

From: Perry Buckberg
Sent: Friday, March 25, 2022 2:44 PM
To: Ogaz, Zachary
Cc: Wright, Sydnee
Subject: RE: Re: Re: Re: Re: 2.206 Petition Initial Assessment - ISP License SNM-2515

Good afternoon.

The Petition Review Board made the final determination that your petition does not meet the criteria for consideration under 10 CFR 2.206 – it has not been accepted for further review.

As a result, I drafted a 'Closure Letter' that documents the reasons the board came to this decision and completes the 2.206 Petition process for your petition. The letter will be concurred by two different Office Director's at the NRC before being signed out by the Petition Review Board Chair (a Deputy Office Director). I will provide you a copy of the letter once it's been signed (I'm hoping for later today or no later than by CoB Monday).

I appreciate the professional interactions that I have had with you and Sydnee since your submittal in December. Please don't hesitate to contact me about the 2.206 Petition process in the future.

Thanks,

Perry Buckberg

Senior Project Manager / Agency 2.206 Petition Coordinator

U.S. Nuclear Regulatory Commission

Office of Nuclear Reactor Regulation

office: (301)415-1383

perry.buckberg@nrc.gov

Mail Stop O-8B1a, Washington, DC, 20555-0001

From: Ogaz, Zachary <zogaz@nmag.gov>
Sent: Friday, February 25, 2022 1:31 PM
To: Buckberg, Perry <Perry.Buckberg@nrc.gov>
Cc: Wright, Sydnee <swright@nmag.gov>
Subject: [External_Sender] Re: Re: Re: Re: 2.206 Petition Initial Assessment - ISP License SNM-2515

Thanks Perry.

On Fri, Feb 25, 2022 at 11:08 AM Buckberg, Perry <Perry.Buckberg@nrc.gov> wrote:

Thanks Zach.

That being the case, the Petition Review Board will move ahead and make its final determination regarding petition acceptance based on the contents of the petition alone. I will contact you about this determination prior to issuing a letter documenting the Board's acceptance decision.

Perry Buckberg

From: Ogaz, Zachary <zogaz@nmag.gov>
Sent: Friday, February 25, 2022 12:55 PM
To: Buckberg, Perry <Perry.Buckberg@nrc.gov>
Cc: Wright, Sydnee <swright@nmag.gov>
Subject: [External_Sender] Re: Re: Re: 2.206 Petition Initial Assessment - ISP License SNM-2515

Thank you for the follow up Perry - NM will not be requesting a public meeting with the PRB on this matter. Let me know if there is anything else you have any questions or comments on.

Zach

On Fri, Feb 25, 2022 at 8:46 AM Buckberg, Perry <Perry.Buckberg@nrc.gov> wrote:

Good morning.

Just a reminder that my February 11, 2022, e-mail below requested that you indicate by February 25, 2022, whether you wish to have the public meeting with the PRB.

Thanks,

Perry Buckberg

Senior Project Manager / Agency 2.206 Petition Coordinator

U.S. Nuclear Regulatory Commission

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Mail Stop O-8B1a, Washington, DC, 20555-0001

From: Wright, Sydnee <swright@nmag.gov>
Sent: Friday, February 11, 2022 1:34 PM
To: Buckberg, Perry <Perry.Buckberg@nrc.gov>
Cc: Ogaz, Zachary <zogaz@nmag.gov>
Subject: [External_Sender] Re: Re: Re: 2.206 Petition Initial Assessment - ISP License SNM-2515

Great, thank you. We will be in touch when we know our next steps.

On Fri, Feb 11, 2022 at 11:30 AM Buckberg, Perry <Perry.Buckberg@nrc.gov> wrote:

Hi Sydnee,

You would only need to notify me...and then I'd coordinate with you (I assume) to find an agreeable date in March.

Thanks,

Perry Buckberg

Senior Project Manager / Agency 2.206 Petition Coordinator

U.S. Nuclear Regulatory Commission

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office: (301)415-1383
perry.buckberg@nrc.gov

Mail Stop O-8B1a, Washington, DC, 20555-0001

From: Wright, Sydnee <swright@nmag.gov>

Sent: Friday, February 11, 2022 1:24 PM

To: Buckberg, Perry <Perry.Buckberg@nrc.gov>

Cc: Ogaz, Zachary <zogaz@nmag.gov>

Subject: [External_Sender] Re: 2.206 Petition Initial Assessment - ISP License SNM-2515

Good Morning,

Thank you for the update. If we are interested in having this public meeting, do we only need to notify you via email by the deadline or are there any other forms/filings we will need to submit?

CONFIDENTIALITY NOTICE: The information in this e-mail and in any attachment may contain information that is legally privileged. It is intended only for the attention and use of the named recipient. If you are not the intended recipient, you are not authorized to retain, disclose, copy or distribute the message and/or any of its attachments. If you received this e-mail in error, please notify sender at the New Mexico Attorney General's Office and delete this message. Thank you.

On Fri, Feb 11, 2022 at 9:52 AM Buckberg, Perry <Perry.Buckberg@nrc.gov> wrote:

Mr. Ogaz,

The Petition Review Board (PRB) has completed its initial assessment of the petition you submitted on December 20, 2021 in accordance with NRC's Management Directive MD 8.11, "Review Process for 10 CFR 2.206 Petitions," and its associated Handbook (Agencywide Documents Access and Management System (ADAMS) Accession number [ML18296A043](#)).

Your petition requested that the NRC take enforcement action against Interim Storage Partners (ISP) by revoking their Materials License No. SNM-2515 and by revoking the NRC's Record of Decision regarding issuance of Materials License No. SNM-2515. Your rationale for requesting this action is your assertion that the NRC's process for approving SNM-2515 is not in accordance with the National Environmental Policy Act (NEPA) and the ISP Consolidated Interim Storage Facility (CISF) will have a negative impact on the human environment and on the State of New Mexico. The specific bases you assert in your request are summarized below:

1. The NRC failed to obtain backing and necessary permitting from host communities
2. The NRC used flawed assumptions including the likelihood of a de facto permanent nuclear waste storage facility
3. The site is geologically unsuitable
4. There is a potential for terrorist attacks and sabotage
5. The NRC did not consider potential impacts on water and ecological resources
6. The NRC failed to consider the amount of funding needed to ensure the safety and protection of New Mexico's citizens and natural resources
7. The NRC used a faulty analysis of environmental justice concerns

The PRB's initial assessment is that your submittal does not meet the criteria in Management Directive 8.11, Directive Handbook (DH 8.11) Section III.C.1 for accepting petitions for review. As a fundamental premise, the 2.206 petition process is not an

appropriate means to challenge the NRC staff review of a license application. Compliance with NEPA is the responsibility of the NRC staff. For purposes of determining whether the NRC staff has complied with NEPA in connection with the NRC's issuance of a license, the NRC has established specific processes by regulation to ensure the public may participate in those licensing proceedings. Once the licensing proceeding is complete, there is no additional major federal action associated with maintaining the license that triggers NEPA obligations. As such, no enforcement action is warranted against the licensee for the NRC staff's actions in reviewing and granting the application. Additionally, pursuant to DH 8.11, Section III.C.1(b)(ii), the concerns raised in your petition have already been the subject of NRC staff review and evaluation and none of the additional Section III.C.1(b)(ii) circumstances apply.

Specifically, in issuing Materials License SNM-2515 to ISP, the NRC staff documented its consideration of each concern in the petition in either the staff's Final Environmental Impact Statement (FEIS) (ADAMS [ML21209A955](#)), the staff's Safety Evaluation Report (ADAMS [ML21188A101](#)), Materials License SNM-2515 (ADAMS [ML21188A099](#)) or NUREG-2157 Volume 1, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report." (ADAMS [ML14196A105](#)).

I offer you the opportunity to clarify or supplement your petition in a virtual public meeting with the PRB. If you decide to take advantage of this opportunity, the meeting with the PRB would be conducted consistent with the format described in MD 8.11, DH 8.11 Section III.F. The PRB will consider your statements and information presented at the meeting, along with the original petition, in making its final determination on whether to accept your petition for further review. Please indicate by February 25, 2022, whether you wish to have this public meeting.

If you have any questions regarding this e-mail, please feel free to contact me at perry.buckberg@nrc.gov.

Thanks,

Perry Buckberg

Senior Project Manager / Agency 2.206 Petition Coordinator

U.S. Nuclear Regulatory Commission

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office: (301)415-1383

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Zachary Ogaz
Assistant Attorney General

Consumer and Environmental Protection Division

New Mexico Attorney General's Office
201 3rd St NW #300

Albuquerque, NM 87102

Hearing Identifier: NRR_DRMA
Email Number: 1940

Mail Envelope Properties (PH0PR09MB76748E1C182A7F1CF88285F09A1A9)

Subject: RE Re Re Re Re 2.206 Petition Initial Assessment - ISP License SNM-2515
Sent Date: 3/25/2022 2:44:14 PM
Received Date: 3/25/2022 2:44:00 PM
From: Perry Buckberg

Created By: Perry.Buckberg@nrc.gov

Recipients:
"Wright, Sydnee" <swright@nmag.gov>
Tracking Status: None
"Ogaz, Zachary" <zogaz@nmag.gov>
Tracking Status: None

Post Office: PH0PR09MB7674.namprd09.prod.outlook.com

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MESSAGE	10353	3/25/2022 2:44:00 PM

Options
Priority: Normal
Return Notification: No
Reply Requested: No
Sensitivity: Normal
Expiration Date: