

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: 10 CFR 2.206 Petition Review Board (PRB)
Conference Call Re: San Onofre Nuclear
Generating Station Units 2 and 3

Docket Number: N/A

Location: Teleconference

Date: Tuesday, January 21, 2020

Work Order No.: NRC-0774

Pages 1-36

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

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

+ + + + +

10 CFR 2.206 PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

RE:

SAN ONOFRE NUCLEAR GENERATING STATION UNITS 2 AND 3

+ + + + +

TUESDAY

JANUARY 21, 2020

+ + + + +

The conference call was held at 1:00 p.m.,
Kevin Williams, Chairperson of the Petition Review
Board, presiding.

PETITIONER: PUBLIC WATCHDOGS

PETITION REVIEW BOARD MEMBERS

KEVIN WILLIAMS, Deputy Director, Office of
Nuclear Materials Safety and Safeguards
WILLIAM CHRIS ALLEN, Project Manager, Office
of Nuclear Materials Safety and
Safeguards

STEPHANIE ANDERSON, Region IV*

PERRY BUCKBERG, Petition Coordinator for 2.206

NEAL R. GROSS

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

petition

ROBERT CARPENTER, Senior Attorney, Office of
General Counsel

RICHARD CHANG, Project Manager, Office of
Nuclear Materials Safety and Safeguards

ZAHIRA CRUZ, Project Manager, Office of
Nuclear Materials Safety and Safeguards

MARLAYNA DOELL, Office of Nuclear Materials
Safety and Safeguards*

LATIF HAMDAN, Office of Nuclear Materials
Safety and Safeguards

BRUCE WATSON, Office of Nuclear Material
Safety and Safeguards

JOHN WOODFIELD, Office of Nuclear Materials
Safety and Safeguards

NRC HEADQUARTERS STAFF

ANDREW AVERBACH, Office of General Counsel

DAN DOYLE, Office of Nuclear Materials Safety
and Safeguards

PETITIONERS

RANDY GORDON, Barnes & Thornburg (on behalf of
Public Watchdogs)

LUKE WOHLFORD, Barnes & Thornburg (on behalf of

NEAL R. GROSS

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

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

Public Watchdogs)

PAUL BLANCH

ALSO PRESENT

AL BATES, Southern California Edison

DEREK BRICE, Southern California Edison

DONNA GILMORE

MARK MORGAN, Southern California Edison

NEAL R. GROSS

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

P-R-O-C-E-E-D-I-N-G-S

1:01 p.m.

1
2
3 MS. CRUZ: Okay, I would like to thank
4 everybody for attending this meeting. The purpose of
5 today's meeting is to provide the Petitioner, the Public
6 Watchdogs, an opportunity to address the Petition
7 Review Board regarding their petition to suspend all
8 the commissioning activities at SONGS.

9 Can you please mute your lines? Thank you.

10 My name is Zahira Cruz and I am the Project
11 Manager in the Division of the Decommissioning Uranium
12 Recovery and Waste Programs in the Office of Nuclear
13 Material Safety and Safeguards. I am also the petition
14 manager for this petition.

15 The PRB Chairman is Kevin Williams.
16 Deputy Director of the Division of Material Safety
17 Security State and title programs in the Office of
18 Nuclear Material Safety and Safeguards.

19 This is a Category 1 meeting. The public
20 is invited to observe this meeting and will have one
21 or more opportunities to communicate with the NRC after
22 the business portion, but before the meeting is
23 adjourned.

24 I ask that you --

25 PARTICIPANT: Can you speak a little

NEAL R. GROSS

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

1 slower? It's hard to hear you.

2 MS. CRUZ: Okay, I'll try. I ask that you
3 please silence your cell phones at this time as to not
4 interrupt the meeting or any of its speakers.

5 In case of an emergency, please follow the
6 Staff to the appropriate muster location. If any
7 non-NRC Staff need to use the restroom, please remember
8 that an escort is required so please ask one of the
9 Staff.

10 There is a sign-up sheet going around the
11 room. Please fill it out either now or some time before
12 you leave.

13 As part of the PRB's review of this
14 petition, Public Watchdogs has requested this
15 opportunity to address the PRB. The meeting was
16 scheduled to begin at 1:00 p.m. Eastern time.

17 And after introductory remarks, we'll have
18 allowed the Public Watchdogs 35 minutes to address the
19 Board.

20 The meeting is being recorded by the NRC
21 Operation Center and will be transcribed by a court
22 reporter. The transcript will become a supplement to
23 the petition and will be made publicly available.

24 No sensitive or proprietary information
25 should be presented. I'd like to open this meeting

NEAL R. GROSS

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

1 with introductions.

2 As I have stated, the PRB Chairperson is
3 Kevin Williams. I would like the rest of the Petition
4 Review Board to introduce themselves. First at
5 headquarters and then on the phone.

6 Please be sure to clearly state your name,
7 your position and the office that you work for within
8 the NRC, for the record.

9 Again, my name is Zahira Cruz, I am a
10 project manager in the division of the Decommissioning
11 Uranium Recovery and Waste Programs in the Office of
12 Nuclear Material Safety and Safeguards.

13 PRB members on the phone, please introduce
14 yourself. Are you on mute, Stephanie, Marlayna?

15 MS. ANDERSON: All right. This is
16 Stephanie Anderson, health physicist, NRC Region IV
17 Office.

18 MS. DOELL: Marlayna Doell, I'm a former
19 project manager in the Reactor Decommissioning Branch.

20 MS. CRUZ: Okay. So will the Staff
21 present here in headquarters introduce yourself? The
22 PRB Staff.

23 MR. WOODFIELD: John Woodfield, NMSS,
24 Inspections Operation Oversight Branch. I'm an
25 inspector in that branch.

NEAL R. GROSS

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

1 MR. CARPENTER: Robert Carpenter, NRC
2 Office of General Counsel.

3 MR. BUCKBERG: Perry Buckberg, NRC Agency
4 Petition Coordinator.

5 MR. HAMDAN: Latif Hamdan, project manager
6 in the Division of Fuel Management in the Office of
7 Nuclear Material Safety and Safeguards. I'm also the
8 office coordinator for the 2.206 petitions.

9 MR. WATSON: Bruce Watson, and I'm Chief
10 of the Reactor Decommissioning Branch in the Office
11 of Nuclear Material Safety and Safeguards.

12 MS. HOLIDAY: Sophie Holiday, Office of
13 Nuclear Material Safety and Safeguards enforcement
14 coordinator.

15 MR. ALLEN: Chris Allen, project manager,
16 Division of Fuel Management, Licensing Branch.

17 MS. CRUZ: Will any other NRC headquarters
18 participants on the phone please introduce themselves?

19 MR. DOYLE: This is Dan Doyle, acting chief
20 of the Storage Transportation Licensing Branch and
21 NMSS.

22 MS. CRUZ: Is there any participants from
23 the regional offices or any resident on the phone please
24 introduce themselves?

25 Public Watchdogs, can you please introduce

NEAL R. GROSS

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

1 yourselves for the record?

2 MR. WOHLFORD: My name is Luke Wohlford,
3 I'm here with Randy Gordon. We are both with the law
4 firm of Barnes & Thornburg and are Attorneys for the
5 Petitioner, Public Watchdogs.

6 MS. CRUZ: And I think Charles Langley,
7 right? Okay.

8 Is there any representative from the
9 Licensee on the phone that wants to introduce
10 themselves?

11 MR. BATES: Yes. This is Al Bates,
12 regulatory manager representing Southern California
13 Edison. Here with me, I have Mark Morgan from our
14 regulator department, as well as Derek Brice, our legal
15 counsel.

16 MS. CRUZ: Okay. It is not required for
17 the members of the public to introduce themselves for
18 this call, but however, if there are any members of
19 the public on the phone that wish to do so at this time,
20 please state your name for the record.

21 MR. BLANCH: Yes, my name is Paul Blanch.
22 I am a technical expert representing Public Watchdogs
23 on this petition, on technical issues.

24 MS. CRUZ: Anyone else? Okay, so I'd like
25 to emphasize that we each need to speak clearly and

NEAL R. GROSS

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

1 loudly to make sure that the court reporter can
2 adequately transcribe this meeting.

3 If you do so, if you have something to say,
4 please first state your name for the record.

5 For those dialing in to the meeting, please
6 remember to mute your phones to minimize any background
7 noises or distractions. If you do not have a mute
8 button, this can be done by pressing the keys star-6.

9 And to unmute, press again star-6.

10 Thank you. I'll now turn over to the PRB
11 Chairman Kevin Williams.

12 CHAIR WILLIAMS: All right. Welcome to
13 the meeting regarding the 2.206 petition submitted by
14 Public Watchdogs.

15 I'd like to share some background on the
16 NRCs process. Section 2.206 of Title 10 of the Code
17 of Federal Regulations describes the petition process.

18 The primary mechanism for the public to request
19 enforcement action by the NRC in a public process.

20 This process makes anyone to petition to
21 the NRC to take enforcement type action regulated
22 actions to the NRC's licensees or license activities.

23 Depending on the results of its evaluation, the NRC
24 can modify, suspend or revoke any NRC issued license
25 or take any other appropriate enforcement action to

NEAL R. GROSS

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

1 resolve a problem.

2 The NRC Staff's guidance for the
3 disposition of 2.206 petition requests is in management
4 directive 8.11, which is publicly available.

5 The purpose of today's meeting is to give
6 the petitioner an opportunity to provide any relevant,
7 additional explanation for support for the petition
8 after having received the Petition Review Board's
9 initial assessment.

10 This meeting is not a hearing, nor is it
11 an opportunity for the Petitioner or other members of
12 the public to question or examine the PRB on the merits
13 or the issues presented in the petition request. No
14 decisions regarding the merits of this position will
15 be made at this meeting.

16 Following the meeting, the PRB will conduct
17 its internal deliberations. The outcome of this
18 internal meeting will be discussed with the Petitioner.

19 As described in our process, the NRC Staff
20 may ask clarifying questions in order to better
21 understand the Petitioners' presentation and to reach
22 a reason decision on whether or not to accept the
23 Petitioner's request for review under 2.206 process.

24 I would like to summarize the scope of the
25 petition under consideration and the NRC activities

NEAL R. GROSS

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

1 to date.

2 On September 24th, 2019, Public Watchdogs
3 submitted to the NRC a petition under 2.206 regarding
4 concerns about decommissioning activities at SONGS.
5 Specifically, Public Watchdogs requested that NRC
6 immediately suspend all decommissioning operations at
7 SONGS and require the Licensee to submit an amended
8 decommissioning plan to account for the spent nuclear
9 fuel being placed in storage at SONGS.

10 In addition, Public Watchdogs requested
11 that the NRC prepare a supplemental environment impact
12 statement that evaluates site specific environmental
13 issues not addressed in the decommissioning generic
14 environmental impact statement.

15 On December 18th, 2019, the petition
16 manager contacted Public Watchdogs to inform them of
17 the PRB's initial assessment that the petition does
18 not meet mandatory Directive 8.11, Section 3.C.1
19 criteria for petition evaluation.

20 Given that the NRC Staff has continued to
21 carefully regulate the Licensee's decommissioning
22 activities at SONGS, including its review of the fuel
23 storage facility design, inspections encompassing the
24 physical facility as well as the Licensee's operation
25 of performance and appropriate enforcement actions.

NEAL R. GROSS

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

1 Regarding the concern about environmental
2 impacts of the decommissioning activities, NRC Staff
3 concluded that these activities are bounded by
4 previously issued generic environmental impact
5 statements and did not find any deviations from
6 previously issued environmental statement for SONGS.

7 The petition manager offered Public
8 Watchdogs the opportunity to address the PRB, to clarify
9 or submit the petition in response to this assessment.

10 And Public Watchdogs request to address the PRB in
11 person.

12 As a reminder for the phone participants,
13 please identify yourself if you make any remarks as
14 this will help us in the preparation of the meeting
15 transcript that will be made publicly available. Thank
16 you for your time and consideration.

17 Public Watchdogs, you now have the
18 opportunity to provide any additional information for
19 the PRB to consider as part of this petition. And there
20 will be 35 minutes for your presentation.

21 MR. WOHLFORD: My name is Luke Wohlford
22 and I am one of the Attorneys representing Petitioner,
23 Public Watchdogs, in connection with the 10 CFR 2.206
24 petition submitted to the NRC on September 24th, 2019.

25 On behalf of Petitioner, I want to thank

NEAL R. GROSS

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

1 the Petition Review Board for this opportunity to both
2 clarify this serious public health and safety issues
3 raised in the 2.206 petition and to present supplemental
4 information related to the petition, which was not
5 available to Petitioners at the time the petition was
6 filed nor available to the Petition Review Board at
7 the time it made its preliminary decision not to accept
8 the petition for review.

9 I will begin by summarizing and clarifying
10 the issues raised in the 2.206 petition, and then I
11 will follow that up with a discussion of supplemental
12 information relevant to the petition that was not
13 available to Petitioner at the time the petition was
14 filed.

15 In its 2012 decision in *New York v. NRC*,
16 the United States Court of Appeals from the District
17 of Columbia Circuit cautioned that spent nuclear fuel
18 poses a "dangerous long-term health and environmental
19 risk. It will remain dangerous for time spans
20 seemingly beyond human comprehension."

21 Despite the incalculable hazards posed by
22 spent nuclear fuel, long-term storage and management
23 of spent nuclear fuel has proven to be an intractable
24 Sisyphean task in the United States. Decade long
25 efforts by Congress, Federal Agencies and various

NEAL R. GROSS

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

1 stakeholders to construct a geological permanent
2 repository for the country's every growing stockpile
3 of spent nuclear fuel have been ineffective and no
4 viable plant currently exists for a permanent storage
5 solution.

6 Lacking a centralized permanent storage
7 solution, the NRC has permitted the vast majority of
8 the country's every growing stockpile of spent nuclear
9 fuel to be stored onsite at nuclear power plants across
10 the country.

11 When the nuclear power plant licensee
12 ceases operations, it is required by NRC regulations
13 to submit various plans and reports to the NRC.
14 Including a post-shutdown decommissioning activities
15 report, and a radiated fuel management plan and site
16 specific decommissioning processes.

17 Although it is understood by all in
18 government in the industry that there is currently no
19 permanent storage solution for spent nuclear fuel, or
20 even a meaningful progress toward a viable plan to
21 create one, licensee's routinely submit
22 decommissioning plans, which are predicated on the
23 false assumption that the spent nuclear fuel will be
24 removed from onsite storage facilities and transferred
25 to a centralized permanent repository in the relatively

NEAL R. GROSS

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

1 near future.

2 The NRC, knowing full well that this
3 fundamental predicate underling licensee's
4 decommissioning plans is fanciful at best, routinely
5 grants licensing amendments allowing licensees to
6 implement these falsely predicated plans, effectively
7 authorizing licensees to store spent nuclear fuel
8 indefinitely without any plan or strategy for
9 management or funding such indefinite storage
10 operations.

11 This general policy of willful ignorance
12 taints various aspects of the NRC's regulatory mandate
13 related to the long-term storage and management of spent
14 nuclear fuel. For instance, the NRC issues
15 certificates of compliance for spent fuel storage
16 systems and devices. Like the Holtec HI-STORM UMAX
17 Canister Storage System and the Holtec MPC-37
18 canisters, which are currently in use at SONGS.

19 These systems and devices have limited
20 useful life spans and cannot safely store spent nuclear
21 fuel for its entire radioactive lifecycle. However,
22 based on the false premises of these systems and devices
23 will only be necessary for a relatively short time
24 frame, the NRC permits licensees to use them for onsite
25 storage of spent nuclear fuel without demonstrating

NEAL R. GROSS

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

1 any ability to replace them at the end of their useable
2 life.

3 Similarly, the NRC regulation could
4 require licensees to provide assurance that they have
5 the financial capability to pay for the total cost of
6 decommissioning and managing spent nuclear fuel. If
7 the NRC permits licensees to provide these financial
8 assurances based on the false premise that they will
9 only be managing spent nuclear fuel onsite temporarily.

10 Quite simply, the NRC permits licensee's
11 to implement falsely predicated decommissioning plans
12 with little more than a faint hope that a permanent
13 storage solution will become available when necessary
14 or that the industry will develop the technological
15 and financial capabilities to manage indefinite onsite
16 storage of nuclear fuel if a permanent storage solution
17 never comes available.

18 In her comments on the NRC's generic
19 environmental impact statement and continued storage
20 for spent nuclear fuel, former NRC Chairwoman, Allison
21 Macfarlane, issued a pressure warning regarding the
22 uncertainty and deficiencies in permitting licensees
23 to store spent nuclear fuel onsite indefinitely.

24 Specifically, Chairwoman Macfarlane
25 highlighted, one, the lack of experience and repeatedly

NEAL R. GROSS

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

1 repackaging spent fuel into new storage devices every
2 time, two, the lack of a guarantee the responsible
3 parties would pay for the cost of repackaging and
4 return, and three, unforeseen events in our natural
5 environment and society.

6 As Chairwoman Macfarlane warned,
7 "decommissioned licensees will likely not have
8 sufficient revenue to pay for the reoccurring expenses,
9 such as repackaging of spent fuel, construction of dry
10 transform facilities, an increase in security needs
11 assumed in the GEIS.

12 The NRC's general policy of allowing
13 licensees to implement falsely predicated
14 decommissioning plans pose a serious public health and
15 safety risk at all decommission nuclear facilities
16 across the country. But it poses unique, particularly
17 acute and holy unreasonable public health and safety
18 risks at SONGS.

19 Like other decommissioning plans submitted
20 to the NRC, the decommission plan for SONGS falsely
21 assumes that the Department of Energy will begin
22 accepting spent nuclear fuel from the industry by 2024.

23 That all spent nuclear fuel will be transferred offsite
24 by 2049 and that the site will be restored to a condition
25 acceptable for unrestricted use by 2051.

NEAL R. GROSS

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

1 In other words, Licensee's entire
2 decommission plan is predicated on the arbitrary and
3 false assumption that spent nuclear fuel will be stored
4 at SONGS only for the next 30 years.

5 Situated only 108 feet from the pacific
6 ocean near one of California's most populated beaches,
7 within tsunami innovation zone and surrounding by
8 active fault lines, the SONGS independent fuel storage
9 insulation system is in perhaps the most perilous
10 location possible.

11 In considering licensee's application for
12 a coastal development permit to construct the SONGS
13 ISFSI, the California Coastal Commission discussed what
14 it considered to be reasonably foreseeable impacts of
15 the proposed development.

16 Specifically, the California Coastal
17 Commission found that "there remained a number of
18 significant uncertainties related to Edison's ability
19 to decommission and remove the ISFSI facility by 2051
20 as proposed. In the absence of the permanent federal
21 repository for spent nuclear fuel or the development
22 of some other federal, state or private interim offsite
23 interim storage facility, the SONGS spent fuel could
24 remain in the proposed ISFSI for many years beyond the
25 intended date of renewal.

NEAL R. GROSS

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

1 There is therefore the potential that the
2 proposed ISFSI site will be undermined by shoreline
3 retreat and/or subject to flooding as a result of sea
4 level rise, storm rains or tsunami event."

5 The potential consequences in flooding at
6 SONGS could be disastrous. Including, but not limited
7 to, deformation or rupture of the canisters and the
8 simultaneous release of radioactive geysers from the
9 ISFSI.

10 Because of the significant uncertainties
11 and risk associated with Licensee's decommissioning
12 plan, the California Coast Commission approved
13 licensee's development permit for a period of 20 years.

14 Notably, however, the California Coastal Commission
15 expressly did not assess the impact of any failure,
16 malfunction or defect in the proposed ISFSI system on
17 radiological safety because that assessment is within
18 the exclusive regulatory purview of the NRC.

19 To Petitioner's knowledge, the NRC also
20 has not connected a site specific analysis regarding
21 the unique geological coastal and other environmental
22 hazards posed by the location of the SONGS ISFSI, nor
23 has it required licensee's to provide any assurances
24 that the ISFSI will remain viable at that location
25 beyond 2051, when Licensees arbitrarily assume that

NEAL R. GROSS

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

1 all spent nuclear fuel be transferred offsite.

2 Petitioners therefore respectfully submit
3 that the NRC should immediately suspend all
4 decommissioning operations at SONGS, including all fuel
5 transfer operations, conducting environmental site
6 specific environmental impact statement and require
7 licensees to submit an amended decommission plan that,
8 one, provides reasonable assurance that the current
9 SONGS ISFSI will remain viable beyond 2051 and, two,
10 contains specific plans supported by objective evidence
11 demonstrating the Licensee will be able to safely
12 retrieve and transfer the spent nuclear fuel from the
13 SONGS ISFSI to another location, if and when that
14 becomes necessary.

15 Now, these public health and safety risks
16 posed by the location and the SONGS ISFSI are multiplied
17 by Licensee selection, defective canisters and
18 demonstrating a track record for negligence, if not
19 recklessness, and transferring the spent nuclear fuel
20 from the relative safety of the wet storage pools to
21 the SONGS ISFSI.

22 The NRC is fully aware, over a couple of
23 weeks in 2018 Licensee nearly dropped two fully loaded
24 canisters nearly 18 feet into the ISFSI when the
25 canisters become caught on a quarter inch deck sealed

NEAL R. GROSS

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

1 guide rail.

2 Although Licensees failed to timely
3 disclose these near disasters to the NRC, subsequent
4 investigation ultimately forced Licensees to admit not
5 that these near disasters had occurred, but also that
6 each and every canister that is buried in the SONGS
7 ISFSI is damaged to some extent during installation.

8 In addition, Licensees have publicly
9 admitted that they do not currently have technology
10 available to them that would allow them to retrieve
11 and repackage spent nuclear fuel into new canister if
12 a failure occurs or even if routine replacement is
13 required. And that any process for retrieving and
14 repackaging spent nuclear fuel that might eventually
15 be developed would require either a spent fuel pool
16 or a dry transfer station.

17 Nevertheless, in July 2019 the NRC
18 concluded that Licensees would resume, could resume
19 fuel transfer operations without supplying Licensees
20 to demonstrate their ability to retrieve and repackage
21 spent nuclear fuel being buried at SONGS. On the 10
22 CFR 72.122L, "storage systems must be designed to allow
23 ready retrieval of spent fuel, high level with
24 radioactive waste, and reactor-related GTCC waste for
25 further processing or disposal."

NEAL R. GROSS

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

1 By Licensee's own admission, the SONGS
2 ISFSI does not satisfy this clear regulatory
3 requirement. Accordingly, Petitioner respectful
4 requests that the NRC immediately suspend all
5 decommissioning operations, including all spent fuel
6 transfer operations, until such time as Licensees have
7 demonstrated that the SONGS ISFSI satisfies the
8 retrievability requirements set forth in the NRC's
9 regulations.

10 In addition to these serious public health
11 and safety hazards, there's a serious question as to
12 when the Licensees have provided or can provide the
13 requisite assurance that they will have adequate
14 financial resources to pay for the full cost of
15 decommissioning and spent fuel management in SONGS.

16 Licensees decommissioning costs estimate
17 estimates that the total cost of decommissioning and
18 restoring the SONGS site to a condition suitable for
19 unrestricted use will exceed \$4 million. \$1.3 billion
20 of which is allocated to spent fuel management in 2049.

21 This cost estimate is, again, based on the
22 arbitrary assumption that the Department of Energy will
23 begin accepting spent nuclear fuel from the industry
24 in 2024 and that all spent nuclear fuel will be
25 transferred from SONGS in an offsite storage facility

NEAL R. GROSS

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

1 by 2049.

2 Licensees have since updated their cost
3 estimate pushing back the anticipated date on which
4 the Department of Energy will begin accepting spent
5 nuclear fuel from the industry to 2028.

6 Notably, however, Licensees did not
7 provide the date by which they expect all spent nuclear
8 fuel to be removed from SONGS nor do they explain how
9 they will pay for the cost of spent fuel management
10 if an alternative storage solution does not become
11 available and spent fuel has to remain at SONGS beyond
12 2049.

13 NRC regulations expressly require
14 Licensees to provide assurance that they will have the
15 financial ability to pay for the entire cost of
16 decommissioning and spent fuel management.

17 Because it is all unlikely that spent
18 nuclear fuel will remain at SONGS beyond 2049, and
19 because Licensees has not provided any assurance that
20 they will have the financial ability to pay for the
21 cost of spent fuel management at SONGS beyond 2049,
22 Petitioner respectfully submits that the NRC should
23 immediately suspend all decommissioning and fuel
24 transfer operation at SONGS until such time as Licensees
25 provide the NRC with reasonable assurance supported

NEAL R. GROSS

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

1 by objective evidence that that will have the financial
2 ability to maintain and managing spent fuel beyond 2049.

3 All of these reasons, which are set forth
4 in detail in Petitioner's 2.206 petition, necessity
5 an immediate suspension in all decommissioning
6 operations at SONGS, including all fuel transfer
7 operations. And require the NRC to demand Licensee
8 to submit a decommission, amended decommissioning plan
9 that accounts for the reality that spent fuel will
10 likely be stored at SONGS indefinitely.

11 I would now like to briefly address recent
12 developments that have only intensified the urgent need
13 for the NRC to immediately suspend Licensees
14 decommissioning and fuel transfer operations.
15 Notably, these developments occurred after Petitioner
16 submitted its 2.206 petition and after the Petition
17 Review Board made its preliminary decision not to
18 petition for review.

19 Now, the Petition Review Board has not had
20 occasion to consider these facts in its review of
21 Petitioners' 2.206 petition. First, on December 4th,
22 2019 Edison submitted in an advice letter to the
23 California Coastal Commission, requesting
24 authorization to disburse \$405.5 million from the SONGS
25 decommissioning trust to pay for decommissioning and

NEAL R. GROSS

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

1 fuel transfer operations in 2020.

2 This requests amounted to nearly threefold
3 increase in Edison's previous estimate of 2020
4 decommissioning fuel transfer cost. Edison
5 represented to the Public Utilities Commission that
6 this significant increase was largely due to regulatory
7 delays and nearly a year long suspension for fuel
8 transfer operations following the "canister gambling
9 event in 2018."

10 Public Watchdogs objected to Edison's
11 request, and on January 6th, 2020, the Public Utilities
12 Commission suspended the request of disbursement by
13 up to 120 days, finding that Edison's advice letter
14 requires staff review.

15 During the course of the advice letter
16 process, Edison represented to the Department's
17 Utilities Commission that these funds were necessary
18 for it to continue its decommissioning and fuel transfer
19 operations.

20 As Edison currently does not have access
21 to funds and admits are necessary to continue its fuel
22 transfer operation, and it may not have access to such
23 firms for 120 days or potentially longer.

24 As already discussed, Petitioner
25 respectfully submits that the NRC should immediately

NEAL R. GROSS

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

1 suspend all decommissioning operations at SONGS until
2 Licensees provide reasonable assurance supported by
3 objective evidence if they lack the financial ability
4 to pay for the full cost of spent fuel storage and
5 management beyond 2049.

6 At a minimum, however, the NRC should
7 suspend all decommissioning and fuel transfer
8 operations at SONGS until such time that the Public
9 Utility's Commission releases the funds that Edison
10 has stated are necessary for us to continue
11 decommissioning the fuel transfer operations in 2020.

12 Allowing Licensees to continue fuel
13 transfer operations to provide access to the funds
14 necessary to pay for those operations would
15 significantly heighten the risk of those operations
16 to public health and safety as licensees would have
17 incentive to cut corners and ignore costly and time
18 consuming safety measures.

19 Plus, even if the NRC does not suspend all
20 decommissioning and fuel transfer operations until
21 Licensees provide the long-term financial assurances
22 required by NRC regulation that should at least suspend
23 all such operations until safety regulators have
24 authorized licensees to access the funds necessary to
25 pay for those operations.

NEAL R. GROSS

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

1 Now, in addition to this recent suspension
2 and necessary decommissioning funds, Licensees have
3 also recently confirmed they intend to demolish the
4 wet storage pools at SONGS, once all spent nuclear fuel
5 is transferred to dry storage.

6 Licensees have represented to the 9th
7 Circuit Court of Appeals that they expect to remove
8 all spent nuclear fuel from the wet storage pools by
9 July or August of this year and that they will demolish
10 the wet storage pools shortly thereafter.

11 As I discussed previously, Licensees have
12 publicly acknowledged that they do not currently have
13 access to technology that would enable them to retrieve
14 and repackage the spent nuclear fuel stored at SONGS
15 in the Holtec canisters if that becomes necessary.

16 Once more, Licensees have acknowledged
17 that any such technology that might be developed in
18 the future would require either a wet storage fuel or
19 a dry transfer station.

20 NRC's regulations require storage systems
21 to be designed to allow ready retrievable spent fuel
22 for further process in their disposal. By Licensees
23 own public admissions, they do not currently have the
24 technological capability to retrieve and repackage the
25 spent fuel being buried at SONGS upon the failure of

NEAL R. GROSS

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

1 a canister or even if routine replacement became
2 necessary.

3 Moreover, by confirming that they intended
4 to demolish the wet storage pools in a matter of months,
5 Licensees admit that they intend to remove structures
6 that would be necessary for the retrieval and
7 repackaging of spent nuclear fuel, when such
8 technological capabilities are achieved.

9 This further supports Petitioner's request
10 to sustain all fuel transfer operations at SONGS until
11 Licensees demonstrate that they can satisfy the
12 retrievability requirements that are plainly set forth
13 in the NRC's regulations.

14 In closing, I want to be clear that the
15 Petitioner appreciates the incredibly difficult
16 challenges the NRC is facing because of our government's
17 failure to obtain a permanent storage solution for our
18 countries ever growing stockpile of spent nuclear fuel.

19 However, the NRC is advocating its
20 paramount responsibility to protect public health and
21 safety by allowing Licensees to bury spent fuel at SONGS
22 in one of the most dangerous locations imaginable and
23 defective and damaged canisters cannot be retrieved,
24 repaired or repackage. And based on a knowingly false
25 assertion that all spent nuclear fuel will be removed

NEAL R. GROSS

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

1 from SONGS and transferred to a permanent repository
2 in the relatively near future.

3 Where this might strike some as an abstract
4 problem that will not require a solution for decades,
5 for the millions of people who live, work and play in
6 the vicinity of SONGS, Licensees' decommissioning
7 operations represent a lurking eminent disaster that
8 threatens their homes, coast lines and their very lives.

9 Given all the uncertainties surrounding
10 the SONGS decommissioning, with all the incalculable
11 potential risks posed by Licensees decommissioning and
12 fuel transfer operations, is it possible to comprehend
13 why Licensees are in such a rush to move forward with
14 a falsely predicated decommission plan and burial of
15 spent nuclear fuel at SONGS.

16 The only reasonable, prudent and safe
17 course of actions for the NRC to immediately suspend
18 all decommissioning operations at SONGS and require
19 Licensees to submit an amended decommissioning plan
20 that accounts for the legality that spent nuclear fuel
21 will remain at SONGS indefinitely.

22 We thank you for the opportunity to make
23 this presentation and we'll follow up immediately after
24 this public meeting with a written supplement that
25 memorializes the points I've discussed today.

NEAL R. GROSS

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

1 I look forward to answering any questions
2 you might have and we look forward to your final decision
3 on this petition. Thank you.

4 CHAIR WILLIAMS: All right, thank you,
5 Luke. At this time, does the Staff here at NRC
6 headquarters have any question for the Petitioners?
7 All right.

8 Are there any questions from NRC Staff on
9 the phone?

10 Does the Licensees have any questions?

11 MR. BATES: This is Al Bates, we have no
12 questions or comments.

13 CHAIR WILLIAMS: All right, thank you, Al.

14 Before I conclude the meeting, members of the public
15 may provide comments regarding the petition and ask
16 questions about the 2.206 petition process.

17 However, as --

18 MR. BLANCH: Yes, this is --

19 CHAIR WILLIAMS: I apologize, I couldn't
20 hear what you said.

21 MR. BLANCH: Yes, this is Paul Blanch, I
22 have a brief statement that I would like to make
23 representing the Petitioners and supplementing the
24 previous presentation.

25 CHAIR WILLIAMS: Okay. Give me --

NEAL R. GROSS

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

1 MR. BLANCH: If I may have your permission.

2 CHAIR WILLIAMS: Yes, give me one minute,
3 I need to finish one more sentence and then I'll turn
4 it over to you.

5 MR. BLANCH: Sure.

6 CHAIR WILLIAMS: As stated at the opening,
7 the purpose of this meeting is not to provide an
8 opportunity for the Petitioner or the public to question
9 or examine the PRB regarding the merits of the petition
10 request.

11 So at this time I'll, Paul, is it?

12 MR. BLANCH: Yes, it is.

13 CHAIR WILLIAMS: Okay. Go ahead.

14 MR. BLANCH: Yes, I'm representing Public
15 Watchdogs and there was two issues that I have. In
16 early October a Freedom of Information Act request was
17 submitted by Public Watchdogs. And that number is
18 2019-00441, with expedited processing granted by the
19 Freedom of Information Act Office.

20 That particular FOIA request requested the
21 identification of the current licensing basis that is
22 discussed and defined in 10 CFR 54.3. And that is to
23 have a complete understanding of what the regulatory
24 applications with regulations are applicable.

25 It's vital that we need a complete list

NEAL R. GROSS

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

1 of the current licensing basis that is defined in 54.3.

2 Our confusion is that portions of 10 CFR may or may
3 not apply. They may extend over to the ISFSI system.

4 Some of the ISFSI regulations defined in
5 10 CFR Part 72 may carry over into the 10 CFR 50 licensing
6 area.

7 That is one FOIA request that we absolutely
8 need. We cannot fully explain our petition unless we
9 know the applicable regulations.

10 The second is another Freedom of
11 Information Act request that I discussed with the FOIA
12 Office just last week. And his name was Mr. Wise in
13 the FOIA Office, was on the phone.

14 And that FOIA request was a request for
15 the flood analysis for the ISFSI system that the NRC
16 claims in NUREG-2214, has been conducted and is
17 available. Mr. Wise, the FOIA Office and I have
18 clarified what my needs were for that analysis. And
19 we are under a complete understanding of exactly what
20 is required.

21 We, as Public Watchdogs, need that analysis
22 requested under FOIA. Now, once we have that
23 information we may, or we may not, obtain additional
24 information that would supplement through our attorneys
25 or through an independent 2.206 additional concerns

NEAL R. GROSS

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

1 that we may have.

2 And management Directive 8.11 allows
3 supplements, but until we have that information from
4 the NRC we can't totally close the door, so I support
5 what our attorneys have just stated as far as their
6 requested action, however, depending on the NRC's
7 ability to provide the brief question information,
8 there may be more supplemental information forthcoming
9 on this particular 2.206 petition.

10 CHAIR WILLIAMS: All right, thank you.
11 So, I'm going to go back to the room. Is there anyone
12 in the room has any questions for Paul?

13 MR. ALLEN: This is Chris Allen, I'm the
14 project manager at NMSS. Mr. Blanch, you mentioned
15 a Mr. Wise. Would you happen to know Mr. Wise's first
16 name?

17 MR. BLANCH: His name is Charles, but this
18 conversation we had, obviously documented. He's, I'm
19 not even sure which branch of the NRC he's with. It's,
20 W-I-S-E, is his last name.

21 MR. ALLEN: Thank you.

22 MR. BLANCH: I think it's Charles.

23 MR. ALLEN: Okay, thank you.

24 MR. BLANCH: You're welcome.

25 CHAIR WILLIAMS: All right. Is there any

NEAL R. GROSS

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

1 other member of the public that wanted to make a
2 statement?

3 MS. GILMORE: Yes, this is Donna Gilmore.
4 Can you hear me?

5 CHAIR WILLIAMS: Yes, Donna.

6 MS. GILMORE: Yes. As Lee Brookhart, the
7 senior NRC, senior inspector said, these canisters
8 cannot be inspected by ASME codes, nuclear pressure
9 vessel codes.

10 It is just unconscionable that the NRC will
11 allow all the exemptions to minimum manufacturing
12 requirements, SME re-certification should be required.

13 I'm aware that CASTOR, that makes thick-walled casks,
14 already meets all ASME requirements so there is no
15 reason for the NRC to base their approvals on hope that
16 nothing is going to go wrong. Thank you.

17 CHAIR WILLIAMS: All right, thank you.
18 Is there any other person that would like to make a
19 statement? All right.

20 Public Watchdogs and their Attorney's, I
21 thank you for taking the time to provide the NRC Staff
22 with clarifying information on the petition that you've
23 submitted.

24 Following the meeting, the PRB will
25 consider the supplemental information presented during

NEAL R. GROSS

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

1 the meeting, together with the original petition, in
2 making its final recommendation on whether to accept
3 the petition for review.

4 Public Watchdogs will be informed of the
5 final recommendation. And the final recommendation
6 will then be documented in an acknowledgment letter
7 if the petition is accepted, or a closure letter, if
8 the petition is not accepted.

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

12 COURT REPORTER: No, I think I have
13 everyone who is on the line.

14 CHAIR WILLIAMS: All right. With that,
15 this meeting is concluded, and we will be terminating
16 the phone connection. Thank you for your time.

17 (Whereupon, the above-entitled matter went
18 off the record at 1:45 p.m.)

19
20
21
22
23
24
25

NEAL R. GROSS

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