

June 19, 2008

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

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

SUBJECT: MAY 2008 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," dated February 3, 1994, the enclosed report gives the status of petitions submitted under 10 CFR 2.206. As of May 31, 2008, there were three open petitions accepted for review under the 2.206 process in the Office of Nuclear Reactor Regulation. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of May 31, 2008.

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 May 31, 2008.

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: Michelle C. Honcharik, DPR/NRR
301-415-1774

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301-415-1774

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See next page

ADAMS Accession Number: ML081650026

NRR-106

OFFICE	PM:PSPB	LA:PSPB	BC:PSPB	DD:DPR	ADRO/NRR
NAME	MHoncharik	DBaxley	SRosenberg	MMaxin	MCase for BBoger
DATE	06/18/08	06/18/08	06/18/08	06/18/08	06/19 /08

OFFICIAL AGENCY RECORD

Memo to R. W. Borchardt from Bruce A. Boger, dated: June 18, 2008

SUBJECT: MAY 2008 REPORT ON THE STATUS OF PUBLIC PETITIONS UNDER
TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS* (10 CFR)
SECTION 2.206

DISTRIBUTION: **WITS 200700062**

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STATUS OF OPEN PETITIONS

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Indian Point Units 2 and 3	Sherwood Martinelli/..... Friends United for Sustainable Energy (FUSE) G20070540	1-2
Indian Point Units 2 and 3	Sherwood Martinelli/..... Friends United for Sustainable Energy (FUSE) G20070700	3-4
Indian Point Units 2 and 3	Sherwood Martinelli..... G20080233	5

REPORT ON STATUS OF PUBLIC PETITIONS UNDER 10 CFR 2.206

Facility: Indian Point, Units 2 and 3
Petitioners: Friends United for Sustainable Energy
(FUSE – Sherwood Martinelli)
Date of Petition: June 25, 2007
Director's Decision to be Issued by: NRR
EDO Number: G20070540
Proposed DD Issuance: May 30, 2008
Final DD Issuance: **August 13, 2008**
Last Contact with Petitioner: **May 30, 2008 (Proposed Director's Decision)**
Petition Manager: Douglas Pickett
Case Attorney: Giovonna Longo

Issues/Actions requested:

The petitioners state that current NRC regulations are prejudiced and biased, usurp Stakeholder rights and presume that license renewal is a foregone conclusion, so long as the licensee spends enough money, and follows guidelines essentially drafted by the powerful nuclear industry lobby, the Nuclear Energy Institute (NEI).

1. The petitioners request that the NRC issue an order enjoining the NRC from considering any new license applications until the NRC regulations are revised to protect the Constitutional First Amendment Rights, as well as the Equal Protection and Due Process Rights of Stakeholders.
2. Based upon the safety and security concerns identified on pages 4-14 of the petition (allegations), the petitioner requests that all licenses for IP be suspended until the site is in full compliance with all local, state and federal laws, statutes, rules and regulations.
3. Request for rulemaking (Part 54).

Background:

On June 25, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. On August 15, 2007, the petition manager contacted the petitioner to acknowledge receipt of the 2.206 petition. The petitioner requested that the allegations contained within the June 25, 2007, letter be handled in accordance with the 2.206 process. The PRB met internally on August 20, 2007, and August 27, 2007, to discuss the petitioner's requests for immediate action (Items #1 and #2). On September 5, 2007, the petition manager informed the petitioner of the PRB's decision to deny the requests for immediate action. A teleconference was scheduled for the petitioner to address the PRB on September 6, 2007. On September 5, 2007, the petitioner requested that the PRB delay the teleconference until October 2007, so that FUSE could focus its resources on responding to the Opportunity for Hearing for the Indian Point License Renewal. Due to multiple failed attempts to contact the petitioner by telephone, the petition manager contacted the petitioner by email on September 26, 2007, to inform the petitioner of the current status of the petition and to coordinate a date for a PRB meeting. The PRB met internally on October 30, 2007, to make an initial recommendation.

Current Status:

The petition manager contacted the petitioner on November 2, 2007, to inform the petitioner of the PRB's initial recommendation to accept the petition with respect to the concerns regarding the Indian Point sirens and groundwater, but deny the request for immediate shutdown. The petitioner requested an opportunity to address the PRB. On November 7, 2007, the NRC received notice that Sherwood Martinelli would be replacing Susan Shapiro as the FUSE point of contact for this petition. On December 21, 2007, the NRC staff held a teleconference with the petitioner, providing the opportunity to address the PRB. The PRB met internally on January 15, 2008, to review the teleconference transcript. The final PRB recommendation was provided in an acknowledgement letter to the petitioner on February 1, 2008 (ADAMS Accession No. ML080080297). As noted in the acknowledgement letter, the PRB's final recommendation is to accept for review pursuant to 10 CFR 2.206, FUSE's concerns regarding the underground leakage of contaminated water at the Indian Point facility and the failure to implement the new emergency notification siren system in a timely manner. The PRB has taken the further step of consolidating the concern regarding the failure to implement the siren system in a timely manner with a similar issue raised in the FUSE petition of September 28, 2007. This step is being taken due to the similarity of the issues, because both petitions were submitted at approximately the same time, and because the principal external stakeholder for both petitions is the same.

Therefore, the underground leakage of contaminated water will be addressed through the FUSE petition of June 25, 2007, and the failure to implement the new emergency notification siren system in a timely matter will be addressed through the FUSE petition of September 28, 2007.

The Proposed Director's Decision was issued to the petitioner on May 30, 2008 (ADAMS Accession No. ML081270029). Referencing NRC Region 1 Inspection Reports No. 05000003/2007010 and 05000247/2007010 issued on May 13, 2008 (ADAMS Accession No. ML081340425), the Proposed Director's Decision states that the NRC reviewed Entergy's efforts to determine the cause and source of the groundwater contamination condition, assessed the radiological impact on public health and safety and the environment, effected appropriate mitigation and remediation, and implemented long-term monitoring to ensure continuing assessment of the condition. The NRC found Entergy's response to be reasonable and technically sound. Also, the NRC staff determined that Entergy has conformed to all regulatory requirements. Therefore, the Proposed Director's Decision denies the petitioner's request. The petitioner was requested to provide comments by June 30, 2008.

The Final Director's Decision is due by August 13, 2008.

Facility:	Indian Point, Units 2 and 3
Petitioners:	Friends United for Sustainable Energy (FUSE-Sherwood Martinelli)
Date of Petition:	September 28, 2007
Director's Decision to be Issued by:	NRR
EDO Number:	G20070700
Proposed DD Issuance:	September 8, 2008
Final DD Issuance:	TBD
Last Contact with Petitioner:	February 12, 2008 (Acknowledgement Letter)
Petition Manager:	Douglas Pickett
Case Attorney:	Giovonna Longo

Issues/Actions requested:

The petitioner states Entergy has not taken adequate action to ensure the IP2 and 3 emergency sirens are fully operational.

1. The petitioner requests that the NRC issue an order to place IP2 and 3 in cold shutdown until their emergency sirens are fully approved by the Federal Emergency Management Agency (FEMA) and the NRC, and the system is operating within 96 percent.
2. The petitioner requests the NRC fine Entergy \$130,000 per day from September 28, 2007, forward until they have complied with the NRC's order.

Background:

By letter dated September 28, 2007, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The PRB met internally on October 30, 2007, to determine if the petition met the criteria for review under 10 CFR 2.206. The petition manager contacted the petitioner on November 1, 2007, to inform the petitioner of the PRB's initial recommendation to accept the petition with respect to the concerns regarding the Indian Point sirens, but deny the request for immediate shutdown. The petitioner requested an opportunity to address the PRB. On December 21, 2007, the NRC staff held a teleconference with the petitioner, providing the opportunity to address the PRB. The PRB met internally on January 15, 2008, to review the teleconference transcript. On January 24, 2008, the petitioner filed an addendum to his petition citing new concerns regarding corrosion that has recently been discovered on some of the new sirens. In addition, the petitioner requested the imposition of daily fines of no less than \$500,000 until such time as the new siren system has been approved and he reiterated his previous request for the immediate shutdown of the Indian Point facilities. To accommodate the submittal of the addendum and allow sufficient time to modify the acknowledgement letter for this petition, the expected issuance date of the acknowledgement letter has been modified. As noted in the acknowledgement letter for the FUSE petition of June 25, 2007, the PRB has consolidated the siren concerns of the June 25, 2007, FUSE petition with the similar concerns of the September 28, 2007, FUSE petition. This step is being taken due to the similarity of the issues, because both petitions were submitted at approximately the same time, and because the

principal external stakeholder for both petitions is the same. Therefore, the failure to implement the new emergency notification siren system in a timely matter will be addressed through the FUSE petition of September 28, 2007.

Current Status:

On February 12, 2008, the NRC staff issued an acknowledgement letter accepting the petition with respect to the siren concerns identified by the petitioner. The licensee currently plans to have the new siren system operational in mid-August 2008. The proposed Director's Decision will reference the successful implementation of the new system. A proposed Director's Decision is scheduled for issuance by September 8, 2008.

Facility:	Indian Point, Units 2 and 3
Petitioner:	Sherwood Martinelli
Date of Petition:	March 30, 2008
Director's Decision to be Issued by:	NRR
EDO Number:	G20080233
Proposed DD Issuance:	TBD
Final DD Issuance:	TBD
Last Contact with Petitioner:	June 5, 2008
Petition Manager:	John Boska
Case Attorney:	Giovonna Longo

Issues/Actions requested:

The petitioner requests that the NRC:

1. Suspend the operating license of Indian Point (IP), Units 2 and 3.
2. Halt the license renewal process for IP, Units 2 and 3.

Background:

By letter dated March 30, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. On April 16, 2008, the PRB recommended that the petition be combined with Mr. Martinelli's two previous petitions (G20070540 and G20070700). On April 17, 2008, the petitioner disagreed with the PRB's recommendation, and accepted the offer to meet with the PRB. On May 14, 2008, the petitioner requested that the meeting with the PRB be delayed until after August 1, 2008. On June 4, 2008, the OEDO agreed to extend the due date to September 26, 2008. On June 5, 2008, the petitioner was informed that the PRB would wait until after August 1st to meet with him.

STATUS OF POTENTIAL PETITIONS UNDER CONSIDERATION

Facility: Indian Point, Units 2 and 3
Petitioners: Mark Edward Leyse
Date of Petition: March 7, 2008
EDO Number: G20080162
Petition Manager: John Boska
Case Attorney: Giovonna Longo
Last Contact with Petitioner: **May 5, 2008**
Last PRB meeting: **April 23, 2008**

Issues/Actions requested:

The petitioner requests that the NRC:

1. Revoke the operating license of Indian Point (IP), Units 2 and 3.
2. Order the licensee of IP-2 and 3 to immediately suspend operation of IP, Units 2 and 3.
3. Temporarily shutdown IP, Units 2 and 3. In the event of Option 3, the petitioner requests that the NRC order the licensee to conduct conservative ECCS evaluation calculations for IP 2 & 3 that are compliant with 10 CFR 50.46(a)(1)(i).

Current Status:

By letter dated March 7, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC staff has reviewed the petition and determined that it does not meet the criteria for review under 10 CFR 2.206. **The closure letter was issued on June 5, 2008, and stated that the NRC would not accept the petition for review, as the petitioner did not provide facts sufficient to constitute a basis for the requested action.**

Facility: McGuire, Units 1 and 2
Petitioners: William E. Smith
Date of Petition: March 24 and April 5, 2008
EDO Number: G20080204
Petition Manager: John Stang
Case Attorney: Giovonna Longo
Last Contact with Petitioner: May 1, 2008
Last PRB meeting: May 28, 2008

Issues/Actions requested:

The petitioner requests that NRC not allow the startup of the units due to a potential meltdown of the reactor resulting from a sudden and massive number of tube ruptures in the u-bend section of any of the "A" feed water heaters on both units.

Current Status:

By letter dated March 24, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC petition review board (PRB) made an initial evaluation that the petition did not meet the criteria for review under 10 CFR 2.206. The petitioner was given the opportunity to provide the PRB with additional information. A public meeting was held on April 7, 2008, at which time the petitioner addressed the PRB. In addition, the petitioner provided supplemental information in a letter dated April 5, 2008. **The NRC staff reviewed the petition, the meeting transcript, and the supplemental information in order to determine if it meets the criteria for review under 10 CFR 2.206. A PRB meeting was held on May 28, 2008, to further consider all the information. The PRB again recommended that the petition request not be accepted for review pursuant to 10 CFR 2.206, because it did not provide facts sufficient to constitute a basis for the requested action, and because it raised issues that have already been the subject of NRC staff review and evaluation which were resolved. The closeout letter to the petitioner is in final concurrence.**

Facility: Pilgrim
Petitioners: Utility Worker's Union Local 139
Date of Petition: May 14, 2008
EDO Number: G20080352
Petition Manager: James Kim
Case Attorney: Giovonna Longo

Issues/Actions requested:

The petitioner asks that:

the NRC require Pilgrim to cease operations during a strike of its workers - Utility Workers Union of America local 369 - if a strike occurs.

Current Status:

By letter dated May 14, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. Although the petitioner provided facts to support the claim that replacement workers might not be capable of safely operating the plant, ultimately their concern was mooted by subsequent events. The concern never materialized because a new 4-year contract agreement between union workers and management at Pilgrim Nuclear Power Station (PNPS) was ratified on May 23, 2008, and averted a strike. Accordingly, the Petition Review Board has determined the petition request does not meet the criteria for consideration under 10 CFR 2.206 because it did not set forth facts to constitute a basis for the requested action, as the presumed fact of a strike never materialized. Nonetheless, the NRC staff plans to evaluate and address the concerns raised in this petition request via subsequent correspondence in the near future. The closure letter was issued to the petitioner on June 4, 2008 (ADAMS Accession No. ML081560065).

Facility: Pilgrim
Petitioners: Mary Lampert
Date of Petition: May 13, 2008
EDO Number: G20080347
Petition Manager: James Kim
Case Attorney: Giovonna Longo

Issues/Actions requested:

The petitioner asks that:

In the event of a work stoppage at Pilgrim, and for the duration of any such work stoppage, the NRC should require the Pilgrim reactor to be shutdown.

Current Status:

By letter dated May 13, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. Although the petitioner asserted that PNPS could not be safely operated by replacement workers in the event of a strike, they did not provide facts indicating why the intended replacement workers might not operate the plant safely. The concern never materialized because a new 4-year contract agreement between union workers and management at PNPS was ratified on May 23, 2008, and averted a strike. Accordingly, the Petition Review Board has determined the petition request does not meet the criteria for consideration under 10 CFR 2.206 because it did not set forth facts to constitute a basis for the requested action, as the presumed fact of a strike never materialized. The closure letter was issued to the petitioner on June 4, 2008 (ADAMS Accession No. ML081500060).

Facility: San Onofre Nuclear Generating Station (SONGS), Units 2 and 3
Petitioners: Thomas Gurdziel
Date of Petition: May 13, 2008
EDO Number: G20080358
Petition Manager: Kaly Kalyanam
Case Attorney: Giovonna Longo
Last Contact with Petitioner: May 30, 2008 (pre-PRB call)
Last PRB Meeting: TBD

Issues/Actions requested:

The petitioner states that the January 11, 2008, Confirmatory Order issued to the licensee describes only one deficiency, namely, fire watch inattentiveness at SONGS over a five-year period, and not the other violations described in the NRC News release dated January 14, 2008, and also the Order does not list any fine or serious enforcement. The petitioner requests a "stronger" enforcement action (such as disciplinary action, including a serious fine) be imposed on the licensee for SONGS.

Current Status:

By letter dated May 13, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC staff is reviewing the petition in order to determine if it meets the criteria for review under 10 CFR 2.206. A PRB meeting is scheduled for June 11, 2008.

Facility: Turkey Point
Petitioners: Thomas Saporito
Date of Petition: April 27, 2008
EDO Number: G20080317
Petition Manager: Tracy Orf
Case Attorney: Giovonna Longo
Last Contact with Petitioner: May 30, 2008
Last PRB Meeting: May 30, 2008

Issues/Actions requested:

The petitioner asks that:

1. The NRC take actions to immediately suspend the Licensee's operating licenses DPR-31 and DPR-41 until such time as the Licensee can demonstratively demonstrate to the NRC and to the general public that the it is in full compliance with 10 CFR 73.55(f)(1);
2. The NRC issue a Notice of Violation with a \$500,000 Civil Penalty to WNS for its part in violating 10 CFR 73.55(f)(1);
3. The NRC increase the amount of the Civil Penalty Imposed on the Licensee from \$130,000 to \$1,000,000.
4. The Licensee not be allowed to participate in the NRC Alternative Dispute Resolution ("ADR") (NUREG/BR-0317) program.
5. The WNS not be allowed to participate in the NRC Alternative Dispute Resolution ("ADR") (NUREG/BR-0317) program.
6. The NRC Order the Licensee to post this 2.206 Petition at TPN and at the Licensee's St. Lucie Nuclear Stations.
7. The NRC hold a public hearing granting Petition Leave to Intervene in such hearing regarding the substance of this 2.206 petition.

Current Status:

By letter dated April 27, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC petition review board (PRB) made an initial evaluation that the petition did not meet the criteria for review under 10 CFR 2.206. The petitioner was given the opportunity to provide the PRB with additional information. A telephone conference call was held on May 30, 2008, at which time the petitioner addressed the PRB. The NRC staff is reviewing the petition and the telephone transcript in order to determine if it meets the criteria for review under 10 CFR 2.206.

AGE STATISTICS FOR AGENCY 2.206 PETITIONS

Assigned Action Office	Facility/ Petitioner	Incoming petition	PRB meeting ¹	Acknowledgment letter/days from incoming ²	Proposed Director's Decision /age ³	Final Director's Decision /age ⁴	Comments if not meeting the Agency's Completion Goals
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli - FUSE	06/25/07	12/21/07	02/01/08 221	05/30/08 99	TBD	PRB meeting delayed at the request of the petitioner. FUSE requested a delay in scheduling a PRB, affording them the opportunity to focus their resources on Indian Point License Renewal Activities.
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli - FUSE	09/28/07	12/21/07	02/12/08 137	TBD	TBD	PRB meeting delayed at the request of the Petitioner. FUSE requested a delay in scheduling a PRB, affording them the opportunity to focus their resources on Indian Point License Renewal Activities. The proposed Director's Decision will reference the successful implementation of the new siren system, which the licensee plans to have operational in mid-August 2008.
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli	03/30/08	04/16/08	TBD	TBD	TBD	On May 14, 2008, the petitioner requested that the meeting with the PRB be delayed until after August 1, 2008. On June 4, 2008, the OEDO agreed to extend the due date to September 26, 2008.

- 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.