

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of

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

For a State Pollutant Discharge Elimination
System Permit Renewal and Modification

DEC No.: 3-5522-00011/00004
SPDES No.: NY-0004472

In the Matter of

Entergy Nuclear Indian Point 2, LLC,
Entergy Nuclear Indian Point 3, LLC,
and Entergy Nuclear Operations, Inc.

Joint Application for CWA § 401 Water
Quality Certification

DEC App. Nos. 3-5522-00011/00030 (IP2)
3-5522-00105/00031 (IP3)

**PREFILED TESTIMONY OF KEVIN M. YOUNG IN SUPPORT OF ENTERGY
NUCLEAR INDIAN POINT 2, LLC, ENTERGY NUCLEAR INDIAN POINT 3, LLC
AND ENTERGY NUCLEAR OPERATIONS, INC.**

**CYLINDRICAL WEDGEWIRE SCREENS – MUNICIPAL AND COUNTY
PERMITTING AND AUTHORIZATION FROM THE
NEW YORK STATE OFFICE OF GENERAL SERVICES**

ENTERGY NUCLEAR INDIAN POINT 2,
LLC, ENTERGY NUCLEAR INDIAN POINT
3, LLC, AND ENTERGY NUCLEAR
OPERATIONS, INC.

By its attorneys,



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May 31, 2013

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IN SUPPORT OF ENTERGY NUCLEAR INDIAN POINT 2, LLC,
ENTERGY NUCLEAR INDIAN POINT 3, LLC AND ENTERGY NUCLEAR OPERATIONS, INC.

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1 **I. INTRODUCTION**

2 **Q: Please identify yourself.**

3 A: My name is Kevin M. Young. I am a partner at the law firm of Young, Sommer, Ward,
4 Ritzenburg, Baker & Moore, LLC. My business address is 5 Palisades Drive, Albany,
5 New York 12205.

6 **Q: Are you offering this testimony on behalf of Entergy in support of its application for**
7 **renewal of State Pollutant Discharge Elimination System (“SPDES”) Permit (DEC**
8 **App. Nos. 3-5522-00011-00004 SPDES No. NY0004472) for Indian Point Units 2 and**
9 **3 and the corresponding issue in the associated Water Quality Certification**
10 **(“WQC”) proceeding, as it has been consolidated by this Tribunal (collectively, the**
11 **“Proceedings”)?**

12 A: Yes. I am offering my testimony with respect to Issue for Adjudication No. 1 concerning
13 the feasibility of constructing and operating Entergy’s proposed alternative cooling water
14 intake technology – Cylindrical Wedgewire Screens (“CWWS”) – at the Indian Point
15 facility (the “CWWS proposal”). I will offer my expert testimony concerning the need
16 for and the probability of Entergy obtaining certain permits and approvals from the
17 Village of Buchanan, Westchester County, and the New York State Office of General
18 Services to construct and operate the CWWS proposal at the Indian Point facility.

19 **II. SUMMARY OF EXPERT OPINIONS**

20 **Q: What is the purpose of your testimony?**

21 A: Entergy has proposed the installation and operation of CWWS as the best technology
22 available to minimize perceived adverse environmental impacts consistent with the

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1 requirements of 6 NYCRR § 704.5 and 33 U.S.C. § 316(b). I understand that the
2 Administrative Law Judges (“ALJs”) for the Proceedings have determined that one
3 aspect of determining the availability of a technology is whether that technology is
4 reasonably likely to obtain the necessary permits or other authorizations for construction
5 and operation. Accordingly, the purpose of my testimony is to identify the material
6 permits and authorizations required from the Village of Buchanan and Westchester
7 County for the construction and operation of the CWWS proposal and to establish that
8 Entergy is reasonably likely to obtain such permits and authorizations. In addition, my
9 testimony addresses whether Entergy’s CWWS proposal is reasonably likely to receive
10 authorization from the New York State Office of General Services (“OGS”) to construct
11 and operate the CWWS on the bed of the Hudson River.

12 **Q: Are you familiar with Indian Point?**

13 A: Yes. I am familiar with Indian Point’s site and facility to the extent necessary to address
14 the issues as stated herein.

15 **Q: Please describe the analysis you performed in preparing your testimony.**

16 A: In preparing my testimony, I reviewed the following materials: (i) the report entitled,
17 *“Technical Design Report for Indian Point Units 2 and 3, Implementation of Cylindrical*
18 *Wedge Wire Screens,”* ENTGIP152-PR-CWW-06 (April 2012), prepared by Enercon
19 Services, Inc. (the “Enercon Report”) (Entergy Ex. 165); (ii) the report entitled,
20 *“Environmental Report, New York State Environmental Quality Review Act, In Support of*
21 *the Draft SEIS for a State Pollutant Discharge Elimination System (SPDES) Permit (No.*
22 *NY-00-4472), Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3,*
23 *LLC”* (March 29, 2013), prepared by TRC Environmental Corporation (the “CWW

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1 SEQRA Report”) (Entergy Ex. 184); (iii) the Village of Buchanan Code and related maps
2 (“Village Law”); (iv) the Westchester County Administrative Code, Westchester County
3 regulations, and related maps (“County Law”); (v) maps and deeds related to the Indian
4 Point property; (vi) statutes, regulations and cases governing the issuance of property
5 interests in New York State lands by OGS (“OGS Law”); (vii) the Westchester County
6 GIS map service showing the presence of key environmental and other features in
7 Westchester County found at: <http://giswww.westchestergov.com/gismap/default.aspx?>;
8 (viii) the New York State Department of Environmental Conservation’s Environmental
9 Resource Mapper found at: <http://www.dec.ny.gov/imsmaps/ERM/checkZone.htm>; (ix)
10 web sites operated by the Westchester County Departments of Planning and Public
11 Works; and (x) cases relating to the ownership and regulation of lands underwater and
12 other subjects relevant to the analysis of applicable state and county regulations. I also
13 (1) identified the potentially applicable permitting and related requirements under Village
14 Law, County Law, and OGS Law; (2) assessed whether the CWWS proposal would be
15 reasonably likely to receive the necessary permits and authorizations under Village Law,
16 County Law and OGS Law; and (3) based upon my knowledge, expertise and review of
17 the relevant materials, determined whether the CWWS proposal is reasonably likely to
18 receive the necessary permits and authorizations under Village Law, County Law and
19 OGS Law.

20 **Q: Did you prepare a report that presents your analysis that Entergy is reasonably**
21 **likely to obtain the necessary permits and authorizations under Village Law,**
22 **County Law and OGS Law for its CWWS proposal?**

23 **A:** Yes. My analysis is documented in a report entitled, “Analysis of Municipal and County

1 Permitting and Office of General Services Approval for CWW Screens Project at Indian
2 Point,” dated March 29, 2013 (the “Permitting Report”) (Entergy Ex. 187). My
3 colleague, Elizabeth M. Morss, Esq., who has practiced environmental law for over 20
4 years, assisted me in the preparation of that report. I understand that the Permitting
5 Report has been previously provided to the parties to the Proceedings and, and I adopt the
6 Permitting Report as part of my prefiled testimony.

7 **Q: Based upon your analysis in the Permitting Report, have you formed an opinion as**
8 **to whether Entergy is reasonably likely to obtain the necessary permits and**
9 **authorizations under applicable Village Law, County Law and OGS Law for its**
10 **CWWS proposal?**

11 **A:** Yes. Based upon my analysis, as set forth in the Permitting Report, Entergy is reasonably
12 likely to obtain the necessary permits and authorizations under Village Law, County Law
13 and OGS Law to construct and operate its CWWS proposal.

14 **III. QUALIFICATIONS**

15 **Q: Please describe your educational and professional qualifications, including relevant**
16 **professional activities.**

17 **A:** My professional and educational qualifications are summarized in the curriculum vitae
18 attached hereto (Entergy Ex. 211). Briefly, I hold a B.S. in Management and an M.S. in
19 Operation Research and Statistics, both from the Rensselaer Polytechnic Institute, as well
20 as a J.D. from Harvard Law School. I have more than 31 years of experience in the
21 practice of environmental and land use law on behalf of project developers and
22 municipalities. I was an Adjunct Professor of Environmental Law at Rensselaer

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1 Polytechnic Institute from 1988 to 2000, and continue to lecture occasionally. I have
2 been ranked as a leading New York attorney in my area of expertise, including by
3 Chambers USA – America’s Leading Lawyers for Business.

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5 During the past 16 years, a significant portion of my practice has entailed assisting towns,
6 villages, companies, transportation corporations and counties both east and west of the
7 Hudson River in working with New York City Department of Environmental Protection,
8 the New York State Department of Environmental Conservation, and New York State
9 Department of Health in implementing the 1997 Memorandum of Agreement (“MOA”)
10 relating to New York City Filtration Avoidance Determination under the Safe Drinking
11 Water Act. Section 141 of the MOA, entitled “Upgrades to Existing WWTPs to Comply
12 with Watershed Regulations,” required New York City (“NYC”) to fund the regulatory
13 upgrades of over 107 wastewater treatment plants (both private and public) within the
14 NYC Watershed; in most cases, the mandated “upgrades” required the construction of
15 entirely new wastewater treatment plants. I was the project attorney for 25 different
16 facilities, including the following facilities located in Westchester County:

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Facility	Address
Waccabuc Country Club	Mead Street Waccabuc, NY 10597
Bedford Lake Apt. – Bedford Park Apts.	100 Haines Road Bedford, NY 10507
Somers Manor Nursing Home -IBM Somers	294 Route 100 Somers, NY 10589
Wild Oaks Utilities - Lewisboro – Wild Oaks	101 Nash Road Lewisboro, NY
Riverwoods	Riverwoods Chappaqua Corp. Croton Lake Road

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	New Castle, NY10549
Seven Springs Sewer Corp.	P.O. Box 368 Purdys, NY 10578

1
2 As the project attorney, I assisted the project engineer in identifying and obtaining the
3 local and county approvals for the construction and operation of these wastewater
4 treatment plants. As a result, I have developed extensive experience in addressing
5 municipal and County Law, including for projects with potential watershed implications.

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