

From: Diane Screnci
To: A. Randolph Blough; Karl Farrar
Date: 9/20/04 9:27AM
Subject: Fwd: FW: Press Release Blanch files allegation with the NRC's Inspector General

Diane Screnci
Public Affairs Officer
USNRC, RI
610/337-5330

W-7

From: "Paul Blanch" <pdblanch@comcast.net>
To: <pdblanch@comcast.net>
Date: 9/17/04 2:37PM
Subject: FW: Press Release; Blanch files allegation with the NRC's Inspector General

-----Original Message-----

From: Paul Blanch [mailto:pdblanch@comcast.net]
Sent: Friday, September 17, 2004 2:26 PM
To: (Vermont_Yankee_Power_Uprate@yahoogroups.com)
Subject: Press Release; Blanch files allegation with the NRC's Inspector General

Paul Blanch
Energy Consultant

9/17/04 Contact Paul Blanch (860) 236-0326

For Immediate Release

Whistleblower Files Allegations Against NRC with Inspector General

This week, Paul Blanch filed a letter of formal allegation with the Office of the Inspector General of the US Nuclear Regulatory Commission. Mr. Blanch alleged, "from the evidence I have viewed, it is my belief that the NRC staff is involved in a duplicitous arrangement that allows vendors and utilities to work together to achieve their desired goals even when those goals fall far beyond safe engineering parameters."

Blanch further outlines his allegations into three specific areas, including that the NRC changed its criteria and definition of "independence" in an effort to eliminate him from the team of engineers selected to conduct a recent Design Basis and Engineering Inspection at Vermont Yankee; that the NRC's VY-EPU project manager Rick Ennis, made inaccurate and misleading statements (claiming that Vermont Yankee's compliance with NRC regulations is addressed in the Updated Final Safety Analysis Report (USFAR) when in fact it is not; and that the NRC had arbitrarily and without good cause rejected an earlier 2.206 petition by Blanch and Arnie Gundersen demanding proof that Vermont Yankee was in compliance with at least one version of Basic Design Criteria.

Blanch concludes:

"I formally request that your office initiate an inquiry into the NRC manipulation of its own regulations, its misleading statements by the NRC's VY Project Manager and the Director of NRR and its efforts to ostracize from technical review teams anyone who may find safety related

concerns, and to determine if and by what authority the NRC changes its own policies after-the-fact. While the latter is clearly not a violation of 10 CFR 50.7, it is inconsistent with the intent of this regulation in that it discourages private citizens, contractors and potential contractors from identifying deficiencies in the regulatory process."

Full Text of Letter Attached

--END--

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Full Text of Letter Attached

---END---

Paul M. Blanch
Energy Consultant

September 17, 2004

Mr. Hubert Bell, Inspector General
Office of the Inspector General
USNRC
Washington, DC 20555-0001

Allegations: Wrongdoing, inaccurate statements, and duplicity by NRC staff

Dear Mr. Bell:

Please consider this letter a formal allegation regarding continued improprieties by the Nuclear Regulatory Commission, including its continued obscuration of irregularities and regulatory non-compliance by the industry it purports to regulate. Moreover, from the evidence I have viewed, it is my belief that the NRC staff is involved in a duplicitous arrangement that allows vendors and utilities to work together to achieve their desired goals even when those goals fall far beyond safe engineering parameters. I have seen evidence of this duplicitous arrangement by both General Electric (GE) Corporation and Entergy Corporation in Entergy's application to the NRC for a 20 percent increase in power beyond the engineered design of the plant. In an effort to cover-up their own regulatory and safety violations, the NRC has made a significant effort to "blackball" and discriminate against me and has worked with utilities and vendors in this effort to cover-up their misdeeds by attempting to discredit my technical expertise thereby creating a significant "chilling effect" in an industry already operating on the edge of its critical safety parameters.

Allegations:

1. **The NRC changed its criteria and definition of independence** – In an effort to eliminate me for raising significant safety concerns and a breach of ethical oversight by the NRC, the agency has purposely ostracized me from the Vermont Yankee independent

oversight process.

2. **Inaccurate and misleading statements made by the NRC's Project Manager**-The NRC project Manager for Vermont Yankee stated that compliance with NRC regulations is addressed in the UFSAR when in fact it is not.
3. **No Legitimate Public Intervention Process** – My 2.206 was rejected out-of-hand with no consideration for compliance with NRC regulations at the present power level.

Mr. Bell, I have been employed in the nuclear industry for more than 35-years. Currently, I am an expert witness in three different nuclear safety cases. While I began my career as an electrical engineer, I have continuously studied and researched until I have become an expert on both nuclear safety issues and the NRC's regulatory process. I am one of the only independent nuclear safety engineering experts in the country who has developed a cohesive overview of plant operations that intertwines the industry's complicated technological interface with the NRC's own promulgated regulations and regulatory process. Furthermore, I am one of only few independent nuclear safety experts who conduct this type of in-depth oversight between regulatory requirements and General Design Criteria (10 CFR 50 Appendix A).

I am able to say without a doubt that the NRC is not fulfilling its statutory obligation as defined by Congress. Of even greater concern to all of us is the fact that the NRC is constantly manipulating its interpretation of promulgated regulations to meet the needs of the utilities and vendors it is statutorily obligated to license and regulate in the interest of public safety. I am sure I need not remind you that by federal statute NRC promulgated regulations hold the same regulatory authority as statutory law. Therefore, it is my opinion that the NRC's decisive actions and blatant manipulation of its own regulations border on intentional wrongdoing.

As an expert witness in Entergy's Vermont Yankee Request to uprate its license to 120% of power, I have spent at least 800 hours reviewing Vermont Yankee's own records and compared them with NRC regulations in an effort to determine how this 32-year-old reactor complies with either the old Draft General Design Criteria or today's more stringent safety criteria.

Arnold Gundersen and I are the only two independent nuclear safety engineers who have conducted a significant safety review of Entergy's Vermont Yankee Nuclear Power Station, and yet both of us have been ostracized from the current critical safety analysis.

The Allegations I am making to your agency are significantly more than whimsy or fanciful imaginings. I believe that the NRC is quite clearly changing or ignoring its regulations to cover-up that fact that it has not done an adequate job of oversight, nor does it desire to do so. I believe that the NRC's lack of critical oversight is intentionally misleading the general public.

Allegation 1

The NRC changed its criteria and definition of independence for contractors.

Much to the NRC's dismay, I brought significant safety allegations forward on March 31, 2004 at a NRC public hearing in Vernon, Vermont. At that time, I also volunteered to work on the Independent Safety Assessment Team either as a member of the team or as an independent observer. I was informed that Region 1 NRC personnel would not have direct oversight of the team membership make-up, and I was therefore informed that if I did apply, my resume would be forwarded to the appropriate hiring personnel.

On May 5, 2004 I wrote a letter to Mr. Brian Holian, NRC Region 1 requesting that I be considered as an independent contractor to assist in the Engineering Inspection planned for Vermont Yankee. Mr. Holian forwarded this request to Mr. Ledyard Marsh of NRR for his response.

On July 12, 2004, (most likely after team members were selected) Mr. Marsh responded to me essentially informing me that I was not eligible to participate as I have been employed by Entergy during the past two years.

In his letter Mr. Marsh stated:

"To ensure independence of the team, contractors to be selected must have . . . not performed contract work for Vermont Yankee or Entergy within the last two years."

Mr. Bell, I was retained as an "independent" consultant by Entergy specifically because of my expertise as a nuclear safety engineer and my specific role was to assist in the creation of a Safety Conscious Work Environment at Indian Point Unit 2. I have never been an Entergy Employee, nor, has Vermont Yankee ever employed me. While I was paid by Entergy 20 months ago – my role with Entergy was as an independent consultant at its Indian Point Unit 2 nuclear power reactor.

I believe that the specific criteria for the independent team was created as an effort to negate my comments and technical oversight of a faulty process riddled with corruption. During public meetings and in written communications with the NRC, I have raised significant safety concerns related to Vermont Yankee.

Most importantly, I believe that I have been specifically ostracized by the NRC because I recognized and publicized the fact that the NRC intentionally obfuscates its regulations and massages and manipulates those regulations in an effort to meet the licensing needs of the very utilities it purports to regulate.

In its effort to cover-up its deeds, the NRC has discriminated against me and has purposefully curtailed my ability to gain employment again with the NRC as an independent nuclear safety consultant.

In comparison, please note that during 1996, the NRC ordered an independent assessment of Millstone and clearly specified the requirements for independence. The requirements imposed by this order included that the contractors had no financial interests in Northeast Utilities and never involved in design work at Millstone. It appears to me and to nuclear safety engineers throughout the country that the NRC has now developed arbitrary criterion for the sole purpose of excluding me from this inspection team. This further adds to the "chilling effect" that the NRC has created and continues to foster in its efforts to cover-up its allegiance to the industry over the interest of public safety.

Furthermore, please contrast the fact that I was ostracized from the inspection team while William Sherman, Vermont's State Nuclear Engineer was appointed as an oversight member of the team. This is despite the fact that I have personally done more safety-related independent technical

oversight on Vermont Yankee than any other person except for Arnold Gundersen, with whom I oftentimes confer in order to assure a systematic and scientifically based peer review process. Mr. Sherman himself has informed me, Mr. Gundersen, and Raymond Shadis, pro-se counsel for New England Coalition, as well as admitting on the record in the Public Service Board's Vermont Yankee Uprate Hearings that he oftentimes has simply taken the utility's word of its technological review at face value rather than doing a full assessment of engineering documents. It is my belief that this lack of State oversight further jeopardizes plant safety and reliability and the independent review process.

Finally, had I been employed by a nuclear licensee (utility or vendor) and faced the type the type of discrimination that has occurred, legally, I would have been afforded the opportunity to file a complaint under 10 CFR 50.7.

And, if I were an NRC employee I would have had similar protection from this type of retaliation however, because I am a member of the questioning public, it appears that public NRC retaliation and employment prohibitions are well within the purview of the NRC and its minions.

Allegation 2

Inaccurate and misleading statements made by the NRC's Project Manager

The NRC appears to have intentionally misled both me, the State of Vermont, and the general public by saying that Vermont Yankee has addressed 10 CFR 50 Appendix A in the revised UFSAR. In his e-mail to me dated June 25, 2004, Mr. Rick Ennis, responding to my question about the applicability of the General Design Criteria to Vermont Yankee stated:

"The VY UFSAR, Appendix F, addresses conformance to the 70 AEC General Design Criteria (proposed GDC's)."

At best this is an inaccurate statement and at worst an intentionally misleading statement. As Project Manager for Vermont Yankee, Mr. Ennis either knew or should have known that that Appendix F of the UFSAR was identified as for historical purposes only and contain the words:

"The applicability of the historic design criteria conformance statements to the current facility design has not been evaluated, and as such should not be considered current design configuration. Refer to information elsewhere in the UFSAR and in other design basis documentation to determine current design configuration."

I believe that if Mr. Ennis realized that I possessed an electronic searchable copy of this UFSAR, he never would have made this statement and I never would have been able to refute the statement as all FSAR's have been removed from the public document room and from ADAMS.

An electronic search of the UFSAR confirms this also to be an inaccurate statement by Entergy in that compliance with or deviations from the GDC's are not addressed within the 2229 pages of Revision 18 to the UFSAR. A formal allegation has been filed with the NRC staff requesting it to investigate this alleged false statement.

Allegation 3 No Legitimate Public Intervention Process

On July 29, 2004, Arnie Gundersen and I submitted a 2.206 petition requesting that the NRC issue a demand for information to Vermont Yankee requesting that VY identify all compliances and deviations from the GDC's. In his response to this petition Mr. James Dyer stated:

"You requested that the NRC issue a Demand for Information requiring Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Entergy or the licensee) to provide information that clearly and unambiguously describes how Vermont Yankee Nuclear Power Station (Vermont Yankee) complies with the General Design Criteria (GDC) specified in 10 CFR 50 Appendix A, or the draft GDC published by the Atomic Energy Commission (AEC) in 1967. As the basis for your request, you state that this information is essential for two NRC regulatory activities at Vermont Yankee: (1) the NRC's review of Entergy's application for an extended power uprate, and (2) the NRC's engineering assessment. You state that until the design bases are clearly identified, any inspection or assessment is meaningless. Our Petition Review Board has completed its review of your submittal as discussed in the following paragraphs.

Based on information available in the Updated Final Safety Analysis Report (UFSAR), and letters submitted to the NRC by the licensee, the NRC staff asserts that the design bases of Vermont Yankee are clear and unambiguous.

Correspondence between the licensee and the NRC clearly indicate that Vermont Yankee is licensed to the draft GDC published in 1967."

Again, it appears Mr. Dyer is playing word games by clearly restating our request:

"provide information that clearly and unambiguously describes how Vermont Yankee Nuclear Power Station (Vermont Yankee) complies with the General Design Criteria (GDC) specified in 10 CFR 50 Appendix A, or the draft GDC published by the Atomic Energy Commission (AEC) in 1967."

And then responding to a completely different issue by stating:

"...the NRC staff asserts that the design bases of Vermont Yankee are clear and unambiguous."

We did not ask which Criteria were applicable but requested information that describes how VY complies with the General Design Criteria. Again, I believe we are being intentionally misled by Mr. Dyer.

Mr. Dyer continues with words:

"Notwithstanding the position discussed in this response, I remind you that the application for an extended power uprate provides the public with an opportunity to request a hearing on any issues relevant to the uprate. The time period during which a hearing may be requested will be open until August 30, 2004. Because the staff's review of the uprate is ongoing, the appropriate venue for debating issues such as these is the hearing process. For this reason, the staff will not treat this request under the 10 CFR 2.206 process because these issues can be addressed through the ongoing licensing proceeding (See Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," Handbook Part III, Section (C)(1)(a)(iii))."

While requesting a hearing may provide an opportunity to question the uprate process, the failure to address compliance with the GDC's is applicable at today's licensed power level and needs to be clearly and unambiguously addressed. So far, the NRC staff and Mr. Dyer seem to imply that this is only an issue for the proposed EPU and refuses to comprehend that this may be a problem with today's regulatory compliance.

I formally request that your office initiate an inquiry into the NRC manipulation of its own regulations, its misleading statements by the NRC's VY Project Manager and the Director of NRR and its efforts to ostracize

from technical review teams anyone who may find safety related concerns, and to determine if and by what authority the NRC changes its own policies after-the-fact. While the latter is clearly not a violation of 10 CFR 50.7, it is inconsistent with the intent of this regulation in that it discourages private citizens, contractors and potential contractors from identifying deficiencies in the regulatory process.

All referenced communication is contained within the enclosed Adobe Acrobat file.

Lastly, I am available to meet with an OIG investigatory team to name names and with proof in hand that will ultimately show you that the NRC is breaking its own laws and not fulfilling its Congressionally mandated statutory obligations.

Sincerely,



Paul M. Blanch
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West Hartford CT. 06117
860-236-0326

CC: Chairman Diaz
Senator Jeffords
Senator Lahey
Ms. Veronica Bucci