

October 1, 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-LR/286-LR  
 )  
(Indian Point Nuclear Generating )  
Units 2 and 3) )

NRC STAFF'S EIGHTH STATUS REPORT  
IN RESPONSE TO THE ATOMIC SAFETY AND  
LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012

In accordance with the Atomic Safety and Licensing Board's ("Board") "Order (Granting NRC Staff's Unopposed Time Extension Motion and Directing Filing of Status Updates)" ("Order"), issued on February 16, 2012, the NRC Staff ("Staff") herewith provides its eighth monthly status report to the Board, as follows:

1. The Staff is continuing its review of the additional information it received from Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant"), concerning its Reactor Vessel Internals ("RVI") Aging Management Program and Inspection Plan,<sup>1</sup> and the Applicant's partial response to the Staff's May 15, 2012 requests for additional information ("RAIs") concerning that program, dated June 14, 2012.<sup>2</sup> Entergy submitted its final responses to the Staff's initial

---

<sup>1</sup> Letter from Fred Dacimo, Vice President, Operations License Renewal to NRC Document Control Desk, Subject: "License Renewal Application - Revised Reactor Vessel Internals Program and Inspection Plan Compliant with MRP-227-A, Indian Point Nuclear Generating Unit Nos. 2 and 3" (NL-12-037) (Feb. 17, 2012) (ADAMS Accession No. ML12060A312).

<sup>2</sup> See (1) Letter from Robert F. Kuntz (NRC) to Vice President, Operations (Entergy), Subject: "Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3, License Renewal Application" (May 15, 2012) (ADAMS Accession No. ML12125A342); and (2) Letter from Fred Dacimo (Entergy) to NRC Document Control Desk (June 14, 2012), Subject: Reply to Request for Additional Information Regarding the License Renewal Application, (NL-12-089) ("Initial RAI Response") (ADAMS Accession No. ML12184A037).

RAIs on September 28, 2012.<sup>3</sup> On September 10, 2012, the Staff issued supplemental RAIs concerning this matter;<sup>4</sup> Entergy's responses to these supplemental RAIs are expected to be submitted on or before October 10, 2012.

2. As stated in the Staff's Seventh Status Report, the issuance date for the SER Supplement on RVI issues has been deferred.<sup>5</sup> Assuming the Applicant's responses to the Staff's initial and supplemental RAIs are complete and do not require further supplementation, the Staff expects to issue the SER Supplement in early 2013. The Staff will provide further information to the Board concerning this matter when it becomes available. This matter affects the litigation of Contention NYS-25 (Reactor Vessel Internals) and related portions of Contention NYS-38/ RK-TC-5, but does not affect the litigation of any other contention.

3. As stated in the Staff's Seventh Status Report,<sup>6</sup> the Staff received comments from members of the public and/or governmental agencies concerning its draft Supplement to the Final Supplemental Environmental Impact Statement ("FSEIS"), which had published new information on entrainment, impingement, the thermal effects of once-through cooling, shortnose sturgeon, and Atlantic sturgeon consultations. The Staff is currently reviewing those comments, and expects to issue the final FSEIS Supplement in or about December 2012; this projected date could change, however, if warranted by the Staff's review of the comments or other developments, as discussed in Paragraph 4, *infra*. The FSEIS Supplement will address

---

<sup>3</sup> Letter from Fred Dacimo (Entergy) to NRC Document Control Desk (Sept. 28, 2012), Subject: "Reply to Request for Additional Information Regarding the License Renewal Application" (NL-12-134) (ADAMS accession number pending).

<sup>4</sup> Letter from John Daily (NRC) to Vice President, Operations (Entergy), Subject: "Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3 License Renewal Application, Set 2012-02" (Sept. 10, 2012) (ADAMS Accession No. ML12223A388).

<sup>5</sup> "NRC Staff's Seventh Status Report in Response to the Atomic Safety and Licensing Board's Order of February 16, 2012" ("Seventh Status Report") (Sept. 4, 2012), at 2, ¶ 2.

<sup>6</sup> *Id.* at 3, ¶ 3.

aquatic impacts only, and does not affect any admitted contention in this proceeding other than Riverkeeper Contention EC-8 (Endangered Species), which is not scheduled for hearing.

4. As the Staff has stated previously,<sup>7</sup> the Staff issued a Biological Assessment and reinitiated consultations with the National Marine Fisheries Service (“NMFS”) under Section 7 of the Endangered Species Act (“ESA”), regarding Atlantic sturgeon at Indian Point Units 2 and 3 (“IP2” and “IP3”).<sup>8</sup> As the Staff stated, the consultation period has been extended by 60 days to afford additional time for NMFS to review the Applicant’s additional information regarding Atlantic sturgeon.<sup>9</sup> The Staff continues to expect that consultations with NMFS will conclude in October 2012, and that NMFS will issue its Biological Opinion on or before December 28, 2012. The Staff has not yet determined whether this will impact the expected date for issuance of the FSEIS Supplement. The Staff will inform the Board if there is any change to these dates.

5. As noted in the Staff’s Seventh Status Report, the State of New York (“New York”), Riverkeeper, Inc., and Hudson River Sloop Clearwater, Inc. have filed new contentions related to waste storage and/or disposal, to which the Applicant and Staff responded on August 2 and 3, 2012.<sup>10</sup> By Order dated August 8, 2012, the Board held all other pleadings concerning these contentions in abeyance, pending further order.<sup>11</sup> This matter does not affect the schedule for hearings on Track 1 contentions.

---

<sup>7</sup> See *id.* at 3, ¶ 4.

<sup>8</sup> See Letter from Sherwin E. Turk to the Board (May 17, 2012), attaching letter from Jeremy J. Susco (NRC) to Patricia A. Kurkul (NMFS) (May 16, 2012 (ADAMS Accession No. ML12100A082)).

<sup>9</sup> Seventh Status Report at 3, ¶ 4.

<sup>10</sup> *Id.* at 4, ¶ 5.

<sup>11</sup> “Order (Holding Contentions NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4 in Abeyance)” (Aug. 8, 2012).

6. As also stated in the Staff's Seventh Status Report,<sup>12</sup> in July 2012, the Applicant filed an amendment to its license renewal application ("LRA"), revising the Environmental Report's ("ER") discussion of the IP2/IP3 Coastal Zone Management Act ("CZMA") consistency determination.<sup>13</sup> In addition, the Applicant has filed a motion seeking issuance of a Declaratory Order that it has already obtained the required New York State Coastal Management Program consistency review for license renewal of IP2/IP3.<sup>14</sup> The Board thereafter issued two related Orders, (a) extending the time for responses to the Applicant's motion until January 14, 2013,<sup>15</sup> and (b) extending the time for New York to file contentions on Entergy's ER amendment until 30 days after the Board rules on Entergy's motion.<sup>16</sup> This matter does not affect the schedule for hearings on Track 1 contentions.

7. On September 21, 2012, the Board issued an Order affording New York the right to conduct cross-examination in this proceeding. On September 28, 2012, the Applicant filed (a) an emergency petition for interlocutory review of that Order by the Commission, and (b) a request that the Commission stay the Board's Order or grant a partial stay of the evidentiary hearings on Track 1 contentions pending Commission consideration of the petition for review. The Applicant's petition and stay request are pending before the Commission at this time. These developments have the potential to impact the hearings on Track 1 contentions.

---

<sup>12</sup> Seventh Status Report at 4, ¶ 6.

<sup>13</sup> Letter from Fred Dacimo (Entergy) to NRC Document Control Desk (July 24, 2012), Subject: Supplement to License Renewal Application – Compliance with Coastal Zone Management Act" (NL-12-107) (ADAMS Accession No. ML12207A122).

<sup>14</sup> "Motion and Memorandum by [Entergy] for Declaratory Order that It Has Already Obtained the Required New York State Coastal Management Program Consistency Review of [IP2 and IP3] for Renewal of the Operating Licenses" (July 30, 2012).

<sup>15</sup> "Order (Granting, in Part, the NRC Staff's and New York's Motions for Extension of Time)" (Aug. 8, 2012).

<sup>16</sup> "Order (Granting State of New York Motion for Extension of Time to File New Contentions)" (Aug. 31, 2012).

8. To the best of the Staff's knowledge, information and belief, apart from the matters discussed in Paragraph 7 above, none of the matters discussed herein have any impact on the schedule for hearings on Track 1 contentions. Further, the Staff is not currently aware of any other matter that has the potential to impact this proceeding. In accordance with the Board's direction (Order, at 2), the Staff will notify the Board as soon as any other event with potential to alter the hearing schedule arises.

Respectfully submitted,

**/Signed (electronically) by/**

Sherwin E. Turk  
Counsel for NRC Staff  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop – O-15D21  
Washington, DC 20555  
Telephone: (301) 415-1533  
E-mail: [sherwin.turk@nrc.gov](mailto:sherwin.turk@nrc.gov)

Dated at Rockville, Maryland  
this 1<sup>st</sup> day of October 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

Pursuant to 10 C.F.R § 2.305 (as revised), I hereby certify that copies of the foregoing "NRC STAFF'S EIGHTH STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated October 1, 2012, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding, this 1<sup>st</sup> day of October, 2012.

**/Signed (electronically) by/**

Sherwin E. Turk  
Counsel for NRC Staff  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop – O-15D21  
Washington, DC 20555  
Telephone: (301) 415-1533  
E-mail: [sherwin.turk@nrc.gov](mailto:sherwin.turk@nrc.gov)