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August 1, 2011

Mr. Joseph G. Giitter, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

*In re: NRC Giitter Letter Dated July 14, 2011 (2.206 Petition-Vermont Yankee)*

Dear Mr. Giitter:

This correspondence serves to respond to your written inquiry by letter dated July 14, 2011 in connection with a determination made by the U.S. Nuclear Regulatory Commission (NRC) related to an enforcement petition filed by the undersigned under 10 C.F.R. 2.206 against Vermont Yankee Nuclear Plant, et al. In your letter, you requested a response within 30-days.

Please find the following comments responsive to your request accordingly:

## **Supplemental Information:**

As you are aware, on January 26, 2011, the undersigned engaged the NRC Petition Review Board (PRB) under MD 8.11 to provide "supplemental" information to the NRC in connection with the instant petition. Thus, to the extent that supplemental information was provided to the NRC under MD 8.11, such supplemental information is considered to be a supplement to the original 2.206 petition (January 14, 2011) and must be considered by the NRC in making a Final Agency decision in this matter. See, January 26, 2011, NRC telephone conference call transcripts at 15-16.

## **Failure of Licensee to Make Timely Notification to NRC:**

During the January 26, 2011 conference call with the NRC PRB, the undersigned clearly put the NRC on notice about supplemental information in connection with the licensee's failure to timely notify the NRC about a violation in accordance with 10 C.F.R. 50.72 as follows:

In general, under 10 C.F.R. 50.72, the nuclear power reactor licensee under 50.21(b) or 50.22, holding an operating a license under this part or combined license under part 52 of this chapter and under the Commission makes a finding under 52.103(g) "shall notify the NRC operations via the emergency notification system". Specifically, the licensee violated NRC regulations under 10 C.F.R. 50.72; and violated the licensee's technical specifications in failing to timely report the event associated with subject station relief valves. The reporting requirements under 10 C.F.R. 50.72 specifically reference a one-hour reporting requirement, a

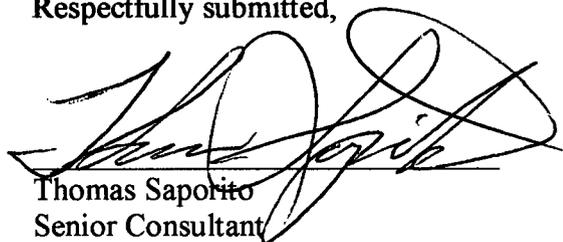
four-hour reporting requirement, and an eight-hour reporting requirement. "... the licensee shall notify the NRC as soon as practical and in all cases within one hour of the occurrence, any deviation from a plant's technical specification authorized pursuant to Section 50.54(f) of this part." The four-hour reporting requirement states that if not reported under paragraphs A or B(1) of this section, the licensee shall notify the NRC as soon as practical and in all cases within four hours of the occurrence of any of the following. . . any event or situation related to the health and safety of the public or on-site personnel or protection of the environment for which a news release is planned or notification to other government agencies have been or will be made..."

Clearly, the regulation under 10 C.F.R. 50.72 requires the licensee to timely report the failure of the systems (relief valves) in a timely manner, either immediately within one-hour, within four-hours, or within eight-hours - and the licensee failed to comply with the NRC regulations and requirements in the instant action. Moreover, the relevant NRC regulations under 10 CFR 50.72 are inherently embraced within the licensee's technical specifications and are implicitly implied within the licensee's NRC operating license under 10 CFR 50.

**Conclusion:**

The licensee's failure to timely notify the NRC about the subject (relief valves) failure and inoperability under 10 CFR 50.72 is clearly a violation of NRC regulations and requirements which warrants escalated enforcement action on the part of the NRC to be taken against the licensee in these circumstances as requested in the instant 2.206 enforcement petition to protect public health and safety and the environment.

Respectfully submitted,



Thomas Saporito  
Senior Consultant