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NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition RE:
James E. Fitzpatrick Nuclear Plant

Docket Number: (n/a)

Location: (telephone conference)

Date: Tuesday, April 17, 2012

NOTE

Edited for Consistency and Accuracy with Audio Recording to the Best Recollection
and Petitioners' Comments

Bhalchandra K. Vaidya, Petition Manager

May 10, 2012

Work Order No.: NRC-1559

Pages 1-59

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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10 CFR 2.206 PETITION REVIEW BOARD (PRB)
PUBLIC MEETING

RE:

JAMES A. FITZPATRICK NUCLEAR POWER PLANT

+ + + + +

TUESDAY

APRIL 17, 2012

+ + + + +

The meeting took place in the
Commissioners' Conference Room, O1F16-O1G16, One White
Flint North, 11555 Rockville Pike, Rockville, Maryland,
Samson Lee, Chairperson of the Petition Review Board,
presiding.

PETITIONERS PRESENT:

JESSICA AZULAY CHASNOFF, Point of Contact for the
Joint Petitioners, Alliance for a Green
Economy

PAUL GUNTER, Director, Reactor Oversight Project,
Beyond Nuclear

LINDA A. DeSTEFANO, Energy Committee, Sierra Club
Atlantic Chapter, and Representative to the

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Alliance for a Green Economy*

TIM JUDSON, Citizens Awareness Network*

JEAN KESSNER, Councilor at Large, City of
Syracuse, New York*

BARBARA WARREN, Citizens Environmental
Coalition*

PETITION REVIEW BOARD MEMBERS:

SAMSON LEE, Chairperson

BHALCHANDRA VAIDYA, Petition Manager for 2.206
petition, NRR/DORL

ANDREA RUSSELL, 2.206 Petition Coordinator*

LEE BANIC, Backup 2.206 Petition Coordinator

CATHERINE SCOTT, Assistant General Counsel for
Materials Litigation and Enforcement,
Office of General Counsel

NRC HEADQUARTERS STAFF PRESENT:

MICHELLE ALBERT, Office of General Counsel

JOHN MONNINGER, Associate Director, Japan Lessons
Learned Directorate

KIM MORGAN BUTLER, NRR/DPR

ANTHONY ULSES, NRR/Reactor Systems Branch

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NRC REGION I STAFF PRESENT:

BRICE BICKETT, Senior Project Engineer*

LAWRENCE DOERFLEIN, Engineering Branch Chief*

DIANE SCRENCI, Public Affairs Officer*

LICENSEE REPRESENTATIVES PRESENT:

DAVID MANNAI, Senior Licensing Manager for
Nuclear Safety, FitzPatrick Plant/Entergy*

JOSEPH PECHACEK, Licensing Manager, FitzPatrick
Plant/Entergy*

*Participating via telephone

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P R O C E E D I N G S

12:34 p.m.

1
2
3
4 MR. VAIDYA: Hello. Let's start. I would
5 like to thank everybody for attending this meeting.
6 My name is Bhalchandra Vaidya. I am with the Office
7 of the Nuclear Reactor Regulation, Division of Operating
8 Reactor Licensing.

9 We are here today to allow the petitioners,
10 Paul Gunter and others, called the joint petitioners,
11 to address the NRC Petition Review Board, PRB, regarding
12 the 10 CFR 2.206 petition dated March 9th, 2012, and
13 supplements dated March 13th and March 20th, 2012.

14 I am also the petition manager for the
15 petition. The Petition Review Board Chairman is Samson
16 Lee, to my left.

17 In accordance with the management directive
18 MD 8.11, the petitioner may request that a reasonable
19 number of associates, ~~people needed~~ [be permitted] to
20 assist in addressing the PRB concerning the petition.

21 As a part of PRB's review of this petition, the joint
22 petitioners have requested this opportunity to address
23 the PRB through Ms. Azulay -- I hope I'm pronouncing
24 the name right -- the point of contact for all the

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1 petitioners and co-petitioners that were notified about
2 this meeting today.

3 This meeting is scheduled for two hours,
4 originally from 12:30 to 2:30. Hopefully, we'll finish
5 by 2:30 today.

6 The meeting is being recorded and
7 transcribed by the court reporter. A transcript will
8 become a supplement to the petition. A transcript will
9 also be mailed [made publicly available] though the
10 Agency Wide Documents Access and Management System,
11 ADAMS.

12 The meeting will also be webcast.

13 For those at the NRC headquarters --

14 UNIDENTIFIED SPEAKER:***12:36:40 I'm
15 getting a big echo now that wasn't there a minute ago.

16 MR. VAIDYA: A few administrative items.
17 Please fill out the attendance sheets so that we can
18 record your attendance. They are either being
19 circulated or they were at the door. Towards the end
20 of the meeting, we can ~~connect~~ [collect] them.

21 And we also have public meeting feedback
22 forms, same way, at the entrance, and we'll bring those
23 up to the table later on. These forms are forwarded
24 to our internal communications specialist. You may

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1 either leave them here following the meeting, or mail
2 them back. They are post-paid.

3 If you are participating by phone and would
4 like to leave an email feedback on this public meeting,
5 please forward your comments to me by email at the address
6 bhalchandra.vaidya@nrc.gov.

7 My address, I believe, was printed on the
8 public meeting notice. Therefore, if you don't catch
9 my pronunciation, you can go to the meeting notice.

10 Please note that the meeting will start with
11 the telephone line for the public participants on mute,
12 that is listening mode, and the line for petitioners
13 and others open, so they can participate during the
14 meeting.

15 I would like to open this meeting with
16 introductions of the meeting participants. I ask that
17 all the participants speak clearly, and state for the
18 record your name, your position, occupation, and your
19 organization.

20 For those here in the room, please speak
21 up or approach the microphone so that the persons on
22 the phone can hear clearly, and so that the court reporter
23 can accurately record your name.

24 I have already introduced myself. Let us

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1 start with the other NRC participants here in the room.

2 Sam?

3 CHAIRMAN LEE: I'm Samson Lee. I'm the PRB
4 chairman.

5 MS. SCOTT: I'm Catherine Scott. I'm the
6 Assistant General Counsel for materials litigation and
7 enforcement in OGC.

8 MS. BANIC: Lee Banic, backup petition
9 coordinator for NRR.

10 MR. MONNINGER: I'm John Monninger. I'm
11 the associate director for the NRC's Japan Lessons
12 Learned Directorate in the Office of Nuclear Reactor
13 Regulation.

14 MR. ULSES: I'm Anthony Ulses, the Branch
15 Chief of the Reactor Systems Branch in the Office of
16 Nuclear Reactor Regulation.

17 MS. BUTLER: I'm Kim Morgan Butler, Acting
18 Branch Chief of the Generic Communications Branch in
19 the Division of Policy and Rulemaking in the Office of
20 Nuclear Reactor Regulation.

21 MS. ALBERT: I'm Michelle Albert, an
22 attorney in the Office of General Counsel.

23 MR. VAIDYA: Looks like we have completed
24 the introductions at the NRC headquarters for the NRC

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1 people. At this time, are there any NRC participants
2 from headquarters on the phone?

3 MS. RUSSELL: Hi, this is Andrea Russell,
4 petition coordinator for Nuclear Reactor Regulation.

5 MS. SCRENCI: I'm Diane Scranzi. I'm the
6 Region I Public Affairs Officer.

7 MR. DOERFLEIN: Larry Doerflein,
8 Engineering Branch Chief, Region I.

9 MR. BICKETT: Brice Bickett, NRC Region I,
10 Senior Project Engineer.

11 MR. VAIDYA: Anybody else from the NRC on
12 the phone from headquarters? In the region? I think
13 we covered the regional office also here, before.

14 Are there any representatives from the
15 licensee on the phone? I heard one person.

16 MR. PECHACEK: Bhalchandra, this is Joe
17 Pechacek from the Entergy Fitzpatrick Site, licensing
18 manager.

19 MR. MANNAI: David Mannai, Senior
20 Licensing Manager, Nuclear Safety.

21 MR. VAIDYA: We couldn't catch your name,
22 sir. Can you repeat yourself?

23 MR. MANNAI: Yes, it's David Mannai, Senior
24 Management, Nuclear Safety and Licensing, Entergy.

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1 MR. VAIDYA: At this time, I would like to
2 have the petitioners who are here at NRC headquarters
3 introduce themselves. I ask that all petitioners please
4 clearly state for the record your name and position and
5 organization.

6 Again, please speak up or use one of the
7 microphones at the table or at the podium located here
8 in the room.

9 Ms. Azulay, you can start. Yes, press the
10 button.

11 MS. AZULAY CHASNOFF: I'm Jessica Azulay
12 Chasnoff. I'm the Staff Organizer for the Alliance for
13 a Green Economy.

14 MR. GUNTER: And my name is Paul Gunter.
15 I'm Director of the Reactor Oversight Project for Beyond
16 Nuclear in Tacoma Park, Maryland.

17 MR. VAIDYA: Thank you. At this time, are
18 there any petitioners on the phone line?

19 MS. DeSTEFANO: Yes.

20 MR. VAIDYA: Again, please speak up so that
21 the court reporter can accurately record your name.
22 Go ahead and introduce yourself.

23 MS. DeSTEFANO: Okay. Linda A. DeStefano.
24 I'm a member of the Energy Committee of the Atlantic

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1 Chapter of the Sierra Club, which covers all of New York
2 State. And I'm the representative from the Atlantic
3 Chapter to the Alliance for a Green Economy.

4 MS. KESSNER: I am on the phone as well,
5 calling from Syracuse. My name is Jean Kessner. I'm
6 a Councilor at Large for the City of Syracuse.

7 MR. JUDSON: And this is Tim Judson. I'm
8 the President of the Citizens Awareness Network.

9 MS. WARREN: This is Barbara Warren. I'm
10 Executive Director of Citizens' Environmental
11 Coalition, a state-wide environmental group, and I'm
12 also a founding member of the Alliance for a Green
13 Economy.

14 MR. VAIDYA: Anybody else from the
15 petitioners on the phone at this time?

16 Okay. It is not required for the members
17 of the public to introduce themselves for this meeting,
18 but we would like to record your participation. Please
19 send this record of your participation to my email
20 address, again, bhalchandra.vaidya@nrc.gov.

21 During the public question period at the
22 end of the meeting, if you are asking a question, we
23 will ask you to introduce yourself and state your name.

24 For those members of the public who are

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1 dialing into the meeting and are not petitioners, I would
2 remind you that your lines will be on mute until the
3 public question period at the end of the meeting.

4 At this time, I just want to make sure that
5 at this time, the phone line for the general public is
6 changed to the listening mode. It is confirmed -- to
7 minimize any background noise or distractions during
8 the petitioners' presentations, and will be reopened
9 for the comment period for the public.

10 I would like to reemphasize at this time
11 that we each need to speak clearly and loudly to make
12 sure that the court reporter can accurately transcribe
13 this meeting.

14 Also, if you do have something that you
15 would like to say, please state your name for the record
16 first, and then make your statement.

17 At this time, I will turn it over to PRB
18 Chairman Samson Lee.

19 CHAIRMAN LEE: Welcome to this meeting on
20 the 2.206 petition submitted by Mr. Paul Gunter and the
21 joint petitioners.

22 I would like to first share some background
23 on our process. Section 2.206 of Title 10 of the Code
24 of Federal Regulations describes the petition process,

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1 the ~~timely~~ [primary] mechanism for the public to request
2 enforcement action by the NRC in a public process.

3 This process permits anyone to petition NRC
4 to take enforcement-style action related to NRC
5 licensees or licensed activities. Depending on the
6 results of this evaluation, NRC could modify, suspend,
7 or revoke an NRC-issued license or take any other
8 appropriate enforcement action to resolve the problem.

9 The NRC's staff guidance for the
10 disposition of 2.206 petition requests is in management
11 directive 8.11, which is publicly available.

12 The purpose of today's meeting is to give
13 the petitioners an opportunity to provide any additional
14 explanation or support for the petition before the
15 Petition Review Board's initial consideration and
16 recommendation.

17 This meeting is not a hearing, nor is it
18 an opportunity for the petitioners to question or examine
19 the PRB on the merits or the issues presented in the
20 petition request. No decisions regarding the merits
21 of this petition will be made at this meeting.

22 Following the meeting, the Petition Review
23 Board will conduct its internal deliberations. The
24 outcome of this internal meeting will be discussed with

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1 the petitioners.

2 The Petition Review Board typically
3 consists of a Chairman, usually a manager at the Senior
4 Executive Service level at the NRC. It has a Petition
5 Manager and PRB Coordinator. Other members of the Board
6 are determined by the NRC staff based on the content
7 of the information in the petition request.

8 At this time, I would like to introduce the
9 Board.

10 I am Samson Lee, the Petition Review Board
11 Chairman. Bhalchandra Vaidya is the Petition Manager
12 for the petition under discussion. Andrea Russell is
13 the office's PRB Coordinator, and she is on the phone
14 today. And Merrilee Banic is the backup PRB Coordinator
15 today.

16 And our technical staff includes Anthony
17 Ulises from the Office of Nuclear Reactor Regulation,
18 Reactor Systems Branch; John Monniger from the Office
19 of Nuclear Reactor Regulation, Japan Lessons Learned
20 Project Directorate; Brice Bickett, Matthew Jennerich,
21 and Lawrence Doerflein from Region I; and we also obtain
22 advice from our Office of the General Counsel,
23 represented by Catherine Scott.

24 As described in our process, the NRC staff

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1 and the licensee may ask clarifying questions in order
2 to better understand the petitioner's presentation and
3 to reach a reasoned decision whether to accept or reject
4 the petitioner's request for review under the 2.206
5 process.

6 I would like to briefly summarize the scope
7 of the petition under consideration and the NRC
8 activities to date.

9 On March 9, 2012, as supplemented March 13
10 and March 20, 2012, Mr. Paul Gunter, and other
11 petitioners, submitted a joint petition to the NRC under
12 Title 10 of the Code of Federal Regulations, Part 2.206,
13 regarding James A. FitzPatrick Nuclear Power Plant.

14 In this petition request, the joint
15 petitioners are requesting the following actions: they
16 request that the FitzPatrick operating license be
17 immediately suspended as the result of the undue risk
18 to the public health and safety presented by the
19 operator's reliance on non-conservative and wrong
20 assumptions that went into the analysis of the capability
21 of FitzPatrick's pre-existing ductwork containment vent
22 system.

23 The joint petitioners state that the risks
24 and uncertainty presented by FitzPatrick's assumptions

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1 and decisions, in regard to NRC's Generic Letter 89-16,
2 as associated with the day-to-day operations of this
3 nuclear power plant now constitute an undue risk to
4 public health and safety.

5 The joint petitioners request that
6 suspension of the operating license be, in fact, pending
7 final resolution of the public challenge to the adequacy
8 of the preexisting vent line in light of the Fukushima
9 Daiichi nuclear accident.

10 The joint petitioners do not seek or request
11 that FitzPatrick operators now install the Direct Torus
12 Vent System (DTVS) as it is demonstrated to have
13 experienced multiple failures to mitigate the severe
14 nuclear accidents at Fukushima Daiichi.

15 The joint petitioners request that the NRC
16 take action to suspend the FitzPatrick operating license
17 immediately until the following emergency enforcement
18 actions are enacted, completed, reviewed, and approved
19 by the NRC and informed by independent scientific
20 analysis:

21 1) Entergy Nuclear Operations' FitzPatrick
22 nuclear power plant shall be subject to public hearings
23 with full hearing rights on the continued operation of
24 the Mark I BWR and the adequacy and capability of a

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1 pre-existing containment vent which is not a fully
2 hardened vent line as recommended by NRC Generic Letter
3 89-16.

4 As such, the FitzPatrick operator uniquely
5 did not make containment modifications and did not
6 install the DTVS, otherwise known as "the hardened vent,"
7 as requested by NRC Generic Letter 89-16 and as installed
8 on every other GE Mark I in the US;

9 2) Entergy Nuclear Operations shall
10 publicly document for independent review its
11 post-Fukushima re-analyses for the reliability and
12 capability of the FitzPatrick pre-existing containment
13 vent system as previously identified as "an acceptable
14 deviation" from NRC Generic Letter 89-16 which
15 recommended the installation of the Direct Torus Vent
16 System and as outlined in the NRC Safety Evaluation
17 Report dated September 28, 1992.

18 The publicly documented post-Fukushima
19 analysis shall include the reassessment of all
20 assumptions regarding the capability and reliability
21 of the pre-existing containment venting and specifically
22 address non-conservative assumptions regarding:

23 a) the FitzPatrick cost-benefit analysis
24 used to justify not installing a fully hardened vent

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1 system and;

2 b) "unlikely ignition points" as claimed
3 in the FitzPatrick pre-existing vent line system that
4 would otherwise present increased risks and consequences
5 associated with the detonation of hydrogen gas generated
6 during a severe accident.

7 As a basis for the request, the joint
8 petitioners state that in light of the multiple failures
9 of the GE Mark I containment and hardened vent systems
10 at the Fukushima Daiichi nuclear power station in the
11 days following the March 11, 2011, station black out
12 event, the joint petitions seek the
13 prompt and immediate suspension of the FitzPatrick
14 operations because:

15 The GE Mark I BWR pressure suppression
16 containment system is identified as inherently
17 unreliable and likely to fail during a severe accident.

18 The capability of FitzPatrick's
19 pre-existing containment vent as approved for severe
20 accident mitigation is not a fully "hardened vent"
21 system.

22 The capability of FitzPatrick's
23 pre-existing containment vent as approved relies upon
24 non-conservative and faulty assumptions.

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1 The capability of FitzPatrick's
2 pre-existing containment vent system uniquely allows
3 for a severe nuclear accident to be released at ground
4 level.

5 The Fukushima Daiichi nuclear catastrophe
6 dramatically and exponentially changes the FitzPatrick
7 cost-benefit analyses.

8 The continued day-to-day reliance upon the
9 significantly flawed pre-existing containment vent
10 system as would be relied upon to mitigate a severe
11 accident at the FitzPatrick Mark I reactor presents an
12 undue risk to the public health and safety.

13 The identified containment vulnerability,
14 the non-conservative if not false assumption of "no
15 likely ignition sources" in the pre-existing vent line,
16 and the unacceptable consequences of failure of the
17 FitzPatrick pre-existing containment vent place both
18 greater uncertainty and undue risk on public health and
19 safety and are not reasonably justified by arbitrarily
20 assigning a low probability of the occurrence of a severe
21 accident.

22 In the March 20, 2012, supplement to the
23 petition, the joint petitioners state that the Temporary
24 Instruction 2515/183 provides the NRC inspection results

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1 in the "Followup to the Fukushima
2 Daiichi Nuclear Station Fuel Damage Event."

3 The joint petitioners draw attention to
4 what is described on page 8 of the enclosure as an
5 "apparent beyond design and licensing basis
6 vulnerability" involving the FitzPatrick operator's
7 refusal to install the DTVS as recommended by NRC in
8 Generic Letter 89-16.

9 To summarize the supplement, the joint
10 petitioners state that:

11 The Commission's March 12, 2012, Order
12 states that "Current regulatory requirement and existing
13 plant capabilities allow the NRC to conclude that a
14 sequence of events such as the Fukushima Daiichi accident
15 is unlikely to occur in the US. Therefore, continued
16 operation and continued licensed activities do not pose
17 an imminent threat to public health and safety."

18 The Order further states, "While not
19 required, hardened vents have been in place in U.S.
20 plants with BWR Mark I containments for many years but
21 a wide variance exist with regard to the reliability
22 of the vents."

23 The NRC inspection report identifies that
24 FitzPatrick's "existing plant capabilities" and

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1 "current procedures do not address hydrogen consequences
2 during primary containment venting" which is further
3 identified as a "current licensing basis vulnerability."

4 The joint petitioners further reiterate
5 that the NRC inspection finding that FitzPatrick's
6 "existing plant capabilities" as assumed by the Order
7 are in fact negated by the finding that "FitzPatrick's
8 current licensing basis did not require the plant to
9 have a primary containment torus air space hardened vent
10 system as part of their Mark I containment improvement
11 program."

12 The Commission Order timeline setting
13 December 31, 2016 for installation of the hardened vent
14 order does not address in a timely way the unique
15 condition of the FitzPatrick nuclear power plant.

16 The FitzPatrick nuclear power plant
17 uniquely does not have a fully hardened vent system on
18 the vulnerable Mark I containment.

19 As a result, FitzPatrick's current
20 capability is identified with "a beyond design and
21 licensing bases vulnerability, in that FitzPatrick's
22 current licensing basis did not require the plant to
23 have a primary containment torus air space hardened vent
24 system as part of their Mark I containment improvement

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1 program."

2 Given that the FitzPatrick unit willfully
3 refused to install the DTVS, the documented discovery
4 of the "licensing basis vulnerability" of its chosen
5 pre-existing vent now uniquely warrants the suspension
6 of operations pending closer scrutiny, public hearings,
7 and full disclosure for its adequacy and capability in
8 the event of a severe accident.

9 The additional identified "vulnerability"
10 and the relatively remote and uncertain mitigation
11 strategy places the public health and safety unduly and
12 unacceptably at risk by the continued day-to-day
13 operations where "current procedures do not address
14 hydrogen considerations during primary containment
15 venting" and will not for nearly five (5) more years.

16 Please allow me to discuss the NRC
17 activities to date.

18 On March 13, 2012, the petition manager
19 contacted Mr. Gunter via e-mail to discuss the 10 CFR
20 2.206 petition process that offered him an opportunity
21 to address the PRB by phone or in person.

22 On March 13, 2012, Mr. Gunter provided the
23 petition manager an acknowledgment via email and
24 indicated that Ms. Jessica Azulay is the

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1 point-of-contact for the joint petitioners and submitted
2 a supplement to the March 9, 2012, petition.

3 On March 14, 2012, the petition manager
4 contacted the point-of-contact for the joint
5 petitioners, via e-mail, to describe the 10 CFR 2.206
6 petition process and offered her an opportunity to
7 address the PRB by phone or in person.

8 On March 16, 2012, the point-of-contact for
9 the joint petitioners provided the petition manager an
10 acknowledgment, via e-mail, and also requested the
11 public meeting and teleconference details to enable the
12 petitioners to address the PRB.

13 On March 20, 2012, the PRB met internally
14 to discuss the request for immediate action. The PRB
15 denied the request for immediate action on the basis
16 that there was no immediate safety concern to the plant,
17 or to the health and safety of the public.

18 From March 22 through April 2, 2012,
19 additional petitioners contacted the petition manager,
20 via e-mail, to indicate that each of them wish to co-sign
21 the petition, they agree to the 10 CFR 2.206 process,
22 and that Ms. Jessica Azulay is their point-of-contact.

23 The petition manager subsequently
24 contacted each co-petitioner via e-mail to acknowledge

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1 the respective emails.

2 On March 27, 2012, the petition manager
3 contacted the point-of-contact for the joint petitioners
4 via email to inform her about the PRB decision for the
5 immediate action.

6 On March 27, 2012, the point-of-contact for
7 the joint petitioners confirmed the date of the public
8 meeting to address the PRB.

9 As a reminder for the phone participants,
10 please identify yourself if you want to make any remarks,
11 as this will help us in the preparation of the meeting
12 transcript that will be made publicly available.

13 Thank you very much.

14 MR. VAIDYA: Well, at this stage, Ms.
15 Azulay as the point of contact for joint petitioners,
16 I'll turn it over to you to coordinate petitioner's
17 presentations to address the PRB and to provide any
18 additional information you and other petitioners believe
19 PRB should consider as a part of this petition.

20 Because we started late, you probably have
21 about 70 minutes to do the presentations. If any
22 petitioners feel that they did not have an adequate
23 opportunity to address the PRB during this meeting,
24 because of time constraints, then we welcome any

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1 supplemental information that they can provide in
2 writing to the PRB for consideration.

3 This supplemental information for the PRB's
4 consideration should be mailed to the Executive Director
5 of Operations, EDO, at NRC, by April 24th, which is
6 another week, so that it will be part [of the petition].

7 At this time -- well, you can go ahead now
8 and start the presentation.

9 MS. AZULAY CHASNOFF: Thank you. I just
10 want to ask Jean, if you're on the line, if you want
11 to speak first, you can, if your schedule needs to.

12 MS. KESSNER: I am fine following your --
13 whoever's going first. I don't want to go first, because
14 I'm not really laying out --

15 MS. AZULAY CHASNOFF: Okay.

16 MS. KESSNER: -- the issue, if that's your
17 -- so if I could speak (phonetic)**1:05:39 second --

18 MS. AZULAY CHASNOFF: Yes.

19 MS. KESSNER: -- that should work, okay?

20 MS. AZULAY CHASNOFF: Okay. Great. I
21 will start then.

22 MS. KESSNER: Thank you.

23 MS. AZULAY CHASNOFF: So my name again is
24 Jessica Azulay Chasnoff, and I'm here representing the

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1 Alliance for a Green Economy. We're a primary
2 petitioner in this petition.

3 We work for safe, affordable energy and the
4 development of a green economy in New York State. Our
5 member organizations, which are also primary
6 petitioners, are CNY chapter of Citizens Awareness
7 Network, Syracuse Peace Council, Peace Action of Central
8 New York, Peace Action New York State, Center for Health,
9 Environment, and Justice, and Citizens' Environmental
10 Coalition.

11 On March 9, the Alliance for a Green Economy
12 and its member organizations, along with Beyond Nuclear,
13 filed a 2.206 petition with the NRC requesting an
14 emergency enforcement action to suspend power operations
15 at the James A. FitzPatrick Nuclear Reactor in Scriba,
16 New York.

17 Many of the members of the Alliance for a
18 Green Economy and its member organizations live within
19 50 miles of the FitzPatrick Nuclear Plant, among
20 approximately 910,000 people.

21 We are calling on the NRC to protect our
22 communities' safety, health, and economy by suspending
23 operations at this dangerous plant.

24 We do not take lightly this request to

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1 suspend operations at a major power source. Our
2 concerns about the safety of the FitzPatrick plant are
3 not superficial. We have identified serious flaws with
4 the FitzPatrick plant design that make it vulnerable
5 to containment failure and accident mitigation failure
6 in the case of a severe accident at the plant.

7 Severe nuclear accidents are rare, but they
8 do happen. Unforeseen circumstances, acts of nature,
9 equipment failure, operator error, these can lead to
10 an accident. That is why nuclear power plants in the
11 US have a containment structure.

12 If there's an accident at a plant, the
13 containment structure is the last line of defense between
14 the nuclear reactor and the public. A containment
15 failure at FitzPatrick would allow radiation to escape
16 into the surrounding environment, which includes Lake
17 Ontario, multiple population centers including Scriba,
18 Oswego, and Syracuse, and important agricultural areas.

19 Based on the documents that we submitted
20 with our petition, we are concerned about the containment
21 design at the FitzPatrick Nuclear Reactor.

22 Another threat during a nuclear accident is the
23 buildup of explosive hydrogen gas. Proper management
24 of hydrogen is critical to prevent explosions that could

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1 breach the containment structure.

2 Hydrogen explosions could also damage the
3 fuel pool at FitzPatrick, which contains many times more
4 radioactive material than the reactor core, and poses
5 a potentially larger threat to the surrounding public
6 and the environment.

7 Based on the documents we submitted with
8 our petition, we are concerned about the potential for
9 hydrogen explosions at FitzPatrick.

10 Containment failure at the FitzPatrick
11 plant or damage to the fuel pools in a severe accident
12 scenario could have catastrophic consequences for our
13 region. The exact repercussions of the radiation
14 exposure from an accident at FitzPatrick are of course
15 unknowable, because they would depend on the amount of
16 radiation released, weather conditions, etcetera.

17 But large swaths of the surrounding land
18 could become unliveable and unfarmable, and the precious
19 fresh water of Lake Ontario could be forever ruined.

20 Thousands of cancer deaths and other
21 radiation-related illnesses could occur, and the cleanup
22 could cost taxpayers billions of dollars, not to mention
23 the cost to our local and state economy that could result
24 from an accident.

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1 It is not our intention to predict the exact
2 consequences of an accident at FitzPatrick, but it is
3 our intention to remind the NRC and the public that the
4 consequences could be extremely serious and
5 irreversible. That is why we have brought this petition
6 to the NRC.

7 Based on the record of documentation on the
8 plant's design and the plant's emergency venting plan,
9 we are concerned that FitzPatrick does not have a
10 reliable containment structure, or a reliable mitigation
11 plan, to protect workers or the public from the
12 consequences in the event of an accident at that plant.

13 FitzPatrick is a GE Mark I boiling water
14 reactor. Internal NRC documents as early as the 1970s
15 show the agency's concern with the containment structure
16 with this type of reactor. The containment structure
17 is relatively small, making it more vulnerable to
18 hydrogen explosions and containment breach during an
19 accident.

20 The vulnerabilities in the Mark I
21 containment design were further acknowledged when in
22 1989, the NRC requested that operators at all Mark 1
23 plants voluntarily make modifications, quote, "to both
24 prevent and mitigate the consequences of serious

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1 accidents."

2 These modifications included the
3 installation of a reliable hardened vent system. All
4 of the Mark I reactors in the US complied with this
5 request, save one, FitzPatrick.

6 As noted in our petition, the NRC allowed
7 the FitzPatrick operator to instead rely on a
8 pre-existing venting system, one not designed for the
9 purpose of venting during an accident.

10 ~~The plant event (phonetic)***1:11:09 [at]~~
11 ~~the Mark I reactors to protect containment~~ The plan to
12 vent the Mark I reactors to protect containment integrity
13 poses a threat to the public, since the vent itself would
14 release untold amounts of radiation into the
15 environment.

16 This cannot be seen as true containment.
17 However, in theory, it could prevent a larger release
18 of radiation that could happen if containment was
19 breached through an explosion. The FitzPatrick
20 [Fukushima] nuclear disaster illustrates what can happen
21 if a venting plan fails to protect containment integrity.

22 In that disaster, the venting plan did not
23 work to relieve the rising pressure within those Mark
24 I boiling water reactors, and as a result, containment

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1 was breached, and dangerous levels of radiation escaped
2 the plants.

3 This is why the NRC in March ordered
4 operators of Mark I and Mark II reactors to install a
5 reliable hardened vent by 2016. But what this means
6 is that for the next four years, FitzPatrick will operate
7 with its existing vent, unless the NRC accepts our
8 petition for suspension.

9 During the next four years, if there is an
10 unforeseen accident at the plant, the proper functioning
11 and operation of this vent could make the difference
12 between life and death for workers at the plant and the
13 population surrounding the plant. It could make the
14 difference between health and radiation-related
15 diseases and cancers.

16 It could make the difference between
17 whether Lake Ontario continues to be the crucial
18 freshwater resource it is today, or an unsafe body of
19 water carrying radioactive materials to lake communities
20 in the US and Canada.

21 It could make the difference between
22 whether the land around Scriba, New York, remains home
23 to those who live there, or becomes a no-go zone for
24 hundreds or thousands of years to come.

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1 Whether the FitzPatrick venting plan will
2 work is a critical question that could deeply affect
3 the lives of central New Yorkers. There are several
4 reasons to doubt the reliability of the FitzPatrick vent.

5
6 First, the vent was not designed to be used
7 in an accident scenario. It has not been tested under
8 accident conditions.

9 Second, the ductwork is not designed to
10 withstand the high pressures it would be under if it
11 was used during an accident scenario. As described in
12 a 1992 NRC letter to the FitzPatrick operator at the
13 time, the New York Power Authority, the plan is to send
14 steam radiation and gas through ductwork into the standby
15 gas treatment system, which is located in a building
16 adjacent to the reactor building.

17 Once the gas and steam mixture reaches that
18 building, the ductwork is expected to fail. The
19 building is expected to fill with pressure until the doors
20 to the outside also fail.

21 It should be noted that the described plan
22 will mean the release of radiation, steam, and explosive
23 gases right into the environment at the ground level
24 near the reactor building.

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1 The 1992 letter does not indicate that the
2 operator or the NRC performed any assessment as to the
3 impact that that release may have on workers in the nearby
4 vicinity. It also does not detail any assessment that
5 may have been done on increased radiation exposure to
6 the public that might be caused by releasing the steam
7 mixture at the ground level, rather than through the
8 300-foot-tall vent stack as indicated in the
9 recommendations by the NRC.

10 It does note in one line, quote,
11 "modifications to the piping configuration could reduce
12 the off-site dose, but would not decrease the core damage
13 frequency."

14 Third, the vent plan was approved by the
15 NRC using non-conservative assumptions about whether
16 there could be a hydrogen explosion in the vent. In
17 approving the plan in 1992, the NRC accepted the
18 operator's assessment that combustion in the existing
19 vent path was quote, "not a significant risk."

20 The document notes that a hardened pipe
21 bypass that could prevent any deflagration within the
22 standby gas treatment system room could be built for
23 \$680,000, but the NRC did not require one to be built.

24 Then, almost 20 years later, in an April

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1 29, 2011 post-Fukushima inspection report, both Entergy
2 and the NRC seemingly acknowledged that hydrogen in the
3 event is a concern.

4 In the report, Entergy and the NRC note an
5 apparent beyond design and licensing basis vulnerability
6 in that current procedures do not address hydrogen
7 considerations during primary containment venting.

8 Since the venting system that is supposed
9 to prevent hydrogen explosions at the plant could itself
10 be vulnerable to hydrogen explosions, the vent cannot
11 be considered reliable.

12 Given this concern, has the NRC or Entergy
13 addressed the consequences of a hydrogen explosion
14 within this vent? If they have, the public has not been
15 provided the details of this assessment.

16 This was one of the reasons we are calling
17 for a thorough and public post-Fukushima reassessment
18 of the Fitzpatrick vent system.

19 The April 29, 2011 report indicates that
20 Entergy was concerned enough about the potential for
21 a hydrogen explosion that it provided a quote, "caution
22 for operators to consider the presence of hydrogen."

23 This brings me to my fourth reason to doubt
24 the reliability of the FitzPatrick venting plan.

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1 Providing caution to operators to consider the presence
2 of hydrogen introduces uncertainty in the use of the
3 vent.

4 It could mean that in an accident scenario,
5 the vent may not be used properly or in time, leaving
6 the plant vulnerable to hydrogen buildup within the
7 primary containment structure, and increasing the
8 possibility of containment breach. If operators are
9 cautious about using the vent, it cannot be considered
10 reliable.

11 We have been informed that on March 20,
12 2012, the Petition Review Board met internally to discuss
13 our request for an immediate suspension of power
14 operations at the plant.

15 We were told that the NRC would not take
16 immediate action, quote, "because there was no immediate
17 safety concern to FitzPatrick or to the health and safety
18 of the public."

19 When we asked for more information about
20 that decision, we were sent an April 3rd email from NRC
21 Petition Manager Bhalchandra K. Vaidya, which I am
22 submitting into the record.

23 The email states that a, quote, "report
24 dated July 12, 2011, issued by the Near-Term Task Force

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1 established by the NRC in response to the Fukushima
2 Daiichi nuclear event concluded that continued nuclear
3 reactor operation and licensing activities do not pose
4 an imminent risk to the public health and safety and
5 are not inimical to the common defense because of the
6 low likelihood of an event beyond the design basis of
7 a US nuclear power plant and the current mitigation
8 capabilities at those facilities."

9 We disagree with this assessment. First
10 of all, the July 12th, 2011 Near-Term Task Force report
11 erroneously states that, quote, "Eventually, all boiling
12 water reactor facilities with Mark I containment designs
13 voluntarily installed a hardened vent in response to
14 the 1989 recommendation that all Mark I boiling water
15 reactors be retrofitted with the installation of a
16 hardened wet-well vent."

17 Contrary to that statement, the NRC
18 documents we submitted with our petition show the
19 FitzPatrick plant was not installed with a truly hardened
20 vent. Therefore, the Task Force's analysis of current
21 mitigation capabilities at Mark 1 boiling water reactors
22 cannot be applied to FitzPatrick.

23 The Task Force was mistaken in its survey
24 and/or representation of the Mark I venting systems.

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1 The FitzPatrick plant's unique mitigation capabilities
2 have not been thoroughly assessed in the post-Fukushima
3 context.

4 Again, this is why we are calling for
5 suspension of operations until such an assessment is
6 done and made public.

7 The only FitzPatrick-specific document we
8 have seen that addresses the issue as illustrated by
9 the Fukushima nuclear disaster is the April 29, 2011
10 inspection report, which raises concerns about an
11 apparent beyond design and licensing basis
12 vulnerability. This is not reassuring.

13 The April 3rd email from Mr. Vaidya also
14 states that the quote "low likelihood of an event beyond
15 the design basis of a US nuclear power plant and
16 unlikelihood of a sequence of events such as the
17 Fukushima Daiichi accident in the US were used as reasons
18 for the NRC Petition Review Board to conclude that the
19 continued operation of FitzPatrick is not an imminent
20 threat."

21 How can the NRC use the unlikelihood of an
22 accident as justification for not immediately addressing
23 an unreliable accident mitigation plan?

24 Unless the NRC is sure that an accident will

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1 not happen before the danger posed by the containment
2 vulnerabilities and unreliable venting system have been
3 addressed, the NRC is gambling with public health and
4 safety.

5 The history of nuclear disasters and
6 near-disasters in the US and throughout the world
7 illustrates that accidents can have a variety of causes,
8 most of which are deemed unlikely, and many of which
9 are not as extreme as the earthquake and tsunami that
10 damaged the Fukushima reactors.

11 The Near-Term Task Force itself noted in
12 its report that the NRC has a policy that recognizes
13 that serious fuel damage accidents may not be completely
14 prevented. That is why it requires containment
15 structures and safety features to prevent radioactive
16 releases.

17 Yet the NRC is so far allowing FitzPatrick
18 to operate with vulnerable containment and a vulnerable
19 vent.

20 Our communities need real protection from
21 the risks of nuclear power. We need public
22 accountability and information about the design and
23 assessments of the FitzPatrick power plant.

24 We believe the concerns over public health

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1 and safety warrant the suspension of operations at
2 FitzPatrick until these problems are addressed and NRC
3 conducts public hearings and publishes a transparent
4 analysis of the remedies needed to address these risks.

5 We are asking the NRC to enforce its
6 regulations, and not gamble with our lives, our health,
7 our homes, or our livelihood.

8 Thank you.

9 This is the email that I want to submit to
10 the record. [E-mail is attached at the end of the
11 Transcript]

12 I'll now ask Jean Kessner to speak.

13 MS. KESSNER: Thank you very much. I'm
14 Jean Kessner. I'm a Councilor at Large for the City
15 of Syracuse.

16 Speaking for myself, and for Councilor at
17 Large Kathleen Joy, First District Councilor Jake
18 Barrett, and Fifth District Councilor Nader Maroun, the
19 FitzPatrick Nuclear Power Plant should have been
20 required to follow NRC regulations from 1989 that all
21 Mark I boiling water reactors install hardened vents.

22 Those regulations were promulgated in the
23 belief that a hardened vent would relieve pressure and
24 help prevent core meltdown during an accident.

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1 FitzPatrick was the only US nuclear plant that did not
2 make that change.

3 The FitzPatrick venting solution, which
4 would vent dangerous hydrogen and radiation through
5 ductwork into an auxiliary building, making the vent
6 the doorway to the outside, shows poor judgement at a
7 minimum, and a disregard for life and property around
8 Nine Mile Point.

9 The NRC should not have accepted
10 FitzPatrick's rationale for refusing to install the
11 vent. It is disturbing that such a non-conservative
12 and flawed decision was allowed to proceed on the basis
13 of saving less than \$1 million when so much is at stake.

14 Fukushima then showed us that in three out
15 of four cases, the hardened vent failed. Three reactors
16 melted down, and many nearby residents can never go home
17 again.

18 Syracuse is just 36 miles from the
19 FitzPatrick Reactor. As a political representative of
20 the people of Syracuse, we have strong and vested
21 interest in the safe operations of the atomic reactors
22 at Nine Mile Point [complex], and we ask the NRC to share
23 that interest.

24 I agree with the petitioners, having signed

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1 the petition myself, that the FitzPatrick nuclear power
2 plant's license to operate should be suspended until
3 a way is found to mitigate the potential danger.

4 I agree that there should be public hearings
5 on the safety of the plant, and I join in the call for
6 a public release of a post-Fukushima reassessment.

7 Following Fukushima, the NRC listed 12
8 actions that must be taken at Mark I BWRs in the United
9 States. All of those must be implemented at FitzPatrick
10 before the plant can restart.

11 According to Dave Lochbaum of the Union of
12 Concerned Scientists, you recently notified reactor
13 operators to design and install a reliable vent system.

14
15 I know that my next comment is not
16 necessarily germane to this petition, but as part of
17 the full picture, I ask you to require two qualifications
18 to reliable vent systems: first, that the vents are
19 capable of being opened when needed, even during a
20 station blackout when normal pneumatic pressure is
21 unavailable; and secondly, that gases flow through real
22 filters, not merely the water in the torus, before being
23 discharged to the atmosphere.

24 Noble gases, iodine, and krypton do much

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1 harm to human health. Iodine is dangerous for three
2 months, but krypton has a half-life of ten years and
3 presents a danger over generations.

4 These should never, never be vented at
5 ground level, or through a reliable vent system without
6 filtration ~~(phonetic)***1:25:29~~. Filters are provided
7 on these vents at European reactors, and the people of
8 New York, and in particular, Syracuse, New York, deserve
9 equal protection.

10 Thank you.

11 MS. AZULAY CHASNOFF: I'll now ask Tim
12 Judson to speak.

13 MR. JUDSON: Hi. My name is Tim Judson,
14 and I'm the President of Citizens Awareness Network.
15 CAN is a grassroots organization based in New York and
16 New England with over 6,000 members. We represent
17 people living near at least four Mark I boiling water
18 reactors, the Pilgrim reactor in Massachusetts, Vermont
19 Yankee in southern Vermont, and Nine Mile Point Unit
20 1, and ~~(phonetic)***1:26:09~~ FitzPatrick in Oswego
21 County, New York.

22 The flaws in the Mark I containment design
23 are of great and immediate concern to us. However, of
24 these reactors, it is clear that FitzPatrick is a unique

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1 case unaccounted for in the NRC's current approach to
2 dealing with the post-Fukushima Mark I containment
3 issues, and completely outside of NRC's requirements
4 for licensed reactors to operate.

5 Had FitzPatrick's vulnerability been known
6 before it was licensed, it would have never been allowed
7 to start up in the first place. The NRC assures the
8 public that their safety is protected by what the agency
9 calls, quote, "defense in depth" approach to nuclear
10 safety regulations and reactor designs.

11 Safety systems are supposed to be backed
12 up by yet more safety systems, all to protect the reactor
13 core from being uncovered with water, to prevent the
14 fuel from overheating, burning, melting, and breaching
15 the reactor vessel, and to protect the public and the
16 environment from the massive amounts of radioactive
17 material escaping the reactor and being released into
18 the environment.

19 All of these systems failed in the Fukushima
20 nuclear accident. And why is that? I mean, because,
21 for all of this, this is an engineering problem.

22 The reactor safety systems had to be
23 designed to handle certain kinds of accidents happening
24 within certain estimated parameters, what NRC calls,

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1 quote, "design basis accidents," that is, types of
2 accidents that fall within the range of things the
3 reactor was designed to handle.

4 All of this is supposed to be undergirded
5 by one last, final, absolute barrier of protection, in
6 case everything else goes wrong, a containment system
7 built to withstand the incredible forces and pressures
8 of a nuclear accident to make sure that even if the
9 reactor fails, the radiation is contained within the
10 plant and does not escape to harm the public.

11 NRC has acknowledged flaws in the Mark I
12 containment, which ultimately boil down to the fact that
13 the containment is simply too small to withstand the
14 force of a nuclear accident.

15 NRC has decided that is it is within its
16 regulations to deliberately vent steam and radioactive
17 material during an accident at a Mark I reactor to prevent
18 the whole containment system from rupturing and losing
19 all ability to contain a release of radiation.

20 What makes that compromise feasible is the
21 ability to vent the radiation in a way that doesn't
22 directly threaten the safety of workers and the
23 habitability of the reactor site, so that they can
24 continue to work to mitigate the accident and shut the

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1 plant down safely.

2 But the NRC's original recommendation was
3 to install a hardened vent strong enough to handle the
4 high pressure of an accident, to bypass containment and
5 vent steam, hydrogen gas, and radioactive material out
6 through the reactor's 300-foot-tall off-gas
7 ~~(phonetic)***1:28:31~~ stack, a giant filtered chimney
8 normally used to release relatively small amounts of
9 radioactive gases that build up in the cooling system
10 during routine operation of the reactor.

11 The design of those vents has proven
12 tragically flawed by the accidents at Fukushima Daiichi.

13 However, as the evidence the petitioners has submitted
14 shows, FitzPatrick never even installed such a vent to
15 protect the containment from rupturing, and instead
16 relies upon a venting scheme that inspectors -- NRC
17 inspectors noted last year as quote "outside the design
18 basis," meaning that it is untested and unproven and
19 outside of NRC regulations.

20 Entergy's plan in case of an accident at
21 FitzPatrick, if it can even be called a plan, is to vent
22 the containment through an unhardened pipe, which is
23 expected to rupture under pressure, releasing the steam,
24 hydrogen gas, and radioactivity into a building next

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1 to the reactor building.

2 The containment would then be quote
3 "vented" as the pressure rises in that building. The
4 doors to the outside are eventually blown off, and this
5 whole plan rests on the critical assumption that there
6 will be nothing to ignite the hydrogen and cause the
7 kind of massive explosion that ripped apart the reactors
8 at Fukushima and which has complicated all of the
9 mitigation and recovery efforts since.

10 FitzPatrick was the only Mark I reactor in
11 the country, and who knows, possibly, the world, that
12 did not even install a hardened vent. And why was that?

13 According to the explanation provided by the reactor's
14 owner at the time, the New York Power Authority, to save
15 an estimated \$680,000.

16 Entergy bought this decision along with the
17 rest of the plant over ten years ago when it purchased
18 FitzPatrick from NYPA. That \$680,000 now is less than
19 \$1.2 million in today's money. That's a savings of \$1.2
20 million when Entergy has earned upwards of \$500 million
21 per year from operating FitzPatrick over the last ten
22 years -- \$500 million per year over the last ten years.

23

24 CAN was an intervenor in the transfer of

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1 the operating license from NYPA to Entergy at
2 FitzPatrick, and we had an opportunity to review the
3 licensee's financial qualifications to operate the
4 reactor.

5 And what we can say is that the -- that the
6 action that we're requesting by NRC to have the reactor
7 shut down until it can be brought within compliance with
8 the regulations is well within the financial
9 qualifications that Entergy demonstrated in the course
10 of the license transfer.

11 Entergy submitted evidence that it has
12 lines of credit from its parent corporation, and you
13 know, and in fact, the operations at the reactor have
14 exceeded all of the performance projections that were
15 anticipated to -- which undergirded its financial
16 qualifications at the time.

17 So there are certainly no excuses for the
18 NRC not to follow the actions that are requested here,
19 and certainly there's no reason to think that this --
20 that the impact on the licensee of its finances should
21 be considered.

22 Thanks.

23 MS. AZULAY CHASNOFF: I'll now ask Linda
24 DeStefano to speak.

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1 MS. DeSTEFANO: I'm the representative
2 from the Atlantic Chapter of the Sierra Club to the
3 Alliance for a Green Economy.

4 The Atlantic Chapter covers New York State
5 and has 37,500 members. Chapter is ~~(phonetic)~~***1:31:44
6 part of the National Sierra Club. The National Sierra
7 Club has a long history of speaking out about the problems
8 with nuclear energy.

9 These problems include the intractable one
10 of nuclear waste, the record of serious accidents, both
11 in the US and other countries, the possibility of a
12 terrorist attack on a nuclear facility, the prohibitive
13 cost of nuclear energy that is subsidized with our taxes
14 while renewable forms of energy receive relatively
15 little government assistance.

16 The nuclear power plant in question before
17 us today, FitzPatrick, has all these problems, plus
18 additional ones. It is a GE Mark I boiling water
19 reactor, the same as those which failed at Fukushima
20 with disastrous consequences.

21 There are several other such facilities in
22 the US, but FitzPatrick has the additional drawback of
23 being the only one which has not followed the
24 longstanding advice of the NRC to install a hardened

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1 vent. The existing venting system is woefully
2 inadequate.

3 In an accident, its so-called solution is
4 to release radioactivity at ground level into the
5 environment. FitzPatrick should not be put into the
6 same category as the other Mark I reactors in terms of
7 license renewal until 2016, as it is the only one without
8 the hardened vent.

9 More than 900,000 people live within 50
10 miles of FitzPatrick. Syracuse is only 36 miles away
11 from FitzPatrick. As someone who lives just outside
12 Syracuse, I feel personally threatened, and I worry for
13 all living things that would be faced with dangerous
14 doses of radioactivity.

15 Our area has farmland and beautiful natural
16 areas. We have Lake Ontario, one of the largest bodies
17 of freshwater in the US.

18 I don't understand how Entergy's interest
19 in saving a relatively small amount of money by refusing
20 to install a hardened vent can be weighed against the
21 economic health and environmental disaster that a
22 serious accident or terrorist attack would entail.

23 The Atlantic Chapter of the Sierra Club asks
24 that the NRC regard our safety as more important than

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1 Entergy's bottom line.

2 Thank you.

3 MS. AZULAY CHASNOFF: I'll now have Paul
4 Gunter speak.

5 MR. GUNTER: Thank you. Again, my name is
6 Paul Gunter. I'm Director of the Reactor Oversight
7 Project for Beyond Nuclear. We're out of Tacoma Park,
8 Maryland.

9 And my colleagues and I have basically
10 presented you with a clear contradiction of the -- which
11 regards public health and safety and the continued
12 operation of the FitzPatrick nuclear power plant.

13 As has been pointed out, and I think
14 reiterated appropriately, this plant was allowed to
15 continue operation following the issuance of Generic
16 Letter 8916 and the request for a severe accident
17 mitigation strategy.

18 They proceeded on what was identified as
19 an acceptable deviation from Generic Letter 8916, and
20 the Boiling Water Reactor Owner Group criteria that was
21 set out.

22 So, I think it's important for this Board
23 to recognize, first of all, that to date, there's been
24 no distinction made from what the Near-Term Task Force

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1 has represented that all Mark Is eventually install a
2 reliable hardened vent system. And reliable hardened
3 vent is the words that are used in Generic Letter 8916.
4

5 So this is not -- reliability has always
6 been an issue. This is not something that's new that's
7 come out of the Fukushima disaster and the demonstration
8 of the unreliable containment and the unreliable vents
9 that were subsequently installed.

10 But what we're here to impress upon you and
11 reiterate is that FitzPatrick is an outlier, even from
12 the Near-Term Task Force's own representation.

13 And as such, it being an outlier, it does represent
14 this contradiction that they were given the approval
15 on this acceptable deviation in September 28, 1992, and
16 then in a subsequent inspection on May 11th, 2011, it
17 was identified that they basically are operating on a
18 -- they have been all along, and continue to operate
19 on a vulnerability within their licensing basis.

20 Now, basically, what that contradiction
21 does is that it puts your integrity on the line. This
22 Board has a responsibility now to address what is clearly
23 identified as an outlier from the Near-Term Task Force
24 and the day-to-day operations of the FitzPatrick plant.

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1 And the public looks to you, it looks to
2 this agency, for its safety. And so, you've got this
3 contradiction now before you.

4 And, you know, it's really -- you're sort
5 of the last line of defense for an unreliable containment
6 in a plant that never even bothered to put a vent, a
7 hardened vent.

8 And you're also -- it's also the
9 responsibility of this Board to consider that as the
10 current scenario plays out for the Near-Term Task Force
11 and the orders that have been issued, is that we're going
12 to wait another four, five years before, you know, we
13 see, you know, an order take effect -- and maybe not
14 even then.

15 It's not really clear right now that this
16 is a hard and fast date to us, that we've seen orders
17 come and go without any enforcement action. And I mean,
18 that's been an issue that I brought up before the
19 Commission, and it's been an issue that we've been
20 dealing with through previous 2.206 petitions.

21 So even this December 31st, 2016 date, when
22 the criteria is supposed to take effect and these new
23 reliable hardened vents are supposed to be in place,
24 you know, that's not a reliable chronology, as far as

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1 we're concerned.

2 So, the task before you is is that, you know,
3 we know now that this plant was provided an opportunity
4 to continue operation on deviations from your
5 recommendations, on deviations even from the Boiling
6 Water Reactor Owner Group, and their criteria that was
7 established.

8 And now, we understand that even that
9 approval for an acceptable deviation basically provided
10 that the -- you know, the NRC inspection of May 11th,
11 2011, said that the current licensing basis did not
12 require the plant to have a primary containment torus
13 air space or air space hardened vent system.

14 So, you know, we're puzzled by the
15 willy-nilly-ness that public safety is being tossed
16 around between. And the fact that you don't -- you know,
17 I mean, obviously, nobody thinks that a tsunami is going
18 to come out of Lake Ontario. But the fact is is that
19 station blackout, the prolonged station blackout, that's
20 what the issue is, and fire protection is an issue that
21 can lead to that.

22 There are any number of scenarios that could
23 lead to a prolonged station blackout, and we believe
24 that it's not just about, you know, having some sense

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1 of guarantee or some sense of reliability that your
2 number won't come up on the wheel of misfortune, as we've
3 seen in Japan, but that in fact there are reliable
4 mitigation strategies that have been approved and put
5 in place. And that's simply not the case.

6 So I think that what we're expecting from
7 this Petition Review Board is an explanation on how this
8 plant basically provides no guarantees, and still
9 continues to operate. No reasonable assurance, I think
10 is a key term here, if you can't provide for the fact
11 that there is no reasonable assurance because there is
12 no reasonable mitigation strategy in place now for either
13 a beyond design basis or the licensing basis, we think
14 that you should take action as we've requested, and
15 suspend this operation until you can make that request.

16 But again, you know, our plea to you is that
17 this Board has the responsibility now to use its steady
18 judgement, and in that process, we believe that you put
19 your integrity on line, so -- and the whole agency.

20 So the agency has an opportunity now to
21 build public confidence, to address an outlier, or, we
22 can all be strung along again, and that could have
23 consequences.

24 So, now, we would like to take this

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1 opportunity also to request a second Petition Review
2 Board meeting after you've addressed the -- what me and
3 my colleagues have said today.

4 But your responsibility is heavy, and we
5 again put our trust in you, and in a formal process,
6 that this undue risk that's been identified by your own
7 documents be addressed through the suspension of the
8 operation of this plant, until there is some reasonable
9 assurance.

10 Thank you.

11 MS. AZULAY CHASNOFF: I think that's all
12 the speakers we have today.

13 MR. VAIDYA: Thank you.

14 At this time, does the NRC staff here at
15 headquarters have any questions for Ms. Azulay and others
16 from those who are present in the room, either through
17 PRB Board or NRC staff or PRB Board members?

18 Well, if none, how about the Region, those
19 who were on the phone from the Region, NRC staff? Does
20 anybody have any questions for the joint petitioners
21 at this time?

22 MR. DOERFLEIN: This is Larry Doerflein.
23 I don't.

24 MR. VAIDYA: Okay. Thank you.

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1 As I previously stated, the licensees are
2 not part of the PRB's decision-making process. However,
3 does the licensee have any clarifying questions for the
4 NRC's PRB or for the petitioners at this time?

5 MR. MANNAI: Yes, this is Dave Mannai.
6 Entergy has no questions.

7 MR. VAIDYA: Okay. Well, we go to the next
8 phase. Before I conclude the meeting, members of the
9 public may ask questions about the 2.206 process at this
10 time.

11 However, as we stated at the opening, the
12 purpose of this meeting does not include the opportunity
13 for the petitioner or the public to question or examine
14 the PRB regarding the merits of the petition request.

15 As a reminder, if members of the public
16 believe they did not have the opportunity to ask their
17 questions about the 2.206 petition at the end of the
18 question session because of time limitations, then they
19 can submit their questions in writing to me, the Petition
20 Manager, Bhalchandra Vaidya, at my email address,
21 bhalchandra.vaidya@nrc.gov.

22 We will now change the public line from the
23 listening mode to the open mode. I could not identify
24 sitting here whether there were any members of the public

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1 on the line or not, but at this time, I'm looking at
2 the control room to see whether they can switch the public
3 line to the open mode, please.

4 Is there anybody on the public line?

5 MS. WARREN: This is Barbara Warren with
6 Citizens' Environmental Coalition. I would appreciate
7 it if, as you suggested, that you could review the next
8 steps that you will be taking on this petition? You
9 know, the process?

10 MS. BANIC: This is Lee Banic, the
11 coordinator. Next will be getting the transcript and
12 reviewing it and sending it out to the Board for review,
13 and then the Board will have a closed meeting to make
14 an initial recommendation considering the supplemental
15 information in the petition.

16 After that, we'll inform the petitioners
17 of our initial recommendation. You'll get a second
18 chance to address the Board, as similarly as today.
19 And another transcript will be made and reviewed, and
20 then the Board will meet again for its final
21 recommendation, and you will be informed of that
22 recommendation.

23 The transcript should arrive here -- this
24 transcript, within a week, and we'll have another week

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1 to review it probably, and then maybe the third week,
2 have our internal meeting to make a recommendation. So,
3 within a month, I would say you'd get our initial
4 recommendation.

5 MR. VAIDYA: Okay. Mr. Gunter had
6 indicated that he had a couple of questions, so.

7 MR. GUNTER: Yes. Thank you. I guess my
8 question has to do with the internal deliberations of
9 the PRB and if they are -- it's my understanding they're
10 not transcribed, but we have some concerns and questions
11 about the transparency that we would request that the
12 deliberations -- is there a process by which we can make
13 the deliberations of this Petition Review Board a matter
14 of public record, so perhaps a question more directly
15 to the Office of General Counsel, are the deliberations,
16 the internal deliberations of the Petition Review Board
17 a matter of availability through the Freedom of
18 Information Act?

19 MS. SCOTT: The deliberations themselves
20 are not made public, as part of the Management Directive
21 8.11. However, if there are documents that are
22 generated by that, then if there is a Freedom of
23 Information Act request, then we would look through that
24 to see if they could be provided.

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1 MR. VAIDYA: Any other questions from the
2 public at this time? I guess not. So, well, at this
3 time, I'll turn it over back to the Chairman.

4 CHAIRMAN LEE: Yes, I'll make some closing
5 remarks.

6 Ms. Azulay and Mr. Paul Gunter and
7 participating petitioners, thank you for taking the time
8 out to provide the NRC staff with clarifying information
9 on the petition you've submitted.

10 And before we close, does the court reporter
11 need any additional information?

12 COURT REPORTER: I'll have a few questions
13 after the meeting.

14 CHAIRMAN LEE: Okay. We'll handle that
15 after the meeting.

16 Okay, with that, this meeting is concluded,
17 and we will be terminating the telephone connection.

18 Thank you.

19 (Whereupon, the above-entitled matter was
20 concluded at 1:51 p.m.)

21

22

23

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ATTACHMENT

E-MAIL RESPONSE

FROM BHALCHANDRA VAIDYA, PETITION MANAGER

TO

JESSICA AZULAY, THE POINT-OF-CONTACT FOR THE PETITIONERS

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Subject: RE: PRB Decision on Request for Immediate Action Re: FitzPatrick Emergency Enforcement Petition, March 9, 2012, (TAC No. ME8189)
From: "Vaidya, Bhalchandra" <Bhalchandra.Vaidya@nrc.gov>
Date: Tue, 3 Apr 2012 10:19:44 -0400
To: Jessica Azulay <jessica@allianceforagreenecconomy.org>

Ms. Jessica Azulay,

In response to your request, I am providing, for your information, the following summary of discussions with respect the petitioners' request for emergency enforcement action:

The report dated July 12, 2011, issued by the Near-Term Task Force (NTTF), established by the NRC in response to the Fukushima Daiichi nuclear event concluded that continued nuclear reactor operation and licensing activities do not pose an imminent risk to the public health and safety and are not inimical to the common defense because of the low likelihood of an event beyond the design basis of a U.S. nuclear power plant and the current mitigation capabilities at those facilities. The Order issued on March 12, 2012, (EA-12-050), "Order Modifying Licenses With Regard To Reliable Hardened Containment Vents," also concluded that a sequence of events such as the Fukushima Daiichi accident is unlikely to occur the U.S. Therefore, continued operation and continued licensing activities do not pose an imminent.

The NRC staff was aware of the conclusions presented in its Safety Evaluation dated September 28, 1992, for Fitzpatrick with respect to GL 89-16, and considered this information in its overall assessment on whether or not BWR facilities with Mark I and Mark II containments represented an imminent hazard and concluded they were not.

Thank you,

Bhalchandra K. Vaidya
Licensing Project Manager
NRC/NRR/DORL/LPL1-1
(301)-415-3308 (O)
bhalchandra.vaidya@nrc.gov

From: Jessica Azulay [mailto:jessica@allianceforagreenecconomy.org]
Sent: Tuesday, March 27, 2012 4:35 PM
To: Vaidya, Bhalchandra
Subject: Re: PRB Decision on Request for Immediate Action Re: FitzPatrick Emergency Enforcement Petition, March 9, 2012, (TAC No. ME8189)

Bhalchandra Vaidya,

I have received your notice about the PRB's decision. Can you please provide us with official documentation of that internal meeting and the decision that was made? We would like to know the basis for the PRB decision that there is no immediate health and safety threat to the public.

Thank you,
Jessica Azulay

On 3/27/2012 2:55 PM, Vaidya, Bhalchandra wrote:
Ms. Jessica Azulay,

On March 20, 2012, the Petition Review Board (PRB) met internally to discuss the request for immediate action. The PRB denied the request for immediate action to take emergency enforcement action to suspend the operating license for FitzPatrick because there was no immediate safety concern to FitzPatrick, or to the health and safety of the public.

In response to your request to address the PRB, the PRB is in the process of finalizing the date and time for the Public Meeting.

Thanks.

Bhalchandra K. Vaidya
Licensing Project Manager
NRC/NRR/DORL/LPL1-1
(301)-415-3308 (O)
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