



50-309

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

October 17, 1997

Mr. Henry R. Myers
Post Office Box 88
Peaks Island, ME 04108

Dear Mr. Myers:

Your letter of August 26, 1997, to Chairman Jackson has been referred to me for reply.

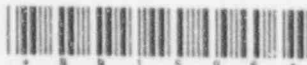
In your letter, you restated your concern that the Nuclear Regulatory Commission (NRC) staff had allowed continued operation of the Maine Yankee Atomic Power Station (MYAPS), in October 1996, without a sufficient basis. I addressed that matter in a letter I sent to you on April 28, 1997. By letter dated October 7, 1996, Chairman Jackson issued the report of the Independent Safety Assessment (ISA) of Maine Yankee Atomic Power Corporation. In my April 28 letter, I informed you that, although the ISA report made no finding that continued operation of the MYAPS posed or did not pose an undue risk to public health and safety, the ISA findings resulted in Maine Yankee Atomic Power Company's shutting down the facility from July 20, 1996, to September 2, 1996, in order to resolve equipment operability concerns. At the time of the September 2 restart, the NRC staff was not aware of any issues at MYAPS taken individually or collectively that would pose an undue risk to public health and safety. After the ISA, additional substantive issues at the MYAPS were identified or further developed and addressed in the NRC staff's Confirmatory Action Letter (CAL) dated December 18, 1996, and Supplement 1 to the CAL dated January 30, 1997. Notwithstanding your view, the NRC has explained in numerous letters to you the measures the NRC has taken to ensure conformance with TMI Action Plan Items II.K.3.30 and II.K.3.31.

Your letter erroneously states that the manner in which my letters use the term "no undue risk" is equivalent to "substantial compliance." As explained in my letter of August 19, 1997, longstanding Commission precedent holds that while compliance with all NRC requirements presumptively provides reasonable assurance that public health and safety will be adequately protected, the converse is not correct. It is a mistake to conclude that any failure on the part of a nuclear power plant to meet any specifics of NRC requirements automatically translates to a finding that the plant was unsafe during the period of noncompliance. The agency must, of necessity, exercise its expert judgment in determining whether there is undue risk to public health and safety from plant operations.

In your August 26 letter, you urged Chairman Jackson to directly address the concerns you have expressed in correspondence over the past 18 months. As I have noted in several letters to you, including my April 28 letter, the Chairman and the Commission have continued to monitor the staff's actions related to Maine Yankee, including your correspondence.

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PDR ADOCK 05000309
H PDR



NRC FILE CENTER COPY

Mr. Henry R. Myers

- 2 -

Finally, in light of your assertion that the NRC staff has acted inappropriately in its oversight of regulated activities at MYAPS, your letter is being forwarded to the NRC Office of the Inspector General for whatever action that office deems appropriate.

Sincerely,

Original signed by

Johri A. Zwolinski, Deputy Director
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

DOCUMENT NAME: G:\DORMAN\GT970635 *SEE PREVIOUS CONCURRENCE
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DATE	09/10/97	09/11/97	09/10/97	09/11/97	09/24/97	09/12/97
OFFICE	D:DRPE	ADPR/NRR	DCNRR	EDG	OCM	
NAME	BBoger*	RZimmerman*	SCor		SJackson	
DATE	09/12/97	09/16/97	09/15/97	09/15/97	10/15/97	

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Docket File (50-309 w/orig inc)

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Assigned TO DORMAN

ACTION

*Rec'd
DRP
8/9/5 am*

EDO Principal Correspondence Control

FROM:

DUE: 09/15/97

10/1/97 extension approved 9/10/97

EDO CONTR.: G970635
DOC DT: 08/26/97
FINAL REPLY:

Henry R. Myers
Peaks Island, Maine

TO:

Chairman Jackson

FOR SIGNATURE OF :

** GRN **

CRC NO: 97-0887

J. Zwolinski, NRR

DESC:

MAINE YANKEE NUCLEAR POWER PLANT - UNRESOLVED
REGULATORY ISSUES

ROUTING:

Callan
Thadani
Thompson
Norry
Blaha
Burns
Miller, RI
Cyr, OGC

DATE: 09/04/97

ASSIGNED TO:

CONTACT:

NRR

Collins

SPECIAL INSTRUCTIONS OR REMARKS:

Put EDO and Chairman on for concurrence.
Chairman's office to review response prior to
dispatch.
Ref. G970318, G970400, and G970515.

NRR RECEIVED:

SEPTEMBER 4, 1997

NRR ACTION:

DRPE:BOGER

NRR ROUTING:

COLLINS
MIRAGLIA
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BOHRER

ACTION

DUE TO NRR DIRECTOR'S OFFICE

BY

[Signature]
Sept 10, 1997

9/26/97

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-97-0987 LOGGING DATE: Sep 3 97
ACTION OFFICE: EDO
AUTHOR: HENRY MYERS
AFFILIATION: MAINE
ADDRESSEE: CHAIRMAN JACKSON
LETTER DATE: Aug 26 97 FILE CODE: ID&R 5 MAINE YANKEE
SUBJECT: MAINE YANKEE NUCLEAR POWER PLANT
ACTION: Direct Reply
DISTRIBUTION: CHAIRMAN, COMRS.
SPECIAL HANDLING: NONE
CONSTITUENT:
NOTES: CCM #10103 --- CHAIRMAN TO REVIEW PRIOR TO DISPATCH
DATE DUE: Sep 17 97
SIGNATURE: DATE SIGNED:
AFFILIATION: