

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: MARCH 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 March 31, 1999. During March, Director's Decision (DD-99-06) on Browns Ferry and Director's Decision (DD-99-07) on Army Corps of Engineers were issued and Director's Decision (DD-99-05) on Diablo Canyon (G19980707) became a final agency action and was closed. There are 5 active NRR and 2 active NMSS petitions.

Attachments 1, 2, 3, and 4 provide the status of petitions for the Offices of Nuclear Material Safety and Safeguards and Nuclear Reactor Regulation. Attachment 1 lists petitions with status change from the previous update, including new additions to the list of petitions, Attachment 2 lists petitions with no status change from the previous update, and Attachment 3 gives the status of petitions that are in a confidential status and for internal distribution only.

Attachment 4 shows the age and staff hours expended on open 2.206 petitions as of March 31, 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 5 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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Report on Status of Public Petitions  
Under 10 CFR 2.206 with Status Change from Previous Update  
March 31, 1999  
(Table of Contents)

**Attachment 1**

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# Attachment 1

## Report on Status of Public Petitions

Under 10CFR 2.206 with Status Change from Previous Update

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Facility:	<b><u>Browns Ferry Nuclear Plant Unit 1</u></b>
Petitioner:	D.Lochbaum
Date of Petition:	4/5/98
Director's Decision To Be Issued by:	NRR
Date Referred to Review Organization:	4/6/98
EDO Number:	G980199
OGC Number:	P-98-007
Scheduled Completion Date:	Completed 3/26/99
Last Contact with Petitioner:	1/15/99
Petition Manager:	A. DeAgazio
Case Attorney:	R. Hoefling

### Issues/Action Requested:

The petitioner asked for an informal hearing requesting that (1) the operating license for Browns Ferry, Unit 1, be revoked and (2) the NRC should require the Tennessee Valley Authority (TVA) to submit either a decommissioning plan or lay-up plan for Browns Ferry, Unit 1. As the basis for the Union of Concerned Scientists (UCS) request, the petitioner asserts that because Browns Ferry, Unit 1, has been on "administrative hold" since June 1, 1985, and has not been operating since then, revocation of the operating license and requiring relicensing, if TVA later decides to restart Unit 1, is a better, safer process than is the current Inspection Manual Chapter 0350 restart process. Further, the petitioner asserts that requiring a decommissioning plan would provide assurance that the irradiated fuel is stored safely and that Units 2 and 3 are sufficiently independent of Unit 1 for safe operation.

### Background:

This petition was received on April 5, 1998. The 2.206 Petition Review Board convened in mid-April 1998, and endorsed a proposed course of action. The acknowledgment letter was issued April 29, 1998, with a decision to hold an informal hearing on the UCS petition. The petitioner sent in another letter dated June 5, 1998, requesting that the staff reconsider conducting a public hearing. The staff has determined that while the 2.206 petition alone does not meet the criteria contained in Management Directive 8.11 regarding a hearing, the staff has chosen to conduct an informal hearing near the Browns Ferry site to afford the petitioner, licensee, and members of the public an opportunity to provide relevant information to the staff. A Federal Register notice (63 FR 51626) to hold an informal hearing in the Browns Ferry area was issued on September 28, 1998. An informal hearing was held in the Browns Ferry area on October 26, 1998.

### Current Status:

The Director's Decision (DD-99-06) on the petition was issued on March 26, 1999. The decision is under Commission review for a final agency action.

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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: 6/2/99  
Last Contact with Petitioner: 01/26/99  
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 (NRDC'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, Director's Decision, that the on-going (at that time) criminal investigation centering on Mr. Semnani's alleged bribery of Mr. Larry Anderson (former Director of the Utah Division of Radiation Control) may raise potential issues of integrity, which, if proven, may raise questions as to whether the NRC should have the requisite reasonable assurance that Envirocare will comply with Commission requirements.

The Department of Justice's (Justice's) criminal investigation of Mr. Semnani resulted in his conviction on a single charge of misdemeanor tax fraud. Mr. Semnani has not been convicted of bribery. According to documents recently received by NRC, Mr. Semnani's agreement with Justice indicates that he was extorted by Mr. Anderson. Mr. Anderson has not been convicted of extortion. To the best of the staff's knowledge, no Justice charges have been filed against Mr. Anderson. Additionally, a civil trial to determine whether Mr. Anderson is legally entitled to monies allegedly owned him by Mr. Semnani has yet to be held.

Mr. Semnani entered into an agreement with the Department of Energy (DOE) in 1997 wherein he, in light of possible economic sanctions against Envirocare, agreed to debar himself as president of Envirocare. This DOE/Mr. Semnani agreement remains in effect although it is the staff's understanding (through newspaper accounts) that Mr. Semnani has recently approached the DOE requesting that his debarment be lifted. The PRB meeting was held on January 20, 1999. An acknowledgment letter was issued on Feb. 2, 1999.

Current Status:

NRC's responses to letters received from Mr. Semnani's attorney (Jan. 12, 1999) and NRDC's Mr. Cochran (Jan. 12, 1999) were issued on March 8 and March 12, 1999, respectively. On March 24, 1999, Mr. Anderson was indicted on charges of extortion, fraud, and tax evasion. His arraignment on these charges is scheduled for April 15, 1999. The NRC anticipates receipt of Mr. Semnani's rebuttal of issues raised in the Petition in the very near future.

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Facility: **Multiple Sites under the United States Formerly Utilized Sites Remedial Action Program (FUSRAP)**

Petitioner: Thomas Cochran, Natural Resources Defense Council  
James Sottile, IV, Caplin & Drysdale  
Christian R. Pastore, Caplin & Drysdale

Date of Petition: 10/15/98

Director's Decision To Be Issued by: OGC

Date Referred to Review Organization: 10/21/98

EDO Number: G19980622

OGC Number: P-98-015

Scheduled Completion Date: Completed 3/26/99

Last Contact with Petitioner: 3/1/99

Petition Manager: J. Lusher

Case Attorney: H. Newsome

Issue/ Action Requested:

The petitioners have requested that NRC exert authority to ensure that the Corps of Engineers' handling of radioactive materials in connection with the Formerly Utilized Sites Remedial Action Program (FUSRAP) is effected in accord with a properly issued license and all other applicable requirements.

Background:

Until recently, FUSRAP was administered by the Department of Energy. In October of 1997, Congress transferred funding for FUSRAP from DOE to the Corps of Engineers. NRDC believes that the Corps should obtain an NRC license to conduct activities under FUSRAP. At this time, NRC has not required the Corps to obtain a license. Office of the General Counsel (OGC) is currently reviewing NRDC's request. An acknowledgment letter was issued on November 30, 1998.

Current Status:

The Director's Decision (DD-99-06) on the petition was issued on March 26, 1999. The decision is under Commission review for a final agency action.

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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: 4/19/99  
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.

Current Status:

An informal public hearing was held on February 22, 1999, as scheduled. This provided an opportunity for the petitioner, the licensee and the public to provide their inputs, which could be useful in the preparation of the Director's Decision. The Director's Decision is currently scheduled to be issued on April 19, 1999.

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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: 4/19/99  
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 PRB 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, the NRC offered the petitioner an opportunity for an informal public hearing that will be coordinated with a similar petition associated with River Bend Station. The acknowledgment letter and Federal Register notice denying the petitioner's request for immediate shutdown were issued on December 16, 1998.

Current Status:

An informal public hearing was held on February 22, 1999, as scheduled. This provided an opportunity for the petitioner, the licensee and the public to provide their inputs, which could be useful in the preparation of the Director's Decision. The Director's Decision is currently scheduled to be issued on April 19, 1999.

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Facility:	<b>Millstone</b>
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:	6/30/99@
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). The 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 probability 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 petitioner 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. Region I has drafted a Commission paper to resolve the enforcement issues associated with this petition. Final resolution and the schedule for completion of the petition will occur following resolution of enforcement issues.

Current Status:

Staff enforcement action regarding findings of the OI report were completed. Final portion of the DD for closing out this petition is in preparation.

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@ An extension for completion date of the petition has been requested.

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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: 6/30/99@  
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:

Staff enforcement action regarding findings of the OI report was completed on 4/6/99.

@ An extension for completion date of the petition has been requested.

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Report on Status of Public Petitions  
Under 10 CFR 2.206 with No Status Change from Previous Update  
March 31, 1999  
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**Attachment 2**

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**Attachment 2**  
**Report on**  
**Status of Public Petitions**  
**Under 10CFR 2.206 with No Status Change from Previous Update**

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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 1, 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. Petition Review Board meeting was held on January 26, 1999, and the petitioner's 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 was published in the Federal Register on February 12, 1999.

Current Status:

There is no change in status for this update.

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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:

There is no change in status for this update.

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

**Attachment 3**  
**Report on Status of Public Petitions Under 10 CFR 2.206 with**  
**Decisions Pending Before the Commission and the Courts.**

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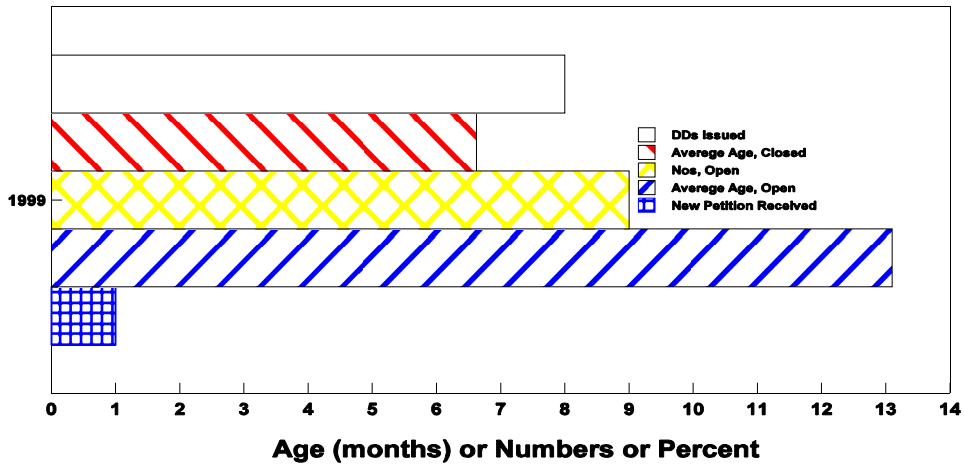
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### Attachment 5

Statistics of Petition Processed under 10 CFR 2.206 during 1999(3/99)





# 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- 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. Secretary - Dispatch	

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