

September 9, 1999

Ms. Rosemary Bassilakis
Citizens Awareness Network
54 Old Turnpike Road
Haddam, CT 06438

Dear Ms. Bassilakis:

This letter is in response to your petition dated March 11, 1997, pursuant to Title 10 of the Code of Federal Regulations (10 CFR), Section 2.206, and on behalf of the Citizens Awareness Network and the Nuclear Information Resource Service. The petition requested that the U.S. Nuclear Regulatory Commission (NRC or Commission) (1) commence enforcement action against the Connecticut Yankee Atomic Power Company (CY) by means of a large civil penalty to assure compliance with safety-based radiological control routines; (2) modify CY's license for the Haddam Neck Plant, pursuant to 10 CFR 2.202, to prohibit any decommissioning activity, which would include decontamination or dismantling, until CY manages to conduct routine maintenance at the facility without the occurrence of any contamination events for at least 6 months; and (3) place the Haddam Neck Plant on the NRC Watch List. Your petition stated further that your particular concern was the inability of CY management to maintain proper radiological controls at the Haddam Neck Plant.

As you recall, just prior to the receipt of your petition, the NRC issued a Confirmatory Action Letter (CAL) to CY on March 4, 1997, to formally document several commitments made by CY to improve its radiation protection program. Approximately 2 months after receipt of your petition, the NRC imposed a civil penalty of \$650,000 on CY in a Notice of Violation (NOV) dated May 12, 1997. The NOV was issued for a range of broad programmatic deficiencies which required prompt and comprehensive corrective action to assure adequate regulatory compliance in the future. Some of the corrective actions taken by CY corrected programmatic inadequacies that led to some of the radiological deficiencies you noted to support your petition. However, we did not consider the civil penalty to be a response to your petition because the violations issued did not include the radiological deficiencies you noted.

Our initial response to you on September 3, 1997, in Partial Director's Decision DD-97-19, deferred your petition in part (request 1, above), and denied your petition in part (requests 2 and 3, above). The decision to defer your request for enforcement action was made because the investigation and evaluation of the radiological deficiencies noted in your petition were still in progress.

The NRC shares your concern for assuring that the licensee (CY) takes appropriate actions to comply with radiological controls. At Haddam Neck, the NRC used several methods, such as increased inspections, enforcement conferences, and a CAL, to bring the licensee's radiation protection program into compliance with the Commission's regulations. On May 5, 1998, following a series of inspections to verify licensee performance, the NRC found that CY had fulfilled its commitments to improve its radiation protection program and that the licensee could safely conduct significant radiological work. We believe this finding addresses your concern over radiological controls at the Haddam Neck Plant.

In order to address your deferred request, we considered it in two parts: whether or not to (1) take enforcement action, and (2) impose a civil penalty. As described in the enclosed Director's Decision (DD-99-11), we have concluded that the events noted in your petition constituted violations of the Commission's regulations. The violations have been dispositioned in accordance with the NRC's Enforcement Policy (NUREG-1600, Rev. 1, General Statement of Policy and Procedures for NRC Enforcement Actions) and enforcement action was taken where appropriate. Therefore, your request to take enforcement action is granted in part. However, consistent with the Policy, it was determined that imposition of additional civil penalties was not warranted. The rationale for this conclusion is provided in detail in the enclosed Director's Decision. Therefore, your request to impose a large civil penalty is denied.

In accordance with 10 CFR 2.206(c), a copy of the decision will be filed with the Secretary of the Commission for the Commission's review. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time. I have enclosed a copy of the notice of "Issuance of Director's Decision Under 10 CFR 2.206." The notice, which includes the complete text of DD-99-11, is being filed with the Office of the Federal Register for publication.

Sincerely,

/S/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Enclosures: 1. Director's Decision
2. Federal Register Notice

cc w/encls: See next page

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Sincerely,

ORIG. SIGNED BY
 Samuel J. Collins, Director
 Office of Nuclear Reactor Regulation

- Enclosures: 1. Director's Decision
 2. Federal Register Notice

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION
Samuel J. Collins, Director

In the matter of)	
)	
CONNECTICUT YANKEE ATOMIC)	Docket No. 50-213
POWER COMPANY)	(10 CFR 2.206)
)	
(Haddam Neck Plant))	

DIRECTOR'S DECISION UNDER 10 CFR 2.206

COMPLETION OF PREVIOUSLY ISSUED PARTIAL DIRECTOR'S DECISION

I. INTRODUCTION

On March 11, 1997, Rosemary Bassilakis submitted a petition pursuant to Title 10 of the Code of Federal Regulations, Section 2.206 (10 CFR 2.206), on behalf of the Citizens Awareness Network and the Nuclear Information Resource Service (Petitioners) requesting that the NRC (1) commence enforcement action against the Connecticut Yankee Atomic Power Company (CY, or licensee) by means of a large civil penalty to assure compliance with safety-based radiological control routines; (2) modify CY's license for the Haddam Neck Plant, pursuant to 10 CFR 2.202, to prohibit any decommissioning activity, which would include decontamination or dismantling, until CY manages to conduct routine maintenance at the facility without any occurrence of contamination events for at least 6 months; and (3) place the Haddam Neck Plant on the NRC Watch List. The Petitioners stated that their particular concern was the inability of CY management to maintain proper radiological controls at the Haddam Neck Plant.

In support of their requests, the Petitioners noted three radiological deficiencies that occurred at the Haddam Neck Plant. The first occurred on various dates in 1996 and involved inadequate calibration of various detectors in the radiation monitoring system. The second occurred in November 1996 and involved two individuals who received an unplanned exposure while working in the fuel transfer canal. The third occurred in February 1997 and involved the release of contaminated video equipment to a nonlicensed vendor.

The Petitioners' requests and the NRC's evaluation and conclusions are discussed in the sections below. The Background section provides relevant information on NRC oversight and enforcement activities at Haddam Neck and briefly describes the Partial Director's Decision sent to the Petitioners in September 1997. The Discussion section describes the enforcement actions taken in response to the events noted in the petition and explains the purpose of assessing civil penalties. The Conclusion section presents the Director's Decision.

II. BACKGROUND

CY submitted certifications of permanent cessation of operations at the Haddam Neck Plant and permanent defueling of its reactor on December 5, 1996. Prior to that date, the NRC identified a number of significant regulatory concerns regarding the licensee's performance. The NRC took a number of actions over the next few months to bring the licensee into compliance with applicable regulations. The actions most relevant to the Petitioners' requests and concern were the issuance of Confirmatory Action Letter (CAL) No. 1-97-007 on March 4, 1997, a civil penalty of \$650,000 on May 12, 1997, and a supplement to the CAL on November 17, 1997. The CAL was issued in response to weakness in managing and controlling radiological work at the Haddam Neck Plant. The three events noted

in the petition were identified in the CAL as examples of radiological weaknesses. The civil penalty did not specifically address radiological issues, but did identify programmatic weaknesses that required prompt and comprehensive correction of violations. In the November 17, 1997, supplement to the CAL, the NRC found, after conducting several inspections, that CY had achieved radiation program improvement in several areas. Subsequently, on May 5, 1998, the NRC found that the licensee had completed all the commitments listed in the CAL and that it could safely conduct significant radiological work.

The NRC issued a Partial Director's Decision (DD-97-19) on September 3, 1997, in response to the three requests contained in the petition. The first request, to take enforcement action and impose a large civil penalty on the licensee, was deferred until inspections and investigations could be completed and enforcement actions evaluated for the deficiencies noted. The Partial Director's Decision did not consider the May 12, 1997, civil penalty to be a response to the Petitioners' first request because radiological issues were not included in the notice of violation. The second request, to impose a 6-month moratorium on decommissioning activities, was denied because (1) on the basis of experience, there was no reason to expect that 10 CFR Part 20 dose limits would be exceeded at the Haddam Neck Plant, (2) a senior resident inspector was on site to monitor and inspect the licensee's performance on a day-to-day basis, and (3) a confirmatory action letter was issued to CY on March 4, 1997, to document the licensee's commitments to improve its radiation protection program. The third request, to place Haddam Neck on the NRC Watch List, was denied on the basis that the inspection program in place at the plant was sufficient to monitor licensee performance at a permanently shutdown and defueled reactor.

III. DISCUSSION OF PETITIONERS' DEFERRED REQUEST

The three radiological deficiencies noted by the Petitioners have been inspected and

investigated. In considering the Petitioners' deferred request, the NRC determined whether violations of NRC requirements occurred. Identified violations were then dispositioned in accordance with the NRC's Enforcement Policy.

The first deficiency, involving inadequate calibration of various detectors in the radiation monitoring system (RMS) during 1996, was identified as a violation by NRC letter dated January 15, 1998. The NRC determined that a violation of regulatory requirements occurred in that the licensee failed to establish and implement RMS test procedures as required by Technical Specification 6.8. Such programmatic deficiency on the part of a licensee would normally be subject to escalated enforcement action. However, the NRC determined that the provisions of Section VII.B.2, "Violations Identified During Extended Shutdowns or Work Stoppages," of the Enforcement Policy applied, and it decided to exercise enforcement discretion in this case. Therefore, the NRC did not issue a notice of violation or propose a civil penalty. This decision was made on the basis that (1) the events leading to the violation took place before the permanent shutdown of the plant in December 1996 and (2) the licensee had already been issued a \$650,000 civil penalty on May 12, 1997, for technical and safety review program inadequacies that led to the inadequate RMS calibrations and other violations.

The second deficiency, involving an unplanned radiation exposure, resulted in a notice of violation issued to the licensee on April 5, 1999. The NRC identified several violations that occurred during the event and classified them in the aggregate as a Severity Level III violation. In accordance with the Enforcement Policy, a civil penalty is normally considered for a Severity Level III violation or problem. However, the NRC determined that Section VII.B.6 of the Enforcement Policy, "Violations Involving Special Circumstances," applied to the event, and it exercised enforcement discretion to not impose a civil penalty in this case. Therefore, the NRC did not propose a civil penalty because (1) the violations occurred before CY's decision,

in December 1996, to permanently shut down and defuel the Haddam Neck facility and (2) CY had already been issued a \$650,000 civil penalty on May 12, 1997, to address poor performance that existed before the decision was made to permanently shut down the reactor.

The third deficiency, involving release of contaminated equipment, was the subject of two enforcement actions, both issued on May 12, 1999. The first enforcement action was issued as a notice of violation to an individual on the basis that he attempted to conceal the release of contaminated video equipment to a nonlicensed vendor. The NRC classified the violation as Severity Level III. The NRC considered issuing an Order to the individual to prevent him from engaging in licensed activities at NRC licensed facilities. The NRC did not issue an Order to the individual because, among other factors, he was not in a management or supervisory position at the facility, and was no longer employed in, nor seeking work in, the nuclear industry. The second enforcement action was issued to CY for failure to perform an adequate survey, with subsequent loss of control of material. However, CY promptly achieved compliance by retrieving the contaminated equipment. CY then investigated the cause of the release and took corrective actions to prevent recurrence. Therefore, because the release of the contaminated material and the resultant loss of control of material were not willful on the part of the licensee, the NRC classified the violation as Severity Level IV and treated it as a noncited violation in accordance with Appendix C of the Enforcement Policy. Violations treated in this manner are not subject to a civil penalty.

As discussed above, although the events noted by the Petitioners constituted violations of the NRC's regulations and certain enforcement actions were taken, a civil penalty was not assessed on the licensee. This result partially fulfills the Petitioners' request to take enforcement action against the licensee. With regard to imposing a civil penalty, the NRC Enforcement Policy (NUREG-1600, Revision 1, Section VI.B) states, "Civil penalties are used to encourage prompt identification and prompt and comprehensive correction of violations, to emphasize compliance in a manner that deters future violations, and to serve to focus licensees' attention on violations of significant regulatory concern." Based on numerous inspections, the NRC has concluded that the licensee has taken timely and comprehensive

corrective actions to improve its radiation protection program, has achieved adequate compliance in the time after the events occurred, and has focused its attention on maintaining adequate radiological controls. An additional civil penalty is unnecessary in light of the improvement in the licensee's performance. Consequently, consistent with the Enforcement Policy, discretion was exercised to not impose civil penalties for these violations. Therefore, the request to take enforcement action by means of a large civil penalty on CY in response to the events noted in the petition is granted in part, in that enforcement action has been taken against the licensee, and denied in part, since no civil penalty was imposed.

IV. DECISION

For the reasons stated above and in Director's Decision DD-97-19, issued September 3, 1997, the petition is granted in part and denied in part. The decision and the documents cited in the decision are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2210 L Street, NW., Washington, DC.

In accordance with 10 CFR 2.206(c), a copy of the decision will be filed with the Secretary of the Commission for the Commission's review. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 9th day of September 1999.

FOR THE NUCLEAR REGULATORY COMMISSION

/S/
Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

UNITED STATES NUCLEAR REGULATORY COMMISSIONCONNECTICUT YANKEE ATOMIC POWER COMPANYDOCKET NO. 50-213ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a petition dated March 11, 1997, filed by Rosemary Bassilakis pursuant to Title 10 of the Code of Federal Regulations, Section 2.206 (10 CFR 2.206), on behalf of the Citizens Awareness Network and the Nuclear Information Resource Service (Petitioners). The petition requested that the NRC (1) commence enforcement action against the Connecticut Yankee Atomic Power Company (CY) by means of a large civil penalty to assure compliance with safety-based radiological control routines; (2) modify CY's license for the Haddam Neck Plant, pursuant to 10 CFR 2.202, to prohibit any decommissioning activity, which would include decontamination or dismantling, until CY manages to conduct routine maintenance at the facility without the occurrence of any contamination events for at least 6 months; and (3) place the Haddam Neck Plant on the NRC Watch List.

The Director, Office of Nuclear Reactor Regulation, determined that a decision on the first request listed above should be deferred and that the second and third requests should be denied for the reasons stated in Partial Director's Decision DD-97-19, issued on September 3, 1997. Subsequently, the Director has determined that the first request listed above should be granted in part and denied in part for the reasons stated in the "Director's Decision Under 10 CFR 2.206" (DD-99-11) the complete text of which follows this notice and is available for public inspection and copying at the Commission's Public Document Room, the Gelman Building, 2210 L Street, NW., Washington, DC, and at the local public document room located at the

Russell Library, 123 Broad Street, Middletown, Connecticut.

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A copy of the decision will be filed with the Secretary of the Commission for the Commission's review. As provided by 10 CFR 2.206(c), this decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 9th day of September 1999.

FOR THE NUCLEAR REGULATORY COMMISSION

/S/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation