

June 15, 2005

Mr. Raymond Shadis
Staff Technical Advisor
New England Coalition
Post Office Box 98
Edgecomb, ME 04556

Dear Mr. Shadis:

Your petition from the New England Coalition (NEC) dated May 3, 2005, and addressed to Mr. Luis A. Reyes, Executive Director for Operations of the Nuclear Regulatory Commission (NRC or Commission), has been referred to me pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, of the Commission's regulations.

Your petition requested that the NRC promptly restore reasonable assurance of adequate protection of public health and safety with regard to the fire barriers in electrical cable protection systems at Vermont Yankee Nuclear Power Station (Vermont Yankee), or otherwise to order a derate of Vermont Yankee until such time as the operability of the fire barriers can be assured. Specifically, the petition requested that the Commission take the following actions:

- 1) promptly conduct a review at Vermont Yankee to determine the extent of condition, including a full inventory of the type, amount, application, and placement of Hemyc, and an assessment of the safety significance of each application;
- 2) require Entergy Nuclear Vermont Yankee (ENVY) to promptly provide justification for operation in nonconformance with 10 CFR Part 50, Appendix R; and
- 3) upon finding that Vermont Yankee is operating in an unanalyzed condition and/or that assurance of public health and safety is degraded, promptly order a power reduction (derate) of Vermont Yankee until such time as it can be demonstrated that ENVY is operating in conformance with 10 CFR Part 50, Appendix R, and all other applicable regulations.

Your petition requested that, if NRC can not take prompt action through the 10 CFR 2.206 process, the NRC should order a power derate before screening NEC's letter into the 2.206 process.

As a basis for your request, your petition cited NRC Information Notice 2005-007, "Results of Hemyc Electrical Raceway Fire Barrier System Full Scale Fire Testing," which notifies licensees that the Hemyc electrical raceway fire barrier system (ERFBS) failed to protect electrical cables for 1 hour in fire tests that were performed to the American Society of Testing and Materials (ASTM) Standard E 119. Your request was also based on the following considerations:

- 1) Hemyc ERFBS is used to protect at least one Vermont Yankee safety-related system; 2) the fire tests, including the tests for initial qualification, indicate that the Hemyc ERFBS might not protect the cables for 1 hour; and 3) you believe this constitutes an unanalyzed condition and a violation of 10 CFR Part 50, Appendix R.

By teleconference on May 17, 2005, you provided information to the NRC's Petition Review Board (PRB) as further explanation and support for the NEC petition. The transcript of this teleconference is enclosed.

During the teleconference, the NRC staff commented that your first requested action (NRC will promptly conduct a review at Vermont Yankee to determine the extent of condition, including a full inventory of the type, amount, application, and placement of Hemyc, and an assessment of the safety significance of each application) did not constitute a request for enforcement action consistent with the 10 CFR 2.206 process. You requested that this action be modified such that the NRC will require the licensee (rather than the NRC) to conduct the review. You also requested that this action be modified to expand the scope of the review to all fire barriers at Vermont Yankee (i.e., not just the Hemyc ERFBS). Your basis for expanding the scope of the review was your concerns about the adequacy of other fire barriers (e.g., the adequacy of thermo-lag and proper installation of silicon penetrations), the history of fires and cable separation issues at Vermont Yankee, and the adequacy of the previous tests on the Hemyc ERFBS.

On May 17, 2005, following the teleconference, the PRB convened to evaluate whether the NEC petition should be reviewed under the 10 CFR 2.206 process. The NRC staff responsible for plant fire protection participated in the discussion. Based on the PRB's recommendation, I have decided to accept the following requested actions for review:

- 1) Require ENVY to promptly conduct a review at Vermont Yankee to determine the extent of condition, including a full inventory of the type, amount, application, and placement of Hemyc, and an assessment of the safety significance of each application;
- 2) Require ENVY to promptly provide justification for operation in nonconformance with 10 CFR Part 50, Appendix R; and
- 3) Upon finding that Vermont Yankee is operating in an unanalyzed condition and/or that assurance of public health and safety is degraded, promptly order a power reduction (derate) of Vermont Yankee until such time as it can be demonstrated that ENVY is operating in conformance with 10 CFR Part 50, Appendix R, and all other applicable regulations.

As for your request that the licensee review fire barriers beyond the Hemyc ERFBS, you did not provide adequate information to justify expanding the scope of the review. In its inspections of fire protection at Vermont Yankee, which included the review of numerous fire barriers and penetrations, the NRC did not identify any safety concerns other than the unresolved item related to Hemyc ERFBS (NRC Inspection Report 05000271/2001-003, July 27, 2001, ADAMS Accession No. ML012080293).

As for your request for immediate action (i.e., order a derate before screening NEC's letter into the 10 CFR 2.206 process), the NRC has already determined that immediate action was not necessary. When the Hemyc test results became available, the staff examined whether there was an immediate and significant risk to safety. Because fire detection, prevention, and suppression measures are already in place to minimize both the probability of occurrence and consequences of a fire that could prevent the performance of safe shutdown functions, the staff

concluded that continued plant operation while corrective actions are implemented will not pose an undue risk to public health and safety. In addition, the NRC staff has confirmed that fire watches have been implemented at Vermont Yankee as a compensatory measure until the corrective actions are completed (i.e., replacement of the Hemyc ERFBS). Guidance regarding resolution of nonconforming or degraded conditions, including taking compensatory measures until corrective actions are completed, is discussed in Generic Letter 91-18, Revision 1, "Information to Licensees Regarding NRC Inspection Manual Section on Resolution of Degraded and Nonconforming Conditions."

On June 13, 2005, the NRC staff notified you that, based on the recommendations of the PRB, your request for immediate action and your request to expand the scope to cover additional fire barriers were denied.

Your petition is being reviewed by the Division of Licensing Project Management within the Office of Nuclear Reactor Regulation. I have assigned Stewart Bailey to be the petition manager for your petition. Mr. Bailey can be reached at 301-415-1321. As provided by 10 CFR 2.206, we will take action on your request within a reasonable time. For your information, I have enclosed a copy of the notice that is being filed with the Office of the *Federal Register* for publication regarding your petition. Additionally, I have enclosed a copy of Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," and the associated brochure NUREG/BR-0200, "Public Petition Process," prepared by the NRC Office of Public Affairs.

Sincerely,

/RA by R. W. Borchardt for/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Docket No. 50-271

Enclosures: 1. *Federal Register* Notice
2. Transcript of May 17, 2005, teleconference
3. Management Directive 8.11
4. NUREG/BR-0200

cc w/encls: Licensee (w/copy of incoming 2.206 request)
See next page

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 J. E. Dyer, Director
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Package: ML051610117
 Incoming: ML051370182
 Response and Enclosures 1 and 2: ML051610042
 Enclosure 3: ML041770328
 Enclosure 4: ML013600445

OFFICE	PD1-2/PM	PDI-2/PM	PDI-2/LA	PDI-2/SC	PDI/D(A)	DLPM/D	NRR/OD
NAME	SBailey	REnnis	CRaynor	DCollins for DRoberts	RLaufer for JUhle	CHolden for TMarsh	RBorchardt for JDyer
DATE	6/15/05	6/15/05	6/15/05	6/13/05	6/13/05	6/14/05	6/15/05

OFFICIAL RECORD COPY

Subject: Raymond Shadis, the New England Coalition, Ltr Re: 2.206 - Degraded Fire Protection Systems at Entergy Nuclear Vermont Yankee

Dated: June 15, 2005

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KCyr, OGC

Vermont Yankee Nuclear Power Station

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Vermont Yankee Nuclear Power Station

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U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-271

LICENSE NO. DPR-28

ENTERGY NUCLEAR VERMONT YANKEE, LLC

AND ENTERGY NUCLEAR OPERATIONS, INC.

RECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition dated May 3, 2005, the New England Coalition (NEC or the petitioner) has requested that the Nuclear Regulatory Commission (NRC or the Commission) take action with regard to the Vermont Yankee Nuclear Power Station (Vermont Yankee). The NEC petition requested that the NRC promptly restore reasonable assurance of adequate protection of public health and safety with regard to the fire barriers in electrical cable protection systems at Vermont Yankee, or otherwise to order a derate of Vermont Yankee until such time as the operability of the fire barriers can be assured. Specifically, the petition requested that the Commission take the following actions: (1) require Entergy Nuclear Vermont Yankee (ENVY) to promptly conduct a review at Vermont Yankee to determine the extent of condition, including a full inventory of the type, amount, application, and placement of Hemyc, and an assessment of the safety significance of each application; (2) require ENVY to promptly provide justification for operation in nonconformance with 10 CFR Part 50, Appendix R; and (3) upon finding that Vermont Yankee is operating in an unanalyzed condition and/or that assurance of public health and safety is degraded, promptly order a power reduction (derate) of Vermont Yankee until such time as it can be demonstrated that ENVY is operating in conformance with 10 CFR Part 50, Appendix R, and all other applicable regulations.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time.

Mr. Raymond Shadis, in his capacity as the petitioner's Staff Technical Advisor, participated in a telephone conference call with the NRC's Petition Review Board (PRB) on May 17, 2005, to discuss the petition. The results of that discussion were considered in the PRB's determination regarding the petitioner's request for action and in establishing the schedule for the review of the petition. During the May 17, 2005, PRB conference call, the petitioner requested that the licensee review fire barriers beyond the Hemyc electric raceway fire barrier system. This request will not be accepted under the 2.206 process because the petitioner did not provide adequate information to justify expanding the scope of the review.

A copy of the petition and the transcript of the telephone conference call are available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the NRC's Agencywide Documents Access and Management System (ADAMS), Public Electronic Reading Room, on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html> (ADAMS Accession Nos. ML051370182 and ML051610042). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in

ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

R. W. Borchardt, Acting Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
This 15th day of June 2005.

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: PRB Meeting on 2.206: Degraded Fire
Protection Systems at Entergy Nuclear
Vermont

Docket Number: 50-271

Location: (telephone conference)

Date: Tuesday, May 17, 2005

Work Order No.: NRC-408

Pages 1-14

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 + + + + +

4 NUCLEAR REACTOR REGULATION OFFICE

5
6 -----x

7 IN THE MATTER OF: :

8 PRB Meeting on 2.206: : Docket No. 50-271

9 Degraded Fire Protection :

10 Systems at Entergy Nuclear :

11 Vermont :

12 -----x

13 Tuesday, May 17, 2005

14
15 NRC Headquarters Operations

16 Center

17 Recorded Phone Line

18
19
20
21
22 The above-entitled interview was conducted

23 at 10:00 AM.

24
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1 P-R-O-C-E-E-D-I-N-G-S

2 MS. SKAY: Good morning. Is there anyone
3 else on the bridge?

4 MR. SHADIS: Good morning. Ray Shadis is
5 here.

6 MS. SKAY: Hello, Ray. Do we have anybody
7 from the region? I think we'll wait for a few more
8 minutes. We'll wait for some more people to call in.

9 MR. ANDERSON: This is Cliff Anderson from
10 the region.

11 MS. SKAY: Hi, Cliff. Nobody from
12 Entergy?

13 MS. FAISON: Yes. This is Charlene Faison
14 from Entergy in White Plains, New York.

15 MS. SKAY: Okay. Good morning.

16 MS DAFLUCAS: Ronda Daflucas at Vermont
17 Yankee.

18 MS. SKAY: Are you waiting for anybody
19 else to join, Mr. Shadis?

20 MR. SHADIS: No, I'm not.

21 MS. SKAY: Okay. We're waiting for one
22 more person here and then we'll be ready for
23 introductions including the NRC.

24 MR. GUNTER: And Paul Gunter with Nuclear
25 Information and Resources on monitoring the PRB.

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1 MS. SKAY: Good morning, Mr. Gunter.
2 Okay, I think we have everybody here. This is Donna
3 Skay, I am the NRC 2.206 coordinator.

4 MR. BERKOW: Herb Berkow, NRR.

5 MR. FRUMKIN: Daniel Frumkin, Fire
6 Protection NRR.

7 MR. LYONS: Jim Lyons, I'm the petition
8 manager, or petition --

9 PARTICIPANT: Chairman.

10 MR. LYONS: Chairman, thank you.

11 MS. LONGO: Jenny Longo. Office of
12 General Counsel.

13 MR. HOLDEN: Cornelius Holden, Project
14 Directorate One.

15 MR. BOSKA: John Boska, project manager.

16 MR. ROBERTS: Darrell Roberts, section
17 chief, projects.

18 MR. PATEL: Chandu Patel, lead project
19 manager for fire protection.

20 MR. KUNTZ: Robert Kuntz, projects.

21 MS. SKAY: Okay. And Chandu Patel will be
22 the petition manager for this petition.

23 MR. SHADIS: Pardon me. I didn't get the
24 last name.

1 MS. SKAY: Chandu Patel, P-A-T-E-L. He
2 will be your petition manager and your primary contact
3 on this petition.

4 MR. SHADIS: Thank you.

5 MS. SKAY: Is there anybody else from
6 Vermont? If they could introduce themselves?

7 MR. ANDERSON: Yes, this is Cliff
8 Anderson, Region One.

9 MS. SKAY: All right. Then I will turn it
10 over to Jim Lyons, the PRB chairman.

11 MR. LYONS: Thank you Donna. The subject
12 of the this teleconference is the 2.206 petition
13 submitted by Mr. Raymond Shadis for the New England
14 Coalition, dated May 3, 2005. The petition pertains
15 to Hemyc fire wrap at the Vermont Yankee Nuclear Power
16 Station.

17 The petition -- the petitioner has
18 requested that the NRC require that Entergy Nuclear
19 Vermont Yankee promptly provide justification for
20 operation in non-conformance with 10 CFR, Part 50,
21 Appendix R. And upon finding that Vermont Yankee is
22 operating in an unanalyzed condition and/or that
23 assurance of public health inspection has degraded,
24 NRC promptly order a power reduction or de-rate, of VY
25 until such time that it can be demonstrated that ENVY

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1 is operating in conformance with 10 CFR, Part 50,
2 Appendix R and all other applicable regulations.

3 The purpose of this teleconference is to
4 allow the petitioner to address the petition review
5 board. This is an opportunity for the petitioner to
6 provide additional explanations or support for this
7 petition. This is also an opportunity for the staff
8 and licensee to ask any clarifying questions. The
9 purpose of this teleconference is not to debate the
10 merits of this petition.

11 Following this phone call, the PRB,
12 Petition Review Board, will meet today to determine
13 whether the NRC accepts the petition under the 2.206
14 content or whether it will be dealt with under another
15 mechanism. The PRB meeting today will not determine
16 whether we agree or disagree with the content of the
17 petition.

18 The teleconference is being transcribed,
19 so it will be helpful if anyone makes a statement to
20 first state their name clearly. The transcript will
21 become a supplement to the petition and will be made
22 publicly available. We requested that the petitioners
23 keep their remarks to approximately 30 minutes.

24 If the PRB decides that the petition will
25 be considered under 2.206, then the NRC will issue an

1 acknowledgement letter to the petitioner. The
2 petition manager will keep the petitioners and the
3 licensees periodically informed of the progress of the
4 staff's review.

5 With that, Mr. Shadis, if you would please
6 provide us with whatever information you want us to
7 hear.

8 MR. SHADIS: Thank you, Mr. Lyons. And
9 this is Ray Shadis. The first thing in, and just a
10 minor point here, in your summation of the 2.206 -- I
11 may have had a senior moment, but I did not hear, in
12 our request for enforcement action point one, which
13 was that the NRC conduct a review to determine extent
14 of condition, including full inventory of the type,
15 amount, application, and placement of Hemyc and an
16 assessment of the safety significance of each
17 application.

18 This is particularly important to us, with
19 respect to Vermont Yankee. As we stated in our
20 petition, this licensee was available, excuse me, this
21 licensee was aware of the dubious nature of their fire
22 protection barriers dating back to 2001 in the
23 triennial fire inspection. And at that time it was
24 pointed out that the test conducted on the fire

1 barrier in the early 1980s were not up to the standard
2 that was required by NRC in Generic Letter 86-10.

3 So what we have is a situation where the
4 licensee has been sitting on this issue aware of the
5 potential for failure of the fire barriers. We
6 understand now that the licensee has identified that
7 there are approximately 50 linear feet of coverage but
8 that, that coverage does include safety significant
9 components. Given their understanding of that, we
10 think it really is important to confirm the full
11 extent of the use of this particular fire barrier.
12 And I think we were unclear in our petition that we
13 are also concerned about the state of fire barrier
14 protection at Vermont Yankee overall. Not just
15 including the Hemyc.

16 It is, we think, important to focus on
17 this at Vermont Yankee because the plant has had a
18 number of fires, two in the last year. So, you know,
19 we see that as a probability of two in 52 weeks or
20 four percent a week. This is not a situation where
21 you can claim that a fire is unlikely.

22 In addition to that, there have been
23 several instances cited in inspection reports over the
24 last few years of cable separation issues, including
25 issues where cable tray covers, or conduit covers,

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1 have been left off. And so where one of the primary
2 concerns is to protect electrical cables and one of
3 the sources of fire is damaged cables or shorted
4 cables, we see it as an aggravated situation.

5 And so, you know, we really want to point
6 NRC to examining this question at Vermont Yankee as a
7 -- also as question of whether or not there is a
8 systemic issue.

9 And I think that, by and large, I think
10 that concludes my arguments. Other than that I think
11 the 2.206 can stand on its own.

12 MR. LYONS: Okay, thank you Mr. Shadis.
13 I just wanted to clarify -- the reason that, when we
14 were putting together this summary, we didn't include
15 your number one is that number one is not really a
16 request for enforcement action, which is what 2.206
17 requires -- that you ask for enforcement action. So
18 I just wanted to clarify that it wasn't that were
19 ignoring that, it was just that it wasn't picked up as
20 part of the 2.206.

21 MR. SHADIS: I see. Well, in -- I see. In
22 the interest of moving things along, I would file an
23 amendment to alter that request and, you know, we
24 could also, if the PRB is willing to do it now,

1 basically change number one to say that NRC will
2 require the licensee to conduct a review.

3 MR. LYONS: Yes, they're okay. We can do
4 that. And we will certainly look into that aspect of
5 it anyway as we look into this petition, as to the
6 extent of the condition and the --- so I think that
7 would help clarify that.

8 MR. SHADIS: And I appreciate that. And
9 I think that you would understand that what we're
10 looking for here is a full review to determine extent
11 of condition. In other words, not a limited extent of
12 condition review but one that encompasses the recent
13 history of operations, the cable separation issues,
14 other fire protection issues that have arisen and the
15 frequency of fires at Vermont Yankee.

16 MR. LYONS: All right. I'm looking around
17 the room here. Is there anyone here who has any
18 questions of Mr. Shadis?

19 MS. SKAY: This is Donna Skay. I just
20 wanted to clarify, Mr. Shadis, that you're changing
21 number one to asking that the NRC require the licensee
22 to conduct a review of all fire protection
23 applications at Vermont Yankee?

24 MR. SHADIS: Yes.

25 MS. SKAY: Okay, including the Hemyc?

1 MR. SHADIS: Yes.

2 MR. LYONS: Okay.

3 MR. SHADIS: Yes. You know, we see the
4 thermo-lag issues as still of concern. The silicon
5 penetration questions -- I know that technically some
6 of these things have been resolved at NRC, but, in
7 application, what is found at licensees on examination
8 is that these materials have not been properly
9 applied.

10 And so it is of concern to us given that
11 the licensee was aware of the Henyc issue and aware of
12 the dubious character of their tests and did not act
13 in the last three years on this, that I think they
14 needed an incentive. The licensee needs an incentive
15 to take a hard look. And it's appropriate, given the
16 situation, that they take a hard look at their fire
17 protection.

18 MS. SKAY: Mr. Shadis, this is Donna Skay
19 again.

20 MR. SHADIS: Yes.

21 MS. SKAY: I guess to clarify further.
22 Your concern is on the fire barriers themselves as
23 opposed to other fire protection systems. Is that --

24 MR. SHADIS: Well, yes. And we're not
25 talking about sprinkler systems or anything.

1 MS. SKAY: Okay.

2 MR. SHADIS: But with respect to the fire
3 barriers, if there is any intent to substitute
4 operator actions or some other human intervention for
5 these engineered barriers, you know, I think that
6 there needs to be a realistic analysis of the chances
7 of successfully protecting these electrical cables
8 from fire.

9 Although I say electrical cables, but
10 electrical cables and of course, other components.

11 MS. SKAY: Okay. Can you hold on one
12 moment please?

13 MR. SHADIS: Certainly.

14 (BREAK)

15 MS. SKAY: Mr. Shadis, the discussion
16 we're having here is that it appears that the scope of
17 the petition has been expanded quite a bit. And we
18 would like to ask for additional information basis for
19 going beyond the Hemyc issue--

20 MR. SHADIS: Sure.

21 MS. SKAY: -- from you. If you have
22 something that would greatly help us. And if you
23 wanted to discuss it now or provide something in
24 writing.

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1 MR. SHADIS: Well, you know, the only
2 thing that we have immediately that would serve as a
3 reason for, as you stated, expanding on the Hemyc
4 issue is the, what we have in the petition for the
5 history of the behavior of the licensee with respect
6 to an identified safety issue, the potential
7 inadequacy of their previous tests on fire barriers.

8 We have a situation, that, where the
9 safety aspects are aggravated because we don't have an
10 emergency notification system in place that has been
11 certified operable. And we had these two fires over
12 the last year and we've had these cable separation
13 issues. So when, I guess when we're talking about
14 examining the extent of condition, we're really
15 talking about the extent of conditions, the conditions
16 that allowed this application of Hemyc to remain in
17 place.

18 And so not only, you know, the Hemyc
19 itself but how, given notice back in 2001, it remained
20 in this condition. I don't know if that helps, or if
21 that makes it any more clear to you.

22 MS. SKAY: Okay, thank you. Are there any
23 other questions here at headquarters?

24 (Break.)

1 Does the region have any questions or
2 comments?

3 MR. ANDERSON: Nothing from Region One.

4 MS. SKAY: Okay, thank you, Cliff. And any
5 questions of the petitioner from Entergy?

6 MS. FAISON: Entergy has no comment.

7 MS. SKAY: Okay. Mr. Gunter, do you have
8 any questions?

9 MR. GUNTER: I just have a comment on, in
10 response to your e-mail today --

11 MS. SKAY: Yes.

12 MR. GUNTER: -- that the petitioners who
13 filed on May 12, who consolidated 13 other sites into
14 a petition. We have requested that a petition review
15 board be convened to look at, not only inoperable
16 Hemyc fire barriers at those sites but additionally
17 the MT three hour fire barrier applications that are
18 not in Vermont Yankee.

19 MS. SKAY: Okay. We will be contacting
20 you separately to arrange a time and date for that.

21 MR. GUNTER: Thank you.

22 MS. SKAY: Okay.

23 MR. LYONS: Okay. With that, if there are
24 no other questions or comments, I'd like to thank you
25 Mr. Shadis for providing us with this information and

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1 PRB will consider this as we move forward to determine
2 whether or not we're going to accept this as a 2.206
3 petition. And we'll be getting back with you on that
4 in a short period of time.

5 MR. SHADIS: Thank you, Jim. Thank you,
6 everyone.

7 MR. LYONS: All right, thank you very
8 much.

9 MS. SKAY: Thank you.

10 (Whereupon, the above-entitled matter was
11 adjourned.)
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