

Letter of Concern Regarding Due Process

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
SUSQUEHANNA NUCLEAR, LLC) Docket Nos. 50-387, 50-388, 72-28-LT-2
)
(Susquehanna Steam Electric Station,)
Units 1 and 2))

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I hereby certify that copies of the foregoing "Letter of Concern Regarding Due Process, Submitted by Sabatini Monatesti," dated December 30, 2016, have been filed through the Electronic Information Exchange, the NRC's E-Filing System, in the above-captioned proceeding, this 30th day of December, 2016.

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Dated at Berwick, PA
This 1st day of December 2016

Attachment 1: Distribution List
Attachment 2: Letter of Concern

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Introduction:

I began my review of Talen Energy, prior to October 2016, regarding SSES cask storage requirements, and later grew concerned when discussions of License Transfer, Talen Energy to Riverstone Holdings LLC and ownership changes became public. During my analysis, I became aware that the ethics of these companies might be suspect, and that their business practices, as demonstrated by their actions, could affect their ability to effectively manage SSES safely over the life of the license; thus affecting the health and safety of the greater Berwick, PA community. In October, I notified NRC that I would undertake a review of relevant, public documents, requested a public hearing and requested SUNSI documentation. I estimated then that I would invest about ninety days of work to complete my assessment and that I would keep the NRC updated as my review continued. I continue my review. I am disappointed in the NRC decision to deny my standing regarding SSES License Transfer, and the absence of a public hearing. I believe this to be denial of due process.

Situation:

¹Pursuant to the due process clause in the Fifth and Fourteenth Amendment, government entities, including state and federal agencies, must follow certain procedures before taking action that affects an individual's life, liberty, or property. Your procedures must allow an individual the opportunity to be heard in an open forum and thereby influence the outcome of the government's action. They also serve as a safeguard against unfair deprivation. More than a century of Supreme Court decisions have helped define when an individualized proceeding is required, what constitutes protected liberty and property interests, and what processes must be in place for a fair procedure? Each of us has a right as the disadvantaged of our area to life, liberty and pursuit of happiness. I believe the actions of the NRC undermine the right of the Berwick, PA area citizen when its actions place the citizen in harm's way.

²In 1995, the EPA issued its environmental justice strategy: [The strategy] based on the principle that communities affected by decisions with environmental impacts should be actively involved in the decision making process. To achieve this objective, the strategy calls for EPA to increase coordination with affected communities, state, tribal, and local governments, business, and various nongovernmental organizations.... To develop local knowledge bases necessary for effective participation in complex decision-making, EPA will promote technical assistance programs and grants for minority and low-income areas. Under the strategy, EPA will focus enforcement activities on minority and low-income areas suffering disproportionate environmental and health impacts.

Pursuant to Executive Order 12,898 and Title VI, the EPA has begun to include environmental justice as a factor in its review of state permits under federally delegated programs pursuant to the Clean Air and Clean Water Acts and the Resource Conservation and Recovery Act. Further, environmental justice advocates aim to provide opportunities for disadvantaged groups to participate in the decision making process in a meaningful way. I contend that the Berwick, PA area is a disadvantaged area and that the Title VI applies. Hence, I provide the following discussion for NRC review.

The citizens of Berwick, PA, at least 57%, fall below the poverty level³, we would consider these At-Risk populations. Further, approximately 40% of referrals to the Columbia County agency come from Berwick. It is not yet clear which common family strain-factors explain this particular current increase, yet interestingly, it does not appear that changing demographics play a large role. The County has not had fixed route bus service or any viable public transit system since the 1960s. Private transportation has been the default option for the overwhelming percentage of county residents. It is also interesting that only one private taxi-livery concern has emerged in the area. Collectively, our interviews suggested that even as many are supportive of better transportation alternatives in the area, external pressures would probably be necessary to create a general and voluntary migration to public transit for specific tasks (e.g., going to stores and markets, work, and school).

¹ No Your Rights, page 20, Civil Rights Book NE-2, <https://www.justice.gov/sites/default/files/usao-ne/legacy/2012/04/27/Civil%20Rights%20Book-NE-2.pdf>

² Disaster Law and Inequality, page 312, <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1573&context=facpubs>

³ [http://www.columbiapa.org/humanservices/columbia.county.needs.assessment\[1\].pdf](http://www.columbiapa.org/humanservices/columbia.county.needs.assessment[1].pdf)

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⁴The connection of race and poverty with evacuation rates was not unique to Katrina. As the NRC found: [R]esearch has shown that different racial, ethnic, income, and special needs groups respond in different ways to warning information and evacuation orders.... For example, members of some minority groups tend to have large extended families, making contacting family members and deliberating on alternative courses of action a more complicated process.

Lower-income groups, inner-city residents, and elderly persons are more likely to have to rely on public transportation, rather than personal vehicles, in order to evacuate. Lower-income and minority populations, who tend to have larger families, may also be reluctant to impose on friends and relatives for shelter. Lack of financial resources may leave less-well-off segments of the population less able to take time off from work when disasters threaten, to travel long distances to avoid danger, or to pay for emergency lodging. In addition, the NRC found members of minority groups may distrust emergency information provided by the White majority, and those who rely on non-English speaking media sources may find it more difficult to obtain warnings. This description fits the Berwick, PA area as if a good winter glove fits your hand.

More generally, lack of social capital (in the form of a rich network of community relationships) greatly increases vulnerability to risk. We believe the degree of social capital in a community may be related in complex ways to demographic characteristics, resulting in uneven and sometimes unexpected correlations between demography and disaster risk. Again, this describes Berwick, PA area.

Age is also an important factor in disaster vulnerability, as children suffer from special vulnerabilities. As one disaster expert observes, if "children are not recognized as a special population and planned for accordingly, they can be at grave and disproportionately higher risk in major disasters." Children also may suffer special forms of injury, such as separation from parents or interruptions in education. About a fourth of the population in areas impacted by Katrina was children. I believe about 183,000 children were displaced by the storm. Thirty percent of the children in these areas lived in poverty. Furthermore, children may be at special risk of exploitation during disasters. We have a disproportionate share of children in need of special services.

The Administrator of the United States Environmental Protection Agency ("EPA") directed the EPA to convene an interagency Federal Working Group on Environmental Justice to assist each agency in developing an agency-wide environmental justice strategy. I am not sure this exists for the Berwick, PA area, nor whether if applied actions of this group occurred regarding the review of evacuation planning of the Berwick, PA area. As my review progressed, I understood that the evacuation of the citizens in the Berwick, PA area, given a catastrophic event at the nuclear power plant (npp), would be impractical and yet Talen Energy recently presented the community with an evacuation plan that implies that evacuation is possible. I disagree. They again demonstrate poor business practice through this action, and demonstrate unethical behavior through omission.

The Administrator of the United States Environmental Protection Agency notes that where legal remedies are ineffective, civil rights groups and congressional overseers should take it upon themselves to monitor administrative compliance with Title VI and with section 311 of the Stafford Act. Moreover, local communities also should see disaster risks as relevant to them. However, disaster risks usually are not as immediate and pressing as other problems of low-income communities, in the end they may be even deadlier. Disasters additionally have the potential to create coalitions with less disadvantaged communities that also may be at risk. Although disasters hit disadvantaged groups particularly hard, they cause serious damage to other groups thus, there is common ground for action that cuts across various segments of society. The Berwick, PA area fits this description. The property and casualty loss impact to the area could be catastrophic; I estimate the loss value at between \$500 million and \$1 billion. I do not believe Talen Energy-Riverstone Holdings LLC or FEMA have an insurance policy that would compensate the individuals and businesses for their loss of life or property given an npp disaster in the Berwick, PA area.

⁵Many people perished as a direct result of inadequate levee design during the Katrina event or construction by the federal government and FEMA's shockingly disorganized response to the flooding. One argument against

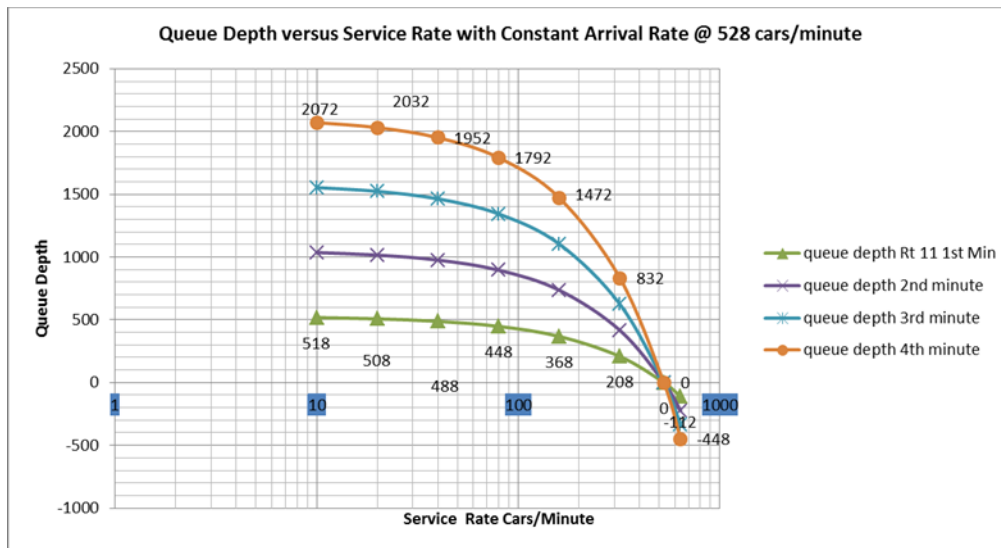
⁴ Disaster Law and Inequality, page 303,
<http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1573&context=facpubs>

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compensation might be that individuals were partly responsible for their fates because they failed to evacuate. Given the evacuation barriers facing many victims, the assignment of blame to individuals is problematic⁶. In some cases, victims were disabled or unable to evacuate for other reasons. It is best to consider the issue on an individualized basis. Even if we assign some fault to the victims, I suggest that a comparative fault scheme is needed such as that used in tort law to adjust recoveries. We may not have a viable, comprehensive FEMA coordinated plan for a nuclear catastrophic failure. I believe a failure could occur in the Berwick, Salem and Briar Creek area given possible exercise of poor business practices on behalf of Talen Energy-Riverstone Holdings LLC and the NRC. I believe poor evacuation planning is a good example of poor business planning.

Problem:

For example, I proffer the following two queuing models based on egress via Route 11, the only route presented by Talen Energy in its recent evacuation plan released to the Berwick, PA area. The first graph presents queue depth, or cars in line to access Route 11 given the Route 11 corridor becomes congested, and Route 11 service rate declines. That occurs when families are leaving and groups such as the National Guard are trying to get to the npp via Route 11. The graph below shows that as service rates decrease from 528 cars per minute to 100 cars per minute the queue depth, i.e., numbers of cars waiting to access the Route 11 corridor increased to 1792 cars in four minutes. With further congestion and a service rate decrease to 10 cars per minute, in four minutes we are up to 2072 cars in line.



Summary of events:

- As Route 11 service rate decreases the queue depth, i.e., line of cars waiting to get onto Route 11 increases exponentially, an evacuation time estimate that exceeds reasonableness once service rate decreases below estimate of 528 cars per minute arrival at Route 11, congestion would adversely affect access to npp by emergency personnel
- This increase in queue depth with decreasing service rate occurs when cars are in a jam and there is grid lock on town, township and rural access roads

⁵ Disaster Law and Inequality, page 318,

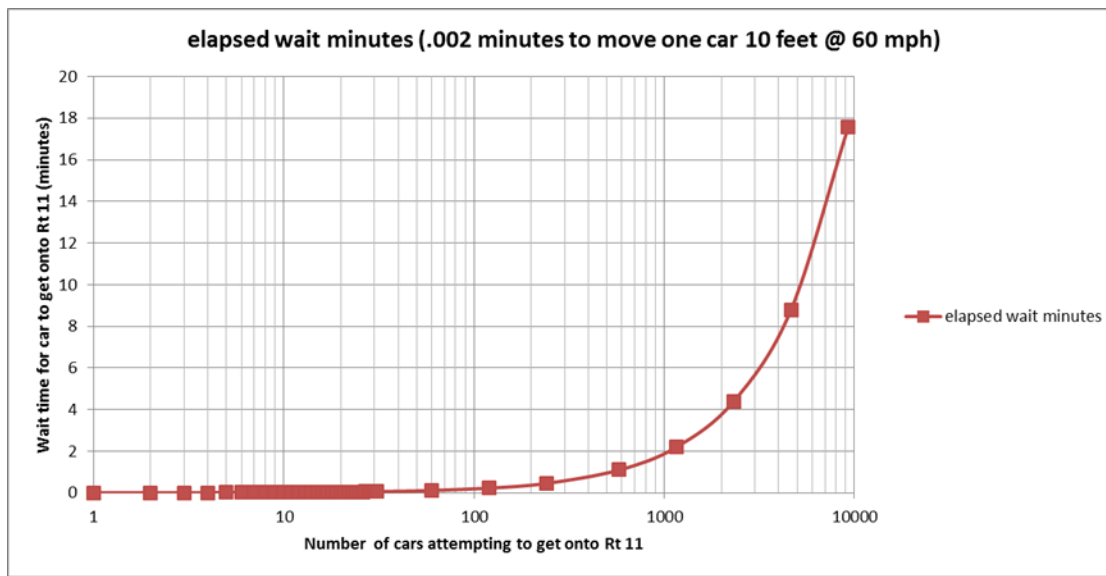
<http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1573&context=facpubs>

⁶ Part II, Program Planning Guidance, Protective Action Decision Making, Page 88, Program Manual... Emergency Preparedness, https://www.fema.gov/media-library-data/1452711021573-a9b920f4f7ac34ea9f32738f51982afe/DHS_FEMA_REP_Program_Manual_Jan2016_Secure.pdf

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- This grid lock will occur because side road access is limited, there may not be anyone directing traffic and there would be a lack of communications causing confusion thus allowing fear, uncertainty and doubt to take over

The scenario gets even more menacing when we consider the actions that could occur given a catastrophic or near catastrophic event at npp. The family, vehicle wait time as shown on the graph below to gain access grows very quickly. The estimate of the number of vehicles attempting to reach Route 11 in an npp event is 10,000, and thus the family wait time, given best-case Route 11 service times, a family waits an agonizing minimum of 18 minutes.



Possible scenario review:

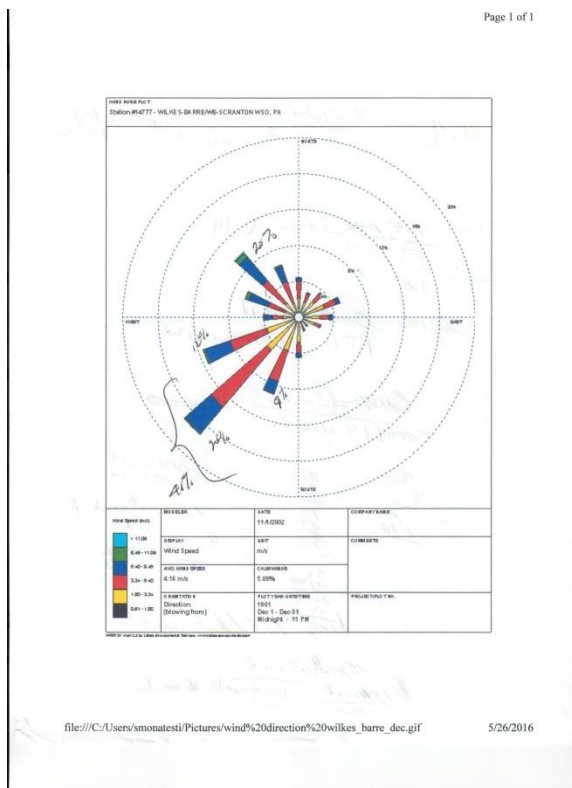
- Given a catastrophic event, estimated property and casualty damage \$500 million to \$1 Billion (e.g., unable to use water, air, schools, residential and commercial property, hospitals and elderly care facilities, farms and animals), no known FEMA flood recovery like insurance for catastrophic npp⁷ failure exists to my knowledge
- Tech at plant has 15 minutes to make a decision to declare an emergency
- Following alarm, families have about 15 minutes to gather their personal belongings, financial papers and pets (if during day, father at work, mother at work, children at school or day care - coordination difficult, separation anxiety takes hold)
- Once families, schools, first responders organized, about 10,000 Berwick, Salem, Briar Creek etc. cars/buses/trucks begin to move toward Route 11, within minutes of the alarm congestion and grid lock ensue, anticipate emergency personnel (national guard begin to move into affected area causing further congestion on Route 11, decreasing Route 11 service rate)
- Given the service rate of Route 11 to be .002 seconds per car @ 60 mph, the last car in line must wait about 18 minutes to get on the road (estimated best case)
- As the Route 11 service rate decreases the wait times increase exponentially, potential multiplication factor of 4 to 5 or potentially a wait extension of 60 to 75 minutes
- The last car out, once on Route 11, proceeds to spend the next 10 minutes to get onto Route 80 about 7 or 8 miles away
- Time elapsed since the emergency detected, for the last car out, about 58 minutes, best case

⁷ Nuclear Power Plant, Susquehanna Electric Steam Site 1 and 2

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- Prevailing winds at 10 mph, move particulate matter about 10 miles in one hour, estimated wind probability about 40% towards SW, probability 60% towards NE, Berwick to Bloomsburg is SW, the folks trying to get to safety in Nescopeck, Cunningham and surrounding area east of the Susquehanna or North of npp have an even a bigger problem, reference graph below
- The family car, truck or bus is covered with particulate matter and needs to be thoroughly washed down to decontaminate before occupants can exit, hopefully the 10,000 vehicles do not contaminate the disaster recovery center
- Decontamination stations at the recovery center must be available at the remote site for occupants to exit their vehicles
- No one returns to the Berwick area for a long time, similar to the Fukushima situation, or possible Katrina like condition, or we shelter in place and become collateral damage (use of KI or potassium iodide required)

Wind Direction Map for NPP:



Implication:

I believe "decision makers should have known just who would be left to suffer the harms of protections foregone, but that they did know⁸ [The disproportionate impacts experienced by the poor and black communities from Katrina is part of a pattern of environmental disasters in which low-income communities and communities of color are overlooked in the preparations before such disasters occur and receive less rapid assistance afterwards."

⁸ Same as 4 above

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Need:

I have shown through past work that we need to delay this ill-advised transaction and refocus on the needs of the Berwick-Salem-Briar Creek citizen to ensure their continuation of life and liberty, and for the continued use of their property. Talen Energy-Riverstone Holdings LLC and the NRC are placing us at risk, we are vulnerable and the threat is real.

Sincerely;

12/30/2016

X Sabatini J. Monatesti

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References:

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- Part II, Program Planning Guidance, Protective Action Decision Making, Page 88, Program Manual... Emergency Preparedness, https://www.fema.gov/media-library-data/1452711021573-a9b920f4f7ac34ea9f32738f51982afe/DHS_FEMA_REP_Program_Manual_Jan2016_Secure.pdf
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