

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: 10 CFR 2.206 Petition Review Board (PRB)  
Re: Three Mile Island Nuclear Station, Unit 1

Docket Number: N/A

Location: Teleconference

Date: June 26, 2019

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Pages 1-37

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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10 CFR 2.206 PETITION REVIEW BOARD (PRB)

HEARING

RE

THREE MILE ISLAND NUCLEAR STATION, UNIT 1

+ + + + +

WEDNESDAY

JUNE 26, 2019

+ + + + +

The hearing was held at 1:00 p.m. via teleconference, Brian Smith, Chairperson of the Petition Review Board, presiding.

PETITIONER: ERIC EPSTEIN, Chairman

SCOTT D. PORTZLINE, Security Consultant  
Three Mile Island Alert

PETITION REVIEW BOARD MEMBERS

BRIAN SMITH, Deputy Director, Division of Engineering

Office of Nuclear Reactor Regulation

JUSTIN POOLE, Petition Manager

Office of Nuclear Reactor Regulation

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PERRY BUCKBERG, Petition Coordinator  
Office of Nuclear Reactor Regulation  
CHERYL KAHN, Senior Project Engineer  
Region I  
ANDREW JOHNSON, Materials Engineer  
Office of Nuclear Reactor Regulation  
PAUL KLEIN, Senior Materials Engineer  
Office of Nuclear Reactor Regulation  
JOE GILLESPIE, Attorney  
Office of General Counsel  
ALAN HUYNH, Materials Engineer  
Office of Nuclear Reactor Regulation

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

1:00 p.m.

1  
2  
3 MR. POOLE: Hi, this is Justin Poole from  
4 the NRC. It is 1:00 p.m. Mr. Portzline, are you on  
5 the line?

6 MR. PORTZLINE: Yes, I am.

7 MR. POOLE: And Mr. Epstein, are you on  
8 the line?

9 MR. EPSTEIN: Yes.

10 MR. POOLE: Okay, then we will get  
11 started. I'd like to thank everybody for attending  
12 the meeting today.

13 My name is Justin Poole, I am a Project  
14 Manager in the Division of Operator Reactor Licensing  
15 in the Office of Nuclear Reactor Regulation. I'm also  
16 the petition manager for this petition.

17 We're here today to allow the Petitioner,  
18 TMI Alert, to address the Petition Review Board  
19 regarding the 2.206 petition dated March 11, 2019.

20 The Petition Review Board Chairman is  
21 Brian Smith, Deputy Director in the Division of  
22 Engineering in the Office of Nuclear Reactor  
23 Regulation.

24 This is a Category 1 Meeting, the public  
25 is invited to observe this meeting and we'll have one

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1 or more opportunities to communicate with the NRC  
2 after the business portion but before the meeting is  
3 adjourned.

4 I ask that you please silence your cell  
5 phones at this time so as to not interrupt the meeting  
6 or any of its speakers.

7 As part of the Petition Review Board's  
8 review of this petition, TMI Alert has requested this  
9 opportunity to address the PRB, that is the Petition  
10 Review Board.

11 This meeting was scheduled to begin at  
12 1:00 p.m. Eastern Time and introductory remarks we'll  
13 allow TMI Alert approximately 35 minutes to address  
14 the Board. The meeting is being recorded by the NRC  
15 Operations Center and will be transcribed by a court  
16 reporter.

17 The transcript will become a supplement to  
18 the petition and the transcript will also be made  
19 publicly available. I'd like to open the meeting with  
20 introductions.

21 As I stated, the PRB Chair is Brian Smith.  
22 I would like to the rest of the Petition Review Board  
23 here at NRC Headquarters and one individual calling in  
24 to introduce themselves, first here at Headquarters  
25 and then on the phone.

1                   Please be sure to clearly state your name,  
2                   your position, and the office that you work for within  
3                   the NRC for the record.

4                   Again, my name is Justin Poole, I am a  
5                   Project Manager in the Division of Operator Reactor  
6                   Licensing in the Office of Nuclear Reactor Regulation.

7                   MR. BUCKBERG: I am Perry Buckberg, I am  
8                   the NRC's Agency 2.206 Petition Coordinator.

9                   MR. HUYNH: I'm Alan Huynh.

10                   (Simultaneous Speaking.)

11                   MR. POOLE: Go ahead.

12                   MR. EPSTEIN: No, I'm listening. I didn't  
13                   hear the gentleman's first name.

14                   MR. BUCKBERG: Perry or Alan.

15                   MR. EPSTEIN: How do you spell your last  
16                   name? You know what, it will be on the record so go  
17                   ahead.

18                   MR. POOLE: Go ahead.

19                   MR. HUYNH: This is Alan Huynh, I'm a  
20                   Materials Engineer, Division of Materials and License  
21                   Renewal.

22                   MR. SMITH: This is Brian Smith, I am the  
23                   Deputy Director of the Division of Engineering in the  
24                   Office of Nuclear Reactor Regulation.

25                   MR. KLEIN: I'm Paul Klein, I'm a Senior

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1 Materials Engineer in the Division of Materials and  
2 License Renewal.

3 MR. GILLESPIE: Joe Gillespie, I am an  
4 attorney in the Office of General Counsel, Division of  
5 Materials, Litigation, and Enforcement.

6 MR. JOHNSON: Andrew Johnson, Materials  
7 Engineer, Division of Materials and License Renewal.

8 MR. POOLE: And there's one other Member  
9 in Headquarters here that's on the Board. His name is  
10 David Jones from the Office of Enforcement. He was  
11 not able to attend the meeting today.

12 Cheryl, can you go to your introduction?

13 MS. KAHN: Sure. This is Cheryl Kahn, I'm  
14 a Senior Project Engineer with the Division of Reactor  
15 Projects in the Region I Office.

16 MR. POOLE: Okay, are there any  
17 representatives from the licensee on the phone?

18 MR. MASCITELLI: Frank Mascitelli from  
19 Corporate Licensing.

20 MR. GOLDMAN: Also with TMI, Jeff Goldman,  
21 Regulatory Assurance Manager.

22 MR. WUNDERLY: Blair Wunderly, Engineering  
23 Director, TMI.

24 MR. FITZWATER: Mike Fitzwater with  
25 Regulatory Assurance.

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1 MR. POOLE: And TMI Alert, would you  
2 please introduce yourselves for the record?

3 MR. EPSTEIN: Eric Epstein, Chairman of  
4 the Three Mile Island Alert.

5 MR. PORTZLINE: Scott Portzline. I do a  
6 lot of work on security and safety.

7 MR. POOLE: Okay, and are there any  
8 members of the public not directly involved in this  
9 petition on the line? Okay.

10 I'd like to emphasize that we each need to  
11 speak clearly and loudly to make sure the court  
12 reporter can accurately transcribe the meeting.

13 If you do have something that you would  
14 like to say, please first state your name for the  
15 record. For those dialing into the meeting, please  
16 remember to mute your phones to minimize any  
17 background noises or distractions.

18 If you don't have a mute button this can  
19 be done by pressing star 6. At this time, I'll turn  
20 it over to the Petition Review Board Chairman, Brian  
21 Smith.

22 MR. SMITH: Welcome to this meeting  
23 regarding the 2.206 petition submitted by TMI Alert.  
24 I'd like to first share some background on our  
25 process.



1           Section 2.206 of Title 10 of the Code of  
2 Federal Regulations describes the petition process,  
3 the primary mechanism for the public to request  
4 enforcement action by the NRC, a public process.

5           This process permits anyone to petition  
6 the NRC to take enforcement-type action related to NRC  
7 licensees or licensed activities.

8           Depending on the results of its  
9 evaluation, the NRC can modify, suspend, or revoke an  
10 NRC-issued license or take any other appropriate  
11 enforcement action to resolve a problem.

12           The NRC Staff's guidance for the  
13 disposition of 2.206 petition request is in the  
14 Management Directive 8.11, which is publicly  
15 available.

16           The purpose of today's meeting is to give  
17 the Petitioner an opportunity to provide any relevant  
18 additional explanation and support for the petition  
19 after having received the Petition Review Board's  
20 initial assessment.

21           This meeting is not a hearing, nor is it  
22 an opportunity for the Petitioner or other members of  
23 the public to question or examine the Petition Review  
24 Board on the merits or the issues presented in the  
25 petition request.

1           No decisions regarding the merits of this  
2 petition will be made at this meeting. Following this  
3 meeting the Petition Review Board will conduct its  
4 initial deliberations. The outcome of this internal  
5 meeting will be discussed with the Petitioner.

6           The Petition Review Board typically  
7 consists of a Chairman, usually a manager at the  
8 Senior Executive Service level at the NRC. It has a  
9 petition manager and a PRB coordinator.

10           Other Members of the Board are determined  
11 by the NRC Staff based on the content of the  
12 information in the petition request. The Members have  
13 already introduced themselves.

14           As described in our process, the NRC Staff  
15 may ask clarifying questions in order to better  
16 understand the Petitioner's presentation and to reach  
17 a reasoned decision on whether or not to accept the  
18 Petitioner's request for review under the 2.206  
19 process.

20           I would like to summarize the scope of the  
21 petition under consideration and the NRC activities to  
22 date.

23           On March 11, 2019 you submitted to the NRC  
24 a petition under 2.206 regarding concerns about the  
25 design of the replacement steam generators at Three

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1 Mile Island Nuclear Station, Unit 1.

2 Specifically, you state that the analysis  
3 and testing used to confirm the design of the steam  
4 generators was insufficient when it came to  
5 identifying steam tube fluttering, causing tube-to-  
6 tube wear.

7 And due to this, TMI is in violation of 10  
8 C.F.R. 50.59 and the plant appears to be at a  
9 significant increased risk of an accident.

10 Due to your concerns, your petition  
11 requests enforcement action including shutting down  
12 the reactor until the problem is properly evaluated  
13 and remediated.

14 On June 5, 2019 the petition manager  
15 contacted you to inform you of the PRB's initial  
16 assessment that your petition does not meet Management  
17 Directive 8.11, Section III.C.1 criteria for petition  
18 evaluation because the NRC has been aware of and has  
19 been involved with the issues raised in your petition  
20 since 2011.

21 Documents that you referred to in your  
22 petition as well as other publicly available documents  
23 reflect the NRC's Staff detailed knowledge of the  
24 tube-to-tube wear issues and the NRC Staff's position.

25 The petition manager offered you an

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1 opportunity --

2 MR. EPSTEIN: Can you repeat that  
3 sentence, the one where you said you had detailed  
4 knowledge? What was that sentence that you were  
5 reading?

6 I couldn't get that.

7 MR. SMITH: Okay, I'll repeat that  
8 sentence.

9 Documents that you referred to in your  
10 petition as well as other publicly available documents  
11 reflect the NRC's Staff detailed knowledge of the  
12 tube-to-tube wear issues and the NRC Staff's position.

13 The petition manager offered you an  
14 opportunity to address the PRB to clarify or  
15 supplement your petition in response to this  
16 assessment and you requested to address the PRB via  
17 teleconference.

18 As a reminder for the phone participants,  
19 please identify yourself if you make any remarks as  
20 this will help us in the preparation of the meeting  
21 transcript that will be made publicly available.  
22 Thank you.

23 Mr. Epstein and Mr. Portzline, I will turn  
24 it over to you now to allow you the opportunity to  
25 provide any information you believe the PRB should

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1 consider as part of this petition. You have 35  
2 minutes for your presentation.

3 MR. PORTZLINE: Eric, I'd like to say  
4 something first. I'm reading the same paragraph that  
5 you were questioning and I couldn't hear the wording  
6 quite right.

7 The Petition Review Board refers to  
8 detailed knowledge in the documents that we had  
9 examined from the licensee or the NRC, or from Areva.

10 And so what we want to know is, although  
11 you claim to be very familiar with that, nowhere in  
12 these documents is there any point about the exact  
13 problem that we are describing, which is the secondary  
14 flow between the steam tubes that has buckled and are  
15 now in a different geometry than has ever been  
16 analyzed.

17 The analysis process used by Areva could  
18 not detect that the fluttering was going to occur and  
19 so I'm questioning how the Review Board could state  
20 that we got detailed knowledge of this and there's  
21 nothing new here.

22 But there is something new, because I have  
23 never seen any documents discussing the fluttering and  
24 what would happen during even higher temperatures and  
25 pressures.

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1 So, I'd like to ask you about that.

2 MR. BUCKBERG: Hi, this is Perry Buckberg,  
3 the Agency Petition Coordinator. Sticking to the  
4 guidelines of this meeting, we will not answer  
5 questions regarding the contents of the petition.

6 This is your opportunity to supplement the  
7 petition but we have noted your question and it's  
8 something we'll consider afterwards.

9 MR. PORTZLINE: Well, in your statement  
10 you refer to detailed documents so you opened the door  
11 to it, not us.

12 If you say, oh, it's all in the detailed  
13 documents and then we ask you where, tell us what it  
14 is? And you say, oh, no we can't refer to that  
15 anymore.

16 Well, you opened that door, not me.

17 MR. BUCKBERG: That statement was of the  
18 PRB's current position and considering that statement,  
19 which was information relayed to you in the June 5th  
20 email, you can take this opportunity to supplement the  
21 petition or respond to what our position is.

22 But this is not an opportunity for a back  
23 and forth type of a hearing. This is your time to  
24 supplement.

25 MR. PORTZLINE: It doesn't matter what we

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1 would supplement because it's already been decided  
2 through legal --

3 (Simultaneous Speaking.)

4 MR. SMITH: All right, I'm not sure if it  
5 was Mr. Portzline or Mr. Epstein that was asking the  
6 question but this is Brian Smith.

7 Just in a general response to your  
8 question about the documents that may be publicly  
9 available, there have been several inspections that  
10 have been conducted by the NRC where they have looked  
11 into these issues.

12 So, there are publicly available  
13 inspection reports that document those reviews and  
14 there are other reviews that were conducted by folks  
15 here at Headquarters as well as some meeting summaries  
16 from public meetings that were conducted as well on  
17 related topics.

18 And those are the documents that we're  
19 referring to.

20 MR. PORTZLINE: And Brian, I have scoured  
21 those for years and everything I could get my hands on  
22 is publicly available, and nowhere in those documents  
23 does it talk about what would happen under transient  
24 conditions to the increased bowing that can occur  
25 because of the temperature differences between the

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1 shell and so forth.

2 So, when you give me that answer, you are  
3 incorrect, there's no reference to that. If you're  
4 resting on what those documents say, you're wrong,  
5 they don't say that.

6 There's no analysis there and that's why  
7 we're questioning the Petition Review Board. That's  
8 a perfect point, you've got to be able to stand up and  
9 say we really did analyze that and you're not, you're  
10 not able to say that.

11 MR. SMITH: Okay, we understand your  
12 comment and we will consider that as we further our  
13 deliberations.

14 MR. EPSTEIN: This is Eric Epstein from  
15 Three Mile Island Alert.

16 I have drafted our presentation and I'll  
17 send it to share with you but I did want to ask or  
18 make some requests, if you can tell me if they're  
19 appropriate or inappropriate, which would actually  
20 help us respond.

21 I've got to tell you, it's difficult to  
22 respond because the information we received from the  
23 PRB was sparse, it was a cursory dismissal. I've been  
24 litigating for 30 years and I've never had an  
25 experience like this.

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1                   But I don't know if you can provide it,  
2                   what would be interesting if you could confirm is it's  
3                   my understanding that you had two meetings previous to  
4                   this.

5                   Is that correct?

6                   MR. POOLE: Who had two meetings? Sorry,  
7                   this is Justin Poole.

8                   MR. EPSTEIN: The NRC.

9                   MR. PORTZLINE: The Petition Review Board.

10                  MR. POOLE: We have met internally a few  
11                  times, yes.

12                  MR. EPSTEIN: I mean when you say a few  
13                  times, again, this is kind of oblique. Did you meet  
14                  once, twice? I'm just trying to determine how many  
15                  times you guys have met before you drafted a decision.

16                  MR. POOLE: I would have to look at a  
17                  calendar but my guess would be at least three or four  
18                  times.

19                  MR. EPSTEIN: Okay, do you have minutes to  
20                  those meetings?

21                  MR. POOLE: We do not, no.

22                  MR. BUCKBERG: Those are internal closed  
23                  meetings.

24                  MR. EPSTEIN: Are you allowed to disclose  
25                  who attended the meetings?

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1 MR. BUCKBERG: No.

2 MR. POOLE: It's the Members of the PRB  
3 that we said here today.

4 MR. EPSTEIN: Right, but that doesn't mean  
5 that everybody attended every meeting.

6 So, if we have three or four meetings,  
7 what I'm trying to drill down and find out is who  
8 attended the meetings, who missed the meetings?

9 Frankly, I haven't seen anybody resumes.  
10 Are you able to acknowledge if anybody has prior steam  
11 generator experience?

12 MR. SMITH: Yes, this is Brian Smith.

13 What I mentioned in my presentation before  
14 about the selection of the PRB Members based upon the  
15 content of the petition, basically that means what is  
16 the topic of the petition?

17 In this case it's steam generators and so  
18 when we selected the Members to be on the Petition  
19 Review Board, we selected those Staff that had  
20 experience with steam generators.

21 MR. EPSTEIN: Okay, Brian, that answers my  
22 question. I'm wondering as a follow-up to that  
23 question, you generally refer to having knowledge and  
24 experience. Do you have any documents?

25 I'm a professor normally, when I review a

1 student's graduate or undergraduate research, it's  
2 documented. Can you provide us a footnote or  
3 annotated bibliography of what documents you're  
4 referring to?

5 MR. SMITH: As we follow through in the  
6 process and if we continue through with the position  
7 that we have now, you would receive documentation from  
8 us that would include references to some of those  
9 documents.

10 MR. EPSTEIN: Right, but it puts us at a  
11 disadvantage when you make a decision without  
12 substantiating the premise for your decisions.

13 So, basically, you can basically -- the  
14 initial review is dismissal but in order for us to  
15 respond to your argument, I need to know what I'm  
16 arguing against. I need to know what I'm referring  
17 to.

18 There is no meter on the phones here so  
19 what I'm saying, moving forward that's great but down  
20 to the facts prior to that, are you allowed to share  
21 with us the documents you referenced to make your  
22 initial decision?

23 It's a real simple question, yes or no.

24 MR. BUCKBERG: No.

25 MR. EPSTEIN: So, basically, just so that

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1 I understand, you had a meeting that the public was  
2 not invited to, we're not really sure who attended it,  
3 the decision is based on documents you can't share.  
4 Is that a fair characterization?

5 MR. BUCKBERG: This is Perry Buckberg.

6 I'll be more general, we are following the  
7 MD 8.11 petition process which you submitted your  
8 petition under and there's no call for a meeting open  
9 to the prescribe or to be transcribed or anything when  
10 it's an internal PRB meeting.

11 This is the first public meeting while  
12 following that process.

13 MR. EPSTEIN: Right, but you had  
14 gatherings that informed you to make the decision. If  
15 you can't tell us who was in the meeting, I was  
16 wondering if you could tell us what was utilized to  
17 come to a conclusion?

18 We're kind of in an Alice-in-Wonderland  
19 place here. If you can't tell me, you can't tell me.  
20 I just need to know.

21 After I go get this and respond, it would  
22 be great to have a footnoted annotated bibliography to  
23 know what you're basing your decision on.

24 MR. BUCKBERG: We're going to go on mute  
25 for a minute here since you haven't begun your

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1 presentation yet.

2 MR. EPSTEIN: What?

3 MR. BUCKBERG: We're going to go on mute  
4 and discuss this for a brief moment.

5 MR. EPSTEIN: All right, do you need to  
6 mute the sound?

7 MR. SMITH: Just hold on for a minute if  
8 you would. Give us a chance to talk privately.

9 (Whereupon, the above-entitled matter  
10 went off the record at 1:20 p.m. and  
11 resumed at 1:21 p.m.)

12 MR. BUCKBERG: Thank you for your  
13 patience. We just wanted to make sure we were on the  
14 same page here as far as the procedure goes.

15 Where we were when this meeting began was  
16 the Petition Chair ended his comments at 1:10 p.m.  
17 giving the Petitioners 35 minutes to present, to  
18 supplement. And we're taking up a few of those  
19 minutes right now.

20 If there's no presentation or supplement  
21 that you want to offer, we can move to adjourn the  
22 meeting or you can take the rest of your time to make  
23 that presentation.

24 But we're going to go back to the process  
25 where this is not a back and forth and this is not an

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1 opportunity to question the PRB. The petition process  
2 --

3 (Simultaneous Speaking.)

4 -- is how it's spelled out in MD 8.11 and  
5 we're sticking closely to the process.

6 MR. EPSTEIN: In order for me to  
7 substantiate a response, I need the documents and  
8 please give us three minutes credit because we should  
9 not be timed for the time that you took.

10 Let me just say this to you and you can  
11 not respond, but I think this is the crux of the case.  
12 During your deliberations was Exelon consulted?

13 MR. POOLE: No.

14 MR. EPSTEIN: All right.

15 I think moving forward I'm going to send  
16 you documents and we're kind of in a never-world here  
17 because in order for us to supplant the supplement,  
18 what we're doing, it's difficult to understand what  
19 detailed knowledge is about documentation or to  
20 understand what research you relied on.

21 Can I ask if you've met with the  
22 manufacturer, Areva, during your deliberations?

23 MR. SMITH: No, we did not.

24 MR. EPSTEIN: So, as part of the public  
25 record, this was an internal deliberate process that

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1 was conducted without the manufacturer and without the  
2 licensee, is that correct?

3 MR. BUCKBERG: Correct, in accordance with  
4 Management Directive 8.11. These were internal NRC  
5 meetings.

6 MR. EPSTEIN: All right.

7 I'd just like for the record to also point  
8 out that you have not as part of your initial denial  
9 provided any documentation that would disprove our  
10 contentions concerning the fact that we believe that  
11 steam generators can self-destruct with excessive  
12 vibration and fluttering under reactor-transient  
13 conditions.

14 So, again, our position remains the  
15 fluttering can be so severe that the steam generator  
16 tubes within the generator can bang into each other  
17 and rupture. And again, as we argued, this triggering  
18 mechanism can formally induce steam generator tube  
19 failure.

20 I'm probably going to request the same  
21 information, I don't know if you can give it, but  
22 you'll have to provide any documentation that  
23 disproves that theory. Basically, have you disproved  
24 the theory?

25 I know we're working within the

1 limitations of the petition process but we haven't  
2 received anything to disprove the theory. Did you  
3 send that to us?

4 MR. POOLE: No.

5 MR. EPSTEIN: All right. Were you able to  
6 verify that Exelon address of the design did not  
7 decrease safety margins? Because I didn't receive  
8 that either.

9 MR. SMITH: We did not provide that to  
10 you, no.

11 MR. EPSTEIN: Let me just get to the final  
12 question, which is we asserted that some of the steam  
13 tubes at TMI have exhibited excessive wear and I think  
14 you've acknowledged receipt of that.

15 And our feeling is that the behavior under  
16 normal temperatures, especially what we saw in the  
17 first 22 months of operation, would have a damaging  
18 impact and potentially destroy the radiation barrier.

19 I didn't receive anything disproving that  
20 theory, did you supply that to us as well?

21 MR. SMITH: No, we did not.

22 MR. EPSTEIN: All right, were you at all  
23 aware of prior steam generator issues that occurred  
24 while 29,000 steam generators through the use of  
25 thiosulfate were damaged between November '81 and '82?

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1                   Were you aware of this and did this factor  
2                   into your decision-making?

3                   MR. SMITH:       We're going beyond the  
4                   petition here and as Perry has pointed out several  
5                   times, the purpose of this meeting wasn't really  
6                   intended to be a back and forth and a questioning of  
7                   the Petition Review Board.

8                   And so I'm going to have to ask you to  
9                   stop asking questions.   And if you want to make a  
10                  presentation --

11                  (Simultaneous Speaking.)

12                  MR. PORTZLINE:   I do have a question.

13                  MR. EPSTEIN:   Go ahead, Scott, I'm sorry.

14                  MR. PORTZLINE:   Did the Review Board base  
15                  this decision or make this decision on technical  
16                  matter or on purview qualification matter?

17                  MR. POOLE:   Can you explain that last one?

18                  MR. PORTZLINE:   Well, I got an email from  
19                  Justin Poole and it says that the petition falls  
20                  within one of the following categories, the issue  
21                  raised by the Petitioner has not previously been a  
22                  subject of a facilities-restricted or generic NRC  
23                  Staff review.

24                  And therefore, it doesn't fall within your  
25                  criteria to be accepted for review.   So, that's what

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1 I'm asking.

2 Has the Review Board made the decision  
3 that its currently standing by on technical matters or  
4 on the purview qualification matter?

5 MR. BUCKBERG: I don't think we understand  
6 the question.

7 MR. EPSTEIN: This is Eric. The question  
8 is this and it gets to the heart of the problem.

9 Was the petition initially dismissed based  
10 on the merits or based on a technical flaw that we  
11 somehow didn't follow the ABCs of the process?

12 What we're trying to determine is has the  
13 content of the petition actually been examined or has  
14 it been dismissed due to procedural error?

15 MR. SMITH: No, it was not a procedural  
16 error on your part. As I said in my opening remarks,  
17 I said that we wanted to -- let's see, I'll read the  
18 sentence over again.

19 On June 5, 2019, the petition manager  
20 contacted you to inform you of the PRB's initial  
21 assessment that your petition does not meet Management  
22 Directive 8.11, Section III.C.1 criteria for petition  
23 evaluation because the NRC has been aware of and has  
24 been involved with the issues raised in your petition  
25 since 2011.

1 MR. PORTZLINE: So, you're saying that you  
2 would make your decision on purview qualification or  
3 criteria merit? Is that right?

4 MR. KLEIN: We obviously looked at the  
5 technical merit so --

6 (Simultaneous Speaking.)

7 MR. PORTZLINE: In other words, no matter  
8 what we technically, you're saying it doesn't fit  
9 your criteria?

10 MR. SMITH: So, to clarify, it's probably  
11 a combination of both of those.

12 The fact that we were involved and aware  
13 of the issues since 2011, we were involved in a  
14 technical manner in that aspects of it were reviewed  
15 during inspection and aspects of it were reviewed from  
16 a Headquarters perspective as well.

17 MR. PORTZLINE: And we're saying that the  
18 Review Board did not review or look at any documents  
19 that had to do with the secondary flow causing the  
20 fluttering during the transient conditions. There's  
21 no document about that anywhere.

22 So, the fact that it's the same thing that  
23 Eric's been asking, how can we have a good discussion  
24 about the process when you haven't even looked at the  
25 details?

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1 MR. BUCKBERG: Are you declining your  
2 opportunity to supplement right now?

3 MR. PORTZLINE: No. All right, look,  
4 you're getting so legalistic it's just a waste of our  
5 time.

6 If this is a legalistic discussion and we  
7 can't even involve details, although you've opened the  
8 door to them too, I feel I'm wasting my time with what  
9 you're doing. You're really legally obstructing  
10 safety.

11 So, if a citizen or a citizen's group sees  
12 or believes that there's a safety problem and I've  
13 presented it to many different people within the  
14 industry and the Nuclear Regulatory Commission  
15 specifically, what process is available to me to have  
16 it addressed?

17 MR. SMITH: It's this process.

18 MR. PORTZLINE: But you didn't test it.  
19 You just decided you don't want it, you don't want to  
20 look at it and you claim you did. In a technical  
21 manner also, is what you said.

22 (Simultaneous Speaking.)

23 MR. SMITH: So, part of this, part of the  
24 purpose of this meeting is for you to provide more  
25 information to us, clarification to us.

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1           So, in a way, you're telling us we focused  
2           on the wrong issue and that we now need to go off and  
3           focus on the issue that you're raising. So, that's  
4           part of --

5           MR. PORTZLINE: I didn't say that. I  
6           don't know how you're getting that.

7           MR. SMITH: Well, you're saying that we  
8           didn't evaluate the technical aspects of the tube-to-  
9           tube rubbing as well as the flow that could cause  
10          problems.

11          You're saying that we haven't evaluated  
12          that, right?

13          MR. PORTZLINE: The rubbing is caused by  
14          the flow and the fact is that these things have flows  
15          or have buckled and so they don't flutter until  
16          there's flow of water through the secondary system.

17          You didn't study it under reactor-  
18          transient conditions. That's nothing new but you  
19          still haven't substantiated that.

20          And so what I'm saying to you is I'm going  
21          to be sure the Congressmen know about this because I  
22          hear these reports from the Nuclear Regulatory  
23          Commission, how you have all these channels for  
24          citizens to go through and then this is what happens.

25          And I had one other issue in the past --

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1 this is off topic so I'm going to make it short and  
2 I'll stop -- with the petition for entrance guards, G-  
3 U-A-R-D-S, at nuclear plants.

4 45 occasions the NRC broke their own  
5 guidelines and rules and ultimately didn't even issue  
6 a decision, which was against the regulations. So, I  
7 know what to expect from you guys and you ought to be  
8 embarrassed.

9 MR. EPSTEIN: This is Eric. Let me just  
10 say that we will -- what's the timeline for submitting  
11 additional information?

12 MR. POOLE: The timeline was today. That  
13 was the point of the meeting today. This is Justin  
14 Poole.

15 MR. EPSTEIN: But for us the point of the  
16 meeting was to understand how the decision was denied  
17 and basically, we're chasing our tails.

18 I've never been involved in a adjudicatory  
19 process in 30 years where a claim or a concern or a  
20 contention has been dismissed, and when you ask people  
21 why they tell you that's not how the process works.

22 We're simply trying to find out how to  
23 cure this issue. As a historian, if a crime is  
24 committed and you have knowledge, as you say, and you  
25 have studies it, as you say, it doesn't mean the crime

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1 has been solved. It just means you're aware of the  
2 problem.

3 We're trying to work with you to defeat  
4 the problem because while you may not think it has  
5 continuity, we've been through this before. The  
6 licensee at the time introduced thiosulfate at least  
7 half a dozen times and it damaged the tubes.

8 In addition to that, we're trying to be  
9 proactive because the plant is going to shut and if  
10 they're going to soak them, its tubes have damaged the  
11 plant, I think the buyer should be aware.

12 This is where we're coming from. We're  
13 trying to work with you but it's hard to do it when  
14 we're blindfolded with our hands behind our back. You  
15 have not been able to substantiate anything.

16 You're basically just telling us trust us  
17 because we're aware and we have knowledge.

18 You're not telling us what that knowledge  
19 is and our position would be -- and I'll send you the  
20 comments this evening, Justin, I'll supply to you what  
21 our concerns are.

22 We just don't think a record has been  
23 developed. It may have been but you're denying us  
24 access to the data. It's kind of frustrating on our  
25 side.

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1 MR. POOLE: Understood.

2 MR. SMITH: All right, is there a  
3 presentation that you'd like to make?

4 MR. EPSTEIN: Well, how much time do we  
5 have?

6 MR. SMITH: You have another 20 minutes.

7 MR. POOLE: Yes.

8 MR. EPSTEIN: Well, the presentation was  
9 contained in our petition and since you didn't respond  
10 to specific concerns, I think there's two frustrations  
11 here.

12 One is the design of the process, that  
13 it's the end all and bee all but it's not all  
14 inclusive. It's basically exclusive. It is what it  
15 is and I don't know what we would have got for  
16 ourselves after this.

17 I'm trying to understand when you render  
18 a final decision, maybe you can walk us through, what  
19 happens next?

20 Is this an appealable decision?

21 MR. BUCKBERG: Yes.

22 MR. EPSTEIN: Okay, who would we appeal it  
23 to? I'm just trying to figure out where this goes.

24 MR. BUCKBERG: I'm not really sure,  
25 probably the Executive Director's office.

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1 MR. EPSTEIN: All right, well, if you're  
2 not really sure and you guys are basically  
3 facilitating this process, that's disturbing. My  
4 sense is the petition will likely be denied, which is  
5 your right.

6 I'm asking you as the Petitioner what is  
7 my right to readdress? You said there was somebody  
8 from General Counsel. Can that person answer the  
9 question?

10 What is the next legal step?

11 MR. GILLESPIE: I'll say my role here is  
12 to advise the NRC Staff on this issue, not to provide  
13 legal advice to individuals who are not my clients.

14 MR. SMITH: We will get back to you.

15 MR. EPSTEIN: You're not offering advice.  
16 I'm simply asking you what the next step is, real  
17 clear. We know where you guys are at. If you're not  
18 able to or are unwilling to provide the information,  
19 just tell me so.

20 MR. SMITH: Mr. Epstein, this is Brian  
21 Smith. We will get back to you on any appeal rights  
22 you have and the process for that.

23 MR. EPSTEIN: All right, so let me ask you  
24 this. When we get a final decision, will there be any  
25 meat on the bones or will it be simply another

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1 paragraph?

2 I'm just trying to figure out how this  
3 works. You guys are going to deny the petition, we  
4 all know what's happening, and then I'm trying to  
5 figure out where we appeal.

6 Actually, this is what Scott was getting  
7 at, where we can discuss the merits of the case. I  
8 don't know how many people are sitting there on the  
9 taxpayer dollar, but I've got to tell you, I'm not  
10 feeling like I'm getting a bang for my buck.

11 That's a personal decision but if you're  
12 going to commit to me to get that information, that  
13 would be great. And when will the decision be  
14 rendered?

15 Is it going to be in the Federal Register  
16 or is it going to be another email sent by Justin?

17 MR. POOLE: It would be a formal letter.

18 MR. EPSTEIN: That would be nice. So, as  
19 we get down to the final part of this, I've got to  
20 say, this is really dissatisfying for us.

21 We've been doing this, just so you're  
22 aware, I think I tried to detail it, the steam  
23 generators, since 1982, almost 40 years.

24 We have experience, we have technical  
25 experts, this was totally unsatisfying, and I'm just

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1 telling you guys, I don't know if we can get a  
2 positive, this is disappointing.

3 We've spent a lot of time, money, and  
4 resources to put this together and if this is the best  
5 you can do, I've got to tell you it's pretty sad.

6 MR. POOLE: Understood.

7 MR. EPSTEIN: I hope it is, I hope it is  
8 because I've been doing it 40 years and I've got to  
9 tell you, we're almost back to where we were pre-'79.

10 Scott, do you have anything else you want  
11 to add?

12 MR. PORTZLINE: No.

13 MR. EPSTEIN: Well, we'll hang around. I  
14 don't know if anybody else from the public is going to  
15 comment.

16 MR. SMITH: Okay, this is Brian Smith --  
17 go ahead, Mr. Epstein.

18 MR. EPSTEIN: No, I'm just wondering if  
19 you're going to be done or there's a conclusion.

20 MR. SMITH: If you're finished, I have  
21 some closing remarks.

22 MR. EPSTEIN: That would be great.

23 MR. SMITH: Okay, so at this time does the  
24 Staff or Headquarters have any questions for the  
25 Petitioners?

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1           Are there any questions from NRC Staff on  
2 the phone? Right now it's only the Petition Review  
3 Board. So, for the licensee, do you have any  
4 questions?

5           MR. MASCITELLI: None from TMI.

6           MR. SMITH: Okay, and just to be sure, did  
7 any members of the public other than the Petitioners  
8 join the bridge line? No, okay.

9           So, Mr. Epstein and Mr. Portzline, thank  
10 you for taking time to provide the NRC Staff with some  
11 clarifying information and your concerns on the  
12 petition you've submitted.

13           Before we close, does the court reporter  
14 need any additional information for the meeting  
15 transcript?

16           COURT REPORTER: Yes. Someone on the  
17 phone named Mike Fitzwater, it sounded like?

18           MR. FITZWATER: That is correct.

19           COURT REPORTER: Could I get the spelling  
20 of your name, please?

21           MR. FITZWATER: F-I-T-Z-W-A-T-E-R.

22           COURT REPORTER: I heard a term, it  
23 sounded like DPL. Does that sound familiar to anyone?

24           MR. FITZWATER: I didn't follow that.

25           COURT REPORTER: That's okay. The name of

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1 the turbine manufacturer, Areva? Never mind,  
2 someone's helping me with that. And then I heard a  
3 chemical --

4 MR. FITZWATER: A-R-E-V-A.

5 COURT REPORTER: Thank you. And then I  
6 heard the name of a chemical, it sounded like TS  
7 sulfate? That's what I heard.

8 MR. SMITH: Mr. Portzline and Mr. Epstein,  
9 you mentioned that chemical?

10 COURT REPORTER: Never mind, someone has  
11 provided it to me.

12 (Simultaneous Speaking.)

13 MR. EPSTEIN: No, I mentioned thiosulfate.  
14 Thiosfulate was a sulfur compound introduced by GPU.  
15 I don't have the spelling handy.

16 MR. POOLE: We got it. One of the Staff  
17 provided it. Thank you, though.

18 MR. EPSTEIN: This is Mr. Epstein, I'm  
19 just confused. Will the transcript, the whole  
20 transcript, be available for public inspection?

21 MR. POOLE: Yes, it will be.

22 MR. EPSTEIN: And I wanted to thank the  
23 NRC. This is the third teleconference I've been in  
24 and this is the first one where the phone lines worked  
25 so I'm glad you guys finally got that together.

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1 MR. POOLE: We are too.

2 MR. SMITH: Yes, unfortunately it's a  
3 somewhat common occurrence. That's being remedied.

4 MR. EPSTEIN: It's not a technology  
5 confidence-builder.

6 MR. SMITH: Okay, so with that this  
7 meeting is concluded and we will be terminating the  
8 phone connection. Thank you. The meeting is over.

9 (Whereupon, the above-entitled matter  
10 went off the record at 1:41 p.m.)

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