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NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition RE Vermont Yankee

Docket Number: (n/a)

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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10 CFR 2.206 PETITION REVIEW BOARD (PRB)

RE

VERMONT YANKEE PETITION

+ + + + +

WEDNESDAY

APRIL 13, 2011

+ + + + +

The conference call was held at 2:00 p.m.,
Michael Cheok, Chairperson of the Petition Review
Board, presiding.

PETITIONER: MICHAEL MULLIGAN

PETITION REVIEW BOARD MEMBERS

MICHAEL CHEOK, Division Director, Division of
Risk Assessment, NRR

JAMES KIM, Petition Manager for 2.206
Petition, NRR/Division of Operating
Reactor Licensing

MERRILEE BANIC, Petition Manager

MUHAMMAD RAZZAQUE, Reactor Systems Branch, NRR

THOMAS SETZER, Division of Reactor Projects

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NRC HEADQUARTERS STAFF:

NANCY SALGADO, Branch Chief, NRR/Division of
Operating Reactor Licensing

ALSO PRESENT:

JEFF MEYER, Vermont Yankee

P R O C E E D I N G S

2:00 p.m.

1
2
3 MR. KIM: Good afternoon. I want to thank
4 everybody for attending this meeting. My name is
5 James Kim and I'm a project manager. We are here
6 today to allow the petitioner, Mr. Michael Mulligan to
7 address the Petition Review Board regarding 2.206
8 petition dated March 17, 2011. I am the petition
9 manager for the petitioner. The Petition Review Board
10 Michael Cheok. As part of the Petition Review Board
11 review of this petition, Mr. Michael Mulligan has
12 requested the opportunity to address the PRB.

13 This meeting is scheduled from 2:00 to
14 3:00 p.m. The meeting is being recorded by the NRC
15 operation center, and will be transcribed by a court
16 reporter. The transcript will become a supplement to
17 the petition. The transcript will also be made.

18 I would like to open this meeting with
19 introductions. Everybody in the room please be sure
20 to clearly speak your name, your position and office
21 that you work for within the NRC for the record. This
22 is James Kim. I am a project for the Division of
23 Operating Reactor Licensing in NRR.

24 MS. SALGADO: This is Nancy Salgado. I am
25 branch chief in the Division of Operating Reactor

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1 Licensing NRR.

2 MR. CHEOK: I'm Mike Cheok, the Division
3 Director for the Division of Risk Assessment in NRR.

4 MS. BANIC: Merrillee Banic, Petition
5 Coordinator, NRR.

6 MR. RAZZAQUE: Muhammad Razaque, with the
7 Reactor Systems Branch, NRR.

8 MR. KIM: Are there any petitioners from
9 the region office on the phone?

10 MR. SETZER: Hi. This is Thomas Setzer.
11 I am a Senior Project Engineer in Region I.

12 OPERATOR: This is the headquarters ops
13 officer. I can do a roster playback if you would
14 like. It looks like you are already going ahead with
15 the identifications.

16 MR. KIM: That's fine.

17 OPERATOR: Would you like a roster
18 playback or not?

19 MR. KIM: No.

20 OPERATOR: Okay, thank you.

21 MR. KIM: Okay, thanks. Okay, are there
22 any representations for the licensing on the phone?

23 MR. MEYER: Yes. Jeff Meyer, VY, on the
24 home.

25 MR. KIM: Mr. Mulligan, would you please

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1 introduce yourself for the record?

2 MR. MULLIGAN: I am Mike Mulligan. I
3 once held a license at Vermont Yankee and I'm a
4 whistle blower.

5 MR. KIM: Thank you. It is not required
6 for members of the public to introduce themselves for
7 this call. However, if there any members of the
8 public on the phone that wish to do that at this time,
9 please state your name for the record? There is none.
10 I would like to emphasize that we each need to speak
11 clearly and loudly to make sure that the court
12 reporter can accurately transcribe this meeting. If
13 you have something you would like to say, please first
14 speak your name for the record. For those that are
15 here for the meeting, please remember to mute your
16 phone to minimize any background noise or
17 distractions. If you do not have a mute button, this
18 can be done by pressing keys *6 to mute, then press
19 the *6 keys again. Thank you.

20 At this time I turn it over to Chairman,
21 Michael Cheok.

22 MR. CHEOK: Good afternoon. Welcome to
23 this meeting regarding the 2.206 petition submitted by
24 Mr. Mulligan.

25 First, I would like to share some

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1 background on our process. Section 2.206 of Title 10
2 of the Code of Federal Regulations describes the
3 petition process. The primary mechanism for the
4 public to request enforcement action by the NRC in a
5 public process. This process permits anyone to
6 petition the NRC to take enforcement action related to
7 NRC licensees or license activities. Depending on the
8 results of this evaluation, NRC will modify, suspend
9 or reward the license or take any other appropriate
10 enforcement action to resolve the problem. This path,
11 guidance and disposition of the 2.206 petition
12 requests is in management directive 8.11 which is
13 publically available.

14 The purpose of today's meeting is to give
15 the petitioner an opportunity to provide any
16 additional explanations for support for the petition
17 before the Petition Review Board's initial
18 consideration and recommendation. This meeting is not
19 a hearing nor is it an opportunity for the petitioner
20 to question or examine the PRB on demerits or the
21 issues presented in the petition request. No
22 decisions regarding the merits for this petition will
23 be made at this meeting.

24 Following this meeting the Petition Review
25 Board will conducts its deliberations. At the outcome

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1 of this internal meeting will be discussed with the
2 petitioner. The Petition Review Board typically
3 consists of the chairman, who is usually a manager at
4 the Senior Executive Service level at the NRC. It has
5 the petition manager and the PRB coordinator. Other
6 members of the board determined by the NRC staff based
7 on the content of the information in the petition
8 request.

9 At this time I would introduce the board.
10 I am Michael Cheok, the Petition Review Board
11 chairman. James Kim is the petition manager for the
12 petition under discussion today. Merrilee Banic is
13 the petition coordinator. Our technical staff
14 includes Muhammad Razzaque from the Office of Reactor
15 Regulations, Reactor Systems Branch and Thomas Setzer
16 from NRC Region I's Division of Reactor Projects.

17 As part of our process NRC staff may ask
18 clarifying questions in order to better understand the
19 petitioner's presentation and the decision to accept
20 or reject the petitioner's request for review under
21 the 2.206 process.

22 Next I would like to summarize the scope
23 of the petition under consideration and the NRC
24 activities to date. On March 17, 2011 Mr. Mulligan
25 submitted to the NRC a petition under 2.206 selling

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1 the use of Buna N material instead of the originally
2 used silicon of main steam relief valves. In his
3 petition request, Mr. Mulligan, (1) requested Vermont
4 Yankee Nuclear Power Plant and all Entergy Nuclear
5 Power Plants to be immediately shut down. (2)
6 requested the licensee to replace the relief valve
7 Buna N material with silicon. (3) requested an
8 investigation of the one for one safety related
9 replacement parts program before startup throughout
10 Entergy and to consider the ongoing Entergy QAQC
11 investigation. (4) requested an outside NRC
12 investigation of the NRC behavior for tolerating this
13 atrocious regulatory behavior. (5) requested Vermont
14 Yankee management provide and replace before startup.
15 (6) requested Entergy's senior staff be fired and
16 replaced before the restart of the plants. (7)
17 request a formation of the local public oversight
18 panel around every plant. (8) requested an emergency
19 NRC senior official oversight panel of reforming the
20 reactor oversight process of the ROP. (9) requested
21 the national NRC oversight penal of outsiders to
22 oversee and report on the agency's activities. These
23 should be a mixture of professional people and capable
24 lay people. And (10) Mr. Mulligan stated that there
25 are some heavy duty and expediently numerous findings

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1 of problems at Entergy plants during this inspection
2 and reporting cycle. And he asked NRC to do an
3 analysis as to why this is occurring.

4 Next allow me to discuss NRC activities to
5 date. On March 23, 2011, Mr. Mulligan requested an
6 opportunity to address the PRB by telephone, which is
7 the purpose of today's call. On March 29, 2011, the
8 PRB met internally to discuss the request for
9 immediate action of the shutdown of Vermont Yankee.
10 The PRB denied the request for immediate action
11 because there was no immediate safety concerns to the
12 plant or to the health and safety of the public. On
13 March 30, 2011, Mr. Mulligan was informed of the PRB's
14 decision on the immediate action.

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

20 Mr. Mulligan, I will turn this over to
21 you. I will allow you to provide any information you
22 believe the PRB should consider as part of this
23 petition.

24 MR. MULLIGAN: Thank you. Just a few
25 sentences on this. Remember yesterday, I talked about

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1 corrupting language. We start the corrupt language or
2 speak inaccurately and it kind of snowballs and we end
3 up in our most of our institutional accidents.
4 Yesterday an NRC official talked about is there any
5 deaths in the nuclear industry. And he answered no.
6 And the correct answer is yes, there has been deaths
7 at nuclear power plants. There has been four of them
8 and the biggest one has been at Surry and that is
9 interesting that those employees that die were
10 pipefitters. You know they are kind of considered the
11 bottom of the barrel. It seems like we don't care
12 about people who are at the bottom of the barrel. And
13 we know that incident had unbelievable ramifications
14 in 1986 or 1987. It helped us with erosion and
15 corrosion of an assortment of piping in the plant.
16 And so I think those were nuclear related fatalities.
17 And Mr. Jaczko should have, considering his academic
18 background, he should have been able to answer that
19 question fully.

20 Anyways, back to Vermont Yankee, in Ginna,
21 G-I-N-N-A there's an LER, LER 2009-00. It is a
22 refurbishment of a electrohydrolic mechanism. They
23 discovered the Buna N material with an incorrect
24 material. This incompatible with the emergency
25 hydraulic fluid. And they say elevated temperatures

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1 damaged the o-rings, that no Buna N was installed.
2 They said Buna N incompatible with the system. The
3 root cause, I mean there's a question whether it is
4 incompatible with the fluid or is it too sensitive to
5 temperature. Browns Ferry at Unit 1, another LER,
6 2009-004, I can make a comment that there's questions
7 of the, if everything is reported in LERs, but these
8 are just 3-0, a bunch of LERs. Interesting Buna N
9 material defect was without fibers. It was in the
10 HIPSI oil control. That was also due to heat.
11 There's a gallo way, another LER gallo way LER 2008-
12 05. It is a main steam pump on low lube oil pressure.
13 Parts of a Buna N o-ring separated from the strainer
14 and got stuck in the oil pressure regulator, made from
15 ethylene propylene diene Monomer, EPDM, replaced with
16 Buna N. So you've got, you know, one of them saying,
17 one plant saying Buna N is the bad guy and the next
18 plant saying this EPDM is the bad guy, basically the
19 same fluid with the replacement of Buna N. It just
20 seems like there's a lot of contusion here.

21 We know back in 2003, it really goes back
22 to 1987 or what have you. That is a pretty big event
23 with this scram pilot valves. Reduce service of the
24 solenoid, valves with the Buna N, this diaphragm
25 material. When exposed to heat and air, the Buna N

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1 material became hard, flexible. As the diagram
2 hardens it becomes less flexible and therefore doesn't
3 come off the seat and thereby releases the rate of
4 which the air and vent off cram actuator. So I mean
5 materials engineer or a professional to me it sounds
6 like would have this diaphragm gasket or o-ring
7 material. It seems to me they would have an idea of
8 the quality standards of this Buna N and I find it
9 kind of amazing that essentially a brand new actuator
10 goes into the plant and fails after one cycle. We
11 know that and the LER talks about it with heat
12 related, with a solenoid and those are extremely
13 important valves, safety valves that are at the
14 nuclear power plant. I just can't understand why
15 those materials, you know, this modern day and age
16 with all you engineers and that type of stuff, why
17 you, you know, that the Buna N would have a gray type
18 of thing, whatever, however you guys term it and
19 stuff. You would have an environmental condition and
20 stuff that would, plus the accident conditions. And
21 you would know exactly what you got. You would custom
22 along the manufacturing process and before
23 installation into the actuators. We are playing with
24 very extremely important equipment. I don't
25 understand. It's not that hard to make sure that

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1 those materials have the quality stated to get your
2 money's worth. It is amazing. And then according to
3 the LER it says they replaced it back with Buna N
4 material. It really doesn't give you any indication,
5 if it's a different grade or is the same stuff.
6 There's no idea they are going to go into a new cycle,
7 if they are going to go for another cycle. And it
8 just seems like insane that anybody would ever
9 consider putting the same stuff back in and having it
10 fair on one cycle and then putting it in again. I
11 mean I know it is not the same stuff, but nonetheless,
12 it is just astonishing, lack of safety there, safety
13 considerations. We know that from Yankee that cycle,
14 it was a normal cycle. What would happen if we had,
15 if we were in an accident and if it was under elevated
16 temperatures for a number of hours and stuff like
17 that. How would it behave, you know that the material
18 give you a surprise once, what about all of the rest
19 of the surprises that happened in that accident and
20 that type of stuff? And then its new and the people
21 that make this stuff made the actuator Target Rock and
22 Curtiss Wright, these are professional people and they
23 are well known, they are well know companies and
24 stuff. They know what is at stake here. I don't
25 understand how they could have ever let those kind of

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1 materials into a safety relief valve. I haven't, it
2 is interesting that it was manufactured in 2002 and it
3 was installed in 2008. I don't see any other LERs
4 associated. Why didn't the other plants catch it?
5 Why aren't the other plants seeing it? It seems to be
6 a length of time that other plants should have popped
7 up the same kind of problems. They are going to make
8 a Part 21 report, Curtiss Wright. I'm just surprised,
9 that's another question. Why didn't, why haven't we
10 seen that stuff before, in other LERs?

11 Again, you know, there is not the
12 confidence that these utilities are reporting all the
13 stuff in LERs, all the stuff that's required reported
14 and also the stuff that shouldn't be reported and
15 there's not a lot of confidence that these private
16 reporting to NEI, they are all voluntary. If they
17 don't report, whose going to, are they going to get
18 punished and stuff like that. So, as far as these
19 reporting means, there's, the public has no confidence
20 that they are being served by these reporting
21 mechanisms that things are being forced to be reported
22 on. If they are not being reported on, there's a
23 consequence and if its reported on and then the
24 utility messed with it, then there's another
25 consequence and stuff like that. So there's issues

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1 with how these things get reported and all these
2 different mechanisms of industry reporting of events
3 and stuff like that. What is transparent and what is
4 the secret hidden system again? And we should have
5 one system and that should be open to everybody and
6 the utilities should be first to report either a Part
7 21 type of deal or something else. Everybody
8 shouldn't get confused with three or four different
9 kind of reporting mechanisms and stuff. That's what
10 I think. I think that nitrogen pressure opens the
11 valve, the pilot valve and its an automatic valve and
12 it opens on if the pressure is too high. And there's
13 also a nitrogen path that goes into the valve and
14 opens up the valve when the operators switch. I'm
15 surprised there is only analog. It is four strokes or
16 something like that. Why can't you have 100 cycles?
17 Why are we limited to four strokes? Everybody knows
18 that the sanitized the action where you only two or
19 three operations to the valve. A more realistic one
20 would be that a while before the plant shutdown and it
21 might take a whole bunch of cycles of the relief
22 valves as the plant cooled down, some of the more
23 severe accidents and stuff like that. So you know,
24 I've talked about the issues with the reactor building
25 cracks. Who knows what would happen? Like I said

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1 part of the concrete falls off. You know the
2 cryogenic tank right next to the building? How long
3 is that going to last? Why wouldn't that get knocked
4 over? And those nitrogen bottles on the south side of
5 the building, make up emergency bottles? The same
6 thing. The building might, part might fall off or
7 something some of these accidents and it knocked that
8 over. And then we talked all about blackouts and
9 stuff. You would think that the system would be more
10 durable than it is. I know its normally operated, its
11 an electric valve that opens up solenoids so I know,
12 the batteries, the four hour or eight hour batteries
13 and stuff like that. I know that's one way. It is
14 interesting. Why couldn't you have these released
15 outside the containment? What's the big deal with a
16 couple more holes in the containment? I mean, not
17 really holes but penetrations through the containment.
18 You would have valves outside and you could, then it
19 would be a lot easier to hook up air bottles or manual
20 operation or a whole bunch of stuff if you had them
21 out sitting on a wall somewhere. You know you could
22 make that case. You would want to minimize radiation
23 levels outside but I think that's a lesser deal than
24 to be able to have a whole bunch of ways to operate
25 that valve, a whole bunch of choices of operating that

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1 valve if those valves were instead of being in the
2 containment were on the outside of the wall. You
3 could have bottles right next to it. You could have
4 bottles outside that you put it right up to where the
5 station was. Like I said you could have manual
6 operations and then you would have an assortment of
7 different choices besides those valves being stuck in
8 that containment and unavailable in an accident.

9 The Buna N material is advertised as good
10 for oil, solvent and hydraulic fluid and it is good up
11 to pretty high temperatures. I read something like
12 260 degrees. So you know I'm curious on why it didn't
13 meet their advertisement environment. Why isn't there
14 any better material for seals, o-rings and diaphragms?
15 Now this Buna N stuff that seems to have a lot of
16 issues with it. You know, why isn't there some high
17 tech material that, you know, instead of having a
18 whole bunch of different standards and stuff like
19 that. You have one type of material that can meet
20 qualities and environments, you know and you wouldn't
21 have to fool around with so many different standards.
22 It doesn't seem like a big expense actually. I don't
23 know why is there no -- I don't see any grades of Buna
24 and stuff, NBC type of thing. That's another thing
25 that concerns me. You know the right way this should

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1 have been held is the place where you honor the
2 community and you honor me. But as with the utility
3 would have had some sort of meeting outside in one of
4 our hotels or in a room type of thing. We would talk
5 across the table with this, what the LER meant and
6 stuff. We would ask the NRC to be in there and then
7 be a free and open discussion of what was going on.
8 That would be the honorable way to take care of this
9 issue. Why do we have to go into this 2.206 process?
10 With the paralegal it's a almost legal type of thing
11 where there's a high hurdle for me because it is
12 legal. If there's a legal hurdle I have to cross. But
13 then I'm not covered with any legal. Like a
14 prosecutor, he has the subpoena power, you know. A
15 real legal system is that you both have essentially
16 the same standards and same transparency and same
17 requirements and all that sort of stuff. So you know,
18 there's no, the legal system isn't on my side where
19 I'm able to get required transparency and actually why
20 the community isn't getting any transparency. We talk
21 about these things. And you know, if we talked about
22 them it would probably make everybody behave better
23 and we would have a better industry instead of this,
24 I think this secrecy, massive system of secrecy and
25 stuff like that. I think people get behind these

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1 barriers and they do things they know they can get
2 away with. It makes the whole thing unstable, and
3 excessively expensive. If everybody knew that they
4 were going to get caught with what they were doing,
5 everybody would actually do what's good for us all and
6 we'd have a more stable industry and would probably
7 have less events. People would say you know these
8 nuclear guys, boy they sure are honest. They are not
9 regular people. They are into details and they will
10 talk about their sins until they are blue. I mean
11 they are really odd, these nuclear folks, the way they
12 talk on and on about their sins and they are decent
13 guys and stuff like that. Why can't we have that kind
14 of an image, instead of everybody hiding behind
15 barriers? You know, I think I have an issue with
16 that.

17 I think we would live in a better world if
18 we had, we all had less barriers and everybody could
19 see what everybody else was doing. And thank you very
20 much for this opportunity and I'm done.

21 MR. KIM: Okay, thank you Mr. Mulligan
22 for your comments and taking the time to discuss this
23 with us. At this time I am going to ask if staff at
24 headquarters have any questions for Mr. Mulligan?
25 They don't have any questions for you at headquarters.

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1 How about the region? Tom?

2 MR. SETZER: Thanks Mike. No questions
3 from the region.

4 MR. KIM: The licensee, I guess, Jeff
5 Meyer, have any questions?

6 MR. MEYER: No questions from licensee.

7 MR. KIM: I am sorry. I forget Muhammad.
8 Muhammad, do you have any questions?

9 MR. RAZZAQUE: No, I don't.

10 MR. KIM: All right thank you. Did any
11 members of public join the call while we were
12 discussing? There's no words from the public so there
13 will be no questions from them.

14 Well Mr. Mulligan, thank you again for
15 taking the time of talking to us and for clarifying
16 information on your petition which you submitted.

17 MR. MULLIGAN: Thank you.

18 MR. KIM: We all took notes and we will
19 again review the transcript before we go into our
20 decision making process and we will take your remarks
21 into consideration. Before we close, does the court
22 reporter need any additional information for the
23 meeting transcript?

24 COURT REPORTER: I do not.

25 MR. KIM: Okay, with that, this meeting

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1 is concluded and we will be terminating the phone
2 connection. Thank you.

3 (Whereupon the above-entitled conference
4 call was concluded at 2:33 p.m.)

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CERTIFICATE

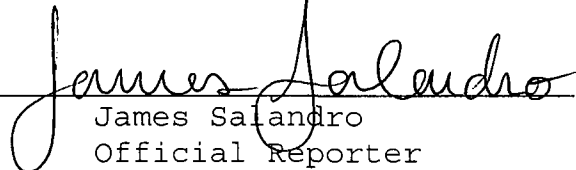
This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of: Vermont Yankee

Name of Proceeding: 10 CFR 2.206 Petition of
Michael Mulligan

Docket Number: (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.


James Salandro
Official Reporter
Neal R. Gross & Co., Inc.