



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

May 31, 2012

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
Michael F. Kennedy
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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

Dear Administrative Judges:

Pursuant to the Atomic Safety and Licensing Board's December 18, 2008, "Memorandum and Order (Addressing Requests that the Proceeding be Conducted Pursuant to Subpart G)," slip op. at 13, and the Licensing Board's "Order (Granting Consent Motion Regarding Mandatory Disclosures)," dated January 30, 2009, at 1, the staff of the U.S. Nuclear Regulatory Commission ("Staff") herein notifies the Licensing Board and the parties that the hearing file has been supplemented for this proceeding. Materials in the hearing file may be accessed through the Agencywide Documents Access and Management System ("ADAMS"). An index containing the ADAMS accession number, date, and title or description of each item in Hearing File Index, Supplement 40 is appended hereto as Attachment 1.

On or about June 8, 2012, 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. The hearing file will be contained in a sub-folder entitled, "Indian PT Hearing File, Supplement 40" 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.

Judge McDade
Judge Kennedy
Judge Wardwell

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May 31, 2012

The Staff will preserve and maintain the privileged documents identified in the log during the pendency of this proceeding.

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 May 22, 2012.

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
Brian G. Harris
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 40
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 40 – May 31, 2012

ID#	Accession Number	Document Date	Title
40-0001	ML12138A469	05/17/2012	2012/05/17 Indian Point LR Hearing - FW: Indian Point: Request to Reinitate Section 7 Consultation for the Indian Point Nuclear Generating Unit Nos. 2 and 3 Due To Listing of Atlantic Sturgeon
40-0002	ML12111A170	04/20/2012	2012/04/20 Indian Point LR Hearing - FW: INDIAN POINT NUCLEAR GENERATING UNIT 2: NRC INSPECTION REPORT 05000247/2012008

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 40 – May 31, 2012

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-040-0001	ML12125A073	K. Green ,NRC/NRR	2012/05/04 Indian Point LR Hearing - Another change	05/04/2012	E-Mail	D. Logan ,NRC/NRR/DL R	Discussion on changes to SDEIS	2
DPP-040-0002	ML12123A669	J. Poehler ,NRC/NRR	2012/05/02 Indian Point LR Hearing - Indian Point 2 and 3 RAI's	05/02/2012	E-Mail	S. Rosenberg,N RC/NRR/DLR	Discussion of RAI for Reactor Vessel Internals	2

May 30, 2012

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 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 40.

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 40.

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

Executed in Accord with 10 CFR 2.304(d).
Brian E. Holian

Executed in Rockville, Maryland
this 30th day of May, 2012

May 30, 2012

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)	ASLBP No. 07-858-03-LR-BD01
Units 2 and 3))	

AFFIDAVIT OF KIMBERLY J. GREEN

I, Kimberly J. Green, do hereby state as follows:

1. I am employed as a Senior Mechanical Engineer in the Division of License Renewal in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation. I currently serve as a project manager for the Indian Point Nuclear Generating Units 2 and 3 license renewal application ("LRA"). Among my other duties as project manager, since October 2011, I have been responsible for compiling and producing the NRC Staff's ("Staff") hearing file and mandatory disclosures in the NRC adjudicatory proceeding for the Indian Point LRA.

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 May 22, 2012.

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

Executed in Accord with 10 CFR 2.304(d).
Kimberly J. Green

Executed in Rockville, Maryland
this 30th day of May, 2012

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 40, Affidavit of Kimberly J. Green, dated May 30, 2012, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 40 – Deliberative Process Privilege, and Declaration of Brian E. Holian, dated May 30, 2012, in the above-captioned proceeding have been served on the following by Electronic Information Exchange this 31st day of May, 2012.

Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Lawrence.McDade@nrc.gov

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

Dr. Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Richard.Wardwell@nrc.gov

Office of the Secretary
Attn: Rulemaking and Adjudications Staff
Mail Stop: O-16G4
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: Hearing.Docket@nrc.gov

Dr. Michael F. Kennedy
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: Michael.Kennedy@nrc.gov

Josh Kirstein, Esq.
Anne Siarnacki, Esq.
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U. S, Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-Mail: Josh.Kirstein@nrc.gov
E-Mail: Anne.Siarnacki@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, DC 20555-0001

Melissa-Jean Rotini, Esq.
Assistant County Attorney
Office of Robert F. Meehan, Esq.
Westchester County Attorney
148 Martine Avenue, 6th Floor
White Plains, NY 10601
E-Mail: MJR1@westchestergov.com

Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Jonathan Rund, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004
E-mail: ksutton@morganlewis.com
E-mail: pbessette@morganlewis.com
E-mail: jrund@morganlewis.com

John J. Sipos, Esq.
Charlie Donaldson, Esq.
Assistants Attorney General
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, NY 12224
E-mail: John.Sipos@ag.ny.gov

Martin J. O'Neill, Esq.
Morgan, Lewis & Bockius, LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002
E-mail: martin.o'neill@morganlewis.com

Janice A. Dean, Esq.
Assistant Attorney General,
Office of the Attorney General
of the State of New York
120 Broadway, 25th Floor
New York, NY 10271
E-mail: Janice.Dean@ag.ny.gov

Elise N. Zoli, Esq.
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, MA 02109
E-mail: ezoli@goodwinprocter.com

Michael J. Delaney, Esq.
Director, Energy Regulatory Affairs
New York City Department of Environmental
Protection
59-17 Junction Boulevard
Flushing, NY 11373
E-mail: mdelaney@dep.nyc.gov

William C. Dennis, Esq.
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601
E-mail: wdennis@entergy.com

John Louis Parker, Esq.
Office of General Counsel, Region 3
New York State Department of
Environmental conservation
21 South Putt Corners Road
New Paltz, NY 12561-1620
E-mail: jlparker@gw.dec.state.ny.us

Daniel E. O'Neill, Mayor
James Seirmarco, M.S.
Village of Buchanan
Municipal Building
Buchanan, NY 10511-1298
E-mail: vob@bestweb.net
E-mail: smurray@villageofbuchanan.com

Manna Jo Greene
Karla Raimundi
Hudson River Sloop Clearwater, Inc.
724 Wolcott Avenue
Beacon, NY 12508
E-mail: mannajo@clearwater.org
E-mail: karla@clearwater.org

Robert Snook, Esq.
Office of the Attorney General
State of Connecticut
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
E-mail: robert.snook@ct.gov

Daniel Riesel, Esq.
Thomas F. Wood, Esq.
Victoria Shiah, Esq.
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022
E-mail: driesel@sprlaw.com
E-mail: vshiah@sprlaw.com

Phillip Musegaas, Esq.
Deborah Brancato, Esq.
Riverkeeper, Inc.
20 Secor Road
Ossining, NY 10562
E-mail: phillip@riverkeeper.org
E-mail: dbrancato@riverkeeper.org

Signed (electronically) by

Brian G. Harris
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop – O-15D21
Washington, DC 20555
Telephone: (301) 415-1392
E-mail: brian.harris@nrc.gov
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