

November 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 NINTH 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 ninth monthly status report to the Board, as follows:

1. The Staff is continuing its review of the additional information it has received from Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant"), concerning its Reactor Vessel Internals ("RVI") Aging Management Program and Inspection Plan. These include (a) the Applicant's submission of February 17, 2012;¹ (b) the Applicant's responses of June 14 and September 28, 2012,² to the Staff's May 15, 2012 requests for additional information ("RAIs")

¹ 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).

² See (1) Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, Subject: Reply to Request for Additional Information Regarding the License Renewal Application (NL-12-089) (June 14, 2012) (ADAMS Accession No. ML12184A037); and (2) Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, Subject: "Reply to Request for Additional Information Regarding the License Renewal Application" (NL-12-134) (Sept. 28, 2012) (ADAMS Accession No. ML12285A232).

concerning that program;³ and (c) the Applicant's response of October 17, 2012,⁴ to the Staff's September 10, 2012 supplemental RAIs concerning this matter.⁵

2. As stated in the Staff's Eighth Status Report, the issuance date for the SER Supplement on RVI issues has been deferred.⁶ 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 previously, the Staff has received comments from members of the public and governmental agencies concerning its draft Supplement to the Final Supplemental Environmental Impact Statement ("FSEIS") concerning aquatic impacts. The Staff is reviewing those comments, and currently expects to issue the final FSEIS Supplement in December 2012 or January 2013, although this projected date could change if warranted by the Staff's review of the comments or other developments, as discussed in Paragraph 4, *infra*. The Final FSEIS Supplement will address aquatic impacts only, and does not affect any admitted contention in this proceeding other than Riverkeeper Contention EC-8 (Endangered Species), which has not yet been scheduled for hearing.

³ 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).

⁴ Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, Subject: Reply to Request for Additional Information Regarding the License Renewal Application (NL-12-140) (Oct. 17, 2012) (ADAMS Accession No. ML12300A391).

⁵ 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).

⁶ See "NRC Staff's Eighth Status Report in Response to the Atomic Safety and Licensing Board's Order of February 16, 2012" (Oct. 1, 2012) ("Eighth Status Report"), at 2, ¶ 2

4. As stated previously,⁷ the Staff has 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”).⁸ On October 26, 2012, NMFS transmitted a draft biological opinion to the Staff, in which it, *inter alia*, requested comments and additional information; the Staff expects to provide the requested information to NMFS shortly, and that NMFS will issue its final Biological Opinion on or before November 28, 2012, unless the consultation period is extended. The Staff has not determined whether this matter will affect the expected date for issuance of the Staff’s FSEIS Supplement. The Staff will inform the Board if there is any change to these dates.

5. As the Board is aware, 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. By Order dated August 8, 2012, the Board held all other pleadings concerning these contentions in abeyance, pending further order.⁹

6. As the Board is also aware, in July 2012 the Applicant filed an amendment to its license renewal application (“LRA”),¹⁰ in which it revised its discussion of its Coastal Zone

⁷ See *id.* at 3, ¶ 4.

⁸ 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).

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

¹⁰ 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).

Management Act (“CZMA”) consistency determination for IP2/IP3.¹¹ In addition, the Applicant filed a motion seeking a Declaratory Order that it has already obtained the required New York State Coastal Management Program consistency review for license renewal of IP2/IP3.¹² The Board thereafter extended the time for responses to the Applicant’s motion until January 14, 2013,¹³ and extended the time for New York to file contentions on Entergy’s LRA amendment until 30 days after the Board rules on Entergy’s motion.¹⁴

7. To the best of the Staff’s knowledge, information and belief, none of the matters discussed herein have any impact on the scheduled 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.

¹¹ The Staff transmitted RAIs to the Applicant concerning this matter on August 13, 2012. See Letter from Michael Wentzel (NRC) to Vice President, Operations (Entergy), Subject: Request for Additional Information for the Review of the [IP2 and IP3 LRA] Environmental Review (Aug. 13, 2012) (ADAMS Accession No. ML12221A155). The Applicant submitted its response to these RAIs on September 11, 2012. See Letter from Fred R. Dacimo (Entergy) to NRC Document Control Desk, Subject: Response to Request for Additional Information for Review of [IP2 and IP3 LRA] Environmental Review - Compliance with Coastal Zone Management Act (Sept. 11, 2012) (ADAMS Accession No. ML12258A232).

¹² “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).

¹³ “Order (Granting, in Part, the NRC Staff’s and New York’s Motions for Extension of Time)” (Aug. 8, 2012).

¹⁴ “Order (Granting State of New York Motion for Extension of Time to File New Contentions)” (Aug. 31, 2012).

Respectfully submitted,

/Signed (electronically) by/

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Dated at Rockville, Maryland
this 1st day of November 2012

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
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ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247/286-LR
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CERTIFICATE OF SERVICE

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

/Signed (electronically) by/

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