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Title: 10 CFR 2.206 Petition RE Vermont Yankee

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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

+ + + + +

WEDNESDAY

MAY 4, 2011

+ + + + +

The conference call was held, Thomas Blount, Chairperson of the Petition Review Board, presiding.

PETITIONER: MICHAEL MULLIGAN

PETITION REVIEW BOARD MEMBERS

THOMAS BLOUNT, 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 MICHAEL CLARK, Office of the General Counsel

3 FARHAD FARZAM, Mechanical and Civil Engineering

4 Branch

5 MICHAEL MARKLEY

6 SAMUEL MIRANDA, Reactor Systems Branch, NRR

7 KIMBERLY SEXTON, Office of the General Counsel

8 GEORGE THOMAS, NRR

9 NRC REGION I STAFF

10 JIM CLIFFORD, Division of Reactor Projects

11 THOMAS SETZER, Division of

12 Reactor Projects

13 NRC REGION II STAFF

14 HAROLD CHRISTENSEN, Deputy Division Director,

15 Division of Reactor Safety

16 NRC REGION III STAFF

17 DAVID HILLS, Engineering Branch Chief

18 NRC REGION IV STAFF

19 THOMAS FARNHOLTZ, Branch Chief

20

21 ALSO PRESENT:

22 JIM DEVINCENTIS, Entergy

23

24

25

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P R O C E E D I N G S

2:02 p.m.

1
2
3 MR. KIM: Good afternoon. I'd like to
4 thank everybody for attending this meeting. My name
5 is James Kim, and I'm 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 March 17th, 2011.

10 I'm the petition manager for the petition.
11 The Petition Review Board Chairman is Tom Blount. As
12 part of the Petition Review Board's review of this
13 petition, Mr. Michael Mulligan has requested this
14 opportunity to address the PRB.

15 This meeting is scheduled from 2:00 to
16 3:00 p.m. Approximately 35 minutes of this hour will
17 be provided to Mr. Mulligan so that he can address the
18 PRB.

19 The meeting is being recorded by the NRC
20 Operations Center, and will be transcribed by a court
21 reporter.

22 The transcript will become a supplement to
23 the petition. The transcript will also be made
24 publicly available.

25 I'd like to open this meeting with

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1 introductions. As you go around the room, please be
2 sure to clearly state your name, your position, and
3 office that you work for within NRC for the record.

4 I'll start off. This is James Kim. I'm
5 a project manager in the division of Operating Reactor
6 Licensing in NRR.

7 MS. SEXTON: Kimberly Sexton, Office of
8 the General Counsel.

9 MR. CLARK: Mike Clark. I'm also with the
10 Office of the General Counsel.

11 CHAIRMAN BLOUNT: This is Tom Blount. I'm
12 with the Division of Policy and Rulemaking, and Office
13 of Nuclear Reactor Regulation, also the PRB chair.

14 MR. MIRANDA: Sam Miranda. I'm a
15 technical reviewer in the Reactor Systems Branch,
16 Office of Nuclear Reactor Regulation.

17 MR. THOMAS: This is George Thomas,
18 structural engineer in NRR Office of Engineering.

19 MR. KIM: At this time, are there any NRC
20 participants from headquarters on the phone?

21 MS. MENSAH: This is Tanya Mensah, NRR
22 Division of Policy and Rule-making. I'm the 2.206
23 coordinator.

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

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1 MR. SETZER: Yes, this is Tom Setzer. I'm
2 a Senior Project Engineer in Region 1.

3 MR. CLIFFORD: Jim Clifford, Division of
4 Reactor Projects, Region 1.

5 MR. FARNHOLTZ: Tom Farnholtz, Branch
6 Chief, Region 4.

7 MR. CHRISTENSEN: Chris Christensen,
8 Deputy Division Director, Division of Reactor Safety,
9 Region 2.

10 MR. HILLS: David Hills, Engineering
11 Branch Chief, Region 3.

12 MR. KIM: Okay. Are there any
13 representatives for the licensee on the phone?

14 MR. DEVINCENTIS: Yes, this is Jim
15 Devinentis from Entergy Nuclear Operations.

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

18 MR. MULLIGAN: I'm Mike Mulligan, a and
19 I'm a whistleblower.

20 MR. KIM: Okay. Thank you.

21 It is not required for members of the
22 public to introduce themselves for this call.
23 However, if there are any members of the public on the
24 phone that which to do so at this time, please state
25 your name for the record.

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1 Hearing none, I'd like to emphasize that
2 we each need to speak clearly and loudly to make sure
3 that the court reporter can accurately transcribe this
4 meeting. If you do have something that you'd like to
5 say, please first state your name for the record.

6 For those dialing in to the meeting,
7 please remember to mute your phones to minimize any
8 background noise or distractions.

9 If you do not have a mute button, this can
10 be done by pressing the keys star six. To un-mute,
11 press the star six keys again.

12 Thank you. At this time, I'll turn it
13 over to PRB chairman, Tom Blount.

14 CHAIRMAN BLOUNT: Thank you. Good
15 afternoon. We did have one addition to the room here,
16 and I'll let Mike introduce himself.

17 MR. MARKLEY: I'm Mike Markley, Chief of
18 Plant Licensing, Branch 4, in the Division of
19 Operating Reactor Licensing NRR.

20 CHAIRMAN BLOUNT: Great. Thank you, Mike.

21 With that, I welcome you to the meeting
22 regarding a 2.206 petition submitted by Mr. Mulligan.
23 I'd like to first share some background on our
24 process.

25 Section 2.206 of Title 10 of the Code of

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1 Federal Regulations describes the petition process,
2 the primary mechanism for the public to request
3 enforcement action by the NRC in a public process.
4 This process permits anyone to petition NRC to take
5 enforcement-type action related to NRC licensees or
6 licensed activities.

7 Depending upon the results of this
8 evaluation, NRC could modify, suspend, or revoke an
9 NRC-issued license or take any other appropriate
10 enforcement action to resolve a problem.

11 The NRC staff's guidance for the
12 disposition of 2.206 petition request is in management
13 directive 8.11, which is publicly available.

14 The purpose of today's meeting is to give
15 the petitioner an opportunity to provide any
16 additional explanation or support for the petition,
17 after the Petition Review Board's initial
18 consideration and recommendation.

19 This meeting is not a hearing, nor is it
20 an opportunity for the petitioner to question or
21 examine the PRB on the merits or the issues presented
22 in the petition request. No decisions regarding the
23 merits of this petition will be made at this meeting.

24 Following this meeting, the Petition
25 Review Board will conduct its internal deliberations.

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1 The outcome of this internal meeting will be discussed
2 with the petitioner.

3 The Petition Review Board typically
4 consists of a chairman, usually a manager at the
5 senior executive service level at the NRC. It has a
6 petition manager and a PRB coordinator.

7 Other members of the board are determined
8 by the NRC staff based on the content of the
9 information in the petition request.

10 At this time, I'd like to introduce the
11 Board. I'm Tom Blount, the Petition Review Board
12 Chairman. James Kim is the petition manager for the
13 petition under discussion today. Tanya Mensah is the
14 office's PRB coordinator.

15 Our technical staff includes George Thomas
16 and Farhad Farzam from the Mechanical and Solo
17 Engineering branch, Thomas Setzer from Region 1,
18 Division of Reactor Projects.

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

25 I'd like to summarize the scope of the

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1 petition under consideration and NRC's activities to
2 date. On March 17th, 2011, Mr. Mulligan submitted to
3 the NRC a petition under 2.206, in which you expressed
4 a concern that Vermont Yankee reactor building outer
5 shell is riddled with large concrete cracks resulting
6 in a collapse of the reactor building in case of a 6.0
7 earthquake.

8 Also, Mr. Mulligan stated that the last
9 ditch emergency source to prevent a Vermont Yankee
10 Fukushima nuclear plant meltdown depends solely on the
11 Vernon switchyard, and this switchyard couldn't
12 withstand an earthquake.

13 In this petition request, Mr. Mulligan
14 requested that Vermont Yankee Nuclear Plant and all
15 Entergy nuclear power plants be immediately shut down,
16 requested top Vermont Yankee management staff be fired
17 and replaced before start-up, requested Entergy's
18 corporate nuclear senior staff be fired and replaced
19 before the restart of the plant, requested the
20 formation of a local public oversight panel around
21 every plant, requested an emergency NRC senior
22 official oversight panel with the aims of reforming
23 the ROP, requested a national NRC oversight panel of
24 outsiders to oversee and report on the agency's
25 activity. There should be a mix of professional

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1 academic people and capable laypeople. Stated that
2 there is some heavy duty and exceedingly numerous
3 findings of problems with Entergy plants during this
4 inspection reporting cycle, and do an analysis of why
5 this is occurring.

6 So let me discuss the NRC activities to
7 date. On April 4th, 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 the
11 health and safety of the public.

12 On April 4th, 2011, you were informed of
13 the PRB's decision on the immediate action. On April
14 6th, 2011, you addressed the PRB via teleconference
15 and provided additional information in support of your
16 petition.

17 On April 19th, 2011, the PRB met
18 internally to discuss your petition. The PRB's
19 initial recommendation was that the petition did not
20 meet the criteria for review because you failed to
21 provide sufficient facts to warrant further inquiry.

22 Specifically, the petition, as
23 supplemented by the information provided during the
24 April 6th, 2011 teleconference, contains general
25 assertions that safety concerns exist. However, you

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1 failed to provide the PRB with sufficient facts to
2 support your request.

3 On April 21st, 2011, you were informed of
4 the PRB's initial recommendation, and you requested
5 another opportunity to address the PRB to provide any
6 comments on the PRB's initial recommendation, and
7 additional information in support of your petition.

8 As stated during the April 6th, 2011
9 teleconference, the subject of your petition focused
10 on the concrete cracks in the Vernon Dam.

11 For the purpose of today's discussion, we
12 ask that you provide additional relevant facts on
13 those specific aspects of your petition to support the
14 PRB's ability to make a final recommendation on your
15 petition.

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

20 Mr. Mulligan, I'll turn it over to you to
21 allow you to provide any information you believe the
22 PRB should consider as part of this petition. You'll
23 have approximately 35 minutes, starting now, to
24 address the PRB.

25 Thank you very much.

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1 MR. MULLIGAN: Thank you, Mr. Blunt. We
2 should recognize that most of the utilities in Vermont
3 refuse to do business with Entergy, Yankee in and
4 around this time frame. In other words, they don't
5 trust the word of Entergy, and integrity, and they
6 really don't want any business relationship with
7 Entergy in Vermont.

8 Essentially, that is a reflection on the
9 NRC that we have no basis that to trust Entergy, and
10 basically, to trust the NRC.

11 I was -- well, as far as the cracks, like
12 I said, I witnessed in 1990 some rather large cracks
13 in the top level of Vermont Yankee that were about
14 between an inch and an inch wide. A lot of the times
15 you could see the rebar in there. A lot of times,
16 there was water and rust leaking out of the cracks and
17 stuff like that.

18 So, I mean, you know, what is the
19 engineering basis of that plant, that that reactor
20 building can make its emergency commitments?

21 You know, just because it's not inspected
22 doesn't mean there's -- and then you say there's no
23 evidence doesn't mean there's a lack of evidence, I
24 mean, doesn't mean there's no evidence, it just means
25 you didn't inspect it.

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1 I was reading today the NRC's Atomic
2 Safety and Licensing Board presentation on the NRC's
3 web blog page, and basically, it talks about a full
4 and fair hearing. I mean, that's what the Atomic
5 Safety and Licensing Board declares. Where's the full
6 hearing?

7 One example would be like in our legal
8 system where you have a prosecutor, and the defendant
9 gets to see all the work of the prosecutor before he
10 goes to trial. And that's what a full and fair
11 hearing essentially means, that everybody gets to see
12 what's the underlying facts, and then you go into a
13 hearing and you're able to argue those facts and then
14 people make a reasoned decision about those facts.

15 And everybody knows that as far as the
16 2.206 process, the utility campaign contribution
17 business has kind of warped the whole system, and it
18 makes the system -- it makes it such that a petitioner
19 has no view of the underlying facts, or very little.

20 Entergy won't talk to me. The NRC won't
21 talk to me about the underlying facts. So, you know,
22 you never really get to -- everybody here really never
23 gets to see the facts.

24 The basic declaration of the NRC is, he
25 did not provide sufficient facts. It doesn't mean

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1 that there's no facts. It's just that I haven't been
2 able to provide the facts.

3 I haven't been given all of the facts
4 surrounding the reactor building shell, which is
5 known, and we can't openly discuss the -- whether it
6 meets its safety relatedness or not.

7 I mean, this is -- the system is corrupt
8 and stuff. Like I said, did not provide sufficient
9 facts, nobody even has the courage to ask if I was
10 provided all the facts, you know? A fair and full
11 system is one in which all the facts are presented,
12 everything is shown and I can argue what's there, and
13 the 2.206 doesn't allow that.

14 CHAIRMAN BLOUNT: Mr. Mulligan, this is
15 Tom Blount. So, based on what I think I hear you
16 saying, you envision this process to be one of a legal
17 or judicial process. Is that correct?

18 MR. MULLIGAN: Well, I was kind of
19 demonstrating how in our legal and judicial process,
20 how -- what our ideas are about transparency, you
21 know, as far as who gets to see all the facts.

22 CHAIRMAN BLOUNT: Well, yes, sir, but the
23 2.206 process is not designed for treating things as
24 a discovery or a case of law.

25 This is actually where -- a process where

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1 you or someone else, anyone can petition the NRC to
2 take action against a licensee, enforcement-type
3 action against the licensee, because you have
4 information specific to, and supported by facts, that
5 say, the licensee is not performing according to our
6 regulation.

7 So that's what we're trying to understand,
8 and that's what we'd like to have some -- have your
9 dialogue on.

10 MR. MULLIGAN: Well --

11 CHAIRMAN BLOUNT: Does that help?

12 MR. MULLIGAN: Well, that's kind of like -
13 - that's kind of a rule-ism type of thing, where the -
14 - I mean, that would work fine if I had access --
15 let's just say, to the facts, if I had access to the
16 facts.

17 You can't say, I'll give you a -- it's not
18 ethical to say, well, I'll give you a process, but you
19 have no basis to be able to get to see what's going on
20 inside there.

21 I might have clues or employees' comments
22 and stuff like that, but I mean, how -- to be honest,
23 an honorable process, how can it be an honorable
24 process if I'm not allowed to see what's going on
25 inside Vermont Yankee and the NRC?

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1 CHAIRMAN BLOUNT: Okay, so I don't want to
2 take away time from your opportunity to enhance the
3 petition that you provided to us, but I did want to
4 make sure that you understand what our process is as
5 it stands.

6 And that being the case, if you'd like to
7 dialogue on how to change the process, we can do that
8 in a different venue under a different phone call, but
9 I'd like to make sure that you maximize your time
10 presenting your case relative to this particular
11 petition. That's really what I was hoping to do is
12 help you with that.

13 CHAIRMAN BLOUNT: Well, you know, and
14 that's what I've been trying to do for a number of
15 years, as far as to understand -- as to create a more
16 fair and honorable and full hearing process, and stuff
17 like that.

18 So, you know, how would you go about -- I
19 mean, I thought this question would have been asked
20 years ago, Mike, so you think he process is fair?

21 And most everybody else in the kind of
22 stuff that I'm doing here feels the same way, that
23 this process is corrupted in the least. And how come
24 the NRC hasn't come forward, you know, on their own,
25 said, oh, you guys, you know, this process is unfair,

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1 how can we -- or United States of America, how can we
2 make this process more fair? What would be more fair
3 to you people instead of it always being driven by the
4 utilities?

5 So what could we do to straighten out this
6 mess, you know, like you said, another phone call,
7 where, how about what kind of a process we're going to
8 get would straighten out the 2.206, Mr. Blount?

9 CHAIRMAN BLOUNT: So, Mr. Mulligan, let me
10 offer, you give me a call at my office, you call the
11 NRC at 301-415 --

12 MR. MULLIGAN: Oh, could you give me --
13 could you give me --

14 CHAIRMAN BLOUNT: -- and ask for me, and
15 I'd be glad to have a conversation with you regarding
16 the 2.206 process.

17 But this afternoon, I'd like us to focus
18 on your petition and the additional information and
19 facts that you have to support that.

20 Does that help?

21 MR. MULLIGAN: Well. You know, how can I
22 do that if -- you know, there was no realistic way for
23 me to legally come upon the facts? Do you understand
24 what I'm saying?

25 You know, we're playing games here, but

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1 you know that there is a barrier up here, a process
2 that prevents petition-makers to come to the fact.

3 I mean, so you say you want to complete
4 the process, but the process isn't fair. You don't
5 allow anybody to get -- to get the facts. As this
6 thing says, you did not provide sufficient facts, you
7 know, you guys know that I have the facts that the
8 cracks are there, and they're true, and there is no
9 evidence in ADAMS of any inspection report or any
10 characterization of those cracks anywhere, and stuff
11 like that.

12 And you would think that that would have
13 been done in the past or in licensing where it could
14 be easily observed and identified and explained, what
15 you've done in plain English type of thing, but it
16 hasn't been done.

17 So there's a sense that we know there's
18 cracks there. Has the Entergy or the NRC, because of
19 the limitations of the public not being able to see it
20 on their own, have they provided that vehicle to
21 understand the true conditions of the reactor
22 building, the characteristics of this cement? Has
23 that been there?

24 Is the information available to -- I mean,
25 how do you get this information if there's a high-

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1 security fence, and there's all sorts of other
2 legalistic and rule tricks that you -- to
3 intentionally hide information from the public?

4 How is this supposed to be a fair process,
5 and you want me to go through a process without the
6 ability to know the underlying facts? I mean, there's
7 just no way to do it. It's catch 22, you know.

8 I'll just say, in closing, anyways,
9 because I didn't mean it to be such a long thing, I
10 just wanted to make sure everybody understood, I got
11 wrapped up here.

12 Can I get your phone number? I can't
13 remember. Yes, what's that phone number again, Mr.
14 Blount?

15 CHAIRMAN BLOUNT: It's 301-415-7000. And
16 ask for Tom Blount.

17 MR. MULLIGAN: 415-7000?

18 CHAIRMAN BLOUNT: Yes, sir.

19 MR. MULLIGAN: And you know, I'll just
20 make a closing set of quick remarks here.

21 For all we know and for all intensive
22 purposes, I could have pictures of those cracks, I
23 mean, right now. I could have gotten them from a
24 disgruntled employee, and I could be sitting on them
25 right now.

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1 And we could be going through this thing
2 with me knowing that when this is all done and over
3 with I can flip these pictures out and show what a
4 ridiculous situation I'm in with the 2.206, we -- if
5 a disgruntled employee could show up at any time and
6 give me those pictures, and we'd be in the same
7 position.

8 Furthermore, say Vermont Yankee shuts down
9 and in two to three years or in two to five years,
10 when things cool down a bit and stuff like that, maybe
11 and we get somebody in that reactor building and they
12 take those pictures.

13 And I'll tell you, you guys will be in the
14 same crisis as we are now as far as looking back and
15 saying, you know what, those cracks were big, and they
16 question the safety function of the Vermont Yankee
17 building.

18 And the NRC was stonewalling Mike Mulligan
19 back in 2011, and we could be in a crisis of
20 confidence with the NRC at other plants, you know, if
21 they're doing this kind of crap with Mike Mulligan and
22 Vermont Yankee, they're going to be doing it all over
23 the nation, and everything is suspect about -- with
24 the Vermont Yankee activities.

25 As far as the rebar and the cement of the

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1 upper walls of the Vermont Yankee building, you know,
2 you could make a case that if the building was built
3 right, it would provide sufficient safety if an
4 airplane crashed into the building, it would repel the
5 aircraft.

6 If the rebar and the cement is all
7 degraded and in unknown condition, you know, it's been
8 opened up to the air and water and moisture and all
9 that sort of stuff, a lot of this rebar, an airplane
10 could easily go through this cement building when it
11 shouldn't have, and stuff, and so those are the
12 issues.

13 You know, all I want to do is get down to
14 the bottom of this and have the NRC and Entergy prove
15 to me that that Vermont Yankee is safe, instead of me,
16 in a vulnerable position of having no ability to see
17 any of this information and data, having to prove that
18 the Vermont Yankee is unsafe. I want you people to
19 prove to the community that beyond a reasonable doubt,
20 that that building is safe.

21 Thank you very much. Mike Mulligan.

22 CHAIRMAN BLOUNT: Thank you, Mr. Mulligan.
23 I appreciate your insights.

24 Before we close out the meeting, let me
25 ask the staff here at NRC headquarters, does anyone

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1 have any questions for Mr. Mulligan?

2 No questions here. How about the region?

3 Region 1, do you have any questions for MR. Mulligan?

4 MR. SETZER: None from Region 1.

5 CHAIRMAN BLOUNT: Region 2?

6 MR. CHRISTENSEN: No questions.

7 CHAIRMAN BLOUNT: Region 4?

8 MR. FARNHOLTZ: No questions from Region

9 4.

10 CHAIRMAN BLOUNT: Anyone else from NRC

11 have any questions for Mr. Mulligan on the phone?

12 MR. MULLIGAN: Excuse me -- is there any

13 like date or certain time of day that would be better

14 for you as far as calling you?

15 CHAIRMAN BLOUNT: If you call me and I --

16 you know, without having my schedule in front of me,

17 Mr. Mulligan, I'd just suggest you call me --

18 MR. MULLIGAN: And you'll get back to me,

19 that type of thing?

20 CHAIRMAN BLOUNT: Exactly. So, that

21 should work.

22 Anyone else from NRC on the phone that has

23 any questions for Mr. Mulligan?

24 Hearing none, does the licensee have any

25 questions for Mr. Mulligan?

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1 MR. DEVINCENTIS: Entergy has no
2 questions.

3 CHAIRMAN BLOUNT: Are any members of the
4 public on the line?

5 Very good.

6 Before we close out this meeting, let me
7 ask the court reporter, do you have any questions or
8 issues that need to be addressed before we terminate
9 the call?

10 COURT REPORTER: I wasn't sure about all
11 the names, but if someone could just email me a list
12 of the NRC participants after the fact, that would be
13 sufficient.

14 MR. KIM: Okay. This is James Kim, and
15 I'll do that.

16 COURT REPORTER: Great. Thank you, Mr.
17 Kim.

18 CHAIRMAN BLOUNT: Thank you very much.
19 And thank you again, Mr. Mulligan.

20 With that, this meeting is concluded, and
21 we're terminating the phone connection.

22 Thank you, everyone. Have a great day.

23 (Whereupon, the above-entitled matter was
24 concluded at 2:31 p.m.)

25

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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
Neal R. Gross & Co., Inc.