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GENERAL COUNSEL

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

May 20, 2011

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U.S. Nuclear Regulatory Commission
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In the Matter of
ENERGY NUCLEAR OPERATIONS, INC.
(Indian Point Nuclear Generating Unit Nos. 2 and 3)
Docket Nos. 50-247-LR/286-LR

Dear Administrative Judges:

As discussed during the prehearing teleconference held on May 19, 2011, the NRC Staff ("Staff") has discovered that Appendix C to the "NRC Staff's Answer to the State of New York's Motion to Compel the Production of Documents," filed on May 9, 2011, omitted certain documents which the Staff had intended to include in that document. As discussed, I am herewith providing to the Atomic Safety and Licensing Board ("Board") and the Board's Law Clerk, for the Board's in camera review, a CD containing electronic copies of these documents, along with the Declaration of Brian E. Holian asserting the deliberative process privilege with respect to the documents identified as "DP" in Appendix C-1.

I wish to point out that Appendix C-1 contains 34 files, 12 of which are duplicates (in PDF format) of computer files that we received from Sandia in native format in a zip file. The Staff is herewith providing those documents in both native format and PDF format, indicating the corresponding PDF or native format "NIA" document identification number.

A copy of Appendix C-1 is being served upon Counsel for the State and the other parties to this proceeding.

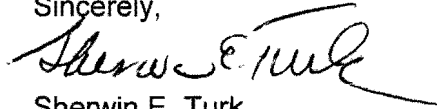
Judge McDade
Judge Lathrop
Judge Wardwell

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May 20, 2011

As discussed during the prehearing teleconference, I will contact Counsel for the State on Monday, to discuss the documents that the Staff has agreed to produce to the State and the Applicant.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherwin E. Turk". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sherwin E. Turk
Counsel for NRC Staff

Enclosures: As stated

cc w/App. C: Service List

**Appendix C-1 (5/20/2011) - Indian Point License Renewal In Camera Hearing File
Additional Documents Not Previously Entered into ADAMS**

ID #	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Page Count	Privilege¹
NIA-075	J. Jones, Sandia	2011/05/18 Population spreadsheets	05/18/2011	E-mail	S. Turk, B. Harris, T. Ghosh/ NRC	3 spreadsheets used in population comparisons in Task 1 Report	1	DP/WP
NIA-076	U.S. Census Bureau	Table 1: Projections of the Population and Components of Change for the United States: 2010 to 2050	08/14/2008	Table	N/A	Population spreadsheet # 1 (attached to NIA-075)	1	DP
NIA-077	U.S. Census Bureau	Table 1: Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008	12/22/2008	Table	N/A	Population spreadsheet # 2 (attached to NIA-075)	9	DP
NIA-078	N/A	Table Comparing Population in ER vs. SECPOP	N/A	Table	N/A	Population spreadsheet # 3 (attached to NIA-075)	1	DP
NIA-079	N. Bixler, Sandia	2011/04/27 RE Action on New York State's motion to compel	04/27/2011	E-mail	S. Turk/ NRC; J. Jones/Sandia	WinMACCS calculation files for Indian Point (attaches .zip file)	2	DP/WP/AC
NIA-080	Sandia	IndianPointPalla.pdf	N/A	MXD File (NIA-092 converted to PDF)	N/A	Requires WinMACCS to open (document in.zip file attached to NIA-079)	8618	DP

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

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ID #	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Page Count	Privilege¹
NIA-081	Sandia	Maccs.tmp.pdf	N/A	WinMACCS .tmp (NIA-093 converted to PDF)	N/A	Listing of input and output file locations (document in.zip file attached to NIA-079)	1	DP
NIA-082	Sandia	Model1MaxStat.log.pdf	N/A	WinMACCS .log file (NIA-094 converted to PDF)	N/A	WinMACCS status log (document in.zip file attached to NIA-079)	1	DP
NIA-083	Sandia	DOSDATA.INP.pdf	N/A	WinMACCS DOSDATA.inp file (NIA-095 converted to PDF)	N/A	DOSDATA file (document in.zip file attached to NIA-079)	27	DP
NIA-084	Sandia	Meti.inp.pdf	N/A	Meti.inp datafile (NIA-096 converted to PDF)	N/A	Input file for the MACCS2 model using the average years of 2000-2004 (document in.zip file attached to NIA-079)	183	DP
NIA-085	Sandia	SAMP_A.BIN.pdf	N/A	SAMP_A.BIN file (NIA-097 converted to PDF)	N/A	Data file, requires WinMACCS to open (document in.zip file attached to NIA-079)	2470	DP
NIA-086	Sandia	Sitei.inp.pdf	N/A	Sitei.inp file (NIA-098 converted to PDF)	N/A	MACCS2 Site Data File for IP (document in.zip file attached to NIA-079)	3	DP

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NIA-087	Sandia	atmosTemplate.pdf	10/29/2009	atmosTemplate.txt file (NIA-099 converted to PDF)	N/A	ATMOS input for IPEC Calculations (document in.zip file attached to NIA-079)	9	DP
NIA-088	Sandia	chroncTemplate.pdf	10/29/2009	chroncTemplate.txt file (NIA-100 converted to PDF)	N/A	Chronc. Input data (document in.zip file attached to NIA-079)	4	DP
NIA-089	Sandia	earlyTemplate.pdf	10/29/2009	earlyTemplate.txt file (NIA-101 converted to PDF)	N/A	Early.in IPEC input data (document in.zip file attached to NIA-079)	6	DP
NIA-090	Sandia	Model1.bin.pdf	10/29/2009	Model1.bin file (NIA-102 converted to PDF)	N/A	WinMACCS output file (document in.zip file attached to NIA-079)	31	DP
NIA-091	Sandia	Model1.out.pdf	10/29/2009	Model1.out file (NIA-103 converted to PDF)	N/A	WinMACCS output file (document in.zip file attached to NIA-079)	90	DP
NIA-092	Sandia	IndianPointPalla.mxd	N/A	MXD File – native format (corresponds to NIA-080)	N/A	Requires WinMACCS to open (document in.zip file attached to NIA-079)	N/A	DP
NIA-093	Sandia	Maccs.tmp	N/A	WinMACCS .tmp file - native format (corresponds to NIA-081)	N/A	Listing of input and output file locations (document in.zip file attached to NIA-079)	N/A	DP

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NIA-094	Sandia	Model1MaxStat.log	N/A	WinMACCS .log - native format (corresponds to NIA-082)	N/A	WinMACCS status log (document in.zip file attached to NIA-079)	N/A	DP
NIA-095	Sandia	DOSDATA.inp	N/A	DOSDATA.inp - native format (corresponds to NIA-083)	N/A	DOSDATA file (document in.zip file attached to NIA-079)	N/A	DP
NIA-096	Sandia	Meti.inp	N/A	Meti.inp datafile - native format (corresponds to NIA-084)	N/A	Input file for the MACCS2 model using the average years of 2000-2004 (document in.zip file attached to NIA-079)	N/A	DP
NIA-097	Sandia	SAMP_A.bin	N/A	SAMP_A.bin - native format (corresponds to NIA-085)	N/A	Data file, requires WinMACCS to open (document in.zip file attached to NIA-079)	N/A	DP
NIA-098	Sandia	Sitei.inp	N/A	Sitei.inp - native format (corresponds to NIA-086)	N/A	MACCS2 Site Data File for IP (document in.zip file attached to NIA-079)	N/A	DP
NIA-099	Sandia	atmosTemplate.txt	10/29/2009	atmosTemplate.txt - native format (corresponds to NIA-087)	N/A	ATMOS input for IPEC Calculations (document in.zip file attached to NIA-079)	N/A	DP

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NIA-100	Sandia	chroncTemplate.txt	10/29/2009	chroncTemplate.txt - native format (corresponds to NIA-088)	N/A	Chronc. Input data (document in.zip file attached to NIA-079)	N/A	DP
NIA-101	Sandia	earlyTemplate.txt	10/29/2009	earlyTemplate.txt - native format (corresponds to NIA-089)	N/A	Early. in IPEC input data (document in.zip file attached to NIA-079)	N/A	DP
NIA-102	Sandia	Model1.bin	10/29/2009	Model1.bin - native format (corresponds to NIA-090)	N/A	WinMACCS output files (document in.zip file attached to NIA-079)	N/A	DP
NIA-103	Sandia	Model1.out	10/29/2009	Model1.out - native format (corresponds to NIA-091)	N/A	WinMACCS output files (document in.zip file attached to NIA-079)	N/A	DP
NIA-104	N/A	2009/10/29 Indian Point Weather	10/29/2009	Document	N/A	Analysis of weather data from MACCS2 and effluent reports from 1999 through 2002	2	DP
NIA-105	N/A	2010/01/20 Trip Report	01/20/2010	Document	N/A	Report on NRC/ Sandia Indian Point Site Visit	1	DP/WP

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NIA-106	Ghosh, T/ NRC	2011/04/27 E-mail – RE: Action on New York State's motion to compel – PRIVILEGED AND CONFIDENTIAL ATTORNEY WORK PRODUCT/ ATTORNEY-CLIENT COMMUNICATION	04/27/2011	E-mail	Turk, S.; Harris, B.; Green, K.; Harrison, D.; Stuyvenberg, A./NRC	E-mail regarding search for ISL and Sandia files to satisfy NYS' motion to compel.	2	AC/WP
NIA-107	Bixler, N./ Sandia	2011/04/28 E-mail – FW: Chanin Report	04/28/2011	E-mail	Turk, S./ NRC	E-mail regarding size constraints of the PDF version of SAND96-0957, "Site Restoration: Estimation of Attributable Costs from Plutonium Dispersal Accidents," written by D.I. Chanin and W.B. Murfin	1	WP
NIA-108	Schelling, J./ Sandia	2009/12/15 E-mail – FW: Speeds	12/15/2009	E-mail	Jones, J./ Sandia	Discussion regarding speed calculation examples referencing attached speed calculations for Surry and Peach Bottom	5	DP/WP

May 20, 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.

2. As part of their responsibilities in updating the hearing file and mandatory disclosures for these proceedings, and/or producing documents for the Board's in camera inspection, NRC staff members under my supervision identified documents as privileged because they contained information concerning the Staff's pre-decisional deliberative process. These documents are listed in Appendix C-1, dated May 20, 2011, concerning the "NRC Staff's Answer to the State of New York's Motion to Compel the Production of Documents."


3. I have personally reviewed the documents identified as subject to the deliberative process privilege ("DP") in Appendix C-1, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain pre-decisional information concerning the Staff's review of the license renewal application. The documents contain either the Staff's analyses, recommendations, opinions, or evaluations, and may not necessarily

reflect the final agency position with respect to the matters discussed therein. These documents comprise part of the deliberative process necessary for the Staff's review of the pending license renewal application.

4. Further, I have determined that disclosure of the documents could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to the documents listed as subject to the deliberative process privilege in Appendix C-1 to the NRC Staff's Answer to the State of New York's Motion to Compel the Production of Documents.

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 20th 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 Letter from Sherwin E. Turk to the Atomic Safety and Licensing Board, together with "APPENDIX C-1" to the NRC Staff's Answer to the State of New York's Motion to Compel the Production of Documents, and the "Declaration of Brian E. Holian," dated May 20, 2011, 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 I certify that CDs containing the documents listed in the attached Appendix C-1 have been served upon members of the Board and the Board's Law Clerk), this 20th day of May, 2011:

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