

October 11, 2002

Mr. Michael Mulligan
P.O. Box 161
5 Wood Lawn Lane
Hinsdale, NH 03451

Dear Mr. Mulligan:

I have reviewed your e-mails dated June 18, July 22 and August 7, 2002, all of which were addressed to the U.S. Nuclear Regulatory Commission's (NRC's) Office of Public Affairs via Mr. Victor Dricks. Most of your comments were addressed in previous letters to you [specifically our letter dated February 13, 2002, which addressed your Yankee Nuclear Power Station (Vermont Yankee) November 30, 2001, petition, as supplemented on December 3, 2001; your January 4, 2002, petition on Vermont Yankee; and your LaSalle petition dated December 28, 2001, as superseded on January 4, 2002]. As discussed in our letter to you dated August 23, 2002, I am only addressing issues in the e-mails that are within NRC's jurisdiction and that warrant additional actions on our part. As stated in our letter to you on August 22, 2002, the allegations of wrongdoing by the NRC staff have been forwarded to the NRC's Office of the Inspector General.

You requested an explanation of the sentence on page 2 in the Cooper Nuclear Station (CNS) ultimate heat sink (UHS) amendment (ADAMS Accession No. ML022060152), "Assuming 102 percent reactor power is typical and consistent with what the NRC considers to be acceptable for design-bases applications, we consider this assumption to be acceptable." The NRC staff agrees that this sentence could have been better stated. For the UHS amendment, CNS was not as conservative as their original calculations which assumed 104 percent. However, to account for instrumentation error 10 CFR Part 50 Appendix K requires that the licensee assume at least 102 percent reactor power. Therefore, the NRC staff found CNS's assumption of 102 percent, for the UHS amendment, to be acceptable.

You asked why the UHS amendment was issued on an exigent and not an emergency basis. The NRC staff evaluated the licensee's rationale against Section 50.91(a)(5) of Title 10 of the *Code of Federal Regulations* (10 CFR) which requires licensees to "explain why the emergency situation occurred and why it could not avoid the situation." The licensee's letter of July 3, 2002, did not address why the emergency could not be avoided. Therefore, the NRC staff had determined not to act on the licensee's request pursuant to 10 CFR 50.91(a)(5). The NRC staff, however, recognized that for continued operation of CNS, the licensee and the Commission needed to act quickly, and time did not permit the Commission to wait for the 30 day prior public comment period. In accordance with 10 CFR 50.91(a)(6), the staff processed the two amendments concerned on an exigent basis to prevent an unnecessary plant transient.

You expressed concern that there has been an increasing trend with license amendment requests asking for higher UHS limits in the last few years. Generally, trends in license amendments have been attributed to various reasons. For instance, licensees have utilized topical reports as templates for submitting amendment requests. Therefore, related amendments are typically requested following the approval of a topical report. Other times, important inspection findings at one plant have prompted other plants to request license changes. UHS amendments have been issued to remove unnecessary restrictions in the technical specifications (TSs) on plant operators in severe weather conditions. TSs limits on UHS parameters such as temperatures and water levels are based on assumptions made in design and licensing analyses. Changes in weather patterns have resulted in many plants approaching the values assumed during original licensing reviews performed 20 to 30 years ago. In this case, the utility was able to prove that operation at higher UHS temperatures was safe. The NRC determined the licensee's request was justified and approved the change to the TSs.

You asked why additional changes were needed (beyond the heat sink limit) in related limits, if there is so much safety margin built in. Many systems are related. Therefore, in considering a change to one system's parameters, the effect on other systems must be considered. The reactor equipment cooling (REC) system is cooled by water from the UHS, consequently the temperature of the REC system will increase as the UHS temperature increases. Therefore, an increase in the REC system temperature limit was also required.

You stated that CNS has an alcohol abuse problem. After reviewing several of the plants' fitness-for-duty (FFD) reports over the past two years, the facts do not agree with your assertion that CNS staff has a significant problem. FFD reports are submitted by the licensee biannually per 10 CFR 26.71 to ensure a rigorous drug and alcohol screening policy is in effect. FFD reports are available in the Agencywide Documents Access and Management System (ADAMS) Public Electric Reading Room.

Finally, you stated that you believe the NRC purposely did not include your initial comments regarding the amendment request. The NRC does not purposely leave out public comments received in reference to a *Federal Register* notice. In this case, your comments contained in the June 18, July 22, and August 7, 2002 e-mails were not forwarded to the staff working on the amendment until after the amendment was issued. The only way to ensure your comment on an amendment is addressed is to follow the instructions outlined in the *Federal Register* which states:

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays.

M. Mulligan

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If you have questions on this matter, please contact Mr. Brian Benney of my staff at 301-415-3764.

Sincerely,

/RA/

Stephen Dembek, Chief, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-298

M. Mulligan

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If you have questions on this matter, please contact Mr. Brian Benney of my staff at 301-415-3764.

Sincerely,

/RA/

Stephen Dembek, Chief, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-298

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PKG: ML022270713

NRR-106

Incoming: ML022250558 d/d 08/04/02 (Attached-6/18/02)

ML022250570 d/d 7/22/02

ML022250551 d/d 8/07/02

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