

May 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 15TH 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 15th monthly status report to the Board.

1. The issuance date of the Supplement (Volume 4) to the Final Supplemental Environmental Impact Statement ("FSEIS") related to license renewal of Indian Point Units 2 and 3 ("IP2" and "IP3") has been deferred by approximately ten days, so that the FSEIS Supplement is currently expected to be issued on or before May 10, 2013.¹ As stated previously, the FSEIS Supplement will include a discussion of the Staff's consultations with National Marine Fisheries Service ("NMFS") and Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant") under Section 7 of the Endangered Species Act ("ESA"), regarding endangered

¹ The Staff had previously expected to issue the FSEIS Supplement on or before April 30, 2013. See "NRC Staff's 14th Status Report in Response to the Atomic Safety and Licensing Board's Order of February 16, 2012" (Apr. 1, 2013) ("14th Status Report"), at 1.

species at Indian Point Units 2 and 3 ("IP2" and "IP3"), including NMFS's issuance of a Biological Opinion on January 30, 2013.²

2. As stated previously, inasmuch as the FSEIS Supplement will address aquatic impacts (including impacts to endangered species), the Staff will be unable to proceed to hearing on Contention RK-EC-8 (Endangered Species) until the FSEIS Supplement is issued. The FSEIS Supplement does not affect any admitted contention in this proceeding other than Contention RK-EC-8, which has not yet been scheduled for hearing.³

3. As also stated previously,⁴ the Staff is continuing its review of additional information it has received from the Applicant concerning its Reactor Vessel Internals ("RVI") Aging Management Program and Inspection Plan. The Staff continues to expect that Supplement 2 to the Safety Evaluation Report ("SER"), addressing RVI issues, will be issued on or about July 31, 2013.⁵ Because SER Supplement 2 will address the Applicant's aging management program for reactor vessel internals, the Staff believes 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

² 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 to NRC Staff's 12th Status Report).

³ See NRC Staff's 14th Status Report, at 2.

⁴ *Id.*

⁵ *Id.* at 2. As stated previously (*id.* at n.5), the Staff understands that the Electric Power Research Institute ("EPRI") is preparing certain technical and guidance documents pertaining to MRP-227-A, which are expected to be issued by May 31, 2013. Once EPRI has issued those documents, the Staff plans to issue a request for additional information ("RAI") to the Applicant regarding MRP-227-A. Assuming that EPRI issues its documents by May 31 and that Entergy submits complete responses to the Staff's RAIs by June 30, 2013, the Staff expects to issue SER Supplement 2 on or about July 31, 2013. The Staff will reevaluate its schedule for issuance of SER Supplement 2 as new information becomes available.

NYS-26B/RK-TC-1B and portions of NYS-38/RK-TC-5) should be deferred to coincide with hearings on Contention NYS-25 and related portions of Contention NYS-38/RK-TC-5.

4. As the Board is aware, the Commission has undertaken further consideration of its "Waste Confidence Decision," and has stated that it "will not issue licenses dependent upon the Waste Confidence Decision or the Temporary Storage Rule until the court's remand [in *State of New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012)] is appropriately addressed."⁶ Following issuance of the Court of Appeals' decision, the Intervenors in this proceeding filed new contentions related to waste storage and/or disposal, to which the Applicant and Staff responded on August 2 and 3, 2012. On August 8, 2012, the Board ordered that all other pleadings concerning these contentions be held in abeyance, pending further order.⁷

5. As the Board is also aware, in July 2012 the Applicant filed an amendment to its license renewal application ("LRA"),⁸ in which it revised its discussion of its Coastal Zone Management Act ("CZMA") consistency determination for IP2/IP3.⁹ In addition, the Applicant filed a motion seeking a Declaratory Order that it has already obtained the required New York

⁶ *Calvert Cliffs Nuclear Project, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-12-16, 76 NRC ___, ___ (Aug. 7, 2012) (slip op. at 4).

⁷ "Order (Holding Contentions NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4 in Abeyance)" (Aug. 8, 2012). The Commission has similarly held such contentions in abeyance in other proceedings. See *Calvert Cliffs, supra* (slip op. at 6).

⁸ 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).

⁹ 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).

State Coastal Management Program consistency review for license renewal of IP2/IP3;¹⁰ on April 5, 2013, New York filed a Cross-Motion for declaratory order on CZMA requirements.¹¹ Responses to Entergy's Motion and New York's Cross-Motion have been filed by the Staff and Riverkeeper, Inc.; the Applicant's response to New York's Cross-Motion is due to be filed on May 6, 2013.¹² In accordance with the Board's Order of August 31, 2012, contentions on Entergy's LRA amendment are due 30 days after the Board rules on Entergy's Motion.¹³

6. 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 May 2013

¹⁰ "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).

¹¹ "State of New York Response to Entergy's Request to the Atomic Safety and Licensing Board for a Declaratory Order Concerning Coastal Zone Management Act Issues and Cross-Motion for Declaratory Order" (Apr. 5, 2013) ("Cross-Motion").

¹² "Order (Granting Entergy's Motion for an Extension of Time)" (Apr. 19, 2013).

¹³ "Order (Granting State of New York Motion for Extension of Time to File New Contentions)" (Aug. 31, 2012).

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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 15TH STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated May 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 May, 2013.

/Signed (electronically) by/

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