

**UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

-----x
In re: Docket Nos. 50-247-LR; 50-286-LR

License Renewal Application Submitted by ASLBP No. 07-858-03-LR-BD01

Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64
Entergy Nuclear Indian Point 3, LLC, and
Entergy Nuclear Operations, Inc. August 9, 2012
-----x

**STATE OF NEW YORK'S ANSWER TO ENTERGY'S MOTION IN LIMINE TO
EXCLUDE PORTIONS OF NEW YORK STATE'S REBUTTAL FILINGS ON
CONTENTION NYS-16B**

Office of the Attorney General
for the State of New York
The Capitol
State Street
Albany, New York 12224

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION.....	1
ARGUMENT	
I. DR. SHEPPARD’S REBUTTAL TESTIMONY REFERENCING NYS-12C SHOULD NOT BE EXCLUDED BECAUSE IT DIRECTLY RESPONDS TO ENTERGY’S PRE-FILED TESTIMONY AND IS RELEVANT TO NYS-16B.....	2
A. Dr. Sheppard’s Rebuttal Testimony Responds Directly to Entergy’s Pre-Filed Testimony.....	2
B. Dr. Sheppard’s Rebuttal Testimony Discussing NYS-16B and NYS-12C in Combination is Relevant and Should Not Be Excluded.....	3
II. DR. SHEPPARD’S REBUTTAL TESTIMONY CRITICIZING ENTERGY’S PURPORTED SENSITIVITY ANALYSIS FOR HALVING THE COMMUTER POPULATION PROPERLY RELIES ON TESTIMONY PUT FORTH BY ENTERGY’S AND NRC STAFF’S WITNESSES AND SHOULD NOT BE EXCLUDED.....	5
III. THE BOARD HAS MADE CLEAR THAT STATEMENTS OF POSITION ARE NOT EVIDENCE AND ARE NOT SUBJECT TO EVIDENTIARY CHALLENGE.....	7
IV. THE BOARD SHOULD ADMIT DR. SHEPPARD’S REBUTTAL TESTIMONY TO ENSURE ITS DECISION IS BASED UPON A COMPLETE RECORD.....	8
CONCLUSION.....	9

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board’s July 1, 2010 Scheduling Order and subsequent Order dated May 16, 2012, the State of New York (“the State”) submits this Answer to Entergy’s Motion in Limine to Exclude Portions of New York State’s Rebuttal Filings on Admitted Contention 16/16A/16B (“Contention NYS-16B”).

INTRODUCTION

Contention NYS-16B challenges Entergy’s severe accident mitigation alternatives (“SAMA”) analysis, which NRC Staff (“Staff”) accepted in its Final Supplemental Environmental Impact Statement (“FSEIS”), on the ground that the SAMA analysis underestimates the population within fifty miles of Indian Point in 2035 that is likely to be exposed to radiation during a severe accident and, based on that underestimation, underestimates the costs of a severe accident and the corresponding benefit of any given SAMA. On June 29, 2012, in response to Entergy’s and Staff’s March 28, 2012 filings, the State submitted a Revised Statement of Position, Rebuttal Testimony, and exhibits for Contention NYS-16B. On July 30, 2012, Entergy asked the Board to exclude from the hearing record certain statements in the State’s Rebuttal Testimony, as well as references to these statements in the State’s Revised Statement of Position.¹ Entergy argues that these statements, made by the State’s expert Dr. Stephen C. Sheppard, are beyond the scope of the admitted contention, are improper rebuttal testimony, and lack an adequate technical foundation.

¹ Entergy’s Motion in Limine to Exclude Portions of New York State’s Rebuttal Filings on Contention NYS-16B (July 30, 2012) (“Entergy Motion”).

The Board should deny this request for several reasons. First, Dr. Sheppard's Rebuttal Testimony regarding Entergy's sensitivity analysis is within the scope of NYS-16B because it directly responds to Entergy's initial testimony, and it is relevant because it concerns the State's National Environmental Policy Act ("NEPA") claims. Second, Dr. Sheppard's Rebuttal Testimony about Entergy cutting his population estimate in half has a proper technical foundation, in accordance with Federal Rule of Evidence 703, because it relies on testimony put forth by Entergy's and Staff's witnesses. Third, this Board has repeatedly held that because statements of position are legal argument and not evidence, they are not subject to evidentiary challenge in a motion in limine. Finally, motions in limine are typically used to exclude information that could prejudice a jury, but there is no such risk of prejudice in this proceeding before the Board if the Board waits until the hearing to render its decision based on a full record of relevant evidence.

ARGUMENT

POINT I

DR. SHEPPARD'S REBUTTAL TESTIMONY REFERENCING NYS-12C SHOULD NOT BE EXCLUDED BECAUSE IT DIRECTLY RESPONDS TO ENTERGY'S PRE-FILED TESTIMONY AND IS RELEVANT TO NYS-16B

A. Dr. Sheppard's Rebuttal Testimony Responds Directly to Entergy's Pre-Filed Testimony

Entergy argues that Dr. Sheppard's Rebuttal Testimony that Entergy's sensitivity analysis failed to take into account the errors raised in Contention NYS-12C as well NYS-16B should be excluded because it is not responsive to Entergy's pre-filed testimony. Entergy Motion at 6. However, Dr. Sheppard's testimony is proper because it responds directly to Entergy's argument that Dr. Sheppard's population changes would not change the outcome of the SAMA analysis.

In their March 2012 pre-filed testimony, Entergy’s experts proffered a sensitivity analysis purporting to show that Dr. Sheppard’s population changes would not have a “material” effect on the SAMA analysis.² As explained in the State’s Revised Statement of Position, reasonableness, not materiality, is the correct standard by which to evaluate the FSEIS. *See* State of New York Revised Statement of Position Contention NYS-16B at 11-13 (NYS000403) (June 29, 2012).

But since Entergy raised materiality, the State submitted Dr. Sheppard’s Rebuttal Testimony showing that because Entergy evaluated the SAMA errors identified in NYS-16B in isolation—instead of taking the other SAMA errors identified in NYS-12C into account as well—Entergy has failed to show a lack of materiality. *See* Rebuttal Testimony of Dr. Stephen C. Sheppard Regarding Contention NYS-16B at 36-37 (NYS000404) (June 29, 2012) (“Sheppard Rebuttal Testimony”). By raising the issue of materiality in its Initial Statement of Position and Testimony, Entergy opened the door to rebuttal testimony on this topic. 10 C.F.R. § 2.1207(a)(2) (“[P]articipants in an oral hearing may submit . . . [w]ritten responses and rebuttal testimony with supporting affidavits directed to the initial statements and testimony of other participants.”). Thus, having raised the issue, Entergy may not now argue that it is outside the scope of Contention NYS-16B.

B. Dr. Sheppard’s Rebuttal Testimony Discussing NYS-16B and NYS-12C in Combination is Relevant and Should Not Be Excluded

Entergy also argues that Dr. Sheppard’s testimony concerning Entergy’s sensitivity analysis should be excluded because it is not relevant to NYS-16B. That is

² *See* Testimony of Entergy Witnesses Lori Potts, Kevin O’Kula, Grant Teagarden, and Jerry Riggs on Consolidated Contention NYS-16B at 49 (ENT0000003) (Mar. 28, 2012); Entergy’s Statement of Position Regarding Consolidated Contention NYS-16B at 5, 23-24 (ENT0000002) (Mar. 28, 2012).

incorrect for two reasons. First, if Entergy was correct that materiality is the correct standard—which it is not—Dr. Sheppard’s testimony is relevant because it shows that the Board must evaluate materiality based on the *combined impact* of the SAMA input changes asserted in Contentions NYS-12C and NYS-16B.

Second, assessing the combined impact of all the errors in Entergy’s SAMA analysis is necessary to determine whether Staff violated NEPA because the SAMA analysis is a cost-benefit analysis, which weighs the *sum of all benefits* against the *sum of all costs*. While all of the SAMA contentions are interrelated, the State initially divided its SAMA analysis arguments into several proffered contentions for administrative convenience and because each contention was supported by a different expert—not because they should be viewed in isolation from one another.³ The fact that NRC Staff was able to combine its expert testimony for Contentions NYS-12C and NYS-16B confirms the strong connection between these two contentions that challenge MACCS2 inputs. *See* NRC Staff Testimony of Nathan E. Bixler, S. Tina Ghosh, Joseph A. Jones, and Donald G. Harrison Concerning NYS’ Contentions NYS 12/16 (NRC000041) (Mar. 30, 2012).

Moreover, since the purpose of the FSEIS is to present an accurate assessment of the *full* environmental costs of license renewal, the Board “cannot treat the identified

³ The State has challenged Entergy’s SAMA analysis and Staff’s approval of that analysis in three separate contentions: Contention NYS-12C (which asserts that Entergy’s SAMA analysis improperly relies upon computer code input values that are not specific to the area surrounding Indian Point and does not take into account the type of particles released during a severe reactor accident); Contention NYS-16B (which asserts that the SAMA analysis underestimates the population within fifty miles of Indian Point in 2035 that is likely to be exposed to radiation during a severe accident); and Contention NYS-35/36 (which asserts that NRC Staff has failed to take a hard look at the SAMAs deemed potentially cost-beneficial in Entergy’s SAMA analysis because it did not explain in its record of decision why it would allow the Indian Point license to be renewed without requiring the implementation of those SAMAs that are plainly cost-beneficial as a condition, precedent to the granting of license renewal). In its November 2007 Petition to Intervene, the State also raised SAMA issues in Contentions NYS-13 (fire safety), NYS-14 (seismic), NYS-15 (seismic), although these were not admitted.

environmental concern in a vacuum”. *Grand Canyon Trust v. FAA*, 290 F.3d 339, 346 (D.C. Cir.2002) (finding an Environmental Assessment deficient for failing to examine the aggregate effect of various incremental environmental impacts); *see also* Generic Environmental Impact Statement for License Renewal of Nuclear Plants Supplement 38 Regarding Indian Point Generating Unit Nos. 2 and 3 at xvi (Dec. 2010)(“[t]he purpose of the NRC staff’s environmental review, as defined in 10 CFR 51.95(c)(4) and the GEIS, is to determine the following: ‘...whether or not the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decision makers would be unreasonable.’”). Instead, the Board must determine whether the combined impact of all the individual input errors in Entergy’s SAMA analysis distorted its outcome by underestimating the environmental costs of relicensing.

POINT II

DR. SHEPPARD’S REBUTTAL TESTIMONY CRITICIZING ENTERGY’S PURPORTED SENSITIVITY ANALYSIS FOR HALVING THE COMMUTER POPULATION PROPERLY RELIES ON TESTIMONY PUT FORTH BY ENTERGY’S AND NRC STAFF’S WITNESSES AND SHOULD NOT BE EXCLUDED

Entergy argues that another portion of Dr. Sheppard’s rebuttal testimony—explaining why it was incorrect for Entergy to halve his commuter population estimate in its sensitivity analysis—lacks an adequate technical foundation because he testifies on issues outside of his expertise. Contrary to Entergy’s assertion, Dr. Sheppard does not form independent conclusions about how the MACCS2 code works; instead, he properly relies on statements made by NRC Staff’s and Entergy’s witnesses.

While the Federal Rules of Evidence are not controlling in NRC adjudicatory

proceedings, “Licensing Boards have always looked to the Federal Rules for guidance in appropriate circumstances.” Final Rule, Changes to Adjudicatory Process, 69 Fed. Reg. 2182, 2187 (Jan. 14, 2004). Federal Rule of Evidence 703 (“FRE 703”), “*Bases of an Expert’s Opinion Testimony*,” is instructive here. It states: “An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed.” This includes “having the expert attend the trial and hear the testimony establishing the facts.” Notes of Advisory Committee on Proposed Rule 703.

Dr. Sheppard’s opinion—that Entergy improperly reduced the number of commuters—chiefly relies on facts of which he was made aware by reviewing Entergy’s and Staff’s testimony. His statements that “commuters could be exposed to radiation or lose income as a result of interdiction” and “[c]ommuters also have an impact on building density” come directly from Staff’s and Entergy’s testimony, which Dr. Sheppard quotes in his Rebuttal Testimony. *See* Sheppard Rebuttal Testimony at 32; *see also id.* at 31 (“*See* Staff Test. at 39, A34, (‘[T]he returning population receives a dose that contributes to the population dose.’)”); *id.* (“Entergy Test. at 30, A61 (‘[C]ommuters could be impacted by lost income, because their job sites would be impacted by interdiction.’)”); and *id.* at 32-33 (“*See* Staff Test. at 41, A35 (‘The cost of achieving the DF [decontamination factor] is input in terms of dollars per person (\$/person). By using a per person basis, this approach takes into account the site-specific high population density of New York City and the correspondingly high density of buildings.’)”). As Dr. Sheppard’s opinion is based on facts that he has been made aware of in accordance with FRE 703, it does not lack a proper technical foundation.⁴

⁴ The only statement challenged by Entergy that is not directly supported by Staff’s or Entergy’s testimony is: “Any personal property commuters had in the region, such as automobiles, could be exposed to

POINT III

THE BOARD HAS MADE CLEAR THAT STATEMENTS OF POSITION ARE NOT EVIDENCE AND ARE NOT SUBJECT TO EVIDENTIARY CHALLENGE

This Board has already made clear on several occasions that “regarding ... challenge[s] to ... Initial Statement[s] of Position, this document is not evidence, but rather consists merely of attorney arguments. Any motion to strike ‘testimony’ in this document is inappropriate.” *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), Order (Granting in Part and Denying in Part Applicant’s Motions in Limine) at 14 (Mar. 6, 2012) (unpublished) (“March 6, 2012 Board Order”); *see also id.* at 19 (“Statements of positions are not evidence. Thus, the admissibility standards of Section 2.337(a) do not apply and statements of positions are not subject to evidentiary challenge.”); *id.* at 24 (“Finally, statements of position are a party’s legal interpretation of its evidence, not its actual evidence, and we will use it inasmuch as it is supported by the evidence ... Therefore, we will not exclude ... portions of [a] Statement of Position.”). As a result, Entergy’s motion to strike portions of the State’s Revised Statement of Position for NYS-16B should be denied.

POINT IV

THE BOARD SHOULD ADMIT DR. SHEPPARD’S REBUTTAL TESTIMONY TO ENSURE ITS DECISION IS BASED UPON A COMPLETE RECORD

Rather than exclude evidence, this Board has generally opted to “give all evidence its appropriate weight at evidentiary hearing in the context of evaluating the specific issue before [it].” March 6, 2012 Board Order at 20; *see also id.* at 24; *c.f.* Licensing Board

radiation, requiring decontamination.” Sheppard Rebuttal Testimony at 32. However, this statement relates to Dr. Sheppard’s knowledge of commuting patterns—*i.e.*, the methods by which commuters travel to their places of employment—and therefore, is not outside his area of expertise.

Order (Denying New York’s Motion in Limine and Holding Riverkeeper’s Motion in Limine in Abeyance) at 6 (June 1, 2012) (unpublished) (“While some of the testimony provided by Entergy and the NRC Staff might appear as statements of a witness’s opinion as to what the law requires, we are comfortable exercising our responsibility to interpret independently what the law is.”). Entergy has failed to demonstrate why it is necessary for the Board to exclude the evidence at issue, rather than afford it the appropriate weight after considering the evidence presented by all parties at the hearing.

In this administrative proceeding, there is no danger of prejudice, as there would be in a jury trial, if the Board waits until the hearing to consider the evidence.⁵ “Licensing Boards are accustomed to weighing evidence, including expert testimony, and determining its relevance to the issues presented.” *Amergen Energy Co., LLC* (License Renewal for Oyster Creek Nuclear Generating Station), Memorandum and Order (Ruling on Motions in Limine and Motion for Clarification) at 2 (Aug. 9, 2007) (unpublished) (ML072210832) (“*Oyster Creek*”).

It is of the utmost importance that the Board have a full record of all evidence before it when rendering its relicensing decision. Excluding evidence before the hearing does not serve this interest. As the Appeal Board held, “No conceivable good is served by making empty findings in the absence of essential evidence.” *Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-580, 11 N.R.C. 227, 230 (Appeal Board 1980) (vacating Licensing Board’s finding as unsupported by the record and ordering a de novo consideration of the issues at an evidentiary hearing before the

⁵ *Calvert Cliffs 3 Nuclear Project, LLC* (Combined License Application for Calvert Cliffs Unit 3), Licensing Board Order, LBP 09-874-02-COL-BD01 at 3 (Jan. 17, 2012) (unpublished) (ML12017A200) (“In administrative proceedings such as this, where no jury is involved, no such threat of prejudice is present, . . . there is accordingly no compelling need for a ruling on the materiality of challenged testimony before the hearing has begun.”).

Appeal Board).

For this reason, even in instances where a licensing board has found material to be inadmissible, it has declined to strike it from the record. *Oyster Creek* at 2 (“This Board will refrain from actually expunging the irrelevant material from the record. Rather, to the extent we conclude that material is irrelevant or otherwise inadmissible, we will accord it no weight in making our determination. . .”). Since the Board can determine the proper weight to afford Dr. Sheppard’s Rebuttal Testimony, it should deny Entergy’s request to strike portions of it from the hearing record.⁶

CONCLUSION

For the above-stated reasons, the State of New York respectfully requests that the Board deny Entergy’s Motion.

Respectfully submitted,

Laura E. Heslin
Kathryn M. Liberatore
Assistant Attorneys General

Signed (electronically) by

John J. Sipos
Assistant Attorney General
Office of the Attorney General
for the State of New York
The Capitol
Albany, New York 12227
(518) 402-2251

Dated: August 9, 2012

⁶ Should the Board chose to grant Entergy’s motion in limine, the State requests that any stricken or excluded evidence be preserved for appeal. See *Silivanch v. Celebrity Cruises, Inc.*, 171 F. Supp. 2d 241, 267 (S.D.N.Y. 2001).

10 C.F.R. § 2.323 Certification

Pursuant to 10 C.F.R. § 2.323(b) and the Board's July 1, 2010 Scheduling Order (at 8-9), with respect to Entergy's Motion in Limine to Exclude Portions of New York State's Rebuttal Filings on Contention NYS-16B, I certify that I have made a sincere effort to make myself available to listen and respond to the moving party, and to resolve the factual and legal issues raised in the motion, and that my efforts to resolve the issues have been unsuccessful.

Signed (electronically) by _____

Laura E. Heslin
Kathryn M. Liberatore
Assistant Attorneys General
State of New York

Dated: August 9, 2012

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

ATOMIC SAFETY AND LICENSING BOARD

-----x
In re: Docket Nos. 50-247-LR and 50-286-LR

License Renewal Application Submitted by ASLBP No. 07-858-03-LR-BD01

Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64
Entergy Nuclear Indian Point 3, LLC, and
Entergy Nuclear Operations, Inc. August 9, 2012
-----x

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2012, copies of the State of New York's Answer to Entergy's Motion in Limine to Exclude Portions of New York State's Rebuttal Filings on Contention NYS-16B were served electronically via the Electronic Information Exchange on the following recipients:

Lawrence G. McDade, Chair
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mailstop 3 F23
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Lawrence.McDade@nrc.gov

Michael F. Kennedy
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mailstop 3 F23
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Michael.Kennedy@nrc.gov

Richard E. Wardwell
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mailstop 3 F23
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Richard.Wardwell@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mailstop 3 F23
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738

Shelbie Lewman, Esq. Law Clerk
Anne Siarnacki, Esq., Law Clerk
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mailstop 3 F23
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Shelbie.Lewman@nrc.gov
Anne.Siarnacki@nrc.gov

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Mailstop 16 G4
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
ocaamail@nrc.gov

Office of the Secretary
Attn: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mailstop 3 F23
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
hearingdocket@nrc.gov

Sherwin E. Turk, Esq.
David E. Roth, Esq.
Beth N. Mizuno, Esq.
Brian G. Harris, Esq.
Anita Ghosh, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mailstop 15 D21
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
sherwin.turk@nrc.gov
david.roth@nrc.gov
beth.mizuno@nrc.gov
brian.harris@nrc.gov
anita.ghosh@nrc.gov

Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Jonathan Rund, Esq.
Raphael Kuyler, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
ksutton@morganlewis.com
pbessette@morganlewis.com
jrund@morganlewis.com
rkuyler@morganlewis.com

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

Bobby R. Burchfield, Esq.
Matthew M. Leland, Esq.
Clint A. Carpenter, Esq.
McDermott Will & Emery LLC
600 13th Street, NW
Washington, DC 20005-3096
bburchfield@mwe.com
mleland@mwe.com
ccarpenter@mwe.com

Richard A. Meserve, Esq.
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
rmeserve@cov.com

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

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

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

Melissa-Jean Rotini, Esq.
Assistant County Attorney
Office of the Westchester County Attorney
Michaelian Office Building
148 Martine Avenue, 6th Floor
White Plains, NY 10601
MJR1@westchestergov.com

Daniel E. O'Neill, Mayor
James Seirmarco, M.S.
Village of Buchanan
Municipal Building
236 Tate Avenue
Buchanan, NY 10511-1298
vob@bestweb.net

Daniel Riesel, Esq.
Thomas F. Wood, Esq.
Victoria S. Treanor, Esq.
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022
driese@sprlaw.com
vtreanor@sprlaw.com

Michael J. Delaney, Esq.
Director
Energy Regulatory Affairs
NYC Department of Environmental
Protection
59-17 Junction Boulevard
Flushing, NY 11373
(718) 595-3982
mdelaney@dep.nyc.gov

Manna Jo Greene, Director
Karla Raimundi, Environmental Justice
Associate
Stephen Filler, Esq., Board Member
Hudson River Sloop Clearwater, Inc.
724 Wolcott Avenue
Beacon, NY 12508
Mannajo@clearwater.org
karla@clearwater.org
stephenfiller@gmail.com

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

Signed (electronically) by

John J. Sipos
Assistant Attorney General
State of New York
(518) 402-2251

Dated at New York, New York
this 9th day of August 2012