

April 9, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Bruce A. Boger, Associate Director */RA/*
for Operating Reactor Oversight and Licensing
Office of Nuclear Reactor Regulation

SUBJECT: MARCH 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*
(10 CFR), SECTION 2.206

In accordance with SECY-93-355, "Review of Regulations and Practice Governing Citizen Petitions Under Title 10 of the *Code of Federal Regulations*, Section 2.206," the enclosed report gives the status of petitions submitted under 10 CFR 2.206. As of March 31, 2007, there were two open petitions that were accepted for review under the 2.206 process; one in the Office of Nuclear Reactor Regulation and one in the Office of Nuclear Material Safety and Safeguards. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of March 31, 2007.

Enclosure 2 provides the status of incoming letters that the U.S. Nuclear Regulatory Commission (NRC) staff is reviewing to determine if they meet the criteria for review under the 2.206 process.

Enclosure 3 shows the age statistics for the open 2.206 petitions as of March 31, 2007.

This report, Director's Decisions, and other 2.206-related documents are placed in the Agencywide Documents Access and Management System. By making these documents readily accessible to the public, the NRC staff is addressing the performance goal of ensuring openness in our regulatory process.

Enclosures: As stated

CONTACT: Tanya M. Mensah, NRR/DPR
301-415-3610

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NRR-106

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|--------|------------|------------|------------|------------|------------|
| OFFICE | PM:PSPB | LA:PSPB | BC:PSPB | (A)DD:DPR | ADRO |
| NAME | TMensah | DBaxley | SRosenberg | JGolder | BBoger |
| DATE | 4 / 5 / 07 | 4 / 5 / 07 | 4 / 5 / 07 | 4 / 5 / 07 | 4 / 9 / 07 |

OFFICIAL AGENCY RECORD

DISTRIBUTION FOR MARCH 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*, SECTION 2.206

Date: April 9, 2007

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Status of Open Petitions

| <u>Facility</u> | <u>Petitioner/EDO No.</u> | <u>Page</u> |
|-------------------------------|--|-------------|
| Palisades Nuclear Power Plant | Terry Lodge, Counsel for Petitioners G20060369..... | 1 |
| Shearon Harris | John Runkle representing Waste Awareness and Reduction Network (WARN), Union of Concerned Scientists (UCS), et al. G20060793..... | 3 |

Report on Status of Public Petitions Under 10 CFR 2.206

| | |
|--------------------------------------|--------------------------------------|
| Facility: | Palisades Nuclear Power Plant |
| Petitioners: | Terry Lodge, Counsel for Petitioners |
| Date of Petition: | April 4, 2006 |
| Director's Decision to be Issued by: | NMSS |
| EDO Number: | G20060369 |
| Proposed DD Issuance: | November 28, 2006 |
| Final DD Issuance: | March 20, 2007 |
| Last Contact with Petitioner: | February 2, 2007 |
| Petition Manager: | Randy Hall |
| Case Attorney: | Giovonna Longo |

Issues/Actions requested:

That the NRC condemn and force a halt to the use of the two concrete pads holding dry casks storing used nuclear fuel at the Palisades Nuclear Power Plant. The petitioners state that the pads, on which radioactive waste are stored, do not conform with longstanding NRC requirements for earthquake stability standards because they were built on compacted sand and other subsurface materials, dozens of feet above bedrock. In particular, the petitioners claim that the pads are in violation of requirements in 10 CFR 72.212(b)(2)(i)(B).

Background:

The NRC staff held a teleconference with the petitioners on April 26, 2006. The petitioners informed the NRC staff that they would submit a supplement to the petition. The NRC staff delayed making a decision on whether the petition met the criteria of 10 CFR 2.206 pending receipt of the supplement.

On May 4, 2006, the NRC staff sent a letter to the petitioner, acknowledging receipt of the petition and providing a transcript of the teleconference. As of June 30, 2006, the petitioner had not provided a supplement to the petition.

On June 9, 2006, the NRC staff sent a status letter to the petitioner, indicating that the NRC staff will continue to process the petition in accordance with the 2.206 process.

On June 27, 2006, the NRC staff sent a letter to the petitioner stating that the request to condemn and stop the use of the two Independent Spent Fuel Storage Installation (ISFSI) concrete pads does not require immediate action. The letter also stated that the petition was accepted for review under the 2.206 process in part, specifically with respect to slope stability of the concrete pad constructed in 2003. Those portions of the petition concerning the older concrete pad constructed in 1992 and soil liquefaction related to the newer pad were not accepted for review because those issues have already been the subject of NRC staff review and have been resolved.

On August 25, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email to provide a current status.

On October 31, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email to provide a current status.

On December 1, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email transmitting the proposed Director's Decision for comment.

This issue was originally identified as an unresolved item in a previous NRC inspection report, and was forwarded to the Spent Fuel Project Office (SFPO) staff by Region III in a Technical Assistance Request (TAR) dated March 10, 2006. On August 29, 2006, SFPO sent a memorandum back to Region III identifying its remaining questions on the licensee's analysis, which Region III forwarded to the Palisades licensee.

The licensee revised its slope stability analysis for the new pad to address the NRC questions and that revised analysis was provided to NMSS for review on October 24, 2006. The NRC staff has completed its review of the licensee's revised slope stability analysis for the newer pad and finds it acceptable; therefore the NRC staff is proposing to deny the petition.

The NRC staff issued the proposed Director's Decision to the petitioner and to the licensee for comment on November 28, 2006. The NRC asked for comments to be submitted within 30 days of the proposed Director's Decision. The licensee has indicated to the NRC staff that it does not have any comments on the proposed Director's Decision.

On January 4, 2007, the petitioner requested an additional 14 days to provide comments on the proposed Director's Decision, citing personal hardship and the need to consult further with a technical expert. The NRC staff agreed to allow the petitioner until January 19, 2007, to submit any comments. On January 18, 2007, the petitioner requested another 14-day extension, until February 2, 2007, to provide comments, which the NRC staff granted. The NRC staff subsequently requested and was granted an extension until March 20, 2007, for the preparation of the final Director's Decision.

Current Status:

The NRC staff issued the Final Director's Decision (DD-07-02) on March 20, 2007.

| | |
|--------------------------------------|--|
| Facility: | Shearon Harris |
| Petitioners: | John Runkle representing WARN, UCS, et al. |
| Date of Petition: | September 20, 2006 |
| Director's Decision to be Issued by: | NRR |
| EDO Number: | G20060793 |
| Proposed DD Issuance: | April 2, 2007 |
| Final DD Issuance: | June 17, 2007 |
| Last Contact with Petitioner: | April 3, 2007 |
| Petition Manager: | Lisa Regner |
| Case Attorney: | Giovonna Longo |

Issues/Actions requested:

That the NRC suspend the operating license for Shearon Harris until all fire safety violations affecting safe shutdown functions are brought into compliance.

Background:

On October 23, 2006, the NRC staff held a public meeting for the petitioners to address the Petition Review Board (PRB). Due to technical difficulties with the teleconferencing system, the meeting was cancelled. The NRC staff held a public meeting on November 13, 2006, for the petitioners to address the PRB. The PRB determined that the petition met the criteria for review under 10 CFR 2.206. An acknowledgment letter was issued on December 4, 2006.

During the review of this petition, several resolutions were submitted by external stakeholders in support of the petition. The resolutions were submitted to the NRC in letters dated October 11, 2006 (G20060852), October 12, 2006 (G20060858) and October 16, 2006 (G20060861). The resolutions were submitted by the townships of Chapel Hill and Carrboro, and the Orange County Board of Commissioners respectively. Regarding the resolutions concerning fire protection issues, the NRC reached agreements with the respective townships and the Orange County Board of Commissioners to include them on distribution for related NRC correspondence with the petitioners concerning their requests. This agreement is documented in individual letters dated November 17, 2006, from the NRC staff to the townships of Chapel Hill and Carrboro. The NRC documented its response to the Orange County Board of Commissioners in letters dated November 27, 2006, and December 27, 2006.

In addition, in its letters dated October 16, 2006, and November 27, 2006, the Orange County Board of Commissioners submitted a resolution concerning emergency preparedness. In its response dated November 27, 2006, and December 27, 2006, the NRC staff determined that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency associated with the Shearon Harris Nuclear Plant. The NRC staff recommended that the Orange County Board of Commissioners work through the appropriate State and local agencies to develop proposed changes to the existing plans.

Current Status:

The NRC staff has completed its review and is proposing to deny the portions of the petition related to the petitioner's request for enforcement action, the request to conduct a public meeting, and the request to deny the licensee's application for license renewal at Shearon Harris. On April 2, 2007, the NRC staff issued the Proposed Director's Decision to the petitioner and to the licensee for comment. The NRC staff asked for comments to be submitted within 30 days of the proposed Director's Decision. The 30-day comment period is currently scheduled to conclude on May 3, 2007.

Status of Potential Petitions Under Consideration

Facility: N/A
Petitioner: James Salsman
Date of Petition: December 2, 2006, and email supplement dated December 2, 2006
EDO Number: G20070006
PRB meeting: March 13, 2007 (teleconference with petitioner)
April 4, 2007 (closed meeting)

Issues/Actions requested:

The petitioner requests that all uranium munition licenses be explicitly modified to require:

- A good faith effort to quantify dates, times, locations, quantities, and types of pyrophoric uranium munition use, with an estimation of the kinds of targets involved.
- The licensees to determine the amount of uranyl oxide gas produced in pyrophoric uranium munitions combustion in air under typical and observed conditions.
- The licensees to determine the extent of both reproductive and developmental toxicity from typical uranium combustion product inhalation in at least five diverse species of mammals using chromosomal aberration analysis of lymphocytes and gonocytes.
- The licensees to publish their estimates and determinations from the license modifications specified in the three actions above, provide independent verification of the studies via anonymous bidding on contracts for replication and auditing of data, and publication of initial and validating studies in peer-reviewed medical and scientific journals.

Background:

A petition requesting a similar, but more extensive modification of depleted uranium munition licenses was submitted on April 5, 2005. A December 30, 2005, Director's Decision granted in part, and denied in part, the numerous requests. The second submission of a petition, submitted July 12, 2006, condensed the requests of the initial April 5, 2005, submission and requested modification of depleted uranium munition licenses (almost identical to this December 2, 2006, petition request). It also provided other journal articles as additional information for consideration. A September 26, 2006, closure letter to the petitioner provided the Petition Review Board (PRB) determination and explanation that the petition request did not meet the criteria for acceptance as a 2.206 petition, but met the criteria for rejection as a 2.206 petition.

This petition request, submitted December 2, 2006, requests the same modifications as the July 12, 2006, petition request, and has additional journal and website articles as additional information for the PRB to consider.

Current Status:

The NRC staff made initial contact with the petitioner on January 18, 2007, to discuss the 2.206 petition process. The petitioner desired to address the PRB by

teleconference. The teleconference between the petitioner and the PRB was held on March 13, 2007. The PRB will hold a closed meeting to formulate recommendations on how to proceed with responding to the petition request.

AGE STATISTICS FOR AGENCY 2.206 PETITIONS

| Assigned Action Office | FACILITY/ Petitioner | Incoming petition | PRB meeting ¹ | Acknowledgment letter/days from incoming ² | Proposed DD issuance Date/age ³ | Date for final DD/age ⁴ | Comments if not meeting the Agency's Completion Goals |
|------------------------|-------------------------|-------------------|--------------------------|---|--|------------------------------------|--|
| NMSS | Palisades | 04/04/06 | 04/26/06 | 06/27/06 84 | 11/28/06 118 | 03/20/07 112 | On 1/4/07 and 1/18/07, the petitioner requested an extension to provide comments on the proposed Director's Decision. The NRC staff agreed and subsequently requested, and was granted, an extension until March 20, 2007, for the preparation of the Final Director's Decision. |
| NRR | Shearon Harris | 09/20/06 | 11/13/06 | 12/04/06 75 | 04/02/07 119 | TBD | |

- 1) Goal is to hold a PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petition.
- 2) Goal is to issue acknowledgment letter within 35 days of the date of incoming petition.
- 3) Goal is to issue proposed DD within 120 days of the acknowledgment letter.
- 4) Goal is to issue final DD within 45 days of the end of the comment period.