

February 12, 2007 (3:53pm)

UNITED STATES
NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFFBefore the Atomic Safety and Licensing Board*In the matter of*ENTERGY NUCLEAR VERMONT YANKEE, LLC)
and ENTERGY NUCLEAR OPERATIONS, INC.)Docket No. 50-271-LR
ASLB No.06-849-03-LR

(Vermont Yankee Nuclear Power Station))

NEW ENGLAND COALITION, INC.'S SECOND MOTION TO COMPEL

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board's ("the Board's") Initial Scheduling Order in this matter, issued November 17, 2006, the New England Coalition, Inc. (NEC) moves to compel the clarification of portions of Entergy's Third Supplemental privilege logs, attached hereto as Exhibits 1-2, and to compel the production of documents, as follows:

1. Entergy claims work product privilege for e-mail with attachments on the subject of hydrothermal modeling. Exhibit 1, entries 534-536. NEC requests that the Board require Entergy to clarify whether the attachments contain modeling results/data, and to produce any such results/data.
2. Entergy claims work product privilege for a 2005 e-mail on the subject of NPDES permit renewal. Exhibit 2. NEC requests that the Board require Entergy to state the actual purpose for which this document was prepared, and to produce it if it was prepared for the purpose of developing or supporting Entergy's application to the Vermont Agency of Natural Resources for its NPDES permit(s), § 316 determination or variance and equivalent permits and supporting documentation, or if it otherwise concerns the administrative proceedings before the Agency of Natural Resources concerning this permit(s).
3. Entergy has produced additional Third Supplemental Privilege Logs that appear identical to Entergy's Second Supplemental Privilege Logs,¹ attached as Exhibits 13-15 to NEC's first Motion to Compel (January 16, 2007). If Entergy makes any new claims of privilege in these logs to which the arguments stated in NEC's first Motion to Compel would apply,

¹ It is not entirely clear that they are identical to logs previously produced. One of them includes the same number of entries, but is not the same number of pages.

NEC hereby moves to compel production for the reasons stated in its first Motion to Compel.

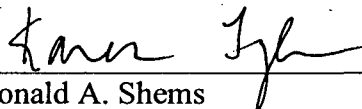
NEC incorporates by reference the arguments for clarification of Entergy's privilege logs and for production of documents stated in NEC's first Motion to Compel (January 16, 2007).

Pursuant to 10 C.F.R. § 2.323(a), and the Board's Initial Scheduling Order, NEC's counsel e-mailed Entergy's counsel on February 9 and 12, 2007 to request clarification of the degree of overlap between Entergy's Second Supplemental and Third Supplemental privilege logs, and regarding NEC's intent to file this motion. To date, Entergy's counsel has not responded.

February 12, 2007

New England Coalition

by:



Ronald A. Shems
Karen Tyler
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For the firm

Attorneys for NEC

Privilege Log for Documents Through February 1, 2007, Part Three

This privilege log was prepared by counsel to Entergy Nuclear Vermont Yankee (ENVY) in connection with the Entergy Vermont Yankee License Renewal Proceeding. ENVY reserves the right to supplement, amend, or clarify this log, as necessary.

<u>No</u>	<u>Type of Document</u>	<u>Date</u>	<u>Author/Sender</u>	<u>Recipient</u>	<u>CC</u>	<u>Subject</u>	<u>Privilege Asserted</u>
530	eMail	1/16/2007	Lynn DeWald	Gwyn U. Williams; Elise N. Zoli; Chuck D. Barlow; Sarah Heaton Concannon; David McElwee; George Thomas; John Dreyfuss; Mark Mattson; Sharon Smith; Samuel Wender IV; Theodore A. Sullivan	Sarah Heaton Concannon; Haimavathi Varadan Marlier	Litigation strategy relating to permit appeal	Attorney-Client Communication; Attorney Work Product
531	eMail	1/17/2007	Lynn DeWald	Chuck D. Barlow; Elise N. Zoli; Sarah Heaton Concannon; David McElwee; George Thomas; John Dreyfuss; Mark Mattson; Samuel Wender IV; Gwyn U. Williams		Litigation strategy relating to permit appeal	Attorney-Client Communication; Attorney Work Product
532	eMail	1/17/2007	Elise N. Zoli	Lynn DeWald; Chuck D. Barlow; Sarah Heaton Concannon; David McElwee; George Thomas; John Dreyfuss; Mark Mattson; Samuel Wender IV; Gwyn U. Williams		Litigation strategy relating to permit appeal	Attorney-Client Communication; Attorney Work Product
533	eMail	1/22/2007	Chuck D. Barlow	Lynn DeWald; Gwyn U. Williams; Elise N. Zoli; Sarah Heaton Concannon; David McElwee; George Thomas; John Dreyfuss; Mark Mattson; Sharon Smith; Samuel Wender IV; Theodore A. Sullivan	Haimavathi Varadan Marlier	Litigation strategy relating to permit appeal	Attorney-Client Communication; Attorney Work Product
534	eMail w/Attachment	1/11/2007	Mark Mattson	Lynn DeWald	Mark Hutchins, Greg Thomas, Chuck Barlow	Analysis relating to NPDES Permit; Hydrothermal modeling	Attorney Work Product
535	eMail w/Attachment	1/12/2007	Mark Mattson	Mark Hutchins		Hydrothermal modeling	Attorney Work Product
536	eMail w/Attachments	1/26/2007	Mark Mattson	VY - George Thomas, Dan Yasi	Elise Zoli, Lynn DeWald, Mark Hutchins	Hydrothermal modeling	Attorney Work Product

Vermont Yankee License Renewal Proceeding
Privilege Log for Documents Determined Relevant and Responsive to NEC Contentions
Initial Disclosure, October 23, 2006

No.	Type of Document	Date	From	To	Document Title	Privilege Asserted
1	Email	11/03/2005	R. Buckley	L. DeWald	NPDES required sampling for permit renewal	Work Product. Prepared at the request of counsel in anticipation of litigation.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Entergy Nuclear Vermont Yankee, LLC)	Docket No. 50-271-LR
and Entergy Nuclear Operations, Inc.)	ASLBP No. 06-849-03-LR
)	
(Vermont Yankee Nuclear Power Station))	

CERTIFICATE OF SERVICE

I, Michelle Cronin, hereby certify that copies of the NEW ENGLAND COALITION, INC'S, SECOND MOTION TO COMPEL, in the above-captioned proceeding were served on the persons listed below, by U.S. Mail, first class, postage prepaid; by Fed Ex overnight to Judge Elleman; and, where indicated by an e-mail address below, by electronic mail, on the 12th day of February, 2007

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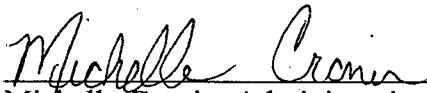
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