

February 6, 2003

MEMORANDUM TO: William D. Travers  
Executive Director for Operations

FROM: Brian W. Sheron, Associate Director */RA/*  
for Project Licensing and Technical Analysis  
Office of Nuclear Reactor Regulation

SUBJECT: JANUARY 2003 REPORT ON THE STATUS OF PUBLIC PETITIONS  
UNDER 10 CFR 2.206

The attached report gives the status of petitions submitted under 10 CFR 2.206. As of January 31, 2003, there were two open petitions, which were accepted for review under the 2.206 process: both in the Office of Nuclear Materials Safety and Safeguards.

Attachment 1 provides a detailed status of the open petitions.

Attachment 2 provides the status of incoming letters that the staff has been reviewing to determine if they meet the criteria for review under the 2.206 process.

Attachment 3 shows the age statistics for the open 2.206 petitions as of January 31, 2003.

Attachment 4 shows the age trend of closed petitions for the last 3 years.

This report, Director's Decisions, and other 2.206-related documents are placed in the Agencywide Documents Access and Management System. In making these readily accessible to the public, the staff has identified another vehicle to address one of our performance goals, i.e., to enhance public confidence.

Attachments: As stated

CONTACT: Robert Clark, NRR  
415-2297

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DISTRIBUTION: See next page

Accession No.: ML030350571

\*See previous concurrence

OFFICE	PM:PDI-1	LA:PDI-1	D:PDII	D:DLPM	ADPT:NRR
NAME	RClark	SLittle	HBerkow*	JZwolinski	BSheron
DATE	2/5/03	2/5/03	02/03/03	2/6/03	2/6/03

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KCyr, OGC

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JGoldberg, OGC

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FCongel, OE

PLohaus, STP

MVirgilio, NMSS

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FBrown, NMSS

BBoger, NRR

MStein, OE

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DWidmayer

# Attachment 1

## Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page No.</u>
Oyster Creek Generating Station	Edith Gbur for Jersey Shore Nuclear Watch/ G20020385.....	1
Waltz Mill Pennsylvania Site	Viacom, Inc. / G20020629.....	2

Attachment 1  
Report on Status of Public Petitions Under 10 CFR 2.206

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Facility:	<u>Oyster Creek Generating Station</u>
Petitioner:	Jersey Shore Nuclear Watch
Date of Letter:	6/21/2002, as supplemented on July 18, 2002
Director's Decision to Be Issued by:	NMSS
EDO Number:	G20020385
Proposed DD issuance:	03/24/2003
Last Contact with Petitioner:	01/07/2003
Petition Manager:	Steve O'Connor
Case Attorney:	Jack Goldberg

Issues/Actions requested:

The petitioner requests that the NRC issue an order to the licensee, suspending the dry cask storage program at Oyster Creek.

Background:

As a basis for the above requests, the petitioner raised concerns with: the location of the Oyster Creek independent spent fuel storage installation relative to local roads and communities; the ability of the NUHOMS dry spent fuel storage system to survive a sabotage attack; the adequacy of Oyster Creek security measures for fuel handling activities; the adequacy of the Oyster Creek emergency evacuation plan; and the quality of the NUHOMS systems planned for use at Oyster Creek.

The petitioner participated in a telephone call with the Petition Review Board on July 18, 2002. In response to the PRB discussion, the petitioner provided additional information on July 18, 2002, to supplement the petition request. This information is also being considered in the review of the petition.

The petitioner's request for NRC to immediately suspend the license for the NUHOMS dry spent fuel storage system and halt transfer of spent fuel from wet pool storage to dry storage modules at Oyster Creek was denied because the safety concerns were reviewed and determined not to pose an undue risk to public health and safety. The Commission does not believe that immediate action is required because the licensee for Oyster Creek is not planning to load additional fuel canisters until 2003.

An acknowledgment letter and *Federal Register* notice were issued on August 7, 2002. On October 30, 2002, a teleconference was held with the petitioner and her counsel regarding the status of the proposed Director's Decision (DD). The petitioner asked that we specifically address certain accident scenarios discussed in the petition in our response. She also asked if there was any way that the petitioners could get a hearing for the Oyster Creek ISFSI issues. An additional teleconference with the petitioner was held with a member of OGC present on November 4, 2002, to further discuss the issue of a hearing. The staff prepared a proposed DD that was sent to the petitioners and the licensee for comment on December 10, 2002.

Current Status:

Since the petitioner did not receive the proposed DD, it was re-sent on January 7, 2003, and the comment period extended to February 6, 2003. Otherwise, the status of this report remains the same as reported in the December, 2002 report.

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Facility:	<u>Waltz Mill Pennsylvania Site</u>
Petitioner:	Viacom, Inc.
Date of Letter:	October 30, 2002
Director's Decision to be Issued by:	NMSS
EDO Number:	G20020629
Proposed DD issuance:	TBD
Last Contact with Petitioner:	1/16/03
Petition Manager:	Patrick Isaac (NRR) / Derek Widmayer (NMSS)
Case Attorney:	Jack Goldberg

Issues/Actions requested:

That the NRC issue an order to Westinghouse Electric Company LLC, the holder of license SNM-770 on the Waltz Mill, Pennsylvania Site, which would require Westinghouse's cooperation in the decommissioning of the Westinghouse Test Reactor (WTR) license TR-2. In particular, the order would require Westinghouse to:

(1) provide certain radiological survey data to NRC which NRC has requested. The survey data in question determines what residual radioactivity remains in-situ.

(2) accept under SNM-770 certain residual byproduct materials now held under Viacom license TR-2 and located at the WTR.

Background:

Viacom is the current holder of NRC facility license TR-2 which authorizes possession, but not operation, of the WTR. To complete the Final Decommissioning Plan, two provisions still need to be accomplished. These are determining the residual radioactivity remaining in-situ and preparing the necessary amendments for and requesting the transfer of the remaining residual radioactivity and WTR facilities to the SNM-770 license.

At the time the decommissioning plan was approved, Westinghouse was the NRC licensee under both TR-2 and SNM-770, and so the transfer of the residual radioactive material from one materials license to another, held by the same licensee on the same site, was straightforward. Viacom now holds the TR-2 license while Westinghouse holds the SNM-770 license. Westinghouse's and Viacom's decommissioning responsibilities to each other at the Waltz Mill Site are set forth in an Asset Purchase Agreement. By refusing to accept the transfer to the SNM-770 license, Viacom alleges that Westinghouse is in violation of 10 CFR 50.5.

Westinghouse submitted a response to the petition on December 20, 2002, which is being reviewed by the staff. Viacom has indicated that they will not respond to the Westinghouse response at this time.

Current Status:

A public Petition Review Board meeting has been scheduled with the petitioner and licensees for February 20, 2003. Following this meeting, a review schedule will be established. However, it is likely that this schedule will exceed the 120-day timeliness goal because of the nature of this petition.

## Attachment 2

### Status of Potential Petitions Under Consideration

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Facility: Palo Verde  
Petitioner: Thomas Saporito representing the National Environmental Protection Center  
Date of Letter: October 27, 2002, as supplemented on November 9, 2002  
Responsible Office: NRR  
Public PRB meeting: petitioner declined  
Issues/Actions requested:  
That the NRC advise its employees of the right to raise safety and health concerns; that the NRC cause an investigation into the circumstances surrounding Arizona Public Service Company's license amendment request and provide the petitioners with a copy of NRC's safety evaluation related to the amendment request.

Resolution:  
By letter dated January 2, 2003, the NRR staff notified the petitioner that the request would not be reviewed under 2.206. The petitioner's concerns were addressed as controlled correspondence. The response was issued on January 16, 2003. No further action is needed.

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Facility: Sequoyah and San Onofre  
Petitioner: Thomas Saporito representing the National Environmental Protection Center  
Date of Letter: November 13, 2002  
Responsible Office: NRR  
Public PRB meeting: petitioner declined  
Issues/Actions requested:  
That the NRC revoke a license amendment granted to the Sequoyah nuclear plant regarding steam generator tube inspection scope and revoke a license amendment granted to the San Onofre Nuclear Generating Station on steam generator tube inspections.

Resolution:  
By letter dated January 2, 2003, the NRR staff notified the petitioner that the request would not be reviewed under 2.206. The petitioner's concerns were addressed as controlled correspondence and a combined response with the Palo Verde petition response was issued on January 16, 2003. No further action is needed.

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Facility: Maine Yankee  
Petitioner: Randall Speck, Special Counsel for the State of Maine  
Date of Letter: November 15, 2002  
Responsible Office: NMSS  
PRB meeting: To be scheduled  
Issues/Actions requested:  
That the NRC conduct a hearing on the efficacy of indefinite, long-term spent fuel storage at Maine Yankee.

Resolution:

The petitioner has also requested a hearing, pursuant to 10 CFR 2.202, regarding the October 16, 2002, safeguards order and interim compensatory measures. On December 10, 2002, the staff sent a letter to the petitioner stating that a decision on the acceptability of the 2.206 petition will be held in abeyance until the staff makes a determination on the hearing request.

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Facility: Palo Verde  
Petitioner: Thomas Saparito representing the National Environmental Protection Center

Date of Letter: January 17, 2003

Responsible Office: NRR

Public PRB meeting: to be scheduled

Issues/Actions requested:

That the NRC issue a civil penalty against Arizona Public Service (APS) and against the licensee's law firm; that the NRC cause an investigation through extensive interviews to determine if employees feel free to raise environmental safety concerns to the licensee or to the NRC without fear of reprisal, harassment or intimidation; that the NRC take actions to cause an investigation of APS to determine through extensive interviews whether employees are knowledgeable and aware of how to file a discrimination complaint under 10 CFR 50.7, and under OSHA EPA statutes; that the NRC investigate through extensive interviews to determine if employees are provided training by the licensee with respect to employee protection provisions under 10 CFR 50.7 and OSHA EPA statutes.

Resolution:

An internal PRB meeting will be held to determine if this request meets the criteria for a 2.206 petition.

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**Attachment 3**

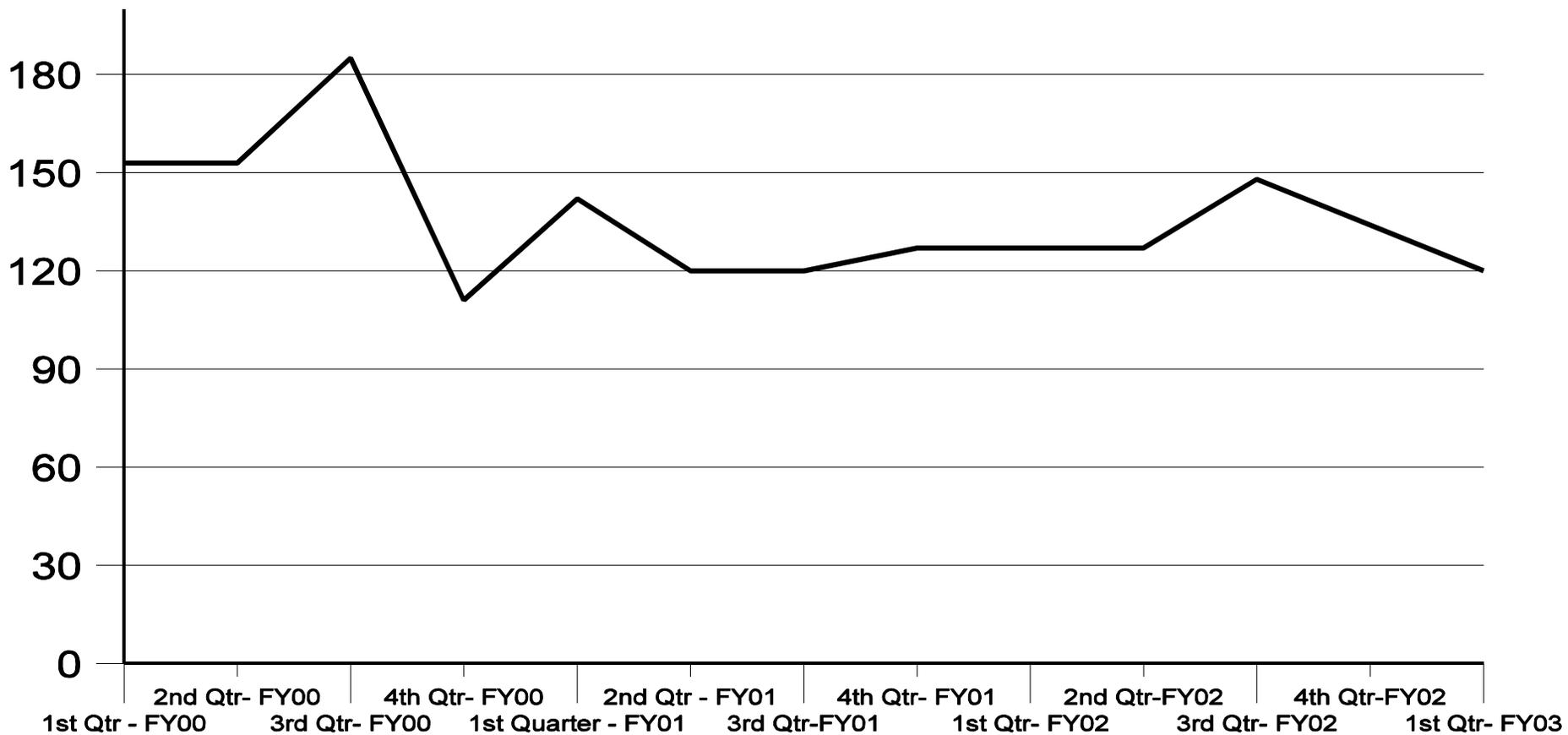
**AGE STATISTICS FOR AGENCY 2.206 PETITIONS**

ASSIGNED ACTION OFFICE	FACILITY	Incoming petition	PRB meeting <sup>1</sup>	Acknowledgment letter / days from incoming <sup>2</sup>	Proposed DD issuance Date/ age <sup>3</sup>	Scheduled date for final DD/ age <sup>4</sup>	Comments if not meeting the Agency's Completion Goals
NMSS	Oyster Creek	6/21/02	7/18/02	8/07/02 47	12/10/2002 120	---	
NMSS	Waltz Mill Site	10/30/02	TBD	TBD	TBD	---	

- 1) Goal is to hold a PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petition (there is often a delay of up to two weeks from the date that the letter is issued until it is received by the reviewing organization).
- 2) Goal is to issue acknowledgement letter within 5 weeks 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.

## Attachment 4

### Average Days to Issuance of Proposed Directors Decisions



NOTE: Includes both NMSS and NRR petitions