



SECRETARY

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

March 11, 1998

DOCKETED  
USNRC

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

The Honorable John W. Olver  
United States House of  
Representatives  
Washington, DC 20515-2101

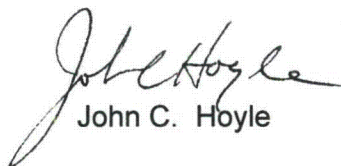
SERVED MAR 11 1998

Dear Congressman Olver:

I am responding to your letter dated March 4, 1998, addressed to Chairman Shirley Ann Jackson. Your letter enclosed a copy of a hearing request of the Franklin Regional Planning Board (FRPB). The FRPB would like a hearing on the License Termination Plan for the Yankee Nuclear Power Station. An Atomic Safety and Licensing Board has been established to consider hearing requests including that of FRPB.

Under NRC regulations, the Commission has an appellate role in adjudications before its Licensing Boards. As such, I trust that you will understand that the Chairman and Commissioners must remain impartial in such litigations. Thank you for your concerns. A copy of your letter and this response will be placed in the Yankee Nuclear hearing docket and served on the parties to the proceeding.

Sincerely,

  
John C. Hoyle

cc: Yankee Nuclear Service List  
Docket No. 50-029-LA

SECY-048

D502

18863

JOHN W. OLVER  
1ST DISTRICT, MASSACHUSETTS

COMMITTEE  
APPROPRIATIONS

SUBCOMMITTEES  
TRANSPORTATION  
MILITARY CONSTRUCTION

WHIP-AT-LARGE

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-2101

PLEASE RESPOND TO:  
1027 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-2101  
(202) 225-5335  
(202) 226-1224 FAX

DISTRICT OFFICES:  
490 WESTFIELD ROAD  
HOLYOKE, MA 01040  
(413) 532-7010  
(413) 532-6543 FAX

CONTE FEDERAL BUILDING  
78 CENTER STREET  
PITTSFIELD, MA 01201  
(413) 442-0946  
(413) 443-2792 FAX

463 MAIN STREET  
FITCHBURG, MA 01420  
(508) 342-8722  
(508) 343-8156 FAX

March 4, 1998

Shirley Ann Jackson  
Chairman  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Chairman Jackson,

I am writing on behalf of the Franklin Regional Planning Board (FRPB) of Franklin County, Massachusetts and its request that the NRC conduct a 10 CFR Part 2, Subpart G hearing on the License Termination Plan (LTP) filed by Yankee Atomic Electric Company (YAEC).

Please find enclosed a copy of the FRPB's formal request for a public hearing. This was submitted to your Rules and Directives Branch on February, 27, 1998. The letter raises several issues of concern regarding the LTP, and makes a strong case for a public meeting to begin to address these problems.

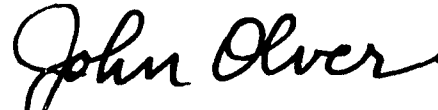
YAEC's plan is the first LTP application for a commercial nuclear power plant in the United States. This is a precedent setting application which demands the most public review process possible. The public must be given every assurance that the lives and property of Franklin County residents are, and will continue to be, completely safe from radiation associated with the site. This can be achieved only through a full public hearing and an independent review of the LTP and subsequent decommissioning procedures. To this end, the FRPB is asking for a public hearing as well as \$100,000 in NRC funds to help them conduct such a review.

The FRPB is a regional coalition with representatives from each of the 26 communities in Franklin County (a relatively small county of approximately 70,000 residents). The FRPB does not have the expertise nor the resources available to conduct a satisfactory review of the termination plan on its own, which is why they are seeking the assistance of the NRC.

I share the FRPB's belief that the public will not be satisfied unless a third party is given the opportunity to both review the LTP and verify radiation level testing conducted by the NRC and YAEC. Therefore, I ask that you please give the FRPB requests your full and fair consideration.

Thank you for your attention to this matter.

Sincerely,



John W. Olver  
Member of Congress

JWO:jdn

**FRANKLIN REGIONAL  
COUNCIL OF  
GOVERNMENTS**

Executive Director • Jay DiPuccio

Director of Finance • Carolyn Olsen  
Director of Planning and Development • Peggy SloanMain Tel 413-774-3167 Finance Tel 413-774-3864  
Main Fax 413-774-3169 Planning Fax 413-774-1195

425 Main St. Greenfield, MA 01301

Community Health and Education • Data Management • Engineering  
Municipal Assistance • Planning and Development • Purchasing

February 27, 1998

Mr. David Meyer, Chief  
Rules and Directives Branch  
Division of Administration Services  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Delivered via FAX to: Room 6D22  
Two White Flint North  
11545 Rockville Pike  
Rockville, MD 20852  
(301-415-5144)

RE: Comments relative to NRC Notice, 63 Fed. Reg. 4308-4330 (January 28, 1998)  
Objection to Use of No Significant Hazards Consideration to Approve Yankee Atomic  
Electric Company's License Termination Plan (LTP) for the Yankee Nuclear Power  
Station, Rowe, Massachusetts (Docket No. 50-29) and Request for a 10 CFR Part 2,  
Subpart G Hearing on the LTP.

Dear Mr. Meyer:

This letter is to serve as our communication to the Nuclear Regulatory Commission  
(NRC) relative to our continuing concerns as to several aspects of the License  
Termination Plan (LTP) filed by Yankee Atomic Electric Company (YAEC) and as a  
request that the NRC conduct a 10 CFR Part 2, Subpart G hearing on the LTP.

The Franklin Regional Planning Board (FRPB) is a broad-based coalition comprised of a representative from the Selectboard and Planning Board of each of the twenty-six (26) towns of Franklin County, eighteen (18) at large members living within the County, and the members of the Franklin Regional Council of Governments Executive Committee. FRPB members and staff of our Planning Department have been reviewing, within their own capabilities and limitations, the LTP since May of 1997. Our Board sent a series of questions to YAEC in December of 1997. In response, YAEC provided some partial information in early January of 1998, but most issues remain open.

We are a relatively small county of approximately 70,000 residents with limited resources to conduct a proper review of the LTP. The LTP is a complex plan incorporating much specialized technology. We do not have a battery of experts at our disposal, nor can we afford the legal services of attorneys who can best represent us through this process. Our goal is simple. We wish to have the LTP reviewed and studied by independent experts. We would have YAEC address any concerns identified, in a fashion that would leave us satisfied that the Yankee Nuclear Power Station in Rowe, Massachusetts will be closed, dismantled, and all its components disposed of or stored in a proper manner that assures the County's populace, whose lives and property are directly at risk from decisions made in this process, will be completely safe from radiation and hazardous materials used in the operation of the facility. As we believe this

is the first LTP application for a commercial nuclear plant in America (and therefore a precedent-setting application), a full and complete public review process should be instituted. Therefore, FRPB respectfully requests that the NRC conduct a public hearing.

A number of issues have been raised by FRPB which were outlined and submitted at the public meeting held at Mohawk Regional High School in Buckland, Massachusetts on January 13, 1998. Concerns have materialized since that meeting, and, we believe, others will follow from a careful, independent examination of the data, protocols and practices of YAEC in their proposed LTP. These issues are of grave concern and merit closer study and analysis than the NRC and YAEC have conducted. We believe potentially serious hazards exist which involve a significant reduction in the margin of safety to the present and future populace of Franklin County and environs. These issues include but are not limited to:

- **Decommissioning activities employ methodologies and techniques that are experimental, untested, and/or unproven.** For example, the segmentation techniques that were used for cutting the high activity components were apparently untested and proved to be somewhat unsatisfactory, resulting in recommendations for modification of the technique. Similarly, decommissioning of the spent fuel pool

and ion exchange pit will require the use of methods and techniques that have not previously been employed.

- **The plan rests upon significant safety hazards that are not addressed.**

Specifically, the questions of how and where the spent fuel will be stored, and questions of how the selected storage method will be implemented, monitored, and eventually decommissioned must be answered. YAEC has proposed elimination of the spent fuel pool in favor of a dry cask storage system, using technology that has not yet even been developed or reviewed. Decommissioning and elimination of the spent fuel pool, and the associated activity including how the spent fuel will be moved into the dry cask system, then to be managed and monitored over many years, surely raises many important safety issues that deserve to be discussed, planned, and scrutinized before the decommissioning and license termination is granted a final stamp of approval. Yet, this entire question has been set outside the scope of the procedure before us. There is no assurance of any future opportunity to examine the issue. A full discussion about the considerations, methods and procedures related to on-site spent fuel storage and removal must be addressed within the scope of this process. The on-site storage of high level and Greater Than Class C waste must be subject to public review and comment.

- **Methods that have been used to survey and monitor the site for contamination do not incorporate appropriate random sampling and data collection methods. Instead, they rely on computer modeling and anecdotal evidence. This has resulted in a decision not to sample or monitor a large area that is owned and controlled by YAEC but lies outside a small "impact area." Failure to randomly sample creates a risk that contamination may exist in areas which have not been predicted by computer, perhaps due to vagaries in weather patterns, local hydrology, animal transport, or even illegal activity. Contamination from unpredictable sources will not be discovered using the current sampling strategy. Random sampling must also be used on the entire property to determine what, if any, mitigation is required, before any portion of the site is released.**
- **Contamination of groundwater and methodologies for sampling remain an issue. The selection of monitoring well locations appears to be based on the locations of known or suspected contamination sites and does not appear to factor in the possibility that local geology may include groundwater divides, impervious layers, or bedrock close to the surface. YAEC and the NRC need to conduct thorough investigations into possible groundwater contamination. They cannot assume a uniform substrate through which water moves predictably. Their analysis must also include discussion and investigation of the possible influences of surficial geology and bedrock features. In particular, the migration of radionuclides from**



acknowledged sub-floor contamination has not been sufficiently studied and considered in the context of local hydrology and surficial geology.

- **Despite several rounds of questions and requests for specific data, neither YAEC nor the NRC has addressed the impacts of radionuclide releases on fish due to effluent and accidental releases to the Deerfield River.** No data has been provided to address the species, age, general health, or whether the fish was native or stocked -- all factors that must be correlated together in order to determine true radionuclide levels in the sediment and food chain. There is insufficient information about the specific testing techniques which YAEC used. --This is a critical issue. Contaminated fish may be consumed by humans. They may introduce significant contamination into the entire food chain when other animals feed on contaminated fish. Further, the bioaccumulation of radionuclides in fish is indicative of the presence of these materials throughout the river system, at a level which may be more significant than revealed by the tests. Based on YAEC's and the NRC's insufficient investigation of the matter, it is premature to conclude that there is no safety hazard resulting from fish contamination.
- **We question the adequacy of YAEC's sampling and testing of sediment in the Deerfield River, in the Sherman Pond Reservoir, and near the outfall pipes.** The sediment behind Number Five Dam in Monroe Bridge was recently removed.

Were these sediments adequately tested before they were removed, and how and where were they disposed of? The next impoundment downstream, the Fife Brook Dam, is a bottom release operation. How far downstream were sediment tests conducted? The nature of the Fife Brook operation will allow the discharge of radionuclides. They could collect as far downstream as the Number Four Dam in Duckland. YAEC has not provided specific information about the depth or frequency of the sampling, sampling methodology, the random sampling methods used, and laboratory testing and handling of materials.

- Final site clean-up questions remain. Issues regarding YAEC's formulations of effective yearly exposure dose equivalents need to be resolved. Specifically, YAEC's use of plot averages and assumptions about lifestyle and future land use introduce confusion about the actual levels of radiation proposed to remain on the site, which apparently may meet the required levels as an area-wide average, but may in fact remain quite high in certain spots. Methodology for calculating and proving the final exposure rate of 15 mrem/year is very confusing. The assumptions related to unit conversions of picocuries to millirems, the daily time of exposure (is it 24 hours or only 8?), and similar issues must be satisfactorily explained. The final site survey criteria and plan, including the methodology and calculations, must be reviewed and affirmed by a competent, truly independent third party. Finally, in addition to

laboratory testing work provided by the licensee and the NRC, the final site survey testing work must also be independently verified by a third party

There is a fundamental problem with a number of YAEC's assertions, conclusions and the data used to substantiate the LTP. Much of the material is a product of earlier testing and documentation for previous filings. Therefore, YAEC did not specifically produce it for decommissioning. Furthermore, the GEIS on decommissioning is nearly ten years old. Many facets of the GEIS are now incorrect. The NRC and YAEC should rely on fresh data for the entire LTP process. Independent analysis of the materials filed by YAEC should be conducted. YAEC's in-house-produced data, and conclusions of YAEC's hired experts, are self-serving, and require thorough independent third party review.

Another area of concern relative to the review of the LTP process is what may be viewed as the lack of a strong response by the NRC. People believe that the NRC is engaged in regulatory activity to assure our safety, health, and welfare. Additionally, a number of procedural aspects of the LTP review have been lacking. The operations of the Public Documents Room have been insufficient at best. For example, YAEC's revisions of the LTP, used as one basis of the public meeting of January 13 in Buckland, Massachusetts, were not filed for public review prior to the meeting. There were a

number of formal questions asked of YAEC by the NRC, but these questions and YAEC's responses were not made public until a later date. The official legal notice of the meeting was published in the Federal Register on January 5, 1998, eight days before the public meeting. None of this is adequate to guarantee respect for and confidence in this licensing process.

Most public meeting notices run for thirty days, where all documents are available for public review for that entire period of time. Although the NRC was asked in advance to provide sufficient time for all public comments (the FRPB originally asked for two nights), the comment period itself only lasted one and one-half hours. Shortly after this public meeting, the NRC posted in the Federal Register a notice to amend YAEC's license to approve the LTP without a hearing, based on a finding of No Significant Hazards. This seems incongruous with so many outstanding questions and a lack of complete data and impartial review. The sum total of this public review and input process falls far short of normal due process expectations.

Therefore, the members of the FRPB and the citizens it represents, whose lives and property are at risk by approving the LTP as presently filed, requests the following relief:

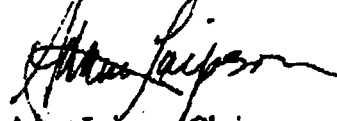
1) That the NRC initially provide the FRPB with a sum of one hundred thousand dollars (\$100,000.00) forthwith in order for the FRPB to: a) hire experts to review YAEC's LTP, to make appropriate recommendations regarding final content and implementation; b) retain legal assistance to represent properly the citizenry of Franklin County and to assure that the Yankee Nuclear Power Station decommissioning will be conducted in a manner to protect their health, safety and welfare; and c) hire expert witnesses, as needed, for the adjudicatory process;

2) Grant a full, formal adjudicatory hearing under 10 CFR Part 2, Subpart G, to be held in Franklin County. Further, the NRC should not approve the LTP as presently filed without such a hearing process. The NRC should reject YAEC's application under its No Significant Hazards Consideration determination. YAEC should not conduct any LTP activity until every aspect of the Plan is formally approved and findings are issued, subsequent to the hearing. FRPB reserves the right to amend its filings in response to the LTP and a right to address new issues uncovered in the independent review process within the adjudicatory hearing; and

3) From this point forward, to overcome even the appearance of the lack of due process, all materials and documents relative to the LTP shall be available for a period of thirty days before any meeting or hearing, and notice of any meeting or hearing shall be advertised for a minimum of thirty days in the Federal Register and local media.

If I can be of further assistance, please feel free to contact me directly. My home telephone number is 978-544-2643. Thank you very much for your serious consideration of our filing.

Very truly yours,



Adam Lipson, Chair  
Franklin Regional Planning Board

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

YANKEE ATOMIC ELECTRIC COMPANY

(Yankee Nuclear Power Station)

Docket No.(s) 50-029-LA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing HOYLE LTR TO CONGRESSMAN OLVER have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
James P. Gleason, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Thomas D. Murphy  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Thomas S. Elleman  
704 Davidson Street  
Raleigh, NC 27609

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Office of the General Counsel  
Mail Stop - 0-15 B18  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

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Ropes and Gray  
One International Place  
Boston, MA 02110

Jonathan M. Block, Esq.  
Main Street  
P.O. Box 566  
Putney, VT 05346

James L. Perkins, President  
New England Coalition on  
Nuclear Pollution  
P.O. Box 545  
Brattleboro, VT 05302

Docket No.(s)50-029-LA  
HOYLE LTR TO CONGRESSMAN OLVER

Adam Laipson  
Franklin Regional Council  
of Governments  
425 Main St.  
Greenfield, MA 01301

Paul Gunter  
Reactor Watchdog Project  
Nuclear Information and Resource  
Service  
1424 16th Street, NW, Suite 404  
Washington, DC 20036

Dated at Rockville, Md. this  
11 day of March 1998

*Adria T. Byrdson*  
Office of the Secretary of the Commission