



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

December 30, 2016

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, and 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 95 is appended hereto as Attachment 1.

On or about January 6, 2017, the documents identified in the hearing file may be accessed through ADAMS or through the Electronic Hearing Docket ("EHD"), which may be accessed at <http://adams.nrc.gov/ehd/>. The hearing file will be contained in the "Staff Discovery Materials" tab of the EHD, in a sub-folder entitled, "Indian PT Hearing File, Update 95" in the "Indian_PT_2&3_50-247&50-286-LR" folder.

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, appended hereto as Attachment

Judge McDade
Judge Kennedy
Judge Wardwell

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2. Also attached is the Declaration of Jane E. Marshall formally invoking the deliberative process privilege with respect to the documents in Attachment 2. The Staff will 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 William Burton, 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 15, 2016.

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/
Vinh Hoang
Counsel for NRC Staff

Enclosures: Attachment 1 - Hearing File Index, Supplement 95
Attachment 2 - Deliberative Process Privilege Log
Declaration of Jane E. Marshall
Affidavit of William Burton

cc w/Encls.: Service List

Attachment 1 - Indian Point License Renewal Hearing File Index
 Supplement 95 – December 30, 2016

ID#	Accession Number	Document Date	Title
95-01	ML16334A360	11/25/2015	2015/11/25 Indian Point LR Hearing - [External_Sender] Response to Letter-Requests under the CZMA
95-02	ML16298A074	11/14/2016	NRC to Goodwin Procter, Reply to Letter Dated October 14, 2016, Concerning Endangered Species Act Section 7 Conference at Indian Point Nuclear Generating Unit Nos. 2 and 3 for Proposed Atlantic Sturgeon Critical Habitat.
95-03	ML16333A382	11/28/2016	2016/11/28 Indian Point LR Hearing – Teleconference for Indian Point ESA section 7 conference
95-04	ML16340A217	12/05/2016	2016/12/05 Indian Point LR Hearing - RE: IPEC Response to LRA RAI SET 2016-01
95-05	ML16341C789	12/06/2016	2016/12/06 Indian Point LR Hearing - FW: IPEC Response to LRA RAI SET 2016-01

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 95 – December 30, 2016

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 & Affiliation	Title	Document Date	Document Type	Addressee Name & Affiliation	Comment	Page Count
DPP-95-001	ML16327A446	G. Newman, NRC/RGN-I	2016/11/01 Indian Point LR Hearing - RE: Indian Point Unit 2 Boraflex One-Pager.docx	11/01/2016	E-Mail	B. Haagensen, NRC/RGN-I	Internal discussion of AMP regarding Boraflex [Attachment: Draft Indian Point Unit 2 Boraflex One-Pager]	4
DPP-95-002	ML16327A642	B. Haagensen, NRC/RGN-I	2016/11/16 Indian Point LR Hearing - Report of IPEC meeting with the State and Local Public Officials 11/16	11/16/2016	E-Mail	E. DiPaolo, J. Noggle, D. Tift (Other NRC staff members), NRC/RGN-I	Internal discussion regarding baffle-former bolts and other matters	7
DPP-95-003	ML16327A641	B. Haagensen, NRC/RGN-I	2016/11/17 Indian Point LR Hearing - Baffle Bolt Failure mechanisms	11/17/2016	E-Mail	D. Tift, NRC/RGN-I	Internal discussion regarding baffle-former bolts	3
DPP-95-004	ML16327A131	J. Gavula, NRC/HQ	2016/11/22 Indian Point LR Hearing - FW: EN - INDIAN POINT UNIT 2 - SERVICE WATER LEAK INSIDE CONTAINMENT	11/22/2016	E-Mail	W. Holston, NRC/HQ	Internal discussion regarding service water piping leaks	2
DPP-95-005	ML16334A004	W. Ford, NRC/HQ	2016/11/28 Indian Point LR Hearing - Indian Point Groundwater Updated	11/28/2016	E-Mail	M. Wentzel, NRC/HQ	Internal discussion regarding Indian Point FSEIS	2

Attachment 2 - Indian Point License Renewal Hearing File Index
 Deliberative Process Privilege, Supplement 95 – December 30, 2016

ID #	Accession Number	Author Name & Affiliation	Title	Document Date	Document Type	Addressee Name & Affiliation	Comment	Page Count
DPP-95-006	ML16340A084	M. Wentzel, NRC/HQ	2016/12/05 Indian Point LR Hearing - RE: Response to BC Comments on the Indian Point Radionuclides Released to Groundwater Sections	12/05/2016	E-Mail	K. Folk, J. Rikhoff, NRC/HQ	Internal discussion regarding Indian Point FSEIS	2
DPP-95-007	ML16340A083	M. Wentzel, NRC/HQ	2016/12/05 Indian Point LR Hearing - Response to BC Comments on the Indian Point Radionuclides Released to Groundwater Sections	12/05/2016	E-Mail	K. Folk, J. Rikhoff, NRC/HQ	Internal discussion regarding Indian Point FSEIS	2
DPP-95-008	ML16341D177	K. Folk, NRC/HQ	2016/12/06 Indian Point LR Hearing - RE: Response to BC Comments on the Indian Point Radionuclides Released to Groundwater Sections	12/06/2016	E-Mail	M. Wentzel, J. Rikhoff, NRC/HQ	Internal discussion regarding Indian Point FSEIS	3
DPP-95-009	ML16343A855	J. Gavula, NRC/HQ	2016/12/08 Indian Point LR Hearing - IP RAI Response Question	12/08/2016	E-Mail	W. Holston, NRC/HQ	Internal discussion regarding Indian Point Requests for Additional Information	3

December 30, 2016

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))

AFFIDAVIT OF WILLIAM BURTON CONCERNING
MANDATORY DISCLOSURE REQUIREMENT OF 10 C.F.R. § 2.336(b)

I, William Burton, do hereby state as follows:

1. I am employed as a Project Manager in the U.S. Nuclear Regulatory Commission's (NRC) Nuclear Reactor Regulation. I currently serve as a project manager for the Indian Point Nuclear Generating Units 2 and 3 license renewal application ("LRA"). Among my other duties as project manager, since November 2016, I have been 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 15, 2016.

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)

William Burton

Executed in Rockville, Maryland
this 30th day of December, 2016

December 30, 2016

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 JANE E. MARSHALL

I, Jane E. Marshall, do hereby state as follows:

1. I am employed as the Acting 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 95.

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 95.

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)

Jane E. Marshall

Executed in Rockville, Maryland
this 30th day of December, 2016

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
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(Indian Point Nuclear Generating)
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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 95; Attachment 2 – Indian Point License Renewal Hearing File Index Supplement 95 – Deliberative Process Privilege; Declaration of Jane E. Marshall, dated December 30, 2016; and Affidavit of William Burton, dated December 30, 2016, in the above-captioned proceeding have been served upon the Electronic Information Exchange, the NRC’s E-Filing System, this 30th day of December, 2016.

/Signed (electronically) by/

Vinh D. Hoang
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Date of signature: December 30, 2016