

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition Review Board
(PRB) Conference Call

Docket Number: LTR-14-0606-1

Location: Conference Call

Date: December 17, 2014

Work Order No.: NRC-1272

Pages 1-19

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

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

+ + + + +

10 CFR 2.206 PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

RE

ENFORCEMENT PETITION (EBOLA)

+ + + + +

WEDNESDAY

DECEMBER 17, 2014

+ + + + +

The conference call was held, Aby Mohseni,
Chairperson of the Petition Review Board, presiding.

PETITIONER: THOMAS SAPORITO

PETITION REVIEW BOARD MEMBERS

ABY MOHSENI, Deputy Director, Division of
Policy and Rulemaking

[JAMES ANDERSEN], Deputy Director, Division of
Preparedness and Response, Nuclear
Security and Incident Response

MERRILEE BANIC, Petition Coordinator, Nuclear
Reactor Regulation

NEAL R. GROSS

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

STEVE BARR, Senior Emergency Preparedness
Inspector, NRC Region I Office

DAVID CYLKOWSKI, Office of General Counsel

MEENA KHANNA, Branch Chief, [Plant Licensing
Branch I-2], Division of Operator Reactor
Licensing

MAURIN SCHEETZ, Operator Licensing Branch,
Division of Inspection and Regional
Support

JEFFREY WHITED, Petition Manager, Division of
Operator Reactor Licensing

NEAL R. GROSS

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

P R O C E E D I N G S

(3:20 p.m.)

MR. WHITED: All right. So, we'll go ahead and get started. I'd like to thank everybody for attending this meeting.

Again, my name is Jeffrey Whited and I am an NRC project manager in the Division of Operator Reactor Licensing and NRR.

We are here today to allow the Petitioner, Thomas Saporito, to address the Petition Review Board regarding the 2.206 Petition dated October 16th, 2014.

I am also the petition manager for the petition. The Petition Review Board chairman is Aby Mohseni.

As part of the Petition Review Board's, or PRB's review of the petition, Mr. Saporito has requested this opportunity to address the PRB.

This meeting is scheduled from 3:00 p.m. to 4:00 p.m. Eastern Time. The meeting is being recorded by the NRC Operations Center and will be transcribed by a court reporter.

The transcript will become a supplement to the petition. The transcript will also be made publicly available.

NEAL R. GROSS

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

I'd like to open this meeting with introductions. Again, the PRB chairman is Aby Mohseni. I'd like the rest of the Petition Review Board to introduce themselves.

As we go around the room, please be sure to clearly state your name, your position and the office that you work for within the NRC, for the record.

I'll start off. Again, my name is Jeffrey Whited and I'm the petition manager.

MR. MOHSENI: Aby Mohseni, the Chairman. I am with the NRR Division of Policy and Rulemaking.

MS. BANIC: Lee Banic, petition coordinator, NRR.

MR. CYLKOWSKI: David Cylkowski, attorney in the Office of General Counsel for headquarters.

MS. KHANNA: And Meena Khanna. I'm a branch chief in the Division of Operator Reactor Licensing 1-2 in the Office of Nuclear Reactor Regulation.

MR. WHITED: Are there any NRC participants from headquarters on the phone?

MR. ANDERS[E]N: This is Jim Anders[e]n. I'm the deputy director in NSIR, Division of Preparedness and Response.

NEAL R. GROSS

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

MR. WHITED: Is there anybody else from NRC headquarters on the line?

MS. SCHEETZ: Yes, Maurin Scheetz, NRR Division of Inspection and Regional Support, Operator Licensing Branch.

MR. WHITED: Are there any participants from the regional office on the phone?

MR. BARR: Yes. This is Steve Barr. I'm the senior emergency preparedness inspector for the Region I Office.

MR. WHITED: Mr. Saporito, would you please introduce yourself for the record?

MR. SAPORITO: Yes. My name is Thomas Saporito. I'm with SaproDani Associates in Florida. I'm the petitioner.

MR. WHITED: Is there anybody else from the NRC on the line that needs to introduce themselves?

(Pause.)

MR. WHITED: Okay. It is not required for members of the public to introduce themselves for this call.

However, if there are any members of the public on the phone that wish to do so at this time, please state your name for the record.

NEAL R. GROSS

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

(Pause.)

MR. WHITED: Hearing none, I'm going to move on. I'd like to emphasize that we each need to speak clearly and loudly to make sure that the court reporter can accurately transcribe this meeting.

If you do have something that you would like to say, please first state your name for the record.

For those dialing into the meeting, please remember to mute your phone to minimize any background noise or distractions.

If you do not have a mute button, this can be done by pressing the keys *6. To unmute, press the *6 keys again. Thank you.

At this time, I'd like to share some background on our process. Section 2.206 of Title 10 of the Code of Federal Regulations describes the petition process, the primary mechanism for the public to request enforcement action by the NRC in a public process.

The process permits anyone to petition NRC to take enforcement-type actions related to NRC licensees or license activities.

Depending on the results of this

NEAL R. GROSS

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

evaluation, the NRC can modify, suspend or revoke an NRC-issued license or take any other appropriate enforcement action to resolve a problem.

The NRC staff guidance for the disposition of 2.206 petition request is in Management Directive 8.11, which is publicly available.

The purpose of today's meeting is to give the petitioner an opportunity to provide any additional explanation or support for the petition before the Petition Review Board's initial consideration recommendation.

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

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

The Petition Review Board typically consists of a chairman, usually a manager at the senior executive service level at the NRC. It has a petition manager and a PRB coordinator.

NEAL R. GROSS

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

Other members of the Board are determined by the NRC staff based on the content of the information in the petition request. The members have already introduced themselves.

As described in our process, the NRC staff may ask clarifying questions in order to better understand the petitioner's presentation and to reach a reason decision whether to accept or reject the petitioner's request for review under the 2.206 process.

I would like to summarize the scope of the petition under consideration and the NRC's activities to date.

On October 16th, 2014, Mr. Saporito submitted to the NRC a petition under 2.206 regarding all licensees in which Mr. Saporito requested a number of actions.

The major ones concern licensee preparedness in response to a licensee employee being infected with the Ebola virus.

Now, allow me to discuss the NRC activities to date. On October 31st, 2014, the petition manager contacted Mr. Saporito to discuss the 10 CFR 2.206 process and to offer him an opportunity to address the

NEAL R. GROSS

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

PRB.

Mr. Saporito requested to address the PRB by phone prior to its internal meeting to make the initial recommendation to accept or reject the petition for review.

As a reminder for the phone participants, please identify yourselves if you make any remarks as this will help us in the preparation of the meeting transcript that will be made publicly available. Thank you.

Mr. Saporito, I'll turn it over to you to allow you the opportunity to provide any further information you believe the PRB should consider as a part of this petition.

You have about 40 minutes for your presentation.

MR. SAPORITO: I don't believe I'll be using 40 minutes. I'll be as brief as possible. Again, for the record, my name is Thomas Saporito. I'm with Saprodani Associates in Florida and I am the petitioner in this matter.

I emailed Mr. Whited a document which I'll identify for the record. It's an October 15th, 2014 news article by Bloomberg, which is a news agency, a

NEAL R. GROSS

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

business news agency. And it's entitled "Ebola Outbreak Boosts Odds of Mutation Helping it Spread."

Did the PRB members get provided this document, sir?

MR. WHITED: Yes, Mr. Saporito. I sent it out to all of the PRB members and everyone in the room with me has a copy in front of them.

MR. SAPORITO: Okay. Thank you. This document is to be considered by the PRB (inaudible due to telephonic deficiency). Before I get into (inaudible due to telephonic deficiency) I want to further supplement the petition on record to state that although the enforcement petition addresses the issue of the Ebola virus, I wish and desire and request that the Review Board members consider this petition a supplement to the effect that it encompasses any contagious diseases like SARS and various diseases that (inaudible due to telephonic deficiency) Ebola.

So, although the petition speaks specifically about Ebola, I'm expanding the scope of that petition to include any and all other contagious diseases that may infect members of the public in the United States or have yet to be discovered and which can infect people in the United States the same way.

NEAL R. GROSS

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

And it's specifically about employees of nuclear power plants, which are governed and regulated by the Nuclear Regulatory Commission in these instances.

Okay. So, this document which is entitled "Ebola Outbreak Boosts Odds of Mutation Helping it Spread," I highlight several areas of interest.

The first area talks about that the diagnosis in a second healthcare worker in Texas, it raises questions about how well researchers understand how the virus spreads and whether the virus is changing in a way that makes it easier to transmit.

And there's a quotation there by Ira Longini which states, quote, "I suspect it may have become more transmissible," unquote.

And below that is another highlighted area. It says, while scientists don't fully understand what the changes mean, some are concerned that alterations in the virus that occur as the pathogen continues to evolve, could pose new dangers.

And further down it says, researchers have identified more than 300 new viral mutations in the latest strain of Ebola. And that they are rushing to investigate if this strain of the disease produces higher virus levels, which could increase its

NEAL R. GROSS

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

infectiousness.

A little further down it talks about the greater risk. It says the risk, though, is that the longer the epidemic continues, the greater the chance that the virus could change in a way that makes it more transmissible between humans.

And there's a quotation below that. It says "If the outbreak continues for a prolonged period of time or it becomes endemic, it may mutate into a form that is more virulent."

Underneath that there's a quote. "Viruses don't think. They make mutations that are good for them," unquote. Quote, "If it helps the virus spread or replicate faster, it will be around more," unquote.

Another quotation under there, it says "It is a numbers game. The more cases you have, the more likely there are going to be mutations that could change the virus in a significant way." That was quoted by Dr. Sanders, a professor of biological sciences at Purdue University.

And then later on down in that article it talks about almost 9,000 people have been infected with the virus in three countries with about 4500 deaths, according to the World Health Organization.

NEAL R. GROSS

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

One dire scientific scenario is that the virus could somehow mutate in a way that allowed it to be transmitted through tiny particles that linger in the air in the same way that measles is thought to spread.

And they talk about potential transmission further down in the document. Researcher Sanders from Purdue University said the possibility of Ebola becoming airborne cannot be ruled out. There are a lot of unknowns about Ebola.

Previous outbreaks have been small and they have generally been to remote areas making a detailed study difficult.

So, this document is meant to show that there's a lot unknown about this Ebola virus and that it can be spread airborne.

You know there are some individuals (inaudible due to telephonic deficiency) otherwise there are also those who argue that it can't be transmitted airborne.

The concern that I'm bringing up in the petition for the NRC to take action on is that if an employee at a nuclear power plant becomes infected with Ebola, that the nuclear power plant may lose control

NEAL R. GROSS

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

of the nuclear power plant.

Am I being heard? Hello?

MR. WHITED: Yes, this is Jeff Whited. Mr. Saporito, we have been able to hear you throughout your entire discussion.

MR. SAPORITO: Okay. Because the last time I fell off and no one told me and I just kept talking for another half hour.

Okay. So, the point of the petition is that if there are more employees who become infected, they could spread very quickly throughout the nuclear power plant to a degree that the licensee would no longer have control of the plant, because all the employees could become subject to this infection.

It's very highly contagious and there would be no way for the licensee to control the reactor.

And that goes for the other diseases like SARS et cetera, I believe the NRC should require licensees to incorporate in the technical specifications on parameters and measures and actions that they intend to take to grant, number one, a contagious employee coming onto the nuclear site and was undetected that actions be taken to isolate that employee to protect the other employees. And

NEAL R. GROSS

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

ultimately protect the health and safety of (inaudible due to telephonic deficiency) control the nuclear reactor (inaudible due to telephonic deficiency).

The NRC has broad authority to require its licensees to take steps that are specified in the enforcement petition (inaudible due to telephonic deficiency) and also there are (inaudible due to telephonic deficiency) should be required if incorporated, to advise them if they have any type of contagious disease whether it be Ebola, SARS, whatever.

If it's something that's communicable and could disable a human being from doing their job in controlling the nuclear reactor, then the licensee needs to be aware of that (inaudible due to telephonic deficiency) these written procedures (inaudible due to telephonic deficiency) specifications how we're going to deal with these situations as they arise, you know, so far as, you know, making a protected area to move the employee into so they can quarantine that employee and they can bring healthcare workers in to treat that individual and there has to be some kind of healthcare workers to examine other employees to make sure it hasn't contaminated the workplace and other employees.

NEAL R. GROSS

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

This current disease and others are very highly contagious. Airborne or not it's highly contagious. So much so that governors of several states have issued directives isolating people returning from working Africa where this virus is an epidemic and they must be isolated for three weeks, you know.

So, this is a very serious issue. And the worst case scenario that comes to my mind is what if a terrorist organization decides to spread this virus at a nuclear facility?

You know, now they have these drones that anybody could buy (inaudible due to telephonic deficiency). You send that thing up airborne with the virus on it and crash it into the nuclear plant, somebody is going to pick that up. They don't know it's contaminated. I mean, there's all kinds of scenarios that come to mind here.

There must be some kind of procedures required by the NRC say they should require the licensees that operate power plants in the United States to have some kind of procedures in place, how they're going to deal with this situation, how they're going to protect the employees and the public

NEAL R. GROSS

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

(inaudible due to telephonic deficiency) that may lose control or the ability to control the reactor to bring it to a safe shutdown.

And that basically what the petition is. I'll answer any questions if I'm able to. I'm not an Ebola expert. But if you have something that needs answered, I'll try my best.

MR. WHITED: Okay. Thank you very much, Mr. Saporito. Again, this is Jeff Whited. At this time, does any of the staff here at headquarters have any questions for Mr. Saporito?

MR. CYLKOWSKI: Actually, I do.

MR. WHITED: Okay.

MR. CYLKOWSKI: Mr. Saporito, this is David Cylkowski. Your petition is filed as pertaining to all licensees, but it sounds like your concern really pertains to reactor licensees.

Is that how B is that your intent that that is how the petition is construed is pertaining to reactor licensees?

MR. SAPORITO: It's mainly focused on nuclear reactor licensees. However, since the Ebola patients and that type of people who get contagious diseases are treated by medical facilities in and

NEAL R. GROSS

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

around the United States, the NRC does have some authority of licenses issued to the radiological departments.

And whether or not, you know, that if the hospital became fully incapacitated, whether or not they could carry out their functions, the scope of their licenses, I don't know.

I don't have the expertise to make that assertion, but you might want to defer that to the appropriate department within the NRC agency.

I know there are people who are experts in that area and they may offer a better opinion on it.

MR. CYLKOWSKI: Thank you.

MR. WHITED: All right. Does any member of the NRC staff on the phone have any questions?

MR. BARR: This is Steve. I don't. Thank you.

MR. ANDERS[E]N: This is Jim Anders[e]n. I do not.

MR. WHITED: All right. Just to again verify, has anyone else joined the line since the start of Mr. Saporito's discussion that might have any questions?

(Pause.)

NEAL R. GROSS

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

MR. WHITED: Okay. Mr. Saporito, thank you very much for taking the time to provide the NRC staff with clarifying information on the petition you have submitted.

Before we close, does the court reporter need any additional information for the meeting transcript?

THE COURT REPORTER: The only information I would need is specifically about the names of the board members. I wasn't quite able to get it when we talked about it on the record.

MR. WHITED: I'm sorry. Could you state that again? I didn't hear you.

THE COURT REPORTER: The only information I would need is just the names of the board members. I wasn't able to get the names exactly when they were said on the record.

MR. WHITED: Okay. I can email that to you.

THE COURT REPORTER: Okay. Sounds good.

MR. WHITED: All right. Thank you.

All right. With that, this meeting is concluded and we will be terminating the phone call. Again, thank you very much, Mr. Saporito, and everybody else who joined in on this call.

NEAL R. GROSS

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

(Whereupon, at 3:41 o'clock p.m. the
conference call was concluded.)