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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

+ + + + +

WEDNESDAY

DECEMBER 21, 2005

+ + + + +

The conference call was held, Herbert N. Berkow, Petition Review Board Chairman, presiding.

NRC HEADQUARTERS STAFF:

HERBERT N. BERKOW, Chairman, PRB

WILLIAM D. RECKLEY, Petition Manager

for 2.206 petition

DONNA M. SKAY, NRC/NRR

BALWANT K. SINGAL, NRC/NRR

STEPHEN F. LaVIE, Emergency Planning Org.

TIMOTHY J. McGINTY, Emergency Planning Org.

ROBERT M. TAYLOR, Emergency Planning Org.

GEORGE F. WUNDER, Peach Bottom Project Mgr.

FERIDEH E. SABA, Three Mile Island Project
Manager

GIOVANNA LONGO, OFFICE OF GENERAL COUNSEL

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1 PETITIONER:

2 Eric Epstein

3 NRC, REGION I, KING OF PRUSSIA STAFF:

4 RONALD R. BELLAMY

5 ANDREW A. ROSEBROOK, Project Manager

6 JOHN R. WRAY, State Liaison Officer

7 FEMA STAFF:

8 CRAIG FIORE

9 GARY SMITH, Office of the General Counsel

10 DARRYL HAMMONDS, Region III

11 ALSO PRESENT:

12 On Behalf of Exelon Nuclear:

13 J. BRADLEY FEWELL, ESQ.

14 Assistant General Counsel

15 PAM CONWAY, Director of Licensing

16 and Regulatory Affairs

17 DOUGLAS WALKER, Kennett Square Licensing

18 On Behalf of Three Mile Island Alert:

19 WILLIAM COLOGIE

20

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

22 (time not provided)

23 MR. FEWELL: Brad Fewell's on.

24 PARTICIPANT: Oh, Brad's on.

25 MR. FEWELL: As counsel.

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1 PETITIONER EPSTEIN: Brad, where are you
2 calling from?

3 MR. FEWELL: I'm calling from Cantera.

4 PETITIONER EPSTEIN: Where's that?

5 MR. FEWELL: Warrenville, Illinois,
6 outside of Chicago.

7 MR. FEWELL: F-E-W-E-L-L.

8 PETITIONER EPSTEIN: I know, Brad. I've
9 seen you I think. I don't even know -- I don't know
10 if I've sued you in the past, but I want to make sure
11 I get it right for the future.

12 (Laughter.)

13 MR. FEWELL: Thank you.

14 PETITIONER EPSTEIN: You're welcome.

15 MR. BELLAMY: NRC Region I just joined on.
16 This is the 2.206 petition call?

17 MR. RECKLEY: Yes, yes. Is this Ron
18 Bellamy?

19 MR. BELLAMY: Yes, it is. I just wanted
20 to make sure we were listening to the right
21 discussion.

22 MR. RECKLEY: Yes. Yes, we'll get
23 started. This is Bill Reckley. We'll get started in
24 a minute.

25 MR. BELLAMY: Yes. And I knew with Brad

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1 on the line if I didn't identify myself quickly, he'd
2 fine some investigation to initiate. So --

3 MR. FEWELL: Just trying to keep you
4 sharp.

5 MR. BELLAMY: I apologize for interrupting
6 whatever discussion you were having.

7 PETITIONER EPSTEIN: No need to interrupt.
8 I will be very clear and brief and consistent today.
9 You guys I think will get the message.

10 PARTICIPANT: Bill, this is Headquarters
11 Operations Center.

12 MR. RECKLEY: Yes.

13 PARTICIPANT: I understand you want to
14 have a tape of this meeting, so we're going to start
15 the tape now.

16 MR. RECKLEY: Okay. Thank you.

17 PARTICIPANT: Okay.

18 MR. RECKLEY: Okay. We're just going to
19 wait for a minute to see if anybody else joins us, and
20 then we can get started.

21 PETITIONER EPSTEIN: Bill, if you're going
22 to make a copy of the tape, I'd like to request a copy
23 myself.

24 MR. RECKLEY: Yes, you'll get a copy of
25 the transcript.

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1 PETITIONER EPSTEIN: Bill, you would be my
2 best friend if you could do that.

3 MR. RECKLEY: Do you want a copy of the
4 tape, or is the transcript good enough?

5 PETITIONER EPSTEIN: Both, the transcript
6 and the tape, if you can provide it. You know, I
7 don't have a life, and it would, you know, really, you
8 know, increase my home entertainment value.

9 MR. RECKLEY: Yes. Okay. No problem.

10 PARTICIPANT: Bill, there's 10 people on
11 the bridge right now. Were you expecting a particular
12 amount?

13 MR. RECKLEY: No, there may be a couple
14 more. I'm just not really sure.

15 PARTICIPANT: Okay.

16 MR. RECKLEY: We'll get started in about
17 five minutes.

18 PARTICIPANT: Okay.

19 MS. COWAN: This is Pam Cowan. I'm also
20 joining the call.

21 PARTICIPANT: From Kennett Square.

22 MS. COWAN: From Kennett Square, Exelon.

23 PETITIONER EPSTEIN: And what's your last
24 name?

25 PARTICIPANT: C-O-W-A-N.

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1 PETITIONER EPSTEIN: Is she legal counsel?

2 MR. RECKLEY: No, she's not.

3 MS. COWAN: No. I'm the Director of
4 Licensing and Regulatory Affairs for Exelon.

5 PETITIONER EPSTEIN: Brad, you're the only
6 counsel on?

7 MR. FEWELL: I'm not aware of any other
8 on.

9 PETITIONER EPSTEIN: Why I'm curious is
10 you're not counsel being served on the 2.206. Should
11 you be?

12 MR. FEWELL: I should be.

13 PETITIONER EPSTEIN: You might want to get
14 me that information, because it'll be about a 20-
15 minute presentation today, which will include four
16 exhibits.

17 MR. FEWELL: Okay. That's good. I will
18 do that.

19 PETITIONER EPSTEIN: If you e-mail me at
20 ericepstein@comcast.net, I'll get you that.

21 MR. FEWELL: All right. That's fine,
22 because I do get stuff indirectly. It just goes to
23 another stop that you send to like Tom O'Neill, but
24 I'll -- I will -- it's better if it comes directly to
25 me.

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1 PETITIONER EPSTEIN: You may want this
2 one. This one is very lengthy.

3 MR. FEWELL: Okay. Very good.

4 MR. RECKLEY: Okay. I think we're --
5 we'll just go ahead and get started. I'm not sure
6 everyone that we were expecting is here, and the ones
7 that were uncertain we'll assume they're not calling
8 in.

9 MR. FIORE: Bill, this is Craig Fiore at
10 FEMA.

11 MR. RECKLEY: Okay. Thank you.

12 MR. FIORE: I'm also here with Gary Smith
13 from our General Counsel Office.

14 MR. RECKLEY: Okay. We're going to go
15 through here in a second and go through who is -- who
16 is participating.

17 MR. FIORE: Okay.

18 MR. RECKLEY: Okay. Let's get started.
19 Again, my name is Bill Reckley from the NRC staff, and
20 I'm the Petition Manager for the 2.206 petition filed
21 by Eric Epstein. And we're here today just as an
22 opportunity for the Petitioner to go through the
23 petition, explain it, provide any additional
24 information that may not have been in the submittal.

25 Eric, in addition to yourself, is William

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1 Cologie also on the call?

2 PETITIONER EPSTEIN: Correct, yes.

3 MR. RECKLEY: Anyone else?

4 PETITIONER EPSTEIN: Not that I'm aware
5 of. Bill [Cologie] is -- I'm filing this as an
6 individual, and Bill is representing TMI Alert.

7 MR. RECKLEY: Okay. From the NRC, I'll go
8 around the table here at headquarters. There's
9 myself, Bill Reckley; Herb Berkow, who is the petition
10 -- the Chairman of the Petition Review Board; Tim
11 McGinty from our Emergency Planning Organization;
12 Donna Skay from NRR; Bob Taylor from Emergency
13 Planning; Steve LaVie from Emergency Planning.

14 MR. SINGAL: Balwant Singal from NRR.

15 MR. RECKLEY: Balwant Singal from NRR.

16 MS. SABA: Ferideh Saba.

17 MR. RECKLEY: From -- she's Project
18 Manager for --

19 MS. SABA: TMI.

20 MR. RECKLEY: -- TMI. George Wunder, the
21 Project Manager for Peach Bottom.

22 PETITIONER EPSTEIN: Who's the Project
23 Manager for TMI?

24 MR. RECKLEY: Ferideh Saba.

25 PETITIONER EPSTEIN: All right. Because

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1 I did ask, just as a note when the last guy left, and
2 he never a contact. And I believe -- I can't recall
3 his name. But at any rate, it was after Tim Colburn.
4 But -- so Ferideh is now the person?

5 MR. RECKLEY: Yes.

6 PETITIONER EPSTEIN: All right. Nice to
7 know.

8 MR. RECKLEY: Okay. We also have
9 participation from our Region I Office, and that is --

10 MR. BELLAMY: Yes. This is -- this is Ron
11 Bellamy from the NRC Region I Office in King of
12 Prussia. I am the Regional Branch Manager responsible
13 for Three Mile Island, and with me is Andy Rosebrook,
14 who is the Project Engineer, also responsible for
15 Three Mile Island, and John Wray, who is functioning
16 as our State Liaison Officer today. And that's it
17 from Region I.

18 MR. EPSTEIN: What does that mean, "State
19 Liaison Officer"?

20 MR. BELLAMY: He is our liaison between
21 NRC and state offices.

22 MR. RECKLEY: Okay. And from FEMA, we
23 have a few -- two people listening in. Could you
24 repeat that again?

25 MR. FIORE: This is Craig Fiore, and Gary

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1 Smith from our General Counsel's Office.

2 MR. RECKLEY: Okay.

3 (Feedback squelch.)

4 PARTICIPANT: I believe The Who have
5 joined us.

6 PARTICIPANT: Sounded like Jimi Hendrix.

7 PARTICIPANT: Yes, that was our fault
8 here. We're getting a little feedback.

9 MR. RECKLEY: Okay. Is there anyone else
10 on the line?

11 MR. HAMMONDS: This is FEMA, Region III.

12 MR. RECKLEY: And your name?

13 MR. HAMMONDS: Darryl Hammonds.

14 MR. RECKLEY: And anyone else that we
15 haven't heard from?

16 (No response.)

17 With that, let me introduce Herb Berkow,
18 who, again, is the Chairman of the Petition Review
19 Board. He'll go through a little bit of the
20 discussion, and, again, repeat the purpose of the
21 call, and then we'll turn it over to you, Eric.

22 PETITIONER EPSTEIN: Okay.

23 CHAIRMAN BERKOW: Good afternoon. This is
24 Herb Berkow. The subject of this teleconference is
25 the 2.206 petition submitted by Mr. Eric Epstein on

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1 November 18, 2005. The Petitioner has requested that
2 the NRC issue a Demand for Information to Amergen, the
3 licensee for TMI, and Exelon, the licensee for Peach
4 Bottom, requiring the licensees to provide information
5 demonstrating that they are in compliance with their
6 operating licenses and NRC regulations related to
7 emergency preparedness.

8 The specific concern of the petition
9 regards planning for day care centers and nursery
10 schools within the emergency planning zones of the TMI
11 and Peach Bottom sites. The purpose of this
12 teleconference, as Bill mentioned, is to allow the
13 Petitioner to address the Petition Review Board, to
14 provide any additional explanations or support for the
15 petition. It is also an opportunity for the staff to
16 ask any clarifying questions.

17 The purpose of this teleconference is not
18 to debate the merits of the petition. Given the
19 subject matter of the petition, we also have
20 representatives from the Federal Emergency Management
21 Agency listening in to the conference call.

22 The PRB will meet following this
23 teleconference to determine whether the NRC will
24 accept the petition under the 2.206 process, or
25 whether it will be dealt with under another mechanism.

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1 The PRB's meeting will not determine whether we agree
2 or disagree with the contents of the petition.

3 Since this teleconference is being
4 transcribed, we ask that anyone making a statement
5 first identify themselves by stating their name
6 clearly. The transcript of the teleconference will
7 become a supplement to the petition and will be made
8 publicly available.

9 Are there any questions on the process
10 that we'll follow for this teleconference?

11 PETITIONER EPSTEIN: This is Eric. The
12 only question I have is I actually have a formal
13 presentation, and I wanted to inquire as to whether or
14 not I could submit that and make it part of the formal
15 record, since I'm not going to be able to submit some
16 of the documentation, which is pretty lengthy.

17 CHAIRMAN BERKOW: Yes, you can.

18 PETITIONER EPSTEIN: Okay.

19 CHAIRMAN BERKOW: Okay. Well, Mr.
20 Epstein, then, welcome and go ahead with your
21 discussion. And we ask that you limit your comments
22 to about a half hour.

23 PETITIONER EPSTEIN: Yes, I don't intend
24 to take half an hour. And perhaps Bill [Cologie], you
25 know, at some point may want to speak on behalf of our

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1 organization. However, I did file this as an
2 individual, and I didn't really see the need to go
3 over the 2.206 petition that I filed. I thought you
4 summarized cogently what I had intended to present to
5 the Commission.

6 And today, unless there is a need from
7 people listening in for me to review the petition, I
8 was simply going to review my supplemental filing.

9 CHAIRMAN BERKOW: Yes, that's fine. We
10 don't expect you to repeat what was in the petition.
11 But if you have any additional supporting
12 information --

13 PETITIONER EPSTEIN: That's what I'm going
14 to do.

15 CHAIRMAN BERKOW: -- that will help us in
16 making our decision as to whether or not it can be
17 handled under the 2.206 process.

18 PETITIONER EPSTEIN: Okay. Well, the
19 first thing I would like to note is that I will send
20 along to the ES service list I have -- and, frankly,
21 that service list was arbitrary. So if there's a list
22 that you want me to serve, let me know, and I'll
23 attend to it. The list that I initiated was based on
24 a best guess.

25 So prior to hearing any additions or

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1 subtractions, I'll continue to list -- to address that
2 list. Mr. Fewell from Exelon did ask for a copy, and
3 I'll send him one as well.

4 Essentially, I'm going to be adding four
5 exhibits to the presentation. Exhibit 1 is simply
6 going to be the implementation of protective actions
7 for schools. Exhibit 2 is going to be Three Mile
8 Island Nuclear Generating Station, May 3-4, 2005,
9 Final Report, Radiological Emergency Preparedness
10 Program, FEMA, August 4, 2005.

11 Exhibit 3 will be the Federal Register
12 Notice that was posted on the 19th, pages 75085 to
13 75090. And Exhibit 4 will be Commissioner Jaczko's
14 dissent, which was issued December 20th of 2005.

15 I'll briefly walk you through those
16 issues, then be more than happy to entertain questions
17 or engage in any kind of dialogue that you deem
18 appropriate.

19 Objective 16 is the implementation of
20 protection actions -- excuse me, protective actions
21 for schools. And this is a document that FEMA uses to
22 check the implementation of GM [Guidance Memorandum]
23 EV-2, or protective actions for school children. One
24 of the things that I did want to note -- and there are
25 two statements to this Exhibit 1. Under page 1 of the

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1 objective it states, "Provisions of this objective
2 apply to public schools within the plume pathway, also
3 apply to any private schools, kindergartens, day care
4 centers, participating REPs [Radiological Emergency
5 Preparedness], who participate on a voluntary basis."

6 Statement 2, page 3, from this document,
7 Extent of Play. The objective states, "Only one
8 school in each affected school system needs to
9 demonstrate the implementation of protective action."

10 The purpose of entering this exhibit into
11 play is to set up my next exhibit where I'm going to
12 draw conclusions. So Exhibit 1 essentially is just
13 taking excerpts from Objective 16.

14 Exhibit 2 is the actual Three Mile Island
15 Nuclear Generating Station plan review. I guess
16 actually it's a review of the exercise. The exercise
17 took place on the 3rd and 4th of May. FEMA issued
18 their final report on 8/4/05.

19 If you look in Roman numeral four to Roman
20 numeral five, FEMA admitted that it "simulated
21 municipal compliance without being able to document
22 actual compliance." And if you move to page 82,
23 because most of the report does not deal with day care
24 or nursery schools, I'm only going to deal with the
25 aspects of the report that does.

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1 On page 28, FEMA report notes, "Contacts
2 with public school systems must be actual." I would
3 point out that no day care centers or nursery schools
4 were tested in the May 2005 drill, because they were
5 not required to participate.

6 On page 87 of FEMA's report -- and this is
7 the final report, "Private schools, private
8 kindergartens, and day care centers did not
9 participate in the REP exercise." Table 2, Section
10 4.0, School Districts, on pages 19 and 20 of FEMA's
11 final report. "Employees noted the only schools
12 tested were public high schools, middle schools, or
13 elementary schools." Again, no day care centers or
14 nursery schools were listed as being included in the
15 exercise.

16 In fact, there was no contact by FEMA with
17 any day care center or nursery school. FEMA did not
18 visit or inspect any of the 74 day care facilities
19 within 10 miles of TMI.

20 Now, those day care centers are located in
21 four counties. There is a fifth county within TMI --
22 Lebanon. It has no day care facilities. Cumberland
23 County, Dauphin County, Lancaster County, and York
24 County, and without getting into detail I specified
25 the municipalities and the school districts that

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1 contain day care and nursery schools, and that will be
2 in my formal presentation.

3 The first conclusion that I would submit
4 is that, due to the above-documented omissions on the
5 May 4-5 exercise, I find the exercise to be flawed.
6 If you refer to Section N, Exercises and Drills, GM
7 EV-2, please note none of the exercise evaluation
8 criteria listed on pages 6-13 of GM EV-2 were tested
9 for day care centers and nursery schools because no
10 day care centers are required to participate in an REP
11 exercise.

12 The State of Pennsylvania has had no
13 radiological planning for preschool children, even
14 though GM EV-2 was implemented in 1986, because FEMA
15 and the NRC has been improperly, in my opinion,
16 implementing GM EV-2 for more than 19 years.

17 My conclusion would be FEMA's report does
18 not provide reasonable assurance that preschool
19 children are protected. In fact, the only notation
20 listed for preschool children in FEMA's final report
21 was notification of day care centers of an emergency,
22 and that was on Roman numeral page four.

23 The only consideration for preschool
24 children given in the May 2005 REP exercise was
25 notification of an emergency. This exercise did not

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1 show that these child care facilities had been
2 provided the outlined protective measures listed in GM
3 EV-2, such as means for protective actions, specific
4 resources allocated for transportation, and supporting
5 letters of agreement if resources are provided from
6 external sources, and name and location of relocation
7 centers and transportation routes, if applicable.

8 This exercise also failed to show how day
9 care centers and nursery schools have been integrated
10 into the state's offsite plan. From GM EV-2, "Local
11 government should ensure that appropriate
12 organizational officials assume responsibility for the
13 emergency planning and preparedness for all of the
14 identified schools.

15 "Local government should also ensure that
16 emergency planning undertaken by these organizations
17 is integrated within a larger offsite emergency
18 management framework for the particular nuclear
19 powerplant site."

20 Conclusion two, there is no proof given in
21 FEMA's report that child care facilities have
22 prearranged transportation, relocation centers, or any
23 of the other protective requirements listed in GM
24 EV-2. FEMA's report does not provide reasonable
25 assurance that preschool children are protected.

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1 Third conclusion. Only one public school
2 per district was tested in the May 2005 drill. In the
3 extent of play section on page 87 it states, and I
4 quote, "At least one school in each affected school
5 system or district, as appropriate, needs to
6 demonstrate the implementation of protective actions."

7 If you refer to Table 2, Summary of
8 Results in the 2005 Exercise Evaluation under
9 Section 4.0, School Districts, if you refer to
10 pages 19 and 20, only one school district was tested.
11 Conclusion: FEMA and the NRC cannot state that all
12 preschools in each district have appropriate measures
13 in place to protect preschool children, because they
14 are only testing one school district, of which none
15 were preschools.

16 There is no proof given in FEMA's report
17 that preschools have met the requirements listed under
18 GM EV-2. FEMA's report does not provide reasonable
19 assurance that preschool children are protected.

20 In addition, if you look under the
21 criterion 3.C.2, that was the only protective action
22 implementation shown as being met for the -- for the
23 few schools that were actually tested. Criterion
24 3.C.2 OROs-School Officials, decide upon and implement
25 protective actions for schools was the only mark that

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1 showed up in Table 2 as being met by the few public
2 schools that were tested.

3 Transportation resources for preschool
4 children were not confirmed, and relocation centers
5 for preschool children were not confirmed. Again,
6 please refer to Section N, Exercises and Drills, and
7 GM EV-2. None of the exercise evaluation criteria
8 listed on pages 6-13 could be verified as being
9 tested, because 3.C.2 was the only one listed as being
10 tested and met.

11 Conclusion four. FEMA and the NRC cannot
12 verify that preschools in each district have all of
13 the required measures in place to protect preschool
14 children, because they are only testing one criterion
15 per school, of which none are preschools. There is no
16 proof given in FEMA's report that preschools have met
17 all of the requirements listed under GM EV-2. FEMA's
18 report does not provide reasonable assurance that
19 preschool children are protected.

20 Exhibit 3 is the actual Federal Register
21 Notice given on December 19, 2005, which had rejected
22 the petition that was submitted by Lawrence Christian
23 and sponsored by myself. These are the conclusions
24 that we will submit.

25 The NRC and FEMA failed to provide

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1 evidence or affirm -- or affirm the NRC's conclusions
2 contained in letters A, B, C, and D. In fact, the NRC
3 is in a position of contradictory information and
4 correspondence relating to the NRC conclusions
5 contained in letters E, F, and G.

6 In fact, the NRC Commissioners asked staff
7 to participate in the May 4th and 5th 2005 exercises
8 at TMI in order to verify compliance. FEMA refused to
9 allow the NRC to participate. Therefore, there is no
10 evidence that supports E, F, or G.

11 Now, the evidence that I speak of that
12 contradicts the conclusions that were drawn in
13 rulemaking petition are now in the possession of
14 Congressman Todd Platts. The NRC is basing its
15 conclusion on a special needs card that Amergen and
16 Exelon send out annually to the general community. No
17 evidence exists that would confirm if Exelon, the NRC,
18 PEMA, or FEMA acted on the data collected.

19 The current publication practices are not
20 adequate based on the data the NRC has that is in its
21 possession. Again, to cover all of our bases, we made
22 sure all of this evidence was photocopied and conveyed
23 to Congressman Todd Platts, who has all of the
24 information in his possession. If you need to
25 document that, the contact for Congressman Platts is

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1 Joe Thomas.

2 The final exhibit, Exhibit 4 -- and I'll
3 be submitting Commissioner Jaczko's dissent -- and
4 I'll just conclude with his statement about -- from
5 NRC Commissioner Jaczko. "The Commission and the
6 public should not be left to wonder if alert and
7 notification procedures for day care centers and
8 nursery schools are in place, transportation resources
9 would be available for evacuating these facilities,
10 and reception and day care centers are arranged."

11 Let me conclude by saying that the DPO
12 filed by Mr. Jamgochian, the dissent by Commissioner
13 Jaczko, and what I believe to be the overwhelming
14 evidence I presented indicates that the 2.206 petition
15 should be granted, and that it supports Exelon,
16 Amerigen, and also your own agency, to affirmatively
17 declare that they have met all of the information
18 contained in my petition.

19 That concludes my formal comments.

20 MR. COLOGIE: Okay. If I may?

21 PARTICIPANT: Yes.

22 MR. COLOGIE: All right. My name is
23 William Cologie. That's C-O-L-O-G-I-E. By way of
24 introduction, I've been a member in the Three Mile
25 Island Alert Governing Board, the Planning Council,

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1 for about 20 years.

2 Essentially, I'm participating in this
3 call today just to provide a little bit of historical
4 background for those of you unfamiliar with the
5 evolution of events, and simply to ask you folks at
6 the NRC to do your jobs and meet your responsibilities
7 under the law and under the NRC's own regulations.

8 The petition before you has its roots in
9 a petition filed by a member of our community, Larry
10 Christian, in the fall of 2002. Like so much going on
11 around us, Mr. Christian's petition dates back to
12 September 11, 2001. That day he went to retrieve his
13 child from a church-run day care center and made an
14 inquiry about whether the facility had plans to
15 evacuate the children in the event of an accident at
16 TMI.

17 He asked because the TMI cooling towers
18 are visible from that day care center. He learned
19 there was no plan in place for that facility -- 50
20 children -- and he then conducted an informal survey
21 with some other day care centers and found that none
22 of those he contacted had evacuation plans in place
23 for the children in their care.

24 He then contacted us at Three Mile Island
25 Alert, and we provided him assistance in putting

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1 together his petition for the NRC. Upon the filing of
2 that petition, TMI Alert issued a press release, the
3 last line of which included a quote from my colleague,
4 Eric Epstein, who said, and I quote, "Frankly, I can't
5 imagine any sane person, company, or governmental body
6 opposing this common-sense remedy."

7 Eric was never known for having a vivid
8 imagination. It turns out there was opposition from
9 the extremely sane and sensible people over at the
10 Pennsylvania Emergency Management Agency, who went on
11 record in opposition. And it's my understanding that
12 there was opposition from the NRC staff who I'm
13 reluctant to characterize.

14 The EFMR group conducted its own
15 comprehensive survey of 73 state-licensed day care
16 centers, and the results were startling. Eighty-seven
17 percent of those who completed the survey didn't know
18 who would provide transportation for their children in
19 the event of an accident. Fifty-eight percent didn't
20 know to which relocation center they should send their
21 children.

22 Two-thirds hadn't been provided
23 transportation by the state, county, or a
24 municipality. They were essentially on their own.

25 Since then, we had a law passed in

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1 Pennsylvania requiring such plans, but only for for-
2 profit day care enters. So the 50 kids where Mr.
3 Christian's child was enrolled still weren't covered.

4 Finally, in September 2005, Mr. Jamgochian
5 issued his differing professional opinion in support
6 of our point of view. In most corridors, his action
7 would be considered just doing his job. But in the
8 context of the NRC, we see that as a rather courageous
9 action.

10 We're kind of amazed that, given the
11 original filings in the fall of 2002, that we are
12 still talking about this, which seems so cut and dry
13 and simple and straightforward. We're still talking
14 about it three years later.

15 CHAIRMAN BERKOW: Okay. This is Herb
16 Berkow. Are you finished?

17 MR. COLOGIE: I am.

18 CHAIRMAN BERKOW: Okay. Mr. Epstein, do
19 you have any -- any additional comments?

20 PETITIONER EPSTEIN: No.

21 CHAIRMAN BERKOW: Okay. Well, let me ask
22 the staff, then, here in this conference room, anybody
23 have any questions? Clarifications?

24 (No response.)

25 Okay. How about the licensees, do you

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1 have any questions?

2 PARTICIPANT: No questions.

3 CHAIRMAN BERKOW: Ron or John in Region I?

4 PARTICIPANT: Nothing from Region I.

5 PARTICIPANT: No questions here.

6 CHAIRMAN BERKOW: Okay. Eric, just as a
7 matter of process, we have all of the documents you
8 referenced. You can certainly provide them as
9 exhibits, or you can simply summarize your major
10 points and reference those documents. We're in
11 possession of all of those.

12 PETITIONER EPSTEIN: You know us. We're
13 ready to go. So if you just provide us with the
14 e-mail, we -- we -- you know, frankly, I take it we're
15 -- I absolutely believe you have that stuff. But from
16 20 years with the NRC, sometimes documents have a way
17 of getting lost or misplaced.

18 CHAIRMAN BERKOW: That's fine. You can
19 provide them.

20 PETITIONER EPSTEIN: Yes.

21 CHAIRMAN BERKOW: Either way. I'll let it
22 up to you.

23 PETITIONER EPSTEIN: I just had two
24 questions. One was, who is composed of this Board?
25 I heard folks identified, and I'm not sure who

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1 actually sits on the Board. I know Herb -- it seems
2 like he's the chair.

3 CHAIRMAN BERKOW: Right. And the Petition
4 Manager, in this case Bill Reckley.

5 PETITIONER EPSTEIN: Right.

6 CHAIRMAN BERKOW: And, generally, the
7 project managers for any plants that are involved.
8 And we have our OGC as advisors to the PRB.

9 PETITIONER EPSTEIN: Who in OGC is
10 advising?

11 CHAIRMAN BERKOW: Jenny Longo.

12 PETITIONER EPSTEIN: Okay. Was she on the
13 call?

14 CHAIRMAN BERKOW: Yes, she is here. She's
15 here.

16 PETITIONER EPSTEIN: I just want to say
17 that everybody who is on the Board should have a
18 wonderful holiday. And though I can't see you, I'm
19 sure you all look great.

20 CHAIRMAN BERKOW: Thank you. The same to
21 you.

22 PETITIONER EPSTEIN: The other question I
23 have is just a technical clarification. My
24 presumption is that NRC Region was on, and that FEMA
25 Region III was on, or was it FEMA Headquarters?

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1 CHAIRMAN BERKOW: Both. FEMA Headquarters
2 and FEMA Region III.

3 PETITIONER EPSTEIN: Could you -- will
4 this be on the minutes, who actually --

5 PARTICIPANT: Yes.

6 CHAIRMAN BERKOW: We'll list who was on
7 the call.

8 PETITIONER EPSTEIN: Yes. But also from
9 where you guys are at?

10 CHAIRMAN BERKOW: Right.

11 PETITIONER EPSTEIN: Yes. Thank you. And
12 the final question is: is the -- and this may be to
13 Bill [Reckley]. Is the list that I'm using
14 appropriate, Bill, or do you want to send me another
15 service list? Or how do you want to work that?

16 MR. RECKLEY: Actually, that's kind of up
17 to you. We -- as long as we get it, we will provide
18 it to whoever we think needs to get it.

19 PETITIONER EPSTEIN: Okay. Do I need --
20 does electronic mail suffice for everybody, or do I
21 need a hard copy service as well?

22 MR. RECKLEY: It will do for us.

23 PETITIONER EPSTEIN: Okay.

24 MR. SMITH: Bill, this is Gary Smith at
25 FEMA, in Headquarters.

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1 MR. RECKLEY: Yes.

2 MR. SMITH: Okay. Just as a point of
3 clarification, so there's no confusion later, the FEMA
4 participation is just to monitor this call.

5 MR. RECKLEY: Yes, that's right. I'm
6 sorry, I should have clarified. I might have over --
7 overused the word "participant." Those in attendance
8 on the call.

9 PETITIONER EPSTEIN: Then, if it's okay,
10 I have just a final summation whenever you're ready.

11 MR. RECKLEY: Go ahead.

12 CHAIRMAN BERKOW: Go right ahead.

13 PETITIONER EPSTEIN: I would just like to
14 reiterate -- and Bill [Reckley] has been real good at
15 this -- that I get copies of all correspondence and/or
16 communications that may be relevant to this decision.
17 And I'm hoping whatever you decide, that we can get a
18 predecision notice as soon as possible, since there is
19 a lot at play here, including licenses, rulemaking
20 petitions, and a merger.

21 And just to be clear to everybody on the
22 phone, and I've made it clear to Bill [Reckley],
23 depending on this decision, we have every intent to --
24 and, again, based on how this decision goes -- to file
25 in Federal Court and also in Pennsylvania Commonwealth

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1 Court within a month.

2 What we were going to do is wait and see
3 how you guys ruled. After we do that, and that's --
4 and this is directly for the gentleman from FEMA,
5 because you guys are government agencies, when we take
6 this outside of the NRC jurisdiction, if we need to do
7 that, we will have to name individuals from the NRC,
8 from FEMA, from PEMA, and from the company, and we
9 will be doing that.

10 So I wanted to let everybody know, just to
11 have a sense of fair play and fair warning, that,
12 again, depending on how this comes out -- and I'm not
13 presuming it's going one way or the other -- we are
14 compelled to file for relief, Middle District Court in
15 Harrisburg and most likely Commonwealth Court in
16 Harrisburg, too, although it may be the Supreme Court,
17 depending on venue.

18 And that concludes my summation.

19 CHAIRMAN BERKOW: Are there any other
20 questions or comments?

21 PETITIONER EPSTEIN: No.

22 CHAIRMAN BERKOW: Okay. Well, thank you
23 very much for participating in this call.

24 PETITIONER EPSTEIN: Yep. You all have a
25 wonderful holiday season.

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CHAIRMAN BERKOW: And you, too.

PETITIONER EPSTEIN: You got it.

CHAIRMAN BERKOW: Okay.

(Whereupon, the proceedings in the foregoing matter were concluded.)

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