



OFFICE OF THE  
GENERAL COUNSEL

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

June 1, 2011

Administrative Judge  
Lawrence G. McDade, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Dr. Richard E. Wardwell  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Dr. Kaye D. Lathrop  
190 Cedar Lane East  
Ridgeway, CO 81432

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

Dear Administrative Judges:

Pursuant to the Atomic Safety and Licensing Board's December 18, 2008, "Memorandum and Order (Addressing Requests that the Proceeding be Conducted Pursuant to Subpart G)," slip op. at 13, and the Licensing Board's "Order (Granting Consent Motion Regarding Mandatory Disclosures)," dated January 30, 2009, at 1, the staff of the U.S. Nuclear Regulatory Commission ("Staff") herein notifies the Licensing Board and the parties that the hearing file has been supplemented for this proceeding. Materials in the hearing file may be accessed through the Agencywide Documents Access and Management System ("ADAMS"). An index containing the ADAMS accession number, date, and title or description of each item in Hearing File Index, Supplement 28 is appended hereto as Attachment 1.

On or about June 8, 2011, the newly identified documents in the hearing file will be made available via the Electronic Hearing Docket ("EHD"), which may be accessed at the following URL: [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp). The hearing file will be contained in a sub-folder entitled, "Indian PT Hearing File, Supplement 28" in the "Indian\_PT\_2&3\_50-247&50-286-LR" folder of the EHD.

In addition, as required by 10 C.F.R. § 2.336(b)(5), the Staff is producing a privilege log, identifying documents withheld under the deliberative process privilege, which is appended hereto as Attachment 2. Also attached is the Declaration of Brian E. Holian formally invoking the deliberative process privilege with respect to the documents in Attachment 2. The Staff will preserve and maintain the privileged documents identified in the log during the pendency of this proceeding.

Judge McDade  
Judge Lathrop  
Judge Wardwell

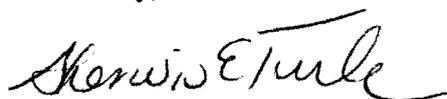
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June 1, 2011

Further, pursuant to 10 C.F.R. § 2.336(c), attached is the Affidavit of Andrew L. Stuyvenberg, certifying that all relevant materials required by this section have been disclosed, and that the disclosures are accurate and complete as to documents identified by May 17, 2011.

Finally, the NRC Staff notes that it has made a good faith effort to identify and characterize all documents meeting the criteria of 10 C.F.R. § 2.336(b) and 10 C.F.R. § 2.1203 in this proceeding. In identifying these documents, the Staff does not concede their relevance to the license renewal issues to be decided in this proceeding.

Sincerely,



Sherwin E. Turk  
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 28  
Attachment 2 - Deliberative Process Privilege Log  
Declaration of Brian E. Holian  
Affidavit of Andrew L. Stuyvenberg

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index  
Supplement 28 –June 1, 2011

<b>ID. #</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
028-001	ML11138A129	05/18/2011	2011/05/18 Indian Point LR Hearing - RE: Indian Point
028-002	ML11138A133	03/31/2011	2011/03/31 Indian Point LR Hearing - Teleconference
028-003	ML11138A136	04/07/2011	2011/04/07 Indian Point LR Hearing - RE: Teleconference
028-004	ML11139A405	04/29/2011	2011/04/29 Indian Point LR Hearing - Comments of Final SEIS

Attachment 2 - Indian Point License Renewal Hearing File Index  
Deliberative Process Privilege, Supplement 28 – June 1, 2011

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosures as predecisional, deliberative information. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents, withheld under the "deliberative process" privilege.

	<b>Accession Number</b>	<b>Author Name &amp; Author Affiliation</b>	<b>Title</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee Name &amp; Addressee Affiliation</b>	<b>Comment</b>	<b>Estimated Page Count</b>
DPP-28-001	ML11123A244	D. Logan, NRC/NRR	2011/05/03 Indian Point LR Hearing - RE: Approach to Respond to Comments	05/03/2011	E-Mail	V. Cullinan, J. Ward, B. Mcdowell PNNL,	Internal discussion on suggested response to Entergy's comments on aquatic impacts as described in attachment to DPP-28-003	2
DPP-28-002	ML11125A049	D. Logan, NRC/NRR	2011/05/05 Indian Point LR Hearing - FW: Approach to Respond to Comments	05/05/2011	E-Mail	A. Imboden, NRC/NRR/D LR	Internal discussion on suggested response to Entergy's comments on aquatic impacts	2
DPP-28-003	ML11125A086	D. Logan, NRC/NRR	2011/05/05 Indian Point LR Hearing - FW: Approach to Respond to Comments	05/05/2011	E-Mail w/ attachment	A. Imboden, NRC/NRR/D LR	Internal discussion on suggested response to Entergy's comments on aquatic impacts  Attachment: Draft Proposed responses to Entergy comments regarding the FSEIS' aquatic impact findings	10
DPP-28-004	ML11125A130	A. Imboden, NRC/NRR/D LR	2011/05/05 Indian Point LR Hearing - RE: Approach to Respond to Comments	05/05/2011	E-Mail	D. Logan, NRC/NRR	Internal discussion on suggested response to Entergy's comments on aquatic impacts	2

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 28 – June 1, 2011

	<b>Accession Number</b>	<b>Author Name &amp; Author Affiliation</b>	<b>Title</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee Name &amp; Addressee Affiliation</b>	<b>Comment</b>	<b>Estimated Page Count</b>
DPP-28-005	ML11129A318	M. Homiack, NRC/NRR	2011/05/09 Indian Point LR Hearing - ACTION: For Final Review and Issuance: RAIs on Continual OE Reviews	05/09/2011	E-Mail w/ 7 attachments	B. Pham, D. Wrona, A. Dias, D. Pelton, A. Hiser, M. Kichline, NRC/NRR/D LR	Request for comments on attached draft RAIs regarding the ongoing consideration of operating experience  Attachments:  Draft RAIs for multiple plants including Indian Point regarding the ongoing consideration of operating experience in AMPs	16
DPP-28-006	ML11130A165	O. Yee, NRC/NRR	2011/05/10 Indian Point LR Hearing - Status of Indian Point SG RAIs	05/10/2011	E-Mail	R. Vaucher, NRC/NRO	Internal discussion on the status of applicant's response to RAIs regarding SG	2
DPP-28-007	ML11137A149	J. Wise, NRC/NRR	2011/05/17 Indian Point LR Hearing - Indian Point AMP M40 RAI	05/17/2011	E-Mail	D. Pelton, NRC/NRR/D LR	Internal discussion regarding draft Boral RAI	2

May 26, 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, NRC staff members under my supervision identified documents as privileged because they contained information concerning the Staff's pre-decisional deliberative process. The documents are listed in Attachment 2 to the submission of the Staff's Hearing File Index Supplement 28.

3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that it contains pre-decisional information concerning the Staff's review of the license renewal application. The documents contain either the Staff's analyses, recommendations, opinions, or evaluations, and may not necessarily reflect the final agency position with respect

to the matters discussed therein. The documents comprise part of the deliberative process necessary for the Staff's review of the pending license renewal application.

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

5. Accordingly, I formally invoke the deliberative process privilege with respect to the documents listed in Attachment 2 to the submission of the Staff's Hearing File Index Supplement 28.

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 26<sup>th</sup> 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 & 50-286-LR  
 )  
 )  
(Indian Point Nuclear Generating Station, )  
Units 2 and 3) )

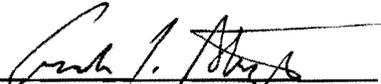
AFFIDAVIT OF ANDREW L. STUYVENBERG CONCERNING  
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, Andrew L. Stuyvenberg, do hereby state as follows:

1. I am employed as a Project Manager in the Division of License Renewal in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation. I serve as a project manager for the Indian Point Nuclear Generating Station, Units 2 and 3 license renewal application ("LRA"). Among other things, I am managing the preparation of the hearing file and mandatory disclosures in connection with the LRA at issue in this proceeding.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the captioned proceeding have been disclosed in the attached Hearing File Supplement 28 (and/or in the Staff's disclosures in response to the State of New York's April 22, 2011, motion to compel the production of documents), and that the disclosures are accurate and complete for documents identified as of May 17, 2011.

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

  
\_\_\_\_\_  
Andrew L. Stuyvenberg

Executed in Rockville, Maryland  
this 1st day of June, 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. 50-247/286-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 regarding the Indian Point Hearing File, including: Attachment 1 - Indian Point License Renewal Hearing File Index Supplement 28, Affidavit of Andrew L. Stuyvenberg, dated June 1, 2011, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 28 – Deliberative Process Privilege, and Declaration of Brian E. Holian, dated May 26, 2011, have been served upon the following through deposit in the NRC’s internal mail system, with copies by electronic mail, or, as indicated by an asterisk, by deposit in the U.S. Postal Service, with copies by electronic mail this 1<sup>st</sup> day of June, 2011:

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Sherwin E. Turk  
Counsel for NRC Staff