

August 17, 2006 (3:00pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFFUNITED STATES
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the matter of
ENTERGY NUCLEAR VERMONT YANKEE, LLC
and ENTERGY NUCLEAR OPERATIONS, INC.
(Vermont Yankee Nuclear Power Station)

August 10, 2006
Docket No. 50-271

ASLBP No. 04-832-02-OLA

NEW ENGLAND COALITION'S NOTICE OF WITHDRAWAL
OF ITS CONTENTION REGARDING INADEQUATE ANALYSIS
OF THE VERMONT YANKEE ALTERNATE COOLING SYSTEM PERFORMANCE
UNDER CONDITIONS OF EXTENDED POWER UPRATE

Now comes New England Coalition by its undersigned *pro se* representative and for the following good reasons voluntarily withdraws solely its contention regarding inadequate analysis of the Vermont Yankee Alternate Cooling System (ACS) performance under conditions of Extended Power Uprate ("EPU"). This Contention is otherwise termed, NEC Contention 4.

(1) During the week of July 30–August 4, 2006, New England Coalition discussed with its expert witness Dr. Ross B. Landsman, remaining questions regarding the ACS dedicating cooling tower cells in the context of hearings now scheduled for September 12 and 13, 2006.

New England Coalition determined that Entergy Nuclear Vermont Yankee ("Entergy" or the "Licensee") had documented or otherwise addressed most omissions or flaws in the ABS Report on the condition of the ACS.

New England Coalition also determined that only a few questions remained regarding the analysis in the report or regarding the actual condition of the subject cooling tower cells as they would be affected by conditions of extended power uprate.

We agreed that Dr. Landsman would present his conclusions in a letter¹ to be posted on August 7, 2007 for presentation to the Executive Committee of the Board of Trustees of New England Coalition and to the Atomic Safety and Licensing Board Panel in this Docket.

(2) New England Coalition received Dr. Landsman's letter on August 10, 2006.

(3) Given the Board's Order of March 24, 2006 limits New England Coalition to a discussion of the omissions or flaws in the ABS Report, Dr. Landsman concludes Contention 4 is largely satisfied in that those omissions and flaws have largely been remedied by extra examinations, analyses, and inspections, particularly evidenced in recent and supplemental Entergy documentation.

(4) Following review and acceptance of the conclusions of Dr. Landsman's letter, New England Coalition also determined that remaining issues regarding physical condition (rot) of the interior of wooden cooling tower cell members and the extent of condition of concrete flaws built in at the time of construction could not be effectively pursued without independent physical examination.²

And further, New England Coalition was forced to conclude that these issues would most efficiently be pursued through a 10 CFR 2.206 petition or NRC processes other than adjudication before the ASLB³.

NOW, THEREFORE, for all of the good reasons stated herein and in the attached letter of Dr. Ross B. Landsman, Exhibit A, the statements of which New England Coalition now

¹ Attached as Exhibit A.


² New England Coalition did ask Entergy to arrange for an August 1 or 2, 2006 walkdown of the cooling towers but were advised that personnel are not permitted in the cooling towers during operation. This left New England Coalition to wonder how Entergy's consultant was able to ascertain the physical condition of the ASC if limited to a walk by.

³ However New England Coalition respectfully points out that safety or environmental matters which may be left as outstanding issues by a withdrawing intervenor may be raised by a Board sua sponte or be subject to nonadjudicatory resolution by the NRC Staff. South Texas, supra, 21 NRC at 383 n.100. See Consolidated Edison Co.- of New York (Indian Point, Units 1, 2, and 3), ALAB-319, 3 NRC 188, 189-90 (1976).

incorporates as its own, New England Coalition respectfully requests dismissal of its Contention 4, and only Contention 4.

Respectfully submitted:

NEW ENGLAND COALITION

BY 
Raymond G. Shadis
pro se representative
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(207) 882-7801
shadis@prexar.com

cc: Service List

Ross B. Landsman
40 South Canterbury Lane
Lake Forest, Illinois 60045

August 4, 2006
By E-mail and U.S. Mail

Raymond Shadis
New England Coalition
Post Office Box 98
Edgecomb, Maine 04556

Dear Ray,

This letter is to confirm and clarify my recent advice regarding New England Coalition's Contention Four.

Upon review of Entergy and NRC staff submittals in my preparation for framing proposed examination questions and in particular upon review of more recent supplemental materials, I find that Entergy has now addressed in some fashion all seven deficiencies of the ABS Report cited in my testimony regarding the Alternate Cooling System.

As you know, the Atomic Safety and Licensing Board Order of March 24, 2006, limited the contention to the ACS cooling tower cells (as opposed to our concern with the ACS in its entirety) and pretty much limited our issues to the failings of the ABS Report:

1. ABS did not conduct a physical examination of the alternate cooling tower cell;
2. ABS's report lacks adequate documentation of the breaking strength of the tie rods;
3. ABS's report does not use added conservatism in accounting for the effects of aging mechanisms and/or moisture and/or cooling system chemicals;
4. ABS's structural analysis fails to assign a negative value to the replacement rate for degraded members;
5. ABS's report fails to account for changes to ACS after the report was completed;
6. ABS relies on incorrect and non-conservative assumptions concerning the condition of the concrete in the alternate cooling tower cell and fails to take into account the unanalyzed effects of recent modification including steel splices; and
7. ABS does not provide reasonable assurance of seismic qualification of the ACS.

Both NRC and Entergy now report having performed multiple inspections of the ACS cooling tower cells and the towers basin during 2005 and 2006. While questions remain about how thorough an examination could have been performed in the areas of the towers that are generally inaccessible (especially during cooling tower operation); exactly what procedures are in place to determine subsurface biological damage to wood members, and the extent of condition of concrete flaws built in at the time of construction, I believe that these may be more efficiently addressed through NRC processes other than adjudication before the ASLB.

In sum, while it is impossible to predict with certainty that the ACS will withstand a severe seismic shock, I believe that both NRC Staff and Entergy have responded to New England Coalition's contention with increased oversight, inspections, and analysis that would not

have otherwise been performed and which result in significantly increased assurance of adequate protection of public health and safety. I can only hope that the community recognizes and appreciates New England Coalition's extraordinary service in this regard.

My remaining concern is that semi-annual physical inspections of the towers, which Entergy appears to have conducted in response to the issues raised in New England Coalition's contention and subsequent argument, continue to be conducted on a semi-annual basis as the cooling towers approach their Cooling Technology Institute Standard (STD-114) 50 year design life.

It has been my pleasure to try to assist. Please let me know if I can be of service in the future.

Sincerely,

A handwritten signature in cursive script, reading "Ross B. Landsman". The signature is written in dark ink and is positioned above the printed name.

Ross B. Landsman, PhD

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

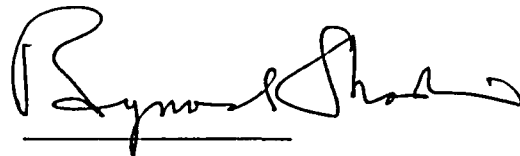
In the Matter of)	
)	
ENTERGY NUCLEAR VERMONT YANKEE))	Docket No. 50-271-OLA
LLC and ENTERGY NUCLEAR)	
OPERATIONS, INC.)	ASLBP No. 04-832-02-OLA
)	
(Vermont Yankee Nuclear Power Station))	

CERTIFICATE OF SERVICE

I hereby certify that copies of **NEW ENGLAND COALITION'S NOTICE OF WITHDRAWAL OF ITS CONTENTION REGARDING INADEQUATE ANALYSIS OF THE VERMONT YANKEE ALTERNATE COOLING SYSTEM PERFORMANCE UNDER CONDITIONS OF EXTENDED POWER UPRATE** in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class this 11th day of August 2006 and by e-mail as indicated by a double asterisk (**), this 11th day of August, 2006.

Alex S. Karlin, Chair** Administrative Judge Atomic Safety and Licensing Board Panel Mail Stop T-3F23 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail: ask2@nrc.gov	Dr. Anthony J. Baratta** Administrative Judge Atomic Safety and Licensing Board Panel Mail Stop T-3F23 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail: ajb5@nrc.gov
Lester S. Rubenstein** Administrative Judge Atomic Safety and Licensing Board Panel 1750 Avenida del Mundo Apartment 1106 Coronado, Ca. 92118	Office of the Secretary** ATTN: Rulemaking and Adjudications Staff Mail Stop: O-16C1 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail: HEARINGDOCKET@nrc.gov
Office of Commission Appellate Adjudication Mail Stop: O-16C1 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001	John M. Fulton, Esq. Assistant General Counsel Entergy Nuclear Operations, Inc. 440 Hamilton Avenue White Plains, NY 10601
Jay E. Silberg, Esq.** Matias Travieso-Diaz, Esq.** Pillsbury Winthrop Shaw Pittman, LLP 2300 N St., NW	Jonathan M. Rund, Esq.** Law Clerk Atomic Safety and Licensing Board Panel Mail Stop: T-3F23

Washington, DC 20037-1128 E-mail: jay.silberg@pillsburylaw.com matias.travieso-diaz@pillsburylaw.com	U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 (E-mail: jmr3@nrc.gov)
Marcia Carpentier, Esq.** Law Clerk Atomic Safety S and Licensing Board Mail Stop: T-3F23 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001	Sherwin E. Turk, Esq.** Richard Ennis, NRR** Office of the General Counsel Mail Stop O-15 D21 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 set@nrc.gov , jcz@nrc.gov



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**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the matter of

ENTERGY NUCLEAR VERMONT YANKEE, LLC
and ENTERGY NUCLEAR OPERATIONS, INC.
(Vermont Yankee Nuclear Power Station)

August 11, 2006

Docket No. 50-271

ASLBP No. 04-832-02-OLA

Office of the Secretary
ATTN: Rulemaking and Adjudications Staff
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Rulemaking and Adjudications Staff,

Please find for filing in the above captioned matter one original and two copies of
NEW ENGLAND COALITION'S NOTICE OF WITHDRAWAL OF ITS
CONTENTION REGARDING INADEQUATE ANALYSIS OF THE VERMONT
YANKEE ALTERNATE COOLING SYSTEM PERFORMANCE UNDER
CONDITIONS OF EXTENDED POWER UPRATE

Thank you for your kind assistance in making this filing,



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