

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: 2.206 Petition Review Board Meeting for
NEPC Petition

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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CONFERENCE CALL

2.206 PETITION REVIEW BOARD MEETING FOR NEPC

PETITION

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WEDNESDAY

NOVEMBER 6, 2002

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TELEPHONE CONFERENCE CALL

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The Conference Call on the 2.206 Petition on Nuclear Plant Safety convened at 9:30 a.m., Margaret Federline, Deputy Director of Office of Nuclear Materials Safety and Safeguards, presiding.

PRESENT:

MARGARET FEDERLINE

DONALD COOL

JACK GOLDBERG

THOMAS ESSIG

CHARLOTTE ABRAMS

PAUL GOLDBERG

NICHOLAS REYNOLDS, Winston and Strawn, representing General Electric (by telephone)

DUDLEY ROCHELLE, Littler, Mendelson, representing Adecco (by telephone)

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P R O C E E D I N G S

PAUL GOLDBERG: We have our NRC group assembled. Margaret Federline, the Deputy Director of the Office of Nuclear Materials Safety and Safeguards is going to chair our petition review board.

We also have Donald Cool, Jack Goldberg, Thomas Essig, Charlotte Abrams and Paul Goldberg.

MR. REYNOLDS: Good morning.

MS. FEDERLINE: Good morning.

MR REYNOLDS: Is the petitioner not on the call?

PAUL GOLDBERG: He's not; he decided not to participate.

MR COOL: He was given an invitation?

PAUL GOLDBERG: He was.

I think we can probably make this pretty brief, but let me turn it over to Margaret Federline.

MS. FEDERLINE: Yes, I thought it might be useful to just walk briefly through the process, if that seems useful, or we could just go to questions, whatever your preference is.

MS. ROCHELLE: Walking through the process would be useful for me.

MS. FEDERLINE: Okay, good.

Well the subject of our phone call this morning is the 2.206 petition received from Thomas Saporito (phonetic) of the National Environmental Protection Center, dated October 1, 2002. The Division of Industrial and Medical Nuclear Safety here in the Office of Nuclear Materials Safety and Safeguards is responsible for review of the petition. And Paul Goldberg, who you just heard from, is the

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1 petition manager.

2 Two-two-o-six is a process mechanism in
3 NRC's regulations so that members of the public can
4 request NRC action when they believe that there is an
5 issue involving safety, and we have a management
6 directive which is Management Directive 8.11 that we
7 follow in implementing this process.

8 The purpose of getting together on a phone
9 call is generally to allow the petitioner to address
10 the Petition Review Board. It's an opportunity for
11 the petitioner to provide additional explanation or
12 support the position and, since we have no petitioner
13 participating, we can certainly, you know, answer any
14 of your questions. But we will not discuss the merits
15 of the petition.

16 Following the phone call, the PRB will
17 discuss and determine whether the NRC accepts the
18 petition under the 2.206 process and whether it will
19 be dealt with under another mechanism. The PRB's
20 meeting today will not determine whether we agree or
21 disagree with the petition. That will be decided
22 later.

23 We want to limit any questions about the
24 petition to those of a clarifying nature. If the PRB
25 decides today that the petition will be considered
26 under 2.206, then what will follow is an
27 acknowledgment letter and then, within 120 days
28 following the acknowledgment letter, the NRC will
29 issue a proposed Director's decision for comment.

30 Now if we do not accept the petition under
31 the 2.206 process, we will document that fact in a
32 letter to the petitioner and status reports on the
33 progress of the petition will be updated monthly, and

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1 those are available on the NRC home page. And the
2 petition manager will keep the petitioners and
3 licensee periodically informed on the progress of the
4 petition.

5 Are there any questions about the process?

6 MR. REYNOLDS: Is this conference call
7 transcribed?

8 PAUL GOLDBERG: Yes, it will be.

9 MR. REYNOLDS: It will be?

10 PAUL GOLDBERG: Yes.

11 MR. REYNOLDS: Then it's being tape
12 recorded?

13 PAUL GOLDBERG: It's being recorded and it
14 will be transcribed.

15 PAUL GOLDBERG: Yes.

16 JACK GOLDBERG: Hi, this is Jack Goldberg.

17 MR. REYNOLDS: Hi, Jack.

18 JACK GOLDBERG: Hi. Normally, the
19 petitioner participates in these calls. This is the
20 first one I'm aware of, at least that I've
21 participated in, where the petitioner is not
22 participating. Normally, when the petitioner doesn't
23 want to participate and make a presentation, we don't
24 have a call.

25 But, normally, when the petitioner
26 participates, the, as provided in the Management
27 Directive, there is a transcript of the call, and that
28 transcript is considered a supplement to the petition.

29 MR. REYNOLDS: I see.

30 JACK GOLDBERG: And the main purpose of
31 the call is to make sure that the NRC and the licensee
32 understand the petition, understand the issues that
33 are being raised by the petition and can ask questions

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1 of a clarifying nature to the petitioner, if there's
2 something that's not clear. We want to make sure that
3 we address the right issues, and are not
4 misunderstanding something that the petitioner has
5 raised.

6 So, but, because this is a call,
7 notwithstanding that the petitioner is not
8 participating, the arrangements where we have it
9 transcribed still apply, and so there'll be a
10 transcript that you can have a copy of.

11 MR. REYNOLDS: Very well.

12 PAUL GOLDBERG: We'll send it to you. If
13 you're not interested, we can skip the transcription
14 step.

15 MR. REYNOLDS: We have no interest in the
16 transcription.

17 MS. ROCHELLE: I would agree with that.

18 MR. REYNOLDS: So you can skip that as far
19 as G.E. is concerned.

20 MS. ROCHELLE: And also as far as Adecco
21 is concerned.

22 PAUL GOLDBERG: Okay.

23 MR. REYNOLDS: Can you tell us if the PRB
24 decides not to accept the petition, how long it takes
25 for that process to take place and when the letter
26 would go out to the petitioner?

27 PAUL GOLDBERG: We would get a letter out
28 to the petitioner, we would expect to make the
29 decision probably today on whether or not to accept it
30 as a 2.206 petition. We would get a letter out to the
31 petitioner within a week.

32 JACK GOLDBERG: Whether or not it's
33 accepted under 2.206, the staff will address the

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1 issues raised in the submission. Do either of you
2 plan on submitting a response to this submission?

3 MR. REYNOLDS: G.E. Medical's position on
4 this is that the PRB should not review the petition
5 because it fails to provide sufficient facts to
6 support it. There is insufficient information in the
7 petition for G.E. Medical to frame a response.

8 If the PRB decides to entertain the
9 petition and review it on the merits, at that point we
10 would ask leave of the staff to file something, but at
11 this time we would not propose to file anything
12 because we don't think that the petition even
13 overcomes the threshold that would cause the PRB to
14 review it, as a petition under 2.206.

15 MS. ROCHELLE: As far as Adecco's
16 concerned, I think we agree and adopt that same
17 position. I would just add to that, that Adecco is a
18 staffing company that does not manage anything or
19 anyone inside a facility; they simply provide people
20 to work in some G.E. facilities around the country,
21 including this one in Jupiter, Florida, where Mr.
22 Saporito worked.

23 Mr. Saporito has indicated by the array of
24 a number of claims outstanding on various
25 environmental and other kind of statutes and all
26 dealing with different sorts of environmental issues,
27 that we're trying to sort out, in the process, to
28 address his employment claim.

29 In this petition, he seems to indicate in
30 several of the requests that Adecco is a licensee.
31 Adecco is not a licensee and the only, I'm not really
32 convinced at all that Adecco would even meet the
33 contractor definition.

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1 But I, we, you know, if this goes forward,
2 we would have to look into that more fully, but we are
3 not, you know, we're relying on G.E., we would have to
4 rely on G.E. to then tell us more about what's going
5 on inside the workplace here, because that's still in
6 the investigation stage of our cases that we're
7 handling.

8 But we do not believe that, you know, that
9 there's any real exposure to Adeco here, based on what
10 he's alleged, and so I agree totally that the petition
11 as alleged just doesn't meet the standard to go
12 forward. And at this time we would not respond to it.

13 JACK GOLDBERG: Okay. Well, while you
14 were making that point which we understand, we had a
15 brief discussion and have decided that we're going to
16 produce a transcript of this call and we will provide
17 you copies if you want them. And we're going to
18 provide a copy to Mr. Saporito.

19 MR. REYNOLDS: Yes, we would like a copy
20 in that case.

21 JACK GOLDBERG: Okay.

22 MS. ROCHELLE: Yes, we would also.

23 MR. REYNOLDS: Would you kindly clarify a
24 comment made earlier by the staff, and I don't know by
25 whom it was made, that the staff will address the
26 petition, even if it declines to accept it under
27 2.206.

28 JACK GOLDBERG: Yes, this is Jack
29 Goldberg. I made that point. Our practice is that
30 even if a submission doesn't meet the criteria for
31 treatment under 2.206, based on the criteria in the
32 Management Directive -- in other words, it's not going
33 to lead to a full-blown Director's decision, the, and

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1 there are a variety of reasons why submissions don't
2 meet the criteria for treatment under 2.206 -- it is
3 then typically treated as a piece of correspondence to
4 which the submitter is entitled to a response. So we
5 would send a letter, a response back, as if the person
6 just wrote in a letter to the staff raising some
7 concerns or asking some questions.

8 MR. REYNOLDS: I see. Thank you.

9 MS. FEDERLINE: Are there any more
10 questions?

11 MR. REYNOLDS: I have none.

12 MS. ROCHELLE: Is there any appeal process
13 on the part of Mr. Saporito that would apply in either
14 of these situations, either if he just sent, did not
15 move it forward and send the letter of correspondence
16 instead?

17 JACK GOLDBERG: There is no formal appeal
18 process provided, whether it's considered within the
19 2.206 process or not. If it were considered within
20 the 2.206 process, the Management Directive now
21 provides that the petitioner will be given a, and the
22 licensee, a proposed Director's decision for comment
23 and we will consider the comments on the proposed
24 Director's decision before it becomes a final
25 Director's decision.

26 Once it's a final Director's decision,
27 there is no right, under the regulation, for a
28 petitioner to petition the Commission for a review.
29 However, there is built into the rule a *sua sponte*
30 Commission review period, under which the Commission
31 could, on its own motion, take up review of the
32 Director's decision. If it's treated outside the
33 2.206 process, again, there's no appeal mechanism

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1 that's provided.

2 Of course, any petitioner, anyone who
3 submits something, if they're not satisfied with the
4 response that they get, they can write additional
5 letters to anyone here, to the responsible office
6 director, to the EDO, to the Commission, to the IG.

7 In other words, we can't stop them from
8 filing whatever they want, but there is no formal
9 appeal process in either event.

10 MS. ROCHELLE: Thank you.

11 MS. FEDERLINE: Okay.

12 MR. REYNOLDS: I would make one other
13 observation, if I may, and that is that the G.E.
14 Medical Systems facility in issue is in Jupiter,
15 Florida, which is an NRC agreement state. So if this
16 facility is licensed for nuclear materials, and I
17 don't know that it is, it would be licensed by the
18 State of Florida, and not the NRC.

19 PAUL GOLDBERG: That's correct. The
20 action that Mr. Saporito asked us to take is with
21 respect to all G.E. Medical licensees, ones that are
22 licensed by NRC and all facilities which Adecco
23 manages or operates.

24 MR. REYNOLDS: Yes, we understand that.

25 MS. FEDERLINE: Okay, if there are no more
26 questions or comments, we certainly appreciate your
27 participation in the call today.

28 MR. REYNOLDS: And we appreciate your
29 courtesy. Thank you.

30 MS. ROCHELLE: Thank you.

31 MS. FEDERLINE: Bye-bye.

32 (Whereupon, the proceedings went off the
33 record at 9:50 a.m.)

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