

UNITED STATES
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

September 29, 2005 (11:41am)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)

) Docket No. 50-271

ENTERGY NUCLEAR VERMONT)

YANKEE LLC AND ENTERGY NUCLEAR)
OPERATIONS, INC.)

) ASLBP No. 04-832-02-OLA

(Vermont Yankee Nuclear Power Station))

VERMONT DEPARTMENT OF PUBLIC SERVICE MOTION
TO COMPEL PRODUCTION OF CERTAIN NRC STAFF DOCUMENTS (II)

I. INTRODUCTION

Pursuant to 10 C.F.R. §2.323 the Vermont Department of Public Service (DPS) moves the Board to direct the NRC Staff (Staff) to produce certain documents the existence of which was disclosed on it September 6, 2005 Deliberative Process Log (DPL). A copy of the DPL is attached as Tab C with an asterisk along side each document as to which this Motion to Compel is directed. The documents, based on their limited description in the DPL, do not qualify for a deliberative process privilege. These documents merely represent ongoing work by NRC Staff personnel on issues which are directly relevant to the current proceeding.¹ Contrary to the very limited type of documents to which the deliberative process privilege applies - non-factual material which reveals the decision-making process of the NRC - these documents appear to contain substantial factual information and none involve any decision-making process. Thus, DPS requests the Board order the production of the documents at issue and establish a principle

¹ There is no issue that the documents are relevant to the proceeding since they all appear on a disclosure made by the Staff in this proceeding pursuant to 10 C.F.R. §§2.336(b)and (d).

for use of the deliberative process privilege that will require the NRC Staff to produce all similar documents that are relevant to this proceeding.

II. COMPLIANCE WITH 10 CFR § 2.323

Prior to filing this motion, DPS and Staff conducted both oral and written communications in an effort to resolve their differences. Copies of the written communications, are attached as Tab A. The Certification of counsel required by § 2.323(b) is attached as Tab B.

There is also a requirement of § 2.323(a) that all motions must be filed within 10 days after “the occurrence or circumstance from which the motion arises.” Because it is possible the 10 days could be deemed to run from the date of Staff disclosures to which objection is raised, which in this case would be 10 days after September 6, 2005, when Staff produced the DPL at issue here, DPS and Staff have reached an agreement, reflected in the correspondence previously provided to the Board as part of its Motion to Compel dated August 31, 2005, that Staff will not raise an issue of timeliness of this pleading provided it is filed, as it is, within five (5) business days of Staff’s written response to DPS’s objection to the DPL.² Staff responded to DPS’s September 13, 2005 objections to the September 6, 2005 DPL by a letter dated September 23, 2005, but sent only by regular mail and not received until September 27, 2005.

III. ARGUMENT

DPS has previously presented its arguments on the timeliness of the Motion to Compel and on the inappropriate deliberative process designation assigned to certain classes of documents in its August 31, 2005 Motion to Compel. Because the documents at issue here are of

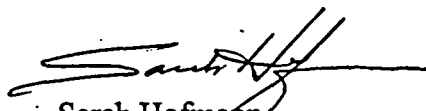
² Also pursuant to agreement between DPS and Staff, the objections to the DPL had to be filed, as they were, within 10 days of its production. The objection to the DPL was filed by letter dated September 13, 2005.

the same type and character, DPS incorporates by reference those arguments in support of this Motion to Compel.³

IV. CONCLUSION

For the reasons stated we urge the Board to order Staff to produce these documents and to withdraw the claim of a deliberative process privilege for all similar documents where the document reflects issue of concern to Staff or areas of potential inquiry identified by Staff. Alternatively, we request the Board direct Staff to produce these and all similar documents for *in camera* inspection and on the basis of that inspection order production of all documents which do not meet the criteria discussed above.

Respectfully submitted,



Sarah Hofmann
Director for Public Advocacy
Department of Public Service
112 State Street - Drawer 20
Montpelier, VT 05602-2601

Anthony Z. Roisman
National Legal Scholars Law Firm
84 East Thetford Rd.
Lyme, NH 03768

Dated this 29th day of September 2005 at Montpelier, Vermont.

³ DPS proposed to the new Staff counsel that we avoid filing additional Motions to Compel until the Board had ruled on the pending motion and agree that production of other contested documents be governed by the Board's decision. Staff counsel rejected the proposal.

TAB A

**Written Communications Between Staff and DPS
re 9/6/05 Deliberative Process Log**

NATIONAL LEGAL SCHOLARS LAW FIRM, P.C.

84 EAST THETFORD ROAD LYME, NH, 03768
603.795.4245 603.795.4246 (FAX)
WWW.NATIONALLEGALSCHOLARS.COM

MANAGING PARTNER

ANTHONY Z. ROISMAN

Dartmouth College (Research Fellow)* □
aroisman@nationallegalscholars.com

AFFILIATED ATTORNEYS

PROF. ERWIN CHEMERINSKY

Duke University Law School* □

PROF. SEAN DONAHUE

Washington & Lee Univ. Law School (visiting)* □

PROF. JAY M. FEINMAN

Rutgers Law School-Camden* □

DAVID G. GOLDBERG

New York, NY □

PROF. MICHAEL H. GOTTESMAN

Georgetown Univ. Law Center* □

PROF. RICHARD J. LAZARUS

Georgetown Univ. Law Center* □

AFFILIATED ATTORNEYS

JONATHAN S. MASSEY

Bethesda, MD □

PROF. STEPHEN A. SALTZBURG

George Washington University Law School* □

PROF. ALLAN R. STEIN

Rutgers Law School-Camden* □

PROF. JOHN F. VARGO,

Indiana University Law School* □ (retired)

PROF. ALVIN S. WEINSTEIN

Prof. Emeritus, Carnegie-Mellon University* □

PROF. ROBERT F. WILLIAMS

Rutgers Law School-Camden* □

* 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

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,

Anthony Z. Roisman

cc: Sara Hofmann, Esq.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 23, 2005

Anthony Z. Roisman, Esq.
National Legal Scholars Law Firm, P.C.
84 East Thetford Road
Lyme, NH 03768

In the Matter of
Entergy Nuclear Vermont Yankee, LLC, *et al.*
(Vermont Yankee Nuclear Power Station)
Docket No. 50-271-OLA (Extended Power Uprate)

Dear Mr. Roisman:

I am writing in response to your letter to Jason Zorn, dated September 13, 2005, in which you request the Staff's disclosure of 25 of the 38 documents that were identified as privileged in the NRC Staff's Deliberative Process Log of September 8, 2005.

We have reviewed the documents listed in your letter, in order to verify that they were properly withheld under the pre-decisional deliberative process privilege. The documents consist of internal NRC Staff E-mail communications, containing an exchange of thoughts, mental impressions, opinions and recommendations pertaining to the Staff's ongoing review of the Vermont Yankee extended power uprate (EPU) license amendment application and the Staff's requests for additional information (RAIs) concerning that application. In sum, the documents were properly withheld under the pre-decisional deliberative process privilege.

Your request for these documents fails to present any reason why you need these internal, pre-decisional documents. Further, inasmuch as the documents generally pertain to the formulation of RAIs and/or responses received from the Licensee, various other documents are or will be available to you (e.g., the RAIs as issued, the Licensee's responses, and the Safety Evaluation Report) which would provide any necessary information for your review.

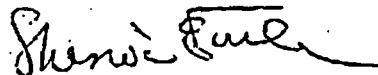
In our telephone discussion of September 16, you stated your view that the pre-decisional deliberative process privilege does not begin to apply until the Staff has concluded its effort to gather information and has commenced to "deliberate" on whether to grant the application. You were unable to cite any legal authority for that view, and I am not aware of any valid basis for it. In fact, the deliberative process includes various steps, including deliberations as to the sufficiency of the information contained in the application, and the need for further information in order to reach a final regulatory decision. Your interpretation would render the privilege meaningless; further, your request for so many internal NRC Staff communications, without showing any reason why the documents should be disclosed, represents a fundamental and unfounded challenge to the deliberative process privilege.

Anthony Z. Roisman, Esq.
September 23, 2005
Page 2

Finally, in your letter you refer to "previous discussions" you have had with Brooke Poole (formerly Counsel for the Staff in this proceeding), concerning the timeliness of any motion to compel that you may wish to file before the Atomic Safety and Licensing Board. As you know, I was not privy to any such previous discussions. However, I am not comfortable with your interpretation of those discussions which would, in effect, provide an extended time limit for your filing any motion to compel. Accordingly, while I am ready and willing to discuss any request for documents in advance of your filing a motion to compel, henceforth any extensions of time for the filing of a motion to compel should be discussed with me on a case-by-case basis. In the absence of any agreement for such an extension on a case-by-case basis, you should not assume that the Staff consents to an extension of the time for the filing of a motion to compel.

Please do not hesitate to contact me if you have any questions in this regard.

Sincerely,



Sherwin E. Turk
Special Counsel for Litigation

cc: Sara Hofmann, Esq.

TAB B

Certificate of Counsel

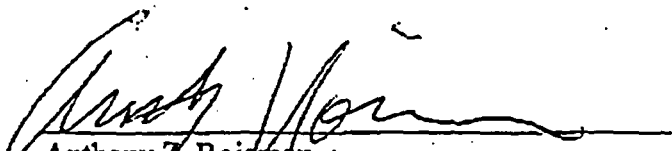
UNITED STATES
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 50-271
ENTERGY NUCLEAR VERMONT)	
YANKEE LLC AND ENTERGY NUCLEAR)	
OPERATIONS, INC.)	ASLBP No. 04-832-02-OLA
(Vermont Yankee Nuclear Power Station))	

CERTIFICATION OF COUNSEL

Pursuant to 10 CFR §2.323(b) the undersigned counsel certifies that he has made a sincere effort to convince NRC Staff that certain documents which it has withheld from disclosure as deliberative process documents should be produced. Staff has not been willing to accept the arguments advanced by undersigned counsel but also has not provided undersigned counsel with any persuasive reasons or legal precedents sufficient to convince him that the position of DPS is in error. Thus, the good faith efforts of Staff and undersigned counsel to resolve this matter without involvement of the Board have failed.


 Anthony Z. Roisman
 National Legal Scholars Law Firm
 84 East Thetford Rd.
 Lyme, NH 03768

September 28, 2005

TAB C

NRC Staff Deliberative Process Log of 9/6/05

**VERMONT YANKEE EPU HEARING FILE AND MANDATORY DISCLOSURES
PRIVILEGE LOG - DELIBERATIVE PROCESS
SUPPLEMENT 13 - September 6, 2005**

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosure as predecisional, deliberative information. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents, withheld under the "deliberative process" privilege.

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052230210	Razzaque M M, NRC/NRR	E-mail Razzaque, NRR, to Ennis, NRR Re: VY EPU RAIs.	8/10/2005	E-Mail	Ennis R B, NRC/NRR	Contains draft requests for information regarding the the effect of the EPU on new and spent fuel storage	3
* ML052230209	Razzaque M M, NRC/NRR	E-mail Razzaque, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/10/2005	E-Mail	Ennis R B, NRC/NRR	Contains draft requests for information regarding single loop operation of shutdown cooling and clarification of terms in previous responses to RAIs	3

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

*

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
ML052230204	Reddy D K, NRC/NRR	E-mail Reddy, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/10/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff discussion of responses to RAIs regarding stability and reliability of condensate and feedwater system	2
ML052310065	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Pal, NRR, Re: VY EPU SBO Response.	8/15/2005	E-Mail	Pal A N, NRC/NRR	Contains staff recommendations to draft safety evaluation regarding station blackout analysis	2
ML052310072	Jacobson J, NRC/NRR	E-mail Jacobson, NRR, To Ennis, NRR, Re: VY EPU SBO Response.	8/15/2005	E-Mail	Ennis R, Pal A, NRC/NRR	Contains staff recommendations to draft safety evaluation regarding station blackout analysis	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
ML052340120	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Pal and Razzaque, NRR, Re: VY EPU RAIs.	8/17/2005	E-Mail	Pal A N, Razzaque M M, NRC/NRR	Contains information regarding NRC's staff's internal scheduling practices and several pages of previously disclosed requests for additional information	9
ML052340040	Pal A N, NRC/NRR/ADPT	E-mail Pal, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/17/2005	E-Mail	Ennis R B, NRC/NRR	Contains information regarding NRC's staff's internal scheduling practices	2
ML052340037	Ennis R B, NRC/NRR/ADPT	E-mail Ennis, NRR, to Razzaque and Pal, NRR, Re: VY EPU Conference Call.	8/18/2005	E-Mail	Pal A N, Razzaque M M, NRC/NRR/ADP T	Contains information regarding NRC's staff's internal scheduling practices	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052340101	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Reddy, NRR, Re: VY EPU RAIs.	8/18/2005	E-Mail	Reddy D K, NRC/NRR	Contains draft requests for additional information regarding condensate and feedwater system	5
ML052340038	Razzaque M M, NRC/NRR	E-mail Razzaque, NRR, to Ennis, NRR, Re: VY EPU Conference Call.	8/18/2005	E-Mail	Ennis R B, NRC/NRR	Contains information regarding NRC's staff's internal scheduling practices	2
* ML052310075	Reddy D K, NRC/NRR	E-mail Reddy, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/18/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff discussion of response to request for additional information regarding condensate and feedwater system	5

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052340089	Reddy D K, NRC/NRR	E-mail Reddy, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/18/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff discussion of response to request for additional information regarding condensate and feedwater system	5
* ML052340108	Thomas G, NRC/NRR	E-mail Thomas, NRR, to Ennis, NRR, Re: VY EPU Review.	8/18/2005	E-Mail	Ennis R B, NRC/NRR	Contains draft request for additional information regarding accident and transient analyses	2
* ML052340239	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Jones, NRR, Re: VY EPU RAIs.	8/19/2005	E-Mail	Jones S R, NRC/NRR	Contains staff discussion of response to request for additional information regarding condensate and feedwater system	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052340258	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Thomas, NRR, Re: VY EPU RAIs.	8/19/2005	E-Mail	Thomas G, NRC/NRR	Contains draft request for additional information regarding accident and transient analyses	3
* ML052340262	Jones S R, NRC/NRR	E-mail Jones, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/19/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff discussion of response to request for additional information regarding condensate and feedwater system.	2
* ML052340251	Jones S R, NRC/NRR	E-mail Jones, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/19/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff discussion of response to request for additional information regarding condensate and feedwater system	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
ML052360313	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Razzaque, NRR, Et. Al., ReL VY EPU RAIs.	8/22/2005	E-Mail, Request for Additional Information (RAI)	Pal A N, Razzaque M M, Thomas G, NRC/NRR	Contains information regarding NRC staff's internal scheduling practices	9
* ML052360320	Thomas G, NRC/NRR	E-Mail Thomas, NRR, to Ennis, NRR, Re: VY EPU RAI.	8/22/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information	2
* ML052410318	Abdullahi Z, NRC/NRR	E-mail Abdullahi, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding linear heat generation rate	9

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052410385	Abdullahi Z, NRC/NRR	E-mail Abdullahi, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding linear heat generation rate	18
* ML052410296	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Holden, NRR, Re: VY EPU & Conference Call.	8/25/2005	E-Mail	Holden C F, NRC/NRR	Contains staff recommendations regarding internal procedures for following up responses to requests for additional information	4

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052410379	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Jones, NRR, Re: VY EPU RAIs.	8/25/2005	E-Mail	Jones S R, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding condensate and feedwater system	6
* ML052410310	Marsh L B, NRC/NRR	E-mail Marsh, NRR, to Ennis, NRR, Re: VY EPU Conference Call.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations regarding internal procedures for following up responses to requests for additional information	3

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052410383	Razzaque M M, NRC/NRR	E-mail Razzaque, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding maximum and average power densities	2
* ML052410391	Reddy D K, NRC/NRR	E-mail Reddy, NRR, to Ennis, NRR Re: VY EPU RAIs.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding performance of safety relief valves	3

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052410316	Reddy D K, NRC/NRR	E-mail Reddy, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding condensate and feedwater system	5
* ML052410395	Tatum J E, NRC/NRR	E-mail Tatum, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/25/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding condensate and feedwater system	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052420358	Jones S R, NRC/NRR	E-Mail Jones, NRR, to Ennis, NRR, Re: VY EPU RA's.	8/26/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding condensate and feedwater system	2
* ML052420371	Jones S R, NRC/NRR	E-mail Jones, NRR, to Ennis, NRR, Re: VY EPU RAI.	8/26/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding condensate and feedwater system	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
* ML052420376	Jones S R, NRC/NRR	E-mail Jones, NRR, to Ennis, NRR, Re: VY EPU RAI.	8/26/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding performance of safety relief valves	3
ML052420401	Razzaque M M, NRC/NRR	E-mail Pazzoque, NRR, to PAL, NRR, Re: VY EPU SBO Input.	8/26/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to draft safety evaluation regarding station blackout analysis	3
* ML052420384	Tatum J E, NRC/NRR	E-mail Tatum, NRR, to Ennis, NRR, Re: VY EPU RAIs.	8/26/2005	E-Mail	Ennis R B, NRC/NRR	Contains staff recommendations to changes to request for additional information regarding condensate and feedwater system	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
ML052420409	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Holden, NRR, Et. AL., Re: VY EPU Conference Call.	8/29/2005	E-Mail	Holden C F, NRC/NRR	Contains information regarding NRC staff internal scheduling practices	3
ML052420408	Ennis R B, NRC/NRR	E-mail, Ennis, NRR, to Holden, NRR, Et. AL., Re: VY EPU Conference Call.	8/29/2005	E-Mail	Holden C F, NRC/NRR	Contains information regarding NRC staff internal scheduling practices	3
ML052440380	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Wermiel, NRR, Et. AL., Re: VY EPU GE Audit.	8/30/2005	E-Mail	Abdullahi Z, Akstulewicz F M, Wermiel J S, NRC/NRR	Contains information regarding NRC staff internal scheduling practices	3
ML052440378	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Thomas, Re: VY EPU Question.	8/31/2005	E-Mail	Thomas G, NRC/NRR	Contains information regarding NRC staff internal scheduling practices	2

PRIVILEGE LOG - DELIBERATIVE PROCESS

SUPPLEMENT 13 09/06/05

Accession Number	Author Name/Affiliation:	Title/Description:	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
ML052440373	Ennis R B, NRC/NRR	E-mail Ennis, NRR, to Wermiel, NRR, Re: VY EPU Audit.	8/31/2005	E-Mail	Wermiel J S, NRC/NRR	Contains information regarding NRC staff internal scheduling practices	3

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
) Docket No. 50-271
ENTERGY NUCLEAR VERMONT)
YANKEE LLC AND ENTERGY NUCLEAR) ASLBP No. 04-832-02-OLA
OPERATIONS, INC.)
(Vermont Yankee Nuclear Power Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the Vermont Department of Public Service Motion to Compel Production of Certain NRC Staff Documents (II) in the above captioned proceeding has been served on the following by deposit in the United States Mail, first class, postage prepaid, and where indicated by asterisk by electronic mail this 29th day of September, 2005.

Alex S. Karlin, Chair*
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ask2@nrc.gov

Lester S. Rubenstein*
Administrative Judge
Atomic Safety and Licensing Board Panel
4270 E. Country Villa Drive
Tuscon, AZ 85718
E-mail: lesrrr@comcast.net

Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Anthony J. Baratta*
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ajb5@nrc.gov

Office of the Secretary*
ATTN: Rulemaking & Adjudications Staff
Mail Stop: O-16 C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: HEARINGDOCKET@nrc.gov

Office of Commission Appellate Adj.
Mail Stop O-16 C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Jay E. Silberg, Esq.*
Matias Travieso-Diaz, Esq.*
Douglas J. Rosinski, Esq.
Pillsbury Winthrop Shaw Pittman
2300 N St., NW
Washington, DC 20037-1128
jay.silberg@pillsburylaw.com
matias.travieso-diaz@pillsburylaw.com
douglas.rosinski@pillsburylaw.com

Anthony Z. Roisman, Esq.*
National Legal Scholars Law Firm
84 East Thetford Rd.
Lyme, NH 03768
aroisman@nationallegalscholars.com

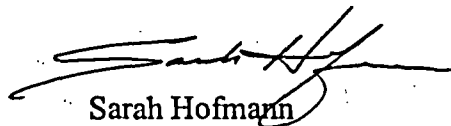
Raymond Shadis*
New England Coalition
P.O. Box 98
Shadis Road
Edgecomb, ME 04566
shadis@prexar.com

Antonio Fernández, Esq.*
Robert Weisman, Esq.*
Office of the General Counsel
Mail Stop 0-15 D21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
axf2@nrc.gov
rmw@nrc.gov

Jonathan M. Block, Esq.*
94 Main Street
P.O. Box 566
Putney, VT 05346-0566
jonb@sover.net

John M. Fulton, Esq.*
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601
jfulto1@entergy.com

Sincerely,



Sarah Hofmann
Director for Public Advocacy
Vermont Department of Public Service
112 State Street - Drawer 20
Montpelier, VT 05620-2601