

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: New England Coalition 2.206 Petition
RE Vermont Yankee

Docket Number: 50-271

Location: (telephone conference)

Date: Wednesday, September 12, 2007

Work Order No.: NRC-1782

Pages 1-18

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1 LICENSEE REPRESENTATIVE PRESENT:

2 JIM DeVINCENTIS, Entergy Vermont Yankee

3 NRC STAFF PRESENT:

4 GIOVANNA LONGO, ESQ., Senior Attorney,

5 Materials Litigation and Enforcement

6 Branch, Office of General Counsel

7 RAY POWELL, DRP Branch Chief, Vermont

8 Yankee

9 STACY ROSENBERG, Branch Chief, Special

10 Projects Branch, Division of Policy and

11 Rulemaking, Office of Nuclear Reactor

12 Regulation (NRR)

13 SUJIT SAMADDAR, Office of New Reactors (NRO)

14 MARIA SCHWARTZ, Senior Enforcement

15 Specialist, Office of Enforcement

16 ALSO PRESENT:

17 BOB AUDETTE, Brattleboro Reformer

18 RICHIE DAVIS, The Recorder

19 SAM HEMINGWAY, Burlington Free Press

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P-R-O-C-E-E-D-I-N-G-S

(3:04 p.m.)

MR. KIM: I'd like to thank everyone for attending this meeting. My name is James Kim, and I am the Vermont Yankee Project Manager.

I am also the Petition Manager for this 2.206 petition under consideration.

The Acting Petition Review Board Chairman is Ted Quay.

As a part of the PRB's review of this 2.206 petition, Mr. Raymond Shadis has requested this opportunity to address the PRB.

This meeting is scheduled to last from 3:00 p.m. until 4:00 p.m. The meeting is being recorded by the NRC Operations Center and will be transcribed by a Court Reporter. The transcript will become a supplement to the petition that was submitted on August 27, 2007, by New England Coalition. The transcript will also be made publicly available.

I'd like to open this meeting with introductions. As we go around the room, please be sure to clearly state your name, your position, and the organization within the NRC, for the record. I'll start off. This is James Kim. I'm a Project Manager in the Division of Operating Reactor Licensing.

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1 MS. CRUZ: My name is Holly Cruz. I'm a
2 Project Manager in the Division of Policy and
3 Rulemaking.

4 ACTING CHAIR QUAY: Ted Quay, Deputy
5 Director of the Division of Policy and Rulemaking at
6 NRR.

7 MR. SAMADDAR: Sujit Samaddar, Branch
8 Restructuring with NRO.

9 MS. ROSENBERG: Stacy Rosenberg. I'm the
10 Branch Chief of the Special Projects Branch in the
11 Division of Policy and Rulemaking in NRR.

12 MS. LONGO: I am Giovanna Longo. I am a
13 Senior Attorney in Materials Litigation and
14 Enforcement, Branch of the Office of General Counsel,
15 NRC.

16 MR. KIM: We are done with introductions
17 at the NRC headquarters. At this time, are there any
18 NRC participants from the regional office on the
19 phone?

20 MR. POWELL: Yes, Jim. Ray Powell, DRP,
21 Branch Chief, Vermont Yankee.

22 MS. SCHWARTZ: And this is Maria Schwartz.
23 I'm a Senior Enforcement Specialist with the Office of
24 Enforcement at headquarters.

25 MR. KIM: Anybody else?

1 (No response.)

2 Are there any representatives from the
3 licensee?

4 MR. DeVINCENTIS: Yes. This is Jim
5 DeVincentis, D as in David, E, V as in Victor, I-N-C-
6 E-N-T-I-S, and I'm from the licensing organization.

7 MR. KIM: Mr. Shadis, could you please
8 introduce yourself for the record?

9 MR. SHADIS: Yes. This is Raymond Shadis
10 for New England Coalition. And my last name is
11 spelled S-H-A-D-I-S.

12 MR. KIM: If there are any other persons
13 on the line, could you please introduce yourselves
14 now?

15 MS. KOTKOV: I'm Sarah Kotkov, New England
16 Coalition.

17 MR. AUDETTE: Bob Audette, Brattleboro
18 Reformer.

19 MR. DAVIS: Richie Davis from The Recorder
20 in Greenfield, Massachusetts.

21 MR. HEMINGWAY: Sam Hemingway, Burlington
22 Free Press.

23 MR. KIM: Okay. Once again, I'd like to
24 emphasize that we each need to speak clearly and
25 loudly to make sure that the Court Reporter can

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1 accurately transcribe this meeting. If you have
2 something that you'd like to say, please state your
3 name first for the record.

4 At this time, I'll turn it over to the
5 Acting PRB Chairman, Ted Quay.

6 ACTING CHAIR QUAY: Good afternoon. My
7 name is Ted Quay. Welcome to the meeting regarding
8 the 2.206 petition submitted by the New England
9 Coalition.

10 I'd like to first share some background on
11 our process. Section 2.206 of Title 10 of the Code of
12 Federal Regulations, 10 CFR 2.206, describes the
13 petition process -- the primary mechanism for the
14 public to request enforcement action by the NRC in a
15 public process. This process permits anyone to
16 petition the NRC to take enforcement action related to
17 NRC licensees or licensed activities.

18 Depending on the results of its
19 evaluation, NRC could modify, suspend, revoke, an NRC-
20 issued license or take any other appropriate
21 enforcement action to resolve a problem. Requests
22 that raise health and safety issues without requesting
23 enforcement action are reviewed by means other than
24 the 2.206 process. Details of the 2.206 process can
25 be found in NRC's Management Directive 8.11, which is

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1 publicly available.

2 The purpose of this meeting today is to
3 provide the petitioner with an opportunity to provide
4 additional information and explanation in support of
5 this petition request. The purpose of this meeting is
6 not to provide an opportunity for the petitioner or
7 the public to question or examine the Petition Review
8 Board regarding the merits of the petition request.

9 This meeting is not a hearing. No
10 decision regarding the merits of the petition request
11 will be made during this meeting.

12 On August 27, 2007, Mr. Raymond Shadis of
13 NEC submitted to the NRC a petition under 2.206
14 requesting the NRC to take actions against the Vermont
15 Yankee licensee. The August 27, 2007, petition states
16 that inadequate performance of Vermont Yankee in-
17 service inspection, maintenance, engineering, and
18 quality assurance programs have led to a recent
19 structural collapse of a cooling tower module.

20 When coupled with the employee's assertion
21 of degraded plant conditions adverse to public safety
22 is ample evidence that Vermont Yankee is being
23 operated in an unanalyzed condition with degraded
24 safety culture, and, therefore, the public health and
25 safety cannot be assured.

1 Specifically, NEC requests: 1) the NRC
2 completion of a diagnostic evaluation team examination
3 or independent safety assessment of Vermont Yankee to
4 determine the extent of the condition of non-
5 conformances, reportable items, hazards to safety, and
6 the root causes thereof; 2) the NRC completion of a
7 safety culture assessment to determine why worker
8 safety concerns were not previously reported and why
9 assessments of safety culture under the ROP failed to
10 capture the facts or reasons that safety concerns have
11 gone unreported; 3) NRC order a power reduction or
12 derate of Vermont Yankee to 50 percent of licensed
13 thermal power with a mandatory hold at 50 percent
14 until a thorough and detailed structural and
15 performance analysis of the cooling towers, including
16 the alternate cooling system, has been completed by
17 the licensee, reviewed and approved by the NRC, and
18 until steps 1 and 2 have been completed; 4) the NRC
19 investigation and determination of whether or not
20 similar non-conforming conditions and causes exist at
21 other Entergy-run nuclear powerplants; and 5) halt
22 power operations until it can determine to what extent
23 Vermont Yankee is being operated in an unanalyzed
24 condition and until any reduction in margins of public
25 health and safety have been restored.

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1 Mr. Shadis, have I characterized your
2 request accurately?

3 MR. SHADIS: You have, save for -- I
4 believe that our focus in presenting the information
5 upon which we base this is directed in large part at
6 the union press release from the Utility Workers Union
7 of America, Local 369, which represents workers at
8 Vermont Yankee.

9 The question of the cooling tower collapse
10 is something that we believe was symptomatic of these
11 failures. However, that is simply a matter of
12 coincidence.

13 I should also mention that since this
14 2.206 petition was filed, Vermont Yankee also
15 underwent an automatic shutdown in which there were a
16 number of anomalies, including the failure of
17 automatic pressure control to function, and there is
18 some question as to whether or not feedwater pumps
19 tripped when they were supposed to.

20 And so, you know, this is -- this is but
21 another, from our point of view, symptom. However,
22 the principal basis for this 2.206 is the press
23 release from the Union Local in which they assert that
24 there are degrading conditions leading to a reduction
25 in safety margin to the public. And that's the core.

1 ACTING CHAIR QUAY: Okay. Again, the
2 purpose of this meeting today is to provide the
3 petitioner with an opportunity to provide additional
4 information and explanation in support of his petition
5 request. The purpose of this meeting is not to
6 provide an opportunity for the petitioner or the
7 public to question or examine the Petition Review
8 Board regarding the merits of the petition request.

9 This meeting is not a hearing. No
10 decision regarding the merits of the petition request
11 will be made during this meeting. Following this
12 meeting, the Petition Review Board will conduct an
13 internal meeting to make a decision on the actions
14 requested by the petitioner.

15 As described in our process, the NRC staff
16 may ask clarifying questions in order to better
17 understand the petitioner's presentation and to reach
18 a reasoned decision whether to accept or reject the
19 petitioner's request for review in Section 2.206 -- in
20 the 2.206 process.

21 As described in our process, the NRC staff
22 and the licensee, who have been invited to this
23 meeting, will have the opportunity to ask clarifying
24 questions of the petitioner. For clarification, the
25 licensee is not part of the decisionmaking process for

1 the NRC's 2.206 process. We invite the licensee, so
2 that they are aware of an ongoing request for action
3 against their facility, and we also offer them the
4 opportunity to ask any questions of the petitioner.

5 After the Petition Review Board's internal
6 meeting, we will inform the petitioner of our
7 decision. At this time, I'd like to introduce the
8 Board, and then turn the meeting over to petitioner,
9 Mr. Shadis. And on the Board you have Ted Quay, who
10 is the PRB Chairman. Okay.

11 MR. KIM: Jim Kim. This is the Petition
12 Manager.

13 MS. CRUZ: Holly Cruz, the 2.206
14 coordinator.

15 ACTING CHAIR QUAY: Okay. I skipped a
16 step here. Typically, the Board consists of a
17 chairman, usually an SES-level manager at the agency.
18 It has a petition manager for which the plant-specific
19 petition is usually the licensing project manager.
20 Other members of the Board are determined by the NRC
21 staff as appropriate based on the content of the
22 information in the petition request.

23 Are there any questions from those
24 participating over the phone on where we are in the
25 process and the purpose of this meeting?

1 (No response.)

2 Hearing nothing, Mr. Shadis, do you have
3 any questions -- general questions before we proceed?
4 If not, I will turn it over to you.

5 Just a quick reminder again for each
6 person to please identify yourself if you make any
7 remarks.

8 Thank you.

9 MR. SHADIS: This is Ray Shadis. I have
10 no questions of the PRB at this time.

11 ACTING CHAIR QUAY: Okay. I guess you can
12 go on to your remarks, then, Mr. Shadis.

13 MR. SHADIS: Thank you very much. I would
14 like to point out that we have been careful in
15 structuring this 2.206 petition to meet the criteria
16 for reviewing petitions under 8.11 Part 3. And so,
17 you know, I just will take them in the order they are
18 listed in 8.11.

19 In fact, we do request enforcement-related
20 action, as it is listed in Part 3. Secondly, it is a
21 requirement that petitioners provide a factual basis
22 for the action requested. And here I want to point
23 out that the Union Local made a public statement as an
24 organization in the form of a press release in which
25 they asserted that there are issues of public safety,

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1 that there are degrading conditions leading to a
2 reduction in margin of public safety, and that the
3 workers intended to meet among themselves to discuss
4 actions that might mitigate this reduction in public
5 safety.

6 While they did not quantify the purported
7 reduction in public safety margin, so as to permit any
8 kind of significance determination, they nonetheless
9 are understanding of NRC regulation. It is not
10 necessarily the worker's job or prerogative to
11 determine safety significance in lieu of reporting any
12 condition that they think affects safety.

13 So, you know, the degree to which whatever
14 conditions they are referring to affect safety is not
15 relevant to the requirement that they report them,
16 unless, of course, it is trivial. But every
17 indication in the union press release is these are not
18 trivial, and that they affect public safety. The
19 significance of it is indicated by the fact that the
20 union went ahead to make this very public statement
21 regarding degraded safety conditions at Vermont
22 Yankee.

23 And I think that while this is not a sworn
24 statement on the part of any individual worker, it is
25 a statement by the workers, unionized workers, in

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1 concert regarding conditions at Vermont Yankee. And,
2 therefore, from an enforcement point of view, it
3 really needs to be taken seriously.

4 The final criteria listed is that there is
5 no NRC proceeding available in which the petitioner is
6 or could be a party, and through which the
7 petitioner's concerns could be addressed.

8 New England Coalition is currently a party
9 in the license renewal proceeding and has been
10 admitted with valid contentions before an Atomic
11 Safety and Licensing Board. However, exclusive of the
12 question of the cooling tower collapse, none of the
13 rest of the information here would be acceptable as a
14 basis for a new contention.

15 And with respect to the -- our mention of
16 the cooling towers, NRC has recently issued a request
17 for additional information of Vermont Yankee with
18 respect to license renewal and whether or not the
19 cooling tower condition and aging management needs to
20 be a part of the review process or not.

21 That hasn't been decided yet, and until it
22 is we don't see any way that we could find relief or
23 concern with respect to the maintenance, in-service
24 inspection, engineering, quality assurance, that we
25 indicated with respect to the cooling towers. And I

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1 think that all of them generally would be lumped under
2 aging management insofar as the failure of the cooling
3 towers.

4 So from that point of view, we don't have
5 at this point a proceeding available to us.

6 And then, finally, I just want to remark
7 that we were really uncertain as to whether to attempt
8 to invoke the 2.206 process or to file this as an
9 allegation. And that was resolved basically because
10 we have no allegation per se. What we have is the
11 evidence of the Union Local press release, and that
12 is, you know, again, a very public statement and a
13 statement in concert.

14 Certainly, the workers at Vermont Yankee
15 realize that there is some public interest, some
16 public contention, about the continued operation of
17 Vermont Yankee. It is under a public spotlight at
18 this point, and it is not credible to believe that
19 they would not see the very seriousness of raising
20 questions regarding Vermont Yankee's safety in such a
21 public way.

22 And I think that essentially completes my
23 comments on this petition, and I would be pleased to
24 clarify any of that that I have managed to muddy up
25 and answer any questions that members of the PRB may

1 have.

2 MS. LONGO: Okay. This is Giovanna Longo,
3 Mr. Shadis. I do have a question for you. I just
4 want to make clear, I thought I heard you say both
5 that there was a contention in the Vermont Yankee
6 licensing proceeding about the cooling towers, and
7 that there was not a contention about it. Could you
8 explicitly state, do you have an admitted contention
9 regarding the cooling towers at Vermont Yankee?

10 MR. SHADIS: No, ma'am. This is Ray
11 Shadis again. No, ma'am, we do not have an admitted
12 contention regarding the cooling towers.

13 MS. LONGO: Have you requested a
14 contention regarding the cooling towers?

15 MR. SHADIS: No, we haven't.

16 MS. LONGO: Okay.

17 MR. SHADIS: Well, wait a minute. Let me
18 just think back on that just a minute. No, we
19 haven't.

20 MS. LONGO: Thank you.

21 MR. SHADIS: I will just explain to you
22 that I hesitated on that, because we did have several
23 contentions rejected, and one among them was a
24 contention regarding aging management of the
25 condenser. And so I was -- I was thinking in terms of

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1 that end of the system. But in terms of the cooling
2 towers themselves, in this proceeding, no, we do not
3 have a contention.

4 MS. LONGO: Thank you.

5 ACTING CHAIR QUAY: I've, frankly,
6 exhausted the questions in headquarters. Are there
7 any questions from the region?

8 MR. POWELL: No, sir.

9 ACTING CHAIR QUAY: Okay. All right. Are
10 there any questions for Mr. Shadis from the licensee?

11 MR. DeVINCENTIS: Entergy has no
12 questions.

13 ACTING CHAIR QUAY: Okay. Before I
14 conclude the meeting, members of the public may
15 provide comments regarding the petition and ask
16 questions about the 2.206 petition process. However,
17 as stated at the opening, the purpose of the meeting
18 is not to provide an opportunity for the public to
19 question or examine the Petition Review Board
20 regarding the merits of the petition request.

21 So is there anybody else that has any
22 comments?

23 (No response.)

24 Members of the public?

25 (No response.)

1 Okay. Hearing none, I want to thank the
2 petitioner for taking the time to provide the NRC with
3 clarifying information on the petition you submitted.

4 With that, I'd like to conclude the
5 meeting, and we are going to secure the telephone
6 connection.

7 Thank you.

8 (Whereupon, at 3:28 p.m., the proceedings
9 in the foregoing matter were concluded.)
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CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

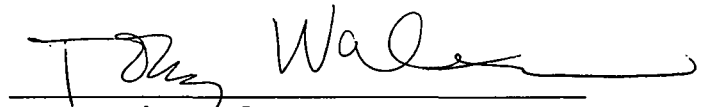
Name of Proceeding: New England Coalition

2.206 Petition

Docket Number: 50-271

Location: (Telephone conference)

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Toby Walter
Official Reporter
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