

Vaidya, Bhalchandra

From: Jessica Azulay [jessica@allianceforagreenconomy.org]
Sent: Wednesday, November 14, 2012 11:06 AM
To: Vaidya, Bhalchandra
Subject: Re: PRB Decision on Initial Recommendation Re: Your Petition under 10CFR2.206 Pertaining to the James A. FitzPatrick Nuclear Plant in Scriba, New York (TAC No. ME8189)
Attachments: petitioners_response_to_NRC_Fitz_Nov_14.pdf

Mr. Vaidya,

Please find attached our petitioners response to your latest communication.

Sincerely,
Jessica Azulay
Organizer
Alliance for a Green Economy

On 10/24/2012 7:29 AM, Vaidya, Bhalchandra wrote:
Ms. Jessica Azulay,

Regarding your e-mail dated October 11, 2012, in response to our communication to you dated October 4, 2012, about the Petition Review Board's (PRB's) decision on its initial recommendation regarding your Petition under 10 CFR 2.206 pertaining to the James A. FitzPatrick Nuclear Plant in Scriba, New York, the following explanations are provided:

The following three issues are accepted for review:

FitzPatrick shall publicly document for independent review its post-Fukushima re-analyses for the reliability and capability of the FitzPatrick pre-existing containment vent system as previously identified as "an acceptable deviation" from NRC Generic Letter 89-16 which recommended the installation of the Direct Torus Vent System and as outlined in the NRC Safety Evaluation Report dated September 28, 1992. The publicly documented post-Fukushima analysis shall include the reassessment of all assumptions regarding the capability and reliability of the pre-existing containment venting and specifically address non-conservative assumptions regarding:

"unlikely ignition points" as claimed in the FitzPatrick pre-existing vent line system that would otherwise present increased risks and consequences associated with the detonation of hydrogen gas generated during a severe accident.

The NRC inspection report [per TI-2515/183] identifies that FitzPatrick's "existing plant capabilities" and "current procedures do not address hydrogen considerations during primary containment venting" which is further identified as a "current licensing basis vulnerability." The joint petitioners further reiterate that the NRC inspection finding that FitzPatrick's "existing plant capabilities" as assumed by the Order are in fact negated by the finding that "FitzPatrick's current licensing basis did not require the plant to have a primary containment torus air space hardened vent system as part of their Mark I containment improvement program."

The additional identified "vulnerability" and the relatively remote and uncertain mitigation strategy places the public health and safety unduly and unacceptably at risk by the continued day-to-day operations where "current procedures do not address hydrogen considerations during primary containment venting" and will not for nearly five (5) more years.

With regard to your request that the PRB reconsider the decision to allow FitzPatrick to operate during the pendency of the NRC Japan Lessons Learned Project regarding Mark I BWR reliable vents, the PRB reiterates its decision to deny the request for immediate action. Specifically, the PRB denied the requested immediate enforcement action to suspend the operating license for FitzPatrick because there is no immediate safety concern to FitzPatrick, or to the health and safety of the public.

With regard to the other topics in your response dated October 11, 2012, MD 8.11 provides for the Acknowledgement Letter to be sent to the Petitioners after the NRC staff has reached a decision on the "Final Recommendation" to accept or reject the Petition (or portions thereof), which would include the detailed itemized lists of the issues accepted and rejected with the PRB's explanations. The process in MD 8.11 offers the Petitioner(s) a 2nd opportunity to address the PRB to provide additional or new information, if any, before the PRB makes the Final Recommendation. Since you have requested a 2nd

opportunity to address the PRB and, thus, the staff has not yet made a Final Recommendation, , the details, such as the itemized lists in your request are pre-decisional and are not publicly released."

With respect to the date and time for the 2nd opportunity for the Petitioner(s) to address the PRB, please let us know whether you would like to have a Tele-Conference or a Public Meeting, along with your availability with respect to dates and times, as well as the list of attendees and speakers. This will allow us to make proper arrangements.

Thank you for your quick response to our October 4, 2012, communication.

Bhalchandra K. Vaidya
Licensing Project Manager, Petition Manager
NRC/NRR/DORL/LPL1-1
(301)-415-3308 (O)
bhalchandra.vaidya@nrc.gov

From: Jessica Azulay [<mailto:jessica@allianceforagreenconomy.org>]

Sent: Thursday, October 11, 2012 11:44 AM

To: Vaidya, Bhalchandra

Subject: Re: PRB Decision on Initial Recommendation Re: Your Petition under 10CFR2.206 Pertaining to the James A. FitzPatrick Nuclear Plant in Scriba, New York (TAC No. ME8189)

Bhalchandra K. Vaidya,

Please find attached our response to your October 4 communication.

Sincerely,

Jessica Azulay

On 10/4/2012 9:22 AM, Vaidya, Bhalchandra wrote:
Ms. Jessica Azulay,

On May 17, 2012, May 29, 2012, and July 19, 2012, the PRB met internally to discuss the petition and to make the initial recommendation. The PRB's initial recommendation is to partially accept the petition for review because portions of the petition meet the criteria for review under the 2.206 process.

The PRB's initial recommendation is to accept, in part, and hold in abeyance three of the issues of the petition addressing containment venting under severe accident conditions and the design of vent systems being able to accommodate hydrogen gas. The NRC staff notes that these concerns are undergoing NRC review as part of the lessons-learned from the Fukushima event. Even though the Commission has issued the Order concerning reliable hardened vent for accident prevention, the NRC staff is conducting further review of additional aspects of the hardened vent system, such as venting under severe accident conditions. In addition, the staff is evaluating hydrogen control and mitigation measures. Since these issues will take longer than the target timeframe for reaching a decision on a petition, the NRC plans on accepting those issues, and holding them in abeyance.

In addition, the PRB's initial recommendation is to reject all other issues in the petition because they do not meet the criteria for review under 10 CFR 2.206 process described in MD 8.11.

Also, please let me know, ASAP, if the Petitioners would like a second meeting to address the Petition Review Board as described in MD 8.11, the process for 10 CFR 2.206 Petitions.

Thank you,

Bhalchandra K. Vaidya
Licensing Project Manager
NRC/NRR/DORL/LPL1-1
(301)-415-3308 (O)
bhalchandra.vaidya@nrc.gov

AGREE New York

2013 E. Genesee St., Syracuse, NY 13210 | info@agreenewyork.org | (315) 480-1515

Bhalchandra K. Vaidya
Licensing Project Manager
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Email: bhalchandra.vaidya@nrc.gov

November 14, 2012

Bhalchandra K. Vaidya:

Thank for you clarifying for us which portions of the Alliance for a Green Economy / Beyond Nuclear petition the Petition Review Board has initially recommended for acceptance. This information is very helpful.

You have requested that we inform you as to our preference for an in-person or teleconference Petition Review Board hearing. Would you please elaborate for us what the format of this second PRB hearing will be, and what the purpose of the hearing is from the perspective of the Petition Review Board? If we are not to be offered detail or justification for the proposed rejected portions of our petition, it is difficult to understand how we would effectively discuss or supplement the areas proposed for rejection.

Finally, I would like to point out that the PRB has twice rejected our requests for immediate action on FitzPatrick while our petition is pending, using the argument that FitzPatrick does not pose an immediate danger to the public. Yet, the portions of our petition that the PRB has recommended for acceptance revolve around whether FitzPatrick is, indeed, safe for day-to-day operation in its current state. How can the PRB recommend acceptance of these portions of our petition, while at the same time state as given fact that FitzPatrick is safe for day-to-day operations? We have asked that instead of such contradictory language, the NRC release documents showing the actual analysis that has been done by your agency on the matter of FitzPatrick's ability to withstand a potential accident without injuring or irradiating workers or the public. This request was not discussed in your recent response to us.

Sincerely,

-----/s/-----

Jessica Azulay Chasnoff, Organizer
Alliance for a Green Economy
2013 E. Genesee St.
Syracuse, NY 13210

Alliance for
a Green
Economy

Citizens
Awareness
Network of
Central New
York

Citizens
Environmental
Coalition

Citizens for
Health
Environment
and Justice

Peace Action
Central New
York

Peace Action
New York State

Sierra Club
Atlantic
Chapter

Syracuse Peace
Council