

From: Billie Champ *SEM*
To: Scott Burnell
Date: 5/20/04 11:30AM
Subject: Fwd: Misdated Letter

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OPA
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E-44

From: Raymond Shadis <shadis@prexar.com>
To: <AVC@NRC.GOV>
Date: 5/20/04 10:32AM
Subject: Misdated Letter

*New England Coalition on Nuclear
Pollution*

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POST OFFICE BOX 545, BRATTLEBORO, VERMONT 05302

May 20, 2004

The Honorable Nils J. Diaz, Chairman
The Honorable Jeffrey S. Merrifield, Commissioner
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Regarding: Errata- NRC Candor and Public Confidence

Dear Chairman Diaz,

Dear Commissioner Merrifield,

On May 14, 2004, I sent you a letter regarding NRC Candor and Public Confidence. The May 14th letter was inadvertently and erroneously dated, March 22, 2004; the date of earlier letter to you on the subject of misleading public statements by NRC staff.

I am sorry for any confusion or inconvenience that error may have caused

A corrected copy of the subject letter (now Properly dated, May 14, 2004) is attached.

Thank you for your patience and attention,

Raymond Shadis
Staff Technical Advisor
New England Coalition
Post Office Box 98
Edgecomb, Maine 04556
207-882-7801

Cc: US Senator Patrick Leahy
US Senator James Jeffords
Ronnie Bucchi, NRC OIG

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Pollution*

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May 14, 2004

The Honorable Nils J. Diaz, Chairman
The Honorable Jeffrey S. Merrifield, Commissioner
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Regarding: NRC Candor and Public Confidence
Reference: Letter – R.Shadis to Cmrs. Diaz/Merrifield – March 22, 2004

Dear Chairman Diaz,

Dear Commissioner Merrifield,

This letter is to follow-up on a letter that I sent to you on March 22, 2004 in which I complained that NRC Staff and NRC Office of Public Affairs (OPA) had misled the staff of US Senators and the news media of Vermont with respect the nature and origin of the extended uprate review process.

In that letter, I reminded you that on March 12, 2004, during a brief conversation with me at the NRC Regulatory Information Conference, you had committed to look into my allegations.

I am saddened to have to report to you additional and more recent examples of NRC staff attempts to mislead the public through obfuscation or outright false statement.

As I explained in my letter, NRC OPA had confirmed to a Vermont news reporter Entergy's assertion that Vermont Yankee's Extended Power Uprate would receive not one, but two independent safety assessments. Entergy's statement was, to those of us familiar with the Maine Yankee ISA, a transparent attempt to confuse the public about the nature of an ISA. The Advisory Committee on Reactor Safeguards (ACRS), Entergy claimed, would do one of the "independent assessments".

While waiting for your response to my letter of March 22, I undertook to find out just how extensive an ACRS review of an EPU might be by inquiring of the number of hours ACRS devoted to each review. To that end I contacted Mindy Landau, Assistant

for Communications, Office of the Executive Director of Operations, NRC, and John T. Larkins, Executive Director of the ACRS.

Ms. Landau responded that ACRS typically took 300 to 400 person hours to review an EPU. She volunteered that there was much additional prep time and administrative time not counted in the estimate. She also volunteered that Vermont Yankee, the plant about which we are concerned, had extensive design margins.

When I then asked her to break out the ACRS review time into member time and NRC support staff time and to identify those areas where she knew VY had extensive design margins, Ms. Landau responded that her previous answer was not meant to be a "definitive" answer and that the "300 to 400 hours" was expended to cover review of four plants! This obfuscation is an insult to my intelligence and an insult to the integrity of your agency. A sequentially ordered copy of the e-mail exchange is attached. On reviewing it, won't you please confirm that it would be much better to simply tell the whole truth on the first exchange? We are, by the way, pursuing ACRS billable hours records via a Freedom of Information Act request, but isn't it the hell of a way for a citizen to have to pry out a simple fact?

The second example, which I wish to bring to your attention, stems from the March 31, 2004 NRC EPU informational meeting in Vernon, Vermont.

In that meeting, Attorney Nancy Burton of Redding Ridge, Connecticut remarked on the missing fuel episode at Millstone Nuclear Generating Station.

NRC senior Resident Inspector David Pelton said that he and his fellow resident had verified Vermont Yankee's spent fuel pool (SFP) inventory and that everything was in place and everything was where Vermont Yankee said it was. Within a few weeks a boroscope examination of a special container in the SFP revealed that two segments of fuel rod were missing from their designated location.

In a 2.206 Petition Review Board Initial Meeting on May 5, 2003, I characterized Mr. Pelton's false statement as "premature."

That characterization was overly generous.

I now have in hand VYNPS/NRC Integrated Inspection Report 05000271/2004002, which on pages 16 and 17 details Mr. Pelton's inspection activities

regarding Temporary Instruction (TI) 2515/154, "Spent Fuel Material Control and Accounting at Nuclear Power Plants". On page 17, the report states.

In response to the inspector's observations, on March 26, 2004, Entergy personnel looked from the refueling floor to determine if they could see the two fuel rods segments stored in the container on the bottom of the spent fuel pool. Although the Entergy personnel believed they saw some indication that the fuel rod segments were in the container, the indication was not of sufficient detail and clarity to definitively conclude that the two fuel rod segments were stored in the container. Entergy personnel also plan to perform a detailed inspection of the container using equipment that will be available during the April 2004 refueling outage.

Because additional information is needed to determine if this issue is more than minor, it is considered to be an unresolved item (URI) pending completion of Entergy's detailed inspection of the container.

Even the most obtuse observer would be obliged to conclude that Mr. Pelton's public assurances on March 31 2004, that the contents of the VY SFP were all in place and accounting validated, were a deliberate falsehood. On March 26, 2004, Pelton concluded that Entergy was not performing physical inventory in accord with its own procedures and, further, that there was some question as whether or not a container designated to hold two fuel segments actually held them.

Why would Mindy Landau and John Larkin overestimate time spent in ACRS review of uprates by a factor of four; fluff their answer with allusions to early plant design margin; only to admit theirs was not a "definitive" answer in responding to a follow-up? No one asked Mr. Pelton a direct question at the NRC Vernon public meeting. Why would he volunteer a cock-and-bull story about Entergy being in full and validated compliance with spent fuel material control and accounting when only five days earlier he had written Entergy VY up for an infraction and he knew that not to be the case? Why the earlier misleading statements about the ISA and about ACRS review?

These are all errors with a bias toward protecting the licensee while the licensee transparently, obviously works to mislead the public and mislead elected officials about the quality of its operations and the quality of NRC oversight.

I am driven to the conclusion that NRC's agency culture is woven through with self-serving protectiveness and protectiveness toward the nuclear industry to the extent that NRC personnel automatically, reflexively deflect public criticism or suspicion of licensees or agency actions.

May 14, 2004

It appears that considerations of accuracy or truth only come along later, if at all.

The four examples above relate to events ongoing at VY, but they are certainly not the only instances of a lack of candor from NRC personnel that I have experienced.

I, and others in the public advocacy sector, feel that agency members have lied to us repeatedly and that, generally, we can no longer trust or recommend trust of your agency's representations.

As I stated in my March 22, 2004 letter, I am certain that you expect your agency to adhere to the highest standards of candor. I trust that you will order an investigation of the allegations contained in this letter, but I beg you not to focus on the actions of your front line personnel. What I know of the individuals involved in the above allegations, tells me that they may be among the best performing employees in the NRC. Certainly an inspector other than Mr. Pelton might not have insisted on directly examining the interior of the fuel segment container at VY. I am asking rather that you examine what it is within NRC agency culture that seems to encourage so many, when confronted with public inquiry or controversy, to substitute expediency for stewardship of agency integrity and public trust.

Please let me know as soon as possible the results of your investigation of these allegations and what action you may have resolved to take as a result.

Thank you for your kind consideration,

Raymond Shadis
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Post Office Box 98
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Cc: US Senator Patrick Leahy
US Senator James Jeffords

Encl: E-Mail Exchange Landau and Shadis
Partial Transcript – NRC March 31, 2004 Public Meeting – Vernon, VT.