

PRM-51-10
(71FR64169)

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USNRC

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Secretary, U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff.
E-mail comments to: SECY@nrc.gov.

**RE: Docket No. PRM-51-10 – Comments in Support
Massachusetts Attorney General's Petition for Rulemaking**

I support the Massachusetts Attorney General's Petition for Rulemaking, in its entirety. Specifically, I support the Petitioner's requests that the NRC:

1. Revoke 10 CFR 51.53(c)(2) and 51.95(c), and Table B-1 of appendix A to 10 CFR part 51; and revoke 10 CFR 51.23(a) and (b), 51.30(b), 51.53, 51.61, and 51.80(b) to the extent that these regulations state, imply, or assume that the environmental impacts of high-density pool storage are insignificant and therefore need not be considered in any National Environmental Policy Act of 1969 (NEPA) analysis.

The petitioner asserts that the revocation of these regulations that serve to "codify" the use of the GEIS by the NRC, is necessary to ensure compliance with NEPA in the Pilgrim and Vermont Yankee license renewal cases. In this regard, the petitioner properly demonstrates that new and significant information, provided by the petitioner, shows that spent nuclear fuel stored in high-density fuel storage pools is much more vulnerable to fire than the GEIS concludes.

Revocation of these regulations impacts nuclear power facilities across our nation. For example, spent fuel pools at California's operating reactors were originally licensed to hold 540 SPF, by 2010 PG&E expects to have over 2100 SPF in pools located on the West Coast and vulnerable by air, land and sea. The NRC ignored these concerns and was subsequently found to have legally erred when it refused to address overcrowded pools and other issues of increased security when it licensed onsite dry cask storage of highly radioactive waste in 2004.

2. Issue a generic determination that the environmental impacts of high-density pool storage of spent fuel, including the environmental impacts of accidents arising from this storage, are significant.

3. Amend its regulations concerning severe accident mitigation alternatives (SAMAs). The petitioner requests that the body of SAMAs that must be discussed in an environmental impact statement or related supplement or in an environmental assessment, under 10 CFR 51.53(c)(3)(ii)(L) and Table B-1 appendix A to 10 CFR part 51 (Postulated Accidents: Severe Accidents) must include alternatives to avoid or mitigate the impacts of high-density pool fires.

This is yet another issue brought to the attention of the NRC in licensing proceedings regarding onsite storage. While California organizations prevailed in Federal Court to require the NRC to hold hearings on issues of security before licensing a high-level radioactive storage facility, no action has been taken by the NRC except for its announcement it will more closely study security at six nuclear plants

to determine if adequate. It is highly irresponsible to expand radioactive footprints on vulnerable coasts and water sources without first examining whether security is robust at existing site and if not, what would be necessary to protect American citizens.

4. Require that any NRC licensing decision that approves high-density pool storage of spent fuel at a nuclear power plant or any other facility must be accompanied by an environmental impact statement that addresses the environmental impacts of high-density pool storage of spent fuel at that nuclear plant or facility, and presents a reasonable array of alternatives for avoiding or mitigating those impacts.

I support the inclusion of contentions filed by Pilgrim Watch on May 25, 2006. In addition, I request that the contentions filed by the San Luis Obispo Mothers for Peace, et al, and the findings of the 9th Circuit Court of Appeals also be considered by the NRC when reviewing the Massachusetts Attorney General's Petition for Rulemaking.

I understand that the NRC staff argued that admission of both the AGO's and Pilgrim Watch's contentions were precluded by NRC regulations which excuse licensee renewal applicants from addressing the environmental impacts of spent fuel storage in their environmental reports. I strongly disagree with the NRC's conclusion; and applaud the AGO for filing this Petition in the alternative. I join the AGO and request that if the Commission accepts this petition for rulemaking, it should withhold any decision to renew the operating licenses for the Pilgrim and Vermont Yankee nuclear power plants, as well as all other license renewal applications before the NRC, until the requested rulemaking has been completed and until the NRC has completed the

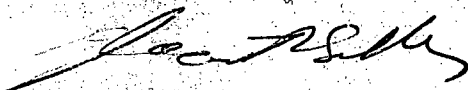
NEPA process for consideration of environmental impacts of high-density pool storage of spent fuel at the Pilgrim and Vermont Yankee nuclear plants.

CONCLUSION

I support the Massachusetts Attorney General's conclusions that, the Commission should:

- (a) consider new and significant information showing that the NRC's characterization of the environmental impacts of spent fuel storage as insignificant in the License Renewal GEIS is incorrect,
- (b) revoke the regulations which codify that incorrect conclusion and excuse consideration of spent fuel storage impacts in NEPA decision-making documents,
- (c) issue a generic determination that the environmental impacts of high-density pool storage of spent fuel are significant, and
- (d) order that any NRC licensing decision that approves high-density pool storage of spent fuel at a nuclear power plant or any other facility must be accompanied by an EIS that addresses (i) the environmental impacts of high-density pool storage of spent fuel at that nuclear plant and (ii) a reasonable array of alternatives for avoiding or mitigating those impacts.

Submitted by,



Joan R. Sellers