

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title:                   Petition Review Board  
                              Conference Call

Docket Number:     (not applicable)

Location:  
                  (conference call)

Date:                    Wednesday, December 21, 2005

Work Order No.:     NRC-818

Pages 1-31

**NEAL R. GROSS AND CO., INC.**  
**Court Reporters and Transcribers**  
**1323 Rhode Island Avenue, N.W.**  
**Washington, D.C. 20005**  
**(202) 234-4433**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

+ + + + +

PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

+ + + + +

WEDNESDAY

DECEMBER 21, 2005

+ + + + +

The conference call was held, Herbert N. Berkow, Petition Review Board Chairman, presiding.

NRC HEADQUARTERS STAFF:

HERBERT N. BERKOW, Chairman, PRB

WILLIAM D. RECKLEY, Petition Manager

for 2.206 petition

DONNA M. SKAY, NRC/NRR

BALWANT K. SINGAL, NRC/NRR

STEPHEN F. LaVIE, Emergency Planning Org.

TIMOTHY J. McGINTY, Emergency Planning Org.

ROBERT M. TAYLOR, Emergency Planning Org.

GEORGE F. WUNDER, Peach Bottom Project Mgr.

FERIDEH E. SABA, Three Mile Island Project  
Manager

GIOVANNA LONGO, OFFICE OF GENERAL COUNSEL

1 PETITIONER:

2 Eric Epstein

3 NRC, REGION I, KING OF PRUSSIA STAFF:

4 RONALD R. BELLAMY

5 ANDREW A. ROSEBROOK, Project Manager

6 JOHN R. WRAY, State Liaison Officer

7 FEMA STAFF:

8 CRAIG FIORE

9 GARY SMITH, Office of the General Counsel

10 DARRYL HAMMONDS, Region III

11 ALSO PRESENT:

12 On Behalf of Exelon Nuclear:

13 J. BRADLEY FEWELL, ESQ.

14 Assistant General Counsel

15 PAM CONWAY, Director of Licensing

16 and Regulatory Affairs

17 DOUGLAS WALKER, Kennett Square Licensing

18 On Behalf of Three Mile Island Alert:

19 WILLIAM COLOGIE

20

21 P-R-O-C-E-E-D-I-N-G-S

22 (time not provided)

23 MR. FEWELL: Brad Fewell's on.

24 PARTICIPANT: Oh, Brad's on.

25 MR. FEWELL: As counsel.

1                   PETITIONER EPSTEIN: Brad, where are you  
2 calling from?

3                   MR. FEWELL: I'm calling from Cantera.

4                   PETITIONER EPSTEIN: Where's that?

5                   MR. FEWELL:       Warrenville, Illinois,  
6 outside of Chicago.

7                   MR. FEWELL: F-E-W-E-L-L.

8                   PETITIONER EPSTEIN: I know, Brad. I've  
9 seen you I think. I don't even know -- I don't know  
10 if I've sued you in the past, but I want to make sure  
11 I get it right for the future.

12                   (Laughter.)

13                   MR. FEWELL: Thank you.

14                   PETITIONER EPSTEIN: You're welcome.

15                   MR. BELLAMY: NRC Region I just joined on.  
16 This is the 2.206 petition call?

17                   MR. RECKLEY: Yes, yes. Is this Ron  
18 Bellamy?

19                   MR. BELLAMY: Yes, it is. I just wanted  
20 to make sure we were listening to the right  
21 discussion.

22                   MR. RECKLEY: Yes. Yes, we'll get  
23 started. This is Bill Reckley. We'll get started in  
24 a minute.

25                   MR. BELLAMY: Yes. And I knew with Brad

1 on the line if I didn't identify myself quickly, he'd  
2 fine some investigation to initiate. So --

3 MR. FEWELL: Just trying to keep you  
4 sharp.

5 MR. BELLAMY: I apologize for interrupting  
6 whatever discussion you were having.

7 PETITIONER EPSTEIN: No need to interrupt.  
8 I will be very clear and brief and consistent today.  
9 You guys I think will get the message.

10 PARTICIPANT: Bill, this is Headquarters  
11 Operations Center.

12 MR. RECKLEY: Yes.

13 PARTICIPANT: I understand you want to  
14 have a tape of this meeting, so we're going to start  
15 the tape now.

16 MR. RECKLEY: Okay. Thank you.

17 PARTICIPANT: Okay.

18 MR. RECKLEY: Okay. We're just going to  
19 wait for a minute to see if anybody else joins us, and  
20 then we can get started.

21 PETITIONER EPSTEIN: Bill, if you're going  
22 to make a copy of the tape, I'd like to request a copy  
23 myself.

24 MR. RECKLEY: Yes, you'll get a copy of  
25 the transcript.

1                   PETITIONER EPSTEIN: Bill, you would be my  
2 best friend if you could do that.

3                   MR. RECKLEY: Do you want a copy of the  
4 tape, or is the transcript good enough?

5                   PETITIONER EPSTEIN: Both, the transcript  
6 and the tape, if you can provide it. You know, I  
7 don't have a life, and it would, you know, really, you  
8 know, increase my home entertainment value.

9                   MR. RECKLEY: Yes. Okay. No problem.

10                  PARTICIPANT: Bill, there's 10 people on  
11 the bridge right now. Were you expecting a particular  
12 amount?

13                  MR. RECKLEY: No, there may be a couple  
14 more. I'm just not really sure.

15                  PARTICIPANT: Okay.

16                  MR. RECKLEY: We'll get started in about  
17 five minutes.

18                  PARTICIPANT: Okay.

19                  MS. COWAN: This is Pam Cowan. I'm also  
20 joining the call.

21                  PARTICIPANT: From Kennett Square.

22                  MS. COWAN: From Kennett Square, Exelon.

23                  PETITIONER EPSTEIN: And what's your last  
24 name?

25                  PARTICIPANT: C-O-W-A-N.

1 PETITIONER EPSTEIN: Is she legal counsel?

2 MR. RECKLEY: No, she's not.

3 MS. COWAN: No. I'm the Director of  
4 Licensing and Regulatory Affairs for Exelon.

5 PETITIONER EPSTEIN: Brad, you're the only  
6 counsel on?

7 MR. FEWELL: I'm not aware of any other  
8 on.

9 PETITIONER EPSTEIN: Why I'm curious is  
10 you're not counsel being served on the 2.206. Should  
11 you be?

12 MR. FEWELL: I should be.

13 PETITIONER EPSTEIN: You might want to get  
14 me that information, because it'll be about a 20-  
15 minute presentation today, which will include four  
16 exhibits.

17 MR. FEWELL: Okay. That's good. I will  
18 do that.

19 PETITIONER EPSTEIN: If you e-mail me at  
20 ericepstein@comcast.net, I'll get you that.

21 MR. FEWELL: All right. That's fine,  
22 because I do get stuff indirectly. It just goes to  
23 another stop that you send to like Tom O'Neill, but  
24 I'll -- I will -- it's better if it comes directly to  
25 me.

1                   PETITIONER EPSTEIN: You may want this  
2 one. This one is very lengthy.

3                   MR. FEWELL: Okay. Very good.

4                   MR. RECKLEY: Okay. I think we're --  
5 we'll just go ahead and get started. I'm not sure  
6 everyone that we were expecting is here, and the ones  
7 that were uncertain we'll assume they're not calling  
8 in.

9                   MR. FIORE: Bill, this is Craig Fiore at  
10 FEMA.

11                  MR. RECKLEY: Okay. Thank you.

12                  MR. FIORE: I'm also here with Gary Smith  
13 from our General Counsel Office.

14                  MR. RECKLEY: Okay. We're going to go  
15 through here in a second and go through who is -- who  
16 is participating.

17                  MR. FIORE: Okay.

18                  MR. RECKLEY: Okay. Let's get started.  
19 Again, my name is Bill Reckley from the NRC staff, and  
20 I'm the Petition Manager for the 2.206 petition filed  
21 by Eric Epstein. And we're here today just as an  
22 opportunity for the Petitioner to go through the  
23 petition, explain it, provide any additional  
24 information that may not have been in the submittal.

25                  Eric, in addition to yourself, is William

1 Cologie also on the call?

2 PETITIONER EPSTEIN: Correct, yes.

3 MR. RECKLEY: Anyone else?

4 PETITIONER EPSTEIN: Not that I'm aware  
5 of. Bill [Cologie] is -- I'm filing this as an  
6 individual, and Bill is representing TMI Alert.

7 MR. RECKLEY: Okay. From the NRC, I'll go  
8 around the table here at headquarters. There's  
9 myself, Bill Reckley; Herb Berkow, who is the petition  
10 -- the Chairman of the Petition Review Board; Tim  
11 McGinty from our Emergency Planning Organization;  
12 Donna Skay from NRR; Bob Taylor from Emergency  
13 Planning; Steve LaVie from Emergency Planning.

14 MR. SINGAL: Balwant Singal from NRR.

15 MR. RECKLEY: Balwant Singal from NRR.

16 MS. SABA: Ferideh Saba.

17 MR. RECKLEY: From -- she's Project  
18 Manager for --

19 MS. SABA: TMI.

20 MR. RECKLEY: -- TMI. George Wunder, the  
21 Project Manager for Peach Bottom.

22 PETITIONER EPSTEIN: Who's the Project  
23 Manager for TMI?

24 MR. RECKLEY: Ferideh Saba.

25 PETITIONER EPSTEIN: All right. Because

1 I did ask, just as a note when the last guy left, and  
2 he never a contact. And I believe -- I can't recall  
3 his name. But at any rate, it was after Tim Colburn.  
4 But -- so Ferideh is now the person?

5 MR. RECKLEY: Yes.

6 PETITIONER EPSTEIN: All right. Nice to  
7 know.

8 MR. RECKLEY: Okay. We also have  
9 participation from our Region I Office, and that is --

10 MR. BELLAMY: Yes. This is -- this is Ron  
11 Bellamy from the NRC Region I Office in King of  
12 Prussia. I am the Regional Branch Manager responsible  
13 for Three Mile Island, and with me is Andy Rosebrook,  
14 who is the Project Engineer, also responsible for  
15 Three Mile Island, and John Wray, who is functioning  
16 as our State Liaison Officer today. And that's it  
17 from Region I.

18 MR. EPSTEIN: What does that mean, "State  
19 Liaison Officer"?

20 MR. BELLAMY: He is our liaison between  
21 NRC and state offices.

22 MR. RECKLEY: Okay. And from FEMA, we  
23 have a few -- two people listening in. Could you  
24 repeat that again?

25 MR. FIORE: This is Craig Fiore, and Gary

1 Smith from our General Counsel's Office.

2 MR. RECKLEY: Okay.

3 (Feedback squelch.)

4 PARTICIPANT: I believe The Who have  
5 joined us.

6 PARTICIPANT: Sounded like Jimi Hendrix.

7 PARTICIPANT: Yes, that was our fault  
8 here. We're getting a little feedback.

9 MR. RECKLEY: Okay. Is there anyone else  
10 on the line?

11 MR. HAMMONDS: This is FEMA, Region III.

12 MR. RECKLEY: And your name?

13 MR. HAMMONDS: Darryl Hammonds.

14 MR. RECKLEY: And anyone else that we  
15 haven't heard from?

16 (No response.)

17 With that, let me introduce Herb Berkow,  
18 who, again, is the Chairman of the Petition Review  
19 Board. He'll go through a little bit of the  
20 discussion, and, again, repeat the purpose of the  
21 call, and then we'll turn it over to you, Eric.

22 PETITIONER EPSTEIN: Okay.

23 CHAIRMAN BERKOW: Good afternoon. This is  
24 Herb Berkow. The subject of this teleconference is  
25 the 2.206 petition submitted by Mr. Eric Epstein on

1 November 18, 2005. The Petitioner has requested that  
2 the NRC issue a Demand for Information to Amergen, the  
3 licensee for TMI, and Exelon, the licensee for Peach  
4 Bottom, requiring the licensees to provide information  
5 demonstrating that they are in compliance with their  
6 operating licenses and NRC regulations related to  
7 emergency preparedness.

8 The specific concern of the petition  
9 regards planning for day care centers and nursery  
10 schools within the emergency planning zones of the TMI  
11 and Peach Bottom sites. The purpose of this  
12 teleconference, as Bill mentioned, is to allow the  
13 Petitioner to address the Petition Review Board, to  
14 provide any additional explanations or support for the  
15 petition. It is also an opportunity for the staff to  
16 ask any clarifying questions.

17 The purpose of this teleconference is not  
18 to debate the merits of the petition. Given the  
19 subject matter of the petition, we also have  
20 representatives from the Federal Emergency Management  
21 Agency listening in to the conference call.

22 The PRB will meet following this  
23 teleconference to determine whether the NRC will  
24 accept the petition under the 2.206 process, or  
25 whether it will be dealt with under another mechanism.

1 The PRB's meeting will not determine whether we agree  
2 or disagree with the contents of the petition.

3 Since this teleconference is being  
4 transcribed, we ask that anyone making a statement  
5 first identify themselves by stating their name  
6 clearly. The transcript of the teleconference will  
7 become a supplement to the petition and will be made  
8 publicly available.

9 Are there any questions on the process  
10 that we'll follow for this teleconference?

11 PETITIONER EPSTEIN: This is Eric. The  
12 only question I have is I actually have a formal  
13 presentation, and I wanted to inquire as to whether or  
14 not I could submit that and make it part of the formal  
15 record, since I'm not going to be able to submit some  
16 of the documentation, which is pretty lengthy.

17 CHAIRMAN BERKOW: Yes, you can.

18 PETITIONER EPSTEIN: Okay.

19 CHAIRMAN BERKOW: Okay. Well, Mr.  
20 Epstein, then, welcome and go ahead with your  
21 discussion. And we ask that you limit your comments  
22 to about a half hour.

23 PETITIONER EPSTEIN: Yes, I don't intend  
24 to take half an hour. And perhaps Bill [Cologie], you  
25 know, at some point may want to speak on behalf of our

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 organization. However, I did file this as an  
2 individual, and I didn't really see the need to go  
3 over the 2.206 petition that I filed. I thought you  
4 summarized cogently what I had intended to present to  
5 the Commission.

6 And today, unless there is a need from  
7 people listening in for me to review the petition, I  
8 was simply going to review my supplemental filing.

9 CHAIRMAN BERKOW: Yes, that's fine. We  
10 don't expect you to repeat what was in the petition.  
11 But if you have any additional supporting  
12 information --

13 PETITIONER EPSTEIN: That's what I'm going  
14 to do.

15 CHAIRMAN BERKOW: -- that will help us in  
16 making our decision as to whether or not it can be  
17 handled under the 2.206 process.

18 PETITIONER EPSTEIN: Okay. Well, the  
19 first thing I would like to note is that I will send  
20 along to the ES service list I have -- and, frankly,  
21 that service list was arbitrary. So if there's a list  
22 that you want me to serve, let me know, and I'll  
23 attend to it. The list that I initiated was based on  
24 a best guess.

25 So prior to hearing any additions or

1 subtractions, I'll continue to list -- to address that  
2 list. Mr. Fewell from Exelon did ask for a copy, and  
3 I'll send him one as well.

4           Essentially, I'm going to be adding four  
5 exhibits to the presentation. Exhibit 1 is simply  
6 going to be the implementation of protective actions  
7 for schools. Exhibit 2 is going to be Three Mile  
8 Island Nuclear Generating Station, May 3-4, 2005,  
9 Final Report, Radiological Emergency Preparedness  
10 Program, FEMA, August 4, 2005.

11           Exhibit 3 will be the Federal Register  
12 Notice that was posted on the 19th, pages 75085 to  
13 75090. And Exhibit 4 will be Commissioner Jaczko's  
14 dissent, which was issued December 20th of 2005.

15           I'll briefly walk you through those  
16 issues, then be more than happy to entertain questions  
17 or engage in any kind of dialogue that you deem  
18 appropriate.

19           Objective 16 is the implementation of  
20 protection actions -- excuse me, protective actions  
21 for schools. And this is a document that FEMA uses to  
22 check the implementation of GM [Guidance Memorandum]  
23 EV-2, or protective actions for school children. One  
24 of the things that I did want to note -- and there are  
25 two statements to this Exhibit 1. Under page 1 of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 objective it states, "Provisions of this objective  
2 apply to public schools within the plume pathway, also  
3 apply to any private schools, kindergartens, day care  
4 centers, participating REPs [Radiological Emergency  
5 Preparedness], who participate on a voluntary basis."

6 Statement 2, page 3, from this document,  
7 Extent of Play. The objective states, "Only one  
8 school in each affected school system needs to  
9 demonstrate the implementation of protective action."

10 The purpose of entering this exhibit into  
11 play is to set up my next exhibit where I'm going to  
12 draw conclusions. So Exhibit 1 essentially is just  
13 taking excerpts from Objective 16.

14 Exhibit 2 is the actual Three Mile Island  
15 Nuclear Generating Station plan review. I guess  
16 actually it's a review of the exercise. The exercise  
17 took place on the 3rd and 4th of May. FEMA issued  
18 their final report on 8/4/05.

19 If you look in Roman numeral four to Roman  
20 numeral five, FEMA admitted that it "simulated  
21 municipal compliance without being able to document  
22 actual compliance." And if you move to page 82,  
23 because most of the report does not deal with day care  
24 or nursery schools, I'm only going to deal with the  
25 aspects of the report that does.

1           On page 28, FEMA report notes, "Contacts  
2 with public school systems must be actual." I would  
3 point out that no day care centers or nursery schools  
4 were tested in the May 2005 drill, because they were  
5 not required to participate.

6           On page 87 of FEMA's report -- and this is  
7 the final report, "Private schools, private  
8 kindergartens, and day care centers did not  
9 participate in the REP exercise." Table 2, Section  
10 4.0, School Districts, on pages 19 and 20 of FEMA's  
11 final report. "Employees noted the only schools  
12 tested were public high schools, middle schools, or  
13 elementary schools." Again, no day care centers or  
14 nursery schools were listed as being included in the  
15 exercise.

16           In fact, there was no contact by FEMA with  
17 any day care center or nursery school. FEMA did not  
18 visit or inspect any of the 74 day care facilities  
19 within 10 miles of TMI.

20           Now, those day care centers are located in  
21 four counties. There is a fifth county within TMI --  
22 Lebanon. It has no day care facilities. Cumberland  
23 County, Dauphin County, Lancaster County, and York  
24 County, and without getting into detail I specified  
25 the municipalities and the school districts that

1 contain day care and nursery schools, and that will be  
2 in my formal presentation.

3 The first conclusion that I would submit  
4 is that, due to the above-documented omissions on the  
5 May 4-5 exercise, I find the exercise to be flawed.  
6 If you refer to Section N, Exercises and Drills, GM  
7 EV-2, please note none of the exercise evaluation  
8 criteria listed on pages 6-13 of GM EV-2 were tested  
9 for day care centers and nursery schools because no  
10 day care centers are required to participate in an REP  
11 exercise.

12 The State of Pennsylvania has had no  
13 radiological planning for preschool children, even  
14 though GM EV-2 was implemented in 1986, because FEMA  
15 and the NRC has been improperly, in my opinion,  
16 implementing GM EV-2 for more than 19 years.

17 My conclusion would be FEMA's report does  
18 not provide reasonable assurance that preschool  
19 children are protected. In fact, the only notation  
20 listed for preschool children in FEMA's final report  
21 was notification of day care centers of an emergency,  
22 and that was on Roman numeral page four.

23 The only consideration for preschool  
24 children given in the May 2005 REP exercise was  
25 notification of an emergency. This exercise did not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 show that these child care facilities had been  
2 provided the outlined protective measures listed in GM  
3 EV-2, such as means for protective actions, specific  
4 resources allocated for transportation, and supporting  
5 letters of agreement if resources are provided from  
6 external sources, and name and location of relocation  
7 centers and transportation routes, if applicable.

8 This exercise also failed to show how day  
9 care centers and nursery schools have been integrated  
10 into the state's offsite plan. From GM EV-2, "Local  
11 government should ensure that appropriate  
12 organizational officials assume responsibility for the  
13 emergency planning and preparedness for all of the  
14 identified schools.

15 "Local government should also ensure that  
16 emergency planning undertaken by these organizations  
17 is integrated within a larger offsite emergency  
18 management framework for the particular nuclear  
19 powerplant site."

20 Conclusion two, there is no proof given in  
21 FEMA's report that child care facilities have  
22 prearranged transportation, relocation centers, or any  
23 of the other protective requirements listed in GM  
24 EV-2. FEMA's report does not provide reasonable  
25 assurance that preschool children are protected.

1 Third conclusion. Only one public school  
2 per district was tested in the May 2005 drill. In the  
3 extent of play section on page 87 it states, and I  
4 quote, "At least one school in each affected school  
5 system or district, as appropriate, needs to  
6 demonstrate the implementation of protective actions."

7 If you refer to Table 2, Summary of  
8 Results in the 2005 Exercise Evaluation under  
9 Section 4.0, School Districts, if you refer to  
10 pages 19 and 20, only one school district was tested.  
11 Conclusion: FEMA and the NRC cannot state that all  
12 preschools in each district have appropriate measures  
13 in place to protect preschool children, because they  
14 are only testing one school district, of which none  
15 were preschools.

16 There is no proof given in FEMA's report  
17 that preschools have met the requirements listed under  
18 GM EV-2. FEMA's report does not provide reasonable  
19 assurance that preschool children are protected.

20 In addition, if you look under the  
21 criterion 3.C.2, that was the only protective action  
22 implementation shown as being met for the -- for the  
23 few schools that were actually tested. Criterion  
24 3.C.2 OROs-School Officials, decide upon and implement  
25 protective actions for schools was the only mark that

1 showed up in Table 2 as being met by the few public  
2 schools that were tested.

3 Transportation resources for preschool  
4 children were not confirmed, and relocation centers  
5 for preschool children were not confirmed. Again,  
6 please refer to Section N, Exercises and Drills, and  
7 GM EV-2. None of the exercise evaluation criteria  
8 listed on pages 6-13 could be verified as being  
9 tested, because 3.C.2 was the only one listed as being  
10 tested and met.

11 Conclusion four. FEMA and the NRC cannot  
12 verify that preschools in each district have all of  
13 the required measures in place to protect preschool  
14 children, because they are only testing one criterion  
15 per school, of which none are preschools. There is no  
16 proof given in FEMA's report that preschools have met  
17 all of the requirements listed under GM EV-2. FEMA's  
18 report does not provide reasonable assurance that  
19 preschool children are protected.

20 Exhibit 3 is the actual Federal Register  
21 Notice given on December 19, 2005, which had rejected  
22 the petition that was submitted by Lawrence Christian  
23 and sponsored by myself. These are the conclusions  
24 that we will submit.

25 The NRC and FEMA failed to provide

1 evidence or affirm -- or affirm the NRC's conclusions  
2 contained in letters A, B, C, and D. In fact, the NRC  
3 is in a position of contradictory information and  
4 correspondence relating to the NRC conclusions  
5 contained in letters E, F, and G.

6 In fact, the NRC Commissioners asked staff  
7 to participate in the May 4th and 5th 2005 exercises  
8 at TMI in order to verify compliance. FEMA refused to  
9 allow the NRC to participate. Therefore, there is no  
10 evidence that supports E, F, or G.

11 Now, the evidence that I speak of that  
12 contradicts the conclusions that were drawn in  
13 rulemaking petition are now in the possession of  
14 Congressman Todd Platts. The NRC is basing its  
15 conclusion on a special needs card that Amergen and  
16 Exelon send out annually to the general community. No  
17 evidence exists that would confirm if Exelon, the NRC,  
18 PEMA, or FEMA acted on the data collected.

19 The current publication practices are not  
20 adequate based on the data the NRC has that is in its  
21 possession. Again, to cover all of our bases, we made  
22 sure all of this evidence was photocopied and conveyed  
23 to Congressman Todd Platts, who has all of the  
24 information in his possession. If you need to  
25 document that, the contact for Congressman Platts is

1 Joe Thomas.

2 The final exhibit, Exhibit 4 -- and I'll  
3 be submitting Commissioner Jaczko's dissent -- and  
4 I'll just conclude with his statement about -- from  
5 NRC Commissioner Jaczko. "The Commission and the  
6 public should not be left to wonder if alert and  
7 notification procedures for day care centers and  
8 nursery schools are in place, transportation resources  
9 would be available for evacuating these facilities,  
10 and reception and day care centers are arranged."

11 Let me conclude by saying that the DPO  
12 filed by Mr. Jamgochian, the dissent by Commissioner  
13 Jaczko, and what I believe to be the overwhelming  
14 evidence I presented indicates that the 2.206 petition  
15 should be granted, and that it supports Exelon,  
16 Amerigen, and also your own agency, to affirmatively  
17 declare that they have met all of the information  
18 contained in my petition.

19 That concludes my formal comments.

20 MR. COLOGIE: Okay. If I may?

21 PARTICIPANT: Yes.

22 MR. COLOGIE: All right. My name is  
23 William Cologie. That's C-O-L-O-G-I-E. By way of  
24 introduction, I've been a member in the Three Mile  
25 Island Alert Governing Board, the Planning Council,

1 for about 20 years.

2           Essentially, I'm participating in this  
3 call today just to provide a little bit of historical  
4 background for those of you unfamiliar with the  
5 evolution of events, and simply to ask you folks at  
6 the NRC to do your jobs and meet your responsibilities  
7 under the law and under the NRC's own regulations.

8           The petition before you has its roots in  
9 a petition filed by a member of our community, Larry  
10 Christian, in the fall of 2002. Like so much going on  
11 around us, Mr. Christian's petition dates back to  
12 September 11, 2001. That day he went to retrieve his  
13 child from a church-run day care center and made an  
14 inquiry about whether the facility had plans to  
15 evacuate the children in the event of an accident at  
16 TMI.

17           He asked because the TMI cooling towers  
18 are visible from that day care center. He learned  
19 there was no plan in place for that facility -- 50  
20 children -- and he then conducted an informal survey  
21 with some other day care centers and found that none  
22 of those he contacted had evacuation plans in place  
23 for the children in their care.

24           He then contacted us at Three Mile Island  
25 Alert, and we provided him assistance in putting

1 together his petition for the NRC. Upon the filing of  
2 that petition, TMI Alert issued a press release, the  
3 last line of which included a quote from my colleague,  
4 Eric Epstein, who said, and I quote, "Frankly, I can't  
5 imagine any sane person, company, or governmental body  
6 opposing this common-sense remedy."

7 Eric was never known for having a vivid  
8 imagination. It turns out there was opposition from  
9 the extremely sane and sensible people over at the  
10 Pennsylvania Emergency Management Agency, who went on  
11 record in opposition. And it's my understanding that  
12 there was opposition from the NRC staff who I'm  
13 reluctant to characterize.

14 The EFMR group conducted its own  
15 comprehensive survey of 73 state-licensed day care  
16 centers, and the results were startling. Eighty-seven  
17 percent of those who completed the survey didn't know  
18 who would provide transportation for their children in  
19 the event of an accident. Fifty-eight percent didn't  
20 know to which relocation center they should send their  
21 children.

22 Two-thirds hadn't been provided  
23 transportation by the state, county, or a  
24 municipality. They were essentially on their own.

25 Since then, we had a law passed in

1 Pennsylvania requiring such plans, but only for for-  
2 profit day care enters. So the 50 kids where Mr.  
3 Christian's child was enrolled still weren't covered.

4 Finally, in September 2005, Mr. Jamgochian  
5 issued his differing professional opinion in support  
6 of our point of view. In most corridors, his action  
7 would be considered just doing his job. But in the  
8 context of the NRC, we see that as a rather courageous  
9 action.

10 We're kind of amazed that, given the  
11 original filings in the fall of 2002, that we are  
12 still talking about this, which seems so cut and dry  
13 and simple and straightforward. We're still talking  
14 about it three years later.

15 CHAIRMAN BERKOW: Okay. This is Herb  
16 Berkow. Are you finished?

17 MR. COLOGIE: I am.

18 CHAIRMAN BERKOW: Okay. Mr. Epstein, do  
19 you have any -- any additional comments?

20 PETITIONER EPSTEIN: No.

21 CHAIRMAN BERKOW: Okay. Well, let me ask  
22 the staff, then, here in this conference room, anybody  
23 have any questions? Clarifications?

24 (No response.)

25 Okay. How about the licensees, do you

1 have any questions?

2 PARTICIPANT: No questions.

3 CHAIRMAN BERKOW: Ron or John in Region I?

4 PARTICIPANT: Nothing from Region I.

5 PARTICIPANT: No questions here.

6 CHAIRMAN BERKOW: Okay. Eric, just as a  
7 matter of process, we have all of the documents you  
8 referenced. You can certainly provide them as  
9 exhibits, or you can simply summarize your major  
10 points and reference those documents. We're in  
11 possession of all of those.

12 PETITIONER EPSTEIN: You know us. We're  
13 ready to go. So if you just provide us with the  
14 e-mail, we -- we -- you know, frankly, I take it we're  
15 -- I absolutely believe you have that stuff. But from  
16 20 years with the NRC, sometimes documents have a way  
17 of getting lost or misplaced.

18 CHAIRMAN BERKOW: That's fine. You can  
19 provide them.

20 PETITIONER EPSTEIN: Yes.

21 CHAIRMAN BERKOW: Either way. I'll let it  
22 up to you.

23 PETITIONER EPSTEIN: I just had two  
24 questions. One was, who is composed of this Board?  
25 I heard folks identified, and I'm not sure who

1 actually sits on the Board. I know Herb -- it seems  
2 like he's the chair.

3 CHAIRMAN BERKOW: Right. And the Petition  
4 Manager, in this case Bill Reckley.

5 PETITIONER EPSTEIN: Right.

6 CHAIRMAN BERKOW: And, generally, the  
7 project managers for any plants that are involved.  
8 And we have our OGC as advisors to the PRB.

9 PETITIONER EPSTEIN: Who in OGC is  
10 advising?

11 CHAIRMAN BERKOW: Jenny Longo.

12 PETITIONER EPSTEIN: Okay. Was she on the  
13 call?

14 CHAIRMAN BERKOW: Yes, she is here. She's  
15 here.

16 PETITIONER EPSTEIN: I just want to say  
17 that everybody who is on the Board should have a  
18 wonderful holiday. And though I can't see you, I'm  
19 sure you all look great.

20 CHAIRMAN BERKOW: Thank you. The same to  
21 you.

22 PETITIONER EPSTEIN: The other question I  
23 have is just a technical clarification. My  
24 presumption is that NRC Region was on, and that FEMA  
25 Region III was on, or was it FEMA Headquarters?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN BERKOW: Both. FEMA Headquarters  
2 and FEMA Region III.

3 PETITIONER EPSTEIN: Could you -- will  
4 this be on the minutes, who actually --

5 PARTICIPANT: Yes.

6 CHAIRMAN BERKOW: We'll list who was on  
7 the call.

8 PETITIONER EPSTEIN: Yes. But also from  
9 where you guys are at?

10 CHAIRMAN BERKOW: Right.

11 PETITIONER EPSTEIN: Yes. Thank you. And  
12 the final question is: is the -- and this may be to  
13 Bill [Reckley]. Is the list that I'm using  
14 appropriate, Bill, or do you want to send me another  
15 service list? Or how do you want to work that?

16 MR. RECKLEY: Actually, that's kind of up  
17 to you. We -- as long as we get it, we will provide  
18 it to whoever we think needs to get it.

19 PETITIONER EPSTEIN: Okay. Do I need --  
20 does electronic mail suffice for everybody, or do I  
21 need a hard copy service as well?

22 MR. RECKLEY: It will do for us.

23 PETITIONER EPSTEIN: Okay.

24 MR. SMITH: Bill, this is Gary Smith at  
25 FEMA, in Headquarters.

1 MR. RECKLEY: Yes.

2 MR. SMITH: Okay. Just as a point of  
3 clarification, so there's no confusion later, the FEMA  
4 participation is just to monitor this call.

5 MR. RECKLEY: Yes, that's right. I'm  
6 sorry, I should have clarified. I might have over --  
7 overused the word "participant." Those in attendance  
8 on the call.

9 PETITIONER EPSTEIN: Then, if it's okay,  
10 I have just a final summation whenever you're ready.

11 MR. RECKLEY: Go ahead.

12 CHAIRMAN BERKOW: Go right ahead.

13 PETITIONER EPSTEIN: I would just like to  
14 reiterate -- and Bill [Reckley] has been real good at  
15 this -- that I get copies of all correspondence and/or  
16 communications that may be relevant to this decision.  
17 And I'm hoping whatever you decide, that we can get a  
18 predecision notice as soon as possible, since there is  
19 a lot at play here, including licenses, rulemaking  
20 petitions, and a merger.

21 And just to be clear to everybody on the  
22 phone, and I've made it clear to Bill [Reckley],  
23 depending on this decision, we have every intent to --  
24 and, again, based on how this decision goes -- to file  
25 in Federal Court and also in Pennsylvania Commonwealth

1 Court within a month.

2 What we were going to do is wait and see  
3 how you guys ruled. After we do that, and that's --  
4 and this is directly for the gentleman from FEMA,  
5 because you guys are government agencies, when we take  
6 this outside of the NRC jurisdiction, if we need to do  
7 that, we will have to name individuals from the NRC,  
8 from FEMA, from PEMA, and from the company, and we  
9 will be doing that.

10 So I wanted to let everybody know, just to  
11 have a sense of fair play and fair warning, that,  
12 again, depending on how this comes out -- and I'm not  
13 presuming it's going one way or the other -- we are  
14 compelled to file for relief, Middle District Court in  
15 Harrisburg and most likely Commonwealth Court in  
16 Harrisburg, too, although it may be the Supreme Court,  
17 depending on venue.

18 And that concludes my summation.

19 CHAIRMAN BERKOW: Are there any other  
20 questions or comments?

21 PETITIONER EPSTEIN: No.

22 CHAIRMAN BERKOW: Okay. Well, thank you  
23 very much for participating in this call.

24 PETITIONER EPSTEIN: Yep. You all have a  
25 wonderful holiday season.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

CHAIRMAN BERKOW: And you, too.

PETITIONER EPSTEIN: You got it.

CHAIRMAN BERKOW: Okay.

(Whereupon, the proceedings in the foregoing matter were concluded.)