

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: FEBRUARY 2000 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 February 29, 2000. During the month, Director's Decision (DD-00-01) on Connecticut Yankee and Millstone Units 1, 2, and 3 (GT96919) was issued and the petition was closed. Two new petitions, one on Indian Point Unit 3 (G20000062), and one on Edwin Hatch Nuclear Plant Units 1 and 2 (G2000098 and G2000056) were received for processing. Thus, there are four open petitions: three in the Office of Nuclear Reactor Regulation (NRR) and one in the Office of Nuclear Material Safety and Safeguards (NMSS).

Attachment 1 provides the status of petitions for NRR and NMSS. Attachment 2 gives the status of petitions that are in a confidential status and is for internal distribution only. Attachment 3 shows the age and staff hours expended on open 2.206 petitions as of February 29, 2000, 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 in the past 12 months.

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

Report on Status of Public Petitions Under 10 CFR 2.206
February 29, 2000
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* Denotes new addition to the list

Attachment 1

Report on Status of Public Petitions Under 10 CFR 2.206

Facility:	Moab site of Atlas Corporation (Present Licensee PricewaterhouseCoopers LLP, Trustee)
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:	1/12/99
EDO Number:	G19990011
OGC Number:	P-99-02
Scheduled Completion Date:	TBD*
Last Contact with Petitioner:	1/6/2000
Petition Manager:	Myron Fliegel
Case Attorney:	J. Goldberg

Issues/Action Requested:

The 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, a 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 was filed on January 11, 1999, requesting the NRC to take six immediate actions related to potential impact on endangered fish in the Colorado River due to contaminants from the Atlas Uranium mill tailings pile. A Petition Review Board (PRB) meeting was held on January 26, 1999, and the petitioners' requests for immediate action were denied by a 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. On May 13, 1999, the staff received a supplement to the 2.206 petition requesting immediate action on several items: (1) to suspend the issuance of the license amendment to permit reclamation; (2) to initiate a supplemental National Environmental Policy Act process; and (3) to reinstate consultation with Fish and Wildlife Services under the Endangered Species Act.

Earthjustice had, on January 27, 1999, petitioned the Atomic Safety and Licensing Board (ASLB) to intervene on the Atlas Corporation's proposal to reclaim the Moab mill tailings and on the cleanup of contaminated groundwater, citing the impacts to the endangered fish in the

Colorado River and its belief that the biological opinion was erroneous. On May 27, 1999, the NRC wrote to the petitioners, acknowledging receipt of the supplement, denying immediate action, and notifying the petitioners that NRC was deferring action on the 2.206 petition, pending a decision by the ASLB on the petitioners' request for a hearing on similar issues.

On September 17, 1999, the staff filed responses to the ASLB presiding officers' questions of July 30, 1999. On September 29, 1999, the staff provided the ASLB with a copy of its September 29, 1999, letter to Dames & Moore, notifying that organization that it had been selected to become the Trustee for the Atlas Moab site, since the Atlas Corporation is in bankruptcy. Copies of both filings were sent to the petitioners. Dames & Moore subsequently withdrew as trustee and PricewaterhouseCoopers LLP was chosen to be the trustee.

On October 18, 1999, Earthjustice filed a petition with the U.S. Court of Appeals for the 9th Circuit, arguing that the May 27, 1999, letter and a May 28, 1999, license amendment constitute final agency action and a de facto denial of the 2.206 petition. On November 3, 1999, OGC filed a motion to dismiss for lack of jurisdiction with the 9th Circuit Court of Appeals. A copy of the motion was sent to the petitioners. On November 23, 1999, the petitioner filed a response to the NRC motion to dismiss, arguing that the rejection of its request for immediate action and subsequent lack of action on the part of the NRC in issuing a final Director's Decision constitutes a final agency action. NRC filed its reply with the court to the petitioners' response on December 2, 1999.

On October 28, 1999, the ASLB presiding officer found the Earthjustice petition of January 27, 1999, to be timely, and entertained further argument on the issue of petitioners' standing. On November 16, 1999, Earthjustice requested the presiding officer to rule on whether the ASLB has jurisdiction with respect to determining whether NRC has complied with the Endangered Species Act. On December 6, 1999, the staff filed a response arguing that the ASLB should deny the petitioners' November 16, 1999, motion.

On December 27, 1999, an Order transferring source material license SUA-917 from Atlas Corporation to the Maob Mill Reclamation Trust was signed. The Order transfers the license to the Trust and orders the Trust and the Trustee (PricewaterhouseCoopers LLP) to perform reclamation of the uranium mill tailings site in accordance with the terms and conditions of the license. The terms and conditions of the license include reasonable and prudent measures in the U.S. Fish and Wildlife Service's final biological opinion, as well as mitigative measures developed by the NRC staff. The Order was effective December 30, 1999, and was published in the *Federal Register* on January 3, 2000.

Current Status:

On January 13, 2000, the petitioners filed a reply with the ASLB in support of their motion originally filed on November 16, 1999, for a preliminary ruling on jurisdiction. On February 17, 2000, the ASLB granted the petitioners' request for hearing, and the PRB, in consultation with the Office of the General Counsel (OGC), will decide the future course of action on this petition.

*The schedule for issuance of the Director's Decision will be set following the ASLB's decision.

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: 2/16/2000 (completed)

Last Contact with Petitioners: 11/26/99

Petition Manager: J. Zimmerman

Case Attorney: R. Hoefling

Issues/Action Requested:

The 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 September 12, 1997. 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. The licensee recently pleaded guilty to felony counts and accepted fines that are the largest penalty, civil or criminal, in the history of the commercial nuclear power industry. Although there are continuing investigations, they are viewed as beyond the scope of concerns that would affect the facility license.

Because the outcome of the investigations is not expected to influence the NRC's decision concerning NNECO's future operation of the Millstone reactors, the staff proposed to the Petition Review Board (PRB) to finalize and issue the Director's Decision by February 15, 2000. The PRB met on November 24, 1999, and affirmed the proposed course of action.

Current Status:

The final Director's Decision DD-00-01 was issued on February 16, 2000, and the petition was closed. The NRC had earlier issued a Partial Director's Decision (DD-97-21) dated September 12, 1997, which addressed all of the petitioners' requests, with the exception of the request that the NU operating licenses for the Millstone units be revoked if an investigation determined that NU deliberately provided insufficient and/or false or misleading information to the NRC. The decision on that request was deferred at the time of the Partial Director's Decision because several NRC investigations were underway. The Millstone facilities remained shut down under NRC Order until NRC management had been provided evidence that the licensee had fulfilled the intent of the two Orders. The DD concluded that, through the actions that NRC required the Millstone facilities to complete prior to restart, and which the licensee complied with, the intent of the petitioners' request was met. Hence, the staff did not find the revocation of the Millstone licenses appropriate and, as such, did not grant the final portion of the petitioners' request. The NRC is currently continuing to closely monitor the Millstone facilities as agency and regional focus plants.

Facility:	<u>Indian Point Unit 2</u>
Petitioner:	D. Lochbaum Union of Concerned Scientists
Date of Petition:	9/15/99
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	9/15/99
EDO Number:	G19990465
OGC Number:	-
Scheduled Completion Date:	3/31/2000
Last Contact with Petitioners:	1/31/2000
Petition Manager:	J. Harold
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requests that the NRC modify or suspend Indian Point Unit 2's operating license to prevent restart until the five identified issues are resolved. In lieu of license modification or suspension, the petitioner requests issuance of a Confirmatory Action Letter or Order requiring the petitioner's identified issues be addressed prior to restart. Additionally, the petitioner requests a public hearing on the petition be conducted in the vicinity of the plant prior to restart. The petition identified five issues, which are as follows: (1) Apparent Violation of Station Battery Design and Licensing Basis; (2) Apparent Failure to Adequately Correct Circuit Breaker Problems; (3) Apparent Unreliability of Emergency Diesel Generators; (4) Potential Unjustified License Amendment for Under-Voltage and Degraded Voltage Relay Surveillance Intervals; and (5) Apparent Errors and Non-Conservatism in Individual Plant Examination. A telephone conference was held on September 22, 1999, between the petitioner and the Petition Review Board (PRB), offering the petitioner an opportunity to articulate, in more detail, the basis for the petition and to allow the staff to ask the petitioner clarifying questions. There were two additional issues provided during the telephone conference call. They are: (1) Indian Point Nuclear Generating Unit No. 2's (IP2) ability to cope with a station blackout scenario with current procedures; and (2) the incorporation of licensing commitments into plant procedures.

Background:

In a public meeting held in Region I on September 14, 1999, to discuss a plant trip at IP-2 from full power on August 31, 1999, ConEd described the complications of the events that led to the trip and provided a copy of their recovery plan. This plan detailed actions that ConEd viewed as necessary to complete prior to plant restart. On September 15, 1999, the staff received a 10 CFR 2.206 petition from the Union of Concerned Scientists (UCS) on IP2. A PRB meeting on the petition was held on September 22, 1999. An acknowledgment letter and *Federal Register* notice on the petition were issued on October 8, 1999. The PRB accepted the petition as a valid one pursuant to 10 CFR 2.206. The PRB determined that the petitioner's issues had been identified by the licensee in their September 14, 1999, meeting and plant restart was contingent upon implementation of the recovery plan, which would resolve the petitioner's issues. The PRB concurred that several issues in the petition as well as others not addressed need to be resolved prior to restart, thereby partially granting the petition. The PRB also made a decision to request a licensee response to the issues raised in the petition to aid the staff in preparing the acknowledgment letter to the petitioner. The licensee's response dated September 24, 1999, provided information, on the docket, which the staff had already acquired through its ongoing inspection effort. An additional request for additional information was issued on October 1, 1999, and the licensee responded by letter dated October 6, 1999. The staff used this

information in part to prepare the acknowledgment letter which was issued on October 8, 1999. The staff determined the immediate enforcement actions the petitioner requested were not appropriate because the short-term actions in the licensee's recovery plan adequately addressed some of the petitioner's issues and all of the restart issues. However, had the licensee not adequately addressed these issues, the staff would have considered enforcement actions. The unit was restarted on October 13, 1999.

The petitioner, in a letter dated October 12, 1999, expressed dissatisfaction that the acknowledgment letter failed to address his safety concerns on the station battery design and licensing basis and the adequate correction of breaker problems. The staff responded to those concerns by letter dated October 25, 1999. The staff determined that the issues raised in the petitioner's October 12, 1999, letter did not change the conclusion of the October 8, 1999, acknowledgment letter. However, the staff plans to factor the supplemental information into the final decision on the petition.

Current Status:

The Region I Augmented Inspection Team follow-up inspection report was received on December 21, 1999. An extension to the scheduled completion date was requested to allow incorporation of details of enforcement action from the August 31, 1999, event and to evaluate the February 15, 2000, event in which IP-2 experienced a steam generator tube failure, for any commonalities. The current date of completion for issuance of the Director's Decision is March 31, 2000.

Facility:	Indian Point Unit 3
Petitioner:	D. Lochbaum, UCS
Date of Petition:	2/10/2000
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	2/10/2000
EDO Number:	G20000062
OGC Number:	-
Scheduled Completion Date:	7/10/2000
Last Contact with Petitioners:	2/16/2000
Petition Manager:	G. Wunder
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioner requests that the NRC order the licensee to conduct assessments of the Indian Point 3 corrective action program and work environment and to take appropriate action in response to these assessments. The petitioner further requested that these orders be closed before the NRC allows the transfer of the Indian Point 3 license. As the basis for the requested action, the petitioner cited allegations by Ms. Rebecca Green, formerly a member of the licensee's Operations Review Group, that her work environment was not safety-conscious. The petitioner also cited various inspection reports, which identified shortcomings in the licensee's corrective action programs, as well as a letter informing the licensee of a potential violation of 10 CFR 50.7 involving discrimination against an employee.

Background:

A Petition Review Board (PRB) meeting was held on February 16, 2000. The petitioner was provided with an opportunity to address the PRB in an open session to articulate the petition, and did so with the licensee present.

Current Status:

This is a new petition. The PRB concluded that the petition meets the threshold for processing under 10 CFR 2.206 and the PRB concluded that the details provided in the petitioner's request are found sufficient to warrant further inquiry. An acknowledgment letter will be prepared for issuance by mid-March 2000.

Facility:	<u>Edwin Hatch Nuclear Plant Units 1 and 2</u>
Petitioner:	S. Barzcak/R. Kilpatrick, Campaign for Prosperous Georgia
Date of Petition:	2/3/2000, as amended 2/22/2000
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	2/24/2000
EDO Number:	G20000098, G20000056
OGC Number:	-
Scheduled Completion Date:	3/31/2000
Last Contact with Petitioners:	2/14/2000
Petition Manager:	L. Olshan
Case Attorney:	J. Goldberg

Issues/Action Requested:

The petitioners, in their letter dated February 3, 2000, requested that the NRC shut down the Hatch units, not allow operation of a high-level waste storage facility at that site, and not grant license renewal. As a basis for these claims, the petitioners cite issues related to ongoing groundwater problems, a cracked core shroud, and a mounting waste problem near the banks of the Altamaha River. The petitioners also assert that insufficient notice of events at Hatch is provided to the public. The petitioners submitted a supplement dated February 22, 2000, which raised additional issues. All the issues were discussed during the Petition Review Board (PRB) meeting conducted on February 28, 2000. The actions requested by the petitioners include: (a) shutting down Hatch; (b) cleaning up contaminated areas; (c) retrieval of particulate radiation; (d) decontamination of all equipment, material and buildings on site; (e) compensation of contaminated workers and the public; (f) irreversible revocation of the plant license; and (g) halting the dry cask storage project.

Background:

An initial PRB meeting was held on February 14, 2000, and the petitioners, in accordance with Management Directive (MD) 8.11, were provided with an opportunity to make a presentation to amplify and clarify the original submission in an open session of the PRB meeting. The petitioners requested, and were granted, additional time until February 18, 2000, for supplementing the petition with any additional information. The petitioners responded with a supplement dated February 22, 2000. A second PRB meeting was held on February 28, 2000.

Current Status:

This is a new petition. After discussing all of the issues raised, the PRB ultimately decided at the February 28, 2000, meeting to reject the petition. There were three issues identified at the PRB which required staff review: (1) environmental monitoring and Radcon related to personnel and offsite releases; (2) vulnerabilities of Lake Sinclair dam to a Charleston-type earthquake; and (3) the dumping of contaminated sludge at the site. Of these, the last issue was determined to be outside the scope of the PRB, since Hatch Units 1 and 2 are in an agreement state, and NRC does not have jurisdiction in that matter related to the National Pollutant Discharge Elimination System (NPDES). The PRB recommended that the petitioners' request in this regard be directed toward the State agency having jurisdiction. The other two issues were subsequently satisfactorily resolved by the staff after research showed that they had been dispositioned by a previous agency action. Since the issues have been dispositioned, the PRB recommended that the staff comprehensively answer all of the issues raised in the petition and issue a one-step acknowledgment/close-out letter.

Attachment 2

Report on Status of Public Petitions Under 10 CFR 2.206 with Petitions Involving the Office of Enforcement (OE), the Office of Investigations (OI), the Inspector General (IG), and the Department of Justice (DOJ), and Other Sensitive Information

<< ---- NOT FOR EXTERNAL DISTRIBUTION----->>

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

Current Status:

DOJ provided a press release announcing fines for 19 violations of the Atomic Energy Act and 6 violations of the Clean Water Act. DOJ and OI conducted investigations related to potential actions against individuals. Because the ongoing investigation was not expected to influence any NRC decision concerning NNECO's future operation of Millstone reactors, the staff agreed to provide a final Director's Decision by February 15, 2000. The Petition Review Board met November 24, 1999, and affirmed the proposed course of action. DD-00-01 was issued on February 16, 2000, and the petition was closed .

END OF STATUS REPORT

<<<---NOT FOR EXTERNAL DISTRIBUTION--->>>

Attachment 3
AGE AND RESOURCE EXPENDITURES FOR AGENCY 2.206 OPEN PETITIONS
As of February 29, 2000

ASSIGNED ACTION OFFICE	PETITION NUMBER	OGC NUMBER	FACILITY	AGE (months) *	Scheduled Completion Date	Resources Expended by Action Office (HOURS) ¹	Resources Expended by OGC (HOURS) ¹	Comments if not meeting the Agency's 120-day Completion Goal
NMSS	G1999001 1	P-99-02	ATLAS CORPORATION	12	TBD ²	5	38.5	Earthjustice filed a petition with the U.S. Court of Appeals for the 9 th Circuit regarding the staff's de facto denial of the 2.206 petition. ASLB granted the petitioner's request for a hearing on Feb 17, 2000.
NRR	G1990465	-	INDIAN POINT UNIT 2	4	3/31/2000	467.5	9.5	Incorporation of additional enforcement action from 8/31/99 event into the DD.
NRR	G2000006 2	-	INDIAN POINT UNIT 3	-	7/10/2000	13.0	1.0	
NRR	G20000098, G20000056	-	HATCH UNITS 1 AND 2	-	3/31/2000	29.0	3.0	-

¹ Staff professional time only; does not include management or administrative time.

² Projected completion date (Please see Attachment 1 for explanation).

*Age calculated from the date of the acknowledgment letter.

Attachment 4
Report on Status of Public Petitions
Under 10 CFR 2.206 for DDs Issued and/or Closed During the Last 12 Months

Petition Number	Assigned	Facility	Petition	DD	Age	Comments	
	Action Office	Date	Date	at Closure ^{1,2}			
GT977724	NRR	D.C.Cook	10/9/97 Granted	2/11/99	14	Partly	
G980233	NRR	Vermont Yankee	4/10/98	2/10/99	8	Denied	
G199980707	NRR	Diablo Canyon	11/24/98	3/12/99	2	Denied	
G980199	NRR	Browns Ferry	4/5/98	3/29/99	11	Denied	
G19980622	NMSS	FUSRAP	10/15/98	3/26/99	3	Denied	
G19980678	NRR	Perry	11/9/98	4/18/99	4	Denied	
G980592	NRR	River Bend	9/25/98	4/18/99	5	Denied	
603	NRR	Millstone	8/21/95	7/27/99	45	Partly Granted	
G19990173	OE	Seabrook	3/31/99	8/3/99	3	Denied	
GT97181	NRR Partly Granted	Connecticut Yankee		3/11/97	9/9/99	29	
G19980767	NMSS Granted	Enviro Care of Utah		12/30/98	7/12/99	5	
G19990201	NRR	Millstone	3/31/99	9/28/99	4	Denied	
G19990224	NRR	Nine Mile Point 1 & 2		4/5/99	10/28/99	4	
						Denied	
G19990268	NRR	Nine Mile Point 1	5/24/99	11/28/99	5	Denied	
GT96919	NRR	Millstone 1, 2 & 3	11/25/96, as amended 12/23/96		2/16/2000	37	Partly Granted

1) Age calculated from the date of the acknowledgment letter.

2) Goals: Acknowledgment letter issued within 5 weeks from date of receipt; DD issued within 4 months of acknowledgment letter.

PDII-2 DOCUMENT COVER PAGE

DOCUMENT NAME:

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ORIGINATOR: Ram Subbaratnam

SECRETARY NAME: Doreen Turner

SUBJECT: Monthly Status Report for 2.206 Petitions- September 1999

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

<u>NAME</u>	<u>DATE</u>
1. <u>E. Dunnington</u>	<u>/ /00</u>
2. <u>R. Subbaratnam</u>	<u>/ /00</u>
3. <u>H. Berkow</u>	<u>/ /00</u>
4. <u>P. Goldberg, NMSS</u>	<u>/ /00</u>
5. <u>S. Black/J.Zwolinski</u>	<u>/ /00</u>
6. <u>B. Sheron</u>	<u>/ /00</u>
7. <u>S. Collins</u>	<u>/ /00</u>
8. Secretary - Dispatch	

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