

**UNION OF  
CONCERNED  
SCIENTISTS**

October 13, 1998

cc: ~~W. Axelson~~  
~~C. Hehl~~  
~~J. Wiggins~~  
~~R. Blough~~  
HJM 10/13/98

Mr. Hubert J. Miller  
Regional Administrator  
United States Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406-1415

**SUBJECT: REGULATORY FAILURES AT MAINE YANKEE**

Dear Mr. Miller:

CC: GCP  
TRB  
MCR  
I'll bring this up @  
8:30 Wed w/ the other  
PE Sr Mgrs. Pls give me  
your thoughts on what  
I should do with this.  
Randy

Your letter dated October 8, 1998, to the Maine Yankee licensee documents a large number of serious violations of federal safety regulations. It also documents, once again, regulatory failures at this facility.

The NRC staff elected not to impose a civil penalty on the Maine Yankee licensee. The primary factor cited for this decision was that "Maine Yankee essentially replaced the entire management infrastructure since the time these problems occurred." That is true. But what also is true is that the overwhelming majority of the numerous violations existed prior to October 1996. In other words, those violations existed at Maine Yankee when the NRC Independent Safety Assessment Team told the Governor and people of Maine that the facility was in substantial compliance with its design and licensing bases. The Maine Yankee management infrastructure in place at the time of the ISAT proclamation was not the new team, but the old team. The NRC allowed Maine Yankee to continue operating in October 1996 with uncorrected programmatic deficiencies that caused serious safety violations and with suspect management. That allowance constituted a regulatory failure.

When SA  
report  
was  
issued.

According to your letter, the Maine Yankee timeline of key events is:

10/96	Independent Safety Assessment Team report issued
12/05/96	Maine Yankee shuts down for cable separation problems
03/15/97	NRC inspections at Maine Yankee end
08/06/97	Maine Yankee permanently retired
10/97	NRC Office of Investigations inspections at Maine Yankee end
03/11/97	Pre-decisional enforcement conference
12/19/97	Office of Investigations report of 13 apparent violations
04/23/98	Pre-decisional enforcement conference
10/08/98	Announcement that no civil penalty will be imposed

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The NRC regulatory process took two years from the time of the ISAT report to the time of the enforcement inactions for the findings from that report. In the meantime, the licensee made extensive changes to its management infrastructure – changes that seem to be primarily responsible for the NRC's decision not to impose a civil penalty. Thus, the licensee benefited from the NRC's glacial pace. Who did not benefit? The public. Had the NRC acted in a timely manner upon the ISAT findings, the Maine Yankee facility might have been shut down before the cable separation problems were discovered. The untimely actions constituted a regulatory failure.

In at least three separate public meetings, Mr. Edward Jordan, then an NRC Senior Manager, stated words to the effect that he would not mind living next to Maine Yankee. I have no doubt that Mr. Jordan was sincere. But the relevant point is that no one should have to live next to any nuclear power plant operating with safety margins as badly eroded as they were at Maine Yankee. The NRC Senior Managers knew about numerous safety violations at Maine Yankee – the ISAT report contains 75 pages of serious problem after serious problem identified in the four (4) safety systems examined – and knew that they were caused by programmatic deficiencies. Yet, they allowed people living around the plant to be exposed to those undue risks. That allowance constituted a regulatory failure.

Your letter stated:

The violations described in both of the enclosed Notices of Violations appear to relate to the same fundamental underlying concerns with Maine Yankee's conduct of licensed activities. Many of these violations and underlying causes were longstanding and appeared to be caused by ineffective engineering analyses, review and processes which led to inadequate design and configuration control; a corrective action program which was fragmented; a quality assurance function which was not effective at both an individual and organizational level; and ineffective oversight as well as inadequate knowledge of vendor activities. The NRC's assessments, along with your own assessment as described at the March 1997 conference, found that Maine Yankee was a facility in which pressure to be a low-cost performer led to practices which overrelied on judgement, discouraged problem reporting, and accepted low standards of performance, as well as informality rather than rigorous adherence to program and procedural requirements. Lastly, Maine Yankee had become insular, failing to keep up with industry practice and failing to communicate adequately with the NRC.

The regulations governing reactor operation properly place the burden of conforming with them upon the licensees. The Maine Yankee licensee clearly failed in its legal obligations. The NRC's role is to step in when licensees fail and protect the public. The NRC clearly failed in its fiduciary obligations at Maine Yankee. The NRC had resident inspectors at Maine Yankee. The NRC conducted regional and headquarters based inspections at Maine Yankee. Clearly, the NRC, as well as the Maine Yankee licensee, "accepted low standards of performance, as well as informality rather than rigorous adherence to program and procedural requirements." Failure to adequately protect the public constituted a regulatory failure.

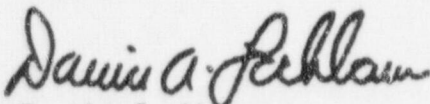
UCS feels that it is fair to levy these harsh criticisms of the NRC's regulatory non-performance because they are not being delivered with benefit of hindsight. UCS communicated concerns with safety margins at Maine Yankee to the NRC on November 19, 1996, on January 31, 1997, on February 4, 1997, and frequently thereafter. Members of Friends of the Coast and concerned citizens in Maine displayed a questioning attitude more reflective of the role that the NRC should take than that exhibited by the NRC Senior Managers throughout the 1996-1998 time period. NRC Senior Managers overlooked the reality at Maine Yankee until things became obvious to even the most casual observer. The problems at Maine Yankee were easy to forecast. NRC's ability to ignore the obvious constituted a regulatory failure.

UCS agrees with the NRC that it is meaningless to collect a civil penalty from the Maine Yankee licensee at this time. The NRC should have acted in a timely manner and collected a civil penalty in early 1997. Having missed that opportunity, the NRC still could have recouped some semblance of regulatory effectiveness even at this late date. The NRC should have imposed a substantial civil penalty, but then suspended it. That action would have put the severity of the Maine Yankee violations in context while not placing an undue burden on the company's ratepayers and/or stockholders.

UCS repeats its concern, expressed at the June 2, 1998, Commission briefing on the Millstone Unit 3 restart, that the NRC lacks objective criteria to determine when eroded safety margins require a nuclear power plant shut down. The NRC must develop such criteria if it is to prevent future Maine Yankee and Millstone regulatory debacles.

UCS respectfully requests that the NRC convene a public meeting between NRC staff and Maine Yankee stakeholders to discuss the events of the past two years. As a minimum, representatives of the Maine Yankee licensee, members of Friends of the Coast, and concerned citizens should be given a seat at the table. The public meeting should be conducted in the community around the plant so as to facilitate public participation. The NRC staff at this meeting should include representatives of the ISAT, of Region I, of OI, and of the Office of Enforcement.

Sincerely,



David A. Lochbaum  
Nuclear Safety Engineer