

STATUS OF OPEN PETITIONS

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REPORT ON STATUS OF PUBLIC PETITIONS UNDER 10 CFR 2.206

Facility: Indian Point (IP), 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 U.S. Nuclear Regulatory Commission (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 Indian Point 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 Petition Review Board (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 IP 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 IP 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 IP 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, but did not provide any comments.

The Final Director's Decision is **in concurrence and** due by August 13, 2008.

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| 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 IP 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.

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| 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 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 Office of the Executive Director of Operations 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.

Current Status:

The petitioner manager has left e-mail and voicemail messages with the petitioner to set up a time to meet and is waiting to hear back from him.

STATUS OF POTENTIAL PETITIONS UNDER CONSIDERATION

Facility: Turkey Point (TP)
Petitioners: Thomas Saporito
Date of Petition: July 5, 2008
EDO Number: G20080517
Petition Manager: Tracy Orf
Case Attorney: Giovonna Longo
Last Contact with Petitioner: August 4, 2008 (closure letter)
Last PRB meeting: July 17, 2008

Issues/Actions requested:

... that the NRC take actions to immediately investigate apparent violations of 10 CFR 50.7 by the Licensee against Petitioner in refusing to rehire Petitioner solely because of his past, present, and continuing conduct in raising operational safety concerns to the NRC regarding the Licensee's nuclear power operations.

Current Status:

By letter dated July 5, 2008, the petitioner filed a petition 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 offered the opportunity to provide the PRB with additional information, but declined. The Nuclear Regulatory Commission staff reviewed the petition and determined that the submittal does not meet the criteria for review under 10 CFR 2.206, because the incoming correspondence did not ask for an enforcement-related action and failed to provide sufficient facts to support the petition but simply alleged wrongdoing, violations of NRC regulations, or existence of safety concerns. The closure letter to the petitioner was issued on August 4, 2008 (ADAMS Accession No. ML082110535).

Licensee: Florida Power and Light
Petitioners: Thomas Saporito
Date of Petition: August 3, 2008
EDO Number: G20080528
Petition Manager: Tracy Orf
Case Attorney: Giovonna Longo
Last Contact with Petitioner: August 6, 2008
Last PRB meeting: TBD

Issues/Actions requested:

Petitioner requests a notice of violation and proposed imposition of civil penalty of \$100,000 as enforcement action under 10 CFR 50.7 against Florida Power and Light.

Current Status:

By letter dated August 3, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. The NRC staff is reviewing the petition to determine if it meets the criteria for review under 10 CFR 2.206.

Facility: Vermont Yankee
Petitioners: Thomas Gurdziel
Date of Petitions: July 17 and July 20, 2008
EDO Number: G20080493 and G20080508
Petition Manager: James Kim
Case Attorney: Giovonna Longo
Last Contact with Petitioner: August 6, 2008 (telephone conference call)
Last PRB Meeting: July 24, 2008

Issues/Actions requested:

1. NRC immediately have the Entergy/Vermont Yankee nuclear plant shutdown if it turns out that Entergy tradesmen did not install a third bracket, that they were instructed to do either by written plans and instructions or by verbal instructions.
2. Federal Emergency Management Agency review and accept the existing Entergy/Vermont Yankee emergency siren system for population density coverage and sound level. Request was supplemented by letter dated July 20, 2008, asking to have FEMA review and accept the emergency sirens and public notification devices for ALL license extension applicants before the license is extended by the NRC, and also for those whose license has already been extended.

Current Status:

By letters dated July 17 and July 20, 2008, the petitioner filed petitions for an enforcement action pursuant to 10 CFR 2.206. Since the July 20, 2008, petition requests a similar, yet expanded action, as the July 17, 2008, letter, the NRC PRB is handling the July 20, 2008, letter as a supplement to the July 17, 2008, petition request. The petitioner was notified and is in agreement. The NRC PRB made an initial evaluation that the petitions did not meet the criteria for review under 10 CFR 2.206. The petitioner was offered the opportunity to provide the PRB with additional information. A telephone conference call was held on August 6, 2008, at which time the petitioner addressed the PRB.

The PRB's position is that the PRB should not make a final decision whether or not to accept this petition for review until the PRB reviews the inspection report from the NRC Special Inspection Team (SIT) that was dispatched to Vermont Yankee on July 14, 2008, to review the cooling tower problems. The SIT indicates that they will issue the inspection report about 45 days after the completion of the inspection. Therefore, the inspection report is expected to be issued about September 30, 2008. The PRB will make a final decision after reviewing the inspection report, the petitions, and the telephone transcript. At such time a letter will be drafted to the petitioner. The due date for this petition has been extended to October 30, 2008.

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| Facility: | Turkey Point (TP) |
| Petitioners: | Thomas Saporito |
| Date of Petition: | April 27, 2008 |
| EDO Number: | G20080317 |
| Petition Manager: | Tracy Orf |
| Case Attorney: | Giovonna Longo |
| Last Contact with Petitioner: | July 7, 2008 (closure letter) |
| Last PRB Meeting: | June 17, 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 Wackenhut Nuclear Security 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 TP 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 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 reviewed the petition and the telephone transcript and determined that the submittal does not meet the criteria for review under 10 CFR 2.206, because either the concerns raised have already been the subject of NRC review and evaluation for which resolution was achieved or the requests were not for enforcement-type actions. The closure letter to the petitioner **was issued on July 7, 2008 (ADAMS Accession No. ML081750713).**

Facility: Yucca Mountain (NMSS)
Petitioners: James Salsman
Date of Petition: July 9, 2008
EDO Number: G20080472
Petition Manager: Mahendra Shah
Case Attorney: Giovonna Longo
Last Contact with Petitioner: July 29, 2008
Last PRB meeting: July 28, 2008

Issues/Actions requested that the NRC:

1. Approve immediately the Yucca Mountain (YM), Nevada, repository license application, filed by the U.S. Department of Energy (DOE) in June 2008, for construction (on a tentative basis); and
2. Modify the licenses of dry cask storage facilities, with dry casks rated for less than 72 hours submerged, to transport their spent nuclear fuel to YM once built, if the YM application is still being reviewed.

Current Status:

On July 9, 2008, the U.S. NRC received a petition via e-mail from Mr. James Salsman. The Petition Manager called Mr. Salsman to offer an opportunity for him address to the Petition PRB either by telephone, or in person. Mr. Salsman declined the offer, but reserved his right to give a presentation after the PRB's initial recommendation on the petition. On July 21, 2008, the PRB met to discuss Mr. Salsman's petition, and concluded that the petition did not meet criteria. On July 22, 2008, Mr. Salsman submitted information related to his petition for rulemaking for 10 CFR Part 20 (PRM 20-26). Mr. Salsman asked an NRC representative to add item number three of the July 22, 2008, e-mail submittal for PRM 20-26 to his July 9, 2008, petition citing 10 CFR 2.206. The PRB met for the second time on July 28, 2008, to review and discuss the new information submitted by Mr. Salsman. The PRB confirmed the earlier recommendation that the petition did not meet the criteria for review under 10 CFR 2.206. A telephone call was held on July 29, 2008, at which the Petition Manager informed the petitioner about the status of the YM license application, and PRB's initial recommendation. Upon learning that the YM license application has not been accepted by NRC yet, the petitioner stated his intention to withdraw the petition and followed by an e-mail on July 29, 2008.

This action is closed because the petitioner withdrew his request.

Facility: Yucca Mountain (NMSS)
Petitioners: James Salsman
Date of Petition: August 3, 2008
EDO Number: G20080537
Petition Manager: TBD
Case Attorney: Giovonna Longo
Last Contact with Petitioner: N/A
Last PRB meeting: N/A

Issues/Actions requested that, in the event that the U.S. DOE YM application is docketed, the NRC:

1. Reconsider July 9, 2008, 2.206 petition in light of the new information on Uranium toxicity, provided by the petitioner in this petition. The following actions were requested on the petition filed on July 9:
 - a. NRC immediate approval of the YM, Nevada, repository license application, filed by the U.S. DOE in June 2008, for construction (on a tentative basis); and
 - b. Modification of the licenses of dry cask storage facilities, with dry casks rated for less than 72 hours submerged, to transport their spent nuclear fuel to YM once built, if the YM application is still being reviewed.

Current Status:

On August 3, 2008, the U.S. NRC received a 2.206 petition via e-mail from Mr. James Salsman. The NRC staff will be reviewing the petition to determine whether 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 - Friends United for Sustainable Energy | 06/25/07 | 12/21/07 | 02/01/08 221 | 05/30/08 99 | TBD | Petition Review Board 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 (DD) 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 Office of the Executive Director of Operation 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.