

RAS 4658

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Tennessee Valley Authority  
Watts Bar Nuclear Plant, Unit 1 et al.

Docket Number: 50-390-CivP et al.

Location: (Telephone Conference)

Date: Monday, July 8, 2002

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## UNITED STATES OF AMERICA

## NUCLEAR REGULATORY COMMISSION

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## ATOMIC SAFETY AND LICENSING BOARD

## TELEPHONE CONFERENCE

In the Matter of: )  
 ) Docket Nos. 50-390-CivP  
 TENNESSEE VALLEY AUTHORITY ) 50-327-CivP; 50-328-CivP  
 ) 50-259-CivP; 50-260-CivP  
 (Watts Bar Nuclear Plant, ) 50-296-CivP  
 Unit 1; Sequoyah Nuclear )  
 Plant, Units 1&2; Browns ) ASLBP No. 01-791-01-CivP  
 Ferry Nuclear Plant, Units ) EA 99-234  
 1, 2 & 3) )

Monday, July 8, 2002

The above-entitled matter came on for  
 hearing pursuant to Notice at 10:00 a.m.

BEFORE:

CHARLES BECHHOEFER, Chairman  
 ANN MARSHALL YOUNG, Administrative Judge  
 RICHARD F. COLE, Administrative Judge  
 Assisted by Raju Goyal, Law Clerk

PAGES 4740 THROUGH 4758**NEAL R. GROSS**

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10:02 a.m.

CHAIRMAN BECHHOEFER: Ladies and gentlemen, this is Judge Charles Bechhoefer, and I hope you can hear me. I called this telephone conference call to find dates where we could resume the hearing here in Rockville, Maryland.

And let me introduce those who are here first: Richard Cole. And you want to speak up so they could hear you.

ADMIN. JUDGE COLE: Hi. This is Richard Cole.

CHAIRMAN BECHHOEFER: And Ann Young.

ADMIN. JUDGE YOUNG: Hello.

CHAIRMAN BECHHOEFER: And also, is Raju Goyal, who was down in Chattanooga -- with us for awhile. Say hello.

MR. GOYAL: Hello.

CHAIRMAN BECHHOEFER: And Michelle Mendelson also with us. Say hello.

MS. MENDELSON: Hello.

CHAIRMAN BECHHOEFER: We asked -- in my e-mail I asked people to ascertain their schedules and also try to ascertain numbers of witnesses who are yet to be here. One -- that I have for the benefit of the

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1 reporter is the various parties and their  
2 representatives identify themselves.

3 MR. MARQUAND: Brent Marquand and John  
4 Slater, both for TVA in Knoxville.

5 MR. REPKA: Also for TVA, this is Dave  
6 Repka in Washington.

7 MR. MARQUAND: Hi, Dave.

8 MR. REPKA: Hey, Brent.

9 MR. DAMBLY: And this is Dennis Dambly and  
10 Jennifer Euchner, for the staff.

11 CHAIRMAN BECHHOEFER: Everybody here.

12 UNIDENTIFIED SPEAKER: -- court reporter.

13 CHAIRMAN BECHHOEFER: And the court  
14 reporter, as well, correct? Court --

15 THE REPORTER: Yes, I'm here.

16 CHAIRMAN BECHHOEFER: Okay. Well, do  
17 parties have any suggestions for when the hearing --  
18 what -- perhaps the good week for the hearing would  
19 be? It would seem -- am I correct that TVA has seven  
20 more witnesses to call?

21 MR. MARQUAND: I think we have eight,  
22 Judge.

23 CHAIRMAN BECHHOEFER: Eight more?

24 MR. MARQUAND: I've got eight that I've  
25 tentatively sketched out and I've told Jennifer

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1 Euchner about. And I've checked with those witnesses  
2 and it looks -- obviously, with that many people we  
3 run into conflicts.

4 But the best week for witnesses will be  
5 September the -- the week of September the 9<sup>th</sup> through  
6 the 13<sup>th</sup>.

7 THE REPORTER: This is the court reporter  
8 again. May I please ask that you say your name before  
9 you speak?

10 MR. MARQUAND: This is Brent Marquand.

11 THE REPORTER: Thank you.

12 ADMIN. JUDGE YOUNG: Are there any other  
13 weeks? Right now, I'm scheduled to be out of town on  
14 the 9<sup>th</sup>.

15 MR. MARQUAND: The week of the 2<sup>nd</sup> is only  
16 four days and I assume that's going to be too short.

17 ADMIN. JUDGE YOUNG: That week I'm going  
18 to be gone also.

19 MR. MARQUAND: I could try and see if we  
20 can get the week of the 16<sup>th</sup>, but I've got a witness  
21 who had told me he had a conflict that entire week,  
22 and the week of the 23<sup>rd</sup> I've got -- oh.

23 ADMIN. JUDGE YOUNG: I'm sorry. The week  
24 of the 23<sup>rd</sup>?

25 MR. MARQUAND: I think in the week of the

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1 23<sup>rd</sup> I just have more conflicts in them. I'm  
2 confident that the week of the 9<sup>th</sup>, the way it exists  
3 now, that we can get all of our witnesses in. Even  
4 though some of them have conflicts late in the week,  
5 we can put them on earlier.

6 But the week of the 16<sup>th</sup> was the week the  
7 witness has a conflict the entire week, and the week  
8 of the 23<sup>rd</sup> one of the witnesses has a conflict the  
9 whole week. And there are other witnesses that week  
10 who have multi-day conflicts.

11 ADMIN. JUDGE YOUNG: Mr. Dambly, Ms.  
12 Euchner, what's your schedule look like in September?

13 MR. DAMBLY: We're good for September the  
14 3<sup>rd</sup> through the 13<sup>th</sup>, and then not again until the --  
15 September 30<sup>th</sup>. I'm supposed to be in Vegas on Yucca  
16 Mountain stuff the 17<sup>th</sup> through the 25<sup>th</sup>, I think.

17 ADMIN. JUDGE YOUNG: Well, as I sit right  
18 now, I'm scheduled to be out of town on the 9<sup>th</sup>. I've  
19 certainly given up vacations before for the NRC and I  
20 will again, if necessary, if that's the only thing  
21 that we have.

22 I don't -- I've been putting off -- like  
23 with -- as with jury duty, I've been putting off  
24 taking vacations for quite awhile now, but if that's  
25 the only time that anyone else can do it I guess I can

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1 cut it short. Do we need the entire week?

2 MR. MARQUAND: Well, with eight witnesses  
3 I figure seven of them will take less than a day. I  
4 don't know how long Mr. Fogleman will take, but I  
5 think everybody else will take less than a day. So I  
6 think eight witnesses, conservatively we ought to  
7 allow for a week, but with the hopes it will be done  
8 sooner.

9 What do you think, Dennis?

10 MR. DAMBLY: I guess I'd have to say I  
11 don't have a clue, since you're calling them, but I  
12 would --

13 MR. MARQUAND: You know who they are.

14 MR. DAMBLY: Yes. I assume that they  
15 shouldn't take -- in fact, I don't even know why Mr.  
16 Fogleman would take a day. But be that as it may, I  
17 would think we should be able to get them in.

18 CHAIRMAN BECHHOEFER: Could you just read  
19 out the witnesses that are still to come?

20 MR. MARQUAND: Robert Beecken, B-E-E-C-K-  
21 E-N; Keith Fogleman, F-O-G-L-E-M-A-N; Melissa  
22 Westbrook, Heyward Rogers.

23 ADMIN. JUDGE YOUNG: Pardon?

24 MR. MARQUAND: Heyward Rogers.

25 ADMIN. JUDGE YOUNG: What's the first

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1 name?

2 MR. MARQUAND: Heyward, H-E-Y-W-A-R-D. He  
3 is a staff witness -- Rick Rogers. Goetcheus, G-O-E-  
4 T-C-H-E-U-S; Sam Harvey. Art Burzynski, B-U-R-Z-Y-N-  
5 S-K-I, and Tom McGrath, and he will be short, too.

6 CHAIRMAN BECHHOEFER: Does the staff plan  
7 to put on any rebuttal?

8 MR. DAMBLY: At this time, Your Honor, I  
9 don't think so with the possible exception we may want  
10 to ask Mr. Burzynski some questions, but he's already  
11 been called, and they would be fairly short if we used  
12 him.

13 CHAIRMAN BECHHOEFER: That's cross-  
14 examination, anyway.

15 MR. DAMBLY: Well, it might be. I'm not  
16 sure exactly what's the scope or why they're putting  
17 him on, but we may want to ask him some questions  
18 about the pre-decision (phonetic) enforcement  
19 conference.

20 CHAIRMAN BECHHOEFER: We're going off the  
21 record for a minute, if I can find the right --  
22 had an hour cut off on time today.

23 (Whereupon, the foregoing matter went off  
24 the record at 10:10 a.m. and went back on  
25 the record at 10:15 a.m.)

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1 ADMIN. JUDGE YOUNG: What are the other  
2 commitments?

3 MR. DAMBLY: He has another -- he's got a  
4 Court of Appeals proceeding going on.

5 ADMIN. JUDGE YOUNG: What about the week  
6 of August 26<sup>th</sup>?

7 MR. MARQUAND: I can't make it then.

8 CHAIRMAN BECHHOEFER: No, that's not good.

9 ADMIN. JUDGE YOUNG: Okay. How is  
10 everyone else on the week of August 19<sup>th</sup>?

11 MR. DAMBLY: The staff would have a  
12 problem. Ms. Euchner can't make it and I'm not sure  
13 that I can. Depending on the outcome of a couple of  
14 meetings, I could be on the west coast.

15 ADMIN. JUDGE YOUNG: On business?

16 MR. DAMBLY: No, not on business.

17 ADMIN. JUDGE YOUNG: Well --

18 CHAIRMAN BECHHOEFER: Well, for the week  
19 of September 9, if we started on Tuesday the 10<sup>th</sup> and  
20 ran through Friday, and if necessary, Saturday morning  
21 or Saturday all day, would that be possible? I don't  
22 know about the timing for all this, but the Monday the  
23 9<sup>th</sup> is -- one of the judges is tied up.

24 MR. DAMBLY: Well, if we started the 10<sup>th</sup>  
25 it --

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1 CHAIRMAN BECHHOEFER: In the morning,  
2 9:00.

3 MR. DAMBLY: -- it's still the best week  
4 for us.

5 ADMIN. JUDGE YOUNG: I will see if I can  
6 change my reservation and come back a day early from  
7 my vacation. If not, starting on the 10<sup>th</sup> might be  
8 the only thing that would really be workable.

9 MR. DAMBLY: The 9<sup>th</sup> or the 10<sup>th</sup>?

10 CHAIRMAN BECHHOEFER: Could you all stay  
11 through Saturday, if necessary?

12 MR. DAMBLY: If I'm sleeping out at  
13 Dulles, I assume just about any time we want to.

14 ADMIN. JUDGE YOUNG: Back in August again,  
15 how many witnesses were -- did you have problems with  
16 and what were their other obligations?

17 MR. DAMBLY: On the week of the 19<sup>th</sup>, I  
18 don't know exactly what the -- I just asked them for  
19 dates that they were absolutely unavailable. And Rick  
20 Rogers is unavailable the week of the 19<sup>th</sup>. He's our  
21 engineering manager for Sequoyah.

22 Rob Beecken's unavailable the 20<sup>th</sup> and  
23 22<sup>nd</sup>. He's the vice-president of operations for it.

24 ADMIN. JUDGE YOUNG: But you don't know  
25 the reasons for the unavailability?

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1 MR. DAMBLY: One -- only one person gave  
2 me a vacation excuse. Everybody else basically gave  
3 me work-related excuses, but I didn't try to catalog  
4 how imperative they were. I just said, just give me  
5 dates you're absolutely unavailable, and that's what  
6 I got.

7 ADMIN. JUDGE YOUNG: Well, it sounds as  
8 though the week of the 9<sup>th</sup> is -- I mean, if I can  
9 change my reservation we can start on the 9<sup>th</sup>. If  
10 not, we'll just start the 10<sup>th</sup>.

11 MR. DAMBLY: Well, you know what? We've  
12 got -- I'm not going to go into a whole background on  
13 these people. So maybe we can get it done in four  
14 days starting on the 19<sup>th</sup>.

15 CHAIRMAN BECHHOEFER: Well, while we plan  
16 that --

17 ADMIN. JUDGE YOUNG: If I can change it,  
18 I'll let you know.

19 CHAIRMAN BECHHOEFER: -- Judge Young can  
20 change her reservations for the 9<sup>th</sup>, come back a day  
21 early, maybe we can start it on the 9<sup>th</sup>. But if worse  
22 comes to worse, we can stay through Saturday, the  
23 14<sup>th</sup>. I don't think anybody wants to, but --

24 ADMIN. JUDGE YOUNG: Or we could go late  
25 during the week.

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1 CHAIRMAN BECHHOEFER: Right, just go over.  
2 We could go till 6:00 anyway, but --

3 ADMIN. JUDGE YOUNG: Probably we could --

4 CHAIRMAN BECHHOEFER: Yes. Well, why  
5 don't we schedule the hearing, then, starting  
6 September 10<sup>th</sup>, probably be --

7 MR. MARQUAND: Nine a.m.

8 CHAIRMAN BECHHOEFER: -- 9:00 a.m. We'll  
9 expect to run till probably 6:00 every day. And if  
10 necessary, we'll go Saturday the 14<sup>th</sup>. We will let  
11 you know shortly if we can start on the 9<sup>th</sup>, Monday.

12 MR. DAMBLY: Right. Have we talked about  
13 logistics of getting into the courtroom and what the  
14 security arrangements are and whether we can get in  
15 the day before to bring our documents in and what all  
16 that's going to be like?

17 ADMIN. JUDGE YOUNG: You're going to need  
18 to be escorted. If we start on the 9<sup>th</sup>, I don't think  
19 you will be able to get in on the -- on Sunday. If we  
20 start on the 10<sup>th</sup>, if you are escorted you will be  
21 able to get in on the 9<sup>th</sup>.

22 CHAIRMAN BECHHOEFER: I don't even think  
23 you have to be in the courtroom.

24 ADMIN. JUDGE YOUNG: Yes, you do.

25 CHAIRMAN BECHHOEFER: You do now? Okay.

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1 Okay. That's changed. People didn't used to have to  
2 be escorted.

3 ADMIN. JUDGE YOUNG: So if we set on the  
4 9<sup>th</sup>, we -- you're saying we might need a little extra  
5 time for you to bring all your materials up.

6 MR. DAMBLY: So we'll need an escort the  
7 whole time we're up there. Is that right?

8 ADMIN. JUDGE YOUNG: Yes. Well, I mean,  
9 not while you're in the hearing room, but to and from  
10 the entrance to the -- is that right? If you leave  
11 the hearing room --

12 MR. DAMBLY: Yes.

13 ADMIN. JUDGE YOUNG: -- to go downstairs  
14 and you --

15 CHAIRMAN BECHHOEFER: Oh, the hearing room  
16 complex; you can use the bathrooms and things like  
17 that.

18 (Pause)

19 CHAIRMAN BECHHOEFER: I'm told the TVA  
20 badges won't work. They're strict these days. So  
21 well, why don't we just schedule it for the 10<sup>th</sup>. Why  
22 don't -- we'll just schedule it for the 10<sup>th</sup> and you  
23 will be able to have access on the 9<sup>th</sup>, bring your  
24 documents.

25 You can use our copies, maybe. No, I'm

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1 just kidding. We have three copies of exhibits around  
2 here. We got two copies. Right. Right. We actually  
3 have six copies of exhibits at the moment.

4 ADMIN. JUDGE YOUNG: Is there any other  
5 business? Mr. Marquand, you were about to say?

6 MR. MARQUAND: How tough to get access in  
7 on the 9<sup>th</sup>?

8 ADMIN. JUDGE YOUNG: Pardon?

9 CHAIRMAN BECHHOEFER: That will now be a  
10 problem.

11 MR. MARQUAND: Up at the door?

12 ADMIN. JUDGE YOUNG: You're breaking up.  
13 I'm not sure we're getting all of your words.

14 MR. MARQUAND: I mean, who do we need to  
15 contact on the 9<sup>th</sup> to get access for the hearing room,  
16 or do we just show up at the door or what's the  
17 situation with that? Can we -- somebody check on that  
18 and let us know?

19 ADMIN. JUDGE YOUNG: Yes. We can notify  
20 you of that, if that's all right.

21 CHAIRMAN BECHHOEFER: Right. I can be --  
22 I'll be here, and I'll make it point to be here. And  
23 if not --

24 MR. DAMBLY: We'll notify the security  
25 staff and then we'll be available also.

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1 CHAIRMAN BECHHOEFER: Right. So that  
2 should be sufficient for that.

3 MR. DAMBLY: And we do have three sets of  
4 documents that are scheduled for the secretary. Would  
5 you need to bring your own copy down, or did you want  
6 to use one of those while you're here? Would that be  
7 of any assistance to you?

8 MR. MARQUAND: I think we'll just plan on  
9 bringing our own in case we need to work with it, too.

10 MR. DAMBLY: All right, sir.

11 CHAIRMAN BECHHOEFER: Okay. Well, we will  
12 start, then, at 9:00 a.m. on September 10<sup>th</sup>, and we'll  
13 go to at least 6:00 o'clock every day, or plan that  
14 way, and we'll reserve the 14<sup>th</sup> if we need -- the  
15 Saturday the 14<sup>th</sup> if we need it.

16 ADMIN. JUDGE YOUNG: And I think also  
17 that, you know, be prepared to go -- I think we went  
18 till about 7:00 or later the last week in Chattanooga.  
19 So I would say, if necessary, given -- assuming that  
20 no one is tired beyond being able to function, that  
21 going to 7:00 or 8:00 at night would be something that  
22 we could do.

23 CHAIRMAN BECHHOEFER: I don't think we  
24 were going to, and I don't think that scheduling  
25 people is that easy.

1 ADMIN. JUDGE YOUNG: Okay.

2 CHAIRMAN BECHHOEFER: I won't say you  
3 couldn't.

4 ADMIN. JUDGE YOUNG: I think I'm being  
5 outnumbered.

6 CHAIRMAN BECHHOEFER: Yes. I don't say we  
7 can't do it, but I think we should plan on quitting by  
8 6:00 p.m.

9 MR. DAMBLY: Probably tired of this case.

10 CHAIRMAN BECHHOEFER: Yes. Now, I just  
11 know that local security tightens up at 6:30 a lot.

12 ADMIN. JUDGE YOUNG: And also, it's --  
13 given that you have so much time between now and then,  
14 you should be able to prepare your witnesses so that  
15 we could move through the witnesses a little bit more  
16 quickly and with less --

17 CHAIRMAN BECHHOEFER: By the way, we -- as  
18 I indicated down in Chattanooga, we would -- if it  
19 would save any time, we would accept qualifications of  
20 witnesses' background and qualifications to be  
21 prefiled. Then you can find it in the record.

22 MR. MARQUAND: We had already planned on  
23 doing that.

24 CHAIRMAN BECHHOEFER: Oh, okay, because  
25 that can be just bound in the record or marked as an

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1 exhibit, either one. And that might save a little  
2 time.

3 MR. MARQUAND: We'll plan on doing that.

4 CHAIRMAN BECHHOEFER: Okay. And well,  
5 because I guess the staff won't know if it needs any  
6 rebuttal until after the other witnesses, or extensive  
7 rebuttal.

8 MR. DAMBLY: Well, at this point we don't  
9 anticipate any, Your Honor.

10 CHAIRMAN BECHHOEFER: Right.

11 MR. DAMBLY: Any other than just a few  
12 questions for Mr. Burzynski.

13 CHAIRMAN BECHHOEFER: Well, you'll have a  
14 chance to cross-examine him.

15 MR. GOYAL: Well, it's going to be a scope  
16 issue, potentially.

17 CHAIRMAN BECHHOEFER: I see. Okay. Okay.  
18 Right. Okay. Anything further? We will see you in  
19 September.

20 MR. DAMBLY: Steve, could you think of  
21 anything else we need to ask?

22 CHAIRMAN BECHHOEFER: Yes. Anything else?  
23 It's open.

24 MR. MARQUAND: Nothing here.

25 MR. DAMBLY: Okay. Good.

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1 ADMIN. JUDGE YOUNG: If it does turn out -  
2 - I probably will not be able to let Judge Bechhoefer  
3 and Judge Cole know until later in the week and I've  
4 had a chance to talk to some of the people, but if it  
5 turns out that I -- would having the morning of the  
6 9<sup>th</sup> or a couple of hours in the morning suffice for  
7 you to get your materials in and then start at maybe  
8 10:00 or 1:00 o'clock on the 9<sup>th</sup>? I don't know  
9 whether I'll be able to do that, but assuming I am,  
10 would that suffice for you?

11 MR. MARQUAND: That would be good for us.  
12 I mean, we're still flexible. It's more than two  
13 months away.

14 ADMIN. JUDGE YOUNG: Okay.

15 CHAIRMAN BECHHOEFER: Right.

16 ADMIN. JUDGE YOUNG: All right.

17 CHAIRMAN BECHHOEFER: Okay.

18 MR. DAMBLY: Thank you.

19 CHAIRMAN BECHHOEFER: Well, we have a nice  
20 auditorium at our beach place which we could rent for  
21 a week.

22 MR. MARQUAND: Out of alternatives.

23 CHAIRMAN BECHHOEFER: Anyway.

24 ADMIN. JUDGE YOUNG: Are you going to put  
25 us all up, Judge Bechhoefer?

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1 CHAIRMAN BECHHOEFER: Well, there are  
2 places to rent. With that, I guess we'll adjourn for  
3 the morning and we'll issue a report after we get the  
4 transcript, at least a summary, which won't amount to  
5 too much. But anyway, that -- we bid you farewell.

6 MR. MARQUAND: Thank you, Your Honor.

7 CHAIRMAN BECHHOEFER: Okay. Good-bye.

8 (Whereupon, the hearing in the above-  
9 entitled matter was concluded at 10:27 a.m.)

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

Name of Proceeding: Tennessee Valley Authority

Watts Barr Nuclear Plant,

Unit 1 et al

Docket Number: 50-390-CivP et al.

Location: Telephone Conference

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

*15/ Mary Ann Massey*  
Mary Ann Massey  
Official Reporter  
Neal R. Gross & Co., Inc.

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