

February 1, 2013

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 TWELVTH 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 12th monthly status report to the Board, as follows:

1. Consultations have concluded between the Staff, the National Marine Fisheries Service ("NMFS"), and Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant") under Section 7 of the Endangered Species Act ("ESA"), regarding Atlantic sturgeon at Indian Point Units 2 and 3 ("IP2" and "IP3"). On January 30, 2013, NMFS issued its final Biological Opinion regarding endangered species at IP2 and IP3.¹

2. The Staff expects to issue a supplement to the Final Supplemental Environmental Impact Statement ("FSEIS") related to license renewal of IP2 and IP3 ("FSEIS Vol. 4"), on or before April 30, 2013. As stated previously, the Staff intends to include in the

¹ See Letter from John K. Bullard (Regional Administrator, Northeast Region, National Oceanic and Atmospheric Administration), to Dr. Amy Hull (NRC) (January 30, 2013) (ADAMS Accession No. ML13032A256) (copy attached hereto).

FSEIS supplement a discussion of its consultations with NMFS, including NMFS's issuance of its Biological Opinion.²

3. As also stated in my letter to the Board of December 21, 2012, inasmuch as the FSEIS supplement (FSEIS Vol. 4) will address aquatic impacts (including impacts to endangered species), the Staff would be unable to proceed to hearing on Contention RK-EC-8 (Endangered Species) until FSEIS Vol. 4 has been issued. The Final FSEIS Supplement will address aquatic impacts only, and does not affect any admitted contention in this proceeding other than Contention RK-EC-8, which has not yet been scheduled for hearing.

4. As stated previously,³ 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. As also stated previously, the Staff expects to issue Safety Evaluation Report ("SER") Supplement 2, addressing RVI issues, on or before July 31, 2013.⁴

5. Inasmuch as SER Supplement 2 will address the Applicant's aging management program for reactor vessel internals, the Staff continues to believe that hearings on related Track 2 safety issues (Contentions NYS-25 and related portions of NYS 38/ RK TC-5) should be deferred until SER Supplement 2 has been issued. In addition, to promote efficiency and conservation of resources, and to assure there is no overlap in the issues or testimony, the Staff believes that evidentiary hearings on the remaining Track 2 safety issues (Contentions NYS 26B/RK TC 1B and portions of NYS-38/ RK TC 5) should be deferred to coincide with hearings on the other Track 2 safety contentions addressed above.

² "NRC Staff's Eleventh Status Report in Response to the Atomic Safety and Licensing Board's Order of February 16, 2012" (Jan. 2, 2013) ("11th Status Report"), at 1.

³ See, e.g. *id.*, at 2.

⁴ *Id.*

6. As also stated previously,⁵ the intervenors in this proceeding 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.⁶

7. As the Board is also aware, in July 2012 the Applicant filed an amendment to its license renewal application ("LRA"),⁷ in which it revised its discussion of its Coastal Zone Management Act ("CZMA") consistency determination for IP2/IP3.⁸ 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/IP3.⁹ Responses to the Applicant's motion are due on March 22, 2013;¹⁰ contentions on Entergy's LRA amendment are due 30 days after the Board rules on Entergy's motion.¹¹

⁵ See, e.g. *id.*, at 3.

⁶ "Order (Holding Contentions NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4 in Abeyance)" (Aug. 8, 2012).

⁷ 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).

⁸ 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).

⁹ "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).

¹⁰ "Order (Granting New York's Motion for an Extension of Time)" (Jan. 7, 2013).

¹¹ "Order (Granting State of New York Motion for Extension of Time to File New Contentions)" (Aug. 31, 2012).

8. The Staff is not currently aware of any other matter that has the potential to impact the schedule for hearings in 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/

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Dated at Rockville, Maryland
this 1st day of February 2013

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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 TWELVTH STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated February 1, 2013, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding, this 1st day of February, 2013.

/Signed (electronically) by/

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