



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

~~NRC FOR~~  
TERA

APR 22 1980

Docket No. 50-309

The Honorable William S. Cohen  
United States Senate  
Washington, D. C. 20510

Dear Senator Cohen:

This letter is in response to your request dated March 7, 1980, to Mr. Carlton Kammerer, Director of the Office of Congressional Affairs for the Nuclear Regulatory Commission (NRC). You requested comments on a letter from a constituent, Mr. Stanley Tupper, legal counsel to Sensible Maine Power (SMP) regarding the purpose of a meeting held between representatives of SMP and the NRC on January 9, 1980 in Boothbay Harbor, Maine.

I have enclosed a copy of the letter from the NRC to Mr. Howard Cowan, the publisher of the Boothbay Register which you may wish to forward to Mr. Tupper in toto, which may clarify possible misunderstandings. In addition, I would like to emphasize that the NRC did not "order" the meeting. The meeting was suggested by the NRC staff as a means to provide an informal forum with the members of SMP to discuss our review, review procedures, the hearing procedures and concerns regarding the proposal that is currently under review by the NRC regarding a modified spent fuel pin storage concept and an increase in capacity of the Maine Yankee Nuclear Plant's spent fuel pool. The meeting could have been cancelled at any time at SMP's request.

Coordination for the meeting was primarily through communication between David S. Miller, legal counsel for SMP, (based in Washington, D. C.) and the NRC legal counsel. The format of the meeting was organized by representatives of SMP, and included brief introductory remarks by NRC staff members. We are in agreement that the meeting was not intended to be, nor did it take the form of a pre-trial conference.

In regard to the misunderstanding regarding the inclusion of the increased amount of spent fuel to be stored onsite, it should be noted that throughout the meeting the fact was emphasized that the review of the modified spent fuel pin storage concept was being performed based on the upper limit of spent fuel which could be stored in the spent fuel pool with the modified storage amendment. Therefore, when clarification was made on the following day to the legal staff of SMP, other SMP representatives, and the members of the press who had been in attendance, the net effect of the clarification was negligible as to how the NRC was conducting its review since the scope of the review was not changed from that presented during the January 9, 1980 meeting.

THIS DOCUMENT CONTAINS  
POOR QUALITY PAGES

Senator William S. Cohen

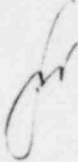
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It should be noted that at the conclusion of the January 9, 1980 meeting some members of SMP expressed their appreciation to NRC staff members for this opportunity to have a forum in which to express their general concerns regarding nuclear power generation.

I hope this information is responsive to your needs.

Sincerely,

(Signed) E. Kevin Cornell

 W. J. Dircks, Acting Executive Director  
for Operations

Enclosure:  
2/11/80 NRC (Denton)  
Ltr. to Cowan



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

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Enclosure dupe

February 11, 1980

Docket No. 50-309

Mr. Howard Cowan, Publisher  
The Boothbay Register  
95 Townsend Avenue  
Boothbay Harbor, Maine 04538

Dear Mr. Cowan:

I am pleased to respond to your letter dated January 17, 1980, to NRC Chairman John Ahearne. Since this licensing action has the potential for coming before the Commission for review and to avoid the appearance of any ex parte communication, Chairman Ahearne asked that I respond for him. In your letter you protested the manner in which NRC Staff members conducted a meeting on January 9, 1980 with an organization, Sensible Maine Power, (SMP). Specifically you are concerned because the meeting was held with members of the public and The Boothbay Register was not given notice of this meeting.

As originally conceived, the meeting was to be a small informal gathering of representatives of the NRC Staff and SMP in Mr. Tupper's office. SMP is an organization which has petitioned to request a hearing and participate in any hearing held relating to Maine Yankee's proposed license amendment to increase the capacity of the Maine Yankee Nuclear Plant spent fuel pool. The purpose of the meeting was to assist the representatives of SMP in understanding the Commission's "Rules of Practice", to explain the nature of the Commission's adjudicatory proceedings and to clarify the nature of the pending application and the scope of the NRC Staff's environmental and safety reviews. No member of the NRC Staff informed any members of the press, or other media of this meeting. The NRC attendees were surprised at the turn-out and at the press coverage.

In the future, we will attempt to more explicitly establish the groundrules for such meetings in advance of the meetings. If the meeting is to be with an individual or small group of citizens who wish to provide comments to or obtain information from the staff in a non-public forum, we believe it is appropriate to hold such meetings without notification of the remainder of the public and the press. However, if the meeting is to be open to the public or if any members of the press are to be present, we will notify the public and the press. Any meetings with a licensee are of course open to

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Mr. Howard Cowan

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the public. We regret the misunderstanding that arose concerning the meeting of January 9, 1980, and we trust our future approach as stated above is responsive to your concerns.

Sincerely,

Original signed by

Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

TUPPER & BRADLEY  
ATTORNEYS AT LAW  
102 TOWNSEND AVENUE  
BOOTHBAY HARBOR, MAINE 04538

STANLEY R. TUPPER  
EDWARD F. BRADLEY, JR.

Feb. 29, 1980

Honorable William S. Cohen  
United States Senate  
Washington, D.C. 20510

Dear Bill:

Mr. Wm. L. Byers of Newcastle, Me. sent me a copy of a letter from you dated Feb. 20, 1980 in reference to Maine Yankee Atomic Power Co. NRC apparently told you that a recent meeting in Boothbay Harbor, Me. with three of their staff members and SMP had been "arranged" after SMP's intervention against MYA's application to store more spent fuel in its on-site pool, and for the purpose of acquainting SMP with procedures.

It should be emphatically stated that the meeting was not SMP's idea; that it was ordered by NRC. SMP believed that it was adequately informed as to NRC procedures. Indeed as it turned out SMP knew considerably more about MYA's application than the NRC staff. The three NRC staff members told SMP and the press attending that MYA would have to go before the NRC still another time before it could actually increase spent fuel capacity at the plant. A simple reading of the application indicated that this was in error and on the following day NRC admitted its error, indicating that it was not attempting to deceive us. I believe them, and simply think they were ill-informed as to the MYA application. NRC also informed the Maine press of its incredible error.

This was not in the nature of a pre-trial conference; the first special prehearing conference was to be held March 12, 1980 at Bethesda, but through motions by SMP and the State of Maine has been postponed to May 12, 1980 and at Wiscasset, Maine instead of Bethesda.

What the real purpose of this meeting was is difficult for me to infer; NRC asked SMP to have at least 12 of its members present. I advised SMP that it should not publicize NRC's meeting so as to not prejudice its status as an intervenor. However, I firmly believe that NRC should have fully notified the public through the news media. NRC has already apologized to The Boothbay Register for failing to inform the press.

I believe this affair is symptomatic of NRC's current confused and leaderless status. The three individuals coming to Boothbay Harbor were most pleasant, courteous, and sought to be helpful; they stated that they were impressed with SMP's knowledge of the subject matter.

While in any group of more than 500 people there are those who get "a bit carried away", by and large this is a middle-aged establishment representing families who have lived in this area of Maine for a number of generations.

It makes sense to me to delay building more nuclear plants until safety and waste disposal problems have been solved; logically, we should close older, less well-designed plants, until these same problems have been resolved.

In my opinion Maine will eventually provide electricity by 1) Hydro-Electr  
2) Multi-fuel plants; Cogeneration and district heating; and importation from Canada.

MYA will eventually be converted to a coal or multi-fuel plant; the transmission lines and much of the existing facility could be used. The reactor will be entombed in the safest manner then possible.

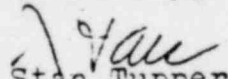
This conversion will come about either through an accident at the plant or through a decision of the sponsors of MYA.

Maine Yankee Atomic Power Company acknowledges in its report to the SEC for year ending Dec. 31, 1978 (Commission file # 1-6554) the possibility of a multiplicity of lawsuits. Quoting from its own report ITEM 5- Legal Proceedings, " The operation of existing nuclear units and the construction of nuclear units presently planned in the U.S. continue to be a subject of public controversy. Various groups have filed law suits and participated in administrative proceedings claiming that the present state of nuclear technology presents risks to public health and safety and to the environment. In addition, certain of these groups have proposed restrictive legislation relating to nuclear power. Some of the claims made by such groups, if they should prevail, or the existence of the controversy itself, could cause substantial modifications to or extended shutdowns of plants presently in operation."

Thank you for allowing me to share some of my thoughts with you.

With kind regards.

Sincerely,

  
Stan Tupper

WILLIAM S. COHEN  
MAINE

**United States Senate**

WASHINGTON, D.C. 20510

March 7, 1980

Mr. Carlton Kammerer  
Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20505

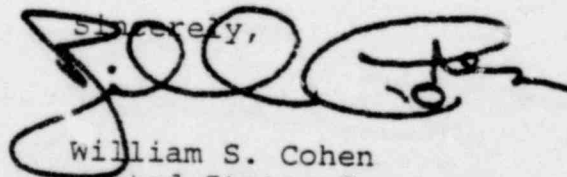
Dear Mr. Kammerer:

Enclosed is a copy of a letter I received from Mr. Stanley Tupper, legal counsel to Sensible Maine Power.

As you can see from the letter, Mr. Tupper takes issue with the NRC's account of the purpose of its meeting with Sensible Maine Power in Boothbay Harbor, Maine. Mr. Tupper's objections are based on my description of the NRC's purpose for the meeting in a letter to Mr. William Byers which I have enclosed in pertinent part. My description was taken from a copy of a letter the NRC sent to Mr. Cowan, 5236 the publisher of the Boothbay Register.

I would appreciate it if you would comment on Mr. Tupper's remarks so that I might respond to him more fully.

Sincerely,



William S. Cohen  
United States Senator

Byers, William L., Mr.

TCW

The spent fuel was to be sent to a reprocessing plant in West Valley, New York which was operated by West Valley Services, Inc. (WVS). In 1972, when Maine Yankee began its operations, the West Valley facility closed for a major renovation on February 20, 1980. Maine Yankee officials estimated that the plant would be closed for a year. When NYS submitted its plans to the NRC for approval, the NRC decided that the expansion amounted to a "material alteration" of the plant and, consequently, ordered NYS to Mr. William L. Byers and building regulations.

Gladden St.

Newcastle, Maine 04553 says, NYS prepared several designs of the plant and finally concluded that the NRC requirements were so expensive that the project was economically unfeasible. NYS then abandoned the plant and it remains idle to this day.

Thank you for your comments on the proposal to enlarge the capacity of the spent fuel storage facility at the Maine Yankee Atomic Power Station. You made several interesting points in your letter which I would like to take this opportunity to discuss.

To begin with, you note that you recently attended a meeting with representatives of the Nuclear Regulatory Commission (NRC) where questions about the proposed expansion were raised. You were troubled that the meeting was not publicized because it was held for the benefit of the public. Others shared your concern on this point, and so I wrote to the NRC to determine why the public was not alerted to the meeting. I recently received a response to my inquiry and think you will be interested in what I learned.

The NRC said that the meeting was arranged after Sensible Maine Power (SMP), an anti-nuclear group, had petitioned the NRC to submit testimony opposing the proposed expansion of the storage tanks. The purpose of the meeting was to acquaint the members of SMP with the procedures to be used in making its case before the Atomic Safety and Licensing Appeal Board, the entity within the NRC empowered to make the preliminary ruling on the Maine Yankee application.

As so conceived, then, the meeting was to be akin to a pre-trial hearing between litigants wherein the group rules which will be used in court are set forth. Consequently, the representatives of the NRC were surprised both at the number of persons attending the meeting and by the presence of members of the press. The NRC assured me that in the future it will make the character of every meeting well known to the participants to avoid the confusion it encountered in Maine.

The Maine Yankee application itself is illustrative of the larger unresolved question of what to do with nuclear waste and spent fuel. The problem is exceedingly knotty because the entire program for developing and building light water nuclear reactors in the United States was predicated on the assumption that the spent fuel produced in each plant would be reprocessed. Doubts about the wisdom of reprocessing have now changed that assumption and created some problems for the operators of nuclear reactors.