

February 1, 2017

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 60th 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 60th monthly status report to the Board.

Settlement Agreement and Potential Withdrawal of Outstanding Contentions

On January 11, 2017, Counsel for Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant") submitted a letter to the Board, stating that Entergy had entered into a settlement agreement ("Settlement Agreement") with the Attorney General of the State of New York ("New York"), other New York governmental entities, and Riverkeeper, Inc., regarding the continued operation of Indian Point Units 2 and 3 ("IP2" and "IP3").¹ Entergy provided certain information concerning the Settlement Agreement, and requested, on behalf of itself, New York and Riverkeeper, that the Board schedule a conference call to discuss the agreement and the immediate deferral of near-term filing deadlines in this proceeding.

¹ Letter from Paul M. Bessette, Esq. to the Board (Jan. 11, 2017) ("Joint Request for Conference Call to Discuss the Parties' Recent Settlement Agreement and Need for Immediate Deferral of Near-Term Filing Deadlines").

On January 12, 2017, the Board issued an Order holding further filings in abeyance, requesting further information regarding the Settlement Agreement, the parties' anticipated filings, and the parties' availability for a telephone conference call.² On January 18, 2017, the Board held a telephone conference call with the parties.³ During the conference call, Entergy informed the Board, *inter alia*, that (a) by February 8, 2017, it will file an amendment to its license renewal application ("LRA") to shorten the requested license renewal term for IP2 and IP3 to April 30, 2024 and April 30, 2025, respectively, (b) by February 8, 2017, New York and Riverkeeper will file a motion for dismissal of the three pending contentions in this proceeding, and (c) Entergy, New York and Riverkeeper will move to dismiss other litigation regarding IP2/IP3 license renewal, including the Coastal Zone Management Act ("CZMA") and all water-related permits and approvals.⁴ Upon concluding the conference call, the Board suspended the parties' obligations to continue their mandatory disclosure and hearing file submissions pending further order by the Board, and directed the parties to address certain matters in their filings concerning the withdrawal of contentions.⁵

Current Litigation and Staff Reviews

Safety Issues

1. Track 2 Safety Issues. Hearings on the three "Track 2" safety contentions related to the License Renewal Application ("LRA") for Indian Point Units 2 and 3 ("IP2" and "IP3") were held on November 16-19, 2015. On February 5, 2016, the State of New York ("New

² *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Order (Holding Further Filings in Abeyance and Requesting Availability for Telephone Status Conference)" (Jan. 12, 2017).

³ See *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Official Transcript of Proceedings" (Jan. 18, 2017), Tr. 5,895-5,938.

⁴ See Tr. at 5,902, 5,904, 5,907, and 5,919.

⁵ Tr. at 5,932-35, 5,936.

York”) filed a motion seeking the late admission of six documents as exhibits related to the Track 2 contentions.⁶ On February 19, 2016, the Board granted New York’s Motion, conditioned upon its filing of expert testimony demonstrating the relevance, materiality and reliability of the proposed exhibits;⁷ the Board further indicated that the evidentiary record will be closed within 10 days after the filing of all supplemental testimony, unless it requires additional testimony on the proposed exhibits.⁸ New York filed its supplemental testimony on March 4, 2016; Entergy and the Staff filed responsive testimony on March 18, 2016. Under the existing schedule, (a) New York was to file its reply testimony regarding the six documents and Intervenor were to file their supplemental testimony on baffle-former bolt issues by January 17, 2017; (b) Entergy and the Staff were to file their supplemental testimony by March 20, 2017; (c) the Intervenor were to file their reply testimony by May 1, 2017; (d) all parties were to file proposed findings of fact and conclusions of law by June 16, 2017; and (e) all parties were to file reply findings of fact and conclusions law by July 31, 2017.⁹

2. Other Safety Issues. As stated previously, the Staff has been reviewing issues associated with two Interim Staff Guidance (“ISG”) documents (LR-ISG-2012-02 and

⁶ “State of New York Motion for Leave to File Six Documents as Additional Exhibits” (Feb. 5, 2016).

⁷ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), “Order (Requesting Expert Testimony on New York’s Proposed Exhibits and Suspending Deadline for Filing Proposed Findings of Fact and Law)” (Feb. 19, 2016), at 2.

⁸ *Id.* at 3.

⁹ See *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), “Order (Granting Unopposed Motion for Extension of Time)” (Nov. 2, 2016), at 3-4; “Order (Granting Joint Motion for Reconsideration)” (Aug. 3, 2016), at 4; “Order (Scheduling of Further Filings on Track 2 Contentions)” (July 13, 2016), at 4.

LR-ISG-2013-01).¹⁰ In addition, two other ISGs have been issued: (a) LR ISG-2015-01,¹¹ and (b) LR ISG-2016-01.¹² The Staff expects to address these matters in an SER Supplement for IP2/IP3. The Staff will provide further information regarding these issues when available.

Environmental Issues

3. FSEIS Supplement. There has been no change in this item since the Staff filed its previous status report. On December 22, 2015, the Staff issued its draft second supplement (Volume 5) to the Final Supplemental Environmental Impact Statement ("FSEIS") for license renewal of IP2 and IP3.¹³ Numerous public comments were submitted regarding the draft FSEIS supplement, which the Staff is continuing to review at this time. Accordingly, the Staff has determined that the issuance of Final Supplement 2 (Volume 5) to the FSEIS will be delayed. The Staff will provide further information to the Board regarding the expected issuance date, when available.¹⁴

¹⁰ See (1) Notice of Issuance, Interim Staff Guidance; LR-ISG-2012-02; "Aging Management of Internal Surfaces, Fire Water Systems, Atmospheric Storage Tanks, and Corrosion under Insulation," 78 Fed. Reg. 70,076 (Nov. 22, 2013); (2) Notice of Issuance, Interim Staff Guidance; LR-ISG-2013-01; "Aging Management of Loss of Coating or Lining Integrity for Internal Coatings/ Linings on In-Scope Piping, Piping Components, Heat Exchangers, and Tanks," 79 Fed. Reg. 68,308 (Nov. 14, 2014).

¹¹ See Notice of Issuance, Interim Staff Guidance; LR-ISG-2015-01, "Changes to Buried and Underground Piping and Tank Recommendations," 81 Fed. Reg. 23 (Feb. 4, 2016). This LR-ISG will replace aging management program (AMP) XI.M41, "Buried and Underground Piping and Tanks," and the associated Updated Final Safety Analysis Report (UFSAR) Summary Description in LR-ISG-2011-03, "Changes to the Generic Aging Lessons Learned (GALL) Report Revision 2 Aging Management Program (AMP) XI.M41, 'Buried and Underground Piping and Tanks.'"

¹² See Notice of Issuance, Interim Staff Guidance; LR-ISG-2016-01, "Changes to Aging Management Guidance for Various Steam Generator Components," 81 Fed. Reg. 88,276 (Dec. 7, 2016). This LR-ISG describes changes to aging management program (AMP) XI.M19, "Steam Generators," and aging management review (AMR) items for steam generator components in the GALL Report, Rev. 2, and NUREG-1800, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants" (SRP-LR), Rev. 2.

¹³ "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Draft Report for Comment," NUREG-1437, Supplement 38, Vol. 5 (Dec. 2015) ("Draft FSEIS Supplement 2"). See Letter from Sherwin E. Turk to the Board (Dec. 22, 2015), at 1.

¹⁴ The Staff previously stated that it expected to issue Final FSEIS Supplement 2 in January 2017. See NRC Staff's 57th Status Report (Nov. 1, 2016) at 3.

4. Contention NYS-12C (SAMAs). As stated previously, on February 14, 2014, New York filed a petition for review of the Board's Partial Initial Decision (LBP-13-13) concerning Contention NYS-12C,¹⁵ and on April 28, 2014, New York filed a petition for review of the Board's Order denying its motion to reopen and reconsider that portion of the decision.¹⁶ On May 4, 2016, the Commission issued CLI-16-07, in which it reversed the Board's decision on Contention NYS-12, directed the Staff to perform additional sensitivity analyses due to uncertainties in the CDNFRM and TIMDEC input values and denied New York's other petition for review.¹⁷ On September 12, 2016, the Staff issued requests for additional information ("RAIs") to Entergy regarding the required sensitivity analyses; the date for Entergy's answers has been extended to February 9, 2017.¹⁸ The Staff may present its evaluation of the sensitivity analyses in a further FSEIS supplement, if warranted. The Staff will provide additional information to the Board regarding this matter when available.

5. Coastal Zone Management Act ("CZMA") Issues. To the best of the Staff's knowledge, information and belief, the current status of CZMA-related issues is as follows.

(a) *Previous State Reviews*. On June 12, 2013, the Board denied the Applicant's and New York's motions seeking the entry of a declaratory order regarding Entergy's claim that New York had previously conducted a review of IP2/IP3 for consistency with the New York State Coastal Management Program ("CMP"), and that no further review is required under the

¹⁵ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-13-13, 78 NRC 246 (Nov. 27, 2013).

¹⁶ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Order (Denying New York's Motion to Reopen the Record; Setting Deadline for New or Amended Contention)" (Apr. 1, 2014).

¹⁷ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-16-7, 83 NRC 293 (2016).

¹⁸ See Letter from Michael Wentzel (NRC) to Vice President, Operations (Entergy) (Sept. 12, 2016) (ADAMS Accession No. ML16232A119); Telephone Conference Summary (Jan. 5, 2017) (ADAMS Accession No. ML17032A213).

CZMA.¹⁹ The Board left open the possibility that the motions might be re-filed following consultations between the Staff and New York pursuant to 15 C.F.R. § 930.51(e). The Staff engaged in consultations with the New York State Department of State (“NYSDOS”) and the Applicant through December 2014. Entergy indicated that it may seek a declaratory order that no consistency review of IP2/IP3 is required, based on New York’s previous consistency reviews.²⁰ On January 24, 2017, Entergy provided new information regarding this matter, stating, in part, that “there is no need at this time for Entergy to pursue arguments regarding previous review or for the Staff, State, and NRC to engage in further consultations on previous review.”²¹ See discussion in item 5(c), *infra*.

(b) *2012 Consistency Certification*. On December 17, 2012, Entergy filed a certification with NYSDOS, asserting that license renewal of IP2/IP3 is consistent with the New York CMP; on November 5, 2014, Entergy submitted a letter to NYSDOS, stating that it was withdrawing its consistency determination, subject to resubmittal following issuance of the Staff’s Final FSEIS Supplement.²² On November 21, 2014, NYSDOS stated that Entergy’s withdrawal of its consistency certification was not effective.²³ On November 6, 2015, NYSDOS issued its consistency determination, finding that license renewal of Indian Point Units 2 and 3

¹⁹ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), “Order (Granting New York’s Motions, Denying Clearwater’s Motion, and Denying CZMA Motions)” (June 12, 2013).

²⁰ Letter from Kathryn M. Sutton, Esq. and Paul M. Bessette, Esq., to the Board (Dec. 1, 2016), at 2.

²¹ Letter from Anthony J. Vitale (Entergy) to NRC Document Control Desk, NL-17-015 (Jan. 24, 2017) (Attachment “A” hereto).

²² See Letter from John Sipos to the Board (Nov. 6, 2014), attaching letter from Fred Dacimo (Entergy) to NRC Document Control Desk and Linda M. Baldwin, Esq. (NYSDOS), NL 14 140 (“Withdrawal of December 17, 2012 Coastal Zone Management Act Consistency Certification”) (Nov. 5, 2014) (ADAMS Accession No. ML14310A346).

²³ Letter from Linda M. Baldwin, Esq., General Counsel (NYSDOS), to Fred Dacimo (Entergy) (Nov. 21, 2014) (ADAMS Accession No. ML14328A474).

is not consistent with the New York CMP;²⁴ that determination may be appealed to the U.S. Secretary of Commerce, pursuant to 16 U.S.C. §1456(c)(1)(C)(3).²⁵ Entergy has indicated that it may appeal from NYSDOS's consistency determination,²⁶ and it challenged NYSDOS's consistency determination as barred by the federal preemption doctrine in a suit filed in federal court.²⁷ More recently, these events have been superseded, as discussed in item 5(c), *infra*.

(c) *New Information.* On December 8, 2016, the Board directed Entergy and other parties to provide updated information concerning these and other matters.²⁸ On December 21, 2016, Entergy provided its response to the Board's Order.²⁹ On January 24, 2017, Entergy provided new information concerning the above matters, stating, in part, as follows:

²⁴ Letter from Cesar A. Perales (Secretary of State, NYSDOS), to Fred Dacimo (Entergy) (Nov. 6, 2015).

²⁵ See 16 U.S.C. §1456(c)(1)(C)(3).

²⁶ Letter from Kathryn M. Sutton, Esq. and Paul M. Bessette, Esq., to the Board (Dec. 1, 2016), at 2. As indicated in Attachment 2 to that letter, on November 25, 2015, the U.S. Department of Commerce, National Oceanic and Atmospheric Administration ("NOAA") extended the time for Entergy to appeal from NYSDOS's consistency determination until 60 days after issuance of the New York Court of Appeals' final order on New York's appeal from the Appellate Division's grandfathering decision. Letter from Lois Schiffer (General Counsel, NOAA) to Sanford I. Weisburst, Esq. and Linda Baldwin, Esq. (Nov. 25, 2015). The Court of Appeals' issuance of its decision on November 21, 2016. *Entergy Nuclear Operation, Inc. v. New York State Department of State*, No. 179, 2016 N.Y. LEXIS 3536; 2016 NY Slip Op 07821 (Nov. 21, 2016). On December 21, 2016, Entergy and New York filed a joint status report with NOAA, requesting that NOAA (1) refrain for 60 days (*i.e.*, until February 17, 2017) from ruling on Entergy's pending request that New York's November 6, 2015 objection be deemed invalid; (2) require the parties to file a further status report within 45 days (*i.e.*, by February 2, 2017); and (3) extend the date for Entergy to file its appeal and a consolidated record by 90 days (*i.e.*, until March 19, 2017). Letter from Linda Baldwin, Esq. and Sanford I. Weisburst, Esq. to Lois Schiffer (Dec. 21, 2016).

²⁷ *Id.*; *Entergy Nuclear Indian Point 2, LLC, et al. v. Perales*, Case 1:16 cv 00051-LEK DJS (N.D.N.Y., complaint filed Jan. 14, 2016).

²⁸ The Board directed Entergy to provide information by December 21, 2016, regarding (a) whether the Commission could issue renewed licenses for IP2 and IP3 without a favorable ruling on CZMA issues from the Secretary of Commerce, and other CZMA-related questions, and (b) the status of other permits, approvals or licenses that could potentially affect license renewal for IP2/IP3; the Board further directed the Staff and Intervenors to provide any objections or additions to Entergy's report by January 6 and January 19, 2017, respectively. See "Order (Requesting Updated Information on Pending Litigation and Other Matters)" (Dec. 8, 2016), at 2-3.

²⁹ "Entergy Nuclear Operations, Inc.'s Response to the Licensing Board's Order Requesting Updated Information on Pending Litigation and Other Matters" (Dec. 21, 2016).

Pursuant to an agreement between Entergy and NYSDOS, among other parties, dated January 9, 2017, regarding the planned cessation of operation of IP2 and IP3, NYSDOS withdrew its challenge to Entergy's November 5, 2014 withdrawal of its consistency certification, and will proceed as if the withdrawal became effective on November 5, 2014, thereby (1) rendering NYSDOS's November 6, 2015 objection moot and of no effect and (2) requiring Entergy to submit a new certification. In accordance with that agreement, Entergy will submit a new consistency certification for NYSDOS review by January 31, 2017. NYSDOS will issue its decision on the new consistency certification within 30 days after submission.

As a result of the above actions, there is no need at this time for Entergy to pursue arguments regarding previous review or for the Staff, State, and NRC to engage in further consultations on previous review. Entergy, on January 18, 2017, also informed NOAA that it no longer plans to pursue an appeal of NYSDOS's objection.³⁰

On January 31, 2017, Entergy submitted a new consistency certification for NYSDOS review.³¹ In accordance with the terms of the Settlement Agreement, NYSDOS is expected to concur with this consistency certification on or before March 2, 2017.

³⁰ Letter from Anthony J. Vitale (Entergy) to NRC Document Control Desk, NL-17-015 (Jan.24, 2017) (Attachment "A" hereto).

³¹ Letter from Fred Dacimo (Entergy) to Office of Planning and Development, Consistency Review Unit (NYSDOS), NL-17-018 (Jan.31, 2017) (Entergy's letter and its enclosed "Certification" are attached hereto as Attachment "B"; other documents submitted as enclosures with Entergy's letter are omitted in Attachment B).

6. Other Matters. Apart from the matters described herein, 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/

Sherwin E. Turk
Special Counsel for Litigation
Counsel for NRC Staff
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop – O-15D21
Washington, DC 20555
Telephone: (301) 287-9194
E-mail: Sherwin.Turk@nrc.gov

Dated at Rockville, Maryland
this 1st day of February 2017

ATTACHMENT "A"



Entergy Nuclear Northeast

Indian Point Energy Center
450 Broadway, GSB
P.O. Box 249
Buchanan, NY 10511-0249
Tel 914 254 6700

Anthony J Vitale
Site Vice President

NL-17-015

ATTACHMENT "A"

January 24, 2017

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Notice of Withdrawal of Previous Review Claim Pursuant to the New York Coastal Management Program and Coastal Zone Management Act
Indian Point Nuclear Generating Unit Nos. 2 & 3
Docket Nos. 50-247 and 50-286
License Nos. DPR-26 and DPR-64

- REFERENCES:
1. Entergy Letter from Fred Dacimo to NRC Document Control Desk, "License Renewal Application" (Apr. 23, 2007) (NL-07-039) (ML071210507)
 2. Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 (NUREG-1437, Supplement 38, Vol. 1) (Dec. 2010) (ML103350405)
 3. Entergy Letter from Fred Dacimo to NRC Document Control Desk, "Supplement to License Renewal Application — Compliance with Coastal Zone Management Act" (July 24, 2012) (NL-12-107) (ML12207A122)
 4. Motion and Memorandum by Applicant Entergy Nuclear Operations, Inc. for Declaratory Order That It Has Already Obtained the Required New York State Coastal Management Program Consistency Review of Indian Point Units 2 and 3 for Renewal of the Operating Licenses (July 30, 2012) (ML12212A383)
 5. Entergy Letter from Fred Dacimo to NRC Document Control Desk, "Transmittal of Consistency Certification Pursuant to the Coastal Zone Management Act" (Dec. 17, 2012) (NL-12-181) (ML13015A037)
 6. State of New York Attorney General Letter from J. Sipos to the ASLB, Attach. 1 (Nov. 6, 2014) (ML14310A346)
 7. New York State Department of State Letter to Fred Dacimo, "Coastal Zone Management Act Consistency Determination" (Nov. 6, 2015) (ML15314A013)

8. Letter from Sanford I. Weisburst to David Kaiser, NOAA, "Purported Objection of New York State Department of State Dated November 6, 2015" (Nov. 10, 2015)
9. Letter from Lois Schiffer, General Counsel, U.S. Dep't of Commerce, to Sanford I. Weisburst, Esq. and Linda Baldwin, Esq., "Response to Letter-Requests under the Coastal Zone Management Act in the Matter of Entergy Nuclear Operation, Inc." (Nov. 25, 2015) (ML16334A360)

Dear Sir or Madam:

Entergy Nuclear Operations, Inc.'s (Entergy) license renewal application (LRA) (Reference 1), as originally filed, and the Final Supplemental Environmental Impact Statement (FSEIS) (Reference 2) issued by the Nuclear Regulatory Commission (NRC) related to the LRA, anticipated that license renewal of Indian Point Unit 2 (IP2) and Unit 3 (IP3) would require a consistency determination by the State of New York (State) pursuant to the Coastal Zone Management Act (CZMA). Entergy subsequently re-evaluated how the CZMA applied to the pending LRA and, as a result, on July 24, 2012, supplemented the Environmental Report (ER) appended to the LRA to state that the LRA is not subject to further consistency review by the State because renewal would not result in coastal effects that are substantially different than effects previously reviewed by the State. (Reference 3)

Shortly thereafter, on July 30, 2012, Entergy filed a motion with the Atomic Safety and Licensing Board (Board) seeking a declaratory order (Motion) that it had already obtained the required consistency review of IP2 and IP3 for renewal of the operating licenses. (Reference 4) Meanwhile, Entergy concluded that it was prudent, in the alternative, to file a consistency certification pursuant to the CZMA, and did so on December 17, 2012. (Reference 5) On June 12, 2013, the Board denied Entergy's Motion, but held that the Motion might be re-filed after consultations between the NRC Staff and the State, pursuant to 15 C.F.R. § 930.51(e). *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), Board Order (Granting New York's Motions, Denying Clearwater's Motion, and Denying CZMA Motions) (unpublished) (June 12, 2013) (ML13163A233). The Staff has since engaged in consultations with the New York State Department of State (NYSDOS) and Entergy, and the matter is still under Staff consideration.

On November 5, 2014, Entergy notified NYSDOS and the NRC that Entergy was voluntarily withdrawing its consistency certification, with the intention to re-file it once NRC had issued FSEIS Supplement 2 that is to include updated aquatic impacts data. (Reference 6) NYSDOS subsequently disputed that Entergy had the ability to withdraw the certification, taking the position that the original certification remained pending.

Entergy's July 24, 2012 ER supplement also stated that the New York Coastal Management Plan exempts both IP2 and IP3 from further review, and therefore also exempts them from the CZMA, by virtue of grandfathering provisions of the NYCMP. On December 11, 2014, the State of New York Supreme Court, Appellate Division, Third Department, issued a decision agreeing with Entergy's position, holding that "Indian Point Nuclear Generating Unit No. 2 and Indian Point Nuclear Generating Unit No. 3 are exempt from New York's Coastal Management Program." *Entergy Nuclear Operation, Inc. v. N.Y. State Dep't of State*, 125 A.D.3d 21, 26 (N.Y.

App. Div. 2014). NYSDOS subsequently appealed that decision to the New York Court of Appeals (New York's highest court). The New York Court of Appeals issued its decision on the grandfathering issue on November 21, 2016. *Entergy Nuclear Operation, Inc. v. N.Y. State Dep't of State*, No. 179, slip op. (N.Y. Nov. 21, 2016).

In parallel, on November 6, 2015, NYSDOS objected to Entergy's December 17, 2012 consistency certification. (Reference 7) In response, on November 10, 2015, Entergy sought a determination from the National Oceanic and Atmospheric Administration (NOAA) that NYSDOS's objection was invalid and, in the alternative, sought an extension of time to file a notice of appeal. (Reference 8) On November 25, 2015, NOAA issued Entergy an extension of time to file its Notice of Appeal to NYSDOS's objection until 60 days after a decision by the New York Court of Appeals. (Reference 9)

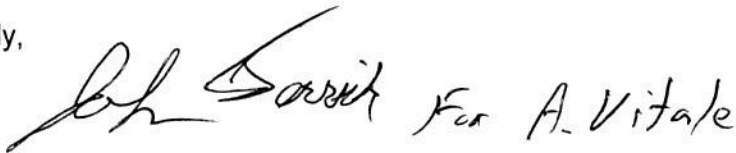
Pursuant to an agreement between Entergy and NYSDOS, among other parties, dated January 9, 2017, regarding the planned cessation of operation of IP2 and IP3, NYSDOS withdrew its challenge to Entergy's November 5, 2014 withdrawal of its consistency certification, and will proceed as if the withdrawal became effective on November 5, 2014, thereby (1) rendering NYSDOS's November 6, 2015 objection moot and of no effect and (2) requiring Entergy to submit a new certification. In accordance with that agreement, Entergy will submit a new consistency certification for NYSDOS review by January 31, 2017. NYSDOS will issue its decision on the new consistency certification within 30 days after submission.

As a result of the above actions, there is no need at this time for Entergy to pursue arguments regarding previous review or for the Staff, State, and NRC to engage in further consultations on previous review. Entergy, on January 18, 2017, also notified NOAA that it no longer plans to pursue an appeal of NYSDOS's objection.

There are no new commitments being made in this submittal.

Should you have any questions concerning this report, please contact Mr. Robert W. Walpole, Licensing Manager, at (914) 254-6710.

Sincerely,

Handwritten signature of Robert W. Walpole, with the text "For A. Vitale" written below it.

AJV/rl

cc: Mr. Daniel H. Dorman, Regional Administrator, Region I, NRC
Ms. Jane Marshall, Acting Branch Chief, NRR/DLR, NRC
Mr. William Burton, Senior Project Manager, NRR/DLR, NRC
Mr. Douglas Pickett, Senior Project Manager, NRR/DORL, NRC
Mr. Sherwin E. Turk, Special Counsel, OGC, NRC
Ms. Bridget Frymire, New York State Department of Public Service
Mr. John B. Rhodes, President and CEO NYSERDA
Ms. Rossana Rosado, Secretary of State, NYSDOS
NRC Resident Inspector's Office

ATTACHMENT "B"



Entergy Nuclear Northeast
Indian Point Energy Center
450 Broadway, GSB
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Buchanan, NY 10511-0249
Tel (914) 254-2055

Fred Dacimo
Vice President
Operations License Renewal

NL-17-018

January 31, 2017

ATTACHMENT "B"

BY HAND DELIVERY

New York State Department of State
Office of Planning and Development
Attn: Consistency Review Unit
1 Commerce Plaza
99 Washington Avenue-Suite 1010
Albany, New York 12231

Re: Consistency Certification for Entergy Nuclear Indian Point 2 and Entergy Nuclear Indian Point 3 License Renewal Application

Dear Secretary Rosado:

Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. (collectively, "Entergy") have submitted a license renewal application ("LRA") to the U.S. Nuclear Regulatory Commission ("NRC") requesting renewal of the Operating Licenses for Indian Point Nuclear Generating Units 2 and 3 ("IP2" and "IP3," collectively, "IPEC"). On December 17, 2012, Entergy filed with the New York State Department of State ("NYSDOS"), pursuant to the Coastal Zone Management Act ("CZMA"), a certification stating that renewal of the IPEC operating licenses was consistent with the New York State Coastal Management Program ("NYSCMP"). On November 5, 2014, Entergy withdrew that consistency certification. NYSDOS objected to Entergy's certification on November 6, 2015, and challenged Entergy's withdrawal.

Pursuant to an agreement between Entergy and NYSDOS, among other parties, dated January 9, 2017, NYSDOS withdrew its challenge to Entergy's November 5, 2014 withdrawal of its consistency certification, and agreed to proceed as if the withdrawal became effective on November 5, 2014, thereby (1) rendering NYSDOS's November 6, 2015 objection moot and of no effect and (2) requiring Entergy to submit a new certification. Pursuant to that same agreement, Entergy hereby submits the attached consistency certification for renewal of the IP2 and IP3 operating licenses.

This submission certifies that the proposed activity (renewal of the IPEC operating licenses) is consistent with all applicable and enforceable policies of the NYSCMP¹ pursuant to the CZMA, 16 U.S.C. § 1451 *et seq.* Accordingly, Entergy requests your concurrence with the enclosed Consistency Certification.

¹ New York State, Department of State, "New York State Coastal Management Program and Final Environmental Impact Statement," (incorporating approved changes from 1982 to 2006), available at http://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf.

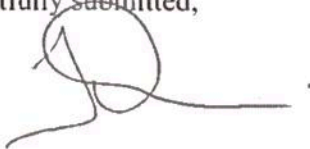
As specified in the NYSCMP and the regulations of the Department of Commerce, National Oceanic and Atmospheric Administration at 10 C.F.R. Part 930, Subpart D, the following documents are attached for your review:

- Entergy's Consistency Certification;
- Entergy's written analysis of the IPEC license renewal consistency with the policies of the NYSCMP;
- Entergy's Federal Consistency Assessment Form and signed consistency certification;
- IPEC site diagram and maps (6-mile and 50-mile radius) showing the geographic location of IPEC;
- Tables showing the environmental permits applicable to current IPEC operations, and the consultations related to IPEC license renewal; and
- List of owners of property abutting IPEC.

Additionally, the following necessary data and information are enclosed via electronic media:

- Entergy's LRA submitted to the NRC requesting renewal of the IPEC operating licenses,² and the eighteen amendments to the LRA since its original submission in 2007;³
- the Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 (Volumes 1-4, plus Draft Volume 5); and
- the New York State Department of Environmental Conservation's ("NYSDEC") final State Pollutant Discharge Elimination System ("SPDES") Permit and accompanying Fact Sheet, and final Water Quality Certification ("WQC"), authorizing continued operation of the Indian Point nuclear facility (Units 2 and 3), with the proposed Supplemental Final Environmental Impact Statement ("FSEIS") and State Environmental Quality Review Act ("SEQRA") documents, including the NYSDEC State Coastal Assessment Form.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'E' followed by a horizontal line.

² The IPEC Environmental Report, submitted as Appendix E to the LRA, includes a description of the proposed activity, its associated facilities, and an analysis of coastal effects, alternatives, and mitigating actions, as well as a statement of the purpose and need for the activity.

³ Additional correspondence between Entergy and the NRC regarding the IPEC license renewal proceeding can be accessed via the NRC's official recordkeeping system, known as ADAMS-- <http://adams.nrc.gov/wba> (under the "Content Search" tab, add the document property "Docket Number" and value "05000247" (for IP2) or "05000286" (for IP3)).

Enclosures as stated

cc: Mr. Daniel Dorman, Regional Administrator, Region I, NRC
Ms. Jeffrey J. Rikhoff, Acting Branch Chief, RERP/DLR/NRR, NRC
Mr. William Burton, Sr. Project Manager, RSRG/DLR/NRR, NRC
Mr. Douglas Pickett, Sr. Project Manager, LPL1-1/DORL/NRR, NRC
Mr. Sherwin E. Turk, Special Counsel, Office of the General Counsel, NRC
NRC Resident Inspector's Office, Indian Point
Ms. Bridget Frymire, New York State Department of Public Service
Mr. John B. Rhodes, President and CEO, NYSERDA
Ms. Rossana Rosado, Secretary of State, NYSDOS

ENTERGY CERTIFICATION THAT IPEC LICENSE RENEWAL IS CONSISTENT WITH THE NEW YORK STATE COASTAL MANAGEMENT PROGRAM

Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Indian Point 3, LLC; and Entergy Nuclear Operations, Inc. (collectively, "Entergy") hereby provide to the U.S. Nuclear Regulatory Commission ("NRC") the below certification, pursuant to the requirements of the Coastal Zone Management Act of 1972 as amended ("CZMA") (16 U.S.C. §§ 1451-1465) and regulations of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration ("NOAA") (15 C.F.R. Part 930, Subpart D), in support of Entergy's license renewal application ("LRA") for Indian Point Nuclear Generating Units 1 & 2 ("IP2" and "IP3," collectively, "IPEC").

CONSISTENCY CERTIFICATION

Entergy certifies to the NRC and the New York Department of State ("NYSDOS") that the proposed renewal of the IP2 and IP3 Operating Licenses complies with the enforceable policies of the New York State Coastal Management Program ("NYSCMP") and that continued operation of IPEC will be conducted in a manner consistent with the NYSCMP. Entergy expects IP2 and IP3 operations during the period of extended operation ("PEO") to be a continuation of current operations as described below, with no physical or operational station alterations that would affect New York State's coastal zone.

NECESSARY DATA AND INFORMATION

Federal Statutory and Regulatory Background

The CZMA imposes requirements on an applicant for a Federal license to conduct a review of an activity that could affect a state's coastal zone. The Act requires an applicant to certify to the Federal licensing agency that the proposed action would be consistent with the state's federally approved coastal zone management program. The Act also requires the applicant to provide to the state a copy of the certification statement and requires the state, at the earliest practicable time, to notify the Federal agency and the applicant whether the state concurs with, or objects to, the consistency certification. *See* 16 U.S.C. § 1456(c)(3)(A).

NOAA promulgated implementing regulations making the certification requirement applicable to renewal of Federal licenses for activities not previously reviewed by the state. *See* 15 C.F.R. § 930.51(b)(1). NOAA approved the NYSCMP in 1982.

New York State Coastal Management Program

The NYSCMP is administered by the Office of Planning and Development in the NYSDOS. For Federal agency activities, NYSDOS reviews projects to ensure adherence to the State program or an approved Local Waterfront Revitalization Program. Applicants for Federal agency approvals or authorizations are required to submit copies of Federal applications to NYSDOS, together with a Federal Consistency Assessment Form and the consistency certification. The Department reviews the consistency certification and proposal for consistency with the NYSCMP as

documented in 44 specific policies established in the Department's 1982 Final Environmental Impact Statement. The policies articulate the State's vision for its coast by addressing the following areas:

- Development
- Fish and Wildlife
- Flooding and Erosion Hazards
- General
- Public Access
- Recreation
- Historic and Scenic Resources
- Agricultural Lands
- Energy and Ice Management
- Water and Air Resources

Appendix A to this Determination identifies the 44 NYSCMP policies and Entergy's justification for certifying compliance.

Proposed Action

Entergy operates IPEC pursuant to NRC Operating Licenses DPR-26 (Unit 2) and DPR-64 (Unit 3). Entergy submitted a license renewal application ("LRA") to the NRC requesting renewal of these operating licenses for an additional 20 years beyond the current expiration dates (the period of extended operation, or "PEO"). The Unit 2 and Unit 3 licenses were set to expire September 28, 2013, and December 12, 2015, respectively, but continue in force under the NRC's "timely renewal" provision (10 C.F.R. § 2.109(b)) until the NRC makes a final determination on the LRA. Entergy expects IPEC operations during the PEO to be a continuation of current operations as described below, with no physical or operational changes that would affect the New York State coastal zone. License renewal would give Entergy the option of relying on IPEC to meet a portion of New York State's future needs for electric generation.

Table 1 lists consultations related to IPEC license renewal, Table 2 lists environmental permits applicable to current IPEC operations, and Table 3 lists owners of properties abutting IPEC.

On January 13, 2017, the New York State Department of Environmental Conservation ("NYSDEC") submitted to the Administrative Law Judges ("ALJs") the final State Pollutant Discharge Elimination System ("SPDES") Permit⁴ and a final Water Quality Certification ("WQC") for the continued operation of IPEC, pursuant to a stipulation that includes Entergy's commitment that IP2 shall permanently cease operations no later than April 30, 2020, and IP3 shall permanently cease operations no later than April 30, 2021; provided, however, the operation of either IP2, IP3, or both units, may be extended upon the mutual agreement of NYS and Entergy, which shall take account of, and be made in accordance with, applicable law and regulatory requirements. On January 27, 2017, the ALJs and NYSEC Commissioner issued their respective Order and Decision concluding the proceeding and directing NYSDEC Staff to

⁴ The cover page of the final SPDES Permit was subsequently replaced by NYSDEC to correct a stenographic error. The corrected page is included in the enclosed final SPDES Permit.

complete the requisite public notice of the final SPDES Permit and WQC, as well as the associated State Environmental Quality Review Act process. Copies of the final SPDES Permit and WQC are included with this Certification. Entergy intends to comply fully with the commitments, conditions and requirements of the SPDES Permit and WQC for continued operations through retirement.

IPEC Description

IPEC is located on approximately 239 acres of land on the east bank of the Hudson River at Indian Point, Village of Buchanan in upper Westchester County, New York. The site is about 24 miles north of the New York City boundary line. The nearest city is Peekskill, 2.5 miles northeast of Indian Point. *See Figs. 2 & 3.*

The layout of IPEC is shown in Figure 1. The plant consists of two pressurized water reactors with steam generators that produce steam which then turns turbines to generate electricity. Unit 2 is capable of an output of 3,216 megawatts (thermal) [MW(t)], with a corresponding net electrical output of approximately 1,078 megawatts (electric) [MW(e)]. Unit 3 is capable of an output of 3,216 MW(t), with a corresponding net electrical output of approximately 1,080 MW(e).

The circulating water systems for IP2 and IP3 include shoreline-situated intake structures along the Hudson River consisting of seven bays (six for circulating water and one for service water) for each unit. The circulating water intake bays have state-of-the-art, optimized, vertical Ristroph-type traveling water screens, developed and tested in concert with fisheries experts, including from the Hudson River Fisherman's Association, to minimize (impingement) impacts to fish. These screens have become the model for the United States Environmental Protection Agency's national rule on circulating water systems, and continued operation of these systems during the license renewal period was authorized in 2013 by the National Marine Fisheries Services as protective of federally listed sturgeon. Then, the water from each individual screenwell flows to a motor-driven, vertical, mixed flow condenser circulating water pump. After moving through the condensers, cooling water from IP2 and IP3 flows downward from the discharge water boxes via six 96-inch diameter down pipes and exits beneath the water surface in a 40-foot wide discharge canal. The cooling water from the canal is released into the Hudson River through an outfall structure located south of IP3, which was designed to and has been demonstrated to the satisfaction of NYSDEC to enhance mixing of cooling water and River water to minimize potential thermal impacts to the River in compliance with all applicable New York water quality standards.

Sanitary wastewater is transferred to the Village of Buchanan publicly owned treatment works system where it is managed appropriately, except for a few isolated areas which have their own septic tanks which are pumped out by a septic company, as needed, and taken to an offsite facility for appropriate management. Although the sanitary wastewaters are nonradioactive, a continuous radiation monitoring system is provided.

Entergy employs a permanent workforce of approximately 1,100 employees at IPEC. The majority of the IPEC workforce lives in Dutchess, Orange, and Westchester Counties. The site

workforce increases by approximately 950 workers for temporary (approximately 30 days) duty during staggered refueling outages that occur about every 24 months for each unit.

In compliance with the NRC regulations, Entergy has analyzed the effects of plant aging and identified activities needed for IPEC to operate for an additional 20 years. IPEC license renewal would involve no major plant refurbishment.

Power is delivered to the ConEdison transmission grid via two double-circuit 345-kV lines that connect the IP2 and IP3 main transformers to the Buchanan substation located across Broadway near the main entrance to IPEC. Except for the point where they cross over Broadway, the lines are located within the site boundary, are approximately 2,000 feet in length, and were constructed using tubular-steel transmission poles. ConEdison addresses impacts to the transmission line corridors in accordance with its vegetative management plan.

In 2010, IPEC generation represented approximately 10 percent of the total electricity consumption in New York State, 17 percent of the total electricity consumption in the Southeastern New York area, and up to 30 percent of the New York City area's base-load electricity. IPEC generates more electrical energy than any other facility in the Empire State.

Environmental Impacts

The NRC's *Generic Environmental Impact Statement for License Renewal of Nuclear Plants* ("License Renewal GEIS") analyzes the environmental impacts associated with the renewal of nuclear power plant operating licenses. The NRC codified its findings regarding these impacts at 10 C.F.R. Part 51, Subpart A, Appendix B, Table B-1. The codified findings (applicable as of the date the LRA was submitted to the NRC⁵) identify 92 potential environmental issues. The NRC's *Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3* ("IPEC SEIS") documents the NRC's consideration of these topics as they pertain to IPEC license renewal.

Category 1 Issues (Generically Applicable)

The NRC generically identified 69 "Category 1" issues as having SMALL impacts.⁶ A SMALL significance level is defined by the NRC as follows:

For the issue, environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purpose of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are

⁵ The NRC updated the License Renewal GEIS and corresponding table in 10 C.F.R. Part 51 following submission of the IPEC LRA. Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 78 Fed. Reg. 37,282 (June 20, 2013). The update resulted in consolidation and reclassification of certain issues such that the updated table now identifies 78 issues, rather than 92. *Id.*

⁶ The revised License Renewal GEIS and table in 10 C.F.R. Part 51 now identify 59 "Category 2" issues, rather than 69.

considered small as the term is used in this table. (10 C.F.R. Part 51, Subpart A, Appendix B, Table B-1)

10 C.F.R. Part 51, Subpart A, Appendix B, Table B-1 and the License Renewal GEIS discuss the following types of Category 1 environmental issues:

- Surface water quality, hydrology, and use;
- Aquatic ecology;
- Groundwater use and quality;
- Terrestrial resources;
- Air quality;
- Land use;
- Human health;
- Socioeconomics;
- Uranium fuel cycle and waste management; and
- Decommissioning.

Absent findings of new and significant information, the NRC will rely on its codified findings, as amplified by supporting information in the License Renewal GEIS, for its assessment of environmental impacts associated with license renewal. Entergy has not identified any new and significant information, and has adopted by reference the License Renewal GEIS analysis for all Category 1 issues.⁷

Category 2 Issues (Plant-Specific)

The NRC also identified 21 issues as “Category 2,” for which license renewal applicants must submit additional, site-specific information.⁸ Summaries of the conclusions⁹ for each subcategory of applicable¹⁰ issues are as follows:

⁷ This includes the nine new or amended Category 1 issues in the revised License Renewal GEIS and table in 10 C.F.R. Part 51. See NL-15-028, Letter from F. Dacimo, Entergy, to NRC, Reply to Request for Additional Information Regarding the License Renewal Application Environmental Review (TAC Nos. MD5411 and MD5412), Attachment at 3-29 (Mar. 10, 2015). See also IPEC SEIS (documenting the NRC’s consideration of these topics; Volume 5 considers the new or amended Category 1 issues).

⁸ The revised License Renewal GEIS and table in 10 C.F.R. Part 51 now identify 17 “Category 2” issues, rather than 21.

⁹ As to the new or amended Category 2 issues in the revised License Renewal GEIS and table in 10 C.F.R. Part 51, Entergy concluded that: the potential environmental impacts would be SMALL for Terrestrial Resources and Groundwater Resources; the NRC’s SMALL Environmental Justice conclusion in the Indian Point License Renewal GEIS remains valid; and cumulative impacts on the listed resource areas would be SMALL, but, if climate change is considered a cumulative impact contributor, then the cumulative impact on Water Resources could range from SMALL to MODERATE. See NL-15-028 at 30-39. Although the NRC has proposed, in a draft supplement to the IPEC SEIS, to conclude that impacts to on-site Groundwater Resources may be MODERATE at present (but acknowledging they may move to SMALL due to natural attenuation), see IPEC SEIS, Draft Vol. 5, Entergy has submitted additional information rebutting the NRC’s conclusion and showing the impacts to on-site groundwater resources are SMALL. See NL-16-021, Letter from F. Dacimo, Entergy, to C. Bladey, NRC, Comments on Second Draft Supplement to Final Supplemental Environmental Impact Statement for Indian Point License Renewal (Mar. 4, 2016); NL-16-044, Letter from F. Dacimo, Entergy, to C. Bladey, NRC, Entergy’s Corrections and Clarifications in Response to Third-Party Comments on the NRC’s Second Draft Supplement to the Final Supplemental Environmental Impact Statement for Indian Point Nuclear Generating Units 2 and 3 License Renewal (Apr. 25, 2016).

Aquatic ecology: Historic and current studies have shown no negative trend in overall aquatic River species populations related to plant operations. The final SPDES permit will ensure impacts remain SMALL.¹¹

Threatened and endangered species: Entergy has no plans to perform major refurbishment activities; therefore, impacts due to refurbishment are not expected. The final SPDES permit will ensure impacts to these species through license renewal would be SMALL.

Human Health: IPEC transmission lines meet the National Electric Safety Code® recommendations for preventing electric shock from induced currents; therefore, the impact related to license renewal would be SMALL.

Socioeconomics: Entergy has no plans for refurbishment activities and does not anticipate increasing its workforce during the period of extended operation. Therefore, any impacts on local transportation, available housing, and local water systems would be SMALL.

Offsite land use: Entergy has no plans to perform major refurbishment activities; therefore, any impacts due to license renewal would be SMALL.

Historic and archeological resources: Entergy has no plans to perform major refurbishment activities; therefore, impacts due to license renewal would be SMALL.

Severe accident mitigation alternatives (“SAMA”):¹² Entergy identified certain potentially cost-beneficial modifications that may have the potential to reduce the impacts of a severe accident. However, none relate to adequately managing the effects of aging during the period of extended operation. Thus, any impacts related to license renewal would be SMALL.

¹⁰ Some Category 2 issues are applicable to plants having features that are not present at IPEC, or apply only to activities that are not proposed as part of the IPEC license renewal.

¹¹ Although the NRC has proposed, in a draft supplement to the IPEC SEIS, to conclude that impacts to Aquatic Ecology would be SMALL to MODERATE, *see* IPEC SEIS, Draft Vol. 5, Entergy has submitted additional information rebutting some of the NRC's species-specific conclusions. *See* NL-16-021; NL-16-044.

¹² On September 12, 2016, the NRC issued requests for additional information to Entergy regarding the IPEC SAMA analyses; Entergy's answers are due by January 10, 2017. The NRC may present its evaluation of this information in a further volume of the IPEC SEIS, if warranted.

Category N/A Issues (Not Categorized)

The NRC identified two issues as “Category N/A,” for which the 10 C.F.R. Part 51 categorization and impact findings do not apply.¹³ Summaries of the conclusions for these two issues are as follows:

Environmental Justice: Entergy has no plans to perform major refurbishment activities; therefore there would be no adverse impacts to minority and low income populations from such activities in the vicinity of IP2 and IP3. Environmental Justice impacts of continued plant operation during the license renewal period would be SMALL.

Electromagnetic Fields: The NRC staff has determined that appropriate Federal health agencies have not reached a consensus on the existence of chronic adverse effects from electromagnetic fields. Therefore, no further evaluation of this issue is required.¹⁴

Findings

1. The NRC has determined that the significance of Category 1 issue impacts is SMALL. Entergy has adopted by reference the NRC findings for Category 1 issues.
2. For applicable Category 2 issues, Entergy has determined that the environmental impacts are SMALL¹⁵ as that term is defined by the NRC. Impact to the coastal zone, therefore, would also be SMALL.
3. To the best of its knowledge, Entergy is in compliance with New York licenses, permits, approvals, and other requirements as they apply to IPEC impacts on the New York coastal zone.
4. IPEC license renewal and continued operation of IPEC facilities, and their effects, are all consistent with the enforceable policies of the New York Coastal Management Program.

State Notification

By this Certification, the State of New York is notified that the IPEC license renewal is consistent with the New York State Coastal Management Program. Attached to this Certification is a completed New York State Department of State Federal Consistency Assessment Form. The

¹³ Environmental justice was not evaluated on a generic basis and must be addressed in a plant specific supplement to the GEIS. Information on the chronic effects of electromagnetic fields was not conclusive at the time the GEIS was prepared.

¹⁴ The revised License Renewal GEIS and table in 10 C.F.R. Part 51 continue to identify the chronic effects of electromagnetic fields as N/A.

¹⁵ As noted above, Entergy has submitted information rebutting the NRC's draft proposed conclusions regarding Groundwater Resources, and some species-specific findings regarding Aquatic Ecology. *See supra* notes 9, 12. Cumulative impacts on the listed resource areas will be SMALL unless climate change is considered a cumulative impact contributor, in which case the cumulative impact could range from SMALL to MODERATE.

State's concurrence, objections, or notification of review status shall be sent to the following contacts:

Entergy's counsel for this matter:

William B. Glew, Jr., Esq.
Entergy Services, Inc.
440 Hamilton Avenue
White Plains, NY 10601
Telephone: (914) 272-3360
E-mail: wglew@entergy.com

Kathryn Sutton
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone: +1 202.739.5738
Email: kathryn.sutton@morganlewis.com

The NRC project manager for this matter:

Mr. William Burton
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Telephone: +1 301.415.6332
Email: william.burton@nrc.gov

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Federal Consistency Assessment Form

An applicant, seeking a permit, license, waiver, certification or similar type of approval from a federal agency which is subject to the New York State Coastal Management Program (CMP), shall complete this assessment form for any proposed activity that will occur within and/or directly affect the State's Coastal Area. This form is intended to assist an applicant in certifying that the proposed activity is consistent with New York State's CMP as required by U.S. Department of Commerce regulations (15 CFR 930.57). It should be completed at the time when the federal application is prepared. The Department of State will use the completed form and accompanying information in its review of the applicant's certification of consistency.

A. **APPLICANT** (please print)

Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Indian Point 3, LLC; and

1. Name: Entergy Nuclear Operations, Inc. (collectively, "Entergy")
2. Address: Indian Point Energy Center, 450 Broadway, Buchanan, NY 10511
3. Telephone: Area Code (914) 254-2055

B. **PROPOSED ACTIVITY:**

1. Brief description of activity:

Entergy is applying to the U.S. Nuclear Regulatory Commission ("NRC") to renew the operating licenses of Indian Point Nuclear Generating Units 2 and 3 (collectively, "IPEC"). No change of existing coastal facilities, activities, or effects is proposed.

2. Purpose of activity:

To continue producing up to 2158 MW of baseload electrical power for the energy consumers of New York State.

3. Location of activity:

<u>Westchester</u>	<u>Buchanan</u>	<u>450 Buchanan</u>
County	City, Town, or Village	Street or Site Description

4. Type of federal permit/license required: Renewal of NRC Operating Licenses

5. Federal application number, if known: Docket Nos. 50-247-LR and 50-286-LR

6. If a state permit/license was issued or is required for the proposed activity, identify the state agency and provide the application or permit number, if known:

A SPDES Permit & Water Quality Certificate from the Dep't of Environmental Conservation. §

C. COASTAL ASSESSMENT Check either "YES" or "NO" for each of these questions. The numbers following each question refer to the policies described in the CMP document (see footnote on page 2) which may be affected by the proposed activity.

1. Will the proposed activity result in any of the following: YES/NO
 - a. Large physical change to a site within the coastal area which will require the preparation of an environmental impact statement? (11, 22, 25, 32, 37, 38, 41, 43) — ☒
 - b. Physical alteration of more than two acres of land along the shoreline, land under water or coastal waters? (2, 11, 12, 20, 28, 35, 44) — ☒
 - c. Revitalization/redevelopment of a deteriorated or underutilized waterfront site? (1) — ☒
 - d. Reduction of existing or potential public access to or along coastal waters? (19, 20) — ☒
 - e. Adverse effect upon the commercial or recreational use of coastal fish resources? (9,10) — ☒
 - f. Siting of a facility essential to the exploration, development and production of energy resources in coastal waters or on the Outer Continental Shelf? (29) — ☒
 - g. Siting of a facility essential to the generation or transmission of energy? (27) — ☒
 - h. Mining, excavation, or dredging activities, or the placement of dredged or fill material in coastal waters? (15, 35) — ☒
 - i. Discharge of toxics, hazardous substances or other pollutants into coastal waters? (8, 15, 35) ☒ —
 - j. Draining of stormwater runoff or sewer overflows into coastal waters? (33) ☒ —
 - k. Transport, storage, treatment, or disposal of solid wastes or hazardous materials? (36, 39) ☒ —
 - l. Adverse effect upon land or water uses within the State's small harbors? (4) — ☒

2. Will the proposed activity affect or be located in, on, or adjacent to any of the following: YES/NO
 - a. State designated freshwater or tidal wetland? (44) ☒ —
 - b. Federally designated flood and/or state designated erosion hazard area? (11, 12, 17) ☒ —
 - c. State designated significant fish and/or wildlife habitat? (7) — ☒
 - d. State designated significant scenic resource or area? (24) ☒ —
 - e. State designated important agricultural lands? (26) — ☒
 - f. Beach, dune or Barrier Island? (12) — ☒
 - g. Major ports of Albany, Buffalo, Ogdensburg, Oswego or New York? (3) — ☒
 - h. State, county, or local park? (19, 20) — ☒
 - i. Historic resource listed on the National or State Register of Historic Places? (23) — ☒

3. Will the proposed activity require any of the following: YES/NO
 - a. Waterfront site? (2, 21, 22) ☒ —
 - b. Provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (5) — ☒
 - c. Construction or reconstruction of a flood or erosion control structure? (13, 14, 16) — ☒
 - d. State water quality permit or certification? (30, 38, 40) ☒ §
 - e. State air quality permit or certification? (41, 43) — ☒

4. Will the proposed activity occur within and/or affect an area covered by a State-approved local waterfront revitalization program, or State-approved regional coastal management program? (see policies in program document*) — ☒

‡ No change of existing activities or facilities is proposed.

§ These are provided in the January 13, 2017 NYSDEC Resolution Notice attached to this consistency certification

D. ADDITIONAL STEPS

1. If all of the questions in Section C are answered "NO", then the applicant or agency shall complete Section E and submit the documentation required by Section F.

2. If any of the questions in Section C are answered "YES", then the applicant or agent is advised to consult the CMP, or where appropriate, the local waterfront revitalization program document*. The proposed activity must be analyzed in more detail with respect to the applicable state or local coastal policies. On a separate page(s), the applicant or agent shall: (a) identify, by their policy numbers, which coastal policies are affected by the activity, (b) briefly assess the effects of the activity upon the policy; and, (c) state how the activity is consistent with each policy. Following the completion of this written assessment, the applicant or agency shall complete Section E and submit the documentation required by Section F.

E. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with the State's CMP or the approved local waterfront revitalization program, as appropriate. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program, or with the applicable approved local waterfront revitalization program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: Fred Dacimo

Address: Indian Point Energy Center, 450 Broadway, Buchanan, NY 10511

Telephone: Area Code (914) 254-2055

Applicant/Agent's Signature:  Date: 1/31/2017

F. SUBMISSION REQUIREMENTS

1. The applicant or agent shall submit the following documents to the New York State Department of State, Office of Planning and Development, Attn: Consistency Review Unit, One Commerce Plaza-Suite 1010, 99 Washington Avenue, Albany, New York 12231.

- a. Copy of original signed form.
- b. Copy of the completed federal agency application.
- c. Other available information which would support the certification of consistency.

2. The applicant or agent shall also submit a copy of this completed form along with his/her application to the federal agency.

3. If there are any questions regarding the submission of this form, contact the Department of State at (518) 474-6000.

*These state and local documents are available for inspection at the offices of many federal agencies, Department of environmental Conservation and Department of State regional offices, and the appropriate regional and county planning agencies. Local program documents are also available for inspection at the offices of the appropriate local government.

FIGURE 1 – Indian Point Energy Center

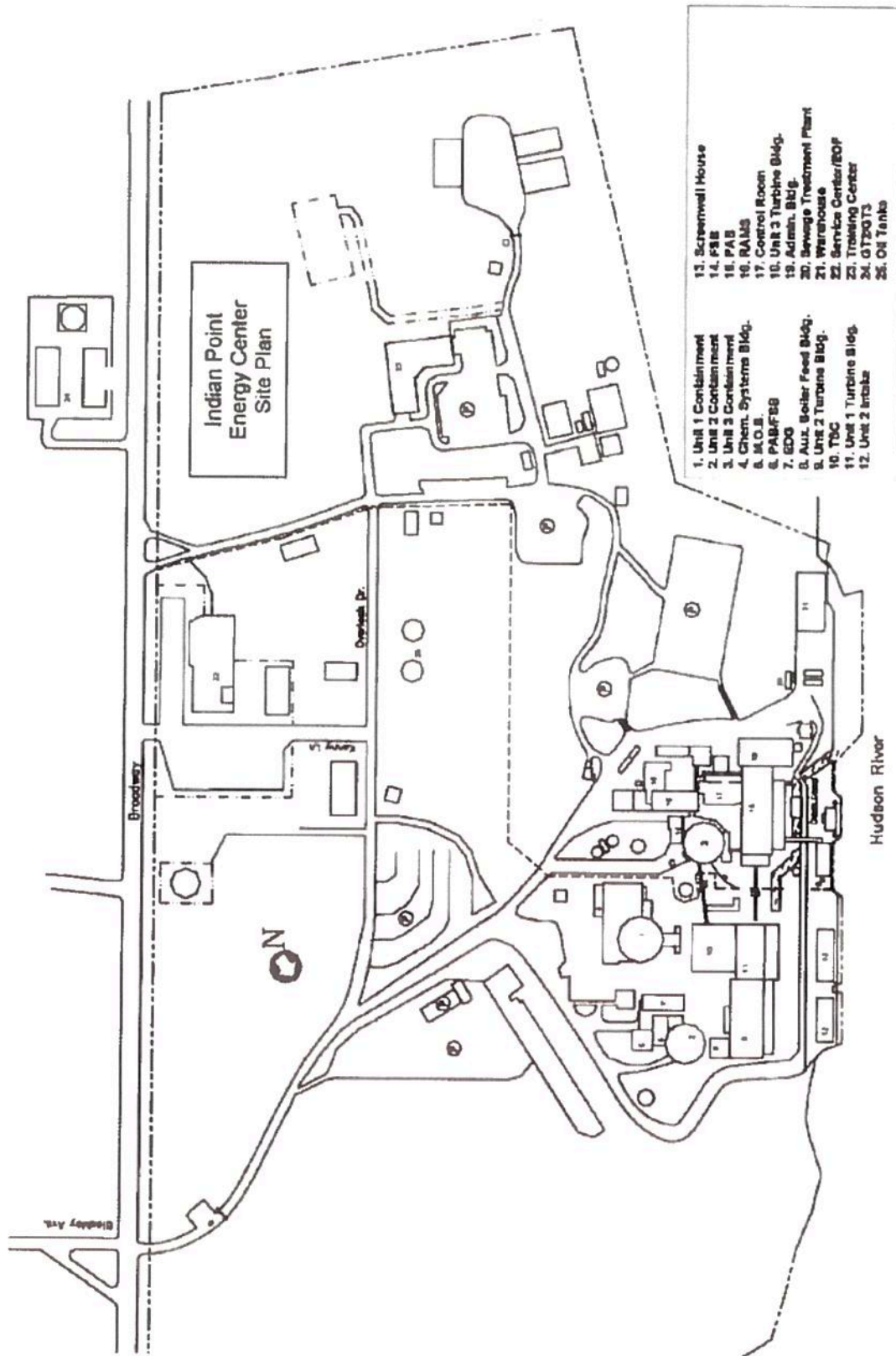


FIGURE 2 – 50 Mile Radius



FIGURE 3 – 6 Mile Radius

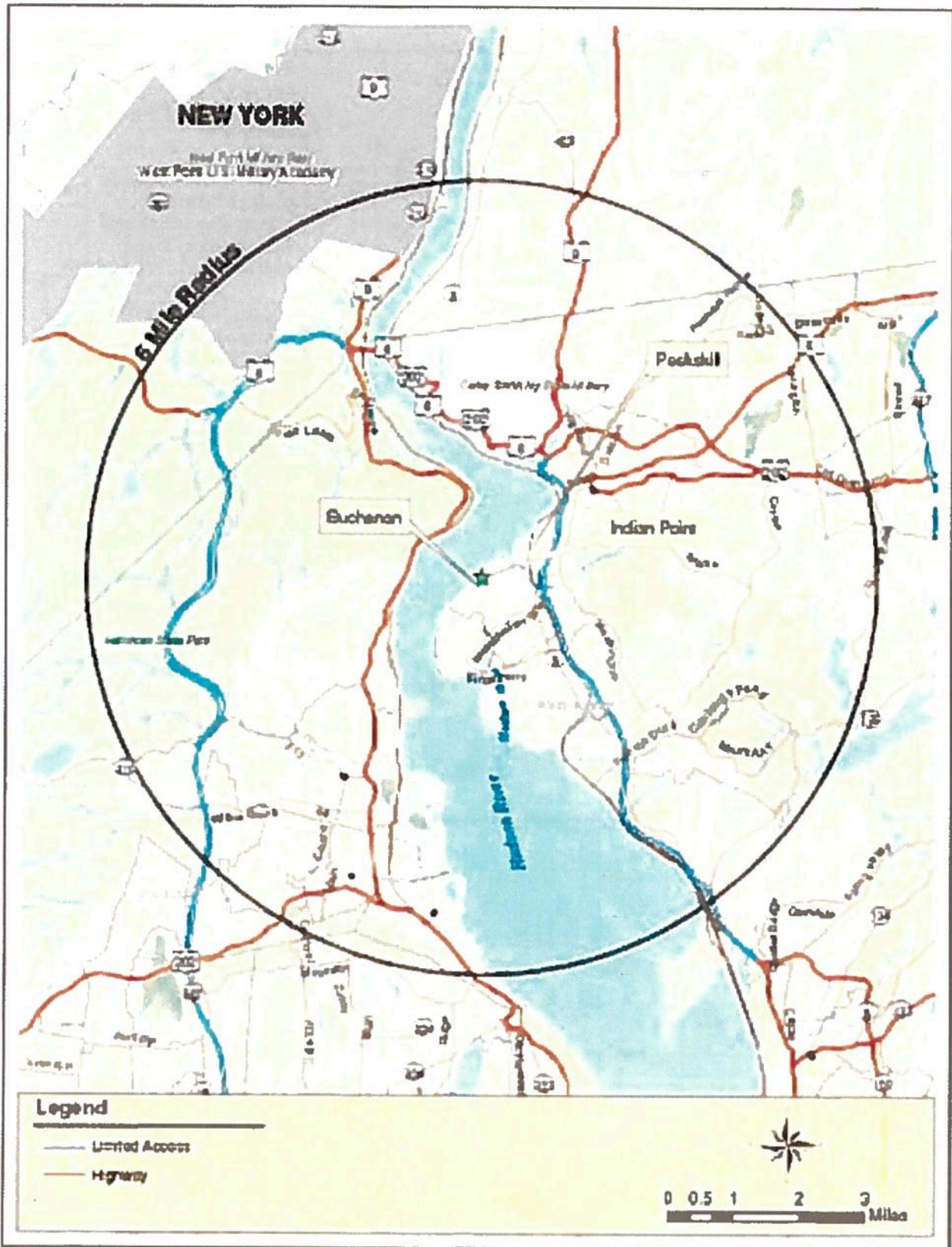


TABLE 1 – Consultations

Agency ¹⁶	Authority	Activity Covered
U.S. Fish and Wildlife Service and National Marine Fisheries Service	Endangered Species Act Section 7 (16 USC 1636)	Requires federal agency issuing a license to consult with USFWS and NMFS.
New York Natural Heritage Program	Endangered Species Act Section 7 (16 USC 1636)	Requires federal agency issuing a license to consult with the fish and wildlife agency at the state level.
New York State Office of Parks, Recreation, and Historic Preservation	National Historic Preservation Act Section 106	Requires federal agency issuing a license to consider cultural impacts and consult with SHPO
New York State Department of State	Federal Coastal Zone Management Act (16 USC 1451 et seq.)	Requires an applicant to provide certification to the federal agency issuing the license and to the designated state agency that license renewal would be consistent with the federally-approved state coastal zone management program.
New York State Department of Environmental Conservation	Clean Water Act Section 401 (33 USC 1341)	Requires New York State certification that discharge would comply with state water quality standards

¹⁶ Consultations with additional non-federal and non-NYS entities are included in the IPEC SEIS, Volume 3, Appendix E.

TABLE 2 – Environmental Permits

Agency	Authority	Description	Number	Expiration Date
USNRC	Atomic Energy Act, 10 CFR 50	IP1 License to Possess	DPR-5	September 28, 2013
USNRC	Atomic Energy Act, 10 CFR 50	IP2 License to Operate	DPR-26	September 28, 2013 ¹
USNRC	Atomic Energy Act, 10 CFR 50	IP3 License to Operate	DPR-64	December 12, 2015 ¹
USDOT	49 CFR 107, Subpart G	IP2 DOT Hazardous Materials Certificate of Registration	060415600002XZ	June 30, 2018
USDOT	49 CFR 107, Subpart G	IP3 DOT Hazardous Materials Certificate of Registration	060415600003XZ	June 30, 2018
TDEC	Tenn. Comp. R. & Regs. 0400-20-10-.32	IP1 & IP2 Radioactive Waste License-for-Delivery	T-NY010-L17	December 31, 2017
TDEC	Tenn. Comp. R. & Regs. 0400-20-10-.32	IP3 Radioactive Waste License-for-Delivery	T-NY-005-L17	December 31, 2017
NYSDEC	6 NYCRR Part 325	IP2 Pesticide Application Business Registration	12696	April 30, 2018
NYSDEC	6 NYCRR Part 325	IP3 Pesticide Application Business Registration	13163	April 30, 2018
NYSDEC	6 NYCRR Parts 704 and 750	IP1, 2, and 3 SPDES Permit	NY 000 4472	October 1, 1992 ²
NYSDEC	6 NYCRR Part 704	Simulator Transformer Vault SPDES Permit	NY 025 0414	March 31, 2018
NYSDEC	6 NYCRR Part 704	Buchanan Gas Turbine SPDES Permit	NY 022 4826	February 28, 2018
NYSDEC	6 NYCRR Parts 200 and 201	IP2 & IP3 Air Permit	3-5522-00011/00026	November 20, 2024
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP2 Gas Turbine 1 Air Permit	#00021	December 31, 2018

TABLE 2 – Environmental Permits (Cont.)

Agency	Authority	Description	Number	Expiration Date
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP2 Gas Turbine 3 Air Permit	#00023	December 31, 2018
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP2 Boiler Permit	52-4493	Not Applicable
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP2 Vapor Extractor Air Permit	52-5682	December 31, 2018
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP3 Boiler Permit	52-6497	No Expiration Date
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP3 Training Center Boiler Permit	52-6498	No Expiration Date
WCDOH	Chapter 873, Article XIII, Section 873.1306.1 of the Laws of Westchester County	IP3 Vapor Extractor Air Permit	-- ⁴	-- ⁴
NYSDEC	6 NYCRR Part 610	IP2 Major Oil Storage Facility	3-2140	-- ³
WCDOH	Westchester County Sanitary Code, Article XXV	IP3 Petroleum Bulk Storage Registration Certificate	3-166367	September 7, 2020
NYSDEC	6 NYCRR Part 372	IP2 Hazardous Waste Generator Identification	NYD991304411	No Expiration Date

TABLE 2 – Environmental Permits (Cont.)

Agency	Authority	Description	Number	Expiration Date
NYSDEC	6 NYCRR Part 372	IP3 Hazardous Waste Generator Identification	NYD085503746	No Expiration Date
NYSDEC	6 NYCRR Part 373	IP2 Hazardous Waste Part 373 Permit	NYD991304411	February 28, 2007 ³
USEPA	40 CFR 264	IP2 Hazardous Solid Waste Amendment Permit	NYD991304411	October 14, 2002 ⁵
USEPA	40 CFR 264	IP3 Hazardous Solid Waste Amendment Permit	NYD085503746	October 17, 2001 ⁵
Notes: Current as of January 2017. (1) Timely renewal application was submitted; having met the requirements in 10 CFR 2.109, Entergy is allowed to continue to operate IP2 and IP3 under the existing licenses until the NRC reaches a final decision on the license renewal request. (2) The expiration date of the new SPDES Permit will be determined in accordance with the January 13, 2017 NYSDEC Resolution Notice attached to this consistency certification. (3) Timely renewal application was submitted; therefore, permit is administratively continued under New York State Administrative Procedures Act. (4) Application has been submitted to WCDOH, but a permit has not yet been issued. (5) Permit has been administratively continued based on conditional mixed waste exemption. CFR = Code of Federal Regulations USDOT = U.S. Department of Transportation TDEC = Tennessee Department of Environment and Conservation USEPA = U.S. Environmental Protection Agency IP1 = Indian Point, Unit 1 IP2 = Indian Point, Unit 2 IP3 = Indian Point, Unit 3				

TABLE 3 – Owners of Properties Abutting IPEC

Tax Assessor Map Parcel Identification Number	Name & Current Address of Owner (as provided in Tax Assessors Database)	Property Address (as Provided in Tax Assessors Database)
Abutters to Entergy's License Renewal -related properties, as identified above		
43.6-1-2	NEW YORK STATE ATOMIC & SPACE AUTHORITY EMPIRE STATE PLAZA-NEW YORK STATE DEA BUILDING 4 ALBANY NY 12223	HUDSON RIVER
43.7-1-1	VILLAGE OF BUCHANAN PARK TATE AVE BUCHANAN NY 10511	BROADWAY
43.10-1-2	Continental Buchanan 350 BROADWAY BUCHANAN NY 10511	350 BROADWAY
43.11-1-1	CREX-DIMAR B LLC C/O GLENN GRIFFEN 1234 LINCOLN TERRACE PEEKSKILL NY 10566	BLEAKLEY AVE & BROADWAY
43.11-2-1	RITORATO SANDRA L 14 COACHLIGHT SQ MONTROSE NY 10548	300 BLEAKLEY AVE
43.11-2-31	CON EDISON CO OF NY TAX DEPARTMENT C/O: STEPHANIE J. MERRIT 4 IRVING PL RM 74 NEW YORK NY 10003	BROADWAY
43.11-2-33	CON EDISON CO OF NY TAX DEPARTMENT C/O: STEPHANIE J. MERRIT 4 IRVING PL RM 74 NEW YORK NY 10003	BROADWAY
43.11-2-34	MANNFOLK MARY M 461 BROADWAY BUCHANAN NY 10511	461 BROADWAY
43.14-2-1	CON EDISON CO OF NY TAX DEPARTMENT C/O: STEPHANIE J. MERRIT A 4 IRVING PL RM 74 NEW YORK NY 10003	375 BROADWAY
43.14-2-2	ST MARYS ROMAN CEMETERY CEMETERY PO BOX 609 VERPLANCK NY 10596	345 BROADWAY

TABLE 3 – Owners of Properties Abutting IPEC (Cont.)

Tax Assessor Map Parcel Identification Number	Name & Current Address of Owner (as provided in Tax Assessors Database)	Property Address (as Provided in Tax Assessors Database)
43.14-3-1	Town of Cortlandt 1 Heady Street Cortlandt Manor, NY 10567	BROADWAY
43.14-3-2	HICKEY JOSEPH W & JULIA 320 BROADWAY PO BOX 701 VERPLANCK NY 10596	320 BROADWAY
43.15-1-13	DE CRENZA JOHN 142 WESTCHESTER AVE BUCHANAN NY 10511	142 WESTCHESTER AVE
43.15-1-14	Mary Quinn 148 WESTCHESTER AVE BUCHANAN NY 10511	148 WESTCHESTER AVE
43.15-1-16	CENTRAL SCHOOL DISTRICT 3 TROLLEY RD MONTROSE NY 10548	WESTCHESTER AVE
43.15-1-21	CENTRAL SCHOOL DISTRICT 3 TROLLEY RD MONTROSE NY 10548	WESTCHESTER AVE
43.18-1-1	MC GUIGAN JOSEPH & ELIZABETH PO BOX 273 303 BROADWAY VERPLANCK NY 10596	303 BROADWAY
43.18-1-2	KESLER FREDERICK F & MARGARET PO BOX 136 VERPLANCK NY 10596	38 MANOR LN
43.18-1-5.1	COUGHLANE EILEEN PO BOX 746 33 MANOR LN VERPLANCK NY 10596	33 MANOR LN
43.18-2-1	KERTELITS THOMAS J & KELLY H 3 PHEASANTS RUN BUCHANAN NY 10511	3 PHEASANTS RUN
43.18-2-14	SCHNEIDER ROBERT L & RENEE 5 PHEASANTS RUN BUCHANAN NY 10511	5 PHEASANTS RUN

APPENDIX A

ENTERGY ANALYSIS OF IPEC LICENSE RENEWAL CONSISTENCY WITH THE POLICIES OF THE NEW YORK STATE COASTAL MANAGEMENT PROGRAM

POLICY	JUSTIFICATION / CONSISTENCY
DEVELOPMENT	
<p style="text-align: center;"><u>1: Waterfront Redevelopment</u></p> <p>Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.</p>	<p>Policy 1 is inapplicable. IPEC already exists as a highly productive well maintained waterfront facility within Buchanan. If and to the extent Policy 1 is deemed applicable to License Renewal, IPEC License Renewal is fully consistent with Policy 1.</p>
<p style="text-align: center;"><u>2: Water-dependent Uses</u></p> <p>Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.</p>	<p>Policy 2 is inapplicable. License Renewal does not involve the siting of new facilities within the coastal zone. IPEC is an existing water-dependent use located within the coastal zone. If and to the extent Policy 2 is deemed applicable to License Renewal, IPEC License Renewal is fully consistent with Policy 2.</p>
<p style="text-align: center;"><u>3: Development of New York's Major Ports</u></p> <p>Further develop the state's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of state public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.</p>	<p>Policy 3 is inapplicable to IPEC License Renewal. IPEC is not within and will not affect any of the ports identified in Policy 3.</p>
<p style="text-align: center;"><u>4: Encouraging Development of Small Harbors</u></p> <p>Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.</p>	<p>Policy 4 is not applicable to IPEC License Renewal. Buchanan does not have a "small harbor." License Renewal will not affect any small harbors.</p>
<p style="text-align: center;"><u>5: Development in Areas with Adequate Essential Services and Facilities</u></p> <p>Encourage the location of development in areas where public services and facilities essential to such development are adequate.</p>	<p>IPEC License Renewal will not entail new development, but rather continued generation of reliable, virtually emission-free energy for New York State consumers at an existing industrial center that has adequate infrastructure to support both current and future operations under License Renewal. IPEC License Renewal will not trigger the need for additional infrastructure, such as roads, water or sewer services, schools or other social services, or additional transmission facilities. If and to the extent Policy 5 is deemed applicable to License Renewal, IPEC License Renewal is fully consistent with Policy</p>

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	5.
<p><u>6: Expedited Permitting for Development Activities</u></p> <p>Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.</p>	<p>Policy 6 is inapplicable to IPEC License Renewal. License Renewal does not entail the siting of new development activity within the coastal zone or state and local permitting for the same.</p>
FISH AND WILDLIFE	
<p><u>7: Significant Coastal Fish and Wildlife Habitats ("SCFWH")</u></p> <p>Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.</p>	<p>No new construction or activities are proposed as part of IPEC License Renewal that reasonably could be expected to raise Policy 7 concerns, even for nearby SCFWHs. Extensive data collected under the oversight and direction of the New York State Department of Environmental Conservation ("NYSDEC") regarding the effects of IPEC operations on aquatic organisms, populations, and communities over a 35-year period indicate that IPEC cannot reasonably be considered to have caused an adverse impact on habitats within the Hudson River, let alone in a nearby SCFWH,¹⁷ including Hudson Highlands, and no destruction or significant impairment of such habitat can reasonably be expected from continued operations during the License Renewal period. Moreover, adequate assurances of protection exist under applicable New York law, including the State Pollutant Discharge Elimination System ("SPDES") program, pursuant to which NYSDEC assures IPEC's compliance with applicable Federal and State law. Therefore, if and to the extent Policy 7 is deemed applicable, IPEC License Renewal is fully consistent with Policy 7.</p>
<p><u>8: Hazardous Wastes and Pollutants that Bioaccumulate or Cause Lethal or Sub-lethal Effects</u></p> <p>Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bioaccumulate in the food chain or which cause significant sub-lethal or lethal effects on those</p>	<p>IPEC License Renewal will result in the continuation of existing operations. Based on over 40 years of operation, historic discharges by IPEC of pollutants or hazardous substances have not caused sub-lethal or lethal effects on the Hudson River's aquatic biota and have not bioaccumulated in aquatic food chains. IPEC is and will continue to be extensively regulated</p>

¹⁷ Note that the August 15, 2012 revisions to SCFWH definitions in the NYCMP, including Hudson Highlands, are not applicable to the IPEC license renewal application. In its approval of those revisions, NOAA explained that "new and revised enforceable policies shall only be applied to applications for federal authorization filed *after* [NOAA]'s approval." Letter from J. Gore, NOAA, to G. Stafford, NYSDOS at 1 (Nov. 30, 2012) (emphasis added).

APPENDIX A (Cont.)

resources.	by NYSDEC. If and to the extent Policy 8 is deemed applicable, IPEC License Renewal is consistent with Policy 8.
<p><u>9: Recreational Use of Fish and Wildlife Resources</u></p> <p>Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.</p>	No new construction or operational changes are proposed as part of IPEC License Renewal. Data from recent creel surveys, data collected through the Hudson River Biological Monitoring Program ("HRBMP") for over 35 years, and analysis of IPEC's operations indicate that IPEC has not impeded existing use or development of the recreational fisheries. Policy 9 is inapplicable to IPEC License Renewal. However, IPEC License Renewal is fully consistent with Policy 9 if and to the extent it is deemed applicable.
<p><u>10: Commercial Fishing</u></p> <p>Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.</p>	No new construction or operational changes are proposed as part of IPEC License Renewal. Data collected through the HRBMP for over 35 years, and analysis of IPEC's operations, indicate that IPEC has not impeded existing development of commercial fisheries. Therefore, if and to the extent that Policy 10 is deemed applicable, IPEC License Renewal is fully consistent with Policy 10.
FLOODING AND EROSION HAZARDS	
<p><u>11 through 14 –Siting Structures to Minimize Flooding and Erosion</u></p> <p>11: Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.</p> <p>12: Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands, and bluffs.</p> <p>13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.</p> <p>14: Activities and development, including the</p>	<p>Policies 11 through 14 are inapplicable to License Renewal. The IPEC site is not in a NYSDEC-designated coastal erosion hazard area, and only those facilities located immediately adjacent to the shoreline are within the 100-year floodplain. The remaining portions of the site are outside the 500-year floodplain. No new erosion control structures are proposed as part of License Renewal. If and to the extent Policies 11 through 14 are deemed applicable, IPEC License Renewal is fully consistent with any relevant aspects of Policies 11 through 14.</p>

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construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.	
<p><u>15: Mining, Excavating, or Dredging</u> Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.</p>	Policy 15 is inapplicable to License Renewal. No maintenance dredging is proposed as part of IPEC License Renewal. Any future dredging that may be required would be implemented pursuant to applicable federal and/or State permits which would ensure that any dredging would not cause coastal erosion or flooding.
<p><u>16: Public Funding for Erosion Protection</u> Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.</p>	IPEC License Renewal would not use public funds for erosion protective structures. Thus, Policy 16 is not applicable to IPEC License Renewal.
<p><u>17: Non-Structural Measures for Flood and Erosion Control</u> Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.</p>	Policy 17 is not applicable to License Renewal. IPEC does not and will not require non-structural measures to minimize damage to natural resources and property from flooding and erosion. If and to the extent Policy 17 is deemed applicable, IPEC License Renewal is fully consistent with Policy 17.
GENERAL	
<p><u>18: Safeguarding the State's Vital Economic, Social and Environmental Interests</u> To safeguard the vital economic, social, and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.</p>	<p>IPEC License Renewal will protect the welfare of New York's citizenry by preserving and maintaining a virtually emission-free, reliable, lower cost energy resource; important employment opportunities; and financial support to local communities.</p> <p>IPEC License Renewal will safeguard the environment. IPEC License Renewal allows New York State to address air quality standards, to address global warming, and to minimize the precursors to acid rain, while at the same time adequately safeguarding its environmental interests in the coastal zone. If</p>

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	and to the extent that Policy 18 may be deemed applicable, IPEC License Renewal is fully consistent with Policy 18.
PUBLIC ACCESS	
<p style="text-align: center;"><u>19 and 20 – Public Access</u></p> <p>19: Protect, maintain, and increase the level and types of access to water-related recreation resources and facilities.</p> <p>20: Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided and it shall be provided in a manner compatible with adjoining uses.</p>	<p>Policies 19 and 20 do not apply to IPEC License Renewal. IPEC is an existing facility and no new facilities or operations are proposed that could interfere with public access to publically-owned foreshore or recreational resources.</p> <p>IPEC License Renewal will not reduce access to water-related recreational resources or the publicly-owned foreshore or recreational resources. The only publicly-owned lands near IPEC are Lents Cove Village Park and the Westchester RiverWalk. Lents Cove Village Park already has water access and the purpose of the Westchester RiverWalk is to link existing water-related recreational resources, such as Lents Cove and Steamboat.</p> <p>If and to the extent Policies 19 and 20 are deemed applicable to IPEC, continued operation under IPEC License Renewal is fully consistent with Policies 19 and 20. In fact, the many publicly-owned and publically-funded recreational areas in the vicinity of IPEC have been constructed or improved during the past 15 years with the indirect financial support of IPEC's payments-in-lieu-of-taxes.</p>
RECREATION	
<p style="text-align: center;"><u>21 and 22 – Water-Related Recreational Opportunities</u></p> <p>21: Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.</p> <p>22: Development, when located adjacent to the shore, will provide for water-related recreation, whenever such is compatible with reasonably anticipated demand for activities, and is compatible with the primary purpose of the development.</p>	<p>Policies 21 and 22 are inapplicable to License Renewal. If and to the extent deemed applicable, IPEC License Renewal is fully consistent with Policies 21 and 22. IPEC's presence has not and will not impede continued development of water-related recreational opportunities, including boating access to the Hudson River from a variety of marinas in the vicinity of IPEC, and numerous waterfront parks and trails.</p>

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HISTORIC AND SCENIC RESOURCES	
<p><u>23: Man-Made Historic, Archaeological and Cultural Resources</u></p> <p>Protect, enhance, and restore structures, districts, areas, or sites that are of significance in the history, architecture, archaeology, or culture of the state, its communities, or the nation.</p>	<p>License Renewal will not result in any land disturbance. Therefore, Policy 23 is inapplicable to License Renewal. The closest properties listed on the National or New York Registers of Historic Places are more than a mile from the perimeter of the IPEC site. Any future on-site land disturbance at IPEC would adhere to procedures that assure the protection, enhancement, and restoration of the State's historic and culturally significant resources. License Renewal is therefore fully consistent with Policy 23 if and to the extent Policy 23 is deemed applicable.</p>
<p><u>24 and 25 – Scenic, Natural and Manmade Resources</u></p> <p>24: Prevent impairment of scenic resources of statewide significance.</p> <p>25: Protect, restore, or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.</p>	<p>Policies 24 and 25 are not applicable to existing facilities. IPEC License Renewal includes no change of the aesthetic environment that would impair or lead to the degradation of scenic resources. If and to the extent Policies 24 and 25 are deemed applicable, IPEC License Renewal is fully consistent with Policies 24 and 25.</p>
AGRICULTURAL LANDS	
<p><u>26: Agricultural Lands</u></p> <p>Conserve and protect agricultural lands in the state's coastal area.</p>	<p>Policy 26 does not apply to IPEC License Renewal. IPEC is and will remain an industrial site. The New York State Department of State has decided to exclude highly developed areas of the state, such as Westchester County, from its effort to map important farmlands in the coastal area of New York State.</p>
ENERGY AND ICE MANAGEMENT	
<p><u>27: Siting and Construction of Major Energy Facilities</u></p> <p>Encourage energy conservation and the use of alternative sources such as solar and wind power in order to assist in meeting the energy needs of the State.</p>	<p>Policy 27 does not apply to IPEC License Renewal since IPEC License Renewal does not involve the siting or construction of a major new energy facility; IPEC is already sited and constructed. IPEC supplies energy in an area of high demand and at a location on the transmission grid that relies on IPEC to supply the high voltage necessary to maintain grid stability. The production of electricity at IPEC does not result in emissions of criteria air pollutants, GHG, or acid rain precursors. IPEC requires a shorefront location to withdraw the necessary water for cooling purposes and to</p>

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	receive barge shipments of large equipment necessary for the production and transmission of electricity. If and to the extent Policy 27 is deemed applicable, IPEC License Renewal is fully consistent with this policy because continued operation of IPEC can serve as a reliable energy bridge to alternative energy sources.
<p><u>28: Ice Management</u> Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.</p>	Policy 28 is inapplicable to License Renewal. IPEC has not experienced any issues associated with blockage of the intakes due to ice. The use of ice curtain walls will not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding. If and to the extent Policy 28 is deemed applicable, IPEC License Renewal is fully consistent with Policy 28.
<p><u>29: Development of New, Indigenous Energy Resources</u> Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.</p>	IPEC already exists next to the Hudson River. Policy 29 applies to newly-proposed energy facilities within coastal waters and is not applicable to IPEC License Renewal.
WATER AND AIR RESOURCES	
<p><u>30: Industrial Discharge of Pollutants</u> Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.</p>	No change of existing operations is proposed as part of IPEC License Renewal. IPEC's discharges are subject to the limits set by its SPDES permit; those limits are established to ensure conformance with water quality standards ("WQS"). If and to the extent Policy 30 is deemed applicable, IPEC License Renewal is fully consistent with Policy 30.
<p><u>31: Triennial Reviews of WQS</u> State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however those waters already overburdened with contaminants will be recognized as being a development constraint.</p>	Policy 31 applies to NYSDEC's triennial review of WQS and, therefore, is not applicable to IPEC License Renewal. Policy 31 relates to NYSDEC's obligations to comply with the federal Clean Water Act ("CWA") and to consider Local Waterfront Revitalization Programs and the New York State Coastal Management Program in doing so.
<p><u>32: Innovative Sanitary Waste Systems</u> Encourage the use of alternative or innovative sanitary waste systems in small communities</p>	Policy 32 is directed toward municipalities and/or sewer districts. Entergy is not responsible for regulating the treatment and

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where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.	disposal of sanitary wastes within Buchanan. Therefore, Policy 32 does not apply to IPEC License Renewal.
<p><u>33 and 37 – Best Management Practices (“BMP”) for Stormwater, Combined Sewer Overflows, and Non-Point Source Discharges</u></p> <p>33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.</p> <p>37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics, and eroded soils into coastal waters.</p>	No significant change of existing operations or BMPs is proposed as part of IPEC License Renewal. IPEC operates subject to applicable regulatory requirements pertaining to stormwater runoff and non-point discharge of nutrients, organics, and eroded soils into coastal waters. If and to the extent Policies 33 and 37 are deemed applicable, IPEC License Renewal is fully consistent with Policy 33 and Policy 37.
<p><u>34: Vessel Wastes</u></p> <p>Discharge of waste materials into coastal waters from vessels subject to state jurisdictions will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.</p>	No change in operations is proposed as part of IPEC License Renewal. Entergy does not operate vessels at IPEC that discharge waste materials into coastal waters. Therefore, Policy 34 is not applicable to IPEC License Renewal.
<p><u>35: Dredge and Fill Activities</u></p> <p>Dredging and filling coastal waters and disposal of dredged material will be undertaken in a manner that meets existing state permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands and wetlands.</p>	No dredging or filling is proposed as part of License Renewal. If needed, any additional dredging and filling during License Renewal would be undertaken pursuant to federal and State permits that impose the requisite conditions to ensure consistency with Policy 35 and its objectives. Therefore, if and to the extent deemed applicable, IPEC License Renewal is fully consistent with Policy 35.
<p><u>36: Spill Response and Hazardous Material Management</u></p> <p>Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.</p>	No change of existing activities at IPEC is proposed as part of License Renewal. The transportation and storage of petroleum products and hazardous materials on-site at IPEC are subject to comprehensive federal and State regulations. These laws and regulations were in the event a spill occurs, to mitigate its effects in a timely and appropriate manner. If and to the extent Policy 36 is deemed applicable, IPEC License Renewal is fully consistent with Policy 36.
<p><u>38: Protection of Surface Water and Groundwater Supplies</u></p> <p>The quality and quantity of surface water and groundwater supplies will be conserved and protected particularly where such waters</p>	No change of IPEC’s operations is proposed as part of License Renewal. The Hudson River and groundwater in the vicinity of IPEC are not used as a source of drinking water. IPEC’s discharges to surface water are subject to

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constitute the primary or sole source of water supply.	applicable State and federal requirements which require compliance with WQS. Therefore, if and to the extent Policy 38 is deemed applicable, IPEC License Renewal is fully consistent with Policy 38.
<p><u>39: Solid Wastes and Hazardous Wastes</u> The transport, storage, treatment, and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.</p>	No change in operations is proposed as part of IPEC License Renewal. Entergy's solid waste management practices associated with the generation, transportation and storage of solid wastes, including hazardous and mixed wastes, are being and will continue to be conducted pursuant to applicable federal and State regulatory requirements, thereby ensuring the protection of the State's resources, including ground and surface waters, and fish and wildlife habitat. Therefore, if and to the extent Policy 39 is deemed applicable, IPEC License Renewal is fully consistent with Policy 39.
<p><u>40: Steam Electric Generating Effluents in Conformance with WQS</u> Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.</p>	No change of IPEC's operations is proposed as part of License Renewal. Effluent discharges from IPEC are governed by a SPDES permit issued by NYSDEC which requires that discharges satisfy applicable water quality standards. If and to the extent Policy 40 is deemed applicable to License Renewal, IPEC License Renewal is fully consistent with Policy 40.
<p><u>41: Achieving National Ambient Air Quality Standards ("NAAQS") and State Ambient Air Quality Standards ("SAAQS")</u> Land use or development in the coastal area will not cause national or state air quality standards to be violated.</p>	IPEC's virtually emission-free energy production plays an important role in attaining NAAQS and SAAQS and thereby protects the public health and environment. Without IPEC, other forms of electric generation would increase, which would result in increased emissions. Therefore, IPEC License Renewal substantially advances the goals of Policy 41. If and to the extent that Policy 41 is deemed applicable, IPEC License Renewal is fully consistent with Policy 41.
<p><u>42: Reclassifying Prevention of Significant Deterioration ("PSD") Designations</u> Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal Clean Air Act.</p>	Policy 42 is directed at NYSDEC rulemakings regarding air attainment classifications. IPEC is not a "major source" and IPEC License Renewal will not entail a "major modification at a major source" and does not trigger PSD requirements. Therefore, Policy 42 is inapplicable to License Renewal.

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<p style="text-align: center;"><u>43: Acid Rain</u></p> <p>Land use or development in the coastal areas must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.</p>	<p>IPEC plays a key role in meeting the power generation and energy needs of the State without contributing to the production of acid rain precursors. Without IPEC, it would be more difficult for New York to fulfill its commitment under Policy 43 to limit the causes of acid rain. If and to the extent that Policy 43 is deemed applicable, IPEC License Renewal is fully consistent with Policy 43.</p>
WETLANDS	
<p style="text-align: center;"><u>44: Tidal and Freshwater Wetlands</u></p> <p>Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.</p>	<p>Policy 44 is inapplicable to License Renewal. No filling or alteration of wetlands is proposed as part of IPEC License Renewal. Operation of IPEC does not adversely affect NYSDEC-mapped tidal and freshwater wetlands or submerged aquatic vegetation beds within the Hudson River. No change to existing operations is proposed as part of IPEC License Renewal. Therefore, if and to the extent Policy 44 is deemed applicable, IPEC License Renewal is fully consistent with Policy 44.</p>

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (as revised), I hereby certify that copies of the foregoing "NRC STAFF'S 60th STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated February 1, 2017, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding, this 1st day of February, 2017.

/Signed (electronically) by/

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