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June 20, 1989

Charles Bechhoefer, Chairman
Gustave Linenberger
Dr. James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

SUBJECT: Vermont Yankee Spent Fuel Expansion

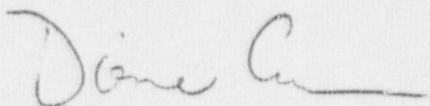
Dear Administrative Judges:

Yesterday, June 19, 1989, the New England Coalition on Nuclear Pollution filed a reply to NRC's and VY's motions to strike NECNP's testimony and to dismiss Environmental Contention 3. Please note the following corrections to NECNP's filing:

- 1) On page 11, line 5, insert "except for the fact that dry cask storage is the safer alternative," between "establish that" and "both."
- 2) In same sentence, insert "otherwise" between "are" and "environmentally."
- 3) On page 13, lines 1-2, delete "Moreover,".

Corrected copies of pages 11 and 13 are enclosed.

Sincerely,



Diane Curran

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In addition to a determination about the procedural deficiencies of the EA, the Licensing Board can go further and compare the proposed reracking and expansion to the dry cask alternative. NECNP's testimony and the record in this case establish that except for the fact that dry cask storage is the safer alternative, both options are otherwise environmentally benign, and that, at least with respect to the dry cask storage of the 870 additional assemblies, their costs to ratepayers are roughly equivalent.¹⁷ Consequently, all else being equal, the NRC has the obligation to choose the environmentally preferable alternative, dry cask, regardless of what the likelihood is that the safety problem will actually occur. See Consolidated Edison Co. of New York, (Indian Point Station, Unit No. 2), ALAB-399, 5 NRC 1156, 1169 (1977) (NRC entrusted with responsibility to carry out broad environmental protection goals of NEPA).

If the Licensing Board decides, however, that its evaluation of dry cask requires information about the likelihood of the occurrence of a self-sustaining zircaloy cladding fire because all other costs and benefits are not equal, then the Licensing Board's substantive review of the NRC Staff EA must await the Appeal Board's decision.¹⁸ However, the Licensing Board may

17 As discussed in note 10 at page 7 of NECNP's Reply to NRC Staff and Vermont Yankee, the costs of reracking with low-density racks and transferring a significant portion of the existing inventory of spent fuels to dry casks would be somewhat higher.

18 If benefits and costs are not equal, then a determination about which option should be chosen would require some assessment of the likelihood of a cladding fire's occurrence so as to determine whether the increased safety of dry cask outweighs other, less favorable factors.

involved only a request to add more spent fuel to the pool, reracking with low-density racks, accompanied by dry cask storage of a large segment of the fuel at VY, is a valid alternative means of accomplishing the "general goal" of increasing the spent fuel storage capacity at Vermont Yankee. See Van Abbema v. Fornell, 807 F.2d at 638-39.

B. Dr. Thompson's Testimony Is Not Solely Addressed to Severe Accident Issues.

Both the NRC Staff and VY would have the Board strike Dr. Thompson's testimony in its entirety. Even if they are correct that his testimony regarding severe accidents is inadmissible, the parties have offered no substantive grounds for striking the other portions of his testimony that are not related to severe accidents.²⁰

²⁰ VY also contends that Dr. Thompson lacks adequate professional qualifications to support his testimony, and that his testimony is incompetent because it is not based on actual knowledge of the Vermont Yankee facility. Both assertions are absurd and unfounded. Dr. Thompson's educational training includes degrees in mathematics, physics, and mechanical engineering, and a Ph.D in applied mathematics. In addition, he has over ten years of experience in nuclear power plant safety analysis, including specific experience on the safety of spent fuel pool expansion and dry cask storage. He has also previously been qualified to testify before the NRC on technical design and risk analysis-related issues. Consolidated Edison Co. of New York, (Indian Point, Unit No. 2), LBP-83-68, 18 NRC 811 (1983). While the Board and Commission may have ultimately disagreed with Dr. Thompson's testimony on a controversial subject, his professional qualifications were never called into question.

VY's complaint that Dr. Thompson's testimony is incompetent because it is not based upon the Vermont Yankee design itself should be rejected out of hand. VY utterly fails to show how any of the purported "speculations" in Dr. Thompson's testimony are incorrect. VY Brief at 6. In fact, Dr. Thompson's assertions are consistent with the factual information that has been provided in the Sworn Written Rebuttal Testimony of Donald A. Reid, et al. (It should be noted in this context that Dr. Thompson does not allege that the recently removed racks were "low-density." He correctly states that the original low-density