



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

June 28, 2011

Mr. Thomas Saporito, Consulting Associate
Saprodani Associates
P.O. Box 8413
Jupiter, FL 33468

Dear Mr. Saporito:

On behalf of the Nuclear Regulatory Commission (NRC), I am responding to your letter dated March 12, 2011, in which you requested the NRC to:

...take escalated enforcement action against the above-captioned licensee(s) and suspend, or revoke the NRC license(s) granted to the licensee(s) for operation of nuclear power reactors; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee captioned-above in this matter. In particular, Petitioners request that the NRC ORDER the immediate shut-down of all nuclear power reactors in the USA which are known to be located on or near an earthquake fault-line.

As the basis of the request, you stated:

- That following an 8.9 magnitude earthquake on March 11, 2011, in Japan, one or more nuclear power reactors there sustained significant damage which resulted in the release of radioactive particles into the environment, and that the Japanese authorities ordered a "General Emergency Evacuation," but many Japanese citizens were not able to timely leave the affected area and were subject to radioactive contamination at this time.
- That many of NRC's licensees operate nuclear power reactors on or near earthquake fault lines and could, therefore, be subject to significant earthquake damage and loss-of-coolant-accidents (LOCA) similar to that experienced by those in Japan for which an on-going state of emergency continued to unfold.

In accordance with Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," dated October 25, 2000, the NRC has processed your letter under Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under This Subpart," and assigned this petition to the NRC's Office of Nuclear Reactor Regulation.

On March 21, 2011, the Petition Manager, Mr. Peter Tam, acknowledged receipt of your March 12, 2011, petition (Agencywide Documents Access and Management System (ADAMS) Accession No. ML110800100). On the same day you requested to address the Petition Review Board (PRB) both before and after its initial meeting to consider your petition.

On April 4, 2011, the PRB met internally to discuss your request for immediate action. The PRB determined that your request for immediate action is a general assertion without supporting facts. Thus, the PRB did not identify a significant safety concern from the information provided

which would warrant the NRC to order an immediate shutdown of nuclear power reactors located on or close to fault lines. On April 4, 2011, you were informed of the PRB's decision about the immediate action.

On April 14, 2011, you addressed the PRB during a teleconference. A copy of the teleconference transcript is available at ADAMS Accession No. ML11109A014. During the teleconference, you stated that your petition falls into four requests as follows:

1. Order the immediate shutdown of all nuclear power reactors located on or near an earthquake fault line in the United States;
2. Order the immediate shutdown of all power reactors employing GE Mark I containment design in the United States, characterizing such design as flawed from the nuclear safety standpoint.
3. Advise other countries employing the GE Mark I nuclear power reactors about the serious nuclear safety design flaws associated with that design, which is likely to result in a serious nuclear accident comparable to the Japanese nuclear disaster.
4. Immediately revoke all 20-year license extensions issued to NRC licensees, because the NRC "has improperly and illegally granted 20-year license extensions to the 40-year license that was initially granted by the agency for the 104 nuclear reactors throughout the United States."

During the teleconference, you supplemented the above Request 2 by specifically naming NRC-licensed plants that employ the GE Mark I containment design (Browns Ferry, Brunswick, Cooper, Dresden, Duane Arnold, Hatch, Fermi, Hope Creek, Fitzpatrick, Monticello, Nine Mile Point, Oyster Creek, Peach Bottom, Pilgrim, Quad Cities, and Vermont Yankee) and characterizing them as "flawed nuclear reactors" which pose an "unwarranted risk to the national security and common defense of the United States of America." You stated that "for these reasons standing alone, petitioners urge the NRC to order the immediate shutdown of all GE Mark I nuclear power reactors in the United States." Subsequently, on April 14 and 16, 2011, you provided additional documents in support of your claim (ADAMS Accession Nos. ML11110A026, ML11110A027, ML11110A028, and ML11119A024).

The PRB met internally on April 28, 2011, to discuss your petition, as supplemented. In accordance with the criteria for review and rejection described in MD 8.11, the PRB made its initial recommendation to accept the petition in part.

On May 12, 2011, the Petition Manager informed you of the PRB's initial recommendation to accept your petition in part. At that time, you repeated your original request for another opportunity to address the PRB to provide comments on the PRB's initial recommendation and additional information in support of your petition.

On May 25, 2011, you addressed the PRB by teleconference to present supplemental information on your petition. Also, on May 25, 2011, you e-mailed additional information to the NRC (ADAMS Accession No. ML111450897), which the PRB considered. A copy of the transcript of the May 25, 2011, teleconference is available under ADAMS Accession No. ML11146A010.

The additional information you provided on May 25, 2011, via teleconference and e-mail, addressed numerous and diverse issues that you had not raised in your March 12, 2011, letter. These new issues included the effects of hurricanes on the Turkey Point and St. Lucie nuclear plants. You also raised issues that appeared to relate to nuclear plants generally, including emergency batteries, emergency diesel generators, nitrogen purge systems, potential terrorist attacks, stability of the electrical grid, supplemental water supplies for reactor core cooling, and spent fuel storage.

PRB's Final Recommendation

As stated above, the PRB is rejecting your petition to the extent you seek an immediate shutdown of certain nuclear power reactors in the United States. The remainder of the PRB's recommendation is as follows:

Requests 1 and 2

The NRC's ongoing monitoring of events at the Fukushima Daiichi Nuclear Power Plant in Japan and review of available information to date leads the NRC to conclude that U.S. plants (including those at or near earthquake faults and those that employ the GE Mark I reactors) continue to operate safely and do not pose an immediate safety concern to the members of the public.

The supporting facts provided in the petition for Requests 1 and 2, as supplemented by the teleconferences and your additional submittals, were found to be insufficient to warrant that the NRC immediately shut down U.S. nuclear power plants at or near earthquake faults or those employing the Mark I reactors.

Specifically regarding Request 2 (pertaining to your concerns on GE Mark I reactors), you asserted that due to design flaws, GE Mark I reactors are more vulnerable to severe accident challenges. To support your assertion, you provided supplemental documentation (dated April 14 and 16, 2011) to the NRC following the April 14, 2011, teleconference. The PRB reviewed the supplemental information you provided, which consisted of newspaper articles, reports by watchdog groups, correspondence between individuals, internal Atomic Energy Commission memoranda, and other information. The PRB noted that your concern was previously addressed and resolved by the NRC in NUREG-0661, "Safety Evaluation Report Mark I Containment Long-Term Program – Resolution of Generic Technical Activity A-7," dated July 1980 (ADAMS Accession No. ML072710452), and Generic Letter 89-16 "Installation of a Hardened Wetwell Vent," dated September 1, 1989 (ADAMS Accession No. ML031140220).

The NRC's monitoring of the events that unfolded at Fukushima has resulted in the Commission establishing a senior-level task force to conduct a methodical and systematic review to evaluate currently available technical and operational information from the Fukushima events. This will allow the NRC to determine whether it should take certain near-term operational or regulatory actions potentially affecting all 104 operating reactors in the United States. The areas of inquiry include the ability to protect against natural disasters and severe accidents. As identified in its charter, the task force will focus its evaluation on the areas identified in 10 CFR 50.54(hh)(2), which states:

Each licensee shall develop and implement guidance and strategies intended to maintain or restore core cooling, containment, and spent fuel pool cooling capabilities under the circumstances associated with loss of large areas of the plant due to explosions or fire, to include strategies in the following areas: (i) Fire fighting; (ii) Operations to mitigate fuel damage; and (iii) Actions to minimize radiological release.

In Requests 1 and 2 above, and also, in certain additional requests made during the May 25, 2011 teleconference, you seek additional regulatory action to protect public health and safety in the event of earthquake damage and LOCAs similar to those experienced by the nuclear power reactors in Japan. Although the NRC is rejecting your requests for immediate action, we are accepting your petition to the extent you seek some type of enforcement action in light of the events at Fukushima. Taking into account any findings issued by the task force, the NRC expects to evaluate in the near future whether it should take any enforcement action based on the events you have identified.

Request 3

Your request for the NRC to share information with international stakeholders is a general request for the NRC to ensure that policies exist to support the sharing of information related to the events involving Fukushima. The NRC's current policies and practices support its openness goals with external, including international, stakeholders. Specifically, since the earthquake and tsunami in Japan, the NRC has participated in meetings at the International Atomic Energy Agency, Nuclear Energy Agency, G8 Nuclear Safety and Security Group, and at numerous other bilateral and multilateral meetings to share information on this event with NRC's international counterparts. Therefore, since you requested an action that the NRC is currently implementing, the PRB determined that this request does not meet the criteria for review on the basis that the request does not set forth sufficient facts to warrant further actions beyond the actions that the NRC has already undertaken to ensure openness on this issue with all external stakeholders.

Request 4

Under MD 8.11, the Staff will review a petition under 10 CFR 2.206 only where the petitioner specifies the bases for taking the requested action. Although you assert that the NRC lacked the legal authority to grant license extensions for numerous plants, you fail to set forth the basis for your assertion. Your claim that the NRC acted "improperly and illegally" is a general claim that is insufficient to warrant further inquiry. Accordingly, your Request 4 does not meet the criteria for review.

MD 8.11 also sets forth the following criterion for rejecting a petition: "The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question." All license extensions have been subjected to NRC's license renewal review process, including the opportunity for a hearing. Thus, Request 4, which proposes to revoke all extended (renewed) licenses, is rejected based on this criterion for rejecting a petition.

T. Saporito

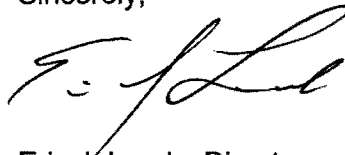
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Summary

The PRB's initial recommendation to accept your petition for review, as modified and supplemented, has become the PRB's final recommendation. The additional information you provided did not change the PRB's decision to deny the request for immediate action.

As required by 10 CFR 2.206, the NRC will act on your petition within a reasonable time. The Petition Manager, Mr. Peter Tam, can be reached at (301) 415-1451. I have enclosed for your information a copy of the notice that the NRC is filing with the Office of the *Federal Register* for publication. I have also enclosed for your information a copy of the brochure, NUREG/BR-0200, Revision 5, "Public Petition Process," issued February 2003, prepared by the NRC's Office of Public Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Leeds". The signature is fluid and cursive, with a large initial "E" and "L".

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Enclosures:

1. *Federal Register* Notice
2. NUREG/BR-0200

cc: Listserv

ENCLOSURE 1

FEDERAL REGISTER NOTICE

NUCLEAR REGULATORY COMMISSION

RECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

ADAMS ACCESSION NO. ML11143A124

NUCLEAR REGULATORY COMMISSIONRECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition dated March 12, 2011, Thomas Saporito (petitioner) has requested that the Nuclear Regulatory Commission (NRC) take action to order shutdown of all "nuclear power reactors in the USA [United States of America] which are known to be located on or near an earthquake fault-line."

As the basis for this request, the petitioner states that following an 8.9 magnitude earthquake on March 11, 2011, in Fukushima, Japan, one or more nuclear power reactors there sustained significant damage which resulted in the release of radioactive particles into the environment, and that the Japanese authorities ordered a "General Emergency Evacuation," but many Japanese citizens were not able to timely leave the affected area and were subject to radioactive contamination at this time. The petitioner further stated that many of NRC's licensees operate nuclear power reactors on or near earthquake fault lines and could, therefore, be subject to significant earthquake damage and loss-of-coolant accidents similar to that experienced by those in Japan for which an on-going state of emergency continued to unfold.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* Section 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. The NRR Petition Review Board (PRB) held two recorded teleconferences on April 14 and May 25, 2011, with the petitioner, during which the petitioner supplemented and clarified the petition. The results of those discussions were considered in the PRB's determination regarding the petitioner's request for immediate action and in establishing the schedule for the review of the petition. As a result,

the PRB acknowledged the petitioner's concern about the impact of a Fukushima-type earthquake and tsunami on U.S. nuclear plants, noting that this concern is consistent with the NRC's mission of protecting public health and safety. Currently, the NRC's monitoring of the events that unfolded at Fukushima has resulted in the Commission establishing a senior-level task force to conduct a methodical and systematic review to evaluate currently available technical and operational information from the Fukushima events. This will allow the NRC to determine whether it should take certain near-term operational or regulatory actions potentially affecting all 104 operating reactors in the United States. In as much as this task force charge encompasses the petitioner's request, which has been interpreted by the PRB to be a determination if additional regulatory action is needed to protect public health and safety in the event of earthquake damage and loss-of-coolant accidents similar to those experienced by the nuclear power reactors in Japan resulting in dire consequences, the NRC is accepting the petition in part, and as described in this paragraph.

A copy of the petition, and the transcripts of the April 14 and May 25, 2011, teleconferences are available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents

located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to PDR.Resource@nrc.gov.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "E. J. Leeds", written over the typed name below.

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 28th day of June, 2011.

T. Saporito

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Summary

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Sincerely,

/RA/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Enclosures:

1. *Federal Register* Notice
2. NUREG/BR-0200

cc: Listserv

DISTRIBUTION: G20110171/EDATS: OEDO-2011-0192
See next page

ADAMS Accession Nos:

Package: **ML11137A215**

Incoming: **ML110740026**

Letter: **ML11137A213**;

FR Notice: **ML11143A124**

NUREG/BR-0200: **ML050900248**

*via e-mail

OFFICE	DORL/LPL3-1/PM	DORL/LPL3-1/LA	NRR/DPR*	NRR/DPR/DD	NRR/DORL/D	NRR/OD
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DATE	6 /15/11	6 /14/11	6/15 /11	6/16/11	6/17/11	6/28/11

OFFICIAL RECORD COPY

Letter to Thomas Saporito from Eric J. Leeds dated June 28, 2011.

SUBJECT: ACKNOWLEDGMENT LETTER - PETITION OF MARCH 12, 2011

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RidsNrrPMHope Creek Resource

RidsNrrPMMonticello Resource

RidsNrrPMNineMilePoint Resource

RidsNrrPMOysterCreek Resource

RidsNrrPMPeach Bottom Resource

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