

RAS-1526

UNION OF CONCERNED SCIENTISTS

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March 10, 2000

Office of the Secretary
ATT: Rulemakings & Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

DOCKET NUMBER
PROD. & UTIL FAC. 50-271-IT

RE: Exhibit 'A' Attachment to CAN's Reply to AmerGen/VY Answer

Dear Mr. Julian:

Having inadvertently failed to send the enclosed original copy of my supplemental declaration for the above referenced filing to CAN to file, enclosed please find the original and six copies for service in this matter.

I am sorry for any inconvenience this may have caused.

Thank you for your kind assistance.

Sincerely,



David A. Lochbaum
Nuclear Safety Engineer

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SECY-02

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Before the
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSISON

In the matter of
Vermont Yankee Nuclear Power Corp.
Application for transfer of Part 50 license
for Vermont Yankee Nuclear Power Station
to AmerGen Vermont, LLC

Docket No. 50-271

DECLARATION OF DAVID A. LOCHBAUM, NUCLEAR SAFETY ENGINEER,
UNION OF CONCERNED SCIENTISTS, CONCERNING TECHNICAL ISSUES
AND SAFETY MATTERS INVOLVED IN THE TRANSFER OF THE
VERMONT YANKEE OPERATING LICENSE TO AMERGEN

I, David A. Lochbaum, make the following declaration:

1. My name is David A. Lochbaum. My credentials and concerns have been documented in my declaration of February 17, 2000. The purpose of this declaration is to clarify an issue contested by AmerGen Vermont, LLC in its response to the filing made by the Citizens Awareness Network.
2. AmerGen Vermont claimed that the concern about liability coverage protection under the provisions of the Price-Anderson Act was unjustified. AmerGen Vermont based its claim primarily on the following argument:

Specifically, under 10 CFR § 50.82(a)(11), the Part 50 license for a nuclear power reactor may not be terminated until "[t]he terminal radiation survey and associated documentation demonstrates that the facility and site are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, subpart E."

This section of Title 10 of the Code of Federal Regulations has the same intent as virtually all other sections of 10 CFR - namely, to provide reasonable assurance that plant workers, members of the public, and the environment will be adequately protected from the radiological hazards associated with nuclear power plant operation. Recognizing that these federal safety regulations do not provide absolute protection, the Price-Anderson Act was enacted to provide liability coverage in event that plant workers, members of the public, and/or the environment are harmed. Thus, despite numerous sections within 10 CFR comparable in intent to § 50.82(a)(11) and Part 20, subpart E, it was understood that radioactivity could be released from nuclear power plants in sufficient quantities as to require liability coverage via the Price-Anderson Act.

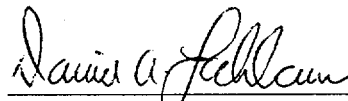
My concern is that coverage under Price-Anderson ends when the 10 CFR Part 50 operating license for Vermont Yankee is terminated. The amount of radioactivity remaining at the plant site could satisfy all of the requirements of § 50.82(a)(11) and Part 20, subpart E and yet still cause harm to members of the public and/or the environment if the site is subsequently disrupted or if assumptions about radionuclide transport to ground water, etc prove non-conservative.

In addition, experience repeatedly demonstrates that nuclear power plant owners, including the Vermont Yankee licensee, do not always comply with the regulatory requirements within 10 CFR. For example, by letter dated August 23 ,1996, from Hubert J. Miller to Ross Barkhurst, the NRC imposed a \$50,000 civil penalty on Vermont Yankee for a violation of 10 CFR Part 50, Appendix K, Section D.1. According to the NRC's Enforcement page on its website, this civil penalty was paid on September 23, 1996. In another example, by letter dated April 14, 1998, from Hubert J. Miller to Donald A. Reid, the NRC imposed a \$55,000 civil penalty on Vermont Yankee for violations of 10 CFR Part 50, Appendix B, Criterion III; 10 CFR Part 50, Appendix B, Criterion XVI; and 10 CFR § 50.73. According to the NRC's Enforcement page on its website, this civil penalty was paid on May 14, 1998.¹

Thus, AmerGen Vermont's claim that § 50.82(a)(11) and Part 20, subpart E obviate the need for liability coverage following termination of Vermont Yankee's operating license is unfounded. Prior to license termination, liability coverage is required because the federal regulations do not provide absolute protection for members of the public and the environment. Liability coverage is also needed prior to license termination because licensees do not always comply with these federal regulations. Following license termination, radioactivity can remain at the Vermont Yankee site in sufficient quantities such that absolute protection for members of the public and the environment cannot be demonstrated. Absent demonstration of absolute protection following license termination, liability coverage is as necessary as prior to license termination.

I declare under penalty of perjury that the foregoing is true and correct.

Executed March 9, 2000



David A. Lochbaum
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¹ <http://www.nrc.gov/OE/>