

February 18, 2005

MEMORANDUM TO: Herbert N. Berkow, Acting Chair  
Petition Review Board

FROM: Alan B. Wang */RA/*  
Petition Manager

SUBJECT: STAFF RESPONSE TO COMMENTS ON PROPOSED DIRECTOR'S  
DECISION REGARDING 10-CFR 2.206 PETITION CONCERNING  
MISSING SPENT FUEL AT THE VERMONT YANKEE POWER  
STATION

In a letter dated December 27, 2004, the Nuclear Regulatory Commission (NRC) solicited comments on its proposed Director's Decision (DD) from the New England Coalition (Petitioner) regarding missing spent fuel pieces at Vermont Yankee Power Station (VY). The Petitioner replied by letter dated January 25, 2005.

This memorandum documents the NRC staff's response to the Petitioner's comments.

Specific Petitioner Comments:

Comment 1 The petitioner contends that either Entergy lied to the NRC or the NRC lied to the public regarding the spent fuel inventory at VY. Therefore, the New England Coalition requests that this issue be forwarded to the NRC Office of Inspector General (IG).

Staff's Response

In the Petitioner's supplement he requested that we address what he felt was a material false statement made by the licensee regarding the fuel inventory at VY. In our acknowledgment letter to the supplement (attached), we stated why we believe that the licensee did not make a "material false statement." Because we concluded that the licensee did not make a material false statement, the Petitioner now wants to implicate the NRC because the resident inspector allegedly stated during a public meeting that all fuel inventory had been accounted for based on a licensee's email. The proposed DD did not address this allegation. This issue was originally mentioned to the staff by the Petitioner during the initial Petition Review Board (PRB) call. The PRB had decided after the call that this issue was an allegation and needed to be forwarded to the IG. The IG has already performed an investigation into the "alleged" statements made by the resident at last years power uprate review meeting. The IG lead investigator found that the statements made by the resident were consistent with the facts as we knew them at the time regarding the spent fuel pool (SFP) inventory and that these statements were in no way misleading. The IG also found that statements attributed to the resident by Mr. Shadis were not consistent with the actual statements that were made as indicated in the official transcripts of the meeting.

The allegation is not material to the Director's Decision and the Director's Decision will not be revised to include our comments on this issue.

Comment 2 The Petitioner does not believe that the inventory performed to date by the licensee and confirmed by the NRC has been of significant rigor and therefore leaves some doubt about the SFP inventory. The Petitioner believes that the sampling of fuel pins in individual fuel assemblies needs to be expanded to provide more confidence that a complete and thorough inventory has been performed.

#### Staff's Response

This was concluded from our special inspection report of VY and expounded upon in the DD:

"Entergy has reviewed records of individual rod movements, which are documented for each assembly affected. During the [special nuclear material] SNM investigation, Entergy checked the records for all movements of individual rods from one location to another and found no discrepancies in these records. NRC reviewed a sample of these records during the special inspection. Entergy also did visually verify the contents of two spent fuel rod storage assemblies, as well as the other assemblies containing partial spent fuel rods, and found them consistent with records. In addition, Entergy has verified all spent fuel assembly serial numbers and positions, as well as all non-fuel SNM. No discrepancies were found by the licensee in its 100% verification of fuel assemblies in the SFP. NRC independently verified a significant sample from videotape records of the inspection. Other than the previously misplaced two spent fuel rod pieces, no discrepancies were identified by the licensee or NRC in any of these SNM records."

Based upon the special inspection, in the DD we concluded that Vermont Yankee's established program for preparing and maintaining material control and accounting records is adequate and in full compliance with regulatory requirements, with the exception of the two fuel rod pieces that were misplaced in the SFP. The staff is considering escalated enforcement action for this incident. The staff has concluded that the problem with the two "missing" pieces occurred primarily because of a misunderstanding of what the word "liner" meant. As noted in the DD, the NRC found no evidence of additional misplaced pieces. In addition, the NRC has found no evidence to suspect that additional problems in accounting for spent fuel rods exist at VY. Therefore, no action was proposed that would require VY to perform a more extensive accounting of individual rods. We do not propose to modify the DD for this comment as the Petitioner has not provided any new information that would affect our conclusions regarding the SFP inventory at VY.

As the result of missing or misplaced fuel pins at various reactor sites, the NRC issued Bulletin 2005-01, "Material Control and Accounting at Reactors and Wet Spent Fuel Storage Facilities,"

on February 11, 2005. The response to this bulletin will provide additional assurance that Entergy is in compliance with regulatory requirements to account for SNM in its possession.

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