

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition Review Board (PRB)
Informational Meeting RE Tetra Tech EC, Inc.

Docket Number: 030-38199

Location: teleconference

Date: Wednesday, October 17, 2018

Work Order No.: NRC-3930

Pages 1-75

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)

INFORMATIONAL MEETING

RE

TETRA TECH EC, INC.

+ + + + +

WEDNESDAY

OCTOBER 17, 2018

+ + + + +

The informational meeting was held, Michael Case, Chairperson of the Petition Review Board, presiding.

PETITIONERS: DAVID ANTON and STEVEN CASTLEMAN, Greenaction

PETITION REVIEW BOARD MEMBER

MIKE CASE, Director, Division of Engineering Office of Nuclear Materials Safety and Safeguards

PETITION REVIEW MANAGER

JAMES SMITH, Office of Nuclear Materials Safety and Safeguards

NEAL R. GROSS

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

NRC HEADQUARTERS STAFF

LATIF HAMDAN, Petition Coordinator,

Office of Nuclear Materials Safety and
Safeguards*

LORRAINE BAER, Office of General Counsel

ANDREA KOCK, Office of Nuclear Material Safety
and Safeguards*

DAVID JONES, Office of Enforcement

BRETT KLUKAN, Regional Counsel, NRC Region I*

DAVID MCINTYRE, Office of Public Affairs

STEPHEN POY, Office of Nuclear Material Safety
and Safeguards

JENNY WEIL, Office of Congressional Affairs

NEAL R. GROSS

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

ALSO PRESENT:

SUSAN ANDREWS*

BRICE BICKETT, NRC Region I*

BURT BOWERS*

JOHN CHESNUTT, EPA Region 9*

BRIANNA FAIRBANKS, EPA Region 9*

SARAH FIELDS*

PRESTON HOPSON, Senior Vice President, General

Counsel and Corporate Security, Tetra Tech

SARAH JACKSON, Office of Nancy Pelosi*

CHRISTOPHER D. JENSEN, ESQ., Hanson Bridgett, LLP

MICHAEL KEEGAN*

JACKIE LANE, EPA Region 9*

TOM MACCHIARELLA, Department of Navy*

SARAH JACKSON, Office of House Minority Leader Nancy

Pelosi*

ANNIE MADDEN, Office of House Minority Leader Nancy

Pelosi*

MELISSA MALSTROM, Hanson Bridgett, LLP *

ELAINE OWEN, California Department of Public Health*

PETER SAPUNOR, California Department of Public

Health*

MATT SLACK, Navy Radiological Affairs Support Office*

GUY TAIBI*

JIN ZHU

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

*participating by telephone

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1:07 p.m.

MR. SMITH: I'd like to thank everybody for attending the meeting. My name is James Smith, I'm a NRC Project Manager in the Division of Decommissioning, Uranium Recovery, and Waste Programs.

We're here today to allow Petitioner David Anton and Steven Castleman to address the Petition Review Board regarding the 2.206 petition dated June 27, 2017, along with three supplements that I could list but I won't at this moment associated with their petition to revoke the license for Tetra Tech EC, Incorporated.

As part of the, I'm the Petition Manager, James Smith. This is Michael Case, he's the Chairman. As part of the Petition Review Board's review of the petition, David Anton and Steven Castleman requested an opportunity to address the PRB.

Additionally, Tetra Tech EC is being represented by Chris Jensen and Preston Hopson, and they'll have an opportunity at the end to make a presentation and request clarification from the petitioner and to answer questions from the PRB.

NEAL R. GROSS

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

1 The meeting is scheduled at one o'clock,
2 and after these introductory remarks, I'll allow Mr.
3 Anton and Mr. Castleman 45 minutes to address the
4 Board. The meeting's being recorded the NRC
5 Operations Center and will be transcribed by our court
6 reporter. The transcript will become a supplement
7 to the petition, and the transcript will also be made
8 publicly available.

9 I'd like to open the meeting with
10 introductions. The PRB Chairman, like I said, is
11 Michael Case. We have Lorraine Baer, who's NRC from
12 OGC; I have David McIntyre in the back row from Office
13 of Public Affairs; Jenny Weil from the Office of
14 Congressional Affairs; Steven Poy from the Division
15 of Materials Safety Travel Programs, I think. We
16 have Preston Hopson, Chris Jensen, myself, David
17 Jones, and Mr. Anton.

18 Is there anyone that I haven't
19 introduced?

20 MR. SLACK: Matt Slack from the Navy's
21 Radiological Affairs Support Office.

22 MR. SMITH: Hi, Matt.

23 MR. SLACK: Hello.

24 MR. SMITH: And is Slack spelled S-L-A-
25 C-K?

NEAL R. GROSS

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

1 MR. ANTON: Correct.

2 MR. SLACK: Yes, sir.

3 MR. SMITH: Okay.

4 MR. ANTON: Good to hear you, Smith.

5 MR. SLACK: I'd like to be here on
6 different circumstances.

7 MR. SMITH: I'm sorry, can you say that
8 again?

9 MR. HAMDEN: Latif Hamden from NRC.

10 MR. SMITH: Pete Hansen from the NRC?

11 MR. HAMDEN: Yeah, Latif, L-A-T-I-F.

12 MR. SMITH: Oh, Latif Hamden, okay. My
13 hearing is bad, but I don't think it's that bad.
14 Okay.

15 MR. TAIBI: Guy Taibi is online as a
16 concerned member of the public.

17 MR. SMITH: What's her name?

18 MR. ANTON: Guy Taibi, T-A-I-B-I.

19 MR. SMITH: Okay.

20 MS. ANDREWS: Susan Andrews, public.

21 UNIDENTIFIED SPEAKER: A-N-D-R-E-W-S?

22 MR. KEEGAN: Michael Keegan, public.

23 MR. BOWERS: Burt Bowers, public.

24 MR. SMITH: Burt Bowers?

25 MR. ANTON: B-O-W-E-R-S.

NEAL R. GROSS

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

1 MR. MACCHIARELLA: Tom Macchiarella,
2 Department of the Navy.

3 MR. SMITH: Can you spell your last name.

4 MR. MACCHIARELLA: Sure. M-A-C-C-H-I-A-
5 R-E-L-L-A.

6 MR. SMITH: Okay. Is there anybody that
7 we didn't get to?

8 MS. FIELDS: Sarah Fields, member of the
9 public.

10 MR. SMITH: I'm sorry, can you say that
11 one more time, say it slowly and loudly.

12 MS. FIELDS: Sarah, S-A-R-A-H, Fields F
13 as in Frank, I-E-L-D-S, interested member of the
14 public.

15 MR. SMITH: Okay, all right. Thank you.
16 Anyone else? Okay, I know that this young lady just
17 walked in, I believe her name is Jin Zhu. Yes, I'm
18 not sure, are you just representing yourself?

19 MS. ZHU: I'm representing myself.

20 MR. SMITH: Okay, now that we have a list
21 of everyone that's present --

22 MR. McINTYRE: If I could interrupt
23 before you get started. Since Ms. Zhu will be
24 videoing the proceedings and recording them, one of
25 the guidelines we have from our security folks is

NEAL R. GROSS

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

1 that the NRC people should remove their badges.

2 And as long as everybody in the room knows
3 since this is a public meeting, we do allow a camera
4 in. And certain guidelines are that she not disrupt
5 the meeting and I ask her not to move around, move
6 the camera around a lot. And she's only going to
7 film in this room while the meeting's underway.

8 MR. SMITH: Okay. Mr. Anton, Mr.
9 Castleman, you want to introduce yourself?

10 MR. ANTON: Yes. My name is David Anton,
11 I'm an attorney in California. I have been working
12 with Greenaction for Health and Environmental
13 Justice, the party that filed this petition.

14 Greenaction is a multi-racial grassroots
15 organization that works with low income, working
16 class, and indigenous communities to fight for health
17 and a just future for all by seeking to protect the
18 environment and promote social and economic justice.

19 I'll be joined by Steve Castleman, who's
20 an attorney for the Golden Gate University Law
21 School's Environmental Law and Justice Clinic. He'll
22 speak after I will speak. He's going to cover some
23 new areas that we're going to be bringing up. Going
24 to be filing a supplement to our petition, there are
25 some additional areas that have been discovered that

NEAL R. GROSS

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

1 the clinic has been working on.

2 Golden Gate University's Environmental
3 Law and Justice Clinic is the, one of the, myself and
4 that, the clinic was founded in 1994 --

5 MR. SMITH: Okay, if this is beyond your
6 introduction, or are you going into your
7 presentation?

8 MR. ANTON: This is introduction.

9 MR. SMITH: Okay, all right, I'm sorry.

10 MR. ANTON: Environmental Law and Justice
11 Clinic has been an entity at the Law School at Golden
12 Gate since 1994 as a training ground for the next
13 generation of social justice advocates and to work to
14 serve underserved communities in the San Francisco
15 area and beyond. And they are the ones that have
16 assisted Greenaction in bringing this petition.

17 So, I'm going to make a presentation, and
18 then Steve will cover some of these additional new
19 areas that are unfolding, and then either I'll be
20 open for questions or we can have Tetra Tech go and
21 have questions saved to the end, however you like to
22 do it.

23 MR. SMITH: We'll go over that. Mr.
24 Castleman, did you want to introduce yourself?

25 MR. CASTLEMAN: I don't have anything to

NEAL R. GROSS

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

1 add to what David said. I would just ask a question
2 procedurally, if I may.

3 MR. SMITH: Certainly.

4 MR. CASTLEMAN: Are we, do we have the
5 ability to converse with the lawyers, Tetra Tech?

6 MR. SMITH: They are sitting at the
7 table. I would imagine that's possible. I'd like
8 to point out from the beginning, though, this is not
9 a hearing, it's not a courtroom.

10 It's a meeting to present the petition to
11 the Petition Review Board members, who are going to
12 be looking at this to determine the validity and how
13 we're going to disposition it. So we're not here to
14 present evidence or make counter-arguments. It's
15 just a informational meeting.

16 MR. CASTLEMAN: Okay.

17 MR. SMITH: So that you can provide your
18 point of view and we can ask questions if we have
19 them and vice versa. Okay?

20 MR. CASTLEMAN: I just wanted to know
21 what the rules are, thank you very much. I will
22 address you later.

23 MR. SMITH: Okay. For those dialing into
24 the meeting, please remember to mute your phones to
25 minimize any background noise or distractions. If

NEAL R. GROSS

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

1 you do not have a mute button, this can be done by
2 pressing the keys star 6. To unmute, press the star
3 6 key again.

4 At this time, I'll turn it over to Mike
5 Case, and he can make his introductory opening
6 remarks.

7 MR. CASE: Okay, thanks, good afternoon,
8 everybody. Welcome to the meeting regarding the
9 2.206 petition submitted by Steve Castleman and David
10 Anton. I'd like to first share some background on
11 the 2.206 process.

12 Section 2.206 of Title 10 of the Code of
13 Federal Regulations describes the petition process,
14 a primary mechanism for the public to request
15 enforcement action by the NRC in a public process.
16 This process permits anyone to petition the NRC to
17 take enforcement-type actions related to NRC
18 licensees or licensed activities.

19 Depending on the results of this
20 evaluation, the NRC could modify, suspend, or revoke
21 an NRC-issued license or take other appropriate
22 enforcement actions to resolve a problem. The
23 staff's guidance for the disposition of 2.206
24 petitions requests is in Management Directive 8.11,
25 which is publicly available.

NEAL R. GROSS

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

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

6 And as James said, the meeting is not a
7 hearing, so we're not really judges. We're actually,
8 we're safety regulators. So our primary interest is
9 in safety. But it's not an opportunity for the
10 petitioner to question or examine the PRB on the
11 merits of the issues presented in the position
12 request.

13 No decisions regarding the merit of this
14 petition will be made at the meeting. Following the
15 meeting, the PRB, the Petition Review Board, will
16 conduct its internal deliberations, and the outcome
17 of this internal meeting will be discussed with the
18 petitioner.

19 The Petition Review Board typically
20 consists of a Chairman, that's me, usually a manager
21 at the Senior Executive Service level at the NRC. It
22 has a Petition Manager, James, and a PRB Coordinator,
23 which is Latif, who was introduced earlier. Other
24 members of the Board are determined by the NRC based
25 on the content of the information in the petition

NEAL R. GROSS

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

1 request.

2 The members have already introduced
3 themselves, or really James introduced them for us.
4 As described in our process, the NRC staff may ask
5 clarifying questions in order to better understand
6 the petitioner's presentations and to reach a
7 reasoned decision whether to accept or reject the
8 petitioner's request for review under the 2.206
9 process.

10 I'd like to summarize very briefly the
11 scope of the petition under consideration and the NRC
12 activities to date. On June 27 of 2017, the
13 petitioner submitted an NRC petition under 2.206 in
14 which they requested a revocation of the materials
15 license 29-31396-01 to Tetra Tech EC, Inc.

16 On July 20 of that year, the Petition
17 Manager contacted the petitioners to discuss the
18 petition process and offered them an opportunity to
19 address the PRB. And you requested to address the
20 PRB by, let's see, actually, you wanted to have a
21 meeting, so we arranged that.

22 On January 18, 2018, you provided a
23 supplement to the petition. In February 13 of 2018,
24 you provided a second supplement to the petition, and
25 on July 23, 2018, you provided a third supplement to

NEAL R. GROSS

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

1 the petition.

2 And this will come up, you know, there'll
3 be phone participation down the road, but as a
4 reminder to the phone participants, please identify
5 yourself if you make any remarks, as this will help
6 us in the preparation of the meeting transcript that
7 will be made publicly available.

8 Okay, Mr. Castleman and Mr. Anton, I will
9 turn it over to you and allow you the opportunity to
10 provide any information you believe the PRB should
11 consider as part of this petition. And if you could
12 keep it around 45 minutes, that's good.

13 MR. ANTON: I think I'll be surprised if
14 we go that long.

15 MR. CASE: Okay, great.

16 MR. ANTON: The petition seeks the
17 Nuclear Regulatory Commission to conduct a real
18 investigation into the radiological frauds of Tetra
19 Tech, and we believe the results of that investigation
20 and the investigation we've put forward will warrant
21 the revocation of the license the Nuclear Regulatory
22 Commission has issued to Tetra Tech.

23 The evidence from the current petition
24 warrants revocation of the license, for the evidence
25 establishes criminal activity by Tetra Tech,

NEAL R. GROSS

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

1 warranting the NRC license revocation. It also shows
2 false radioactive data reporting to the government,
3 which also warrants revoking the license.

4 It also shows that Tetra Tech mislead NRC
5 investigators, which also warrants revoking the
6 license. And it also shows Tetra Tech covered up the
7 falsification of radiological data and radioactive
8 cleanup, which also warrants the revocation of the
9 NRC license.

10 Catastrophic results have already existed
11 due to the government, to the Hunters Point community,
12 to the City and County of San Francisco, due to the
13 fraud of Tetra Tech. Desperately need housing, jobs
14 from development, new offices, commercial and park
15 areas have been put at risk and delayed for years due
16 to the fraud of Tetra Tech.

17 The petition was filed June 17. The
18 petition contains documents and declarations.
19 Multiple people in the radiological industry that
20 worked under Tetra Tech submitted declarations.
21 Their evidence shows extensive, longterm fraud in
22 radioactive remediation at Hunters Point by Tetra
23 Tech.

24 Six basic types of radioactive fraud were
25 shown in that original petition. One, fake soil

NEAL R. GROSS

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

1 samples at the direction of management and
2 supervisors, thousands of fake samples, beginning in
3 2016 and continuing for years and years to avoid real
4 radiological cleanup, cutting costs to increase
5 profits.

6 Two, Tetra Tech's management gave
7 directions to discard samples of radioactive material
8 when the samples were radiologically hot, hiding the
9 hazardous radiation to the public in order to cut
10 cleanup costs and increase profits.

11 Three, Tetra Tech's management directed
12 scanning in a false way to hide the high radioactive
13 readings, which also put the health and safety of the
14 workers and the public at risk, for now and for
15 decades and centuries to come.

16 Four, Tetra Tech ordered false building
17 surveys by directing employees to scan at excessive
18 speeds and faking the scans that were actually done.

19 Five, false remediation of soil, with
20 radiologically hazardous soil ending up backfilled at
21 Hunters Point and shipped offsite.

22 One of the things I remember Art Jahr,
23 one of the people who put a declaration in here, Art
24 Jahr is now dead. But one of the things Art Jahr
25 told me, he was a guy who worked in this industry for

NEAL R. GROSS

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

1 over 30 years, and he thought it was a travesty, what
2 was going on at Hunters Point.

3 And he said, you know, when we started,
4 there were about 500 acres of radiologically
5 contaminated area on Hunters Point. When we got
6 done, when we've done this, we've now spread the
7 radioactive contamination all over Northern
8 California. Because it left, much of it left Hunters
9 Point cleared by Tetra Tech when it was still
10 radiologically hot.

11 Tetra Tech has not only made it much worse
12 for Hunters Point, all of Northern California is now
13 concerned about the effects of this fraud.

14 I was at a meeting at the Keller, in
15 Pittsburgh, where the Keller Canyon, which got a lot
16 of this material, realized they had received soil
17 that was radioactive. And the community at Keller
18 Canyon was up in arms and was incredibly worried,
19 because the wind blows over Keller Canyon into the
20 town. The dust, is it radioactive, or is it not?
21 That's the type of damage that's gone on.

22 Six, Tetra Tech altered the portal
23 monitor procedures so hazardous radioactive soil left
24 Hunters Point as soil freed of radioactive
25 contamination. Why? To save costs and increase

NEAL R. GROSS

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

1 profits.

2 Since the petition was filed, the fraud
3 of Tetra Tech conducted over years at Hunters Point
4 has been confirmed by the Navy, the United States
5 EPA, the California Department of Toxics, and the
6 California Department of Public Health.

7 The confirmation of the radiological
8 frauds of Tetra Tech is contained in Navy and EPA
9 parcel reports attached to Petition Supplements 1, 2,
10 and 3. The confirmed fraud of Tetra Tech puts the
11 health and safety of the public at risk for years.

12 The NRC's -- one of the guys I've been
13 working with for years on this, Burt Bowers, continues
14 to like grab me by the collar and say, where is the
15 NRC. Form 3, I was reporting this stuff. They
16 finally forced me to go and read Form 3. And Form 3
17 says the primary responsibility of the Nuclear
18 Regulatory Commission is to ensure that workers and
19 the public are protected from unnecessary exposure to
20 radiation.

21 At Hunters Point, there are a number of
22 forms of radioactive material, including radium-226,
23 which has a half-life of about 1600 years. The fraud
24 of Tetra Tech at Hunters Point would continue for
25 generations, risking health and safety of the public

NEAL R. GROSS

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

1 for untold generations.

2 If it weren't for a few brave people, we
3 wouldn't know it. Thousands of residents are planned
4 to live at Hunters Point, where people will live and
5 work, all put at risk for their health and safety
6 through the fraud of Tetra Tech. Workers at Hunters
7 Point have also been put at risk, not just the people
8 who are going to live there.

9 Workers at Hunters Point have been told
10 areas have been cleaned of radioactivity, and they've
11 been digging sewer lines, water lines. I've been
12 there when they've been waist-deep in soil digging
13 those lines, and they have no idea. They haven't
14 been warned, they've been told it's been cleaned up
15 and it's perfectly fine.

16 And they're taking those work clothes
17 into their trucks and back home, potentially exposing
18 not only themselves but their family and their
19 children. All so they can cut costs and increase
20 profits.

21 Since the initial filing, the Navy, EPA,
22 and State of California have reviewed the data of
23 Tetra Tech for each of the land parcels and buildings
24 that Tetra Tech was paid to radiologically remediate
25 at Hunters Point. Massive fraud and malfeasance by

NEAL R. GROSS

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

1 Tetra Tech has been confirmed by these government
2 agencies from the data review.

3 On December 27, 2017, the United States
4 EPA joined with the California Department of Toxics
5 and joined with the California Department of Health
6 issued a letter review of the data analysis that
7 concluded for Parcel G, the data showed fraud and
8 malfeasance in 94% of the trenches that had been
9 processed, 100% of the backfill installed back into
10 Hunters Point, and 94% of the buildings Tetra Tech
11 supposedly cleaned.

12 For Parcel B, the data review showed that
13 Tetra Tech fraud and malfeasance in 81% of the
14 trenches, 95% of the backfill areas in Parcel B, and
15 94% of the buildings. This report is contained as
16 Exhibit 1 to Supplement Filing 3.

17 The Navy's review of Tetra Tech's
18 scanning and surveys of buildings provides this
19 summary. Quote, The overall conclusion of this
20 initial building radiation survey evaluation is that
21 the surveys have been falsified and cannot be used to
22 support a recommendation for unrestricted
23 radiological release for Hunters Point Naval Shipyard
24 radiologically impacted buildings. Surveys have been
25 falsified.

NEAL R. GROSS

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

1 The initial petition filed in June of
2 2017 alleged massive radiological fraud perpetrated
3 by Tetra Tech at Hunters Point directed by management,
4 enforced by supervisors, and carried out by employees
5 and subcontractors, due to the insistence of Tetra
6 Tech.

7 Since the filing, the Navy, the United
8 States EPA, and California have undertaken extensive
9 efforts to confirm or refute the allegations of
10 massive radiological fraud at Tetra Tech. Working
11 on this, I actually believed the Navy did these
12 reports to show we were wrong, and it turned out that
13 it wasn't that.

14 The reports generated by the review
15 confirmed there has been massive radiological fraud
16 by Tetra Tech that would have put the health and
17 safety of workers and the public at risk for over a
18 thousand years to come due to the long life of
19 hazardous radioactive contamination down at Hunters
20 Point.

21 Tetra Tech cheated, leaving radioactive
22 hazards, putting the lives of workers and the people
23 who will live on and around Hunters Point at risk,
24 all to capture unearned corporate profits and
25 bonuses.

NEAL R. GROSS

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

1 In addition to the reports of the Navy,
2 EPA, and California that have concluded Tetra Tech
3 falsified radiological reports, the United States
4 Attorney General has taken action that further
5 confirms the radiological fraud. At present, two
6 supervisors at Tetra Tech have pled guilty to criminal
7 charges and were imprisoned.

8 Having admitted they engaged in
9 radiological fraud due to the direction and pressure
10 of top Tetra Tech management, Tetra Tech supervisor
11 Stephen Rolfe informed the court in sentencing that
12 he engaged in and ordered the fraud, stating, quote,
13 My motivation came from pressure applied by Tetra
14 Tech supervisors, unquote.

15 In the years since this petition has been
16 filed by Greenaction with the Nuclear Regulatory
17 Agency, the Nuclear Regulatory Agency has been
18 silent. Since the petition was filed, none of the
19 individuals that submitted declarations have been
20 interviewed by the NRC.

21 Individuals identified in the petitions
22 as individuals with knowledge of the radiological
23 fraud of Tetra Tech have not been interviewed by the
24 NRC. The Navy, EPA, and California reports examining
25 Tetra Tech's data do not site that the NRC has

NEAL R. GROSS

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

1 assisted in those data examinations.

2 Many of the individuals who have
3 submitted declarations to support this petition had
4 believed in the NRC to be effective in oversight of
5 those companies granted an NRC radiological license.

6 Since the first of these individuals
7 contacted the NRC about radiological frauds by Tetra
8 Tech in 2011, these individuals lost faith in the NRC
9 due to the lack of diligence in the investigation,
10 ineffective oversight, and the failure of the NRC to
11 take steps necessary to learn the truth that Tetra
12 Tech engaged in massive radiological fraud that put
13 the public's health at risk.

14 The license of the NRC is a privilege.
15 The petition and the supplements the petition contain
16 reports by the Navy, EPA, California, and the criminal
17 convictions of Tetra Tech supervisors all demonstrate
18 revocation of the NRC license is warranted.

19 Tetra Tech has demonstrated a total
20 disregard for established radiological procedures, it
21 has engaged in a systematic pattern of falsification
22 of reports, and it has knowingly placed the public's
23 health in jeopardy for hundreds of years to come.
24 This is a very serious dereliction of the duty
25 entrusted to Tetra Tech by the NRC when it granted

NEAL R. GROSS

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

1 Tetra Tech an NRC license.

2 The NRC has a duty to step forward and
3 conduct a comprehensive investigation of the
4 fabrications and radiological frauds of Tetra Tech.
5 The NRC is the nation's guardian of radiological
6 safety. The NRC cannot continue to stand on the
7 sidelines of the investigation of Tetra Tech.

8 The industry and the public is watching
9 whether the NRC will take real enforcement action in
10 the face of massive corporate radiological fraud by
11 Tetra Tech. NRC revocation of the Tetra Tech NRC
12 license is both an appropriate sanction for Tetra
13 Tech's fraudulent conduct, and is necessary to deter
14 others holding an NRC license from engaging in
15 radiological fraud for profit.

16 Tetra Tech has submitted a response to
17 the petition that shows Tetra Tech is not to be
18 trusted to retain the license. Tetra Tech continues
19 to deny its corporate fraud, has presented excuses
20 for the fraud that must be rejected by the NRC, and
21 has attacked those who have come forward.

22 Tetra Tech, one of their defenses is not
23 our license, the wrongs were before Tetra Tech's
24 license was invoked. That's one of the things they
25 claim. Tetra Tech raises its misguided defense,

NEAL R. GROSS

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

1 claiming that frauds prior to 2009, that Tetra Tech's
2 management directed, should not be considered grounds
3 to revoke the NRC license.

4 Tetra Tech invoked its license, existing
5 license, in the spring of 2009. Prior to 2009, the
6 evidence submitted with the petition establishes that
7 Tetra Tech managers engaged in fraud that put workers
8 and the public health at risk. The evidence shows
9 longterm history of corporate fraud by Tetra Tech,
10 supporting revocation of the license.

11 For 2006 and 2007, the petition shows
12 evidence that at Hunters Point they used a conveyor
13 belt system. They put soil on a conveyor belt, went
14 under sensors, and if the sensors alarmed, they
15 removed the radioactive soil. It was done on a place
16 they call Parcel E, an incredibly contaminated area.

17 When they were running it, it alarmed a
18 lot. And Burt Bowers informed, and it's in the
19 declaration that Burt Bowers informed them, hey,
20 we're having to pull so much soil out and it's taking
21 so much time, we're at 80% of our budget and we're
22 nowhere near 80% done.

23 Declaration for Robert McLean shows that
24 Tetra Tech management went and sped up the belt. And
25 when the rad workers tried to keep that from

NEAL R. GROSS

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

1 happening, they then set up a cage and locked the
2 belt guide so that the rad workers couldn't put it to
3 the correct speed, so it would run fast. Tetra Tech
4 management did that.

5 And as a result, the conveyor belt system
6 was ineffective. When it was discovered, when some
7 of these workers pushed and went to the Navy over
8 Tetra Tech's head in late 2006, there was a huge pile
9 of this soil that had been improperly processed. A
10 lot had already gone off Hunters Point.

11 And why did it go off Hunters Point? It
12 was contaminated with PCBs, so it wasn't going to go
13 back and spill. But it went all throughout Northern
14 California to dumps Class I and II Class dumps and
15 other places. There's no record. We've been trying
16 to get the records, the Navy's been trying to get the
17 records, it's a nightmare to figure out where the
18 heck that radioactive soil went.

19 But when those guys went over Tetra
20 Tech's head and talked to the Navy and got somebody
21 to say, oh, this is going too fast, and there are
22 memos about this in the record. What do they do?
23 Tetra Tech says, We'll put Justin Hubbard in charge
24 of it.

25 And what does Robert McLean say when

NEAL R. GROSS

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

1 Justin Hubbard's put in charge of it, he has these
2 massive scoops. And oh, you go scan four-foot deep
3 soil, and if you can't find anything, it's clean.

4 And the rad techs object, saying wait a
5 second, our sensors can only go four, five, six
6 inches. They can't pick up stuff three or four feet
7 deep. They don't care, that soil gets processed and
8 that goes off Hunters Point as clean soil. Tetra
9 Tech management was directing those frauds and
10 improper processing in 2006 and 2007.

11 What is the response to this by Tetra
12 Tech? It's two. One, it's not our license. Two,
13 oh, Anthony Smith, he wasn't around, he just heard
14 about it. Well, sure, Anthony Smith, they seem to
15 attack Anthony Smith. But Robert McLean's
16 declaration is right there. Burt Bowers's
17 declaration is right there, establishing all of this.
18 And there's documents.

19 They've become obsessed with attacking
20 Anthony Smith. Why? Because he's the one who really
21 blew the lid off this, and they can't that off their
22 chest.

23 But the facts are the NRC position over
24 the years has consistently been that a licensee is
25 responsible for the conduct of its subcontractors.

NEAL R. GROSS

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

1 And it's a proper basis, and the NRC has held, it's
2 a proper basis to revoke a license if a licensee isn't
3 properly managing its subcontractors. In 2006 and
4 2007, that's exactly the situation.

5 Also, Tetra Tech's response ignores the
6 massive systematic fraud Tetra Tech directed from
7 2009 to 2016 under its own license. They ignore it
8 in the response. The reports show massive fraud from
9 2009 to 2016 that the Navy, the EPA, and the state
10 reviewed.

11 Supervisors now in prison confessed that
12 they personally engaged in the fraud in 2012 and 2016,
13 with Supervisor Rolfe stating to the federal court
14 the frauds were due to the pressure of Tetra Tech
15 management. The admitted fraud of Hubbard and Rolfe
16 were under Tetra Tech's NRC license.

17 Tetra Tech also claims in their defense
18 to this petition that there's nothing new, the NRC
19 has known this all along. So turn a blind eye, you've
20 already looked at it, you dealt with it years ago.
21 However, the petition presents new frauds, new scope
22 of the frauds, and presents Tetra Tech's management
23 direction of the fraud, all of it new to the NRC.

24 The new information in the petition
25 includes extensive information from ex-employees on

NEAL R. GROSS

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

1 the six basic types of rad fraud that I mentioned
2 earlier, and that the rad fraud continued for years
3 at the direction of top management. If you look at
4 the NRC's prior work, it didn't know about any of
5 that.

6 The NRC was fooled by Tetra Tech into
7 thinking the fraud was short-term, isolated, and done
8 by rogue employees, rather than at the direction of
9 Tetra Tech's management. The petition presents new
10 evidence of the data review conducted by the Navy,
11 EPA, and California showing massive fraud by Tetra
12 Tech in every phase of the remediation work at Tetra
13 Tech that Tetra Tech was hired to perform under the
14 NRC license.

15 Additionally, the NRC investigators,
16 Marissa and a few others that were involved, got
17 hoodwinked. They talked with Tetra Tech management,
18 you see that this was a concerted fraud by Tetra
19 Tech's management, and they continued the fraud when
20 they were being interviewed and talked with by the
21 NRC investigators and inspectors. You got
22 hoodwinked. You have a chance to do it right.

23 Tetra Tech responds to attack those who
24 reported. Tetra Tech has engaged in the traditional
25 defense of guilty parties, attack those who report

NEAL R. GROSS

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

1 their own wrongful conduct. Tetra Tech smears Mr.
2 Smith, the person who blew the lid off this when he
3 went forward and said, I was part of a team that
4 cheated and here's how we did it.

5 They attacked Mr. Smith using his trouble
6 paying child support 15 years ago, well before he
7 ever worked at Hunters Point. They also attacked,
8 used allegations of his assaulting his girlfriend
9 years after he worked at Hunters Point and years after
10 he had gone to the NRC and the US Attorney and
11 reported this in 2015. Those issues with his
12 girlfriend don't exist for another two years.

13 However, one of the things you sometimes
14 you need to know who you can use to pull your cons.
15 Mr. Smith, a poorly educated man from Georgia, this
16 was the best job he ever had in his life. He was
17 getting over 25 bucks an hour and 150 bucks a day as
18 a non-taxable per diem. And that was going to go for
19 years, rather than the jobs where you hop from decon
20 work at plant to plant every three or six months. He
21 was there for years.

22 Tetra Tech knew who he was and they used
23 him to do the cheating. Many of the people you'll
24 see that were the team that did the primary cheating,
25 these were best jobs they ever had. They have low

NEAL R. GROSS

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

1 education backgrounds, they knew who to be their
2 patsies. Now they attack the person that they, one
3 of the key people they relied on to have their fraud
4 happen.

5 And if he hadn't come forward and a few
6 others, Tetra Tech would have skated. Tetra Tech
7 points out a few things with Mr. Smith. They attack
8 his reporting on 351A, something he was personally
9 involved in, where he was directed to get rid of high
10 level radioactive samples so that they wouldn't have
11 to incur further costs.

12 Tetra Tech's attack on his, Mr. Smith's,
13 reporting about 351, is baseless, offbase, and the
14 facts presented by Mr. Smith are not contested by any
15 evidence Tetra Tech presented. Either Tetra Tech
16 does not understand the documents they put forward,
17 or Tetra Tech is continuing its fraud now before the
18 NRC.

19 Mr. Smith's declaration alleges that a
20 vacuum truck had been hired by Tetra Tech and used
21 with a large labor crew to use the vacuum truck
22 sucking soil from a crawl area under a large building
23 where there'd been radioactive material found.

24 Mr. Smith says he was told by management
25 they didn't want to incur the vacuum truck yet again

NEAL R. GROSS

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

1 after Tetra Tech thought it had used it twice and
2 thought it should have been enough. To avoid the
3 further expense of the truck and related crew, Tetra
4 Tech management ordered Smith to get rid of a sample
5 that came out way too radiologically hot.

6 It was going to require the whole thing
7 to be done all over again. They didn't want to incur
8 that cost. You see, Tetra Tech puts in the bills.
9 They only put in the bill for the truck, they don't
10 show you how much the 12 laborers cost each time they
11 did it. They don't show you how much the rad techs
12 overseeing the laborers cost. We estimate it's about
13 \$75,000 a shot. And they wanted to avoid that once
14 again.

15 Tetra Tech's documents do nothing to
16 refute this evidence. Smith had no hurdle getting
17 the hot sample to dispose of. Management simply gave
18 Smith the sample to get rid of. They think it's a
19 big deal. Management didn't want this, they wanted
20 him to get rid of it, they gave it to him.

21 Tetra Tech also fails to recognize that
22 the fraud engaged in under Building 351 was corporate-
23 directed. Tetra Tech's engineers knew of the fraud,
24 were part of the fraud, put up flags to mark where
25 the non-rad soil was so Smith would get a clean

NEAL R. GROSS

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

1 sample, not coming back hot, rather than a
2 contaminated sample.

3 Tetra Tech employees did actions to
4 further the fraud that it ordered by Tetra Tech's
5 management, placing flags to avoid the rad
6 contamination, disposing of the hot soil samples, and
7 taking false samples to hide the existing radioactive
8 contamination. It's all part of the scam directed
9 by management.

10 The real evidence is that there was a
11 profit motive for this sampling fraud, contrary to
12 Tetra Tech's claim. It is true, as Tetra Tech puts
13 in its response, that Tetra Tech was allowed to bill
14 monthly for some costs that were incurred. But Tetra
15 Tech fails to point out that the contract was a firm,
16 fixed price contract.

17 So if Tetra Tech was able to cut costs,
18 they reaped excess profits. Using the vacuum truck
19 a third time would have cut into profits about
20 \$75,000, all avoided by the fraud. Tetra Tech's
21 management directed to ditch the Building 351A hot
22 soil sample and get a fake clean sample to avoid the
23 vacuum truck once again.

24 Tetra Tech also attacks Mr. Smith's
25 finding, taking up a sample, giving it for background

NEAL R. GROSS

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

1 purposes, and then being told get rid of this one
2 that was taken at Parcel A because it came back hot
3 for cesium two to three picocuries per gram.

4 What does Tetra Tech do? Their response
5 actually supports this. Smith puts in a declaration
6 that he did the cesium sample, and it's true, nothing
7 Tetra Tech presents undermines the truth. However,
8 Tetra Tech claims that it couldn't be true, because
9 cesium-130 samples just never came out that hot.
10 That there was virtually nothing over one picocurie
11 at Hunters Point.

12 That's a response page 22, line 21. But,
13 Tetra Tech presents no evidence to support that claim.
14 It's just something they say in their response.
15 However, the evidence Tetra Tech did submit shows
16 cesium-137 samples were reported in soil just a few
17 hundred yards from the Parcel A location at about two
18 picocuries per gram range, exactly what Mr. Smith
19 said.

20 Where did they do this? Where did they
21 submit this unknowing it undercuts their claim? The
22 evidence is in the one Tetra Tech report that it
23 submits with its opposition, with its response. It's
24 Exhibit 6, it's a report on Building 351A, a building
25 a few hundred yards from the Parcel A sample site.

NEAL R. GROSS

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

1 On page 5-3 of Report 6, Tetra Tech lists various
2 cesium-137 samples taken in late 2008 under Building
3 351A.

4 Sample 282 lists a cesium-137 laboratory
5 result of 1.9930 picocuries per gram, or about as
6 close to two picocuries per gram as you can get. It's
7 kind of like when you go to the gas station and they
8 keep it right underneath, or 1.99. This is 1.993.
9 That's what's in their response after they say this
10 could not have been a cesium sample this hot, because
11 we just never got them.

12 Tetra Tech appears to have tried to pull
13 one over on the NRC in its response, but does not
14 even know what its own reports show. Tetra Tech's
15 own Exhibit 6, that page 5.3, proves that high cesium-
16 137 samples have been obtained at Hunters Point near
17 in time to the sample Mr. Smith took and near in
18 location.

19 There is no fact to raise doubt that the
20 Parcel A sample result was as reported by Tetra Tech
21 supervisor Hubbard to Smith, namely that it was
22 between two and three picocuries per gram.

23 The hazardous cesium-137 sample was
24 covered up. The hazardous cesium-137 sample was
25 taken from an area where there is now a commercial

NEAL R. GROSS

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

1 kitchen producing food for thousands, near where the
2 public walks, picnics, and lives. The health of the
3 public is at risk due to the coverup of Tetra Tech.

4 MR. CASTLEMAN: David, excuse me. You
5 asked me to answer out when we had ten minutes left
6 in our time. I apologize for doing that, but I can't
7 send you a note across the table.

8 MR. ANTON: Okay. Tetra Tech claims that
9 a high cesium lab sample would have resulted in
10 triggering management's notification and a
11 fundamental revision of the scope of the work at
12 Parcel A. Tetra Tech's position fails to recognize
13 that Tetra Tech management wanted the cesium find
14 kept quiet.

15 Tetra Tech's position fails to recognize
16 that Tetra Tech did not want the Parcel A sample
17 revealed because Tetra Tech earlier reported to the
18 Navy that Parcel A was clean and had no radioactive
19 material on it. And they did that in 2003.

20 As a result of Tetra Tech's report,
21 efficient report, the Navy turned over Parcel A to
22 the City of San Francisco a year later in 2004, and
23 the City of San Francisco turned it over to a
24 developer, Lennar Corporation, in 2004.

25 The exposure of the Parcel A cesium-137

NEAL R. GROSS

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

1 hazardous sample had the potential of a massive
2 problem for Tetra Tech and the client of Tetra Tech,
3 the United States Navy. That massive problem is now
4 reality.

5 Tetra Tech mentions the California
6 Department of Public Health. Yeah, they scanned the
7 place, yeah, they found a radium dial, a hazardous
8 radium dial in Parcel A. They say, hey, it's scanning
9 it.

10 But if you look at the actual reports,
11 which they haven't submitted, from the San Francisco
12 Department of Public Health, the work plan for that
13 scan of Parcel A that's been conducted for the last
14 number of months because of this type of problem show
15 that the scanning is not taking place on slopes or
16 hillsides, the scanning is not taking place on areas
17 where there's more than four inches of vegetation.

18 Those are exactly, that's exactly the
19 area where Mr. Smith, in 2016, showed the NRC and
20 others where he took that sample, on a slope with
21 vegetation much more than four inches. It hasn't
22 been checked to date. That's one of the reasons why
23 there's a real need for an investigation by the NRC.

24 Nobody wants, none of the, Navy, and the
25 state agencies and the EPA, I have pushed so much

NEAL R. GROSS

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

1 trying to get anyone to go test and sample that area
2 and no one wants to touch it, because if it turns out
3 hot, it's a nightmare. You've got a commercial
4 kitchen sitting on top of that area.

5 There are other attacks by Tetra Tech,
6 but because of time, I'm going to skim them. Let me
7 try skimming them. One, they attack the building
8 scan. But the Navy just went over the building scans
9 and said, hey, they're a total fraud. They were
10 block-copying stuff from one building scan to the
11 other and manipulating it.

12 You don't need Mr. Smith to show Tetra
13 Tech engaged in the building scan fraud. They
14 confirm that it was done too fast and they confirm
15 manipulation of the data, all the types of stuff that
16 warrant pulling this license.

17 They also attack the chain of custody
18 stuff. That's one of the things, if you folks get
19 serious, you need to look at it. Because there was
20 a massive coordination of chain of custody fraud.
21 The people who were out signing off those, they didn't
22 take the samples where they said because they didn't
23 say it. Somebody else, secretarial staff in the
24 office were writing the chain of custody forms,
25 putting the time and where.

NEAL R. GROSS

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

1 And they were giving them, people walked
2 in and were given a set of samples and chain of
3 custody form and said to sign it. There's no
4 correlation to them having done it, taken the samples.
5 It was probably bogus.

6 Somebody needs to go out there and
7 actually talk to those people and stick the chain of
8 custody forms in front of their face and ask them
9 what really happened, including the women.

10 We have. None of them want to go to
11 prison, so they won't go and put a declaration in
12 there because I can't guarantee them they won't get
13 criminally charged. The NRC talks to them, things
14 might go differently.

15 MR. CASTLEMAN: David.

16 MR. ANTON: I am now turning it over --

17 MR. CASTLEMAN: Excuse me.

18 MR. ANTON: To you, Steve.

19 MR. CASTLEMAN: Thank you.

20 MR. CASE: Can I get a couple questions?

21 MR. CASTLEMAN: Thank you very much.

22 MR. ANTON: Hang on Steve, hang on.

23 MR. CASE: Hang on one second, Steve.

24 MR. ANTON: Hang on, I'm going to be
25 peppered with a few questions.

NEAL R. GROSS

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

1 MR. CASE: No, just a couple of easy
2 ones.

3 MR. ANTON: And it's not taking up your
4 time.

5 MR. CASE: Right, it's not taking up your
6 time. You know, you made reference to the reports.
7 And then you know, the only one I wrote down was
8 Parcel G, but then you went on. Who commissions that
9 report? Or those are Navy reports?

10 MR. ANTON: The Navy, in the first page
11 of the report, says they commissioned them, and they
12 identified five companies that they hired to do the
13 data review and the two companies that they hired to
14 supervise the work. Talk with the Navy, you'll get
15 some detailed information. It's in the, but the five
16 companies stay the same in all the different reports.

17 MR. CASE: Right, okay, that's what I
18 figured. Oh, and then why do we talk about Anthony
19 Smith so much?

20 MR. ANTON: We really don't need to
21 anymore because the Navy reports and the EPA
22 evaluation and the state evaluation of the data and
23 the building evaluation show the massive fraud that
24 Mr. Smith was the first one to point out. So it's
25 all confirmed. He really disappears as a heavily

NEAL R. GROSS

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

1 relevant now. It's all been confirmed, so, by the
2 Navy and the EPA.

3 MR. CASE: Okay, that was it.

4 MR. ANTON: Okay.

5 MR. CASE: So.

6 MR. JONES: This is David Jones, Office
7 of Enforcement, I have one question as well. You
8 made a statement in regards to Tetra Tech, and it was
9 to the point of Tetra Tech said it's not our license.

10 MR. ANTON: Correct.

11 MR. JONES: Could you just elaborate on
12 that, please?

13 MR. ANTON: Sure. In their response,
14 there's a period in the petition that we present
15 information. In 2006 and 2007, the conveyor belt
16 fraud is something we brought up. It was clearly,
17 you know, a scam and done improperly. Tetra Tech,
18 I'm not entirely sure whether they had an NRC license.
19 I believe they did, but they hadn't invoked it.

20 Instead, the Navy RASO had requested many
21 years earlier they use a subcontractor called New
22 World Environmental, who had its own NRC license.
23 And so for, from about 2000 to March 2009, the invoked
24 NRC license at Hunters Point was out of New World
25 Environmental. But they supplied the rad contractors

NEAL R. GROSS

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

1 that Tetra Tech oversaw, and they also supplied a
2 laboratory onsite.

3 One of the things that's interesting
4 about that, in 2009 when that invoking took place,
5 there was a massive turnover, and I'll put this in
6 our Supplement 4, of the Tetra Tech radiological --
7 you have certain people you designate as the ones
8 that are responsible for the license and oversight.
9 Each licensee has those.

10 And I don't why it happened, but it's
11 worth investigating. There was like a domino thing
12 within four or five months. They invoked their
13 license and all the top rad people at Tetra Tech
14 resigned. It's really strange.

15 MR. JONES: Okay. Thank you.

16 MR. CASE: Okay, we're over to you, Mr.
17 Castleman. Thanks for the presentation.

18 MR. CASTLEMAN: Thank you very much.
19 First, I want to thank you all for participating here
20 and for giving us the opportunity to address you.
21 Thank you, Mr. Case, for being Chair, and I
22 particularly want to thank Mr. Smith who has been our
23 contact and has been very helpful throughout.

24 MR. CASE: That's very helpful.

25 MR. CASTLEMAN: I understand -

NEAL R. GROSS

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

1 (Simultaneous speaking)

2 MR. CASE: - calls it a thankless task
3 when he's got one.

4 MR. CASTLEMAN: Yeah, and I interrupted
5 his evening last night, I believe, to get a
6 clarification on the phone system and I apologize for
7 that.

8 You know, this is an extraordinary
9 situation. When we first heard about the
10 radiological fraud, there were some people around
11 here who just didn't believe it. You know, how is
12 it possible that a company would intentionally
13 falsify data, a cleanup company? Data is everything.
14 Data is the holy grail. Without data, you
15 can't prove anything. You can't prove it's clean and
16 you can't prove it's dirty, so data is the key to
17 everything. And who would think that a licensed
18 company like Tetra Tech would create massive,
19 intentional fraud? I mean, it just must have blown
20 everybody's minds.

21 It sort of surprised everybody around
22 Golden Gate University except, he said modestly, me.
23 Why? Because I prosecuted the former master lessee
24 of the shipyard, Triple-A Shipyard for felony
25 hazardous waste dumping and I have followed the

NEAL R. GROSS

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

1 cleanup of the shipyard for, since the IR process in
2 1986, so I have a long history with the shipyard and
3 nothing surprises me anymore.

4 So I don't hold it against the NRC that
5 you got hoodwinked, but I think it's clear that you
6 did, and you have a rare opportunity now to correct
7 that mistake. You made a mistake. You accepted
8 Tetra Tech's self-exoneration as the Navy did, as
9 other regulators did. It was a terrible mistake.
10 People make mistakes. The question is do you correct
11 it?

12 And that's your opportunity now and I
13 would urge you to take advantage of that opportunity.
14 The community is relying on you. We represent
15 Greenaction for Health and Environmental Justice. We
16 represent people who live in that community who are
17 affected directly by the cleanup for years, and years,
18 and years, and have been ignored.

19 When we told the Navy that we had evidence
20 of additional contamination, they didn't want to hear
21 it. There's no way else to put it. They didn't want
22 to hear it. We asked the Navy for the last two years
23 to conduct an investigation and they said, "No, it's
24 not our job," and I asked, "Well, whose job is it?"

25 You know, that's what I want to know.

NEAL R. GROSS

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

1 Whose job is it? If it's not the Navy's and it's not
2 EPA, and it's not the California regulators, and it's
3 not NRC, whose job is that to conduct a realistic,
4 comprehensive investigation? I'd submit it's your
5 job.

6 Now, the only people who have really been
7 investigating this has been Greenaction. We've done
8 that for about a year and a half, two years now.

9 I want you to consider this just for a
10 second. About a dozen second and third-year law
11 students supervised by me, we uncovered more fraud in
12 the last year than the Navy has in six or seven years.
13 How is that possible? How is it possible that they
14 get away with that?

15 Now, you know, nobody wants to
16 investigate this. The Navy won't investigate. The
17 EPA won't investigate although, you know, I will talk
18 about their approach in a minute. The California
19 regulators won't investigate. NRC won't investigate.

20 We are investigating. We continue to
21 investigate and we will, as David said, be providing
22 you with additional information between now and the
23 time of the hearing, and if necessary, we will
24 continue to provide you additional information as
25 long as we can follow the trail. We're not done yet.

NEAL R. GROSS

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

1 So first, Tetra Tech says, "Well, there
2 was only two people that have been prosecuted."
3 Don't believe that. I do not have any inside
4 information. I know the U.S. Attorney who is
5 handling this case. I know him to be a consummate
6 professional. As a consummate professional, he won't
7 discuss it, which I respect.

8 However, we cannot ignore the facts and
9 the facts are that Mr. Rolfe has a cooperation
10 agreement with the U.S. Attorney and then Mr. Rolfe
11 and Mr. Hubbard were sentenced to eight months, which
12 is a very, very light sentence considering the
13 consequences of their felonious conduct.

14 So as a former prosecutor myself, and
15 being familiar with the U.S. Attorney's Office and
16 how it operates, and understanding the circumstantial
17 evidence involved, I think that it is a reasonable
18 inference to believe that there will be additional
19 indictments coming down and I can't tell you when,
20 but I can tell you I think they're coming down, and
21 in fact, I suspect that people from the NRC, and the
22 Navy, and the EPA may already know this. We don't,
23 but we expect it, so that may happen between now and
24 the time of the hearing board.

25 Furthermore, we have done - so that's one

NEAL R. GROSS

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

1 additional issue that may come up before the hearing
2 board that is not currently before you. The next
3 item that will come before you shortly, hopefully in
4 the next couple of weeks, will be what David what
5 talking about which is the fourth supplemental.

6 And the fourth supplemental will include
7 multiple sworn declarations we hope. We have not
8 gotten them yet which is why we're not going to go
9 into great detail, but we expect to have multiple
10 sworn declarations indicating that one of the two
11 parcels that are not subject to the retesting program
12 was contaminated with radioactive material.

13 I mean, there's no mystery here. They've
14 only excluded two areas if you exclude parcel A, and
15 that's parcel 2 and parcel D1, and our information
16 relates to parcel D1, and we expect to have sworn
17 testimony indicating that there were high levels of
18 radiation on the surface and subsurface in a
19 particular location in D1. So we expect to be
20 bringing that to you in the near future.

21 One of the people who we're talking to,
22 at least one, was a member of Justin Hubbard's crew,
23 and all of Justin Hubbard's work is suspect. And the
24 type of fraud that we're talking about is the same
25 type of fraud that has been described before having

NEAL R. GROSS

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

1 taken place by Justin Hubbard's crew, so that's coming
2 down the pike.

3 And as I said before, we are not going to
4 stop this investigation until we're satisfied that we
5 have followed every lead we can or if somebody in the
6 government does a comprehensive investigation.

7 So I just want you to be aware at the
8 time of your recommendation to the hearing about the
9 outcome of this meeting. You will deliberate. You
10 will decide whether to hold a formal hearing. I
11 would like you to keep that in mind. And whether or
12 not we can, whether or not we will have additions to
13 the fourth supplemental, we don't know yet.

14 But you have to understand we are a small
15 clinic at a law school and we do not have the capacity
16 or the authority that you have. You have trained
17 investigators. You have the authority to conduct an
18 investigation. Frankly, if I were you, I'd be pretty
19 pissed off because you have been used and you have an
20 opportunity to clear that up.

21 So I think it's clear that we have
22 established enough facts to meet the burden of showing
23 that their license should be revoked. 10 CFR 50.100
24 talks about revocation or other enforcement actions
25 for any materially false statements or statement of

NEAL R. GROSS

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

1 fact required of the applicant.

2 I should add false statement in the
3 application or in the supplemental application, or
4 other statement of fact required of the applicant, or
5 because of conditions revealed by the applicant, or
6 a statement of fact, or any report, record,
7 inspection, or other means which would warrant the
8 Commission to refuse to grant a license in the first
9 place are grounds for revocation.

10 I respectfully submit to you that the NRC
11 who would not grant a license to a company engaged in
12 intentional fraud. I also submit to you that the
13 license, I mean that the NRC would not grant a license
14 to a company that covered up its fraud rather than
15 doing what the NRC requires, which is to immediately
16 report it and correct it comprehensively.

17 So I don't think there's any question
18 about the fact that we have established grounds for
19 revocation significant enough to go before the
20 hearing board and present our case.

21 Your website talks about two consistent
22 goals, compliance with regulatory requirements and
23 comprehensive correction of violations. Tetra Tech
24 has not complied. They have not comprehensively
25 corrected their violations.

NEAL R. GROSS

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

1 Let's remember that because of the way
2 they scanned the soil, they actually contaminated
3 more places that might not have been contaminated in
4 the first place.

5 Furthermore, your civil penalties, the
6 least of the penalties, not even talking about the
7 criminal penalties, but your civil penalties lists
8 criteria among which are the severity level of the
9 violation, whether the violation was willful, whether
10 it was significant, and whether the corrective
11 actions were prompt and comprehensive, finally,
12 whether in view of all of the circumstances, it
13 requires the exercise of your discretion, and you
14 don't have to go back to the sanctity of the data.

15 The Navy tried very hard to Tetra Tech's
16 data. If you read their plan, their purpose was not
17 to prove fraud. Their purpose was to validate Tetra
18 Tech's data and they couldn't do it. Ultimately,
19 they had to do what we were telling them to do a year
20 and a half ago which was throw out all the data.

21 So the data is everything upon which the
22 rest of the cleanup rests. Screw around with the
23 data and you have no confidence that there will be
24 cleanup at all to say nothing of there will be cleanup
25 to let future San Francisco residents live there.

NEAL R. GROSS

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

1 So this is a very severe violation, and
2 if you don't believe it, ask the Navy. You know, the
3 head of BRAC PMO talks in our victim impact statement
4 of hundreds, and hundreds, and hundreds of millions
5 of dollars wasted. I don't think NRC can conclude
6 anything other than this was a severe violation if
7 only because of the impact in addition to the data
8 that they have screwed around with.

9 Their violations were willful. We know
10 that. Their violations were very significant. They
11 did not correct their action. They did not report
12 their action. The Navy caught them to their credit,
13 to the credit of whoever it was that found the low
14 potassium. I think that person is a hero, but then
15 the Navy failed to follow up. The Navy wanted to
16 hear that there was no problem. There is a big
17 problem.

18 So the severity, you have the cost and
19 you have the rework that has to be done. In the
20 willfulness, you have the intentional conduct that
21 the two felons who worked for Tetra Tech testified to
22 and we expect more to come. They did not correct
23 their error ever.

24 And in the totality of the circumstances,
25 I think that you have to agree that we have met our

NEAL R. GROSS

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

1 burden for revocation, but you have an additional
2 power here other than revocation and that is that you
3 have the power to do anything else appropriate, take
4 any other enforcement actions, and that is what we're
5 pleading with you to do.

6 The other enforcement actions consist of
7 a comprehensive investigation to find out exactly
8 what happened. Talk to the people who worked at
9 Tetra Tech. Take them through what projects they
10 worked on. It was a very robust incident. Take them
11 through the chain of custody and the other results.
12 Find out what happened.

13 Our clients rely on you. You're our last
14 hope. The people in the Bayview Hunter's Point
15 neighborhood have suffered extremely significant
16 health consequences through the years because of the
17 pollution in that neighborhood which the shipyard is
18 contributing to. You should regain whatever trust
19 is available because our community does not trust the
20 Navy. Our community does not yet trust the EPA. And
21 at this point, they do not trust the NRC.

22 Let me finally conclude with what else is
23 coming up and that is the parcel G resampling plan.
24 The Navy has announced publicly that they intend to
25 release it around the end of the month. We're told

NEAL R. GROSS

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

1 that the regulators have already been given it and
2 we're very anxious as to what it looks like.

3 We have some indication from the Navy
4 that they are not going to test all of the soil in
5 all of the trenches. They're going to (telephonic
6 interference) which is unacceptable, but, so that's
7 coming down. The ultimate parcel G work plan is
8 going to come down and we'll see what happens with
9 that. The five-year review is ongoing and we'll see
10 what happens with that, and that includes the
11 radiological component.

12 And in the five-year review, and
13 apparently the last year or more, the EPA has been
14 telling the Navy that it has to redo its calculations
15 to comply with the current standard, and that would
16 be the preliminary remediation goal. There are two
17 of them, one for soils, one for buildings.

18 We have consulted with experts. We are
19 told that if they do that, the cleanup levels will
20 have to be modified significantly lower, and that
21 that should, we think, apply to parcel G as well and
22 all of the parcels. The cleanup standard for soils
23 was likely to be lower. The cleanup standards for
24 buildings was likely to be lowered as well.

25 So the cost of remediation to the new

NEAL R. GROSS

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

1 standard is going to be, I think, significant, and
2 the cost of the remediation in those portions of the
3 shipyard that were actually contaminated by Tetra
4 Tech is going to go up.

5 We do not believe that the Navy can meet
6 the cleanup cost estimates that they have published
7 in their victim impact statement because things have
8 changed and things are going to continue to change.

9 MR. CASE: Okay, Mr. Castleman, if you
10 could wrap up, that would be great.

11 MR. CASTLEMAN: Thank you. I've been
12 told whenever a judge tells me that, I say, "Thank
13 you very much. I am done."

14 MR. CASE: So is that thank you very
15 much, you're done?

16 MR. CASTLEMAN: I am finished. Thank
17 you very much.

18 MR. CASE: Okay, thanks for all of that.
19 Okay, we'll continue on with the agenda.

20 MS. BAER: Could I actually jump in for
21 a moment?

22 MR. CASE: Yes, because we're going to
23 have some questions from the staff at headquarters.

24 MS. BAER: Okay, this is Lorraine Baer
25 in NRC's OGC. Thanks for that presentation, Mr.

NEAL R. GROSS

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

1 Castleman. I just wanted to clarify something. I
2 heard you say a couple of times that there will be
3 issues that will come before a hearing board. The
4 2.206 petition process does not culminate in a
5 hearing.

6 What is going to happen from here is that
7 the PRB members are going to deliberate. We're going
8 to consider the petition and all supplements that you
9 all have submitted. We will decide whether or not
10 to accept the petition for further review, and if
11 it's accepted, it will then result in a Director's
12 decision in which we will explain why it is the NRC
13 is or is not taking further enforcement action, but
14 there is not a hearing.

15 MR. CASTLEMAN: I did know that and I got
16 confused momentarily.

17 MS. BAER: Okay, I just wanted to make
18 sure we were clear. Thanks.

19 MR. CASTLEMAN: Yeah, I thank you for
20 pointing that out.

21 MR. CASE: Okay, are there any other
22 questions from folks, NRC folks at headquarters?
23 Okay, hearing none, how about the NRC folks out in
24 the regions, any questions?

25 MR. BICKETT: No thanks.

NEAL R. GROSS

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

1 MR. CASE: Okay, now we'll open it up to
2 questions from the licensee, and so we had you
3 penciled in for 10 minutes, so I don't know how that's
4 fitting into your plans, but see if you can
5 accommodate us.

6 MR. SMITH: Did you want to wait for Mr.
7 Anton?

8 MR. CASE: Oh, yeah, that's a good idea.
9 Okay, he's back, excellent. Okay, Mr. Anton is back.
10 You only missed a question from Lorraine clarifying
11 that this does not culminate in a hearing, so she
12 sort of went through the steps of what the Petition
13 Review Board will do.

14 MR. ANTON: All right.

15 MR. CASE: And we just, and so we did -
16 no further questions from headquarters. No further
17 questions from the regional staff, and now we're going
18 to hear from the licensee.

19 MR. ANTON: Great.

20 MR. JENSEN: Thank you. So may I address
21 the Board or am I addressing the licensee?

22 MR. SMITH: Great question.

23 MR. CASE: You can address either.

24 MR. JENSEN: Okay, I'll address the Board
25 then.

NEAL R. GROSS

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

1 MR. CASE: Okay.

2 MR. JENSEN: So thank you for giving us
3 the opportunity to make this presentation. I will
4 be brief.

5 MR. CASE: Okay.

6 MR. JENSEN: And I want to focus on facts
7 here and not on rhetoric and not on speculation, and
8 I want to focus on the purpose as to why we're here,
9 which is to determine whether the NRC should go
10 forward with a full review of this petition.

11 And the management directive 8.11
12 specifically says that the Board should reject a
13 petition where there are issues that have already
14 been subject to review by NRC staff and to which
15 resolution has been achieved, and petitioner has
16 admitted in its presentation that we are in that
17 situation here.

18 They simply disagree with the outcome of
19 NRC's investigation. They claim that NRC has been
20 hoodwinked, but in fact, you know, everything that's
21 happened since the NRC concluded its investigation in
22 2016 confirms that those conclusions were correct.

23 The NRC identified two low level Tetra
24 Tech employees that had conducted fraudulent soil
25 sampling at Hunter's Point. Those violations were

NEAL R. GROSS

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

1 identified in 2012 by the Navy. Tetra Tech addressed
2 those, investigated them, corrected them with the
3 Navy's involvement and oversight.

4 Those individuals were disciplined.
5 Those individuals were, pleaded guilty to and were
6 sentenced for fraud in Federal District Court, and
7 tellingly, in pleading guilty in their plea
8 agreements, there is no Tetra Tech management
9 identified in those agreements. There has been no
10 prosecution of Tetra Tech management.

11 There has been no cover up by Tetra Tech,
12 and simply put, all of the allegations that you've
13 heard today about involvement by Tetra Tech
14 management are false. They were rejected by the NRC
15 in the prior investigation, and rather than
16 participate in that investigation, petitioner has
17 come here and asked for a do-over.

18 To address some of the specific
19 allegations that petitioner made, first regarding the
20 conveyor belt speeds, so there was an issue with
21 conveyor belt speeds identified in 2006. Again, this
22 was why New World Environmental's license was
23 operative at the facility and not Tetra Tech EC's.
24 That issue was corrected with the Navy's knowledge
25 and oversight.

NEAL R. GROSS

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

1 The allegation that somehow radioactively
2 contaminated waste was spread to landfills is
3 completely unsupported. There is no evidence or data
4 to support that allegation.

5 Petitioner referred several times to
6 NRC's role and mission here, and I think part of your
7 role in this process should be to stand as a bulwark
8 against this kind of fearmongering, this kind of
9 speculative desire to spread fear about proper
10 radiological waste management practices in the Bay
11 Area.

12 MR. CASE: Okay, my ever helpful attorney
13 says that, you know, the purpose of our interaction
14 is to clarify. So in as much as you can stick to
15 clarifications of sort of the petition that's before
16 us, that would be helpful.

17 MR. JENSEN: Okay, yes, I certainly can.
18 So I would like to address the Navy reports, and these
19 will be in the vein of clarifying.

20 So just so that the NRC understands what
21 was done in those reports, the Navy hired a series of
22 consultants, a group of consultants. It prepared
23 five reports analyzing data from the site. These
24 consultants came up with a series of tests. One set
25 they called logical tests.

NEAL R. GROSS

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

1 One set they called statistical tests.
2 The logical tests looked for things like when a sample
3 was collected and when it was analyzed. The
4 statistical tests looked at things like the
5 distribution of data, and the numbers that petitioner
6 cite are based on the failure of those tests.

7 There's nothing in the construction of
8 those tests that indicates a sample is collected, was
9 fraudulently collected. For example, with the
10 distribution, one obvious explanation of multiple
11 distributions of data at this site is this site is
12 built on fill. The soils are very heterogeneous.

13 The Navy's reviewers didn't account for
14 this in designing their test, and as a consequence,
15 they don't, in fact, conclude in any of these reports
16 that there was actual data fraud committed by Tetra
17 Tech or anybody else at the site. They cite potential
18 data falsification or manipulation or potential
19 evidence of data falsification or manipulation.

20 These are not a statistically rigorous
21 approach to attempting to identify actual evidence of
22 fraudulent conduct at the site.

23 MR. CASE: Okay, just to connect the
24 dots, so the series of reports all use the same
25 methodology?

NEAL R. GROSS

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

1 MR. JENSEN: There are, all of the
2 reports for the soil sampling is the same methodology.
3 There's a separate report for the building scans that
4 uses a different methodology.

5 MR. CASE: Okay.

6 MR. HOPSON: And I would add that these
7 are draft reports that have not actually been issued
8 by the Navy. They were, I believe, leaked, and
9 Greenaction published them on their website, so the
10 Navy had never intended these reports in that form to
11 be released or shared with the public because they
12 had undergone rigorous review which we think would
13 have resulted in very different results and
14 conclusions.

15 MR. JENSEN: Okay, you also had a
16 question about why there was a focus on Anthony Smith.
17 So part of the reason there is more of a focus on
18 Anthony Smith is unlike the other declarants, he has
19 not previously filed a complaint with the NRC. All
20 of the other declarants have already filed complaints
21 with the NRC.

22 Those complaints were investigated and we
23 discussed the conclusions of the investigations
24 earlier. So Mr. Smith's allegations are to some
25 extent duplicative of those, but in any event, he is

NEAL R. GROSS

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

1 a new declarant, so that explains the focus on Mr.
2 Smith.

3 I'd also like to clarify some of the
4 comments about the work done on parcel A. So parcel
5 A is the portion of the site that has been released.
6 It has been in part to be developed for housing.

7 Tetra Tech did extremely limited
8 remediation work on parcel A and that's because the
9 Navy largely concluded that parcel A, with
10 collaboration of other regulators largely concluded
11 that parcel A had not been used historically for
12 radiological purposes and was free of radiological
13 and contamination.

14 That decision was made by the Navy and by
15 U.S. EPA and not by Tetra Tech, and in fact, there's
16 no reason to think that decision is incorrect right
17 now. The Navy, the California Department of Public
18 Health have all consistently made clear that in their
19 view, that parcel A is safe.

20 The California Department of Public
21 Health is in the process of retesting parcel A. We
22 believe that those retesting results will confirm the
23 views that the Navy, that U.S. EPA, that California
24 Department of Public Health have taken.

25 And I think it's telling here that we're

NEAL R. GROSS

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

1 not talking about New World Environmental's
2 radiological license. Almost all, in fact, all of
3 the conduct here started under New World
4 Environmental's license.

5 The individuals who submitted these
6 declarants were all connected to New World
7 Environmental and all of the conduct that's traced
8 back to New World Environmental was corrected when it
9 was identified by Tetra Tech.

10 So we're sitting here in a situation in
11 2018. The work has been completed on the site, was
12 completed on the site in 2016. Tetra Tech has taken
13 measures to rectify the problems that were identified
14 in 2012 and documented in a 2014 report.

15 The NRC thoroughly investigated the
16 allegations and completed its investigation in 2016,
17 and then we're sitting here in 2018 after all of this
18 is done and asking to reopen the investigation. I
19 don't think it's appropriate under management
20 directive 8.11 to revisit these issues that have
21 already been litigated.

22 MR. CASE: Okay, thanks.

23 MR. SMITH: Mr. Hopson, did you have
24 anything you wanted to add?

25 MR. HOPSON: No, nothing further.

NEAL R. GROSS

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

1 MR. SMITH: Okay.

2 MR. CASE: Okay, let's see where we're
3 going next. Okay, so now we'll go to the members of
4 the public part, and before I conclude the meeting,
5 the members of the public may provide comments
6 regarding the petition and to ask questions about the
7 2.206 petition process.

8 However, as stated at the opening, the
9 purpose of this meeting is not to provide an
10 opportunity for the petitioner or the public to
11 question or examine the PRB regarding the merits of
12 the petition request. And so we have our first -

13 MR. ANTON: No -

14 MR. CASE: - member of the public.

15 MR. ANTON: I have a question and that
16 is for the public questions, can they go to Tetra
17 Tech and I or is it some other thing in that area?

18 MR. SMITH: In these meetings, the NRC
19 will respond. The licensee does not have to respond.
20 They can choose to do so if they like.

21 MR. ANTON: That's them, right?

22 MR. SMITH: Right, you can choose to do
23 so if you like. As far as I know in public meetings,
24 the NRC is obligated to try and respond to the best
25 of our ability, but you're here in a voluntary status,

NEAL R. GROSS

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

1 so you're not required to respond.

2 MR. ANTON: Could I make two very brief
3 comments?

4 MR. KLUKAN: This is Brett Klukan from
5 Region I. Can you hear me?

6 MR. SMITH: Brett?

7 MR. KLUKAN: Yes, I wanted to ask a
8 question to Tetra Tech before we moved onto the public
9 comment.

10 MR. CASE: Okay, fire away.

11 MR. SMITH: Okay.

12 MR. KLUKAN: Sure, it's real quick. You
13 make an assertion a couple of times in your
14 clarification that much of the activity raised by the
15 petitioners occurred before Tetra Tech invoked its
16 license and hence should be outside, and I'm
17 paraphrasing here, outside the scope of the NRC's
18 consideration.

19 I'm just trying to understand upon what
20 precedent, either NRC regulations, Commission
21 guidance, or Atomic Safety and Licensing Board,
22 whether that or the Commission, upon which you're
23 basing that conclusion that such matters occurred
24 before the invocation, putting that in quotation
25 marks, of your license will be outside of the bounds

NEAL R. GROSS

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

1 for NRC consideration?

2 The reason I raise it, were that true, to
3 be held true, how then would the NRC evaluate the
4 trustworthiness and responsibility of new applicants
5 who had never had a previous NRC license in terms of
6 their trustworthiness and responsibility? I'm just
7 trying to understand upon what precedent you're
8 basing that assertion.

9 MR. JENSEN: So this kind of license
10 revocation procedure is relatively rare, but we are
11 talking about licensure here, and the relevant
12 conduct to identifying whether Tetra Tech's license,
13 Tetra Tech EC's license should be revoked, it should
14 be limited to the period that is occurring during the
15 period that it held its license. This is a license
16 revocation procedure.

17 Apart from that, if you're looking to
18 assign culpability for misconduct that occurred
19 before March of 2009, New World Environmental was the
20 licensee. New World Environmental employees are the
21 sources of the allegations made in the petition, not
22 conceding at all that they're true, but those are the
23 sources.

24 And so as far as the scope of evidence
25 that is to be considered, I think it's entirely

NEAL R. GROSS

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

1 appropriate to look at events that occurred after
2 March 2009 when determining whether there was a
3 violation of a condition of Tetra Tech's license.
4 Tetra Tech's license was not invoked at the site
5 before then, so it could not have been violated.

6 MR. KLUKAN: Okay, so you're saying that
7 this is, and again, just for the transcriptionist,
8 you're saying the prudential matter in terms of, or
9 equity so to speak, it wouldn't be equitable to look
10 back at the events.

11 But based on your answer, I didn't hear
12 anything in terms of we are prohibited from looking
13 at that under the Commission's rules its guidance
14 related to enforcement actions, or when necessary, to
15 issue orders for securing public health and safety.
16 Is that correct?

17 MR. JENSEN: I think at very least as a
18 prudential matter.

19 MR. KLUKAN: Okay, thank you. That's
20 it. Thanks. I appreciate taking the time out to let
21 me ask that question.

22 MR. CASE: Okay, I'm going to put James
23 in charge of trying to put a little order into the
24 public -

25 MR. SMITH: The next person, Mr. Anton

NEAL R. GROSS

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

1 was next. You had two points you wanted to make?

2 MR. ANTON: It just went to three.

3 MR. SMITH: Okay.

4 MR. ANTON: Counsel for Tetra Tech
5 mentioned the drafts that were done by the Navy, and
6 it's correct. They came out as draft reports. We
7 do know that one of them was reviewed by the EPA in
8 the state and December 27, 2017, they gave their
9 comments and the like.

10 And what we do know is that when the
11 reports were all completed, the Navy publicly stated
12 in conjunction with the EPA that they concluded that
13 the data was so unreliable that they were going to
14 not rely at all on any of Tetra Tech's data over the
15 many years they worked there and they weren't going
16 to complete the drafts because why spend all that
17 time when they already know the answer, so that's one
18 thing.

19 Second mentioned, why aren't we talking
20 about New World Environmental and their license also?
21 New World Environment went under after the President
22 of New World Environmental talked to the press and
23 said Tetra Tech's processing was wrong, dangerous,
24 and was risking the health and safety of the public.
25 They no longer got any work. They folded up and

NEAL R. GROSS

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

1 they've blown away. You know, there's no - it's
2 gone.

3 One of the things just mentioned on this
4 question by, I think, Region I, was about the license,
5 and if we're going to get real technical, you might
6 want to ask when did Tetra Tech get its license? You
7 know, now you're looking at different things.

8 I mean, they're trying to say, "Well, we
9 didn't invoke a license when all this cheating
10 happened, when our managers had the subcontractors
11 cheat." Well, were you sitting with a license?

12 MR. JENSEN: So I don't think, I don't
13 know the exact date that the license was obtained,
14 but they did not have one when the work began at
15 Hunter's Point. They began the process of obtaining
16 one when it became clear that New World was not
17 working out.

18 MR. ANTON: Yeah, from my work, and I'm
19 not certain on this, I believe it's 2007 when they
20 applied for an NRC license and got one and then took
21 a while to invoke it. That's what I understand. You
22 guys can correct the record later when you know what
23 the real deal is. But it seems a little odd to say,
24 "We've got a license, but don't talk about taking
25 away our license when we're cheating because, hey, we

NEAL R. GROSS

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

1 didn't invoke it. We used somebody else's," just a
2 point.

3 One last thing, Steve, you're going to
4 have to take over for me if anybody wants to know
5 anything from the petitioner's standpoint. I got to
6 catch a flight.

7 MR. CASTLEMAN: Okay, I will attempt.
8 Have a good flight.

9 MR. ANTON: Thank you, gentlemen. Nice
10 meeting you.

11 MR. SMITH: Okay, Steve, can you escort
12 Mr. Anton?

13 MR. ANTON: Unless someone here or there
14 has a question that they know is for me, I'll handle
15 that and then I'll go.

16 MR. SMITH: We have gone through the NRC.
17 We've gone through the licensee and the petitioner.
18 Is there anyone - I know EPA was on the line. Do you
19 have any questions for Mr. Anton before he leaves?
20 Okay, I know there were two people from the Navy.
21 Did you have any questions that you want to ask Mr.
22 Anton before he leaves?

23 MR. MACCHIARELLA: No, thank you, sir.

24 MR. SMITH: Okay, the members of the
25 public, was there anyone in particular who'd like to

NEAL R. GROSS

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

1 ask a question of Mr. Anton? Okay, not hearing
2 anybody, have a safe journey.

3 MR. ANTON: Thank you.

4 MR. CASE: Thanks so much for coming.

5 MR. SMITH: Okay, aside from Mr. Anton,
6 would any of those individuals from the Navy, EPA, or
7 members of the public like to ask another question?
8 Okay, I'm not hearing anything. Before we close, I'd
9 like to thank Mr. Anton and Mr. Castleman for coming
10 on board to -

11 MS. ANDREWS: Hello?

12 MR. SMITH: Hello?

13 SPEAKER: Excuse me. Excuse me.

14 MS. ANDREWS: Hello? Excuse me, hello?

15 MR. SMITH: Yes?

16 MS. ANDREWS: I'm Susan Andrews. Am I
17 allowed to say something?

18 MR. SMITH: Yes, ma'am, you are.

19 MS. ANDREWS: All right, in my petition,
20 I do believe that I was complaining about actions
21 about Tetra Tech while they had the license, so it
22 was after New World had left and it was during Tetra
23 Tech's time, and I do believe Burt Bowers and Archie
24 Jackson are the same. So there are concerns after
25 whatever you're saying they invoked. They had their

NEAL R. GROSS

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

1 license.

2 We were told what to do by them, not by
3 New World, when we were employed by New World. We
4 were under the direction of Tetra Tech. So once they
5 did eliminate New World and they had their own
6 license, our petition is about that and the portal
7 monitor and the trucks leaving with radiation in them.

8 MR. SMITH: Okay, Ms. Anderson, you're -

9 MS. ANDREWS: So I -

10 MR. SMITH: Are you a member of the
11 public or are you a former employee of Tetra Tech?

12 MS. ANDREWS: I'm a member of the public
13 and I'm in your petition.

14 MR. SMITH: Okay.

15 MS. ANDREWS: And I was a former employee
16 of Tetra Tech.

17 MR. SMITH: Okay, thank you.

18 MS. ANDREWS: Thank you.

19 MR. CASE: Thanks for that clarification.

20 MR. SMITH: Okay, does anyone else have
21 any clarifications, questions, comments, concerns?

22 MR. CASTLEMAN: Yeah, this is Steve
23 Castleman. Could I ask a question of Tetra Tech,
24 please?

25 MR. SMITH: You may ask. They don't have

NEAL R. GROSS

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

1 to respond.

2 MR. CASTLEMAN: I understand. I
3 understand they don't have to respond.

4 MR. SMITH: Okay.

5 MR. CASTLEMAN: Tetra Tech makes a big
6 deal out of saying that the Navy review of the data
7 and the EPA's review of the data is flawed. You've
8 had that data forever. Why haven't you brought
9 forward any kind of expert analysis of that data to
10 validate it?

11 MR. JENSEN: So we have made comments on
12 the data to the Navy and have suggested ways that
13 they could improve their approach. We have not
14 completed our review of the data in a way that would
15 allow us to validate it.

16 MR. CASTLEMAN: Do you intend to submit
17 that, something to the NRC on that point?

18 MR. JENSEN: I don't expect this
19 proceeding before the NRC to go forward to the point
20 where we would need to submit that because I don't
21 think that management directive 8.11 allows the NRC
22 to accept this petition for a review.

23 MR. CASTLEMAN: All right, will you
24 release it for the public?

25 MR. JENSEN: We haven't made that

NEAL R. GROSS

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

1 decision at this time.

2 MR. CASTLEMAN: Thank you.

3 MR. SMITH: Okay, was there anyone else
4 who had a comment, concern?

5 MR. KEEGAN: This is Michael Keegan in
6 Michigan and I have been following Tetra Tech for a
7 number of years, and I see that there was a notice of
8 violation a couple of years back. It started around
9 \$70,000, then the NRC whittled it down to \$7,000, and
10 then through alternative dispute resolution, they
11 whittled it down to zero dollars.

12 The NRC has been complicit on this. The
13 2.206 process is a joke. You've never found in the
14 favor of anybody who has brought one forward.
15 There's never been a license revoked from a vendor,
16 so the NRC is complicit and what needs to occur is a
17 grand jury investigation and including an
18 investigation of how the NRC has dealt with Tetra
19 Tech and how they looked the other way systematically.

20 Nobody wants to be responsible.
21 Everybody wants this thing to go away and the NRC, I
22 doubt like hell, will do anything about it.

23 MR. SMITH: Thank you for your comments.
24 Before we close, does the court reporter have any
25 additional information you're going to need for the

NEAL R. GROSS

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

1 transcript?

2 COURT REPORTER: Not at this time.

3 MR. SMITH: No? Okay.

4 MR. TAIBI: I think there may be other
5 people that have comments.

6 MR. SMITH: I'm sorry?

7 MR. TAIBI: There may be other people
8 that have comments. I was on the list to make a
9 comment and I was waiting for you to ask if there was
10 anyone else that was going to make a comment.

11 MR. SMITH: I thought I had asked that a
12 couple times, but if there is someone that still needs
13 to make a comment?

14 MR. TAIBI: My name is Guy Taibi. I'm a
15 concerned citizen. I think in the past - a quick
16 comment, for the past 25 or 30 years, I've worked on
17 all sides of this issue. I've been a technical
18 advisor, BRAC radiation safety officer, radiation
19 safety officer for BRAC contractors, site RSOs, RSOs
20 at dump sites. I've been an associate health
21 physicist with the Department of Public Health.

22 The decision by the project managers on
23 these contracts willfully disregard the requirements
24 of their license as well as putting public safety at
25 risk, as well as their employees and the public at

NEAL R. GROSS

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

1 risk, it's a simple risk/reward question. It's what
2 happens if we get caught and what happens if we don't?
3 What's the math? How much are we going to make?

4 So at this point, the math's been very
5 simple. The NRC is now in the position to inform the
6 industry of the potential consequences of being on
7 the wrong side of that decision because the industry
8 is watching. They're watching all over the country
9 what happens here.

10 And the project managers that are getting
11 contracts with BRAC are watching to see how far they
12 can push the line and the NRC is the last blockade to
13 say, "This is where the line in the sand is," so it's
14 truly up to you. The repercussions are what you're
15 going to have to deal with going forward. That's all
16 I'd like to add today.

17 MR. SMITH: All right, thank you.

18 MR. TAIBI: Thank you.

19 MR. SMITH: Is there anyone else who
20 would like to make a comment, express your concerns?
21 Going once, going twice, three times. Okay, with
22 that, the meeting is concluded and we'll be
23 terminating the phone connection. Thank you all.

24 MR. CASE: Thanks, folks.

25 (Whereupon, the above-entitled matter

NEAL R. GROSS

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

1 went off the record at 2:58 p.m.)

2

3