

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

+ + + + +

10 CFR 2.206 PETITION REVIEW BOARD (PRB)

OFFICE OF NUCLEAR REACTOR REGULATION (NRR)

CONFERENCE CALL

+ + + + +

FRIDAY

DECEMBER 21, 2007

+ + + + +

The conference call was held, Ho Nieh,  
Board Chair, presiding.

NRC STAFF:

HO NIEH, Petition Review Board Chairman

JOHN BOSKA, NRR

HOLLY CRUZ, NRR

MARSHALL DAVID, NRR

EUGENE "GENE" DiPAOLO, Region I

MARK KOWAL, NRR

GIOVANNA "JENNY" LONGO, Senior Attorney,

Office of General Counsel

SAM McCARVER, Region I

DOUG PICKETT, NRR

ROSEMARY REEVES, on rotation to NRR

STACEY ROSENBERG, NRR

**NEAL R. GROSS**

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

1           MARIA SCHWARTZ, Office of Enforcement  
2           DIANE SCRENCI, Public Affairs  
3           NEIL SHEEHAN, Public Affairs  
4           PAULETTE TORRES, NRR  
5           SHERWIN TURK, Office of General Counsel

6           PETITIONERS:

7           SHERWOOD MARTINELLI, FUSE USA and Green  
8           Nuclear Butterfly

9  
10          ALSO PRESENT:

11           PAUL BESSETTE, Morgan Lewis Law Firm,  
12           representing the licensee for the Indian Point  
13           Nuclear Generating Unit Nos. 2 and 3, Entergy  
14           Nuclear Operations, Inc (Entergy)

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

C-O-N-T-E-N-T-S

<u>AGENDA ITEM</u>	<u>PAGE</u>
Introduction by PRB Chairman	9
Presentation by Petitioner	22



1 MR. BOSKA: All right, this is John  
2 Boska at NRC headquarters. We do have several  
3 more people here at NRC headquarters, which I am  
4 one of them, who was not on the callback.

5 So at this time we will go around and  
6 state the names and the offices of the people who  
7 are here.

8 We'll start with NRC headquarters.  
9 I'm John Boska from the Office of NRR.

10 MS. LONGO: Jenny Longo, Office of  
11 General Counsel.

12 MR. KOWAL: Mark Kowal, Office of NRR.

13 MR. TURK: Sherwin Turk, Office of  
14 General Counsel.

15 MR. PICKETT: Doug Pickett, Office of  
16 NRR.

17 MR. NIEH: Ho Nieh, Office of Nuclear  
18 Reactor Regulation.

19 MS. TORRES: Paulette Torres, NRR.

20 MS. CRUZ: Holly Cruz, NRR.

21 MS. ROSENBERG: Stacey Rosenberg, NRR.

22 MR. DAVID: Marshall David, NRR.

23 MR. BOSKA: That completes the list at  
24 NRC headquarters.

25 NRC Region 1, can we get your names,

**NEAL R. GROSS**

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

1 please?

2 MR. DiPAOLO: Yes, this is Gene  
3 DiPaolo, Division of Reactor Projects.

4 MR. McCARVER: Sam McCarver, Division  
5 of Reactor Projects.

6 MR. BOSKA: All right. And Mr.  
7 Martinelli, do you have any assistants with you  
8 today?

9 MR. MARTINELLI: Nope.

10 MR. BOSKA: All right, and we have the  
11 court reporter on the line, and we have Mr.  
12 Bessette from Morgan Lewis law firm. And do we  
13 have anyone else on the line?

14 COURT REPORTER: This is the court  
15 reporter. I'd just like to remind participants  
16 to identify yourselves before speaking.

17 MR. BOSKA: All right. So this is John  
18 Boska again, and we will continue then.

19 So we are here today to allow Mr.  
20 Martinelli, the petitioner, to address the  
21 Petition Review Board.

22 There are two petitions being  
23 considered. One is September 28<sup>th</sup>, 2007, and one  
24 is a FUSE petition of June 25<sup>th</sup>, 2007.

25 And the Petition Review Board chairman

**NEAL R. GROSS**

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

1 for both these petitions is Mr. Ho Nieh.

2 COURT REPORTER: Can you spell that?

3 MR. BOSKA: First name is Ho H-o, last  
4 name is Nieh, N-i-e-h.

5 MS. CRUZ: This is Holly Cruz with the  
6 NRC. Could we clarify who John Mongoven is with?

7 COURT REPORTER: I am with Neal R.  
8 Gross & Co. We are the court reporters producing  
9 the transcript.

10 MS. CRUZ: Thank you.

11 MR. BOSKA: All right. This is John  
12 Boska again, and we will continue.

13 This meeting is scheduled to last  
14 until 3:00 p.m. It's being recorded by the NRC  
15 Operations Center, and it's being transcribed by  
16 the court reporter.

17 The transcript will become a  
18 supplement to the petitions, and will be made  
19 publicly available.

20 MR. MARTINELLI: If I can get a point  
21 of clarification, if we've not completely  
22 finished submitting our presentation -

23 COURT REPORTER: Would you please  
24 identify yourself before speaking?

25 MR. MARTINELLI: Yes, my name is

**NEAL R. GROSS**

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

1 Sherwood Martinelli, FUSE USA, Green Nuclear  
2 Butterfly.

3 And I would like to find out, because  
4 Mr. Boska just informed us that today's meeting  
5 is slated to last two hours. I had made Mr.  
6 Boska aware of the fact that we might need as  
7 much as three hours to make our presentation and  
8 answer any questions.

9 So my question at this particular  
10 point in the form of a clarification, I would  
11 like to know what happens if we have not fully  
12 finished making our presentation in the two hours  
13 time that's been allotted for this hearing.

14 MR. NIEH: Sherwood, this is Ho Nieh,  
15 the Petition Review Board chairman. We would  
16 like to get your information, and if you are  
17 unable to do that in the time period allotted for  
18 this telephone call, you are of course welcome to  
19 submit that information to the NRC in writing.

20 MR. MARTINELLI: So we will be given  
21 appropriate time then to submit additional  
22 information if we don't get finished today?

23 MR. NIEH: Yes, if you feel that there  
24 was information that you also wanted to present  
25

**NEAL R. GROSS**

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

1 to us, but because of the two hour time period  
2 for this call, if that wasn't sufficient for you  
3 to make your remarks, then yes, I would encourage  
4 you to submit that to the NRC.

5 MR. MARTINELLI: Thank you.

6 MR. BOSKA: All right, this is John  
7 Boska again. And at this time I'll turn it over  
8 to our PRB chairman, Mr. Ho Nieh.

9 INTRODUCTION BY PRB CHAIRMAN

10 MR. NIEH: Thank you. This is Ho Nieh,  
11 the PRB chair at NRR headquarters with the NRC.  
12 Good afternoon, and welcome to the meeting  
13 regarding the 2.206 petition submitted regarding  
14 various issues at the Indian Point Nuclear Power  
15 Plant.

16 Before we get into the heart of the  
17 discussion, I just want to provide some general  
18 information about the 2.206 process. Under Title  
19 10 of the Code of Federal Regulations, Part 50,  
20 Section 2.206, any person or persons may petition  
21 the NRC to take an enforcement related action  
22 such as modifying, suspending or revoking a  
23 license.

24 The NRC staff guidance for the  
25 disposition of 2.206 petitions is in management

**NEAL R. GROSS**

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

1 directive 8.11, which is publicly available for  
2 review.

3 As John alluded to, the purpose of  
4 today's meeting is to provide the petitioner an  
5 opportunity to comment on the Petition Review  
6 Board's initial recommendations, and to provide  
7 any relevant explanation or additional  
8 information in support of the petition.

9 This meeting is not a formal hearing,  
10 nor is it a meeting for the participants on the  
11 teleconference to examine the merits of the  
12 issues in the petition request.

13 No decisions are going to be made  
14 regarding the merits of this petition at this  
15 teleconference.

16 Subsequent to this meeting the  
17 Petition Review Board will conduct another  
18 internal deliberation to determine if there is a  
19 need to modify its initial recommendation. And  
20 the outcome of that internal meeting will be  
21 documented in an acknowledgment letter to the  
22 petitioner.

23 (Audio cuts out for 15 seconds then a  
24 voice is heard saying "hello" and there is some  
25 discussion of the problem.)

**NEAL R. GROSS**

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

1 MR. NIEH: We just went on mute. We  
2 had some guidance from our general counsel.

3 I just want to clarify again the  
4 purpose of the meeting. It's not to examine the  
5 Petition Review Board on the merits of the  
6 issues. But yes of course we are going to  
7 discuss the issues in the petition.

8 So does that clarify it for you,  
9 Jenny? Thank you, I apologize for that.

10 MR. MARTINELLI: Sherwood Martinelli,  
11 could I get a clarification?

12 MR. NIEH: Sure.

13 MR. MARTINELLI: If I just heard you  
14 correctly, okay, part of what I'm supposed to  
15 comment on is the recommendations of this board  
16 as it relates to the petitions.

17 Those recommendations haven't actually  
18 been clarified to me on what you've recommended.  
19 In other words I've seen what you haven't  
20 recommended, but I've not seen what you're  
21 recommending in the way of formal action.

22 MR. NIEH: Correct. Well, let me  
23 clarify, Mr. Martinelli. A little bit about the  
24 process - again, I didn't want to go into all the  
25 details of the petition process.

**NEAL R. GROSS**

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

1           But when a petition is submitted to  
2 the NRC the Petition Review Board is promptly  
3 established to review any immediate actions on  
4 the contents of the petition. And during that  
5 initial meeting the Petition Review Board will  
6 make an initial determination on two things: one,  
7 a decision on the immediate actions contained in  
8 the petition; and two, an initial recommendation  
9 on whether or not to accept or reject the  
10 petition for review under the 2.206 process.

11           And that initial recommendation to  
12 accept or reject the petition has been  
13 communicated to the petitioners.

14           And then the purpose of this meeting  
15 is for the petitioners to, again, comment on  
16 whatever part they would like on that initial  
17 recommendation, and to provide any other relevant  
18 information in support of the petition.

19           Does that help, Mr. Martinelli,  
20 clarify -

21           MR. MARTINELLI: A little bit. In  
22 other words, unfortunately - and I'm going to be  
23 brutally honest here - is we know what we filed,  
24 but there is a certain vagueness and ambiguity to  
25 the process in letting us really know where our

**NEAL R. GROSS**

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

1 issues stand.

2 We know for instance that using the  
3 2.206 petition that was filed on the siren issue  
4 for instance, we know that the NRC is not going  
5 to immediately close down Indian Point on a  
6 temporary basis until they comply with the order  
7 to have working sirens.

8 But other than that - and maybe this  
9 is where it's supposed to be at this particular  
10 point in time - that's the only decision that has  
11 been made, and where we stand today is the NRC  
12 really hasn't taken any other position other than  
13 to accept the petition and state that they are  
14 willing to look at enforcement action, but they  
15 are not willing at least at this particular point  
16 in time to close the facility down.

17 MR. NIEH: What you said is mainly  
18 correct. And the next part of my just  
19 introduction would be to summarize what we've  
20 done with the related petitions on Indian Point.  
21 And if we can continue here, I will try to  
22 summarize where we've been, and what decisions  
23 have been made with the -

24 MR. MARTINELLI: Can we deal with each  
25 one separately? Because that is the way we are

**NEAL R. GROSS**

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

1 prepared to deal with stuff, rather than mixing  
2 them?

3 MR. NIEH: Yeah, I'm okay with that,  
4 sure, however you want to present it. And I will  
5 summarize each petition separately, so it's clear  
6 to the meeting participants specifically what  
7 petitions were submitted; what decisions were  
8 made; and where we stand at this point in time  
9 with the 2.206 process.

10 MR. MARTINELLI: Thank you.

11 MR. NIEH: So I will do that. But  
12 please bear with me; I'll do my best to keep it  
13 organized. Because there were several pieces of  
14 correspondence that came in related to these  
15 petitions at Indian Point.

16 So I'll start with the first one that  
17 we are looking at. On June 25<sup>th</sup>, 2007, Susan  
18 Shapiro of FUSE submitted to the NRC a petition  
19 under 2.206 that requested the NRC to take  
20 actions against the Indian Point licensee.

21 In that petition FUSE requested two  
22 immediate actions. First, the petitioners  
23 requested that the NRC issue an order enjoining  
24 the NRC from considering any new license  
25 applications until the NRC regulations concerning

**NEAL R. GROSS**

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

1 license renewal are revised to protect the  
2 constitutional First Amendment rights as well as  
3 the Equal Protection and Due Process rights of  
4 stakeholders.

5 That request for immediate action was  
6 denied because the request was for a licensing-  
7 related action and not for an enforcement-type  
8 action.

9 And that decision was communicated to  
10 Ms. Shapiro in an email on September 4, 2007.

11 The second immediate action involved  
12 - requested that all licenses for Indian Point be  
13 suspended until the site is in full compliance  
14 with all local, state and federal laws, statutes,  
15 rules and regulations.

16 This request for immediate action was  
17 denied because the petition did not set forth  
18 facts sufficient to constitute a basis for the  
19 requested action.

20 Specifically the petition didn't  
21 identify any safety issues that would justify an  
22 immediate shutdown. Again this decision was also  
23 communicated to Ms. Shapiro in that email on  
24 September 4, 2007.

25 In that June 25 petition, FUSE also

**NEAL R. GROSS**

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

1 identified over 70 safety and security concerns  
2 at Indian Point. Those concerns among others  
3 included issues related to underground water  
4 leakage - underground leakage of contaminated  
5 water; security infrastructure; decommissioning  
6 funding; and emergency preparedness issues.

7 In addition that petition also  
8 described issues with the NRC's regulations  
9 related to license renewal and contained various  
10 requests for rulemaking regarding emergency  
11 preparedness, security and spent fuel pool issues  
12 in the license renewal process.

13 The petition for rulemaking was  
14 subsequently denied by the NRC, and the staff's  
15 denial was published in the Federal Register on  
16 November 8<sup>th</sup>, 2007.

17 And the staff considers that issue,  
18 the rulemaking petitions, those issues closed,  
19 and will not engage in further discussion of this  
20 issue during today's meeting.

21 So what is the - just to summarize  
22 where the Petition Review Board's actions stand  
23 on that petition that was submitted by Susan  
24 Shapiro of FUSE, it was on October 30<sup>th</sup>, 2007, the  
25 Petition Review Board met and again made some

**NEAL R. GROSS**

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

1 decisions regarding the initial immediate  
2 requests for action, and made an initial  
3 recommendation to accept two items from that  
4 petition. And those two items pertained to the  
5 status of the new emergency preparedness siren  
6 systems, and underground leakage of contaminated  
7 water from the Indian Point Unit #2 spent fuel  
8 pool.

9 So that was the first one. There were  
10 several issues involved, two immediate actions,  
11 and at the end the initial recommendation was to  
12 accept that petition for two specific aspects  
13 into the review process.

14 Now there was another petition  
15 submitted to the NRC on September 28<sup>th</sup>, 2007 from  
16 FUSE, and this is from Mr. Martinelli. Again, in  
17 that petition Mr. Martinelli requested the NRC to  
18 take actions against the Indian Point licensee.

19 There were two immediate actions  
20 contained in the September 28<sup>th</sup> submittal. First,  
21 the petitioner requested that the NRC shut down  
22 Indian Point Units #2 and #3 until the emergency  
23 siren system with backup power has met all FEMA -  
24 that is the Federal Emergency Management Agency -  
25 requirements and passed all necessary tests

**NEAL R. GROSS**

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

1 required to be certified as an acceptable  
2 emergency notification siren system.

3 The second immediate action involved  
4 the request that NRC fine Entergy \$130,000 per  
5 day from September 28, 2007, forward until  
6 Entergy has complied with the NRC's confirmatory  
7 order of January 31, 2007.

8 On October 30, 2007, the Petition  
9 Review Board met to consider these requests for  
10 immediate action. Both of those requests were  
11 denied, because the petition did not set forth  
12 facts sufficient to constitute a basis for the  
13 requested action.

14 Again, the petition request did not  
15 identify safety issues that would justify an  
16 immediate shutdown. This decision was  
17 communicated to the petitioner on November 1,  
18 2007, and December 19, 2007.

19 Notwithstanding, during that October  
20 30, 2007 Petition Review Board meeting, the board  
21 made an initial recommendation to accept the  
22 petition, the FUSE petition, regarding the  
23 emergency preparedness sirens, for review.

24 I hope - I did my best to try to  
25 capture the essence of the petition and the

**NEAL R. GROSS**

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

1 issues correctly. And Mr. Martinelli, I would  
2 ask that if there were things that I didn't get  
3 quite right, I would ask that you please clarify  
4 those during the remarks you had prepared.

5 I just want to state again, the  
6 purpose of this meeting today is to provide the  
7 petitioner with the opportunity to comment on the  
8 Petition Review Board's initial recommendations;  
9 and to provide any additional information and  
10 explanation in support of the petitions.

11 It's not the opportunity to examine  
12 the Petition Review Board on the merits of the  
13 petition. We are not doing a hearing here, and  
14 no decisions regarding the merit or final  
15 decisions of this petition are going to be made  
16 during this teleconference.

17 As I mentioned, subsequent to this  
18 meeting the Petition Review Board will have  
19 another internal discussion that will take the  
20 feedback we receive from Mr. Martinelli today,  
21 and consider whether or not the NRC needs to  
22 modify its initial recommendations. And the  
23 results of that meeting will be documented in an  
24 acknowledgment letter to the petitioner.

25 At this time I just want to introduce

**NEAL R. GROSS**

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

1 the members of the Petition Review Board, and  
2 then turn the meeting over to you, Mr.  
3 Martinelli.

4 The NRC's Petition Review Board  
5 typically consists of a Petition Review Board  
6 chairman, that's me. And it's usually an SES  
7 level manager at the agency.

8 There is a petition manager for each  
9 plant-specific petition, which is usually the  
10 Office of Nuclear Reactor Regulation project  
11 manager for that particular site. And other  
12 members of the board are determined by the NRC  
13 staff based on the content of the information  
14 that is submitted in the petition.

15 Again I mentioned, I'm the Petition  
16 Review Board chairman. John Boska is the  
17 petition manager for Mr. Martinelli's petition  
18 that was submitted by letter dated September 28<sup>th</sup>,  
19 2007. And Douglas Pickett is the petition  
20 manager for the FUSE petition that was submitted  
21 in a letter dated June 25<sup>th</sup>, 2007.

22 Holly Cruz is a member of the board.  
23 She is our office's 2.206 coordinator, and in  
24 addition we have headquarters, technical staff,  
25 and Region 1 personnel on the Petition Review

**NEAL R. GROSS**

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

1 Board as well. And we have some support from our  
2 office of general counsel appearing here with us  
3 today; that's Jenny Longo, and then also, the  
4 Office of Enforcement.

5 As described in our review process,  
6 during this meeting the NRC staff may ask  
7 clarifying questions to the petitioners in order  
8 to understand better the presentation materials,  
9 and to make sure that we have a complete set of  
10 information so that the board can make a decision  
11 on whether to accept or reject the petitioner's  
12 request for a review.

13 Mr. Martinelli, or anybody else on the  
14 teleconference bridge, are there any general  
15 questions on the 2.206 process before I turn it  
16 over to you?

17 MR. MARTINELLI: I do have one  
18 question. Is Entergy going to be speaking today?

19 MR. NIEH: They may ask questions to  
20 the NRC regarding our process. But this is  
21 really a meeting between the NRC and you, and  
22 your organization. So unless Entergy has  
23 questions for the NRC on the process, that's the  
24 only real opportunity they would have to speak,  
25 and that would be toward the end of the

**NEAL R. GROSS**

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

1 discussion.

2 MR. MARTINELLI: Okay.

3 MR. NIEH: Now I would just remind all  
4 phone participants, please identify yourself. We  
5 are trying to get this teleconference  
6 transcribed. We want to have a complete record  
7 of the discussion, and we will make that publicly  
8 available as soon as the transcription is done.

9 Thank you for the time to allow me to  
10 talk about the summary, and with that I'd like to  
11 turn it over to Mr. Martinelli.

12 PRESENTATION BY PETITIONER

13 MR. MARTINELLI: Yes, my name is  
14 Sherwood Martinelli. Again, I'm with FUSE USA,  
15 and the Green Nuclear Butterfly.

16 I guess I would like to start by  
17 discussing specifically the siren issue, and the  
18 importance of the siren issue. And to do that,  
19 and to put it into perspective, first, I live at  
20 - did someone say something?

21 MR. NIEH: No, nobody here at  
22 headquarters did.

23 MR. MARTINELLI: Okay, to put things in  
24 perspective for starters, I live at, and the  
25 office of FUSE USA and the Green Nuclear

**NEAL R. GROSS**

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

1 Butterfly, is located at 351 Dyckman Street in  
2 Peekskill, New York.

3 My house, my master bedroom, I can  
4 walk up to the third floor of my house and look  
5 out over the Hudson River, and I can see the  
6 domes of Indian Point from my house.

7 I live literally less than three miles  
8 from the facility. Because of the close  
9 proximity of my home to the facility, I also have  
10 sirens within walking distance of my house, okay.

11 Going back to the old original siren  
12 systems that Indian Point is currently relying  
13 upon because the new system does not work, that  
14 system for as long as I've been in the community,  
15 which dates back to the year 2000, has had a  
16 notorious track record of failure, sirens  
17 sometimes not working, sirens sometimes working  
18 when they are not supposed to work.

19 And as someone who lives three miles  
20 from the plant, and as someone who will get in my  
21 car with my seven cats and my wife and evacuate  
22 the area regardless of Entergy's recommendations  
23 to shelter in place, if that were the case, I  
24 intend on leaving the area. In other words I  
25 would be part of I guess you could say that

**NEAL R. GROSS**

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

1 shadow evacuation that would take place. Because  
2 I'm going to do what I feel is in the best  
3 interests of myself and my family, and based on  
4 my knowledge of the Indian Point facility and the  
5 problems thereof, if there is any kind of an  
6 accident at Indian Point we're leaving the area.

7 So because of that it becomes very  
8 important to know that we have an up and  
9 functioning emergency notification system.

10 Hello?

11 MR. NIEH: Yes, we're here. We're  
12 listening.

13 MR. MARTINELLI: Okay. So the old one  
14 as I said at best worked sporadically. So then  
15 Indian Point was to install the new system. The  
16 new system, again, I have their sirens in close  
17 proximity to my house. I should be able to hear  
18 those sirens, okay.

19 There have been numerous tests of the  
20 system where I did not hear them at all. As a  
21 result of that I became much more aware of and  
22 tracking the days they were testing the system so  
23 that I could basically keep record of, well, I  
24 can hear it, or no I can't hear it.

25 As an example, and to me this is a

**NEAL R. GROSS**

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

1 crucial example of why it's imperative that  
2 Indian Point be shut down until the system is up  
3 and running and functioning properly, they were  
4 supposed to in August do a final test that was  
5 going to lead to the improvement of that siren  
6 system. That test was supposed to take place at  
7 10:30 in the morning. I needed to take and run  
8 out to do some errands. I went out to my car,  
9 got in my car, the windows were shut. I started  
10 my motor in the car. I did not have my stereo  
11 running. There was no noise in the car. I have  
12 a 2000 Hyundai Tiburon sports car, five speed,  
13 that is very well maintained. I bring this up,  
14 because it's not like I have a loud muffler.  
15 It's not like I have a vehicle that makes a lot  
16 of noise.

17 Okay, at about 10:32 I rolled down the  
18 window of my car, and it was only then when I  
19 could barely discern that the sirens were going  
20 off.

21 I got out of my car, and went into my  
22 house, because I wanted to see if I could hear it  
23 in the house. I could not hear it in my car with  
24 the windows shut; I could only hear it when I  
25 rolled the windows down.

**NEAL R. GROSS**

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

1           So I went into my house; I took and  
2 closed my front door; I could not hear the siren.  
3 I went up to the second floor of my house; I  
4 could not hear the siren. I went up to the third  
5 floor of my house; I could not hear the siren.

6           I went back downstairs, went out on  
7 the porch, and again, I could barely hear it.  
8 I took and called the NRC, let them know about  
9 this. They told me that they would make FEMA and  
10 they would make Entergy aware of this.

11           I then called the emergency planning  
12 people here in Westchester County, made them  
13 aware of the fact that I could not hear it. I  
14 then took and gave a phone call to Entergy as a  
15 courtesy to let them know that I could not hear  
16 it.

17           And what really disturbed me when I  
18 called Entergy that day and spoke to them in  
19 regards to the siren, I called them up, I told  
20 them where my home was located, they figured out  
21 what siren I should be hearing. And I explained  
22 to them just like I'm explaining to you now that  
23 I cannot hear the siren in my care with the  
24 windows up, and I cannot hear the siren in my  
25 house.

**NEAL R. GROSS**

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

1           And what I was told was absolutely  
2 shocking. Entergy told me, we don't care if you  
3 can hear the siren in your house. It's an  
4 outdoor siren system. If you can't hear it in  
5 your house, maybe you should turn your TV on.

6           Now with all due respect, if that  
7 siren system isn't programmed and set to be - in  
8 other words with the old siren, I will give the  
9 old siren credit in the sense that when it does  
10 work you can hear it everywhere, to the point  
11 where it jars you. The old siren goes off, my  
12 cats react, my cats run and hide. I take and  
13 close my windows if they're open to dull the  
14 noise; and you know that the siren is going off.

15           With the new siren, you don't know  
16 that it's going off. If the old siren goes off,  
17 and I'm sleeping, the siren is loud enough to  
18 wake me up in my home. With the new siren you  
19 can't hear it inside of your house.

20           If myself and all the other  
21 stakeholders of our community are sitting in our  
22 houses depending upon this quote unquote brand  
23 new siren system that we've been told, okay, is  
24 better and superior than the old one, that it  
25 cost \$15 million, so forth and so on, and we

**NEAL R. GROSS**

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

1 can't hear it, the decibel level isn't loud  
2 enough to be heard, what good is the system?

3 I also point out, because when I  
4 contacted the NRC that day, and then followed up  
5 with a subsequent written complaint about this  
6 very issue, and I called to see where it was at,  
7 they basically did not believe me. They  
8 basically, without coming right out and saying  
9 so, their tone and the inference of my  
10 conversation is, we really don't believe you  
11 until we prove it.

12 I at a later date in October received  
13 a letter from the NRC verifying that my complaint  
14 about the siren system had been verified and  
15 accepted as a legitimate complaint against  
16 Entergy, because the non-working siren that I  
17 complained about was verified through FEMA.

18 So for us this brings up some very,  
19 very disturbing issues. Because even though  
20 Entergy and the NRC want to say the odds of an  
21 incident at Indian Point that could lead to off-  
22 site migration of radioactive materials is  
23 remote, that opportunity still exists. And  
24 because that opportunity does exist, and in fact  
25 is probably magnified to a great deal because of

**NEAL R. GROSS**

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

1 the leaks at Indian Point, okay, is that siren  
2 system is our as citizens one and only line of  
3 defense. We cannot take cover. We cannot escape  
4 and evacuate the area. We cannot do anything to  
5 protect ourselves, protect our families, protect  
6 our animals, if we don't know that there is an  
7 incident going on.

8 It's impossible to do. We need to be  
9 able to hear that siren. We need to be able to  
10 hear that siren in our care with the windows  
11 rolled up. We need to be able to hear that siren  
12 in our house, in our living room, in our  
13 bathroom, in our kitchen, in our bedroom.  
14 Wherever we are in our house, we need to be able  
15 to hear that siren.

16 So then you take and you start looking  
17 at the things that Entergy is doing to quote  
18 unquote bring the system up and have it  
19 functioning and operational. A, we don't  
20 consider - Entergy's first line of repair in  
21 getting that system to pass FEMA muster was to  
22 prune trees. Now, to me, there is something  
23 wrong with a company that is sitting there, and  
24 their approach to making it to where I can hear  
25 that siren is to run out and prune a bunch of

**NEAL R. GROSS**

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

1 branches because the branches are keeping us from  
2 hearing the decibels that are being emitted from  
3 that siren system.

4 That isn't going to work. And it's  
5 not an adequate solution. Then they further  
6 delayed the process and the program, and further  
7 delayed the program, and we believe, but we can't  
8 prove this, we believe one of the ways that they  
9 are getting the NRC not to take more immediate  
10 action, not to be fining them on a daily basis  
11 for every day that they are in violation of an  
12 NRC order, is now all of a sudden Entergy has  
13 announced that they are going to add sirens to  
14 the system.

15 Well, the problem with adding sirens  
16 to the system is that, one, affords Entergy a  
17 whole new set of excuses, because when they add  
18 that new siren system, it can literally convolute  
19 everything else and create new and additional  
20 problems that are going to have to be worked out  
21 and fixed and taken care of from a technical and  
22 from a computer standpoint.

23 And in the meantime we as citizens are  
24 left here with no first line of defense. We do  
25 not have an up and running functional workable

**NEAL R. GROSS**

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

1 siren system for Indian Point. We do not have an  
2 up and functioning siren system for Indian Point  
3 that has backup power.

4 And I would for instance as an example  
5 whether it was part of a drill that Entergy was  
6 doing with the emergency response people, okay,  
7 on November 7<sup>th</sup> of this year, I found this on the  
8 Westchester government website, there was a press  
9 release that was put out announcing another leak  
10 at Indian Point, and announcing that bus  
11 evacuations were going to begin at 1:00 p.m.  
12 three blocks from my house.

13 I never heard any siren system go off.

14 I never heard any warning. I just happened to  
15 stumble across this press release.

16 So again, we as citizens, we're  
17 sitting here, we're out on the Internet, we're  
18 looking, and all of a sudden we see a press  
19 release that tells us we need to be starting an  
20 evacuation at 1:00 p.m. There are no sirens going  
21 off. There's nothing on the news.

22 So this is what I'm saying is, now  
23 we're left with the question of, well, was this  
24 some kind of an exercise they were involved with?  
25 Did the sirens go off and I missed them? So then

**NEAL R. GROSS**

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

1 you have to run to your phone and make phone  
2 calls.

3 The other problem is because Entergy,  
4 their sirens, both the old system and the new  
5 system, sometimes they work, sometimes they don't  
6 work.

7 Well, we are sitting here and what  
8 happens is, if we don't have a notice, in other  
9 words like on August the 14<sup>th</sup>, we knew the sirens  
10 were supposed to go off at 10:30. Other days,  
11 though, you are sitting here and the sirens go  
12 off, we did not receive adequate notice if any  
13 notice that there was a test going on. We don't  
14 know if it's a test; we don't know if it's the  
15 real thing. So we have to pick up the phone and  
16 call 911 to find out is this real or is it a  
17 test?

18 And I'm sure that if you contact the  
19 local Peekskill Police Department as an example,  
20 they will tell you that whenever the sirens at  
21 Indian Point go off, and here recently within the  
22 last couple of months their new siren or the old  
23 siren went off when it wasn't supposed to, and  
24 people were panicking and calling the police  
25 department.

**NEAL R. GROSS**

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

1           Do we need to evacuate? And so this  
2           is just it. You people sit here, and it's like  
3           especially since you implemented your new system  
4           where almost every violation of 10 CFR rules is  
5           written up as a non-cited violation, which means  
6           there is no action taken. And the problem is,  
7           there is no limit on how many numbers of those  
8           non-cited violations a licensee can accumulate  
9           before those violations are elevated.

10           So now 90 percent of the problems in  
11           the mistakes that take place at Indian Point,  
12           because they are written up as non-cited, end up  
13           being issues that there is never any enforcement  
14           action taken on.

15           And there might be a lot of little  
16           things that you don't need to take action on.  
17           But that siren is all we have as a community to  
18           depend upon. We have nothing else. If that  
19           siren doesn't work, which it does not work, the  
20           NRC has admitted it does not work; the FEMA has  
21           not certified the system. Entergy itself has  
22           even admitted that the siren system they chose to  
23           have built is outside of the design basis.

24           So from the very get-go, from day one  
25           when they decided that they were going to abide

**NEAL R. GROSS**

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

1 by the order of the NRC and by a congressional  
2 mandate, they went out and selected a company,  
3 and selected a siren design and a siren system  
4 that did not even meet the design basis criteria.

5 And so you've got an accumulative  
6 piling on of errors and mistakes and inadequate  
7 equipment that have led to where we are now.  
8 That system was supposed to be up and running in  
9 April; it failed. Then the system was supposed  
10 to be up and running by August, and yet the  
11 funniest thing is, if you go and look at the  
12 NRC's own letters, and their own correspondence  
13 with Entergy, Entergy knew and told the NRC  
14 months before the August deadline that they  
15 weren't going to be able to meet it, and yet they  
16 came forth to the public through Jim Steets and  
17 their media people and basically lied to us as a  
18 community saying, oh, we are going to make the  
19 deadline, we are going to make the deadline, we  
20 are going to make the deadline.

21 Then they didn't make the deadline,  
22 and then they said they're working on it and  
23 wanted to blame everything on everybody else.

24 No, the blame falls squarely where it  
25 belongs, and Entergy knew going in that they

**NEAL R. GROSS**

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

1 weren't going to meet that deadline. They lied  
2 about it; they bent the truth about it. And even  
3 NRC to a degree, even though they had private  
4 communications with the licensee knowing they  
5 weren't going to meet the deadline, created the  
6 illusion to us in the public that that deadline  
7 was going to be met.

8 Well, now it hasn't been met, okay.  
9 There has been no second fine. There is nothing,  
10 there is no carrot and the stick, and it's one  
11 reason why we don't trust the NRC to properly  
12 regulate their licensees. Because time in and  
13 time and time again, okay, basically it's almost  
14 like a no harm, no foul, and Entergy can do  
15 whatever it wants to do.

16 Well, no, we deserve and 10 CFR rules  
17 and regulations and congressional law mandates,  
18 that we have a working siren with a backup  
19 system, that we can hear. And that we can hear  
20 in our house.

21 This siren and the way it emits its  
22 noise can never fulfill that criteria, I don't  
23 care how many adjusted decibel levels, how many  
24 trees they cut down, we are not going to be able  
25 to hear that siren system in our homes.

**NEAL R. GROSS**

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

1           And if we can't hear it in our homes,  
2           that means that in the evenings, during the  
3           winter, when it's raining, when the majority of  
4           us are indoors, we are being put at a huge and  
5           tremendous risk should there be a nuclear  
6           incident at Indian Point, because we have a siren  
7           system that doesn't work and that we cannot hear.

8

9

          Any questions?

10

11

          MR. NIEH: Are there any questions from  
12           the Petition Review Board?

13

14

15

16

17

18

          I just had a couple of clarifying  
19           questions. Mr. Martinelli, this is Ho Nieh, the  
20           PRB chair. You mentioned a letter that I think  
21           you received in October from the NRC that said it  
22           looked into the complaint you had about the noise  
23           level of the new sirens?

19

          MR. MARTINELLI: Correct.

20

          MR. NIEH: Who was that letter from?

21

22

          MR. MARTINELLI: I got the letter from  
23           the NRC.

23

24

          MR. NIEH: Do you know what  
25           organization in the NRC or who signed it?

25

          MR. MARTINELLI: No, but I could track

**NEAL R. GROSS**

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

1 it down for you. The problem is, we're sitting  
2 here, and I think sometimes what gets lost in the  
3 shuffle, and why people don't understand our  
4 angst and our losing our temper, okay, is that we  
5 are not attorneys, we are not nuclear experts,  
6 and we are not paid professionals in the field.  
7 We are citizens that live in the area; we are  
8 stakeholders, and we are concerned.

9 And because we are concerned, we  
10 dedicate literally thousands of hours of our own  
11 time on this, and what happens is, we get faced  
12 with unrealistic time constraints in  
13 accomplishing certain tasks.

14 It's like today, I've got these two  
15 hearings, and then in the meantime FUSE is  
16 supposed to resubmit its contingents for the  
17 license renewal application by December the 24<sup>th</sup>,  
18 so forth and so on. And this is just it, there  
19 is so much stuff coming in the direction of  
20 stakeholders on the Federal Registry, from the  
21 NRC, so forth and so on, that for us to be  
22 expected to track and keep track of all of it and  
23 meet all these deadlines in the window of  
24 opportunity we're afforded, it almost sets up an  
25 impossible task that dooms us to failure.

**NEAL R. GROSS**

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

1           And it's like, it's that particular  
2 letter, like I said, I believe it came in in late  
3 October, but I got a letter from the NRC safety  
4 people, and in it they verify the fact that my  
5 complaint about the siren was verified and  
6 confirmed based on the FEMA findings.

7           MR. NIEH: I understand. Okay, we can  
8 try and look for it on our end. My interest is  
9 in - this is Ho Nieh again, the PRB chair. My  
10 interest is in making sure that the Petition  
11 Review Board has all the information it needs to  
12 make a decision. I don't want to leave any  
13 stones unturned, and if there is information that  
14 might be useful to the board, that's why I was  
15 interested in it.

16           MR. MARTINELLI: Like I said, I'd be  
17 happy to look through all the documents that are  
18 sitting in my office right now and try to track  
19 it down for you, and if I find it I'll be happy  
20 to scan it in and email it either to you or Mr.  
21 Boska.

22           MR. NIEH: That would be fine, and  
23 we'll search on our end too.

24           I did have one more question. In your  
25 remarks you mentioned that the new system was

**NEAL R. GROSS**

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

1 outside design basis. Can you specify which  
2 design basis criteria, what you are referring to?

3 MR. MARTINELLI: I download a lot of  
4 documents from the NRC, and I downloaded a lot of  
5 articles. And the way I found out that Entergy's  
6 siren system was outside the design basis was, I  
7 was reading an article I believe in the Wall  
8 Street Journal because Entergy at another one of  
9 their facilities has an almost identical siren  
10 system. They have fired the company and that  
11 siren system also is not up and functioning  
12 properly. They have failed to bring it in on  
13 time, and it has failed to function. And it is  
14 stated that that siren system, just like the one  
15 at Indian Point, was outside design basis.

16 MR. NIEH: I was just taking notes  
17 down, that last part you were talking about, you  
18 mentioned another facility that you thought could  
19 be an Entergy facility.

20 MR. MARTINELLI: Correct.

21 MR. NIEH: Had also failed to meet  
22 requirements, but you said something else about  
23 the design basis. I missed it.

24 MR. MARTINELLI: Right, in that article  
25 it stated that that siren system, much like the

**NEAL R. GROSS**

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

1 one at Indian Point, was outside the design  
2 basis. And that's all it said. It didn't tell  
3 me how it was outside design basis; only that it  
4 was.

5 MR. NIEH: Okay. Thank you.

6 Are there any questions from the NRC  
7 staff in Region 1?

8 MR. MCCARVER: This is Sam McCarver,  
9 Region 1, no questions.

10 MR. NIEH: Okay, Mr. Martinelli, are  
11 there other aspects of the FUSE petitions that  
12 you would like to -

13 MR. MARTINELLI: Well, yes. In other  
14 words, I specifically wanted to address all the  
15 issues as it relates to the siren first.

16 MR. NIEH: Yes, sir, I understand.  
17 Please continue.

18 MR. MARTINELLI: Okay, next we go into  
19 the leaks, and again, you can literally go back  
20 in the chronology, go through the chronology of  
21 Indian Point, and literally almost since day one  
22 that they turned on IP II there have been various  
23 and assorted leak issues with Indian Point, from  
24 little small pipe leaks to leaks of the spent  
25 fuel pool, to major tube ruptures, and I think

**NEAL R. GROSS**

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

1 it's important to remember that in the entire  
2 nuclear industry there has only been I believe  
3 five or six tube ruptures.

4 So the fact that one of these has  
5 occurred at Indian Point in and of itself is  
6 alarming. Secondly, being who I am, and being  
7 somewhat of a controversial figure, but also  
8 being well known here in the local community, and  
9 living close to Indian Point, I have great  
10 opportunity to overhear conversations and also  
11 talk to people. Part of the problem that we run  
12 into at Indian Point specifically and in the  
13 industry generally is the fact that the employees  
14 are afraid to come forth publicly and let the NRC  
15 know what it is that they know in regards to  
16 safety violations and in regards to leaks.

17 And I would point out as verification  
18 of that the NRC's letter to Entergy last fall  
19 wherein the NRC specifically ordered Entergy to  
20 correct issues that were creating a chilling  
21 effect within the Indian Point facility.

22 And they basically paid lip service to  
23 that, but the employees are still afraid to come  
24 forward. But if you sit in some of the little  
25 local bars here in our community, okay, the Fire

**NEAL R. GROSS**

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

1 Station Restaurant, the little Italian place down  
2 around the corner, some of the places over in  
3 Buchanan itself, you can literally sit there on a  
4 Friday night, on a Saturday night, minding your  
5 own business, mind your own Ps and Qs, and  
6 overhear conversations of the workers from the  
7 plant.

8           Then you have people for instance I  
9 had someone call me directly on the telephone  
10 that used to work for Underwater Welding out of  
11 Connecticut. They used to do weld repair work at  
12 the Indian Point facility, specifically in their  
13 spent fuel pools. And this man told me, and  
14 obviously I can't go over to Indian Point and  
15 investigate this, but I myself and several other  
16 people from FUSE and several other people  
17 involved in the anti-nuclear side of the equation  
18 have been told by this person that back in the  
19 late '90s while they were doing repair work of  
20 one of the pools, a one-inch by almost seven-inch  
21 long gash was cut into the side of the spent fuel  
22 pool. They could not figure out how to repair  
23 it; it took them over a year to figure out how to  
24 repair it; and during the entire course of that  
25 time the pool was losing almost 1,000 gallons of

**NEAL R. GROSS**

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

1 water a day, and the Indian Point facility wrote  
2 it off as evaporation, when in fact they knew it  
3 wasn't.

4 And again, Entergy can deny this,  
5 Indian Point can deny this. But we here in the  
6 community have reason to believe that, that story  
7 that's been reiterated to us. And we have  
8 reasons to believe that for several reasons.

9 One, for instance, our organization  
10 attempted to get hold of through the NRC, we  
11 filed FOIAs, we made phone calls, we talked to  
12 Richard Barkley, we talked to various assorted  
13 people involved in the relicensing issue, and we  
14 wanted to see copies of the new underground plume  
15 maps before we submitted our contentions in the  
16 license renewal application so that we could  
17 adequately evaluate and gauge the extent of the  
18 leaks at the Indian Point facility.

19 We were not allowed to see those plume  
20 maps, thereby being denied the right to  
21 adequately address leak issues, because Entergy  
22 claims those maps are proprietary. And even  
23 though we argued that it was our belief that  
24 those maps and the supporting data such as well  
25 results that would go with those maps that

**NEAL R. GROSS**

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

1       although Entergy was entitled to claim them as  
2       proprietary, the public's need to know should  
3       have superseded their right to keep a secret.

4               And I bring this up because it's an  
5       example of how we as citizens aren't allowed to  
6       know the full scope and breadth of the leaks. We  
7       can only sort of gain information from hearsay  
8       sources, and through hard and dedicated research  
9       on our part.

10              And as two examples, Indian Point and  
11       Entergy for instance describe their leaks in the  
12       spent fuel pools as hairline cracks. I spent  
13       about two weeks going through ADAMS, and using  
14       ADAMS documents and the various assorted  
15       companies and documents listed in ADAMS  
16       documents. And I was able to track down one of  
17       the companies websites that's involved in the  
18       current monitoring that is taking place over at  
19       Indian Point.

20              And on that website I was able to find  
21       a photograph of the supposed hairline crack in  
22       spent fuel pool #2. I don't know how long that  
23       crack is, but what I can tell you is, is the  
24       crack and the secondary cracks that go off in  
25       various assorted directions from the primary

**NEAL R. GROSS**

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

1 crack, runs the full length of the picture, and  
2 doing a sizing of the little pole on the side,  
3 because those are a standardized height, I was  
4 able to ascertain that the portion of the crack  
5 they showed in the photograph was in excess of 11  
6 foot in length, and that the crack itself was at  
7 least in width a quarter of an inch long.

8 Now up until I was injured this year,  
9 I was a licensed contractor. If I had that kind  
10 of a crack in the foundation wall of a building,  
11 not a home, a building, that I was looking at, I  
12 would be recommending that the building owner  
13 take immediate steps to do significant repairs,  
14 because they were creating a situation where that  
15 wall could blow out.

16 Indian Point, Jim Steets and Entergy  
17 instead tell us it's a hairline crack. That is  
18 not a hairline crack.

19 This fall a new leak was discovered at  
20 Indian Point, and one of the things that is very,  
21 very disturbing to us as a community is Indian  
22 Point's normal maintenance and management  
23 processes are not locating these leaks. These  
24 leaks are all discovered by accident, somebody  
25 doing something else stumbles upon the leak.

**NEAL R. GROSS**

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

1           There was a work crew this fall  
2 discovered another new leak. Jim Steets  
3 instantly runs to the press, okay, and informs  
4 the press that it was a pinhole leak in conduit.  
5 Conduit is normally a pipe that you run  
6 electrical wires or cabling through that's two  
7 inches or less in diameter.

8           But based on a newspaper article, we  
9 were able to go look at drawings of the plant and  
10 ascertain that this was not a leak in the conduit  
11 at the facility. We have every reason to believe  
12 that the leak that was found by a crew doing  
13 something completely unrelated to maintenance  
14 actually located a leak in the fuel transfer  
15 canal tube.

16           So not only were they lying about the  
17 size of the leaks, they were lying about the  
18 location and the type of leak it is, because  
19 there is a world of difference between a small  
20 pinhole sized leak in a piece of conduit, and a  
21 leak, regardless of what size it is, in the fuel  
22 transfer canal.

23           And if you look at where they claim  
24 the leak is, and you look at the diagrams for the  
25 facility, that's the only thing it can be.

**NEAL R. GROSS**

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

1           Then you are sitting here, again if  
2 you go through ADAMS you are going to find  
3 numerous and assorted documents on the recent  
4 monitoring of leaks that they have been doing.

5           You are sitting there, and one of the  
6 things you find is, in one of the monitoring  
7 reports that came out earlier this year, when  
8 they did the testing of the water, it was very  
9 interesting. Because what they state in the  
10 report is, and again I'm a layman, so if I'm  
11 using incorrect terms, I apologize, but basically  
12 what they stated was, the testing fingerprint of  
13 the tritium levels did not match the fingerprint  
14 you would expect if the tritium was coming from  
15 the spent fuel pools. Which then means, where  
16 else is that tritium coming from?

17           There is only one answer: the hot leg  
18 of the reactor, and its component in various  
19 assorted cooling pipes. That's the only other  
20 place you are going to get that tritium leaking  
21 from.

22           But again, they present the image to  
23 us that there are only leaks in the spent fuel  
24 pool #1 and spent fuel pool #2. That's not true,  
25 because again if you go and you look at all these

**NEAL R. GROSS**

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

1 documents that are being created as it relates to  
2 the monitoring, one of those NRC documents found  
3 on ADAMS states very clearly and very succinctly  
4 that they don't know where it's coming from, but  
5 that there is contamination that is making its  
6 way into the discharge canal, and from the  
7 discharge canal into the Hudson River.

8 And this is part of the problem.  
9 Entergy now and before Entergy, ConEd, going back  
10 to at least 1999 have been dealing with and  
11 trying to quantify and gauge just how much of  
12 this stuff is leaking at the facility and where  
13 all the leaks are.

14 And yet every time we turn around,  
15 it's not like we have Entergy management coming  
16 to us and saying, gee, our maintenance and aging  
17 management program identified three leaks that we  
18 have repaired and taken care of and mitigated the  
19 issue. No, we pick up a newspaper article and we  
20 find that another leak has been found at Indian  
21 Point because steam started coming up through the  
22 blacktop pavement at the facility.

23 That's not a workable maintenance  
24 program. It puts them in violation of 10 CFR  
25 rules and regulations, okay, but in other words

**NEAL R. GROSS**

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

1 it's like, to give an analogy, if I own a gas  
2 station, and I've got an underground tank, and  
3 that underground tank starts leaking, and the  
4 Environmental Protection Agency finds out about  
5 it, they are going to come to me and they are  
6 going to say, fix it, and I don't have any choice  
7 but to shut down my gas station and dig that area  
8 up and fix the leak by either replacing the tank,  
9 replacing the leaking parts. But in other words,  
10 I have to do whatever it takes to make those  
11 repairs and I'm not allowed to sell gas until I  
12 make those repairs.

13 We're asking for the same thing.  
14 We're asking the NRC to grant us that same kind  
15 of action. We are not saying in these 2.206  
16 petitions to permanently shut down Indian Point.  
17 What we are saying is, shut them down until they  
18 can come into compliance. Shut them down until  
19 all these various and assorted leaks are known  
20 and repaired.

21 Because like I said, every time we  
22 turn around, not only are new leaks coming  
23 forward, but we are finding that Entergy is lying  
24 and misrepresenting what's going on at the plant.

25 I can't tell you how many employees of

**NEAL R. GROSS**

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

1 Entergy I've spoken to. I can't tell you how  
2 many Entergy Indian Point employees I've  
3 overheard in the local bars around here  
4 discussing leaks at Indian Point, and none of  
5 them have anything to do with the spent fuel  
6 pool.

7 In fact I sat there one Friday night,  
8 and listened to two men having this big huge  
9 discussion about Indian Point, okay, and one of  
10 them I was told by the bartender was an engineer  
11 at Indian Point, were discussing their belief  
12 that they thought one of the seals under the  
13 reactor was leaking.

14 Well, if that's true, that's a huge  
15 huge and very worrisome issue. Can I state  
16 whether or not it's absolute gospel truth? No, I  
17 can't. Can I identify those workers? No, I  
18 can't. Because I'm not going to get myself  
19 killed walking up and saying, oh, I couldn't help  
20 but overhear your conversation, and I'm from FUSE  
21 USA. Could I have your names?

22 Okay so this is just it. And that's  
23 the way the NRC works. We bring these  
24 allegations to the NRC; we bring these safety  
25 concerns to the NRC. And the first thing your

**NEAL R. GROSS**

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

1 inspectors ask us is, well, can you identify the  
2 person, or is that person willing to come forward  
3 probably?

4 No, they are not willing to come  
5 forward probably, because all they have to do is  
6 look at almost every example where a licensee's  
7 employee has come forward and found himself out  
8 of a job. The most recent example being the  
9 guard, who videotaped sleeping guards at another  
10 nuclear facility, okay.

11 So this is just it. But this is what  
12 I'm saying, Entergy, for instance, admits to over  
13 250,000 gallons of tritiated water existing under  
14 reactor #3. That's what they admit to. I would  
15 venture to say that's a conservative estimate.

16 The reason why I say it's a  
17 conservative estimate is, up until late 2005,  
18 November I believe of 2005, Entergy first claimed  
19 that the rate of leakage was believed to be  
20 approximately 20 gallons a day.

21 Then they upped it to 25 gallons of  
22 water a day. Then in late November of 2005 they  
23 upped it to 63 gallons of water a day.

24 Well, depending on how long that  
25 facility has been leaking, that's a lot of water.

**NEAL R. GROSS**

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

1 If the story about the gash in the spent fuel  
2 pool is true, that's even more water. And these  
3 leaks become even far more problematic when you  
4 look at the fact that Indian Point is now  
5 planning on using spent fuel pool #2, which is  
6 known to have leaks, which has a huge huge  
7 crevice in the side wall of the pool; that's the  
8 pool that they want to use to transfer spent fuel  
9 rods from unit #1 and unit #3 into dry cask  
10 storage. With that huge gaping wound in the side  
11 of the spent fuel pool, any kind of accident  
12 could lead to literally catastrophic damages at  
13 that facility, and in turn, to our community.

14 And so we don't think it's being  
15 unreasonable to say, we want the facility shut  
16 down until these significant and serious safety  
17 issues in the form of leaks and contaminants  
18 leaching into our drinking water supplies,  
19 because that's what's funny. Indian Point and  
20 Entergy have admitted that strontium-90, celcium  
21 (cesium)-137, and tritium are leaking into the  
22 groundwater.

23 But then they turn around and justify  
24 it by saying, but it hasn't left our property  
25 yet. That's not what the rules of the State of

**NEAL R. GROSS**

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

1 New York say. They say, any drinking water. It  
2 doesn't matter where it's located. It doesn't  
3 matter that it's located on Indian Point's  
4 property.

5 They have in the past and are  
6 continuing on a daily basis to contaminate one of  
7 the drinking water supplies of our community, and  
8 they are contaminating that drinking water  
9 because of various and assorted known and unknown  
10 leaks located throughout that facility.

11 And if leaks are being found because  
12 they just suddenly start blowing steam up through  
13 the ground, if leaks are being found because as  
14 somebody was doing some excavation work to make  
15 changes to the crane, and all of a sudden, oh  
16 look at this, we have a leak in the spent fuel  
17 pool, okay, that's not a maintenance program.  
18 It's not a management plan. And it's  
19 unreasonable for the NRC to sit there and say,  
20 well, we are going to deal with these leaks, and  
21 we are going to require the operator to take care  
22 of any contamination issues when they  
23 decommission the plant.

24 No, leaks, especially when those leaks  
25 are unidentified, and being discovered by

**NEAL R. GROSS**

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

1 accident, are signs of degradation and breakdown  
2 of the structural stability and security of the  
3 entire piping system of that plant, and more  
4 importantly, it's a sign of an aging management  
5 and maintenance program that is terribly,  
6 terribly, terribly out of whack, and not  
7 functioning the way it's supposed to function.

8 And that's where we take exception  
9 with the NRC acting as if we're unreasonable, and  
10 asking that Entergy be shut down until they find,  
11 locate, stop and repair these leaks.

12 It's like if, as Entergy says, there  
13 aren't that many leaks and it's not that big of  
14 an issue, then if they were ordered to be shut  
15 down, and they were shut down for a week, and all  
16 of a sudden the facility was no longer leaking,  
17 that would be a different story. And I don't  
18 think we are asking too much in asking for a  
19 leak-free facility.

20 Because if you use for instance Adobe  
21 Professional, Adobe 8.1 Professional, and do a  
22 keyword search of Entergy's license renewal  
23 application, they claim in their license renewal  
24 application in three different sections that  
25 Indian Point is a leak-free facility.

**NEAL R. GROSS**

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

1           So if they are making the claim it's  
2 a leak-free facility, if they are presenting  
3 themselves as a leak-free facility in their quest  
4 to have an extension of their license for 20  
5 years, I think that they should be a company of  
6 their word, a company of honor, and give us what  
7 they claim we have in their license renewal  
8 application.

9           And right now we don't have that. We  
10 don't have a leak-free facility. Indian Point  
11 and Entergy both freely admit they don't even  
12 know where some of these leaks are. They  
13 knowingly admit that they don't where the  
14 contaminants are leaking from.

15           And yet we go sit in bars, and we have  
16 people call us on the phone, and they tell us and  
17 hint to us where the leaks are at.

18           So it seems to me that something more  
19 needs to be done. Sitting there taking a wait  
20 and see, having a management program that says,  
21 well, when we locate and identify a leak we'll  
22 put down some plastic to catch the water, and  
23 then we'll refunnel that through the system and  
24 properly dump the effluents into the Hudson  
25 River, that's not an acceptable management

**NEAL R. GROSS**

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

1 program. It's not an acceptable public health  
2 and safety program. And it doesn't properly  
3 protect our environment.

4 And this is what I'm saying. The NRC  
5 has admitted the leaks exist. Entergy has  
6 admitted the leaks exist. Indian Point has  
7 admitted the leaks exist. All three of those  
8 parties have admitted that they don't know where  
9 some of these leaks are located; they don't know  
10 where the contaminants are coming from, but they  
11 admit the contaminants exist.

12 And even more disturbing, even though  
13 Entergy has admitted that in one case, in one  
14 contaminant - and if you look at the plume maps,  
15 okay, because we have gotten a look at those  
16 plume maps - there are three readily available  
17 sizeable underground plumes of different  
18 contaminants at that facility.

19 One of the plumes has crept and moved  
20 forward by a substantial amount in the past three  
21 years, to where it's very close to the plume  
22 joining with and coming into contact with the  
23 Hudson River. And yet if NRC and Entergy are  
24 admitting that there is at least 250 to 300,000  
25 gallons of tritiated water under reactor #3, I

**NEAL R. GROSS**

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

1 would say it's time that the citizens of our  
2 community deserve a timeout, where the facility  
3 is closed, and every worker, every person and  
4 every bit of money that Entergy can bring to bear  
5 on finding, identifying and fixing and repairing  
6 those leaks, needs to happen. And anything short  
7 of that is not protecting us as a community,  
8 especially not when you combine those leaks.

9 And I would remind you of LBB which is  
10 Leak Before Break. The NRC, EPRI, NEI, okay,  
11 everybody in the industry admits that Leak Before  
12 Break is a workable management plan for pipes  
13 that they can inspect, because a pipe will leak  
14 before it breaks.

15 The leaks are here. How long do we  
16 really have before those leaks become breaks?  
17 And I would point out that if you read one  
18 particular EPRI study that in fact indeed they  
19 are now finding out that Leak Before Break is not  
20 as reliable as they once thought it was, because  
21 in a lot of cases, leak before break isn't able  
22 to measure and gauge corrosion, and environmental  
23 corrosion that is taking place inside the pipes,  
24 due to environmental chemistry.

25 And that becomes a very, very key

**NEAL R. GROSS**

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

1 issue at Indian Point because of known and  
2 admitted microbial corrosion that is literally  
3 eating certain components of the reactors from  
4 the inside out. And all you have to do is go  
5 look at the amount of repairs and replacement  
6 work that they've had to do at their intake  
7 gates.

8 Okay, so it could be that some of  
9 these leaks that are suddenly just appearing like  
10 the one that came when the steam started coming  
11 up from the blacktop, it very well could be that  
12 we are seeing a corrosive atmosphere that is  
13 literally creating corrosion issues from the  
14 inside out, which is why these leaks aren't being  
15 found until the leaks get severe enough that they  
16 exhibit outwardly physical signs.

17 Well, how many leaks are underground  
18 at Indian Point that the leaks haven't gotten bad  
19 enough yet that we are seeing outwardly physical  
20 signs, but we are knowing that those leaks exist.

21 And the question is, if those leaks  
22 exist, how much contamination is being released  
23 into our environment, into our drinking water,  
24 into the Hudson River on a day-in and day-out  
25 basis, that we don't know about?

**NEAL R. GROSS**

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

1 Any questions?

2 MR. NIEH: Are there any questions from  
3 headquarters, members of the Petition Review  
4 Board?

5 Any questions from the regional  
6 participants at the NRC?

7 MR. McCARVER: Region 1, Sam McCarver,  
8 no questions.

9 MR. NIEH: Okay, I had one note. It's  
10 just a clarification.

11 You were talking about photographs  
12 from some website, the hairline cracks in the  
13 spent fuel pool.

14 MR. MARTINELLI: Correct.

15 MR. NIEH: Could you specify, where did  
16 you locate those photographs?

17 MR. MARTINELLI: I located it on one of  
18 the service company websites that's being used by  
19 Entergy to do the groundwater and well  
20 monitoring. And if you go to my blog, Green  
21 Nuclear Butterfly, we have that photograph posted  
22 on our blog.

23 MR. NIEH: Okay, thank you.

24 Do you have any - please continue if  
25 you have more?

1 MR. MARTINELLI: No, I think that  
2 pretty well covers it.

3 MR. NIEH: Okay, well - the purpose of  
4 the meeting again was for you to provide that  
5 information for the Petition Review Board, so we  
6 can have a thoughtful and comprehensive  
7 discussion about the issues presented in your  
8 petition.

9 MR. MARTINELLI: Right, and like I  
10 said, almost every issue that I brought up today,  
11 if you - if your board would like for instance, I  
12 have the EPRI documents, I have the ADAMS  
13 documents, I will be more than happy if you let  
14 me know what you need, I will take today or the  
15 two or three days it will take me - I won't do it  
16 until after we get our contingents resubmitted -  
17 but I will be more than happy to go through and  
18 pull various and assorted industry documents that  
19 back up a lot of what it is that I've said today.

20 The only thing I can't back up today  
21 is information that was given to me by employees  
22 at the plant who are afraid to come forward.

23 MR. NIEH: Okay, thank you, and if we  
24 do decide that we need some information from you  
25 subsequently, we will contact you for that.

**NEAL R. GROSS**

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

1           Before I conclude the meeting, I would  
2           invite any other participants that are non-NRC  
3           and not part of the FUSE organization to ask any  
4           question. I think the only one we had was Mr.  
5           Bessette from Morgan Lewis.

6           Do you have any questions of the NRC  
7           on the process?

8           MR. BESSETTE: Do you have a timeline  
9           or an expected timeframe for responding?

10          MR. NIEH: We plan to send an  
11          acknowledgment letter shortly after we have our  
12          internal discussion following the conclusion of  
13          this call. We haven't scheduled that yet. But  
14          typically we would like to, once we meet with the  
15          petitioner and have a dialogue with the  
16          petitioner, we try to get our acknowledgment  
17          letter out I believe it's within 35 days.

18          MR. BESSETTE: And could you clarify -  
19          this is Paul Bessette again - could you clarify  
20          the content of the acknowledgment letter?

21          MR. NIEH: The contents of the  
22          acknowledgment letter will present the Petition  
23          Review Board's final recommendation on whether or  
24          not the information supplied in the petitions are  
25          accepted or rejected for review in the 2.206

**NEAL R. GROSS**

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

1 process.

2 MR. BESSETTE: And if they are  
3 accepted, what is the next step?

4 MR. NIEH: The next step is to conduct  
5 a review of the issues, and make a - and issue a  
6 proposed director's decision that disposes  
7 the issues in the petition.

8 MR. BESSETTE: And is there a timeframe  
9 for that?

10 MR. NIEH: One hundred and twenty days  
11 from the issuance of the acknowledgment letter.

12 MS. CRUZ: These are goals, not -

13 MR. BESSETTE: I understand. I'm just  
14 looking for - you know I will get those  
15 questions.

16 MR. NIEH: I would encourage you to  
17 look at our management directive 8.11. That  
18 specifies what the goals are.

19 MR. BESSETTE: And I have that, I'm  
20 sorry, I'm just circumventing that. While we're  
21 on the phone I just thought I'd ask.

22 MR. NIEH: And I did want to just  
23 clarify one - I referenced in the opening remarks  
24 about the 2.206 process. I think I said Part 50.  
25 It's actually Part 2. That's a standard

**NEAL R. GROSS**

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

1 procedure for the NRC. 2.206 is not in Part 50.  
2 It's 10 CFR Part 2, so I wanted to clarify that.

3 So not hearing any more comments from  
4 the regions - do you have anything else, Mr.  
5 Bessette?

6 MR. BESSETTE: No, I have nothing  
7 further.

8 MR. NIEH: Okay, well Mr. Martinelli,  
9 I would like to thank you for taking the time out  
10 of your day to provide the NRC with this  
11 information on the petitions you've submitted,  
12 and with that I would like to conclude the  
13 meeting, and hope everybody has a good weekend.

14 (Whereupon at 2:26 p.m. the proceeding in  
15 the above-entitled matter was adjourned)

16

17