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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of:	
DOMINION NUCLEAR	Docket No.
CONNECTICUT, INC.	50-336-OLA-2
(Millstone Power Station,	
Unit No. 2)	
_____	

Thursday  
June 5, 2003  
Best Western Hotel  
9 Whitehall Avenue  
Mystic, Connecticut 06355

BEFORE: ADMIN. JUDGE ANN MARSHALL YOUNG, Chairman  
ADMIN. JUDGE THOMAS ELLEMAN  
ADMIN. JUDGE RICHARD COLE

1     APPEARANCES:

2             On behalf of Dominion Nuclear:

3                     Brooke Poole, Attorney

4                     David Repka, Esq.

5                     William Eakin

6             On behalf of NRC, Office of General Counsel:

7                     Ann Hodgdon, Attorney

8                     Shelly Cole, Attorney

9                     Stephen LaVie

10                    Rick Ennis

11            On behalf of CCAM:

12                    Nancy Burton, Attorney

13                    Clarence Reynolds

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WITNESS

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

8:58 a.m.

ADMIN. JUDGE YOUNG: My name is Ann Marshall Young. I'm the chair of the Atomic Safety and Licensing Board, and I'm going to ask each of my colleagues to introduce themselves and then I'd like to have all the counsel and parties introduce yourselves starting from the right. Judge Elleman.

ADMIN. JUDGE ELLEMAN: Thank you. Good morning. My name is Thomas Elleman. My education is in physical chemistry, but I've spent most of my career in the nuclear power field. I've worked at Batel Memorial Institute and at Progress Energy Corporation. Most of my life was as a professor and department head in nuclear engineering at North Carolina State University. At the time of my retirement, I was a certified health physicist, that is, certified by the American Board of Health Physics.

ADMIN. JUDGE COLE: My name is Richard F. Cole. I'm an environmental technical member of the Atomic Safety and Licensing Board Panel. I have a Ph.D. in environmental engineering.

ADMIN. JUDGE YOUNG: Ms. Burton.

MS. BURTON: Yes. Good morning. I'm Nancy Burton. I represent the Connecticut Coalition

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1 Against Millstone. Seated to my left is Clarence O.  
2 Reynolds, otherwise known as Pete Reynolds, a member  
3 of the Coalition and a former employee at the  
4 Millstone Nuclear Power Station from 1980 to 1994 when  
5 he was fired in retaliation for whistle blowing  
6 activities. His experience includes extensive work in  
7 fuel movement at Unit 1 as well as close familiarity  
8 with fuel and reactor issues at Millstone Unit 2.

9 We are also joined this morning by Mr.  
10 Joseph H. Basaid, who's operating a video camera to my  
11 right. Mr. Basaid is also a member of the Connecticut  
12 Coalition Against Millstone and also formally employed  
13 at the Millstone Nuclear Power Station. Joe has  
14 permitted me to advise this panel and the parties,  
15 many of whom are familiar with Joe who has been so  
16 conscientious over the recent years in his activities  
17 concerning Millstone. He's slowed down a bit. He's  
18 been diagnosed with cancer. He's in some pain this  
19 morning, and we are very deeply appreciative of his  
20 presence here today and his participation.

21 ADMIN. JUDGE YOUNG: Ms. Hodgdon.

22 MS. HODGDON: I'm Ann Hodgdon, NRC staff  
23 counsel, and with me today I have Shelly Cole. She's  
24 not related to Judge Cole on the Licensing Board.  
25 Also with me I have Stephen LaVie, who is a health

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1 physicist in the plant -- well, anyway, he's a  
2 technical reviewer. He is the author of one of the  
3 regulations that we're dealing with here today, 5067,  
4 accident source term. Also I have Rick Ennis, who's  
5 the project manager for Millstone 2. Those are the  
6 people sitting at the table.

7 Also with us today and sitting behind us  
8 is Jim Clifford, who's the section chief or branch  
9 chief -- section chief in projects. We have also Max  
10 Schneider. He's the head resident inspector at  
11 Millstone.

12 ADMIN. JUDGE YOUNG: Mr. Repka.

13 MR. REPKA: My name is David Repka and I'm  
14 counsel for Dominion Nuclear Connecticut, Inc. On my  
15 right is my colleague, Ms. Brooke Poole, and on my  
16 left is my technical support here today, Mr. William  
17 Eakin. Mr. Eakin is a supervisor of radiological  
18 engineering employed by Dominion Resources. Also with  
19 me today, and I'll refrain from introducing all the  
20 individuals from Millstone but I will point out that  
21 my co-counsel from Dominion, Ms. Lillian Cuoco, is  
22 sitting in the first row behind me.

23 ADMIN. JUDGE YOUNG: You can feel free to  
24 introduce everyone if you like.

25 MR. REPKA: I'll attempt to do it. From

1 left to right, Mr. Claude Fleury from Millstone, Mr.  
2 Mohammed M. Mogabi and to his left sitting next to Ms.  
3 Cuoco is Mr. Ravi Joshi.

4 ADMIN. JUDGE YOUNG: We'll begin in a few  
5 minutes hearing argument from Ms. Burton for CCAM.  
6 We'd like to ask that you direct your comments as much  
7 as possible not merely to repeating what you said and  
8 what's been filed but to responding to the arguments  
9 made by the staff and by Dominion. We may interrupt  
10 with questions as we go. We'll try not to do that too  
11 much and save them to the end, but if there are  
12 questions that arise that could be cleared up, we may  
13 interrupt you as we go.

14 I don't know that we need to set any  
15 strict time lines because we're not pressed for time  
16 that much. But we'll try to move along as efficiently  
17 as we can.

18 Are there any preliminary matters before  
19 we start the oral argument?

20 MR. REPKA: Judge, I would like to note  
21 for the record that I did distribute to the Board and  
22 parties on Monday a copy of our response to NRC staff  
23 request for additional information related to this  
24 particular license amendment application, and I just  
25 wanted to assure that everybody received that.



1 ADMIN. JUDGE YOUNG: We did. Did all the  
2 parties.

3 MS. HODGDON: Yes, we did.

4 ADMIN. JUDGE YOUNG: Ms. Burton.

5 MS. BURTON: Good morning, Judge Young,  
6 members of the panel. Nancy Burton here representing  
7 the Connecticut Coalition Against Millstone in support  
8 of our contention in this matter which arises from the  
9 application of Dominion Nuclear Connecticut, Inc. to  
10 amend its license in a manner which, it is our  
11 position, will diminish safeguards for the community  
12 in terms of protection against releases of radiation  
13 during a postulated spent fuel movement accident event  
14 at Unit 2.

15 We are very familiar with the answers and  
16 the objections of the staff and Dominion to our  
17 contention, but we believe that we have properly  
18 submitted a contention and that we are entitled to  
19 further proceedings in this matter.

20 Essentially, our position is that this  
21 license amendment application is at once counter to  
22 the purpose of the NRC in establishing the alternate  
23 source term approach that has been followed by  
24 Dominion in this matter. As the Board is aware, the  
25 derivation of this approach arises from a concern on

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1 the part of the NRC about essentially saving costs for  
2 the licensees. That is the statement, that is the  
3 assessment that appears in all the pertinent NRC  
4 documents that are referenced, both by Dominion and by  
5 the staff.

6 Thus, licensees are permitted to come up  
7 with approaches that would waive requirements that  
8 they have presently been under which involve  
9 protections against releases of radiation to the  
10 environment. We believe that the amendment on its  
11 face violates the standards and the policy behind  
12 enactment of this rule because the NRC, of course, is  
13 principally concerned, and should be, with the  
14 consequences of an accident upon the local community  
15 and the site and, in fact, I reference a statement  
16 that appears attached to Mr. William D. Travers's  
17 final amendment to 10 CFR, parts 2150 and 54, An  
18 Availability of Public Comment for Draft Regulatory  
19 Guide DG1081 and Draft Standard Review Plan, Section  
20 15.0.1 Regarding Use of Alternative Source Terms at  
21 Operating Reactors. This is SECY 99-240.

22 ADMIN. JUDGE YOUNG: It might be helpful,  
23 if you make references to documents, to give page  
24 numbers.

25 MS. BURTON: Yes. I'm reading from a

1 printout from the NRC web page which appears at page  
2 14 of 30, but it might be more helpful --

3 ADMIN. JUDGE YOUNG: Actually, I was  
4 trying to get to, you said you made a reference in  
5 your pleading and I was trying to --

6 MS. BURTON: No. There's no reference in  
7 our pleading to this specific document but I am here  
8 trying to respond to references to this document that  
9 have been made by Dominion and the staff, and this is  
10 one of the documents that was referenced and I wanted  
11 to quote one paragraph from page 14 of this document.  
12 I don't know if that is a helpful reference to the  
13 Board in terms of the page number, but it appears  
14 under the Regulatory Analysis Attachment 4 at page 9  
15 of that attachment from the printout from the NRC web  
16 site.

17 This is what it says, quote. "The NRC  
18 does not intend to approve any source term that is not  
19 of the same level of quality as the source terms in  
20 the Reg 1465 or that has not had the extensive peer  
21 review, as did NUREG 1465. The draft regulatory guide  
22 contains guidance on acceptable ASTs." That is  
23 alternate source terms. "Any AST is expected to  
24 provide the same level of protection as does the  
25 source terms in NUREG 1465."

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1 ADMIN. JUDGE YOUNG: Tell me again just  
2 what's the name of the document that you're reading  
3 from?

4 MS. BURTON: This is SECY 99-240 dated  
5 October 5, 1999 and it is a memo to the Commissioners  
6 from William D. Travers, Executive Director for  
7 Operations. Perhaps if I referenced what is  
8 referenced by Dominion, that might be more helpful.

9 ADMIN. JUDGE YOUNG: Footnote 11?

10 MS. BURTON: That's right. Footnote 11 is  
11 the reference.

12 ADMIN. JUDGE YOUNG: Okay. Thanks.

13 MS. BURTON: It is very clear to the  
14 Coalition that this amendment does not provide the  
15 same level of protection as the current standards and,  
16 in very simple terms, our grave concern with this  
17 application is that it permits a waiver of very many  
18 standards that are in place to guard the community  
19 against releases of radiation in an accident during  
20 fuel handling activities. We don't believe that  
21 Dominion has adequately analyzed these conditions and  
22 that by seeking to, for instance, forego the  
23 requirement of maintaining the mechanical ability to  
24 automatically shut doors to containment in the event  
25 of a fuel handling accident and replace that barrier

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1 with an administrative control which, at the same  
2 time, it seeks to be excused from in its sole  
3 discretion and its sole determination that there is  
4 too high a level of radiation being released to enable  
5 it to properly assign somebody to the task of shutting  
6 that door.

7 We believe that that sets a pattern of  
8 activity that is far outside the NRC's intention in  
9 permitting licensees to file applications under this  
10 approach. In fact, the response that Mr. Repka had  
11 referenced to a moment ago in the request for  
12 additional information seems to state better than just  
13 about anything else in the papers that are pertinent  
14 to these proceedings why this application does not  
15 comply with the NRC policy.

16 There, I have referenced to the exhibit  
17 that Mr. Repka circulated to the Board and the parties  
18 this week dated June 2, 2003, Attachment 1, page 1.  
19 If I could read into the record the pertinent parts of  
20 this, I think it would be helpful. This is a response  
21 by Dominion to a question by the NRC requesting  
22 further information with respect to this license  
23 application. The first question has reference to this  
24 business of Dominion seeking to be excused from a  
25 requirement of stationing an employee to shut the door

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1 but to have that requirement to be waived in the event  
2 Dominion determines that there would be a significant  
3 radiological hazard and, therefore, it seeks to be  
4 excused from that requirement.

5 In this document, the NRC asked Dominion  
6 to, quote, "clarify what is meant by, quote,  
7 'significant radiological hazard,' unquote, and  
8 describe the specific criteria that will be  
9 incorporated into the administrative controls to  
10 determine whether to forego closure of the affected  
11 penetrations."

12 And here is the response of Dominion.  
13 "The proposed basis for technical specification 3.9.4,  
14 page B3/4 and 9-1A state that all containment  
15 penetrations will be closed within 30 minutes of a  
16 fuel handling accident inside containment unless it is  
17 determined that such closure would represent a  
18 significant radiological hazard to the personnel  
19 involved." This represents a prudent qualification on  
20 the intended actions given that analysis of the design  
21 basis fuel handling accident shows that closure is not  
22 required to assure that doses are within applicable  
23 limits.

24 Specifically, the radiological analysis of  
25 a fuel handling accident in containment did not credit

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1 containment closure within 30 minutes. For analysis  
2 purposes, all available radioactivity is assumed to  
3 escape to the environment over a two hour period. The  
4 doses from a fuel handling accident are less than  
5 those specified in 10 CFR 50.67 and Regulatory Guide  
6 1.183 for the exclusion area boundary EAB low  
7 population zone LPZ and control room without closure  
8 of containment.

9           The Design Basis Fuel Handling Accident  
10 Analysis also showed that the accident does not result  
11 in dose rates that would preclude the closing of all  
12 containment penetrations within 30 minutes of a fuel  
13 handling accident. Here's the key. Nonetheless, on  
14 implementation, the shift manager with assistance from  
15 health physics personnel will assess localized  
16 radiological conditions to determine if a significant  
17 radiological hazard exists to on-site personnel due to  
18 an unexpected condition. Let me repeat that. Due to  
19 an expected condition.

20           There, we believe therein lies the key to  
21 our objection to this license amendment application  
22 and represents Dominion's recognition that the public  
23 will suffer from a loss of protection because it  
24 hasn't considered unextracted conditions. And we  
25 believe that this runs counter to the NRC's policy on

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1 requirement that protection not be diminished by  
2 implementation of this new source term rule.

3 We have taken consideration of memorandum  
4 and order that this Board issued with respect to the  
5 ruling on standing, and we are in agreement that it  
6 appears to be obvious that in the event of a fuel  
7 handling accident which could involve the release of  
8 radiation, if there is a door that is designed to be  
9 shut to serve as a barrier from release of the  
10 radiation to the environment and that door is not  
11 there or it is not operating or it is left open, it  
12 seems to us to defy logic not to accept that there  
13 thereby exists great potential to allow the release of  
14 radiation to the site, to beyond the site, to the  
15 community at levels which are very likely to be far  
16 beyond the standards that Dominion has apparently  
17 applied in its purported analysis supporting this  
18 application.

19 I have, with the assistance of Mr.  
20 Reynolds, thought it prudent and useful to point out  
21 that in a fuel handling accident whereby a rod might  
22 be removed from the water where it belongs, there will  
23 be unquestionably a potential for a very, very high  
24 release of radiation to the environment and it would  
25 seem that that release is contemplated under the



1 present requirements to be confined by the operation  
2 of the penetration doors and the technical  
3 specifications that are presently in effect. It  
4 defies common sense and logic, at least as they are  
5 perceived by the Coalition, that the NRC could  
6 contemplate allowing the utility not to stand by those  
7 requirements which are so critical to the protection  
8 safeguarding of the public from accidental releases of  
9 radiation which are not necessary.

10 It seems that the NRC staff has merely  
11 accepted the analysis that has been submitted by  
12 Dominion and that it has done so essentially  
13 unquestioningly. This is what the NRC staff concluded  
14 without offering its own independent analysis in its  
15 answer to this petition. Quote. "The Commission's  
16 regulations allow the NRC to issue license amendment  
17 authorizing use of an alternative source term only if  
18 the applicant's analysis demonstrates with reasonable  
19 assurance that, even in a postulated accident, certain  
20 dose criteria will be met, both off-site and for  
21 control room personnel." 10 CFR 50.67.

22 Dominion specifically states that the  
23 proposed license amendment will comply with 50.67.  
24 The staff answer does not go beyond that to look at  
25 the information submitted by Dominion in support of

1 the application. It is our contention that the  
2 information is insufficient and does not look at the  
3 full scope of what is required in order to be able to  
4 be entitled to this amendment and also to meet the NRC  
5 policy statement that it not diminish the level of  
6 protection, as does the current status.

7           Again, the derivation of the ultimate  
8 source term rule gives us cause for concern. It  
9 appears from the documents that we have referenced to,  
10 that the staff and Dominion have referenced to, agree  
11 that the ultimate source term rule derived from  
12 information that was assessed following the Three Mile  
13 Island accident in the 1970s and that that information  
14 led the NRC to assume that in the event of an accident  
15 there would be a release of radiation at a different  
16 rate and in different manners involving different  
17 chemistry than what had been assumed prior to that  
18 accident.

19           But what we don't believe can be  
20 reconciled with this rule and its application in this  
21 amendment is that in the intervening time there has  
22 been no credible scientific development of any theory  
23 that would support that radiation released in an  
24 accident from a nuclear reactor is not harmful. In  
25 other words, I think we are all aware today that

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1 radiation releases do involve biological harm and of  
2 a more serious degree than we knew before and that in  
3 recognition of that, the Commission should be most  
4 reluctant to approve an amendment such as this which  
5 allows for potentially uncontrolled releases of  
6 radiation in the event of a fuel handling accident.

7 The staff has stated in its answer that  
8 NUREG 1738, Technical Study of Spent Fuel Pool  
9 Accident Risk at Decommissioning Nuclear Power Plants,  
10 February 2001, is not relevant to these proceedings  
11 because it examines severe spent fuel pool accidents  
12 which are not design basis accidents. This is a  
13 report that is no longer available on the NRC web  
14 site. It was taken down, I believe, after the  
15 September 11 events but we do maintain that it is  
16 relevant to these proceedings because the information  
17 supports the Coalition's understanding that an  
18 accident involving mishandling of fuel at Unit 2 could  
19 cause far greater releases of radiation than Dominion  
20 has accounted for in its analysis and, therefore, the  
21 analysis should be rejected.

22 ADMIN. JUDGE YOUNG: What about the  
23 argument that Dominion and the staff make about that  
24 report not dealing with design basis accidents?

25 MS. BURTON: Well, we have some questions

1 about design basis accidents. We understand that the  
2 NRC is actually revising its standards and  
3 requirements with regard to design basis accidents in  
4 light of the September 11 events. We are not aware  
5 that Dominion or the staff have undertaken an analysis  
6 in support of this license amendment that satisfy  
7 these new requirements and standards which clearly,  
8 although the information has been excluded from the  
9 public, do address the potential for very serious  
10 accidents that would involve potentially catastrophic  
11 releases of radiation to the environment far beyond  
12 levels that are permitted by the NRC under its present  
13 rules.

14 ADMIN. JUDGE YOUNG: Just a couple of  
15 questions here. Could you give me a cite for the new  
16 requirements that we're talking about?

17 MS. BURTON: I have reference to a  
18 document entitled Safeguards Information, April 29,  
19 2003.

20 ADMIN. JUDGE YOUNG: Okay. If you're  
21 talking about safeguards information, you probably  
22 need to stop before you --

23 MS. COLE: She wouldn't have it if it were  
24 not given to the public.

25 ADMIN. JUDGE YOUNG: Okay. In other

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1 words, something would have been attached. So you  
2 don't have in your hands any safeguards information  
3 somehow? Since you said safeguards information,  
4 that's what made me ask.

5 MR. REPKA: Perhaps Ms. Hodgdon, who has  
6 safeguards clearance, could look at the document.

7 ADMIN. JUDGE YOUNG: That might be a good  
8 idea.

9 MS. HODGDON: I would be happy to do that.  
10 I don't believe Ms. Burton would have access to a  
11 safeguards document, being a member of the public as  
12 she is, that would have safeguards information. I  
13 don't know where she would have gotten. We hope we  
14 would be better protected.

15 MS. BURTON: If I may respond to that.  
16 This is a document that I received as a member of the  
17 public from the NRC. There's a whole list of  
18 individuals on that list and it references an order,  
19 and I'm quite sure that I'm not in a position here to  
20 be revealing anything that was improper.

21 ADMIN. JUDGE YOUNG: The only reason I  
22 stopped you is because you started reading and you  
23 said safeguards information. So I just want to make  
24 sure that we all know what it is and that we are sure  
25 that we're not talking about something that should be

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1 kept within security requirements. Do you want to  
2 show it to Ms. Hodgdon?

3 ADMIN. JUDGE COLE: Ms. Burton, the  
4 document that you have might refer to safeguards  
5 information that are not attached. Is that correct?

6 MS. BURTON: That's my understanding, and  
7 it is an order -- part of this is an order -- what I  
8 was reading from was the title Safeguards Information  
9 which doesn't necessarily mean that it has safeguards  
10 information. It references an order modifying  
11 licenses issued to all operating power reactor  
12 licenses by the NRC effective immediately dated April  
13 29, 2003.

14 ADMIN. JUDGE YOUNG: Is there any question  
15 that needs to be resolved about this? Will you have  
16 to look at the document, Ms. Hodgdon?

17 MS. HODGDON: I saw it and I've seen it  
18 before and the document that you're talking about is  
19 not attached.

20 MS. BURTON: So when I was saying that I  
21 was referencing information that was not available to  
22 the public, I was suggesting that there are new  
23 requirements addressed to, for instance, the risk of  
24 terror attack on nuclear power plants which presumably  
25 would be addressed to the heightened risk of

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1 radiological release to a catastrophic degree to  
2 members of the public.

3 ADMIN. JUDGE YOUNG: Are you talking -- is  
4 the document that you're referring to, does that refer  
5 to the order with regard to interim compensatory  
6 measures? Is that what you're talking about?

7 MS. BURTON: I'd be happy to show --

8 ADMIN. JUDGE YOUNG: I just want to make  
9 sure if you're referring to something that we know  
10 what it is so we can --

11 MS. BURTON: I'll be happy to show to you.

12 ADMIN. JUDGE YOUNG: Show it to counsel  
13 first.

14 MS. BURTON: Could I identify it?

15 ADMIN. JUDGE YOUNG: Sure.

16 MS. HODGDON: The title is Safeguards  
17 Information. It's EA03086, April 29, 2003. The  
18 subject is issuance of order requiring compliance with  
19 revised design basis threat for operating power  
20 reactors and it says notice here in block on the front  
21 page. Attachment to the order, revised design basis  
22 threat, contains safeguard information. Upon  
23 separation from Attachment 2 to the order, this letter  
24 and enclosed order and Attachment 1 to the order of  
25 addressee list are decontrolled." And that's what she

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1 has. As I said before, she does not have the  
2 safeguarding information which concerns, as the title  
3 suggests, the design basis threat and not design  
4 basis accidents.

5 MR. REPKA: Judge Young, may I say  
6 something at this point about that document? It  
7 sounds to me like it is as you described, the interim  
8 compensatory measures related to security. Perhaps we  
9 could cut through a lot of this discussion, and Ms.  
10 Hodgdon perhaps can confirm this. If that document,  
11 that order, relates to the design basis security  
12 threat and interim compensatory security measures, it  
13 doesn't change in any way design basis fuel handling  
14 events. And so I think we're going off on a tangent  
15 here.

16 ADMIN. JUDGE YOUNG: What we're doing  
17 right now is just making sure we know what it is and  
18 making sure that everyone has a chance to look at it.  
19 You can make your argument about it further.

20 MS. HODGDON: Mr. Clifford has just  
21 reminded me and, of course, I know anyway, there are  
22 several of these orders and this one is not the  
23 interim one. This one is later than that. This one  
24 is April 29, '03, and I think there are three or four  
25 of them in all. You perhaps recall that. It doesn't

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1 really make any difference. The point that Mr. Repka  
2 made is that this is about security matters and it's  
3 about design basis threats. It's not about licensing  
4 matters. It's not about design basis accidents. And  
5 so I do believe that the Board did rule at that part  
6 of the standing application where reference was made  
7 to this sort of thing and it's available for  
8 consideration in this proceeding.

9 ADMIN. JUDGE YOUNG: I thank everyone for  
10 clarifying that.

11 Go ahead.

12 MS. BURTON: Is there a further question  
13 with regard to the issue, design basis accident?

14 ADMIN. JUDGE YOUNG: To whatever degree  
15 you want to address the arguments of both the staff  
16 and Dominion about the report that you referenced in  
17 your contention relating to non-design basis  
18 accidents.

19 MS. BURTON: I believe that this really  
20 relates to the issue involving the application of  
21 physical barriers to confined radiation releases in  
22 the event of a fuel handling accident with respect to  
23 the issue of the potential consequences because I  
24 don't believe that the licensee has adequately  
25 assessed potential consequences and, in fact, in its

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1 own submission in response to the RAI, concedes that  
2 there could be unexpected conditions that would arise,  
3 that might arise, that would make it impossible for  
4 the plant personnel to close the door to confine the  
5 release of radiation from the facility. And without  
6 being able to assure the NRC that it has adequately  
7 assessed the potential that is to occur, it, I  
8 believe, has ended up an inadequate analysis and by  
9 simply saying that the analysis that it has done  
10 establishes that there will not be in exceedance of  
11 the standards that presently exist under the narrow  
12 scope of what the licensee has analyzed, I believe  
13 that is wholly inadequate.

14 Another argument that's been made by  
15 Dominion staff is that you have not alleged a  
16 violation of a regulation or a substantial safety  
17 issue where there's a regulatory gap.

18 ADMIN. JUDGE YOUNG: Would you like to  
19 address that argument?

20 MS. BURTON: Yes, I believe that relates  
21 to what I was just discussing, that in this apparently  
22 very narrow, under-inclusive analysis Dominion has  
23 determined that even in the event of a fuel handling  
24 accident, a release of radiation would not exceed  
25 levels that are permissible. We believe that that is

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1 wholly inadequate to a consideration of the likelihood  
2 of the level of the radiation release in the event of  
3 a fuel handling accident which, I think we can all  
4 agree, could be very serious and could be  
5 catastrophic.

6           It seems that -- is it 30 years ago or 40  
7 years ago that the licensee was required to establish  
8 to the satisfaction of the NRC that in the event of a  
9 fuel handling accident, it would be able to maintain  
10 the ability to shut the door in the appropriate  
11 locations to prevent the unnecessary release of  
12 radiation into the environment. At that time when the  
13 NRC found that acceptable, it would seem to have been  
14 based on a consideration that it would be necessary to  
15 shut the door to stop radiation from being released to  
16 confine it to the site of the accident. The licensee  
17 hasn't demonstrated any good cause here why it  
18 shouldn't have to still meet that same requirement or  
19 that not meeting it would be consistent with the NRC  
20 policy statement that I referred to, the OIA, that the  
21 NRC does not intend to approve any source term that is  
22 not of the same level of quality as the source terms  
23 in NUREG 1465 or that has not had the extensive peer  
24 review as did NUREG 1465 and, by the way, I'm not sure  
25 that the application has established the extensive

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1 period for this amendment application that the NRC  
2 contemplated would be necessary before it could  
3 consider granting this kind of application.

4 ADMIN. JUDGE YOUNG: Did you give us a  
5 cite for that one before also? I can't remember.

6 MS. POOLE: Yes. That's footnote 11 in  
7 the Dominion response.

8 ADMIN. JUDGE YOUNG: That's the one we  
9 talked about before.

10 MS. BURTON: Right.

11 MS. HODGDON: Excuse me. Could I just ask  
12 a question because I'm very confused. What is being  
13 referred to here as a policy statement, is that the  
14 SECY paper or -- I don't have some of those documents  
15 with me but I do have -- I've read them so I think I  
16 could recognize it. I don't understand what's being  
17 called a policy statement. The thing you were just  
18 reading from is the thing that's referenced in  
19 Dominion's footnote 11. Is that what you said?

20 MS. BURTON: That's right.

21 MS. HODGDON: And that's the only document  
22 that's been read from. Is that correct?

23 MS. BURTON: I wasn't referring to policy  
24 statement in capitals, if that's what Attorney Hodgdon  
25 is concerned about. Not a formal, quote, "policy

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1 statement," unquote, but it is a statement of NRC  
2 policy certainly.

3 ADMIN. JUDGE YOUNG: Are you finished?

4 MS. BURTON: No.

5 ADMIN. JUDGE YOUNG: Oh, okay. Go ahead.  
6 I'll save my question.

7 MS. BURTON: I just wanted to inject a  
8 point here. We have concern about the motivation on  
9 the part of the licensee to apply for this amendment.  
10 Clearly, it's not deriving from a motivation to  
11 enhance protections of the public from unnecessary,  
12 potentially catastrophic releases of radiation. It's  
13 quite to the contrary. It does seem to be directed to  
14 a cost saving motivation and it's my understanding,  
15 based on discussion with Mr. Reynolds here who has  
16 close familiarity with the activities that are  
17 involved in fuel movement, that it's a very  
18 potentially time-consuming process that is involved in  
19 adhering to the present requirements. It's much  
20 easier to keep the door open. Things can happen much  
21 faster.

22 The process that he's familiar with when  
23 he was at Millstone was far more time-consuming and it  
24 certainly did slow the progress of fuel movements. We  
25 don't believe that a cost item -- that a motivation

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1 here to save money and at the same time expose the  
2 public so significantly to a greater risk of radiation  
3 is consistent with what I was calling the NRC policy  
4 statement.

5 I also wanted to say a word about the  
6 derivation, the genesis of this rule. From NRC  
7 documents themselves, there are statements that if  
8 this rule is applied by the licensee, they will have  
9 the opportunity to reduce radiation exposures to their  
10 workers and on the face of that, that sounds very  
11 positive and a very good step, until you read on to  
12 the next passage in these documents where the NRC  
13 states that workers will be protected from radiation  
14 doses because they won't be doing the jobs any more  
15 that they used to be doing which were intended to  
16 protect the public from unnecessary radiation doses.

17 ADMIN. JUDGE YOUNG: You're making  
18 reference to a document that I don't think you've  
19 identified unless you're talking about the same one.

20 MS. BURTON: This is Attachment 7 to that  
21 document which is in footnote 11 and this would be  
22 page 13 of 30 from the NRC web site where it says,  
23 quote, "Reductions in occupational exposures may be  
24 realized through reductions in maintenance efforts  
25 associated with maintaining unnecessarily limiting

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1 leakage, timing or filtration requirements." In other  
2 words, workers who don't have to carry out  
3 surveillances or maintenance operations won't be  
4 exposed to the radiation they would otherwise be  
5 exposed to in requirements to protect the public from  
6 unnecessary radiation exposure. So it's not really  
7 the worker safety that seems to be the driving force  
8 here. It seems to be simply the reduction of costs  
9 and the waiver of requirements, necessary  
10 requirements, to protect the public health and safety.  
11 A byproduct would be the workers who don't have to do  
12 these dirty tasks will be better off.

13 That pretty much covers my points. I  
14 believe I was probably in error and had overlooked a  
15 rule regarding the safety hazards analysis. I would  
16 concede the argument that has been presented by  
17 Dominion and the staff on that point. Nevertheless,  
18 the contention that we have submitted in all respects  
19 meets the standards of the 10 CFR. I think that  
20 essentially is my argument.

21 ADMIN. JUDGE YOUNG: I would like to ask  
22 you one more thing and then Judges Cole and Elleman  
23 may also. Both the staff and Dominion raise your FOIA  
24 to address 10 CFR Section 50.67. Would you care to  
25 address that?

1 MS. BURTON: Yes. I don't agree with  
2 that. We have addressed 50.67 in the sense that it is  
3 our argument that Dominion has not performed an  
4 adequate analysis to justify a conclusion that it  
5 complies with 50.67. We believe that Dominion has  
6 conceded that point, recognizing in its response to  
7 the RAI that it hasn't looked into unexpected  
8 conditions that could result in violation of the  
9 standards of radiation exposure in accordance with  
10 50.67.

11 ADMIN. JUDGE YOUNG: Am I correct in  
12 understanding that your argument is essentially that  
13 because there might be unexpected occurrences, that  
14 it's implicit that there would be a possibility of  
15 violating the dose standard set out in 50.67?

16 MS. BURTON: Yes, that is correct, and I  
17 think that that helps to explain why Dominion's  
18 response was -- we would characterize their response  
19 as evasive. The NRC asked Dominion to clarify what  
20 was meant by significant radiological hazard and  
21 describe the specific criteria that will be  
22 incorporated into the administrative controls to  
23 determine whether to forego closure of the affected  
24 penetration. There is no specificity in Dominion's  
25 response and in terms of clarifying what is meant by

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1 significant radiological hazard, it's left very vague  
2 and wide open and we believe that is because Dominion  
3 has not adequately assessed the consequences, the  
4 radiological consequences, of its fuel handling  
5 accidents to support this extraordinary license  
6 amendment application.

7 ADMIN. JUDGE COLE: Ms. Burton, do you  
8 agree that the use of the ultimate source term  
9 provides us with a better estimate of something closer  
10 to the truth with respect to the radioactive  
11 discharges that might come out of an accident  
12 scenario?

13 MS. BURTON: No, I don't agree with that.

14 ADMIN. JUDGE COLE: I believe the NRC  
15 staff said based upon the information that they have  
16 collected from accident information that the alternate  
17 source term provides something closer to the truth  
18 with respect to discharges. Do you agree or disagree  
19 with that?

20 MS. BURTON: Generally, I would tend to  
21 disagree with that. I think that the conclusions of  
22 the NRC have to be looked at with some skepticism  
23 based on what we know about what happened at Three  
24 Mile Island and what we know about it, we know about  
25 it based in large part on not being very familiar with

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1 how the accident could have been assessed adequately.  
2 In other words, information about radiation releases  
3 during that accident is very problematical.

4 In fact, it was after that accident, in  
5 recognition of the fact that so little was known about  
6 how the radiation was spreading, that the NRC required  
7 all licensees in this country to establish independent  
8 radiation monitors in order to be in a position to  
9 better inform the community about radiation releases  
10 in the event of an accident so that they could  
11 consider what to do, including when and where to  
12 evacuate to. I think that is a recognition by the NRC  
13 that the information it had available to assess the  
14 radiation releases from the Three Mile Island accident  
15 lead to our inability today to accept that the NRC  
16 adequately had adequate information before it to  
17 assess the consequences of that accident and use that  
18 information to completely run -- the regulations that  
19 would require a licensee to, for instance, keep the  
20 door shut to confine the radiation in the event of a  
21 fuel handling accident.

22 We also know that the NRC has historically  
23 credited information that would support ongoing  
24 operations of its nuclear facilities and has been  
25 criticized for excluding information which is critical

1 which stands on the other side of the argument. It  
2 seems that the ultimate source term rules were adopted  
3 with the knowledge that the licensees would benefit  
4 economically, and I don't believe that economic  
5 benefit is necessarily correlated properly with a  
6 recognition of the harm to the public from waiving  
7 standards such as confining radiation.

8 ADMIN. JUDGE COLE: Do you think that they  
9 had proposed these changes because they thought that  
10 this would be a big benefit to the operators of  
11 nuclear power plants and not just because it's closer  
12 to what they -- a better estimate than the previous  
13 source term?

14 MS. BURTON: In answer to that, Doctor  
15 Cole, to your thoughtful question, I could recite  
16 passages from the documents that are referenced here  
17 that on their face do not emphasize any benefit to the  
18 public but emphasize a cost benefit to the licensees  
19 through implementation of this rule or instance.

20 In the same document referenced in  
21 footnote 11 of Dominion's response, Doctor Travers  
22 states, quote, states implementing these ultimate  
23 source rule, quote, "would allow interested licensees  
24 to pursue cost beneficial licensing actions to reduce  
25 unnecessary regulatory burden without compromising the

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1 margin of safety of the facility." Unquote.

2 So we can see from that passage what is  
3 important here, the pursuit of cost beneficial  
4 licensing actions to reduce unnecessary regulatory  
5 burden, hopefully without compromising the margin of  
6 safety. But it certainly isn't toward enhancing the  
7 margin of safety that seems to be the driving force  
8 here.

9 ADMIN. JUDGE COLE: I understand your  
10 position.

11 ADMIN. JUDGE ELLEMAN: Yes. I think some  
12 of my questions perhaps parallel Judge Cole's. Ms.  
13 Burton, I have the impression this morning that you  
14 and your associates are concerned both about the  
15 application of the alternate source term and the  
16 changes in the tech specs that could allow more  
17 radioactivity to leave the site. Am I correct in that  
18 impression?

19 MS. BURTON: That is correct, but our  
20 concern generically for the ultimate source term I  
21 don't think should be understood as forming one of our  
22 contentions. We are critical of it, but we're not  
23 saying that as part of our contention the NRC  
24 shouldn't apply these any more.

25 ADMIN. JUDGE ELLEMAN: Okay. So you are

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1 not challenging the use of the alternative source term  
2 then in making those calculations, are you?

3 MS. BURTON: We are challenging the  
4 application of that term by Dominion in this present  
5 application.

6 ADMIN. JUDGE ELLEMAN: So because it has  
7 not been as well substantiated as you perceive the  
8 earlier source term to be?

9 MS. BURTON: We are not conceding that the  
10 earlier source term was adequately documented at that  
11 time at all. What we are contending here is that  
12 before waiving those requirements, there should be  
13 adequate analysis by Dominion that the public health  
14 and safety will not be compromised. The margin of  
15 safety will not be compromised at the facility.

16 ADMIN. JUDGE ELLEMAN: I read your  
17 comments in your original submission as mainly  
18 expressing concern about the tech spec changes, and I  
19 guess I did not read them as expressing concern about  
20 the alternative source term. Did I miss that in your  
21 submission or is that not in what you submitted?

22 MS. BURTON: I did not mean not to include  
23 it. Certainly, the deletion of the tech spec  
24 requirements that are itemized in this application  
25 constitute deletions which we find to be unacceptable

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1 and inconsistent with the NRC policy and definitely in  
2 the spirit of compromising the margin of safety of the  
3 facility.

4 ADMIN. JUDGE ELLEMAN: I got the  
5 impression in listening this morning that a lot of  
6 your concern lies in unexpected things happening that  
7 could produce exposures to the public that were in  
8 excess of what the licensee has calculated in their  
9 model evaluations. If convincing evidence were  
10 available that gave you confidence that those  
11 calculations are reasonable calculations and even  
12 though they show a higher dose than the old tech spec  
13 operating procedures, that dose is below what is a  
14 license limit. Are you comfortable with that result?  
15 I didn't perhaps say that very well. Let me try  
16 again.

17 Would you be comfortable with an analysis  
18 that you believe to be a correct analysis that there's  
19 a result below the licensed administrative dose limit,  
20 even though that result is higher than the older  
21 calculation using older tech spec requirements?

22 MS. BURTON: If there has been a proper  
23 and adequate analysis that truly does establish  
24 compliance with legal requirements, then we would be  
25 beyond the scope of what we can be properly submitting

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1 here in terms of a contention. But what we're  
2 concerned about is so often what happens which is  
3 unexpected and only recently at Unit 2, March 7 of  
4 this year, was an unexpected event that cascaded into  
5 other unexpected events and then other unexpected  
6 events, some of them seeming to be linked historically  
7 to prior mechanical problems that perhaps weren't  
8 adequately addressed at the facility, and we had  
9 concern about that particular event because it did  
10 involve the release of radiation into the environment.  
11 And when we attempted to determine at a public forum  
12 from the licensee and NRC representatives as to more  
13 specific information about the radiation releases, we  
14 weren't given very much help and we weren't given to  
15 understand that there was any adequate consideration  
16 of the weather conditions at that time. We were led  
17 to believe that the radiation releases were not  
18 serious based on what was assessed at certain ground  
19 level locations at the facility and, of course, that  
20 wouldn't be realistic if in fact there were weather  
21 conditions that would cause radiation to be airborne  
22 at higher levels.

23 That was an unexpected event at Millstone  
24 Unit 2. It was an event that caused an emergency  
25 alarm to activate the emergency response people in the

1 community and we don't today know the full scope of  
2 what happened and I understand it's still subject to  
3 some investigation.

4 ADMIN. JUDGE ELLEMAN: Please don't let me  
5 put words in your mouth here, but let me repeat back  
6 what I think I'm hearing. I think I'm hearing you say  
7 that you could accept a change in tech specs that  
8 produced an increase in dose to the public if that  
9 calculation were correct and your concern lies with  
10 the potential for it being incorrect. Is that proper  
11 or have I not judged your --

12 MS. BURTON: No. I didn't think I meant to  
13 give you that impression.

14 ADMIN. JUDGE ELLEMAN: You did not mean  
15 to. Okay. I'm sorry then.

16 ADMIN. JUDGE YOUNG: Do you want to  
17 clarify what impression you did want to give?

18 MS. BURTON: I think the question was  
19 would we agree that it would not be unacceptable for  
20 there to be a change in the tech specs that would  
21 allow an increased dose to the public.

22 ADMIN. JUDGE ELLEMAN: I had the  
23 impression that if you really believed the methodology  
24 to be accurate that your concerns might disappear,  
25 even though the calculated dose result is now higher

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1 as a result of the tech spec changes than it was under  
2 the old tech specs.

3 MS. BURTON: Well, as I understand it from  
4 the notice that appeared in the Federal Register, in  
5 fact, in some cases, if this amendment were to be  
6 approved, there would result in increase in dose at  
7 the site boundary or to control room personnel.  
8 Reading from the Federal Register notice that appeared  
9 regarding this amendment request of September 26,  
10 2002. So it does appear that that is what is  
11 contemplated in part by this application. We don't  
12 find that acceptable.

13 ADMIN. JUDGE ELLEMAN: Okay. You have  
14 clarified the point I wanted clarified.

15 ADMIN. JUDGE COLE: Suppose, added to that  
16 question posed by Doctor Elleman, you say the latter  
17 dose associated with the implementation of the tech  
18 specs still resulted in doses to the public below  
19 applicable regulatory standards?

20 MS. BURTON: That is the whole point of  
21 Dominion's rationalization in its answer that it has  
22 examined the alternate source term it wishes to apply  
23 and, in fact, that would be the result, that there  
24 will not be a change in the dose at the boundaries  
25 indicated in 1567. What our concern about that is

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1 that they haven't adequately examined what needs to be  
2 examined in order to establish that the public will  
3 not be exposed to an enhanced risk and compromised  
4 safety if these technical specifications are allowed  
5 to be deleted and it just simply boggles the mind to  
6 imagine that they would be permitted to keep doors  
7 open to allow the release of radiation in an accident  
8 condition based on their postulation of events that  
9 don't include the kinds of events that could be very  
10 serious and catastrophic.

11 It seems that the barriers are required to  
12 guard against what is expected as well as what is  
13 unexpected as a safeguard in the spirit of not  
14 compromising safety.

15 ADMIN. JUDGE COLE: All right. Thank you.

16 ADMIN. JUDGE YOUNG: So let me see if I  
17 understand. I may be repeating things that have been  
18 said before but let me just get to it. You're not  
19 challenging the rule. You recognize that that's not  
20 within what we can rule on. Correct?

21 MS. BURTON: That is correct.

22 ADMIN. JUDGE YOUNG: And so assuming that  
23 calculations could be done that would show with  
24 assurance that there would be no doses in violation of  
25 the rule, that would satisfy you. Correct?

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1 MS. BURTON: Under conditions including  
2 the unexpected questions.

3 ADMIN. JUDGE YOUNG: Right. Assuming that  
4 that could be assured, that would satisfy you. If  
5 they were within the rule, even though there were  
6 increases, you're not challenging the increase where  
7 there were hypothetical assurance that there would be  
8 no releases that would exceed the standards of the  
9 rule.

10 MS. BURTON: Yes. I think that is  
11 accurate. However, it seems that the applicant, the  
12 licensee, acknowledges that its analysis doesn't go  
13 that far.

14 ADMIN. JUDGE YOUNG: And so that's the  
15 next point I wanted to make. What you're challenging  
16 is whether there is an assurance --

17 MS. BURTON: I'm sorry. Pardon me?

18 ADMIN. JUDGE YOUNG: What you're  
19 challenging is whether there is in fact an assurance  
20 that the dose standards will be complied with and  
21 you're challenging that on the basis of the  
22 possibility of unexpected occurrences and the basis  
23 for the challenge is not any particular calculations  
24 but what you see as being the obvious potential for  
25 unexpected occurrences which would lead to releases

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1 that would violate the rules. Am I understanding that  
2 correctly?

3 MS. BURTON: Assuming the waiver, which I  
4 think all specifications have.

5 ADMIN. JUDGE YOUNG: Okay.

6 ADMIN. JUDGE COLE: Suppose the expected  
7 doses to the public associated with design basis  
8 accidents and under the alternate source term  
9 demonstrated that those associated doses were within  
10 applicable regulatory limits, do you have a problem  
11 with that?

12 ADMIN. JUDGE YOUNG: Would you mind  
13 repeating that, Doctor Cole?

14 ADMIN. JUDGE COLE: Using the alternate  
15 source term and the discharges expected or calculated  
16 with design basis accidents and the associated doses  
17 to the public with that and with the tech spec changes  
18 in operation, the doses to the public were still less  
19 than applicable regulatory dose limits.

20 MS. BURTON: We certainly would not agree  
21 with that because it just runs counter to what we must  
22 assume the NRC intended by allowing the licensee to  
23 apply for this kind of amendment to waive  
24 implementation of such obvious barriers to the release  
25 of radiation. It could not reasonably, rationally

1 have been contemplated by the NRC that a licensee  
2 would apply to waive these technical specifications.

3 ADMIN. JUDGE COLE: So your objection is  
4 any additional radiological insult to the public  
5 associated with their operations.

6 MS. BURTON: I'm sorry? I don't think I  
7 understood that question.

8 ADMIN. JUDGE COLE: Your objection is to  
9 any additional radiological dose associated with this  
10 operation, this proposed operation.

11 MS. BURTON: Any additional dose that  
12 could be --

13 ADMIN. JUDGE COLE: Even associated with  
14 design basis access.

15 MS. BURTON: -- that could be obviated if  
16 the requirements in the technical specifications were  
17 maintained.

18 ADMIN. JUDGE COLE: So it makes no  
19 difference that the doses are less than the applicable  
20 regulatory limits. It's the increase that you're  
21 objecting to.

22 MS. BURTON: It's the increase and it's  
23 the removal of a barrier that logic dictates should  
24 not be removed.

25 ADMIN. JUDGE COLE: I understand. Thank

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1 you.

2 ADMIN. JUDGE ELLEMAN: I think I  
3 understand why Doctor Cole asked the question because  
4 the answer came across a little different than the  
5 answer to Ms. Young's question. I think we now  
6 understand. It's any increase in the calculated dose  
7 as well as the potential for unexpected events that is  
8 the basis for your concern.

9 MS. BURTON: Yes. That is correct.

10 ADMIN. JUDGE ELLEMAN: Okay.

11 ADMIN. JUDGE YOUNG: Shall we take a five  
12 minute break and come back and hear from Dominion and  
13 then the staff.

14 (Off the record for an 11 minute break at  
15 0:24 a.m.)

16 ADMIN. JUDGE YOUNG: Mr. Repka.

17 MR. REPKA: Thank you, Judge Young. As  
18 you know from our papers, it's Dominion's position  
19 that the proposed contention is not admissible because  
20 it doesn't meet the NRC's requirements for an  
21 admissible contention. Specifically, it does not meet  
22 the petitioner's obligation at this point to provide  
23 a basis sufficient to demonstrate that there's a  
24 genuine dispute with respect to a material issue of  
25 law or fact.

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1           In addition, absent any real dispute with  
2 the technical conclusions of the amendment application  
3 and the analysis contained therein, the relief that it  
4 seeks some further restrictions with respect to the  
5 containment penetrations can not be granted, that that  
6 relief would be inconsistent with the NRC's  
7 alternative source term rule.

8           The core proposition of the proposed  
9 contention is that the amendment will diminish  
10 protection of the public, that it will lead to some  
11 increased off-site dose consequences or at least to  
12 off-site doses that would be of harm to the public  
13 surrounding the plant. There simply is no basis  
14 presented in the contention for that conclusion.  
15 Therefore, it's precisely the type of contention that  
16 the NRC's rules adopted in 1989 were intended to  
17 exclude for hearing.

18           The fact of the matter is in the  
19 application materials, Dominion has supplied to the  
20 NRC its analysis and conclusions that demonstrate that  
21 applying the alternative source term with the  
22 assumptions regarding the status of certain equipment  
23 and the status of certain containment and boundary  
24 penetrations, there will be no doses in excess of NRC  
25 requirements. Therefore, you simply can't get to the

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1 relief that the petitioners seek consistent with the  
2 NRC's rules and, in fact, the obligation at this  
3 point, in order to demonstrate a genuine issue and  
4 dispute would be to show that somehow the Dominion  
5 analysis is inaccurate, incomplete or in any other way  
6 in error, and that simply is not presented in the  
7 proposed contention. The proposition is one of  
8 increased consequences that lacks any support  
9 whatsoever.

10 There's been much discussion this morning  
11 and assertions by the petitioner that the proposal  
12 runs counter to the purpose of the NRC in adopting the  
13 alternative source term rule. Nothing could be  
14 further from the truth. In fact, and we cite this in  
15 our papers, that in the NRC statement of  
16 considerations issued on December 23, 1999 adopting  
17 the alternative source term rule 10 CFR 50.67, and  
18 this can be found in 64 Federal Register 71990 at page  
19 71992, column one, the Commission stated, and I'll  
20 read it, quote, "The NRC concluded that some licensees  
21 may wish to use an alternative source term in analyses  
22 to support operational flexibility and cost beneficial  
23 licensing actions in that some of these applications  
24 could provide concomitant improvements in overall  
25 safety and in reduced occupational exposure." End

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1 quote.

2           The fact of the matter is the Commission  
3 fully contemplated that the advances inherent in the  
4 alternative source term rule could lead to operational  
5 changes in the design and licensing basis in the  
6 technical specifications that would involve  
7 operational flexibility and cost beneficial licensing  
8 actions. Therefore, the assertions this morning with  
9 respect to the motivation of this proposed change, the  
10 assertions that this might have some economic or plant  
11 operational benefit, are simply no basis and no  
12 support for their contention. The motivation is not  
13 in any way disqualifying and the motivation doesn't  
14 establish that there's any inconsistency with either  
15 NRC regulations or public health and safety.

16           The fact of the matter again is the  
17 application is fully supported by an analysis that  
18 shows that there are no significant increases in off-  
19 site dose consequences.

20           One of the fundamental misunderstandings  
21 that seems to be involved here is the notion that  
22 common sense would somehow indicate that the  
23 application involves greater releases because  
24 containment penetrations that might have been closed  
25 before might now be open. However, it's our view, as

1 discussed in our paper, that that view is a very  
2 narrow-minded view of the application. It looks at  
3 only one half of the proposal. The complete proposal  
4 takes credit for not only changes in assumptions with  
5 respect to equipment availability and the status of  
6 containment and boundary penetrations but also the  
7 alternative source term itself and the alternative  
8 source term that's being utilized is one that reflects  
9 the substantial advances in the state of the art since  
10 the original source terms used in licensing the plant  
11 in the 1970s.

12 So when looked at in conjunction, which is  
13 the basis of the application, using both the  
14 alternative source term and the revisions in the  
15 assumptions about what equipment is credited leads to  
16 the conclusion that the postulated releases from  
17 design basis fuel handling accidents would not be in  
18 excess of NRC requirements.

19 Again, it's precisely that conclusion that  
20 must be challenged in order to support a sufficient  
21 admissible contention, and that's now what we have  
22 here today. Sometimes what may be perceived as  
23 obvious or common sense in fact in the face of the  
24 analysis is simply not true. So here we do have an  
25 analysis and there is no support, there's no expert

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1 opinion, there's nothing that's being cited in the  
2 proposed contention that would suggest that we have a  
3 litigable issue related to the adequacy of the  
4 analysis.

5 One of the points made this morning  
6 referring to a staff SECY paper that was issued in  
7 conjunction with the alternative source term rule was  
8 a discussion of what alternative source terms could be  
9 used in a proposal, a license amendment based upon  
10 alternative source term. Counsel for the petitioner  
11 read a passage which I'll paraphrase related generally  
12 to the idea that the NRC does not intend to approve  
13 any source term not of a quality of NUREG 1465. I  
14 need to respond to that because NUREG 1465 is the  
15 basis for the alterative source term that's also  
16 reflected in implementing Regulatory Guide 1.183.

17 That is the alternative source term that's  
18 utilized in the Dominion application. Dominion is not  
19 proposing a different alternative source term of the  
20 type that the NRC was discussing in the SECY paper.  
21 Therefore, the concept alluded to there of sufficient  
22 peer review or to assure it's of sufficient quality  
23 that it's consistent with the NRC's alternative source  
24 term is simply not applicable to what's going on here,  
25 and that's the alternative source term that's being

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1 used, the fact that it complies with Reg Guide 1.183  
2 and NUREG 1465 is very clear from the face of the  
3 application and there's simply no basis provided to  
4 suggest that that's not what's happening.

5 The next thing I want to respond to  
6 because much is being made of it is the RAI response  
7 that was submitted to the NRC on June 2 and forwarded  
8 to the Board and services that same day. That RAI  
9 response relates to an aspect of the proposed  
10 administrative controls, the proposed license  
11 amendment, that really goes beyond design basis.  
12 What's happening in this proposed amendment, and I  
13 think we tried to explain this in our papers, is if  
14 you apply the alternative source term and you take no  
15 credit whatsoever in either the containment or the  
16 spent fuel area or spent fuel building for containment  
17 closure or for spent fuel area boundary closure, you  
18 assume the entire source term of the design basis fuel  
19 handling event is released to the public.

20 In that event, those releases at the low  
21 population zone boundary at the exclusion boundary are  
22 within NRC requirements. That's the basis of the  
23 analysis. Then the next step in the application was  
24 consistent with the NRC Reg Guide 1.183 was to say we  
25 can adopt additional administrative controls to keep

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1 those doses even lower. Therefore, Dominion has  
2 proposed a tech spec on containment that would call  
3 for administrative controls to be in place with  
4 respect to any containment penetration opening during  
5 fuel handling to assure that that penetration is  
6 closed within 30 minutes. Therefore, the release  
7 that's assumed in the analysis of two hours, if that  
8 administrative control is implemented in 30 minutes,  
9 the release will actually be significantly less than  
10 what was calculated.

11 So these administrative controls that are  
12 being proposed are a defense in depth beyond what's  
13 required by the NRC's regulations to meet the off-site  
14 dose consequences of the regulations. So they're an  
15 added protection for public safety.

16 Given that, I'd like to address the RAI  
17 response. Part of those administrative controls said  
18 that if implementing those controls in order to have  
19 somebody designated to close the penetration would  
20 represent a significant radiological harm to  
21 occupational exposure to those individuals, then it  
22 would not be implemented. It would not implemented  
23 because it would not be necessary to assure that off-  
24 site doses are maintained below NRC requirements. So  
25 it in that sense reflects a prudent qualification on

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1 the administrative control. We don't need to do this  
2 and cause somebody undue harm because it's not  
3 necessary to protect public health and safety.

4 In fact, as explained in the RAI response,  
5 the design basis analysis using the alternative source  
6 term shows that there will be no off-site consequences  
7 and nor would there be any radiological situation that  
8 would lead to harm in implementing these  
9 administrative controls. So simply assuming  
10 alternative source term and the design basis  
11 conditions, this is a qualifier that should never need  
12 to be applied. The administrative control could  
13 always be implemented.

14 However, to answer the question, Dominion  
15 went on to say that certain criteria would be applied  
16 in order to implement that qualification. Counsel for  
17 petitioner talks about unexpected conditions, and in  
18 the reference to unexpected conditions Dominion is not  
19 conceding in any way -- and this is what's been said  
20 several times this morning, that Dominion is conceding  
21 that certain unexpected conditions could occur.  
22 Dominion did not concede that some conditions could  
23 occur that would lead to occupational exposures in  
24 excess of what's safe under these circumstances and  
25 implementing administrative control.

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1                   However, in recognition that beyond design  
2 basis things are at least a hypothetical possibility,  
3 that qualifier is placed in the administrative  
4 control.

5                   The fact that the argument that some  
6 unexpected conditions could make this application  
7 deficient is not a sufficient basis for a proposed  
8 contention because: A) there's no specificity with  
9 respect as to what those unexpected conditions might  
10 be, B) based upon the application materials, one would  
11 conclude that the only unexpected conditions that  
12 could lead to a problem with the proposal would be  
13 beyond design basis and therefore are not conditions  
14 that need to be credited in a licensing analysis, and  
15 C) there's no documented basis for any assertion of  
16 any such unexpected conditions that might apply to  
17 this particular amendment.

18                   So we have, in a sense, again, a  
19 contention that's postulating greater increases but  
20 has no neither specificity nor support for how that  
21 might occur.

22                   A reference was made this morning to an  
23 event at Unit 2 in the recent past. Without getting  
24 into a full discussion, a factual discussion, of what  
25 that event was, suffice it to say there was a charging

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1 pump issue leading to a release of a pressure relief  
2 valve and a very small release. However, that release  
3 was well within NRC Regulatory limits, operating  
4 normal release limits, and therefore is not in any  
5 sense significant.

6 In addition, it has no bearing whatsoever  
7 on this particular application because it did not  
8 involve a fuel handling event and that's, of course,  
9 what we're here talking about today are design basis  
10 fuel handling events which are the only events that  
11 are being re-analyzed at this time using the  
12 alternative source term.

13 There was a discussion this morning about  
14 the NRC staff's answer to the proposed contention and  
15 reference made to the fact that somehow if the staff  
16 answer doesn't go beyond the compliance with 10 CFR  
17 50.67, it doesn't look at what's required to protect  
18 public health and safety. Two responses.

19 First is, and I'm sure the NRC staff can  
20 protect itself, but the NRC staff's answer to the  
21 proposed contention, much like Dominion's answer, is  
22 addressed at this point only to the question of  
23 admissability of the proposed contention. Therefore,  
24 the issue before the staff and Dominion and the Board  
25 at this point is is there any basis to conclude that

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1 there's a litigable issue here, a genuine dispute, and  
2 the answer is they're not. The staff at this point  
3 does not need to make their safety finding with  
4 respect to the merits of the proposed amendment. They  
5 haven't done that yet and they presumably will do that  
6 at the appropriate time when they've completed their  
7 review.

8 But in any event, the operative standard  
9 for that review remains the NRC's alternative source  
10 term rule 10 CFR 50.67 as well as 10 CFR Part 100 and  
11 the NRC's own implementing guidance. Our position is  
12 that the application meets all of those requirements  
13 and regulatory guidance documents and the proposed  
14 contention doesn't in any way identify how that's not  
15 so or provide the support, the facts, and expert  
16 opinion that would be required by the NRC's rule to  
17 support inadmissible contention.

18 The idea that somehow the NRC staff in  
19 reviewing this application or this Board in this  
20 particular matter needs somehow to look beyond 10 CFR  
21 50.67 NRC requirements is on its face a challenge to  
22 the NRC's alternative source term rule and therefore  
23 a challenge to the NRC's regulations and therefore  
24 inadmissible in this particular proceeding.

25 The petitioners brought up again this

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1 morning the document NUREG 1738 which was a  
2 decommissioning risk study. We did address that in  
3 our papers. As we stated there, that document really  
4 has no bearing whatsoever on what's being discussed in  
5 this proposed amendment. This amendment again  
6 involves a re-analysis of the consequences of  
7 postulated design basis fuel handling accidents.  
8 That's a fuel handling accident inside containment and  
9 a fuel handling accident in the spent fuel area.

10 Those design basis accidents are not  
11 what's addressed in NUREG 1738. That document  
12 addressed design basis scenarios involving drain down  
13 of the spent fuel pool and possible zircaloy fire and  
14 consequences related to that simply has no -- it's all  
15 beyond design basis and has no bearing on what we're  
16 talking about today.

17 There was a reference made to if a spent  
18 fuel rod were somehow released. Again, that's simply  
19 a beyond design basis scenario because a design basis  
20 fuel handling accident would involve an accident  
21 that's under water in either the reactor core or the  
22 cavity to the spent fuel pool. All that fuel handling  
23 is performed under water and so the postulated  
24 scenario that was brought up this morning is simply  
25 one that's inadequate.

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1           Likewise, a reference was made to the  
2 interim compensatory measures as well as the security  
3 order, the recent security order which was beyond the  
4 interim compensatory measures related to the  
5 consequences of a terrorist attack and the design  
6 basis security threat. Without getting into  
7 safeguards matters, the issue raised in that document,  
8 again, as I said earlier, relates to the design basis  
9 security threat, what kinds of barriers need to be in  
10 place to protect against would be terrorists or other  
11 attackers on a nuclear plant, that really doesn't  
12 affect in any way the spent fuel or the fuel handling  
13 accidents that are relevant to this particular  
14 application.

15           I return again to the point about the  
16 motivation of the licensee to save money. Again,  
17 that's not inconsistent in any way with NRC  
18 requirements. It's consistent with -- if there's some  
19 operational flexibility to be gained here, that's  
20 entirely consistent with the rule. It's also  
21 consistent with a philosophy that NRC Chairman Diaz  
22 recently described in a speech as he used the term  
23 realistic conservatism and that in fact I think the  
24 alternative source term is a good example of his  
25 philosophy of realistic conservatism.

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1           In other words, we take advantage of the  
2 recent advances in technology and state of the art  
3 with respect to the source term to recognize what  
4 operational controls, what administrative controls or  
5 technical specifications are no longer necessary to  
6 provide adequate protection to public health and  
7 safety. This amendment, I think, falls squarely  
8 within that philosophy.

9           I do want to make another point to just  
10 clarify, too, what this amendment does and does not  
11 do. With respect to containment. I think it's not  
12 necessary to point out but I think it's interesting to  
13 point out that currently, under the current  
14 administrative controls and technical specifications  
15 and using the old source term, the containment  
16 personnel hatch can be opened during fuel handling  
17 under administrative control to be closed within 10  
18 minutes in the event of a fuel handling accident.

19           So with respect to the personnel hatch,  
20 the change here is hatch open, closed within 10  
21 minutes under control, 2) hatch may be opened during  
22 fuel handling but to be closed within 30 minutes. So  
23 the idea that, at least with respect to the personnel  
24 air lock that doors were previously closed and now  
25 they're going to be opened is not entirely true.

1 There are, of course, additional changes in technical  
2 specifications but I think it's important to point out  
3 that particular change.

4 In the end, under the NRC's rule with  
5 respect to admissability of a contention, we did cite  
6 the decision of the Licensing Board in the private  
7 fuel storage case. In that case, the Licensing Board  
8 thought that safety contentions, quote, "Must either  
9 allege with particularity that an applicant is not  
10 complying with a specified safety regulation or allege  
11 with particularity the existence and detail of a  
12 substantial safety issue on which the regulations are  
13 silent. That's what the proposed contention needs to  
14 allege and it needs to do that with some basis.

15 Our argument is not that the proposed  
16 contention didn't necessarily cite 10 CFR 50.67, which  
17 it did not, but more fundamentally it didn't provide  
18 any support for a conclusion that 10 CFR 50.67 would  
19 not be met. In that sense, it's making an argument in  
20 essence that's challenging the regulations and it's  
21 doing so without any basis and without engaging in any  
22 way the analysis that's in front of us.

23 With respect to the idea that there's a  
24 substantial safety issue on which the regulations are  
25 somehow silent, that simply doesn't apply here because

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1 the regulations are not silent. The regulations  
2 provide specific criteria to be met for an analysis of  
3 design basis fuel handling events and the application  
4 shows that those criteria have been met. Again,  
5 absent any technical basis, any support to show that  
6 they're not, there's no relief that can be granted in  
7 this proceeding.

8 If the Board has any questions, I'd be  
9 happy to take those questions.

10 ADMIN. JUDGE COLE: Mr. Repka, is it  
11 Millstone's position that -- or Dominion, excuse me.

12 MR. REPKA: It's okay. We understand.

13 ADMIN. JUDGE COLE: -- the position that  
14 the best estimate of the consequences of design basis  
15 accidents are a result of using the ultimate source  
16 term as compared to the old source term that was used?

17 MR. REPKA: That would absolutely be  
18 correct.

19 ADMIN. JUDGE COLE: Did Dominion calculate  
20 the off-site releases and dose consequences to the  
21 public using the alternate source term without the  
22 tech spec changes that are proposed in this  
23 application?

24 MR. REPKA: The answer is no. And let me  
25 make a point about that because I think you're fishing.

1 for a benchmark of comparison.

2 ADMIN. JUDGE COLE: Yes, sir.

3 MR. REPKA: The point would be is there  
4 any common basis to compare before or after, and our  
5 view is that the only comparison that's necessary is  
6 the comparison of what we're proposing against the  
7 regulations and what we're proposing, the analysis  
8 shows that it's well within the regulatory limits and  
9 therefore the amendment is appropriate. And we don't  
10 know it but it certainly may be possible that if you  
11 did an analysis with alternative source term and  
12 imposed more restrictive controls on containment  
13 openings, doses might be somewhat reduced. They may  
14 or may not be. We don't know. But if they were,  
15 that's again unimportant because the regulation  
16 inherently incorporates the concept that doses that we  
17 have are sufficiently low to protect the public health  
18 and safety. So that's the comparison we need to make.  
19 The alternative source term rule and requirements are  
20 not for as low as reasonably achievable.

21 ADMIN. JUDGE COLE: Do you agree that the  
22 difference between the off-site doses associated with  
23 and without these tech spec changes herein proposed  
24 would summarize the real consequences of the tech spec  
25 changes?

1 MR. REPKA: I'm sorry. You'll have to  
2 repeat that for me.

3 ADMIN. JUDGE COLE: If you agree that the  
4 use of the alternate source term is the best estimate  
5 of off-site dose --

6 MR. REPKA: Yes, sir.

7 ADMIN. JUDGE COLE: -- under accident  
8 conditions, design basis accident conditions. Now,  
9 you're using the alternate source term and now you're  
10 proposing to change certain things, make tech spec  
11 changes, and those are going to cause some difference.  
12 Do you agree that the real consequence of this  
13 proposal is the difference between the doses  
14 associated with the tech spec changes and without the  
15 tech spec changes?

16 MR. REPKA: That would be true, as opposed  
17 to looking at the original source term.

18 ADMIN. JUDGE COLE: Right. The original  
19 source term is not the best estimate. You said that.

20 MR. REPKA: That would be true.

21 ADMIN. JUDGE COLE: You're not even  
22 considering the old design.

23 MR. REPKA: That would be true, but that's  
24 a comparison we don't have.

25 ADMIN. JUDGE COLE: All right, sir. But

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1 do you agree that that comparison would be helpful for  
2 purposes of demonstrating the real benefits of this?  
3 Take a look at what the consequences are before and  
4 after these tech spec changes are effectuated and then  
5 make a listing of what are the benefits of this? Will  
6 you get increased operational flexibility? Will you  
7 get this? Will you get that? Will you get this? And  
8 that is a real comparison that should be made to  
9 justify this action. Do you agree with that, sir?

10 MR. REPKA: No, I don't agree. I don't  
11 agree that that comparison is necessary. Again, the  
12 only comparison we believe necessary is what's being  
13 proposed versus the regulations.

14 ADMIN. JUDGE COLE: You mentioned ALARA.  
15 Why doesn't ALARA apply here?

16 MR. REPKA: Because the specific  
17 requirements of 10 CFR 50.67 and Part 100 apply.

18 ADMIN. JUDGE COLE: Well, couldn't ALARA  
19 also apply or shouldn't ALARA also apply?

20 MR. REPKA: We believe that ALARA in this  
21 context is meeting the limit.

22 ADMIN. JUDGE COLE: I'm sorry. Would you  
23 repeat that?

24 MR. REPKA: My comment before which is the  
25 requirement is not to see how far below the limit we

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1 can go. That's clearly not the intent of the  
2 regulation. The regulation is meet the limit. But  
3 the concept of as low as reasonably achievable, I  
4 think meeting a limit in this context is consistent  
5 with that, that not only are we at the limit, we're  
6 below the limit and that's as low as is reasonably  
7 achievable.

8 ADMIN. JUDGE COLE: So you're saying that  
9 the doses associated with the proposed mode of  
10 operation using the alternative source term is in  
11 compliance with ALARA. Have you made that  
12 demonstration?

13 MR. REPKA: We believe as long as we've  
14 met the limit, we've met ALARA and the intent of it.

15 ADMIN. JUDGE COLE: All right, sir.

16 MR. REPKA: And I would say that the doses  
17 that are calculated are a fraction of the limit.

18 I heard that, Ms. Hodgdon. It's not a  
19 fraction.

20 ADMIN. JUDGE COLE: Do you agree that had  
21 you proposed the use of the ultimate source term with  
22 the original application, there would have been no  
23 consideration of non-compliance because you've been  
24 below appropriate or applicable regulatory limits and  
25 standards?

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1 MR. REPKA: Your idea there being if  
2 alternative source term had been used in conjunction  
3 with the original tech specs?

4 ADMIN. JUDGE COLE: Yes.

5 MR. REPKA: There would be no issue.

6 ADMIN. JUDGE COLE: But see, now you're  
7 changing something at some time later and you know  
8 that if the tech specs is not removed, you would  
9 likely have a dose to the public less than with the  
10 tech specs removed, but you haven't made that  
11 calculation. It just seems logical that there would  
12 be a difference.

13 MR. REPKA: That's correct, but again,  
14 it's not a significant or meaningful comparison  
15 because what we have done shows that we are within a  
16 small fractional limit and, of course, what we're here  
17 today to argue about is is there basis for a  
18 contention that says that we're going to be in excess  
19 of the regulatory limits and, of course, there is no  
20 basis for that.

21 ADMIN. JUDGE COLE: So you do not believe  
22 that there should be some additional justification for  
23 any additional dose associated with the application of  
24 the technical specifications such as the kind of  
25 benefits that are mentioned in some of the NRC

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1 writings as operational flexibility, possible reduced  
2 occupational dose, speed of operation, economic  
3 considerations.

4 MR. REPKA: None of that is necessary at  
5 this point. I think those kinds of justifications are  
6 inherent in the rule making that led to establishing  
7 the limit.

8 ADMIN. JUDGE COLE: All right, sir. All  
9 right. I understand your position. Thank you.

10 ADMIN. JUDGE ELLEMAN: Mr. Repka, I think  
11 I misunderstood an early statement that you made early  
12 in your presentation. I thought I heard you say you  
13 could not go back to the old tech specs because they  
14 would be inconsistent with the use of the alternative  
15 source term. I'm sure I mis-heard there. What were  
16 you saying?

17 MR. REPKA: What I'm trying to say, Doctor  
18 Elleman, and I'm not surprised if I confused you. I  
19 have that effect on people sometimes. But what I'm  
20 trying to say is that, given an analysis that's  
21 unchallenged that shows that with the revised  
22 technical specifications but within the criteria of  
23 the alternative source term rule, it would be  
24 inconsistent with the rule to somehow require or  
25 impose greater administrative controls.

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1           In other words, the rule says that if you  
2 can show by analysis that if you meet these regulatory  
3 limits, then you can make the related operational  
4 changes to achieve cost beneficial licensing actions,  
5 and we have shown that. And without a challenge to  
6 that analysis, the relief of further controls can not  
7 be granted. That would be inconsistent with the rule  
8 and, therefore, there's no relief that can be granted  
9 in the proceeding.

10           In other words, if we show by analysis  
11 again that's unchallenged -- let's just say the  
12 criteria is X and we show by analysis that we're at  
13 consequences of X over two. Then with the revised  
14 administrative controls. Okay. Fine. We meet the  
15 rule and, therefore, the administrative controls are  
16 valid. To then say I have nothing to support my  
17 conclusion that X over 2 is wrong, but I think that if  
18 you should impose greater controls, that would be  
19 inconsistent with the alternative source term rule  
20 that says if you meet X, you can make these changes.  
21 That's the point I was trying to make. Is that any  
22 clearer?

23           ADMIN. JUDGE ELLEMAN: That helps. Yes.  
24 Thank you. Would you agree that using the old source  
25 term and the old tech specs leads to a lower projected

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1 dose to members of the general public than using the  
2 new source term and the new tech specs using a  
3 consistent dose calculation basis, the TEDE, total  
4 effective dose equivalent, basis for calculating?

5 MR. REPKA: I think that there's some  
6 discussion of that in the Federal Register notice.

7 ADMIN. JUDGE ELLEMAN: Yes, that's where  
8 I noticed it.

9 MR. REPKA: And, again, the two analyses.  
10 One is that TEDE or total effective dose equivalent  
11 and the original used whole body and other, so they're  
12 not consistent. But it said that if they're a  
13 consistent basis, the TEDE were used, some doses would  
14 be slightly increased and others would be lowered.  
15 Again, that's a rough calculation but all of them  
16 would be within the regulatory limit. In fact, I  
17 think most of the increases were in the area of the  
18 control room, not necessarily off-site.

19 My technical support explains that the  
20 exclusionary boundary doses were actually lower. The  
21 low population zone boundary doses may have been a  
22 little higher and control room a little higher. But  
23 again, a fraction of the regulatory limit.

24 ADMIN. JUDGE ELLEMAN: Sure. But you do  
25 not increase the doses to the public by making these

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1 changes and using the new source term? That's the  
2 statement, I guess.

3 MR. REPKA: At the exclusionary boundary,  
4 if you --

5 ADMIN. JUDGE ELLEMAN: At the exclusionary  
6 boundary?

7 MR. REPKA: That's correct.

8 ADMIN. JUDGE ELLEMAN: Is there any  
9 possibility we could get access to those data and see  
10 those numbers?

11 MR. REPKA: Actually, the old numbers are  
12 presented in the application itself, but they're not  
13 expressed in terms of TEDE doses.

14 ADMIN. JUDGE ELLEMAN: Right. The  
15 confusing issue, as you have stated, is the fact that  
16 there is indeed a different basis for calculating the  
17 dose. You had internal and external doses separate  
18 under the old procedure. You have them integrated  
19 under TEDE. So we keep comparing apples and oranges.  
20 It would be awfully nice to be able to compare apples  
21 with apples.

22 MR. REPKA: Yes, and I think that would be  
23 a nice and interesting comparison but, again, it's one  
24 I don't think is necessary to meet the regulations and  
25 it's not a required comparison. The only comparison

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1 of relevance here is does the TEDE doses we've  
2 calculated meet the alternative source term in Part  
3 100 and Reg Guide limits expressed in those terms?  
4 And they patently do. Again, that conclusion is not  
5 challenged.

6 ADMIN. JUDGE ELLEMAN: But you have made  
7 those calculations, I gather from what you've just  
8 said.

9 MR. REPKA: I would characterize the  
10 calculations that have been done using this comparison  
11 of old versus new with an equivalent TEDE terms as  
12 being back and -- I don't think these are calculations  
13 that have been performed in any vigorous way and they  
14 certainly haven't been submitted to the NRC. But I'm  
15 told here, Mr. Eakin points out he's just redone that  
16 comparison and says the doses look approximately  
17 equivalent, something like 1.17 to 1.2 and that's --

18 ADMIN. JUDGE ELLEMAN: That's interesting.  
19 Okay.

20 MR. REPKA: But again, all of the numbers  
21 in the original format are actually presented in the  
22 application, again, the original not in TEDE terms.

23 ADMIN. JUDGE ELLEMAN: I understand. If  
24 you used the old source term and the new technical  
25 specifications, would you not still be below the



1 regulatory dose limits for off-site?

2 MR. REPKA: Old source term?

3 ADMIN. JUDGE ELLEMAN: Old source term,  
4 new tech specs. Wouldn't you not still be below the  
5 reg limit?

6 MR. REPKA: It's difficult to answer that  
7 question because there are other advances in state of  
8 the art such as dose conversion calculations.

9 ADMIN. JUDGE ELLEMAN: Use the TEDE  
10 methodology. Would not both of them --

11 MR. REPKA: I'll let Mr. Eakin answer  
12 that. It's probably easier. Are you being able to  
13 address the new advances in dose conversion factors?

14 MR. EAKIN: Yes.

15 MR. REPKA: Like the old analysis used  
16 probably the old Reg Guide 1.109 and 0472 dose  
17 conversion factors for whole body and thyroid. Now  
18 we're up to the federal guidance report 11 and 12.  
19 They are significantly different. So there you gain  
20 some benefits in calculating like the effects to the  
21 thyroid.

22 ADMIN. JUDGE ELLEMAN: Yes, but I think  
23 the things you're talking about are not -- we're  
24 talking changing the nodes a little bit. I suspect in  
25 looking at the alternative source term that it does

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1 indeed make a difference but some of the differences  
2 increase the dose, some of them decrease the dose. My  
3 guess is you're still below the regulatory limits had  
4 you also used the old source term and the new tech  
5 specs and, if that is true, then why now to make these  
6 changes? Why didn't you do them years and years ago?

7 MR. REPKA: Mr. Eakin said -- that  
8 probably didn't come through -- he doesn't believe  
9 that's correct. That's why the original tech spec had  
10 to close the personnel hatch in 10 minutes.

11 ADMIN. JUDGE ELLEMAN: So you believe you  
12 could not meet the regulatory guidelines using the old  
13 source term and the new tech specs.

14 MR. REPKA: That's my belief.

15 ADMIN. JUDGE ELLEMAN: All right. Mr.  
16 Repka, I believe I heard you say and I tried to write  
17 down what you said, that there would not be releases  
18 that would lead to harm under the new proposals. Can  
19 we agree that the regulatory guides that are in  
20 existence are not radiological safety-based guides?  
21 They are regulatory guides. They are numbers that  
22 have been adopted by the government as appropriate  
23 numbers for safety and if one does indeed expose a  
24 sufficient number of people to levels below those  
25 levels, you can indeed produce harm and you can indeed

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1 produce consequential radiation effects. Would you  
2 agree with that statement?

3 MR. REPKA: My point is that if these  
4 passe releases from accident conditions meet the  
5 federal guidelines, which they do, then there's no  
6 basis to argue here that there will be releases  
7 somehow that are greater than NRC requirements that  
8 would lead to greater health consequences. Certainly  
9 the issue of the health consequences of releases at an  
10 allowed level is not a litigable issue in an NRC  
11 license proceeding, and that's really the point I was  
12 trying to lead up to.

13 ADMIN. JUDGE ELLEMAN: I guess where I was  
14 heading here is I get the very strong impressionis  
15 your written submission and in what you said today  
16 that as long as you stay below a regulatory limit,  
17 whatever you want to do is okay and you ought to be  
18 allowed to go ahead and do that. Is that an  
19 inappropriate statement of the corporate position?

20 MR. REPKA: Well, certainly in the context  
21 of alternative source term, that the operational  
22 changes across beneficial licensing actions that might  
23 be proposed are things, if they are within the  
24 regulatory limits, then they should be acceptable.

25 ADMIN. JUDGE ELLEMAN: I think we said the

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1 same thing.

2 MR. REPKA: That doesn't mean that the  
3 company is going to apply for every operational change  
4 or flexibility that they might be able to conceive of,  
5 that might come within a limit. It doesn't mean that  
6 the philosophy exists throughout, pushing everything  
7 to the margins of the envelope. That's simply not  
8 what I'm arguing. What I'm arguing is in a specific  
9 context of alternative source term, the criteria that  
10 we have to meet is the regulatory limit and we've done  
11 that with margin.

12 ADMIN. JUDGE ELLEMAN: In deciding to  
13 request these changes in tech spec limits, did you  
14 within the company make an evaluation of the benefits  
15 that would accrue to you by making the changes as  
16 opposed to increases in doses that would accrue from  
17 the changes and decide a balance between the risk  
18 versus the benefit in this calculation?

19 MR. REPKA: The company has made an  
20 internal evaluation of the operational benefits, the  
21 economic benefits but hasn't in any vigorous way tried  
22 to make a comparison of the type that you're referring  
23 to. Suffice it to say that the proposed changes do  
24 have some value in running an outage and planning an  
25 outage and running an outage, so that benefit can be

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1       quantified. And again, the consequences, there are no  
2       significant consequences.

3                   ADMIN. JUDGE ELLEMAN: Because the doses  
4       are changed only marginally?

5                   MR. REPKA: Correct, and well within NRC  
6       limits.

7                   ADMIN. JUDGE ELLEMAN: I have presumed in  
8       reading the submissions that the reason we want to do  
9       this is it affords you greater convenience of moving  
10      things in and out of containment. By having the door  
11      open, you can speed up operations and that your  
12      reasons for shutting down the filter trains and other  
13      things simply aren't relevant if you've got the door  
14      open. Is opening the door the reason to -- the  
15      opening to containment, is that really what you're  
16      wanting to seek here in these changes?

17                  MR. REPKA: I think the convenience  
18      generally is in terms of having containment and  
19      equipment penetrations open during fuel movement.  
20      They're open for most of the outage right now but need  
21      to be closed when fuel is moved or under  
22      administrative control to be closed within 10 minutes  
23      in the case of personnel hatch. So the convenience is  
24      that while fuel is being moved, with these proposed  
25      changes you could still move things in and out of

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1 containment. You could still work on other electrical  
2 or piping penetrations that would require them to be  
3 open. So there is some operational benefit in that.

4 The fact is now, however, just to put a  
5 little context in it, you can do work in containment  
6 while fuel is being moved now if you can get your  
7 equipment in and out before you do that. So there's  
8 a staging issue now that might be removed, as one  
9 example of a convenience. I think that answers your  
10 question.

11 I think you reminded me of a point I heard  
12 earlier this morning that somehow this was being done  
13 to speed up fuel handling, and that's not the case at  
14 all. This doesn't affect how fast fuel is moved.  
15 That's not what's involved here.

16 ADMIN. JUDGE ELLEMAN: The other tech spec  
17 changes appear to be really changes that reflect the  
18 fact they're no longer relevant if the door is left  
19 open, the containment penetration is open, and that  
20 they're just really not needed in the new environment  
21 you envision. Is that substantially right?

22 MR. REPKA: I think that's a fair  
23 statement. For example, the one tech spec that's  
24 being deleted related to keeping the boundaries, the  
25 doors closed in the spent fuel area, and that's simply

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1 not needed under the analysis. Again, the application  
2 shows that it doesn't meet the criteria of 5036 for  
3 what needs to be in a technical specification. So  
4 that would be one example of something that's simply  
5 not -- the tech spec is not needed.

6 ADMIN. JUDGE ELLEMAN: I guess that's all  
7 my questions. I would dearly love to see those back  
8 of the envelope calculations that show that there is  
9 no or is only small increase in exposure to the  
10 general public as a result of the changes.

11 MR. REPKA: If that's something that the  
12 Board would like to see, we can certainly submit  
13 something to the Board if it's necessary for their  
14 conclusion.

15 ADMIN. JUDGE ELLEMAN: The basis for the  
16 concern appears to me to be that the public is being  
17 exposed to additional harm, to additional radiation  
18 exposure, as a result of these changes. If you have  
19 calculations that show that is not correct, I think it  
20 would be extremely relevant to us and to the  
21 petitioners in this proceeding.

22 MR. REPKA: I think the comparison you're  
23 getting at, I understand, but I will say we do have  
24 calculations that show there's no increased harm.  
25 That's the calculation that's in the application

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1       itself that show that the releases from these  
2       postulated events are well within regulatory criteria.  
3       That calculation in and of itself supports the  
4       conclusion that you just articulated, that there's no  
5       harm off-site to the public.

6                   ADMIN. JUDGE ELLEMAN: I think maybe we're  
7       getting a little bit into a semantics issue. If I  
8       change something -- if I have a new understanding of  
9       what a source term is, that hasn't changed the real  
10      harm. The real harm is still whatever it is. It's  
11      just I have a better understanding of what it is. And  
12      so to make a change that really increases the release  
13      -- well, to make a change and then simultaneously  
14      apply a new model, what really is happening hasn't  
15      changed. It's just the perception of what has  
16      changed.

17                   MR. REPKA: What's really happening, if  
18      you want that kind of comparison -- and again, I'll  
19      say it again, I don't think it's necessary -- but if  
20      you want that kind of comparison, the comparison of  
21      what's really happening would be revised source term  
22      and old tech specs versus revised source term new tech  
23      spec.

24                   ADMIN. JUDGE ELLEMAN: That would be  
25      extremely helpful.

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1 ADMIN. JUDGE COLE: I fail to see why the  
2 old source term gets into this at all.

3 MR. REPKA: If I said that, I'm wrong.  
4 What I meant to say was revised source term, old tech  
5 specs, revised source term, new tech specs. The old  
6 source term does not and should not come into it at  
7 all. It's not meaningful. It never existed. In the  
8 cosmic -- it never existed.

9 ADMIN. JUDGE COLE: Isn't the revised  
10 source term and old tech spec versus revised source  
11 term and new tech specs the real difference associated  
12 with this application?

13 MR. REPKA: Again, that's the one that I  
14 said before. We have not evaluated it. We haven't  
15 done that evaluation. We did reference -- in the --  
16 hazards, there's a reference to -- now I'm completely  
17 confused, but it's common basis of comparison, old  
18 source term versus new source term.

19 ADMIN. JUDGE COLE: If the old source term  
20 is not the best estimate of what the doses are under  
21 whatever conditions you're operating under, then the  
22 impact of this application should be the application  
23 of a best estimate of the discharges with and without  
24 the proposed operating technical specifications. That  
25 shows exactly what this application will change.

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1 MR. REPKA: We could do that comparison if  
2 you'd like. It's not something we could do this  
3 morning.

4 ADMIN. JUDGE COLE: It would be very  
5 helpful to me.

6 ADMIN. JUDGE ELLEMAN: It would be  
7 personally helpful to us a great deal to see that.

8 MR. REPKA: We'll do it.

9 ADMIN. JUDGE YOUNG: With regard to that  
10 comparison, you indicated earlier that the  
11 requirements do not include ALARA. Judge Cole asked  
12 you about that and I think you said in response to his  
13 questioning that you were not saying that the ALARA  
14 requirement no longer applies.

15 MR. REPKA: That's correct, and I probably  
16 was the source of some confusion. What I want to say  
17 is the rule doesn't require the doses to be as low as  
18 possible but in compliance with the rule in this case  
19 inherently involves doses as low as reasonably  
20 achievable.

21 ADMIN. JUDGE YOUNG: My question is this.  
22 If your comparison between doses end of the revised  
23 source term with and without and the new technical  
24 specifications or the proposed technical  
25 specifications, if that comparison produced some

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1 difference, wouldn't the lower figures be more  
2 accurately as low as reasonably achievable or are you  
3 saying that not doing the technical specification  
4 changes would not allow for reasonableness?

5 MR. REPKA: The latter is what I was  
6 saying but -- Yes, and Mr. Eakin points out that the  
7 concept of the alternative source term rule is to  
8 allow changes to technical specifications and if the  
9 requirement were to force you to keep the old  
10 technical specifications and control in place because  
11 that would achieve lower doses than with the revised  
12 technical specifications, then you could not make any  
13 changes and it would defeat the very purpose of the  
14 alternative source term rule. So, therefore, the  
15 answer to your question is that compliance with the  
16 rule constitutes as low as reasonably achievable in  
17 this context.

18 ADMIN. JUDGE YOUNG: So in other words, if  
19 when you do the comparison that Judge Cole and Judge  
20 Elleman have been discussing with you, if there are  
21 lower figures applying the revised source term out the  
22 new technical specifications, you're saying that while  
23 that might have been ALARA in the past, it's no longer  
24 ALARA because your argument is the change is  
25 inherently reasonable. Is that what you're saying?

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1 MR. REPKA: Our point is the comparison of  
2 relevance is does it meet the alternative source term  
3 rule, and the rule --

4 ADMIN. JUDGE YOUNG: But what I'm asking  
5 is to address the concept of ALARA before and after.  
6 I think I hear you saying that the concept of ALARA  
7 changes.

8 MR. REPKA: No. The concept of ALARA is  
9 that it meets the alternative source term rule.  
10 Doesn't change.

11 ADMIN. JUDGE YOUNG: But if without the  
12 new technical specifications you have lower numbers,  
13 then those would be as low as reasonably achievable.  
14 Correct?

15 MR. REPKA: They would not be. It would  
16 be beyond what's reasonably achievable. May I have a  
17 minute?

18 And that is our position is if you meet  
19 the rule, you're by definition as low as what's needed  
20 and reasonably achievable. But there's a fundamental  
21 point here I want to get to which is the concept of  
22 ALARA is not really applicable here at all because  
23 it's an occupational safety and exposure concept.  
24 We're talking about design basis accidents and there's  
25 no requirement to keep design basis accident doses as

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1 low as reasonably achievable.

2 ADMIN. JUDGE YOUNG: So you are saying  
3 that ALARA does not apply.

4 MR. REPKA: That's correct.

5 ADMIN. JUDGE COLE: I think we need to  
6 hear from the staff.

7 ADMIN. JUDGE YOUNG: THERE was one more  
8 question I had for you and I don't think either of you  
9 discussed it but you mentioned in your response that  
10 on page 15 CCAM incorrectly asserts that the proposed  
11 administrative controls are unsubmitted and  
12 unreviewed. When I was re-reading these, I was  
13 reading them in light of your new submission this week  
14 and I noticed in there that you refer to procedural  
15 controls would be in place and a closure plan would be  
16 used for each containment opening. I don't think you  
17 specified but are -- I'm sorry. At the end of that  
18 paragraph you do say, "These administrative controls  
19 are described in more detail on pages 7 and 8." Did  
20 that also refer to the procedural concurrence?

21 MR. REPKA: Yes, it did. With respect to  
22 the inside containment fuel handling accident, the  
23 administrative control is the proposed tech spec  
24 itself and the proposed tech spec, 3.9.4, is included  
25 in the application and it says essentially that

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1 penetrations may be kept open under control that be  
2 caused within 30 minutes. So that proposed tech spec  
3 is in fact included. Then in Attachment 2, I believe  
4 it's pages 7 and 8 and then a little later on, there's  
5 more detail described about implementation of those  
6 controls. So it talks about how a person would be  
7 designated prior to the opening who would have more  
8 responsibility and a plan would be drawn up in order  
9 to remove any hoses or other things that might be in  
10 the way. So all of that is described.

11 ADMIN. JUDGE YOUNG: I'm sorry. You said  
12 a plan would be drawn up or a plan was included there?

13 MR. REPKA: No. For each opening under  
14 the given circumstances of that opening at the time,  
15 depending upon what work is being done, a plan would  
16 be drawn up. In other words, there would be a closure  
17 plan, something that would be a document that would be  
18 created and then those specific procedures are not  
19 included but those specific procedures are  
20 implementing procedures that are of the type that  
21 would never be subject to a staff review and they're  
22 not subject to really beyond the scope of what needs  
23 to be reviewed for this application.

24 And I think the last point I would make  
25 about that is the idea that they're unsubmitted and

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1       unreviewed is really misleading with respect to what's  
2       really here but, in addition, it doesn't say what's  
3       wrong with what's here. The argument being made is  
4       that none of these administrative controls are any  
5       good because there's going to be excess doses and so  
6       the deficiency is not with the administrative control.  
7       It's with the concept of the administrative controls  
8       and, of course, our application shows that there's no  
9       basis for that.

10                 ADMIN. JUDGE COLE: You're saying that  
11       those types of administrative controls don't reach the  
12       level of making review necessary.

13                 MR. REPKA: The implementing procedures.  
14       That's correct. And they're certainly of the type  
15       that would never be part of an application of this  
16       nature.

17                 ADMIN. JUDGE YOUNG: I just want to ask  
18       one more question and I want to make sure about that  
19       before I say one. Two actually. In places where you  
20       say there will not be any increase, what you're saying  
21       is there will not be any increase that would be  
22       significant in terms of violating the limits. Right?

23                 MR. REPKA: That's correct.

24                 ADMIN. JUDGE YOUNG: The second question  
25       is just to ask you if you want to define for us in

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1 more detail what you mean when you talk about the  
2 difference between the standard for ruling on standing  
3 and whether contention is admissible. Obviously  
4 there's a difference. I want to give you this  
5 opportunity to go into a little bit more detail with  
6 regard to the case law that says that there can be --  
7 I believe the language is expert opinion or documented  
8 facts or at least a fact-based argument.

9 From one standpoint, it might be said that  
10 CCAM has made a fact-based argument and, again, we may  
11 be getting into semantics there but when you compare  
12 these things and you look at the term fact-based  
13 argument, it may be a matter of line drawing or degree  
14 but I want to give you the opportunity to speak to  
15 that before moving on to the staff.

16 MR. REPKA: Okay. Let me try to address  
17 that briefly. First with respect to standing. It's  
18 at least arguable that in that context the Board can  
19 make certain presumptions without looking at the facts  
20 at all, and I think did so in this case. We didn't  
21 necessarily agree with that but certainly the Board  
22 did that. But in the context of proposed contention,  
23 it's very clear that the standard is different and  
24 that's the difference we did allude to in our filing  
25 with respect to the proposed contention.

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1           The NRC's regulation on admissible  
2 contention requires a basis sufficient to demonstrate  
3 that there's a genuine issue with respect to a  
4 material issue of law or fact. I think the intent of  
5 that regulation was quite clear in the 1989 rule  
6 making that adopted it. The Commission is trying to  
7 get to a standard to place the burden on the  
8 petitioner at the front end to show that there is a  
9 real issue, a real basis to litigate something.

10           What we have here is a proposition from  
11 the petitioner, a proposition that doses will be in  
12 excess of regulatory limits, they'll be harmful to the  
13 public. It's therefore incumbent upon the petitioner  
14 to have some support for that proposition, some facts  
15 or some expert opinion, and that's what's missing  
16 here. There is an application and analysis that shows  
17 that the proposition is not correct, that comes to the  
18 opposite conclusion.

19           In the proposed contention, there's  
20 absolutely nothing contrary to that. Again, it's just  
21 a repeated over and over and over again proposition  
22 that they will be greater, that there will be harm.  
23 There are no facts that support that. There's no  
24 allusion to a report that's been prepared by anybody.  
25 There's no allusion to an expert that could be called

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1 upon, a paper, a document, particular facts. For  
2 example, if this were a case where the NRC had maybe  
3 reviewed something similar and denied it. Those kind  
4 of facts are not presented.

5 So regardless of whatever the standard,  
6 whatever the level of expert opinion or fact-based  
7 document, what we have here might be satisfactory to  
8 meet the rule. What we have here is essentially a  
9 null set. There's nothing presented. So therefore,  
10 I think it fails to show that if we were to have an  
11 admitted contention, there would be nothing to  
12 litigate. We would put on our analysis and there  
13 would be nothing opposed to that analysis. So there's  
14 no genuine issue.

15 MS. HODGDON: Let me see if I understand,  
16 just sort of applying what you said. CCAM has argued  
17 that if there were a fuel handling accident, which is,  
18 I think -- in rebuttal if you want to correct me, Ms.  
19 Burton, you can -- but that that would be the type of  
20 unexpected thing which you may be also referring to in  
21 your response to the RAI -- that if there were such an  
22 occurrence, you're saying you have already anticipated  
23 that and done the calculations for that and, as you  
24 said earlier, I think, even without the administrative  
25 controls, you've demonstrated that were that to occur,

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1 you'd still be within the limits of the rule. Am I  
2 understanding that correctly?

3 MR. REPKA: That's correct. The expected  
4 conditions -- in fact, the very unexpected conditions  
5 because you don't expect fuel handling accidents to  
6 occur. In fact, their design basis conditions, which  
7 is the fuel handling accident, that's precisely what's  
8 addressed. The assumptions of that analysis are that  
9 there are no administrative controls to cause  
10 penetrations and that everything goes out the door.  
11 The source term from a fuel handling accident goes out  
12 the door and the consequences are still a fraction of  
13 regulatory limits.

14 So that's what's in the application and  
15 there's nothing presented to meaningfully engage that  
16 conclusion. Certainly nothing to dispute that  
17 conclusion. The controls then are added on top of  
18 that to limit that release to no more than 30 minutes  
19 so that the actual releases would be even less than  
20 what's been calculated or shown on the application.

21 MS. HODGDON: So you're not saying that  
22 there would not be an increase. You're saying that  
23 any increase would be within the limits.

24 MR. REPKA: That's correct.

25 MS. HODGDON: Just to sort of cover

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1 everything that I'm thinking of at this point, if the  
2 unexpected condition occurred that you describe in  
3 your response to question #1 such that the requirement  
4 to close the door within 30 minutes were not complied  
5 with, your requirement to close the door within 30  
6 minutes were not complied with, I think I understood  
7 you to say earlier that even without that occurring,  
8 you're saying that your calculations show that the  
9 release from fuel handling accident and whatever  
10 unexpected condition caused the personnel to decide  
11 that they couldn't close the door within 30 minutes,  
12 that the release would still be within regulatory  
13 limits.

14 MR. REPKA: Yes. The unexpected  
15 conditions would be beyond design basis, beyond the  
16 assumptions of the analysis, but the analysis in the  
17 application is premised on no controls. Everything  
18 goes out. So if the control is not implemented, the  
19 conclusion would be the release would be what's  
20 calculated in the application.

21 ADMIN. JUDGE ELLEMAN: For a design basis  
22 accident.

23 MR. REPKA: For a design basis accident.

24 MS. HODGDON: Including fuel handling  
25 accidents?

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1 MR. REPKA: Well, that's the design basis  
2 accident we're talking about. It's inside  
3 containment, fuel handling in a spent fuel area. Two  
4 accident analysis.

5 ADMIN. JUDGE YOUNG: Shall we take a short  
6 break and go to the staff or do you want to go  
7 straight? Are you ready?

8 MS. BURTON: I wonder about a short break  
9 because I have to get myself together here to reply to  
10 both these. I was going to suggest that maybe we do  
11 it after lunch. It's about 25 to 12. By the time we  
12 come back -- I don't know what's contemplated for the  
13 rest of the day but it'll take me 10 or 15 minutes to  
14 prepare.

15 ADMIN. JUDGE YOUNG: We'll take 15 minute  
16 sand then try to finish up. How much time do you  
17 think you're going to need?

18 MS. BURTON: I'm going to try to figure  
19 out in my 15 minutes how much time I'm going to need  
20 but it depends on the questions. There are a few  
21 things that I need to address. So I'd say 20 minutes  
22 to half an hour.

23 ADMIN. JUDGE YOUNG: Okay. So I don't  
24 expect there'd be too much rebuttal argument. Do you  
25 need a half hour? Would that be helpful to you or how

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1 much time do you need?

2 MS. BURTON: A half an hour now or a half  
3 an hour to respond?

4 ADMIN. JUDGE YOUNG: Half an hour now to  
5 get ready. Do you need that much time?

6 MS. BURTON: Fifteen minutes. I meant  
7 that I would take a half na hour to present the  
8 staff's argument after I had taken the 15 minutes to  
9 decide what the staff is going to say.

10 (Off the record for a break at 11:37 a.m.)

11 MS. HODGDON: This, I'm afraid, is going  
12 to be something of a hodge-podge because I'm answering  
13 various arguments made by counsel to the petitioner  
14 and also questions that were asked to counsel for the  
15 licensee. But in order to make it less of a hodge-  
16 podge, I'm not going to talk about the long argument  
17 that was made regarding footnote 11 in the licensee's  
18 response that regards the attachments to the SECY  
19 paper.

20 I will note that what was cited there was  
21 a regulatory analysis and not a staff policy and what  
22 we're here about is something different because even  
23 though we might be bound to follow Commission policy  
24 statements here as well as regulations, there's no  
25 such thing involved here, and so I don't think that's

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1 an issue of whether there's a staff policy here  
2 regarding these matters because I believe that they're  
3 well-reflected in the regulations and we'd do better  
4 to look at those than to deal with so-called policy  
5 which isn't even a policy.

6 ADMIN. JUDGE YOUNG: Before you go to  
7 that, let me ask you. You wouldn't disagree that any  
8 staff document like that could be used for guidance,  
9 would you?

10 MS. HODGDON: I think that you might rely  
11 on it for some purposes but I've said that I think  
12 that any reliance on the parts of the document that  
13 were cited to for the purpose that they were cited to  
14 had so little value that it doesn't need to be  
15 answered. So as a general proposition, I would think  
16 that, as I said, the Commission policy would be  
17 something this Board and the staff would need to  
18 follow. But what's being talked about here was a  
19 regulatory analysis which really didn't amount to  
20 that. Therefore, I don't know -- the argument was a  
21 long argument made about that second paper and that's  
22 been sort of overtaken by events and we now have a  
23 regulation coming out of that and that regulation is  
24 5067 and we have the Reg Guide 1183 which I think is  
25 the year 2000, so we have all of these things, all of

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1 which better reflect those papers that were attached  
2 to the SECY paper.

3 ADMIN. JUDGE YOUNG: Assuming -- well,  
4 let's not assume. Are you saying that the subsequent  
5 documents in the regulations and so forth are  
6 inconsistent with what the SECY document says?

7 MS. HODGDON: No, I'm not saying that.  
8 I'm just saying that that SECY paper had various  
9 documents attached to it and that some of them were  
10 read from. That was the regulatory analysis on the  
11 rule, I believe.

12 ADMIN. JUDGE YOUNG: Right, and what I'm  
13 asking is are you saying that the portions that Ms.  
14 Burton relied on are inconsistent with the regulation  
15 and other documents that were subsequently produced?

16 MS. HODGDON: No, I don't believe that  
17 they're inconsistent. I think that what we have is  
18 something of a refinement now, if that's the right  
19 word. No. I think that Ms. Burton was using them to  
20 prove her point that the policy of Doctor Travers --  
21 as expressed in the document, that she attributed it  
22 to Doctor Travers, I think he probably signed this  
23 paper, he being the EDO -- that was cost saving and  
24 that that was the paramount purpose of the Commission  
25 in adopting this rule and so it's not -- well, I mean

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1 it's inconsistent with the purpose, the real purpose  
2 of adopting this rule, the cost saving. It was  
3 improvement of the regulations. Allowing regulatory  
4 flexibility was what it said in other places.  
5 Certainly cost saving is a part of that and there's  
6 nothing that's necessarily nefarious about saving  
7 money.

8 ADMIN. JUDGE YOUNG: I think that she  
9 quoted from -- the reason I'm asking these questions  
10 now is because you gave the signal that you were going  
11 to quickly move on and talk about other things. I  
12 believe that Ms. Burton quoted from that document  
13 early on in her argument to the effect that the NRC  
14 would not be adopting a rule that would allow -- Ms.  
15 Burton, do you know what I'm referring to? The early  
16 point that you made. Not on cost savings but  
17 indicating that the NRC would interpret the rule in a  
18 way that would protect the public.

19 MS. BURTON: Right. That was the NRC does  
20 not intend to approve any source term that is not of  
21 the same level of quality as the source terms in the  
22 reg. I was in error in citing that, as Mr. Repka  
23 pointed out, for the way in which I cited it and for  
24 relying on it. I believe Mystic made a mistake.

25 ADMIN. JUDGE YOUNG: What is the cite?

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1 MS. BURTON: No, the cite is correct but  
2 the reference to NUREG 1465, if in fact Mr. Repka is  
3 correct, and I think he probably is, that that is the  
4 new source rule NUREG, then I was in error in relying  
5 on that reference as I did as standing for NRC policy  
6 as I was relying on it. So I don't think Ms. Hodgdon  
7 really needs to devote any more time to that issue.

8 MS. HODGDON: I was actually starting out  
9 by saying what I wasn't going to talk about, and that  
10 was one of the --

11 ADMIN. JUDGE COLE: And you proceeded to  
12 talk about it.

13 MS. HODGDON: Well, I was asked questions  
14 about it, but I wasn't going to talk about it with  
15 regard to something else in that SECY paper but also  
16 the 1465 because it's now generally acknowledged 1465  
17 was indeed peer review and the licensee did in fact  
18 use that source term and it's only if you want to use  
19 something else that you need to have it peer reviewed,  
20 which they did not do and, therefore, this is not in  
21 any way relevant here.

22 The other thing I'm not going to talk  
23 about involves Ms. Burton's statement which I wrote  
24 down here perhaps incorrectly that she concedes the  
25 safety hazards analysis argument.

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1 MS. BURTON: Significant hazards, I meant.

2 MS. HODGDON: She said safety but she  
3 might have meant significant. I don't know the extent  
4 of that because that's in fact her contention, so I  
5 want to know, if I may before I continue, what the  
6 contention would be when that argument is conceded.

7 ADMIN. JUDGE YOUNG: Ms. Burton.

8 MS. BURTON: By conceding that point, I  
9 don't believe the entire contention is conceded. That  
10 was only part of the contention. It was the tail end  
11 of it and so the contention stands as is absent that  
12 assertion that the amendment does involve a  
13 significant hazards consideration. I think it does  
14 but I don't think that this Board is authorized to  
15 address that issue.

16 MS. HODGDON: I don't think it's the tail  
17 end. I think it's the front end which is why I was  
18 making the point about it. The contention as stated  
19 is the amendment involves the potential significant  
20 increase in the amounts of radiological effluence that  
21 may be raised off site unless the amendment involves  
22 an adverse impact on the public health and safety and  
23 does involve a significant hazards consideration.  
24 That is the contention and, if that is withdrawn, then  
25 why are we here today?

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1 ADMIN. JUDGE YOUNG: So can we cross off  
2 the "and does involve a significant hazards  
3 consideration" and consider that what remains is the  
4 contention, Ms. Burton?

5 MS. BURTON: Indeed.

6 MS. HODGDON: I would suggest that perhaps  
7 we might cross off also the front end that involves  
8 "the potential significant increase in the amounts of  
9 radiological effluence that may be released off site."  
10 That's also a direct quote from the no significant  
11 hazards consideration finding.

12 MS. BURTON: That we do not agree to  
13 delete. That forms the basis of our contention. That  
14 stands.

15 MS. HODGDON: So we do not withdraw then  
16 our objection to the contention based on the fact that  
17 it is an attack on the no significant hazards  
18 consideration determination which the Commission's  
19 regulations do not allow.

20 ADMIN. JUDGE YOUNG: Let me just ask you  
21 a question since this is one of the things you're not  
22 going to talk about.

23 MS. HODGDON: Yes. Right.

24 ADMIN. JUDGE YOUNG: I think everyone  
25 agrees at this point that this Board does not have the

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1 authority to make a determination on whether there is  
2 a significant hazards consideration or whether there  
3 is not. Are you saying that the concept of the  
4 potential of significant increase in amounts of  
5 radiological effluence that may be released off-site  
6 is something that the Board can not consider also that  
7 concept?

8 MS. HODGDON: No, I'm not saying that.  
9 I'm saying that those words are words that actually  
10 come from the categoric exclusion in 5122C9 and they  
11 come from -- okay. "Involve a significant increase in  
12 the probability of consequences of an accident  
13 previously evaluated." Ms. Cole is showing me 592 but  
14 those exact words are in --

15 ADMIN. JUDGE YOUNG: Even assuming they  
16 were in that rule, if the Board does not undertake to  
17 make any ruling on whether or not there's a  
18 significant hazards consideration, even if the words  
19 were the same, are you arguing that the concept that  
20 they describe can not be considered by the Board in  
21 ruling on the admissability of the contention?

22 MS. HODGDON: No. It's not the concept  
23 that I'm objecting to. I think elsewhere -- and I  
24 would have to take another look at it and I'll get  
25 back to it in a minute because I don't want to spend

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1 so much time on things I'm not going to talk about.  
2 I just wanted to tailor my argument to what was really  
3 at issue and so in order to save time. If somebody  
4 could just point me to that, please. I had it here a  
5 minute ago and now I can't find the piece of paper.  
6 I'll get back to it but elsewhere the petitioner makes  
7 the statement that it objects to whatever that  
8 statement is but doesn't pursue the contention. It's  
9 the language of 5122C9, categorical exclusion from  
10 environmental, and so that's a combination of that.  
11 That is what it is. The Board can take it into  
12 account if it has a proper basis, which it does not,  
13 as we've already argued and I'm not going to repeat  
14 that argument.

15 But insofar as some part of the no  
16 significant hazards argument does remain, I would  
17 recommend the statement consideration on the finding  
18 procedures and standards on no significant hazards  
19 consideration March 6, 1986. That's 51 Federal  
20 Register 7744 final rule. The statement made there  
21 that it's important to bear in mind that there is no  
22 intrinsic safety significance to the no significant  
23 hazards consideration standard, neither as a NODA  
24 standard nor as a standard about when a hearing may be  
25 held does it have a substantive safety significance.

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1 Whether or not an action requires prior notice or  
2 prior hearing, no license and no amendment may be  
3 issued unless the Commission concludes that it  
4 provides reasonable assurance that the public health  
5 and safety will be endangered and that the action will  
6 not be amenable to the common defense and security of  
7 the health and safety of the public.

8 And so I think with that point I'll skip  
9 to another point that Ms. Burton, another argument  
10 that she made regarding the staff's response in which  
11 she said that the staff didn't do any review -- I'll  
12 look at my notes and see what she in fact said. She  
13 accused the staff of not having done the review  
14 regarding these matters. The fact is that contentions  
15 must be based on the licensee's application and not on  
16 the staff's review of them. The staff in fact has not  
17 completed its review and the staff's paper does not  
18 reflect, nor do staff's papers ever reflect at this  
19 point in the proceedings, the review of the licensee's  
20 application.

21 So when Ms. Burton quoted the staff as  
22 saying this and that, the staff is merely quoting from  
23 what the licensee said and not endorsing it through  
24 review because the review had not at that time taken  
25 place.

1 ADMIN. JUDGE YOUNG: I think there's  
2 probably also no dispute that we're not here to make  
3 any ruling on what the staff has done.

4 MS. HODGDON: That's right. In the  
5 environmental context, that would be different but  
6 here there are no environmental contentions and so  
7 this is purely what the licensee has done in its  
8 application.

9 ADMIN. JUDGE YOUNG: Right. I think  
10 there's no dispute on that.

11 MS. HODGDON: Well, I do believe that Ms.  
12 Burton suggested that the staff had not done what it  
13 should have done. The staff did exactly what it  
14 always does is my point. There's nothing different  
15 here. It's the licensee's application that's at issue  
16 and not the staff's review of it.

17 Then regarding the response to the RAIs  
18 which did seem to be where most of the interest lay  
19 and that was about closing the containment hatch.  
20 Moving fuel in the containment with the containment  
21 hatch open and then in the event of a fuel handling  
22 accident in containment, closing those doors within  
23 half an hour, and the RAIs relating to that question,  
24 response relating to that question and particularly to  
25 the related issue of whether they might have to

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1 abandon that effort in order to save dose to the  
2 workers that are closing the doors.

3 I think there are several issues that are  
4 related to that and some of them have been answered.  
5 That is that the dose from this fuel handling accident  
6 is a very small fraction of the dose limits in 5067  
7 for this accident and that the dose limit, the TEDE,  
8 is 6.3 and the accident is 1.2 which is a very small  
9 fraction of that. And also that you might also look  
10 for some guidance regarding that to Appendix B of the  
11 Reg Guide at 1.183 and that is the assumptions for  
12 evaluating radiological consequences of a fuel  
13 handling accident and here, although the petitioner's  
14 counsel suggested that this was an unheard of thing to  
15 move fuel with the doors open, the Reg Guide makes  
16 perfectly clear that that's not so. On page B-2 under  
17 5 --

18 ADMIN. JUDGE YOUNG: B-2?

19 MS. HODGDON: B-2 of the Appendix B as in  
20 boy.

21 ADMIN. JUDGE YOUNG: B as in boy?

22 MS. HODGDON: Yes. B as in boy. In  
23 Appendix B on page B-2, fuel handling accidents within  
24 containment. You look at 5.2, it says "If a  
25 containment is open during fuel handling operations

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1 but designed to automatically isolate" -- I'm not  
2 going to read the rest of that. You go on to the next  
3 page, B-3, and it says, "If the containment is open  
4 during fuel handling operations, for example,  
5 personnel air lock or equipment hatch is open, the  
6 radioactive material that escapes from the reactor  
7 cavity pool to the containment is released to the  
8 environment over a two hour time period." That's one  
9 of the assumptions for the accident.

10 But you'll notice that the footnote says,  
11 "The staff will generally require the technical  
12 specifications allowing such operations including  
13 administrative controls to close the air lock hatch or  
14 open penetrations within 30 minutes. Such  
15 administrative controls will generally require that a  
16 dedicated individual be present with necessary  
17 equipment available to restore containment closure  
18 should a fuel handling accident occur. Radiological  
19 analyses should generally not credit this manual  
20 isolation."

21 The licensee -- I'm not a reviewer so I  
22 can't tell you what the staff is going to do with  
23 this, but I will say that the staff exactly followed  
24 this Reg Guide -- I mean the licensee, excuse me --  
25 exactly followed this Reg Guide, did all those things

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1 and that's where this commitment that's in the  
2 footnote comes from.

3 The point I wanted to make there is that  
4 moving fuel with the containment hatch open has been  
5 done for quite some time and even before the ultimate  
6 source term. Judge Elleman asked a question that was  
7 somewhat related to that. What could you do with the  
8 old source term? And the answer is you maybe could  
9 move fuel, irradiated fuel, with the containment  
10 open-- excuse me -- with the containment hatch open if  
11 you could meet that 6.3 number and everybody knows  
12 where that comes from, doesn't everybody, the 6.3?  
13 The regulation says 25 for accidents but for fuel  
14 handling accidents, because they're not accidents,  
15 they're not LOCOs, they're not accidents at operation,  
16 you use a fraction of that. The fraction is a quarter  
17 and that's 6.25 rounded up to 6.3.

18 Also I wanted to say that although there's  
19 nothing in that Reg Guide about saving dose in the  
20 event the personnel at the door are receiving dose  
21 that would exceed guidelines, we do have other  
22 regulations that would cover that and I think, for  
23 example -- and I'm not saying that this is strictly  
24 applicable -- you could invoke in such a situation and  
25 other licensees could. This licensee didn't and has

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1 already written it into its request, but other  
2 licensees could invoke 50.54X which says, "A licensee  
3 may take reasonable action that departs from the  
4 license condition or technical specification contained  
5 in a license issued under this part" -- that would be  
6 part 50 -- "in an emergency when this action is  
7 immediately needed to protect the public health and  
8 safety and no action consistent with license  
9 conditions and technical specifications that can  
10 provide adequate or equivalent protection is  
11 immediately apparent."

12 So this would be done to protect the  
13 public health and safety, of course, and that's why we  
14 have the limits on control room exposure in GDC 19 and  
15 in this reg 5067. Of course it protects the works,  
16 but it also protects the public because the public  
17 interest is in having the workers able to do their  
18 jobs and not to be injured by continuing to try to  
19 close the door in the event that there's a heavy dose  
20 there.

21 And that brings me to the next matter  
22 which is this intervening something or other. So you  
23 drop the assembly there in containment and, as soon as  
24 you drop the assembly, you're no longer in this world  
25 of postulated accidents. You're in a real accident.

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1 So once you have a real accident, you have to start  
2 trying to save dose which is why we try and get the  
3 doors closed.

4 I was going to talk a little bit about the  
5 design basis accident and particularly with 5067.  
6 5067 has an interesting footnote and that will bring  
7 me to ALARA, I think. 5067 states applicability and  
8 then it states requirements and that's that the dose  
9 is a certain number and that it should be TEDE, should  
10 be a TEDE dose. Both footnotes are interesting but  
11 the first one says, "The fission product release  
12 assumed for these calculations should be based upon a  
13 major accident hypothesized for purposes of design  
14 analyses or postulated from considerations of possible  
15 accidental events that would result in potential  
16 hazards not exceeded by those from any accident  
17 considered credible."

18 That will take me to ALARA and to realism,  
19 but I'm going to just pass over that for now and get  
20 to the end of this.

21 So that's what the dose analysis has to  
22 be. It has to be done in such a way that no accident  
23 considered credible could exceed it. "Such accidents  
24 have generally been assumed to result in substantial  
25 melt down of the core with subsequent release of

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1 appreciable quantity sufficient products." Now, here  
2 they're talking about accidents while the plant is in  
3 operation and that's LOCA and things like that where  
4 you get the full dose. Twenty five REM is the unit  
5 for that, 25 REM TEDE.

6 Then it goes on to say, "The use of 25 REM  
7 TEDE is not intended to imply that this value  
8 constitutes an acceptable limit for emergency doses to  
9 the public under accident conditions. Rather, this 25  
10 REM TEDE value has been stated in the section as a  
11 reference value which can be used in the evaluation of  
12 proposed design basis changes with respect to  
13 potential reactor accidents of exceedingly low  
14 probability of occurrence and low risk of public  
15 exposure to radiation."

16 In other words, the Commission protects  
17 the public only indirectly through this regulation.  
18 This is something that the plant has to be designed  
19 against, so a plant has to be designed so that it can  
20 not have an accident in excess of these numbers and  
21 that's just it. Protecting the public, we go to part  
22 20 and that also deals with occupational doses. I do  
23 not believe that ALARA is defined in part 50 because  
24 accident doses do not have to be ALARA. In fact, they  
25 couldn't be because -- well, I'll read the ALARA

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1 definition so as to distinguish that from the kind of  
2 doses we're talking about here. I've been handed a  
3 copy. It's 20.1003.

4 It says "ALARA, acronym for as low as is  
5 reasonably achievable, means making every reasonable  
6 effort to maintain exposures to radiation as far below  
7 the dose limits in this part as is practical,  
8 consistent with the purpose for which the licensed  
9 activity is undertaken." Accidents are not a licensed  
10 activity and, therefore, they're -- that's -- anyway,  
11 the licensed activity is what we're talking about  
12 here. Taking into account the state of technology,  
13 the economics and so forth, I won't go on with the  
14 rest of this, but the ALARA definition always occurs  
15 in part 20. It does not appear for accident doses in  
16 part 50.

17 Now I was going to get to realism, the  
18 question about realism. Is this new accident source  
19 term, 5067 source term, realistic? Well, it's more  
20 realistic than the old one is the answer. But this  
21 accident -- and I just read you the footnote to 5067--  
22 this is not a realistic accident. It's beyond worst  
23 case. I mean it's the worst, what the Commission  
24 said, accidents, you couldn't have worst one. So  
25 anyway, if you look at it, you will see what they put

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1 on -- I'm looking at Attachment 1, page eight,  
2 comparison to an FHA inside containment analysis to  
3 the AST analysis.

4 So there are certain assumptions that are  
5 made in here. I think most of them are articulated.  
6 This accident fuel decay time, the AST value is 72  
7 hours and that's what they used here for their  
8 accident source time, but actually you see that the  
9 current value is 150 and they have a spec that doesn't  
10 allow them to move this fuel in containment at 72  
11 anyway. So that's way conservative in this accident  
12 analysis. The peaking factor is the same. Lots of  
13 other things are the same. You notice one thing that  
14 is very much changed is the decontamination factor  
15 which is 200 here and it's 100 in the old source term.

16 The reason for that is that after the  
17 accident at Three Mile Island and the research that  
18 was done on that, it was found that the guesswork that  
19 had been done before there were any such accidents  
20 with regard to that was way conservative and didn't  
21 have the right idea about what kind of iodines were  
22 involved and so forth.

23 So actually, the assumptions they make  
24 here are that -- this is in, I believe, the Reg Guide  
25 -- where in Appendix B again under water depth it



1 says, "If the depth of the water above the damaged  
2 fuel is 23 feet or greater, the decontamination  
3 factors for the elemental and organic species are 501  
4 respectively giving an overall effective  
5 decontamination factor of 200, that is 99.5 percent of  
6 the total iodine released from the damaged rods is  
7 retained by the water." And so that's probably  
8 realistic. That's probably the most realistic thing  
9 here.

10 MS. BURTON: I don't mean to interrupt but  
11 I just wonder if Ms. Hodgdon could tell us what page  
12 she's referring to.

13 MS. HODGDON: I said I'm on Appendix B.  
14 It's page B-1 of the Reg Guide, Reg Guide 1.183. But  
15 the other assumptions with regard to this accident  
16 were nowhere near so realistic but, as we said,  
17 they're supposed to be -- they don't need to be  
18 realistic. But you assume that it was the highest  
19 power level assembly that you dropped because that's  
20 worst case. And you also assumed that it was the  
21 first one moved because otherwise, the decay time  
22 would be greater. So if you use decay time of 72,  
23 they're not actually using that. They're using 150.  
24 So here I'm doing my accident analysis based on 72  
25 hours decay and I dropped the worst -- that is, the

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1 most reactive assembly in the reactor. So the rest of  
2 it is fairly easy to follow because then you go on.  
3 You multiply this number of factors.

4 I started to say that the tech spec will  
5 have the decay time that you use in this accident and  
6 also the amount of water. You have to have 23 feet in  
7 order to have that to take advantage of that number of  
8 200. And then, of course, you assume an instantaneous  
9 release of all the gap gases and that, too, is not  
10 probable. That's before it filtered out through the  
11 water. That may or may not be -- it's not really.  
12 You have to assume that everything available to be  
13 released that possibly could have been released, that  
14 is the gases, is released immediately through the  
15 water and so you had to break up and open the whole  
16 assembly when you dropped it. So it needed to hit  
17 something that broke it open. So this is not  
18 realistic. It's a worst case.

19 I could go on about this, but I won't. I  
20 just wanted to make the point that it goes in the  
21 direction of realism and it certainly is an  
22 improvement over the old way but nobody intended that  
23 it be actually realistic. I mean once you drop that  
24 assembly, that's when you are realistic. I mean  
25 that's a real accident. Assemblies have been dropped

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1 but they've never had any considerable consequences to  
2 date and so this -- anyway, so much for the realism.

3 Now, what else do I have? I did 1465 and  
4 I did -- let me confer for a minute and see if I  
5 omitted anything. Ms. Cole is pointing me to Judge  
6 Cole's question regarding whether a factual basis  
7 would be adequate support for a contention, and this  
8 was from citing to some decision. I can't remember  
9 which one. Anyway, she's pointing to the exact  
10 language of the regulation which says in 2.714B22,  
11 "Basis consisting of a concise statement of the  
12 alleged facts or expert opinion which support the  
13 contention upon which the petitioner intends to rely  
14 in proving the contention at the hearing, together  
15 with references to those specific sources and  
16 documents which the petitioner is aware and on which  
17 the petitioner intends to rely to establish those  
18 facts or expert opinion."

19 Just as regards this matter, the reference  
20 has been made intervenors say they rely on NUREG 1738  
21 and they say that it's non-doable. I got somebody to  
22 check this and I got different answers. I think that  
23 it's back in the public domain again. I think that  
24 Mr. Repka gave an adequate explanation of what that  
25 NUREG is. It investigates the consequences or

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1 possible consequences of a zirc fire which might take  
2 place. This is about decommissioning plants and so  
3 presumably if you don't have the number of people  
4 working in the plant and you went away and left the  
5 spent fuel pool unattended and you lost all the water,  
6 the zircaloy, trade name, the zircaloy clanning would  
7 flash, would get hot enough to burn in some assemblies  
8 that were not so old, not so recently off-loaded, and  
9 that that fire would propagate to other assemblies and  
10 maybe catch the whole thing. This is the worst case  
11 also.

12 But the only point that needs to be made  
13 here is that that has absolutely nothing to do with  
14 the dropping of assembly which is the only thing  
15 that's been done here. Actually, there are three  
16 accidents involved here. One is dropping the assembly  
17 in the containment, the other one is dropping the  
18 assembly in the pool, and the third one is dropping a  
19 cast, a spent fuel cast, but since the consequences of  
20 that was less and nobody challenged it, I don't think  
21 that we need to address it.

22 I believe that concludes the staff's  
23 argument. We rely, of course, on our response, most  
24 of which wasn't addressed in the remarks that were  
25 made today. We could answer questions.

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1 ADMIN. JUDGE YOUNG: What about the  
2 discussion we were having earlier about the comparison  
3 between the doses using the revised source term in  
4 both cases, with and without the new proposed  
5 technical specifications?

6 MS. HODGDON: The staff would not be  
7 interested in that and does not require it and doesn't  
8 go anywhere regarding the regulations because the  
9 regulations say that you can go the old way and TID --  
10 that's 1.414844. That meant the whole body and  
11 thyroid dose or you could go the 5067 rate with the  
12 same numbers but the dose computed TEDE. That's all  
13 it says. I mean that's the comparison. Staff makes  
14 no such comparison with the -- it's just not there. I  
15 mean if you meet that dose, that's all that you need  
16 to do in dose requirements.

17 ADMIN. JUDGE COLE: I don't think that  
18 really answers the question. Do you agree that using  
19 similar bases, TEDE or the whole body dose and iodine  
20 thyroid, but using the same basis for all of your  
21 calculations and comparing the new source term and  
22 with and without the technical specifications, do you  
23 agree that that would then generate the real  
24 difference between the operation associated with this  
25 proposal before and after?

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1 MS. HODGDON: Well, no. No, we don't  
2 regulate to that delta at all. I mean we don't --  
3 it's not part of that --

4 ADMIN. JUDGE COLE: I didn't say you  
5 regulate to the delta. Do you agree that that would  
6 be an estimate of the real consequences of the  
7 proposal?

8 MS. HODGDON: No, I would not because I  
9 just already said and I spent some time saying that  
10 this accident source term is very conservative and it  
11 assumes a lot of conditions that are not, in fact,  
12 realistic and so I think that the changes, some of the  
13 changes that are proposed are changes that are  
14 proposed because they were conditions of this accident  
15 and some of those changes are not proposed, even  
16 though they are initial conditions of the accident.  
17 So I don't agree regarding -- the relationship between  
18 the changes that are being made and the accident are  
19 much more complicated or much more -- they're not as  
20 simple as the question that's being asked about it.

21 ADMIN. JUDGE COLE: But the ultimate  
22 source term is supposed to be our best estimate of the  
23 consequences of the proposed accident.

24 MS. HODGDON: No, it isn't. It's not  
25 supposed --

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1 ADMIN. JUDGE COLE: It's not?

2 MS. HODGDON: No. It's not a best  
3 estimate. This is not a best estimate rule. It's  
4 supposed to be an improvement over the old source term  
5 in terms of the realism that was brought to bear from  
6 studying the accident at Three Mile Island and what  
7 the actual consequences were, what happened and what  
8 radionuclides were given off in what way and how they  
9 behaved and so forth. So it's a scientific look at  
10 data that we never had before and so the old source  
11 term was based on the most sophisticated guesswork of  
12 its time and the new source term is based on some  
13 science. But it's not a best estimate.

14 ADMIN. JUDGE YOUNG: Isn't the real change  
15 that we're looking at here that's being raised by this  
16 contention the change between performing the fuel  
17 handling, fuel movements, with and without these  
18 proposed new technical specifications or deleted  
19 modified technical specifications? Isn't that the  
20 real change we're looking at?

21 MS. HODGDON: Well, one of the changes  
22 that's proposed is that fuel could be moved -- I used  
23 to say with the doors closed, with the hatch doors  
24 closed, and maybe it's secured with four bolts. But  
25 anyway, now it says the proposal would say closed or

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1 capable of being closed under administrative controls.

2 ADMIN. JUDGE YOUNG: Right, and that's the  
3 significant change.

4 MS. HODGDON: And that is one of the  
5 changes and that is why when this analysis was done it  
6 was done as if those doors were wide open and never  
7 were closed and so you get the 1.2 dose by assuming  
8 that the doors are open and that they're never closed.

9 ADMIN. JUDGE YOUNG: All right. From what  
10 you're saying, it sounds as though you're saying that  
11 there never really was any need to have those  
12 technical specifications there in the first place.

13 MS. HODGDON: That may or may not be true.

14 ADMIN. JUDGE YOUNG: But whether it is or  
15 not, there's a proposed change and the comparison that  
16 Judge Cole had talked about earlier and Judge Elleman  
17 and that I asked questions about was the comparison  
18 using -- since we're talking about a new source term--  
19 using the same source term with and without the  
20 proposed -- excuse me -- changes in the technical  
21 specifications.

22 MS. HODGDON: The proposed source term  
23 with the doors closed -- is that right? -- as opposed  
24 to the proposed source term with the doors -- the  
25 staff has always required that this accident be done

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1 without taking credit for containment. So it's never  
2 been --

3 It's too complicated to explain but I  
4 would just explain it this way, just to make it short.  
5 We have allowed other licensees to move fuel with the  
6 doors open under the old source term, but you don't  
7 necessarily have to have a new source term. It  
8 depends on the design of the plant and various other  
9 things and, of course, how long you're going to let it  
10 decay because the decay time is important to this and  
11 so I just saw one the other day where under the old  
12 source term the -- it went to the old source term. In  
13 other words, wanting to leave the doors open under the  
14 old source term but if you don't want to move fuel for  
15 a while, you can always make that number because this  
16 is a factor of the decay time and so you can always  
17 increase that factor long enough. Supposing I said I  
18 wasn't going to move fuel for 10 days. Then with the  
19 old source term, that would be fine and I could get  
20 that accident dose way down.

21 ADMIN. JUDGE COLE: You make the same  
22 assumptions when you're going to make a comparison.

23 MS. HODGDON: I'm sorry.

24 ADMIN. JUDGE COLE: If you're going to  
25 assume you're not going to move fuel until it's at

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1 least so old, you use the same assumption with and  
2 without the tech spec changes so that you get a  
3 comparison of the effect of the technical  
4 specifications change. You state your assumption to  
5 be consistent.

6 MS. HODGDON: I wasn't arguing with you.  
7 I'm saying that the staff is just not interested in  
8 that because that's not the way the staff does it.  
9 It's not what the rule contemplates. The rule says  
10 you can use either this old source term or you can use  
11 this new source term and what you have to meet by way  
12 of dose is numerically the same but they're treated  
13 differently, the one being whole body thyroid, the  
14 other being TEDE, and that's all it is and that's what  
15 the staff does when it does its review and it doesn't  
16 ask questions about the difference between the old  
17 source term and new source term.

18 As I just read you, the Reg Guide says  
19 yes, you should close the doors, but that's a  
20 different matter. That is a mitigation of a real  
21 accident. That is defense in depth. Once you drop  
22 that assembly, you're talking about safety.  
23 Otherwise, it's just a hypothetical accident. It's an  
24 accident against which the plant is designed.

25 ADMIN. JUDGE YOUNG: Let's assume for a

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1 minute that the change in the source term is allowed.

2 MS. HODGDON: Yes.

3 ADMIN. JUDGE YOUNG: Now, if we assume  
4 that the issue is should these changes in technical  
5 specifications be allowed period, you're saying that  
6 the comparison between operating without the technical  
7 specification changes and with the technical  
8 specification changes, that that comparison is not  
9 relevant to anything in terms of whether or not to  
10 approve the technical specification changes?

11 MS. HODGDON: I think that's pretty much  
12 so. I just read you this Reg Guide of what licensees  
13 have to do and it says quite clearly that the staff  
14 thinks that you can move fuel with the containment  
15 doors open provided that you'll be able to -- okay.  
16 I think we put this in one of our responses but it  
17 says the NRC --

18 ADMIN. JUDGE YOUNG: What are you reading  
19 from?

20 MS. HODGDON: I'm reading Accident Source  
21 Term, 5067. "The NRC may issue the amendment only if  
22 the applicant's analysis demonstrates with reasonable  
23 assurance that" and then it tells you "an individual  
24 located at any point on the boundary of the EAB for  
25 two hours following onset did not receive a radiation

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1 dose in excess of 25 REM total effective dose  
2 equivalent, that is TEDE, except for any individual  
3 with the LPZ" --

4 ADMIN. JUDGE YOUNG: That's in order to  
5 allow the change in the source term. Right?

6 MS. HODGDON: Yes, that is in order to--  
7 yes.

8 ADMIN. JUDGE YOUNG: And my question was  
9 let's assume that the source term has changed and that  
10 that's been approved and separate issue was a proposed  
11 change in technical specifications. What do you look  
12 at in determining whether to approve the change in  
13 technical specifications?

14 MS. HODGDON: I can tell you because we've  
15 done quite a few of those recently and the answer is  
16 you look back at your approval of the alternative  
17 source term and you see that they met the dose.

18 ADMIN. JUDGE YOUNG: So once the source  
19 term has been changed and approved, then are there any  
20 criteria for evaluating whether or not to approve  
21 subsequent technical specification changes?

22 MS. HODGDON: Yes. We look at 5036 and  
23 see what they can take out of tech specs. Criterion  
24 to the LCOs. I can't remember the number for that,  
25 but it's 2C2.

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1 ADMIN. JUDGE YOUNG: So then you look ta  
2 the criteria for changing technical specifications.

3 MS. HODGDON: Okay. And then you look at  
4 that and you see that -- let's see where I am. Okay.  
5 Under LCOs criterion 2, B2. What has to stay in tech  
6 specs. Certain limiting conditions for operation.  
7 B2. "A process variable, designed feature or  
8 operating restriction that is an initial condition of  
9 the design basis accident or transcene analysis that  
10 either assumes the failure of or presents a challenge  
11 to the integrity of the fish and product barrier."

12 So that means that the decay time has got  
13 to stay in tech specs. So I have to state the decay  
14 time, and it also means that my 23 feet of water over  
15 the top of the fuel has got to stay because I'm using  
16 both of those in my accident. Mr. LaVie is telling me  
17 that this hatch doesn't have to stay open.

18 MR. LaVIE: It doesn't have to be closed.

19 MS. HODGDON: It doesn't have to stay  
20 closed. Right. It doesn't have to be closed because  
21 it's not needed in order to -- it's not one of those  
22 things. We're not taking the doors out of tech specs.  
23 The licensee is not proposing to take the doors out of  
24 the tech specs. They're just saying that instead of  
25 saying the door is closed, it can say the door is

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1 closed but capable of being closed under  
2 administrative controls and the Reg Guide says as  
3 much. I know the Reg Guides are not regulations but  
4 nevertheless, that is the way the Reg Guide tells  
5 licensees to do it and how the staff tells licensees  
6 to do it. You can do it other ways but it's a lot  
7 more trouble. If you can do it by the Reg Guide,  
8 that's an approved way of doing it and the staff has  
9 granted certain exceptions to those Reg Guides but  
10 here this licensing followed this Reg Guide completely  
11 in its application. It just ticks right off the Reg  
12 Guide. Its accident is more conservative, as I said,  
13 than in fact its operation would be. But that's just  
14 extra conservatism and I address that in answering the  
15 concern about realism.

16 I have a note here if I may take a moment  
17 to read it.

18 ADMIN. JUDGE ELLEMAN: Ms. Hodgdon, I  
19 believe I heard you say that -- well, a day or so  
20 before we came up here, we were sent answers to two  
21 questions that the NRC had posed and the licensee had  
22 responded to, and I believe you said your evaluations  
23 are still ongoing so is it correct you have not  
24 reached a decision on the merit of the tech spec  
25 changes?

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1 MS. HODGDON: The staff has not put its  
2 SER together yet. The staff has certain input. I mean  
3 there are certain technical review branches that do  
4 participate in this. For example, Mr. LaVie does  
5 dose. Somebody else might do anything else that might  
6 be involved here. So we might have two or three  
7 technical branches and so the SER is not put together  
8 yet.

9 ADMIN. JUDGE ELLEMAN: Do you have any  
10 idea when the NRC will reach its final resolution of  
11 this issue and be stating what that resolution is?

12 MS. HODGDON: I believe that the licensee  
13 asked for this before -- generally we pay some  
14 attention to this -- before its next outage which is  
15 probably next fall and so I should think that we would  
16 get this out this summer. The project manager is  
17 going to give me a schedule. So I'm just speculating  
18 and now I'm going to get hard facts maybe. It says  
19 the end of July.

20 ADMIN. JUDGE ELLEMAN: End of July. And  
21 prior to you reaching this resolution, the old tech  
22 spec requirements would be in effect and applicable at  
23 the plant site.

24 MS. HODGDON: They wouldn't have an outage  
25 so it doesn't make a difference.

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1 ADMIN. JUDGE ELLEMAN: So it's irrelevant.

2 MS. HODGDON: It's irrelevant. They need  
3 time to change those and to do the drills that they  
4 would have to do in order to use these specs and also  
5 to write such other refinements to the administrative  
6 procedures that they would agree to, so that's why  
7 they want it in July, to get them I don't know how  
8 much time to implement it. But generally our changes  
9 are effective immediately but to be implemented with  
10 X number of days. I should think that would probably  
11 be 60 or 90. Ninety days. To be implemented within  
12 90 days. And so it doesn't have any applicability  
13 now. Nothing would be changed except conditions that  
14 are applicable when moving fuel in an outage.

15 ADMIN. JUDGE ELLEMAN: I believe I also  
16 heard you say that because your review is still  
17 continuing that your responses tend to reflect the  
18 views of the licensee on the issues. No?

19 MS. HODGDON: No, I didn't say that. No.

20 ADMIN. JUDGE ELLEMAN: I'll listen  
21 carefully.

22 MS. HODGDON: I said that this is true  
23 always with regard to staff responses and not just  
24 this one. The licensee's application is what's at  
25 issue here and contentions must be based on the

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1 licensee's application. The staff is interested in  
2 seeing that contentions comply with the standards that  
3 are set forth by the Commission in 2714. That's all  
4 the staff is interested in at this time and so the  
5 staff's review did not come into play. That comes  
6 into play only with regard to whether or not we issue  
7 the amendment. I read you this part from the no  
8 significant hazards consideration where it says you  
9 don't go to safety there. Safety is what you find  
10 when you issue the -- you find reasonable assurance of  
11 adequate protection of the public health and safety.  
12 That's what you find when you issue the amendment and  
13 so they're not there now, at least I'm not, the people  
14 that are doing this are. We don't project any view of  
15 whether we found this particular application  
16 acceptable but we do project a view of what the  
17 requirements are.

18 ADMIN. JUDGE ELLEMAN: The NRC response on  
19 page 15 about two-thirds of the way down contains the  
20 following sentence. I don't know if you need to hunt  
21 for it or not. It's very short. What it says is, to  
22 summarize, "The harms alleged by both Mr. Basaid and  
23 Ms. Googliamo through their respective affidavits are  
24 without bases because the proposed changes, 1) do not  
25 impact routine releases or worker occupational

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1 exposure and 2) will not result in any significant  
2 increased doses to the public should a fuel handling  
3 accident occur."

4 Is that Part 2, is that an NRC conclusion  
5 that you have reached or is that just simply  
6 reflecting what the licensee is --

7 MS. HODGDON: That was written in response  
8 -- we hadn't found that yet. It's in here some place.  
9 That's in response to the petition. You've already  
10 ruled on the petition and so I wasn't really prepared  
11 to argue it, but I'll be happy to as soon as we find  
12 it.

13 ADMIN. JUDGE ELLEMAN: I guess the part  
14 I'm focusing on --

15 MS. HODGDON: This says that they don't  
16 have standing. This is a paper that says that they  
17 have not shown standing, not that they don't have it.  
18 "Do not impact routine releases or worker occupational  
19 exposure." They had argued that it did and so we say  
20 no, it doesn't. There's nothing here that has  
21 anything to do with routine releases or worker  
22 occupational exposure and we've said up front why  
23 that's so. "2) will not result in a significant  
24 increase" -- that should say doses -- "to the public  
25 should a fuel handling accident occur."

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1 ADMIN. JUDGE ELLEMAN: That's the one I'm  
2 focused on:

3 MS. HODGDON: Well, significant is defined  
4 there in terms. I could read you the rest of this no  
5 significant hazards consideration. It's not  
6 significant if it meets the regulatory requirements.

7 ADMIN. JUDGE ELLEMAN: If you stay below  
8 the reg limits. So that's the basis you would use in  
9 making that statement. It's below what is the reg  
10 limit.

11 MS. HODGDON: That's not just what I would  
12 do or what the staff would do. It's what this  
13 document that I cited you to would -- or that's with  
14 regard to no significant hazards consideration.

15 ADMIN. JUDGE ELLEMAN: I heard Mr. Repka  
16 say, I believe, in the discussion we had earlier that  
17 the alternative source term plus the reg limits have  
18 built into them the concept of ALARA and as long as  
19 the licensee meets the criteria represented therein,  
20 that they can modify pretty much whatever operating  
21 procedures they wish to modify or make whatever  
22 changes they wish to make so long as they're below  
23 that limit. I think in what I've heard you say,  
24 you're saying the NRC concurs with this, that  
25 accidents are not reviewed in the light of ALARA

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1 criteria and that, therefore, a licensee doesn't have  
2 to do reasonable things that they might otherwise do  
3 to lower the potential consequential dose to a member  
4 of the general public.

5 MS. HODGDON: I think I spoke about that  
6 at some length.

7 ADMIN. JUDGE ELLEMAN: I'm just trying to  
8 see if I am fairly representing what I heard you say.

9 MS. HODGDON: No, you're not. Mr. Repka  
10 did say that at one point, but he withdrew that when  
11 he saw the error of his ways.

12 ADMIN. JUDGE ELLEMAN: Oh, he did?

13 MS. HODGDON: Yes.

14 ADMIN. JUDGE ELLEMAN: You saw the error  
15 of your ways, Mr. Repka?

16 MR. REPKA: That's correct. I agree with  
17 that. I did see the error of my ways.

18 MS. HODGDON: He no longer maintains that  
19 accident doses must be ALARA. Accident doses can not  
20 possibly be ALARA. ALARA isn't in part 58. It's a  
21 part 20 concept. It's occupational doses and  
22 individual doses to the public. Under part 20, that  
23 must be ALARA, not accident doses. But you attributed  
24 to the staff something else that the staff doesn't  
25 believe and I can't remember what it was. But no, we

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1 do not believe that and we do not believe that you can  
2 recklessly what? You can pursue a course of -- a  
3 reckless course here. What?

4 ADMIN. JUDGE ELLEMAN: Moving closer to  
5 the envelope?

6 MS. HODGDON: Yes, right. We don't  
7 believe that. I mean this does have to be reasonable,  
8 even though it's not ALARA. It has to meet the  
9 regulation and the regulation in part 50 proceed from  
10 some place else. They're really about designing,  
11 operating a plant. Part 50 is about plant and it does  
12 not directly protect the public. It protects it  
13 indirectly through the design of the plant and these  
14 are design basis accidents. These are accidents that  
15 the licensee -- not the licensee -- the applicant for  
16 a license came in with in their preliminary SAR and we  
17 approved them in our SER on the construction and  
18 subsequently the operation of the plant and so now a  
19 lot of time has gone by and we have improved means of  
20 assessing the dose effects of accidents and so they  
21 can use that if they want to and the Commission did  
22 consider getting rid of the old source term entirely  
23 but they decided a lot of people wouldn't want to do  
24 it. They'd think it was too much trouble and so they  
25 said you can choose between these two things.

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1 ADMIN. JUDGE ELLEMAN: Sure.

2 MS. HODGDON: And so that's what happened.

3 ADMIN. JUDGE ELLEMAN: I don't want to get  
4 into the alternative source term discussion. I think  
5 we've gone over it ad nauseam. I think now what I've  
6 heard in your answer is that you would expect a  
7 licensee to do reasonable things that they might  
8 consider to mitigate the effect of a serious accident  
9 in your review of a tech spec change.

10 MS. HODGDON: I did read that footnote  
11 from the Reg Guide that said if you're moving fuel in  
12 a containment with the hatch door open and, in fact,  
13 drop an assembly, then you've got to close those doors  
14 within half an hour. I mean that's a footnote that  
15 says the staff thinks you ought to do this because the  
16 staff does think you ought to do this and the staff--  
17 it would not seem to be a hard requirement because  
18 this licensee had shown if its calculations are  
19 correct and no one challenges them. I mean the staff  
20 will look at them but the petitioners don't challenge  
21 them. If their calculations are correct, they've  
22 shown that they meet a dose of a very small fraction  
23 of the dose limit, even if their doors remain open and  
24 they don't get them closed.

25 ADMIN. JUDGE ELLEMAN: WE're not arguing

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1 that. As you can probably tell from our questions,  
2 we're trying to get a handle on how much the  
3 calculated dose to the general public is being  
4 increased by the proposed actions. It's been a little  
5 difficult to negotiate our way through that kind of  
6 discussion here today.

7 MS. HODGDON: You could look at the  
8 accident analysis to determine that.

9 ADMIN. JUDGE ELLEMAN: Ah, and we have  
10 those and we looked at them but we're faced with this  
11 difficulty that one uses the old basis for separating  
12 internal dose from external dose calculations and the  
13 new approach uses the total affected dose equivalent  
14 approach and so you're comparing unlike things and  
15 trying to make that determination.

16 MS. HODGDON: Supposing I told you that  
17 the Commission left those numbers the same, the top  
18 100 numbers, and the 50, 60, 70 numbers, they're  
19 exactly the same. It's 25 REM. But yet they put  
20 whole body thyroid on the one and they put TEDE on the  
21 other one and so they're seeming to say that they  
22 don't find that distinction anything that anybody  
23 ought to pursue.

24 ADMIN. JUDGE YOUNG: But the distinction,  
25 I think, that we're trying to get, and I think we're

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1 going to get there from Mr. Repka, but the question  
2 that I'm asking now is once we get the comparison,  
3 using only the new source term with and without the  
4 proposed changes to the technical specifications, then  
5 you'll have a real comparison and then the question  
6 becomes what is the significance of the difference and  
7 I think what we're asking you to address is is there  
8 any significance? If so, what? Or are you saying  
9 that there is no significance to any difference  
10 between those two figures?

11 MS. HODGDON: There's no significance to  
12 the staff in its evaluation of such amendment requests  
13 as this one.

14 ADMIN. JUDGE YOUNG: One thing that's  
15 confusing me is if you're saying that reasonable  
16 measures should be taken, you're sort of already  
17 assuming that the difference is going to be so small  
18 that there's no difference in the measures that would  
19 be taken in one situation as opposed to another. Does  
20 that make sense?

21 MS. HODGDON: I believe I said before that  
22 this would be mitigation and this would be -- yes, I  
23 have the Reg Guide. This would be mitigation or  
24 defense in depth and, as I said before, this would be  
25 mitigating a real accident. One you drop that

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1 assembly, it's a real accident and we've got to try to  
2 mitigate it and so you want to close the doors.

3 MR. LaVIE: This is the answer we're  
4 trying to get at.

5 MS. HODGDON: What are we in? The Reg  
6 Guide?

7 MR. LaVIE: This is the Reg Guide.

8 MS. HODGDON: This is from the Reg Guide  
9 but I've been reading from before the Appendix B and  
10 now I'm on page four of the tech development guide.

11 ADMIN. JUDGE YOUNG: It is 4 of the text?

12 MS. HODGDON: Yes. It's under regulatory  
13 position. I think Mr. LaVie wrote this Reg Guide.

14 ADMIN. JUDGE YOUNG: You're talking about  
15 183. Right?

16 MS. HODGDON: Yes. He wrote this Reg  
17 Guide so he's very familiar with it and pointed me to  
18 this. It's 11834, regulatory position C under defense  
19 in depth where it says "The proposed uses of an AST  
20 and the associated proposed facility modifications and  
21 changes to procedures should be evaluated to determine  
22 whether the proposed changes are consistent with the  
23 principle that adequate defense in depth is maintained  
24 to compensate for uncertainties and accident  
25 progression in analysis data.

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1 Consistency with the terms in depth  
2 philosophy is maintained if system redundancy,  
3 independence and diversity are preserved commensurate  
4 with the expected frequency, consequences of  
5 challenges to the system and uncertainties. In all  
6 cases, compliance with the general design criteria in  
7 Appendix A, 10 CFR, part 50, is essential.  
8 Modifications proposed for the facility generally  
9 should not create a need for compensatory programmatic  
10 activities such as reliance on manual operator  
11 accidents."

12 So anyway, do you want me to read the rest  
13 of that?

14 MR. LaVIE: That's it. That's the  
15 reasonable actions.

16 MS. HODGDON: This is the reasonable  
17 actions to be taken and that's why we have the  
18 footnote down there in the Reg Guide that says that if  
19 you do in fact drop an assembly, you should close the  
20 doors within half an hour.

21 ADMIN. JUDGE YOUNG: Where is that?

22 MS. HODGDON: The footnote is on B -- I  
23 lost my place. It's B3. B3. It's footnote B, B3.  
24 I'm just going to say that we do look at the general  
25 design criteria to see that they're not compromised

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1 because the plant is designed to those general design  
2 criteria. Of course, they are general and they are  
3 designed and they are designed and so they're kind of  
4 vague. They're quite general. But we do look at  
5 designs that would seem to be -- I think this one  
6 would be 61. And so we could look at 61 and see  
7 whether or not it's compromised. That's Appendix A,  
8 criterion 61. We see here fuel storage and handling  
9 and radioactivity control, criterion 61.

10 "The fuel storage and handling radioactive  
11 waste and other systems which may contain  
12 radioactivity shall be designed to assure adequate  
13 safety under normal and postulated accident  
14 conditions. These systems shall be designed, 1) with  
15 a capability to permit appropriate periodic inspection  
16 and testing of components important to safety, 2) with  
17 suitable shielding for radiation protection, 3) with  
18 appropriate containment confinement and filtering  
19 systems, 4) with a residual heat removal capability  
20 having reliability and testability that reflects the  
21 importance to safety" --

22 ADMIN. JUDGE YOUNG: I'm sorry. I don't  
23 know how long you're going. Can you just tel me where  
24 you're reading from?

25 MS. HODGDON: I did tell you. I said I

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1 was reading criterion 61.

2 ADMIN. JUDGE YOUNG: Right. And I'm not  
3 finding criterion 61.

4 MS. HODGDON: It just comes after 60. You  
5 just keep going.

6 ADMIN. JUDGE YOUNG: What page is it on?

7 MS. HODGDON: It's Appendix A to part 50.

8 ADMIN. JUDGE YOUNG: I thought you were  
9 talking about Appendix A to this.

10 MS. HODGDON: No. A, A, A. I'm sorry.

11 ADMIN. JUDGE YOUNG: We'll find it.

12 MS. HODGDON: I'm sorry. I'm not going to  
13 read it again. People can read it for themselves.  
14 But maybe I should read the last sentence which is--  
15 need to have in the plant and so you always come to a  
16 question how you use them when you get to license  
17 amendments and here you look at this and you say, the  
18 licensee doesn't need these things in order to meet  
19 the dose limit in 5067.

20 ADMIN. JUDGE YOUNG: There's one more  
21 paragraph in the defense in depth section of the  
22 regulation you referred to.

23 MS. HODGDON: I didn't read that because  
24 Mr. LaVie told me I read enough, but I would be happy  
25 to look at it.

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1 ADMIN. JUDGE YOUNG: My question is it  
2 talks about proposed modifications that "seek to  
3 downgrade or remove required engineered safeguards.  
4 Equipment should be evaluated to be sure that the  
5 modification does not invalidate assumptions made in  
6 facility PRAs and does not adversely impact the  
7 facility's severe accident management program." I  
8 don't know technically whether this would fall within  
9 that but these are quite general. These are things  
10 that you need to have in the plant so you always come  
11 to a question --

12 MS. HODGDON: No, we're talking about  
13 accidents and adverse impact.

14 ADMIN. JUDGE YOUNG: Okay. You were the  
15 one who pointed us to that section. That's why I'm  
16 asking about it.

17 MS. HODGDON: Yes. I didn't read that  
18 because I didn't think it was relevant because it  
19 talked about the severe accident management program.  
20 This is not a severe accident. So they could do that.  
21 They're not removing the required engineered  
22 safeguards equipment anyway. They're merely changing  
23 the use of it. It's not that they're taking out the  
24 doors. They're just operating or moving fuel within  
25 closed or capable of being closed. So there's no

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1 removal involved here.

2 I would like to say one thing. I think I  
3 did say that I thought this document was available.  
4 I'm sure that some of you have it. The Technical  
5 Study of Spent Fuel Pool Accident Risk of  
6 Decommissioning Nuclear Power Plants. I'm told by  
7 some of my colleagues that it was on the external web  
8 site. It was back on there. But I didn't have time  
9 to look for it and I didn't find it. So if anybody  
10 would like to see it, I have a copy. In fact, I have  
11 a copy -- although you probably do, too -- but these  
12 hard to obtain documents. I think I have them all  
13 here somewhere.

14 ADMIN. JUDGE YOUNG: Does that complete  
15 your argument?

16 MS. HODGDON: Yes, I believe so.

17 ADMIN. JUDGE ELLEMAN: I'm left with an  
18 overall impression, and it's always risky to summarize  
19 overall impressions, but I want to give you a chance  
20 to correct me if I'm in error. The impression I have  
21 is that when a technical specification change is  
22 requested, you will look to see if there are  
23 compromises to the defense in depth that the licensee  
24 has put in place, but your interest stops so long as  
25 the doses to the general public are below the Reg

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1 Guide limits. Once they meet that criterion, you have  
2 no further interest in making a further reduction in  
3 exposure to the populace. Now, that's the impression  
4 I have. I'm wrong? Well, in that case, I apologize.

5 MS. HODGDON: It's wrong in a way because  
6 the example that we are working with here was one  
7 where they met a small fraction of the dose to the  
8 public but with the doors left open, they just walk  
9 away and leave them open, but nevertheless, they have  
10 a commitment or it's in their tech specs, they have a  
11 procedure whereby they close those doors within half  
12 an hour. I heard somebody something about increasing  
13 the dose. Well, obviously that would reduce the dose  
14 but what we're talking about is a real accident. I  
15 mean they dropped the assembly and --

16 ADMIN. JUDGE ELLEMAN: I understand.

17 MS. HODGDON: And so we're trying to  
18 mitigate it and we have to bring some depth here and  
19 so they already made the dose. It's not to make the  
20 dose that they're doing that. They're doing that in  
21 order to save dose further, even though there's, of  
22 course, no ALARA requirement here.

23 ADMIN. JUDGE ELLEMAN: You say it's a  
24 small fraction but if you look at the tabular data,  
25 you're getting up in the range of 20 percent of

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1 allowed doses for the evaluated accidents.

2 MS. HODGDON: I thought a small fraction  
3 was less than a half.

4 ADMIN. JUDGE ELLEMAN: Anything less than  
5 half is what you would consider as small fraction.

6 MS. HODGDON: A small fraction. I went to  
7 school in the south also.

8 ADMIN. JUDGE ELLEMAN: I didn't. I don't  
9 know what a small fraction is.

10 MS. HODGDON: A large fraction is greater  
11 than one half.

12 ADMIN. JUDGE ELLEMAN: Greater than one  
13 half. Thank you.

14 MR. REPKA: Judge, since some  
15 representations were made in Ms. Hodgdon's  
16 presentation about what my position is, could I have  
17 just one minute to respond to state what I think our  
18 position is?

19 ADMIN. JUDGE YOUNG: Go ahead, and then  
20 we'll end up with you.

21 MR. REPKA: First, there should be no lack  
22 of clarity. The ALARA concept does not apply to  
23 design basis accident analysis. So that's #1. To the  
24 extent I implied that earlier, that would not be  
25 correct.

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1 #2, and responding to something Judge  
2 Elleman said, my point was that the regulatory limit  
3 has already built into it the concept of adequate  
4 protection and that's the point I would emphasize. So  
5 the relevant comparison of any proposal is ultimately  
6 one of does it meet the regulatory limit or not? And  
7 beyond that, there's nothing in the alternative source  
8 term rule or anything that's applicable that would  
9 drive further improvements, further reductions.

10 We did talk about providing a comparison  
11 earlier, and we'll do that. I don't think that  
12 comparison is necessary in order to establish that  
13 there's no basis for contention, but this is what I  
14 would propose to provide. First, essentially four  
15 data points. The new source term plus the old  
16 technical specifications and the consequences. Second  
17 would be the new source term and the new technical  
18 specifications. But second is really the analysis of  
19 record that's included in the application. I'm  
20 sorry. Second would be the new source term with the  
21 assumptions of the licensing analysis. That's what's  
22 in the application.

23 The third would be the new source term  
24 plus the new technical specifications. There is a  
25 difference between #2 and #3 because the accident

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1 analysis of record doesn't assume closing the  
2 penetrations. It assumes an entire release over two  
3 hours. So in the third data point, if we assume the  
4 new tech specs, that would involve closing the doors  
5 at 30 minutes. So that would be a different number  
6 and that would represent a reduction relative to the  
7 licensing analysis that's in the application.

8 And then the fourth data point would be  
9 the regulatory limit, and I think again, the bottom  
10 line is the only thing that's really relevant is the  
11 comparison of the licensing analysis of record versus  
12 the regulatory limit. But for the information for the  
13 Board, we would provide those other data points. I  
14 just wanted to make that clear.

15 ADMIN. JUDGE YOUNG: I had thought we  
16 might break for lunch but I don't mind just  
17 continuing. Since you said you would only take about  
18 15 or 20 minutes, we'll go ahead and finish.

19 MS. BURTON: My terms of 15 minutes and  
20 other people's terms of 15 minutes -- I think we need  
21 to go back to look at the text of 10 CFR 50.67 because  
22 it may be that the scope of what is being considered  
23 here is too limited and that an analysis of the design  
24 basis accidents must be provided in the course of this  
25 application but it's not necessarily everything that

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1 must be provided. And the NRC, I think the door is  
2 open to a further requirement to satisfy the NRC that  
3 this would be an appropriate license amendment to  
4 approve.

5 My basis for saying that is Section  
6 50.67B2 under requirements previously quoted here.  
7 "The NRC may issue the amendment only if the  
8 applicant's analysis demonstrates with reasonable  
9 assurance that" and then it goes on to discuss the  
10 doses. But given that the NRC has discretion to allow  
11 it or not I think opens the door to our reasonable  
12 understanding that there are issues that the NRC can  
13 and, in a case like this, I think should consider, and  
14 that would have to do with some of the uncertainties  
15 that have been brought to our attention -- for  
16 instance, in this discussion of defense in depth which  
17 appears in Reg Guide 1.183 at Section 1.1.2 --  
18 because that talks about compensating for  
19 uncertainties in accident progression and analysis  
20 data, and we probably should all agree that there are  
21 uncertainties that are inextricably entangled with  
22 considerations of accidents that could occur from fuel  
23 handling incidents at Millstone Unit 2.

24 If the NRC is required to consider safety  
25 margins of 1.1.1 and defense in depth 1.1.2, then I

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1 think that the NRC needs to consider consequences from  
2 accidents that even go beyond a design basis in order  
3 to properly assess whether this amendment should be  
4 granted, and I think that is a reasonable  
5 interpretation of the language of these rules.

6 Further on that point, I would say that  
7 therefore there is a necessity and a burden on the  
8 part of the applicant for this request to establish  
9 other parameters of effect and dose on the public from  
10 accidents in the spent fuel pool. I have heard here  
11 and I have read that the ultimate source term rules  
12 derive from information that was assessed following  
13 the three Mile Island accident in 1979, but that  
14 accident, in my understanding, did not involve the  
15 fuel handling accident in containment or in the canal  
16 or in the spent fuel pool. It was something utterly  
17 different, and I haven't in any of these materials  
18 read of any accident in fuel handling that led to  
19 further research and insight into the behavior of the  
20 radioactive effluent in the event of one of those  
21 activities.

22 So I think that puts a little bit more  
23 question into these proceedings as far as the  
24 obligation of the licensee to establish compliance  
25 with the letter and spirit of Section 50.67. I don't

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1 think that they have satisfied it with their  
2 materials. I'm afraid I'm probably in the middle of  
3 and about to continue with a disjointed follow-up  
4 presentation, but I would like to quickly go through  
5 my notes and address some of these points that have  
6 been made by the others. They're not in any  
7 particular order. It's just as they occurred here in  
8 these proceedings.

9 The relief that will be available should  
10 we be successful in this petition should be self-  
11 evident. The relief would require the continuing  
12 maintenance of the technical specifications that are  
13 proposed to be deleted and that could occur whether or  
14 not the ultimate source rule were applied or not. As  
15 Judge Young pointed out, this application could be  
16 divided into its several parts. One of them is an  
17 application for approval of the ultimate source term.  
18 The other part of it has to do with the various  
19 technical specification deletion requests. We think  
20 it would be very important to obtain such relief in  
21 order to maintain the status quo.

22 Here I'll branch off for a moment into the  
23 ALARA discussion. I'm not absolutely well prepared to  
24 discuss whether or not ALARA would apply to an  
25 accident. I'm not sure about that. I would think

1 that generally there is a standard that the NRC  
2 applies whereby even in accidents it wants to be sure  
3 that the public isn't hurt any worse than it needs to  
4 be. In fact, Attorney Hodgdon has been several times  
5 here saying that of course in the real world we're  
6 dealing with a real accident, of course you want to  
7 shut the door, of course you have to, that's what you  
8 have to do, and that is because it would be absolutely  
9 unreasonable not to try to shut the door in those  
10 circumstances.

11 So in some sense, I think that there has  
12 to be some understanding that the NRC could not be  
13 opposed to an application of applying a spirit of  
14 reasonableness in terms of reducing or mitigating the  
15 impact of radioactive releases during an accident.  
16 And I would even go so far as to say that there may be  
17 good cause to argue that ALARA does apply to these  
18 proceedings. I'm just not very well-equipped sitting  
19 here now to go any further on that point.

20 On the point of the administrative  
21 controls and the question as to whether as to whether  
22 or not they are yet written, we did assert that they  
23 are not yet written, they are not yet reviewed, and  
24 Mr. Repka I think disagreed with us to some extent on  
25 that, but I think that the issue is very pertinent

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1 because the application does state that -- I believe  
2 it's Appendix B, page 8, Attachment 2 of the  
3 application. It discusses this business of the  
4 significant radiological hazard to personnel and  
5 whether the --

6 ADMIN. JUDGE YOUNG: Let me find the page.  
7 Where did you say? Page 8?

8 MS. BURTON: Attachment 2, page 8. And  
9 the number at the top is B18763.

10 ADMIN. JUDGE YOUNG: Go ahead.

11 MS. BURTON: What I was reading from was  
12 the statement, "However, if it is determined that  
13 closure of all containment penetrations would  
14 represent" --

15 ADMIN. JUDGE YOUNG: I'm sorry.

16 MS. BURTON: At the very top, second  
17 sentence.

18 ADMIN. JUDGE YOUNG: Okay. Thank you.

19 MS. BURTON: "However, if it is determined  
20 that closure of all containment penetrations would  
21 represent a significant radiological hazard to the  
22 personnel involved, the decision may be made to forego  
23 the closure of the affected penetrations.  
24 Additionally, the equipment door can be closed without  
25 electrical power or compressed air." Then it goes on

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1 to say, "D&C will establish these administrative  
2 controls." And then it goes on from there.

3 But apparently in the staff's review of  
4 this application, it did not consider that the  
5 administrative controls had been adequately  
6 established or, in fact, had even been submitted. We  
7 can conclude that because the staff issued the request  
8 for additional information and, in response to that,  
9 it was a very specific request for specificity as to  
10 the proposed administrative control and it was not  
11 answered.

12 But because the licensee presented  
13 something in response to it, I think runs counter or  
14 at least I think to some extent contradicts Mr.  
15 Repka's statements that compilation of an  
16 administrative control is not subject to NRC review  
17 and approval. I think that we disagree about that and  
18 it would seem that the NRC staff disagrees about that  
19 and that this issue is very pertinent to these  
20 proceedings because it would seem that the licensee  
21 has failed to provide adequate information in its  
22 application such that it can be properly reviewed,  
23 both by the staff and by the petitioner here. Without  
24 specificity as to what the licensee would do in terms  
25 of its administrative controls, we are really at a

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1 loss to be able to understand it and also to look at  
2 it from a critical standpoint. And this seems even  
3 more important than it did to me at the outset of  
4 these proceedings, given the repeated remarks of  
5 Attorney Hodgdon that of course it would be necessary  
6 in true life if there were an accident for somebody to  
7 get over there and shut that door.

8 On the issue of unexpected conditions.  
9 Mr. Repka would put the burden on the petitioner to  
10 specify unexpected conditions and that it is somehow  
11 the petitioner's responsibility to do that. I think  
12 he has it wrong in terms of the requirements of Reg  
13 Guide 1.183. I think this is information that should  
14 have been submitted as part of the application to  
15 satisfy the concern on the part of the NRC that  
16 uncertainties be adequately considered so that public  
17 health and safety will not be compromised.

18 There was a remark about the recent event  
19 at Millstone Unit 2 and that this was not relevant to  
20 these proceedings. I have reference to event #39644.  
21 As a matter of fact, the NRC issued a press release on  
22 March 12, 2003. The headline was "NRC special  
23 inspection team to review Millstone Unit 2 shutdown  
24 equipment problems." This was an unusual happenstance  
25 for the Commission to send a special inspection team

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1 to Millstone Unit 2 because of these issues, and we  
2 would assert that those problems are not necessarily  
3 unrelated to the issues that we present here. Of  
4 course, one of the factors that the NRC must consider  
5 in an application request is everything it already  
6 knows about the facility and the problems that it has  
7 already undergone. But I won't say anything further  
8 about that.

9 On the NUREG 1738, I'm not sure that it is  
10 publicly available now. I did check the web site  
11 yesterday and it was not there.

12 A statement was made about the  
13 unlikelihood, I think, of fuel rods being removed from  
14 the water. I think Attorney Hodgdon made that  
15 statement. She must not be aware of events that  
16 occurred. I don't have the exact date. It was in the  
17 1970s at Millstone Unit 1 when apparently a fuel  
18 bundle was lifted out of the water, not once but  
19 twice, and there were consequences that were  
20 considered to be related to this that involved the  
21 setting off of alarms as far away as at the electric  
22 boat facility located on the Thames River in New  
23 London which must be several miles away. So these  
24 things do happen, these things did happen, and these  
25 things may happen again and that is what helps to form

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1 the basis for particular concern on this particular  
2 application.

3 I think it's very important to understand  
4 the difference in dose between implementation of the  
5 present tech specs and waiver of those tech specs.  
6 Those questions have all been very thoughtfully  
7 addressed here by all the panel members. We believe,  
8 contrary to the licensee and the staff, that that  
9 information must be considered in order for there to  
10 be a proper understanding of what this license  
11 amendment actually will permit and, without that  
12 information, we're kind of in the dark.

13 I took down a statement from Mr. Repka, I  
14 hope I took it down accurately, that the licensee  
15 could not meet regulatory guidelines in terms of dose  
16 under the old source rule without relying on the  
17 technical specifications. Maybe I got that wrong, but  
18 if I got it right, then that just further supports the  
19 need for full analysis of the changes to be presented  
20 to the Board and we would request, of course, the  
21 opportunity to review whatever is submitted and I  
22 would hope that we would be able to have some expert  
23 assistance working with us to analyze that information  
24 so that we could share it with the Board.

25 I think I understood that the licensee has

1 not evaluated or has not shared with us the fruits of  
2 its evaluation of a comparison between the revised  
3 source term under the current technical specifications  
4 as opposed to the revised source term under new  
5 proposed technical specifications and we disagree that  
6 that is not relevant to these proceedings for the  
7 reasons that I've been discussing.

8 The comments by the staff attorney that  
9 were somewhat colloquial in terms of what the staff  
10 has or has not done in the past to approve the kinds  
11 of things that this licensee is applying for. It's  
12 very difficult to address those remarks here without  
13 any information, any identification of what those  
14 circumstances were. They could have been similar,  
15 they could have been very different, and we would hope  
16 that the Board wouldn't give any consideration at all  
17 to those remarks without the staff coming forward and  
18 helping us out a little bit with some specificity.

19 Attorney Hodgdon distinguished accidents  
20 from fuel movement in terms of the applicability of  
21 ALARA but, in fact, fuel movement is a licensed  
22 activity. So we would suggest, in her support of the  
23 applicability of ALARA, that ALARA would apply to fuel  
24 movement, even in the event of an accident, if there  
25 are no plans to automatically shut the doors or have

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1 somebody standing there available to do that during  
2 ordinary routine operations, then that would not seem  
3 to be consistent. I didn't say that very well.

4 It is inconsistent for the staff to say  
5 ALARA does not apply to fuel movement accidents  
6 because to say that means that the facility does not  
7 need to have, for instance, the doors operable and I'm  
8 not sure I agree with the staff attorney that the  
9 second part of the defense in depth provision does not  
10 apply because there's no proposal here to remove  
11 required engineered safeguards. She said the door  
12 will still be there but, if the door is there and  
13 nobody is going to have to shut it, isn't that  
14 tantamount to removing the door? I think it is, and  
15 that is what is so wrong about this application and  
16 why defense in depth is being sacrificed.

17 Another comment was made by the staff  
18 attorney that fuel assemblies have been dropped but  
19 never to any great significance. I would ask that  
20 that comment be rejected without further submission of  
21 substantiation. The same with the comment that the  
22 staff has always not taken credit for doors not  
23 shutting, not being shut. No specifics were given to  
24 support that.

25 The rule that was cited and I'm referring

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1 here to Reg Guide 1.183 under Appendix B, Section 5.2  
2 and 5.3. The rule seems to be that if the containment  
3 is open during fuel handling operations, where it says  
4 E.G. personnel airlock or equipment hatch is open,  
5 this Reg Guide assumes the availability of the means  
6 to shut it and I believe that's contrary to how this  
7 provision was being read by the staff.

8 I think I've covered most of those things  
9 that I had intended to and I'd be happy to entertain  
10 any questions.

11 ADMIN. JUDGE YOUNG: I don't have any  
12 questions. Unless there's anything else, I think  
13 we're kind of close to concluding for today. Does  
14 anyone else have anything that you'd like to say and  
15 then I guess we need to address that Dominion's going  
16 to provide -- I was thinking, Ms. Hodgdon, you also  
17 said that there was something -- I can't recall  
18 though.

19 MS. HODGDON: I didn't make the statement  
20 regarding fuel rods removed from the water. I can't  
21 imagine that I said that anybody would have heard that  
22 fuel rods were removed from the water and I didn't  
23 even understand the reference that Ms. Burton used  
24 there. But I did omit to do one thing and that was  
25 unexpected conditions where Ms. Burton said that Mr.

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1 Repka had said that the burden was on the petitioner  
2 to say what those were.

3 Insofar as the petitioner trying to raise  
4 the contention that depends on this unexpected  
5 condition that is the initiator of an accident, she's  
6 required by case law to specify the initiator and the  
7 progress of the accident. Otherwise, it's  
8 inadmissible. Judge Cole may recall that. That's  
9 Vermont Yankee famous fuel cases. So I think that's  
10 ALAB 869 or 919. I'm not sure. I don't have it on  
11 me. But anyway, it's easily found. Famous appeal  
12 board decision about what's required for contentions  
13 about accidents. That's my statement.

14 ADMIN. JUDGE YOUNG: Did you have  
15 something that you wanted to provide us afterwards?  
16 I was thinking that you did.

17 MS. HODGDON: No. I volunteered to let  
18 you have any of my documents that you might not have,  
19 but I didn't want to provide anything specifically.  
20 I do have a number of documents.

21 ADMIN. JUDGE YOUNG: Is it 1738 --

22 MS. HODGDON: That was 1738 and I do have  
23 other documents that may be hard to obtain, but I  
24 don't think that any of the rest of them are even  
25 mentioned. The rest of them are pretty easy.

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1 ADMIN. JUDGE COLE: If we don't have it  
2 and we think we need it, we'll call you or get it some  
3 other way.

4 MS. HODGDON: Judge Hubbard gave me this  
5 when he retired. I think I have another one somewhere  
6 that I'll give you if I can find it.

7 MS. BURTON: May I just briefly respond to  
8 that comment?

9 ADMIN. JUDGE YOUNG: Just briefly.

10 MS. BURTON: Thank you. I had brought up  
11 the issue of the unexpected conditions, aware of the  
12 case law and the burden of a petitioner, but this is  
13 not on that point. I believe that Section 50.67 does  
14 open the door to the NRC requiring an analysis of so-  
15 called unexpected conditions and uncertainties in  
16 order to support its analysis before the NRC can even  
17 really properly consider the application and I'm  
18 suggesting also that that would include unexpected  
19 conditions that are other than design basis accidents.

20 And so on that point, I will stand by my  
21 earlier that I believe the burden is on the applicant  
22 in its application to provide a full scope of analysis  
23 as to unexpected conditions as well as design basis  
24 accidents.

25 ADMIN. JUDGE YOUNG: All right. When do

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1 you think you can get us the comparisons?

2 MR. REPKA: I was going to ask for two  
3 weeks. Two weeks from tomorrow. If I did two weeks  
4 from tomorrow, that would be Friday, the 20th. We can  
5 do that.

6 Let me make one statement the record about  
7 what we will provide, however. I think it's very  
8 clear under the regulations and the case law that the  
9 burden at this point to provide a basis for a  
10 contention is on the petitioner. We're very happy to  
11 provide this information to the Board for its  
12 information and background. However, we would object  
13 to the concept of anything that we would provide would  
14 be used as a basis for a contention because I think  
15 that clearly would be putting the burden in the wrong  
16 place. So I just want to make that point. So we'll  
17 provide the information that I described earlier by  
18 the 20th of June.

19 ADMIN. JUDGE YOUNG: All right. That will  
20 conclude this proceeding today and look forward to  
21 hearing from you and you will hear from us at some  
22 point thereafter.

23 (Whereupon, the hearing was concluded at  
24 1:55 p.m.)

25

CERTIFICATE

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

Name of Proceeding: Dominion Nuclear

Connecticut, Inc.

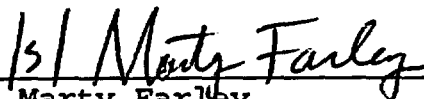
Millstone power Station Unit

No. 2

Docket Number: 50-336-OLA-2

Location: Mystic, Connecticut

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  
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Marty Farley

Official Reporter

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