



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

February 28, 2013

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 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, 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 49 is appended hereto as Attachment 1.

On or about March 10, 2013, 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 49" 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 John W. Lubinski formally invoking the deliberative process privilege with respect to the documents in Attachment 2. The Staff will

Judge McDade
Judge Kennedy
Judge Wardwell

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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 Kimberly J. Green, 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 February 22, 2013.

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
Anita Ghosh
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 49
Attachment 2 - Deliberative Process Privilege Log
Declaration of John W. Lubinski
Affidavit of Kimberly J. Green

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index
 Supplement 49 – February 28, 2013

ID#	Accession Number	Document Date	Title
49-0001	ML13015A364	02/13/2013	12/12/2012 - Summary of Conference Call on RAI 11A with Entergy Nuclear Operations, Inc.
49-0002	ML13029A181	01/29/2013	2013/01/29 Indian Point LR Hearing - FW: Draft RAI Set 2012-04
49-0003	ML13029A178	01/29/2013	2013/01/29 Indian Point LR Hearing - FW: Draft RAI Set 2012-04
49-0004	ML13029A185	01/29/2013	2013/01/29 Indian Point LR Hearing - FW: Draft RAI Set 2012-04
49-0005	ML13029A180	01/29/2013	2013/01/29 Indian Point LR Hearing - FW: Entergy/NRC License Renewal RAI Conference Call Participants 1/7/13
49-0006	ML13029A183	01/29/2013	2013/01/29 Indian Point LR Hearing - FW: Request for a Buried Piping Conference Call
49-0007	ML13031A461	01/31/2013	2013/01/31 Indian Point LR Hearing - FW: NMFS Final BiOp for Indian Point 2 and 3
49-0008	ML13031A462	01/31/2013	2013/01/31 Indian Point LR Hearing - FW: NMFS Final BiOp for Indian Point 2 and 3
49-0009	ML13037A279	02/06/2013	2013/02/06 Indian Point LR Hearing - RAI Set 2013-01 to Entergy
49-0010	ML13014A633	01/15/2013	Environmental Project Manager Change for the License Renewal of Indian Point Nuclear Generating, Units 2 & 3 (TAC ME5411 and 5412).
49-0011	ML13032A569	02/01/2013	NOAA's Biological Opinion for Continued Operations of Indian Point, Units 2 and 3.
49-0012	ML13015A175	02/06/2013	Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3, LRA, Set 2013-01 (Tac Nos. MD5407 and MD5408)

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 49 – February 28, 2013

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
DP-49-001	ML13029A484	J. Daily, NRC/NRR	2013/01/29 Indian Point LR Hearing - FW: Indian Point License Renewal Public Comment question - from Frumkin and Rader	01/29/2013	E-Mail	D. Wrona, NRC/NRR D. Pickett, NRC/NRR	Internal discussion regarding public comments on the FSEIS	3
DP-49-002	ML13031A460	J. Daily, NRC/NRR	2013/01/31 Indian Point LR Hearing - SSER schedule update	01/31/2013	E-Mail	S. Turk, NRC/OGC B. Harris, NRC/OGC D. Morey, NRC/NRR	Internal discussion regarding SSER [Also withheld under the Attorney-Client Privilege]	2
DP-49-003	ML13042A306	J. Poehler, NRC/NRR	2013/02/11 Indian Point LR Hearing - FW: RAI texts for 11a and 15a Please review these - thanks	02/11/2013	E-Mail w/ Attachment	G. Cheruvenki, NRC/NRR	Internal discussion regarding Draft RAI Attachment: Draft RAI	10

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 49 – February 28, 2013

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DP-49-004	ML13046A358	D. Logan, NRC/NRR	2013/02/15 Indian Point LR Hearing - 2013-02-15 Ltr NRC to IP sending BiOp Clean.docx for your review	02/15/2013	E-Mail w/ Attachment	B. Balsam, NRC/NRR	Email forwarding Draft Letter Attachment: Draft letter	6
DP-49-005	ML13046A356	D. Logan, NRC/NRR	2013/02/15 Indian Point LR Hearing - Indian Point: DRAFT letter of transmittal of BiOp for your review	02/15/2013	E-Mail w/ Attachment	B. Balsam, NRC/NRR	Email forwarding Draft Document Attachment: Draft response to comments	52
DP-49-006	ML13046A410	B. Balsam, NRC/NRR	2013/02/15 Indian Point LR Hearing - RE: 2013-02-15 Ltr NRC to IP sending BiOp Clean.docx for your review	02/15/2013	E-Mail	D. Logan, NRC/NRR	Internal discussion regarding Draft letter	2
DP-49-007	ML13050A083	D. Logan, NRC/NRR	2013/02/19 Indian Point LR Hearing - Indian Point: Draft letter transmitting paper copy of Biological Opinion to Entergy	02/19/2013	E-Mail w/ Attachment	M. Wong, NRC/NRR	Internal discussion of Draft letter Attachment: Draft letter	6

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 49 – February 28, 2013

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DP-49-008	ML13051A646	D. Logan, NRC/NRR	2013/02/20 Indian Point LR Hearing - Indian Point: 1st Draft of letter requesting information on license conditions for NRC enforcement of NMFS's recent biological opinion	02/20/2013	E-Mail w/ Attachment	D. Pickett, NRC/NRR B. Balsam, NRC/NRR M. Moser, NRC/NRR	Internal discussion regarding draft letter Attachment: Draft letter	6
DP-49-009	ML13052A418	D. Logan, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: Indian Point: 1st Draft of letter requesting information on license conditions for NRC enforcement of NMFS's recent biological opinion	02/21/2013	E-Mail w/ Attachment	D. Pickett, NRC/NRR B. Balsam, NRC/NRR M. Moser, NRC/NRR M. Wong, NRC/NRR	Email forwarding attachment Attachment: Draft letter	7
DP-49-010	ML13052A164	D. Pickett, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: Indian Point: 1st Draft of letter requesting information on license conditions for NRC enforcement of NMFS's recent biological opinion	02/21/2013	E-Mail w/ Attachment	D. Logan, NRC/NRR B. Balsam, NRC/NRR M. Moser, NRC/NRR	Internal discussion of draft letter Attachment: Draft letter	6

Attachment 2 - Indian Point License Renewal Hearing File Index
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ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DP-49-011	ML13052A313	D. Logan, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: Indian Point: 1st Draft of letter requesting information on license conditions for NRC enforcement of NMFS's recent biological opinion	02/21/2013	E-Mail	D. Pickett, NRC/NRR B. Balsam, NRC/NRR M. Moser, NRC/NRR M. Wong, NRC/NRR	Internal discussion of draft letter	3
DP-49-012	ML13052A419	B. Balsam, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: Indian Point: 1st Draft of letter requesting information on license conditions for NRC enforcement of NMFS's recent biological opinion	02/21/2013	E-Mail	D. Logan, NRC/NRR	Email forwarding comments on Draft letter Attachment: Draft letter	7
DP-49-013	ML13052A314	D. Logan, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: Indian Point: 1st Draft of letter requesting information on license conditions for NRC enforcement of NMFS's recent biological opinion	02/21/2013	E-Mail	D. Pickett, NRC/NRR B. Balsam, NRC/NRR M. Moser, NRC/NRR M. Wong, NRC/NRR	Email forwarding attachment Attachment: Draft letter	7

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 49 – February 28, 2013

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DP-49-014	ML13052A420	M. Wong, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: Indian Point: Draft letter transmitting paper copy of Biological Opinion to Entergy	02/21/2013	E-Mail	D. Logan, NRC/NRR	Internal discussion of draft letter	2
DP-49-015	ML13052A162	D. Logan, NRC/NRR	2013/02/21 Indian Point LR Hearing - RE: May I see a copy of the letter on the IP licensing condition, please? Thank you. EOM	02/21/2013	E-Mail	M. Wong, NRC/NRR	Internal discussion of draft letter	2

February 28, 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))

DECLARATION OF JOHN W. LUBINSKI

I, John W. Lubinski, 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”). 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 49.

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 49.

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)
John W. Lubinski

Executed in Rockville, Maryland
this 28th day of February, 2013

February 28, 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 Generation)
Units 2 and 3))

AFFIDAVIT OF KIMBERLY J. GREEN CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, Kimberly J. Green, do hereby state as follows:

1. I am employed as a Senior Mechanical Engineer in the Division of License Renewal in the U.S. Nuclear Regulatory Commission's ("NRC") Office of Nuclear Reactor Regulation. I serve as the hearing file project manager for the Indian Point Nuclear Generating Units 2 and 3 license renewal application ("LRA"). Among other things, I am assisting with the preparation of the hearing file and mandatory disclosures in connection with the LRA at issue in this proceeding.

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 February 22, 2013.

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)
Kimberly J. Green

Executed in Rockville, Maryland
this 28th day of February, 2013

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
ENERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247-LR/286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (revised), 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 49, Affidavit of Kimberly J. Green, dated February 28, 2013, Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 49 – Deliberative Process Privilege, and Declaration of John W. Lubinski, dated February 28, 2013, in the above-captioned proceeding have been served upon the Electronic Information Exchange, the NRC’s E-Filing System, this 28th day of February, 2013.

Signed (electronically) by
Anita Ghosh
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
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Washington, DC 20555
Telephone: (301) 415-4113
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Date of signature: February 28, 2013