

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition Review Board
RE Vermont Yankee

Docket Number: n/a

Location: (telephone conference)

Date: Monday, May 16, 2011

Work Order No.: NRC-900

Pages 1-19

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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

+ + + + +

MONDAY

MAY 16, 2011

+ + + + +

The conference call was held, Melanie Galloway, Chairperson of the Petition Review Board, presiding.

PETITIONER: MICHAEL MULLIGAN

PETITION REVIEW BOARD MEMBERS

MELANIE GALLOWAY, Deputy Director, Division of License Renewal, NRR

JAMES KIM, Petition Manager for 2.206 petition

ANDREA RUSSELL, Petition Review Board Coordinator

TOM SETZER, Senior Project Engineer, Region I

NRC HEADQUARTERS STAFF

NANCY SALGADO, Branch Chief, Division of Operator and Reactor Licensing, NRR

P R O C E E D I N G

10:59 a.m.

MR. KIM: On the record. Good morning.

I'd like to thank everybody for attending this meeting. My name is James Kim and I'm the Project Manager. We are here today to allow the Petitioner, Mr. Michael Mulligan, to address the Petition Review Board regarding 2.206 Petition dated March 25, 2011.

I'm the Petition Manager for the Petition. The Petition Review Board's Chairperson is Melanie Galloway. As part of the Petition Review Board's review of this Petition, Mr. Michael Mulligan has requested this opportunity to address the PRB.

This meeting is scheduled from 11:00 a.m. to 12:00 p.m. The meeting is being recorded by the NRC Operations Center and will be transcribed by a court reporter. The transcript will become a supplement to the Petition. The transcript will also be made publicly available.

I would like to open this meeting with introductions. As we go around the room, please be sure to clearly state your name, your position and the organization you work for within the NRC for the record.

I'll start off. This is James Kim. I'm

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1 a Project Manager for the Division of Operator and
2 Reactor Licensing in NRR.

3 MS. SALGADO: This is Nancy Salgado. I'm
4 a Branch Chief in the Division of Operator and Reactor
5 Licensing in NRR.

6 MS. GALLOWAY: This is Melanie Galloway.
7 I'm Deputy Director of the Division of License Renewal
8 here at NRR.

9 MS. RUSSELL: Andrea Russell, 2.206
10 Petition Manager, Division of Policy and Rulemaking,
11 NRR.

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

14 (No verbal response.)

15 Are there any NRC participants from the
16 regional office on the phone?

17 MR. SETZER: Good afternoon. This is Tom
18 Setzer, Senior Project Engineer Region I.

19 MR. KIM: Thank you.

20 Are there any representatives for the
21 Licensee on the phone?

22 MR. MYER: Yes. Jeff Myer, VY.

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

25 MR. MULLIGAN: I'm Mike Mulligan and I'm

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1 a whistleblower.

2 MR. KIM: Thank you.

3 It is not required for the members of the
4 public to introduce themselves for this call. However
5 if there are any members of the public on the phone
6 that wish to do so at this time please state your name
7 for the record.

8 (No verbal response.)

9 Hearing none, I would like to emphasize
10 that we each need to speak clearly and loudly to make
11 sure that court reporter can accurately transcribe
12 this meeting. If you do have something that you would
13 like to say, please first state your name for the
14 record.

15 For those dialing into the meeting, please
16 remember to mute your phones to minimize any
17 background noise or distractions. If you do not have
18 a mute button that it can be done by press the keys
19 *6. To mute press the *6 keys again. Thank you.

20 At this time, I will turn it over to the
21 PRB Chairperson Melanie Galloway.

22 SR. SPEC AGENT GALLAGHER: Thanks, Jim.

23 Good morning and welcome to this meeting
24 regarding the 2.206 Petition submitted by Mr.
25 Mulligan. I'd like to first share some background on

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1 our process.

2 Section 2.206 of Title 10 of the Code of
3 Federal Regulations describes the petition process
4 which is the primary mechanism for the public to
5 request enforcement action by the NRC in a public
6 process. This process permits anyone to petition NRC
7 to take enforcement type action related to NRC
8 licensees or licensed activities.

9 Depending on the results of this
10 evaluation, NRC could modify, suspend or revoke an NRC
11 issued license or take any other appropriate
12 enforcement action to resolve a problem. The NRC
13 staff's guidance for the deposition of 2.206 petition
14 request is a Management Directive 8.11 which is
15 publicly available.

16 The purpose then of today's meeting is to
17 give the Petitioner, Mr. Mulligan, an opportunity to
18 provide any additional explanation or support for the
19 Petition after the Petition Review Board's initial
20 consideration or recommendation. This meeting is not
21 a hearing nor is it an opportunity for the Petitioner
22 to question or examine the PRB on the merits or the
23 issues presented in the Petition request.

24 No decisions regarding the merits of this
25 Petition will be made at this meeting. Following this

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1 meeting, the Petition Review Board will conduct its
2 internal deliberation. The outcome of this internal
3 meeting will be discussed with the Petitioner.

4 The Petition Review Board typically
5 consists of a chairperson, usually a manager at the
6 senior executive service level at the NRC. It has a
7 petition manager and PRB coordinator. Other members
8 of the Board are determined by the NRC staff based on
9 the content of the information in the petition
10 request.

11 At this time, I would like to introduce
12 the Board. As Jim noted, I am Melanie Galloway,
13 Petition Review Board Chairperson. Jim Kim is the
14 Petition Manager for the Petition under discussion
15 today. Andrea Russell is the Office's PRB
16 Coordinator. Our technical staff for this Petition
17 includes Tom Setzer from NRC Region 1, Division of
18 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 a
22 reasonable decision whether to accept or reject the
23 Petitioner's request for review under the 2.206
24 process.

25 Let me summarize the scope of the Petition

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1 under consideration and the NRC activities to date.
2 On March 25, 2011, Mr. Mulligan submitted to the NRC
3 a petition under 2.206 in which he expressed a concern
4 on the following nuclear plant safety systems at
5 Vermont Yankee that he described in his petition as
6 nontestable: first, the automatic pressurization
7 system or APS, the main steam supply release system;
8 second, the Vernon tie; third, the service water
9 system and RHR system tie and the emergency cooling
10 tower cell which is the backup cooling system for the
11 emergency diesel generators; fourth, alternate
12 shutdown outside the control room that is the Vernon
13 tie instead of the service water RHR cross connect;
14 and fifth, the ECCS functional test at every outage.

15 In this petition request, then Mr.
16 Mulligan made several requests of NRC. First, he
17 requested that all nontestable safety systems be
18 immediately tested or the plant shut down; second, he
19 requested an outside-the-NRC investigation of this NRC
20 behavior for tolerating this atrocious regulatory
21 behavior; third, he requested that top Vermont Yankee
22 management staff be fired and replaced before startup;
23 fourth, he requested Entergy's corporate nuclear
24 senior staff be fired and replaced before the restart
25 of the plant; fifth, he requested the formation of a

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1 local public oversight panel around every nuclear
2 plant; sixth, he requested an emergency NRC senior
3 official oversight panel with the aims of reforming
4 the reactor oversight process; seventh, he requested
5 a national NRC oversight panel of outsiders to oversee
6 and report on the Agency's activities and he further
7 suggested that there should be a mixture of
8 professional academic people and capable laypeople;
9 eighth, Mr. Mulligan stated that there was some heavy-
10 duty and exceedingly numerous findings of problems
11 with Entergy plants during this inspection reporting
12 cycle and that there should be an analysis of why this
13 is occurring; and lastly, Mr. Mulligan requested a
14 list of nontestable nuclear safety systems country
15 wide.

16 At this point, let me discuss the NRC
17 activities on this Petition to date. On April 5,
18 2011, the Petition Review Board met internally to
19 discuss Mr. Mulligan's request for immediate action of
20 emergency shutdown of Vermont Yankee. The PRB denied
21 the request for immediate action because there was no
22 immediate safety concern to the plant or the health
23 and safety of the public.

24 On April 5, 2011, Mr. Mulligan was
25 informed of the PRB's decisions on the immediate

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1 actions.

2 On April 12, 2011, Mr. Mulligan addressed
3 the PRB via teleconference and provided additional
4 information in support of his petition.

5 On April 25, 2011, the Petition Review
6 Board met internally to discuss this Petition. The
7 PRB's initial recommendation was that the Petition did
8 not meet the criteria for review because Mr. Mulligan
9 had failed to provide sufficient facts to warrant
10 further inquiry. Specifically, the Petition contained
11 general assertions that safety concerns exist.
12 However, Mr. Mulligan did not provide the PRB with
13 sufficient facts to support his request.

14 On April 29, 2011, Mr. Mulligan was
15 informed of the Petition Review Board's initial
16 recommendation and requested another opportunity to
17 address the PRB which is what we're doing today to
18 provide any comments to our initial recommendation and
19 additional information in support of his Petition.

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

25 At this point, Mr. Mulligan, I'll turn it

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1 over to you to allow you to provide any information
2 that you believe the Petition Review Board should
3 consider as part of this Petition.

4 Mr. Mulligan.

5 MR. MULLIGAN: Thank you, Ms. Galloway.

6 You know, the Commissioner Fukushima
7 update was actually pretty good. It did have some
8 provocative questions during it and seemingly some of
9 the questions seemed to be related to some of my
10 issues.

11 It should be noted that generally the NRC
12 says that it's essentially samples of these utilities
13 and they found so many deficiencies at the plants.
14 But we don't know what samples they are. We really
15 don't know the quality or what does it consist of.

16 And it reminds me of an issue at Vermont
17 Yankee back a couple years ago when I questioned
18 Torres (phonetic) cooling, why they were doing Torres
19 cooling. The NRC violated Vermont Yankee on taking
20 home strategies when they were operating the system
21 and I believe they got a couple of violations on it.
22 And I believe that nationwide there's been a couple of
23 more violations or quite a few.

24 And so I questioned the NRC what was going
25 on. We discovered that they were -- They had a

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1 leaking exhaust panel or a blowout shield or blowout
2 panel or something. And then they were replacing it.
3 They replaced it. And so they were retesting HIPSI.
4 They were dinged on not doing the mitigating strategy.
5 So I called the NRC and talked about it and stuff like
6 that.

7 You know they came out with this what the
8 level of punishment was. They basically came out
9 talking about risk and exposure time and considering
10 this one event and stuff. And I questioned them and
11 I have the knowledge that it was going on more than
12 one time, probably quite a few times beforehand.

13 So the issue is sampling. The NRC takes
14 a sample and they expressed it as exposure time and
15 risk and punishment activity I guess for Entergy to
16 change its tune. Well, basically it happened over
17 many times in the past and there was no extended
18 condition type of thing on it. You really didn't know
19 what the risk was. Exposure time, all of the exposure
20 times Vermont Yankee wasn't doing this and stuff. You
21 didn't get the feeling that it captured all of the
22 activities at Vermont Yankee. And thus the intensity
23 of trying to get Vermont Yankee to change its tune.

24 So that's what this business with sampling
25 is and it's important to me. You know, what does a

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1 sample mean? Does it mean that we just look
2 hypothetically through a lens of one time? Do we have
3 an understanding of how widespread it is? And then we
4 can do our reform activities out of it.

5 I mean this really is a good sample of why
6 the 2.206 process is defective. It did take a 2.206
7 petition to uncover all the faults with the tie and
8 the ultimate shutdown system. It takes six -- Well,
9 for three reactors to melt down in Japan and
10 threatening four fuel pools before we do the necessary
11 inspections to discover what's wrong at Vermont Yankee
12 with its tie.

13 If we would have -- If I would have gotten
14 my -- You know my intention was always to create
15 transparency and to discover all the defects in these
16 nontestable systems. If we know what all the flaws
17 then we fix them and then the public will be safer.

18 There was a Fukushima -- Vermont Yankee
19 inspections they talk about the SBO violations or
20 defects or whatever. They did note that Vermont
21 Yankee didn't know the phone number of National Grid.
22 Diagrams weren't maintained. They diddled around with
23 procedures, renewing procedures. They didn't know
24 what the circumstances of the hydro substation will be
25 during the -- They weren't certain of how that breaker

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1 is operated over there at the Vernon hydro station.
2 You know, there's a level of uncertainty of how would
3 the hydro station work really that they discovered in
4 this Fukushima stuff.

5 We know that the facility is insistent
6 that it's seismically qualified. So we don't know.
7 You know we know that the alternate shutdown operator
8 control room they default to using the Vernon tie when
9 they should be trying to get the diesel generators on
10 and stuff. And we're uncertain of what's
11 characterized as beyond-design accident. I mean this
12 is on the alternate shutdown system and sounds like
13 it's within the current design of the plant. They're
14 supposed to be able to do that.

15 And then this thing defaults into using
16 the tie. And then you basically say, the NRC says,
17 nothing matters because it's beyond the design. You
18 know, we always had problems with using the tie as a
19 public relations gambit to say we can connect to the
20 tie. We have a line that connects it.

21 And they never really talked to anybody
22 about the quality at that time. They kind of more or
23 less said -- It's implied that it's ultra modern and
24 there's no defects. And everything would work. And
25 we know it doesn't because of the new inspection

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1 report.

2 And it's more than the accident or
3 anything what the intent is any of the employees.
4 Vermont Yankee exaggerates the condition of the plant
5 and stuff like that. The employees -- "Oh geez. If
6 I make a safety concern, they can exaggerate the
7 defects." Or everybody accepts this little kind of
8 word games type of thing and they could turn the steps
9 that I've done into something much bigger and can just
10 ruin my career.

11 So that's what this is all -- You know
12 accuracy and ethics and being noble and being
13 honorable and stuff like that. That sets up the
14 system. That sets up the system to be able to -- for
15 employees to know that they can talk about the
16 problems. They get chilled when they can see that
17 publicly officials talk with a forked tongue and
18 exaggerate things. They get the feeling about "I
19 might not be able to disclose everything I know and I
20 can't trust my company and I can't trust the NRC."

21 So I have a concern. I mean that's the
22 concern I have about being honorable about disclosing
23 and not exaggerating the capabilities of Vermont
24 Yankee.

25 You say I haven't developed sufficient

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1 facts. But you post my 2.206 on this and on the tie
2 before that. Now you found some new facts because
3 something gave you the initiative to take a look at
4 the Vernon tie and stuff. I mean that's a failure of
5 the 2.206. You ask for these mythical facts that are
6 not attainable. And that give you the excuse to kick
7 me out the door.

8 But if you come to a sufficient rationale
9 to do the inspection you would discover these facts
10 that you can't get to with the 2.206 process. I'm
11 just saying that if we would have had a good
12 inspection back when I first brought this up these
13 defects wouldn't have been laying around. We would
14 have discovered them and correct them. We would have
15 been all better for it.

16 And I think that's the failure of the
17 2.206. You know there's not transparency. There's a
18 barrier there and the standard should be not
19 sufficient facts that are unattainable. The standard
20 should be post investigation. What did we discover
21 that we didn't -- What did we discover that was there
22 that we didn't inspect. What did we discover that was
23 there that we didn't think was there.

24 We have a lot of presence with the nuclear
25 instrumentation, RHR, the core spray where we set up

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1 systems. We set up RHR. We have a full flow test
2 line. We have a test line upstream, almost all the
3 equipment that we can simulate flow of, say, RHR.

4 One of the shortcomings, of course, is the
5 injection valve isn't testable. Browns Ferry got in
6 trouble with that.

7 Nuclear instrumentation basically the same
8 thing. We're way upstream of all the instrumentation.
9 You can isolate the detector from the instrumentation
10 and you can insert a scam signal in there and it's
11 testable and stuff like that.

12 You know with the tie and the RHR surface
13 water, the tie, I don't know. We make believe that
14 those standards don't apply. If not beyond design
15 basis, we say we got backups to the backups to the
16 backups. So you know all the backups don't have to
17 have much quality because there are three other
18 backups that will step in.

19 So we set up a standard. That's a
20 standard. We have backups. So all of the systems, we
21 can justify every defect in the system as acceptable
22 because we've got backups. We can have all our
23 backups having a series of defects. I mean that's
24 what the standard sets up as a possibility of living
25 with a degraded -- living with all the backup systems

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1 being degraded.

2 These are just justifications for
3 accepting poor behavior. I just think that the
4 industry in general could behave a lot better and that
5 they could have more respect with the public. And
6 they could make more money. And they could be more
7 honorable to their employees than they are nowadays.

8 Again with the tie, I mean I don't see
9 that there's -- With this new inspection, I don't know
10 if the tie would have been really operable in the last
11 two years with the new inspection results. We don't
12 know what the coping time to talk about.

13 Browns Ferry recently talked about a
14 coping time of one hour with HIPSI trying to get past
15 the NRC. So you know coping time. Coping time means
16 basically having a system or component being on the
17 cheap, being inexpensive. If the coping time is just
18 for a narrow amount of time, then you don't have to
19 have the quality of equipment there versus an hour
20 versus 12 hours. So coping time we don't know how
21 much campaign contributions contributed to short
22 coping time strategies.

23 With the RHR service water it's just we
24 don't know what's behind it. Will it take another
25 Fukushima to actually get that RHR service water

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1 system, all the defects known in there? Certainly the
2 2.206 process isn't sufficient to discover all these
3 defects.

4 I'm trying to think of any -- I'm running
5 out of things to say. But anyways, I think that's --

6 MS. GALLOWAY: Do you have another topic
7 you wanted to address, Mr. Mulligan? Mr. Mulligan?

8 MR. MULLIGAN: I am just thinking for a
9 second.

10 MS. GALLOWAY: Okay. While you're
11 thinking, why not I invite the staff participating in
12 the call and ask them whether they have any questions
13 at this point for Mr. Mulligan.

14 MR. MULLIGAN: Thank you.

15 MR. SETZER: No questions from the region.
16 Thank you.

17 MS. GALLOWAY: Okay. And none here from
18 Headquarters.

19 Does the licensee have any questions?
20 Jeff?

21 MR. MYER: No questions.

22 MS. GALLOWAY: Mr. Mulligan, did you have
23 another topic that you wanted to address at this time?

24 MR. MULLIGAN: I had about a million, but
25 I can't think of them at this time. No, I think I'm

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1 done. Thank you very much for this opportunity.

2 MS. GALLOWAY: Surely.

3 Before we conclude the meeting, I did want
4 to ask whether any members of the public who might be
5 on the call had additional comments that they wanted
6 to provide regarding the Petition or to ask any
7 questions about the 2.206 petition process.

8 (No verbal response.)

9 Okay. Hearing none, I wanted to take this
10 opportunity to thank Mr. Mulligan again for taking his
11 time to provide the NRC staff in this call with
12 additional information on the petition he's recently
13 submitted. And before we close I wanted to ask the
14 court reporter whether he or she needed any additional
15 information for the meeting transcript.

16 COURT REPORTER: No, I believe I'm good.
17 Thank you very much.

18 MS. GALLOWAY: Okay. And with that this
19 meeting is concluded and we will be terminating the
20 phone connection. Thank you all very much. Off the
21 record.

22 (Whereupon, at 11:28 a.m., the above-
23 referenced matter was concluded.)

24

25

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in the matter of: Vermont Yankee

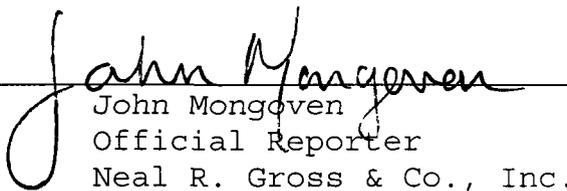
Name of Proceeding: 10 CFR 2.206 Petition by:

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.


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