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Title: Vermont Yankee 10 CFR 2.206 Petition

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1 UNITED STATES OF AMERICA

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3 NUCLEAR REGULATORY COMMISSION

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5 PETITION REVIEW BOARD (PRB)

6 CONFERENCE CALL

7 + + + + +

8 VERMONT YANKEE 10 CFR 2.206 PETITION FROM

9 MICHAEL MULLIGAN

10 + + + + +

11 THURSDAY,

12 JULY 9, 2009

13 + + + + +

14
15 The above-entitled conference was
16 convened, pursuant to notice, at 10:30 a.m., TOM
17 BLOUNT, PRB Chair, presiding.

18 NRC HEADQUARTERS STAFF:

19 TOM BLOUNT, PRB Chair

20 TANYA MENSAH, 2.206 Coordinator

21 JAMES KIM, Petition Manager and Vermont Yankee
22 Project Manager

23 MOLLY BARKMAN, OGC Advisor

24 TONY NAKANISHI, SRXB, NRR Technical Lead

25 NANCY SALGADO, Branch Chief, LPL 1-1

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1 NRC HEADQUARTERS STAFF (Continued):

2 STACEY ROSENBERG, Branch Chief, Special Projects

3 Branch

4 ERIC BOWMAN, Special Projects Branch

5

6 NRC REGION I:

7 THOMAS SETZER, Senior Project Engineer

8 GARRETT NEWMAN, Project Engineer

9 SARAH RICH, Reactor Engineer

10

11 PETITIONER:

12 MICHAEL MULLIGAN

13

14 LICENSEE (ENTERGY):

15 JIM DEVINCENTIS

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

(10:39 a.m.)

MR. KIM: Good morning. I would like to thank everybody for attending this meeting. My name is James Kim. And I am the Vermont Yankee Project Manager.

We are here today to allow the petitioner, Mr. Michael Mulligan, to address the Petition Review Board regarding 2.206 petition dated June 8th, 11, and 19, 2009. I am the Petition Manager for the petition. The Petition Review Board Chairman is Tom Blount.

As part of the Petition Review Board's review of this petition, Mr. Michael Mulligan has requested this opportunity to address the PRB.

The meeting is scheduled from 10:30 a.m. to 12:30 p.m. The meeting is being recorded by the NRC Operations Center and will be transcribed by a court reporter. The transcript will become a supplement to the petition. The transcript will also be made publicly available.

I would like to open this meeting with introductions. As you go around the room, please be sure to clearly state your name, your position, and the office that you work for within the NRC for the record. I'll start off.

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1 This is James Kim, Vermont Yankee Project
2 Manager in the Division of Operator Reactor Licensing
3 in NRR.

4 MR. NAKANISHI: This is Tony Nakanishi.
5 I am with the Reactor Systems Branch of NRR.

6 MS. BARKMAN: This is Molly Barkman, an
7 attorney in the Office of General Counsel.

8 CHAIRMAN BLOUNT: Tom Blount, Deputy
9 Director for the Division of Policy and rulemaking in
10 NRR, also PRB Chair.

11 MS. MENSAH: Tanya Mensah. I am the 2.206
12 Coordinator in the Office of NRR.

13 MS. ROSENBERG: Stacey Rosenberg. I'm the
14 Branch Chief of the Special Projects Branch in the
15 Division of Policy and rulemaking in NRR.

16 MR. BOWMAN: Eric Bowman. I'm a Project
17 Manager in the Special Projects Branch in the Division
18 of Policy and rulemaking in NRR.

19 MS. SALGADO: I'm Nancy Salgado. I'm the
20 Branch Chief for LTL 1-1 in NRR Division of Operator
21 Reactor Licensing.

22 MR. KIM: We have finished with the
23 introductions at the NRC headquarters. At this time
24 are there any NRC participants from the regional
25 office on the phone?

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1 MR. SETZER: Yes. This is Tom Setzer,
2 Senior Project Engineer supporting Vermont Yankee.

3 MR. NEWMAN: This is Garrett Newman,
4 Project Engineer, also in branch V, Vermont Yankee.

5 MS. RICH: This is Sarah Rich, a reactor
6 engineer in the Technical Support and Assessment
7 Branch.

8 MR. SETZER: That's all for the region.

9 MR. KIM: Are there any representatives
10 for the licensee on the phone?

11 MR. DEVINCENTIS: Yes. This is Jim
12 Devinentis respecting Vermont Yankee Licensing.

13 MR. KIM: Mr. Mulligan, would you please
14 introduce yourself for the record?

15 MR. MULLIGAN: I am Mike Mulligan. And I
16 live about two miles away from the plant.

17 MR. KIM: Okay. Are there any others on
18 the phone?

19 (No response.)

20 MR. KIM: Hearing none, I would like to
21 emphasize that we each need to speak clearly and
22 loudly to make sure that the Court Reporter can
23 accurately transcribe this meeting. If you do have
24 something that you would like to say, please first
25 state your name for the record.

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1 At this time I'll turn it over to the PRB
2 Chairman: Tom Blount.

3 CHAIRMAN BLOUNT: Good morning. Welcome
4 to this meeting regarding the 2.206 submitted by Mr.
5 Mulligan. I would like to first share some background
6 on our process.

7 Section 2.206 of Title X of the Code of
8 Federal Regulations describes the petition process,
9 the primary mechanism for the public to request
10 enforcement action by the NRC in a public process.
11 This process permits anyone to petition NRC to take
12 enforcement-type action related to NRC licensees or
13 licensed activities.

14 Depending on the results of its
15 evaluation, NRC could modify, suspend, or revoke an
16 NRC-issued license or take any other appropriate
17 enforcement action to resolve a problem. The NRC
18 staff's guidance for the disposition of 2.206 petition
19 requests is in management directive 8.11, which is
20 publicly available.

21 The purpose of today's meeting is to give
22 the petitioner an opportunity to provide any
23 additional explanation or support for the petition
24 before the Petition Review Board's initial
25 consideration and recommendation.

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1 This meeting is not a hearing. Nor is it
2 an opportunity for the petitioner to question or
3 examine the PRB on the merits or the issues presented
4 in the petition request.

5 No decisions regarding the merits of this
6 petition will be made at this meeting.

7 Following this meeting, the Petition
8 Review Board will conduct its internal deliberations.
9 The outcome of this internal meeting will be discussed
10 with the petitioner.

11 The Petition Review Board typically
12 consists of a Chairman, usually a manager at the
13 Senior Executive Service level at the NRC. It has a
14 Petition Manager and a PRB Coordinator. Other members
15 of the Board are determined by the NRC staff based on
16 the content of the information in the petition
17 request.

18 At this time I would like to introduce the
19 Board. I am Tom Blount, the Petition Review Board
20 Chairman. James Kim is the Petition Manager for the
21 petition under discussion today. Tanya Mensah is the
22 office's PRB Coordinator.

23 Our technical staff includes Tony
24 Nakanishi from the Office of Nuclear Reactor
25 Regulation's Reactor Systems Branch; Thomas Setzer

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1 from NRC Region I's Division of Reactor Projects. We
2 also obtain advice from our Office of General Counsel,
3 represented by Molly Barkman.

4 As described in our process, the NRC staff
5 may ask clarifying questions in order to better
6 understand the petitioner's presentation and to reach
7 a reasoned decision whether to accept or reject the
8 petitioner's requests for review under the 2.206
9 process.

10 I would like to summarize the scope of the
11 petition under consideration and the NRC activities to
12 date. On June 8th, 2008, as supplemented by e-mails
13 on June 11th and 19th, 2009 -- let me reiterate. On
14 June 8th, 2009, as supplemented by e-mails on June
15 11th and 19th, 2009, Mr. Mulligan submitted a petition
16 to NRC under 2.206 regarding the Vermont Yankee
17 Nuclear Power Station.

18 In this request, in this petition request,
19 Mr. Mulligan requested that the NRC fine Vermont
20 Yankee \$5,250,000 for operating their reactor
21 illegally and unsafely with an inoperable
22 high-pressure coolant injection system coming out of
23 their start-up after an outage from June 6, 2007 until
24 June 12, 2007.

25 The petitioner raised a concern that the

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1 NRC-approved inspection report 2003-03 of the Vermont
2 Yankee operating with operating instruction 5210 being
3 contrary to 10 CFR 50, appendix B, criterion V. He
4 also questioned whether Entergy had implemented the DC
5 contractor inspection on the three critical HPCI
6 valves, V23-14, V23-16, and V23-21, using the revised
7 inspection guidance since June 2007.

8 Allow me to discuss the NRC activities to
9 date. On June 16th, the petitioner requested to
10 address the PRB prior to its initial meeting and
11 requested time to prepare supplemental information for
12 the Board's consideration.

13 As a reminder for the phone participants,
14 please identify yourself if you make any remarks as
15 this will help us in the preparation of the meeting
16 transcript that will be made publicly available.
17 Thank you.

18 Mr. Mulligan, I'll turn it over to you to
19 allow you to provide any information you believe the
20 PRB should consider as part of this petition. At this
21 time you will have one hour to present additional
22 information in support of your petition to the PRB.
23 We will provide you with notification when there are
24 ten minutes remaining as we approach the end of the
25 hour.

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1 Mr. Mulligan?

2 MR. MULLIGAN: Yes, sir?

3 CHAIRMAN BLOUNT: The floor is yours.

4 MR. MULLIGAN: I've got some cleanup stuff
5 to do here first. I want to report that I made a
6 complaint about the general fairness of the 2.206
7 process. And essentially James had told me it was
8 referred to the OIG, the series of concerns I had and
9 stuff like that.

10 So I accepted that. And then the next
11 morning I called up the OIG. And Cheryl Windsor told
12 me she didn't know anything about it or anything like
13 that.

14 I do know that the NRC has issues with
15 their document and internal communications and all
16 that sort of stuff, but that's the sense that I have.
17 A lot of times NRC inspectors will tell me that I'm
18 reporting this -- I'll make a report to the OIG about
19 this concern.

20 I mean, it sounds like, from my point of
21 view, it sounds like you just throw my issue in the
22 wastebasket and nothing ever becomes of it with the
23 OIG. In the past, they never call me or inquire about
24 the concern or anything. I never hear anything from
25 the OIG when an inspector tells me they are reporting

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1 it to the OIG.

2 And I just wanted to make sure that that
3 was clear that from that she acknowledged that she
4 didn't receive anything from James or his boss or
5 anything like that and in a sense of fairness and
6 integrity right there with these types of things. So
7 that's one thing.

8 CHAIRMAN BLOUNT: Before you pass on that,
9 could I offer some insight? This is Tom Blount.

10 MR. MULLIGAN: Yes.

11 CHAIRMAN BLOUNT: We understand, and I
12 received your e-mail or I saw a copy of it. So I then
13 subsequently also called the OIG's office to let them
14 know that you had wanted to follow up.

15 The OIG does not as a practice provide the
16 staff with insight or information on what they are
17 investigating or how that investigation is proceeding,
18 but I would encourage you to continue to interact with
19 the OIG as you deem necessary and appropriate because
20 they are a separate function of the process.

21 So I just wanted to let you know that we
22 here at the staff level don't necessarily have insight
23 that we could share with you other than to provide you
24 the information that it is recognized that we put that
25 information forward as we have indicated. But we

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1 don't get into the machinations or mechanisms that the
2 OIG will employ to evaluate or investigate.

3 MR. MULLIGAN: But you understand what I'm
4 saying. I called him the next morning. James told me
5 the report was made. And then the next morning I
6 called up, and she said she never heard of me. I just
7 want to make that clear.

8 CHAIRMAN BLOUNT: I understand. Thank you
9 very much. And we recognize and hear your concern.

10 MR. MULLIGAN: I also made a request
11 because, I mean, this is all -- I mean, everything for
12 the NRC is supposed to be in support of the peoples,
13 the community, and all that sort of stuff. Really,
14 that is what the NRC is about and stuff.

15 And I have an issue with the Petition
16 Review Board. I made a request that their
17 deliberations -- we are in a democracy, and their
18 deliberations should be transparent and recorded and
19 available for the public to understand how the process
20 goes behind closed doors.

21 I don't understand why the PRB Board is
22 not a democratic, transparent presentation and stuff.
23 You know, with the internet and all that sort of
24 stuff, it's easy to make it accessible to everybody.
25 So that's that.

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1 I would like to remind everybody that I
2 realized how much of a privileged position I am in as
3 far as being a United States citizen. I mean, I sit
4 here. And I am making a petition to the United States
5 government.

6 And I'm asking for some kind of an action
7 be taken against a corporation. I know that that is
8 an extraordinarily privileged position to be on the
9 planet, with all the rest of the countries, United
10 States affords a little guy like me to face, at least
11 complain about, a big corporation, big power center,
12 and stuff like that.

13 And I know and I feel as though I'm a very
14 privileged individual to be a United States citizen.
15 And I think United States of America is the best
16 country in the world. And God bless America. I just
17 want everybody to know how I feel about the United
18 States.

19 Just for some background information, the
20 Fitzpatrick plant recently had some issues with their
21 HPCI. Well, they didn't have any issues. They
22 admitted back in 2006 the -- the license event report
23 number is 2006-02-01. That's rev. 1.

24 And it just recently came out on June 10th
25 and basically declaring that they didn't disclose a --

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1 when they made a mode change in their reactor, they
2 should have disclosed it back in 2006. And they're
3 just getting around to disclosing it right now and
4 stuff. So that's the kind of background. There are
5 other issues as far as mode changes.

6 Now I'm referencing inspection report,
7 Vermont Yankee inspection report, 2009-006. I'm
8 paraphrasing this. Basically it goes through a --
9 Vermont Yankee had issues during 2007 with starting up
10 the plant.

11 And it goes through a bunch of issues with
12 relays. I believe there were five of them that should
13 have been inspected. And they were over their limit
14 as far as they should have been replaced.

15 And it goes on to talk about up until
16 2008, they really didn't replace or inspect all of the
17 HPCI relays they were supposed to replace.

18 After 2008, they kept asking permission to
19 lay the inspection stuff like that. Really, in the
20 inspection reports, we really don't have an
21 understanding why those relays weren't being
22 inspected. You would expect that, you know, you would
23 get an indication and they would replace the component
24 as fast as they can.

25 In the inspection reports, you really

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1 don't get an idea why. They kind of tell you the
2 matter of fact information of what is going on. But
3 they don't really get into the motives and all that
4 sort of stuff. It's a problem with I think the
5 inspection process.

6 Also in 2007, when this occurred, I find
7 it suspicious that the NRC didn't completely describe
8 it in their following inspection report. The events
9 surrounding the start-up of 2007, whenever that was,
10 06-08-07, you know, why didn't the inspection -- why
11 wasn't the NRC documenting what was going on and
12 getting it down in the record for us to understand
13 what was going on?

14 You know, there's the issues of notifying
15 the rest of the industry of defense going on. And I'm
16 surprised. I mean, that is part of what the NRC is
17 supposed to be doing. They're supposed to be
18 documenting these things as it occurs as completely as
19 they can and stuff like that. In this case there
20 really wasn't a mention of the problems with the
21 relays until the end of the year 2007.

22 I think that's a big problem with the NRC
23 not meeting the community's needs of immediately
24 understanding what is going on with the components.
25 And Vermont Yankee, you know, I think if we had this

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1 information in front of us right immediately, we would
2 tend to raise a ruckus and force the correction of
3 these problems at an early stage, instead of waiting
4 two years afterwards.

5 Back to that newest inspection report,
6 again, they have this new violation. What was the
7 violation? The first violation was they didn't do it
8 according to NRC regulations. What is this one here
9 about? Well, anyways, why? I don't understand why
10 this kind of information is mostly available back in
11 2007.

12 Why are we hearing it now? Why aren't we
13 hearing all of these problems immediately when they
14 occur or shortly after or at least in the inspection,
15 the next inspection report? Why are we going through
16 these cycles of two years hearing about these
17 violations two years later?

18 I mean, it doesn't make sense, really. I
19 think in order for NRC to be effective, all of these
20 issues should be as far as if they can raise them or
21 it's known -- and it looks like these things were
22 known, -- instead of waiting for to go through this
23 mechanical inspection routine process or whatever you
24 guys call it, these folks showing up two years after
25 the event.

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1 I think, you know, it's like getting a
2 speeding ticket on the road and then getting pulled
3 over two years later on and the police officer is
4 saying, "Well, you speeded two years ago. And here is
5 the ticket for it" and stuff.

6 I just don't think it's fair to anybody.
7 I think these things have to be acknowledged
8 immediately, have to be outed, and the community has
9 to be alerted. If there is a response that is
10 necessary from the community, then everybody will be
11 forced to correct these problems at the earliest
12 opportunity.

13 MR. SETZER: Excuse me, Mr. Mulligan. If
14 I could just interrupt for a minute? I've got a
15 question for the panel. Tom Blount, would it be
16 inappropriate or appropriate for me to shed some light
17 on the two-year issue that Mr. Mulligan has or is that
18 not part of this hearing?

19 CHAIRMAN BLOUNT: I'm sorry. Who am I
20 speaking to?

21 MR. SETZER: I'm sorry. This is Tom
22 Setzer. I'm a senior project engineer, region I.

23 CHAIRMAN BLOUNT: Well, first of all,
24 let's be clear that this is not a hearing.

25 MR. SETZER: Okay. I'm just using that

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1 term "loosely." This meeting.

2 CHAIRMAN BLOUNT: I understand. So is
3 there insight that you think would be beneficial to
4 Mr. Mulligan to understand that? This is his
5 opportunity to speak to us to support his petition.

6 MR. SETZER: Okay.

7 CHAIRMAN BLOUNT: So I really would like
8 to hear from Mr. Mulligan.

9 MR. SETZER: Understood. I just thought
10 I could help clarify one point that would help Mr.
11 Mulligan. But if that's not the point and time to do
12 that, we'll --

13 CHAIRMAN BLOUNT: So if you could take
14 note of that question and then we can come back to
15 revisit that?

16 MR. SETZER: Certainly. All right. Sorry
17 for the interruption. Go ahead, Mr. Mulligan.

18 MR. MULLIGAN: Now, in a prior recent
19 report talking about the diesel generator, they
20 basically did the same thing as far as, you know,
21 finding these problems many months and a year or so
22 after it occurred and then reporting it to the public
23 and stuff.

24 The problem I see with the NRC generally
25 is you have -- I mean, you are process-driven.

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1 Everybody is process-driven. Everybody has got these
2 CARs and CR reports and all this sort of stuff.
3 You've got a ton of processes, and they are
4 complicated and they're exotic and stuff like that.

5 I think I get the feeling, you guys, the
6 process is the goal. You have a problem. You throw
7 the clothes in the washing machine. Another problem
8 comes up. You throw the clothes in the washing
9 machine. And basically you never take the clothes out
10 of the washing machine and put them in the dryer.

11 Really, I don't get a feeling -- I mean,
12 this is the latest inspection report about the really
13 problem. Why does this go on for so long? Why is
14 this going on until later on this year? Why are these
15 relays problems not being fixed immediately and stuff?

16 So I think you're process-driven. The
17 goal is when you have a problem when you want to
18 explain it to a guy like me or the public is you say,
19 "Well, we'll throw this in this process. We'll throw
20 it just in this agency process." And that's the goal
21 of regulation.

22 The goal of regulation is not to sit there
23 and say, you know, we can't let this happen again.
24 We've got to modify it. The results of the inspection
25 program have to be that the utility has to modify

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1 their behavior. They have to change their behavior.

2 I mean, what I see across the board is
3 that you go through this convoluted ROP program. And
4 it really doesn't lend to a change in utility
5 behaviors. You don't have enough horsepower in order
6 to get the utility to change their behavior. I mean,
7 I think the utility should respond without a
8 horsepower, but it seems that in a lot of cases they
9 don't.

10 Also I have seen issues where these
11 utility folks rope-a-dope the inspectors. That is,
12 they play games, bureaucratic games. And the
13 inspector has an issue. And then they will make an
14 engineering evaluation, a shallow engineering
15 evaluation, that they know is not correct. And then
16 the NRC will have to come back and spend a lot of time
17 to counteract that with their own evaluation.

18 And you end up, you know, the utility has
19 800 people. The NRC only has two inspectors on site
20 and stuff like that. So the game is fixed. You know,
21 they can tie up the hands repeatedly with these kind
22 of rope-a-doping game and trying to exhaust the NRC
23 and stuff because, you know, they're chasing their
24 tails and they're not looking at new events showing up
25 and stuff.

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1 So I generally have an issue as far as the
2 ability of the utilities to not directly answer the
3 problem. Again, basically, I mean, as far as the
4 LERs, we can go back. And we can talk about the LER,
5 Vermont Yankee LER, 207 - 7 - wait a minute. I want
6 to make sure this is right. That's good, 207002-01.

7 And I've done a lot of work in the last
8 couple of weeks with NRC in trying to understand how
9 the license event reports work and stuff. And
10 essentially what I've come out of that is that there
11 is no -- I can't trust what an LER says from these
12 last interactions with the NRC with the last two
13 weeks, specifically about inspection report and LER.

14 Essentially the guidance is written so
15 loosely. And who knows what they report and stuff
16 like that? So I have no confidence that LER exposes
17 all of the problems associated with an event. I don't
18 understand. I don't really understand the reason why
19 the guidance is written that way. I can hazard a
20 guess. It's part of the Republican nuclear ideology
21 of being objective and all that sort of stuff and not
22 forcing the utilities to explain what their problems
23 are and all that sort of stuff.

24 And that's my guess. So I would for
25 example, this SER that the company wrote back in 2007.

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1 And my basic gist if back in 05-31-07, the contractors
2 were carbonized, and they were fitted. To me those
3 are indications that HPCI was not functional.

4 Once they got started up, instead of doing
5 the testing, there are issues with passing the system,
6 operational tests, minimum flow tests, whatever. I'm
7 not sure exactly how it goes and stuff like that.

8 And then they started doing dull stroking
9 and stuff. And then in the flow tests, the full flow
10 tests, the valve didn't work. And, you know, they
11 inappropriately shifted this event into two separate
12 events.

13 You know, when they valve didn't work,
14 they should have said, "Oh, you know, we never proved
15 HPCI was operational when the pressure was 150 pounds.
16 We never had a minimum flow test. We never met the
17 tint of the minimum flow test."

18 Because our procedures were defective, we
19 should have assumed that HPCI was always broken before
20 we even started up. And the conservative thing would
21 have been to shut down immediately. And essentially
22 it would then realized that the procedure was
23 inadequate and not accounting to the NRC requirements.

24 And then you would have shifted into not
25 an isolated problem and say systemic problem with

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1 Vermont Yankee. Then you would have had training.
2 You know, the full details would have been disclosed.
3 And you had a couple or three days of training, stuff
4 like that and what went wrong, and all that short of
5 stuff. And then you start it back up.

6 And Vermont Yankee could have bragged
7 about what they did and stuff like that. But,
8 instead, everybody played the "Let's be quiet" game.
9 And essentially it took you until operational and
10 stuff.

11 So that's how, you know, people are
12 supposed to recognize their problems and correct them,
13 you know. Even if you deny it in the beginning beyond
14 usually deny it, eventually people come back and keep
15 hounding us on it.

16 Well, then we see what we are doing is
17 wrong. And then we try and correct it and stuff. And
18 I really don't see that the system is trying to engage
19 Vermont Yankee and many other utilities with the
20 intent of making them change their behavior, not with
21 the intent of throwing a problem into a problem. I
22 think that's a big problem with the NRC. They're
23 process-driven. They're not behavior-driven. They
24 don't shoot for a change in behavior.

25 I also noticed --

1 (Pause.)

2 MR. MULLIGAN: I'm sorry. I'm trying to
3 fiddle with my computer.

4 I also did an award check on OP-5310,
5 motor control center. And, I mean, this is just a --
6 it's not a detailed check or anything like that. But
7 in inspection report 2002-03 in 2001, OP-5210, rev.
8 10, MCC inspection, in 2001, they're up to rev. 10.
9 In 2007, OP-5210 is up to rev. 12. In June 3rd of
10 2009, they're up to rev. 29.

11 I could make the case and I made an
12 allegation to the NRC that where I get this out of is
13 the back side of the inspection report, the list of
14 documents reviewed from the NRC and stuff.

15 So, you know, the conclusion I draw is
16 that the NRC prior to the 2007 Vermont Yankee
17 start-up, the NRC approved of the OP-5210 inspection
18 procedure of the switchgear or the relay cabinet and
19 stuff. I mean, essentially the NRC declared that back
20 in at least 2001.

21 I'm not sure, you know, if they later did
22 a review of documents, you know, but what is an NRC
23 review of documents? I asked them, what is the
24 definition of that type of thing? And I get nothing
25 from nobody and stuff like that.

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1 Review if you look at the common usage and
2 stuff like that, that implies that the NRC goes in
3 details and looks up all the documents in the back of
4 the inspection report.

5 Thus, the conclusion I draw is the
6 violation that Vermont Yankee was cited for in 2007,
7 the inadequacies that they were cited for, they didn't
8 have inspection criteria and stuff.

9 You know, not having inspection criteria
10 generally lends to the idea that if you have an
11 inspection criteria, then you would have to either
12 fail it or pass it and stuff like that. And you would
13 have less of an operational flexibility and stuff like
14 that.

15 So I am saying that the NRC approved of
16 that procedure they used in 2007 to start up Vermont
17 Yankee and start up that HPCI system. The NRC
18 according to the reports inspected and approved that
19 procedure that was in accord to 10 CFR 50 appendix B
20 criterion 5 and stuff. So the NRC approved that
21 improper Vermont Yankee procedure.

22 I mean, I can make a case through the
23 records that that is what the NRC did and stuff. And
24 so, again, you know, I just have issues here. You
25 know, we could sit -- I mean, what this is

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1 interesting, I mean, to me it is that what does this
2 mean as far as all of these plants starting up after
3 an outage and stuff like that.

4 You know, how deep does this go where
5 these plants have a lot of the inspectors take their
6 eyes off the ball and they walk away from the plant
7 while it's starting up because they're afraid that
8 they might interfere with the start-up.

9 Anybody will start acting conservatively.
10 And the plant will get a worse efficiency rating, you
11 know. And then guys won't build a renaissance, the
12 new nukes and stuff like that. You know, you can go
13 on and stuff.

14 And so the NRC basically sits back and
15 allows them to do what they want and start up the
16 plant too efficiently without following the rules and
17 stuff. And it's very problematic.

18 How big of a deal is this throughout the
19 country? How many plants? We already know that six
20 didn't declare that they properly entered a mode that
21 they shouldn't have been in. I mean, how widespread
22 is that? You know, this is all about relays and not
23 having adequate repair parts on site and stuff. I
24 mean, how big of a problem is that nationwide?

25 You know, these plants are getting old.

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1 And these companies are going out of business. How
2 big of a problem is that with them finding repair
3 parts? And then everybody has to scrunch around when
4 they are starting to plan up and play games and
5 deceive and speak crookedly and that type of stuff.

6 I mean, you flip into, you know, where you
7 could repair the safety culture of a plant. If
8 everybody knows the NRC and the utility can talk
9 crookedly, then, you know, over a plant start-up, then
10 everybody could talk crookedly if I bring up a
11 problem, if I bring up an expensive problem that I
12 discover on my own to the NRC or to a utility.

13 And then you get into these games where,
14 you know, if you get into a destructive culture like
15 that, then you've got good guys and bad guys, you've
16 got a system of intimidation where people who have a
17 conscience are intimidated with speaking up. And
18 you've got good guys and bad guys.

19 The good guys might have a lot of issues
20 that are overlooked because they're lenient to the
21 company where a bad guy might catch a lot of problems
22 at the incipient stage. And he has talked as not
23 being a player in the plant and he gets punished. He
24 is deemed -- you know, I can make the case that for an
25 operator, you go through so many procedures. You go

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1 through so many valve lineups and all sorts of
2 verification.

3 You will sign tens of thousands of things
4 away a year and stuff. And everybody makes a mistake.
5 There are a lot of mistakes made. And you go on to
6 the guys you like. You know, you exaggerate their
7 problems, and you ignore their mistakes.

8 And, you know, you get this shift of
9 people from a good guy and a bad guy. The good people
10 get promoted. The guys that really care about the
11 plant, they get stuffed down in the bottom and stuff.

12 I mean, as an operator, I remember finding
13 a lot of -- you know, over a year and stuff like that,
14 you know. You have so many procedure changes and
15 stuff. I mean, you spend days going over operation
16 procedures that have been changed, revised, and stuff
17 like that.

18 The magnitude of what is going on with
19 these procedure revisions and stuff like that is
20 astounding. And I just was saying that with my
21 allegation with the NRC saying that they reviewed so
22 many procedures, I know that they didn't. They can't
23 review them all.

24 What is the object of having that review
25 list in the back of the inspection report? Is it to

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1 fluff up the NRC to make everybody look like they're
2 doing work? Are the inspectors spending too much time
3 looking over procedures when they should be inspecting
4 the plant? You know, what is going on with that?

5 So, you know, those are the issues to have
6 with this start-up. I'm really worried about not
7 necessarily on just Vermont Yankee. You know, a lot
8 of this stuff with these operators being intimidated
9 across the board, I see it a lot.

10 And it worries me that somebody can't
11 honestly talk about these problems and you're shifted
12 into being a bad guy or a good guy and stuff like
13 that. It's unnecessary. It's part of this
14 Republicanism, you know.

15 This ideology of the objective regulator
16 and all this sort I think is a big problem. It got us
17 into so much trouble on Wall Street and stuff like
18 that. I think we have to move away from this
19 Republican NRC, the ideological NRC.

20 And, you know, utilities have that same
21 problem as being so ideologic Republicanism, so anti
22 -- I mean, essentially they are anti-United States.
23 They hate the government and stuff like that. And I
24 wonder how that really filters down into like the
25 activities of the NRC and stuff like that when a

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1 utility hates the government so much.

2 You know, in the background, they really
3 hate because they think the government is the enemy.
4 And I just wonder how that is, you know, how that
5 filters down to somebody overseeing that they hate
6 you. And they think that the NRC and the government
7 are the bad people. That must make it horrendously
8 hard for the NRC to oversee a big organization like a
9 nuclear plant. I think that's a problem there.

10 I probably am getting down close to the
11 end of my time. I mean, that's what I think is -- I
12 mean, I could go into detail, you know. I haven't
13 gone into a lot of detail in the nuts and bolts of
14 what I know and stuff like that because I don't think
15 this is the place for that. But, you know, these are
16 my concerns. I'm almost done.

17 Here's the crux from my petition in the
18 discussion section. You see what I'm saying? These
19 control room people are so smart. They all have been
20 trained so much they have gone over and over tech
21 specs training so often. They had so many quizzes and
22 questions thrown at them and light in school and
23 recall training about tech specs requirements. They
24 know these things in and out. They see these things
25 through professional eyes, and we are seeing them

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1 through an outsider's eyes.

2 Imagine you are a young, fresh, licensed
3 operator up in the control room. Nobody admits these
4 things straight out. You see any NRC inspectors
5 coming in and out. And they have truly questioned
6 everyone, including the shift supervisor.

7 You know everybody is aware of what
8 occurred. They started up that plant. And management
9 with the knowledge fiddled with tech specs and the
10 rules. They pulled their punches in publicly
11 reporting this. Management and the NRC concluded to
12 falsify the whole thing.

13 The young licensed operator would say,
14 "Really, what kind of risk was this to the public?";
15 especially thinking about it after it was fixed on
16 June 13th. He would say there was absolutely no risk
17 to the public.

18 An astonishing, chilling thought in the
19 back of his mind, he didn't know management and NRC
20 were colluding together, potentially saving the
21 company millions of dollars.

22 If I catch a safety effect that was going
23 to cost Entergy millions of dollars, what chance does
24 my career have to prevail if the NRC and management
25 are in cahoots for the big bucks? They could both

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1 lie, saying I'm an incompetent operator with a mental
2 illness. And I could lose my job over safety effects
3 of the NRC and my company.

4 So everybody, the NRC interprets this as
5 what is the risk of losing HPCI and stuff like that.
6 I mean, that is what their risk-based perception is
7 based on this event or is it about a completely
8 different accident than a simple assumption?

9 What if the site and the licensed operator
10 lived with the idea that the nuclear industry was
11 brutally unjust and they thought they faced the fear
12 of being fired for raising legitimate safety concerns?

13 There was only one way to talk about
14 conditions in the industry. And everybody only talks
15 with the nuclear industry's single voice. The
16 industry and the NRC have absolute infinite brutal
17 power over these employees with absolutely no human
18 rights.

19 How much money is human rights worth? How
20 much salary would you need if they told you the U.S.
21 Constitution was not working on corporate property?
22 Would you sell your Constitution rights for \$100,000
23 a year in benefits?

24 The utility and the NRC are saying that
25 our story is the absolute facts. Our story can't be

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1 contradicted. The truth is disconnected from real
2 reality. Your story or evidence will never have any
3 standing in our system. If this isn't brutal
4 dehumanization, nothing is.

5 And I think that's it. Yes. I'm done.

6 CHAIRMAN BLOUNT: Well, Mr. Mulligan,
7 thank you very much. This is Tom Blount.

8 At this time, though, I would like to ask
9 if the staff has any questions. Staff here at
10 headquarters, do you have any questions for Mr.
11 Mulligan?

12 MR. NAKANISHI: This is Tony Nakanishi
13 with Reactor Systems. I just want to go back to one
14 of the claims you are making regarding falsification.
15 I didn't hear you really discuss specifics regarding
16 that. Can you elaborate on the falsification claim
17 and what makes you make that claim?

18 CHAIRMAN BLOUNT: Mr. Mulligan?

19 MR. MULLIGAN: Yes.

20 CHAIRMAN BLOUNT: Oh, okay.

21 MR. MULLIGAN: I'm just thinking for a
22 second.

23 CHAIRMAN BLOUNT: Not a problem. I just
24 wanted to make sure you heard the question.

25 MR. MULLIGAN: Well, you know, how I would

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1 look at it was what is the evidence? I mean, did
2 anybody collect any evidence on 5-31-01 during that
3 inspection when they found the pitting in the
4 carbonized pitted relays and stuff?

5 I mean, you know, see, from my point of
6 view, you know, I know what my limits are. There is
7 a barrier in front of me. I mean, 2.20, I mean, this
8 thing right here today is usually designed to limit me
9 on seeing what is really going on there.

10 So, you know, you say, well, what evidence
11 do I have, you know? What evidence does a control
12 room operator have, really, when the reactor level is
13 going down or there is increasing containment leakage
14 in there?

15 Really, you have to make a judgment. I
16 mean, it's not about evidence. Evidence you end up
17 talking about in a courtroom or you end up going
18 through all the levels of our court system and stuff
19 like that.

20 You know, for operating a plant, you
21 cannot base it on evidence. You base it on intuition
22 and skills and training and all that sort of stuff.
23 And you make judgment calls that you don't have the
24 capability to do in a courtroom and stuff.

25 So I know my limitations. I don't have

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1 the evidence in front of me other than what the LER
2 said, what they found on the 31st. And, you know, I
3 don't know what. Did they save the relays? I mean,
4 the evidence is that as soon as they started banging
5 around within relays, it welded shut and stuff. I
6 mean, that's the evidence right there. Whenever they
7 were doing their testing and stuff like that, it
8 welded shut.

9 I mean, all of those indications of it
10 being carbonized and relays pitted were the evidence
11 that they weren't going to operate shortly they were
12 going to fail. And probably they would fail in an
13 accident if there was need.

14 Does that help at all? Tom? Is that what
15 you were talking about?

16 MR. NAKANISHI: Yes. Thanks for the
17 response.

18 CHAIRMAN BLOUNT: This is Tim Blount. Mr.
19 Mulligan, just for my clarification and understanding,
20 are you currently or previously an operator at the
21 facility?

22 MR. MULLIGAN: Yes, I was. And, as a
23 matter of fact, in 1993, I was fired from Vermont
24 Yankee or, actually, we had an agreement, but,
25 actually, the interesting thing was that it was over

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1 an intermittent shorted relay of a fuel pool pump.
2 And I got a series of investigations and a whole bunch
3 of procedure changes and stuff like that, you know.

4 So I worked at Vermont Yankee for 12 or 13
5 years. I've also been involved in other events. My
6 biggest event was I put a bunch of executives in jail
7 and discovered a \$450 million fraud issue with a paper
8 company that was in my area.

9 CHAIRMAN BLOUNT: So when you say
10 "operator," you were a control room operator or a
11 plant operator?

12 MR. MULLIGAN: A control room operator.

13 CHAIRMAN BLOUNT: Okay.

14 MR. MULLIGAN: I was licensed for a
15 control room operator, but I was working as an
16 auxiliary operator at the time we had our issues.

17 CHAIRMAN BLOUNT: It helps me understand.

18 MR. MULLIGAN: You know, that was in 1993.
19 I have more technical information, but I do not keep
20 up with the documents and stuff like that. I know my
21 limitations. I have very little -- you know, I mean,
22 you guys are the experts.

23 I actually have to depend upon the NRC to
24 be my lens and to be able to see what is going on and
25 stuff like that, you know. Like I'm saying, I think

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1 in some ways, the NRC is not doing its job.

2 I mean, that is the technical problem we
3 always have, the community has. That's a complex
4 business that very few people understand what is going
5 on. And we depend upon the NRC to interpret what is
6 going on.

7 CHAIRMAN BLOUNT: Okay. Any other
8 questions from headquarters staff?

9 MR. NAKANISHI: I guess this is Tony
10 Nakanishi again. One additional question regarding
11 your claim that the reactor was operated illegally.
12 I guess I just want to make sure I understand that one
13 reason you are making that claim is the inspection
14 procedure not confirming with the appendix B criteria.
15 I believe that was the only regulation per se that you
16 cite. Is that the primary reason for concluding that
17 Vermont Yankee operated illegally?

18 MR. MULLIGAN: Well, again, we get through
19 this, we get to this problem of what can I see. And
20 I have a very limited view on that. I mean, I would
21 have to -- you know, I mean, my limitation is with
22 tech specs and what is the requirement.

23 I know what is moral and ethical for the
24 community. And that is that you never attempt to
25 start the reactor up with HPCI only being -- knowingly

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1 that it would be in a fragile condition where it could
2 break in an accident. And that's where the relays,
3 the testing and all that sort of stuff on 34 leads
4 you, was that machine before it even started up wasn't
5 capable of meeting its design function, was in a
6 fragile state.

7 And even if they would have gotten past
8 their testing, if they would have done some more
9 testing and all that sort of stuff later on in the
10 cycle and stuff, there was a high likelihood in an
11 accident it would fail. And, like I said, plus the
12 culture of Vermont Yankee would be in a degraded
13 condition that this indicates.

14 So the question I would ask is, what does
15 the procedure say in Vermont Yankee specifically on
16 what HPCI has to be, what condition it has to be in
17 before they change the mode switch?

18 I'm pretty sure, you know, that HPCI has
19 to be knowingly functional. In other words, they
20 might have maintenance work on it and all that sort of
21 stuff. But there has to be assurances to following
22 the procedures and having the skill of the trades and
23 the stuff like that that the people put that stuff
24 back together in the right way with quality components
25 and they don't install the greatest components and

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1 stuff like that, you know, the skill of the craft,
2 however you want to term that stuff like that.
3 They're supposed to have a basic understanding that
4 that machine, even before it's tested, could meet its
5 commitment and once they get into the testing routines
6 have to start up. That gives you the insurance that
7 it can meet its intent and stuff like that.

8 So I would have two questions. What does
9 the tech spec? What does the procedure say? I really
10 don't have those capabilities to understand if it's
11 technically illegally.

12 I know morally and ethically but without
13 a doubt in my mind that that machine should have been
14 before that mode switch was changed, that that machine
15 should have had brand new relays in there and they
16 didn't.

17 CHAIRMAN BLOUNT: Okay. Any other
18 questions here from headquarters?

19 MR. MULLIGAN: I mean, you know, I can't
20 ask anybody any questions about what the Vermont
21 Yankee's start-up procedures say about HPCI. I'm
22 pretty sure there is a signature in the start-up
23 procedure that says HPCI has to be known to be
24 operational. I am not quite sure what tech spec says
25 as far as did Vermont Yankee start up having the

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1 cabinet open and relays removed?

2 Could Vermont Yankee start up with those
3 relays removed? And they know that that machine isn't
4 capable of meeting its intent because the relays
5 aren't there. The valve won't open. Could they start
6 up and say, "Well, you know, but that's 17 days. No
7 sweat. We'll get it fixed." Is that legal? Do you
8 see what I'm getting at?

9 MR. NAKANISHI: Yes, yes. Thank you.

10 CHAIRMAN BLOUNT: From the region, are
11 there any regional questions for Mr. Mulligan?

12 MR. SETZER: No, no questions from the
13 region. Again, pardon the earlier interruption. I
14 realize I spoke out of turn. But no questions.

15 CHAIRMAN BLOUNT: And that's quite all
16 right, but if you do or would like to reiterate, this
17 would be a time.

18 MR. SETZER: No, no specific questions.
19 Thank you.

20 CHAIRMAN BLOUNT: Understand. Does the
21 licensee have any questions for Mr. Mulligan?

22 MR. DEVINCENTIS: Vermont Yankee has no
23 questions.

24 CHAIRMAN BLOUNT: I understand.

25 MR. MULLIGAN: You guys have been more

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1 talkative to me than you were last time. That's good.

2 CHAIRMAN BLOUNT: Are there any members of
3 the public on the phone?

4 (No response.)

5 MR. MULLIGAN: One more thing. The
6 Petition Review Board, that's important, you know.
7 That's a request I'm making, that the Petition Review
8 Board become transparent in their meetings behind
9 closed doors are recorded and everybody gets their
10 comments put on the record so that the community can
11 understand what is going on. So the -- hello?

12 CHAIRMAN BLOUNT: Yes.

13 MR. MULLIGAN: So the Petition Review
14 Board could be more of a democratic process. Do you
15 understand what I am making with that?

16 CHAIRMAN BLOUNT: Your point is
17 understood.

18 MR. MULLIGAN: Okay. Thank you, not just
19 this, all the times in the future, not just this time,
20 you know, every time that this thing comes up again.

21 CHAIRMAN BLOUNT: Mr. Mulligan, I would
22 like to thank you for taking the time to provide the
23 NRC staff with clarifying information on the petition
24 that you submitted.

25 Before we close, does the Court Reporter

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1 need any additional information for the meeting
2 transcript?

3 THE REPORTER: I think there was just one
4 name that I had a question about. It sounded like
5 Nancy Delgado.

6 MS. SALGADO: That's Nancy Salgado,
7 S-a-l-g-a-d, as in David, o.

8 THE REPORTER: S-a-l-z-a-d-o?

9 MS. SALGADO: S-a-l-g-a-d-o.

10 THE REPORTER: Okay. That was g, as in
11 George?

12 MS. SALGADO: Correct.

13 THE REPORTER: Okay. Thank you very much.

14 CHAIRMAN BLOUNT: With that --

15 MR. MULLIGAN: I would like just two
16 sentences. I would like to have everybody to be
17 reminded that the utilities in a general manner are
18 under historic financial pressures and stuff as far as
19 with their stock prices and cutbacks on electric
20 loads. And they're not bringing in as much money as
21 they did in the past. And the background of all of
22 this is that the utility industry, the electric
23 utility industry, is under an historic stressor. And
24 that's all I need to say.

25 CHAIRMAN BLOUNT: Thank you, Mr. Mulligan

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1 again. And, with that, the meeting is concluded. We
2 will be terminating the phone connection at this time.
3 I would like to wish everyone a good day.

4 MR. MULLIGAN: Thank you very much for
5 this opportunity.

6 (Whereupon, the foregoing matter was
7 concluded at 11:45 a.m.)

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CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of: Vermont Yankee 10 CFR 2.206

Name of Proceeding: Petition

Docket Number: (n/a)

Location: Teleconference

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



Eric Mollen
Official Reporter
Neal R. Gross & Co., Inc.