

STATUS OF OPEN PETITIONS\*

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\* Information that has changed since the last monthly report is highlighted in red. This enclosure should be printed in color so that updated information can be easily viewed.

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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:	January 30, 2009
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 Nuclear Regulatory Commission (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 Petition Review Board (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. On August 22, 2008, FEMA found the new siren system to be acceptable. Entergy officially placed the new siren alert notification system into service on August 27, 2008. The new sirens will undergo a one year review before the licensee takes the former system out of service. The proposed Director's Decision will reference the successful implementation of the new system. A proposed Director's Decision is scheduled for issuance by January 30, 2009.

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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:	January 30, 2009
Final DD Issuance:	TBD
Last Contact with Petitioner:	August 14, 2008 (telephone conference with PRB)
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:

On August 14, 2008, the PRB held a conference call with the petitioner. A transcript of this discussion can be found at ADAMS Accession No. ML082330375. No additional, relevant information was provided during the conference call to support a change to the PRB initial recommendations. Therefore, the final recommendation was to accept this petition with respect to the issues of groundwater contamination and the siren system, and combine this petition with Mr. Martinelli's two previous petitions (G20070540 and G20070700). The acknowledgement letter was issued to the petitioner on September 15, 2008 (ADAMS Accession No. ML082350191). By letter dated August 14, 2008, the groundwater contamination petition was closed by a final Director's Decision (G20070540). A proposed Director's Decision on the siren issue is scheduled for issuance by January 30, 2009 (G20070700).

STATUS OF POTENTIAL PETITIONS UNDER CONSIDERATION\*

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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. Nuclear Regulatory Commission (NRC) immediately have the Entergy/Vermont Yankee (VY) 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 [(FEMA)] 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 Petition Review Board (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 was 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. The inspection report was issued on October 10, 2008. **After reviewing the inspection report, the petitions, and the telephone transcript, the PRB made a final recommendation to not accept the request for review pursuant to 10 CFR 2.206 for the following reasons:**

**(1) The request to shutdown VY if tradesmen did not install a bracket was not accepted for review under 2.206 because the petitioner failed to provide facts sufficient to constitute a basis for the request. In addition, the inspection report identified no violation concerning bracket installation.**

(2) The request that FEMA review and accept the VY emergency siren system for population density coverage and sound level does not meet the criteria for acceptance because the request is not for an NRC enforcement-type action, but for action by another Federal agency. In addition, the petitioner failed to set forth facts which indicate any potential violation of NRC requirements or nuclear safety hazard.

The closeout letter to the petitioner was issued on November 12, 2008.

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Licensee: Florida Power and Light  
Petitioners: Thomas Saporito  
Date of Petition: September 27, 2008  
EDO Number: G20080679  
Petition Manager: Tracy Orf  
Case Attorney: Giovonna Longo  
Last Contact with Petitioner: TBD  
Last PRB meeting: TBD

Issues/Actions requested:

Petitioner requests enforcement action against Florida Power and Light (FPL) and against two specific FPL attorneys, Hamrick and Ferendez, under 10 CFR 2.206. The petitioner requests enforcement action because he states that FPL and these attorneys conspired with the intent to retaliate against him through the filing of a motion for sanctions against the petitioner due to his engagement in Energy Reorganization Act (ERA) protected activities and in protected activities governed by 10 CFR 50.7.

Specifically, the petitioner requests that the NRC:

- A. Issue a Notice of Violation, and imposition of civil penalty in the amount of \$100,000 separately against FPL and against the FPL attorneys to dissuade FPL and its attorneys from continuing in violation of the ERA and in violation of NRC requirements under 10 CFR 50.7.
- B. To the extent that FPL and its attorneys willfully engaged in conduct in violation of the ERA and in violation of NRC requirements under 10 CFR 50.7, the petitioner requests that the FPL attorneys of record be sanctioned by the NRC and not allowed to participate in any NRC-related activities in their capacity as FPL attorneys for a period of not less than 5 years.

Current Status:

By letter dated September 27, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. **The NRC staff reviewed the petition and determined that it does not meet the criteria for review under 10 CFR 2.206. Although the petitioner requests an enforcement type action, he has not set forth facts sufficient to constitute a basis for the requested action. By letter dated December 5, 2008, the PRB issued a closure letter to the petitioner stating that his request had not been accepted for review under 10 CFR 2.206.**



Licensee: Florida Power and Light  
Petitioners: Thomas Saporito  
Date of Petition: September 28, 2008  
EDO Number: G20080682  
Petition Manager: Tracy Orf  
Case Attorney: Giovonna Longo  
Last Contact with Petitioner: TBD  
Last PRB meeting: TBD

Issues/Actions requested:

Petitioner requests enforcement action against Florida Power and Light (FPL), Turkey Point (TP) Nuclear Plant (Units 3 and 4).

Specifically, the petitioner requests that the NRC:

Modify FPL's operating licenses DPR-31 and DPR-41 in such as manner as to require FPL to rotate its nuclear plant security force at TP on a regular basis to ensure that all security guard posts are relieved every two-hours by rotating the posted security guards to a different location to ensure that the licensee maintains full compliance with NRC domestic nuclear plant security requirements under 10 CFR 73.55(f)(1).

Current Status:

By letter dated September 28, 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 petitioner submitted a similar 2.206 petition dated April 27, 2008. As the basis for the April 27, 2008, request, the petitioner restated many of the findings of the April 9, 2008, Notice of Violation and Proposed Imposition of Civil Penalty -\$130,000 (EA-07-138). Additionally, the petitioner cited 10 CFR 73.55 and subparts that provide requirements for physical protection of licensed activities in nuclear power reactors and specific requirements for security guards to be capable of continuous communication with a manned alarm station. The PRB determined that the criteria for acceptance was not met, because the concerns raised were already the subject of NRC review and evaluation for which resolution was achieved.**

**Similarly, no new information has been provided by the petitioner in the September 28, 2008, 2.206 petition request to warrant reopening or reconsidering the enforcement action of EA-07-138; therefore, there was no basis for accepting the request into the 10 CFR 2.206 process. By letter dated November 20, 2008, the PRB issued a closure letter to the petitioner stating that his request had not been accepted for review under 10 CFR 2.206.**

Licensee: Florida Power and Light  
Petitioners: Thomas Saporito  
Date of Petition: October 5, 2008  
EDO Number: G20080695  
Petition Manager: Tracy Orf  
Case Attorney: Giovonna Longo  
Last Contact with Petitioner: TBD  
Last PRB meeting: TBD

Issues/Actions requested:

Petitioner requests enforcement action against Florida Power and Light (FPL), FPL Group, FPL Energy Point Beach LLC, FPL Energy Seabrook LLC, and three specific individuals, Steven Hamrick, Antonio Fernandez, and Mitchell S. Ross. The petitioner seeks enforcement action because he states that FPL and these attorneys intentionally discriminated against him in direct violation of NRC requirements under 10 CFR 50.7 by seeking sanctions against him before the NRC Atomic Safety and Licensing Board (ASLB), to prevent him from filing "further meritless hearing requests" against FPL Group entities.

Specifically, the petitioner requests that the NRC issue a Notice of Violation and imposition of civil penalty in the amount of \$100,000 each against FPL, FPL Group, FPL Energy Point Beach LLC, and FPL Energy Seabrook LLC. With respect to the individuals, the petitioner requests that the NRC issue a Notice of Violation and imposition of civil penalty in the amount of \$100,000 each against each individual and prohibit them from engaging in any NRC license activities for a period of not less than five-years.

Current Status:

By letter dated October 5, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. **The NRC staff reviewed the petition and determined that it does not meet the criteria for review under 10 CFR 2.206. Although the petitioner requests an enforcement type action, he has not set forth facts sufficient to constitute a basis for the requested action. By letter dated December 5, 2008, the PRB issued a closure letter to the petitioner stating that his request had not been accepted for review under 10 CFR 2.206.**

Licensee: Florida Power and Light  
Petitioners: Thomas Saporito  
Date of Petition: September 10, 2008  
EDO Number: G20080699  
Petition Manager: Tracy Orf  
Case Attorney: Giovonna Longo  
Last Contact with Petitioner: TBD  
Last PRB meeting: TBD

Issues/Actions requested:

Petitioner requests enforcement action against Florida Power and Light (FPL) and against an FPL attorney, Mitchell S. Ross, under 10 CFR 2.206. The petitioner seeks enforcement action because he states that FPL and its attorney conspired with the intent to retaliate against him through the filing of a complaint with the Florida Bar because of his engagement in ERA protected activities and in protected activities governed by 10 CFR 50.7.

Specifically, the petitioner requests that the NRC:

- A. Issue a Notice of Violation, and imposition of civil penalty in the amount of \$100,000 separately against FPL and against the aforementioned FPL attorney to dissuade FPL and the attorney from continuing in violation of the ERA and in violation of NRC requirements under 10 CFR 50.7.
- B. To the extent that FPL and its attorney willfully engaged in conduct in violation of the ERA and in violation of NRC requirements under 10 CFR 50.7, the petitioner requests that the FPL attorney of record be sanctioned by the NRC and not allowed to participate in any NRC-related activities in their capacity as an FPL attorney for a period of not less than 5 years.

Current Status:

By letter dated September 10, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. **The NRC staff reviewed the petition and determined that it does not meet the criteria for review under 10 CFR 2.206. Although the petitioner requests an enforcement type action, he has not set forth facts sufficient to constitute a basis for the requested action. By letter dated December 5, 2008, the PRB issued a closure letter to the petitioner stating that his request had not been accepted for review under 10 CFR 2.206.**

Facility: Vermont Yankee  
Petitioner: Michael Mulligan  
Date of Petition: September 28, 2008  
EDO Number: G20080678  
Petition Manager: James Kim  
Case Attorney: Giovonna Longo  
Last Contact with Petitioner: November 12, 2008  
Last PRB Meeting: November 25, 2008

Issues/Actions requested:

The petitioner identified that there are issues of uncertainty of not having a common mode failure with the emergency diesel generators (DG). The engine might be overloaded causing unseen degradation to the pistons and rods. As a result, the NRC should require Entergy to:

- A. Reduce the functional and operational load testing limits for the emergency DG to the old limits.
- B. Conduct a detailed inspection of both Vermont Yankee DG based on the past common mode DG functional failures of components in the machines.

Current Status:

By letter dated September 28, 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. On November 12, 2008, the PRB met internally to make its initial recommendation. The PRB made an initial determination not to accept the petition for review under the 2.206 petition review process because the petition request did not set forth sufficient facts to constitute a basis for reducing the functional and operational load testing limits for the emergency DGs to the old limits. The PRB also decided to deny the request to conduct a detailed inspection of the Vermont Yankee DGs because this request is not an enforcement-type action. The petition manager provided the PRB initial recommendation to the petitioner on November 12, 2008, and provided him with an opportunity to address the PRB to provide additional information. The petitioner agreed to address the PRB by telephone and in advance of the teleconference, provided additional information by email dated November 13, 2008, to the petition manager. On Tuesday, November 25, 2008, the petitioner addressed the PRB by teleconference. The PRB is considering the additional information provided by email, as well as the telephone transcript before it makes a final recommendation.

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Facility: Indian Point, Units 2 and 3  
Petitioner: Sherwood Martinelli  
Date of Petition: October 10, 2008  
EDO Number: G20080693  
Petition Manager: John Boska/Jennifer Gall  
Case Attorney: Giovonna Longo  
Last Contact with Petitioner: 10/14/08  
Last PRB Meeting: 10/30/08

Issues/Actions requested:

The petitioner states that it is reasonable to assume that the Indian Point Decommissioning funds have suffered a horrific hit as a result of the stock market crash, leaving inadequate funds in the account, putting them in violation of the NRC 10 CFR rules and regulations. The petitioner requests that the NRC:

- A. Order Entergy to take an immediate accounting of Indian Point Decommissioning funds, and report said funds shortcomings to the NRC in a period not to exceed 14 business days.
- B. Order Entergy to deposit adequate funds to cover shortfalls within 30 business days after completion of the initial audit.
- C. Suspend ALL OPERATIONS at Indian Point until such time as they are in full compliance with NRC Rules and Regulations as relate to Decommission Funds and their adequacy.

The petitioner states that "Entergy's Indian Point Reactors Vessel Heads and certain butt and overlap welds are failing, patches giving out, and they are trying to dance around regulations, seek relief from the regulations in a dangerous attempt to operate the reactors at peak performance for an extra 3 and 5 years respectfully until the Reactor Vessel Head replacements can be accomplished... problem is, they are taking this risk outside of the safe operating requirement spelled out in 10 CFR Rules and Regulations, and are trying to get away with this GAMBLE by seeking a wink and a nod RELIEF from the very rules they are VIOLATING AT THIS MOMENT."

- A. As a result of these violations, we seek enforcement action that would shut down both IP2 and IP3 until a full and complete examination of the reactor vessel heads and reactor internals can be completed by NRC Staff.
- B. Seek enforcement action that would preclude a start up of the reactors until A) NRC has determined that the reactor vessel heads and reactor internals are safe and within the safe operating limits of 10 CFR Rules and Regulations (with granting relief and/or exemptions) or
- C. Reactors remain in cold storage until such time as reactor vessel head replacement/refurbishment tasks have been fully implemented and signed off on by NRC staff after inspection.

Current Status:

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

On October 20, 2008, the PRB met internally to discuss the petition and make an initial recommendation. The PRB initial recommendation was to not accept the petition for review because the petitioner failed to set forth facts sufficient to warrant further inquiry. The petition manager conveyed the initial recommendation to the petitioner on October 30, 2008. The petitioner requested an opportunity to address the PRB to provide additional information for consideration prior to the PRB making its final recommendation. However, the petitioner requested that the meeting be postponed to February 2009 due to his wife's medical care. The petition manager informed the petitioner that the OEDO granted an extension to the green ticket and the PRB Chair authorized a delay to February 2009, for the petitioner to address the PRB.

**AGE STATISTICS FOR AGENCY 2.206 PETITIONS**

Assigned Action Office	Facility/ Petitioner	Incoming petition	PRB meeting 1	Acknowledgment letter/days from incoming2	Proposed Director's Decision /age3	Final Director's Decision /age4	Comments if not meeting the Agency's Completion Goals
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli - FUSE	09/28/07	12/21/07	02/12/08 137	TBD	TBD	The proposed Director's Decision (DD) will reference the successful implementation of the new siren system, which the licensee made operational on August 27, 2008.
NRR	Indian Point Units 2 and 3/ Sherwood Martinelli	03/30/08	04/16/08	09/15/08 175	TBD	TBD	The proposed Director's Decision (DD) will reference the successful implementation of the new siren system, which the licensee made operational on August 27, 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.