



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

November 9, 1993

Mr. Paul M. Blanch
125 Hyde Road
West Hartford, Connecticut 06117

Dear Mr. Blanch:

This letter acknowledges receipt of three of your letters that sought consideration under 10 CFR §2.206 and were referred to my office for evaluation and response. Two of these letters were addressed to the Executive Director for Operations (dated August 12, 1993, and September 13, 1993); the other one was addressed to the Chairman, U.S. Nuclear Regulatory Commission (dated September 17, 1993).

Your petition of August 12, 1993, requested that each licensee of a boiling-water reactor (BWR) either conclusively demonstrate the operability of the condensate pots and associated level instruments, interlocks, and ECCS functions or be provided a plant-specific license exemption with a plant-specific safety analysis. This petition also stated that if operability cannot be demonstrated and/or the NRC fails to grant plant-specific relief from these regulations, each plant must comply with the action statements of the technical specifications for inoperable level instruments. These issues will be addressed as petitions under 10 CFR §2.206.

Your petition of September 13, 1993, requested, under the provisions of 10 CFR §2.206, that an enforcement conference with Northeast Utilities regarding operability determinations be opened to the general public and that you be allowed to participate. This request does not fall within the purview of 10 CFR §2.206, because it does not request a proceeding pursuant to 10 CFR §2.202 to modify, suspend, or revoke a license, and does not otherwise request enforcement action. We have, nevertheless, considered your request for opening the enforcement conference to the general public and your additional request to participate. The NRC's current policy on enforcement conferences is addressed in 10 CFR Part 2, Appendix C, Section V, which states that "enforcement conferences will not normally be open to the public." This policy notwithstanding, the Commission has undertaken a trial program, as described in the Federal Register (57 FR 30762-3, July 10, 1992) to determine whether to maintain the current policy with respect to attendance by the public at enforcement conferences. This trial program does, however, specifically exclude from public participation potential enforcement actions that are based on the findings of an NRC Office of Investigations (OI) report. As stated in the letter of September 10, 1993, from T. Martin, Region I, to J. Opeka, Northeast Nuclear Energy Company, the potential enforcement action is based on an OI report and, as such, is not eligible for public attendance. Another NRC policy stated in the Federal Register discussion of the trial program and related to your request is that "[t]he enforcement conference will continue to be a meeting between the NRC and the licensee. While the

ACRS

DO1

NRC FILE CENTER COPY

9311170408 931109
PDR ADOCK 05000397
P PDR

1200 54

FOR LIFE SERVICES ONLY

enforcement conference is open for public observation, it is not open for public participation" (57 FR 30762-3). Thus, the enforcement conference with Northeast Utilities will not be open to the public, and only the licensee and appropriate NRC personnel will participate.

Your letter of September 13, 1993, contained the following additional requests that do not fall under the provisions of 10 CFR §2.206 and that we will respond to under separate correspondence. These requests are: 1) "a response as to which regulations are '...minimally acceptable for adequate protection on the public health and safety.' and '..regulations which go beyond that and require or add useful safety improvements on top of that.'" and 2) "a clarification as to which plants need to comply with which Regulations as it is very apparent that NU must perform Operability Determinations within 30 days (and receive a Violation for a delay of 7 days) while all other BWR's are not ever required to initiate any Operability Determinations."

Your petition of September 17, 1993, requested responses to a specific set of questions under the provisions of 10 CFR §2.206. Again, this request does not fall within the purview of 10 CFR §2.206, because it does not request a proceeding pursuant to 10 CFR §2.202 to modify, suspend, or revoke a license, or otherwise request enforcement action. We will, however, provide a response to these questions along with the additional requests from your letter of September 13, 1993.

Your letter of September 17, 1993, contained an additional request not submitted under the provisions of 10 CFR §2.206. You requested an explanation as to why NRC commitments to keep you informed of all meetings on the BWR reactor water level instrumentation issue and to provide you and your attorney copies of all correspondence on this subject that are not confidential or otherwise protected, seem to have been ignored. Your letter of September 17, 1993, also requested a copy of all internal and external communications related to the BWR condensate pot issue. This request was made based, in your words, on "the fact the Commission has intentionally kept information from the interested public." We disagree with this characterization of the dissemination of information related to the reactor water level instrumentation issue. The document to which you referred was a Commission Policy paper, SECY-93-223, "STATUS OF THE STAFF'S ACTIVITIES REGARDING BWR WATER LEVEL INSTRUMENTATION." This paper was made publically available through the normal Commission process of distribution to the NRC Public Document Rooms (PDRs) in Washington, D.C. and at local PDRs throughout the country, ten days after the Commission Paper was sent to the Commission by the NRC staff. Thus, this information was made available to the interested public through normal means. Your concern appears to be with the special arrangement you have with the NRC to provide you and your attorney personal copies of specific correspondence related to the BWR reactor pressure vessel water level issue, among others. We acknowledge that this Commission Paper should have been provided to you and your attorney as part of this special arrangement and apologize for this oversight.



•
•
•

Mr. Paul M. Blanch

- 3 -

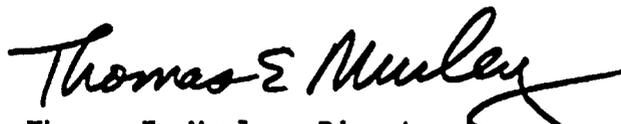
November 9, 1993

Since you stated in your September 17, 1993, letter that you have a copy of this Commission Paper, we will not provide additional copies. We had interpreted this letter to request documents relating to BWR level instrumentation for all plants. However, as discussed in a telephone conversation on October 18, 1993, between you and Ted Quay and Jim Clifford of my staff, we understand that your letter was not intended to request documents beyond the current agreement. We will continue to strive to keep you informed of generic correspondence, and plant specific correspondence related to Pilgrim and Millstone Unit 1, on the BWR reactor vessel water level instrumentation.

We will provide a Director's Decision regarding your specific petition that falls under the provisions of 10 CFR §2.206 within a reasonable period of time. We will, by separate correspondence, address your additional questions.

For your information, I have enclosed a copy of the Notice of Receipt of your petition that is being filed with the office of the Federal Register for publication.

Sincerely,



Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosure:
Federal Register Notice

cc: See next page

Boiling Water Reactor Owners Group

cc:

Mr. George J. Beck, Chairman
Regulatory Response Group
Boiling Water Reactor Owners' Group
c/o Southern Nuclear Operating Company
P. O. Box 1295, Bin B052
Birmingham, Alabama 35201

Mr. Ernest Hadley
414 Main Street
P. O. Box 3121
Wareham, Massachusetts 02571

Mr. Paul M. Blanch

- 3 -

Since you stated in your September 17, 1993, letter that you have a copy of this Commission Paper, we will not provide additional copies. We had interpreted this letter to request documents relating to BWR level instrumentation for all plants. However, as discussed in a telephone conversation on October 18, 1993, between you and Ted Quay and Jim Clifford of my staff, we understand that your letter was not intended to request documents beyond the current agreement. We will continue to strive to keep you informed of generic correspondence, and plant specific correspondence related to Pilgrim and Millstone Unit 1, on the BWR reactor vessel water level instrumentation.

We will provide a Director's Decision regarding your specific petition that falls under the provisions of 10 CFR §2.206 within a reasonable period of time. We will, by separate correspondence, address your additional questions.

For your information, I have enclosed a copy of the Notice of Receipt of your petition that is being filed with the office of the Federal Register for publication.

Sincerely,

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosure:
Federal Register Notice

cc: See next page

DISTRIBUTION:
See next page





100

DISTRIBUTION:

Docket File (50-397)

NRC/Local PDRs (w/incoming letter)

A. Cabbage, 8E23

EDO# 9240/9342

T. Murley/F. Miraglia, 12G18

J. Partlow, 12G18

J. Roe

E. Adensam

T. Quay

J. Clifford

E. Barnhill

OPA, 2G5

OCA

NRR Mail Room (EDO# 9240/9342), 12G18

PDV Reading File

W. Butler, 14D1

R. Cooper, RI

A. Thadani, 8E2

R. Jones, 8E23

W. Russell, 12G18

D. Crutchfield, 11H21

F. Gillespie, 12G18

J. Taylor, 17G21

J. Sniezek, 17G21

H. Thompson, 17G21

J. Blaha, 17G21

J. Lieberman, OE, 7H5

J. Knubel, OEDO, 7G21

T. Martin, RI

J. Scinto, OGC, 15B18

P. Boenhart, ACRS

J. Goldberg, OGC, 15B18

D. Grimsley, FOIA

K. Perkins, RV

* See previous concurrence:

OFFICE	PDV/LA	PDV/PM	PDV/D	OGC*	TECH ED*
NAME	EBarnhill	JClifford	TQuay	SHLewis	
DATE	10/18/93	10/18/93	10/14/93	10/14/93	09/29/93

OFFICE	REGION I	PDI-3/D*	OE*	NRR/DSSA	ADA/DRPW
NAME	TMartin	WButler	JLieberman	AThadani	EAdensam
DATE	1/93	10/13/93	10/13/93	10/13/93	10/19/93

OFFICE	D/DRPW	ADP/NRR	ADT/NRR	D/NRR	EDO
NAME	JRoe	JPartlow	WRussell	TMurley	JTaylor
DATE	10/19/93	10/20/93	10/20/93	10/24/93	11/93

OFFICIAL RECORD COPY

DOCUMENT NAME: BLANCH2.206

#6
10/20
11/9/93
T...

Mr. Paul M. Blanch

- 3 -

Since you stated in your September 17, 1993, letter that you have a copy of this Commission Paper, we will not provide additional copies. We had interpreted this letter to request documents relating to BWR level instrumentation for all plants. However, as discussed in a telephone conversation on October 18, 1993, between you and Ted Quay and Jim Clifford of my staff, we understand that your letter was not intended to request documents beyond the current agreement. We will continue to strive to keep you informed of generic correspondence, and plant specific correspondence related to Pilgrim and Millstone Unit 1, on the BWR reactor vessel water level instrumentation.

We will provide a Director's Decision regarding your specific petition that falls under the provisions of 10 CFR §2.206 within a reasonable period of time. We will, by separate correspondence, address your additional questions.

For your information, I have enclosed a copy of the Notice of Receipt of your petition that is being filed with the office of the Federal Register for publication.

Sincerely,

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosure:
Federal Register Notice

cc: See next page

DISTRIBUTION:
See next page

DISTRIBUTION:

Docket File (50-397)
 NRC/Local PDRs (w/incoming letter)
 A. Cabbage, 8E23
 EDO# 9240/9342
 T. Murley/F. Miraglia, 12G18
 J. Partlow, 12G18
 J. Roe
 E. Adensam
 T. Quay
 J. Clifford
 E. Barnhill
 OPA, 2G5
 OCA
 NRR Mail Room (EDO# 9240/9342), 12G18
 PDV Reading File
 W. Butler, 14D1
 R. Cooper, RI

A. Thadani, 8E2
 R. Jones, 8E23
 W. Russell, 12G18
 D. Crutchfield, 11H21
 F. Gillespie, 12G18
 J. Taylor, 17G21
 J. Sniezek, 17G21
 H. Thompson, 17G21
 J. Blaha, 17G21
 J. Lieberman, OE, 7H5
 J. Knubel, OEDO, 7G21
 T. Martin, RI
 J. Scinto, OGC, 15B18
 P. Boenhart, ACRS
 J. Goldberg, OGC, 15B18
 D. Grimsley, FOIA
 K. Perkins, RV

* See previous concurrence:

OFFICE	PDV/LA	PDV/PM	PDV/D	OGC*	TECH ED*
NAME	EBarnhill <i>ED</i>	JClifford	TQuay <i>TR</i>	SHLewis	
DATE	10/18/93	10/18/93	10/14/93	10/14/93	09/29/93

OFFICE	REGION I	PDI-3/D*	OE <i>OE</i>	NRR/DSSA	ADA/DRPW
NAME	TMartin	WButler	JLieberman	AThadani*	EAdensam
DATE	1/93	10/13/93	10/13/93	10/15/93	10/19/93

OFFICE	D/DRPW	ADP/NRR <i>ADP</i>	ADT/NRR <i>ADT</i>	D/NRR <i>D</i>	EDO <i>EDO</i>
NAME	JRoe	JPartlow <i>J</i>	WRussell	TMurley	JTaylor
DATE	10/19/93	10/20/93	10/20/93	10/24/93	11/93

OFFICIAL RECORD COPY

DOCUMENT NAME: BLANCH2.206

#6
10/20
11/9/93
TR

