

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Petition Review Board Teleconference Between
Thomas Saporito and the Nuclear Regulatory
Commission on 10 CFR 2.206 Petition on Turkey
Point

Docket Number: (Not provided)

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PETITION REVIEW BOARD (PRB)

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TELECONFERENCE

BETWEEN THOMAS SAPORITO AND THE NUCLEAR REGULATORY
COMMISSION ON 10 CFR 2.206 PETITION ON TURKEY POINT

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FRIDAY,

MAY 30, 2008

+ + + + +

The teleconference convened at 10:00 a.m.
Eastern Daylight Time.

PRESENT:

- HO NIEH, NRC PRB
- MICHELLE HONCHARIK, NRC PRB
- JENNY LONGO, NRC PRB
- JOEL MUNDAY, NRC Region 2
- BRENDA MOZAFARI, NRC PRB
- TRACY ORF, NRC PRB
- THOMAS SAPORITO, Petitioner
- GARMON WEST, NRC PRB
- TOM BOYCE, Project Manager, Turkey Point
- RUSS BARNES, Office of Enforcement

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APPEARANCES:

On Behalf of Florida Power and Light:

ANTONIO FERNANDEZ, ESQ.
Florida Power and Light
700 Union Boulevard
Juno Beach, Florida 33408
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P-R-O-C-E-E-D-I-N-G-S

(10:15 a.m.)

1
2
3 MR. NIEH: My name is Ho Nieh. I'm with
4 the NRC Office of Nuclear Reactor Regulation. I'm the
5 Deputy Director in the Division of Policy and
6 Rulemaking, and I am the Petition Review Board Chair.

7 Mr. Saporito, you've heard the other
8 participants to the teleconference. We have
9 representation from Florida Power and Light. We have
10 our Court Reporter, who will be transcribing this
11 teleconference, as part of the public record for your
12 petition. And we have Mr. Joel Munday from Region 2,
13 NRC's Region 2, who is supporting the Petition Review
14 Board today.

15 Mr. Saporito, do you have anybody else
16 with you that you'd like to announce?

17 MR. SAPORITO: No. No, I do not.

18 MR. NIEH: Okay. We'll go around the room
19 here in headquarters, just to announce the participants
20 here at NRR. As I mentioned, my name is Ho Nieh. I'm
21 the Petition Review Board Chair.

22 MS. HONCHARIK: My name is Michelle
23 Honcharik. I'm in NRR, Division of Policy and
24 Rulemaking. I am the office's Petition Coordinator.

25 MR. WEST: I'm Garmon West. I'm with the

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1 Office of Nuclear Security and Incident Response.

2 MR. BOYCE: I'm Tom Boyce, Branch Chief
3 for the Project Manager for the affected plant.

4 MR. SAPORITO: I'm sorry, Mr. Chairman, we
5 can't hear the members of the NRC staff identify
6 themselves.

7 MR. NIEH: Okay. We'll try that again.
8 We'll try to speak louder.

9 MR. SAPORITO: Thank you.

10 MR. NIEH: You're welcome.

11 MS. HONCHARIK: Michelle Honcharik, in the
12 NRR, Division of Policy and Rulemaking. I'm the
13 office's 2.2 06 Petition Coordinator.

14 MR. WEST: And Garmon West, with the
15 Office of Nuclear Security and Incident Response.

16 MR. BOYCE: I'm Tom Boyce. I'm the Branch
17 Chief for the Project Manager.

18 THE COURT REPORTER: This is the Court
19 Reporter. I'm not picking up that participant.

20 MR. BOYCE: I'm Tom Boyce. I'm the Branch
21 Chief for the Project Manager for Turkey Point.

22 MS. MOZAFARI: Brenda Mozafari. I'm the
23 NRR Project Manager for Turkey Point.

24 MR. BARNES: Russ Barnes. I'm with the
25 Office of Enforcement.

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1 MS. LONGO: Jenny Longo, with the Office
2 of General Counsel.

3 MR. ORF: Tracy Orf. I'm with NRR. I'm a
4 Project Manager, and I'm the Petition Manager.

5 MR. NIEH: Okay. Did you get everybody
6 there, Mr. Saporito?

7 MR. SAPORITO: Mr. Chairman, this is
8 Thomas Saporito. I didn't hear a representative from
9 the NRC Office of Investigations. Is the NRC OI
10 represented here today?

11 MR. NIEH: Not today.

12 MR. SAPORITO: But isn't that part of the
13 requirements for the Part 8.11, Part 3, for the review
14 process?

15 MR. NIEH: Not that I am aware of. Our
16 procedure has us, when necessary, obtain advice and
17 support from the Office of General Counsel and the
18 Office of Enforcement.

19 MR. SAPORITO: Well, I understand that the
20 Office of Enforcement is present. But it's
21 specifically OI -- I didn't hear anybody from OI. That
22 was the question.

23 MR. NIEH: No, we do not have anybody from
24 the Office of Investigations present for this
25 particular meeting. And if they are -- if it is

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1 determined from the outcome of this meeting that there
2 is a need to engage the Office of Investigations, then
3 we will take the appropriate action.

4 THE COURT REPORTER: Excuse me. This is
5 the Court Reporter. Mr. Nieh, you are fading out as
6 you get to the end of your sentences.

7 MR. NIEH: I'm sorry. If we determine
8 that there is a need for representation from the Office
9 of Investigations, we will handle that following this
10 meeting.

11 MR. SAPORITO: So, Mr. Chairman, just so
12 I'm clear, and just for the record, it's your opinion
13 that -- it's your opinion today that the OI
14 representative is not required to attend these type of
15 meetings?

16 MR. NIEH: At this point, we believe that
17 the OI representative is not needed for this meeting
18 today. However, if there is additional information
19 that is presented today that we believe needs the
20 support of the Office of Investigations, we will ensure
21 that that occurs.

22 MR. SAPORITO: So is it -- just for
23 clarification, you're saying that the OI is not
24 required for this meeting. But my question is, in
25 general, is OI -- is it your opinion that OI is not

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1 required to attend any 10 CFR 2.206 petition review
2 panel?

3 MR. NIEH: No. No. The staff would make
4 a determination as to whether or not --

5 THE COURT REPORTER: This is the Court
6 Reporter. Mr. Nieh, we are losing you again. I don't
7 know if you are -- if you are on a speakerphone, you're
8 going to have to pick up, because I'm not catching you.

9 MR. NIEH: Okay. You know what I'm going
10 to -- I'm going to go on mute just for one second.

11 (Whereupon, the proceedings in the foregoing matter
12 went off the record at 10:19 a.m. and went
13 back on the record at 10:25 a.m.)

14 MR. NIEH: When we last interrupted, we
15 were talking about the need for the Office of
16 Investigations. And, again, as far as the Petition
17 Review Board activity so far, we have not determined
18 the need to involve the Office of Investigations.
19 However, if there is information provided where we
20 believe that we do need their support, we will ensure
21 that that occurs. Does that answer the concern or
22 question you had, Mr. Saporito?

23 MR. SAPORITO: Yes, it does.

24 MR. NIEH: Okay. Fantastic.

25 Well, good morning, everybody, and welcome

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1 to the NRC's teleconference today regarding the 2.206
2 petition submitted regarding the Turkey Point Nuclear
3 Powerplant in Florida.

4 Before we get into the heart of the
5 discussion, I want to just give some general
6 information about the NRC's 2.206 petition process.

7 Under Title 10 of the Code of Federal
8 Regulations, Section 2.206, any person may petition the
9 NRC to take an enforcement-related action, such as
10 modifying, suspending, or revoking a license, and the
11 NRC staff's guidance for the disposition of these
12 petitions is in Management Directive 8.11, which is
13 publicly available for review.

14 The purpose of today's meeting is to
15 provide Mr. Saporito an opportunity to comment on the
16 Petition Review Board's -- or PRB's -- initial
17 recommendations and to provide any additional
18 explanation and support for his petition.

19 This meeting is not a hearing, nor is it a
20 meeting for the participants to examine the merits of
21 the issues presented in the petition. And no decisions
22 regarding the merits of the petition will be made at
23 this meeting.

24 Following this meeting, the Petition
25 Review Board will conduct its internal deliberations to

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1 determine if there is a need to modify its initial
2 recommendations, and the outcome of this subsequent
3 meeting will be documented in an acknowledgement letter
4 to the Petitioner.

5 At this time, I want to summarize the
6 scope of the petition that was submitted to the NRC and
7 describe the NRC activities to this date. Mr. Thomas
8 Saporito, the Petitioner, submitted on April 27, 2008,
9 a petition under 2.206 regarding deficiencies of the
10 security -- of security officer attentiveness at the
11 Turkey Point Nuclear Powerplant, as required by 10 CFR
12 Part 73.

13 In this petition request, Mr. Saporito
14 requested that the NRC do several things, and I'll just
15 read them from the petition. One, take actions to
16 immediately suspend the licensee's operating licenses
17 at Turkey Point until such time as the licensee can
18 demonstratively demonstrate to the NRC and to the
19 general public that it is in full compliance with 10
20 CFR 73.55(f)(1).

21 Also, issue a notice of violation with a
22 \$500,000 civil penalty to Wackenhut Nuclear Services
23 for its part in violating that previous 10 CFR that I
24 mentioned.

25 Third, increase the amount of the civil

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1 penalty imposed on the licensee from \$130,000 to
2 \$1,000,000.

3 Four, disallow the licensee from
4 participating in the NRC alternative dispute resolution
5 program.

6 Five, disallow Wackenhut Nuclear Services
7 from participating in the NRC alternative dispute
8 resolution program, or ADR, what we will use from here
9 on in.

10 Six, order the licensee to post his
11 petition at the Turkey Point Nuclear Plant and at the
12 licensee's St. Lucie Nuclear Station.

13 And, seven, hold a public hearing granting
14 petition leave to intervene -- granting the petitioner
15 leave to intervene in such hearing regarding the
16 substance of the 2.206 petition.

17 So what has the NRC done with the
18 information that was provided by Mr. Saporito so far?
19 On May 22nd, the NRC PRB -- Petition Review Board --
20 met to review the petition against the acceptance
21 criteria in Management Directive 8.11, and to discuss
22 the need for any immediate NRC actions related to the
23 Turkey Point Nuclear Powerplant.

24 From that PRB meeting, and based on the
25 information submitted in the petition, the PRB made an

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1 initial determination to reject the petition from
2 review under the 2.206 review process, and the PRB also
3 determined that there was no need for any immediate
4 enforcement actions at the Turkey Point facility on the
5 basis that the petition request did not identify a
6 safety basis to warrant such action.

7 Following the May 22nd meeting, the
8 petition manager, Tracy Orf, informed Mr. Saporito of
9 the initial decision of the Petition Review Board, and
10 made available the opportunity for the Petitioner to
11 address the PRB, which is the meeting we are having
12 today.

13 Mr. Saporito, I've tried to summarize your
14 petition and describe to you the actions that have been
15 taken to date. If I did not summarize your petition
16 correctly, please clarify that during your remarks.

17 Again, the purpose of the meeting today is
18 to provide you with the opportunity to address the
19 PRB's initial recommendations and provide additional
20 information in support of your petition. This will not
21 be a meeting to question or examine the Petition Review
22 Board regarding the merits of the petition, because
23 it's not a hearing, and we will not be making any final
24 decisions on the merits of the petition at this
25 meeting.

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1 And as I mentioned before, subsequent to
2 the teleconference today, the PRB will meet, consider
3 all of the information you have provided us today, and
4 determine whether or not any changes are needed to the
5 initial recommendation.

6 I just want to take a moment to introduce
7 the Petition Review Board, and I will just go through
8 the names again. My name is Ho Nieh. I'm the Petition
9 Review Board Chair. Tracy Orf, the Petition Manager.
10 We have support from our Office of General Counsel,
11 Jenny Longo. We have support from our Office of
12 Nuclear Security and Incident Response with Mr. Garmon
13 West and Russell Barnes. And we also have
14 representation from NRR's Division of Operating Reactor
15 Licensing with Mr. Thomas Boyce and Ms. Brenda
16 Mozafari. And Joel Munday is supporting us from
17 Region 2.

18 As described in our process, during this
19 meeting, as the Petitioner presents the information to
20 the NRC staff, the staff may ask clarifying questions
21 to better understand the Petitioner's presentation and
22 information in order to -- we can make a reasoned
23 decision on how to proceed.

24 We also have the licensee, Florida Power
25 and Light, on the line as well, and they are also --

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1 will also have the opportunity to ask any clarifying
2 questions, because the petition pertains to one of
3 their facilities. Okay? But I do want to stress that
4 the licensee is not -- is not part of the NRC's
5 decisionmaking process for the review of 2.206
6 petitions. We just invite them because we want them to
7 be aware of ongoing requests for action against their
8 facility.

9 Mr. Saporito, are there any -- or anybody
10 else on the line, are there any other -- any general
11 questions regarding the 2.206 process before I turn it
12 over to the Petitioner?

13 (No response.)

14 Okay. Hearing none, I just want to remind
15 the folks participating via phone, we are transcribing
16 this meeting, and it will be made publicly available
17 after the transcription is complete. So, please,
18 before you make any remarks, just identify yourself, so
19 we can help our Court Reporter to get an accurate
20 transcription.

21 Thank you for the introduction. With
22 that, I'd like to turn it over to Mr. Saporito.

23 MR. SAPORITO: All right. Good morning,
24 everyone. This is the Petitioner, Thomas Saporito.

25 First of all, I would like to address the

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1 Petition Review Board and direct their attention to the
2 NRC 8.11 Part 3 document. And, specifically, it's the
3 criteria that the Board relied upon, as I understand it
4 from the Chair, who spoke earlier in rejecting this
5 petition, if you look down at the -- let's see, page 12
6 of that document, it's the mandate 8.11 Part 3, Volume
7 8, page 12, I'm looking at the second paragraph, and it
8 states there that the Petitioner raises issues that
9 have been -- that have already been the subject of NRC
10 staff review and evaluation, either on that facility or
11 -- either on that facility, other similar facilities,
12 or on a generic basis, for which a resolution has been
13 achieved, the issues have been resolved, and the
14 resolution is applicable to the facility in question.

15 The petition, in my view, cannot be
16 rejected on that basis, because the criteria that I
17 just read there have not been achieved. There is no
18 outstanding resolution to the issues that were
19 identified in the petition, and the issues are ongoing.

20
21 And for clarification, in the petition
22 itself, if you look at -- refer everybody to page 5 of
23 the petition that I submitted, there was -- in the
24 first paragraph there I indicated that the NRC -- when
25 the NRC reviewed all of the licensee responses to the

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1 issue of the security guards sleeping on the job, and
2 other security guards covering up for those individuals
3 sleeping on the job --

4 MR. NIEH: I'm sorry. Can you -- I was --
5 I'm a little slow in following. Can you point me to
6 the page that you're referring to in your petition?
7 You said page 2?

8 MR. SAPORITO: No. I said -- well, here,
9 on page -- it's page 5 -- I'm going to be referring to
10 page 3 and page 5 of the petition.

11 MR. NIEH: Okay. Thank you. So you're on
12 page 5 right now?

13 MR. SAPORITO: Yes. I'm going to -- well,
14 I'm going to first -- I'm going to first talk about
15 page 3, and then I'll go to 5, keep them in sort of
16 order here.

17 But there's two -- there's two significant
18 issues I want to address to the Petition Review Board.

19 I would like them to consider my comments with respect
20 to the mandate 8.11 Part 3 on page 12, specifically the
21 second paragraph that I just read into the record.

22 So with respect to that paragraph there is
23 two issues that I'm going to address here now to the
24 Board, and I would like them to keep in mind the
25 criteria when I speak of these two issues, because in

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1 my view these are serious health and safety issues that
2 the public needs to be guarded from by the NRC. And
3 that is why -- hence, the generation of the 2.206.

4 Okay. Looking at the petition on page 3,
5 at the bottom, it says here -- I state in this petition
6 that the licensee brazenly stated with respect to the
7 incident that occurred on April 6, 2006, that it could
8 not substantiate a security officer had been
9 inattentive.

10 Okay. What that means is the tail is
11 attempting to wag the dog, meaning the licensee is
12 dictating to the government -- the government being the
13 United States Nuclear Regulatory Commission, what is
14 what at their plant, and this is -- this is
15 unbelievably outrageous conduct, especially because it
16 comes from the most senior levels of management of the
17 licensee.

18 And it clearly shows that there is a
19 problem with the culture within the management of that
20 nuclear plant, and it's a culture that has been
21 deteriorating over the years as sufficiently and
22 exactly documented by the NRC during the course of
23 their investigations into these security issues dating
24 back to 2004, and probably earlier.

25 Now, the NRC itself -- the NRC of course

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1 meaning the Nuclear Regulatory Commission -- I'm going
2 to now refer to page 5 of my petition. And it says
3 here at the top, it says -- notably it says, "Based on
4 the NRC's review of previously docketed correspondence,
5 including the licensee's response to NRC Bulletin 2007-
6 001, the licensee's letter dated February 28, 2008, and
7 the licensee's letter dated March 14, 2008, the NRC
8 determined that the licensee's response is insufficient
9 to permit the NRC to conclude that the licensee has
10 determined the root cause and contributing causes of
11 the violation examples, such that the agency can
12 conclude that prompt and comprehensive corrective
13 actions were taken that prevent violations of similar
14 root causes."

15 Okay. So what this is -- what the NRC
16 did, their investigators did an excellent job. They
17 went in there and they found violations. They cited
18 the licensees with these violations. This is over a
19 period of years, all the way up through and including,
20 you know, the licensee's response of March 14, 2008.
21 And the NRC said, "Hey, look, your guards are sleeping
22 on the job, other guards are covering up for the ones
23 that are sleeping, and this is a nuclear plant. We're
24 writing up these notices of violation, and we are
25 imposing civil penalties to make a point. You've got

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1 to do something here."

2 When the licensee turns around, and they
3 said, "Well, you know what? Your investigation and
4 your information is insufficient for us to determine
5 that any of that stuff even occurred at our plant." I
6 mean, how arrogant and brazen of a comment from a
7 senior-level manager at the licensee. That in and of
8 itself -- and that's the written comments. So that in
9 and of itself is extraordinary.

10 The NRC needs to look into that issue, as
11 it's detailed in the petition, because that's a public
12 health and safety concern. It's a deteriorating
13 culture that -- at that nuclear powerplant, the Turkey
14 Point Nuclear Plant, which allows -- you know, which
15 allows a continuing violation of the 10 CFR 73.55,
16 which the NRC grants them license to operate these
17 nuclear powerplants.

18 So the senior-level management at the
19 licensee defies the NRC's orders, directions, and
20 guidance, and they -- their responses are that, hey,
21 you know, we can't substantiate whether this occurred
22 or not, even looking at your documents where you had
23 live NRC Office of Investigations officers and
24 investigators interrogate these individuals and made
25 sufficient statements to make a determination that the

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1 violations did, in fact, occur.

2 And then, you look on top of that, the
3 licensee's brazen attitude is that over the years, and
4 up to and including March 14th of this year, all their
5 responses in writing were not sufficient in the view of
6 the NRC to make a conclusion that the licensee is in
7 compliance with 10 CFR 73.55. In other words, their
8 license should be suspended until such time as that
9 licensee comes into compliance.

10 They have provided no documentation to the
11 government, the NRC, to substantiate that they
12 recognize there is a problem, because they don't
13 recognize there's a problem. They provided no
14 documentation to NRC to say, "I have determined the
15 root cause of the problem." And they can't provide us
16 that documentation, because -- going back to number 1 -
17 - they don't believe they have a problem. They are in
18 defiance.

19 And then, there is no plan of action
20 provided by the licensee to the NRC to say, "Okay. We
21 admit there is a problem, and we've identified the
22 problem. Here is the root cause, and here is the plan
23 to correct that deficiency, so it will never happen
24 again."

25 Go back square one again. They don't

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1 believe there is a problem, so, therefore, there is no
2 root cause to be determined, and there is no -- there
3 is no solution, because there is no problem to resolve.

4 Okay? The licensee's mind-frame, you go all the way
5 back now, you have to go back into the early 2000s,
6 because the NRC has been on top of this issue, very
7 detailed issue, and very comprehensive investigation
8 which have -- which prove to date that the licensee
9 continues in violation of 10 CFR 73.55.

10 And the fact that senior-level management
11 refuses to acknowledge this, refuses to determine the
12 root cause, and refuses to take corrective action, is
13 overwhelming evidence to support a suspension of their
14 operating license until such time as they -- they need
15 to come around.

16 Right now, in my view, the public health
17 and safety is in grave jeopardy. We've got these crazy
18 people around the world -- al-Qaeda and others -- they
19 want to take the United States down into ashes. I
20 mean, they want to kill us, they want to bomb us and
21 destroy us, and they want to do this in a spectacular
22 manner.

23 And they have already threatened nuclear
24 powerplants in the past. This here is an open target.
25 You can just walk right in the plant. These guards are

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1 asleep, and the licensee is unaware of it. They are
2 denying that the guards are asleep at the switch here.

3 So who is guarding the plant? Nobody.

4 This is a very, very serious issue, and
5 it's -- the seriousness cannot be overstated here,
6 because this goes on for a period of years where you
7 have a very deteriorating culture at the most senior
8 level of the licensee's management.

9 That's my comments so far.

10 MR. NIEH: Okay. Do you have any more
11 comments? Any other particular areas that you want the
12 Petition -- this is Ho Nieh, the PRB Chair. Mr.
13 Saporito, do you have other comments or areas that you
14 would like us to focus on?

15 MR. SAPORITO: Yes. Yes, I do. Okay.
16 I'll give you the rest of them. The other areas of the
17 petition is -- what do you guys call it? This ADR --

18 MR. NIEH: Alternative dispute resolution,
19 yes.

20 MR. SAPORITO: Yes. Yes, I really -- I
21 really want the NRC to listen to what I have to say
22 about this alternative -- this ADR program. I think
23 that is the most unbelievably incredible development
24 that the NRC has come up with to date. I mean, who
25 thought this one up? I mean, this totally, 100

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1 percent, goes against the mandate that Congress
2 intended with the Atomic Energy Act of 1954, as amended
3 throughout the years.

4 The NRC's mandate is clearly to protect
5 public health and safety through the regulation and
6 oversight of all licensed nuclear facilities within the
7 Continental United States of America. This program --
8 this program is a joke.

9 Listen, you cannot go into a nuclear
10 powerplant, such as the one that is as poorly managed
11 as the Turkey Point Nuclear Powerplant, identify
12 serious, extraordinary circumstances where security
13 guards are sleeping on the job and others are covering
14 up for them, and then turn around and offer the
15 licensee an opportunity to take up with some university
16 and resolve this issue. That's totally outrageous.

17 The NRC, in my view, with respect to the
18 public, you know, we depend on the NRC to go in there
19 and do a job, investigate -- like they did, and they
20 did a fine job. OI -- people involved in this
21 investigation, OI should be commended in writing.

22 Those people did their job, and in
23 enforcement it's a little shy. You know, I think the
24 \$130,000 is a slap on the wrist to a nuclear powerplant
25 that makes a million dollars a day per reactor. So

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1 you've got a \$2 million a day revenue source over
2 there, and to be slapping \$130,000 -- you know, if I
3 was management at FP&L, I'd say, "Hey, here's the
4 check, buddy. Here, take it and go away, you know, and
5 let us alone."

6 I mean, what the hell is \$130,000 to them?
7 It's nothing. It's a multi-billion dollar
8 corporation. \$130,000 is a joke.

9 So, but going back to the ADR, that
10 program needs to go away. You know, I don't know if
11 it's within the PRB's authority to make it go away, or
12 maybe they can suggest it to somebody else -- I'm
13 probably going to bring it up with a few Congressmen
14 and Senators myself.

15 But that program is -- undermines public
16 health and safety with respect to the NRC's mandate to
17 take significant enforcement action and to curtail the
18 activities that have been -- such as, for example,
19 what's going on there at the Turkey Point with the
20 sleeping guards. And to allow them to go to some
21 alternative dispute resolution program held by a
22 university, or those type of people, is just
23 outrageous.

24 And on that same -- on that same page of
25 music, this other company that the licensees contracted

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1 with -- let's see who they are here. Some kind of
2 security contractor here.

3 MR. NIEH: This is Ho Nieh. Are you
4 referring to Wackenhut?

5 MR. SAPORITO: Yes. Wackenhut Nuclear
6 Services. Thank you, sir.

7 MR. NIEH: You're welcome.

8 MR. SAPORITO: Wackenhut Nuclear Services
9 -- they are at the heart of this problem. Well, they
10 are the participants. I'd say they're not the heart --
11 the licensee is always at the heart of the problem.
12 The licensee is the one that is granted the license to
13 operate this facility.

14 But the contractor here is the one putting
15 the sleeping guards in place, and the enforcement
16 action taken against them is totally insufficient.
17 They have -- should not be allowed to resolve their
18 issues before the NRC alternative dispute resolution
19 program. They need a stiff penalty issued to them.

20 They not only -- they have contracts at
21 other nuclear facilities around the country, and, you
22 know, for them to get off literally scot-free from the
23 significant violation is -- just undermines and
24 undercuts the confidence that the public has come to
25 gain that the NRC is protecting their interest as far

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1 as public health and safety goes with respect to
2 operations of licensed nuclear reactors in the United
3 States.

4 My God, we're in an energy crisis here,
5 being held hostage by the world, because we need some
6 oil. And our -- one of our solutions is to build more
7 nuclear plants, and I'm all for that. But we need to
8 have a regulator vis-a-vis the NRC who is going to take
9 significant enforcement action to make sure that not
10 only the licensees operate their plants in compliance
11 with 10 CFR 50 and its subparts therein, but they --
12 that these contractors, like Wackenhut Nuclear
13 Services, get the message that you don't put sleeping
14 guards at a nuclear powerplant.

15 And this by no means sends a message to
16 Wackenhut. You know, Wackenhut is going to attend
17 their little class, or whatever it is, and talk to a
18 few people and tell them, "Oh, yes, we won't do that
19 again." Yes, right.

20 Well, you know, it don't work like that in
21 real life. This program -- this NRC alternative
22 dispute resolution program needs to go away. This is
23 very poor judgment exercised by somebody up there in
24 the upper echelons of the NRC, but, you know, I'll
25 probably have to bring that up with the EDO or some

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1 Congressmen and Senators. But if the PRB has any
2 influence on anybody, I would urge them to make this
3 program go away at their earliest opportunity.

4 With respect to Wackenhut Nuclear
5 Services, they need to have a significant enforcement
6 action. They need to be hit in the pocketbook. They
7 need to pay a substantial monetary civil penalty, as
8 addressed and identified in this petition. That is the
9 only way that they are going to get the message.
10 That's the only way that they are going to identify the
11 root cause of their problem and provide the NRC with a
12 plan to address and correct that deficiency.

13 And until the NRC hits them with a
14 substantial enforcement action, it is just not going to
15 happen. You know, these things are going to continue.

16 And in this day and age, this is -- this type of
17 activity and this type of behavior and conduct is
18 totally unacceptable.

19 It's totally unacceptable without --
20 before the 9/11 incident occurred in this country, but
21 since 9/11 it is just -- I'm just astonished that there
22 is such a lack of sufficient enforcement action here,
23 especially based on a substantial investigation by the
24 NRC OI. I'm just -- I just -- I don't know. I just
25 can't say enough about that.

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1 I believe that the Turkey Point Nuclear
2 Powerplant, as well -- the licensee, St. Lucie's,
3 nuclear powerplant -- have workers there, employees
4 there, in an environment that is chilling, instead of
5 bringing out nuclear safety concerns, such as security
6 issues and operational issues, and what not. And,
7 therefore, these petitions should be posted. The PRB
8 should take into consideration the environment there,
9 and their record is well documented in the DOL files.

10 But these petitions should be -- not only
11 this one but all 2.206 petitions should be mandatorily
12 posted at the sites in question, so that other
13 employees can read about what is going on in the
14 company and volunteer information to the NRC to help
15 get these things corrected.

16 And there is a lot of good people that
17 work at Turkey Point Nuclear Powerplant and the St.
18 Lucie Nuclear Powerplant. And they need to be able to
19 feel free to bring this information to the government,
20 and one way to do that is to start posting these
21 petitions. That's why I requested that in the
22 substance of this petition.

23 The other item here is a public hearing --
24 you know, I feel this is such a serious matter event
25 that public -- the public should be offered an

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1 opportunity at a public hearing to engage the licensee
2 on each and every issue within this petition.

3 The public has a right to know what's --
4 what the licensee's mind-set is, how they're going to
5 correct this -- these deficiencies, why these
6 deficiencies were allowed to continue on for a course
7 of several years, and why they -- why the licensee
8 continues to operate its nuclear powerplants in
9 violation of its licensee requirements -- of its
10 license requirements within 10 CFR 50, and specifically
11 the subparts that address security issues at 10 CFR
12 73.55. The only way to do that is a public hearing.

13 That holds the licensee accountable.
14 There's a lot of good people and families and children
15 and other members of the public that live very close to
16 that powerplant and well -- and work well within the
17 NRC's zone of interest, including myself. And we
18 deserve an opportunity to engage the licensee directly
19 on these issues. And that's the reason that the
20 petition addresses a public hearing on this.

21 I fully understand that there are avenues
22 through the Atomic Safety and Licensing Board Program
23 for public hearings, but this is separate and
24 indifferent to that. That Atomic Safety and Licensing
25 Board Panel addressed issues such as non-compliance to

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1 technical issues or licensee amendment requests and
2 those type of things. And they don't provide forums
3 and grant hearing requests on the basis of items such
4 as the security issues addressed in this petition.

5 Therefore, you know, we have -- "we" being
6 myself and the public have no other means to get
7 resolution to these serious issues. One avenue would
8 be to allow us to entertain leave to attend a hearing
9 on Turkey Point Nuclear Powerplant with respect to the
10 substance of this petition, so that we can get at the
11 heart of these issues and get some understanding of why
12 they occurred, why they continue unresolved to date,
13 and why there is no plan of action to get these
14 resolved, etcetera, etcetera.

15 Let's see. I think that about sums it up
16 here, unless something else comes to mind through the
17 rest of this PRB forum.

18 MR. NIEH: Thank you, Mr. Saporito. This
19 is Ho Nieh again, the Petition Review Board Chair. I
20 do appreciate you clarifying your petition. I think I
21 -- for me it has accomplished the objectives of this
22 particular call. I have a better understanding of the
23 underlying bases for your petition request and the
24 issues that you are concerned with. And it will indeed
25 help me look at your petition again, as we consider our

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1 initial recommendations to disposition of your
2 petition.

3 I do not have any further questions for
4 you. Again, your input was very helpful to me, but I
5 would like to offer the other members here of the
6 Petition Review Board the opportunity ask Mr. Saporito
7 any clarifying questions. Anybody here at
8 headquarters?

9 MR. BOYCE: This is Tom Boyce. I'm a
10 Branch Chief in NRR. I just wanted to go back to your
11 first point and make sure I understood it, and that was
12 when you challenged the criteria of whether or not this
13 met the criteria in the management directive for
14 rejection. I think your argument was hinging on the
15 word "resolved" in that criteria, and your contention
16 is is that the issue has not been resolved. Is that
17 correct?

18 MR. SAPORITO: Yes, that's certainly
19 correct, not just one issue, but the issues that I have
20 discussed, I don't believe that there is any resolution
21 to date.

22 MR. BOYCE: Okay. Understood. Thank you.

23 MR. NIEH: Any questions? Joel Munday in
24 Region 2, do you have any questions for Mr. Saporito?

25 MR. MUNDAY: No, I don't. Thanks, though.

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1 MR. NIEH: Okay. I'll offer the
2 opportunity now for our representative from Florida
3 Power and Light, Mr. Fernandez, do you have any
4 questions that you would like to get clarification on
5 from the Petitioner?

6 MR. FERNANDEZ: I do not have any
7 questions for the Petitioners, but we would like to
8 make a brief statement and have some questions for the
9 Board's consideration.

10 MR. NIEH: Okay. We are -- we will listen
11 to the statement, but I do, again, want to stress that
12 the NRC's decisionmaking process is based on the NRC's
13 review. And we -- you know, the licensee is not part
14 of the decisionmaking process on dealing with 2.206
15 petitions. But if there is something that you want to
16 say to the Petition Review Board, we are ready to
17 listen to that.

18 MR. FERNANDEZ: Thank you, Mr. Chair. We
19 appreciate you allowing us to make a brief statement,
20 and we appreciate the opportunity to clarify certain
21 statements that were made. And since they're on the
22 record, and we're on the phone, we're obligated to make
23 a correction.

24 First of all, let me state that Florida
25 Power and Light takes the matters covered in the

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1 enforcement action which was covered in the course of
2 the 2.206 petition very seriously. We take our
3 stewardship of the plant at Turkey Point with the
4 utmost seriousness, and issues associated to the
5 inattentiveness of security guards and the safe and
6 secure operations of the nuclear powerplants are our
7 first priority every day we're there.

8 Additionally, we would like to -- that was
9 the brief statement that we wanted to make.
10 Additionally, we wanted to ask the Board to please
11 consider whether the 2.206 petition is in fact a 2.206
12 petition, or is it more appropriately characterized as
13 a petition that should be filed with the Atomic Safety
14 and Licensing Board in the docket of the notice of
15 violation.

16 I believe there has been a notice of
17 opportunity to request a hearing published by the NRC
18 with the notice of violation. And as far as we can
19 tell, all of the issues that were in the petition that
20 were read at the outset of this meeting, listed on
21 pages 2 through 3, numbered 1 through 7 -- they are all
22 issues related to the enforcement action that the NRC
23 imposes -- has proposed to take against Florida Power
24 and Light.

25 So we would like the Board to at least

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1 consider whether -- the question of whether these
2 issues are better addressed within the scope of that --
3 of that licensing action, of that enforcement action.
4 I'm sorry.

5 That's it for us.

6 MR. NIEH: Okay. Thank you, Mr.
7 Fernandez. And, again, I wanted to stress that the
8 Petition Review Board will thoroughly consider the
9 information presented by the Petitioner in his letter
10 dated April 27, 2008, and, again, the information that
11 the Petitioner provided today, and we will reach an
12 independent conclusion on how this petition will be
13 dispositioned.

14 Thank you for your statement, and for
15 adding that.

16 Are there any other questions for the NRC
17 Petition Review Board?

18 MR. SAPORITO: This is Thomas Saporito. I
19 have a comment.

20 MR. NIEH: Yes, sir.

21 MR. SAPORITO: Yes, sir. You know, I have
22 read the notices of violations issued with respect to
23 these -- to the Florida Power and Light/Turkey Point
24 Nuclear Powerplant. And I -- in my copies that I got
25 off -- from ADAMS, which is the NRC database of

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1 publicly-available documents, I see no -- no text
2 within those documents that provide an opportunity for
3 hearing within that notice of violation.

4 Now, maybe the licensee was given
5 additional documents that aren't publicly -- made
6 publicly available. I don't know. But I would like --
7 so, you know, I object to the licensee's suggestion to
8 the PRB that there was another alternative method to
9 resolve these issues. There isn't.

10 Whether I filed this petition on behalf of
11 myself and the public, because we need a forum to have
12 these issues resolved, and we have -- we were not made
13 aware of any other forum through our discovery efforts.

14 MS. LONGO: This is Jenny Longo from the
15 Office of General Counsel. There is no kind of secret
16 documents or secret agreements about hearings. When we
17 issue a proposed notice of violation -- or notice of
18 violation, proposed imposition of civil penalty, the
19 licensee, under our rules, has an obligation and an
20 opportunity to respond to that notice of violation.

21 The licensee has a choice of paying the
22 penalty basically or requesting -- or denying the
23 violation. If they deny the violation, say, "Oh,
24 nothing happened, we disagree," then the NRC may
25 proceed to issue an order imposing a civil penalty. At

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1 that point, the licensee and any intervenors with a --
2 who can demonstrate standing may request an opportunity
3 for a hearing on the record before the ASLBP. And that
4 is simply a matter of procedure. There is no secret
5 agreements or anything like that going on.

6 MR. NIEH: And I don't -- I am not -- this
7 is Ho Nieh, the Petition Review Board Chair -- maybe
8 the region can help with where we are in that process.

9 I don't think we are quite at that point yet, to my
10 understanding.

11 MR. MUNDAY: No. We are in the process of
12 -- the licensee is putting together a response. They
13 have forwarded some information. That information is
14 either still being gathered or has been provided to
15 them. After they receive that, they intend to file a
16 formal response to the NOV.

17 MR. NIEH: Okay. Thank you, Joel. This
18 is Ho Nieh again.

19 Again, Mr. Saporito, I do want to stress
20 again that the Petition Review Board is going to take
21 the information in your letter, plus the information
22 that you have elaborated on today, and take that into
23 consideration as we revisit our initial recommendations
24 that were communicated to you from the petition manager
25 a few weeks ago.

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1 So as far -- you know, the licensee's
2 statement is just the licensee's statement. You know,
3 my interest is in looking at the information that you
4 provided us, with the clarifications today, to see if
5 there are any changes that need to be made to our
6 initial recommendation.

7 And the process that -- or our support
8 from the General Counsel's office -- Jenny provided --
9 of course, that opportunity is available should it
10 proceed to that point.

11 MR. SAPORITO: All right. This is Thomas
12 Saporito, the Petitioner, again here. I just -- in
13 closing, I would like to take an opportunity to thank
14 the NRC participants and the members of the NRC PRB for
15 providing myself and the public a forum by which we can
16 address issues such as this. I think this is
17 meaningful for future development of the nuclear power
18 program in this country.

19 Thank you.

20 MR. NIEH: Okay. Thank you. This is Ho
21 Nieh of the Petition Review Board. Thank you again,
22 Mr. Saporito. I do appreciate you taking the time to
23 help the Petition Review Board better understand your
24 petition.

25 As I mentioned earlier, we -- the PRB is

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1 going to have a followup internal meeting to make a
2 final recommendation on whether to accept or reject the
3 petition you submitted to us, and the results of that
4 meeting will be communicated to you in an
5 acknowledgement letter.

6 So with nothing else -- no other
7 questions, I would like to conclude the teleconference.

8 MR. SAPORITO: Okay. Can I ask just one
9 quick thing? This is Thomas Saporito. Just real
10 quickly, with respect to your last comment, am I to
11 understand in reading the directive, the 8.11, that
12 when FP&L provides their -- the licensee provides their
13 response to the NRC, that I'll be provided copies of
14 those documents, is that correct?

15 MR. NIEH: I don't think the license --
16 the process that Jenny was referring to, when the
17 licensee responds to the NRC's notice of violation,
18 that is separate from the Management Directive 8.11
19 process. We are -- as far as Management Directive 8.11
20 goes, that deals with you and your petition that you
21 submitted to the NRC. the inspection report with the
22 notice of violation, and the OI investigation, that is
23 a separate process.

24 MR. SAPORITO: Yes. But since the notice
25 of violation is in the context within the petition,

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1 then any responses from the licensee should be germane
2 to that petition, and I should be provided those
3 documents by the government.

4 MR. NIEH: Okay. Now I better understand
5 your question. Yes. Our process does add you to the
6 service list for distribution for correspondence
7 regarding the Turkey Point Station. So, yes, we are
8 going to take the appropriate action to get you on
9 distribution, so you receive those documents that are
10 germane to your issue at Turkey Point. Right, you're
11 correct.

12 MR. SAPORITO: All right.

13 MR. NIEH: Okay.

14 MR. SAPORITO: Thank you, sir. Thank you
15 very much.

16 MR. NIEH: You're welcome.

17 Okay. With that, thank you for your
18 participation, everybody.

19 (Whereupon, at 11:09 a.m., the proceedings in the
20 foregoing matter were concluded.)
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