



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

October 9, 2015

Ms. Mary Lampert  
Pilgrim Watch, Director  
148 Washington Street  
Duxbury, MA 02332

Dear Ms. Lampert:

In an e-mail dated September 16, 2014,<sup>1</sup> addressed to the Executive Director for Operations of the U.S. Nuclear Regulatory Commission (NRC), you submitted a petition on behalf of Pilgrim Watch and Cape Downwinders, under Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, "Requests for Action Under This Subpart." The Executive Director for Operations assigned your petition to a petition review board (PRB) within the Office of Nuclear Reactor Regulation for action. In your petition, you asked the NRC to take enforcement action on the operating license of Pilgrim Nuclear Power Station. Specifically, you requested the NRC institute a proceeding to modify, suspend, or take any other action as may be proper to ensure that Pilgrim updates its onsite land- and water-based security so that checkpoints are manned at all times and owner-controlled area (OCA) are under sufficient surveillance to ensure that intruders will be detected and prevented from entering.

As the basis for this request, you cite 15 reported trespassing or intrusion events on Pilgrim's owner-controlled area from July 2002 to September 2014. You contend that public health and safety are at risk due to eroded owner-controlled area protections that allow intruders to enter the area without any problem or detection.

On February 25, 2015, you provided further explanation and support for your petition during a telephone conference call with the petition review board. A transcript of that conference call, which supplements your petition, is publicly available at Agencywide Documents Access and Management System (ADAMS) Accession No. ML15103A041.

On May 5, 2015, the petition review board met internally to discuss the initial recommendation. Using the guidance of NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," the petition review board made an initial recommendation that your petition meets the criteria for rejection. The board provided the following bases for its decision: (1) the petition failed to provide sufficient facts to support the idea that a safety concern exists, and (2) the issues raised have already been the subject of NRC staff review and evaluation, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question.

Management Directive 8.11, Part III, C.2., "Criteria For Rejecting Petitions Under 10 CFR 2.206," states, "The staff will not review a petition under 10 CFR 2.206, whether specifically

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<sup>1</sup> Your petition is available from the NRC's Agencywide Documents Access and Management System (ADAMS) in the public Electronic Reading Room on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession No. ML14260A482.

cited or not, under the following circumstances—The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns.” The petition review board determined that the petition failed to provide sufficient facts to support the idea that a safety concern exists. Specifically, trespassing in the owner-controlled area does not constitute a noncompliance with the regulation nor does it necessarily present concerns of risk to public health and safety or the common defense and security. Through its security baseline inspection program, the NRC staff verifies that licensees implement required physical protection measures per NRC-approved security plans.

In reviewing your petition, the petition review board also noted that you have not provided information to support the existence of an exploitable vulnerability or regulatory noncompliance issue warranting an enforcement action at Pilgrim. Therefore, the petition review board rejected this petition for review because it lacks sufficient basis to justify or support an enforcement-related action against Pilgrim’s operating license.

The petition review board also determined that the issues in the petition have already been the subject of NRC staff review and evaluation, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question.

In 2010, the NRC issued the new security rule for commercial power reactors. This new rule codified the enhanced security measures that the NRC required after the attacks of September 11, 2001. Specifically, the new rule requires licensees to protect against an insider terrorist attack; waterborne, airborne, and land-based assaults; and threats from a vehicle bomb. The security measures generally include augmented security forces and capabilities, installation of additional physical barriers, and enhanced coordination with law enforcement and military authorities. Furthermore, the NRC continually assesses the current threat environment and has the ability to inform licensed facilities of threats and require additional security measures if needed.

On May 19, 2015, the petition manager informed you of the petition review board’s initial recommendation and provided you with the basis for the board’s findings (ADAMS Accession No. ML15223A001). On May 20, 2015, you requested a second opportunity to address the petition review board through a teleconference.

On June 9, 2015, you provided further explanation and support for your petition during a second telephone conference call with the petition review board. The transcript of that conference call, which supplements your petition, is publicly available at ADAMS Accession No. ML15176A313. You also supplemented your petition with two e-mails, both dated June 9, 2015.<sup>2</sup>

On June 9 and June 30, 2015, the petition review board met to evaluate the information presented during the second telephone conference call as well as the petition supplements dated June 9, 2015, and determined that the additional information did not change its initial recommendation. Specifically, in your supplement dated June 9, 2015, and as referenced during the teleconference, you submitted a link to a working paper titled, “Protecting U.S. Nuclear Facilities from Terrorist Attack: Re-assessing the Current “Design Basis Threat” Approach,” dated August 15, 2013. According to the title page, the working paper was primarily

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<sup>2</sup> ADAMS Accession Nos. ML15189A193 and ML15189A196

researched and written by a graduate research assistant at the Nuclear Proliferation Prevention Project, University of Texas at Austin, and was prepared as part of a larger interdisciplinary study for the Office of the Secretary of Defense.

The petition review board noted that the report discusses the threat assessment methodology used at nuclear facilities. In particular, it questions whether the design-basis threat (DBT) established by different government agencies is a sound foundation for nuclear facilities to use as a basis in designing their physical protection measures and strategies. Moreover, it questions how the design-basis threat varies for different nuclear facilities and criticizes the current variations in the design-basis threat between different U.S. government agencies. The report also discusses potential threats, adversary capabilities, and tactics that may be used against nuclear facilities. The paper provides a position that questions the validity of the design-basis threat that various nuclear facilities are required to defend against and suggests that all nuclear facilities should defend against the same design-basis threats regardless of whether the facility is public or private.

The NRC has established a design-basis threat for various licensed facilities that it regulates. These are based on threat assessments, adversary capabilities and tactics that an adversarial force may use to cause radiological sabotage or to commit theft or diversion of special nuclear material. NRC-licensed facilities develop their physical protection programs and protective strategies based on defending against the attributes of the applicable design-basis threats. The NRC inspects these facilities to verify the licensee physical protection programs, provide high assurance that activities involving special nuclear material are not inimical to the common defense and security, and do not constitute an unreasonable risk to the public health and safety.

The petition review board noted that the Nuclear Proliferation Prevention Project working paper does not identify a noncompliance of regulatory requirements or the existence of vulnerability at Pilgrim that would warrant the NRC taking any enforcement action. Pilgrim is subject to the NRC's baseline security inspection program and as such, the agency routinely inspects it to verify that its security programs ensure protection of public health and safety. Satisfactory licensee performance in specific safety cornerstones provides reasonable assurance of safe facility operation. The objective of the NRC baseline security inspection program is to gather information to determine whether a licensee is meeting the objectives of the cornerstone associated with security. The security cornerstone measures the effectiveness of the security and fitness-for-duty programs. Under this cornerstone, nuclear plants are required to have well-trained security personnel and a variety of protective systems to guard vital plant equipment, as well as programs to assure that employees are constantly fit for duty. Meeting the security cornerstone provides assurance that a licensee's security system and material control and accounting program can protect against the design-basis threat of radiological sabotage consistent with Title 10 of the *Code of Federal Regulations* Part 73, "Physical Protection of Plants and Materials."

As documented in the cover letter for NRC Security Inspection Report 05000293/2014403 dated August 13, 2014<sup>3</sup>, the NRC completed a security inspection at the Pilgrim Nuclear Power Station on June 13, 2014. The NRC inspections did not identify any findings or violations of more than minor significance. In fact, the inspectors determined that the licensee's physical

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<sup>3</sup> ADAMS Accession No. ML14225A470

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protection program associated with the inspection sample provided high assurance that the licensee's program was designed and implemented in a manner that protected against the design-basis threat of radiological sabotage.

In conclusion, in accordance with the criteria described in NRC Management Directive 8.11, the petition review board has rejected your petition for review under 10 CFR 2.206. Your petition fails to provide sufficient facts to support the idea that a safety concern exists, and the issues you have raised have been the subject of NRC staff review and evaluation for which resolution has been achieved.

Thank you for your interests in these matters.

Sincerely,



Mirela Gavrilas, Deputy Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Docket No. 50-293

cc: Distribution via Listserv

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Mirela Gavrilas, Deputy Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

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ADAMS Accession Nos.: Package: ML15223A003

Incoming: ML14260A482 (September 16, 2014); ML15189A193, ML15189A196 (June 9, 2015)

Transcripts: ML15103A041 (February 25, 2015); ML15176A313 (June 9, 2015)

Response: ML15223A002

\*Concurrence via email

OFFICE	DORL/LPLI-1/PM	DORL/LPLI-1/LA	DPR/PM*	NSIR/DSO/NSOB*	R1/BC*
NAME	RGuzman	KGoldstein	MBanic	FSullivan	RMcKinley
DATE	8/21/2015	8/26/2015	8/25/2015	8/26/2015	8/20/2015
OFFICE	QTE	OGC*	DORL/LPLI-1/BC	DPR/DD	
NAME	CHsu	EMonteith	BBeasley	MGavrilas	
DATE	10/05/2015	8/25/2015	9/18/2015	10/09/2015	

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