

March 9, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Bruce A. Boger, Associate Director
for Operating Reactor Oversight and Licensing **/RA/**
Office of Nuclear Reactor Regulation

SUBJECT: FEBRUARY 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*
(10 CFR), SECTION 2.206

In accordance with SECY-93-355, "Review of Regulations and Practice Governing Citizen Petitions Under Title 10 of the *Code of Federal Regulations*, Section 2.206," the enclosed report gives the status of petitions submitted under 10 CFR 2.206. As of February 28, 2007, there were three open petitions that were accepted for review under the 2.206 process; two in the Office of Nuclear Reactor Regulation and one in the Office of Nuclear Material Safety and Safeguards. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of February 28, 2007.

Enclosure 2 provides the status of incoming letters that the U.S. Nuclear Regulatory Commission (NRC) staff is reviewing to determine if they meet the criteria for review under the 2.206 process.

Enclosure 3 shows the age statistics for the open 2.206 petitions as of February 28, 2007.

This report, Director's Decisions, and other 2.206-related documents are placed in the Agencywide Documents Access and Management System. By making these documents readily accessible to the public, the NRC staff is addressing the performance goal of ensuring openness in our regulatory process.

Enclosures: As stated

CONTACT: Tanya M. Mensah, NRR/DPR
301-415-3610

March 9, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Bruce A. Boger, Associate Director */RA/*
for Operating Reactor Oversight and Licensing
Office of Nuclear Reactor Regulation

SUBJECT: FEBRUARY 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*
(10 CFR), SECTION 2.206

In accordance with SECY-93-355, "Review of Regulations and Practice Governing Citizen Petitions Under Title 10 of the *Code of Federal Regulations*, Section 2.206," the enclosed report gives the status of petitions submitted under 10 CFR 2.206. As of February 28, 2007, there were three open petitions that were accepted for review under the 2.206 process; two in the Office of Nuclear Reactor Regulation and one in the Office of Nuclear Material Safety and Safeguards. Information that has changed since the last monthly report is highlighted.

Enclosure 1 provides a detailed status of the open petitions as of February 28, 2007.

Enclosure 2 provides the status of incoming letters that the U.S. Nuclear Regulatory Commission (NRC) staff is reviewing to determine if they meet the criteria for review under the 2.206 process.

Enclosure 3 shows the age statistics for the open 2.206 petitions as of February 28, 2007.

This report, Director's Decisions, and other 2.206-related documents are placed in the Agencywide Documents Access and Management System. By making these documents readily accessible to the public, the NRC staff is addressing the performance goal of ensuring openness in our regulatory process.

Enclosures: As stated

CONTACT: Tanya M. Mensah, NRR/DPR
301-415-3610

DISTRIBUTION: See next page

ADAMS Accession Number: ML070610142

OFFICE	PM:PSPB	LA:PSPB	BC:PSPB	DD:DPR	ADRO
NAME	TMensah	DBaxley	SRosenberg	HNieh	BBoger
DATE	3 / 8 / 07	3 / 8 / 07	3 / 8 / 07	3 / 8 / 07	3 / 9 / 07

OFFICIAL AGENCY RECORD

DISTRIBUTION FOR FEBRUARY 2007 REPORT ON THE STATUS OF PUBLIC PETITIONS
UNDER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*, SECTION 2.206

Date: March 9, 2007

PUBLIC

PSPB Reading File

RidsEdoMailCenter

EJulian

PAnderson

RidsNrrOd

RidsNrrAdro

RidsOgcMailCenter

RidsOcaMailCenter

RidsOeMailCenter

JStrosnider

JDeCicco

PRathbun

GCaputo

RidsNrrDpr

RidsNrrDprPspb

RidsNrrLADBaxley

RidsNrrPMTMensah

RidsOpaMailCenter

RidsRgn1MailCenter

RidsRgn2MailCenter

RidsRgn3MailCenter

RidsRgn4MailCenter

Status of Open Petitions

<u>Facility</u>	<u>Petitioner/EDO No.</u>	<u>Page</u>
Palisades Nuclear Power Plant	Terry Lodge, Counsel for Petitioners G20060369.....	1
South Texas	Service Employees International Union G20060525.....	3
Shearon Harris	John Runkle representing Waste Awareness and Reduction Network (WARN), Union of Concerned Scientists (UCS), et al. G20060793.....	5

Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	Palisades Nuclear Power Plant
Petitioners:	Terry Lodge, Counsel for Petitioners
Date of Petition:	April 4, 2006
Director's Decision to be Issued by:	NMSS
EDO Number:	G20060369
Proposed DD Issuance:	November 28, 2006
Final DD Issuance:	March 20, 2007
Last Contact with Petitioner:	February 2, 2007
Petition Manager:	Randy Hall
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC condemn and force a halt to the use of the two concrete pads holding dry casks storing used nuclear fuel at the Palisades Nuclear Power Plant. The petitioners state that the pads, on which radioactive waste are stored, do not conform with longstanding NRC requirements for earthquake stability standards because they were built on compacted sand and other subsurface materials, dozens of feet above bedrock. In particular, the petitioners claim that the pads are in violation of requirements in 10 CFR 72.212(b)(2)(i)(B).

Background:

The NRC staff held a teleconference with the petitioners on April 26, 2006. The petitioners informed the NRC staff that they would submit a supplement to the petition. The NRC staff delayed making a decision on whether the petition met the criteria of 10 CFR 2.206 pending receipt of the supplement.

On May 4, 2006, the NRC staff sent a letter to the petitioner, acknowledging receipt of the petition and providing a transcript of the teleconference. As of June 30, 2006, the petitioner had not provided a supplement to the petition.

On June 9, 2006, the NRC staff sent a status letter to the petitioner, indicating that the NRC staff will continue to process the petition in accordance with the 2.206 process.

On June 27, 2006, the NRC staff sent a letter to the petitioner stating that the request to condemn and stop the use of the two ISFSI concrete pads does not require immediate action. The letter also stated that the petition was accepted for review under the 2.206 process in part, specifically with respect to slope stability of the concrete pad constructed in 2003. Those portions of the petition concerning the older concrete pad constructed in 1992 and soil liquefaction related to the newer pad were not accepted for review because those issues have already been the subject of NRC staff review and have been resolved.

On August 25, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email to provide a current status.

On October 31, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email to provide a current status.

On December 1, 2006, the NRC staff attempted to reach the petitioner by phone and sent an email transmitting the proposed Director's Decision for comment.

This issue was originally identified as an unresolved item in a previous NRC inspection report, and was forwarded to the Spent Fuel Project Office (SFPO) staff by Region III in a Technical Assistance Request (TAR) dated March 10, 2006. On August 29, 2006, SFPO sent a memorandum back to Region III identifying its remaining questions on the licensee's analysis, which Region III forwarded to the Palisades licensee.

The licensee revised its slope stability analysis for the new pad to address the NRC questions and that revised analysis was provided to NMSS for review on October 24, 2006. The NRC staff has completed its review of the licensee's revised slope stability analysis for the newer pad and finds it acceptable; therefore the NRC staff is proposing to deny the petition.

The NRC staff issued the proposed Director's Decision to the petitioner and to the licensee for comment on November 28, 2006. The NRC asked for comments to be submitted within 30 days of the proposed Director's Decision. The licensee has indicated to the NRC staff that it does not have any comments on the proposed Director's Decision.

On January 4, 2007, the petitioner requested an additional 14 days to provide comments on the proposed Director's Decision, citing personal hardship and the need to consult further with a technical expert. The NRC staff agreed to allow the petitioner until January 19, 2007, to submit any comments. On January 18, 2007, the petitioner requested another 14-day extension, until February 2, 2007, to provide comments, which the NRC staff granted. The NRC staff subsequently requested and was granted an extension until March 20, 2007, for the preparation of the final Director's Decision.

Current Status:

The NRC staff received the petitioners' comments on February 2, 2007, and is preparing the Final Director's Decision.

Facility:	South Texas
Petitioners:	Service Employees International Union
Date of Petition:	May 16, 2006, as supplemented June 26, 2006
Director's Decision to be Issued by:	NRR
EDO Number:	G20060525
Proposed DD Issuance:	November 22, 2006
Final DD Issuance:	February 24, 2007
Last Contact with Petitioner:	August 7, 2006
Petition Manager:	Mohan Thadani
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC issue a Demand for Information that would require STPNOC to provide the NRC with copies of:

- (1) any assessments of the safety conscious work environment at STP conducted since January 1, 2004, and
- (2) summaries of any associated action plans and the results of efforts to remediate problems revealed by these surveys and surveys in 2001 and 2003.

Background:

The NRC staff met with the petitioner on June 27, 2006. The petitioner discussed his concerns and requested actions, and provided a supplement to his petition.

The PRB determined that the petition meets the criteria for review under 10 CFR 2.206. An acknowledgment letter was issued on July 28, 2006.

The petition manager spoke with the petitioner on August 7, 2006, for the purpose of post-Petition Review Board (PRB) feedback, and offered another opportunity to meet with the PRB. The petitioner said that he would call back.

The petitioner subsequently called back and indicated that he did not want another meeting with PRB. However, he reiterated that he would like the NRC to respond to his concerns about the licensee's actions regarding the licensee's findings and action plans relative to the 2001 and 2003 surveys.

Region IV staff has completed its inspections addressing the petitioner's concerns. A report of the inspections was used to prepare the proposed Director's Decision. The Office of Enforcement will address the issues related to enforcement actions requested by the petitioner. The Proposed Director's Decision, issued on November 22, 2006, states that the NRC staff has access to all of the information requested by the petitioner. Therefore, issuance of a DFI to the licensee is not warranted. The NRC staff requested that comments be submitted by December 21, 2006.

On January 5, 2007, the petitioner wrote to the Director of the Division of Operating Reactor Licensing, requesting an extension until January 12, 2007, to provide comments on the proposed Director's Decision. The NRC staff granted the requested

extension and informed the petitioner accordingly. To offset the delay in receiving the petitioner's comments, the NRC staff requested an extension to support the review of the petitioner's comments and completion of the final Director's Decision. The January 12, 2007, deadline passed. The petitioner did not provide any comments.

Current Status:

The NRC staff issued the Final Director's Decision (DD-07-01) on February 24, 2007.

Facility:	Shearon Harris
Petitioners:	John Runkle representing WARN, UCS, et al.
Date of Petition:	September 20, 2006
Director's Decision to be Issued by:	NRR
EDO Number:	G20060793
Proposed DD Issuance:	April 3, 2007
Final DD Issuance:	June 17, 2007
Last Contact with Petitioner:	November 13, 2006
Petition Manager:	Chandu Patel
Case Attorney:	Giovonna Longo

Issues/Actions requested:

That the NRC suspend the operating license for Shearon Harris until all fire safety violations affecting safe shutdown functions are brought into compliance.

Background:

On October 23, 2006, the NRC staff held a public meeting for the petitioners to address the PRB. Due to technical difficulties with the teleconferencing system, the meeting was cancelled. The NRC staff held a public meeting on November 13, 2006, for the petitioners to address the PRB. The PRB determined that the petition meets the criteria for review under 10 CFR 2.206. An acknowledgment letter was issued on December 4, 2006.

During the review of this petition, several resolutions were submitted by external stakeholders in support of the petition. The resolutions were submitted to the NRC in letters dated October 11, 2006 (G20060852), October 12, 2006 (G20060858) and October 16, 2006 (G20060861). The resolutions were submitted by the townships of Chapel Hill and Carrboro, and the Orange County Board of Commissioners respectively. Regarding the resolutions concerning fire protection issues, the NRC reached agreements with the respective townships and the Orange County Board of Commissioners to include them on distribution for related NRC correspondence with the petitioners concerning their requests. This agreement is documented in individual letters dated November 17, 2006, from the NRC staff to the townships of Chapel Hill and Carrboro. The NRC documented its response to the Orange County Board of Commissioners in letters dated November 27, 2006, and December 27, 2006.

In addition, in its letters dated October 16, 2006, and November 27, 2006, the Orange County Board of Commissioners submitted a resolution concerning emergency preparedness. In its response dated November 27, 2006, and December 27, 2006, the NRC staff determined that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency associated with the Shearon Harris Nuclear Plant. The NRC staff recommended that the Orange County Board of Commissioners work through the appropriate State and local agencies to develop proposed changes to the existing plans.

Current Status:

In a letter dated February 8, 2007, the petitioners submitted supplemental information for the NRC staff to consider in its review. The NRC staff is reviewing information submitted by the petitioners to support a timely issuance of the Proposed Director's Decision by April 3, 2007.

Status of Potential Petitions Under Consideration

Facility: Indian Point
Petitioner: Tom Gurdziel
Date of Petition: January 11, 2007 (Region I email), as supplemented by a letter dated January 26, 2007 (Green Ticket)
EDO Number: G20070073
PRB meeting: Not requested by petitioner

Issues/Actions requested within the January 11, 2007, email to Region I:

The petitioner requests that the NRC:

1. Shutdown Indian Point Units 2 and 3 if a fully tested, operational, new siren system is not working by January 31, 2007.
2. A management and inspection team from Region II should independently inspect Indian Point for spent fuel pool leaks.

Issues/Actions requested within the January 26, 2007, letter to the Executive Director for Operations:

1. The petitioner requests that the NRC reduce the licensed power at each plant at Indian Point by 10 percent for every month that the specified siren/alarm system is not fully tested, fixed, retested, and accepted for full operation.

Background:

On January 11, 2007, Region I received an email from the petitioner. This email was forwarded to the Agency 2.206 Coordinator to determine if the requests met the criteria for consideration under 10 CFR 2.206. For the first request within this email, the PRB identified that the NRC staff had previously determined that there is no hazard to the public health and safety. The NRC issued an extension to permit the use of the existing siren system to April 15, 2007. Since the extension was granted, there was no violation by the licensee. For the second request, the PRB determined that this recommendation was not requesting that the NRC take an enforcement-related action. However, because there was a claim that the NRC staff performed inadequate inspections, this email was forwarded to the Office of Inspector General by the Region I Office.

On January 24, 2007, the Indian Point Project Manager (PM) contacted the petitioner by telephone and email. The PM informed the petitioner that the requests within the January 11, 2007, email did not meet the criteria for acceptance under the 2.206 petition process. In an email dated January 24, 2007, the petitioner responded and asked that the PRB consider his information, but said he did not want to address the PRB. The petitioner also indicated that he would submit a formal 2.206 petition to the NRC in the future. On January 26, 2007, the petitioner submitted a formal letter to the NRC for consideration as a 2.206 petition.

ENCLOSURE 2

Current Status:

In a letter dated February 20, 2007, the NRC staff informed the petitioner that the letter did not meet the criteria for consideration under 10 CFR 2.206 because it did not set forth facts sufficient to constitute a basis for the requested action.

Facility: N/A
Petitioner: James Salsman
Date of Petition: December 2, 2006, and email supplement dated December 2, 2006
EDO Number: G20070006
PRB meeting: **March 13, 2007** (teleconference with petitioner)

Issues/Actions requested:

The petitioner requests that all uranium munition licenses be explicitly modified to require:

- A good faith effort to quantify dates, times, locations, quantities, and types of pyrophoric uranium munition use, with an estimation of the kinds of targets involved.
- The licensees to determine the amount of uranyl oxide gas produced in pyrophoric uranium munitions combustion in air under typical and observed conditions.
- The licensees to determine the extent of both reproductive and developmental toxicity from typical uranium combustion product inhalation in at least five diverse species of mammals using chromosomal aberration analysis of lymphocytes and gonocytes.
- The licensees to publish their estimates and determinations from the license modifications specified in the three action above, provide independent verification of the studies via anonymous bidding on contracts for replication and auditing of data, and publication of initial and validating studies in peer-reviewed medical and scientific journals.

Background:

A petition requesting a similar, but more extensive modification of depleted uranium munition licenses was submitted on April 5, 2005. A December 30, 2005, Director's Decision granted in part, and denied in part, the numerous requests. The second submission of a petition, submitted July 12, 2006, condensed the requests of the initial April 5, 2005, submission and requested modification of depleted uranium munition licenses (almost identical to this December 2, 2006, petition request). It also provided other journal articles as additional information for consideration. A September 26, 2006, closure letter to the petitioner provided the PRB's determination and explanation that the petition request did not meet the criteria for acceptance as a 2.206 petition, but met the criteria for rejection as a 2.206 petition.

This petition request, submitted December 2, 2006, requests the same modifications as the July 12, 2006, petition request, and has additional journal and website articles as additional information for the PRB to consider.

Current Status:

The NRC staff made initial contact with the petitioner on January 18, 2007, to discuss the 2.206 petition process. The petitioner desired to address the Petition Review Board by teleconference. The teleconference between the petitioner and the PRB has been scheduled for **March 13, 2007**.

Facility: Indian Point
Petitioner: C. Scott Vaderhoef
Date of Petition: February 15, 2007 (Letter to Sam Collins, Regional Administrator)
EDO Number: N/A
PRB meeting: TBD

Issues/Actions requested:

As a result of the emergency plan declaration (Notice of Unusual Event) on February 5, 2007, at Indian Point Unit 3, the petitioner requested that the NRC mandate a more in-depth inspection and maintenance program for the cooling water intake systems in Unit 2 and Unit 3. The petitioner requests that:

- The trash rack system in Unit 3 should be visually inspected every six months by sending divers into the water to perform these inspections.
- After each monthly backwash of either system, the water level should be closely monitored to make certain that any material that may have been rinsed from one unit is not then drawn into the trash rack/bucket system of the other, causing an obstruction.
- The cleaning of these racks and bucket system should be performed on an annual basis, instead of every two to four years.
- A contingency plan should be put into place similar to the one developed after the facility terminated the recent NUE, which instructed the operators to backwash the system and start shutting down non-critical pumps should the water flow decrease.

Background:

In a letter dated February 15, 2007, the petitioner submitted a letter to the Region I Administrator, Samuel J. Collins. The letter was forwarded to the PRB on February 26, 2007, to determine if it met the criteria for acceptance under the 2.206 process. The PRB met to discuss the letter on March 1, 2007. The PRB decided that although the letter contained a request for enforcement-related action and there was no other NRC proceeding available to the petitioner, that the petitioner had not presented supporting facts that were credible and sufficient to warrant further inquiry. The NRC staff is currently reviewing this event through the inspection program.

On March 2, 2007, the NRC staff contacted the petitioner to inform him of the PRB decision and to determine if the petitioner intended to formally submit this information for consideration under the 2.206 process. The petitioner stated that he did not want to pursue a 2.206 petition at this time. He stated he will review the NRC inspection results when they are issued in April 2007.

AGE STATISTICS FOR AGENCY 2.206 PETITIONS

Assigned Action Office	FACILITY/ Petitioner	Incoming petition	PRB meeting ¹	Acknowledgment letter/days from incoming ²	Proposed DD issuance Date/age ³	Date for final DD/age ⁴	Comments if not meeting the Agency's Completion Goals
NMSS	Palisades	04/04/06	04/26/06	06/27/06 84	11/28/06 118	TBD	
NRR	South Texas	05/16/06	6/27/06	07/28/06 73	11/22/06 118	02/24/07 43	
NRR	Shearon Harris	09/20/06	11/13/06	12/04/06 75	04/03/07	TBD	On 10/23/06, the NRC staff held a public meeting for the petitioners to address the PRB. Due to technical difficulties with the teleconferencing system in the Headquarters Operations Center, the meeting was cancelled. Per approval from the OEDO, the acknowledgement letter deadline was extended until 12/06/06 to provide time to reschedule the public meeting and for the PRB to meet subsequent to the public meeting.

- 1) Goal is to hold a PRB meeting, which the petitioner is invited to participate in, within 2 weeks of receipt of petition.
- 2) Goal is to issue acknowledgment letter within 35 days of the date of incoming petition.
- 3) Goal is to issue proposed DD within 120 days of the acknowledgment letter.
- 4) Goal is to issue final DD within 45 days of the end of the comment period.