed, numerous communications occurred among Sandia, Staff experts, and Staff Counsel. During the course of this process, Sandia sent the Staff revised iterations of its draft technical report on the State's contentions, generally as attachments to E-mail messages. In accordance with NRC practice, the Staff was instructed to transmit such documents to the Staff's Project Manager in the Division of License Renewal, for inclusion in the document capture system. In addition, the

³⁶ Letter from Marianne C. Walck (SNL) to Mark Cunningham (Director, Division of Risk Assessment, NRC) (July 14, 2009) (transmitting "Request for Proposal for JCN J4245, "Technical Assistance in Support of the [IP2 and IP3] License Renewal Hearing in the Areas Related to SAMA") ("RFP J4245"). This document contains confidential financial information that is exempt from disclosure under 10 C.F.R. § 9.17(a)(4).

Staff informed its consultants at Sandia of the NRC's document disclosure obligations, and requested that Sandia transmit its Indian Point-related documents to the NRC for inclusion in the document capture system. (Harrison Affidavit, at 4).³⁷

The Staff's contract with Sandia did not call for its assistance with the Staff's preparation of the FSEIS; rather, Sandia was contracted to assist the Staff solely in litigation-related tasks (*e.g.*, assessing the State's contentions, responding to summary disposition motions, and preparing for hearings). In March 18, 2009, the State filed its comments on the DSEIS – in which it, *inter alia*, incorporated claims similar to those raised in its SAMA contentions. In order to address these comments in the FSEIS, the Staff drew upon the work performed by Sandia concerning the State's contentions. For this reason, the Staff cited Sandia in its discussion of SAMA issues in the FSEIS.³⁸ To the best of the Staff's knowledge, no work was performed by Sandia on the FSEIS, apart from the work it performed in conjunction with Staff experts and Staff Counsel, as part of the Staff's litigation-related activities in anticipation of hearings. (Harrison Affidavit, at 5).

B. Legal Standards Governing the Protection of Privileged Information.

Discovery in NRC adjudicatory proceedings is governed by the provisions of 10 C.F.R. Part 2, Subpart 2. In 10 C.F.R. § 2.336, the Commission established requirements for all parties to provide certain mandatory disclosures (except in certain types of proceedings or as ordered by the Commission, Presiding Officer, or the Board). As set forth therein, "all parties, other than the NRC Staff," are required to make the mandatory disclosures specified in 10 C.F.R.

³⁷ These transmissions were routinely logged in the Staff's deliberative process privilege logs. The Staff did not designate these DPP documents as also being subject to the work product doctrine or the attorney-client privilege, since all parties had agreed that documents subject to those privileges need not be identified. See Disclosure Protocols, ¶ 3 at 2; see *also* Tr. 772-73 (colloquy between Chairman McDade and Mr. Turk).

³⁸ FSEIS at 5-4 (the "staff performed its review with contract assistance from Information Systems Laboratories, Inc. and Sandia National Laboratory").

§ 2.336(a); a separate set of disclosure requirements apply for the Staff, set forth in 10 C.F.R § 2.336(b).³⁹ In addition, in a Subpart L proceeding, the Staff is required to prepare and submit a hearing file, as set forth in 10 C.F.R § 2.1203.

In complying with these requirements, parties are required to produce the documents specified in § 2.336, unless a “claim of privilege or protected status” is made – in which case the party is to provide a list of documents “for which a claim of privilege or protected status is being made, together with sufficient information for assessing the claim of privilege or protected status of the documents.” 10 C.F.R §§ 2.336(a)(3), 2.336(b)(5).⁴⁰ As pertinent here, the deliberative process, attorney-client communication, and work product privileges are recognized in NRC adjudicatory proceedings. In assessing the merits of any claim of privilege, the Commission and the Board may be guided (but are not bound) by judicial interpretations of those privileges under the Federal Rules of Civil Procedure (“FRCP” or “Federal Rules”).⁴¹

Predecisional Deliberative Process.

The deliberative process privilege protects documents from disclosure that are both “predecisional” and “deliberative.” *Georgia Power Co.* (Vogtle Electric Generating Plant, Units 1 and 2), CLI-94-5, 39 NRC 190, 197 (1994). As summarized by the Commission:

³⁹ New York repeatedly confuses the requirements of this regulation, claiming that the Staff is subject to both 10 C.F.R § 2.336(a) and 10 C.F.R § 2.336(b). See Motion at 6, 9, 11. No basis exists for this claim. The obligations of “all parties, other than the Staff” are defined in § 2.336(a), while the Staff’s obligations are defined in § 2.336(b). In addition to other differences, the Staff is to disclose the non-privileged documents “supporting the Staff’s review of the application or proposed action,” while other parties are to disclose non-privileged documents that are “relevant to the contentions.” While the Staff’s obligations are broader than other parties’, its specific obligations are defined in 10 C.F.R §§ 2.336(b).

⁴⁰ Parties other than the Staff may assert the privilege for “documents otherwise required to be disclosed” (10 C.F.R. § 2.336(a)(3)); in contrast, the Staff may assert the privilege for “all otherwise-discoverable documents” (10 C.F.R. § 2.336(b)(5)). The Staff’s disclosure and discovery obligations differ from those of other parties. See 10 C.F.R. §§ 2.336, 2.704, 2.706, 2.707, 2.709, and 2.390.

⁴¹ See, e.g., *Duke Energy Corp.* (Catawba Nuclear Station, Units 1 and 2), LBP-05-10, 61 NRC 241, 251 (2005).

A document is predecisional if it was prepared *before* the adoption of an agency decision and specifically prepared to assist the decisionmaker in arriving at his or her decision. . . .

Communications are deliberative if they reflect a consultative process. Protected documents can include analysis, evaluations, recommendations, proposals or suggestions reflecting the opinions of the writer rather than the final policy of the agency. . . . Deliberative documents "relate[] to the process by which policies are formulated." . . . However, a document need not contain a specific recommendation on agency policy to qualify as deliberative. A document providing "opinions or recommendations regarding facts" may also be exempt under the privilege.

Factual material that does not reveal the deliberative process is not shielded by the privilege. However, if facts are "inextricably intertwined" with the opinion portion, or otherwise would reveal the deliberative process of the agency, the facts may be exempt from disclosure.

In a litigation context, the deliberative process privilege is a qualified, not absolute, privilege. The government's interest in confidentiality is balanced against the litigant's need for the information. The government agency -- here the NRC staff -- bears the initial burden of showing that the privilege should be invoked. Once the applicability of the privilege has been established, the litigant seeking the information must demonstrate an overriding need for the material.

Vogle, 39 NRC at 198 (*italics in original, underlining added, citations omitted*).⁴² *Accord, Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Operations, Inc.* (Vermont Yankee

⁴² The purpose of the privilege is "to prevent injury to the quality of agency decisions," by "ensur[ing] that the mental processes of decision-makers are not subject to public scrutiny." *In re David Geisen*, LBP-06-25, 64 NRC 367, 380 (2006) (footnotes omitted). *See generally id.*, at 381 (discussing the FOIA exemption for this privilege, and its use "in American courts since "the beginnings of our nation.""). As summarized by the Supreme Court:

The deliberative process privilege rests on the obvious realization that officials will not communicate candidly among themselves if each remark is a potential item of discovery and front page news, and its object is to enhance the quality of agency decisions, by protecting open and frank discussion among those who make them within the Government.

Department of Interior v. Klamath Water Users, 532 U.S. 1, 8-9 (2001).

Nuclear Power Station), LBP-05-33, 62 NRC 828, 843-44 (2005).⁴³ It has been noted that “even if a draft document is relevant and important, once the final version of the document becomes available, the need for the draft (or comments suggesting changes to a draft) may become moot or minimal.” *Vermont Yankee*, LBP-06-03, 63 NRC at 92 (citations omitted).

Work Product Doctrine.

The work-product doctrine protects documents and other tangible items prepared in anticipation of litigation or for hearing, by a party’s representative in the proceeding, including the party’s attorney, consultant or agent. The privilege “shelters the mental processes of the attorney, providing a privileged area within which he can analyze and prepare his client’s case.” *Hickman v. Taylor*, 329 U.S. 495, 516 (1947).⁴⁴ In recognition of the fact that attorneys rely on the assistance of agents and consultants in preparing for litigation, the privilege extends to protect material prepared by such agents and consultants. *United States v. Nobles*, 422 U.S. 225, 238 (1975). The NRC’s Rules of Practice similarly apply the work product privilege to materials prepared “in anticipation of or for the hearing by or for another party’s representative (including his attorney, consultant, . . . or agent.” 10 C.F.R. § 2.705(b)(3); *cf.* FRCP Rule

⁴³ In “balancing the need for the documents against the government’s interest in non-disclosure,” the courts have considered numerous factors, including:

- (i) the relevance of the evidence sought to be protected;
- (ii) the availability of other evidence;
- (iii) the seriousness of the litigation and the issues involved;
- (iv) the role of the government in the litigation; and
- (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.

Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), LBP-06-03, 63 NRC 85, 91 (2006).

⁴⁴ The work-product privilege was intended to “prevent one party from piggybacking on the adversary’s preparation [and to ensure] that one side does not ‘perform its functions . . . on wits borrowed from the adversary’.” *United States v. Adlman*, 68 F.3d 1495, 1501 (2d Cir. 1995) (citations omitted).

26(b)(3); *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), LBP-82-82, 16 NRC 1144, 1159-61 (1982).

The NRC rule, like Federal Rule 26(b)(3), recognizes that the privilege is not absolute and that "ordinary work product" (material that does not reflect the mental impressions and opinions of an attorney) may be discoverable upon a showing of substantial need and undue hardship.⁴⁵ *Houston Lighting and Power Co.* (South Texas Project, Units 1 and 2), CLI-87-8, 26 NRC 6, 10 (1987). Additional protection is provided under both rules, however, for "opinion work product." *Id.* Opinion work product, consisting of legal theories, opinions, and strategy, is viewed as "virtually undiscoverable." *Director, Office of Thrift Supervision v. Vinson & Elkins, LLP*, 124 F.3d 1304, 1307 (D.C.Cir.1997).

Attorney-Client Communications.

The privilege against disclosure of attorney-client communications "protects from discovery confidential communications from a client to an attorney made to enable the attorney to provide informed legal advice." *Georgia Power Co.* (Vogtle Electric Generating Plant, Units 1 and 2), CLI-95-15, 42 NRC 181, 185 (1995). In addition, the privilege protects from discovery a communication by the attorney to the client that could reveal, either directly or indirectly, the substance of a confidential communication by the client. *Shoreham*, 16 NRC at 1158. The attorney-client privilege is "absolute," *Vogtle*, 42 NRC at 189, *i.e.*, it is not subject to the type of balancing test applicable to the deliberative process or "ordinary work product" privileges. The privilege does not protect against the disclosure of underlying facts merely because those facts

⁴⁵ 10 C.F.R. § 2.705(b)(3) provides that the protected materials may be discovered:

... only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of this case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the presiding officer shall protect against disclosure of the mental impression, conclusions, opinions, or legal theories of an attorney for a party concerning the proceeding.

were communicated to the attorney, unless such disclosure would tend to reveal the protected communication or the relevance attributed to those facts by the attorney's actions in "sifting through the facts." See, e.g., *Vogtle*, 42 NRC at 188; *Consumers Power Co.* (Midland Plant, Units 1 and 2), LBP-83-70, 18 NRC 1094, 1103 (1983).

C. The Documents Identified as Privileged Should Be Withheld from Disclosure.

The Staff has produced for in-camera review approximately 149 documents, which the Staff asserts should be withheld from disclosure under the deliberative process, attorney-client communication, and/or work product doctrine. In general, the documents produced for the Board's review consist of internal Sandia communications, communications between Sandia and the NRC Staff, and communications between Sandia (or Staff) and Staff Counsel.

In Appendix A, the Staff has assembled a list of documents that were previously identified in the Staff's logs as being withheld under the deliberative process privilege. In general, these documents are related to the work performed by ISL, Sandia, and/or the Staff related to preparation of the Draft SEIS, the State's SAMA contentions, and/or the Final SEIS. Those documents were previously identified by the Staff in its privilege logs as subject to the deliberative process privilege; in Appendix A, the Staff asserts that certain of those documents should also be withheld from disclosure based on the work product and/or attorney client privileges (which were not required to be asserted under the approved Disclosure Protocols).⁴⁶ In Appendices B and C, the Staff has identified additional documents which either (a) were not identified in the Staff's privilege logs, since they do not contain deliberative process information (Appendix B), or (b) were recently obtained or identified by the Staff as privileged.

⁴⁶ As discussed *supra* at 13, among the documents identified in Appendix A are numerous revised iterations of Sandia's draft technical report on the State's contentions which Sandia transmitted to the Staff – in which Sandia included various recommendations to the Staff and Staff Counsel of further actions to be considered in preparation for hearing. Regardless of the Board's views as to whether the remainder of such documents should be disclosed, these types of discussions should be withheld from disclosure under the attorney-client and/or "opinion work-product" privileges.

A statement of the basis for withholding each document is provided in Appendices A, B and C. In general, the documents for which a privilege is asserted consist of:

- Communications between Sandia and NRC Staff's counsel regarding responses to New York's Motion for Summary Disposition on Contention 16;
- Communications between Sandia and the Staff regarding methods to analyze New York's claims in New York Contentions 12 and 16;
- Communications between the Staff, Sandia, and NRC Staff counsel regarding New York's requests for additional documents;
- Communications between Sandia and the Staff regarding technical direction under the schedule of work;
- Communications between Sandia and the Staff regarding impact on Indian Point's amended SAMA submission on New York's contentions;
- Communications between Sandia personnel regarding edits and discussion of their analysis of New York's contentions; and
- Contracts and related documents pertaining to the work to be performed by ISL and Sandia.

For the reasons set forth in the discussion above (at 14-19), the Staff respectfully submits that these documents should be withheld from disclosure.

D. New York's Motion Fails to Demonstrate that the Documents Should be Disclosed.

In its Motion, New York asserts that the Staff is required to produce all documents generated or reviewed by ISL and Sandia as part of the Staff's evaluation of environmental impacts in the Draft and/or Final SEIS. See, e.g., Motion at 1, 2 n.3, 4, 9, and 16. These assertions appear to rest on a misunderstanding of ISL's and Sandia's respective roles in this proceeding. As is clearly set forth *supra* at 11-14 and in the Affidavit of Donald G. Harrison, ISL was involved in the Staff's preparation of the DSEIS attached hereto and had no involvement in addressing the State's contentions; in contrast, Sandia was involved solely in addressing the

State's contentions in this litigation, and had no role in the Staff's development of its Draft or Final SEIS.

The Staff's treatment of these organizations' respective work product and related documents differed based upon their respective roles: Certain documents pertaining to the work of both ISL and Sandia have been withheld under the deliberative process privilege; in addition, documents pertaining to the work performed by Sandia – which was prepared in anticipation of litigation and hearings – was also withheld under the work product and/or attorney-client privileges. To be sure, the State filed comments on the Draft SEIS that mirrored its contentions, which required that the Staff address those comments in its FSEIS;⁴⁷ while the Staff addressed those comments by drawing upon the work Sandia had performed with regard to similar claims made by the State in litigation, that does not render invalid the work product privilege that properly adhered to those documents upon their creation. *United States v. Adlman*, 134 F.3d at 1202 (work product privilege upheld where a document prepared in anticipation of litigation was also used for another purpose); *see also*, *Shoreham*, 16 NRC at 1162 (materials relating solely to emergency plan that county was required by law to prepare, were prepared independent of litigation and thus were not covered by the work product privilege).

Further, there is no basis for the State's repeated assertion that the Staff, as a party in the proceeding, is obliged to produce documents revealing any analyses supporting its experts' opinions, under 10 C.F.R. § 2.336(a). As discussed above, the Commission's rules establish separate disclosure obligations for the Staff under 10 C.F.R. § 2.336(b), which differ

⁴⁷ See discussion *supra* at 12-13; Harrison Affidavit at 3.

substantially from the disclosure obligations of other parties.⁴⁸ For example, while other parties need only disclose non-privileged documents related to the admitted contentions, the Staff is obliged to disclose all non-privileged documents that relate to any part of the application.⁴⁹ At the same time, while the all parties other than the Staff are explicitly required to disclose the identity of any person upon whose opinions they rely, as well as copies of the analyses that support their opinions, no such requirement appears in the list of items which the Staff is required to disclose.⁵⁰ Rather, the Staff is required to disclose the following documents – subject to its well-established right to assert the deliberative process (or other) privilege:

(b) . . . the NRC staff shall . . . disclose and/or provide, to the extent available (but excluding those documents for which there is a claim of privilege or protected status):

(1) The application and/or applicant/licensee requests associated with the application or proposed action that is the subject of the proceeding;

(2) NRC correspondence with the applicant or licensee associated with the application or proposed action that is the subject of the proceeding;

(3) All documents (including documents that provide support for, or opposition to, the application or proposed action) supporting the NRC staff's review of the application or proposed action that is the subject of the proceeding;

(4) Any NRC staff documents (except those documents for which there is a claim of privilege or protected status) representing the NRC staff's determination on the application or proposal that is the subject of the proceeding; and

(5) A list of all otherwise-discoverable documents for which a claim of privilege or protected status is being made, together

⁴⁸ Similarly, the Commission's rules governing discovery in 10 C.F.R. Part 2, Subpart G. establish separate discovery obligations for the Staff, as contrasted to other parties. See 10 C.F.R. §§ 2.704, 2.706, 2.707, 2.709, and 2.390.

⁴⁹ Compare 10 C.F.R. §§ 2.336(a)(2)(i) and 2.336(b)(1)-(4).

⁵⁰ Compare 10 C.F.R. §§ 2.336(a)(1) and 2.336(b)(1)-(4).

with sufficient information for assessing the claim of privilege or protected status of the documents.

The Staff respectfully submits that it has fully satisfied these obligations, through its document disclosures and privilege logs filed in this proceeding.

Moreover, the Staff submits that the State has failed to show an "overriding need" to obtain any of the documents that were withheld by the Staff under the deliberative process or work-product privileges. In Appendix G of the FSEIS, the Staff described, in detail, the bases for its views of the issues presented in the State's DSEIS comments – which the State had also raised in Contentions 12 and 16.⁵¹ Inasmuch as the Staff has already provided this assessment to the State, the State is obliged to show that it nonetheless requires access to the Staff's (or its consultants') documents (prepared as part of the agency's predecisional deliberative process and/or in preparation for hearing).⁵²

Significantly, apart from arguing that the Staff is required to produce such documents (Motion, *passim*), and that non-disclosure "frustrates public participation" in this proceeding (*Id.* at 17-18), nowhere does the State appear to show that it has a compelling or "overriding need" to obtain those documents. Rather, the State asserts, in general terms only, that the Staff's non-disclosure "seriously impedes effective participation by the State of New York, leaving it without access to the underlying data and analysis that form the basis for FSEIS statements regarding Entergy's SAMA analysis and the State's critique of the DSEIS" (*Id.* at 19).⁵³ The

⁵¹ The State appears to argue that the Staff must disclose the bases for its response to the State's DSEIS comments. See, e.g., Motion at 9, 10-11. No such obligation exists under NEPA; rather, the Staff is obliged to disclose only non-privileged documents that relate to the application under 10 C.F.R. § 2.336(b), in an adjudicatory proceeding concerning the LRA.

⁵² See FSEIS, Appendix G, at G-22 – G-29 ("Review of Issues Related to NYS Contentions 12 and 16) (addressing, separately, each component of New York Contentions 12 and 16).

⁵³ To be sure, the State recognizes that an agency's "claim" that documents are protected by the deliberative process privilege "may be rejected where the party seeking the document has a great need for it." Motion at 8, *citing Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1)*, ALAB-773, (continued. . .)

State, however, fails to explain why the disclosures which have already been made by the Staff, including the lengthy and detailed discussion of the State's contentions in FSEIS Appendix G, fails to provide sufficient information for the State to prepare its case.⁵⁴ The Staff respectfully submits that the State's generalized and unsupported statement of need fails to demonstrate an overriding need for the privileged documents to be produced, as required for a proper balancing of the State's need for disclosure versus the agency's interest in protecting the documents from disclosure.

(...continued)

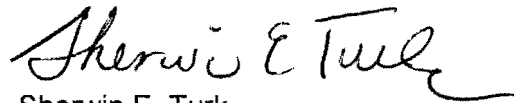
19 NRC 1333, 1341 (1984). The State, however, makes no showing of "great" need, stating only that documents which the Staff "rely upon and allude to in the FSEIS are essential for a party to prepare its case, particularly where, as here, the documents relate specifically to Staff's analysis and criticism of the bases for DSEIS comments by a party, and Staff relies on those documents and others created by other reviewing entities in the FSEIS." Motion at 9. That claim wholly fails to take into account the disclosures that have been made by the Staff, including the extensive discussion of the State's contentions presented in FSEIS Appendix G.

⁵⁴ Upon filing its statement of position and testimony on New York Contentions 12 and 16, the Staff anticipates that it would provide a comprehensive discussion of the bases for its position and testimony, which may include testimony by the Sandia personnel who were involved in assessing the contentions. To the extent that any such testimony exceeds the scope of the FSEIS discussion, the State would have an opportunity to address such matters in its rebuttal testimony.

CONCLUSION

For the reasons set forth above and in the Affidavits and documents submitted herewith, the Staff respectfully submits (a) that it has complied with its obligations to disclose, or identify as privileged, the documents sought by the State in its motion to compel, and (b) that the documents which have been identified as privileged should be continue to be withheld from disclosure, in accordance with 10 C.F.R. §§ 2.336(b) and 2.705.

Respectfully submitted,



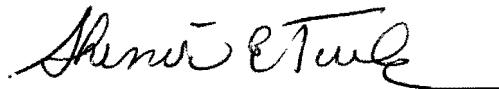
Sherwin E. Turk
Brian G. Harris
Beth N. Mizuno
Andrea' Z Jones
David E. Roth
Counsel for NRC Staff

Dated at Rockville, Maryland
this 9th day of May 2011

CERTIFICATION OF COUNSEL

In accordance with the Board's Scheduling Order of July 1, 2010 (at 8-9), and 10 C.F.R. § 2.323(b), the undersigned Counsel hereby certifies that he has made a sincere effort to make himself available to listen and respond to the moving party, and to resolve the factual and legal issues raised in the motion, and that his efforts to resolve the issues have been unsuccessful.

Respectfully submitted,



Sherwin E. Turk
Special Counsel for Litigation
Office of the General Counsel
U.S. Nuclear Regulatory Commission
(Counsel for NRC Staff)

Dated at Rockville, Maryland
this 9th day of May 2011

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-LR/286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S ANSWER TO THE STATE OF NEW YORK'S MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS," dated May 9, 2011, together with Appendices A, B and C thereto, and the Affidavits of Donald G. Harrison, Brian E. Holian, and David J. Wrona, have been served upon the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an deposit in the U.S. Postal Service, as indicated by an asterisk, with copies by electronic mail (and that CDs containing the documents listed in the Appendices hereto have been served upon members of the Board and the Board's Law Clerk), this 9th day of May, 2011:

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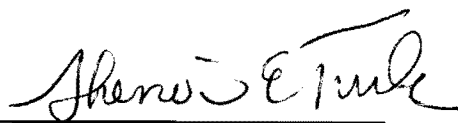
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**NRC STAFF'S ANSWER TO THE STATE OF NEW YORK'S
MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS**

ATTACHMENTS 1 - 12

May 9, 2011

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January 13, 2008

Lawrence G. McDade, Chairman
Dr. Richard E. Wardwell
Dr. Kaye D. Lathrop
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Washington, DC 20555-0001

Docket: *Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-247-LR and 50-286-LR*

RE: Agreement of the Parties Regarding Mandatory Discovery Disclosures

Dear Administrative Judges:

The purpose of this letter is to inform you that the parties to this proceeding have reached the following agreement concerning mandatory disclosures under 10 C.F.R. § 2.336. As used in this agreement, the term "parties" includes Entergy Nuclear Operations, Inc. (applicant in this matter), the U.S. Nuclear Regulatory Commission ("NRC") Staff, and the three admitted intervenors; *i.e.*, New York State, Riverkeeper, Inc., and Hudson River Clearwater Sloop, Inc.

The parties have agreed to the following protocol:

1. The parties may limit the mandatory discovery disclosures to final documents that they develop, and need not include drafts (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents).
2. Documents will be produced in electronic format. If the same document exists in both hard copy and electronic format, a party may produce the electronic copy only.

Handwritten notes on a final document, however, constitute a separate document, and must be produced as well as the original document.

3. The parties have agreed to waive the requirement in 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5) to produce a privilege log for documents asserted to be protected from disclosure under the attorney work product and/or attorney-client privileges. The parties, however, will produce as part of their disclosures lists of any documents withheld as proprietary. The party claiming the right to withhold listed documents as proprietary must describe the basis for the claim; *e.g.*, whether it is based upon an agreement with a third party, and the person or entity to whom the proprietary document belongs or whose privilege is being asserted. In addition, the parties, as applicable, will produce lists identifying any documents that are withheld under the executive or deliberative process privilege.
4. A party need not identify or produce any document that has been served on the other parties to this proceeding.
5. The parties need not produce publicly available documents. Each party, however, will produce as part of its disclosures a log identifying publicly available documents upon which the party may rely and indicating the general location of such documents.
6. The parties need not identify or produce press clippings.
7. In connection with the NRC Staff's submittal of the hearing file, the Staff will identify the documents available via the NRC's website or ADAMS, as required by 10 C.F.R. §§ 2.336(b) and 2.1203. The parties shall not otherwise be required to identify or produce docketed correspondence or other documents available via the NRC's website or ADAMS.
8. The continuing obligation of the parties under 10 C.F.R. § 2.336(d) to update their respective disclosures is modified so that information or documents subsequently developed or obtained must be disclosed within 30 days.

Counsel of record for each of the other parties identified above has authorized counsel for Entergy Nuclear Operations, Inc. to submit this agreement on behalf of the parties.

Respectfully submitted,



Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.

Counsel for Entergy Nuclear Operations, Inc.

cc: Service List

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of)	Docket Nos. 50-247-LR and
ENTERGY NUCLEAR OPERATIONS, INC.)	50-286-LR
(Indian Point Nuclear Generating Units 2 and 3))	January 13, 2009

CERTIFICATE OF SERVICE

I hereby certify that copies of the letter entitled "Agreement of the Parties Regarding Mandatory Discovery Disclosures," dated January 13, 2009, were served this 13th day of January, 2009 upon the persons listed below, by first class mail and e-mail as shown below.

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

Administrative Judge
Lawrence G. McDade, Chair
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Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: lgm1@nrc.gov)

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: rew@nrc.gov)

Administrative Judge
Kaye D. Lathrop
Atomic Safety and Licensing Board Panel
190 Cedar Lane E.
Ridgway, CO 81432
(E-mail: kdl2@nrc.gov)

Office of the Secretary *
Attn: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: hearingdocket@nrc.gov)

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Jessica A. Bielecki, Esq.
Marcia J. Simon, Esq.
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Daniel E O'Neill, Mayor*
James Siermarco, M.S.
Liaison to Indian Point
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Municipal Building
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Mylan L. Denerstein, Esq.
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of the State of New York
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(E-mail: Mylan.Denerstein@oag.state.ny.us)

- * The Office of the Secretary receives the original and 2 copies.

Martin J. O'Neill

Martin J. O'Neill, Esq.
Counsel for Entergy Nuclear Operations, Inc.

DB1/62470281.3

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Entergy Nuclear Operations
Indian Point - Pre-hearing Conference

DOCKETED
USNRC

Docket Number: 50-247/286-LR

February 2, 2009 (8:30am))

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Location: (telephone conference)

Date: Wednesday, January 14, 2009

Work Order No.: NRC-2616

Pages 748-833

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1 during the next week, some time between the period of
2 January 21 to 23rd.

3 CHAIRMAN McDADE: Okay. And has Entergy
4 begun making disclosures under 336?

5 MR. BESSETTE: Your Honor, we are on the
6 same schedule. This is Paul Bessette, again. We're
7 on the same schedule as NRC.

8 Just as a preliminary matter, we're making
9 our initial disclosures through logs, and we plan on
10 providing a log listing all the documents to all the
11 parties and interested states approximately mid-week
12 next week in accordance with the obligations under
13 2.336.

14 CHAIRMAN McDADE: Okay. Now, I should
15 note for the record that one thing we have received is
16 a letter from Ms. Sutton and Mr. Bessette, actually
17 signed by Mr. Bessette of Morgan Lewis indicating that
18 they are submitting this on behalf not only of
19 Entergy, but the NRC Staff, New York State,
20 Riverkeeper, and Hudson River Clearwater Sloop. It
21 has to do with various agreements that they have come
22 to with regard to disclosure of information.

23 The Board has no objection to any of the
24 agreements that have been entered here. Let me ask
25 for the interested government agencies that are there

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1 on this call, specifically -- let me just sort of go
2 through, from Connecticut?

3 MR. SNOOK: No objection.

4 CHAIRMAN McDADE: Okay. From Cortlandt?

5 MR. RIESEL: No objection, Your Honor.

6 CHAIRMAN McDADE: Okay. And who else do
7 we have on? From New York City?

8 MR. DELANEY: Yes. Michael Delaney. No
9 objection.

10 CHAIRMAN McDADE: Okay. And that was Mr.
11 Snook from Connecticut. And speaking for Cortlandt
12 was Mr. -

13 MR. RIESEL: Mr. Riesel.

14 CHAIRMAN McDADE: Okay. Thank you.

15 MR. TURK: Your Honor, this is Sherwin
16 Turk. One point I would make is the Staff when it
17 produces the hearing file, will do that along with the
18 mandatory disclosures that we're required to produce
19 under 2.336. And we will, like Entergy, be producing
20 this electronically. We'll provide a log, and I guess
21 that will be a paper log, which we'll also file
22 electronically, which will indicate all the documents
23 that compromise the hearing file, and where they can
24 be located. And we will also produce any logs that
25 we're required to produce under the agreement reached

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1 by the parties with respect to documents that are
2 withheld under a privilege.

3 CHAIRMAN McDADE: Okay. Consistent with
4 Paragraph 3 of Mr. Bessette's letter.

5 MR. TURK: Yes.

6 CHAIRMAN McDADE: Okay. The next has to
7 do with sort of anticipated scheduling. We now know
8 when the DEIS, December 22nd. At this point in time,
9 what is the Staff's estimate as to when the SER will
10 be filed?

11 MR. TURK: Well, there are two components.
12 One is the audit report, and the second is the SER
13 with open items. The audit report has been finalized,
14 and that will be released within the next day or so.
15 The SER, which refers to the audit report, is also
16 nearing completion, and that should be out within the
17 next day or so, as well.

18 CHAIRMAN McDADE: Okay. I think the last
19 that was issued sort of on the internet indicated a
20 date of July of '09 for the SER. Are you now ahead of
21 schedule on that?

22 MR. TURK: There are two SERs that will be
23 issued. The first one is the SER with open items, and
24 that's the one that we're on the verge of issuing now.
25 It's a fairly long document in paper form. It's

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Attachment 3

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

Sherwin Turk, Esq., Special Counsel
Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852-2738

August 31, 2010

Re: *Indian Point License Renewal Proceeding*

Dear Counsel:

The June 30, 2010 Order of the Atomic Safety and Licensing Board (LBP 10-13) admitted, with certain limitations, New York State Contentions 35 and 36. Contentions 35 and 36 focused on 18 severe accident mitigation alternatives (SAMAs) identified in the December 2009 SAMA Reanalysis submitted by Entergy in this proceeding. Although Staff and Entergy have sought interlocutory review of LBP 10-13, since no request for a stay of that decision was filed as provided in 10 C.F.R. § 2.342 and the time to do so has passed, the Board's decision is presently effective and binding on the parties – including Staff.

Pursuant to 10 C.F.R. § 2.336(b)(3) NRC Staff was obligated, within 30 days of the decision admitting those Contentions, to produce any documents, not previously produced, that provide support for or opposition to those Contentions which challenge the application as well as all documents which support the NRC Staff review of the renewal application. Accordingly, NRC Staff's July 30, 2010 disclosure log should have contained documents relevant to NYS Contentions 35 and 36. The State of New York has reviewed the most recent disclosures by NRC Staff (dated July 30, 2010 (Supplement 18)). Those disclosures contain no documents that relate to Contentions 35 or 36.

The State of New York requests that NRC Staff provide all documents "available" to NRC Staff that are relevant to Contentions 35 and/or 36, including all documents within NRC's possession that support the contentions. At a minimum, Staff's document production should include: all NRC guidance documents pertaining to SAMA reviews, all documents reflecting, concerning, or discussing NRC Staff's review of Entergy's December 2009 SAMA reanalysis; all documents (including notes) reflecting communications or conferences involving NRC and Entergy that led up to the filing of the December 2009 SAMA reanalysis, all documents (including notes) reflecting communications or conferences involving NRC and Entergy concerning the December 2009 SAMA reanalysis since the submission of the reanalysis and all

documents generated by any consultant, including Sandia National Laboratories, which reflect work they have done in support of the NRC Staff review of the SAMA analyses prepared by Entergy, including the December 2009 SAMA Reanalysis. These documents should be produced whether they are available to, relied upon by, or in the possession of any member of the NRC Staff, whether or not that person is formally involved in the Indian Point license renewal review.

If NRC Staff takes the position that any of the requested documents concerning Contentions 35 and 36 are subject to privilege, then Staff should produce a list that identifies such documents and complies with 10 C.F.R. § 2.336(b)(5) (and should have already done so in its July 30, 2010 disclosure).

Sincerely

s/

John Sipos
Assistant Attorney General

cc: Janice Dean, AAG



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

October 12, 2010

CHAIRMAN

John J. Sipos, Esq.
Assistant Attorney General
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, NY 12224

Re: Indian Point Units 2 and 3 License Renewal
Application (Docket Nos. 50-247/50-286-LR)

Dear Mr. Sipos:

I am writing in response to your August 31, 2010 letter to Sherwin Turk. Your letter states that since Contentions 35 and 36 have been admitted (pending interlocutory review by the Commission), the staff of the Nuclear Regulatory Commission ("Staff") should have disclosed, if not already produced, all documents related to those contentions in its July 30, 2010 disclosure log. Further, you stated that after reviewing only the disclosure log dated July 30, 2010, you found no documents relating to either Contention 35 or 36. Finally, you requested that the Staff produce "all documents 'available' ... that are relevant to Contentions 35 and/or 36"

The Staff's disclosure obligations are set forth in 10 C.F.R. §§ 2.336(b) and 2.1203. For parties other than the Staff, documents *relevant to the admitted contentions* must be disclosed. See, e.g., 10 C.F.R. 2.336(a)(2)(i). The Staff's disclosure obligations, in contrast, are not limited to admitted contentions, but pertain to the application in general. See 10 C.F.R. § 2.336(b)(3).

The Staff has disclosed all documents in its possession pertaining to the Indian Point license renewal application in accordance with 10 C.F.R. § 2.336(b). In particular, the Staff has disclosed the documents in its possession pertaining to Entergy's December 2009 SAMA reanalysis, which is the subject of New York Contentions 35 and 36. For example, such documents were identified in the Staff's 11th disclosure supplement, dated December 30, 2009, and its 12th disclosure supplement, dated January 29, 2010, among others.

The Staff will continue to identify documents pertaining to the Indian Point license renewal application, including Entergy's December 2009 SAMA reanalysis, in accordance with its obligations under 10 C.F.R. §§ 2.336(b) and 2.1203.

Sincerely,

A handwritten signature in black ink, appearing to read "B. G. Harris".
Brian G. Harris
Counsel for NRC Staff

Turk, Sherwin

From: Turk, Sherwin
Sent: Friday, January 28, 2011 4:06 PM
To: Stuyvenberg, Andrew
Cc: Ghosh, Tina; Harris, Brian; Newell, Brian; Harrison, Donnie; Parillo, John; Gallucci, Ray; Imboden, Andy
Subject: Request for document disclosure

I received a phone call a few minutes ago from Susan Taylor, an attorney in John Sipos' (New York AG's) office. She says that their review of our disclosures did not find any documents regarding Sandia's review of the State's SAMA contentions – although she had only looked at the disclosed documents and had not looked at the privilege logs. She will look at the privilege logs to see if she finds anything. In the meantime, I told her I would check to see if there are any documents that have not been disclosed or listed as privileged.

[(REDACTED ATTORNEY-CLIENT COMMUNICATION)
[and WORK-PRODUCT]]

Thanks –
Shep



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

Attachment 6

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

January 31, 2011

Sherwin Turk
Office of the General Counsel
Mail Stop O-15-D-21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Via electronic and U.S. Mail

Re: License Renewal Application submitted by Entergy Indian Point Unit 2, LLC, Entergy Indian Point Unit 3, LLC, and Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Station, Unit 2 and Unit 3
Docket Nos. 50-247-LR/50-286-LR; ASLBP No. 07-858-03-LR-BD01

Dear Mr. Turk:

This letter follows up on your conversation with Assistant Attorney General Susan Taylor on Friday, January 28, 2011, regarding documentation from Sandia National Laboratories ("Sandia") referenced in Staff's Final Supplemental Environmental Impact Statement ("FSEIS") which Staff has not, to date, logged or produced. See FSEIS, Section 5.2.1; G.2.3. Thank you for inquiring into these documents.

As you know, 10 C.F.R. § 2.336(b)(3) requires the NRC staff to disclose all documents (including documents that provide support for, or opposition to, the application or proposed action) supporting the NRC staff's review of the application or proposed action that is the subject of the proceeding. See 10 C.F.R. § 2.336(b)(3); *see also* 10 C.F.R. § 2.1202(b)(3) (which obligates the Staff to fulfill all the "responsibilities of a party with respect to the admitted contention/matter" and thus supersedes the limitations in 10 C.F.R. § 2.336(a) and makes those responsibilities applicable to Staff regarding New York State Contentions 12 and 16).

As Staff has indicated reliance upon certain Sandia documents in its FSEIS, the State requests all documents prepared by Sandia, including but not limited to computer input/output files, sensitivity studies of any computer models or the input assumptions that were used, validation of any computer models or the input assumptions that were used, correspondence between NRC Staff and Sandia regarding the consultation, a copy of any contract or task assignment between NRC and Sandia or any such document prepared in consultation with Sandia, during the Staff's review of Entergy's Indian Point relicensing application conducted

pursuant to the National Environmental Policy Act ("NEPA"). This request includes but is not limited to any document prepared by or in consultation with Joseph Jones, Nathan Bixler, or Fotini Watson, who are identified in the FSEIS, Appendix B, as Sandia employees having expertise in Severe Accident Mitigation Alternatives at Sandia and are identified as authors of the FSEIS (*see* NRC Bibliographic Data Sheet).

These documents are directly relevant to admitted contentions in the proceeding; while it is not a precondition for the Staff to produce the material under § 2.336(b), this underscores the importance of prompt production of all the documents in Sandia's possession that were generated as part of Sandia's analysis. In addition, as a party, subject to all the responsibilities of a party, NRC Staff must disclose all information within the scope of 10 C.F.R. § 2.336(a) responsibilities which clearly include the kind of documents it has yet to disclose regarding Sandia's work on admitted Contentions 12/12A/12B and 16/16A/16B.

In addition to these Sandia documents, Staff also states in its FSEIS at 5-4 that Information Systems Laboratories, Inc. provided consulting services. The State notes that NRC Staff has not logged or produced any documents originating with Information Systems Laboratories, Inc. and requests that Staff produce all documents prepared by Information Systems Laboratories, Inc., or prepared in consultation with Information Systems Laboratories, Inc., during the Staff's review of Entergy's Indian Point relicensing application conducted pursuant to the NEPA.

Sincerely,

/s

Janice A. Dean
Assistant Attorney General

Turk, Sherwin

From: Janice Dean [Janice.Dean@ag.ny.gov]
Sent: Monday, March 07, 2011 10:19 AM
To: Turk, Sherwin
Cc: John Sipos; Susan Taylor
Subject: Re: Indian Point, letter regarding disclosures
Attachments: 2011 01 31 ltr to Staff.pdf

Sherwin, I am following up on the below email and letter I sent on January 31 regarding Sandia documents. I see that no Sandia documents referenced in the Staff's FSEIS were logged on Staff's most recent hearing file update; the State requests that you provide the referenced documents at your earliest convenience.

Thank you,
Janice

>>> Janice Dean 1/31/2011 4:41 PM >>>

Sherwin, following up on your conversation with Susan Taylor on Friday concerning Sandia documents, please see the attached letter clarifying our request.

Thank you,
Janice

Janice A. Dean
Section Chief
Toxics and Cost Recovery Section
Environmental Protection Bureau
Office of the New York State Attorney General 120 Broadway, 26th Floor New York, NY 10271
(212) 416-8459 (voice)
(212) 416-6007 (fax)
janice.dean@ag.ny.gov

Turk, Sherwin

From: Turk, Sherwin
Sent: Monday, March 07, 2011 10:35 AM
To: 'Janice Dean'
Cc: John Sipos; Susan Taylor
Subject: RE: Indian Point, letter regarding disclosures

Janice -

We are reviewing the Staff's disclosure logs to determine if any additional documents should have been, but were not, disclosed. You will see a reference to this in our response to NYS Contention 12-C, going out today. The attorney who has been handling our document disclosures will be in hearings in another proceeding this week, and is expected to return to the office on Thursday. We will be continuing our review of the logs in the meantime, but will need to await his return before we can reach a final resolution. I hope to respond to you within the next week or so.

Sincerely,

Sherwin E. Turk
Special Counsel for Litigation
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Mail Stop O15-D21
Rockville, MD 20852
(301) 415-1533

-----Original Message-----

From: Janice Dean [<mailto:Janice.Dean@ag.ny.gov>]
Sent: Monday, March 07, 2011 10:19 AM
To: Turk, Sherwin
Cc: John Sipos; Susan Taylor
Subject: Re: Indian Point, letter regarding disclosures

Sherwin, I am following up on the below email and letter I sent on January 31 regarding Sandia documents. I see that no Sandia documents referenced in the Staff's FSEIS were logged on Staff's most recent hearing file update; the State requests that you provide the referenced documents at your earliest convenience.

Thank you,
Janice

>>> Janice Dean 1/31/2011 4:41 PM >>>

Sherwin, following up on your conversation with Susan Taylor on Friday concerning Sandia documents, please see the attached letter clarifying our request.

Thank you,
Janice

Janice A. Dean
Section Chief
Toxics and Cost Recovery Section

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Turk, Sherwin

Attachment 9

From: Janice Dean [Janice.Dean@ag.ny.gov]
Sent: Monday, April 18, 2011 11:04 AM
To: Harris, Brian
Cc: John Sipos; Turk, Sherwin
Subject: Followup on the State's letter of January 31

Brian,

I spoke with Sherwin Turk a few minutes ago and he indicated that you would be sending a letter and/ or calling in response to my letter of January 31, to indicate that the documents the State requested have already been logged. A quick review of the last five hearing docket updates don't reveal a document which is readily identified as a Sandia/ISLI document - would you be able to quickly refer me to the date(s) of the hearing docket update on which these documents appeared? Sherwin indicated they appear on the privilege log, perhaps more than once. If I can review the log before we speak I'll be better prepared to discuss.

Thank you very much,
Janice

Janice A. Dean
Section Chief
Toxics and Cost Recovery Section
Environmental Protection Bureau
Office of the New York State Attorney General 120 Broadway, 26th Floor New York, NY 10271
(212) 416-8459 (voice)
(212) 416-6007 (fax)
janice.dean@ag.ny.gov

From: Turk, Sherwin
Sent: Monday, April 18, 2011 12:36 PM
To: 'Janice Dean'
Cc: John Sipos; Harris, Brian
Subject: RE: Followup on the State's letter of January 31

Janice --

As I indicated in our telephone conversation this morning with regard to your letter of January 31, 2011, the Staff has previously identified numerous ISL and Sandia documents in the Indian Point license renewal proceeding, including the specific document mentioned in your letter (Sandia's evaluation of New York's SAMA contentions, discussed in the FSEIS). In addition, the Staff had previously identified these documents in Mr. Harris' October 12, 2010 letter in response to Mr. Sipos' earlier request. At that time, Mr. Harris pointed New York to the Staff's 11th and 12th disclosure supplements dated December 30, 2009, and January 29, 2010, respectively.

To address your letter of January 31, we have again undertaken a time-consuming review of the Staff's disclosure logs, and found numerous ISL and Sandia documents among the documents listed. These include the Staff's Initial Disclosure and Supplements 9, 10, 12, and 18, dated January 30, 2009; October 30, 2009; November 30, 2009; January 29, 2010; and July 30, 2010, respectively.

For example, a cursory review of the logs shows that numerous documents "from" or "to" ISL were listed in the disclosure logs at DPP-00-37, DPP-00-39, DPP-00-53, DPP-00-54, DPP-00-57, DPP-00-65, DPP-00-66, DPP-00-67, DPP-00-82, DPP-00-98, DPP-00-147, DPP-00-155, DPP-00-161, DPP-00-164, DPP-00-165, DPP-00-168, DPP-00-191, DPP-00-209, and DPP-00-243. Similarly, numerous Sandia documents were listed in the disclosure logs at DPP-18-005, DPP-18-006, DPP-14-003, DPP-12-004, DPP-12-005, DPP-12-006, DPP-10-001, DPP-10-002, DPP-10-004, DPP-10-005, DPP-10-006, DPP-10-007, DPP-10-011, DPP-10-012, DPP-09-002, DPP-09-004, DPP-09-005, DPP-09-008, and DPP-09-013, as some examples. There may be other instances of such disclosures, which might be found in a more thorough review of the disclosure logs.

Moreover, as I mentioned in our conversation, and is evident from a reading of the FSEIS, the Sandia document which was specifically mentioned in your letter of January 31 was referenced in the FSEIS as a report prepared in preparation for litigation in response to the State's SAMA contentions, rather than as part of the Staff's review of the Applicant's SAMA analyses. That document was identified in the Staff's disclosure logs at DPP-18-005; in addition, the document was discussed in substantial detail in the FSEIS, allowing the State to understand the Staff's views of the State's SAMA contentions.

As additional documents become available, the Staff will continue to identify the documents as appropriate, consistent with the Staff's obligations under 10 C.F.R. 2.336(b) and 2.1203(b).

With best wishes,

Sincerely,
Sherwin

Sherwin E. Turk
Special Counsel for Litigation
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Mail Stop O15-D21
Rockville, MD 20852

(301) 415-1533

-----Original Message-----

From: Janice Dean [<mailto:Janice.Dean@ag.ny.gov>]
Sent: Monday, April 18, 2011 11:04 AM
To: Harris, Brian
Cc: John Sipos; Turk, Sherwin
Subject: Followup on the State's letter of January 31

Brian,

I spoke with Sherwin Turk a few minutes ago and he indicated that you would be sending a letter and/ or calling in response to my letter of January 31, to indicate that the documents the State requested have already been logged. A quick review of the last five hearing docket updates don't reveal a document which is readily identified as a Sandia/ISLI document - would you be able to quickly refer me to the date(s) of the hearing docket update on which these documents appeared? Sherwin indicated they appear on the privilege log, perhaps more than once. If I can review the log before we speak I'll be better prepared to discuss.

Thank you very much,
Janice

Janice A. Dean
Section Chief
Toxics and Cost Recovery Section
Environmental Protection Bureau
Office of the New York State Attorney General 120 Broadway, 26th Floor New York, NY 10271
(212) 416-8459 (voice)
(212) 416-6007 (fax)
janice.dean@ag.ny.gov



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

Attachment 11

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

April 20, 2011

Sherwin Turk, Esq.
Office of the General Counsel
Mail Stop O-15-D-21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Via electronic mail

Re: License Renewal Application submitted by Entergy Indian Point Unit 2, LLC, Entergy Indian Point Unit 3, LLC, and Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Station, Unit 2 and Unit 3
Docket Nos. 50-247-LR/50-286-LR; ASLBP No. 07-858-03-LR-BD01

Dear Mr. Turk:

This letter responds to your email of April 18, 2011 which responded to my letter of January 31, 2011 seeking documents Staff referenced in the FSEIS. The FSEIS says: "The NRC staff performed its review with contract assistance from Information Systems Laboratories, Inc. and Sandia National Laboratory." FSEIS at 5-4. I therefore requested that NRC Staff identify and produce the documents that Information Systems Laboratories, Inc. ("ISLI") and/or Sandia National Laboratory ("Sandia") prepared for NRC Staff, as Staff itself references in the FSEIS, Vol.1 at 5-4 and Vol. 3, Appendix G at G-22 to G-29. Your email is almost entirely unresponsive to the State's request and raises alleged privilege claims that are inapplicable to the documents the State seeks and to which it is entitled pursuant to 10 C.F.R. §§ 2.336(a)(1)(i) and 2.336(b)(3).

In your email, you indicate that Staff previously identified the documents the State seeks in Staff's Deliberative Process Privilege ("DPP") logs on numerous occasions, and you include references to a number of the logs as well as a previous letter from Brian Harris to John Sipos regarding Contentions 35 and 36 on October 12, 2010. None of these references, with minor exceptions, reflect disclosure of the documents the State is seeking, and your reliance on those disclosures indicates a fundamental misunderstanding of the State's request. To reiterate, on January 31 the State requested:

all documents prepared by Sandia, including but not limited to computer

input/output files, sensitivity studies of any computer models or the input assumptions that were used, validation of any computer models or the input assumptions that were used, correspondence between NRC Staff and Sandia regarding the consultation, a copy of any contract or task assignment between NRC and Sandia or any such document prepared in consultation with Sandia, during the Staff's review of Entergy's Indian Point relicensing application conducted pursuant to the National Environmental Policy Act ("NEPA"). This request includes but is not limited to any document prepared by or in consultation with Joseph Jones, Nathan Bixler, or Fotini Watson, who are identified in the FSEIS, Appendix B, as Sandia employees having expertise in Severe Accident Mitigation Alternatives at Sandia and are identified as authors of the FSEIS (see NRC Bibliographic Data Sheet).

Staff produce all documents prepared by Information Systems Laboratories, Inc., or prepared in consultation with Information Systems Laboratories, Inc., during the Staff's review of Entergy's Indian Point relicensing application conducted pursuant to the NEPA.

January 31, 2011 Letter from Janice Dean to Sherwin Turk at 1-2. Thus, the essence of the State's request is for documents ISLI and/or Sandia generated or reviewed and which allegedly provided support for Staff's positions in the FSEIS. The State did not ask for drafts of the FSEIS language, but rather the documents that ISLI and Sandia generated or reviewed as part of their consultation with NRC and that provide "support for or opposition to" the FSEIS conclusions. See 10 C.F.R. § 2.336(b)(3).

Your April 18 email refers to "the Sandia document which was specifically mentioned in your letter of January 31" when in fact the State did not seek any particular single document. Rather, the State requested "all the documents in Sandia's possession that were generated as part of Sandia's analysis." You assert that DPP-18-005, identified on Staff's log as a "discussion" of draft responses to the DSEIS, is responsive to the State's request. This designation is, at best, ambiguous, and implies that draft responses have been prepared by an entity or person other than Sandia and that in DPP-18-005 Sandia is providing comments on those draft responses. This document would not be responsive to the State's request. The State seeks documents Sandia generated, prepared and reviewed in analyzing the State's DSEIS comments and contentions, including any computer analyses, provided to NRC.

The State also seeks the documents Staff references and discusses in the FSEIS. For example, the FSEIS asserts that "Sandia performed a comparison of the decontamination cost factors derived from the Site Restoration study to those used in the SAMA analysis." FSEIS Vol. 3 at G-23. Yet Staff has not identified any document in which Sandia's comparison and supporting documentation can be found. The FSEIS is full of similar indications of considerable work done by Sandia to form the basis for statements made in the FSEIS. The State seeks, and Staff is obligated to provide, access to documents generated by Sandia and documents it reviewed in doing its work for NRC. The Staff is also obligated to provide the documents that NRC's designated experts (including those who work at Sandia (such as Nathan Bixler, et al.)) reviewed and relied on.

Your email identified 19 ISLI-authored documents¹ that Staff initially disclosed on January 30, 2009; of these, none are dated after April 22, 2008 (DPP-00-243). It therefore appears highly unlikely that these documents could be responding to the State's comments or contentions based on the DSEIS, since the ISLI-authored documents you list pre-date the DSEIS by many months, and pre-date the State's contentions and DSEIS comments by almost a year. The only one conceivably relevant to the State's request is DPP-00-191. However, that document is authored by NRC and sent to ISLI; the State asked for documents *generated* by ISLI. Also, its topic is apparently the economic impacts analysis in the Beaver Valley proceeding and not the Indian Point proceeding and it was authored on April 1, 2008, four months before any contentions were admitted in this proceeding and thus cannot possibly contain ISLI's analysis of a New York contention or comment.

In addition, the subject matter of the documents you listed, to the extent they were revealed in the DPP log, were irrelevant to what the State seeks. According to the description provided by NRC Staff in the privilege log DPP-00-37, DPP-00-39, DPP-00-53, DPP-00-57, DPP-00-66, DPP-00-67, DPP-00-82, DPP-00-147, DPP-00-161, DPP-00-165, DPP-00-168, DPP-00-209 are all related to RAI drafts. The State did not ask for draft RAIs in its January 31 letter. Other documents you identified are similarly nonresponsive to the State's request: DPP-00-54 describes a planned audit, DPP-00-65 is apparently the results of the audit, DPP-00-98, DPP-00-164 and DPP-00-243 are related to safety issues (not the FSEIS), and DPP-00-155 does not appear to have been authored by ISLI. None of these are responsive to the State's request for all documentation that relates to the FSEIS and in particular the FSEIS's statement that "[t]his section presents a summary of the SAMA evaluation for IP2 and IP3, conducted by Entergy, and the NRC staff's review of that evaluation. The NRC staff performed its review with contract assistance from Information Systems Laboratories, Inc. and Sandia National Laboratory." FSEIS at 5-4.

The allegedly relevant and disclosed Sandia documents you listed are also, for the most part, irrelevant. First, none of the NRC Staff's log descriptions list recipients, so unless Sandia was the author of a document, no one reviewing Staff's logs would be able to determine whether Sandia was involved. Second, most of the documents are authored by NRC and are thus clearly not responsive to the State's request for documents generated by Sandia. DPP-18-005 and 006 appear to be the same 22 page document and, as noted above, appear to be comments on the draft proposed FSEIS language. DPP-12-004 and 005 are authored by NRC and appear to also be comments on draft FSEIS language. The State did not request NRC drafts of FSEIS language or documents NRC authored. Several documents in disclosure supplement 10 are Sandia-authored but, contrary to the assertion in your letter, either do not contain deliberative process discussions or reveal the existence of documents that do not contain deliberative process discussions. DPP-10-001, 003 and 007 appear to include facts about Indian Point weather and, as you know, facts are not privileged under the deliberative process privilege. Similarly, DPP-10-004 and 005

¹ Your email referenced documents using numbers DPP-00-39, etc. The actual DPP used numbers DPP-00-039 (emphasis added). I have assumed the designation you used reflects an inadvertent mistake, and not a different list of documents.

relate to specific tables comparing population estimates. DPP-14-003, an NRC authored document with no disclosed recipient, identifies a MACCS2 Calculation Matrix, that has not been produced and is not subject to the deliberative process privilege since it is a calculation, not an opinion.

Finally, the documents identified by Brian Harris in his October 12, 2010 letter to John Sipos are also irrelevant to the State's request because they are not documents authored by either ISLI or Sandia.

Your letter also suggests that the documents are being withheld for reasons not provided in the disclosure logs and that they are being withheld because they were prepared in anticipation of litigation. That assertion is baseless, since all the documents the State seeks relate to Sandia and ISLI's work done in response to the State's comments on the DSEIS. Staff is obligated under NRC regulations and the National Environmental Policy Act ("NEPA") to disclose all the documents reviewed and/or relied upon by it in developing its FSEIS position, including responses to comments of the public. That fact that some public comments are also the basis for contentions in a licensing proceeding does not authorize NRC Staff to fail to meet its disclosure obligations under NRC regulations and NEPA. In addition, once Staff chose to rely upon the information provided to it by Sandia and ISLI in formulating its FSEIS conclusions, it waived any possible privilege related to such documents. There is no legal basis for Staff to rely upon documents in formulating its FSEIS conclusions and then to refuse to disclose those documents under a claim of privilege.

It is now apparent that the documents the State sought via letter dated January 31, 2011 have never been disclosed, even on privilege logs, and that Staff does not intend to disclose the documents on a privilege log or provide the documents. Given that it has been three months since the State's original request for these documents, and that the State's testimony on FSEIS-related issues is due in eight weeks, it is essential that the State file a motion to compel production of the withheld documents by the end of this week.

Sincerely,

/s

Janice A. Dean
Assistant Attorney General

cc: Brian Harris, Esq.
Counsel for NRC Staff
Via electronic mail

Turk, Sherwin

From: Turk, Sherwin
Sent: Monday, May 02, 2011 4:18 PM
To: 'Janice Dean'
Cc: John Sipos; Harris, Brian
Subject: RE: Followup regarding today's call

Janice - In response to your telephone call and E-mail of Friday, April 29, the Staff will produce for in camera inspection the privileged documents requested by the Board, including any responsive documents listed in Hearing File Supplement 27, filed on April 29, 2011.

Sherwin

-----Original Message-----

From: Janice Dean [<mailto:Janice.Dean@ag.ny.gov>]
Sent: Friday, April 29, 2011 4:47 PM
To: Turk, Sherwin
Cc: John Sipos
Subject: Followup regarding today's call

Sherwin, to memorialize today's conversation, I called to inquire whether Staff would be including the documents listed on today's Hearing File supplement in the in camera documents Staff will be providing to the Board pursuant to the Board's order today. You indicated that you had not yet read the order and could not answer; I requested that Staff include the Sandia-affiliated documents from today's Hearing File supplement in the in camera production and indicated that the State would file a motion to amend its Motion to Compel to include these documents on Monday if needed.

I also shared the State's position that the attachments, if not the emails themselves, listed at DPP-27-18 and DPP-27-20 are spreadsheets, and not covered under the deliberative process privilege. I indicated that the State would wait to file a motion on those pending the Board's disposition of the State's Motion to Compel. To that I would now add that Staff's current privilege log is insufficient, as past Staff logs have been, in that it does not list the recipients of emails. Without a list of recipients, including any cc's or bcc's, it is impossible to sustain the Staff's assertion of deliberative process privilege because it is not clear from log that the emails were in fact internal.

You did not indicate that you would be getting back to me on whether Staff will be including today's logged documents in the in camera review but invited me to call you on Monday; I will speak with you then.

Thank you,
Janice

Janice A. Dean
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NRC STAFF'S ANSWER TO THE STATE OF NEW YORK'S
MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS

AFFIDAVITS OF
DONALD G. HARRISON,
BRIAN E. HOLIAN
and
DAVID J. WRONA

May 9, 2011

May 9, 2011

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))

AFFIDAVIT OF DONALD G. HARRISON

I, Donald G. Harrison, do hereby state as follows:

1. I have been employed as Chief of the Probabilistic Risk Assessment Licensing Branch, Division of Risk Assessment ("DRA") in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation ("NRR"), since April 12, 2009. My supervisory responsibilities include oversight of the NRC Staff's review and evaluation of the Severe Accident Mitigation Alternatives ("SAMA") analyses, including analyses submitted by Entergy Nuclear Operations, Inc. ("Entergy"), related to its license renewal application ("LRA") for Indian Point Nuclear Generating Station Units 2 and 3, and SAMA-related issues in the Indian Point adjudicatory proceeding, after April 12, 2009.

2. As part of my responsibilities, I have been responsible for supervising the work of NRC Staff members in my Division, in their review and evaluation of Entergy's SAMA analyses, and revisions thereto, and SAMA-related issues in the Indian Point adjudicatory proceeding, since April 12, 2009. Prior to the commencement of my duties as Branch Chief, members of my Branch obtained the assistance of expert consultants at Information Systems Laboratories, Inc. ("ISL") in the performance of their Indian Point-related duties. Following my appointment as Branch Chief, I and members of my staff obtained the assistance of expert

consultants at Sandia National Laboratories ("Sandia" or "SNL"), to support our assessment of contentions filed by the State of New York in the adjudicatory proceeding.

3. In performing its evaluation of the environmental impacts of license renewal, the Staff routinely employs its own experts, as well as experts retained under contract with outside entities. In this regard, in June 2007, the Staff contracted with ISL to assist the Staff in its evaluation of the SAMA analysis described by Entergy in its Environmental Report ("ER") as part of its LRA for IP2 and IP3.¹ Specifically, ISL was tasked to perform a "Preliminary Evaluation," in which it would "conduct a preliminary review of the applicant's SAMA analysis"; "document the results of the preliminary evaluation with possible open items in a draft TER [Technical Evaluation Report]"; "identify any additional information needed to resolve possible open items"; and "support interactions with the applicant" for any requests for additional information that may be issued. ISL was also tasked to "update the draft TER to include discussions reflecting the resolution of any previously identified open items, and overall conclusions of the review"; and "incorporate NRC comments in the final TER."

4. ISL delivered its Preliminary Evaluation and Final Evaluation to the Staff, in or before December 2008. ISL's work product was reviewed and augmented by the Staff, and was then cited in Chapter 5 and Appendix G of the Staff's Draft Supplemental Environmental Impact Statement ("DSEIS") published on December 22, 2008.² To the best of my knowledge, information and belief, no further work was performed by ISL with regard to the Indian Point SAMA analysis, after publication of the Draft SEIS.

¹ "Statement of Work for J-4064 Task Order No. 35, Review of Severe Accident Mitigation Alternatives (SAMAs) for Indian Point License Renewal Application," attached to Letter from Joyce A. Fields, Division of Contracts, Office of Administration (NRC) to James Meyer (ISL) (June 22, 2007). The Statement of Work contains confidential financial information that is exempt from disclosure under 10 C.F.R. § 9.17(a)(4).

² See DSEIS at 5-4 ("[t]he NRC staff performed its review with contract assistance from Information Systems Laboratories, Inc.).

5. The staff employed in my Branch have been tasked to evaluate the merits of the State's SAMA contentions (which I understand were filed on November 30, 2007, and revised on February 27, 2009), and to begin preparations for hearing on those contentions. After I commenced my duties as Branch Chief, the Staff developed a work proposal to obtain assistance from Sandia National Laboratories ("Sandia" or "SNL") in addressing the State's contentions, given its expertise in use of the MACCS2 computer code (which was used by Entergy in its SAMA analyses and which was the focus of the State's contentions). The Staff defined the purpose of Sandia's work as follows: "The objective of this effort is to obtain technical expertise from SNL to assist the NRC in addressing SAMA contentions stemming from the ASLB decision to admit two contentions from the state of New York, including the hearing process for Indian Point license renewal application."³ On July 14, 2009 – seven months after the Staff published its DSEIS – Sandia transmitted to the Staff a work proposal to provide technical assistance to the Staff in its assessment of the State's contentions and in preparing for and testifying at evidentiary hearings on the contentions.⁴

6. As set forth in Sandia's proposal, Sandia's experts would be tasked to "conduct an assessment of the potential impacts of the issues raised in the contention[s] on the conclusions of the [Applicant's] SAMA analysis," and to document its results in an initial and final technical report. RFP J4245 at 4. In this regard, Sandia was, *inter alia*, to "review key documents related to the admitted contentions," the manner in which the Applicant treated certain parameters in its inputs to the MACCS2 code, and the impact of the State's contentions

³ "Statement of Work," JCN J-4245, at 1.

⁴ Letter from Marianne C. Walck (SNL) to Mark Cunningham (Director, Division of Risk Assessment, NRC) (July 14, 2009) (transmitting "Request for Proposal for JCN J4245, "Technical Assistance in Support of the [IP2 and IP3] License Renewal Hearing in the Areas Related to SAMA") ("RFP J4245"). This document contains confidential financial information that is exempt from disclosure under 10 C.F.R. § 9.17(a)(4).

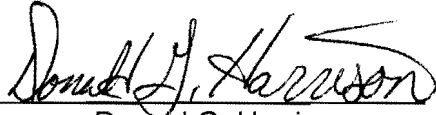
on the Applicant's conclusions. *Id.* Additional tasks were to be performed, all in connection with the Staff's assessment of the issues raised in the State's contentions – including any “follow-on contentions,” motions for summary disposition, supporting affidavits and technical analyses, and preparing and presenting testimony at the evidentiary hearings. *Id.* at 4, 5-6. This work was to be performed in conjunction with expert members of the NRC Staff employed in the Division of Risk Assessment and Staff Counsel.

7. As Sandia's assessment of the State's contentions progressed, numerous communications occurred among Sandia, Staff experts, and Staff Counsel. During the course of this process, Sandia repeatedly sent the Staff new iterations of its draft technical report on the State's contentions, generally as attachments to E-mail messages. In accordance with NRC practice, my staff was instructed to transmit such documents to the Staff's Project Manager in the Division of License Renewal, for inclusion in the document capture system. In addition, my staff informed our consultants at Sandia of the NRC's document disclosure obligations, and requested that Sandia transmit its Indian Point-related documents to the NRC for inclusion in the document capture system.

8. The Staff's contract with Sandia did not call for its assistance with the Staff's preparation of the FSEIS; rather, Sandia was contracted to assist the Staff solely in litigation-related tasks (*e.g.*, assessing the State's contentions, responding to summary disposition motions, and preparing for hearings). I understand that on March 18, 2009, the State filed its comments on the DSEIS – in which it, *inter alia*, incorporated claims similar to those raised in its SAMA contentions. In order to address these comments in the FSEIS, Staff members under my supervision drew upon the work performed by Sandia concerning the State's contentions, and cited Sandia's efforts when they provided their input to the Division of License Renewal for inclusion in the FSEIS discussion of SAMA issues. To the best of my knowledge, information and belief, no work was performed by Sandia on the FSEIS, apart from the work it performed in

conjunction with Staff experts and Staff Counsel, as part of the Staff's litigation-related activities in anticipation of hearings.

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


Donald G. Harrison

Executed in Rockville, Maryland
this 9th day of May 2011

May 9, 2011

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 ("LRA").

2. As part of their responsibilities in updating the hearing file and mandatory disclosures for these proceedings, NRC staff members under my supervision have identified documents as privileged because they contained information concerning the Staff's pre-decisional deliberative process. Those documents were identified in the Staff's previous transmittals of the hearing file and supplements thereto, for which I (or other NRC managers acting in my place) invoked the deliberative process privilege. Additional documents have been identified as privileged for the same reason, in Appendix C to the Staff's Answer to the State of New York's motion to compel, dated May 9, 2011.

3. I have personally reviewed the documents identified as part of the Staff's predecisional deliberative process in Appendix C to the Staff's Answer of May 9, 2011, 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 Indian Point LRA. 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 identified as part of the deliberative process in Appendix C to the Staff's Answer dated May 9, 2011.

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 9th day of May 2011

May 9, 2011

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 DAVID J. WRONA CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, David J. Wrona, do hereby state as follows:

1. I am employed as Chief of Projects Branch 2 in the Division of License Renewal, Office of Nuclear Reactor Regulation, at the U.S. Nuclear Regulatory Commission ("NRC"). Among my other duties, I am responsible for supervising the NRC Staff's review of the Indian Point Nuclear Generating Station, Units 2 and 3 license renewal application ("LRA"). Included within this responsibility is supervision of the Staff's preparation and submission of the hearing file and mandatory disclosures (and supplements thereto) in the adjudicatory proceeding for the Indian Point LRA.

2. Persons acting under my supervision in preparing the hearing file and mandatory disclosures (and supplements thereto) have included Andrew L. Stuyvenberg, Robert F. Kuntz, and Kimberly J. Green, among others. As part of the process for preparing and submitting the hearing file and mandatory disclosures and supplements thereto, they or other members of my staff have requested that NRC Staff members involved in the review of the Indian Point LRA (including, among others, persons in my Division and the Division of Risk Assessment, which has lead responsibility for evaluating Severe Accident Mitigation Alternatives ("SAMA" analyses) submit the documents pertaining to their evaluation into a document capture system

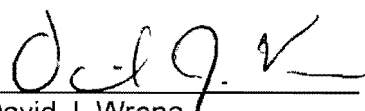
for the Indian Point LRA adjudicatory proceeding. In addition, NRC Staff members who are engaged in reviewing the Indian Point LRA have been instructed to obtain relevant documents pertaining to the Indian Point LRA review from the Staff's consultants, including Information Systems Laboratories, Inc. ("ISL") and Sandia National Laboratories ("SNL"), so that those documents can be deposited into the document capture system.

3. On a regular basis, NRC Staff members under my supervision have collected the documents in the hearing file capture system and provided them to NRC Staff Counsel for review, prior to submission of those documents to Electronic Hearing Docket, the Board and parties. Following Counsel's review, the documents identified as subject to the deliberative process privilege were transmitted to the Director of the Division of License Renewal (or other senior NRC manager), for a determination as to whether the deliberative process privilege should be invoked.

4. To the best of my knowledge, information and belief, based on my supervision of the NRC Staff members engaged in preparing and submitting the hearing file and mandatory disclosures to date, the Staff has disclosed or listed in its privilege logs, all documents in the possession of its employees or consultants that are potentially responsive to the State of New York's SAMA-related document requests, with two exceptions: (1) the Staff's privilege logs do not list potentially responsive documents that are protected from disclosure by the work product ("WP") doctrine and/or attorney-client ("AC") privilege, unless those documents are also subject to the deliberative process privilege (in which case, the deliberative process privilege was asserted), and (2) the Staff has recently obtained certain potentially responsive documents that were not previously disclosed or identified as privileged; the documents falling within these two exceptions are listed in Appendices B and C to the Staff's Answer to New York's Motion to Compel, dated May 9, 2011, and are being provided to the Board for its in camera inspection.

5. I hereby certify to the best of my knowledge, information and belief, 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 May 5, 2011.

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


David J. Wrona

Executed in Rockville, Maryland
this 9th day of May 2011

**Appendix A - Indian Point License Renewal In Camera Hearing File
Deliberative Process Documents Previously Withheld Under Privilege – May 9, 2011**

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Page Count	Privilege¹
DPP-00-037	ML073510192	Bruce Mrowca/ ISL, Inc.	2007/09/12 Indian Point LR Hearing - IP2 Draft RAIs	09/12/2007	E-Mail	Ali Azarna/ ISL, Inc.	Internal transmission of draft RAIs regarding SAMAs	6	DP
DPP-00-039	ML073510199	Bruce Mrowca/ ISL, Inc.	2007/09/17 Indian Point LR Hearing - IP2/3 SAMA Draft RAIs	09/17/2007	E-Mail	Robert Palla/ NRC/NRR	Internal transmission of draft RAIs regarding SAMAs	11	DP
DPP-00-053	ML073511773	Robert Palla/ NRC/NRR	2007/10/04 Indian Point LR Hearing - IP2 and 3 SAMA RAIs	10/04/2007	E-Mail	Bruce Mrowca/ ISL, Inc.	Internal transmission of draft SAMA RAIs with comments	9	DP
DPP-00-057	ML073511764	Bruce Mrowca/ ISL, Inc.	2007/10/09 Indian Point LR Hearing - Re: IP2 and 3 SAMA RAIs	10/09/2007	E-Mail	Robert Palla/ NRC/NRR	Internal transmission draft SAMA RAIs with comments	10	DP
DPP-00-084	ML073511839	Robert Palla/ NRC/NRR	2007/11/19 Indian Point LR Hearing - Fwd: Re: Conf Call on GI-199, Indian Point, NY AG Press Release	11/19/2007	E-Mail	Bruce Mrowca, Ali Azarn, ISL, Inc.;Diane Mlynarczyk/ PNL	Internal comment regarding NRC's seismic analysis	2	DP

¹
AC – Attorney Client Privilege
WP – Work Product Doctrine
DP – Deliberative Process Privilege

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ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Page Count	Privilege¹
DPP-00-155	ML080770254	Robert Palla/ NRC/NRR	2008/03/04 Indian Point LR Hearing - EPRI Documents related to TI-SGTR	03/04/2008	E-Mail	Bruce Mrowca, Ali Azarn (ISL, Inc.)	Email contains internal discussion of IP SAMA review; attachment contains proprietary information being withheld from public disclosure under 10 CFR 2.390(a)(4) – see ML073390146	217	DP
DPP-00-161	ML080770251	Bruce Mrowca/ ISL, Inc.	2008/03/05 Indian Point LR Hearing - Indian Point Follow-up RAIs	03/05/2008	E-Mail	Robert Palla/ NRC/NRR	Internal transmission of draft RAIs	3	DP
DPP-00-168	ML080770222	Robert Palla/ NRC/NRR	2008/03/13 Indian Point LR Hearing - Follow-up RAIs Rev 1	03/13/2008	E-Mail	Andrew Stuyvenberg(NR C/NRR)/ Bruce Mrowca (ISL, Inc.)	Internal transmission of draft RAIs	4	DP
DPP-00-191	ML081000275	Robert Palla/ NRC/NRR	2008/04/01 Indian Point LR Hearing - RE: Comments on the BVPS RAI Responses	04/01/2008	E-Mail	Ali Azarn/ ISL, Inc.	Internal discussion regarding economic impacts	2	DP
DPP-00-302	ML081970307	Bruce Mrowca, ISL Inc.	2008/06/05 Indian Point LR Hearing - IP Draft SAMA SER	06/05/2008	E-Mail	Robert Palla/ NRC/NRR Ali Azarn, Diane Mlynarczyk/ ISL, Inc.	Internal transmission of draft SER input on SAMAs	42	DP

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DPP-00-309	ML081970305	Robert Palla/ NRC/NRR	2008/06/11 Indian Point LR Hearing - IP SAMA- Draft SER Rev 0.doc	06/11/2008	E-Mail	Bruce Mrowca/ ISL, Inc.	Internal transmission of draft SER Appendix G (SAMA)	40	DP
DPP-00-314	ML081970303	Robert Palla/ NRC/NRR	2008/06/12 Indian Point LR Hearing - IP SAMA- Draft SER Rev 0.doc	06/12/2008	E-Mail	Ali Azarn/ ISL, Inc.	Internal transmission of draft SER Appendix G (SAMA)	80	DP
DPP-00-315	ML081970301	Ali Azarn/ ISL, Inc.	2008/06/13 Indian Point LR Hearing - suggested mods to draft SER per your comments	06/13/2008	E-Mail	Robert Palla (NRC/NRR)/ Bruce Mrowca (ISL, Inc.)	Internal transmission of draft SER Appendix G (SAMA)	41	DP
DPP-00-327	ML081970300	Robert Palla/ NRC/NRR	2008/06/23 Indian Point LR Hearing - RE: IP SAMA- Draft SER Rev 0.doc	06/23/2008	E-Mail	Bruce Mrowca/ ISL, Inc.	Internal discussion of contents of draft SER Appendix G (SAMA)	2	DP
DPP-00-380	ML082530023	Robert Palla/ NRC/NRR	2008/07/24 Indian Point LR Hearing - IP SAMA SER	07/24/2008	E-Mail	Bruce Mrowca (ISL, Inc.)/ Steve Short (PNL)	Internal transmission of draft SEIS section (SAMA)	48	DP
DPP-09-02	ML092720329	R. Palla NRCINRR	2009/03/02 Indian Point LR Hearing - FW: State of New York dSEIS Contentions and Supporting Documents	03/02/2009	E-Mail	J. Jones, NRC Contractor (Sandia); A. Stuyvenberg, J. Mitchell, NRC/NRR	Internal transmission of comments re: the EIS	62	DP, WP

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DPP-09-03	ML092720289	J. Ramsdell NRC/Contract or (PNL)	2009/08/24 Indian Point LR Hearing - RE: Use of MACCS2 Code for Indian Point License Renewal - ASLB Decision - FYI	08/24/2009	E-Mail	J. Lee, B. Zalcman, R. Emch, N. Chokshi, R. Palla, NRC/NRR	Internal transmission of comments re: the EIS	3	DP
DPP-09-05	ML092660503	R. Palla, NRC/NRR	2009/09/23 Indian Point LR Hearing - General Discussion Regarding SAMA Analysis *** Attorney Client Privilege***	09/23/2009	E-Mail	B. Harris, NRC/OGC; J. Jones, NRC Contractor (Sandia)	Internal transmission of comments re: the EIS	6	DP, AC, WP
DPP-09-08	ML092720210	R. Palla NRC/NRR	2009/09/29 Indian Point LR Hearing - FW:	09/29/2009	E-Mail	J. Jones, N. Bixler, NRC Contractor (Sandia); A. Stuyvenberg, T. Ghosh, NRC/NRR; B. Mizuno, NRC/OGC	Internal Transmission of Comments re: the EIS	85	DP, WP
DPP-010-001	ML093160012	J. Jones, NRC/Contract or (Sandia)	2009/10/27 Indian Point LR Hearing - Indian Point Weather	10/27/2009	E-Mail	R. Palla NRC/NRR	Internal Transmission of Comments Regarding the EIS	4	DP
DPP-010-002	ML093000388	R. Palla NRC/NRR	2009/10/27 Indian Point LR Hearing - Tables	10/27/2009	E-Mail	J. Jones, NRC/Contractor (Sandia)	Internal Transmission of Comments Regarding the EIS	5	DP WP
DPP-010-003	ML093010020	R. Palla NRC/NRR	2009/10/28 Indian Point LR Hearing - FW: Indian Point Weather	10/28/2009	E-Mail	A. Stuyvenberg, NRC/NRR	Internal Transmission of Comments Regarding the EIS	4	DP WP

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DPP-010-004	ML093160015	J. Jones, NRC/Contract or (Sandia)	2009/10/28 Indian Point LR Hearing - RE: Table Comparing Population in ER vs SECPOP	10/28/2009	E-Mail	R. Palla NRC/NRR	Internal Transmission of Comments Regarding the EIS	2	DP WP
DPP-010-005	ML093010132	R. Palla NRC/NRR	2009/10/28 Indian Point LR Hearing - Table Comparing Population in ER vs SECPOP	10/28/2009	E-Mail	J. Jones, N. Bixler, NRC/Contractor (Sandia)	Internal Transmission of Comments Regarding the EIS	3	DP WP
DPP-010-006	ML093160014	J. Jones, NRC/Contract or (Sandia)	2009/10/28 Indian Point LR Hearing - Wind Discussion	10/28/2009	E-Mail	R. Palla NRC/NRR	Internal Transmission of Comments Regarding the EIS	4	DP WP
DPP-010-007	ML093160018	J. Jones, NRC/Contract or (Sandia)	2009/10/29 Indian Point LR Hearing - Indian Point Weather	10/29/2009	E-Mail	R. Palla NRC/NRR, N. Bixler, NRC/Contractor (Sandia)	Internal Transmission of Comments Regarding the EIS	4	DP WP
DPP-010-009	ML093020493	R. Palla NRC/NRR	2009/10/29 Indian Point LR Hearing - Weather Runs 10 29 09.doc	10/29/2009	E-Mail	A. Stuyvenberg, NRC/NRR	Internal Transmission of Comments Regarding the EIS	4	DP WP
DPP-010-011	ML093160020	J. Jones, NRC/Contract or (Sandia)	2009/11/02 Indian Point LR Hearing - Indian Point	11/02/2009	E-Mail	R. Palla NRC/NRR Bixler, NRC/Contractor (Sandia)	Internal Transmission of Comments Regarding the EIS	2	DP WP

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DPP-010-012	ML093160021	J. Jones, NRC/Contract or (Sandia)	2009/11/02 Indian Point LR Hearing - Task I	11/02/2009	E-Mail	R. Palla NRC/NRR	Internal Transmission of Comments Re: EIS and Contentions, draft FSEIS insert of impact of IP contentions on SAMA	19	DP WP
DPP-14-003	ML100770511	R. Palla, NRC/NRR	2010/03/18 Indian Point LR Hearing - Indian Point MACCS2 Calculation Matrix	03/18/2010	E-Mail	Tina Ghosh, NRC/NRR; J. Jones, SNL	Transmission of internal discussion regarding SEIS; draft matrix calculation for internal review of impact of IP contentions on SAMA	3	DP, WP
DPP-18-005	ML101800548	J. Jones SNL	2010/02/08 Indian Point LR Hearing - Indian Point Task I Report - Deliverable	02/08/2010	E-Mail	R. Palla, A. Stuyvenberg, B. Grenier, T. Ghosh, NRC/NRR	Discussion of Draft responses to DSEIS Comments; draft report of impact of IP SAMA contentions on Entergy SAMAs	22	DP, WP
DPP-18-006	ML101800550	J. Jones SNL	2009/12/08 Indian Point LR Hearing - Task I	12/08/2009	E-Mail	R. Palla, NRC/NRR	Discussion of Draft responses to DSEIS Comments; draft report of impact of IP SAMA contentions on Entergy SAMAs	22	DP, WP

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DPP-25-045	ML110310331	J. Jones, Sandia	2009/12/16 Indian Point LR Hearing - RE: IPEC Letter NL-09-165 - SAMA Reanalysis Using Alternate Meteorological Tower Data	12/16/2009	E-Mail	A.Stuyvenberg and R. Palla, NRC/NRR	Internal discussion of Met data (author's opinion about if Entergy submission provided information needed by author, and if weather inputs used by Entergy meet author's expectations)	2	DP WP
DPP-26-017	ML110590928 (check this one for WP)	T Ghosh, NRC/RES	2011/01/31 Indian Point LR Hearing - FW: Modeling Review - Indian Point	01/31/2011	E-Mail	A. Stuyvenberg, NRC/NRR	Internal analysis of alternative modeling	15	DP WP
DPP-26-019	ML11082A036	R. Palla, NRC/NRR	2010/02/22 Indian Point LR Hearing - FW: Response to NYS's Request for SAMA-Related Documents (Email 1 of 3).	02/22/2010	E-Mail	J. Jones, N. Bixler, Sandia National Labs (SNL); T. Ghosh, NRC/NRR	Internal discussion on SAMA files and the IP contentions for hearing	2568	DP WP
DPP-26-020	ML11082A038	R. Palla, NRC/NRR	2010/02/22 Indian Point LR Hearing - FW: Response to NYS's Request for SAMA-Related Documents (Email 2 of 3).	02/22/2010	E-Mail	J. Jones, N. Bixler, Sandia National Labs (SNL); T. Ghosh, NRC/NRR	Internal discussion on SAMA files and the IP contentions for hearing	1794	DP WP

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DPP-26-021	ML11082A039	R. Palla, NRC/NRR	2010/02/22 Indian Point LR Hearing - FW: Response to NYS's Request for SAMA-Related Documents (Email 3 of 3).	02/22/2010	E-Mail	J. Jones, N. Bixler, Sandia National Labs (SNL); T. Ghosh, NRC/NRR	Internal discussion on SAMA files and the IP contentions for hearing	1795	DP WP
DPP-26-023	ML11082A032	A. Stuyvenberg, NRC/NRR	2009/12/11 Indian Point LR Hearing - FW: IPEC Letter NL-09-165 - SAMA Reanalysis Using Alternate Meteorological Tower Data	12/11/2009	E-Mail	R. Palla, NRC/NRR; J. Jones, SNL	Internal discussion of SAMA analysis	212	DP, WP
DPP-26-030	ML11077A021	R Palla, NRC/NRR/DR A	2009/01/14 Indian Point LR Hearing - Background Info Re: IP SAMA Contentions	01/14/2009	E-Mail	J. Jones, Sandia National Labs (SNL)	Internal discussion on admitted contention support	583	DP WP
DPP-26-031	ML11077A022	R Palla, NRC/NRR/DR A	2009/01/14 Indian Point LR Hearing - Background Info Re: IP SAMA Contentions	01/14/2009	E-Mail	J. Jones, Sandia National Labs (SNL)	Internal discussion on admitted contention support	583	DP WP
DPP-27-016	ML11117A962	N. Bixler, Sandia	2009/12/07 Indian Point LR Hearing - RE: Indian Point decon costs	12/07/2009	E-Mail	J. Jones; J. Schelling, Sandia	Internal discussion on decontamination Draft Report on Decontamination Costs	5	DP, WP

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DPP-27-017	ML11117A963	N. Bixler, Sandia	2009/12/08 Indian Point LR Hearing - RE: decon costs	12/08/2009	E-Mail	J. Jones, Sandia	Internal discussion on decontamination Draft Report Analyzing Contentions Raised by NYS in Hearing	25	DP, WP
DPP-27-018	ML11117A964	N. Bixler, Sandia	2009/12/17 Indian Point LR Hearing - Emailing: NationalPopulationProjection2008-t1.xls, StatePopulationProjections2008-01.xls	12/17/2009	E-Mail	J. Jones; J. Schelling, Sandia	Internal discussion on population growth Draft Analysis of NYS' population growth	12	DP, WP
DPP-27-019	ML11117A969	N. Bixler, Sandia	2009/12/17 Indian Point LR Hearing - RE: IP next question`	12/17/2009	E-Mail	J. Jones, Sandia	Internal discussion on atmospheric modeling Draft Analysis of meteorological modeling performance characteristics	3	DP, WP
DPP-27-020	ML11117A970	N. Bixler, Sandia	2009/12/21 Indian Point LR Hearing - RE: IP Population Estimate	12/21/2009	E-Mail	J. Jones; J. Schelling, Sandia	Internal discussion on population growth and modeling Draft Analysis of NYS' contentions raised during the Hearing	24	DP, WP

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DPP-27-021	ML11117A971	N. Bixler, Sandia	2009/12/23 Indian Point LR Hearing - RE: Indian Point	12/23/2009	E-Mail	J. Jones, Sandia	Internal discussion on draft responses Draft Analysis of NYS' contentions raised during the hearing	24	DP, WP

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IC-001	ML11082A053	R. Palla, NRC/NRR/DRA	2008/09/24 Indian Point LR Hearing - IGCE For Sandia Contract on Support for Indian Point Hearings	09/24/2008	E-Mail	A. Bellinger, NRC; R. Palla, NRC/NRR	IGCE estimates for Sandia Contract	4	WP
IC-002	ML11117A248	N. Bixler, Sandia	2009/09/03 Indian Point LR Hearing - RE: Indian Point	09/03/2009	E-Mail	J. Jones, Sandia	Draft Analysis of NYS' Statement of Material Facts	6	WP
IC-003	ML092530511	R. Palla, NRC/NRR	2009/09/10 Indian Point LR Hearing - Comments on Motion *** Attorney Client Privilege -- Attorney Work Product***	09/10/2009	E-Mail	B. Harris, B. Mizuno NRC/OGC; J. Jones, N. Bixler, NRC/Contractor (Sandia)	Internal transmission of comments re: Statement of Material Facts	5	AC, WP
IC-004	ML092580005	J. Jones, NRC/Contractor (Sandia)	2009/09/11 Indian Point LR Hearing - DRAFT Technical Response: Attorney Work Product - Attorney Client Privilege	09/11/2009	E-Mail	B. Harris, NRC/OGC; R. Palla, NRC/NRR; N. Bixler, NRC/Contractor (Sandia)	Internal transmission of draft re: response to statement of material fact, Declaration of Bruce Egan and Motion for Summary Disposition	13	AC, WP

¹
AC – Attorney Client Privilege
WP – Work Product Doctrine
DP – Deliberative Process Privilege

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IC-005	ML092580006	R. Palla, NRC/NRR	2009/09/11 Indian Point LR Hearing - RLP Input on Motion **Attorney Client Privilege - Attorney Work Product**	09/11/2009	E-Mail	B. Harris, B. Mizuno NRC/OGC; J. Jones, N. Bixler, NRC/Contractor (Sandia)	Internal transmission of comments re: response to statement of material fact, Declaration of Bruce Egan and Motion for Summary Disposition	10	AC, WP
IC-006	ML11117A249	N. Bixler, Sandia	2009/09/11 Indian Point LR Hearing - RE: current copy Attorney Client Privelege	09/11/2009	E-Mail	J. Jones, Sandia	Draft of affidavit prepared in response to NYS' Motion for Summary Disposition	13	WP
IC-007	ML11077A020	B. Harris, NRC/OGC	2009/09/16 Indian Point LR Hearing - Attorney Client Privilege	09/16/2009	E-Mail	R. Palla, NRC/NRR	Internal transmission of affidavit of J. Jones and N. Bixler (SNL)	15	AC, WP
IC-008	ML11081A037	R. Palla, NRC/NRR	2009/09/17 Indian Point LR Hearing - FW: Attorney Client Privilege	09/17/2009	E-Mail	J. Jones, Sandia National Labs (SNL)	Internal transmission of affidavit of J. Jones and N. Bixler (SNL)	15	AC WP

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IC-009	ML092650167	R. Palla, NRC/NRR	2009/09/22 Indian Point LR Hearing - FW: Applicant's Answer Opposing New York State's Motion for Summary Disposition of Contention NYS-16/16A , Indian Point License Renewal, Docket Nos. 50-247-LR and 50-286-LR (ASLBP No. 07-858-03-LR-BD01)	09/22/2009	E-Mail	T. Ghosh, NRC/NRR	Internal transmission of Entergy's Opposition to NYS's Motion for Summary Disposition of Contentions 16/16A	105	WP, AC
IC-010	ML11083A051	J. Jones, Sandia National Labs (SNL)	2009/09/22 Indian Point LR Hearing - Rev 1 of Affidavit - Attorney Client Privelege	09/22/2009	E-Mail	B. Harris, NRC/OGC; R. Palla, NRC/NRR	Internal transmission of edits to affidavit of J. Jones and N. Bixler (SNL)	18	AC, WP
IC-011	ML11082A030	R. Palla, NRC/NRR/DRA	2009/09/25 Indian Point LR Hearing - FW: Integrated comments in Affidavit - Attorney-Client Privelege	09/25/2009	E-Mail	IP Hearing File	Internal transmission of edits to affidavit of J. Jones and N. Bixler (SNL)	19	WP, AC
IC-012	ML11082A042	R. Palla, NRC/NRR	2009/09/25 Indian Point LR Hearing - FW: Rev 1 of Affidavit - Attorney Client Privelege	09/25/2009	E-Mail	IP Hearing File	Internal transmission of edits to affidavit of J. Jones and N. Bixler (SNL)	18	AC, WP
IC-013	ML11083A016	J. Jones, Sandia National Labs (SNL)	2009/09/25 Indian Point LR Hearing - Integrated comments in Affidavit - Attorney Client Privelege	09/25/2009	E-Mail	B. Harris, NRC/OGC; R. Palla, NRC/NRR	Internal transmission of edits to affidavit of J. Jones and N. Bixler (SNL)	19	AC, WP

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IC-014	ML092720214	R. Palla, NRC/NRR	2009/09/29 Indian Point LR Hearing - FW: RLP Input on Motion **Attorney Client Privilege - Attorney Work Product**	09/29/2009	E-Mail	B. Harris, B. Mizuno, NRC/OGC; J. Jones, NRC Contractor (Sandia)	Internal Transmission of Comments re: material facts, Declaration of Bruce Egan, and Motion for Summary Disposition	10	AC, WP
IC-015	ML092720322	B. Harris, NRC/OGC	2009/09/29 Indian Point LR Hearing - FW: Applicant's Answer Opposing New York State's Motion for Summary Disposition of Contention NYS-16/16A , Indian Point License Renewal, Docket Nos. 50-247-LR and 50-286-LR (ASLBP No. 07-858-03-LR-BD01)	09/29/2009	E-Mail	J. Jones, NRC Contractor (Sandia); R. Palla, NRC/NRR/DLR	Internal transmission of Entergy's Opposition to NYS's Motion for Summary Disposition of Contentions 16/16A	105	AC, WP
IC-016	ML092990062	R. Palla, NRC/NRR	2009/10/26 Indian Point LR Hearing - Opposition and Affidavits Filed in IP	10/26/2009	E-Mail	J. Jones, N. Bixler, NRC/Contractor (Sandia), J. Lee, R. Moody, J. Mitchell, T. Ghosh, J. Rickhoff, S. LaVie, NRC/NRR	Internal transmission of Staff's Response to NYS's Motion for Partial Summary Disposition of NYS Contention 16/16A	69	WP

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IC-017	ML093160019	J. Jones, NRC/Contractor (Sandia)	2009/10/30 Indian Point LR Hearing - Indian Point	10/30/2009	E-Mail	R. Palla NRC/NRR	Internal discussion of meteorological data for Indian Point	2	WP
IC-018	ML11117A961	N. Bixler, Sandia	2009/11/02 Indian Point LR Hearing - RE: Indian Point	11/02/2009	E-Mail	J. Jones, Sandia	Draft of Report Analyzing contentions raised by NYS in the hearing	20	WP
IC-019	ML093080296	R. Palla NRC/NRR	2009/11/04 Indian Point LR Hearing - FW: Indian Point Order	11/04/2009	E-Mail	J. Jones, N. Bixler, NRC/Contractor (Sandia) S. LaVie, R. Moody, J. Mitchell, J. Rickhoff, NRC/NRR	Internal Transmission of Board Order Ruling on Summary Disposition motions	17	AC
IC-020	ML093160022	R. Palla NRC/NRR	2009/11/12 Indian Point LR Hearing - FW: LETTER OF TECHNICAL DIRECTION - JCN J-4245	11/12/2009	E-Mail	J. Jones, NRC/Contractor (Sandia) B. Grenier, T. Ghosh, NRC/NRR	Letter re: Sandia review of NYS Motion for Summary Disposition	2	WP
IC-021	ML093561145	R. Palla, NRC/NRR	2009/12/22 Indian Point LR Hearing - FW: Output Files	12/22/2009	E-Mail	A. Stuyvenberg, NRC/NRR/DLR	Internal discussion regarding SAMA; request for information for internal review of impact IP contentions on SAMA	2	DP, WP

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IC-022	ML100141724	R. Palla, NRC/NRR	2010/01/14 Indian Point LR Hearing - Draft FSEIS Insert Discussing Impact of IP Contentions on SAMA	01/14/2010	E-Mail	A. Stuyvenberg, NRC/NRR; D. Harrison, NRC/NRR; J. Jones and N. Bixler, SNL; B. Harris, NRC/OGC	Internal transmission of draft FSEIS	2	DP, AC
IC-023	ML100190008	R. Palla, NRC/NRR	2010/01/19 Indian Point LR Hearing - FW: Draft FSEIS Insert Discussing Impact of IP Contentions on SAMA	01/19/2010	E-Mail	A. Stuyvenberg, NRC/NRR; D. Harrison, NRC/NRR; J. Jones and N. Bixler, SNL; B. Harris, NRC/OGC	Internal transmission of draft FSEIS; draft FSEIS insert of impact of IP contentions on SAMA	10	DP, WP, AC
IC-024	ML100830416	R. Palla, NRC/NRR	2010/03/24 Indian Point LR Hearing - FW: Next steps	03/24/2010	E-Mail	Tina Ghosh and B. Grenier NRC/NRR	draft schedule of work tasks and tasks report regarding impact of IP contentions on SAMA	5	WP
IC-025	ML11117A972	N. Bixler, Sandia	2010/04/08 Indian Point LR Hearing - FW: Indian Point Table	04/08/2010	E-Mail	J. Jones, Sandia	Draft recommendation on additional research	4	WP
IC-026	ML110660248	J. Jones, Sandia National Labs (SNL)	2010/06/15 Indian Point LR Hearing - Modeling Review - Indian Point	06/15/2010	E-Mail	R. Palla, T. Ghosh, NRC/NRR; N. Bixler, SNL	Internal analysis of alternative modeling	15	WP
IC-027	ML101810038	R. Palla, NRC/NRR	2010/06/30 Indian Point LR Hearing - FW: Task I report	06/30/2010	E-Mail	T. Ghosh, NRC/NRR; B. Harris, NRC/OGC	Internal transmission of draft re: Technical Review by Sandia	22	WP, AC

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ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Page Count	Privilege¹
IC-028	ML110620556	J. Jones, Sandia National Labs (SNL)	2011/02/28 Indian Point LR Hearing - RE: Request for document disclosure - Indian Point	02/28/2011	E-Mail	T. Ghosh, A. Stuyvenberg, J. Parillo, NRC/NRR	Internal discussion of documents submitted by SNL and request by NRC attorney	3	AC, WP
IC-029	ML110910084	J. Parillo NRC/NRR	2011/04/01 Indian Point LR Hearing - Indian Point review and Sandia (litigation support)	04/01/2011	E-Mail	J. Jones, Sandia	Request of Information Related to Disclosures	3	WP

**Appendix C - Indian Point License Renewal In Camera Hearing File
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ID #	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Page Count	Privilege¹
NIA-001	N/A	JCN J-4245 Statement of Work – Technical Assistance in Support of the Indian Point Units 2 and 3 License Renewal Hearing in the Areas Related to SAMA	N/A	Document	N/A	Statement of work outlining SAMA review to be performed by Sandia	11	WP
NIA-002	Joyce Fields, NRC Office of Contracts	2007/06/22 Task Order No. 35 Entitled “Review of Severe Accident Mitigation Alternatives (SAMAs) for Indian Point License Renewal Application” Under Contract No. NRC-03- 03-038	06/22/2007	Letter/Contract	James Mayer, Information Systems Laboratories (ISL)	Contract between ISL and NRC to perform SAMA review	7	DP/Proprietary
NIA-003	Joyce Fields, NRC Office of Contracts	2007/06/25 Task Order No. 36 Entitled “Review of Indian Point License Renewal Application – Scoping and Screening Balance of Plant” Under Contract No. NRC-03-03-038	06/25/2007	Letter/Contract	James Mayer, Information Systems Laboratories (ISL)	Contract between ISL and NRC to perform scoping and screening	10	DP/Proprietary
NIA-004	J. Jones, NRC/Contractor (Sandia)	2008/08/04 Indian Point License Renewal	08/04/2008	E-Mail	Randal Gaunt, N. Bixler, NRC/Contractor (Sandia)	Internal discussion of work tasks regarding impact of IP contentions on SAMA	1	WP

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AC – Attorney Client Privilege
WP – Work Product Doctrine
DP – Deliberative Process Privilege

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NIA-005	J. Jones, NRC/Contractor (Sandia)	2009/01/19 FW: New NRC work	01/19/2009	E-Mail	N. Bixler, NRC/Contractor (Sandia)	Proposal and Statement of work tasks regarding impact of IP contentions on SAMA	13	WP
NIA-006	N/A	2009/06/05 Standard Order for DOE Work – Sandia Contract	06/05/2009	Document	N/A	Sandia Contract for SAMA Review	3	WP, Proprietary
NIA-007	J. Jones, NRC/Contractor (Sandia)	2009/07/14 FW: MACCS2 Input Files for IP2 and IP3	07/14/2009	E-Mail	J. Schelling, Jr., N. Bixler, NRC/Contractor (Sandia)	Internal transmission identifying documents in support of work tasks regarding impact of IP contentions on SAMA	232	WP
NIA-008	Marianne Walck, Sandia	2009/07/14 RE: Request for Proposal for JCN-J4245, “Technical Assistance in Support of the Indian Point Units 2 and 3 License Renewal Hearing in the Areas Related to SAMA”	07/14/2009	Letter	Mark Cunningham/ Bernard Grenier – NRC/NRR	Sandia estimate for SAMA review	15	WP, Proprietary
NIA-009	N/A	2009/07/14 DOE Laboratory Project and Cost Proposal for NRC Work – Sandia	07/14/2009	Document	N/A	Sandia estimate for SAMA review	14	WP, Proprietary

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NIA-010	J. Jones, NRC/Contractor (Sandia)	2009/08/11 Indian Point License Renewal	08/11/2009	E-Mail	Randal Gaunt, N. Bixler, NRC/Contractor (Sandia)	Internal discussion of work tasks regarding impact of IP contentions on SAMA	1	WP
NIA-011	J. Jones, Sandia	2009/09/01 E-mail re Motion for Summary Disposition	09/01/2009	E-Mail	N. Bixler; J. Schelling; F. Walton, Sandia	Internal discussion of documents concerning 08/28/2009 NYS Motion for Summary Disposition	1	WP
NIA-012	J. Jones, Sandia	2009/09/02 E-mail re Statement of Facts	09/02/2009	E-Mail	N. Bixler, Sandia	Internal discussion of response to Statement of Material Facts	1	WP
NIA-013	J. Jones, Sandia	2009/09/03 FW: Indian Point Meteorology	09/03/2009	E-Mail	N. Bixler, Sandia	Internal discussion of meteorological questions along with attached weather summary	3	WP
NIA-014	J. Jones, Sandia	2009/09/03 E-mail re Indian Point Statement of Material Facts	09/03/2009	E-Mail	N. Bixler, Sandia	Internal discussion of response to Statement of Material Facts	4	WP
NIA-015	J. Jones, Sandia	2009/09/04 E-mail re Indian Point	09/04/2009	E-Mail	N. Bixler, Sandia	Internal discussion of response to Statement of Material Facts	1	WP

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NIA-016	J. Jones, Sandia	2009/09/10 E-mail re Draft Statement of Material Facts Motion and Declaration Letter	09/10/2009	E-Mail	N. Bixler, Sandia	Draft response to Statement of Material Facts	11	WP
NIA-017	J. Jones, Sandia	2009/09/11 Initial Affidavit Letter	09/11/2009	E-Mail	N. Bixler, Sandia	Draft Initial Affidavit Letter	11	WP
NIA-018	J. Jones, Sandia	2009/09/21 E-mail re IP Affidavit Review	09/21/2009	E-Mail	N. Bixler, Sandia	Draft Sandia Declaration with Joe Jones' comments	17	WP
NIA-019	J. Jones, Sandia	2009/10/01 E-mail re Draft Sandia Declaration	10/01/2009	E-Mail	N. Bixler, Sandia	Draft Sandia Declaration with Joe Jones' comments	24	WP
NIA-020	J. Jones, Sandia	2009/10/05 E-mail re Stephen Lavie Affidavit in Support of NRC Staff Response	10/05/2009	E-Mail	N. Bixler, Sandia	Draft Stephen LaVie Declaration	12	AC, WP
NIA-021	J. Jones, Sandia	2009/10/07 Bob Palla Declaration	10/07/2009	E-Mail	N. Bixler, Sandia	Draft Bob Palla Declaration re NYS Motion for Summary Disposition of NYS 16/16A	11	AC, WP
NIA-022	J. Jones, Sandia	2009/10/07 E-mail re Nathan Bixler Curriculum Vitae	10/07/2009	E-Mail	N. Bixler, Sandia	Nathan Bixler's Curriculum Vitae	7	WP

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NIA-023	J. Jones, Sandia	2009/10/07 E-mail re IP Schedule	10/07/2009	E-Mail	N. Bixler, Sandia	Internal discussion re editing Response to NYS Motion for Summary Disposition	1	AC, WP
NIA-024	J. Jones, Sandia	2009/10/09 FW: Indian Point Affidavit	10/09/2009	E-Mail	N. Bixler, Sandia	Internal discussion re edits to Affidavit in Response to NYS Motion for Summary Disposition	2	AC, WP
NIA-025	J. Jones, Sandia	2009/10/12 Egan Declaration	10/12/2009	E-Mail	N. Bixler, Sandia	Internal transmission of Bruce Egan Declaration	34	WP
NIA-026	J. Jones, Sandia	2009/10/12 FW: Indian Point Affidavit	10/12/2009	E-Mail	N. Bixler, Sandia	Draft of Sandia Declaration in Response to NYS Motion for Summary Disposition	48	AC, WP
NIA-027	J. Jones, Sandia	2009/10/13 FW: Sandia Declaration	10/13/2009	E-Mail	N. Bixler, Sandia	Transmittal of scanned signature page for Sandia Declaration	24	AC
NIA-028	N/A	2009/10/27 Standard Order for DOE Work – Sandia Contract	10/27/2009	Document	N/A	Sandia Contract for SAMA Review	9	WP, Proprietary

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NIA-029	J. Jones, Sandia	2009/10/27 Indian Point request for information	10/27/2009	E-Mail	N. Bixler, Sandia	Internal transmission of draft weather information related to IP SAMA analysis	3	DP, WP
NIA-030	J. Jones, Sandia	2009/10/29 Documents	10/29/2009	Email	N. Bixler, Sandia	Draft of analysis of IP contentions	18	WP
NIA-031	J. Jones, Sandia	2009/10/30 RE: Vector Averages	10/30/2009	Email	N. Bixler; J. Schelling, Sandia	Draft analysis of meteorological data for Indian Point	2	WP
NIA-032	J. Jones, Sandia	2009/11/02 Indian Point	11/02/2009	Email	N. Bixler, Sandia	Draft of analysis of IP contentions	19	WP
NIA-033	J. Jones, Sandia	2009/11/02 Indian Point	11/02/2009	Email	N. Bixler, Sandia	Discussion of potential bounding analyses for Indian Point	1	WP
NIA-034	J. Jones, Sandia	2009/11/12 Math Check	11/12/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on comparing decontamination factors	1	WP

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NIA-035	J. Jones, Sandia	2009/11/12 Chanin	11/12/2009	Email	N. Bixler; J. Schelling, Sandia	Internal discussion on comparing decontamination factors	1	WP
NIA-036	J. Jones, Sandia	2009/12/03 Indian Point	12/03/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on decontamination factors	1	WP
NIA-037	J. Jones, Sandia	2009/12/04 RE: Indian Point	12/04/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on decontamination factors	1	WP
NIA-038	J. Jones, Sandia	2009/12/04 Indian Point decon costs	12/04/2009	Email	N. Bixler; J. Schelling, Sandia	Internal discussion and draft analysis on decontamination factors	4	WP
NIA-039	J. Schelling, Sandia National Labs (SNL)	2009/12/04 RE: Indian Point decon costs	12/04/2009	Email	J. Jones, N. Bixler, Sandia	Draft internal analysis of decontamination estimates	4	WP
NIA-040	J. Jones, Sandia	2009/12/07 RE: Indian Point decon costs	12/07/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on decontamination factors	2	WP

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NIA-041	J. Jones, Sandia	2009/12/07 RE: decon costs	12/07/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on decontamination factors	3	WP
NIA-042	J. Jones, Sandia	2009/12/08 RE: decon costs	12/08/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on decontamination factors	4	WP
NIA-043	J. Jones, Sandia	2009/12/08 RE: decon costs	12/08/2009	Email	N. Bixler, Sandia	Internal discussion and draft analysis on decontamination factors and other contentions	24	WP
NIA-044	J. Jones, Sandia	2009/12/11 FW: IPEC Letter NL-09- 165 – SAMA Reanalysis Using Alternate Meteorological Tower Data	12/11/2009	E-Mail	N. Bixler; J. Schilling; F. Walton, Sandia	Internal discussion of SAMA Reanalysis	223	WP
NIA-045	J. Jones, NRC/Contractor (Sandia)	2009/12/14 RE: IPEC Letter NL-09-165 – SAMA Reanalysis Using Alternate Meteorological Tower Data	12/14/2009	E-Mail	N. Bixler, NRC/Contractor (Sandia)	Internal discussion of Met data	2	WP
NIA-046	J. Jones, NRC/Contractor (Sandia)	2009/12/15 Indian Point	12/15/2009	E-Mail	N. Bixler, NRC/Contractor (Sandia)	Internal discussion of information for internal review of impact IP contentions on SAMA	1	WP

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NIA-047	J. Jones, NRC/Contractor (Sandia)	2009/12/16 Indian Point	12/16/2009	E-Mail	J. Schelling, Jr., N. Bixler, NRC/Contractor (Sandia)	Internal transmission and discussion/ comments of draft re: Technical Review by Sandia	22	WP
NIA-048	J. Schelling, Sandia National Labs (SNL)	2009/12/17 RE: Indian Point	12/17/2009	Email	J. Jones, N. Bixler, Sandia	Draft internal analysis of population data IP	4	WP
NIA-049	J. Schelling, Sandia National Labs (SNL)	2009/12/18 IP Population Estimate	12/18/2009	Email	J. Jones, N. Bixler, Sandia	Draft internal analysis of population data IP	6	WP
NIA-050	J. Schelling, Sandia National Labs (SNL)	2009/12/18 RE: IP Population Estimate	12/18/2009	Email	J. Jones, N. Bixler, Sandia	Draft internal analysis of population data IP	6	WP
NIA-051	J. Jones, NRC/Contractor (Sandia)	2009/12/21 RE: IP Population Estimate	12/21/2009	E-Mail	J. Schelling, Jr., N. Bixler, NRC/Contractor (Sandia)	Internal transmission and discussion/ comments of draft re: Technical Review by Sandia	2	WP
NIA-052	J. Jones, NRC/Contractor (Sandia)	2009/12/21 RE: IP Population Estimate	12/21/2009	E-Mail	N. Bixler, NRC/Contractor (Sandia)	Internal transmission and discussion/ comments of draft re: Technical Review by Sandia	2	WP

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NIA-053	J. Schelling, Sandia National Labs (SNL)	2009/12/21 RE: IP Population Estimate	12/21/2009	Email	J. Jones, N. Bixler, Sandia	Draft internal analysis of population data IP	23	WP
NIA-054	J. Jones, NRC/Contractor (Sandia)	2009/12/22 Indian Point	12/22/2009	E-Mail	N. Bixler, NRC/Contractor (Sandia)	Internal transmission and discussion/ comments of draft re: Technical Review by Sandia	42	WP
NIA-055	J. Schelling, Sandia National Labs (SNL)	2009/12/22 RE: Windrose	12/22/2009	Email	J. Jones, Sandia	Internal analysis of meteorological data in graphical form	2	WP
NIA-056	J. Schelling, Sandia National Labs (SNL)	2009/12/22 RE: Windrose	12/22/2009	Email	J. Jones, Sandia	Internal analysis of meteorological data in graphical form	2	WP
NIA-057	J. Jones, NRC/Contractor (Sandia)	2009/12/23 RE: Indian Point	12/23/2009	E-Mail	N. Bixler, NRC/Contractor (Sandia)	Internal transmission and discussion/comme nts of draft re: Technical Review by Sandia	2	WP
NIA-058	N/A	2010/01/15 Rejected Standard Order for DOE Work – Sandia Contract	01/15/2010	Document	N/A	Rejected Sandia Contract for SAMA Review	7	WP, Proprietary

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NIA-059	N/A	2010/01/26 DOE Laboratory Project and Cost Proposal for NRC Work – Sandia	01/26/2010	Document	N/A	Sandia estimate for SAMA review	14	WP, Proprietary
NIA-060	J. Jones, Sandia	2010/02/23 Indian Point	02/23/2010	E-Mail	N. Bixler, Sandia	Internal discussion of review of SAMA-related files	1	WP
NIA-061	N/A	2010/03/01 Standard Order for DOE Work – Sandia Contract	03/01/2010	Document	N/A	Sandia Contract for SAMA Review	6	WP, Proprietary
NIA-062	J. Jones, Sandia	2010/03/04 RE: Indian Point MACCS Files	03/04/2010	E-Mail	N. Bixler, Sandia	Internal discussion of review of SAMA-related files	2	WP
NIA-063	N. Bixler, NRC/Contractor (Sandia)	2010/03/07 RE: Indian Point MACCS Files	03/07/2010	E-Mail	J. Jones, N. Bixler, NRC/Contractor (Sandia)	Internal transmission and discussion/comments on IP SAMA Contentions and Task 2 by Sandia	2	WP
NIA-064	J. Jones, Sandia	2010/03/08 RE: Your availability	03/08/2010	E-Mail	N. Bixler, Sandia	Internal discussion of review of SAMA-related files	1	WP

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NIA-065	J. Jones, Sandia	2010/03/17 RE: Risk Informed Emergency Planning Project – kickoff meeting	03/17/2010	E-Mail	N. Bixler, Sandia	Internal discussion of review of SAMA-related files	2	WP
NIA-066	J. Jones, Sandia	2010/03/18 RE: Risk Informed Emergency Planning Project – kickoff meeting	03/18/2010	E-Mail	N. Bixler, Sandia	Internal discussion of review of SAMA-related files	2	WP
NIA-067	J. Jones, Sandia	2010/03/25 Indian Point	03/25/2010	E-Mail	N. Bixler, Sandia	Draft list of Task 2 activities	4	WP
NIA-068	J. Jones, Sandia	2010/04/02 Indian Point	04/02/2010	E-Mail	N. Bixler, Sandia	Internal discussion of MACCS2 data	1	WP
NIA-069	J. Jones, Sandia	2010/04/02 RE: Indian Point	04/02/2010	E-Mail	N. Bixler, Sandia	Internal discussion of MACCS2 data	3	WP
NIA-070	J. Jones, Sandia	2010/04/08 Indian Point Table – Task 2 MACCS2 Matrix	04/08/2010	E-Mail	N. Bixler, Sandia	Internal discussion of MACCS2 data	1	WP
NIA-071	J. Jones, Sandia	2010/05/26 FW: Some comments and observations on the comparison of MACCS2, CALPUFF, and AERMOD	05/26/2010	E-Mail	N. Bixler, Sandia	Internal discussion of SAMA analyses	2	WP

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NIA-072	J. Jones, Sandia	2010/06/14 RE: Updated SAMA Modeling Plan	06/14/2010	E-Mail	N. Bixler; J. Schelling, Sandia	Internal discussion of SAMA Modeling Plan	2	WP
NIA-073	N/A	2010/07/06 Standard Order for DOE Work – Sandia Contract	07/06/2010	Document	N/A	Sandia Contract for SAMA Review	5	WP, Proprietary
NIA-074	S. Turk, NRC/OGC	2011/01/28 Request for document disclosure	01/28/2011	E-mail	A. Stuyvenburg, T. Ghosh, B. Harris, B. Newell, D. Harrison, J. Parillo, R. Galluci, A. Imboden/ NRC	Internal request for documents (unredacted version of Attachment 5)	1	WP, AC