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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 10 CFR 2.206 PETITION REVIEW BOARD (PRB)

5 CONFERENCE CALL

6 RE

7 BRUNSWICK UNITS 1 AND 2

8 + + + + +

9 WEDNESDAY

10 AUGUST 15, 2012

11 + + + + +

12 The conference call was held, Samson S. Lee,
13 Chairperson of the Petition Review Board, presiding.

14 PETITIONERS: DAVID LOCHBAUM

15 MARY OLSON

16 JIM WARREN

17 PETITION REVIEW BOARD MEMBERS

18 SAMSON S. LEE, Deputy Division Director,
19 Division of Risk Assessment, Office
20 of Nuclear Reactor Regulation,
21 Chairperson of the Petition Review Board
22 FARIDEH SABA, Petition Manager for 2.206
23 petition

24 MERRILEE J. BANIC, Petition Coordinator

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1 NRC HEADQUARTERS STAFF

2 MOLLY L. MARSH, Attorney, Office of General
3 Counsel

4 ROSSNYEV D. ALVARADO, Instrumentation and Control
5 Branch, Division of Engineering, Office of
6 Nuclear Reactor Regulation

7 KENT A.L. WOOD, Team Leader, Spent Fuel Team,
8 Reactor Systems Branch, Division of
9 Safety Systems, Office of Nuclear
10 Reactor Regulation

11 EVAN J. DAVIDSON, Balance of Plant Branch, Division of
12 Safety Systems, Office of Nuclear Reactor
13 Regulation

14 HAROLD WALKER, Containment and Ventilation
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25 Reactor Regulation

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1 RANDALL A. MUSSER, Branch Chief, Division of
2 Reactor Projects, Region II
3 MICHELLE P. CATTS, Senior Resident Inspector
4 DAVID L. PELTON, Chief of the Generic
5 Communications Branch, Office of Nuclear
6 Reactor Regulation
7

8 ALSO PRESENT

9 CHARLIE DONALDSON, Assistant Attorney General,
10 New York State Attorney General's Office
11 MARK TURKAL, Lead Engineer, Brunswick
12 Licensing at Progress Energy
13 ANNETTE POPE, Manager, Organizational
14 Effectiveness, Brunswick Nuclear
15 Generating Station
16 KATE BARBER NOLAN, Associate General Counsel,
17 Duke Energy Corporation
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P R O C E E D I N G S

(9:02 a.m.)

MS. SABA: Good morning. My name is Farideh Saba. I'd like to thank everybody for attending this meeting. Again, my name is Farideh Saba, and I am the Brunswick Project Manager.

We are here today to allow the Petitioners, Mr. David Lochbaum, Mr. Jim Warren, and Ms. Mary Olson to address the Petition Review Board, PRB, regarding the 2206 Petition dated July 10th, 2012.

I am the Petition Manager for this petition. The PRB Chairman is Dr. Samson Lee.

As part of the PRB's review of this petition, Mr. David Lochbaum has requested this opportunity to address the PRB.

This meeting is scheduled from 9:00 to 11:00 a.m. Eastern time. The meeting is being recorded by the NRC Operations Center, and will be transcribed by a court reporter. The transcript will become a supplement to the petition. The transcript will also be made publicly available.

I'd like to open the meeting with introductions. As we go around the room please be sure to clearly state your name, your position, and the office that you work for within the NRC for the record. I'll

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1 start off. My name is Farideh Saba. I'm a Senior Project
2 Manager in Division of Operating Reactors Licensing,
3 Office of Nuclear Reactor Regulation, NRR.

4 DR. LEE: Samson Lee. I'm the Deputy Division
5 Director, Division of Risk Assessment, NRR, and I'm the
6 PRB Chair.

7 MS. BANIC: Merrilee Banic, NRR, 2.206
8 Petition Coordinator.

9 MS. MARSH: I'm Molly Marsh. I'm an attorney
10 in the Office of General Counsel.

11 MS. ALVARADO: Rossnyev Alvarado. I'm with
12 NRR, Division of Engineering, I&C Branch.

13 MR. WOOD: My name is Kent Wood. I'm the team
14 leader for technical team in the Reactor Systems Branch,
15 Division of Safety System in the Office of Nuclear
16 Reactor Regulation.

17 MR. PELTON: David Pelton, Chief of the
18 Generic Communications Branch. I'm responsible for the
19 2.206 process implementation, the Office of NRR.

20 MR. DAVIDSON: Evan Davidson, Balance of
21 Plant Branch, NRR.

22 MR. WALKER: I'm Harold Walker from
23 Containment and Ventilation Branch in the Division of
24 Safety Systems, NRR.

25 MS. CASEY: I'm Lauren Casey, an enforcement

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1 specialist in the Office of Enforcement.

2 MS. SABA: Okay. We've completed
3 introductions at the NRC Headquarters. At this time, are
4 there any NRC participants from Headquarters on the
5 phone? Please introduce yourself.

6 MR. WAIG: This is Gerald Waig, Senior
7 Reactor Systems Engineer. I'm with the Technical
8 Specifications Branch, the Office of NRR.

9 MS. BUCHOLZ: This is Kristy Bucholz. I am
10 in NRR, Technical Specifications Branch, a technical
11 reviewer.

12 MS. SABA: Okay. It looks like we don't have
13 anybody else from Headquarters. Are there any NRC
14 participants from the regional offices on the phone?

15 MR. MUSSER: Good morning. This is Randy
16 Musser, Division of Reactor Projects Branch Chief in
17 Region II.

18 MS. CATTS: Hello, this is Michelle Catts.
19 I'm the NRC Senior Resident Inspector at Brunswick.

20 MS. SABA: Okay, it looks like we are done
21 with the Headquarters and Region. Mr. Lochbaum, Mr.
22 Warren, and Ms. Olson, would you please introduce
23 yourselves for the record.

24 MR. LOCHBAUM: Go ahead, Mary.

25 MS. OLSON: I'm sorry, I had my phone on mute.

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1 I'm Mary Olson. I'm the Southeast Regional Coordinator
2 for Nuclear Information and Resource Service. We are a
3 national educational and advocacy organization with
4 members in all 50 states including North Carolina.

5 MR. LOCHBAUM: This is David Lochbaum,
6 Director of the Nuclear Safety Project with the Union of
7 Concerned Scientists.

8 MS. SABA: It appears that Mr. Warren has not
9 joined us yet. It is not required for the members of the
10 public to introduce themselves for this call. However,
11 if there are any members of the public on the phone that
12 wish to do so at this time, please state your name for
13 the record.

14 MR. DONALDSON: Charlie Donaldson, New York
15 State Attorney General's Office. That's Charlie with an
16 I-E, it's not Charles.

17 MS. SABA: Are there anybody else from the
18 member of public or the licensee on the phone? Please
19 introduce yourself.

20 MR. TURKAL: This is Mark Turkal. I'm Lead
21 Licensing Engineer at the Brunswick plant.

22 MS. POPE: Annette Pope, Brunswick Nuclear
23 Plant, Manager of Organizational Effectiveness.

24 MS. SABA: Okay.

25 MS. NOLAN: Kate Barber Nolan, Duke Energy

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1 Legal.

2 MS. SABA: Are there any other member of
3 public on the phone? Is the court reporter on the line?

4 COURT REPORTER: Yes, the court reporter is
5 on the line.

6 MS. SABA: Okay. I'd like to emphasize that
7 we each need to speak clearly and loudly to make sure that
8 the court reporter can accurately transcribe this
9 meeting. If you do have something that you would like to
10 say, please first state your name for the record. For
11 those dialing into the meeting, please remember to mute
12 your phone to minimize any background noise or
13 distractions. If you do not have a mute button, this can
14 be done by pressing the keys *6. To unmute please press
15 the *6 keys again. Thank you.

16 At this time I'll turn it over to the PRB
17 Chairman, Dr. Samson Lee.

18 DR. LEE: Good morning. Welcome to this
19 meeting regarding the 2.206 petition submitted by Mr.
20 Lochbaum, Ms. Olson, and Mr. Warren.

21 I would like to first share some background
22 on our process. Section 2.206 of Title 10 of the Code of
23 Federal Regulations describes the petition process, the
24 primary mechanism for the public to request enforcement
25 action by the NRC in a public process.

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1 This process permits anyone to petition NRC
2 to take enforcement-type action related to NRC licensees
3 or licensed activities. Depending on the results of this
4 evaluation, NRC could modify, expand, or revoke an NRC
5 issued license or take any other appropriate enforcement
6 actions to resolve a problem.

7 The NRC Staff Guidance for the disposition
8 of 2.206 petition requests is in Management Directive
9 8.11 which is publicly available.

10 The purpose of today's meeting is to give
11 the petitioner an opportunity to provide any additional
12 explanation or support for the petition before the PRB's
13 initial consideration and recommendation.

14 This meeting is not a hearing, nor is it an
15 opportunity for the petitioner to question or examine the
16 PRB on the merits of the issues presented in the petition
17 request. No decisions regarding the merits of this
18 petition will be made at this meeting.

19 Following this meeting, the PRB will
20 conduct its internal deliberations. The outcome of this
21 internal meeting will be discussed with the petitioner.

22 The PRB typically consists of a Chairman,
23 usually a manager at the Senior Executive Service level
24 at the NRC, and a petition manager and a PRB coordinator.
25 Other members of the Board are determined by the NRC staff

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1 based on the content of the information in the petition
2 request.

3 At this time I would like to introduce the
4 Board. I'm Samson Lee, the PRB Chairman. Farideh Saba is
5 the Petition Manager for the petition under discussion
6 today. Merrilee Banic is the Office PRB Coordinator. Our
7 technical staff includes Randy Musser and Jim Dodson from
8 Region II, Kris Bucholz and Gerry Waig, Office of Nuclear
9 Reactor Regulations, NRR, Division of Safety Systems,
10 DSS, Technical Specifications Branch. Steven Jones and
11 Evan Davidson, NRR, DSS, Balance of Plant Branch, Harold
12 Walker, NRR, DSS, Containment and Ventilation Branch,
13 Kent Wood, NRR, DSS, Reactor System Branch, Rossnyev
14 Alvarado, NRR, Division of Engineering, Instrumentation
15 & Controls Branch. We also obtain advice from our Office
16 of General Counsel and Office of Enforcement represented
17 by Molly Marsh and Lauren Casey respectively.

18 As described in our process, the NRC staff
19 may ask clarifying questions in order to better
20 understand the petitioner's presentation, and to reach
21 a reasoned decision whether to accept or reject the
22 petitioner's request for review under the 2.206 process.

23 I would like to summarize the scope of the
24 petition under consideration and the NRC activities to
25 date. On July 10, 2012, Mr. David Lochbaum submitted to

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1 the NRC a petition under 10 CFR 2.206 process regarding
2 irradiated fill at Brunswick Steam Electric Power Plant,
3 Brunswick on behalf of the North Carolina Waste
4 Awareness and Reduction Network, NCWARN, the Nuclear
5 Information and Resource Services, NIRS, and the Union
6 of Concerned Scientists, UCS.

7 In this petition request, Mr. Lochbaum
8 requested that the NRC take enforcement action in the
9 form of an order either modifying the Brunswick operating
10 licenses, or obtain or require the licensee to submit
11 amendment request for these licenses.

12 In summary, Mr. Lochbaum requested that the
13 NRC revise the Brunswick Unit 1 and Unit 2 technical
14 specifications as specified in his petition request.

15 Allow me to discuss the NRC activities to
16 date. On July 12, 2012, the Petition Manager contacted
17 Mr. Lochbaum to acknowledge the receipt of his letter,
18 and discuss the 10 CFR 2.206 process and to offer him an
19 opportunity to address the PRB by phone or in person.

20 Mr. Lochbaum requested to address the PRB
21 by phone, or if possible in person on August 7th or 8th,
22 prior to its internal meeting to make the initial
23 recommendation to accept or reject the petition for
24 review. Due to meeting conflicts, the PRB members were
25 unable to support a meeting in person on August 7th or

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1 August 8th. Subsequently, on July 21st, the Petition
2 Manager informed Mr. Lochbaum via email of the planned
3 teleconference on August 15th. By an email dated July 26,
4 2012, Mr. Lochbaum accepted the date and time of planned
5 teleconference.

6 As a reminder for the phone participants,
7 please identify yourself if you make any remarks as this
8 will help us in the preparation of the meeting transcript
9 that will be made publicly available. Thank you.

10 Mr. Lochbaum, I'll turn it over to you to
11 allow you to provide any information you believe the PRB
12 should consider as part of this petition. Mr. Lochbaum.

13 MR. LOCHBAUM: This is Dave Lochbaum. Thank
14 you and good morning.

15 On behalf of NCWARN, the Nuclear
16 Information and Resource Service, and the Union of
17 Concerned Scientists, I appreciate this opportunity to
18 speak to our recent petition seeking to correct
19 deficiencies in the technical specifications for the two
20 reactors at the Brunswick Nuclear Power Plant in North
21 Carolina.

22 As described in our petition, the technical
23 specifications contain many requirements intended to
24 protect workers and the public from the irradiated fuel
25 in the spent fuel pools. The table on page 3 of the

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1 petition lists these requirements.

2 The hazard that these requirements seek to
3 protect against is the irradiated fuel. But as the table
4 illustrates, while the hazard exists any time irradiated
5 fuel is within the spent fuel pool the requirements only
6 apply sometimes.

7 Our petition seeks to remedy this
8 shortcoming by having these protective measures apply
9 any time irradiated fuel is within the spent fuel pool.
10 In other words, any time the hazard is present the
11 associated protective measures should be required to be
12 present, also.

13 I believe our petition is clear on this
14 point, but I would be glad to answer any questions you
15 have to supplement or clarify the information presented
16 in the petition.

17 My main purpose in asking to speak with you
18 this morning was to cover one point that was not clearly
19 made in our petition; namely, the adverse consequences
20 from denying this petition and maintaining the status
21 quo.

22 On March 12th of this year, the NRC issued
23 three orders to plant owners, including the licensee for
24 the Brunswick Nuclear Power Plant. One of these orders
25 involved water level instrumentation for the spent fuel

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1 pools. The specific order is in NRC's ADAMS library under
2 Accession Number ML12054A679. Attachment 2 to the NRC
3 order defined nine design requirements required and
4 three availability and reliability attributes for the
5 spent fuel pool level instrumentation.

6 None of these 12 items explicitly or even
7 implicitly requires that this spent fuel pool water level
8 instrumentation be operable or functional at all times
9 when irradiated fuel is in the spent fuel pool.

10 Because availability is not specified in
11 the order, the default requirement then becomes defined
12 by standard industry practice and regulatory convention.
13 When a system, structure, or component is required to be
14 operable all of its associated power supplies,
15 instrumentation, and alarms are also required to be
16 operable. Conversely, when a system, structure, or
17 component is not required to be operable neither are its
18 power supplies, instruments, and alarms.

19 Currently, Brunswick Technical
20 Specification 3.7.7 only requires water level inside the
21 spent fuel pool during operating modes 4 and 5 when an
22 irradiated fuel assembly is being moved in the pool.
23 Otherwise, this technical specification requirement is
24 not applicable.

25 What this means is that the water level

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1 instrumentation to be installed by the NRC's recent order
2 could be intentionally removed from service as long as
3 irradiated fuel is not being moved in the spent fuel pool,
4 or if this instrumentation broke there would be no legal
5 requirement for Brunswick's owner to fix it before the
6 next movement of irradiated fuel inside the spent fuel
7 pool, which could be weeks or months into the future.

8 Once our petition is granted and the
9 deficiencies in the Brunswick technical specifications
10 corrected, the water level instrumentation mandated by
11 the NRC's order would be legally required to be operable
12 and functional any time irradiated fuel was stored in the
13 spent fuel pool, not just when it was being moved. In
14 addition, all other attendant protective measures like
15 power supplies, containment, and ventilation systems
16 would also be legally required.

17 We're not required under 10 CFR 2.206 to
18 show that the requested actions do not place undue burden
19 on the licensee, but I would like to address that point
20 anyway.

21 The technical specifications for the
22 Pilgrim Nuclear Power Plant, which are available in the
23 NRC's ADAMS library under Accession Number ML052720275
24 already contain the requirements we seek in our petition
25 at Brunswick. For example, Pilgrim's Technical

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1 Specification 3.10.C requires adequate water level be
2 maintained in the spent fuel pool at all times when it
3 contains irradiated fuel.

4 Pilgrim is not operating at an economic
5 disadvantage compared to Brunswick because of this
6 technical specification disparity. There is no undue
7 burden associated with Pilgrim's technical
8 specifications requiring protective measures to be
9 enforced more broadly than currently at Brunswick.
10 Hence, it will not be an undue burden for Brunswick owner
11 to implement the actions requested by our petition.

12 Instead, the actions requested in our
13 petition once implemented will provide reasonable
14 assurance that workers and members of the public are
15 adequately protected against the hazard associated with
16 irradiated fuel stored in the spent fuel pools at
17 Brunswick. For this reason, the NRC must grant our
18 petition and compel this licensee to rectify
19 deficiencies in the Brunswick technical specifications.

20 I appreciate this opportunity to address
21 you regarding our petition, and would be glad to answer
22 any questions that you have. Thank you. Mary, do you have
23 anything to add?

24 MS. OLSON: Thank you, Dave. I really
25 appreciate this opportunity, as well. And I don't have

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1 anything technical to add, but I do want to point out that
2 part of the inspiration for this concern on our part and
3 catching it at this time is due to the design of this
4 reactor and its similarity to the Fukushima reactors. And
5 while we appreciate the Nuclear Regulatory Commission's
6 efforts to learn from that event, published reports and
7 meetings, and talking is one step. The next step is
8 implementation of actual regulatory diligence and
9 enforcement of those regulations to actually bring a
10 greater level of safety.

11 I don't think this is about popularity or
12 public opinion. I think it is about implementing legal
13 mandate under the Atomic Energy Act. However, I will tell
14 you that in my 22 years in this field I have not seen the
15 ground swell of concern about this federal regulator that
16 has happened since 2011, and this is a stellar
17 opportunity for each individual in this room where you
18 are and on the line in the virtual space to hear and
19 understand that the public is counting on you to actually
20 not only learn from Fukushima, but act on those lessons.

21 And I think that USC, Union of Concerned
22 Scientists, is doing a wonderful job of providing you
23 with a very simple opportunity to demonstrate your
24 capacity to not only pay attention, not only to learn and
25 discuss, but to actually act.

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1 DR. LEE: At this point, does the staff here
2 at Headquarters have any questions for Mr. Lochbaum or
3 Ms. Olson?

4 MR. WOOD: I have one. This is Kent Wood from
5 Office of Nuclear Reactor Regulation. You requested this
6 tech specs being made applicable any time that there is
7 irradiated fuel in the spent fuel pool. And I was
8 wondering if you're considering that, you know, would
9 there be circumstances where these things would not be
10 required even if there is irradiated fuel in the spent
11 fuel pool?

12 MR. LOCHBAUM: This is David Lochbaum. I
13 guess at the moment I don't -- when I prepared the
14 petition I didn't envision that, but I guess the licensee
15 in responding to the order, if an order is issued, could
16 always come up with scenarios where they wouldn't be
17 required based on a safety argument. If that's the case,
18 and a sufficient argument is made, then that would be a
19 suitable option.

20 I didn't envision that coming in, but if
21 that's presented and adequately justified, then that
22 would seem to be okay.

23 MR. WOOD: Okay.

24 MS. ALVARADO: I have a question. This is
25 Rossnyev Alvarado, to Division of Engineering,

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1 Instrumentation and Control Branch. In the item 3 that
2 you suggest modification to the technical spec, it was
3 3.3.7.1-1 regarding this high function for control
4 building air intake variations. In the specification
5 that you provide for these you said that this function
6 has to be included in the table, so when the spent fuel
7 is in the pool there is no problem or issues with the
8 control building air intake.

9 The question that I have is why do you
10 consider this required when we have radiation monitors
11 installed in the air intake to detect if there is any
12 variation, and that would trigger the activation of the
13 control board.

14 MR. LOCHBAUM: I guess the reason I -- this
15 is Dave Lochbaum. The reason I included it in the petition
16 is that that function is required currently in the
17 technical specifications only when irradiated fuel is
18 being moved. If the configuration as you stated was
19 correct, then it would seem like that requirement would
20 be unnecessary, so I'm assuming the current requirement
21 is necessary. And if so, then it needs to be applicable
22 more broadly than just when irradiated fuel is being
23 moved, so that's why I included it in the table, and in
24 the petition.

25 MS. ALVARADO: Okay, thank you.

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1 DR. LEE: Does the staff at the Regions have
2 any questions for Mr. Lochbaum or Ms. Olson?

3 MR. MUSSER: Randy Musser has no questions
4 for Mr. Lochbaum or Ms. Olson.

5 DR. LEE: Does the licensee have any
6 questions?

7 MR. TURKAL: This is Mark Turkal with
8 Brunswick Licensing. I have no questions.

9 DR. LEE: Before I conclude the meeting,
10 members of the public may provide comments regarding the
11 petition and ask questions about the 2.206 petition
12 process. However, as stated at the opening, the purpose
13 of this meeting is not to provide an opportunity for the
14 petitioner or the public to question or examine the PRB
15 regarding the merits of the petition request. Does any
16 public want to make any comments?

17 MR. DONALDSON: New York has no questions or
18 comments.

19 DR. LEE: Mr. Lochbaum and Ms. Olson, thank
20 you for your time to provide the NRC staff with clarifying
21 information on the petition you have submitted.

22 Before we close, does the court reporter
23 need any additional information for the meeting
24 transcript?

25 COURT REPORTER: This is the court reporter.

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1 It would be helpful if somebody could email me a list of
2 the participants from the NRC. If you like, I could give
3 you my email address.

4 MS. SABA: Yes. This is Farideh Saba. Please
5 send me an email and I'll respond to you.

6 COURT REPORTER: Okay. What is your email
7 address?

8 MS. SABA: I'm the one who requested the
9 report. Farideh Saba.

10 COURT REPORTER: Can you spell that?

11 MS. SABA: F-A-R-I-D-E-H.S-A-B-A@nrc.gov.

12 COURT REPORTER: All right, thank you.

13 MS. SABA: Thanks.

14 DR. LEE: With that, the meeting is concluded
15 and we will be terminating the phone connection. Thank
16 you.

17 (Whereupon, the proceedings went off the
18 record at 9:29 a.m.)
19

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