



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, DC 20555 - 0001

November 30, 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 34 is appended hereto as Attachment 1.

On or about December 8, 2011, the documents identified 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 34" 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 Melanie A. Galloway 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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November 30, 2011

Further, pursuant to 10 C.F.R. § 2.336(c), attached is the Affidavit of Kimberly J. Green, 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 November 23, 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,

**Signed (electronically) by**  
Sherwin E. Turk  
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 34  
Attachment 2 - Deliberative Process Privilege Log  
Declaration of Melanie A. Galloway  
Affidavit of Kimberly J. Green

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index  
Supplement 34 – November 30, 2011

ID#	Accession Number	Document Date	Title
34-01	ML11298A102	09/20/2011	2011/09/20 Indian Point LR Hearing - FW Indian Point National Marine Fisheries Service Letter Dated August 26 2011 Regarding The Endangered Species Act Section 7 Consultation For The proposed License Renewal Of Indian Point Nuclear Generating Unit Number
34-02	ML11299A177	09/22/2011	2011/09/22 Indian Point LR Hearing - Fwd: RE: Schedule for final BO

Attachment 2 - Indian Point License Renewal Hearing File Index  
Deliberative Process Privilege, Supplement 34 – November 30, 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.

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DPP-034-01	ML11298A092	J. Crocker, NOAA	2011/09/28 Indian Point LR Hearing - A few questions	09/28/2011	E-Mail	A.Stuyvenberg, NRC/NRR/DLR; M. Murray-Brown, J. Williams, NOAA	Discussion regarding Entergy's 9-21 response to NMFS	2
DPP-34-02	ML11298A119	A.Stuyvenberg, NRC/NRR/DLR	2011/09/29 Indian Point LR Hearing - FW: A few questions	09/29/2011	E-Mail	D. Logan, NRC/NRR/DLR	Discussion regarding Entergy's 9-21 response to NMFS	2
DPP-34-03	ML11299A178	J. Crocker, NOAA	2011/09/19 Indian Point LR Hearing - Indian Point Biological Opinion	09/19/2011	E-Mail w/ Attachment	A.Stuyvenberg, NRC/NRR/DLR; J. Williams, NOAA	Discussion regarding review of Riverkeeper's 09-15-11 comments on NMFS draft BO  Attachment: Riverkeeper letter to NMFS regarding the draft BO dated 9-15-2011	12
DPP-34-04	ML11300A038	J. Crocker, NOAA	2011/09/22 Indian Point LR Hearing - Re: Schedule for final BO	09/22/2011	E-Mail	A.Stuyvenberg, D. Logan, NRC/NRR; J. Williams, M. Murray-Brown, NOAA; S. Turk, NRC/OGC	Discussion regarding issuance of NMFS biological opinion	3

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 34 – November 30, 2011

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DPP-34-05	ML11297A075	D.Logan, NRC/NRR/DLR	2011/10/21 Indian Point LR Hearing - History of NRC Understanding of Units for Estimating Total Entrainment from Data in Entergy RAI responseL.docx	10/21/2011	E-Mail w/ Attachment	V. Cullinan, PNNL	Discussion regarding NRC Staff's review of Entergy's entrainment data  Attachment: Table of documents of History of NRC Understanding of Units for Estimating Total Entrainment from Data in Entergy RAI response NL-07-159, file "EntDensity.csv" (a comma separated variable file) (ML080080199, ML080080313)	6
DPP-34-06	ML11304A231	D.Logan, NRC/NRR/DLR	2011/10/31 Indian Point LR Hearing - Notes for Response to New Information and Comments Indian Point FSEIS.docx	10/31/2011	E-Mail w/ Attachment	V. Cullinan, PNNL	Discussion regarding NRC Staff assessment of new information and comments on FSEIS  Attachment: NRC draft/notes regarding comments on FSEIS	5

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 34 – November 30, 2011

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DPP-34-07	ML11334A043	V. Cullinan, PNNL	2011/11/02 Indian Point LR Hearing - FW: Notes for Response to New Information and Comments Indian Point FSEIS.docx	11/02/2011	E-Mail w/ Attachment	D.Logan, NRC/NRR/DLR	Discussion regarding NRC Staff assessment of new information and comments on FSEIS  Attachment: NRC Staff draft/notes regarding new information and comments received on FSEIS	5
DPP-34-08	ML11306A115	V. Cullinan, PNNL	2011/11/01 Indian Point LR Hearing - IP Funding	11/01/2011	E-Mail	D. Logan, NRC/NRR/DLR; J. Ward, B. McDowell, PNNL	Discussion regarding funding to work on evaluation of new information and comments on FSEIS	2

November 30, 2011

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

DECLARATION OF MELANIE A. GALLOWAY

I, Melanie A. Galloway, do hereby state as follows:

1. I am employed as the Deputy Director of the Division of License Renewal ("DLR") in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation ("NRR"). I am serving as the Acting Director for DLR. 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 34.

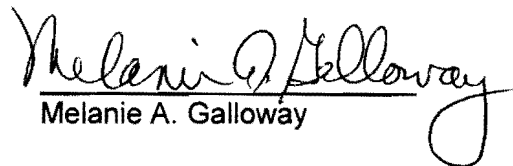
3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain pre-decisional information concerning the Staff's review of the license renewal application. The documents 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. 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 34.

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

  
Melanie A. Galloway

Executed in Rockville, Maryland  
this 30<sup>th</sup> day of November, 2011



November 30, 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 Generation Station,	)	ASLBP No. 07-858-03-LR-BD01
Units 2 and 3)	)	

AFFIDAVIT OF KIMBERLY J. GREEN CONCERNING  
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, Kimberly J. Green, 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 assisting with the preparation of the hearing file and mandatory disclosures in connection with the LRA at issue in this proceeding.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the captioned proceeding have been disclosed, and that the disclosures are accurate and complete for documents identified as of November 23, 2011.

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

  
\_\_\_\_\_  
Kimberly J. Green

Executed in Rockville, Maryland  
this 30<sup>th</sup> day of November, 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 to the Atomic Safety and Licensing Board regarding the Indian Point Hearing File, including: Attachment 1 - Indian Point License Renewal Hearing File Index Supplement 34, Affidavit of Kimberly J. Green, dated November 30, 2011, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 34 – Deliberative Process Privilege, and Declaration of Melanie A. Galloway, dated November 30, 2011, in the above-captioned proceeding have been served on the following by Electronic Information Exchange this 30<sup>th</sup> day of November, 2011.

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**Signed (electronically) by**

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Date of signature: November 30, 2011