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September 6, 1988

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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 SEP -8 P4:14

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
Vermont Yankee Nuclear)
Power Corporation)
)
(Vermont Yankee Nuclear)
Power Station))

Docket N. 50-271-OLA
(Spent Fuel Pool)

JOINT MOTION OF NEW ENGLAND COALITION ON NUCLEAR
POLLUTION AND THE COMMONWEALTH OF MASSACHUSETTS FOR LEAVE TO
REPLY TO LICENSEE'S RESPONSE TO JOINT MOTION FOR LEAVE TO FILE
LATE-FILED CONTENTIONS

Intervenors New England Coalition on Nuclear Pollution
("NECNP") and the Commonwealth of Massachusetts, move that the
Board allow them to file a reply to Licensee's Response to the
Joint Motion of NECNP and the Commonwealth of Massachusetts
(hereinafter "Licensee's Response") for Leave to File Late-Filed
Contentions, dated August 29, 1988, and to any response to the
same filed by the NRC Staff. Intervenors intend to file this
reply on September 14, 1988.

Licensees raise several issues requiring response, both
technical and legal. As to contention 1, Licensees claim that it
is barred because it is premised on a claim of increased risk
from beyond-design-basis accident scenarios. Licensee's
Response, p.7. Licensees disregard the fact that the language of
the proposed contention clearly asserts that accidents within the

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design-basis for fuel damage could result in a self-sustaining fuel cladding fire. Intervenors intend to include in their reply technical material which further rebuts the Licensee's assertion.

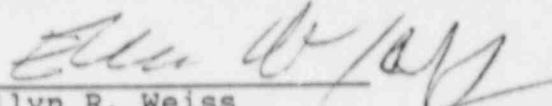
Licensees further argue that proposed contention 1 is untimely because the previous contention 1, rejected as premised on beyond design-basis accidents, was treated on its merits rather than on ripeness grounds. Id. at 7-8. Intervenors intend to argue in reply that ALAB-869 can only reasonably be read to preclude the filing of any contentions calling for production of an EIS until after the filing of an EA, and that had Intervenors filed the proposed contention prior to production of that document, it would have been premature under the Appeal Board's prior ruling.


The Intervenors likewise have both technical and legal replies to make with regard to the Licensee's assertions concerning proposed contentions 2 and 3. Among the issues to be addressed is the question of the nature of the analysis of alternatives required at the EA stage. See Licensee's Response at 14-15.

It has been necessary for the Intervenors to arrange to retain the services of a technical consultant to address some of these issues. The commitment of funds to do so was made on September 2, 1988. Due to his vacation schedule, we are unable to consult with him until September 7 or 8. Therefore, the timing of this motion and the date proposed for submission of the Intervenors' reply, if permitted - September 14, 1988 - is as expeditious as reasonably possibly.

NECNP and the Commonwealth of Massachusetts therefore move the Board to permit them to file by September 14, 1988, a reply to the Licensee's Response to their Joint Motion to File Late-Filed Contentions.

Respectfully Submitted,


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September 6, 1988

CERTIFICATE OF SERVICE

I certify that on September 6, 1988, copies of the foregoing pleading were served by hand or first-class mail on all parties to this proceeding, as designated on the attached service list.

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