

MEMORANDUM TO: William D. Travers
Executive Director for Operations

THRU: Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

FROM: Brian W. Sheron, Associate Director
for Project Licensing and Technical Analysis
Office of Nuclear Reactor Regulation

SUBJECT: APRIL 1999 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER 10 CFR 2.206

The attached monthly report gives the status of 10 CFR 2.206 petitions as of April 30, 1999. During April, Director's Decision (DD-99-08) on River Bend and Perry was issued, and Director's Decision (DD-99-06) on Browns Ferry and Director's Decision (DD-99-07) on Army Corps of Engineers became final agency actions and were closed. There are 5 active NRR and 2 active NMSS petitions.

Attachment 1 provides the status of petitions for the Offices of Nuclear Material Safety and Safeguards and Nuclear Reactor Regulation. Attachment 2 gives the status of petitions that are in a confidential status and for internal distribution only. Attachment 3 shows the age and staff hours expended on open 2.206 petitions as of April 30, 1999, including a summary of the status of 2.206 petitions exceeding the 120-day scheduled completion goal. This table reflects input from the Office of Nuclear Reactor Regulation (NRR), Office of Nuclear Material Safety and Safeguards (NMSS), and the Office of the General Counsel (OGC). Attachment 4 shows the statistics for the 2.206 petitions processed during 1999.

Those parts of the monthly report not of a sensitive nature and recently issued Director's Decisions are placed in the Public Document Room and on the NRC's external home page, making them readily accessible to the public. The URL address is <http://www.nrc.gov/NRC/PUBLIC/2206/index.html>.

Attachments: As stated

CONTACT: Ram Subbaratnam, NRR
415-1478

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Attachments: As stated

CONTACT: Ram Subbaratnam, NRR, 415-1478 *See previous concurrence
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 DISTRIBUTION: See next page

OFFICE	PDII/PM	LA:PDII	PDII/PD	NMSS/IM NS/IMOB	DLPM:D	ADPT:NRR	D: NRR
NAME	RSubbaratnam*	EDunnington	HBerkow	PGoldberg	JZwolinski/ SBlack	BSheron	S. Collins
DATE	4/30/99	5/ /2	5/ /99	5/ /99	5/ /99	5/ /99	5/ /99

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Report on Status of Public Petitions Under 10 CFR 2.206
April 30, 1999
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Attachment 1

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* New addition to the list during the current month

Attachment 1

Report on Status of Public Petitions Under 10 CFR 2.206

Facility: **Envirocare of Utah, Inc.**
Petitioner: Natural Resources Defense Council
Date of Petition: 12/30/98

Director's Decision To Be Issued by: NMSS/DWM
Date Referred to Review Organization: 12/30/98
EDO Number: G19980767
OGC Number: P-99-01
Scheduled Completion Date: 06/04/99
Last Contact with Petitioner: 03/23/99
Petition Manager: Harold Lefevre
Case Attorney: J. McGurren

Issues/Action Requested:

The petitioner requests that the NRC issue an order to show cause why Khosrow B. Semnani, former President of Envirocare, should not be prohibited from participating in any NRC-licensed activity.

Background:

The petitioner correctly points out that in the February 7, 1997, denial of the Natural Resources Defense Council's petition of January 8, 1997, requesting revocation of all of Envirocare's licenses, NRC indicated that no immediate action was required to protect public health and safety. NRC further recognized, and so stated in the February 7, 1997, Decision, that the on-going (at that time) criminal investigation centering on Mr. Semnani's alleged bribery of Mr. Anderson (former Director of the Utah Division of Radiation Control) may raise potential issues of integrity, which may raise questions as to whether the NRC should have the requisite reasonable assurance that Envirocare will meet Commission requirements.

The Department of Justice's criminal investigation of Mr. Semnani resulted in his conviction on a single charge of misdemeanor tax fraud. Mr. Semnani entered into an agreement with the Department of Energy (DOE) in 1997. In light of possible economic sanctions against Envirocare, agreed to debar himself as president of Envirocare. This Semnani agreement remains in effect although it is the staff's understanding that Mr. Semnani has recently transferred documents to the DOE requesting that his debarment be lifted. The Petition Review Board meeting was held on February 2, 1999. The petition acknowledgment letter was issued on Feb. 2, 1999.

Current Status:

At his April 15, 1999, arraignment, Mr. Anderson pleaded not guilty to six felony criminal counts (extortion, fraud, and tax evasion). His trial is scheduled for June 15, 1999. By letter dated April 5, 1999, the staff received Mr. Semnani's response to the issues raised in the Petition. The staff is currently evaluating this voluminous document as well as several letters from NRC attesting to Mr. Semnani's character and integrity.

Facility: **River Bend Station**
Petitioner: D. Lochbaum
Date of Petition: 9/25/98

Director's Decision To Be Issued by: NRR
Date Referred to Review Organization: 9/29/98
EDO Number: G980592
OGC Number: P-98-14
Scheduled Completion Date: Completed 4/18/99
Last Contact with Petitioner: 2/22/99
Petition Manager: R. Fretz
Case Attorney: R. Hoefling

Issues/Action Requested:

The petition requested enforcement action to require an immediate shutdown of the River Bend Station (RBS) so that the facility remain shut down until all failed fuel assemblies are removed from the reactor core. The RBS licensee, Entergy Operations, Inc., had recently filed NRC Daily Event Report No. 34815, in which it reported "a possible defect in fuel cladding." As an alternate action, the petitioner also stated that RBS could be restarted following the proposed shutdown after its design and licensing bases were updated to permit operation with failed fuel assemblies. In addition, the petitioner requested a public hearing to present new plant-specific information regarding the operation of RBS, as well as to discuss a UCS report dated April 2, 1998, entitled "Potential Nuclear Safety Hazard/Reactor Operation With Failed Fuel Cladding."

Background:

An acknowledgment letter was issued on 10/29/98. Since the petition did not provide specific information which would lead the staff to conclude that an urgent safety problem existed, the petitioner's request for the immediate shutdown of RBS was denied. However, in the acknowledgment letter the NRC offered the petitioner an opportunity for an informal public hearing. On 11/6/98, the petitioner responded to the NRC's acknowledgment letter, and accepted the offer for an informal public hearing. The response for this petition is being coordinated with a similar petition associated with Perry Nuclear plant. The NRC has written to the licensee, in a letter dated 12/1/98, requesting their participation in the hearing and a formal response to the issues raised in the 9/25/98 Petition. An informal public hearing was held on February 22, 1999.

Current Status:

The Director's Decision (DD-99-08) on the petition was issued on April 18, 1999. The decision is under Commission review for a final agency action.

Facility: **Perry Nuclear Station, Unit 1**
Petitioner: D. Lochbaum
Date of Petition: 11/9/98

Director's Decision To Be Issued by: NRR
Date Referred to Review Organization: 11/13/98
EDO Number: G19980678
OGC Number: P-98-16
Scheduled Completion Date: Completed 4/18/99
Last Contact with Petitioner: 2/22/99
Petition Manager: D. Pickett
Case Attorney: R. Hoefling

Issues/Action Requested:

The Petition requested enforcement action to require an immediate shutdown of the Perry Nuclear Power Plant (PNPP) and that the facility remain shut down until all failed fuel assemblies are removed from the reactor core. As an alternate action, the petitioner asserted that PNPP could be restarted after its design and licensing bases were updated to permit operation with failed fuel assemblies. Additionally, the petitioner requested an informal public hearing to present new information on reactor operation with failed fuel assemblies as well as to discuss the April 1998 UCS report on reactor operation with failed fuel assemblies. As the basis for the request, the Petition stated that operation with one or more failed fuel assemblies is not permitted by Perry's design and licensing bases. Moreover, specifically, UCS contends that Perry is also violating its worker radiation protection program (ALARA) licensing basis.

Background:

A Petition Review Board meeting was held on November 23, 1998, to screen the petition. Since the petition did not provide specific information which would lead the staff to conclude that an urgent safety problem existed, the petitioner's request for the immediate shutdown of PNPP was denied. However, in the acknowledgment letter, NRC offered the petitioner an opportunity for an informal public hearing that will be coordinated with a similar proceeding associated with River Bend Station. The acknowledgment letter and Federal Register notice denying the petitioner's request for an immediate shutdown were issued on December 16, 1998. An informal public hearing was held on February 22, 1999.

Current Status:

The Director's Decision (DD-99-08) on the petition was issued on April 18, 1999. The decision is under Commission review for a final agency action.

Facility:	Millstone
Petitioners:	G. Galatis and E. Hadley on behalf of We the People, Inc.
Date of Petition:	8/21/95, supplemented 8/28/95
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	8/30/95
EDO Number:	603
OGC Number:	P-95-015
Scheduled Completion Date:	TBD*
Last Contact with Petitioner(s):	4/2/99
Petition Manager:	R. Eaton
Case Attorney:	R. Hoefling

Issues/Action Requested:

The petitioners allege that Northeast Utilities (NU) has offloaded more fuel assemblies into the spent fuel pool than permitted under License Amendments 39 and 40; that NU has knowingly operated Millstone in violation of its operating licenses; and that NU has submitted material false statements. Petitioners seek a 60-day license suspension for Millstone Unit 1 (after the unit is brought into compliance with the license and the design basis). Petitioners also request that the operating license be revoked until the facility is in full compliance with the terms and conditions of its license; before reinstatement of the license, a detailed independent analysis of the offsite dose consequences of total loss of spent fuel pool water be conducted; that enforcement action be taken against NU pursuant to 10 CFR 50.5 and 50.9; that actions be taken regarding a proposed license amendment pending before the Commission wherein NU seeks to increase the amount of spent fuel it may offload and that the amendment be denied; that the NRC retain an independent expert, at NU's expense, to prepare a safety analysis report on the proposed amendment; and that, before the issuance of any amendment, an analysis including both the probabilities and consequences of applicable events be conducted. In the supplement, Mr. Galatis raised additional concerns including concerns at Millstone Units 2 and 3 and Seabrook.

Background:

Northeast Utilities (NU) provided its responses in 9/22/95 and 10/11/95 letters. The acknowledgment letter was issued on 10/26/95. On 12/26/96, the staff issued a partial Director's Decision (DD-96-23) that addressed the technical aspects of the petitioners' requests. The staff conducted an informal public hearing with the petitioners on April 18, 1998. The wrongdoing aspects are still under review and will be addressed in a subsequent final Director's Decision. An enforcement panel met on 10/13/98. Final resolution and the schedule for completion of the petition will occur following resolution of enforcement issues.

Current Status:

Region I has drafted a Commission paper to resolve the enforcement issues associated with this petition. Staff enforcement action regarding findings of the OI report were completed. Final portion of the DD for completing this petition is in preparation. There is no change in status for this update.

* Schedule for completion will be set following resolution of enforcement issues.

Facility: **Connecticut Yankee**
Petitioners: R. Bassilakis, Citizens Awareness Network (CAN) and P. Gunter, Nuclear Information and Resource Service (NIRS)
Date of Petition: 3/11/97
Director's Decision To Be Issued by: NRR
Date Referred to Review Organization: 3/20/97
EDO Number: GT97181
OGC Number: P-97-003
Scheduled Completion Date: TBD*
Last Contact with Petitioners: 3/30/99
Petition Manager: T. Fredrichs
Case Attorney: M. Rafky

Issues/Action Requested:

Petitioners request (1) that the NRC commence enforcement action against Connecticut Yankee (CY) (Haddam Neck) by means of a large civil penalty to assure compliance with safety-based radiological control routines, (2) modification of CY's license to prohibit any decommissioning activity, which would include dismantling or decontamination, until CY manages to conduct routine maintenance of the facility without any contamination events for at least 6 months, and (3) placement of CY on the NRC's "watch list."

Background:

An acknowledgment letter was issued on 4/3/97. The petitioner was contacted by telephone on 7/9/97 and informed of the status of the petition. A partial Director's Decision (DD-97-19) was issued on 9/3/97. DD-97-19 denied requests (2) and (3) above. In a public meeting on 10/27/97, which the petitioner attended, the staff stated that it was pursuing enforcement action regarding the remaining open item in the petition.

Current Status:

Petitioner requested enforcement action on two radiation protection events that occurred in November 1996 and February 1997. Staff enforcement action regarding the November 1996 event was issued as a Notice of Violation on 4/5/99. Enforcement action regarding the February 1997 event is under staff review.

* Schedule for completion will be set following resolution of enforcement issues.

Facility: **Seabrook**
Petitioner: Lochbaum, Union of Concerned Scientists
Date of Petition: 3/31/99

Director's Decision To Be Issued by: OE
Date Referred to Review Organization: 4/12/99
EDO Number: G19990173
OGC Number: P-99-003
Scheduled Completion Date: 8/20/99
Last Contact with Petitioner: 4/15/99
Petition Manager: Virgil Beaston
Case Attorney: Jack Goldberg

Issues/Action Requested:

Petitioner requested three specific actions: (1) that the NRC take enforcement action against the individuals alleged to have unlawfully discriminated against a contract electrician in violation of 10 CFR 50.7, as identified in NRC Office of Investigation (OI) Report 1-1998-005; (2) that the NRC take enforcement action against the individuals alleged to have created a false record in violation of 10 CFR 50.9, as identified in OI Report 1-1998-005; and (3) that the petitioner be granted permission to attend an upcoming predecisional enforcement conference between the NRC and the licensee on these matters.

Background:

The petitioner was contacted on April 15, 1999, via telephone, and informed that Virgil Beaston is the petition manager for his 10 CFR 2.206 request for action. The petitioner was informed that the 2.206 process is a public process and that the NRC would not keep his name and petition confidential. The petitioner stated that he understands that the 2.206 process is a public process and that he did not object to the NRC making his name and request for action public. The petitioner was also asked whether he had any information about the apparent violations referenced in his request for action other than that provided by the NRC in a March 16, 1999, letter to the licensee. The petitioner stated that he had no information other than that information contained in the NRC's letter.

An acknowledgment letter was sent to the petitioner on April 20, 1999. The acknowledgment letter stated that requests (1) and (2) above are being treated as proper requests for action under 10 CFR 2.206. The petitioner's request to attend an upcoming predecisional enforcement conference with the licensee was denied.

Current Status:

Region I has scheduled an enforcement conference with the licensee to be held on May 18, 1999. The OE review on the petitioner's request is scheduled for July 30 and final issuance of the DD for July 20, 1999.

Facility: **Millstone Units 2 & 3**
Petitioner: STAR et al.
Date of Petition: 3/31/99

Director's Decision To Be Issued by: NRR
Date Referred to Review Organization: 4/20/99
EDO Number: G19990201
OGC Number: P-99-05
Scheduled Completion Date: TBD*
Last Contact with Petitioner: 4/27/99
Petition Manager: John Nakoski
Case Attorney: Jack Goldberg

Issues/Action Requested:

In the first petition request, three specific actions were requested: (1) that the NRC immediately suspend Northeast Utilities' license[s] to operate the Millstone power station until there are reasonable assurances that adequate protective measures can and will be taken in the event of a radiological emergency for Fishers Island, NY; (2) that the operating license[s] should be suspended until such time as "a range of protective actions have been developed for the plume exposure pathway EPZ [emergency planning zone] for emergency workers and the public;" and (3) that these matters be the subject of a public hearing, with full opportunity for public comment. The fundamental basis for the requests is that the Millstone Nuclear Power Station is not being operated within the law. Specifically, the petitioners stated that the site is in violation of 10 CFR 50.54(q) and 10 CFR 50.47 with regard to emergency planning requirements because Fishers Island, New York, located within the 10-mile EPZ for Millstone, does not have a functional evacuation plan.

In the second petition request, the petitioners requested that the NRC institute a proceeding, pursuant to 10 CFR 2.202, to suspend the operating license[s] for the Millstone Nuclear Power Station until the facility is in full compliance with the law. Specifically, in the second petition request, the petitioners maintain that all of the regulatory listed factors [10 CFR 50.54(s)(1)]; "demography, topography, land characteristics, access routes, and jurisdictional boundaries" are ignored in emergency planning for the Millstone Nuclear Power Station and, as such, are in violation of 10 CFR 50.54(q) and 10 CFR 50.47.

Background:

The Petition Review Board (PRB) met on the two petitions on April 26, 1999. The PRB determined that the petitioners' request for immediate action to suspend the license was to be denied. The PRB determined the second petition request for a hearing pursuant to 10 CFR 2.202 be denied. The petitioner was contacted on April 27, 1999, and informed of the NRC's denial of their request to immediately suspend the operating licenses of Millstone.

Current Status:

The acknowledgment letter is being prepared with a target issue date of May 19, 1999.

* Schedule for completion will be set following issuance of the acknowledgment letter

Facility: **ATLAS CORPORATION**
Petitioner: Earth Justice Legal Defense Fund
Date of Petition: 1/11/99

Director's Decision To Be Issued by: NMSS
Date Referred to Review Organization: 1/12/98
EDO Number: G19990011
OGC Number: P-99-02
Scheduled Completion Date: 5/26/99
Last Contact with Petitioner: 2/10/99
Petition Manager: Myron Fliegel
Case Attorney: J. McGurren

Issues/Action Requested:

Petitioners request NRC to take six immediate actions to halt impacts to and to ensure the conservation of the endangered species of fish in the Colorado River near the Atlas site.

Background:

On August 2, 1988, Atlas submitted an application for a license amendment to revise its site reclamation plan for uranium mill tailings at its no longer operating site near Moab, Utah. On March 30, 1994, notice of intent to prepare an Environmental Impact Statement was published in the Federal Register. In January 1996, the Draft Environmental Impact Statement was published for public comment. On July 29, 1998, the U.S. Fish and Wildlife Service, in accordance with Section 7 of the Endangered Species Act (ESA), issued a final biological opinion for impacts to Federally listed endangered species from the reclamation of the Atlas mill tailings site. On October 12, 1998, and November 13, 1998, petitioners notified NRC of their intent to sue under the ESA. On December 16, 1998, petitioners filed a Motion for Preliminary Injunction against NRC in the U.S. District Court, District of Utah. A Petition Review Board meeting was held on January 26, 1999, and the petitioner's requests for immediate action were denied by letter of that date. In the letter, it was noted that none of the six items identified in the petition addresses a health, safety, or environmental concern that requires emergency steps before a complete review as provided for in 10 CFR 2.206.

Current Status:

An acknowledgment letter for this petition was published in the Federal Register on February 12, 1999. There is no change in status for this update.

Facility: **Connecticut Yankee and Millstone Units 1, 2, and 3**
Petitioners: D. Katz, Citizens Awareness Network (CAN) and P.
Gunter, Nuclear Information and Resource Service
Date of Petition: 11/25/96, as amended 12/23/96

Director's Decision To Be Issued by: NRR
Date Referred to Review Organization: 12/20/96
EDO Number: GT96919
OGC Number: P-96-026
Scheduled Completion Date: TBD*
Last Contact with Petitioners: 4/2/99
Petition Manager: R. Eaton
Case Attorney: R. Hoefling

Issues/Action Requested:

Petitioners request the staff to take the following actions: (1) immediately suspend or revoke Northeast Utilities' (NU's) license to operate the Connecticut Yankee (CY) (Haddam Neck) and Millstone reactors due to chronic mismanagement; (2) investigate the possibility that NU made material misrepresentations to the NRC concerning engineering calculations and other information or actions relied upon to assure the adequacy of safety systems at CY and Millstone; (3) if an investigation determines that NU deliberately provided insufficient and/or false or misleading information to the NRC, revoke NU's operating licenses for CY and Millstone, or, if not, keep the reactors off-line pending a Department of Justice independent investigation; (4) if the reactors remain operating, petitioners request that they remain on the NRC's "watch list"; (5) keep CY and Millstone off-line until NU's chronic mismanagement has been analyzed, remedial management programs put into effect and the NRC has evaluated and approved the effectiveness of NU's actions; (6) in the event NU decides to decommission any or all of the reactors at issue, petitioners request the NRC not to permit any decommissioning activity to take place until the above issues are resolved; and (7) commence an investigation into how the staff allowed the illegal situation at NU's Connecticut reactors to exist and continue over a decade.

Background:

A partial Director's Decision (DD-97-21) addressing most of the issues was issued to the petitioners on 9/12/97. DD-97-21 partially granted some of the petitioner's requests. Request (3) above was partially deferred for the Millstone plants and will be addressed in a subsequent final Director's Decision.

Current Status:

DD-97-21 partially granted some of the petitioners' requests. Request (3) above was partially deferred for the Millstone plants and will be addressed in a subsequent final Director's Decision. There is no change in status for this update.

* Schedule for completion will be set following resolution of enforcement issues.

Attachment 2
Report on Status of Public Petitions Under 10 CFR 2.206 with
Decisions Pending Before the Commission and the Courts.

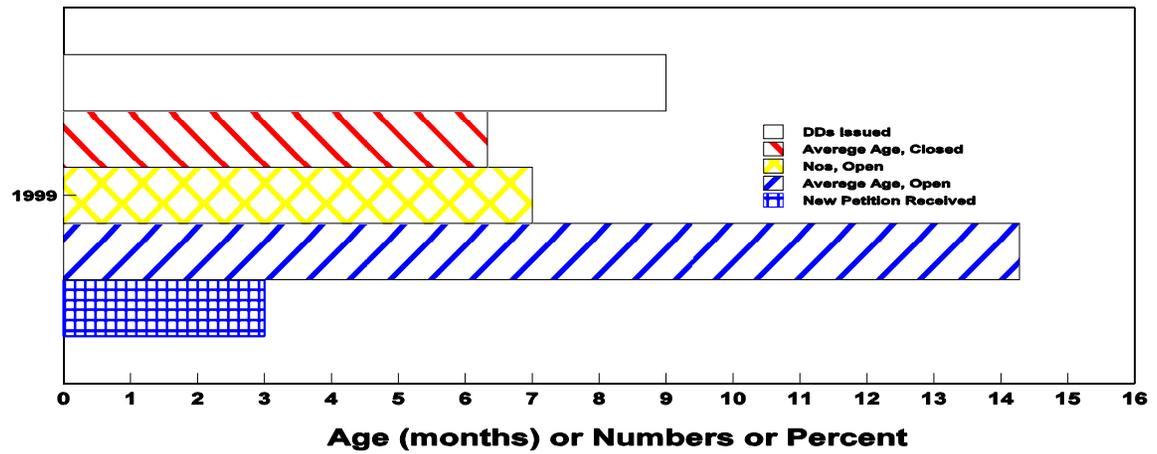
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Attachment 5

Statistics of Petition Processed under 10 CFR 2.206 during 1999(4/99)



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DOCUMENT NAME:

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ORIGINATOR: Ram Subbaratnam

SECRETARY NAME: Doreen Turner

SUBJECT: Monthly Status Report for 2.206 Petitions- March 1999

*******ROUTING LIST*******

<u>NAME</u>	<u>DATE</u>
1. <u>E. Dunnington</u>	<u>/ /99</u>
2. <u>R. Subbaratnam</u>	<u>/ /99</u>
3 <u>H. Berkow</u>	<u>/ /99</u>
4. <u>P. Goldberg, NMSS</u>	<u>/ /99</u>
5. <u>S. Black/J.Zwolinski</u>	<u>/ /99</u>
6. <u>B. Sheron</u>	<u>/ /99</u>
7. <u>S. Collins</u>	<u>/ /99</u>
8. Secretary - Dispatch	

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