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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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10 CFR 2.206 PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

RE

VERMONT YANKEE

+ + + + +

TUESDAY

MARCH 8, 2011

+ + + + +

The conference call was held, Theodore Quay, Chairman of the Petition Review Board, presiding.

PETITIONER: MICHAEL MULLIGAN

PETITION REVIEW BOARD MEMBERS:

THEODORE QUAY, Deputy Director, Division of Policy and Rulemaking, NRR

JAMES KIM, Petition Manager for 2.206 Petition

TANYA MENSAH, Petition Coordinator

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1 NRC HEADQUARTERS STAFF:

2 STACEY L. ROSENBERG, Branch Chief, Generic
3 Communications & Power Update

4 NANCY SALGADO, Branch Chief, Division of
5 Operating Reactor Licensing, NRR

6 BONNIE SCHNETZLER, Reactor Security Rulemaking
7 and Licensing Branch, Office of Nuclear
8 Security and Incident Response

9 NRC REGION I STAFF:

10 THOMAS SETZER, Division of
11 Reactor Projects

12

13 ALSO PRESENT:

14 JIM DEVINCENTIS, Entergy Nuclear Operations

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P R O C E E D I N G S

(10:02 a.m.)

1
2
3 MR. KIM: Good morning. I would like to
4 thank everyone for attending this meeting. My name is
5 James Kim and I am the Vermont Yankee Project Manager.

6 We are here today to allow the Petition,
7 Mr. Michael Mulligan to address the Petition Review
8 Board regarding 2.206 Petition dated February 24,
9 2011.

10 I am the Petition Manager for the
11 Petition. The Petition Review Board Chairman is Ted
12 Quay.

13 As a part of the Petition Review Board's
14 review of this petition, Mr. Michael Mulligan has
15 requested this opportunity to address the Petition
16 Review Board.

17 This meeting is scheduled from 10:00 to
18 11:00 AM. The meeting is being recorded by the NRC
19 Operations Center and will be transcribed by a court
20 reporter. The transcript will become a supplement to
21 the petition. The transcript will also be made
22 publicly available.

23 I would like to open this meeting with
24 introductions. As we go around the room, please be
25 sure to clearly state your name, your position, and

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1 the office that you work for within the NRC for the
2 record. I'll start off.

3 This is James Kim. I am a project manager
4 for the Division of Operating Reactor Licensing in
5 NRR.

6 MS. MENSAH: Tanya Mensah, the 2.206
7 Coordinator, Office of Nuclear Reactor Regulations.

8 MS. ROSENBERG: Stacey Rosenberg, Branch
9 Chief of Generic Communications and Power Updates,
10 Office of Nuclear Reactor Regulations.

11 CHAIRMAN QUAY: Ted Quay, Deputy Director
12 of Division of Policy and Rulemaking, Office of
13 Nuclear Reactor Regulation.

14 MR. KIM: At this time, are there any NRC
15 participants from the Headquarters on the phone?

16 MS. SALGADO: This is Nancy Salgado. I am
17 a Branch Chief in the Division of Operator Reactor
18 Licensing NRR.

19 MR. KIM: Are there any NRC participants
20 from the Regional Office on the phone?

21 MR. SETZER: Yes, hello. This is Thomas
22 Setzer. I am a Senior Project Engineer in Region I
23 for the Division of Reactor Projects.

24 MR. KIM: Are there any representatives
25 for the licensee on the phone?

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1 MR. DEVINCENTIS: Yes, this is Jim
2 Devinentis of Entergy Nuclear Operations.

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

5 MR. MULLIGAN: I'm Mike Mulligan and I am
6 a whistle blower, and I have worked in the industry in
7 the past.

8 MR. KIM: Thank you. It is not required
9 for the members of the public to introduce themselves
10 for this call. However, if there are any members of
11 the public on the phone that wish to do so at this
12 time, please state your name for the record.

13 (No response.)

14 MR. KIM: Hearing none, I would like to
15 emphasize that we each need to speak clearly and
16 loudly to make sure that the court reporter can
17 accurately transcribe this meeting. If you do have
18 something that you would like to say, please first
19 state your name for the record.

20 For those dialing into the meeting, please
21 remember to mute your phones to minimize any
22 background noise or distractions. If you do not have
23 a mute button, this can be done by pressing the keys
24 *6. To un-mute press the *6 keys again. Thank you.

25 At this time, I'll turn it over to the PRB

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1 Chairman, Ted Quay.

2 CHAIRMAN QUAY: Good morning. Welcome to
3 this meeting regarding the 2.206 petition submitted by
4 Mr. Mulligan.

5 I'd like to first share some background on
6 our process. Section 2.206 of Title 10 of the Code of
7 Federal Regulations describes the petition process,
8 the primary mechanism for the public to request
9 enforcement action by the NRC in a public process.
10 This process permits anyone to petition the NRC to
11 take enforcement-type action related to NRC licensees
12 or licensed activities.

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

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

25 This meeting is not a hearing, nor is it an

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1 opportunity for the petitioner to question or examine
2 the PRB on the merits or the issues presented in the
3 petition request.

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

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

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

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

22 Our technical staff includes Bonnie
23 Schnetzler from the Reactor Security Rulemaking and
24 Licensing Branch in the Office of Nuclear Security and
25 Incident Response and Thomas Setzer from NRC's Region

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1 I Division of Reactor Projects.

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

8 I would like to summarize the scope of the
9 petition under consideration and the NRC activities to
10 date.

11 On February 24, 2011, Mr. Mulligan submitted
12 to the NRC a petition under 2.206 concerning the
13 Entergy's release of a public relations video, which
14 Mr. Mulligan believes releases security-related
15 information of the plant to the nation and beyond.

16 In this petition, Mr. Mulligan requested
17 emergency shutdown of Vermont Yankee because you
18 stated that the Brattleboro Reformer released a video
19 which was provided by Entergy from their website
20 detailing the Vermont Yankee control room and vital
21 security-related information throughout the plant.

22 You believe that the video provided visual
23 cues to possible terrorists, including the location of
24 all ECCS controls and other details which should not
25 be made known to the public.

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1 Allow me to discuss the NRC activities to
2 date. On March 3, 2011, you requested to address the
3 Petition Review Board to provide supplemental
4 information for the Board's consideration prior to
5 Petition Review Board's internal meeting to make an
6 initial recommendation.

7 On March 3, 2011, the PRB met internally to
8 discuss the request for immediate action. The PRB
9 denied the request for immediate action because there
10 was no immediate safety concern to the plant, or to
11 the health and safety of the public. In addition,
12 there was no release of anything sensitive or
13 security-related. The PRB concluded that the video
14 had been edited and controlled by Entergy for security
15 purposes.

16 On March 3, 2011, you were informed of the
17 PRB's decisions on the immediate action.

18 As a reminder for the phone participants,
19 please identify yourself if you make any remarks, as
20 this will help in the preparation of the meeting
21 transcript that will be made publicly available.
22 Thank you.

23 And at this point, Mr. Mulligan, I'm going
24 to turn it over to you.

25 MR. MULLIGAN: I can remember when I was an

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1 employee working at Vermont Yankee and I was getting
2 fired, I was in the process of getting fired. I had
3 six whistle blower suits pending and it was pretty
4 bleak.

5 And one day it was actually I am being
6 followed around the plant by this security official,
7 the on-shift supervisor. And I am really afraid that
8 this guy is following me around. And I am saying well
9 I am going to get fired tomorrow. They want to make
10 sure that I don't do anything crazy and stuff like
11 that.

12 So he is following me around the plant and
13 you know, I am going in and out. And I am watching
14 this guy and he is quite a distance away from me. And
15 I can see his face; it is all nervous and tense. And
16 so you know, my heart is racing, beating, almost
17 coming out of my chest I am so scared.

18 And so finally I say to myself, you know
19 what, I am sick and tired of this. And I said, I am
20 just going to turn around. I am going to talk to the
21 guy and it doesn't matter what happens. I am just
22 going to figure out what is going on and make myself
23 comfortable.

24 So I turned around and I go up to him. And
25 certainly his face is really tense and stuff. And I

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1 said, "What is going on here?" And so then he starts.
2 And so I talk about the weather and I get a little
3 comfortable. And basically, he says I've got
4 something to tell you, Mike, and you can do with this
5 information anything you want.

6 And he goes on and talks to me about
7 security problems they were having with the fence
8 motion detector and how they are having troubles with
9 the cameras and stuff. And he reminds me that Gate 1,
10 the security gate, the main security gate, is all old
11 and decrepit and all the equipment is not working.
12 And he is just disgusted with the place and stuff.

13 And so you know, I didn't know what to do.
14 I didn't know if it was a setup or what have you.
15 What do you do with something like that? Why does
16 somebody come up to you in a plant? Especially this
17 is the senior security guy on shift and wants me to
18 handle his problems and stuff like that.

19 So anyways I think about it and I think that
20 I am going to disclose security events to outside
21 people and stuff like that. You know, am I going to
22 get in trouble and stuff. And basically I wrote a
23 letter up to my lawyer and I detailed, and we had a
24 phone call discussion and stuff. I told him what was
25 going on.

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1 And within a couple of days, they had a
2 security team down at Vermont Yankee. They found
3 everything that I said as accurate. They also within
4 a short period went into a construction phase and they
5 rebuilt the main security gate, the Gate number one,
6 the main security gate and stuff like that. So in
7 essence, they repaired all the sensor motion detectors
8 and all that sort of stuff.

9 And that essentially, you know, set me up as
10 somebody that could be talked to with Vermont Yankee
11 security issues. And I always felt very uncomfortable
12 with the whole deal and stuff like that with this.

13 And we had issues to the lead up to 9/11.
14 I was involved with security employees and talking and
15 stuff like that. I was talking to the state and all
16 this sort of stuff.

17 Of course, two weeks before 9/11, Vermont
18 Yankee failed its security exam and to a large part,
19 the NRC, I suspect, and state officials, I suspect,
20 were aware of my concerns or aware of the security
21 employees' concerns. And once 9/11 happened of
22 course, then -- Well before that they failed their
23 exam within weeks, within a week or two and stuff.
24 And then after 9/11 it came out that they failed the
25 exam.

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1 And well you know, then there was a pretty
2 good recovery. Then everybody took it serious and a
3 lot of things were done and stuff.

4 And so that has always been the issue. You
5 know? It is not security-related issues. You know,
6 I have had a footprint over -- People say I shaped the
7 security stance at Vermont Yankee over a number of
8 years because of my relationship with employees and
9 what have you. Probably the only place in the United
10 States.

11 But always the issue always has been with
12 security-related issues. What is doing good and what
13 is doing bad. You know, everything has, you know,
14 every tool you have you can use it in a good manner or
15 you can use it in a bad manner. You can use it to
16 hide things or you can use that same tool to open up
17 the world for everybody and let them see what is going
18 on. And then everything starts to repair itself and
19 stuff. That has always been the issue with Vermont
20 Yankee security.

21 And a lot of times you get in these
22 officials and 9/11 certainly shows you that. A lot of
23 times they get into the protective mode and they put
24 everything under secrecy, being secret and it is not
25 to protect us. It is to protect themselves. It is to

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1 protect the NRC, for the officials to protect their
2 own jobs and stuff like that. It has nothing to do
3 with protecting the community and stuff. And over 20
4 years, I have seen that. I have seen a lot of these
5 issues where people are protecting themselves.

6 Last year, or two years ago, you know, I was
7 involved in some stuff with Vermont Yankee and the
8 next thing you know, I get two FBI guys at my house.
9 Well, they gave me a call and I was down to the police
10 station talking about what I know and stuff. And you
11 know that whole issue with Vermont Yankee doing their
12 training down in Massachusetts and stuff and bothering
13 people with their guns. You know, the whole thing and
14 stuff like that. I mean, that is what it was about.

15 So again, it is the issue of what is doing
16 good. Is secrecy? You know, do you allow a set of
17 officials to define what security-related matter is?
18 And how do you know what interest they are pushing?
19 You know, is it their own interest or is it the
20 community's interest? How do you know?

21 As far as the secrecy-related issues, are
22 they hiding something? You know, are they using
23 national security or terrorism-related events to hide
24 their sins? You know, well the terrorists are coming
25 and we have got to hide everything. And you know, we

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1 have got to put everything under a security shield and
2 then nobody gets to see what is going on until
3 something big happens. And that is what you worry
4 about. These things are security can -- or secrecy
5 and security-related health interests could end up
6 pushing it into a deeper problem and protecting you
7 from terrorists.

8 This transparency and secrecy, you know, it
9 is a two-edged sword, a two-edged sword and stuff.
10 And you know, I trust the community people. I mean, we
11 are tired of being treated as terrorists first. You
12 know we question Vermont Yankee's security. We
13 question, talk to the NRC about it, and stuff like
14 that. And the first thing, you know, people don't
15 want to talk about it. They assume you are a
16 terrorist. They assume that people around Vermont
17 Yankee are the terrorists and they tend to hide their
18 faults and sins so that the terrorists can take
19 advantage of the situation.

20 So that -- I mean, I am just trying to give
21 people some background here on where we stand.

22 You know, the big problem I have is with the
23 door, I mean, the control room door and around that.
24 I mean, that plays no role whatsoever with the film.
25 You know, I could have swallowed down everything else

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1 as a typical public relation ploy but the door was the
2 thing that bothered me the most and nobody -- I mean,
3 the big deal with this was that the door wasn't, Mr.
4 Quay didn't talk about the door being --

5 You see the size of the door, the thickness,
6 the mechanism in the background. You know, you get a
7 lot of details, security details out of that. And I
8 don't think that was appropriate to show to the public
9 or anybody else.

10 Also we noticed that all fuel, the spent
11 fuel pad out there, you showed inside the pad. You
12 know, you have got a wooden fence around it. What is
13 the wooden fence for? Is it security-related so
14 people don't have any visual cues of what is inside
15 there? That is what this seems to be. Or maybe you
16 don't want people taking pictures from a distance of
17 those pads. I don't know.

18 It looks to me as though that wooden fence
19 around the pad is security-related. You don't want
20 anybody to really have any cues of what is behind
21 there and it makes sense to me. And then you go
22 inside there with a camera and you show everything?
23 It just doesn't, the whole thing doesn't make sense.

24 One minute Vermont Yankee is talking they
25 are heroic as far as not having the public inside

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1 Vermont Yankee looking at everything. The next thing,
2 they are showing a video of basically the same thing.
3 It doesn't make sense, as far as what is to be shown
4 and what not to be shown.

5 And so the door is one and the pad is the
6 other that I have issues with. And it is the general
7 idea that how do we trust. If everything is secret
8 from the community, how do we trust the government and
9 Entergy to do the bidding of our interests? How do we
10 do that? I mean, if everything is secret about
11 security and very little public knowledge of what is
12 going on, how do we trust the system to act in our
13 interest? You can't. There is just no way you could.

14 From all this stuff over 20 years, you can't
15 trust people really doing things behind our backs and
16 expecting them to act in our interests. The only way
17 it really works is that the public is involved and if
18 they can see shortcomings and criticize what is going
19 on and stuff like that, and see what is going on and
20 participate.

21 You know it is a tradeoff. It is a tradeoff
22 on both ways. Just pure security and secrecy doesn't
23 work and stuff. It really doesn't.

24 And so I mean, that is the problem we have
25 in general with security at the nuclear plants here.

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1 Security --

2 I mean, how does the public verify that all
3 this stuff is being done in our interests? How do we
4 know that you aren't using rules to hide things
5 instead of fix things and stuff?

6 I mean and the industry has had a history
7 with that; sleeping guards and all sorts of stuff in
8 the past and stuff. And so the question is, you know,
9 what is the proper role of the public involvement and
10 what they can see and how do they protect themselves?
11 And I think that is what a lot of this issue is about.
12 And we don't think that the community being assumed to
13 being terrorists first is something we can live with.

14 And thank you very much for this opportunity
15 to talk to you.

16 CHAIRMAN QUAY: Okay. At this time, does
17 the Staff here at Headquarters have any questions for
18 Mr. Mulligan?

19 MS. MENSAH: Mr. Mulligan, this is Tanya
20 Mensah. I am the 2.206 Coordinator. And I just had
21 a couple of questions for my clarification, if you
22 don't mind.

23 MR. MULLIGAN: Sure.

24 MS. MENSAH: The first one was when we first
25 opened, you were talking about some of the

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1 interactions you had while you were still an employee
2 of Entergy and you mentioned --

3 MR. MULLIGAN: No, I wasn't. Entergy didn't
4 own the plant at the time. That was 20 years ago.

5 MS. MENSAH: Oh, okay. That was my
6 question. I was trying to clarify the time frame that
7 this happened. So you are saying that was 20 years
8 ago?

9 MR. MULLIGAN: 1999, yes. That was when I
10 was an employee, a licensed operator.

11 MS. MENSAH: Okay. And you made several
12 statements, I thought. I wanted to make sure I
13 understood that you have been -- I guess you said they
14 come to you on issues regarding security now. And I
15 was trying to clarify who is coming to you to consult.
16 Are you consulting? I just didn't understand the
17 context of your comment.

18 MR. MULLIGAN: Well, the example was that
19 back in 2001, Vermont Yankee guards met me up in
20 Brattleboro and made appointments to meet me and they
21 talked about the troubles they were having. And I
22 mean, Entergy didn't own the security firm at the time
23 and stuff. You know, they weren't -- Wait a minute,
24 1991. Right. So Entergy wasn't involved in it.

25 But the employees would come talk to me

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1 about, you know, poor working conditions, not enough
2 pay, and certain aspects of security in general and
3 stuff like that. And then I went around, I think I
4 wrote a letter to the NRC. I certainly talked to a
5 lot of state people.

6 Does that answer your question?

7 MS. MENSAH: Yes, it does. Thank you.

8 CHAIRMAN QUAY: Seeing no more questions in
9 Headquarters, does the Region have any questions?

10 MR. SETZER: No questions in the Region.
11 Thank you.

12 CHAIRMAN QUAY: Okay. Before I conclude the
13 meeting, members of the public may provide comments
14 regarding the petition and ask questions about the
15 2.206 petition process. However, as stated at the
16 opening, the purpose of this meeting is to not provide
17 an opportunity for the petitioner or the public to
18 question or examine the Petition Review Board
19 regarding the merits of the petition request.

20 No members of the public identified
21 themselves initially. Are there any members of the
22 public that are on the phone now that wish to comment?

23 (Pause.)

24 CHAIRMAN QUAY: Does the licensee have any
25 comments?

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1 MR. DEVINCENTIS: Entergy has no comments.

2 CHAIRMAN QUAY: Mr. Mulligan, thank you for
3 taking time to provide the NRC Staff with clarifying
4 information on the petition you've submitted.

5 Before we close, does the court reporter
6 need any additional information for the meeting
7 transcript?

8 COURT REPORTER: Mr. Chairman, there were
9 just a couple names that I had questions about. The
10 spelling of Jim, I think it was, Devinentis.

11 MR. DEVINCENTIS: Yes, this is Jim
12 Devinentis. The last name is D, as in David, E-V, as
13 in Victor, I-N-C-E-N-T-I-S.

14 COURT REPORTER: Thank you. Mr. Chairman,
15 you also mentioned the name it sounded like Bonnie
16 Smitzler.

17 CHAIRMAN QUAY: Schnetzler, and I will spell
18 that out for you. S-C-H-N-E-T-Z-L-E-R.

19 COURT REPORTER: Okay, thank you. That's
20 all.

21 CHAIRMAN QUAY: Okay, thank you. With that,
22 this meeting is concluded and we will be terminating
23 the phone connection. Thank you.

24 (Whereupon, at 10:30 a.m., the foregoing
25 conference call was adjourned.)

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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: (n/a)

Location: Telephone Conference

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
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