

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

# ORIGINAL

Title: Public Meeting to Discuss the Hearing  
Process for Judging the Safety of a Potential  
High-Level Waste Repository

Docket Number: (not applicable)

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 PUBLIC MEETING TO DISCUSS THE HEARING  
5 PROCESS FOR JUDGING THE SAFETY OF A  
6 POTENTIAL HIGH-LEVEL WASTE REPOSITORY

7 + + + + +

8 TUESDAY

9 MAY 22, 2001

10 + + + + +

11 PAHRUMP, NEVADA

12 + + + + +

13 The Public Meeting was convened at the Mountain  
14 View Casino and Bowl Convention Center, 1750 Pahrump  
15 Valley Boulevard, Pahrump, Nevada, at 6:30 p.m., F.X.  
16 "Chip" Cameron, Facilitator, presiding.

17 PRESENT:

18 F.X. "CHIP" CAMERON

19 C. WILLIAM REAMER

20 LAWRENCE J. CHANDLER

21 DENNIS C. DAMBLY

22  
23  
24  
25

I-N-D-E-X

Welcome: Meeting objectives and format F.X. "Chip" Cameron, Facilitator Special Counsel for Public Liaison Office of General Counsel	3
Introduction: The hearing as part of NRC's licensing process C. William Reamer, Chief, High-Level Waste Branch Office of Nuclear Materials Safety and Safeguards	9
Questions	19
Overview of the hearing process: Public opportunities and schedules Lawrence J. Chandler, Associate General Counsel for Hearings, Enforcement and Administration Office of the General Counsel	27
Questions	36
Steps in the hearing process for a potential repository Dennis C. Dambly, Assistant General Counsel for Materials, Litigation and Enforcement Office of the General Counsel	
Pre-license Application Phase	57
Pre-hearing Activities	74
Evidentiary Hearing	82
Questions	86
Appeals	98
Questions	103
Closing remarks Chip Cameron	111

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

6:47 p.m.

1  
2  
3 MR. CAMERON: Good evening, everybody. My  
4 name is Chip Cameron. I'm the Special Counsel for  
5 Public Liaison in the Nuclear Regulatory Commission,  
6 and I'd like to welcome you to the NRC's public  
7 meeting on the NRC hearing process on a potential  
8 Department of Energy license application for a high  
9 level waste repository at Yucca Mountain. I'm pleased  
10 to serve as your facilitator for tonight's meeting and  
11 basically what I'd like to do is cover three process  
12 items before we get into the substance of tonight's  
13 discussion.

14 I'd like to tell you a little bit about  
15 the objectives of the meeting tonight. Secondly, I'd  
16 like to go over the ground rules and format for the  
17 meeting tonight. And third, I'll give you an agenda  
18 overview so you know what to expect tonight.

19 The green sheet agenda is over on the  
20 table for those of you who haven't picked one up yet.

21 In terms of the objectives for the  
22 meeting, the NRC is here tonight to give you  
23 information and answer your questions on the process  
24 that the NRC would use to evaluate and make a decision  
25 on a license application that the Department of Energy

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1 may submit for a repository at Yucca Mountain. This  
2 process is called the hearing process. It's also  
3 known as a licensing proceeding, and my colleagues  
4 from the NRC are going to be providing you with  
5 information on that tonight.

6 As you know, this is another in a series  
7 of meetings that the NRC has been holding with the  
8 public to provide information about NRC  
9 responsibilities. This particular subject, the NRC  
10 hearing process, we get requests from the public to  
11 come out and do a meeting on this subject, and that's  
12 why we're here tonight, to give you information on  
13 this.

14 You're going to be hearing about many of  
15 the NRC responsibilities in regard to the repository  
16 tonight in terms of an overview of what our  
17 responsibilities are. One singularly important aspect  
18 of our responsibilities is the licensing proceeding,  
19 the hearing process, because that's where the initial  
20 NRC decision on whether to grant or deny a Department  
21 of Energy license application is going to be made.

22 Our format for tonight is we're going to  
23 have some brief NRC presentations on various issues,  
24 and then we're going to go out to you after each of  
25 the presentations for questions. If you have a

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1 question, just signal me and I'll bring you this  
2 talking stick over. We are keeping a transcript  
3 tonight and our stenographer is going to be taping  
4 everything that is said tonight for a transcript. I  
5 believe that transcript will be available from the  
6 NRC. I would ask you, if you do talk, to just state  
7 your name and affiliation, if appropriate, so that we  
8 get that on record.

9 In terms of other ground rules, I would  
10 just ask that we just have one person speaking at a  
11 time because that will allow us to get a clean  
12 transcript and also, more importantly, it will allow  
13 us to give our full attention to whoever has the floor  
14 at the time.

15 I would ask you to also try to be as  
16 concise as possible because I think we're going to  
17 have a lot of interest, a lot of questions tonight,  
18 and I want to make sure that we get to everybody who  
19 has a question. So it may be that I have to ask you  
20 to just wrap up a question so that we can go on to  
21 someone else, but we will try to get back to you  
22 tonight.

23 There are two issues on relevance that I'd  
24 like to bring up. Not all of the questions that you  
25 might have may fit squarely under the topic that we're

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1 discussing. If that happens, what I'm going to do is  
2 put that up here in the parking lot and, when we do  
3 get to that topic, we'll answer your question at that  
4 time.

5 We know there's a lot of concern, a lot of  
6 interest in this particular issue, and the NRC is  
7 always willing to listen to public concerns and to try  
8 to answer your questions, but we are here tonight to  
9 focus on the hearing process. Even though there might  
10 be questions on technical issues, we will try to get  
11 back to you with answers on those issues, either at  
12 the break or after the meeting. You can talk to NRC  
13 technical staff or we'll get back to you after the  
14 meeting on those questions because we really are going  
15 to focus on the hearing process tonight.

16 I would just thank all of you for coming  
17 out tonight to be with us and to talk with us about  
18 this particular subject. The agenda that we're going  
19 to follow is first of all, we're going to have Mr.  
20 Bill Reamer who is up here at this end of the table.  
21 Bill is going to give you an overview of the NRC  
22 responsibilities in regard to the repository so that  
23 you understand how the hearing process fits in to our  
24 overall responsibilities.

25 As you'll note from your agenda, Bill is

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1 the Chief of High-Level Waste Branch at the NRC.  
2 That's within the Office of Nuclear Materials Safety  
3 and Safeguards. Bill has been involved in the high-  
4 level waste program for about three years now from the  
5 technical staff. Bill's staff, many of whom are here  
6 tonight, are the ones who are responsible for doing  
7 the evaluation of the DOE work on the repository.

8 Next we're going to go to Mr. Larry  
9 Chandler who's in the middle. Larry is the Associate  
10 General Counsel for Hearings, Enforcement and  
11 Administration within the Office of General Counsel at  
12 the Nuclear Regulatory Commission. Larry has been,  
13 first with the old Atomic Energy Commission, and then  
14 with the Nuclear Regulatory Commission which was  
15 established in 1975. He's been with the NRC for a  
16 while and has had many responsibilities in reactor  
17 licensing and enforcement litigation. He's going to  
18 give you an overview of the hearing process.

19 We're going to get into more specifics  
20 then with Mr. Dennis Dambly who is at this end of the  
21 table. Dennis is the Assistant General Counsel for  
22 Materials Litigation and Enforcement, again in our  
23 Office of General Counsel. Dennis is the supervisor  
24 of the attorneys who will represent the NRC staff in  
25 the hearing process, and Dennis basically works for

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1 Larry as the Associate General Counsel so that we get  
2 the pecking order straight here, I guess.

3 We are going to take a break after the  
4 question and answer sessions on Larry's topic.  
5 That'll give you a chance to talk to the NRC staff.  
6 I should note at this point that Larry's presentation  
7 is going to be an overview of the hearing process and  
8 then Dennis is going to go into specific aspects of  
9 the hearing process. So what we'll try to do is to  
10 keep the questions for Larry on the overall process  
11 type of basis and, if you do have specific questions,  
12 that may be a time when we'll be putting things in the  
13 parking lot to come back and revisit with Dennis when  
14 he gets to the specifics.

15 Again, thank you. As the facilitator, I'm  
16 here to try to make sure you all have a good meeting,  
17 specifically to make sure that you understand what the  
18 NRC is saying, particularly acronyms and there may be  
19 some intriguing ideas about what to do about that that  
20 we'll hear, but we want to make sure that we stay  
21 organized, that everybody has a chance to talk  
22 tonight. I will keep track of any follow-up issues  
23 that the NRC needs to take care of after the meeting  
24 so that we do get back to you and we don't lose those.

25

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1 Right now I'd like to ask Bill Reamer to  
2 come up and talk to us about the hearing as part of  
3 NRC's licensing process. Bill.

4 MR. REAMER: Thank you. Welcome,  
5 everyone. I think I've introduced myself to most of  
6 you. If I haven't, I'll catch you after the meeting.  
7 I'm glad that you were able to come tonight.

8 AUDIENCE MEMBER: Louder.

9 MR. REAMER: I'm glad that you were able  
10 to come tonight. Is that better?

11 AUDIENCE MEMBER: Get closer to the  
12 microphone.

13 MR. REAMER: Is that better? Good.

14 I'm glad -- for those of you who've come  
15 to meetings before -- glad to see you again tonight.  
16 For those of you this is your first meeting, thanks  
17 for coming and I hope you'll keep coming to our  
18 meetings. This is not going to be our last meeting.  
19 As we've talked about in the past, what we're looking  
20 to do is to have a dialogue or establish a dialogue  
21 with potentially affected citizens to hear your  
22 concerns, to respond to those. Tonight's meeting is  
23 a direct response to a comment we got in meetings a  
24 couple of years ago we held that we'd like to know  
25 more about the NRC's licensing process.

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1 We held a meeting about a year ago in May,  
2 kind of Part I, to talk about the licensing process in  
3 general, and the meeting today will be specific on an  
4 element of that, an important element of that, the  
5 hearing process. Of course, it's a hearing process  
6 and a licensing process that will apply only if there  
7 is a license application from the Department of  
8 Energy. I'll talk about that more a little bit later  
9 because there are a number of steps that need to be  
10 taken or cleared by the Department of Energy before  
11 there will ever be a license application, including  
12 the possibility there will not be one.

13 We do want to hear your response to what  
14 we say tonight. I know many of you will not have a  
15 problem in letting us have that. There's a  
16 questionnaire that we have left on the front table.  
17 You'd be doing me a great favor if you would take the  
18 time to fill that out and put it in the mail. Even if  
19 you did not have a specific comment that you wanted to  
20 make on the meeting, we would appreciate your  
21 feedback.

22 The NRC is an independent regulatory  
23 commission. They're not a sponsor or promoter or  
24 developer of a nuclear facility. They're not a  
25 potential developer of a possible repository at Yucca

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1 Mountain. Our role is solely to protect public health  
2 and safety and to do that in a way that is open and  
3 visible to those people who would be potentially  
4 affected by the proposal. We regulate in a number of  
5 areas. We regulate nuclear power plants. There are  
6 100 plus nuclear power plants in the United States.  
7 There are a number of medical uses of radioactive  
8 materials that we regulate as well. We have  
9 experience. We know how to regulate nuclear projects.

10 In this instance, the law says that we are  
11 to regulate any Department of Energy repository for  
12 spent fuel, so that's why we're involved here.  
13 Typically, we don't regulate the Department of Energy,  
14 but the law in this instance has said there will be  
15 oversight, there will be independent regulatory  
16 oversight from the NRC.

17 The head of the NRC. There are basically  
18 five commissioners. They are appointed by the  
19 President for fixed terms of five years. The law  
20 requires that there be a balance. There can not be  
21 more than three on the commission from any one  
22 political party. I think all commissioners that are  
23 on the commission at present were appointed by former  
24 President Clinton and I think the political division  
25 right now is there are three Democrats on the

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1 commission and two Republicans. The chairman of the  
2 commission, Chairman Meserve, has been designated to  
3 hold that position. Generally, the commissioners are  
4 accomplished members from their professional areas,  
5 whether they be nuclear engineering in the case of  
6 Commissioner Diaz, the Chairman Meserve that I  
7 mentioned. He's an attorney and also a nuclear  
8 physicist. They come from a number of professions and  
9 walks of life.

10 The role of the technical staff -- as Chip  
11 said, the technical staff includes myself and a number  
12 of the other people who are here tonight -- are to  
13 carry out the policies and the decisions that the  
14 Commission makes. We also have the responsibility to  
15 recommend health and safety regulations that the  
16 commissioners would decide whether or not to impose.  
17 In the case of licensing, it's our responsibility, the  
18 technical staff, to review license applications for  
19 nuclear facilities and to write an evaluation and  
20 reach a decision about whether the license should or  
21 should not be granted.

22 We also advise the Commission generally on  
23 safety issues, safety matters, and we have the  
24 additional responsibility to interact with potentially  
25 affected members of the public which we're doing

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1 tonight and we'll continue to do.

2 The technical staff is made up of really  
3 several hundreds -- actually 2,000 -- technical  
4 members of the Nuclear Regulatory Commission who have  
5 a wide variety of technical disciplines as well as  
6 lawyers and attorneys and support staff as well. In  
7 the case of the repository, the specific resources  
8 that we would bring to bear if there were a license  
9 application. We have a technical staff within the NRC  
10 of approximately 35 technical people.

11 In addition, we're supported by an  
12 independent contractor in San Antonio, and a  
13 representative of that group is here tonight, Mike  
14 Smith. He's in the back. They directly support us.  
15 Their primary responsibility is to support our  
16 technical staff in reviewing any technical reports  
17 from the Department of Energy. In any event, I'm sure  
18 Mike would be happy to tell you more about the center.

19 The types of expertise that we'll bring to  
20 bear on this project if this project goes forward are  
21 really laid out on this slide. I think it generally  
22 covers the waterfront. The technical issues that  
23 could be raised by an application, a license  
24 application, run the gamut from potential corrosion of  
25 the waste package to movement of the ground water to

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1 the possibility of earthquakes and potential  
2 consequences of them. We have the technical expertise  
3 to review those issues and review them rigorously.

4 We also have the facilities and the  
5 capability to do our own independent investigations.  
6 I think this will be important if this project goes  
7 forward because we do bring to this project  
8 independence and we have the technical capability to  
9 really go behind what's being presented by the  
10 Department of Energy and independently review that and  
11 either confirm or disconfirm it. We also have the  
12 expertise to inspect the activities of the Department  
13 of Energy and we have a 24 hour, 365 day a year  
14 presence at the site through our on-site  
15 representative's office. Bob Latta is here tonight.  
16 Some of you may have been at the open house in Las  
17 Vegas in March, but I would encourage you to introduce  
18 yourself to Bob during the break and, if you have  
19 questions after this meeting, Bob and the on-site  
20 representatives is a good potential resource for you  
21 to follow up with. They can help you get the answer.

22 The NRC's role, if there is a repository,  
23 is to accept regulations that are protective. Those  
24 regulations must be, by law, consistent with the  
25 standards of the Environmental Protection Agency. If

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1 this project does go forward, if there is a license  
2 application, our responsibility is to decide whether  
3 to permit construction of the facility and, if the  
4 facility is constructed, then to decide at some  
5 subsequent point whether to permit waste to be brought  
6 to the site.

7 Also, we have the important  
8 responsibility, if the project goes forward, to not  
9 only set the regulations but to inspect and ensure  
10 that the Department of Energy complies with those  
11 regulations and to issue penalties against them and  
12 requirements for corrective action if they don't.

13 How do we carry out our role? We will  
14 independently and objectively review all of the  
15 information, make decisions on the basis of the facts,  
16 and those facts will be available for the public and  
17 everyone to see. To make decisions a step at a time.  
18 If there's a license application, has DOE demonstrated  
19 that it's safe to construct the facility and that a  
20 facility of this design holds the prospect that it can  
21 safely contain waste. That's the first decision. And  
22 then only later after construction is substantially  
23 complete and even more data has been gathered would we  
24 then consider separately, again in a new  
25 consideration, whether to permit the Department of

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1 Energy to bring waste to the site. So it's a step-  
2 wise process. Each step will include the idea that  
3 it's reversible so that if a decision is made later  
4 that does not permit the project to go forward, steps  
5 taken prior to that can be undone. Of course, as I  
6 mentioned, we want to maintain and continue to  
7 maintain an open public process as we do that.

8 The law says that we are to make a  
9 decision within three years on any license application  
10 that the Department would submit. The law also  
11 provides that we are to conduct a full and fair public  
12 hearing, and we'll be spending much of the time  
13 tonight describing for you how we would do that. But  
14 as I said, first, there are a number of steps that  
15 this project will need to go through. DOE will need  
16 to complete the environmental impact statement that  
17 they've started. They'll need to complete the site  
18 characterization work and reach a decision on whether  
19 to recommend the site.

20 The President will then be called upon to  
21 decide whether he would approve that site  
22 recommendation. The state then has the opportunity to  
23 file a notice of disapproval, which I fully expect  
24 that the state will do. At that point, the Congress  
25 will decide whether to permit the repository to go

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1 forward. Only then after those steps are clear would  
2 the Department be authorized to file a license  
3 application with the NRC and the NRC would then be  
4 faced with the question of whether to permit this  
5 facility to go forward.

6 The steps that we will take, kind of the  
7 context for the hearing process that we're talking  
8 about tonight. The first step we take, if there's a  
9 license application in this project is to reach a  
10 conclusion on whether the application is complete.  
11 Does it contain all of the information that our  
12 regulations require it to contain? Once that  
13 acceptance review is complete, then we would either  
14 accept the application for more thorough technical  
15 review or we would return the application to the  
16 Department of Energy if the application is not  
17 complete.

18 Once the application is accepted, if it is  
19 accepted, and the detailed review commences, we will  
20 conduct an environmental review. The law says we are  
21 to adopt the Department of Energy's final  
22 environmental impact statement if it is practical to  
23 do so and the context, therefore, of our review of the  
24 EIS would be is it practical for us to adopt the final  
25 environmental impact statement.

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1           We'll also commence a detailed technical  
2 review of the license application. We have the  
3 authority, the power, to require the Department to  
4 provide more information to us if we need that to make  
5 a decision. We also have the ability, as I mentioned,  
6 because of the technical capability we have, to do our  
7 own independent analyses to either confirm or  
8 disconfirm what the Department has argued in the  
9 license application and, as we complete our review, we  
10 will document the results of our review in a public  
11 safety evaluation report.

12           There are three possible outcomes of that  
13 review. One is that the Department of Energy has not  
14 carried the burden, has not demonstrated safety, in  
15 which case the only outcome is to deny the  
16 application. The other two potential outcomes of the  
17 safety review would either be to permit the  
18 application with conditions or permit the application  
19 or grant the license without conditions.

20           That's the context for the discussion  
21 tonight of the hearing process. As I've said, any  
22 decision that we make on the license application needs  
23 to include and be based on a full and fair public  
24 hearing. That's an important component, an important  
25 element of our process if this project goes forward.

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1 As we will describe tonight, the rules that will be  
2 used and implemented in that hearing process are well  
3 established and we appreciate the opportunity to come  
4 tonight and describe those to you.

5 So at this point, do we want to break for  
6 questions now, Chip?

7 MR. CAMERON: Yes. I think that there may  
8 be some questions on the overall process before we go  
9 into the specifics of the hearing process. Let's go  
10 to Sally Devlin. Okay.

11 MS. DEVLIN: Thank you, Chip and Bill.  
12 It's so nice to see you, and welcome to Nevada. It's  
13 nice to see so many familiar faces and so many new  
14 faces.

15 I have a question that started this whole  
16 meeting and why you're here. I want to know who those  
17 five people are that are going to make the decision  
18 and did you bring their bibliography? -- Clinton and  
19 other political things. We want to know who they are,  
20 their background and their technical expertise. Did  
21 you bring that for us? I didn't see it in the back.

22 MR. REAMER: We did not bring it, and we  
23 will provide it to you. In general, I can give you an  
24 overview of who they are. The chairman is, as I said,  
25 an attorney and a nuclear physicist. Two of the

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1 members of the commission are former congressional  
2 staff members. A fourth member is a professor from  
3 the University of Florida in nuclear engineering and  
4 the fifth member is an experienced state regulator  
5 from the state of Arkansas. But that's my description  
6 and I will make sure that you have the more detailed  
7 description of them. Information is also available on  
8 our website as well, so I'll make sure that that gets  
9 to you.

10 MR. CAMERON: Okay. Thanks. That a good  
11 example of something that we want to make sure that we  
12 follow up on.

13 MR. FRISHMAN: Steve Frishman of the state  
14 of Nevada. I understand the acceptance review  
15 process. Where does the environmental review actually  
16 fit into the process? The reason I'm asking is will  
17 you do some type of an acceptance review to assure  
18 that the content of DOE's final EIS is consistent with  
19 the content of the license application?

20 MR. REAMER: The acceptance review I  
21 talked about is an acceptance review of the safety  
22 portion of the environmental application. If that's  
23 not acceptable, then there won't be any further review  
24 at that point, safety or environmental.

25 The environmental review that you're

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1 talking about will occur only if the license  
2 application is docketed and there are regulations that  
3 describe the scope of the review and the scope of the  
4 review includes is the proposal that was evaluated in  
5 the environmental impact statement the same proposal  
6 that's being made in the license application? So that  
7 clearly is one way that we'll get at the point that  
8 you're making.

9 The second is is there new information  
10 that wasn't available at the time of the final  
11 environmental impact statement and if there's  
12 information in the safety portion of the license  
13 application that is new and not included in the  
14 environmental, strikes me that that's the basis to say  
15 there is new information.

16 MR. FRISHMAN: Okay. Let me just follow  
17 up. Specifically, if the repository design that is  
18 set in the final environmental impact statement is not  
19 consistent with the design that is in the application,  
20 what action does the NRC take?

21 MR. REAMER: The action we take is to  
22 reach a determination based on all the facts whether  
23 that amounts to a different proposal that's being  
24 proposed to us that's different from what was  
25 evaluated in the EIS. If it is, then we're back in to

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1 leave a space for that additional information, that  
2 difference in the proposal that needs to be evaluated  
3 environmentally.

4 MR. FRISHMAN: But this does not affect  
5 the license review?

6 MR. REAMER: I hate to speculate on that  
7 on this point without the specifics, but it seems to  
8 me there is the potential that the difference is so  
9 substantial and the time is so significant that it  
10 wouldn't make sense for us to commence this three year  
11 clock when there's the important environmental aspect  
12 to be reviewed.

13 MR. CAMERON: Let's ask Larry to add  
14 something on that.

15 MR. CHANDLER: It's not uncommon during  
16 the review, the status review of license applications,  
17 be it for a repository or for other types of licenses,  
18 for some type of deficiencies to be noted and some  
19 shortcomings to be noted, some kind of inconsistencies  
20 to be noted between the documents. Typically, the  
21 staff would communicate with the license applicant to  
22 assure that those differences are reconciled so that  
23 the application is complete in all respects and that  
24 there would be a match.

25 Bill's answer I think is right. We would

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1 have to assess the significance of any deficiency or  
2 discrepancy at that point and see how best to  
3 reconcile it if it can be reconciled.

4 MR. CAMERON: Scott, did you have a  
5 question on processing for us?

6 SCOTT: Yes. I'm a chemical engineer. I  
7 build chemical plants since 1952. I notice the  
8 improvements in Bill's demeanor. He's not making as  
9 many loud claims as he first started out with safety  
10 and technical expertise, but I do want to point out  
11 that under the Results Management Act, you're required  
12 to ask for opinions and then you're required to act on  
13 those, run a test to see that those can be done.  
14 That's the process. I'm probably the only one in the  
15 room that knows how that works. That's why I bring it  
16 up. It's my expertise to be here where people can  
17 understand that that's how it works.

18 I know Bill is a lawyer and for him to  
19 assure us, the public, that the NRC has technical  
20 expertise is something he has no way of knowing at  
21 all. He has no understanding of the technology needed  
22 to handle this project and neither does anybody at the  
23 DOE and neither does anybody in the NRC or their  
24 staff. This is a world class project. This takes an  
25 industrial turn around expert to handle the technology

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1 end of it.

2 In industry, if you don't have somebody  
3 like that at the head of the company, I'm not talking  
4 about the head of engineering or the head of some  
5 project, the head of the company, that company will  
6 fail. I'll guarantee it, and within months. So we  
7 have a situation here that we have new technology, we  
8 have incompetent people making wild guesses and then  
9 assuring the public it's going to be okay. I need an  
10 answer to that. I need somebody from the NRC to  
11 realize that I've been talking to the DOE about this  
12 for seven - eight years, to the NRC about this for  
13 however long Bill has been here, and we need an  
14 answer. We need somebody that's competent to get  
15 involved in this project and get it straightened out.

16 MR. CAMERON: I guess I would only ask  
17 Bill to reiterate what he said before about the  
18 resources that we bring to bear.

19 MR. REAMER: But in addition, it is a  
20 humbling task. It's a challenging task. I think at  
21 the bottom, at the root, that's what you're saying.  
22 I recognize that and we do. In addition, I don't know  
23 whether you're aware but we hold a number of technical  
24 meetings with the Department of Energy where specific  
25 issues are discussed and you definitely need to be

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1 aware of the issues that are in your area, if you  
2 haven't already been aware of them, and I think that  
3 gives you the technical risks that you can respond to  
4 and participate in and provide specific input. So I  
5 appreciate your comments and urge you to continue to  
6 stay involved in the technical meetings that we have  
7 with the Department of Energy. We've had over the  
8 last year on the order of a dozen of them and we'll  
9 continue to hold them over the next two years until  
10 the site recommendation decision is made.

11 MR. CAMERON: Let's take one more question  
12 on overall context and then go to Larry and we'll come  
13 back to other types of questions.

14 AUDIENCE MEMBER: I wanted to ask you on  
15 the repository. Does it have a designated amount that  
16 will be taken in there and changed at a later date for  
17 the capacity of the fuel?

18 MR. REAMER: The law sets a maximum 70,000  
19 metric tons. That's right in the statute. Can it be  
20 changed? I think any law can be changed. But right  
21 now, the law says 70,000 metric tons. To change the  
22 law requires Congress to pass a new law and it  
23 requires the President to approve that law. So that's  
24 a substantial burden that would have to be taken on if  
25 the current maximum were changed.

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1 AUDIENCE MEMBER: You know there are two  
2 repositories --

3 MR. CAMERON: Sally, we need to try to get  
4 all this on the record. What we need to do is try to  
5 keep a little organized, but we'll get back to you on  
6 that.

7 You got the answer to your question, sir,  
8 didn't you? Okay. Can you give us your name.

9 AUDIENCE MEMBER: My name is --

10 MR. CAMERON: Thank you, Mr. --

11 Kalynda, can we go to you for a question  
12 now and then get started on the next subject and then  
13 hear from Susi later.

14 MS. TILGES: On the first page talking  
15 about who makes the decisions, you said accomplished  
16 scientists, engineers and attorneys. It's recently  
17 come to my attention that the engineers at the  
18 Department of Energy are not required to be licensed.  
19 I'm curious as to whether the Nuclear Regulatory  
20 Commission's engineers are required to be licensed as  
21 in most other industries in the country.

22 MR. REAMER: I'm going to have to get back  
23 to you on that. I can't give you an answer that I'm  
24 sure is correct. Okay. No, there is no requirement.

25 MR. CAMERON: All right. No requirement.

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1 That's clarified. Let's go to Mr. Larry Chandler now  
2 to give us an overview of the hearing process. We'll  
3 then go on to you for questions on his presentation.  
4 Then we'll take a little break and come back with  
5 Dennis Dambly.

6 MR. CHANDLER: -- the hearts of many  
7 people. I'm sort of glad that we were asked to come  
8 out here and take this opportunity and hopefully de-  
9 mystify the process for you. It's really not that  
10 formidable, not that an imposing a process. It's the  
11 process by which a record is created upon which a  
12 decision will be based with respect to licensing. In  
13 this case, the licensing of a potential repository.

14 The Commission usually invokes one of two  
15 different kinds of hearing processes. This, for  
16 example, would not be a hearing. This would be a  
17 meeting, as Chip has described earlier. But the  
18 Commission has, as a general rule, two different kinds  
19 of hearings. It has a formal type of hearing, a trial  
20 type of hearing. It has an informal type of hearing  
21 as well, which is largely a paper hearing.

22 But the hearing process also takes on  
23 other types of characteristics. There are zoning  
24 board hearing, there are school board hearings.  
25 Those, too, are hearings. Those tend to be more

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1 legislative in nature, less formal in certain  
2 respects. The Commissions typically with respect to  
3 reactor facilities and other complex facilities has  
4 been the formal sub-part G type of process which is a  
5 term that you may hear used from time to time.

6 I'll provide a general overview of the  
7 process and in a few minutes Dennis Dambly will follow  
8 up with some more specific details. What I will try  
9 and address are the rules of practice, the way in  
10 which a hearing is conducted, if you will, under the  
11 current rules of practice. Those are the current  
12 rules that can be found in the Commission's  
13 regulations and the Code of Federal Regulations in  
14 Title 10, Part 2. I'll give you a little slide  
15 shortly with some websites where you might be able to  
16 locate those or you should be able to locate those.

17 I will not address the proposed changes to  
18 the hearing process that the Commission has just  
19 recently published for comment. Those were published  
20 in April and, for those of you who may be interested  
21 in looking at them and submitting comments, the  
22 comment period has been extended now and will expire  
23 in September of this year, and I'll be happy to  
24 provide you the citation to *The Federal Register* site  
25 so that you can look those up.

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1           We use a hearing process, in part in  
2 response to some of the comments I heard just a moment  
3 ago, to deal with very complex technical issues. It's  
4 formal. The people who provide and create the record  
5 are largely experts and they're subject to examination  
6 by other participants who will probe the expertise of  
7 the individuals to assure that, if the information  
8 they are to give is accepted, that it's credible and  
9 material to the issues that have to be decided.

10           The Commission in its recent rule making  
11 reaffirmed that it is going to use the formal hearing  
12 process for high level waste repository. I know there  
13 have been some questions of late as to what process  
14 would be used, and that decision has now been made.  
15 There may be some changes in the proposed rules, but  
16 those are largely intended to streamline the process.  
17 They affect some time frames but, from a substantive  
18 standpoint, at least in my view, don't have a  
19 significant effect on the way in which the process  
20 would unfold in connection with this repository.

21           The Office of the General Counsel, which  
22 I represent and Dennis represents, serves two roles  
23 just so you understand how we fit into the picture.  
24 Bill described the technical review. Our role in  
25 connection with the repository is twofold. During the

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1 course of the status review, we'll provide legal  
2 advice and support to the staff as they go through  
3 their technical review. We try to help them assure  
4 that their reviews fully track the Commission's  
5 regulations and other statutory requirements that  
6 apply, in this case, in connection with the repository  
7 licensing.

8 We also will be responsible for  
9 representing the staff in any hearing. We will be  
10 advocates for the staff. And the staff, as Bill  
11 explained, also has two very, very significant roles.  
12 Wholly independent of the hearing process, the staff  
13 is charged with independently reviewing and assessing  
14 the acceptability of the application that may be  
15 submitted and assuring its compliance with the  
16 Commission's regulations to ultimately determine  
17 whether there is reasonable assurance that the public  
18 health and safety will be protected.

19 The hearing process, as Bill explained  
20 before also or at least mentioned before, will be  
21 conducted by an Atomic Safety and Licensing Board.  
22 The Atomic Safety and Licensing Board are sort of  
23 unusual creatures of the Atomic Energy Act has  
24 specifically provided for. There are three member  
25 boards. The chairman of the board typically is a

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1 lawyer, experienced in conducting an administrative  
2 proceeding.

3 The other two members usually are  
4 technical members, engineers in some field including  
5 perhaps environmental fields. They will preside over  
6 the hearing process and they will be the ones  
7 responsible for issuing an initial decision. They  
8 will deal in that hearing process with the issues that  
9 are raised by participants in the process, the  
10 contested issues or contentions. That's a term that  
11 you'll also hear very commonly used.

12 The parties appearing or the participants  
13 appearing in this process include the staff. They  
14 will include the applicant, the Department of Energy.  
15 They will include intervenors. Intervenors could be  
16 members of the public, the host state, affected units  
17 of local government, affected Indian tribes. There  
18 are particular aspects that are truly unique in  
19 connection with the repository proceeding as a result  
20 of the waste policy act that don't typically apply in  
21 other contexts, and they will be full parties in this  
22 proceeding with a right to fully present testimony,  
23 file matters before the Atomic Safety and Licensing  
24 Board and to present evidence and cross examine the  
25 parties and the witnesses of other parties.

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1           The members of this board, to go back to  
2           that for a moment, are either full-time or part-time  
3           members and also, as a general matter, the hearings  
4           are conducted somewhere in the vicinity of the  
5           proposed activity. That doesn't mean necessarily  
6           they're right next door, but it's in the general  
7           vicinity so members of the public will always have an  
8           opportunity to observe the proceedings.

9           One of the things that also should be  
10          recognized is that it is also possible that more than  
11          one board could be established. Given the very tight  
12          time constraints that we are going to be working under  
13          in connection with the repository, given the very  
14          large number of parties that are likely to be involved  
15          and the very large number of issues that are likely to  
16          be involved, it wouldn't be all that surprising to  
17          have more than one board set up to conduct hearings.

18          The public does have several  
19          opportunities, several different ways in which it can  
20          participate in the hearing process. They certainly  
21          are always free, as I mentioned before, to observe  
22          pre-hearing conferences and the hearing process  
23          itself. The hearing room is typically going to be a  
24          large facility which will accommodate not only the  
25          parties and witnesses and the board, but also should

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1 provide substantial seating capacity so members of the  
2 public and the media will be able to attend and  
3 observe.

4 Members of the public can also make oral  
5 and written limited appearance statements. Limited  
6 appearances are simply statements of the views of any  
7 individual which may be submitted and included, but  
8 they are not really part of the evidentiary record.  
9 That is, they will not form a part of the basis upon  
10 which the decision will be made. As I said before,  
11 that record, the evidence, if you will, will be that  
12 which is submitted by the parties through their  
13 witnesses, either oral testimony -- and oral, by the  
14 way, may be testimony submitted in written form as  
15 well -- or documentary.

16 The public also on an individual basis has  
17 an opportunity to file petitions for leave to  
18 intervene. If their petition is granted -- and Dennis  
19 will talk in a minute more about some of the specifics  
20 of that -- if the petition is granted, that person  
21 becomes a party to the proceeding and is entitled to  
22 fully participate as any other party throughout the  
23 process.

24 Finally, an individual can authorize an  
25 organization to represent his or her views. There are

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1 many organizations out there which, as an  
2 organization, may not have the standing that is  
3 required to participate as an organization, but the  
4 Commission's regulations historically have recognized  
5 the opportunity for organizations to represent the  
6 views of members whose interest may be affected and  
7 who, on their own, would have what we call standing.

8 As I said before, limited appearance  
9 statements are statements by non-parties. Time is  
10 usually set aside by the board for receiving these  
11 statements and, as I mentioned earlier, they're not  
12 evidence. But the staff typically will review those  
13 statements and technical issues that may be raised or  
14 identified by members of the public will be dealt  
15 with, will be considered by the staff in its review.

16 I mentioned before that there is an NRC  
17 website. Bill in the past may have mentioned it to  
18 you as well. But our homepage is [www.nrc.gov](http://www.nrc.gov). You  
19 can get to us, by the way, at [firstgov.gov](http://firstgov.gov). Our rules  
20 of practice can be found at that website. And  
21 finally, the legislation which includes the Atomic  
22 Energy Act and other relevant pieces of legislation,  
23 this is this document referred to as New Reg 0980, is  
24 also at that website.

25 Bill mentioned before that the hearing

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1 will be conducted over a very compressed period of  
2 time and, although maybe a three year period sounds  
3 long, it's really a remarkably short period to  
4 consider a project of this complexity and magnitude.  
5 The statute specifies and limits the Commission to a  
6 three year period, subject to requesting up to a one  
7 year extension from Congress.

8 On top of that, the Commission's  
9 regulations, again 10 CFR Part 2 in a section called  
10 Appendix D, lays out a more detailed schedule which  
11 has ben identified as the anticipated hearing  
12 schedule. And again, Dennis is going to speak about  
13 that in a little more detail as well.

14 Overall, there are four steps in the  
15 hearing process. The pre-application phase, and that  
16 is rather unique in connection with the repository.  
17 It's a much more elaborate, much more established and  
18 much more structured process than it typically is in  
19 Commission proceedings.

20 Then there's the pre-hearing phase. The  
21 evidentiary hearing is the third phase and finally,  
22 there's the phase which we, for want of a better term,  
23 label as the appeal phase. It's the review phase  
24 after the decision is issued by the board.

25 At this point, I'd be happy to take some

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1 questions on the general overview I've provided, and  
2 then turn it over to Dennis.

3 MR. CAMERON: I think we will take a break  
4 after this question period. Larry, I'm going to let  
5 you be the judge about whether we should defer  
6 answering some of the questions until we get to Dennis  
7 or whether it fits into your overview. Susi.

8 MS. SNYDER: My name is Susi Snyder. I  
9 work with the Shunda High Network here in Pahrump and  
10 I have a couple of questions. My first question would  
11 be you talked about the Atomic Safety and Licensing  
12 Board and said it was possible to establish more than  
13 one. How is this board established? Are these  
14 members elected, appointed? If they're appointed, who  
15 appoints them?

16 MR. CHANDLER: There is a -- Atomic Safety  
17 and Licensing Board panel. The members of that panel  
18 are employees of the Nuclear Regulatory Commission,  
19 but it's an independent office within the Commission.  
20 Unfortunately, I had hoped to try and find out what  
21 the total number of members are on that panel at this  
22 point. I don't know. If it's a number that's  
23 meaningful, I'd be happy to ask my friend Chip to put  
24 it on his parking lot and we could provide that. But  
25 the number varies from time to time.

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1 MS. SNYDER: My next question is the  
2 schedule of the proceeding, referring to slide 26, and  
3 my question is really, three years is a very short  
4 time to review a project that's currently been studied  
5 for over 20 years that we just had a supplemental EIS  
6 that kind of changes the whole thing around. What  
7 happens if new information comes out or there's a  
8 major earthquake out there again, all the buildings  
9 get leveled again, that you're unable to complete to  
10 meet that deadline. You know that you're not going to  
11 meet it within another year. So the year long  
12 extension is kind of not applicable. So what happens  
13 then if you get the year extension and you fail to  
14 meet the deadline on that?

15 MR. CHANDLER: All I can tell you is at  
16 this point in time, we have a statutory deadline which  
17 we're going to do what we can as best we can to try  
18 and meet. It may not be possible. I can not stand in  
19 front of you and say with absolute certainty that  
20 we're going to get there in that period of time. Our  
21 objective is to structure a licensing review process  
22 and the ancillary hearing process to best position  
23 ourselves to complete that in that period of time.  
24 There are a lot of people. There will be a lot of  
25 reviewers involved to review the various technical

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1 disciplines and we will have hopefully a sufficient  
2 staff of attorneys to be able to do that in the time  
3 required.

4 MS. SNYDER: But right now you don't know  
5 what would happen if you fail that deadline?

6 MR. CHANDLER: No.

7 MR. CAMERON: I suspect, as Bill suggested  
8 though, that we'd have to advise Congress that we're  
9 having some difficulty.

10 MS. SNYDER: Okay. And then my last  
11 question -- thank you, I appreciate it, Chip, very  
12 much -- is that you talked about the limited  
13 appearance statements and initially when you're  
14 looking at the slide 22 that talked about public  
15 opportunities, you said the statements or views of an  
16 individual could be submitted but they will not form  
17 part of the evidentiary record. And what I understood  
18 that means is they're not really taken into  
19 consideration in the decision and yet you said later  
20 on on slide 25 that they will be considered in the  
21 decision making. So I was kind of confused by that.

22 MR. CHANDLER: Let me try and clarify that  
23 point. I'm sorry if I left you confused on that.  
24 They're not part of the record upon which a decision  
25 will be based. What I tried to suggest in the second

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1 slide is that -- well, let me back up. Let me explain  
2 a little bit more in a little more detail what people  
3 often will express in limited appearance statements.

4 Anybody can make a limited appearance  
5 statement. People will stand up and say, I don't like  
6 this proposed action. I think it's unsafe. I think  
7 it should be built elsewhere. And they've told us  
8 where to get off. All sorts of comments are made in  
9 those, and people will also get up in limited  
10 appearance statements and say, Oh, by the way, I  
11 understand that there's a new fault that was just  
12 identified three miles down the road and I don't think  
13 anybody's really aware of that. There are different  
14 kinds of comments.

15 If someone were to make a comment that  
16 suggested that there's some piece of technical  
17 information that the staff ought to consider, staff  
18 will take a look at it. I can speak from personal  
19 experience where at a limited appearance statement at  
20 some nice facility in southern California, an  
21 individual got up during a limited appearance  
22 statement and says, Oh, by the way, there's a new  
23 fault, and I spent the week end trying to figure out  
24 how we were going to fund our -- we happened to have  
25 a geologist with us out there -- how we were going to

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1 fund getting him a pair -- because he wasn't prepared  
2 -- getting him a pair of boots and jeans so he could  
3 take a trek Saturday morning to go visit the fault.  
4 I mean these things happen.

5 So it is not part of the record of  
6 decision but comments that have technical merit will  
7 be looked at, and the staff will look to decide  
8 whether there are technical issues that need to be  
9 considered.

10 MR. CAMERON: Thank you, Susi --

11 MS. TREICHEL: I went up to the Scull  
12 Valley once and I watched --

13 MR. CHANDLER: PFS?

14 MS. TREICHEL: Yes.

15 MR. CHANDLER: I would suggest that we've  
16 looked at the transcripts of those hearings because I  
17 do have some responsibility for those proceedings as  
18 well. I would certainly hope that the attorneys on my  
19 staff, either those working for Dennis or one of the  
20 other divisions, are actively assuring that the record  
21 that is completed is a complete record, is a fair  
22 record, and reflects all reliable, credible, and  
23 material evidence. I don't recall anything in that  
24 transcript which suggested otherwise.

25 MS. TREICHEL: I just was horrified.

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1 MR. CHANDLER: I understand that.

2 MS. TREICHEL: When an intervenor files a  
3 matter, as you said, or there's a petition to  
4 intervene, who makes the decision about whether or not  
5 those are accepted?

6 MR. CHANDLER: The Atomic Safety and  
7 Licensing. What typically will happen is that the  
8 board -- once -- well, let me back up. Notices will  
9 be provided when an application is received and the  
10 process is started. People will have an opportunity  
11 in response to that notice to submit petitions for  
12 leave to intervene. Once one of those is received, it  
13 just takes one, you'll notice it specifies send it to  
14 so and so. It usually says the Secretary of the  
15 Commission. Once one or more is received, they are  
16 referred by the Secretary to the Chairman of the  
17 Atomic Safety and Licensing Board panel to establish  
18 a board.

19 That board's first responsibilities will  
20 be to start the pre-hearing procedures going to decide  
21 that petition. Now, in response to that petition,  
22 other parties will have an opportunity. Dennis is  
23 going to talk about this in some more detail. I don't  
24 want to step on him.

25 MS. TREICHEL: That's fine. Maybe --

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1 MR. CHANDLER: But the board will decide  
2 that.

3 MR. CAMERON: Thanks, Judy. Kalynda.

4 MS. TILGES: I have two questions.  
5 Actually, I have tons of questions but I'll stick to  
6 two on this particular point. Sorry about that. I  
7 didn't want to give you a stroke there.

8 On the hearing process, talking about  
9 intervenors and interested groups. I'm interested in  
10 which Indian tribes are you considering as intervenors  
11 or interested? Are they any other than the 17  
12 federally recognized tribes? I'm kind of curious as  
13 to what tribes you dealt with. Should I wait for the  
14 answer to that or ask both questions at once?

15 MR. CHANDLER: Why don't you ask them both  
16 and then we'll make sure we answer them.

17 MS. TILGES: And my second question is is  
18 how does someone go about getting standing to  
19 participate officially in this process so that our  
20 comments and concerns are officially considered part  
21 of the record?

22 MR. CHANDLER: With respect to the Indian  
23 tribes, I'm just going to leave it in a very simple  
24 way. The Commission's regulations specifically  
25 recognize, without naming tribes, certain categories

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1 of those who are identified in the statute.

2 MS. TREICHEL: Can you clarify that?

3 MR. CAMERON: I think that we need to be  
4 really explicit on this because just because a tribe  
5 is not a quote, "affected tribe," unquote does not  
6 mean that it can not be a party to the proceedings.  
7 We need to explain all that. Do you or Dennis want to  
8 go into that? Do you want to reserve it for Dennis or  
9 do you want to get it cleared up now because it's an  
10 extremely important point and I think -- and others  
11 of us may have information on it. Larry.

12 MR. CHANDLER: As a general proposition,  
13 the Waste Policy Act specifies and gives certain  
14 stature to certain affected Indian tribes. The  
15 Commission's regulations do likewise. That's one  
16 category. Beyond those designated in that way, any  
17 tribe much as any individual can file a petition for  
18 leave to intervene, wholly independent of the fact  
19 that they're a recognized tribe. Does that answer the  
20 question?

21 MS. TREICHEL: Can you repeat that? Any  
22 tribe or persons --

23 MR. CHANDLER: Any tribe. I'm not trying  
24 to answer your second question as part of it but it  
25 will. Any individual, any person is free to file a

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1 petition for leave to intervene. Dennis will describe  
2 in more detail what the characteristics are that need  
3 to be established, what the various aspects are that  
4 need to be addressed in a petition for leave to  
5 intervene.

6 MR. CAMERON: I'm going to go to Steve and  
7 perhaps now anybody who wants to add something. As I  
8 understand it, Larry, if you're in this special  
9 category of affected tribe, you're automatically --

10 MR. CHANDLER: What they've done -- almost  
11 automatic. What they've done is eliminated the need  
12 to establish standing. They still require that you  
13 come in and provide a list of contentions. And if we  
14 keep this up, poor Dennis is not going to have  
15 anything to say.

16 MS. TREICHEL: Is this written somewhere?

17 COURT REPORTER: Please use the mic.

18 MR. CAMERON: Let me clear up something  
19 up. We will provide you with what is written on this  
20 issue so that you understand it. Steve, do you want  
21 to add something?

22 MR. FRISHMAN: On the subject of zoning  
23 before. Yes. Recently the State of Nevada has  
24 requested that the Commission at least consider a  
25 hearing process where the staff would not be a party.

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1 We had a number of reasons for that, and our thinking  
2 simply was influenced by what we observed in the Scull  
3 Valley hearing where the NRC staff represented by  
4 attorneys was -- cross examination -- to intervenors  
5 and our request was certainly reinforced by observing  
6 that and I guess my question is could you go through  
7 a little bit of the rationale that I know came out of  
8 your office that resulted in the decision to not  
9 change the hearing process and to maintain staff as --

10 MR. CAMERON: That sounds like one for  
11 you, Larry.

12 MR. CHANDLER: The rationale is really  
13 quite simple, at least in my view, and as I tried to  
14 explain before, I respect your views on how the  
15 proceeding was conducted in connection with the  
16 private fuel storage application. I certainly would  
17 expect our attorneys, as any other attorney, to be  
18 very active, if you will, aggressive within  
19 appropriate bounds of professional deportment.

20 I would expect as part of that process  
21 that the attorneys would actively pro the credentials,  
22 qualifications of any individual who would testify,  
23 those for the applicant as well as those for the  
24 intervenor, and that they would assure that the  
25 evidence that's being offered is credible, is

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1 material, is relevant. We could probably  
2 unquestionably differ on how aggressive what we may  
3 consider to be appropriate but I think every attorney  
4 has a responsibility to his or her client to assure  
5 that an appropriate record is being created. That  
6 should in no way suggest bias, it should in no way  
7 suggest pre-judgment, it should in no way suggest  
8 that we are taking sides.

9 The only side that the attorneys in the  
10 Office of General Counsel should take is the side of  
11 the staff. We should most actively and vigorously  
12 assert and defend the position of the staff. They  
13 are, if you will, in the most direct sense, I suppose,  
14 analogous to our client. We share an overall  
15 responsibility in the review of the application  
16 ultimately to assure -- the Commission's ultimate  
17 responsibility is to assure that there's reasonable  
18 assurance that public health and safety will be  
19 adequately protected.

20 MR. CAMERON: Thank you, Larry.

21 JIM: I wanted to follow up a bit on your  
22 comment that there could be more than one board. This  
23 lady asked a question about it and I'm not sure I  
24 understood your answer. Would a second board be  
25 formed because of the time pressures here and, if it

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1 were formed, would then the two or three boards  
2 somehow divvy up the licensing procedure parallel--

3 MR. CHANDLER: Let me try and explain that  
4 for you. I'm sorry. Did you finish your whole  
5 question?

6 JIM: I think you got it.

7 MR. CHANDLER: Okay. What has happened in  
8 the past, and this would not be unique to this  
9 proceeding, but there have been proceedings where  
10 there are a significant number of parties and a very  
11 significant number of issues involved, contentions.  
12 And simply as a matter of good, sound administration  
13 and assuring that the process moves forward on an  
14 expeditious a process as possible and consistent with  
15 the interests of the parties and the rights of the  
16 parties to a fair hearing, multiple boards can be set  
17 up.

18 What they do is, just as you suggest, they  
19 divvy up issues. And one board may be responsible for  
20 considering issues one through three, the next four  
21 through six and so on. What each board possibly would  
22 end up doing -- not possibly -- would end up doing is  
23 issuing what's referred to as a partial initial  
24 decision, the sum total of which become eventually the  
25 total decision upon which the ultimate licensing will

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1 be based.

2 MR. CAMERON: Thank you. Let's take one  
3 more here and then go back over there and then we'll  
4 take a break. Grant.

5 GRANT: Thank you. I'm Grant. You're  
6 saying some things that I think will help but all of  
7 us understand the flaws in the system you're using.  
8 As an attorney, you have to rely and trust somebody to  
9 pick the technical people for you. Personnel clerk.  
10 The personnel clerk goes through the résumé and maybe  
11 even calls to see if they've really got a degree or  
12 not. The personnel clerk has no clue as to the  
13 technical competence of this person. Then they go  
14 around and they talk to other engineers and whatnot.  
15 They may or may not know anything about this little  
16 narrow area.

17 As a chemical engineer, I can assure you  
18 that I can see things on the Internet every day that  
19 are in my field that I have absolutely no  
20 understanding of and it takes me two weeks to get the  
21 books, the research papers, go talk to a professor  
22 before I'm up to speed with that, and then I can go on  
23 and complete my project if that's part of it.

24 MR. CHANDLER: Absolutely.

25 GRANT: An attorney can not comprehend how

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1 entwined this project is with these details of  
2 technology. I ran into one government official that  
3 had industrial turnaround experience. That was Al  
4 Alms. He was on the environmental clean-up as  
5 Assistant Secretary. He was a brilliant man. But I  
6 said to him, why aren't you passing your expertise on  
7 to the managers and technical people in your  
8 department? He said, I don't have time. I have to  
9 get -- from Congress. The people in his department  
10 did not have a clue what his expertise was, the power  
11 of it, how to use it or anything else, and he's the  
12 only one in the government that I've run into.

13 This is a serious flaw that will cause the  
14 biggest disaster you guys can't even imagine. Seventy  
15 seven thousand tons of waste. Every one of those fuel  
16 rods has the fall-out -- of several Hiroshima bombs.  
17 This stuff makes a terrible mess.

18 MR. CAMERON: Grant, can we --

19 GRANT: Let me just --

20 MR. CAMERON: Let's go to Larry for any  
21 comment you want to provide.

22 MR. CHANDLER: Your comment to me is much  
23 like the comment you made to Bill. I would like to  
24 give you some assurance that over the years I've been  
25 involved in licensing reasonably complex industrial

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1 facilities, reactors, I've seen an actually remarkable  
2 level of expertise brought to bear by our agency as  
3 well as others who have been involved.

4 I invite you to please observe the  
5 hearings if you're not otherwise participating in them  
6 and I think the record -- I'm fairly comfortable that  
7 the record will establish the credentials of the  
8 individuals who will be offering testimony,  
9 individuals on behalf of the staff and I think Bill  
10 described for you the various expertise that we will  
11 be using in the staff's review and, to the extent  
12 there are issues in the hearing process, also as  
13 witnesses in the hearing process.

14 Part of the concern that was expressed a  
15 minute ago -- Steve? -- was that our attorneys  
16 actively challenge the credentials, I believe, of some  
17 of the individuals who are testifying in this  
18 particular proceeding. In fact, it's essential -- and  
19 I couldn't agree with you more -- that the testimony  
20 that's being offered that will form the basis of the  
21 decision be testimony offered only by individuals who  
22 are truly qualified to give those views.

23 So I agree with you. I have a little more  
24 confidence that we in fact have either on our staff  
25 through the center or otherwise available to us

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1 expertise that we need.

2 MR. CAMERON: Okay. Thanks, Larry. I'm  
3 going to go to this gentleman here, but I just wanted  
4 to note that Kalynda had a second question about  
5 standing that falls in, I think, Dennis's area. We  
6 have to leave him something to do.

7 MR. CHANDLER: Leave him something, and  
8 I'll chime in anyway.

9 MR. CAMERON: Yes, sir.

10 DAVE: My name is Dave -- and I was --  
11 industry for 10 years -- development engineer. What  
12 I come down to is NCR looked at many possibilities  
13 over and above the one that was done in the South  
14 Pacific neutralizing these radiation rods by killing  
15 the process that was stopped and turned on by the --  
16 after a desired amount of money spent. I believe by  
17 the time that they had completed the -- storage area  
18 that they would have probably made about the same  
19 amount of investment by having a process that  
20 eliminated all the dangers and used the byproducts  
21 that would be available to us on the market.

22 MR. CAMERON: Can we have someone talk to  
23 this gentleman about reprocessing at the break? Okay.  
24 Because I think that's outside. We'll have someone  
25 talk to you.

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1 Do we have any more overall questions?  
2 We're going to get into real specifics here after the  
3 break. Okay. Steve and then we'll go to Sally and  
4 then we're going to take a break.

5 MR. FRISHMAN: Steve Frishman again, state  
6 of Nevada. A few years ago I and the Director of the  
7 agency that I'm representing tonight spoke to the  
8 panel of the NRC Licensing Board about the Yucca  
9 Mountain project and they were doing -- complexity  
10 among other things, and to the extent that someone on  
11 the board retired -- they did talk among themselves at  
12 that meeting, not about multiple boards, but about the  
13 possibility of there having to be appointed a special  
14 panel with expertise in a broad range of subjects that  
15 would be involved here and also a highly expert staff.  
16 Has that ever gone anywhere? Rather than this notion  
17 of multiple panels because multiple panels may be just  
18 wonderful for the NRC, it may be pretty good for the  
19 DOE because they can afford the millions of dollars to  
20 be able to handle it and it's terrible for the  
21 intervenor.

22 MR. CHANDLER: I understand that point as  
23 well, and that's one of the comments I made earlier is  
24 that when multiple boards are set up, we need to take  
25 account of the -- to obtain expert individuals, not

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1 necessarily to sit as a member of the board itself,  
2 but if the need arises, they can retain expertise to  
3 augment the talent they do have.

4 MR. FRISHMAN: Larry, there is a  
5 commission paper that was sent by a previous general  
6 counsel that examined several ideas. The blue ribbon  
7 panel, so to speak. But Larry, you might just -- can  
8 special boards be appointed? In other words, you can  
9 go outside of the licensing board panel?

10 MR. CHANDLER: They can obtain special  
11 expertise, special assistance, as needed. They are  
12 not members of the board per se, but they can provide  
13 additional expertise to the board.

14 Steve, we need to get this on the record.

15 MR. FRISHMAN: You've got the stick.

16 MR. CHANDLER: We'll go to you and then  
17 we'll go to Sally and then we'll take a break. Go  
18 ahead, Steve.

19 MR. FRISHMAN: Down to the actual  
20 question. Is there anything that would not permit  
21 what some of the members of that board were talking  
22 about when we spoke to them about some different board  
23 that has all of the authorities of the existing board  
24 but is selected for its specialized knowledge and  
25 capability in dealing with this. It's quite clear

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1 that many of the members of the ASLB were very  
2 uncomfortable with having to go through or even  
3 contemplating a process like this licensing process.  
4 Is there anything that will keep the Commission from  
5 going ahead with that other than their own will?

6 MR. CHANDLER: Well, there is a provision  
7 -- you've got the answer, Mel?

8 MR. MURPHY: If I could just supplement  
9 because I remember the same issue and the issue is not  
10 the expertise of the ASLB, the general competence of  
11 the ASLB. The issue was we do not have as members of  
12 the ASLB earth scientists and this will be an earth  
13 science process. This will not be a proceeding to  
14 determine whether another reactor is designed to do a  
15 bunch of -- this will be a proceeding that's based  
16 almost exclusively on earth science and we are earth  
17 scientists.

18 MR. CHANDLER: I understand. You're  
19 looking for specialized expertise and, as a general  
20 proposition, specialized expertise can be retained,  
21 even to serve as members of the board. I mean they  
22 could solicit additional members with that background.  
23 I honestly can't tell you whether they have done so.  
24 I can't answer that.

25 I will also tell you that earth sciences,

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1 for better or worse, have played a great role, been a  
2 great part of my life in my earlier incarnations.  
3 Many of the reactor facilities I've been involved with  
4 involved extremely complex issues. I'm not suggesting  
5 they're necessarily the same as but I will assure you  
6 were very complex earth science related issues as  
7 well, and they were handled very effectively by the  
8 boards. They have a great deal of capability and you  
9 can get more if necessary.

10 MR. CAMERON: Thanks, Larry. Let's take  
11 one final question before the break. Sally.

12 MS. DEVLIN: This will be a quick one,  
13 Larry. On page two of the material you gave us, what  
14 is the NRC role for the repository and set rules that  
15 protect public and worker work safety. We would  
16 comment on that at this time. But we must go to the  
17 next one, -- consistent with -- Environmental  
18 Protection Agency standards. We have not, as far as  
19 I know, --

20 AUDIENCE MEMBER: Can't hear you.

21 MS. DEVLIN: I'm sorry. You can't hear  
22 me?

23 AUDIENCE MEMBER: Tilt it a little.

24 MS. DEVLIN: Now can you hear? I said are  
25 consistent with finding of the U.S. Environmental

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1 Protection Agency, EPA, standards -- and yet the NRC  
2 and the EPA have been fighting for years. I had heard  
3 at the last conference which was three weeks ago  
4 nothing from Ray Clark from EPA -- so what is the  
5 status of -- and so forth that we're all very  
6 concerned about? This is public health and we'll get  
7 into that a lot more --

8 MR. CAMERON: I'm thinking Bill would be  
9 most appropriate on this one. Bill.

10 MR. REAMER: The status is the  
11 Environmental Protection Agency submitted a draft  
12 final regulation to the Office of Management and  
13 Budget in January. That initiated a process called an  
14 inter-agency review process. We are participating in  
15 that. The Department of Energy is participating in  
16 that. The Environmental Protection Agency. We  
17 presented a position that's consistent with comments  
18 that we have discussed with folks in this room before.  
19 But ultimately, the authority to set the standard is  
20 in the hands of the Environmental Protection Agency  
21 and the law requires that we be consistent with that  
22 final EPA standard when the EPA issues it.

23 MS. SNYDER: --

24 COURT REPORTER: You need a mic.

25 MR. CAMERON: Let's make sure we talk to

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1 Susi during the break about that and if we need to  
2 bring it back up, we'll do that but let's take a break  
3 until around 8:15 and we'll start with Dennis Dambly  
4 who will go into specifics on the hearing process.

5 (Off the record at 8:07 for a 16 minute  
6 break.)

7 MR. CAMERON: If we'd all get back to our  
8 seats, we'll get it started with the second part of  
9 the evening's discussion. I just wanted to remind  
10 you, if you haven't signed in, please do so. There's  
11 a sign-in sheet over there.

12 We're going to get into some more detail  
13 now about the hearing process. Dennis Dambly,  
14 Assistant General Counsel at the NRC. Dennis's  
15 people, as I said earlier, his attorneys are the ones  
16 who are going to be representing the staff, NRC staff,  
17 in this particular process.

18 We do have a couple of questions from  
19 before. One is the question that Kalynda raised about  
20 how do you get standing? How do you participate? And  
21 Dennis will be going into detail on that. Dennis.

22 MR. DAMBLY: Thank you. Can you all hear  
23 me? You don't know yet.

24 My name is Dennis Dambly and, as Larry and  
25 Chip have indicated, it would be the responsibility of

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1 my staff to represent the agency should there be a  
2 hearing on Yucca Mountain. You can't hear me?

3 The first thing, if you're following the  
4 slides that we have here, is a time line. I'll just  
5 go through it briefly and talk more specifically about  
6 the points, but I want to give you a lay-out, an  
7 overview of the actual timing that would take place if  
8 there was a hearing.

9 The first thing we have on the time line  
10 is that at least six months before DOE submits a  
11 licensed application, it is required to certify that  
12 all the documents on the licensing support network.  
13 I believe there was a meeting held out here last year  
14 about what the licensing support network is and how it  
15 works, and I'll talk a little bit about it, but that's  
16 not really the subject. DOE has to do that at least  
17 six months before they file an application.

18 One month after they do that, the NRC  
19 would have to certify that all of our documents are  
20 also on the licensing support network. Three months  
21 after DOE certifies, any potential parties, states,  
22 anybody that wants to be a party to this proceeding,  
23 will also have to have all their material on the  
24 licensing support network. These dates have changed  
25 recently. The final rule, I think, is going to be

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1 published -- where's Chip?

2 MR. CAMERON: Right here.

3 MR. DAMBLY: Next week is the final rule  
4 going in *The Register*?

5 MR. CAMERON: Yes. It should be in *The*  
6 *Register* the end of next week. Pardon me? Dennis,  
7 there's a final rule that's going to be issued by the  
8 Commission on the licensing support and that final  
9 rule will be in *The Federal Register* by the end of  
10 next week and then there's 30 days after that a rule  
11 will be in effect.

12 MR. DAMBLY: Long before there will ever  
13 be an application and it will come into play.

14 Once the NRC docketts an application, it  
15 has, as Bill told you -- I don't want to not talk to  
16 you all over here but with this mic, it's difficult.  
17 The NRC has 90 days to review the application when it  
18 comes in and then docket it. The purpose of that  
19 review, as Bill told you, is to make sure the DOE has  
20 submitted a sufficient application for the staff  
21 actually to consider the technical merits.

22 Once there is a docket, within 30 days of  
23 that, and when it's docketed, there'll be a notice,  
24 and I'll talk about that, that goes out and make sure  
25 everybody knows how they can get a copy. You've got

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1 30 days in which to submit your petition to intervene  
2 along with contentions. That's a short period, but  
3 I'll explain how you should be attacking that if  
4 that's what you want to do in a little bit.

5 The rest of the time line. If you look in  
6 Appendix B that Larry talked about, it has a whole  
7 bunch of dates in there. Actually, they're numbers.  
8 So many days from the date of the docket, the  
9 application being docketed. We tried to put it into  
10 more understandable times, but they're not exact. So  
11 that's why you will see things like about 18 months  
12 and about 24 months and about 32 months, if Janet  
13 moves forward. Go to the next slide.

14 The actual numbers, numbers like 632 days  
15 are some of them, and if I put those up there, it  
16 would be as meaningful to you as it is to me. So we  
17 tried to make this so you would have an idea of the  
18 general time frames. These are not absolutes. The  
19 real numbers are a certain date as in 1125 is when I  
20 think the Commission is supposed to make its decision,  
21 although I did the math on that and that's more than  
22 three years, so I'm not real sure how that worked out  
23 that way. It's like 20 extra days or something like  
24 that. I forget.

25 If we can go now to the pre-application

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1 phase. Thank you. Basically, the important part of  
2 this section -- and this is unusual for an NRC  
3 proceeding. It starts, it's defined as starting 30  
4 days after DOE submits its recommendation to the  
5 President. At that point, the thing that becomes  
6 important is the licensing support network. There are  
7 a whole lot of things that one has to do. We talked  
8 about the dates in which DOE has to certify and the  
9 staff has to certify and anybody who wants to be a  
10 party has to certify. We have those dates again on  
11 the next slide.

12 On the prior slide, there is a pre-  
13 licensing application presiding officer as appointed.  
14 It will probably be a member of the Atomic Safety and  
15 Licensing Board. The function of that individual is  
16 to clear up or make rulings on any disputes about  
17 whether people did what they were supposed to with the  
18 licensing support network. Just as an example, if DOE  
19 certified that they put all their documents about  
20 Yucca Mountain on the web on the licensing support  
21 network and you went there and there were 30  
22 documents, you might have a question about whether  
23 that was a true statement or the staff put 10 or 15  
24 documents on and said that's all, you might raise a  
25 question. You could go to the judge and say, I don't

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1 think they put everything on there because that's just  
2 ridiculous.

3           Mostly, I would imagine, what he or she  
4 will be dealing with will be questions about privilege  
5 because when you have to deal with the licensing  
6 support network, not only do you have to make  
7 available all your documents that are not privileged,  
8 but documents that are privileged, things like  
9 attorney/client privilege, proprietary information  
10 trade secrets. Those you have to provide  
11 bibliographic material to say we have a document and  
12 the name of the document is whatever. It's about this  
13 but it's privileged so we're not putting the document  
14 itself on there but we'll tell you that there is such  
15 a document. You could go to this judge and say, We  
16 don't think it's privileged. It should be produced  
17 and put on the support network with all the rest of  
18 the documents and he or she would make a decision and,  
19 if he says yes, put it on, then it goes on.

20           If we could go to the next slide. This  
21 slide is basically just a quick overview of what the  
22 duties anybody who wants to be involved in the  
23 proceeding would have with respect to the licensing  
24 support network. The important thing that I want to  
25 leave you with on this is the next slide.

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1 Under the regulations, if you want to be  
2 granted party status when an application comes in and  
3 you're given the right to intervene, you have to show  
4 substantial and timely compliance with putting your  
5 staff on the licensing support network. If you don't  
6 do that, that could be a reason that you are not  
7 allowed to intervene in the proceeding. Now, you  
8 could correct it for the late certification, but the  
9 rules say then you take the record as you find it at  
10 that point which may leave out some of the preliminary  
11 stuff.

12 So the important thing. If you're  
13 interested in being involved in any licensing hearing  
14 here, make sure that you comply with your requirements  
15 under the licensing support network, that you get your  
16 documents online within 90 days of DOE putting theirs  
17 online.

18 MS. DEVLIN: (Off mic)

19 MR. CAMERON: We'll be coming back to you  
20 to answer questions.

21 Dennis, when have reach a logical point to  
22 break for questions, just tell us.

23 MR. DAMBLY: Since the next slide is  
24 called pre-hearing activities, this would be as good  
25 a point as any to talk about the last --

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1 MR. CAMERON: Okay. There are many  
2 questions about the material that Dennis just  
3 presented. We have Judy and then Susi. Judy.

4 MS. TREICHEL: Judy Treichel, Nuclear  
5 Waste Task Force.

6 So what you have said is 90 days before  
7 even the license has been submitted, a person or group  
8 wanting to get in has to get everything that they  
9 consider to be their documents on this monster and  
10 done in that way before there's anything even there  
11 and before you have been given status, you have to  
12 have made that effort and done that, regardless of  
13 your resources or whatever.

14 MR. DAMBLY: Well, you only have to put on  
15 the documents you're aware of. I mean if you come up  
16 with documents after that, you could put those on.

17 MS. TREICHEL: Yes. It's pretty hard to  
18 put stuff on you're not aware of, but this is a  
19 terrible burden on an interested or affected tribe  
20 that has very limited resources, certainly on a  
21 nonprofit organization where you have no idea if it's  
22 going to pay off. This is a gamble. You haven't even  
23 sought to be an intervenor but yet you had to comply  
24 with something that is a big feat that's really not  
25 been done in other licensing. I've been to the LSN

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1 meetings. They're talking about something that's  
2 science fiction.

3 MR. CAMERON: Dennis, do you want to maybe  
4 just clarify the fact that, as you mentioned, that you  
5 can certify later.

6 MR. DAMBLY: Yes. As I said, if you -- I  
7 understand when we looked at those time lines that 90  
8 days after DOE is probably 90 days before the  
9 application comes in and after that, you'd have, I  
10 guess, 120 days really in which to get contentions  
11 ready. So at that point, things are fairly tight to  
12 start with but if you don't comply with this before  
13 hand and you comply -- at the time you submit your  
14 intervention petition, if you say we've not put all of  
15 our stuff on the web or on the licensing support  
16 network, that would probably be sufficient to get you  
17 by at that point anyway because you haven't lost  
18 anywhere in the proceeding. You're not later than--

19 MR. MURPHY: Just another clarification,  
20 Dennis. The obligation is to put on the licensing  
21 support network the documents that you have in your  
22 possession that you intend to rely on in support of  
23 your case. That's all. In -- for example, we have  
24 God knows how many thousands of documents that will  
25 turn out to be essentially irrelevant to the

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1 contentions to be filed and we will be posting only  
2 documents that relate to contentions that -- will be  
3 filing in the licensing case. So the points you make  
4 are well taken, Judy, but that reduces somewhat or  
5 makes a little bit more manageable the burden other  
6 potential parties have to face. Only the documents  
7 that will be in support of the case need to go on the  
8 web.

9 MR. DAMBLY: And it's also possible that  
10 all the documents you'll be wanting to use are already  
11 on the licensing -- you can use DOE documents to  
12 support your position. So you may not even have any  
13 documents. As Mel said, and it's a good point, it's  
14 only the contentions you're going to file. You don't  
15 have to put everything you ever heard of. DOE has got  
16 to put it all on. NRC is going to put all of our  
17 documents on Yucca Mountain on. You have to put on  
18 the ones you're going to use when you know you're  
19 going to use them.

20 MR. CAMERON: Let's go to Kalynda or Susi,  
21 did you have a question?

22 MS. SNYDER: I'll wait until the next  
23 question.

24 MR. CAMERON: We want to make sure these  
25 questions are on what Dennis presented and then we

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1 want to go into some of the things that you're  
2 interested in. Kalynda.

3 MS. TILGES: Two questions. I'm still a  
4 little unclear on the licensing support network, how  
5 we submit that. Are we supposed to upload them? Are  
6 we supposed to send them to you and to the NRC and  
7 trust that they'll get them up on time? What if they  
8 don't? I mean how exactly do we ensure that some of  
9 the documents get to the licensing support network.

10 And my second question is, which leads to  
11 actually a whole other can of worms, whatever you want  
12 to call it. You had mentioned at the beginning that  
13 this unusual for NRC proceedings. I wanted to get  
14 clarification on how you thought this was all -- what  
15 exactly was unusual, how it was unusual, what was  
16 wrong with the old licensing regulations to begin  
17 with, but you might not want to go there.

18 MR. DAMBLY: I'll be happy to address that  
19 because it's unusual. In normal NRC licensing  
20 proceedings, there is no licensing support network.  
21 There's no requirement you put all this stuff online  
22 for everybody to see beforehand. It's actually,  
23 although it may not sound like that, this is intended  
24 to help the process and to help the public. DOE has  
25 to make full disclosure before they ever come in with

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1 their application. It's out there for your benefit.  
2 It's not out there to hurt you. It's out there to  
3 help you. The hope is that when we get to discovery,  
4 which I'll be talking about, normally a good portion  
5 of what a party would do in discovery is to try and  
6 find out what documents the other side has that they  
7 want to see. We're trying to eliminate that. All the  
8 documents should be out there up front ready to look  
9 at. Okay?

10 MR. CAMERON: And it's good that I see  
11 nodding of heads. That's good.

12 MR. DAMBLY: The other question about the  
13 support network. I'll let Chip answer that because he  
14 had a lot to do with the licensing support network in  
15 a former life.

16 AUDIENCE MEMBER: How do you get the  
17 documents on there if you don't have access or how do  
18 you get the documents there?

19 MR. CAMERON: The licensing support  
20 network now is a series of individual websites. In  
21 other words, you set up a website according to the  
22 standards that are in the rule and you put the  
23 documents on your website. Then everybody else has  
24 access to your website. That's how it happens. It's  
25 not this big central system any more. It's individual

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1 websites.

2 MR. CHANDLER: Actually, the rule I think  
3 that will hit the streets shortly is going to specify  
4 in more detail some of the formats that can be used  
5 for doing it. Understand, this proceeding may be  
6 somewhat more than others, but in any NRC proceeding  
7 participation has burdens. There are expenses that go  
8 with it. There are obligations that go with  
9 participating in any hearing, NRC or others. This one  
10 has its own complexities, has some additional  
11 complexities. Certainly, if people are interested in  
12 participating, there's nothing that will prevent  
13 people who believe they can satisfy the Commission's  
14 requirements to become a party for working together,  
15 collaborating and putting things together so that  
16 costs are shared and burdens are reduced to the extent  
17 possible. The simple fact is there are burdens, there  
18 are obligations to participate in any process like  
19 this.

20 MS. TILGES: I understand all that. What  
21 I want is a simple procedure outline of how we  
22 actually do this.

23 MR. CHANDLER: The regulation does have a  
24 series, and if you want I can give you the section of  
25 it. I'm frankly not that proficient in terms of this

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1 technology to tell you about PDFs and Tips and all the  
2 different kinds of formats and files that can be used  
3 to do the various things. But there are regulations.  
4 It's in Sub-part J of 10 CFR Part 2. I'll be happy to  
5 give you the section number offline.

6 MR. CAMERON: We'll send you a copy of the  
7 rule and also consult with you about what you need to  
8 do about that.

9 MS. TILGES: Would you translate it for  
10 me?

11 MR. CAMERON: Yes, because I think you  
12 might need a translator.

13 Quick question from Judy and then we're  
14 going to go to the next part of the presentation.

15 MS. TREICHEL: I've been to some of the  
16 LSN meetings. Is it not a fact that there's going to  
17 have to be another licensing exercise carried on at  
18 some point using this system to see if it in fact  
19 works? At this point, it's a whole big series of  
20 *Federal Register* notices, a couple of bookcases worth  
21 of paper, but aren't they going to have to do a maiden  
22 voyage using this thing to see if it'll float? That's  
23 what I understood at the last LSN meeting, that you  
24 can't just do this as a first time shot.

25 MR. DAMBLY: I'm sure that the board is

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1 planning on having -- in fact, I think up and working  
2 in the not too distant future. I think about the time  
3 that DOE, if they do, makes a recommendation to the  
4 President. I think they plan to get the system up so  
5 they can work the bugs out of it. I don't know of it  
6 being used specifically for another proceeding.

7 MR. CAMERON: They do have a plan for  
8 working the bugs, as Dennis puts it, before it has to  
9 be operational but I think there'll be another LSN  
10 advisory review panel meeting to discuss that and also  
11 I think it might be a good idea to discuss exactly  
12 what the new rule means and how you go about meeting  
13 your obligations under the rule. We'll put that up as  
14 a follow-up.

15 Let's take Sally and Grant and let's go  
16 back to your presentation so we make sure we get it  
17 all.

18 MS. DEVLIN: Dennis, let's get back to the  
19 discrepancy between you and EPA. NRC will allow one  
20 death in a million. EPA will allow one death in  
21 10,000. That's a huge difference. I don't know how  
22 you are going to get together on that. The most  
23 important thing to me is -- and I brought it up to all  
24 the meetings to you all and -- and that is Price  
25 Anderson. I don't hear in any of this whatsoever the

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1 thought of if there is an accident and it doesn't take  
2 a very major accident with nuclear waste to kill  
3 hundreds of thousands and maim and have cancers.  
4 Price Anderson is up to \$9.7 billion. Chernobel cost  
5 \$300 billion. We would need at least \$200 billion  
6 just for one accident. I don't hear any of this  
7 protection for the public, and that's what we try and  
8 do, and worker safety.

9 This whole thing to me is terrifying and  
10 we would be the last recipient because this would be  
11 going to 43 states. I don't see anything but the most  
12 -- what can I say? -- same old thing that I've heard  
13 for the last eight and a half years. I don't see any  
14 depth to these reports and I really don't see any care  
15 for the public or the workers. What I do see is the  
16 continuous well, we're going to do it and put in it.  
17 Bill knows how I feel. I want to know who these  
18 people are. I want to know this. I want to know  
19 that. But most of all, I want to know how you're  
20 going to protect the public from this deadly incident  
21 that might well happen anywhere in this nation.

22 MR. CAMERON: Thanks, Sally. Those are  
23 obviously important points but we need to concentrate  
24 on this process so people understand how to  
25 participate. I would ask that Larry and/or Bill after

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1 the meeting perhaps talk to Sally about Price Anderson  
2 and Bill obviously is noting the point that Sally is  
3 Making here. Let's go to Grant.

4 GRANT: Grant Audlow. What I'm hearing  
5 and the questions, too, is attempts to open up the  
6 process and allow people, by removing the -- this kind  
7 of thing, but at the same time I've been involved with  
8 putting in paper work for a variety of government  
9 projects. If I do it myself, they look at it and say  
10 this is not appropriate and throw it in the trash can.  
11 In fact, a time or two they've written on it "loco" as  
12 their review comments.

13 So am I incorrect in saying that we're  
14 probably looking, if you really want to seriously test  
15 this, we're looking at million dollar legal bill to  
16 start with?

17 MR. DAMBLY: I know I'm not getting that  
18 much. Larry will verify that. No, I don't think  
19 you're necessarily looking at \$1 million legal bill.  
20 One of the things I'll mention in regard to that. If  
21 you have specific contentions that you bring in, that  
22 may be the scope of how you're allowed to proceed. If  
23 you got one contention, you may only be allowed to  
24 participate on that one contention. If you want to  
25 contest everything in the world and you file a lot of

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1 contentions, it may cost you a significant amount of  
2 money. I don't know that for an individual with a  
3 single attorney that you're talking about \$1 million  
4 but it could be substantial legal costs if you want to  
5 hire an attorney to do that. I can't help that.  
6 There's no requirement that you have an attorney

7 MR. CHANDLER: Yes, I was just going to  
8 say just that point. There have been any number of  
9 cases in which individuals have participated, and I  
10 would say very effectively participated, without  
11 having attorneys. There have been other cases where  
12 they've had attorneys. I don't know how you judge  
13 their effect. But the decision to retain an attorney  
14 is the individual's.

15 MR. CAMERON: Let's move on. I think  
16 there may be more to bear on that question after you  
17 see what this is all about. Dennis.

18 MR. DAMBLY: Pre-hearing activities. This  
19 is when you get to actually the formal part of the  
20 proceeding. Once the application has been received  
21 and docketed. When the notice goes out. There will  
22 be a notice. It will be published in *The Federal*  
23 *Register*. It'll be put on our website. There'll be  
24 a press release. I'm sure the local media will make  
25 it well known and I believe Bill will provide it to

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1 local governments and interested officials and anybody  
2 that we're aware of that wants a copy for that matter.  
3 There's no secret about what it is. It will tell you  
4 at that point that you have 30 days in which, if you  
5 want to be a part of the hearing, to file an  
6 intervention petition and it will tell you how to do  
7 it and what you have to do.

8 Larry has already talked about the  
9 appointment of a licensing board, so we'll move on.  
10 This is a list of the activities that go on in the  
11 pre-hearing phase. I'll talk about them in a little  
12 more detail individually. You go from the appointment  
13 of a board who, as Larry indicated earlier, will make  
14 the decisions on who gets to intervene and who doesn't  
15 based on their submissions. From there, we would have  
16 a pre-hearing conference. Actually, there'll be a  
17 pre-hearing conference probably before there's a  
18 decision made because a lot of times at that pre-  
19 hearing conference there is discussion about whether  
20 you met the standing and contention requirements. And  
21 then there's a decision granting or not intervenor  
22 status to the various people who have applied.

23 Following that, you get into discovery.  
24 At the end of the discovery, you get on into the  
25 formal evidentiary hearing part, and we'll talk about

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1 that. But the receipt, when it goes out, as I said,  
2 everybody that wants it will get it. There's no  
3 attempt by the agency nor do I think there's any  
4 chance in the world that we could somehow slide this  
5 into *The Federal Register* and people out here would  
6 never hear about it. I just don't think that's going  
7 to happen. But that's not our intent anyway. We will  
8 make it available. There'll be press releases. It'll  
9 be on the web. I'm sure it'll be a major event when  
10 it comes out, if it comes out, if we get an  
11 application. It'll tell you exactly what you have to  
12 do.

13 The important thing. I said you got 30  
14 days to file this after the notice comes out. Don't  
15 wait, if you want to participate in this proceeding,  
16 until the notice comes out to start looking at it. Do  
17 I want to file contentions and whatever? Because at  
18 that point you only got 30 days. You got this whole  
19 licensing support network. It'll be a very large,  
20 voluminous application that you have to go through.  
21 You should start as soon as DOE puts its stuff on the  
22 web or before that if you want. Don't wait until  
23 those 30 days because it's a short period of time.  
24 But if you look at it, if you didn't even start to do  
25 anything until DOE certified that all its documents

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1 are on the licensing support network, that's at least  
2 six months before they can submit an application, and  
3 there's another 90 days for us to review to docket  
4 that application and 30 more days. So that's at least  
5 10 months before you'd have to file a petition that  
6 you will have full access to DOE's database along with  
7 the NRC's.

8 If you'd go to the next. Anyone whose  
9 interest may be affected and who wants to be a party  
10 has to file an intervention petition. You got to do  
11 two things. You got to explain how your interest will  
12 be affected by the outcome of the proceeding. This is  
13 the standing. And then you got to file one more  
14 contention. A contention is basically an issue that  
15 you want the board to resolve about the DOE  
16 application. It's also important. A lot of people  
17 think mistakenly that you can wait until the NRC  
18 issues its safety evaluation report which, from the  
19 time line that we put on earlier, comes 18 months, I  
20 think, approximately after the notice to decide  
21 whether they want to intervene and file contentions.

22 The contentions that you file are to be  
23 based on DOE's application, not NRC's review.  
24 Frequently people file additional contentions after  
25 the NRC's review but then you have to meet some

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1 different standards for late file contentions.  
2 Basically, you need to put in contentions why you  
3 think DOE's application does not meet the rules, the  
4 regulations, the laws. You don't put in, we think the  
5 staff is doing a lousy job. That's not a contention.  
6 God knows it's filed before but it's never been  
7 accepted as a contention yet.

8           Going on to what standing is. You have to  
9 be able to demonstrate that somehow, in essence, if  
10 there is an application and if a construction  
11 authorization is issued, that you will be personally  
12 adversely affected. That's standard. For states and  
13 affected Indian tribes and certain affected units of  
14 local government, that is already a given. They have  
15 standing. For others and, as was discussed earlier,  
16 for Indian tribes that are not considered affected  
17 Indian tribes but nonetheless wish to participate,  
18 they have to meet the standing requirement but they  
19 can participate like anybody else who wants to  
20 participate by showing they have standing and filing  
21 a contention.

22           It's also important to know that in order  
23 to have standing it's got to be an injury that is  
24 distinct and concrete, not some remote speculative.  
25 You can't say, I live in Maine and I'm worried about

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1 our friends out in Nevada. That's an injury to you.  
2 You have to show you yourself, if there's a repository  
3 built out here, will somehow be harmed. That's  
4 standing.

5 Organization. You get standing in one of  
6 two ways. If the organization can somehow show that  
7 it has its own organizational interests will be  
8 adversely affected. And that doesn't mean, you know,  
9 we're the citizens against a nuclear waste repository  
10 and we live in Idaho or some place, pick a state, that  
11 you automatically have standing because your  
12 organizational interest says you're against it. It's  
13 going to have to be the organization owns a property,  
14 something that personally affects the organization.

15 The other way organizations generally get  
16 involved in NRC proceedings is to have members of the  
17 organization as their main petitioners. For example,  
18 if the Sierra Club was interested in getting involved  
19 in any high level waste repository proceeding here and  
20 you wanted to be involved and you could establish the  
21 standing part because of where you live or whatever,  
22 Sierra Club could use you, if you joined the Sierra  
23 Club, as a member and filed a petition on your behalf  
24 and thereby represent you. So that's one way. That's  
25 the way organizations normally are involved in NRC

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1 proceedings. And we do have this general concern  
2 about safety or not sufficient.

3 Contentions. We've talked about this  
4 already but basically it's a legal or factual issue  
5 that you want the board to resolve. You have to be  
6 specific. You got to point to something in the DOE  
7 application that does not meet either our regulations  
8 or statutes and you've got to support your contention  
9 with either documents or experts' opinions. It also  
10 has to be a dispute with DOE that's on an important  
11 factual matter or legal issue, something that if you  
12 were to prevail on the contention would require us to  
13 either change any permit we would issue to DOE or  
14 cause their application to build a repository be  
15 turned down. It can't be something like they said  
16 they were going to paint the trucks red and we don't  
17 think that's a good color because even if you won,  
18 that wouldn't change a thing on the -- you know, the  
19 application would still be upheld but it's not a yes  
20 or no kind of thing. There's got to be something  
21 that's specific that they're not meeting a specific  
22 requirement in the regulations or in the statutes.

23 Next slide, please. An intervenor is  
24 somebody who has standing, can demonstrate standing  
25 and files a contention that the board accepts. If you

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1 can do that, you become a full party, can participate  
2 just like everybody else. It's the licensing board  
3 that will make those decisions, not the NRC staff, not  
4 DOE. It's an independent licensing board that makes  
5 the rulings on who has standing and who doesn't.

6 Discovery. To get party status to  
7 participate, then you get discovery. In essence,  
8 anybody in the world can get discovery before this  
9 point by looking at the licensing support network  
10 because that really is the document discovery in this  
11 proceeding. That will be available to anybody. It's  
12 not limited to just parties. In fact, you can't  
13 become a party as an intervenor until there's an  
14 application and an opportunity and you make the  
15 requisite showings of standings. In terms of document  
16 discovery, it's all going to be out there. As I said  
17 before, in a lot of cases, a lot of the issues in  
18 discovery are about documents. In this case, that  
19 shouldn't be the case. All the documents should be  
20 available to everybody.

21 You will have though the opportunity to  
22 issue interrogatories. Interrogatories are written  
23 questions. You prepare a set of questions that you  
24 send to other parties and say, please answer the  
25 following questions. They write back the answers.

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1           Then there's also depositions. Deposition  
2 are basically where you have the opportunity -- and I  
3 would expect in any Yucca Mountain proceeding, most  
4 depositions would be of expert witnesses where you  
5 would put an opposing party's expert on the record in  
6 front of a court reporter. They raise their right  
7 hand and, under pain of perjury, say they will tell  
8 the truth and then you get to ask them questions just  
9 like you would potentially at a hearing. They're all  
10 transcribed. All the answers are there so you can  
11 find out what they know that you don't know and how  
12 that affects what case you may want to put on.

13           Now we can go to the hearing. A formal  
14 evidentiary hearing for an NRC proceeding is just like  
15 all the trials you've seen on TV. Witnesses come  
16 forward, they testify. Other parties cross examine  
17 them and ask questions. Documents are put in. It  
18 goes just like that. You can challenge an expert's  
19 qualifications, as Larry talked about. DOE has the  
20 burden of proof. Throughout the proceeding, DOE must  
21 prove by a preponderance of the evidence that a  
22 construction authorization for a repository meets all  
23 the rules, regulations, requirements. That's their  
24 burden.

25           If you're an intervenor, your burden is to

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1 go forward and try and make a case on your  
2 contentions. But DOE still ultimately has to prove  
3 they meet all the regulations and there's no problem  
4 with their application.

5 The staff -- and I'll address the question  
6 that came up before. The staff attorney's role, if  
7 you will. The staff's role is to present testimony,  
8 documentary evidence to support its independent review  
9 of the DOE application and the staff attorneys are  
10 there to put on NRC's case. The reason that it may  
11 look a lot of times like we're on the same side as--  
12 in this case it would be DOE. In the case up in Skull  
13 Valley, I don't remember who the applicant is.  
14 Private Field Storage.

15 As Bill explained, the way in which our  
16 process works for reviewing an application, it comes  
17 in and the technical staff makes an independent review  
18 of the entire application. If they have problems with  
19 the application, they send questions to DOE on the  
20 record and DOE responds. Put more information on the  
21 record. If the NRC's technical staff is still not  
22 satisfied, they send more questions and get more  
23 answers.

24 Eventually we get to a point where either  
25 the staff thinks DOE has met everything and it would

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1 be safe or the staff says no, you haven't and we can  
2 not support this. If we issue a safety evaluation  
3 report that says we don't think DOE meets the  
4 standards and we recommend against issuing this, DOE  
5 could still go to a hearing. It would be extremely  
6 unlikely because, in that case, the NRC staff would be  
7 there opposing the application. Things like that have  
8 happened before. Members of my staff in the last  
9 year, we had someone come in, not DOE, not on a major  
10 thing, but on a materials licensing case, and the  
11 staff said no, you don't meet the regulations. And  
12 they said yes, we do and they went to a hearing and we  
13 opposed them and they didn't get a license.

14 So the point I'm making is it may look to  
15 you like we're on the same side but, because of the  
16 process, in all likelihood, there would not be a  
17 hearing on a DOE application unless the staff had  
18 concluded that DOE met all the requirements. So I  
19 don't think DOE would go and say we want to go forward  
20 trying to prove the NRC is wrong. So in all  
21 likelihood, if there's a hearing, the staff's  
22 position, ultimate position, and DOE's ultimate  
23 position would be the same. But that doesn't mean  
24 we're carrying DOE's -- we're putting on how we got to  
25 where we got and DOE has the burden of convincing the

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1 board and ultimately the Commission that their  
2 application meets all the requirements.

3 You can oppose expert witnesses, you can  
4 oppose documents, say they're not relevant, they're  
5 not valid. You can say these aren't genuine  
6 documents. Any number of ways you can go on some of  
7 this stuff but, if it doesn't get in the record, if  
8 somebody's testimony is rejected, then it's not part  
9 of the record on which a decision would be made. If  
10 you offer a document and it's rejected by the board,  
11 it's not part of the record on which the decision can  
12 be based. The decision that the board issues is based  
13 only on the admitted evidence which is testimony  
14 before the board, documentary material entered into  
15 the record by the parties.

16 Which gets us to the initial decision.  
17 Yes, it does. The licensing boards will issue an  
18 initial decision on all the matters that have been  
19 admitted, all the contentions. They will address each  
20 and every one in their decision and ultimately make  
21 findings of fact and conclusions on whether or not DOE  
22 has met its requirements, its burden of proof, to show  
23 that an application to construct a repository at Yucca  
24 Mountain meets all the rules, regulations and  
25 requirements. The board will say yes or no or, as

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1 Bill said, they could say yes but you need to do these  
2 other things as well.

3 At that point, it goes to Larry to talk  
4 about what happens after that but I guess we'll take  
5 questions.

6 MR. CAMERON: I think that before we go to  
7 appeals, I'm sure that there's a lot of questions here  
8 on what Dennis has covered. Why don't we spend some  
9 time talking about that and then we'll finish up with  
10 the appeal process. So Dennis, you still have the  
11 microphone.

12 MS. SNYDER: I want to clarify something.  
13 This is a clarifier because you presented a whole lot  
14 of information here that answered a lot of my  
15 questions that I had earlier. I appreciate that. But  
16 just a clarifier. The intervening parties are  
17 certified by the Atomic Safety Licensing Board.

18 MR. DAMBLY: Right.

19 MS. SNYDER: And what assurances do we  
20 have that the Atomic Safety Licensing Board are not  
21 old gray men in old gray suits with old gray brains?  
22 That's a quote from Helen Calcut.

23 MR. DAMBLY: I can assure you some of them  
24 are not old and gray. I don't know what assurance I  
25 could give you that's going to make happy in response

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1 to that, but some of them are not men. This is true  
2 also. We have women on the licensing board, and I not  
3 surprised if they would be involved in this  
4 proceeding, both as chairman and as technical members.

5 MR. CAMERON: Apart from that, the  
6 decision of the licensing board is guided by and  
7 constrained by NRC regulations. In other words, it's  
8 not just what they arbitrarily think.

9 MR. DAMBLY: Again, all contentions are  
10 going to be based on DOE did not meet something it's  
11 specifically required to meet and the board is going  
12 to have to make a finding. Either they met the  
13 requirement that's in the regulation or they didn't.  
14 They don't just make a finding, but we liked it  
15 anyway. They have to deal with a specific problem and  
16 whether or not DOE has carried its burden on that  
17 issue.

18 MR. CAMERON: Larry.

19 MR. CHANDLER: Bear in mind that that  
20 decision, however it comes out, is going to be based  
21 on the record. I had mentioned it earlier and Dennis  
22 amplified in his comments that the board is not going  
23 -- his words are exactly right. It's not just an  
24 arbitrary decision on points the board wants to make  
25 a decision on. They're charged with resolving the

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1 issues that have been put into controversy, the  
2 contentions by the parties and only those, and they  
3 will decide those based on the evidence that the  
4 parties have placed in the record. Those parties  
5 will include DOE. They will include the NRC staff.  
6 They will include the party who proposed the  
7 contention and the expert witnesses that that party  
8 may have.

9 So you should have a representation of the  
10 views, the evidence if you will, offered by sort of  
11 all sides, all points of view, on a given issue and  
12 the board then will decide, based on the  
13 qualifications and the credentials of the individuals,  
14 what it believes to be the evidence that it should  
15 rely on.

16 MR. CAMERON: Kalynda, did you have  
17 something? Then I'll go to Steve.

18 MS. TREICHEL: Reference was made to the  
19 fact that just because a facility applies for a  
20 license that it would be granted. I was wondering if  
21 you could give me any specific instances where a  
22 license for a nuclear facility has not been granted in  
23 the history of the Nuclear Regulatory Commission.

24 MR. CHANDLER: The Malibu facility in  
25 California was supposed to be sited south of Los

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1 Angeles. An application was submitted. Hearings were  
2 under way. This was in the early '60s. The facility  
3 was never licensed. The application was, I believe,  
4 ultimately withdrawn. That was a facility that was  
5 proposed by the Los Angeles Department of Water and  
6 Power.

7 MS. TREICHEL: -- docketed.

8 MR. CHANDLER: It was docketed. Hearings  
9 were under way. Another facility was going to be  
10 Newbold Island. It was proposed by Public Service  
11 Electric and Gas Company of New Jersey. The facility  
12 as proposed was never constructed. The facility was  
13 re-sited. The application was substantially amended  
14 and, as I said, the facility was re-sited. A license  
15 was ultimately issued for a facility at a completely  
16 different location. The initial application would not  
17 have been granted.

18 There are a number of others that were  
19 much earlier stages of licensing that were never  
20 licensed at the end.

21 MS. TREICHEL: When was the last one?

22 MR. CHANDLER: The question was when the  
23 last one?

24 MS. TREICHEL: What was the latest one  
25 that was not licensed and not built?

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1 MR. CHANDLER: Reactor facilities?

2 MS. TREICHEL: Any nuclear facility.

3 MR. CHANDLER: Well, there was a materials  
4 facility that Dennis just referred to before. Gray  
5 Star. That was a materials licensing action. It was  
6 a much different type of application. I got to  
7 confess I don't keep track and it's been so many years  
8 since we've had new reactor facilities licensed. It's  
9 hard to separate those facilities for which the  
10 applications were withdrawn and I don't know. I can  
11 tell you Newbold Island was in roughly 1973-74 time  
12 frame. I mentioned before that the Malibu facility  
13 was, I believe, in the late '60s.

14 There were licensing board decisions which  
15 initially rejected applications in the mid-'80s.  
16 Eventually those facilities were licensed because the  
17 deficiencies that were noted were resolved through  
18 very substantial effort on the part of the license  
19 applicant. One of the more recent examples of that  
20 type of a situation. There was actually a number in  
21 the '80s.

22 One of the most notable was Diablo Canyon  
23 which had received an operating license and the  
24 operating license was suspended by order of the  
25 Commission because of what became known as the mirror

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1 image problem. There was some faulty construction  
2 activity. The license was suspended for a number of  
3 years before the situation was rectified. There were  
4 a number of other instances in the '80s where, because  
5 of construction quality assurance problems, facilities  
6 were required to go through very, very substantial  
7 rework and requalification before licenses were  
8 issued. Zimmer is a notable one that eventually was  
9 withdrawn.

10 MR. CAMERON: We have an answer to the  
11 question over here.

12 AUDIENCE MEMBER: Comanche Peak.

13 MR. CAMERON: Comanche Peak, Waterford.  
14 I think we can move on.

15 Steve Frishman.

16 MR. FRISHMAN: The standard for making a  
17 decision is this seemingly simple language of  
18 reasonable assurance of the safety requirements, the  
19 performance requirements will be met. We, throughout  
20 the history of the program, have seen a lot of  
21 discomfort with the threshold for reasonable assurance  
22 for a repository decision versus other types of  
23 decisions that have been made.

24 Do you have any insights on where that  
25 threshold might be for a repository or for a long

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1 regulatory period versus reactor? Let me just sort of  
2 give you a specific and that's the uncertainty of the  
3 performance assessment here is going to be large and  
4 large in the sense of a few orders of magnitude. The  
5 department has made it pretty clear that they want to  
6 provide on the meat of performance meaning the  
7 expected dose or something around a mean dose. Normal  
8 scientific view of uncertainty says that you look more  
9 toward like the 95th percentile. Is this type of  
10 thing relevant and reasonable assurance for reactors  
11 versus reasonable assurance for something like a  
12 repository because we've seen the evidence for years  
13 to lower the expectation of reasonable assurance.  
14 Just give me some insight on how you think this might  
15 play.

16 MR. CHANDLER: I would suggest that maybe  
17 Bill would have better insights. I would suggest  
18 reasonable assurance --

19 MR. CAMERON: You're the guys who are in  
20 front of the ASLB all the time.

21 MR. FRISHMAN: That's why I asked for your  
22 insight.

23 MR. CHANDLER: Staff may have better  
24 insights. They're the ones in fact who testify and  
25 are the ones who will actually make a finding as to

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1 whether the application in fact establishes reasonable  
2 assurance.

3 If someone believes that the approach  
4 being used, use of mean versus some other standard, is  
5 insufficient to establish reasonable assurance, that  
6 may -- and I'm going to use the word may and  
7 emphasize the word may -- that may constitute a  
8 sufficient type of contention. That is to say the  
9 application does not establish reasonable assurance in  
10 that it relies on the mean whereas it should result on  
11 whatever you think the appropriate standard is and, if  
12 there's some basis for accepting your view, at least  
13 for purposes of going forward with the contention,  
14 then by all means you may well have an acceptable  
15 contention and you'll have an opportunity to present  
16 evidence to substantiate that before the board. You  
17 may carry the day on that.

18 MR. CAMERON: Bill, did you have anything  
19 you want to add?

20 MR. REAMER: No.

21 MR. CAMERON: Let's go to Judy.

22 MS. TREICHEL: You've got to understand  
23 that we're not coming in here and just looking at  
24 those viewgraphs and beginning to cook up the comments  
25 we're talking about. We've spent years and we are

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1 already in, as one of your viewgraphs said, pre-  
2 licensed application phase. We're playing with that  
3 every day in that there are technical exchanges  
4 between the Department of Energy, the Nuclear  
5 Regulatory Commission, and we've been almost in a  
6 shooting war over the way the Commission has let them  
7 slide, the staff, by going to closed pending with all  
8 sorts of issues which in a license hearing could be  
9 contentions.

10 And so we see that happening on a regular  
11 basis. We've been back and forth with the Commission  
12 about the way this is happening and with the wording  
13 in there where you have to show without a doubt that  
14 you're going to be severely injured, something like  
15 this doesn't fit. We're practically in a position of  
16 a person where the government is coming down on them  
17 and should be read their Miranda rights and an  
18 attorney should be appointed for them, should they  
19 want one or not be able to afford one. This is a  
20 rolling over of things.

21 When I mentioned the Skull Valley  
22 situation, we sat there and we watched that happen and  
23 we saw how those staffs were working together, the PSF  
24 and the NRC were very close together, and they were  
25 working on the basis of a draft environmental impact

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1 statement that the NRC had prepared that substantiated  
2 this application for a 20 year renewable license and  
3 at the end of that time, the waste went from PFS to  
4 Yucca Mountain. It's right in there and it shows  
5 exactly the route that it takes. There is no ifs,  
6 ands, buts about it. It's not a proposed repository.  
7 It's the place that waste goes. So you get a little  
8 jaded when you read this sort of language, you watched  
9 what's gone on in pre-application phase with the Yucca  
10 Mountain project, AEC, an actual hearing that's going  
11 on that depends upon Yucca Mountain and it's rolling  
12 along.

13 MR. CHANDLER: As I said earlier in  
14 response to a number of questions, it's sort of hard  
15 for me to characterize in a way that we would  
16 necessarily agree, each of us would agree with. My  
17 reaction and your reactions to the way the PFS  
18 proceeding is going on. We're trying this evening to  
19 try and leave you with a view on how we believe that  
20 a proceeding in connection with the repository would  
21 be conducted.

22 As was explained before, during the  
23 staff's review of an application -- and this is no  
24 exception, PFS is no exception -- is a lengthy and an  
25 iterative process. If there are questions the staff

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1 has, if it notes deficiencies, if there are matters  
2 that arise in any way during the course that require  
3 resolution, the staff communicates with the applicant  
4 and the applicant will respond. These communications  
5 are certainly, unless they involve some type of  
6 protected information, they're open. Meetings are  
7 open to the public. Correspondence is publicly  
8 available and the record of the progression of the  
9 application from its initial submittal through its  
10 ultimate review is one that is open and available for  
11 scrutiny.

12 Other than that, I really don't see that  
13 I'm going to have an answer for you that will satisfy  
14 you.

15 MS. TREICHEL: You don't.

16 MR. CHANDLER: I understand that, and so  
17 we'll just agree to disagree on that point.

18 MR. DAMBLY: Let me add one thing since  
19 it's been mentioned a few times here that it would be  
20 the responsibility of my staff to represent the NRC  
21 staff in any proceeding and while you may have  
22 different views of what went on in PFS, I would have  
23 serious problems with any member of my staff who is  
24 involved in the Yucca Mountain proceeding who tried to  
25 keep out relevant material evidence that would have a

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1 bearing on that proceeding. That's not our role,  
2 that's not our function, and that would be  
3 inappropriate for any member of my staff to do that.  
4 We want to make sure the record is complete and all  
5 relevant material, evidence, is on the record for a  
6 decision.

7 Understand, the record is being prepared  
8 for my boss's boss, the Commission. We'd be in a  
9 silly position to keep the Commission from having  
10 relevant evidence on which to base its decision.  
11 That's not what our function is and that's not what my  
12 attorneys would be doing.

13 MR. CAMERON: Thanks, Dennis.

14 We're going to Grant for a question and  
15 then let's go to Larry for the appeal. We'll see what  
16 questions we have remaining. Grant.

17 GRANT: Grant Audlow. Can you hear me all  
18 right? You used the term arbitrary, to try to avoid  
19 arbitrary decisions. What I'm hearing from the public  
20 here is that they don't accept your definition of  
21 arbitrary. You're saying that you and Judy agree to  
22 disagree on what I heard was the same thing. Can we  
23 define arbitrary as decisions being made by people who  
24 can not even possibly understand the issues involved,  
25 can not understand the technical details, don't have

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1 the educational background, you can't even explain it  
2 to them? Wouldn't that fall under the definition of  
3 arbitrary?

4 MR. DAMBLY: I guess my response to that  
5 is probably one you've heard from Larry and Bill and  
6 others, but I don't think the Commission and the  
7 Commission staff is without the expertise.

8 GRANT: They can't understand it.

9 MR. CAMERON: Let's go to you, Larry, to  
10 talk about appeals and then we'll come back for  
11 questions on that and previous presentations. Larry.

12 MR. CHANDLER: The Commission itself gets  
13 involved in the process really at two points. During  
14 the course of the proceeding, parties are given a  
15 right to ask the Commission to review decisions by the  
16 licensing board. There are specific procedures in  
17 connection with rulings on intervention. That would  
18 be in connection with the pre-hearing conference order  
19 which ruled on whether someone had standing or an  
20 admissible contention.

21 There are certain rulings on summary  
22 disposition orders. Summary disposition is a process  
23 by which certain issues can be resolved only on paper  
24 filings without the need to get into a full  
25 evidentiary hearing. Those can be appealed directly

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1 to the Commission.

2 In addition to that, if there are  
3 extremely unusual, novel, especially complex issues on  
4 which the board may wish the Commission's views, the  
5 board can refer a ruling to the Commission directly  
6 for its consideration and, likewise, there's a process  
7 available by which parties can argue that there's a  
8 special issue that warrants the Commission's  
9 intervention at an earlier stage in the process.

10 There's a very high threshold for  
11 interlocutory reviews though. Interlocutory reviews  
12 are other reviews which a party may ask the Commission  
13 to undertake at times that are not specifically  
14 provided for. If someone wants to get the  
15 Commission's ear on those, it is really an exceptional  
16 instance in which the Commission will involve itself  
17 on an issue before it's really ripe, that is before a  
18 board has had an opportunity to finally resolve the  
19 matters before it.

20 Appeals from an initial decision are  
21 another matter that's explicitly provided for. Those  
22 must be filed within 40 days of the decision and, like  
23 all other matters that are filed before boards or  
24 before the Commission, all parties to the proceeding  
25 have an opportunity to be heard. So if a party files

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1 an appeal requesting the Commission to take review of  
2 a decision, other parties to the proceeding have the  
3 right to respond and present their views on whether  
4 the Commission should involve itself and, if so, on  
5 the position the Commission ought to take.

6 In addition to those aspects, if you will,  
7 the adjudicatory aspects of the Commission's role, the  
8 Commission has an oversight responsibility. Before  
9 the NRC would issue a construction authorization or  
10 eventually perhaps a license to receive and possess  
11 waste, the Commission needs to examine the issues that  
12 were contested in the proceeding to determine whether  
13 there's a basis to doubt the repository will be  
14 constructed or operated safely and they must determine  
15 whether the Commission should take action to otherwise  
16 suspend or condition the license that it might issue.

17 It's important to note -- and Dennis  
18 mentioned this several times in his presentation, it's  
19 been touched on before -- the board will decide only  
20 matters in controversy. Again, we go back to what we  
21 were talking about at the very outset, Bill mentioned,  
22 I mentioned in my presentation. Matters that are not  
23 in controversy need to be reviewed, must be and will  
24 be reviewed by the staff. That's part of its  
25 independent role in this case. So even if a matter is

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1 not contested before the board, the staff will make  
2 findings. Eventually the director of the Office of  
3 Nuclear Materials Safety and Safeguards, the  
4 organization that Bill works in, will have to resolve  
5 all matters that are not in controversy.

6 Those findings, the resolutions, staff's  
7 resolution of matters that are not in controversy, are  
8 also subject to the Commission's oversight and review.  
9 The Commission, as Bill said at the outset, the  
10 Commission may affirm the decision, allow it to become  
11 the agency's action which then is reviewable in court.  
12 They can modify the decision. They can send the  
13 decision back to the board for further action. It's  
14 known as remand. Or it can reverse the decision,  
15 assuming the decision were favorable, and deny the  
16 license.

17 That basically covers the Commission  
18 review and appeal process and I think brings to close  
19 what I had planned to say. It occurred to me as we  
20 were talking and there was some discussion about the  
21 LSN -- and no, Janet, I don't have slides on this. In  
22 the interest of full disclosure, we talked LSN --  
23 that's the electronic system, the repository of  
24 documents that largely will take care of discovery  
25 needs. There are going to be at least one and perhaps

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1 two other things to be aware of.

2 The Commission's regulations set up what  
3 they refer to as electronic docket. The vernacular  
4 seems to have evolved to the electronic hearing  
5 docket. The official agency record that gets created  
6 here will be an electronic record, and that will be  
7 created and it'll be known as the electronic hearing  
8 docket.

9 In addition, some of you may have been  
10 involved in some discussions with the Atomic Safety  
11 and Licensing Board which has perceived the need to  
12 establish some type of electronic document management  
13 system which is intended to serve as a bridge, if you  
14 will, between documents that are taken out of LSN, put  
15 into the electronic docket, and then are going to be  
16 actually used during the course of the hearing.  
17 They're in the process of trying to develop and the  
18 views of many participants have been sought as to what  
19 aspects, what features, this type of a system ought to  
20 have.

21 That system is more in the planning stage.  
22 LSN is required. The electronic docket is required.  
23 This other system that I've just very briefly touched  
24 on is not a required system, but it's viewed as a  
25 desirable system in that it should facilitate

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1 everyone's use of what we expect will be a very  
2 voluminous record in a very, very short period of  
3 time. That completes it. Thank you, Chip.

4 MR. CAMERON: Thank you for adding that.  
5 Let's see if there's any questions, first of all on  
6 the appeal process. Let's go to Judy.

7 MS. TREICHEL: In the spirit of openness,  
8 why don't you let us know what Part 63 says?

9 MR. CHANDLER: I actually don't know what  
10 Part 63 says.

11 MS. TREICHEL: Of course not because  
12 that's what I'm talking about. We're seeing in these  
13 pre-application meetings, DOE is telling the NRC staff  
14 that they are complying with Part 63. The NRC staff  
15 says that sounds good. That's great. That's what we  
16 wanted. And no one can see what Part 63 is. Now that  
17 does not --

18 MR. CHANDLER: Part 63 was published in  
19 draft and that's the --

20 MS. TREICHEL: And there was strong  
21 opposition to that draft and many of the people here  
22 testified. Many other people in Nevada testified and  
23 there was written comment as well. If they are using  
24 that draft that was put out, it means that every  
25 comment that came in from the public, which mostly

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1 opposed it and there were very well thought out  
2 comments, was totally ignored.

3 MR. CHANDLER: Don't jump to a conclusion  
4 that things have been totally ignored. As part of the  
5 rule making process, the Commission will address the  
6 comments that were received. Part 63 --

7 MS. TREICHEL: But --

8 MR. CHANDLER: Excuse me. Let me finish.  
9 Part 63 is not out in final form yet. It's still a  
10 draft regulation and I wouldn't presume to say the  
11 Commission is ignoring comments.

12 MS. TREICHEL: No, but DOE says we are in  
13 compliance with Part 63 and the NRC staff says, cool,  
14 I'll check off that box. That's all. That's what I'm  
15 saying.

16 MR. CHANDLER: I don't think the staff has  
17 yet signed off that DOE is in compliance with Part 63.

18 MR. CAMERON: Just to clarify, Larry. You  
19 said it was a draft rule, and I believe it's a  
20 proposed rule.

21 MR. CHANDLER: Excuse me. Proposed rule.

22 MR. CAMERON: Questions on the appeal?  
23 Susi.

24 MS. SNYDER: It's getting really late as  
25 you can tell by about 10 people just walked out.

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1 MR. CHANDLER: We're on east coast time.  
2 We'll stay until midnight.

3 MS. SNYDER: Can you, first off, spell and  
4 then explain again the --

5 MR. CHANDLER: Interlocutory?

6 MS. SNYDER: Yes, that's the one. I can't  
7 even say it.

8 MR. CHANDLER: I knew that was coming.

9 MS. SNYDER: Thanks.

10 MR. CHANDLER: I-N-T-E-R-L-O-C-U-T-O-R-Y.  
11 Interlocutory.

12 MS. SNYDER: Can you write that?

13 MR. CAMERON: Yes, I can.

14 MR. CHANDLER: We'll see if Chip paid  
15 attention.

16 MS. SNYDER: You should see what I wrote  
17 down. It wasn't anything like that.

18 MR. CAMERON: Questions again on the--

19 MR. CHANDLER: Let me just answer the  
20 second part of her question.

21 MR. CAMERON: I was trying to let you off  
22 easy.

23 MR. CHANDLER: Interlocutory reviews. Let  
24 me try to put this on terms even I'll understand.  
25 It's a review sort of at intermediate points in the

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1 ongoing process before the process has come to  
2 completion. That's a simple but, I guess, pretty easy  
3 way of thinking.

4 MR. CAMERON: I think we have one more  
5 question here from Sally.

6 MS. DEVLIN: Yes, I do have a question and  
7 that is on the electronic hearing documents. Again,  
8 I want to thank you for coming because you have again  
9 proved how arbitrary your organization is. We're  
10 dealing with Part 63 which we thought we're dealing  
11 with assumed uncertainty -- my favorite -- But the  
12 most important thing is you're in a town, a rural town  
13 in a rural area that is in a state that's 20 years  
14 behind the rest of the nation and shortly the  
15 politicians may, with redistricting, take away all of  
16 our legislative representation. We're aware of this.  
17 So we'll have nothing to say. When I give the history  
18 of Nevada and why we're in the mess we are, this is  
19 the reason.

20 It really destroys me to find that your  
21 procedures are for the most modern of equipment and  
22 modern in concepts and modern in everything. Of  
23 course, we have none of this.

24 My question is with these electronic  
25 hearing documents which is new terminology for me, how

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1 do we get them? What are they? Are we  
2 videoconferencing? How are we going to hear these  
3 hearings and how do we get into the act when we have  
4 actually no equipment?

5 MR. CHANDLER: I can provide maybe I hope  
6 a little more satisfying answer to you on the  
7 electronic docket. The obligation to maintain the  
8 electronic docket or electronic hearing docket is the  
9 Commission's obligation. The Commission will maintain  
10 it.

11 Typically, a docket of a proceeding is  
12 maintained in paper form and it is a complete  
13 compilation of all documents that are put into the  
14 record. Correspondence and pleadings, motions and  
15 briefs and things like that, the transcripts of the  
16 record, evidence that's received, evidence that's  
17 offered and rejected, decisions, memoranda and rulings  
18 by the boards, decisions by the board, all that, and  
19 eventual decisions by the Commission comprise the  
20 record of the proceeding, the official record of the  
21 proceeding.

22 That becomes especially significant if a  
23 matter is ever appealed to a court. Much as I'd like  
24 to think that everybody is always completely satisfied  
25 with the decision of the Commission, things do go to

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1 court and the Commission's obligation is then to  
2 provide the court a certified record.

3 In this instance, the record that we will  
4 maintain, at least for our purposes, the official  
5 record, will be an electronic record and the  
6 Commission will be obliged to maintain that record and  
7 to make it available. The Commission will make it  
8 available to the parties during the course of the  
9 proceeding. So if you're involved in the hearing  
10 process, you will in the hearing room have access to  
11 the electronic docket. That's not going to be a  
12 separate obligation on the parties.

13 MS. DEVLIN: But where is this going to  
14 happen?

15 MR. CHANDLER: In the hearing room?

16 MS. DEVLIN: What hearing room?

17 MR. CHANDLER: My assumption is that a  
18 hearing will be somewhere in the vicinity of the  
19 proposed facility.

20 MR. CAMERON: Some possibilities might  
21 be--

22 MR. CHANDLER: Could be Las Vegas. If  
23 eventually an application is filed for Yucca Mountain,  
24 it will be here. Las Vegas. I personally don't know  
25 all the logistics that are involved. It will have to

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1 be some fairly substantial facility with the ability  
2 to accommodate lots of different needs and interests.  
3 So I don't know where it will actually be located.  
4 It does not exist yet.

5 MR. CAMERON: Let me take one more  
6 question from Kalynda and then ask if anybody who  
7 hasn't spoken tonight has a question and then I think  
8 we're going to wrap up and we'll review what we have  
9 in the parking lot, too. Kalynda.

10 MS. TREICHEL: In light of Sally's  
11 questions and what you answered her, I think I want to  
12 make this more in the form of an official comment  
13 instead of a question.

14 I would really like to see a hard copy of  
15 this instead of the official form being electronic  
16 because, well, as we've seen with the lost emails and  
17 information with the Department of Energy's Inspector  
18 General's report, electronic information isn't always  
19 that safe and reliable.

20 MR. CHANDLER: I'm sorry. What are you  
21 looking for in hard copy?

22 MS. TREICHEL: The official record,  
23 electronic hearing docket. You said the official  
24 record would be in electronic form.

25 MR. CHANDLER: I'm telling you what the

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1 regulations currently provide.

2 MS. TREICHEL: Well, I'm making a comment  
3 as to that. I'm not trying to have a debate with you.  
4 I'm just making a comment for the record.

5 MR. CHANDLER: Okay.

6 MR. CAMERON: Just to clarify that. Apart  
7 from what is the official record, if people want to  
8 have access to copies of what the official record is  
9 in hard copy or to be able to convert them to hard  
10 copy, that is possible. In other words, I don't think  
11 that Kalynda is worried about changing the regulations  
12 to say that the official record is going to be hard  
13 copy. She just wants to make sure that there is an  
14 access to hard copy rather than just solely  
15 electronic.

16 MS. TREICHEL: For people who don't have  
17 access to computers.

18 MR. CAMERON: Exactly.

19 MS. TREICHEL: And in case the information  
20 somehow -- God forbid --

21 MR. CHANDLER: There is some possibility  
22 of using certain types of paper documents but I  
23 honestly couldn't tell you how to access all of the  
24 record. I don't know that it would be provided that  
25 way.

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1 MR. CAMERON: Let me ask if there's  
2 anybody that we haven't heard from tonight that has a  
3 question and then I think we're going to adjourn for  
4 the evening.

5 Okay. Well, I thank all of you and I know  
6 this is complicated and I hope it's at least a start  
7 to trying to understand this and I think my colleagues  
8 from the NRC did a great job tonight trying to explain  
9 a complicated issue and putting that in perspective.  
10 So thank you.

11 (Applause)

12 MR. CAMERON: We have bios on  
13 commissioners. Professional engineers came up. There  
14 is no requirement but, as was pointed out to me by  
15 several of the NRC staff, many of our engineers do  
16 have professional engineers' licenses from individual  
17 states.

18 MR. CHANDLER: And very substantial  
19 experience. Many, many years of experience.

20 MR. CAMERON: And substantial experience.  
21 We did talk about the standing issues. There was a  
22 question about number of judges on the licensing board  
23 panel that I think we were going to get back to people  
24 on. Written materials that explains the affected  
25 tribe and the interested -- my term -- the interested

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1 tribe. In other words, a tribe that's not an affected  
2 tribe under the Nuclear Waste Policy Act or the  
3 Commission's regulations. I think we did go into that  
4 but we're going to provide some written material, the  
5 written material that now exists on that.

6 I think the point was made that we need to  
7 provide some more detailed explanation on how the  
8 licensing support network is going to work, what those  
9 rules are, what has to go on, and possibly we can do  
10 that in the context of the licensing support network  
11 advisory review panel meeting on here.

12 We spelled interlocutory.

13 MR. CHANDLER: Correctly.

14 MR. CAMERON: Correctly.

15 Thank all of you and we'll follow up on  
16 these items. Thank you.

17 (Off the record at 9:50 p.m.)

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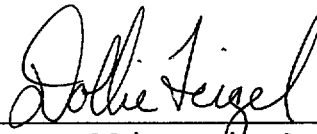
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