

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) G20070700	2-3
Indian Point Units 2 and 3	Sherwood Martinelli..... G20080233	4

* 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.

Facility:	Indian Point (IP), 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:	March 13, 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 that Entergy, the licensee for Indian Point, Units 2 and 3, 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 the 96 percent acceptable zone.
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 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 was modified.

As additional background, the petitioner had previously filed a separate petition dated June 25, 2007, for enforcement action pursuant to 10 CFR 2.206. One of the concerns identified in the June 25, 2007, FUSE petition regarding Entergy's failure to implement the siren

system at IP2 and IP3 in a timely manner, was similar to a concern identified in the September 28, 2007,

FUSE petition. As noted in the acknowledgement letter for the FUSE petition of June 25, 2007, the PRB 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. **As noted in the "US NRC August 2008 Report On The Status of Public Petitions," dated September 18, 2008, the final Director's Decision for the June 25, 2007, FUSE petition was issued on August 14, 2008 (ADAMS Accession No. ML082070063).**

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 **was** scheduled for issuance by January 30, 2009. **The OEDO recently granted an extension to the green ticket until March 13, 2009, to support internal coordination and issuance of the proposed Director's Decision, which will involve Region 1, the Office of Nuclear Security and Incident Response (NSIR), and senior Nuclear Reactor Regulation (NRR) management.**

Facility:	Indian Point (IP), 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:	March 13, 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. **In addition, during the conference call, the PRB informed the petitioner of its intention to combine this petition with his two previous petitions (G20070540 and G20070700), to which the petitioner provided no objection.** Therefore, the PRB 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 **was** scheduled for issuance by January 30, 2009 (G20070700). **The OEDO recently granted an extension to the green ticket until March 13, 2009, to support internal coordination and issuance of the proposed Director's Decision, which will involve Region 1, NSIR, and senior NRR management.**

STATUS OF POTENTIAL PETITIONS UNDER CONSIDERATION*

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Vermont Yankee	Michael Mulligan..... G20080678	2
Indian Point	Sherwood Martinelli..... G20080693	4
DC Cook Unit 1	David Lochbaum, Union Of Concerned Scientists..... G20080864	6
Florida Power & Light	Thomas Saporito..... G20090008	7
Reactors Near Yellowstone (Columbia, Fort Calhoun, Diablo Canyon, Cooper, SONGS)	Tom LaKosh..... G20090007	8

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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, **the licensee for Vermont Yankee**, to:

- A. Reduce the functional and operational load testing limits for the emergency DG to the old limits.
- B. **Require the licensee to** 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. 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 the petitioner failed to set forth any new facts sufficient to constitute a basis for the requested 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 considered the additional information provided by email, as well as the telephone transcript before making a final recommendation. **In accordance with MD 8.11 criteria, the PRB final recommendation was to not accept the petition requests for review under the 10 CFR 2.206 process because they do not meet the criteria for acceptance under 10 CFR 2.206. Specifically, the first request was not accepted for review because it was a challenge to the NRC regulations. Although challenges to the NRC regulations may not be accepted for review under 10 CFR 2.206, the petitioner may file a petition for rulemaking pursuant to 10 CFR 2.208. In addition, the first request was not accepted for review because the petitioner failed to provide sufficient facts to constitute a basis for the requested action.**

The second request was not accepted for review in the 2.206 process because the petitioner failed to set forth any new facts sufficient to constitute a basis for the requested action. In its letter dated January 9, 2009, the PRB provided its detailed basis to the petitioner. By letter dated January 9, 2009, this petition request has been closed.

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: October 24, 2008
Last PRB Meeting: October 30, 2008

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, **the licensee for IP2 and IP3**, to take an immediate accounting of **the** Indian Point Decommissioning funds, and report said funds shortcomings to the NRC in a period not to exceed 14 business days **from receipt of the Order**.
- 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 **it relates** to Decommissioning 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 30, 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. **The petition manager is waiting for the petitioner to provide a potential meeting date.**

Facility: DC Cook, Unit 1
Petitioner: David Lochbaum
Date of Petition: December 16, 2008
EDO Number: G20080864
Petition Manager: Terry Beltz
Case Attorney: Giovonna Longo
Last Contact with Petitioner: January 27, 2009
Last PRB Meeting: January 21, 2009 (Internal)

Issues/Actions requested:

On behalf of the Union of Concerned Scientists (UCS), the petitioner requests that the NRC take enforcement action against the licensee for DC Cook, Unit 1. Specifically, the UCS petitions the NRC to issue a Demand for Information (DFI) requiring this licensee to docket the following information at least 30 days prior to restarting the reactor from the current outage:

1. The vibration levels experienced in the control room, turbine building, and other structures during the September 20, 2008, event.
2. The vibration levels assumed in these locations during the safe shutdown earthquake (SSE).
3. In locations where the vibration levels during the September 2008 event exceeded the vibration levels assumed for SSE, the extent of piping, pipe supports, etc. replaced/repared due to potential stress damage and the bases for not replacing other structures, systems, and components exposed to greater than SSE loading.
4. In locations where the vibration levels during the September 2008 event did not exceed the vibration levels assumed for SSE, the extent of measure taken to protect against spurious equipment operation and the bases for concluding the as-left configuration will not pose a public health hazard in event of an SSE.

UCS requested a public meeting before the NRC's PRB to highlight their concerns and answer any questions the PRB members have regarding the DFI they seek.

Current Status:

By letter dated December 16, 2008, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. In the December 16, 2008, letter, the petitioner also requested a public meeting to address the PRB. The NRC staff reviewed the petition to determine if it met the criteria for review under 10 CFR 2.206. On January 14, 2009, the PRB made an initial recommendation that the petition should be accepted because it met the criteria for review under 10 CFR 2.206. The petition manager conveyed the PRB initial recommendation to the petitioner on January 27, 2009. The petitioner no longer requests a public meeting to address the PRB. Since no additional information was provided by the petitioner to supplement the petition request, the PRB initial recommendation will be documented in an acknowledgement letter to the petitioner, as the PRB final recommendation.

Facility: Florida Power & Light (FPL) Company
Petitioner: Thomas Saporito
Date of Petition: January 1, 2009
EDO Number: G20090008
Petition Manager: Jason Paige
Case Attorney: Giovonna Longo
Last Contact with Petitioner: January 26, 2009
Last PRB Meeting: Not applicable

Issues/Actions requested:

The petitioner requests that the NRC conduct an investigation to determine whether or not FPL's actions against Gary Phipps, with respect to his employment at FPL were due, at least in part, to Phipps' engagement in protected activity within the meaning of 10 CFR 50.7. The petitioner also requested that the NRC take enforcement action against FPL for having violated NRC regulations and requirements under 10 CFR 50.7 with respect to Phipps.

Current Status:

By letter dated January 1, 2009, the petitioner filed a petition for an enforcement action pursuant to 10 CFR 2.206. As the basis for this request, the petitioner states that a whistleblower complaint was filed by Gary Phipps on January 17, 2008, alleging that FPL violated the Energy Reorganization Act of 1974 (ERA) by illegally discriminating and retaliating against Mr. Phipps by taking adverse employment action against Mr. Phipps for having engaged in "protected activity" within the meaning of the ERA regarding FPL's nuclear operations.

After reviewing the petitioner's January 1, 2009, request, the petition manager made an initial evaluation, in accordance with MD 8.11, and determined that the petition did not meet the criteria for review under the 2.206 process. Specifically, the petitioner's request may not be reviewed in the 10 CFR 2.206 process because it is a third party complaint of employee discrimination. The NRC Office of Investigations does not initiate investigations into third party claims that a licensee discriminated against another person and does not pursue such third party complaints. In a letter dated January 26, 2009, the petition manager provided the petitioner with the decision and provided additional detail regarding the NRC's allegation process that Mr. Phipps would need to pursue if he wishes to pursue any claim of discrimination against FPL. By letter dated January 26, 2009, this petition request has been closed.

Facility: Columbia, Fort Calhoun, Diablo Canyon, Cooper, San Onofre
Petitioner: Tom LaKosh
Date of Petition: December 30, 2008
EDO Number: G20090007
Petition Manager: Fred Lyon
Case Attorney: Giovonna Longo
Last Contact with Petitioner: January 26, 2009 (phone)
Last PRB Meeting: TBD

Issues/Actions requested:

The petitioner requests that the NRC devise a plan for immediate systematic shutdown and cooling of all reactors that may be downwind of a major Yellowstone caldera eruption. With respect to this request, the NRC staff determined that the applicable plants downwind of a major Yellowstone caldera eruption would include Columbia, Fort Calhoun, Diablo Canyon, Cooper, and San Onofre. In addition, the petitioner requests that the NRC issue an Order to all US operating reactors detailing the threat and requiring immediate acquisition of sufficient temporary water storage, water filtration systems and pumps with spare parts to accommodate the loss of direct access to surface water for a period of no less than three months.

Current Status:

By email dated December 30, 2008, as supplemented by an email dated December 31, 2008, the petitioner filed an allegation with the NRC. The NRC staff determined that the emails dated December 30 and December 31, 2008 did not contain any allegations, but did request that the NRC take enforcement action against operating reactors. Since these emails requested an enforcement action, it was referred to the 10 CFR 2.206 process for further evaluation. As the basis for this request, the petitioner states that the earthquakes at Yellowstone Lake continue in a pattern suggesting that a highly pressurized chimney has developed between the surface and a depth of 7.2 km. If the worst case scenario ensues, the petitioner is concerned that dozens of plants will not have access to clean surface or reserve cooling water. The petitioner is also concerned that water pumps will not survive for long with the significant ash contamination in feedwater and there should be a plan to dissipate latent heat in reactor cores and spent fuel storage given a fairly short pump lifetime after ash fall.

During a January 26, 2009, telephone call with the petitioner, the petitioner stated that he understood that the 2.206 process was a public process, to which he had no objection. However, he requested more time to conduct additional research in support of his petition. The PRB has decided to provide the petitioner with an additional 30 days so that he may determine after conducting additional research if he still wants to pursue the 10 CFR 2.206 process, or an alternative process such as a petition for rulemaking pursuant to 10 CFR 2.208.

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.