

October 28, 2004

Mr. Kevin Knobloch, President
Union of Concerned Scientists
1707 H Street NW, Suite 600
Washington, D.C. 20006

Dear Mr. Knobloch:

I am responding on behalf of Chairman Diaz to your September 28, 2004, letter regarding nuclear power plant safety, the renewal of operating licenses, and the U.S. Nuclear Regulatory Commission's (NRC's) hearing process. You expressed an interest in protecting against safety margin erosion when relicensing aging nuclear power plants and the need to determine that the current licensing basis for plants provides adequate protection compared to the protection provided by today's safety regulations. You also expressed concern that the NRC's revised hearing process based on the revised Part 2 of Title 10 of the *Code of Federal Regulations* (10 CFR) restricts meaningful public participation in licensing proceedings.

NRC's highest priority is ensuring the health and safety of the public and protecting the environment. NRC relies on the regulatory process to provide reasonable assurance that current operating nuclear power plants continue to maintain an adequate level of safety. Over the life of the plants, this level of safety has been enhanced as a result of improvements in technology or on the basis of operating experience, including experience with aging of nuclear power plants. The NRC updates its regulations and issues generic communications, which require action by nuclear power plant licensees, as appropriate, to maintain safety. The NRC also requires licensees to routinely test, monitor, and maintain systems, structures, and components relied on for safety to provide assurance that they will perform as intended. Daily oversight of licensee activities is provided by the NRC's onsite inspectors and is supplemented by periodic specialized NRC team inspections.

The NRC conducted a comprehensive Nuclear Plant Aging Research Program on safety-related systems, structures, and components during the 1980s and 1990s. The researchers identified the significant aging mechanisms and locations where these mechanisms could occur, and determined their detrimental effects. The research program also evaluated applicable consensus standards and the effectiveness of inspections and maintenance to manage aging concerns. The NRC has continued to assess plant operating experience with aging since that research. Because aging is a continuous process, the NRC has found that many aging effects are dealt with adequately by existing programs during the initial license term. By crediting these existing programs and the regulatory process that continue to be applicable during the period of extended operation, the license renewal process focuses on plant structures and components for which current activities and requirements may need to be enhanced to manage the effects of aging in the period of extended operation (i.e., up to an additional 20 years).

When a licensee applies for license renewal, the NRC reviews both the safety and environmental issues associated with the application. Specifically, the licensee must provide the NRC with an evaluation of the technical aspects of plant aging. The licensee must also describe the aging management programs and activities that will be relied on to manage aging. In addition, to support plant operation for the additional 20 years, the licensee must prepare an evaluation of the potential impact on the environment. The NRC reviews the application, documents its reviews in a safety evaluation report and supplemental environmental impact statement, and performs verification inspections at the licensee's facilities. If NRC approves a renewed license, the licensee must continue to comply with all existing regulations and commitments associated with the current operating license as well as those additional activities required as a result of license renewal. Licensee activities continue to be subject to NRC oversight in the period of extended operation.

Public participation is an important part of the license renewal process. Members of the public have several opportunities to question how aging will be managed during the period of extended operation. Information provided by the licensee is made available to the public in various ways. The license renewal application and subsequent correspondence regarding the application are available to the public from the NRC's Public Document Room or from the Agencywide Documents Access and Management System (ADAMS) which can be accessed through the NRC's Web site (<http://www.nrc.gov>). (Note: Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC Web site for updates on the resumption of ADAMS access.) Shortly after the NRC receives a renewal application, a public meeting is held near the nuclear power plant to give the public information about the license renewal process and provide opportunities for public involvement. Additional public meetings are held by the NRC during the review of the renewal application. NRC evaluations, findings, and recommendations are published when completed. All public meetings are posted on NRC's Web site. Key meetings are announced in press releases and in the *Federal Register*. Concerns may be litigated in an adjudicatory hearing if any party that would be adversely affected requests a hearing. The opportunity for hearing is also announced in a press release which is initially posted on the NRC's home page on the Web.

To sum up, license renewal rests on the determination that a currently operating plant continues to maintain an adequate level of safety. Over the plant's life, this level of safety has been enhanced through maintenance of the licensing basis, with appropriate adjustments to address new information from operating experience and technological advances. Additionally, the NRC's regulatory activities provide ongoing assurance that operating plants continue to provide an acceptable level of safety and that this level of safety will be maintained for the period of extended operation if a renewed license is issued. More information on license renewal is available on the NRC's Web site at <http://www.nrc.gov/reactors/operating/licensing/renewal.html>.

Your letter also said that you are troubled that NRC has restricted meaningful public participation in licensing proceedings by its changes to 10 CFR Part 2 and related activities. The recent changes to 10 CFR Part 2 were not intended to restrict meaningful public participation in NRC licensing proceedings. The intent of the Commission's revisions, as discussed in the statements of consideration for the revised Part 2, was to make the NRC's hearing process more effective and efficient, and to tailor hearing procedures to the different

types of licensing and regulatory activities the NRC conducts. The Commission stated that these changes would better focus the limited resources of involved parties and the NRC.

In the Part 2 rulemaking, the Commission adopted many changes and undertook additional activities intended to enhance public participation. For example, the final rule extends from 30 to 60 days the time between issuing a *Federal Register* notice for a reactor licensing proceeding and the time for submitting a request for hearing and petition to intervene. The Commission adopted a mandatory disclosure provision in Part 2 that provides for early and comprehensive disclosure of information by all parties, thus avoiding the substantial resources and delay that often is associated with discovery.

The Commission also created a prominently displayed button on its home page, "Hearing Opportunities," where the public can find notices of intent to file applications, notices of docketing of applications, and notices of opportunity to request a hearing and petition to intervene in major licensing and regulatory actions (e.g., enforcement). Furthermore, we understand that interveners in past hearings have expressed concern about the time and resources necessary to participate in such hearings. The Commission's expansion of the proceedings to be conducted under the less formal procedures was intended in part to address such concerns. In summary, we believe that the new Part 2 changes will not adversely affect public participation in licensing proceedings.

Your letter also enclosed communications from other Union of Concerned Scientists (UCS) members expressing concerns similar to yours. To help disseminate this information to the other UCS members and interested members of the public, we intend to post this letter on the NRC's home page under "For the Record," as well as make it available through ADAMS. We would also request that you consider posting this letter on the UCS Web site so that interested UCS members have easy access to the response.

Sincerely,

/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

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Distribution: For Letter to K. Knobloch from J. Dyer dated October 28, 2004
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