

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: MAY 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 May 31, 1999. During May, Director's Decision (DD-99-08) on River Bend and Perry became a final agency action and was closed. There are 3 active NRR, 1 active OE and 2 active NMSS petitions.

Attachment 1 provides the status of petitions for the Offices of Nuclear Material Safety and Safeguards, Nuclear Reactor Regulation and Enforcement. 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 May 31, 1999, including a summary of the status of 2.206 petitions exceeding the 120-day scheduled completion goal. 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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OFFICE	PDII/PM	LA:PDII	PD2/SC	PDII/PD	NMSS/IMNS /IMOB	DLPM:D	ADPT:NRR	D: NRR
NAME	RSubbaratnam	Dunnington	SPeterson	HBerkow*	PGoldberg*	JZwolinski/S Black*	BSheron	S. Collins
DATE	6/ /99	6/ /2	6/ /99	6/3/99	6/9/99	6/9/99	6/ /99	6/ /99

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Report on Status of Public Petitions Under 10 CFR 2.206
May 31, 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: 7/6/99
Last Contact with Petitioner: 5/20/99
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 transmitted a letter to the DOE requesting that his debarment be lifted. The Petition Review Board meeting was held on January 20, 1999. A petition acknowledgment letter was issued on February 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 the NRC attesting to Mr. Semnani's character and integrity. There is no change in status for this report.

Facility: **Millstone**
Petitioners: 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: 6/30/99
Last Contact with Petitioner(s): 4/2/99
Petition Manager: J. Anderson
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, the petition 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. Region I drafted a Commission paper to resolve the enforcement issues associated with licensee wrongdoing. On 5/19/99, the Commission found the staff's approach regarding enforcement acceptable. On 5/25/99, the NRC issued the enforcement action to the licensee.

Current Status:

The DD is in concurrence and is currently scheduled for June 30, 1999.

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: 7/30/99
Last Contact with Petitioners: 5/28/99
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 was issued as a Notice of Violation on May 12, 1999. The Director's Decision is in concurrence. This Petition is expected to be closed upon issuance of the Director's Decision. Anticipated date of issuance of DD is July, 1999.

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:

An enforcement conference with the licensee was held at Region I on June 2, 1999. The OE review of the petitioner's request is in progress and issuance of the DD is scheduled for August 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: 9/14/99
Last Contact with Petitioner: 4/27/99
Petition Manager: John Nakoski
Case Attorney: Jack Goldberg

Issues/Action Requested:

The petitioners letter contained two petition requests. 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 the Petitioners' claim 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 required factors in 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, 10 CFR 50.54(q) and 10 CFR 50.47 are violated.

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. This recommendation was made because the current emergency response plan, endorsed by FEMA, is in force at Millstone. The PRB determined the second petition request for a hearing pursuant to 10 CFR 2.202 be denied. This recommendation was made for two reasons: first, it did not meet the Management Directive 8.11 criteria for a 2.206 petition, and second, it is, in effect, a petition for rulemaking for 10 CFR 50.47(c)(2), 10 CFR 50.54(s)(1), and Appendix E to Part 50. The petitioners were contacted on April 27, 1999, and informed of the NRC's denial of their request to immediately suspend the operating licenses of Millstone, as well as their request for a public hearing. However, the Petitioners' concerns related to further evaluating the current EP and request for expansion of the current 10-mile zone were sent to FEMA by letter dated June 4, 1999.

Current Status:

The acknowledgment letter and *FR* notice on the petition were issued on May 14, 1999. A letter to FEMA, as discussed above, was sent on June 4, 1999.

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: TBD*
Last Contact with Petitioner: 5/27/99
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. An acknowledgment letter for this petition was published in the Federal Register on February 12, 1999.

Current Status:

On May 13, 1999, a supplement to the 2.206 petition was sent to NRC requesting immediate action on several items. On May 27, 1999, the NRC wrote to the petitioners, acknowledging receipt of the supplement, denying immediate action, and notifying petitioners that NRC was deferring action on the 2.206 petitions, pending a decision by the Atomic Safety and Licensing Board (ASLB) on the petitioner's request for hearing on similar issues.

*Revised completion date will be set following ASLB's decision on the petition supplement.

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: 6/3/99
Petition Manager: B. Buckley
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.

Facility: **Nine Mile Point Unit 1 & 2**
Petitioners: Robert T. Norway
Date of Petition: April 5, 1999

Director's Decision To Be Issued by: NRR
Date Referred to Review Organization: 4/29/99
EDO Number: G1990224
OGC Number: -
Scheduled Completion Date: TBD*
Last Contact with Petitioners: 5/10/99
Petition Manager: D. Hood
Case Attorney: J. Goldberg

Issues/Action Requested:

(1) The petitioner requests that the NRC "take immediate action to issue a Show Cause Order or Civil Penalty against Niagara Mohawk Power Corporation and its senior nuclear and corporate management (Enforcement Sanctions) for 1) submitting a altered employee record, under fraudulent pretenses, to the Nuclear Regulatory Commission on May 10, 1996 and 2) for their actions for placing confidential and fraudulent statements pertaining to [his] work performance, a false written record of what the Administrative Law Judge (ALJ) had determined in Discrimination Case 95-ERA-005 and the confidential and fraudulent 1994 employee evaluation (which the Administrative Law Judge had found to be altered) into federal custody and into public record. These actions are in clear Violation of 10 CFR 2.790.(a). and 10 CFR 50.9." (2)The petitioner also requests that the NRC "take immediate action and issue a Show Cause Order or Civil Penalty against Niagara Mohawk Power Corporation and its senior nuclear and corporate management (Enforcement Sanctions) for Discrimination in Violation of 10 CFR 50.7 [and] 10 CFR 2.790 ... for their actions ... allowing confidential, false and fraudulent documentation that is disparaging, deleterious and damaging to [his] goodwill, integrity and reputation to be placed into permanent public record." (3)The petitioner also requests that NRC "forward a complaint to the Office of the Inspectors [sic] General for an investigation of possible deliberate misconduct or negligence on the part of members of the NRC for failing to take proper action in this discrimination case, allowing NMPC representatives to place false and fraudulent documents in NRC custody and for allowing these documents to be placed into public record."

Background:

A PRB meeting on the petition was held on May 5, 1999. The PRB recommended that the petition manager solicit a written response from the licensee to be reviewed by OE. A letter requesting a licensee response on the petition was issued on May 10, 1999.

Current Status:

An acknowledgment letter and *FR* notice on the petition are currently scheduled for issuance by June 15, 1999. The delay in issuance of the acknowledgment letter is due to the staff's consideration of the petition as an allegation because of the petitioner's request for confidentiality. The confidentiality request was subsequently withdrawn.

* Schedule for completion will be set 120 days following issue of acknowledgment letter.

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

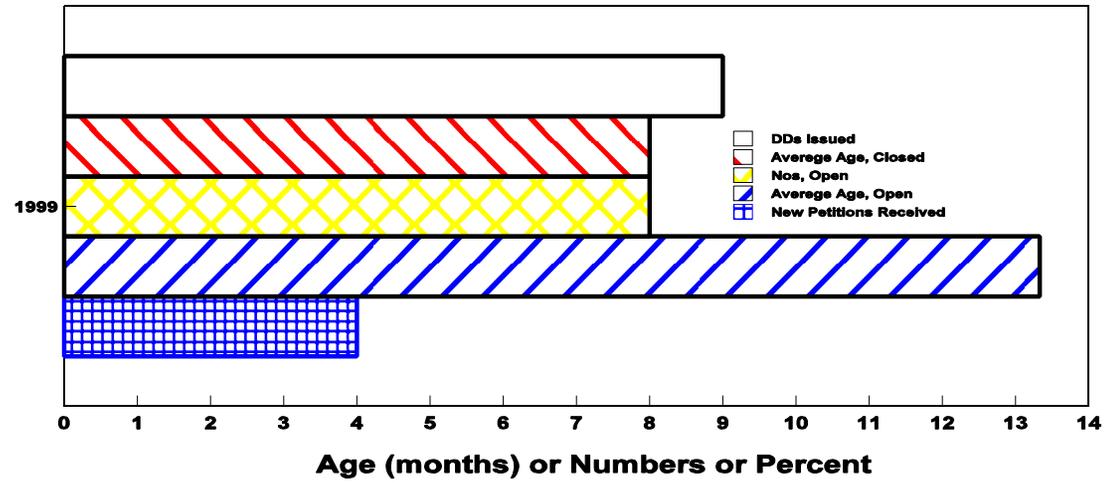
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Attachment 4

Statistics of Petition Processed under 10 CFR 2.206 during 1999(5/99)



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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*******

NAME
DATE

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3. H. Berkow /
/99
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