



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, DC 20555 - 0001

December 31, 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 59 is appended hereto as Attachment 1.

On or about January 10, 2014, 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](http://ehd.nrc.gov/EHD_Proceeding/home.asp). The hearing file will be contained in a sub-folder entitled, "Indian PT Hearing File, Supplement 59" 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 are 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 these logs 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 December 20, 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 59  
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 59 – December 31, 2013

ID#	Accession Number	Document Date	Title
59-0001	ML13270A153	09/13/2013	New York State Department of State File #F-2012-1028, Energy Nuclear IP2 and IP3 – Status of CZMA consistency review as of Sept 13 2013.
59-0002	ML13346A960	12/06/2013	Consistency of Indian Point Nuclear Generating Units 2 & 3, License Renewal Application, With New York State Coastal Management Program.
59-0003	ML13343A594	12/09/2013	2013/12/09 Indian Point LR Hearing - FYI: Issuance of Letter to NYS DOS regarding the consistency of the IP2 and IP3 license Renewal Application with NYS Coastal Management Program
59-0004	ML13354B873	12/12/2013	Indian Point, Unit 2 and 3, Amendment 15 to License Renewal Application (LRA).
59-0005	ML13350A600	12/12/2013	2013/12/12 Indian Point LR Hearing - Conference Call, December 18 @11:00am
59-0006	ML13350A602	12/12/2013	2013/12/12 Indian Point LR Hearing - Phone Call on Action Item 7
59-0007	ML13346A469	12/12/2013	2013/12/12 Indian Point LR Hearing - RE: Phone Call on Action Item 7
59-0008	ML13350A596	12/16/2013	2013/12/16 Indian Point LR Hearing - IPEC License Renewal - LRA Amendment 15
59-0009	ML13353A711	12/19/2013	2013/12/19 Indian Point LR Hearing - Draft Telecon Summary for Call on December 18, 2013
59-0010	ML13357A725	12/20/2013	2013/12/20 Indian Point LR Hearing – correction

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 59 – December 31, 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-59-001	ML13336A639	L. James, NRC/NRR	2013/12/02 Indian Point LR Hearing - NEW ASLBP ORDER - whether the NRC Staff met its NEPA and 10 C.F.R. § 51.91(a)(1) regarding IP's no action alternative	12/02/2013	E-Mail w/ Attachments	A. Stuyvenberg, NRC/NRR J. Rikhoff, NRC/NRR B. Wittick, NRC/NRR R. Chazell, NRC/NRR K. Green, NRC/NRR S. Turk, NRC/OGC A. Ghosh, NRC/OGC	Internal discussion regarding Board Order on New York Public Utilities Commission order  [Also withheld under the Attorney-Client privilege]  Attachments: [New York Public Utilities Commission Order, publicly available at ML13317A862; Board Order, publicly available at ML13331B477]	89

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 59 – December 31, 2013

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DP-59-002	ML13343A020	W. Holston, NRC/NRR	2013/12/09 Indian Point LR Hearing - FW: Indian Point Buried Pipe SER Input for Applicant letters and RAI Responses Through October 2013	12/09/2013	E-Mail w/ Attachment	Y. Diaz-Sanabria, NRC/NRR K. Green, NRC/NRR	Internal discussion regarding draft SER input for buried piping  Attachment: Draft SER input	10
DP-59-003	ML13350A599	K. Green, NRC/NRR	2013/12/16 Indian Point LR Hearing - FW: IPEC License Renewal - LRA Amendment 15	12/16/2013	E-Mail w/ Attachment	D. Morey, NRC/NRR M. Marshall, NRC/NRR	Internal discussion regarding draft SER input  Attachment: [NL-13-152, publicly available at ML13354B873]	20
DP-59-004	ML13351A525	M. Moser, NRC/NRR	2013/12/17 Indian Point LR Hearing - CZMA RAIs Previously Sent to Entergy	12/17/2013	E-Mail w/ Attachment	S. Turk, NRC/OGC L. James, NRC/NRR R. Chazell, NRC/NRR	Internal discussion regarding previous CZMA RAI  [Also withheld under the Attorney-Client privilege]  Attachment: [CZMA RAI, publicly available at ML12221A155]	8

Attachment 2 - Indian Point License Renewal Hearing File Index  
 Deliberative Process Privilege, Supplement 59 – December 31, 2013

ID #	Accession Number	Author Name & Author Affiliation	Title	Document Date	Document Type	Addressee Name & Addressee Affiliation	Comment	Estimated Page Count
DP-59-005	ML13352A398	T. Ghosh, NRC/RES	2013/12/18 Indian Point LR Hearing - Please review	12/18/2013	E-Mail w/ Attachment	A. Nosek, NRC/RES K. Compton, NRC/RES	Email forwarding draft affidavit regarding New York Motion on Contention NYS-12C  Attachment: Draft affidavit  [Also withheld under the Attorney Work Product doctrine]	4
DP-59-006	ML13357A729	K. Green, NRC/NRR	2013/12/19 Indian Point LR Hearing – Comments/Changes?	12/19/2013	E-Mail w/ Attachment	J. Poehler, NRC/NRR	Internal discussion regarding draft telecom summary  Attachment: Draft Telecon summary	8

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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, 50-286-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 59.

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 59.

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 31st day of December, 2013



December 31, 2013

UNITED STATES OF AMERICA  
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-LR, 50-286-LR  
 )  
 )  
(Indian Point Nuclear Generating )  
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 December 20, 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 31st day of December 2013

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
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ENERGY NUCLEAR OPERATIONS, INC. ) Docket Nos. 50-247-LR, 50-286-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 59; Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 59 – Deliberative Process Privilege; Declaration of John W. Lubinski, dated December 31, 2013; and Affidavit of Kimberly J. Green, dated December 31, 2013, in the above-captioned proceeding have been served upon the Electronic Information Exchange, the NRC’s E-Filing System, this 31st day of December, 2013.

**/Signed (electronically) by/**

Anita Ghosh  
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E-mail: [anita.ghosh@nrc.gov](mailto:anita.ghosh@nrc.gov)  
Date of signature: December 31, 2013