

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

UNITED STATES NUCLEAR REGULATORY COMMISSION

SUBJECT: 10 CRF 2.206 PETITION  
TO SHUT DOWN THREE MILE ISLAND  
NUCLEAR STATION, UNIT 1

U.S. Nuclear Regulatory Commission  
One White Flint North, Room 4 B 13  
11555 Rockville Pike  
Rockville, Maryland

Wednesday, February 2, 1994

The above-entitled matter came on for public  
meeting, pursuant to notice, at 1:30 p.m.

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1612 K Street, N.W., Suite 300  
Washington, D.C. 20006  
(202) 293-3950

## 1 ATTENDEES:

2

3

ROBERT W. HERNAN, NRC/NRR/PDI-R, Senior Project  
Manager

4

5

ROBERT GARY, PICA, Senior Researcher

6

SCOTT BOYNTON, NRR, PEPB EP Specialist

7

GIOVANNA LANGO, OGC/NRC, Trial Attorney

8

FALK KANTOR, NRC/NRR/PEPB, Acting BC, PEPB

9

JOHN KOPECK, NRC, Public Affairs

10

JOHN F. STOLZ, NRC, Project Director, PDI-4

11

RALPH DESANTIS, GPUN, Public Affairs Manager

12

JEFFERY GRISEWOOD, GPUN, TMI Lead Offsite

13

Emergency Planner

14

DENNIS V. HASSLER, GPUN, TMI Licensing Engineer

15

ALAN NELSON, NUMARC, Senior Project Manager

16

STEVEN AOUKAITIS, FEMA-R-III, RAC Chairman

17

MEGS HEPLER, FEMA HQ, Director, Exercises

18

Division. FEMA

19

STAN WENTZ, FEMA HQ, Team Leader, Exercises

20

Division, FEMA

21

ELAINE I. CHAN, FEMA/OGC, Legal Counsel, Program

22

Law

23

JOHN PRICE, FEMA-R-III, REP Tech. Hazards Program

24

ROBERT POLLARD, UCS, Nuclear Safety Engineer

25

JERRY LAMBERT, PEMA, TMI Offsite Planner

ANN RILEY & ASSOCIATES, LTD.

Court Reporters

1612 K Street, N.W., Suite 300

Washington, D.C. 20006

(202) 293-3950

- 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

ATTENDEES [continued]:

MARK GOODWIN, PEMA, Legal Counsel

MICHAEL BLOOD, AP, Reporter

PROCEEDINGS

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

[1:30 p.m.]

MR. HERNAN: Go ahead, sir.

MR. GARY: I appreciate the opportunity to make a few comments at this public meeting on behalf of PICA, the Pennsylvania Institute for Clean Air.

We have three issues to address today: The EPZ, the military, and the money. All of the other matters raised by PICA are either dependent on these three main issues, or they have already been satisfactorily dealt with and don't require further discussion.

To begin the discussion on the EPZ issue, I want to talk a little bit about the way that PEMA conceives of emergency preparedness.

Mr. LaFleur says, in paragraph 7G of his letter, "In the event that people need to be protected in areas beyond 10 miles, these actions will be extended as far as they are needed. The emergency response organization within 10 miles can be extended as conditions warrant."

The suggestic.. is that the EPZ would be extended as needed in an emergency. It is PICA's position that such extension is impossible.

In an emergency, there is no time to extend the EPZ. Any plan to evacuate Harrisburg needs to be made now, before the emergency, not in its midst.

1           Any plan that included the evacuation of  
2 Harrisburg would be 1,000 buses short, not 50 buses short.  
3 The reason that PEMA has enough buses is because they are  
4 dealing with the problem of an EPZ which only includes 10  
5 percent of Harrisburg.

6           If we agree that emergency preparedness means  
7 making plans in advance, not in the middle of an emergency,  
8 then if we were to make plans now for the evacuation of  
9 Harrisburg, we would either have to find another 1,000 buses  
10 or use military trucks.

11           If there is serious radiation within the EPZ,  
12 Harrisburg will evacuate. The issue is whether PEMA or the  
13 military will be there with a plan, with trucks, with tents,  
14 with kitchens, with first-aid stations and field commanders.

15           In California, after the recent earthquake, it  
16 took four days for the National Guard to set up tent cities  
17 and field kitchens. There was no plan.

18           In Harrisburg, if there is no plan, we can't wait  
19 four days for a military response. Without a plan, people  
20 will have to evacuate without the assistance of the  
21 military.

22           And they will do so, as best they can, as they did  
23 in 1979. The delay in evacuating people in 1979 caused 50  
24 deaths in the exposed population, according to the testimony  
25 of this senior researcher and the U.S. Congress in 1985.

1           My point is that when it is time to move people,  
2           it's too late to start figuring out how to do it.

3           The RERP should contain evacuation plans for a  
4           contingent planning area, CPA, north of the present EPZ and  
5           to include Harrisburg.

6           The information should be specific, with authentic  
7           operational data and directions. It probably will need to  
8           include military trucks since we know that even with a very  
9           sparsely populated EPZ that misses 90 percent of Harrisburg,  
10          they are already 50 buses short.

11          The RERP should not contain, as it does now,  
12          extensive recitations of jurisdictional responsibilities and  
13          descriptions of tables of organization and how inter-  
14          governmental agencies interrelate.

15          It should be cut to no more than 50 -- it should  
16          be cut to no more than 100 pages. It should be tabbed,  
17          water-proofed, color-coded, and set in large type.

18          It should be arranged so that the most junior  
19          person in the official chain of emergency command, with no  
20          executive guidance, could give appropriate orders and make  
21          the emergency process happen by the numbers, by the book,  
22          according to the plan.

23          And junior people and everyone in the chain should  
24          be drilled for their ability to run a response out of the  
25          book.

1           The present RERP passes the weight test. And it  
2 may have some public relations value. But it is missing  
3 many of the critical elements of a plan, which PEMA says are  
4 in the SOPs or would be made up on the spot.

5           To illustrate, one could examine paragraph 1C of  
6 Mr. LaFleur's letter, in which we see the general tenor of  
7 PEMA's idea of emergency preparedness. He is talking there  
8 about Guard units.

9           And he says, "Their specific tasks will be  
10 determined when the units become available and the needs of  
11 the county EMA have been solidified in light of events as  
12 they unfold."

13           In other words, PEMA will administer the emergency  
14 response on an ex-tempore basis, figuring out what to do as  
15 the situation develops.

16           This is really the opposite of emergency  
17 preparedness. If there is one thing we do know in the  
18 limited experience we have, it is that you can't plan how  
19 you are going to respond to an emergency in the midst of the  
20 emergency.

21           People who try either find themselves inundated by  
22 data, paralyzed by possibilities, or galvanized into actions  
23 that turn out to be mistakes.

24           Now, as we turn to the second main topic, the use  
25 of military trucks, we can stay in that same paragraph, 1C,

1 of Mr. LaFleur's letter.

2 And we find that, "The Guard is equipped with  
3 combat support vehicles that do not lend themselves to the  
4 safe and orderly movement of civilians."

5 PICA disagrees with this point. This point is  
6 wrong, in our opinion. Whether it's right or wrong, PEMA  
7 has no expertise in this area. And there is no indication  
8 that they have done any study on this point.

9 In Bosnia, military trucks have been used to  
10 transport civilians, not once but hundreds of times. And  
11 there has been no report of people being hurt as a result.

12 If there is a problem in the use of military  
13 trucks, that can be studied. DOD or the Guard can let us  
14 know whether an extra piece of equipment is needed to help  
15 civilians get on or off a military truck, or if there are  
16 techniques that would permit one person to help another in  
17 this.

18 Similarly, if there are problems maintaining  
19 civilians in a safe arrangement while the truck is moving,  
20 we would want to know what distinguishes civilians from  
21 military personnel in this regard, and what options there  
22 are to deal with the safety factor.

23 A peremptory statement by PEMA is not convincing  
24 on this point. A due diligence inquiry is required. And  
25 PICA suggests that after such an inquiry, it would be found



1 that military trucks can, indeed, be used for civilians.

2 In the same paragraph, 1C, Mr. LaFleur finds that  
3 a plan would not have to include a list of Guard equipment  
4 that could be deployed, since that too could be figured out  
5 in the midst of an emergency.

6 The third main issue is the money. \$500,000 just  
7 doesn't seem like enough money for all nuclear emergency  
8 preparedness in the entire Commonwealth of Pennsylvania.

9 We know from paragraph 1B of Mr. LaFleur's letter  
10 that, "The revenues from the 911 line charges currently  
11 provide \$52 million per year in support of public safety  
12 within the state."

13 PICA offers that information only as a rough gauge  
14 of levels of expenditure for public safety in Pennsylvania.  
15 If we figure that maybe 10 percent of what the 911 line  
16 charges provide might be an appropriate budget for nuclear  
17 emergency preparedness, that would give us a budget of \$5  
18 million statewide, which would mean an assessment of \$1  
19 million per site, instead of \$100,000 as is presently done.

20 PEMA says that Senator Schumaker, a member of the  
21 Republican Party, doesn't want to burden the ratepayers.  
22 PEMA tells us that the utilities say they don't want to  
23 burden the stockholders.

24 FEMA says that PEMA has taken reasonable steps to  
25 acquire additional resources. It appears to PICA that PEMA

1 has taken no energetic steps to acquire appropriate  
2 resources, recognizing that the organization is headed up by  
3 the Lieutenant Governor of the state who has been personally  
4 aware of PICA's concerns since October of 1992.

5 Many other issues are tied to the money questions.  
6 There is no second warehouse because there is no money to  
7 pay for it. There are almost no unscheduled drills because  
8 the participants are volunteers, because there is no money  
9 to pay them; see LaFleur letter, 7H and 9.

10 PICA would like to look at some of the options to  
11 deal with the three main issues in a second. But before  
12 turning away from Mr. LaFleur's letter, there is a point  
13 that needs to be addressed.

14 In paragraph 8C, the suggestion is made that,  
15 "Harrisburg believes that they could handle their population  
16 if there was a widespread evacuation."

17 This is totally false. It would take a five-  
18 minute call to Mayor Reed to verify what PICA says here, or  
19 we can look at some correspondence.

20 In his letter of June 24th, 1992, the Mayor says  
21 that there will not be sufficient available resources for  
22 any evacuation activities beyond the ten-mile radius, unless  
23 the NRC adjusts the evacuation boundary.

24 In his letter of July 20, 1992, the Mayor says  
25 that a state of emergency would necessitate a mass

1 evacuation for which sufficient resources would not be  
2 immediately available.

3 in his letter of September 23, 1992, the Mayor  
4 says that the Dauphin County Plan needs to be improved,  
5 particularly in the areas of identifying currently available  
6 transportation resources.

7 We support your view that military vehicles, of  
8 which there are plenty in the immediate Harrisburg area, be  
9 part of the Dauphin County Plan.

10 In his letter of December 28, 1992, the Mayor says  
11 that the fire chief is writing the COs of the military bases  
12 and trying to get the use of the vehicles. He says their  
13 availability would be critical to the mass movement of  
14 thousands of people.

15 Even Representative Gekas is happy to pass the  
16 idea along to the Secretary of Defense on PICA's behalf.

17 Finally, in his letter of February 8, 1993, the  
18 Mayor says that in light of the non-cooperation of FEMA and  
19 the NRC in extending the EPZ, Harrisburg has identified  
20 sufficient resources to accomplish an evacuation. But  
21 Harrisburg's plan is not officially recognized by the county  
22 or the state or the Federal Government.

23 Under these circumstances, it is hardly fair for  
24 Mr. LaFleur to say that Harrisburg believes they could  
25 handle their population if there was a widespread

1 evacuation.

2 Mayor Reed has tried to identify resources to fill  
3 the gap. But he believes no such thing, as Mr. LaFleur  
4 suggests.

5 Identification of resources is one thing. An  
6 integrated emergency preparedness plan is another. When we  
7 built nuclear power plants, it wasn't with the idea that  
8 mayors would go out and try to identify resources.

9 It was with the idea that there was going to be  
10 emergency preparedness plans. The heroism of Mayor Reed  
11 cannot be used by Mr. LaFleur as a shield to deflect  
12 justified observations of Mr. LaFleur's own negligence.

13 Now to examine some options: On the EPZ issue,  
14 the option that PICA suggests is that the NRC declare the  
15 existence of a contingency planning area, CPA, to the north  
16 of the present EPZ and to include Harrisburg.

17 The beauty of this option is that you don't have  
18 to extend the EPZ itself. You can make your own rules for  
19 what kinds of plans need to be done for a CPA.

20 If there are other places in the country where  
21 CPAs are appropriate, they can be handled on a case-by-case  
22 basis.

23 The CPA approach allows you to do a layered  
24 official evacuation. When it is time to declare an official  
25 evacuation of Harrisburg, you will have something to work

1 with. You won't be making it up on the spot in the midst of  
2 an emergency.

3 If you have to evacuate the CPA, you will need the  
4 military trucks. They are far better in some of the small  
5 streets of Harrisburg anyway, than the very bulky passenger  
6 buses.

7 You would have to assume that the streets might be  
8 blocked by stalled privately-owned vehicles. Military  
9 trucks with plenty of clearance and heavy suspensions could  
10 get around blockages by going up on the sidewalks, as big  
11 passenger buses cannot.

12 We feel that you could use a CPA approach in  
13 response to our 2.206 Petition. A rulemaking is not  
14 required.

15 This is a contingency planning area. It is a  
16 decision to make additional plans. It doesn't take anything  
17 away from anybody. It doesn't affect anybody's rights,  
18 except perhaps the right to life of the people who live in  
19 Harrisburg.

20 There is not the sort of due process issue that  
21 would make a rulemaking necessary.

22 On the military issue, PICA would suggest the  
23 following option: Military trucks would only be needed if  
24 the CPA had to be evacuated. But if they were needed, they  
25 would be needed to evacuate the CPA.

1 Mr. LaFleur is already 50 buses short. And his  
2 plan only touches 10 percent of Harrisburg. The language of  
3 exactly how the Guard will be used is unclear.

4 PEMA doesn't think that military trucks can be  
5 used to evacuate civilians. The Guard's role is traffic  
6 control; emergency transportation, movement of officials;  
7 emergency fuel; and clearing of roads. See page ten of  
8 Kwiatkowski letter, 16 December 1993.

9 Military trucks to evacuate the CPA can't take six  
10 hours to assemble and move from their armories; LaFleur  
11 letter, paragraph 1C.

12 So maybe someone other than the Guard needs to  
13 provide them. There might be an Army unit at Indiantown Gap  
14 or a unit at New Cumberland or Mechanicsburg, or somewhere  
15 else, that could respond quicker than six hours.

16 It is possible that the Guard could respond  
17 quicker than six hours. PEMA's statement should not be  
18 taken at face value unless it is backed up by some kind of  
19 official statement from the Guard.

20 The NRC wouldn't want the Department of Commerce  
21 to tell the White House what the NRC could do. You would  
22 want to speak for yourselves. And PICA thinks the Guard  
23 should be accorded the same privilege.

24 Our idea of correct procedure for evacuation with  
25 military trucks starts with the fact that even with an

1 officially-declared evacuation, you can't force people onto  
2 trucks.

3           The military trucks should be deployed to very  
4 scattered small neighborhood pickup points. And they should  
5 do several in sequence until they are full. And then they  
6 should go on to a tent city somewhere beyond the plume.

7           Since the civilian evacuees are not all going to  
8 be ready at once, the trucks just need to keep streaming  
9 through the city, picking up whoever is ready and getting as  
10 many people out as want to go.

11           There should be enough trucks so that there is a  
12 seat on a truck for everybody that needs one. This may mean  
13 the trucks have to loop back around and make a second or  
14 third pass.

15           If radiation levels are such that it is not  
16 acceptable to leave any military personnel in place for any  
17 purpose, then on their final pass, the trucks need to pick  
18 up all deployed military personnel.

19           PICA is operating on the premise that, no matter  
20 what the radiation level, it is never acceptable to force  
21 any competent adult from their home and into a truck.

22           We also feel that protection of property takes  
23 second place to protecting the lives and health of service  
24 personnel. We also hold that verbal orders, not amounting  
25 to actual force, may be used to induce people into trucks.

1           And finally, we hold that the Commonwealth and the  
2 Federal Government is in loco parentis of all unaccompanied  
3 incompetents and minors, and that they may be forced onto  
4 trucks if radiation conditions are life threatening.

5           The option for NRC at this point is to investigate  
6 and find out what military resources are available, what  
7 they could do, how fast they could respond, how many people  
8 they could handle.

9           If agreements can be made, military participation  
10 should be worked into the overall emergency preparedness  
11 plan and, most particularly, for the CPA.

12           A commitment to undertake such an investigation,  
13 if feasible, and, if feasible, work military resources into  
14 the plan would be regarded by PICA as an adequate response  
15 to its 2.206 Request.

16           Again, no rights are being taken away from  
17 anybody. There is no due process issue. A rulemaking is  
18 not required.

19           On the money issue, PICA proposes the following  
20 least radical option: The NRC should mandate that the TMI  
21 site will remit \$1 million per year, instead of \$100,000, to  
22 the Act 147 account, with this \$1 million being earmarked  
23 exclusively for use for the emergency planning and  
24 protection of the people of the risk counties surrounding  
25 the TMI site.



1 PICA believes that \$5 million is the correct  
2 figure for the entire Commonwealth, and that any reasonable  
3 survey of county executives and mayors would support that  
4 view.

5 We would be very pleased if the NRC adopted a  
6 stronger option and federalized the collection and  
7 distribution of these funds based on a recognition that the  
8 Commonwealth, at this time, is structurally and politically  
9 unprepared to take any step that might displease big  
10 business.

11 If private industry is so strong in a state that  
12 the offices and agencies of the state become its  
13 instrumentalities, contrary to the public interest, then  
14 insofar as the NRC has responsibilities to safeguard the  
15 citizens, the issue may be federalized and dealt with by  
16 federal mandate.

17 Somewhere between the utility, PEMA, and the  
18 Pennsylvania legislation, there seems to be a lack of  
19 ability to run TMI-1 in a manner that is consistent with  
20 public safety.

21 FEMA has had two years to investigate this and  
22 come to appropriate conclusions. Mayor Reed in his letter  
23 of January 19, 1994, to Senator Wofford, indicates in the  
24 most official way possible that the NRC should do a de novo  
25 investigation of the critical points.

1           We feel that this would be acceptable under the  
2 rules requiring that FEMA get first bite at the apple. The  
3 NRC should contact the appropriate military authorities,  
4 find out about military trucks, examine the idea of a  
5 contingent planning area, and inquire into the money issues  
6 in a meaningful way.

7           We think a de novo investigation of the critical  
8 points could be done by the NRC in 90 days. But whatever  
9 time it takes, the NRC should order a power-down of TMI-1  
10 during the pendency of the investigation.

11           Time has been on the side of the utility, PEMA and  
12 the legislature for two years. This time has been used to  
13 do nothing of significance. If they have time on their side  
14 for the next 20 years, they will do nothing for that long.

15           But if time were not on their side, we would see  
16 action. We would see a utility anxious to get a good plan  
17 in place, anxious to pay for it, anxious to help organize  
18 it.

19           We would see PEMA discovering the possibility of  
20 many things that were thought impossible before. And we  
21 would see a legislature ready and willing to pass any  
22 appropriate law to stave off federalization of safety  
23 funding or a broader federalization of nuclear regulation in  
24 Pennsylvania.

25           Shifting the time burden would cause a lot of

1 inertia to disappear. No substantive changes can be made in  
2 preparedness unless that inertia is overcome.

3 The people need a good plan. Unless the NRC steps  
4 in, they are not going to get one.

5 Consistent with the Mayor's letter to PEMA of  
6 January 19, 1994, we say that if we can't get a de novo  
7 investigation by the NRC on the three critical points and a  
8 contingency planning area defined for Harrisburg and  
9 completed with a meaningful plan, then you will force PICA  
10 to take this pen and call for a Congressional investigation  
11 to include the Harrisburg issue, similar issues nationwide,  
12 and the NRC's ability to respond to incoming information and  
13 willingness to perform its role as a guarantor of public  
14 safety.

15 That is what I have for my initial comments. I  
16 would be happy to respond to questions.

17 MR. HERNAN: You used the word "power-down" both  
18 in your written correspondence and in your presentation.  
19 Could you describe what that means? I'm not familiar with  
20 the term.

21 MR. GARY: We are interested in the most economic  
22 form of power-down, the one that will hurt the utility the  
23 least. We are not -- we are not interested in a shutdown to  
24 cold metal.

25 We are happy with a natural core cooling mode or

1 with a 10-percent power generation mode, whatever is  
2 required to keep the fans and pumps on-site running.

3 We are not interested in unnecessarily causing any  
4 expense or degradation in that equipment to the utility.  
5 All we want to do is shift the time burden to get some of  
6 that inertia to disappear.

7 MR. HERNAN: So it could be a hot shutdown, or it  
8 could be reduced power level.

9 MR. GARY: We are happy with a hot shutdown. We  
10 have no problem with that. But we would like -- we think  
11 probably a reduced power level situation -- power levels  
12 consistent with on-site power supply is much more reasonable  
13 than some kind of shutdown to cold metal.

14 We are trying to be as reasonable and as  
15 responsible as we can be.

16 MR. HERNAN: Okay.

17 [Pause.]

18 MR. BOYNTON: Mr. Gary --

19 MR. GARY: Yes.

20 MR. BOYNTON: -- briefly, you had mentioned there  
21 were -- as you described under the EPZ issue, there were  
22 some critical elements missing in the radiological emergency  
23 response plans. And I assume you are referring to both the  
24 state and the Dauphin County plans.

25 MR. GARY: Yes.

1 MR. BOYNTON: Could you elaborate, perhaps, any on  
2 those critical elements you are referring to when you say  
3 there are critical elements missing?

4 MR. GARY: Well, the plan, the RERP that we  
5 reviewed was several hundred pages long.

6 MR. BOYNTON: Okay.

7 MR. GARY: It was -- if memory serves -- and I'm  
8 not positive it does here. But I think it was about 400  
9 pages.

10 MR. BOYNTON: Okay.

11 MR. GARY: We feel that the RERP is larded down  
12 with every form of administrative nonsense, different  
13 portions of the Pennsylvania system allocating  
14 responsibilities among themselves and giving long  
15 recitations of who is responsible for what.

16 In an emergency, you don't need anything like  
17 that. You need the same thing that you need on an aircraft  
18 carrier for an emergency response manual.

19 You need about a 100-page book that has large  
20 print, which is color-tabbed, which is basically a speed  
21 book. You know what is going on. You look to the  
22 appropriate color tab.

23 You want something that it doesn't take a lawyer  
24 to read. You want something that an \$18,000-a-year junior  
25 emergency response person who may be the only person in the

1 emergency response center at that time -- you know how  
2 things go.

3 In an emergency, the worst thing always happens.  
4 The senior guys get a flat tire. They can't get there. So  
5 you want something that the most junior person can open up,  
6 and that they can start running that emergency out of the  
7 book right there on the spot, because that book is so  
8 simple, and it's so short, and it's color-coded, and it's  
9 tabbed, and it's indexed.

10 And they can respond just like a non-commissioned  
11 officer on a ship can respond, if that is the only person  
12 available to handle an emergency.

13 MR. BOYNTON: Now, you are saying that these  
14 elements perhaps have been shifted to another place. I've  
15 heard PEMA refer to standard operating procedures.

16 Do those -- those procedures that implement the  
17 plan, do they have the critical elements in them?

18 MR. GARY: According --

19 MR. BOYNTON: Are they just -- go on.

20 MR. GARY: According to the officials, they do.  
21 The officials always refer to these notes and these other  
22 papers that are somewhere in the back pocket of somebody or  
23 in the desk.

24 There are other papers that have all the real  
25 information in them. It's not here in the plan, but it's

1 somewhere in other papers somewhere. According to the  
2 officials, all of the stuff is really there.

3 PICA's position is that the plan that you put  
4 forward as your RERP should be authentic. It should be  
5 genuine. It should be the real stuff.

6 If you think there is a security problem with  
7 putting the real information in the RERP, then make it a  
8 classified document.

9 Limit public access to it. We have no problem  
10 with that. But we think the RERP should be something other  
11 than a public relations document. We think it should be a  
12 genuine, authentic response plan.

13 MR. BOYNTON: Okay.

14 MR. GARY: The beauty of that, by the way, is that  
15 we have a concept in this country of consent, consent of the  
16 governed.

17 And the beauty of it is that an organization like  
18 PICA, through proper channels, and with all of the proper  
19 t's crossed and i's dotted could get a copy of that plan.  
20 And if it was no good, we could comment on it.

21 We could say, "No. We, on behalf of the public  
22 interest, don't give our consent to the plan being set up  
23 this way. It's not workable. It's not reasonable."

24 But if it is all done secretly, if it's all notes  
25 in somebody's back pocket or something that they are going

1 to make up on the spot, then there can't possibly be any  
2 public comment on that.

3 I'm not talking about the general public. But I'm  
4 talking about the public interest bar.

5 MR. BOYNTON: So you don't feel that the  
6 procedures, then, are usable by members of the emergency  
7 response organizations around the site, that there is  
8 something they can use readily for --

9 MR. GARY: Well, they --

10 MR. BOYNTON: -- emergency response.

11 MR. GARY: They would have to be speed readers at  
12 the graduate school level. I mean, if they could get  
13 through a 400-page document that is mostly legalese in the  
14 midst of an emergency, when everybody is calling at them and  
15 calling them on the phone and yelling orders in their ear,  
16 then I guess they might be able to glean something from the  
17 RERP. But the --

18 MR. BOYNTON: Well, I'm not referring to the RERP.  
19 I'm referring to the operating procedures that the people  
20 are supposedly going to be using to implement the RERP.

21 MR. GARY: I haven't seen them. They wouldn't  
22 show them to me.

23 MR. BOYNTON: Okay.

24 MR. GARY: And I don't necessarily believe that  
25 they are there. I mean, I wasn't timid when I asked for



1 them.

2 MR. BOYNTON: Okay.

3 MR. GARY: And the fact that they weren't  
4 forthcoming suggests to me, not decisively, but it suggests  
5 to me that maybe they are not there.

6 MR. BOYNTON: Okay. I have one other question.  
7 You also mentioned -- just for my understanding, briefly,  
8 you said Harrisburg, if you wanted to evacuate it, we would  
9 need 1,000 buses to do that. Where did you come up with  
10 that number?

11 MR. GARY: Well, you have a -- I mean, that was a  
12 very rough figure. It could be anything between 500 and  
13 1,000. It depends on the size of the buses. If you use  
14 military trucks, it would probably be 1,000. But I'm  
15 including --

16 MR. BOYNTON: Did you --

17 MR. GARY: -- the possibility of --

18 MR. BOYNTON: Did you make any assumptions with  
19 that, when you came up with that number?

20 MR. GARY: No. But one thing that I did take into  
21 account was that the plan, as it is presently constituted,  
22 comes out about even. It's 50 buses, plus or minus. But it  
23 omits 90 percent of Harrisburg. So put Harrisburg in, and  
24 you need some more transportation.

25 MR. BOYNTON: That's all I have.

1 MR. GARY: Okay.

2 MR. HERNAN: In your opinion, should the EPZ also  
3 be expanded to include the City of York, Pennsylvania?

4 MR. GARY: Well, now, our position today, sir, is  
5 that we are not calling for an expansion of the EPZ. We are  
6 calling for the creation of a whole new --

7 MR. HERNAN: Okay. Whatever it is that you are  
8 seeking --

9 MR. GARY: The CPA.

10 MR. HERNAN: -- would that also include the City  
11 of York, which is in about the same situation?

12 MR. GARY: If that is in the same situation, then  
13 the answer would be in the affirmative.

14 MR. HERNAN: Okay. Thank you.

15 MR. GARY: Okay.

16 MR. HERNAN: Any other questions?

17 [Fause.]

18 MR. STOLZ: Mr. Gary, have you had an opportunity  
19 to visit any of the emergency planning exercises that have  
20 been conducted at TMI?

21 MR. GARY: I haven't. I was at the PEMA emergency  
22 control center and had a very brief opportunity to see the  
23 inside of that. But I have not been present at an exercise.

24 MR. STOLZ: Okay.

25 MR. GARY: I asked to be invited, but wasn't.

1 MR. STOLZ: Okay.

2 [Pause.]

3 MS. LANGO: Mr. Gary, could you give us an idea of  
4 how you arrived at the \$5 million figure?

5 MR. GARY: I talked to Bill Wertz, who is at the  
6 EOC in Harrisburg.

7 And I asked him, "How much are you getting, in  
8 terms of Act 147 allocations?"

9 He said, "About \$1,000."

10 "Do you need more?"

11 "Yes."

12 I asked -- I talked to Mayor Reed.

13 And I said, "Are you getting -- are you covered  
14 for the costs that you are expending for nuclear emergency  
15 preparedness?"

16 He said, "No, no. They all come right out of the  
17 city's pocket. We are not getting anything."

18 I said, "Well, what about the other mayors?"

19 "Well, they probably feel the same way I do."

20 "Well, how about the county executives?"

21 "The same way."

22 This would be a good time, in response to that  
23 question, for me to deliver the additional comments that I  
24 have on the money issue, if that's all right.

25 I have about ten minutes of comments on the money

1 issue. And I will take that occasion to go ahead and  
2 present them.

3 MR. HERNAN: Okay.

4 MR. GARY: A brief chronology on the money issue  
5 might be useful in understanding the position of PEMA, which  
6 has been ratified by FEMA.

7 August 2, 1990 -- before I begin this, I want to  
8 distribute the pack that contains the letters, because it's  
9 fair that you have an opportunity to see these letters, if  
10 you want. [Indicating.]

11 MR. HERNAN: Okay.

12 [Pause.]

13 MR. GARY: This letter, the August 2 letter, is in  
14 here. [Indicating.]

15 August 2nd, 1990: Mr. LaFleur sends a letter to  
16 Governor Casey saying, regarding Act 147 allocations, that  
17 although the counties were not receiving sufficient funds  
18 under the current fee assessments, federal exercise reports  
19 have not identified any major deficiencies which cannot be  
20 remedied with the funds available as known at this time; a  
21 curious formulation which seems to mean that the counties  
22 say that they need more money.

23 But with the money we have, we can meet the  
24 federal requirements. This appears to be a kind of  
25 "minimalist" approach, rather than a true "adequacy"

1 approach.

2 It raises the question of whether Section 502(c)  
3 of the Radiation Protection Act means adequate for  
4 radiological protection, or simply adequate to meet the  
5 federal requirements as specified in federal exercise  
6 reports.

7 August 26th, 1991: Mr. LaFleur sends a letter to  
8 Governor Casey with the same language as the letter of the  
9 prior year, basically saying we can get by, as far as  
10 federal exercises are concerned, with \$500,000, even though  
11 the counties say they are not receiving enough money to  
12 cover their needs.

13 June 17th, 1992: Robert Gary writes to Mark  
14 Goodwin, chief counsel for PEMA, asking if \$500,000 per year  
15 isn't a rather small amount for radiological preparedness in  
16 Pennsylvania.

17 This letter points out that Mr. Bill Wertz, the  
18 Dauphin County operations center chief, says the average was  
19 only \$1,000 per county for Act 147 allocations. The letter  
20 asks that Robert Gary be permitted to come in and look at  
21 the books.

22 June 29th, 1992: Robert Gary writes again to Mark  
23 Goodwin, asking if PEMA believes \$500,000 per year is a  
24 reasonable amount for radiological preparedness in  
25 Pennsylvania to pay for the actual needs of 33 pertinent

1 counties.

2 June 30th, 1992: Permission is granted by PEMA  
3 for Robert Gary to come in and look at the books for Act 147  
4 allocations. Mr. Gary goes to PEMA, finds the book, but is  
5 not permitted to copy the page on which the allocations are  
6 listed.

7 If memory serves, the allocation for Dauphin  
8 County is in the \$40,000 to \$50,000 range. And there are  
9 several other risk counties in that range. All other  
10 counties are far below that.

11 July 15th, 1992: Mr. Goodwin writes back to  
12 Robert Gary, but on the money issue only addressing the  
13 question of how the fees collected under Sections 7320(c)  
14 and (d) of the Emergency Management Services Code are  
15 expended.

16 He says they are expended on salaries and  
17 benefits, including salaries and benefits of PEMA employees  
18 who do radiological emergency response and planning  
19 activities.

20 August 28th, 1992: Mr. LaFleur sends a letter to  
21 Governor Casey. Again, he says that the counties say they  
22 need more money, but Pennsylvania can get past the federal  
23 exercises without adding money.

24 But now some new language is added. Mr. LaFleur  
25 says that the costs are going up. PEMA needs to keep pace

1 with rising costs; perhaps there should be an increase in  
2 Act 147 funding.

3 PEMA, therefore, is going to consider forwarding a  
4 recommendation that the levy under Act 147 be reviewed and  
5 that the utilities are going to participate in that review.

6 Again, we are dealing with very curious language.  
7 Mr. LaFleur seems to be making a gesture. And yet, the  
8 gesture is so small that it is hard to imagine how he could  
9 do less.

10 We are going to begin considering doing some  
11 thinking about a review in which the utilities will have  
12 input into; this sounds like something that will result in  
13 cash money sometime in the next decade or two.

14 October 2nd, 1992: Mr. LaFleur and Mr. Gary meet  
15 in the office of State Senator Schumaker, who states  
16 forcefully that he would not place a burden on the  
17 ratepayers of Pennsylvania to increase Act 147 allocations  
18 above \$500,000 per year.

19 July 12th, 1993: Mr. LaFleur reveals in point 7E  
20 and F of his letter that, "The utilities have stated that  
21 they are reluctant to provide more stockholder or ratepayer  
22 funds to PEMA."

23 This is truly remarkable. A corporation says it  
24 wants its shareholders to have the money, not the counties  
25 who are trying to meet emergency preparedness goals and are

1 short of money for that purpose.

2 Nothing is done. PEMA wrings its hands, goes back  
3 to its desk. If the shareholders can't spare it, perhaps  
4 the citizens can do without the preparedness.

5 December 16th, 1993: Mr. Dennis Kwiatkowski  
6 writes a letter to Mr. Frank Congel -- a copy to  
7 Representative Gekas -- saying, "FEMA believes that PEMA has  
8 taken reasonable steps to acquire additional resources."

9 February 2nd, 1994: PICA comments on the above  
10 series of events as follows: PEMA did nothing to get more  
11 than \$500,000 per year for two years before Robert Gary  
12 started making noise about the issue.

13 In fact, PEMA wrote letters to the Governor  
14 suggesting that all of the federal tests could be passed  
15 without increasing the allocation, even though the county  
16 said they didn't have enough money.

17 When the issue was joined and PEMA had no other  
18 option but to respond in some manner, they responded in the  
19 weakest imaginable way by talking about planning to consider  
20 doing a review and surveying the utilities for their  
21 opinions.

22 When the utilities said they didn't want to  
23 deprive their shareholders to increase the allocation, PEMA  
24 sent letters through channels and let it go. According to  
25 FEMA, this constitutes reasonable steps.



1 PICA disagrees strongly. FEMA's findings are  
2 unacceptable by any rational standard and constitute one  
3 more point to suggest that nothing short of a de novo  
4 investigation by the NRC is needed before any fair or  
5 reasoned determination can be made on PICA's 2.206 Request.

6 MR. HERNAN: Okay.

7 MR. GARY: Are there any other questions?

8 Do you have any other questions, counselor?

9 [Pause.]

10 MR. HERNAN: Okay.

11 MR. GARY: I was hoping that there would be some  
12 active questions today.

13 [Pause.]

14 MR. HERNAN: Okay. If there are no further  
15 questions, we appreciate your time.

16 MR. GARY: Thanks for having me. I appreciate it.

17 MR. HERNAN: You're welcome.

18 [Whereupon, at 2:25 p.m., the above-entitled  
19 meeting was concluded.]

20

21

22

23

24

25

REPORTER'S CERTIFICATE

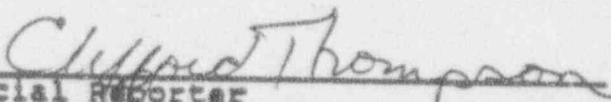
This is to certify that the attached proceedings  
before the United States Nuclear Regulatory  
Commission  
in the matter of:

NAME OF PROCEEDING: 10 CFR 2.206 Petition

DOCKET NUMBER:

PLACE OF PROCEEDING: Rockville, MD

were held as herein appears, and that this is the  
original transcript thereof for the file of the  
United States Nuclear Regulatory Commission taken  
by me and thereafter reduced to typewriting by me  
or under the direction of the court reporting  
company, and that the transcript is a true and  
accurate record of the foregoing proceedings.

  
Official Reporter  
Ann Riley & Associates, Ltd.