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NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition RE Vermont Yankee

Docket Number: 50-271

Location: (telephone conference)

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1 UNITED STATES OF AMERICA
 2 NUCLEAR REGULATORY COMMISSION

3 + + + + +

4 PETITION REVIEW BOARD

5 -----x

6 IN THE MATTER OF: :

7 VERMONT YANKEE 10 CFR : Docket No. 50-271

8 2.206 PETITION FROM :

9 MICHAEL MULLIGAN :

10 -----x

11 Wednesday,

12 March 2, 2011

13 The above-entitled matter convened via
 14 teleconference, pursuant to notice, at 10:30 a.m.

15 PRESENT:

16 THEODORE R. QUAY, Chairman, Petition Review Board

17 MICHAEL MULLIGAN, Petitioner

18 DAVID ALLEY, Division of Component Integrity

19 MERRILEE BANIC, NRR

20 JAMES DEVINCENTIS, Entergy Nuclear

21 JAMES S. KIM, Office of Nuclear Reactor Regulation

22 (NRR)

23 TANYA MENSAH, NRR

24 NANCY SALGADO, NRR

25 THOMAS SETZER, Region I, NRC

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

10:00 a.m.

1
2
3 MR. KIM: Okay. Good morning. I'd like
4 to thank everybody for attending this meeting. My
5 name is James Kim and I am the Vermont Yankee project
6 manager.

7 We are here today to allow the Petitioner,
8 Mr. Michael Mulligan, to address the Petition Review
9 Board regarding 2.206 petition dated January 18, 2011.
10 I'm the petition manager for the petition. The
11 Petition Review Board chairman is Ted Quay. As part
12 of the Petition Review Board's review of this petition
13 Mr. Michael Mulligan has requested this opportunity to
14 address the Petition Review Board.

15 This meeting is scheduled from 10:30 to
16 11:30 a.m. The meeting is being recorded by the NRC
17 Operations Center and will be transcribed by a court
18 reporter. The transcript will become a supplement to
19 the petition. The transcript will also be made
20 publicly available.

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

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1 This is James Kim. I'm a project manager
2 for the Division of Operating Reactor Licensing in
3 NRR.

4 MS. SALGADO: This is Nancy Salgado. I'm
5 the branch chief in the Division of Operating Reactor
6 Licensing, NRR>

7 MS. BANIC: Merrilee Banic, Generic
8 Communications Branch, NRR.

9 MR. ALLEY: Dave Alley, senior materials
10 engineer, Division of Component Integrity.

11 MR. QUAY: Ted Quay, deputy director,
12 Division of Policy and Rulemaking, NRR.

13 MR. KIM: At this time are there any NRC
14 participants from headquarters on the phone?

15 MS. MENSAH: Tanya Mensa, 2.206
16 coordinator, NRR.

17 MR. KIM: Are there any NRC participants
18 from the regional office on the phone?

19 MR. SETZER: Hi, 'good morning. This is
20 Tom Setzer, senior project engineer for Region I, NRC.

21 MR. KIM: Are there any representatives
22 for the licensee on the phone?

23 (No audible response.)

24 MR. KIM: Okay. Mr. Mulligan, would you
25 please introduce yourself for the record?

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1 MR. MULLIGAN: I'm Mike Mulligan and I
2 live about two miles from Vermont Yankee. Thank you.

3 MR. KIM: Are there any other interested
4 members of the public on the phone?

5 (No audible response.)

6 MR. KIM: There is none. I'd like to
7 emphasize that we each need to speak clearly and
8 loudly to make sure that the court reporter can
9 accurately transcribe this meeting. If you do have
10 something that you'd like to say, please first state
11 your name for the record.

12 For those dialing into the meeting, please
13 remember to mute your phone to minimize any background
14 noise or distractions. If you do not have a mute
15 button, this can be done by pressing keys star six.
16 To un-mute, press the star six keys again. Thank you.

17 At this time I turn it over to the PRB
18 chairman, Ted Quay.

19 MR. QUAY: Good morning. Welcome to this
20 meeting regarding the 2.206 petition submitted by Mr.
21 Mulligan. I'd like to first share some background on
22 our process.

23 Section 2.206 of Title 10 of the Code of
24 Federal Regulations describes the petition process,
25 the primary mechanism for the public to request

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1 enforcement action by the NRC in a public process.
2 This process permits anyone to petition NRC to take
3 enforcement-type action related to NRC licensees or
4 licensed activities. Depending on the results of its
5 evaluation, NRC could modify, suspend or revoke an
6 NRC-issued license, or take any other appropriate
7 enforcement action to resolve a problem.

8 The NRC staff guidance for the disposition
9 of 2.206 petition requests is in Management Directive
10 8.11, which is publicly available.

11 The purpose of today's meeting is to give
12 the Petitioner and opportunity to provide any
13 additional explanation or support for the petition
14 before the Petition Review Board's final consideration
15 and recommendation.

16 This meeting is not a hearing, nor is it
17 an opportunity for the Petitioner to question or
18 examine the Petition Review Board on the merits or the
19 issues presented in the petition request.

20 No decision regarding the merits of this
21 petition will be made at this meeting.

22 Following this meeting the Petition Review
23 Board will conduct its internal deliberations. The
24 outcome of this internal meeting will be discussed
25 with the Petitioner.

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1 The Petition Review Board typically
2 consists of a chairman, usually a manager at the
3 senior executive service level at the NRC and has a
4 petition manager and a Petition Review Board
5 coordinator. Other members of the Board are
6 determined by the NRC staff based on the content of
7 the information in the petition request.

8 At this time I would like to introduce the
9 Board. I am Ted Quay, the Petition Review Board
10 chairman. James Kim is the petition manager for the
11 petition under discussion today. Tanya Mensah is the
12 Office of Petition Review Board coordinator. Our
13 technical staff includes Dave Alley from the Office of
14 Nuclear Reactor Regulations Piping and NBE Branch,
15 Thomas Setzer from NRC Region I's Division of Reactor
16 Projects.

17 As described in our process, the NRC staff
18 may ask clarifying questions in order to better
19 understand the Petitioner's presentation and to reach
20 a reasoned decision whether to accept to reject the
21 Petitioner's request for review under the 2.206
22 process.

23 I would like to summarize the scope of the
24 petition under consideration and the NRC activities to
25 date. On January 18th, 2011 Mr. Mulligan submitted to

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1 the NRC a petition under 2.206 concerning the
2 inspection activities associated with the advanced
3 off-gas referred to as AOG, piping tritium leak and
4 its root cause analysis. We may refer to it as RCA of
5 the Vermont Yankee Nuclear Power Station.

6 In this petition request Mr. Mulligan: (1)
7 requests that Vermont Yankee be immediately shut down
8 and that Entergy be prohibited from owning nuclear
9 power plants; (2) requested an Extent of Conditions
10 with Entergy providing the NRC with inaccurate
11 information, false and incomplete documents and any
12 falsifications to the NRC; (3) requested that the NRC
13 look into if Entergy gave new false testimony to any
14 proceeding with the State of Vermont; (4) requested an
15 Office of Inspector General investigation concerning
16 recent falsification and incomplete NRC inspections;
17 (5) requested an Extent of Conditions with any
18 falsified and incomplete licensing basis updated final
19 safety analysis report or any plant engineering and
20 plant designs that protect the public and the
21 environment of the people surrounding Vermont Yankee;
22 (6) requested a national formal NRC Code and
23 Regulations on RCA and the quality of RCA; (7)
24 requested to have a discussion with top NRC official
25 in charge or the most knowledgeable on RCA; (8) stated

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1 that Entergy's corrective actions program is keyed off
2 the RCA or root cause evaluation, also referred to as
3 RCE, and asserts that Entergy's corrective action
4 program is corrupted and that they don't address why
5 the tritium leak occurred; (9) has requested that the
6 NRC be prohibited from ever using the term "it is
7 before the ROP overhaul and it is of no concern to the
8 NRC;" and finally, (10) stated in the case of OIG
9 involvement it should be an open NRC OIG process,
10 mostly the investigation should be accurate swift and
11 open.

12 Allow me to discuss the NRC activities to
13 date.

14 On January 21st, 2011 you requested to
15 address the Petition Review Board to provide
16 supplemental information for the Board's consideration
17 prior to the PRB's internal meeting to make an
18 additional recommendation.

19 The PRB met on January 24th, 2011 and
20 denied your request for immediate action to
21 immediately shut down Vermont Yankee. The PRB
22 determined there was no immediate safety concern to
23 the plant or to the public health and safety. The
24 system is non-safety related and the tritium leak
25 amounted to approximately less than one millirem

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1 exposure to the public. No drinking water sources
2 were impacted. Therefore, the PRB denied the request
3 to immediately shut down Vermont Yankee.

4 On January 25th, 2011 you were informed of
5 the PRB's decision on the immediate action.

6 On February 3rd, 2011 you addressed the
7 Petition Review Board by a teleconference and provided
8 additional information in support of your petition.

9 On February 10th, 2011 the PRB met
10 internally to make an initial recommendation on your
11 petition. The Petition Review Board's initial
12 recommendation was not to accept your petition. For
13 your request Nos. 1, 2, 3, 5 and 8 the Petition Review
14 Board determined your petition did not meet the
15 criteria for review because the petition failed to
16 provide sufficient facts to warrant further inquiry.
17 For your request Nos. 4, 6, 7, 9 and 10 the Petition
18 Review Board determined that these were outside the
19 scope of the 2.206 process, however, the petition has
20 been forwarded to the NRC OIG per your request.

21 On February 15th, 2011 you were informed
22 of the PRB's initial recommendation and you requested
23 another opportunity to address the Petition Review
24 Board to provide any comments to the PRB's initial
25 recommendation and additional information in support

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1 of your petition.

2 As a reminder for the phone participants,
3 please identify yourself if you make any remarks as
4 this will help us in the preparation of the meeting
5 transcript that will be made publicly available.

6 Thank you.

7 And at this point, Mr. Mulligan, I'll turn
8 it over to you.

9 MR. MULLIGAN: I essentially got a short
10 blurb, a couple of paragraphs, and basically what it
11 said was the PRB initial recommendation was to reject
12 your petition because your petition did not meet the
13 criteria for review. Some of your requested actions
14 did not meet the criteria for review because the
15 petition failed to provide sufficient facts to warrant
16 further inquiry and other requested actions were not
17 in the scope of the 2.206 process, however the
18 petition was forwarded to the OIG. So I never got the
19 specifics on which numbers were which that you just
20 identified. Anyways --

21 MR. QUAY: Mr. Mulligan?

22 MR. MULLIGAN: Yes.

23 MR. QUAY: Would it be helpful if I repeat
24 which number requests failed to provide sufficient
25 facts and others which were outside the scope?

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1 MR. MULLIGAN: Could you just identify the
2 ones that failed to provide sufficient information?

3 MR. QUAY: Sure. Request No. 1, request
4 No. 2, request No. 3, request No. 5 and request No. 8.

5 MR. MULLIGAN: Oh, I thought you were
6 going to read them to me, but that's all right. We
7 really don't need to do that. I'll pick it up when
8 they read the --

9 MR. QUAY: You can go back to the
10 transcript. Or if you're having a problem with the
11 transcript, I sure you can call us and we can give
12 them back to you again. If you'd like to, I can read
13 them to you.

14 MR. MULLIGAN: Oh, that's okay. That's
15 okay. We can go on.

16 MR. QUAY: Okay.

17 MR. MULLIGAN: Thank you. Basically, I
18 mean, the problem is, I mean, over this tritium issue.
19 We generally have issues with the quality of the
20 inspection activities around Vermont Yankee. I know
21 you're following the rules and stuff, but like I've
22 been saying for many years now, you know, following
23 the rules doesn't necessarily mean you're doing good.

24 I mean, you know, we think you owe --
25 basically Entergy said in their RCA that the tritium

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1 -- a tunnel was a radioactive containment barrier and
2 we want to know basically what the engineering
3 justification is for that statement. And basically
4 that revolves around honest and complete information
5 to the public on what was going on here. You lost a
6 plant over it. And so, I mean, that's what this all
7 revolves around. We know you're following the
8 procedures on inspecting Vermont Yankee but we don't
9 think we've come to the -- we don't get the
10 appropriate information on it. The rules are designed
11 to hide information and not disclose information to
12 the public.

13 That's what we basically think was the
14 reason why you lost Vermont Yankee. It's not
15 inherently because the plant wasn't capable of being
16 relicensed. It was because of generally mistrust,
17 mistrustful communications and stuff like that. And
18 we thought that the agency would be the one that would
19 get to the bottom of a lot of this mistrustful
20 communication. You know, it's almost like you
21 regulate acceptably misinformation or incomplete
22 information. And that's just unbelievable that this
23 is happening.

24 So like I said, you know, I thought that
25 this should have -- there was very little meat in the

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1 inspection findings all throughout the tritium issue
2 and it never got down to clearly stating what were the
3 scientific characterizations of the AOG piping. You
4 know, engineering is supposed to be science and it's
5 supposed to be faith -- fact-based and not supposed to
6 be essentially Entergy guesses that it's a radioactive
7 containment barrier.

8 So this is all is around honesty and
9 truthfulness and stuff. You know, the end of this
10 essentially, you know, when you start building a \$5
11 billion new plant the question's going to be asked
12 eventually. There's going to be a disgruntled
13 employee. He's going to come up with pictures or his
14 cell phone videos of something going wrong and stuff.
15 And the question is are you going to use the rules to
16 expose everything and make yourselves better and cast
17 away the inaccuracies and, you know, rededicate
18 yourself in building a new plant appropriately and
19 stuff? I mean, that's what the question is really, is
20 are you prepared to build a new plant?

21 And what we can see, what I can see in the
22 2.206 process is you're just using rules to obfuscate
23 what's going on. You're not using the rules to give
24 the community a sense of assurance, you know? These
25 are the facts. These are what we got. This is what

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1 we have down in our paperwork.

2 You know, and this recommendation to me,
3 you know, the PRB, again you really didn't give me the
4 reason why. You just said, you know, this No. 1, 2,
5 3, later on, 6, 8, 9, you know, are this way. You
6 didn't really give me the reasons why they were
7 rejected and stuff. And that's another problem that,
8 you know, the agency doesn't seem to want to go by
9 science.

10 We read on your Web site the president
11 executive order, improving regulation and regulatory
12 review. By authority vested in me as President of the
13 United States and the laws of the United States of
14 America and in order to improve regulations and
15 regulatory review it is hereby ordered as follows:
16 General principles and regulations and our regulatory
17 system are to protect public health, welfare, safety
18 and our environment while promoting economic growth,
19 innovation, competitiveness and job creation. It must
20 be based on the best available science. The best
21 available science. It must allow for public
22 participation and an open exchange of ideas.

23 And like I said, you know, your rules --
24 you're giving me information based on a set of rules,
25 a permissive set of rules that says this information

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1 we can give to you and this information is being
2 withheld from you because of -- you know, like I've
3 talked about, political interference and stuff. And
4 if we had -- if the agency gave us accurate
5 information, we'd have more -- we would trust the
6 agency more and like, you know, Vermont Yankee
7 wouldn't have in such a dire position as it is now.

8 Public participation. What is
9 participate? What is the definition of participate?
10 You know, participate is like participating in a
11 baseball game or, you know, it's essentially a sharing
12 of power, not full power, but essentially it's about
13 sharing a power of transparency. Participate. That's
14 what it -- I don't know if they even define what
15 participate is, you know, have a clear -- the agency,
16 or whether the president really has a clear definition
17 of what participate is. And participate should be
18 about sharing the power of transparency.

19 You know, what is the characterization of
20 the AOG piping system? I want to know. Does it
21 comport to what Entergy said it is, a radioactive
22 containment system? If it isn't, you know, does the
23 paperwork align up to what the RCA says? I mean,
24 that's a very easy question and stuff like that. And
25 we really haven't been able to come to the conclusion

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1 that the words indeed match up. Just there's a sense
2 of a lot of missing information and stuff like that
3 and that leads to mistrust.

4 And we hope that this doesn't keep
5 continuing on with the new nukes, you know, this game
6 of everybody being comfortable following the rules.
7 And a lot of people in the local area see that the
8 rules are designed to hide information and not to tell
9 the truth or that express the scientific perfection.
10 The idea of the facts and, you know, how do you record
11 the facts, either in written form or whatever and
12 stuff? You know, will you be like these old guys and
13 not have everything recorded?

14 And you talked about the off-site dose.
15 I mean, that's what this all is, the safety-related --
16 and this business is all -- there's a higher calling
17 than off-site dose. There was an existence of the
18 industry of an economic endeavor, and industrial
19 activity. I mean, do we behave in a way that
20 facilitates the existence of this activity in the
21 highest manner and stuff? And there's a lot of ways
22 that -- there's a lot of dimensions adrift, as I
23 explained.

24 There's the dimension of risk underground,
25 like you know, evaluating different modes of

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1 radioactivity underground. You guys go by some guess
2 on, you know, what people will be drinking, what water
3 will people be drinking and nobody's ever drank any of
4 this water. There's the analysis of what was the
5 actual contamination in the piping? What was the
6 actual worst possible contamination in the piping and
7 the length of time that that stuff could be pumped
8 underwater? You know, what does the regulations allow
9 as far as fuel damage and stuff like that? And that
10 gets you right around to the point of, well, what's
11 best for the industry might not be off-site dose.
12 What's best for the industry might be the consequences
13 of these dimensions of risk. You know, well how will
14 the public -- as an example, if we discharge at our
15 highest rate with the highest amount of fuel failures
16 we're going to destroy a -- you know, is there a
17 potential of destroying the industry?

18 Like I talked to your ALARA specialist and
19 stuff and I said, well, you know, okay, you talk about
20 drinking a glass of water for a year and stuff like
21 that. Did anybody evaluate, you know, drinking a
22 glass of water of that 3 million picocuries per
23 milliliter? You know, I asked him, I said how would
24 that be? You know, you can make that case that, you
25 know, somebody could have been drinking that water.

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1 It wasn't an impossible -- I have as much legitimacy
2 as you say in somebody drinking the amount of water
3 that you guys used and stuff like that. But my
4 analysis, even though it's excessive like yours is, it
5 would get you to the right question.

6 You know, should we -- you know, maybe we
7 should have been taking a harder look at the
8 activities surrounding Vermont Yankee years ago and
9 stuff. We should have been harder on ourselves. We
10 should have had our regulations end up being harder on
11 ourselves to ask the difficult questions to get to a
12 point where you'd force Vermont Yankee to do the right
13 thing years ago and we would have Vermont Yankee for
14 the next 20 years and stuff like that. I mean,
15 basically what the agency has said to everybody is
16 we're just fine the way it is. Our regulations are
17 just fine the way it is and the results of our
18 regulatory oversight is acceptable to use -- to lose
19 for Vermont Yankee. Well, you know, I don't know if
20 that's a correct way of looking at things.

21 Again, on approving regulations at your
22 blog Web site, the White House issued a memorandum --
23 a company -- the orders that direct agencies to
24 develop plans for making information concerning their
25 regulatory compliance and activities accessible,

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1 downloadable and searchable.

2 I mean, we never got the ground level
3 information on what was going on with the OAG system.
4 You know, for all of the activities around Vermont
5 Yankee, you know, your inspection activities, which
6 you documented, has been extraordinarily thin and
7 lacking science and engineering as far as what we can
8 see. Yes, you followed the rules right off a cliff
9 and that's what we think is the problem.

10 We don't think this is limited to Vermont.
11 This isn't a Vermont Yankee problem. This isn't the
12 wild eyes around Vermont Yankee. It isn't the crazy
13 northeastern people like I've heard the agency talk
14 about. You know, that maybe it's the northeast people
15 or whatever, a little bit on the wild side. You know,
16 we'll save nuclear power and it will be a southern-
17 based endeavor or whatever. Just it's amazing the
18 stuff that's going on around here as far as what our
19 thoughts about regulation are -- regulation is.

20 So we didn't think -- as I said, we didn't
21 think we get enough information to give us a feeling
22 of comfortableness around Vermont Yankee. And like I
23 said, you think this is a northeast problem. You just
24 wait until another plant gets into that opportunity
25 where you're sitting on the edge of being a safety-

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1 related and then you guys are dancing around the
2 rules, talking about the rules and all that sort of
3 stuff. You think this is a northeast problem. You're
4 crazy. It'll be anywhere in the country. You just
5 give people the opportunity to listen to you people
6 yapping about rules and self-protection of these rules
7 and stuff like that and this could happen anywhere in
8 the United States. And it's not a northeast issue.

9 And I'd like to close with thanking you
10 for giving me this opportunity to talk. And I'm one
11 of the few people that understands how privileged --
12 well, I'm not one of the only few. There's a lot of
13 people. But I mean, we are very privileged to be
14 living in the United States and having the opportunity
15 to -- for a person like me to be talking to an agency
16 like you and I'm very grateful to be living in the
17 United States. Thank you very much.

18 MR. QUAY: Thank you, Mr. Mulligan.

19 At this time does any staff member here at
20 headquarters have any question for Mr. Mulligan?

21 (No audible response.)

22 MR. QUAY: Okay. Seeing none, what about
23 the region?

24 MR. SETZER: Yes, I appreciate the
25 presentation. No questions. Thank you.

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1 MR. QUAY: Okay. I know you're hooked on
2 their, Tanya. Do you have any questions?

3 MS. MENSAH: No questions. Thank you.

4 COURT REPORTER: Could the previous male
5 speaker please identify himself? Not Mr. Quay.

6 MR. QUAY: It was Tom Setzer.

7 COURT REPORTER: Thank you.

8 MR. QUAY: Okay. Before I conclude the
9 meeting I want to ask if any of the members of the
10 public have joined the phone call. I didn't hear any
11 beeps, but I'm going to give them an opportunity to
12 identify themselves if they have.

13 MR. DeVINCENTIS: Yes, this is -- Entergy
14 Nuclear Operations is on the call, Jim DeVincentis.

15 MR. QUAY: Okay. Thank you, Jim.

16 I don't hear any members of the public, so
17 before I conclude the meeting -- I'm going to go ahead
18 and conclude the meeting because we have no members of
19 the public on.

20 Mr. Mulligan, thank you for taking time to
21 provide the NRC staff with clarifying information on
22 the petition you submitted.

23 Before we close, however, I want to ask
24 the court reporter if he needs any additional
25 information for the meeting transcript.

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1 COURT REPORTER: Good morning.

2 MR. QUAY: Good morning.

3 COURT REPORTER: No, I have no questions
4 at this time.

5 MR. QUAY: Okay. Thank you.

6 COURT REPORTER: Thank you.

7 MR. QUAY: With that, this meeting is
8 concluded and we will be terminating the phone
9 connection.

10 (Whereupon, the interview was concluded at
11 11:02 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

Name of Proceeding: 10 CFR 2.206 Petition of
Michael Mulligan

Docket Number: 50-271

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.


Tony Porreco
Official Reporter
Neal R. Gross & Co., Inc.

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