



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

May 6, 2010

Mr. Michael Mulligan  
P.O. Box 161  
Hinsdale, NH 03451

Dear Mr. Mulligan:

In your e-mail to the U.S. Nuclear Regulatory Commission (NRC), dated January 28, 2010, you submitted a petition request pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Section 2.206 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100320555), in which you identified concerns regarding the 20 year license renewal of Palisades Nuclear Plant, which was completed on January 18, 2007 (ADAMS Accession No. ML070100449). You challenged the NRC's activities during relicensing of the plant, specifically regarding the lack of evaluation of the swollen fuel racks problem identification and corrective action. You also alleged NRC wrongdoing and stated that NRC participated in a cover-up through delaying of inspection activities to obfuscate the connection of relicensing and the swelling of the fuel racks. This allegation of NRC wrongdoing was referred to the NRC Office of the Inspector General (OIG) and was not part of the Petition Review Board's (PRB's) activities.

You requested that the NRC perform the following:

1. Conduct an investigation around the swollen fuel racks and relicensing and allow you to participate in the investigation.
2. If the deception and falsification at the Palisades Nuclear Plant is similar to Vermont Yankee, take the following actions:
  - Order an immediate shutdown of the Palisades Nuclear Plant
  - Replace the Palisades Management Team
  - Pull the licenses of all Entergy's nuclear power plants
  - NRC and Entergy employees involved in falsification be prosecuted to the full extent of the law.

On February 18, 2010, you addressed the PRB from the Office of Nuclear Reactor Regulation (NRR) regarding your petition. The purpose of the call was to give you an opportunity to provide any additional information to the PRB. The official transcript of the teleconference with the PRB is publicly available in ADAMS (Accession No. ML100570444). During this teleconference, you expressed concern with the 10 CFR 2.206 petition process; however, you did not provide any additional information which was relevant to the issues raised in your petition. On March 9, 2010, the PRB met internally to review the petition to make an initial recommendation. The PRB determined that the petition met the criteria for review under 10 CFR Section 2.206; however, the petition also met the criteria for rejection as specified in Management Directive (MD) 8.11. The PRB's initial recommendation and basis for rejection are described below in further detail.

- (1) Regarding your request to immediately shutdown Palisades if deception and falsification at Palisades is similar to Vermont Yankee, the NRC staff has already issued a Demand For Information (DFI) to determine what, if any, regulatory actions are necessary regarding Vermont Yankee, as related to buried piping issues. In accordance with the NRC's Enforcement Policy, the DFI requires Entergy to provide information under oath and affirmation to allow the NRC staff to make this determination. This step is being taken in response to Entergy's investigation of its interactions with the State of Vermont. If the results of the DFI identify concerns with respect to Entergy, those issues will be addressed through the NRC's Enforcement Policy. Currently, the PRB has determined that there are no public health and safety, or environmental concerns provided in your petition to warrant consideration of an immediate shutdown of Palisades.
- (2) The issue regarding the swelling of the spent fuel storage racks has already been the subject of NRC staff review, and there is a list of activities which have taken place regarding this issue. The swelling of racks was first discovered in 1988 and since then the licensee has been evaluating and monitoring the condition of these racks. During the review of the Palisades license renewal application in November 2005 (ADAMS Accession No. ML053270257), and in response to NRC staff questions, the licensee made a commitment to test the fuel racks prior to March 24, 2011. After renewal of the license in 2007, the NRC staff conducted a number of inspection and licensing activities to ensure that Palisades is operated in compliance with its renewed license, Technical Specifications, and applicable regulations.

The specific cause of swelling in the Palisades spent fuel pool storage racks is currently unknown, and is still under evaluation. The most probable cause is gas build-up inside the rack cell walls. The amendment approved on February 6, 2009 (ADAMS Accession No. ML090160238), did not credit any of the installed neutron absorber as providing neutron absorption, and conservatively considered the rack cell walls swollen to the maximum extent possible with the volume created by the swelling to be a vacuum, meaning that there is no neutron absorption by this swollen volume.

In an e-mail on March 17, 2010 (ADAMS Accession No. ML100770006), you were informed of the PRB's initial recommendation to reject the petition using the criteria in MD 8.11, and were provided another opportunity to address the PRB. On March 23, 2010, you requested an additional call with NRC staff prior to the teleconference to address the PRB. On March 31, 2010, a teleconference was conducted with you to discuss the PRB initial recommendation and provide any clarification, if needed. You were also provided a list of publicly available agency documents, which provided further information on the activities performed to address the Palisades swollen fuel racks problem identification and corrective action.

On April 9, 2010, you had a follow-up teleconference with the PRB to discuss the PRB's recommendation. Although you expressed concerns with the 10 CFR 2.206 petition process, you did not provide any additional information for further consideration. The official transcript of the proceedings of this call is publicly available (ADAMS Accession No. ML101100535). The PRB's final recommendation is that your petition be rejected. Hence no proceedings will be instituted in whole or in part with respect to your request consistent with the requirements of 10 CFR 2.206 for the reasons explained earlier. Based on the above facts, and the activities

taken place for identification and correction of the Palisades swollen fuel racks problem, the NRC staff has reasonable assurance that:

- There is currently no public health and safety concern associated with the swollen fuel racks in the Palisades spent fuel pool.
- There is currently no negative environmental impact associated with the swollen fuel racks in the Palisades spent fuel pool.
- The swollen fuel racks at Palisades are not currently violating NRC regulations.

As mentioned before, your concerns regarding wrongdoing on the part of NRC employees have been referred to the OIG, which is charged with investigating misconduct by NRC employees. You may forward your concerns directly to the OIG through the NRC public website – <http://www.nrc.gov/insp-gen/oighotline.html> - or the OIG Hotline (1-800-233-3497) at anytime.

Thank you for your interest in these matters.

Sincerely,

A handwritten signature in black ink that reads "Thomas B. Blount". The signature is written in a cursive style with a large, looping initial 'T'.

Thomas B. Blount, Deputy Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Docket No. 50-255

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Sincerely,  
**/RA/**  
 Thomas B. Blount, Deputy Director  
 Division of Policy and Rulemaking  
 Office of Nuclear Reactor Regulation

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**ADAMS Accession Nos.**

**Package: ML101270440**

**Incoming 2.206 Petition Request: ML100320555**

**Acknowledgment Letter: ML101170761**

**\*via e-mail**

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