



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

June 22, 2017

Mr. David A. Lochbaum  
Director, Nuclear Safety Project  
Union of Concerned Scientists  
P.O. Box 15316  
Chattanooga, TN 37415

Dear Mr. Lochbaum:

I am responding to your e-mails dated February 22 and March 24, 2017, on behalf of the Union of Concerned Scientists (UCS), requesting that the U.S. Nuclear Regulatory Commission (NRC) issue Demands for Information (DFIs) regarding the November 21, 2016, report, submitted to the NRC by System One Solutions, LLC in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 21 (the System One Part 21 report). You stated that UCS petitions the NRC to issue DFIs pursuant to 10 CFR 2.204 to System One Solutions, LLC, AREVA NP, and the licensees for Cooper Nuclear Station, Donald C. Cook Nuclear Plant, and Palo Verde Nuclear Generating Station. You stated you are petitioning the NRC pursuant to 10 CFR 2.206, "Request for action under this subpart."

The NRC staff evaluated your request against the criteria in 10 CFR 2.206 and the guidance in Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," to determine whether the request meets the criteria for review under 10 CFR 2.206. Based on our evaluation, we have determined that your petition does not meet the criteria for review under 10 CFR 2.206, in that it fails to provide facts that constitute the basis for the request, and requested an action that cannot be instituted pursuant to § 2.202. Specifically, you stated that UCS has received information that calls into question the information in the System One Part 21 report. You further stated that UCS received information that indicated statements in the System One Part 21 report are inaccurate, but that UCS is unable to independently determine whether the information is accurate or not. You stated that the requested DFIs will produce the records needed to fact-check the System One Part 21 report, and determine the source of any inaccuracies in the information reported to the NRC. Your petition also outlines additional actions USC may take, including additional enforcement actions it may request the NRC take, based on its review and determinations on information NRC obtains through the DFIs and makes publically available.

Any person may request, pursuant to § 2.206, that the NRC institute a proceeding pursuant to § 2.202. Based on a § 2.206 request, the Commission may institute a proceeding pursuant to § 2.202 to modify, suspend, or revoke a license or to take such other action as may be proper only by serving on the licensee an order that must, in part, allege the violations with which the licensee is charged, or the potentially hazardous conditions or other facts deemed to be sufficient ground for the proposed action. For the NRC to accept a request submitted pursuant to § 2.206 for review, MD 8.11 specifies that the facts that constitute the basis for the request must be provided with the request, and must be credible and sufficient to warrant further inquiry. For example, the NRC staff may determine that the information provided in a § 2.206 request is not sufficient to support issuance of an order pursuant to § 2.202, but may determine that the information is sufficient to warrant further inquiry through an inspection or, if the criteria in

10 CFR 2.204 is met, through a DFI. As specified in 10 CFR 2.204, NRC may issue a DFI for the purpose of determining whether an order under 10 CFR 2.202 should be issued, or whether other actions should be taken. The NRC Enforcement Manual (available on the NRC Web site at <http://www.nrc.gov/what-we-do/regulatory/enforcement/guidance.html>) states, in part, that "A DFI is a significant action. It should be used only when it is likely that an inadequate response will result in an Order or other enforcement action."

Your request relies on DFIs being issued to obtain facts that establish whether the System One Part 21 report contained inaccuracies that warrant taking additional action. Your request also does not provide supporting facts, such as the safety significance of the alleged inaccuracies in the System One Part 21 report, necessary for NRC to issue the DFIs under § 2.204, and to demonstrate that an inadequate response to such DFIs would be sufficient ground for NRC to issue orders under § 2.202 to require System One Solutions LLC, AREVA NP, and the licensees for Cooper, DC Cook, and Palo Verde to take additional action. Because your request does not provide facts that constitute a basis for issuing the requested DFIs, and does not request an action that can be instituted through a proceeding pursuant to § 2.202, it is not appropriate for NRC to review the request under the 10 CFR 2.206 petition process.

The NRC takes seriously the providing of inaccurate information that could result in a safety issue or the NRC making a regulatory decision based on the inaccurate information. The NRC has a number of means to assess whether information submitted to it is materially inaccurate, and for determining what additional action, if any, is warranted regarding the inaccurate information. As such, your incoming letter will be referred to another NRC process for appropriate action. Receiving information about potential violations or safety concerns from the public is an important means for the NRC to identify and appropriately respond to such issues, and we appreciate you sharing your concerns and engaging in the regulatory process.

Sincerely,



Douglas A. Broaddus, Chief  
Special Projects and Process Branch  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

cc: Listserv

**SUBJECT:** OEDO-17-00135 – RESPONSE LETTER TO DAVID A. LOCHBAUM, UNION OF CONCERNED SCIENTISTS, EMAIL RE: 2.206 PETITION – SYSTEM ONE SOLUTIONS EVENT NOTIFICATION (TITLE 10 CFR PART 21) DATED JUNE 22, 2017

**DISTRIBUTION:** OEDO-17-00135

**PUBLIC**

- RidsEdoMailCenter Resource
- RidsNrrDorl Resource
- RidsNrrDorlLspb Resource
- RidsNrrMailCenter Resource
- RidsNrrPMCooper Resource
- RidsNrrPMDCCook Resource
- RidsNrrPMPaloVerde Resource
- RidsNrrLAJBurkhardt Resource
- RidsNrrLAIbetts Resource
- LJarriel, OE
- SMeighan, OE

**ADAMS Accession Nos.:**

**PKG ML17054C305**

**Incoming ML17054C313 and ML17086A340**

**Response Letter ML17163A042**

**\*via e-mail**

|        |                  |                    |                  |
|--------|------------------|--------------------|------------------|
| OFFICE | NRR/DORL/LSPB/PM | NRR/DORL/LSPB/LAiT | NRR/DORL/LSPB/LA |
| NAME   | MBanic           | IBetts             | JBurkhardt       |
| DATE   | 06/15/2017       | 06/13/2017         | 06/14/2017       |
| OFFICE | OGC (NLO)*       | NRR/DORL/LSPB/BC   |                  |
| NAME   | SKirkwood        | DBroaddus          |                  |
| DATE   | 05/31/2017       | 06/22/2017         |                  |

**OFFICIAL RECORD COPY**