



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

July 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 42 is appended hereto as Attachment 1.

On or about August 9, 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 42" 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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July 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 Michael J. Wentzel, 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 July 24, 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
Beth N. Mizuno
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 42
Attachment 2 - Deliberative Process Privilege Log
Declaration of Brian E. Holian
Affidavit of Michael J. Wentzel

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index
Supplement 42 – July 31, 2012

ID#	Accession Number	Document Date	Title
42-0001	ML12178A472	06/26/2012	2012/06/26 Indian Point LR Hearing - Indian Point Draft Supplement
42-0002	ML12178A473	06/26/2012	2012/06/26 Indian Point LR Hearing - RE: Indian Point Draft Supplement
42-0003	ML12206A028	07/23/2012	2012/07/23 Indian Point LR Hearing - Atlantic Sturgeon Information
42-0004	ML12194A355	07/12/2012	EDATS Region I-2012-0159 Indian Point - Letter to Westchester County Board of Legislators.
42-0005	ML12194A271	07/12/2012	EDATS Region I-2012-0159 Indian Point - Reply Letter to Marilyn Elie dated July 12, 2012.
42-0006	ML12101A273	06/26/2012	FRN-Notice of Availability of the Draft Supplement to the Final Plant-Specific Supplement 38 to the GEIS for LR of Nuclear Plants Regarding Indian Point 2, and 3 (TAC Nos. MD5411 and MD5412).
42-0007	ML12184A037	06/14/2012	Indian Point, Units 2 and 3 - Reply to Request for Additional Information Regarding the License Renewal Application.
42-0008	ML12178A660	06/26/2012	Notice of Availability of Draft Supplement to Final Plant - Specific Supplement 38 to Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Regarding Indian Point, Units 2 & 3.
42-0009	ML12159A196	06/26/2012	Notice of Availability of the Draft Supplement to the Final Plant Specific Supplement 38 to the Generic Environmental Impact Statement for LR of Nuclear Plants Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 (Tac Nos. MD5411 and MD5412).
42-0010	ML12159A427	06/26/2012	Notice of Availability of the Draft Supplement to the Final Plant -Specific Supplement 38 to the Generic Environmental Impact Statement for LR of Nuclear Plants Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 (TAC Nos. ME5411 and MD5412).
42-0011	ML12101A345	06/26/2012	Notice of Availability of the Draft Supplement to the Final Plant-Specific Supplement 38 to the GEIS for LR of Nuclear Plants Regarding Indian Point 2, and 3 (TAC Nos. MD5411 and MD5412).
42-0012	ML12159A495	06/26/2012	Notice of Availability of the Draft Supplement to the Final Plant-Specific Supplement 38 to the GEIS for LR of Nuclear Plants Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 (TAC NOS. MD5411 and MD5412).
42-0013	ML12174A244	06/30/2012	NUREG-1437, Supplement 38, Vol. 4 DFC, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3," (Draft for Comment).

Attachment 1 - Indian Point License Renewal Hearing File Index
 Supplement 42 – July 31, 2012

ID#	Accession Number	Document Date	Title
42-0014	ML12179A417	06/27/2012	Press Release-12-078: NRC Requests Public Comment on Draft Supplement to Environmental Report on Indian Point License Renewal.
42-0015	ML12165A684	07/09/2012	Summary of Telephone Conference Call Held on June 12, 2012 Between the U.S. Nuclear Regulatory Commission and Entergy Nuclear Operations, Inc., Concerning the Ongoing Endangered Species Act Consultation with the National Marine Fisheries Service.
42-0016	ML12206A422	07/24/2012	2012/07/24 Indian Point LR Hearing - Here is the supplement
42-0017	ML12206A419	07/24/2012	2012/07/24 Indian Point LR Hearing - RE: Here is the supplement

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 42 – July 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 42- 001	ML12173A347	Wentzel M, NRC/NRR/DLR	2012/06/21 Indian Point LR Hearing - Indian Point LRA Draft FSEIS Supplement	06/21/2012	E-Mail	Jackson D, RI, NRC/DRS; McIntyre D, NRC/OPA; Dacus E, NRC/CA; Conte R, Screnci D, Sheehan N, Cataldo P, McNamara N, Ayegbusi O, Halter M, Gray M, NRC/RGNI; Catts M, NRC/RGNII; Pickett D, Wilson G, NRC/NRR/DO LR	Discussion of issuance of draft supplement to IP FSEIS	2

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 42 – July 31, 2012

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DPP 42-002	ML12177A187	Wentzel M, NRC/NRR/DLR	2012/06/25 Indian Point LR Hearing - ACTION: IP Mini Comm Plan	06/25/2012	E-Mail	Susco J, Wrona D, NRC/NRR/DLR	Solicitation of comments on draft communication plan re issuance of draft FSEIS supplement	4
DPP 42-003	ML12192A059	Crocker J, National Oceanic and Atmospheric Adm. (NOAA)	2012/06/25 Indian Point LR Hearing - Indian Point	06/25/2012	E-Mail	Balsam B, NRC/NRR/DLR/RERB, NRC/NRR; Susco J, NRC/NRR/DLR; Murray-Brown M, NOAA	Discussion of NOAA consultation and Atlantic sturgeon	2
DPP 42-004	ML12192A061	Balsam B, NRC/NRR/DLR/RERB, NRC/NRR	2012/06/25 Indian Point LR Hearing - RE: Indian Point	06/25/2012	E-Mail	Crocker J, Murray-Brown M, NOAA; Susco J, NRC/NRR/DLR; Logan D T, NRC/NRR/DLR/RERB	Discussion of NOAA consultation on Atlantic sturgeon	3

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 42 – July 31, 2012

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DPP 42-005	ML12195A023	Cullinan V, PNNL	2012/07/06 Indian Point LR Hearing - part of response to Comment 3b	07/06/2012	E-Mail	Logan D T, NRC/NRR/D LR/RERB; Ward J, PNNL	Discussion of changes to draft of supplement to FSEIS	4
DPP 42-006	ML12192A453	Green K, NRC/NRR/DLR	2012/07/10 Indian Point LR Hearing - RE: Request Comments RE: Westchester County Letter	07/10/2012	E-Mail	Pickett D, NRC/NRR/DO RL; Kuntz R, Wentzel M, NRC/NRR/DLR; Bickett B, NRC/RGNI	Discussion of proposed response to stakeholder comment	3
DPP 042-007	M12193A053	Wentzel M. NRC/NRR/DLR	2012/07/11 Indian Point LR Hearing – RE: Supplemental EIS for Indian Point	0711/2012	E-mail	Sheehan N, NRC/RGNI	Discussion of questions posed by journalist	8

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 42 – July 31, 2012

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DPP 042- 008	ML12205A097	Wentzel M. NRC/NRR/DLR	2012/07/23 Indian Point LR Hearing – RE: interview question	07/23/2012	E-mail	Sheehan N, NRC/RGNI	Discussion of questions posed by journalist	5

July 31, 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”). 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 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 42.

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 42.

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 31st day of July, 2012

July 31, 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 MICHAEL J. WENTZEL

I, Michael J. Wentzel, do hereby state as follows:

1. I am employed as a Program Manager 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 June 2012, 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 July 24, 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).
Michael J. Wentzel

Executed in Rockville, Maryland
this 31st day of July, 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 42, Affidavit of Michael J. Wentzel, dated July 31, 2012, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 42 – Deliberative Process Privilege, and Declaration of Brian E. Holian, dated July 31, 2012, in the above-captioned proceeding have been served on the following by Electronic Information Exchange this 31st day of July, 2012.

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Date of signature: July 31, 2012