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\* FOR IDENTIFICATION ONLY

□ NOT ADMITTED IN NEW HAMPSHIRE

September 13, 2005

Jason Zorn, Esq.  
Office of the General Counsel  
Mail Stop O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: VYUprate -Docket No..50-271 (ASLBP.No. 04-832-02-OLA)

Dear Jason:

This letter identifies documents on the NRC Staff's September 8, 2005 Deliberative Process Log which DPS believes should have been produced. The documents are the following:

ML052230204
ML052230209
ML052230210

OGC002

OGC01

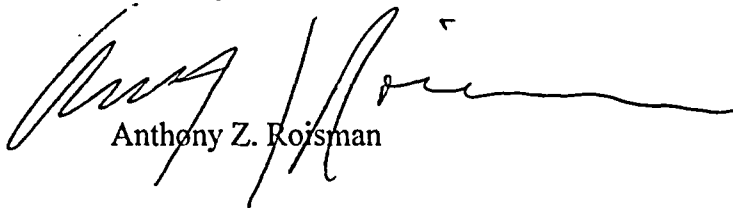
ML052340101
ML052310075
ML052340089
ML052340108
ML052340239
ML052340258
ML052340262
ML052340251
ML052360320
ML052410318
ML052410385
ML052410296
ML052410379
ML052410310
ML052410383
ML052410391
ML052410316
ML052410395
ML052420358
ML052420371
ML052420376
ML052420384

We believe the scope of the Deliberative Process Privilege is narrow and does not include documents that do not disclose the deliberative process leading to a policy decision by the NRC Staff and does not include facts contained in documents. As best as we can determine, from the limited disclosures made in the Log, none of the documents identified above meet the narrow criteria for application of the Deliberative Process Privilege.

Consistent with my previous discussions with Ms. Poole, I understand that the Staff agrees that the time for filing a motion with the ASLB regarding the failure to produce the identified documents will be extended until a reasonable time following a response to this letter from the Staff. I suggest the time be 5 business days from the date of the response. I also propose the Staff provide its response to this letter request within the next two weeks. Since technically an "agreement" between us as to a filing deadline set by the Regulations is ineffective, I propose we agree that I may advise the ASLB of our agreement and that the Staff will not oppose any motion with regard to these documents that we file based on timeliness.

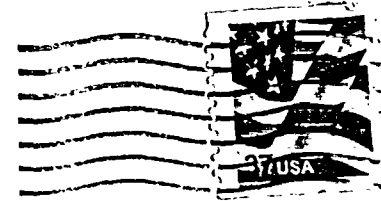
Thank you for consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Z. Roisman", written in a cursive style. The signature is positioned above the printed name.

Anthony Z. Roisman

cc: Sara Hofmann, Esq.



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