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January 6, 2012

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Dr. Kaye D. Lathrop  
Administrative Judge  
Atomic Safety and Licensing Board  
190 Cedar Lane E.  
Ridgway, CO 81432

Re: Indian Point Nuclear Generating Station, Unit 2 and Unit 3  
Docket Nos. 50-247-LR/50-286-LR; ASLBP No. 07-858-03-LR-BD01

Dear Administrative Judges:

The State of New York respectfully submits this letter report in response to the Atomic Safety and Licensing Board's December 14, 2011 order:

1. Counsel for NRC Staff, Riverkeeper, and the State of New York have engaged in several discussions concerning the scope of mandatory disclosures for Contention NYS-38/RK-TC-5. The discussions have been extensive, candid, substantive, and in good faith. As of this evening, the State continues to have concerns about the scope of disclosures; NRC Staff takes a different view as to the scope of the regulations. Despite these differences, there remains the possibility that the State's and Riverkeeper's concerns may be resolved through future discussions among the parties. The parties have devoted considerable time to understand and address each other's positions, and I anticipate that they will continue to do so in an attempt to avoid motion practice. The possibility also remains that despite their efforts the parties will not be able to reach a mutually satisfactory resolution.

2. Should the parties be unable to bridge their differences, the State would file a motion to compel disclosure. As requested by the Order (p. 2), the State proposes that the filing date for such a motion be Thursday, January 26, 2011. NRC Staff asked me to represent that "Staff believes it has satisfied its mandatory disclosure/hearing file obligations, and would oppose the filing of a motion to compel. The Staff further believes that New York's filing of a motion to compel at this time would be extraordinarily late and would reduce the time available for the Staff's preparation of testimony, but expresses no position at this time with respect to the date selected by New York for filing any such motion."

Respectfully submitted,

*Signed (electronically) by*

John J. Sipos  
Assistant Attorney General

cc: All individuals, parties, or NRC offices on the Service List