

RAS 11965

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Entergy Nuclear Vermont Yankee
Public Meeting

DOCKETED
USNRC

Docket Number: (not applicable)

July 12, 2006 (12:10pm)
OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Location: Brattleboro, Vermont

Date: Tuesday, June 27, 2006

Work Order No.: NRC-1108

Pages 1-106

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Template = SECY-032

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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IN THE MATTER OF: :
ENTERGY NUCLEAR VERMONT YANKEE L.L.C. :
and ENTERGY NUCLEAR OPERATIONS, INC. :
(VERMONT YANKEE NUCLEAR POWER STATION) :
----- x

Tuesday
June 27, 2006

Latchis Theater
50 Main Street
Brattleboro, Vermont

The above-entitled matter was convened,
pursuant to Notice, at 9:06 a.m.

BEFORE: ALEX S. KARLIN, Administrative Judge
ANTHONY BARATTA, Administrative Judge
LESTER RUBENSTEIN, Administrative Judge
MARCIA CARPENTIER, Law Clerk

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P R O C E E D I N G S

(9:06 a.m.)

1
2
3 MR. KARLIN: Let's begin the proceeding,
4 if we may. I appreciate people coming and being a bit
5 patient. The starting time was 9:05, but given that,
6 you know, we wanted to make sure some of the people
7 were able to arrive who had signed up to speak, we
8 waited a few minutes, so thank you for that, and I
9 expect others may arrive. I saw, I understand there
10 are some signs out in the community and the town
11 indicating this would be at 9:30, I don't know how that
12 arose or that confusion arose because our notices were
13 for 9:00 a.m. So, for those of you who arrived on
14 time, we wanted to start relatively promptly.

15 I might begin by introducing ourselves,
16 myself, to you all. We are three administrative law
17 judges or administrative judges, I'm a legal judge,
18 these are two technical judges, and we have been
19 appointed to conduct an adjudicatory hearing or
20 proceeding in the matter of, and what I will do here is
21 read the formal title for purposes of the record, and
22 this is being transcribed, in the matter of Entergy
23 Nuclear Vermont Yankee, LLC. It's a Docket number
24 50-5710LA and it's an application by Entergy for a 20
25 percent uprate in power for its facility here in

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1 Vernon, Vermont.

2 For the record, today's date is June 27th
3 and the proceeding is being held in the Latchis Theatre
4 in Brattleboro, Vermont. To my left is Dr. Anthony
5 Baratta, he has a Ph.D. in Nuclear Engineering and he
6 is the Associate Chief Judge of the Atomic Safety and
7 Licensing Board Panel, of which we are all members. To
8 my right is Les Rubenstein, who has almost 40 years of
9 technical and leadership experience at the NRC,
10 including the Atomic Safety and Licensing Board, the
11 NRC before that and the Atomic Energy Commission before
12 that. My name is Alex Karlin, I'm a lawyer by
13 training, and I am one of the judges here and the chair
14 of this particular three-judge board.

15 Second, what I'm going to do is have these
16 introctory remarks. For those of you who were here
17 yesterday, please bear with us because it's very
18 similar but I thought it would be useful for the
19 attendees who are here for today's session. We are
20 going to thank the Latchis Theatre for accommodating us
21 and allowing us to be here. I understand other
22 proceedings, other NRC meetings have been held here,
23 but this is the first time the Atomic Safety and
24 Licensing Board, to my knowledge, has been here,
25 certainly the first time, today and last night, the

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1 first time we've been here, so thanks to them.

2 Gail Nunziato, Rick Taft, Darren Goldsmith
3 and David Woodbury have been most helpful in getting us
4 set up, and we welcome the public interest here today
5 and participation and we are glad to see so many people
6 who up on a work day, this is a work day and I know
7 that makes it hard. We held a session last night so
8 that people who had work issues could attend last
9 night.

10 We are here to conduct what's known as a
11 limited appearance statement session of the Atomic
12 Safety and Licensing Board, this is a time for the
13 board, the judges, to listen to the public and to hear
14 comments about, and their concerns about the uprate at
15 Vermont Yankee. This is set up under a particular
16 section of the law, the regulations, 10CRF2.315(c), if
17 you want to look it up.

18 What I thought we would do, I would do, is
19 try to cover five items before we start, first is
20 housekeeping. Second, a little bit about what the
21 Atomic Safety and Licensing Board is and isn't and what
22 we do, third is the history of this proceeding, fourth
23 is the purpose of limited appearance statement sessions
24 and what their function is and fifth is the procedures
25 we would like to try to follow here this morning for

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1 the statements by the public. Housekeeping, first,
2 just basics. If you have cell phones, if you could
3 turn them off or put them on vibrate and, if you have
4 cell phone conversations, if you could take them out in
5 the hall, that would be appreciated.

6 The media is welcome. I'm not sure
7 whether they are here today or will arrive later, they
8 were here last night and we find this is an excellent
9 way to have some greater public understanding and
10 information about what's going on. And we have a
11 transcript that's going to be taken here by Mr. Farley
12 and that will be available in the ASLBP or the NRC
13 website in about ten days so, if you want to access
14 that, you can. All of our proceedings are transcribed
15 and all of them, the transcriptions, are then available
16 a few days or a week or two later.

17 Second, I would like to overview the
18 nature of the Atomic Safety and Licensing Board and
19 what our role is in this matter. We have outside in
20 the lobby as you came in, some materials that you might
21 want to access, one of them is a little brochure that
22 explains a little bit what the Atomic Safety and
23 Licensing Board Panel is and does and you are welcome
24 to take those. We also have copies of the notice that
25 went out explaining what this hearing is about, so you

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1 might look at that.

2 Anyway, the federal law created the
3 Nuclear Regulatory Commission, the Atomic Energy Act
4 created the Atomic Energy Commission and now the
5 Nuclear Regulatory Commission. And the NRC is headed
6 by five commissioners who are appointed by the
7 president and confirmed by the senate so, often times,
8 when we refer to the NRC, it is the commissioners, the
9 commissioners, the five of them make the ultimate
10 decisions of the NRC. The commissioners have a large
11 staff of expert regulatory, technical, legal people who
12 work with them and for them and with regulated agencies
13 and entities like Entergy in the licensing process, so
14 sometimes we'll refer to the NRC staff.

15 There are the commissioners, there is the
16 staff and then there is the Atomic Safety and Licensing
17 Board and board panel, which has a relatively
18 independent and very different role. We are appointed,
19 the judges on this Atomic Safety and Licensing Board
20 Panel are appointed for life to positions where we
21 don't get performance reviews from the commissioners or
22 anyone else on the NRC staff, we don't get raises, we
23 don't get fired, we don't get bonuses, we can't have
24 salary taken away from us for the decisions we make.
25 We have, therefore, some and I think very useful and

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1 real independence in calling them as we see them, in
2 terms of hearings and issues that are brought before
3 us.

4 We have rules that deal with courts that
5 prohibit us from talking with staff, the Entergy
6 lawyers or licensees, the environmental groups that
7 appear before us. I mean we can say good morning, we
8 can say how the weather is but, if it's anything of
9 substance to do with a case that's before us, we are,
10 they are not to speak with us and we are not to speak
11 with them. So I think you should assume that we do not
12 necessarily know what the NRC staff or the applicant
13 said to you two months ago or three weeks ago at a
14 hearing. We know what's presented to us in a court
15 room or in writing and what happens when statements are
16 made, we don't talk with them separately. That's
17 what's known as ex parte communications and those are
18 prohibited both ways.

19 Likewise, we don't talk with the
20 commissioners, they don't come and tell us what they
21 think we should rule on any case, we can't talk with
22 them, they can't talk with us and we don't. We rule as
23 the best our lights allow us to do and if we are wrong
24 or somebody thinks we are wrong and wants to appeal,
25 they can appeal it to the commissioners and then they

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1 make a decision, and render a decision and so be it.
2 Sometimes we are affirmed, sometimes we are reversed,
3 but we are not in a position and we do not communicate
4 with them about cases that are pending before us or
5 much else, really. These rules are set up to help us
6 be as independent as possible and the key point is that
7 the board is set up by statute, there are some
8 regulations and statutes that set up this board as an
9 independent entity.

10 Third, a brief history of this proceeding.
11 Many of you, as I said last night, may know a great
12 deal about the history of this proceeding, perhaps more
13 than some of us, in some detail, certainly, but I think
14 it's worth summarizing. In distinguishing what this
15 proceeding is from what some other proceedings that are
16 going on in parallel, in September of 2003, Entergy
17 submitted an application for an uprate, the application
18 was submitted to the NRC staff, essentially. In 2004,
19 July of 2004, the NRC issued a notice saying anyone who
20 would like to object to this or request a hearing has a
21 certain amount of time to request a hearing, 60 days,
22 and so requests were received, petitions were received
23 from the State of Vermont and from the New England
24 Coalition and that was in late August of '04, and this
25 board was appointed in September of '04 to rule on and

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1 address those requests for a hearing.

2 In the process that we have, the first
3 step is to determine whether or not the request for a
4 hearing should be granted and, if so, then a hearing is
5 later held. So we came up here in October of '04, and
6 met in the middle school and heard arguments from the
7 lawyers, the litigants, the people who had filed the
8 petition, the State of Vermont, New England Coalition
9 staff and Entergy, as to whether or not the contentions
10 that had been proposed were sufficiently specific to,
11 under the rules, and there are rules we have to go by,
12 to grant the request for a hearing.

13 We had two days of oral arguments and, at
14 the end of that time frame, in November of '04, we
15 issued a written ruling that said, yes, we were
16 granting the request for a hearing, an adjudicatory
17 hearing, and so that decision was issued. So the
18 natural question is, well, okay, in November of '04 you
19 granted a hearing request, when did the hearing occur,
20 that was a long time ago? And the answer is it hasn't
21 occurred yet, and the next question is, well, why not,
22 has this board been sloughing off or not particularly
23 attending to the issue?

24 And the answer is we are constrained by
25 the laws and the regs just like anybody else, perhaps

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1 even more so, as judges, we want to comply with that
2 and the NRC regs set up a system where the hearings are
3 not supposed to occur, the adjudicatory hearings are
4 not supposed to occur until the staff has finished
5 doing its work and sometimes the staff can't finish
6 doing its work until the applicant has gotten all the
7 information in, and so there was a lag of time, until
8 March 3rd of '06, when the staff issued what's called
9 the safety evaluation report, and that was the key
10 event that then allowed us to proceed to move towards
11 the hearing as promptly as we could.

12 Once that happened, we required the
13 parties to submit written testimony to us, exhibits,
14 testimony, and then they filed rebuttal testimony, they
15 just finished doing that. There are some other
16 submissions they will be making and then we will be
17 holding the evidentiary hearing in September of '06 up
18 here in, it's in Newfane, actually, in the courtroom in
19 Newfane. It's a facility that, happily, they made
20 available to us, so the hearing will be in the week of
21 September 11th on the, the adjudicatory hearing on the
22 two remaining contentions in this case, those are
23 brought by New England Coalition.

24 The State of Vermont, as I think you all
25 know, has recently settled and dropped out of the case.

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1 They had two contentions we were preparing to have
2 litigated before us, but those will no longer be heard.
3 Well, at least the state has dropped out, so that's,
4 and they have settled with Entergy. And finally, as
5 part of our preparation for the evidentiary hearing, we
6 have issued this notice for a limited appearance
7 statement session, it was in the *Federal Register* on
8 April 14th.

9 Before we leave the topic of the history,
10 I thought two points needed to be mentioned. A logical
11 questions, if I was in your seat, perhaps, is, well,
12 the uprate has already been implemented, hasn't it?
13 Then why is this board here and why and how are they
14 holding a hearing to deal with the uprate, because that
15 is the scope of what we are considering, and the best
16 way, I'm going to just read from the notice, if you
17 want to get a copy of it, it's out there, but I wrote
18 this and I thought it was a way to try to address that.
19 It's footnote number one in the notice we put out and
20 I'll just read it.

21 The commission regulations permit the NRC
22 staff to approve a license amendment and to authorize
23 the licensee to implement the action, e.g. the uprate,
24 prior to the adjudicatory hearing, if the NRC staff
25 determines that the amendment involves no significant

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1 hazards consideration, and there is a reg that deals
2 with that and I cited it. That is what has happened
3 here. On March 2, 2006, after finding that there are
4 no significant hazard considerations associated with
5 the Vermont Yankee uprate, the NRC staff approved
6 Entergy's request for the license amendment and Entergy
7 has already begun to implement the uprate, and I got
8 that from the newspapers because that's all I have, no
9 one else told me about it, but it is apparent that they
10 are doing that and maybe have done it completely.

11 However, the NRC staff decision shall have
12 no effect on the responsibility and authority of this
13 board to rule on the validity of the objections raised
14 by the interveners here in. As the commissioners
15 recently explained, well let me just back up for a
16 little bit. NEC challenged the no significant hazards
17 consideration determination, if I understand it
18 correctly, and they went to the commission, and the
19 commission was asked to address that issues and they
20 did, and I'll quote this, "as the commission recently
21 explained, if the board determines, after full
22 adjudication, that the license amendment should not
23 have been granted, it may revoke or condition the
24 license amendment", and I cited the decision by the
25 commission on March 3rd of '06.

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1 So that is why we are having a hearing,
2 even though the uprate has been granted by the staff.
3 We now have a hearing on the merits and if we decide
4 there is something that needs to be done or improper
5 about it, we have authority and responsibility to do
6 something about it. The other point of the history and
7 final point is there is also a renewal proceeding going
8 on, at this point, and that is not what we are here for
9 today, the renewal is a separate adjudicatory
10 proceeding. Think about it this way, in 2003, Entergy
11 applied for the uprate, the procedures I just described
12 occurred and an uprate hearing was going to be held.

13 Okay, in January of '06, Entergy applied
14 for a renewal, that process is kind of, as far as the
15 adjudicatory proceeding, just at the beginning. They
16 applied for a renewal, it was noticed in the *Federal*
17 *Register*, four entities came and requested a hearing on
18 the renewal, a board was established and that board
19 will hear oral arguments on whether or not the
20 contentions, I believe there are a 11 contentions by
21 those four parties, should meet the requirements for a
22 grant of a hearing. That will be on August 1st and 2nd
23 here in this area, we don't have a location set yet for
24 that board, that's a different board.

25 I'm on both boards, as the chairman, but

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1 the two technical judges on the renewal board are
2 different, so there will be a separate board hearing.
3 So we are not really here focusing, we are not here
4 focusing on the renewal at all, we are here to listen
5 about the uprate and that's the only thing we have any,
6 this board has any power or authority to do anything
7 about.

8 The purpose of this proceeding, the fourth
9 point. The purpose of a limited appearance statement
10 proceeding is for us to listen to your comments
11 concerning the uprate, it's for the members of the
12 public to alert the board as to issues and areas
13 related to the uprate that you think we should
14 consider. What you say here is not testimony, it's not
15 under oath, it's not like in a trial or a hearing, an
16 adjudicatory proceeding. But it is being recorded, it
17 will be in the docket and if you say something that is
18 significant and it says to us we need to look into
19 that, we have the authority to look into that, with
20 regard to the contentions that are presented,
21 especially.

22 So we are, that's the reason for this and
23 we thought it would be worthwhile to have it before,
24 immediately before or soon before the evidentiary
25 hearing begins so, when we have that hearing, we may

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1 have honed our questions and better focus on certain
2 things that you may have pointed out to us that weren't
3 pointed out by anybody else, but the bottom line is for
4 us to listen and for you to talk.

5 Finally, procedures for this morning, the
6 same thing as we did last night. We asked people to
7 pre-register in our notice, back in April, and some
8 people did send in e-mails and preregistrations, so we
9 are going to call them, and we have a list, in order,
10 first come, first serve, as whoever registered, we'll
11 take them in that order.

12 Next, we have a table out back, a
13 registration table, anybody who wants to register to
14 speak today, please do so, so we can have the name, and
15 have it recorded in the transcript and spelled
16 properly. Sign in, they'll be shuttling up to me
17 additional names as people sign in.

18 If you don't want to speak but want to
19 submit something, there is written limited appearance
20 statements you can make and the e-mail address is in
21 the notice but, let's see, it's kcv, Ketchup Sierra
22 Victor, I guess, @nrc.gov, that would be the address
23 for sending in limited appearance statements in
24 writing. And our approach, first come, first serve, is
25 to shoot for about five minutes for each person, go

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1 through the whole list of people who have signed up.
2 If someone really wants to speak again or has more that
3 they need to say at the end of going through the sign
4 ups, and we have time, and I think we probably will, we
5 can have some more time for that person in that order.

6 And I think that's about it. Before I
7 proceed, is there anything else either of my colleagues
8 want to say or add?

9 MR. RUBENSTEIN: No.

10 MR. KARLIN: Okay, all right. Let's see,
11 thank you all for your patience, for listening to that
12 little spiel, I hope it was helpful in explaining a
13 little bit of who we are and what we are doing. Let me
14 see, now the list. The list that I have so far, for
15 this session, is Deb Katz is the first person who
16 signed up. Claire Chang is next, so if she could be
17 sort of in the bullpen, but the microphones are up
18 here. We have brought a spotlight down from behind, so
19 hopefully it will help with your ability to read your
20 notes.

21 Ms. Katz, the floor is yours.

22 MS. KATZ: My name is Deb Katz, I'm the
23 Executive Director of the Citizens Awareness Network,
24 and we actually have been involved with many lawsuits
25 with your organization and have been in fact before the

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1 Atomic Safety and Licensing Board. So the first
2 comments I want to make are in some ways directed at
3 the process, since we have gone through it. We are
4 very concerned. I understand the rationale you gave
5 toady for separating the public comment from the
6 hearing, but I actually think it's a grave mistake, and
7 it's a mistake first in terms of education because the
8 public, that could learn from the process of the
9 hearing where the issues are elucidated and articulated
10 and then could make comments to you, are unable to do
11 so.

12 So, four months before the hearing is
13 going to take place, the public is asked to comment on
14 things that are very hard to understand. We think
15 that's a mistake and an error in judgement. This is
16 also a hearing on an action that has already been
17 completed and there is a real air of futility in this
18 community that in fact there is going to be the ability
19 to listen and to act because in fact the weight is in
20 favor of the operator continuing to do what he does
21 because if he stopped, it will cost him money, and the
22 NRC is very concerned about not costing operators
23 money.

24 We think we saw this at Yankee Row where
25 the licensee was allowed to repeatedly go through

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1 decommissioning activities before our hearing, and even
2 though we won our hearing, we were told it was too late
3 to do anything about it because they had already done
4 the work. We are very concerned that this process is
5 continuing and it's continuing not just in terms of
6 decommissioning but in terms of an operating reactor,
7 and we think it really weighs unfairly in the
8 licensee's ability to keep going.

9 I also want to look, you raised the issue
10 of the no significant hazards consideration and I think
11 it should be mentioned that Commissioner Jasco in fact
12 objected to that and objected severely, and I'm
13 concerned that you didn't even mention that here
14 because it's very controversial, that he spoke out as
15 an individual commissioner and disagreed, in terms of
16 the use and manipulation of the no significant hazards
17 consideration, using it as a way to just rubber stamp
18 events that are in fact very controversial and
19 experimental, and that's what we are faced with here.

20 So what I would like to look at, for a
21 brief moment in time, is the issues of systemic
22 mismanagement at Vermont Yankee in basically an
23 atmosphere of regulatory decline, and the NRC in fact
24 doing less inspections and less work than they have
25 done before. So I just want to mention some of the

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1 problems that have been found at Vermont Yankee, since
2 Entergy purchased it. There were the high pressure
3 coolant injection system was declared inoperable, and I
4 will mention it was declared inoperable many times,
5 there does not seem to be any lessons learned on this
6 that has worked for Entergy.

7 There was a White finding identified at
8 Vermont Yankee during an inspection completed in
9 October, '04, the preliminary White finding was a
10 failure to establish a means to provide early
11 notification and clear instruction to a portion of the
12 populous within the plume exposure pathway in the
13 emergency planning zone. There have, there was an 18
14 minute shut down of the HPCI cooling system during the
15 last refueling outage, this is now the second time that
16 that happened, then Entergy has had a series of fires
17 that have gone on.

18 There was an electrical fire in July, '05
19 that shut NV down, there was a broken insulator, a
20 transformer fire closed the plant from June 18th to
21 July 5th in 2004, there was a second fire that same
22 month, a welding error, a fourth fire that year, the
23 condenser pump. NV exceeded the fence line radiation
24 dose limits two or three times, fuel rods were lost,
25 there was no paper work to back it up, then there was a

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1 temporary loss of the running RHR pump during a bus
2 transfer, and then we have, again, the high pressure
3 coolant injection system failing without a clear
4 lessons learned that they know what they are doing.

5 The public has grave doubts about
6 Entergy's ability to run this reactor safely and how,
7 and that the NRC is allowing Entergy to go forward with
8 this experimental and controversial uprate, the largest
9 in the country, without doing large transient testing
10 prior to the extended uprate. Deficiency in the
11 current cooling towers, safety assurances and questions
12 regarding the reliability of the steam dryer, you know,
13 this is like dealing with Alice in Wonderland or
14 *Through the Looking Glass* in which everything is
15 backwards, gentlemen, and it invokes no confidence, and
16 it is your job to invoke confidence in the public and
17 we have none in you. Thank you.

18 MR. KARLIN: Thank you.

19 (Applause)

20 MR. KARLIN: Ms. Chang? Claire Chang?

21 I might mention, I'm sorry I didn't say
22 this before and introduce the other members, Marcia
23 Carpentier is a lawyer who works for us and one of our
24 law clerks, I've asked her to try to help with the time
25 keeping, we are trying to ask people to have their

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1 remarks about five minutes, and she will give you a one
2 minute warning and then a five minute. And I mean if
3 you are not finished exactly, you know, obviously you
4 can finish it up but, and if need be, if you really
5 have something long, we could submit it in writing or
6 we could, if we have more time at the end, we can have
7 you come back, you know, at the end of the afternoon or
8 the morning here.

9 I also note that we have Jonathan Rund,
10 who is another lawyer, who is working with us and he is
11 here, around in the room, and Karen Valloch is our
12 administrative assistant out in the hall.

13 So sorry for that interruption, Ms. Chang,
14 please proceed.

15 MS. CHANG: Hi. My name is Claire Chang,
16 I live in Gill, Massachusetts, just two and, no, 12 and
17 a half miles from Vermont Yankee.

18 Currently, this summer, we are going to be
19 putting photovoltaics and also solar hot water on our
20 roof so that we will be entirely free and independent
21 of Vermont Yankee. We will be generating all of our
22 own electricity and not at an extremely high cost. It
23 is possible for this country, for every person in this
24 country to completely replace the nuclear power that's
25 generated by all the plants, the 103 plants that are in

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1 this country.

2 The reason why you are here is because
3 Entergy has requested an uprate of 20 percent, which
4 they are currently doing, this 20 percent uprate in
5 electrical generation is completely spurious, there is
6 no reason. The New England Power Grid does not need
7 this electricity and Entergy is only generating the
8 electricity to make money, for profits. This is a
9 corporation that operates out of Louisiana, it is not
10 local to here, all of that money goes away from us.
11 Anybody who pays their electric bill and that portion
12 that goes to Vermont Yankee, which has already been
13 contracted out, does not stay in the area and it does
14 not go towards relieving our country of its dependence
15 on this really dangerous and highly toxic form of
16 generation.

17 There is no reason why we need this
18 uprate, it is entirely possible that the money that's
19 being used to generate this uprate, to put into the
20 power plant, that the corporation uses, could not,
21 could go into any other green renewable source of
22 energy, and it is completely within your purview to
23 consider this because this is part of the whole, big
24 energy picture that the whole United States is looking
25 at.

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1 And even though you are just one small
2 person, I am also one small person and I make one
3 choice to put PV on my roof and to say to the country,
4 and to my neighbors, and to my family and to my friends
5 that I don't want to use electricity that's generated
6 either by fossil fuels, natural gas, coal, or by
7 uranium, and it's a choice that each of us can make,
8 but you actually have the power to make it so that a
9 number of people don't have to use that electricity.

10 It is within your purview to take this
11 into consideration when you look at an uprate,
12 particularly an uprate because that's power that's
13 completely for profit. Entergy is not under any
14 contract or requirement to provide that electricity for
15 any other use than to sell it at a profit. And I had
16 a, I don't know what my time constraint is now.

17 MR. KARLIN: Go ahead, you are okay.

18 MS. CHANG: And the other thing is that
19 Gill, Mass., last night, had a town meeting, probably
20 100 people attended, there are about 1,300 who live
21 there, many, I don't know the percentages, but many
22 live in the ten mile zone. We passed an article where
23 we recommend that the evacuation zone be extended out
24 to 20 miles, that the evacuation plan include 100
25 percent of the population, not just 20 percent of the

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1 population, and that the evacuation plan also includes
2 multiple ways of alerting the population and also, one
3 minute? And also that there are provisions for taking
4 care of private preschool, day care centers, nursing
5 homes and a number of other facilities which are not
6 included in the evacuation plan.

7 And if you go through with this, actually,
8 Entergy has already gone through with this uprate, they
9 have already experienced mechanical problems of which I
10 can't really give you details, technical details, about
11 but the population in this area is extremely worried
12 about this and we thought that when Entergy bought this
13 plant, and it was only licensed to 2012, well, at least
14 if we could make it to 2012, they'll shut the place
15 down and then we can live freely, without having to
16 think about having this sword over our heads every
17 single day.

18 It's not a safe thing to be operating and
19 now to have this 20 percent uprate, it's just
20 incredible to have to live with this. I know people
21 who are moving out of the area because they don't want
22 to live with the possibility of a nuclear disaster.
23 Thank you very much.

24 (Applause)

25 MR. KARLIN: Thank you.

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1 Next, Bob English? Mr. English?

2 And next, after that, is Chris Williams.

3 MR. ENGLISH: Hi. My name is Bob English,
4 I live in Northfield, Massachusetts, about ten miles
5 from Vermont Yankee. I'm going to read a short excerpt
6 from a brief done by the Union of Concerned Scientists
7 and then I'm going to speak for a minute or so about
8 what it means to me. And so, from the brief, the Quad
9 Cities Nuclear Power Station is located on the
10 Mississippi River, about 20 miles northeast of Moline,
11 Illinois. On March 5, 2002, the experimental power
12 uprate began at Quad Cities when workers reconnected
13 unit two to the electrical grid following a refueling
14 outage.

15 After operating nearly 30 years up to the
16 original licensed power level, the plant literally
17 began shaking itself apart at the higher power level.
18 Workers manually shut down unit two on March 29th after
19 high vibrations caused leaks in the control system for
20 the main turbine. During the subsequent restart of
21 unit two on April 2, 2002, vibrations broke a drain
22 line on one of the four main steam pipes. Workers knew
23 the main steam pipes were vibrating abnormally at the
24 experimental power uprate conditions because insulation
25 and, of all things, vibration monitors had shaken loose

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1 and fallen from the pipes. Workers fixed the broken
2 line, not its cause, and restarted unit two to resume
3 the experiment.

4 The main steam pipe signaled trouble again
5 on June 7, 2002 with unit two steadily operating
6 experimental power uprate conditions, the indicated
7 flow in main line A increased from 2.95 to 3.05 million
8 pounds per hour while the indicated flows in the
9 remaining three lines decreased. The plant's owner,
10 the reactor's manufacturer and the site regulator
11 huddled about the problem. The head scratching
12 intensified on June 18, 2002 when the measured amount
13 of water droplets being carried away by the steam was
14 about four to five times the values recorded over the
15 past three decades.

16 When the high amount doubled over the next
17 two days, operators suspended the experimental power
18 uprate by reducing unit two's output below the original
19 licensed level, but the damage had already been done,
20 operators shut down unit two on July 11, 2002 for
21 repairs. Workers soon spotted a gaping hole in the
22 steam dryer, metal fragments from the hole were later
23 found in a flow instrument for one of the main steam
24 lines and on the inlet screen for a main turbine stop
25 valve.

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1 Thus at least one fragment from the
2 cracked, broken steam dryer sitting above the reactor
3 core was carried by steam out of the reactor vessel,
4 past both of the main steam isolation valves, out of
5 the primary containment, out of secondary containment
6 to the stop valve in the turbine building. The root
7 cause of the steam dryer failure was determined to be
8 lack of industry experience and knowledge of flow
9 induced vibration dryer failures, the dryer failed as a
10 result of fatigue caused by flow induced vibrations
11 created by higher steam flows due to the extended power
12 uprate conditions.

13 I think we all agree that Quad Cities
14 shouldn't have happened. If mistakes happened in the
15 past, I understand that probably, four years later,
16 some of these concerns have been addressed but if
17 mistakes happened in the past, they can happen in the
18 future and we all know the consequences of one of these
19 mistakes. Large areas could be made uninhabitable for
20 generations, the land that I built my home on, which is
21 the main thrust of my life's work, could be rendered
22 useless with no compensation, not just for me but for
23 the generations that come after me. That's five
24 minutes? Give me another mine.

25 MR. KARLIN: Go ahead, finish, we'll give

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1 you a couple minutes.

2 MR. ENGLISH: I live in a solar home in
3 Northfield that I built 25 years ago and I've been off
4 the grid for 25 years. My home looks a lot like your
5 home, you wouldn't know the difference, if you came
6 into it, very modern, microwave ovens, the point being,
7 you know, television. I work as a research assistant,
8 I work on a dual monitor computer, all of this powered
9 by solar electricity. The points is that we don't need
10 to take these risks, we can have a green and
11 sustainable energy future, other countries, like
12 Germany, are already moving in that direction.

13 So I ask the board to intervene to the
14 full extent of your authority on behalf of public
15 safety. It appears to me that corporate interests,
16 that the interests of profit and money have been put
17 before the public health and safety in this case.
18 Thank you very much.

19 (Applause)

20 MR. KARLIN: Thank you.

21 Chris Williams? And, next, we have Chad
22 Simmons, who will be coming up after Mr. Williams.

23 FROM THE FLOOR: Well my name is not Chris
24 Williams.

25 MR. KARLIN: Oh, I'm sorry.

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1 FROM THE FLOOR: That's all right.

2 MR. KARLIN: Are you--

3 FROM THE FLOOR: Chris is not able to
4 attend, so he said it was okay for me to take his
5 place, if that's all right.

6 MR. KARLIN: I'm sorry, we'll go to the
7 next people who are signed up.

8 FROM THE FLOOR: All right, it's not like
9 there is a big crowd here.

10 MR. KARLIN: Well we'll, you can sign up
11 in the back if you want, you are welcome to do that and
12 we'll hear you, but I do want to take people in order.

13 So, Chad Simmons?

14 MR. SIMMONS: Good morning. My name is
15 Chad Simmons, I am a resident here in Brattleboro, less
16 than ten miles away from Vermont Yankee. My wife and I
17 moved to Brattleboro last August so I could continue my
18 education and so she could continue her career.

19 I come before the panel today as an
20 activist, a husband, a son and a member of this
21 community and I think it should be known that I come to
22 this panel as all of those. I did not actually become
23 aware that a nuclear power plant was actually in this
24 community until over a month that I had been here. And
25 I had a lot of concerns that I was living in a

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1 community so close to a nuclear power plant, so I tried
2 to educate myself as much as I could about the issues
3 surrounding a 30 plus year old nuclear power plant
4 while I was in school.

5 And my wife actually works a couple of
6 miles closer to the power plant than we live, these are
7 issues that concern me a great deal and I actually
8 think about them quite often, you know, what were to
9 happen if there were an accident at the Vermont Yankee
10 Nuclear Power Plant. How would I get in touch with my
11 wife? How would we be able to deal with the safety
12 concerns and the health concerns? These issues I face
13 every day, as well as the rest of the community, and I
14 think the speakers before me have done a very eloquent
15 job talking about the associated risk and concerns that
16 the public has about a nuclear power plant.

17 I'm particularly concerned with the risk
18 of a nuclear power plant and especially one that has
19 asked for and that has already granted, been granted
20 the uprate of 20 percent, of which this power plant was
21 not originally granted that when it was first given its
22 license to provide power. Therefore, I am asking the
23 NRC before the ASLB Panel to fulfill its responsibility
24 and its obligation to, and I'm quoting from your
25 mission, to make appropriate recommendations to the

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1 commission concerning the rules governing the conduct
2 of hearings.

3 I believe that the ASLB Panel, under the
4 NRC, needs to require a full and independent inspection
5 of Vermont Yankee Nuclear Power Plant, all safety
6 health and environmental aspects of this inspection
7 should be analyzed to definitely gauge whether or not a
8 20 percent uprate or any uprate, for that matter, is
9 justified to this community. And again, I speak to the
10 risk factor that many people have brought up and I
11 believe many people would bring up if they felt that
12 this process would lead to anything substantial.
13 Again, I remember or I am speaking to the risks that
14 are associated with this uprate and the process that
15 Vermont Yankee is going through.

16 The community does not want this risk, my
17 wife and I do not want this risk. Please do your jobs
18 and order a full inspection of Vermont Yankee so that
19 we may not have to live with this risk.

20 Thank you.

21 MR. KARLIN: Thank you.

22 (Applause)

23 MR. KARLIN: Alan Steinberg is the next
24 person signed up.

25 MR. STEINBERG: Good morning.

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1 MR. KARLIN: Good morning.

2 MR. STEINBERG: My name is Alan
3 Steinberg, I live in Putney and my business is here in
4 Brattleboro.

5 There is an old Turkish proverb that goes
6 this way: No matter how far you have traveled down the
7 wrong path, turn back. It's been more than a year
8 since I spoke at one of these meetings. I don't know
9 if any of you were at that meeting, it was in Vernon
10 and approximately 500 local residents of the tri-state
11 area, it was the NRC's attempts to control the tone of
12 the meeting backfired, it became increasingly furious
13 with the NRC's apparent pretense of listening seriously
14 to our universal request not to shut the plant down but
15 simply to implement an ISA equivalent to the one that
16 Maine Yankee received.

17 I left feeling certain that now the NRC
18 would have to respond meaningfully, and yet here we
19 are. It's many moons later and with the uprate in full
20 implementation, even though this committee is just
21 getting around to holding its hearings, and having
22 sworn to myself that I would never trust the NRC again,
23 yet here I am attempting to plead for reason. I follow
24 the news about the plant, I read about the vibrations
25 in the steam dryer, I note how things slow down briefly

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1 and then restart their inevitable climb, and so I do a
2 little research and learn that virtually all the
3 boiling water reactors in the country that have been
4 granted uprate permits, and none have yet been refused,
5 have had a variety of steam dryer problems, notably, at
6 Quad Cities and Dresden.

7 In each case, the plant was shut down and
8 repairs were done. In several cases, the repairs
9 themselves have developed problems, i.e. cracks formed
10 in some of the plates added during repairs. The owners
11 of Quad Cities responded thusly, and I quote: "The root
12 cause of the steam dryer failure was determined to be a
13 lack of industry experience and knowledge of flow
14 induced vibration dryer failures. The dryer failed as
15 a result of fatigue caused by flow induced vibrations
16 created by high steam flows due to extended power
17 uprate conditions".

18 In an attempt to minimize the importance,
19 they further claimed: "the dryer is a non-safety
20 related component whose only safety function is to
21 remain intact such that no loose part will prevent a
22 safety related component from performing its function".
23 That's interesting. On October 26th of 2003, the vent
24 line broke off the pilot valve for one of the
25 electromatic relief valves at Quad Cities' unit number

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1 one.

2 According to a report by engineer David
3 Lockebaum, I quote: "the steam dryer had a one half
4 inch thick piece of the outer hood bank, measuring
5 about six and a half inches by nine inches, missing.
6 Workers could not locate the missing piece or pieces
7 but they did find evidence of its journey, one of the
8 two large pumps that recirculates cooling water through
9 the reactor core had scratch marks on its impeller.
10 The pump's impeller had been replaced in 2002, so the
11 damage was recent. Workers restarted unit one after
12 repairing the steam dryer and abandoning the search for
13 its missing pieces. Excelon, the owner, guesses the
14 steam dryer, guesses that the steam dryer piece or a
15 fragment thereof passed through the recirculation pump
16 and now resides inside the lower curved dome of the
17 reactor vessel."

18 I have something to show you here, the
19 missing piece. Here it is, folks, or at least it's an
20 artistic conception of it. Talk about hazards. I
21 offer it to you as a gift. Perhaps the engineers at
22 the plant may decide to resume their search and this
23 may help them remember what it looks like. To resume,
24 the NRC has been routinely granting EPOs which should
25 stand not for extended power uprate, as far as I'm

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1 concerned, but for experimental power uprate, with us
2 as the guinea pigs.

3 I'm almost done.

4 They have been doing so while claiming
5 that our requests for a Maine Yankee style ISA are
6 unnecessary, that their new reactor oversight process,
7 ROP for short, which allows for self-assessment on the
8 part of the plant operators, is superior to an ISA,
9 even as they tell Excelon that: "the NRC staff noted
10 that the licensee's resolution of the potential adverse
11 effects from EPU operation at Quad Cities and Dresden
12 continues to rely primarily on questionable analyses."

13 Neil Dias, Chairman of the NRC, your boss,
14 told Hillary Clinton that the ROP, which ran 11,000
15 hours with only five percent of them hands on at the
16 plant, is superior to the Maine ISA, which ran 20,000
17 hours with more than half at the plant itself. This
18 despite the fact that Maine was an 18 year old plant
19 undergoing a 10 percent EPU and Vernon is 34 years old
20 and undergoing a 20 percent EPU.

21 Like Hillary, I'm almost done, like
22 Hillary, we, and I mean, when I say we, I mean the 500
23 or so people who represent the tip of the iceberg of
24 the people who are deeply concerned about what's going
25 on here, are not impressed. I urge you to think twice

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1 about this path you are on. While there may be a
2 future for the nuclear industry, albeit a brief one, in
3 our country's attempt to overcome global warming, the
4 NRC does itself no good when it paints itself, as it
5 seems to be doing, as the farmer holding the hen house
6 door open for the fox.

7 When it comes time for the Vermont
8 Legislature to look into this matter, as it will soon,
9 the NRC needs to have shown themselves to be an
10 independent watch dog, not a yes man for profit driven
11 corporations and a national administration whose time
12 grows short. In the long term, rubber stamping each
13 and every EPU that comes before you, no matter how
14 questionable, is traveling down the wrong path. Turn
15 back now, turn back now.

16 (Applause)

17 MR. KARLIN: Thank you, Mr. Steinberg.

18 Next speaker signed up is Jill
19 Nightlights. I'm sorry if I didn't get that right.

20 MR. NIGHTLIGHTS: Hi. I'm Jill
21 Nightlights, I'm from Wardsboro, Vermont, approximately
22 23 miles from Entergy Vermont Yankee, but I work in
23 Brattleboro and I send my son to school in Brattleboro.
24 I am a member of the New England Coalition.

25 Deadlines for providing formal comment on

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1 NRC reports or license amendments are too short for the
2 general public who must digest hundreds of pages of
3 technical documentation that is difficult to acquire on
4 the NRC Website and impossible to acquire through FOIA
5 due to the NRC's fun and games with proprietary or
6 deliberative privilege designation.

7 The draft safety evaluation report, SER,
8 was in production for two years. Interveners are
9 expected to digest, analyze and comment after review of
10 just a few months, only after the license has redacted
11 whatever they don't want the public or interveners to
12 see. Who, except someone well paid to do so, would
13 have time to read all of that astonishingly lame
14 verbiage twice, one to get the feel for what the
15 language is intended to signify and again to read
16 between the lines to get the real meaning?

17 Paraphrase, we used the wrong statistical
18 tests for this and that and found 100 percent
19 uncertainty for which reasons of splitting hairs we
20 find to be an acceptable state of affairs with no
21 reduction of safety margin by which we don't mean that
22 the distance between the expected values and the
23 regulatory limit hasn't been reduced considerably, just
24 that the limit hasn't been exceeded, but our language
25 is meant to cloak that.

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1 Intervenors are given insufficient time to
2 develop contentions based on new information that is
3 often suppressed or unavailable at the time contentions
4 are first to be filed. Intervenors, at a material
5 disadvantage in terms of time, resources and
6 information, are held to narrow and onerous procedural
7 and technical standards while the licensee is given
8 multiple opportunities to satisfy regulators' concerns
9 by adjusting, honing and polishing their
10 self-assessments. Many important safety concerns filed
11 by intervenors have been rejected or ignored by the
12 NRC, the ACRS, the ASLB due to picayune technical or
13 procedural grounds. This defies common sense.

14 Intervenors are required to provide
15 documentation and/or testimony for each of their
16 concerns and to build a case carefully in hopes in
17 won't be rejected on merits due to some single stone
18 left unturned. However, these painstakingly crafted
19 contentions have regularly been rejected by the ASLB
20 due to scheduling or procedural technicalities. If a
21 safety contention is worth it on its merits but fails
22 for technical reasons, it is within the ASLB's
23 authority and responsibility to investigate it on their
24 own. So far, the record of this ASLB Panel is, in our
25 view, rather grim.

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1 Every opportunity to exercise discretion
2 in favor of public health and safety and protection of
3 the environment has been rejected. To salvage the
4 public participatory process, I request that the ASLB
5 reinstate the safety contentions that have been
6 rejected or dismissed. The public knows it is being
7 gamed, that the NRC is collecting taxpayer funded pay
8 checks while providing a show of public involvement
9 that is really intended to disenfranchise and
10 discourage us. In the large part, it has succeeded.
11 NRC should not mistake apathy for approval.

12 We have attended NRC meetings over and
13 over again only to have our concerns fall on deaf ears.
14 Falling attendance does not indicate complicity or
15 complacency but a vote of no confidence in those who
16 are receiving our tax dollars and supposed to be
17 looking out for our safety. People in the community
18 are afraid and angry and you are not paying attention.
19 I recently had my furnace replaced, it was this past
20 winter. After a whole winter of having about 15
21 different service people come and they kept saying, on,
22 it's this, it's that, just a little minor thing, we had
23 it replaced.

24 It turned out that the entire thing was
25 cracked and rotted out, I wish I had brought it in, it

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1 was 30 years old, very similar to Vermont Yankee. They
2 said it was very likely leaking fumes. You're saying
3 that there are not significant hazard considerations
4 and I think there are many that really need to be paid
5 attention to, and what about the National Academy of
6 Science study that says that no level of radiation is
7 safe and, meanwhile, we are getting radiation poured
8 down on us and our children, who are more vulnerable?

9 We need to be protected and we need to be
10 taken seriously. I wonder if the NRC right now has
11 direct orders from the Bush Administration to give the
12 rubber stamp to all nuclear power plants and I'm hoping
13 that some of you will have the courage to do what's
14 right.

15 Thank you.

16 (Applause)

17 MR. KARLIN: Thank you.

18 Thomas Matsuta? Mr. Matsuta?

19 MR. MATSUTA: Good morning. My name is
20 Tom Matsuta, I come from Conway, Massachusetts.

21 I first wanted to speak about myself, I
22 spent a lot of time on the Navajo Reservation where I
23 lived for a long time, and I worked with a Japanese
24 filmmaker and we made a documentary about the uranium,
25 effects of uranium, and we met with, I saw miles of

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1 tailings that were left blowing in the wind, I saw
2 children playing in the tailings, I saw, we went and we
3 filmed houses that were made from the tailings.

4 We interviewed widows of many of the
5 minors, and we ran out of film and to the point where
6 we had to keep filming, just because these widows had
7 so much that they wanted to say about their husbands
8 that had died. And I am also Japanese and I experience
9 the effects of hearing many of the survivors of the
10 bombs that were dropped in Nagasaki and Hiroshima, and
11 I feel that I've seen much more of the effects of
12 uranium that, much farther than what we are talking
13 about here today.

14 But my family and I now live in Conway,
15 which is very close to Vermont Yankee, and I am very
16 concerned about these oral appearances that we are
17 having now, and what kind of effect that will have and
18 whether all of the judges on the panels will hear our
19 testimony.

20 I'm very concerned that the uprate has
21 already started without a full investigation. One of
22 my concerns is that I would like the NRC to do a full
23 transient test at the new uprate level, I feel that
24 citizens living in areas that would be effected are
25 entitled to an assurance, through a conducted test,

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1 that the plant could be successfully shut down in an
2 emergency.

3 And I feel that the board, and the NRC
4 staff and all the, and Entergy, very little has been
5 done with direct physical inspection. My second plea
6 to you is for an independent safety analysis,
7 apparently this has been brought up many times, I think
8 that the NRC's own team even recommended this in 2004.
9 I think there was a petition that 8,000 citizens had
10 signed and numerous local governments, state and
11 federal officials, also calling for this independent
12 safety assessment on the scale and scope that was
13 performed by the NRC at Maine Yankee in 1996.

14 I would also like to express support for
15 the New England Coalition's proposed new contention on
16 steam dryer testing and analysis. It seems like there
17 has been, new information has been brought forward. I
18 believe that on June 21st, the Vermont Department of
19 Public Service filed a petition with the State Public
20 Service Board seeking an investigation into the
21 projected reliability of Entergy's Vermont Yankee's
22 steam dryer. And I am alarmed by testimony given by
23 William Sherman, the Vermont State Nuclear Engineer,
24 regarding the Vermont Yankee steam dryer reliability
25 and this testimony was filed also on June 21st.

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1 And Mr. Sherman stated that the ascension
2 power test performed at Vermont Yankee failed to
3 provide adequate assurance that steam dryer structural
4 failures, such as cracks, will not continue to increase
5 under extended power uprate loadings. So I support the
6 New England Coalition's petition to the Atomic Safety
7 and Licensing Board to supplement their request with
8 this testimony of Mr. William Sherman and also a
9 supporting declaration by Dr. Hopenfeld who also -- I'm
10 almost finished -- that also supports Mr. Sherman's
11 testimony. I think he stated neither Mr. Sherman nor
12 Entergy has provided any documentation to ensure NRC or
13 the public that the dryer will not fail
14 catastrophically, especially during design basis LOCA
15 events.

16 So I deeply oppose this uprate in power
17 and plea with you to listen to the citizens that you
18 are supposed to represent and protect.

19 Thank you.

20 (Applause)

21 MR. KARLIN: Thank you. Dr. Richard Foley
22 is next signed up. Mr., Dr. Foley? Okay, we'll hold
23 that.

24 Well we are, anyone who doesn't show and
25 who did sign up in advance, we will save their names

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1 and call them, if they show up in the afternoon, as we
2 did for last night.

3 Next we have Sabrina Smith signed up. Ms.
4 Smith? She is signed up here today, so I would have
5 assumed she is here. Sabrina Smith? Okay, well,
6 nothing there.

7 Let me, while I'm at it, go to the people
8 who did not appear last night, who had signed up, and
9 maybe they are here today. Is there anyone who signed
10 up last night who wasn't able to make it last night, of
11 the people who have signed in advance? No? Okay,
12 well--

13 MR. BARATTA: There was a Mr. Evers, I
14 know, had signed up last night and said he would be
15 here today. Is he here? I remember that name.

16 MR. KARLIN: Yeah, okay. Well let me ask
17 again, Chris Williams? Mr. Williams? Is he just not
18 coming at all or perhaps he's late.

19 FROM THE FLOOR: He's not coming.

20 MR. KARLIN: Okay, I wasn't sure, I
21 thought he might arrive.

22 Unless we have anyone else signed up at
23 this point, I think we are completed with the
24 presentation for this morning. We will have one at
25 1:30 today and anyone who hasn't already signed up and

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1 spoken is welcome to do so at that time. As I also
2 indicated, if you want to send written copies of what
3 you said here today or supplement what you said here
4 today in writing, you can send in written limited
5 appearance statements to us at the e-mail address I
6 indicated, ksv@nrc.gov.

7 With that, we will adjourn this meeting
8 and reconvene at 1:30 today. Thank you for coming.

9 (Whereupon, at 10:15 a.m., the
10 morning session was adjourned.)

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A F T E R N O O N S E S S I O N

(1:37 p.m.)

1
2
3 MR. KARLIN: How many, I have little
4 introductory remarks that I feel it's important to try
5 to give to people who haven't been through one of these
6 things before, but may I ask how many people in the
7 room had not participated in the one this morning or
8 last night? Could you raise your hands?

9 We have five or six, which is about half
10 of the group, so I'll try to shorten it up a little bit
11 though and I think, you know, so the introduction will
12 be a little shorter, but I think we'll have enough time
13 to get through everyone's presentations or statements,
14 I hope so.

15 Okay, introducing ourselves, let me begin
16 by introducing ourselves. This is the Atomic Safety
17 and Licensing Board hearing, it's in the matter of
18 Entergy Nuclear Vermont Yankee, LLC's application to
19 the NRC for a license uprate, the Docket number is
20 50-571-0LA. For the record, today is June 27th and the
21 proceeding is being held in the Latchis Theatre in
22 Brattleboro, Vermont.

23 To my left is Dr. Anthony Baratta, Ph.D.
24 in Physics and is the Associate Chief Judge of the
25 Atomic Safety and Licensing Board Panel, he is the

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1 Chief Technical Judge of all of the judges on our
2 panel. To my right is Les Rubenstein, a Judge with
3 almost 40 years experience at the NRC and its
4 predecessor agency, the Atomic Energy Commission. My
5 name is Alex Karlin, I'm a lawyer, 32 years of
6 practicing law and a Judge here with the ASLBP and the
7 chairperson of this particular panel. There are, in
8 total, about ten full time judges on the Atomic Safety
9 and Licensing Board Panel and another ten or so part
10 time judges.

11 Thanks to the Latchis Theatre and all
12 their personnel for making this facility available to
13 us, that was very helpful. We are here to conduct a
14 limited appearance statement session, it's a time for
15 us to listen and a time for you all to talk, and give
16 us comments and input. I wanted to cover five
17 housekeeping matters relatively quickly, I mean five
18 matters. One, housekeeping; two, what the board is;
19 three, the history of this proceeding a little bit;
20 four, the purpose of the limited appearance statement;
21 and five, some procedures for today.

22 Housekeeping, just the basics, if you
23 would turn off your cell phones, that would be helpful.
24 We are taking a transcript of this, Mr. Farley over
25 here will have the transcript made and in about ten

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1 days it will be on the NRC website and you can access
2 it there, verbatim.

3 Second, the role and nature of the board,
4 the ASLBP. We are three judges, we are appointed for
5 life. We work within the structure of the NRC, but
6 there are really three groups within the NRC to keep in
7 mind, there are the commissioners, the five
8 commissioners appointed by the president, there is the
9 NRC staff and then there is the Atomic Safety and
10 Licensing Board.

11 And the key point for the, for you all to
12 remember is that we cannot, we do not communicate with
13 the commissioners or the staff with regard to this
14 proceeding or any of the merits of what's going on and
15 what the staff is doing, except what's on the record,
16 what's formally written, filed on the record or what
17 occurs in a formal proceeding that is transcribed, just
18 like this gentleman is transcribing it. So we don't
19 have any separate knowledge or communication with the
20 staff, or the applicant or of course the interveners.
21 We have an independence here and we try to call it the
22 way we see it with a lifetime tenure, with no raises,
23 bonuses, they can't fire us, they can't hire us, they
24 can't do anything to us. We try to have the
25 independence to call it the way we see it, as best we

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1 can, so we have some independence.

2 Third, a brief history of this proceeding.
3 In 2003, September, Entergy applied for an uprate to
4 the NRC staff, they submitted that to the NRC staff.
5 The NRC then issued a notice of opportunity to request
6 a hearing, that was in July of '04. Two entities
7 requested a hearing, submitted what's known as
8 contentions. There is regulations that define how you
9 get to be a, get a contention filed and this board was
10 appointed in September of '04. We then had oral
11 argument here in Brattleboro, at the middle school, in
12 October of '04, to hear the parties, the litigants,
13 talk about their contentions and whether or not they
14 met the regulatory criteria of the NRC for admissible
15 contentions.

16 It was a valuable exercise and at the end
17 of the day, in November of '04, we ruled that the
18 contentions would be admitted by the New England
19 Coalition, two contentions admitted and two by the
20 State of Vermont. I might add, as far as I'm aware, I
21 think this is the first uprate proceeding or increase
22 proceeding of any kind where any board admitted any
23 contentions so, in that respect, I think it was a
24 little unusual and we did admit four contentions. And
25 what we did then say was, yes, we grant the right to

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1 have a hearing and the hearing hasn't been held yet.

2 The hearing, the evidentiary hearing, the
3 adjudicatory hearing is scheduled for September of this
4 year and it's going to be in the Newfane Courthouse in
5 the Windham Superior Court. That's the only facility
6 we could get that would work for a litigation type of
7 operation, which is what that will be and, at that
8 proceeding, only the parties and their lawyers will get
9 to present their case and their evidence, it's
10 different from this obviously.

11 Why did it take so long for us to grant
12 the hearing in October of '04 and not even have the
13 hearing until September of '06, two years later?
14 Answer, there are regulations which specify that
15 hearings are not supposed to be held until the staff
16 and the applicant, essentially the staff, has finished
17 issuing some of the key documents, the safety
18 evaluation report. I don't know what all the reasons
19 for that regulation are, but perhaps one of them is to
20 allow the parties and the challengers to get a maximum
21 amount of information out to see if they want to file
22 additional contentions and to make sure all the
23 information is on the table before we have the
24 evidentiary hearing, so that's a bit of a reason why we
25 have some of that delay.

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1 Two history points to note. The uprate
2 has already been implemented. Why are we having a
3 hearing about uprates, if it's already been a done
4 deal, cart before the horse, isn't the hearing too
5 late? Isn't it too late to do anything about it? The
6 answer is no, and here I think I will have to turn to
7 the notice in the *Federal Register* that we put out for
8 this limited appearance statement, and in footnote
9 number one it explains in some detail, I won't read it
10 to you, there is out on the table out there, copies of
11 this. And the essence of it is there is a rule, a
12 regulation that the NRC has which says the staff, in
13 any application for an amendment to a license, the
14 staff can look at the question of whether it presents
15 significance hazards.

16 If the staff makes what's known as a no
17 significant hazards consideration determination, the
18 staff, then the regs provide that the amendment to the
19 license can go into effect before the hearing is held,
20 and that's what's happened here. That doesn't mean
21 that the hearing is moot or not relevant because when
22 we hold the hearing, if we decide that one of the
23 contentions is valid and there is a problem, we can
24 either require and issue a decision which requires the
25 amendment to be, the license to be amended to reflect

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1 additional conditions such as, for example, large
2 transient testing, which is one of the requests by New
3 England Coalition, or we could even revoke the permit
4 or the license--

5 (Applause)

6 MR. KARLIN: --if we thought something was
7 very troublesome. And the commission itself has said
8 that, I'm not putting, I'm not putting words in their
9 mouth, but they have made the decision, because New
10 England Coalition appealed to the commission and said
11 this is not a no significant hazards situation, we
12 think this is an improper ruling, and the New England
13 Coalition went to the commissioners and the
14 commissioners ruled, with one dissenter, Commissioner
15 Yasco, that no, we think it is a valid no significant
16 hazards consideration case.

17 As far as we are concerned, we can't
18 reverse that, we can't do anything about that because
19 the commissioners are our appellate level. When we
20 issue a decision, if somebody doesn't like it, they can
21 appeal to the commissioners and once the commissioners
22 make a ruling that this is a no significant hazards
23 situation, we don't have the authority, power or
24 jurisdiction to hear or rule otherwise. One would have
25 to go to the federal courts, courts of appeals

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1 actually, and challenge and appeal the commissioners'
2 decision.

3 So, let's see, the other one, other point
4 regarding history is that this is not the renewal
5 proceeding, that's a separate proceeding. The
6 application came in in January of '06 for the renewal,
7 the board was appointed just this month, I think it
8 was, it's a different board. I am on that board, as
9 the chairman of that board, but there are two
10 technical, two different technical judges, Dr. Wardwell
11 and Dr. Elleman, who have been appointed on that board
12 and that's a different matter.

13 So we are really here to hear about the
14 uprate, issues related to the uprate and primarily
15 related to the contentions that will be part of the,
16 will be the whole of our evidentiary hearing in
17 September but, if there is something else relating to
18 the uprate that you simply think we need to hear,
19 please let us know.

20 What you say here today is not testimony,
21 it's not under oath, it's not like you are in a
22 courtroom, but it is something that we can consider and
23 if we think it's important, we will ask questions of
24 the parties and we can raise things sua sponte and say
25 we want to probe into this thing because we think there

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1 is a problem here.

2 Finally, the procedures. First come,
3 first serve, people have signed up and preregistered,
4 and so we have a list here. I have a list here of
5 preregistration and if anyone wants to register or
6 speak today, please go into the back in the lobby,
7 Karen Valloch is back there at our desk, and she will
8 take your name down and it will be brought up here and
9 hopeful we'll get it all in order, in sequence of
10 signing up.

11 Other participants here, Marcia Carpentier
12 is a lawyer who works for the Atomic Safety and
13 Licensing Board, she is going to be the bad cop, and be
14 the timekeeper, and tries to tell everyone when five
15 minutes is up, and will give you a one minute warning
16 and hopefully if you can keep your remarks basically to
17 that time frame. If someone has remarks that go
18 significantly longer than that, hopefully you could put
19 them in writing. There is that opportunity to submit
20 things in writing, limited appearance statements,
21 written, and that goes to NRC website, you can send it
22 to ksv@nrc.gov, that's K-ketchup, S-sierra, V-victory
23 @nrc.gov, that would be the place to send your written
24 limited appearance statements.

25 With that, I will again ask either of my

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1 colleagues if they have anything they want to add?
2 Fine, good. Now, let me see, I think I've got this
3 list here. Okay, I'll call all the names and hopefully
4 you can come up in order. Alice Jurcik, I believe is
5 the first person who has signed up. Margaret
6 Bartenhagen is the second so, if you'll stand in the
7 wings and wait, that would be great.

8 Ms. Jurcik, the floor is yours.

9 MS. JURCIK: Thank you. Well I appreciate
10 the opportunity to speak to the ASLB Panel and to voice
11 my concerns about Vermont Yankee and the proposed
12 uprate. Nearly every one of my doubts that I've had
13 has been expressed far better, and more succinctly and
14 more clearly by Ray Shadis and I'm really sorry that he
15 cannot speak here in a limited oral appearance. It
16 seems to me that that's ruling out someone who could
17 speak succinctly and well, but I do have my doubts and
18 I'll try my best.

19 Well, I have understood, from reading the
20 paper and various other articles that, at Vermont
21 Yankee, there are certain emergencies that arise that
22 allow for only 18 seconds reaction to avert a disaster
23 or, and it just seems as though that is too short a
24 period to allow. I mean that there needs to be more
25 control or --. You cannot rely on a group of people,

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1 humans, when it calls for super human ability, it seems
2 to me, and I think that it's unfair. We, in this area,
3 this whole area is subject to being forever, in human
4 terms, human life span terms, ruined.

5 We would be deprived of life or subject to
6 terrible radiation disease and though it may be a
7 remote and very unlikely possibility, it is definitely
8 one. We have had Chernobyl, we have had Three Mile
9 Island and the consequences have been not widely spoken
10 of or, and there are people terribly effected, and
11 those areas are, just as far as life on earth is
12 concerned, we may as well rule them out, they are
13 uninhabitable, and we should not have more and more
14 areas of that type that are subject to that risk, nor
15 to people.

16 And another thing how about the insurance,
17 you know? You can't get insurance against atomic
18 disaster or nuclear disaster. Something is wrong. I
19 mean there is people, there are people who make bunches
20 of money because of the atomic industry, and where are
21 they? A lot of them are in the NRC, they are people
22 who have studied nuclear science and you have to have
23 people who are learned in this but, you know, if you
24 are making big bucks off of it, you discount risk, and
25 so I say we need an independent inspection of Vermont

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1 Yankee.

2 We should not, we should not rely on the
3 Entergy and the nuclear, well whoever it was that did
4 the statistical tests that, you know, had ten percent
5 and there were lots of accidents. Well thank you, I
6 hope you'll take my, understand what I've said.

7 Thank you.

8 MR. KARLIN: Thank you.

9 Ms. Bartenhagen is next and Gaella Ellwell
10 will be the next person who signed up.

11 MS. BARTENHAGEN: Good afternoon. I would
12 like to express my appreciation for the opportunity to
13 convey these comments and concerns to the ASLB. My
14 name is Margaret Bartenhagen, I live in Halifax,
15 Vermont and I am a member of the New England Coalition.

16 However, I am speaking here today as a
17 citizen and a member of this community, but I would
18 like to take this opportunity to thank the New England
19 Coalition for its many efforts to advocate on behalf of
20 the health and safety of the region's residents and to
21 bring those concerns to the NRC process.

22 In August of 2004, as several before me I
23 know have testified, the NEC petitioned the ASLB to
24 address the issues of the adequacy of Entergy Vermont
25 Yankee's quality assurance program to confirm or assure

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1 that the as-found plant conditions and performance
2 could support a credible extended power uprate review
3 by the NRC staff. The NEC contended that an EPU
4 license amendment approval should "not be considered
5 until the potential effect of a reduced QA/QC program
6 is investigated and analyzed". The NEC provided the
7 ASLB with sufficient documentation to trigger an
8 investigation. However, the ASLB refused to hear New
9 England Coalition's quality assurance contention.

10 I would like to refer to a document
11 prepared by a nuclear engineer and nuclear safety
12 specialist, David Lockebaum, regarding the problems
13 encountered with the EPU or experimental power uprate,
14 as Lockebaum refers to is, at the Quad Cities Nuclear
15 Power Station in Illinois. This boiling water reactor
16 is very similar to Vermont Yankee in design and in its
17 29th year of life, that is in the Quad Cities Nuclear
18 Power Station's 29th year of life, the NRC amended its
19 license to permit the reactors, and there are two,
20 operate at nearly a 20 percent higher output.

21 On March 5, 2002, the experimental power
22 uprate began at Quad Cities. After operating nearly 30
23 years up to the original licensed power level, the
24 plant began shaking itself apart at the higher power
25 level. Workers manually shut down unit two on March

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1 29th after high vibrations caused leaks in the control
2 system for the main turbine. During the subsequent
3 restart of unit two on April 2, 2002, vibrations broke
4 a drain line on one of the four main steam pipes,
5 again, on June 7, 2002, there was a problem with the
6 main steam pipes and related trouble again on June
7 18th.

8 Operators shut down unit two on July 11,
9 2002 for repairs, a gaping hole in the steam dryer was
10 discovered soon after. According to Excelon, the owner
11 of the Quad Cities reactors, "the root cause of the
12 steam dryer failure was determined to be a lack of
13 industry experience and knowledge of flow induced
14 vibration dryer failures. The dryer failed as a result
15 of fatigue caused by flow induced vibrations created by
16 higher steam flows due to extended power uprate
17 conditions". After repairing the steam dryer, unit two
18 was restarted on July 21, 2002 and the experiment
19 resume. On May 6, 2003, there were more steam dryer
20 related problems and, two weeks later, unit two was
21 shut down for another round of steam dryer repairs.

22 The damage was not in the same location as
23 in 2002, but Excelon provided the same explanation as
24 above to the cause. In other words, not enough
25 knowledge was gained from the steam dryer shaking

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1 itself apart in 2002 to prevent it from happening again
2 in 2003. We then go on to similar problems with unit
3 one at Quad Cities in October of 2003. Not long after
4 installing new steam dryers at Quad Cities, Excelon
5 announced that the newly replaced steam dryer was found
6 to have a five foot branching crack, a complete
7 surprise, despite heavy instrumentation.

8 Ladies and gentlemen, this overview of the
9 problems encountered in Illinois is quite relevant to
10 the situation at Vermont Yankee, VY has experienced two
11 sudden shut downs from power, once in 2004 and again in
12 2005, since uprate modifications began, both resulting
13 from predictable and preventable equipment failure,
14 both indicative of inadequate or non-functioning QA/QC.
15 Referring again to Quad Cities and in Excelon's own
16 words, the dryer is a non-safety related component
17 whose only safety function is to remain intact such
18 that no loose part will prevent a safety related
19 component from performing its function.

20 The steam dryer has no moving parts, it is
21 a bunch of metal plates, some with holes drilled
22 through them, welded together. The only thing one has
23 to do is keep it in tact. The experimental power
24 uprate failed three times against this fairly simple
25 success criterion at Quad Cities in less than two

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1 years.

2 May I finish?

3 MR. KARLIN: Please, go ahead.

4 MS. BARTENHAGEN: Thank you.

5 The NRC informed Excelon that: "The NRC
6 staff noted that the licensee's resolution of the
7 potential adverse flow effects from EPU operation at
8 Quad Cities continues to rely primarily on questionable
9 analysis". As Mr. Lockebaum states, lack of knowledge
10 caused the problems, questionable analysis hinder their
11 resolution, yet the NRC allows BWRs, boiling water
12 reactors, in Illinois, Iowa, North Carolina and now in
13 Vermont to operate at experimental power uprate
14 conditions justified by ill-informed, questionable
15 analyses.

16 The NRC's mission is to protect public
17 health and safety, the BWR power uprate experiment
18 conflicts with that mission. Repeatedly told that the
19 nuclear industry doesn't have enough knowledge about
20 experimental power uprate conditions, the NRC I believe
21 is shirking its responsibility to protect the public by
22 allowing plant owners to crank up BWRs to see what
23 happens. The NRC must consistently and effectively
24 enforce its quality assurance regulations to avoid
25 chronic erosion of safety levels that have led to

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1 dozens of year plus reactor outages and which could
2 some day factor in a tragic nuclear plant accident.

3 That lesson will come with a very high and
4 totally unnecessary price tag. I call upon this panel
5 to exercise its discretion and reconsider admission of
6 New England Coalition's contention on quality assurance
7 and quality control at Vermont Yankee. Thank you.

8 (Applause)

9 MR. KARLIN: Thank you.

10 Gaella Ellwell, please?

11 And the next is Ellen Tenney.

12 MS. ELLWELL: I also appreciate this
13 opportunity to have a voice here. I'm a resident of
14 Massachusetts, I live about 40 miles south of here on
15 an organic farm and probably shorter as the crow flies
16 or as the radiation might fly in the event of a major
17 malfunction of this plant. The uprate on a 34 year old
18 plant heightens what I believe is already an
19 extraordinarily risky way of producing electricity.
20 The only way to truly guarantee no more Chernobyl or
21 Three Mile Islands is to stop producing power in this
22 way.

23 I stand behind a transitional plan which
24 might include downrating this plant. I want current
25 employees and employers of Vermont Yankee to be

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1 reassured that they would have gainful work, both
2 decommissioning this plant and if they chose to work in
3 some renewable energy producing jobs. I am concerned
4 about people who have invested decades of their life in
5 this, in this work, I don't think that their lives and
6 their families, their commitments are to be out of this
7 equation.

8 If I had spent my life work in a business
9 that other people were saying had a lot of risks and
10 not many benefits, I'm sure that I would be probably
11 pretty shaky about even considering deeper questions,
12 if it had been my life work, so I just want to say that
13 I have that concern and that consideration. So I think
14 that there are just two ways of looking at this, at
15 least, and one is that people who think that the
16 benefits of power produced in this way outweigh the
17 risks and those of us who think that the risks just
18 really outweigh the benefits, it seems like that's two
19 very different ways of looking at this and needs to
20 somehow be resolved.

21 I'll conclude by saying that I hope I
22 would ask that the contentions that were brought forth
23 involving safety and environmental concerns be
24 considered to be brought again before this commission,
25 these were contentions that were brought up by the NEC,

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1 the Nuclear Coalition and the Vermont Public Service
2 Board, which have been kind of tabled, at this point,
3 and I would like to see them reconsidered.

4 Thank you very much.

5 MR. KARLIN: Thank you.

6 (Applause)

7 MR. KARLIN: Ms. Tenney? And the next is
8 Robert Safeway, Sanfay, I'm sorry, Robert Saffay,
9 perhaps it is. Okay, we have a sign up, we'll wait
10 until that.

11 But please proceed, Ms. Tenney, I'm sorry.

12 MS. TENNEY: My name is Ellen Tenney and I
13 live in Rockingham, Vermont, which is about a half hour
14 north of here and outside of the five mile kill zone
15 and the ten mile whatever zone. I also own a business
16 here in town that supports my family of four. People
17 in this community stand to lose everything, and someone
18 mentioned it earlier, we stand to lose everything in
19 the event of an accident, which the chance of that has
20 been increased by 20 percent.

21 There is, I made a phone call a few years
22 ago to FEMA in Boston and the gentleman I spoke to, I
23 explained to him that I had a business, and were near a
24 nuclear plant and they were talking about uprate and,
25 in the event of an accident that rendered my business

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1 untouchable forever, what was my, you know, what would
2 my options be? And he just kind of chuckled into the
3 phone, and spoke to me like I was a total idiot and
4 said did you ever hear of business insurance? And I
5 said, well, how long have you worked for FEMA? And
6 said eight years. I told him, in a very nice way, that
7 he should go back and do a little more studying, that
8 there is no insurance for homes, for business.

9 The people in this area stand to lose
10 everything and, from what we have seen, FEMA doesn't do
11 such a great job in emergencies. I found that very
12 distressing, you know, that this man, who sits in a
13 position to inform the public, was totally misinformed.
14 Secondly, the cynic in me feels like these meetings are
15 more an obligation, that you people are meeting the
16 requirements put on you by the NRC, that you come and
17 let us speak, but I feel, and I'm grateful that you are
18 here, I really am, and I really hope that it does have
19 an effect. But I sort of feel like it's just we are
20 all down here again talking about the same issues, our
21 fears, our concerns and that it's just going to, the
22 decision will be made to benefit the corporation, not
23 the safety of this community.

24 Let me find out where I was. You know, I
25 just want to, people that live in Northern Vermont

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1 don't share our concerns because they are not so close
2 to what we are having to deal with and I feel
3 confidently, I don't know if any of you people live
4 near a nuclear power plant that's just been given a 20
5 percent uprate and that you read every five percent
6 that it goes up, it's vibrating, and they have to wait.
7 It's pretty nerve wracking, I must say, and I think if
8 any of you lived in this community, you would be down
9 in this audience with us, asking questions and wanting
10 to know what's going on too.

11 So please, when you make decisions, think
12 of it from that perspective, what is it like to live in
13 a community that has to deal with this day in and day
14 out? I go on-line to *The Reformer* every day to see if
15 something has happened, should I bother going to my
16 store? This is something that, because of my business,
17 during, not the last refueling but the one before that,
18 I had the opportunity to meet a number of people that
19 worked at the plant and, yeah, a lot of people have
20 heard this before, but I had six people that I can
21 remember offhand, one in particular that just totally
22 bowled me over, came into my store, and no one else was
23 in there but him and I, he and I, and he said do you
24 live in this area?

25 And I said no, I live a half hour north,

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1 but this is my store, and he said I really feel badly
2 for you people in this area, and I said why? And he
3 said I'm here for shutdown for Vermont Yankee, I travel
4 the world working at nuclear power plants and I have
5 never seen one run so shoddily as this one. The
6 corners we are asked to cut, the hours we are asked to
7 work, he said I just, I can't say anything but I feel
8 bad for you people. I asked him to be a whistleblower
9 and he just laughed. I asked him to be a whistleblower
10 and he just sort of laughed.

11 I wrote this letter to the state about
12 this gentleman and other comments made by other people
13 that come into the store, I just have a way of, people
14 open up to me, I don't know what it is, and I got a
15 letter from the NRC saying unless I can give names,
16 dates, specifics, then the issue is dead. The local
17 NRC official called and said, well, tell him to be a
18 whistleblower, and I laughed and said do you really
19 think, these people, this guy told me he ha a family,
20 he has children that will be going to college. None of
21 them are safe, none of these workers that see things
22 that are happening in these plants can step forward
23 without fear of being blackballed. And it happens in
24 the industry and, you know, the NRC says, oh, we'll
25 protect them, it's absurd.

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1 I am going to go over, just a little bit.
2 No, I guess, oh, the independent safety assessment,
3 why? Why can't we have one? That would give us the
4 whole picture, you know? It's just you've got to do
5 it, you've got to do it. The independent engineering
6 assessment was, what, a two percent slice of the plant?
7 We need a total assessment of that plant because the
8 number of people that it will take out will be
9 devastating, and I think the industry owes us that.
10 We've had to put up with this, they can put up with an
11 independent safety assessment now.

12 Thank you.

13 (Applause)

14 MR. KARLIN: Thank you. I'm going to try
15 to read this again. Robert Southway? Is it Southway?
16 Okay, Saffway, yeah, all right, thank you. Well we'll
17 just hold, and I'll hold that open and, if he does show
18 up, we'll let him speak, obviously.

19 Jane Newton?

20 The next one is Dr. Richard Foley, he is
21 the next speaker.

22 Ms. Newton?

23 MS. NEWTON: Excuse me, I spoke last
24 night but I didn't speak the whole time, and so I was
25 given permission to speak again.

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1 MR. KARLIN: That's fine.

2 MS. NEWTON: I'm also speaking in place of
3 my daughter, Sally, who came down late this morning and
4 found the place closed and so she asked me to speak for
5 her.

6 So this is called hotter fuel, more fuel,
7 more risk, more waste. Under extended power uprate,
8 Entergy Vermont Yankee proposes to irradiate 20 percent
9 more fuel and to use fuel of a higher enrichment than
10 it has used previously. The potential radiation
11 effects under accident conditions were reviewed by NRC
12 in an alternate source term license amendment granted
13 in advance of the uprate.

14 This effected community, that's all of us,
15 lost the opportunity to intervene because we were not
16 aware that the uprate process could be segmented or
17 until too late that rewriting estimates of how much
18 radiation could be released in an accident downward to
19 avoid exceeding projected control room dose limits was
20 a necessary and a vital part of uprate approval. The
21 segmentation of the application was so novel that
22 unbelieving NRC staff members charged with EPU review
23 were asking each other if it was even legal.

24 Since NRC regulations had apparently not
25 contemplated the depths to which aggressive licenses

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1 would go to get one past an unsuspecting public, NRC
2 processed alternate source term uprate fuel
3 configuration and the uprate itself as three separate
4 applications. Of course regulatory enabling in no way
5 changes the laws of physics, the fuel containing more
6 uranium equals more radioactive materials, more fission
7 products, more waste, more heat, more retained
8 contamination and exposure to workers and the public,
9 more risk of accident and greater potential consequence
10 of an accident.

11 Because of increased synergies between
12 more fuel irradiation and more reactor flow, there will
13 be more than 20 percent increased radiation from steam
14 line gammashine and routine emissions. Because of
15 synergies between increased decay heat and increased
16 fuel fission products, there will be a greater than 20
17 percent potential increase of deadly fission products
18 to the human environment in the event of an accident,
19 in fact much more. According to the NRC Advisory
20 Committee on Reactor Safeguard Transcripts, analysis of
21 the Swiss reactor showed that just a 14.7 uprate
22 yielded a 30 percent increase in fission products.

23 If this ratio held true for Vermont
24 Yankee, it would mean an approximately 41 increase, 41
25 percent increase in potential accident fission product

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1 release. More decay means, more decay heat means, in
2 the case of Vermont Yankee, that when hotter fuel
3 discharges take place from the reactor to the spent
4 fuel pool, spent fuel pool systems are overwhelmed and
5 operators must connect and jointly operate spent fuel
6 pool and reactor cooling systems using the reactor's
7 residual heat removal pumps for a period of 24 hours or
8 longer, thus uprate fuel discharges increases the
9 likelihood through leakage and the consequences of a
10 spent fuel drain down and cladding fire.

11 Vermont Yankee's spent fuel pool contains
12 all of the spent fuel ever generated at the site,
13 approximately five times more than is in the reactor
14 when it's full. NRC staff study NUREG17.38 gives solid
15 hint of the potential scale of consequences. Using a
16 reactor that is almost identical to Vermont Yankee, it
17 postulates up to 25,000 cancer fatalities from zero to
18 500 miles from the plant, presuming 95 percent
19 evacuation. This is of greater radiologic potential
20 consequence than several Hiroshima-size nuclear
21 weapons.

22 A recent California 9th Circuit Court
23 opinion tells us that NRC must consider the potential
24 consequences of acts of terror. Indeed, it can be
25 rightly and fairly said that the uprate increases the

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1 volatility and potency of what only waits conventional
2 explosives, ballistics or aircraft impact to become a
3 weapon of mass destruction. The real increased risks
4 of extended power uprate should be recognized by the
5 ASLB and fairly and publicly adjudicated before an
6 uprate is allowed to continue.

7 Finally, I would like to remark the
8 production of more nuclear materials, especially
9 considering their indelible association with nuclear
10 weapons, is, personally speaking, morally reprehensible
11 and repugnant. As one great and wise man once offered,
12 if sunbeams had been found useful as weapons of war, we
13 would have had solar power long, long ago.

14 (Applause)

15 MR. KARLIN: Thank you.

16 Dr. Foley?

17 MR. FOLEY: My name is Richard Foley, I
18 live in Brattleboro. I'm a college professor, I teach
19 energy, national energy policy and energy technologies.
20 I'm a member of the New England Coalition, I'm also a
21 member of the Southern Loop Working Committee that
22 works with CBPS and Velco on--

23 MR. KARLIN: Speak into the mic, please.

24 MR. FOLEY: This is a tough gig.

25 MR. KARLIN: Maybe you can raise it up a

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1 little bit. Yeah, sure, start the clock over again.

2 MR. FOLEY: Would it be better if I face
3 this way or that way? Okay. My name is Richard Foley,
4 I'm a college professor, I teach national energy
5 policy, energy technologies and I'm a member of the New
6 England Coalition. I'm a member of the Southern Loop
7 Working Committee, that's the group that's working on
8 transmission distribution problems here in Southern
9 Vermont. I'm speaking today as a citizen and not a
10 member of those groups.

11 As a speaker before the board this morning
12 or this afternoon, I feel greatly compromised by the
13 compartmentalization of the NRC regulatory process.

14 I have dozens of questions, I'll just ask
15 three today, that are related to the criteria related
16 to the NRC's approval of the Vermont Yankee uprate.
17 For starters, how did the history of Vermont Yankee's
18 sister plants inform the NRC's approval of the current
19 uprate? In 1963, the first New England plant, the
20 Yankee Row reactor, was brought on line through
21 contributions of heavy federal subsidies. By sharing
22 the engineering experience of Yankee Row, the
23 developers, later known as Yankee Atomic Electric
24 Corporation, constructed five plants within the next
25 few years, Maine Yankee, Pilgrim, Millstone,

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1 Connecticut Yankee and Vermont Yankee.

2 Central Vermont Public Service and Green
3 Mountain Power owned controlling interest in the Yankee
4 Nuclear Power Corporation which brought Vermont Yankee
5 reactor on line in November of 1972. Of this original
6 group from the first generation of six plants, only
7 two, Pilgrim and Vermont Yankee, continue to operate.
8 Row, Maine Yankee, Connecticut Yankee and Millstone
9 were all permanently closed between 1991 and 1997 as a
10 result of comprehensive, in depth individual plant
11 examinations. These vertical slice inspections
12 uncovered so many safety and design defects that the
13 operators considered them too expensive to remedy and
14 instead opted for decommissioning.

15 It is most significant to note that, up
16 until the time these review processes were finalized,
17 management at each closed facility had considered them
18 to be excellent plants and well posed for 20 to 30 year
19 license extensions. These plant closings had
20 repercussions up here in Vermont. In 1998, Vermont
21 Yankee's owner utilities, facing raising, rising
22 operating costs, witnessing the closing of sister
23 plants and assuming the deregulation axe to fall, were
24 investigating the impact of closure and decommissioning
25 without a fully funded decommissioning reserve, as well

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1 as a looming battle to recover stranded costs through
2 rate increases.

3 Their solution was to recover their
4 shareholders' investments in the nuclear market by
5 selling the plant to the highest bidder. In 2002,
6 Entergy, a \$14 billion out of state entity with no
7 legal investment or consumer ties to Vermont, purchased
8 Vermont Yankee for close to \$200 million, a price based
9 on a very aggressive three part plan, to boost reactor
10 power to 120 percent, extend the plant's operating
11 license and to make room for added radioactive waste by
12 shifting some spent fuel to outdoor dry cask storage.

13 Today's hearings represent another small
14 anticipated hurdle for Entergy to step through on its
15 way to maximizing profits while assigning risk,
16 personal safety, environmental and financial hazards to
17 Vermonters. Despite intense lobbying from the New
18 England Coalition during the Entergy VY uprate
19 application process, Entergy, the new owners of both
20 the Vermont Yankee and Pilgrim Plants, has avoided the
21 same level of rigorous inspection of these two
22 reactors.

23 How do we explain this august discrepancy
24 that six atomic generating plants, constructed within
25 the same time frame, under the same management group,

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1 four are decommissioned, following rigorous vertical
2 slice inspections, while two, that have not been
3 evaluated in such depth, continue to operate?

4 I have two other sets of testing criteria,
5 and I'm out of time, but I'll submit this in writing.
6 The other two tests involve real time operational shut
7 down, what's called full transient testing, that's
8 never been done. NRC has accepted Entergy's program,
9 three step program, that's based upon, one, computer
10 modeling, two, testing components live time but not
11 together, not in a synergistic way and doing a sort of
12 paper modeling, and the third is to use industry
13 experience. So the question is if they want to use
14 industry experience as a criteria for not doing the
15 full tilt shut down procedure, why don't they use
16 industry experience in requiring a rigorous inspection
17 of the plant?

18 Thank you.

19 (Applause)

20 MR. KARLIN: Thank you.

21 The next person who is signed up is Sarah
22 Cotcove, I believe it is, Ms. Cotcove? And Janet
23 Schwarz is next.

24 Ms. Cotcove, please, if you would come up
25 to the mic?

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1 MS. COTCOVE: My name is Sarah Cotcove,
2 I'm on the Board of New England Coalition, but I'm
3 speaking here as an individual. I live in Guilford,
4 which is approximately seven miles from the plant.

5 A number of people have said that they are
6 grateful for the opportunity to speak here today.
7 Frankly, I'm not. New England Coalition has filed
8 numerous contentions. On April 6th, they filed three
9 contentions, which I'll summarize in a moment, these
10 contentions were rejected simply because the ASLB said
11 that they were filed late, even though they were based
12 on new information and rigor, they followed the
13 rigorous criteria of the ASLB regarding filing of
14 contentions.

15 Also, New England Coalition is operating
16 on, I guess one would call it, a shoestring budget.
17 I'm on the board, I go and check the mail because we
18 don't have office staff to check the mail, so we have
19 one pro se attorney in contrast to Entergy and the NRC,
20 Entergy has access to a firm with 900 lawyers, NRC has
21 200 attorneys or so on staff. These, whether the
22 uprate will take place or not is going to be determined
23 on the basis, we hope, of science and engineering, not
24 on the basis of the comments of citizens.

25 So when we file contentions that are based

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1 on the work of an expert witness with 45 years of
2 experience in the nuclear field, a mechanical
3 engineering and who holds a doctorate in engineering,
4 who has also worked 18 years for the NRC, that is the
5 kind of technical expertise that is required to
6 evaluate the conditions at Vermont Yankee and yet these
7 contentions were rejected solely because you people
8 said they were late. They were not rejected on their
9 merits and we think that that is, that does not make me
10 feel safe and that does not make me feel grateful for
11 an opportunity to speak here today.

12 One of these contentions, the first one,
13 is that NV has failed to provide correctly calculated
14 off-site and control room radiological consequences in
15 the event of a design basis accident under extended
16 power uprate conditions, they have used both
17 questionable models and applied erroneous assumptions.
18 NRC staff has, through incorporation in the SER,
19 erroneously accepted and approved the NV methodology of
20 predicting dose releases under the EPU conditions.

21 The second contention deals with the lack
22 of discussion in the NV application of the radiological
23 consequences at Vermont Yankee under uprate and also
24 the staff review of those consequences following the
25 failure of small lines carrying primary coolant outside

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1 of containment.

2 And the third contention deals with the
3 steam dryer under EPO conditions, that the intensity
4 and duration of dynamic loads may act upon the dryer,
5 causing it potentially to fragment and generate many
6 loose parts. And unlike the State of Vermont,
7 Mr. Sherman is referring to the steam dryer in terms of
8 reliability, we are referring to the steam dryer in
9 terms of safety because the loose parts may migrate to
10 the core region or the main steam isolation valve,
11 potentially blocking fuel flow channels and/or
12 preventing the MSIV from isolating the containment
13 following a main steam line break.

14 So these would appear, certainly to a lay
15 person, as significant safety concerns and yet they
16 were rejected because they were late. Of course the
17 hearings, as you remarked, will take place in
18 September, so it is hard to understand how contentions
19 that were filed in April will be regarded as late, when
20 the hearings are in September and we have been living
21 under the shadow of the uprate since March.

22 Thank you.

23 (Applause)

24 MR. KARLIN: Thank you.

25 Janet Schwarz is next on the list.

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1 MS. SCHWARZ: My name is Janet Schwarz, I
2 live in Brattleboro. I'm a member of the New England
3 Coalition, but I'm speaking here today as an individual
4 citizen.

5 Nuclear energy is promoted as being clean,
6 safe and cheap, but in reality, that is not true.
7 Nuclear energy is not clean, the mining and enriching
8 of uranium and the construction of nuclear reactors and
9 nuclear waste storage containers all use enormous
10 amounts of fossil fuels. In addition, transportation
11 of low level nuclear waste and the eventual
12 transportation of nuclear waste from the reactors to
13 permanent sites will depend upon the use of fossil
14 fuels.

15 Nuclear energy is not cheap. Because
16 nuclear power plants present the risk of catastrophic
17 accidents, insurance companies refuse to insure them.
18 Therefore, the U.S. Government passed the Price
19 Anderson Act which establishes a no fault insurance
20 type system for nuclear reactors. Under this plan, the
21 first \$10 billion in claims is industry funded and any
22 claims above that amount are covered by the federal
23 government. In other words, the taxpayers. Last year,
24 this act was renewed for another 20 years, to 2025.

25 In addition, in order to promote the

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1 construction of new reactors, the Bush Administration
2 has authorized help to the industry which includes
3 subsidized federal loans, tax exempt financing and tax
4 payer backed insurance of last resort. Other expenses
5 include the costs of Yucca Mountain, estimated to be
6 between \$50 and \$100 billion when finally finished, and
7 that doesn't include the high cost of transporting
8 nuclear waste to Yucca Mountain from reactors around
9 the country, if that does ever happen. Another cost,
10 mentioned yesterday, pertains to the NRC 3,000
11 employees making a salary of \$50,000, add up to \$150
12 million a year.

13 And after hearing these figures, keep in
14 mind that, in many places, renewable energy sources are
15 as cheap or significantly cheaper than nuclear energy.
16 Nuclear energy is not safe. As already mentioned,
17 insurance companies refuse to cover nuclear plants
18 because they present too high a risk but, beyond that,
19 there is no other industry that requires us to acquire
20 emergency radios, carry around potassium iodine to
21 protect our thyroid glands and to devise emergency
22 evacuation plans.

23 Vermont Yankee has been operating for 33
24 years and we still do not have an evacuation plan that
25 works, and I believe we never will because it is

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1 impossible to devise a workable plan for a nuclear
2 disaster. In addition, nuclear reactors routinely
3 release radiation into the surrounding environment and
4 accidental releases, incidents and leaks occur.
5 Uranium mining has been responsible for the largest
6 collective exposure of workers to radiation. Finally,
7 nuclear waste is a serious threat to our environment
8 and no safe solution for its disposal exists, despite
9 50 years of production.

10 A byproduct of the fission process,
11 nuclear waste is thousands of times more radioactive
12 when it comes out of the reactor than when it entered
13 as enriched uranium. By continuing to generate nuclear
14 waste, which remains radioactive and a threat to human
15 life for thousands of years, we are leaving a deadly
16 legacy to future generations. I strongly urge you to
17 refuse to approve a 20 percent uprate and license
18 extension at Vermont Yankee. Also, in light of these
19 concerns, I urge you to reinstate the contentions of
20 the New England Coalition that were dismissed on
21 procedural or technical grounds.

22 Also, we hope that the Atomic Safety and
23 Licensing Board will allow the New England Coalition to
24 take up the two contentions that were proposed by the
25 State of Vermont but which were later dropped.

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1 Thank you.

2 (Applause)

3 MR. KARLIN: Thank you.

4 Martha Cooper is next on the sign up
5 sheet.

6 MS. COOPER: Thank you. I have two items.
7 First, I understand that a review has been done of the
8 documents provided by Entergy and the NRC and that no
9 reference could be found that Entergy has taken any
10 steps to comply with the 33 U.S. Code, Section 134 of
11 the Title 401 Clean Water Act. Major projects must
12 certify water use impacts, and this is certainly a
13 major project with an impact on the Connecticut River,
14 could you please investigate this for us?

15 Secondly, I would like to speak, as a
16 citizen, a local resident, I live in Cheshire County,
17 New Hampshire and we in New Hampshire have had very
18 little ability to influence these proceedings. We
19 don't have a standing, like Vermont does, but we have
20 experienced, in the last year, two significant
21 incidents of flooding, the first, last fall, affected a
22 12 mile square area, the flooding last month affected a
23 much larger area. I've had direct experience of the
24 inadequacy of preparation for dealing with an
25 unexpected disaster like this, there is, repairs are

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1 still ongoing, affects just in Cheshire County were
2 more than \$6 million.

3 Nine months later, people are not back in
4 their homes and this is, sorry, this is tiny, this is a
5 tiny, tiny, tiny thing compared to the impact of a
6 nuclear accident of any sort. A large section of
7 Vermont and a large section of our state would be
8 uninhabitable for, I'm sorry, could be uninhabitable
9 for many lifetimes and I think that, although I would
10 hope that the general view that evacuation plans would
11 work and that damage would be minimal and places would
12 be inhabitable again, I think that that is extremely
13 unlikely and the extent to which none of us are
14 prepared for dealing with any sort of emergency makes
15 it laughable that we could ever recover.

16 I'm sorry, I didn't mean to be so
17 emotional, I apologize.

18 MR. KARLIN: That's all right. If you
19 want to stop and come back.

20 MS. COOPER: No, I just thank you for
21 listening and please consider how much more significant
22 a nuclear accident would be than just simply water and
23 please review the kind of impact that it would truly
24 have, not just the kind of impact that a paper model or
25 a computer model displays.

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1 Thank you.

2 (Applause)

3 MR. KARLIN: Thank you.

4 Alicia Moyer, please?

5 MS. MOYER: Hi. My name is Alicia Moyer,
6 I live in West Townsend and I was hoping I would be
7 next because the first thing I want to talk about is
8 related to that, what the lady before me just spoke
9 about. A man last night spoke about the human
10 consequences of the Bhopal chemical disaster in India,
11 the consequences of a catastrophic accident at Vermont
12 Yankee would be orders of magnitude worse for one
13 simple reason, you can go back to Bhopal. If Vermont
14 Yankee melts down, we can never return to live in
15 Brattleboro, Guilford, Vernon, Gill, Lydon,
16 Bernardston, Colrane, Northfield, etcetera, etcetera.

17 A nuclear accident cannot be cleaned up or
18 neutralized, the environment will be destroyed
19 virtually forever. Evacuation is a necessity and will
20 be permanent, we can't take all the creatures that
21 share this beautiful valley with us. We would risk
22 this to save Vermonters \$30 a year on their electric
23 bills at spot market prices? If we implemented
24 efficiency and reduced Vermont's energy demand by 20
25 percent, we could reduce the cost of Vermonters by

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1 replacing Vermont Yankee to \$20 a year, still using
2 spot market prices. If the Department of Public
3 Service did its job in regard to Act 61 and secured
4 long term contracts with renewable energy providers,
5 the cost would certainly be even less.

6 And then on another note, among the many
7 problems or mishaps that have occurred at Vermont
8 Yankee, I wanted to speak about one that exemplifies
9 the reason that it is so difficult to feel that the
10 plant has been given a thorough enough safety
11 evaluation and to trust those who operate and own it.
12 On June 18, 2004, there was a fire that was ultimately
13 termed inconsequential by plant officials, it was
14 referred to as an unusual event and its cause a
15 "mystery". From what I've learned, as an absolutely
16 technologically uninclined student, since then, is that
17 the fire was caused by something plant owners had known
18 about and chosen not to rectify for 15 years.

19 My understanding is that flexible joints
20 in the self-cooling electrical duct needed to be
21 replaced, at least to withstand the increase in air
22 flow in an uprate, which ultimately caused a piece of a
23 joint to be torn off. This resulted in a short and a
24 hydrogen fire inside the building and an emergency shut
25 down. If there are any details I've left out, it's

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1 because I am just a lay student. I have watched
2 friends and neighbors try desperately to inform
3 themselves of the complex technological details of
4 nuclear science in order to attempt to speak at
5 hearings and meetings, such as this, from an
6 intelligent, informed place, however much emotion has
7 motivated their studiousness.

8 In response, time and again, I see our
9 efforts to educate ourselves met with empty cajoling
10 responses. When there is such a fire in the plant, and
11 this is a picture of the fire, inconsequential.

12 MR. KARLIN: Okay.

13 MS. MOYER: Okay? It is hard to trust.
14 Related to this, when the uprate is stopped three times
15 due to acoustical vibrations and the vibrations are
16 studied by super computers in three distant locations,
17 and all we are told is that these sounds were a
18 concern, but not enough of one that plant operators
19 couldn't handle them, there again, how are we to trust?
20 As a student, I try to listen well and to learn what I
21 can, sometimes increased knowledge leads to decreased
22 fear. In this case, I'm not sure that is the case, but
23 the fear becomes laced with anger when intelligent
24 questions are responded to with simplistic, content
25 free answers.

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1 When the 20 percent extra power is not
2 even going to benefit us in this area, we are being
3 treated as mere guinea pigs. And thank you very much
4 for listening and thank you for being here.

5 (Applause)

6 MR. KARLIN: Thank you.

7 The next person to sign up is Peter
8 Diamondstone. Mr. Diamondstone?

9 MR. DIAMONDSTONE: I'm a politician. I've
10 been a candidate of a very small political party in
11 Vermont since 1970, it grew out of opposition to the
12 war in Vietnam. Since 1970, we have opposed not only,
13 we have opposed the construction of the plant. We now,
14 by consensus, since 1978, require its closing. I'm not
15 going to go into all the details of why because most of
16 that has been covered. The kind of thing that worries
17 me is that Milton Freidman did a really good rebuttal
18 of the War on Drugs in 1973, I think it was in
19 *Newsweek*, or *Time* or one of those magazines, and
20 everything he predicted came true, and I feel really
21 very unhappy about being here because I think it's all
22 going to come true again at Vernon.

23 I've developed a peculiar interest, now
24 that some surgeons think my thyroid should come out
25 because they claim it's cancerous, and doing studying

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1 on cancer issues, I have wonderful maps that I keep
2 coming across in book after book showing the
3 concentrations of cancer in areas where there are
4 nuclear power plants, as opposed to the areas where
5 there are not, but that's just a minor concern. I want
6 to focus on two things, one is the independent safety
7 assessment. I mean why? I mean here everybody is
8 complaining about safety issues and the nuclear power
9 industry doesn't want the assessment. I mean why?

10 You could make us all as calm and quiet,
11 nobody would show up to these hearings, if there was an
12 independent safety assessment, but nobody wants to deal
13 with the fears, and nobody really wants, in the
14 industry and the NRC, the independent safety
15 assessment. That makes me feel really more
16 uncomfortable than the cancer issue because if you
17 don't want an independent safety inspection, it must be
18 because you know there is something wrong.

19 The other one that bothers me is
20 evacuation plans. You know, when I was a kid growing
21 up, we went to school and, every once in a while, they
22 would pull a surprise air raid drill or a fire drill,
23 so we learned to go through the routines of evacuating
24 the high school, or the grammar school or whatever
25 school I was in. And here I am in Brattleboro, Vermont

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1 and to me it seems absolutely imperative that we have a
2 few surprise air raid drills like, not emptying one
3 building or another building, but how about 3:00 in the
4 morning on Sunday morning? How is this evacuation plan
5 going to work at 3:00 in the morning on Sunday morning,
6 unless we have practiced?

7 This is not something you can do on paper
8 and then be sure it's going to work, we need practice
9 at it, and it's 3:00 in the morning, it's not when the
10 kids are in school, although that too, we should
11 probably have some of those too. But how are we going
12 to, at 3:00 in the morning, get the people out of the
13 hospitals, and the nursing homes and all the rest of
14 that? So I'm just saying that I would like to see two
15 things, the independent safety assessment and a
16 requirement, a requirement that we go through surprise
17 evacuation procedures without notice to the community
18 that they are going to happen so that we can practice
19 responding to those emergencies. We need that practice
20 to restore our confidence in this system.

21 Thank you.

22 (Applause)

23 MR. KARLIN: Thank you.

24 The next person to sign up is Sunny Shaw.

25 I'm sorry Sally Shaw. Ms. Shaw?

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1 Well we'll, Gary Sachs. Mr. Sachs, do you
2 want to go first, if you are here? Okay, I'll wait a
3 sec.

4 Ms. Shaw, you are up.

5 MS. SHAW: I just wanted to share with you
6 a larger version of the picture Ms. Moyer presented, I
7 don't know if you've seen this before. The light is
8 not very good.

9 MR. KARLIN: Okay. Marcia, could you
10 bring that up here so that we could see it? It's hard
11 to see, with the lighting the way it is.

12 MS. SHAW: This was the inconsequential
13 fire. A picture is worth a thousand words.

14 MR. BARATTA: Are you submitting that as
15 evidence or do you want to keep that?

16 MS. SHAW: I would kind of like to keep
17 it, it was expensive to make.

18 MR. BARATTA: Right, right, obviously.

19 MS. SHAW: I have a smaller one I can give
20 you for evidence, if you would like.

21 MR. KARLIN: If you want to submit it.

22 MR. BARATTA: Yes, would you submit it in
23 writing, you know, with a limited appearance statement,
24 a written--

25 MS. SHAW: Sure, then I can mail it to the

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1 address that was on your notice.

2 MR. BARATTA: Thank you.

3 MS. SHAW: Last night I spoke and I
4 appreciate the opportunity to again. Last night, I
5 tried to appeal to your scientific side. Just to make
6 sure, I mean I don't know if you review the entire
7 record of incidents and events at Vermont Yankee or at
8 all of the reactors that you have oversight of, but
9 just I wanted it to be on the record that there were t
10 hat many occurrences of problems at the plant within a
11 few short years of when Entergy purchased it.

12 Today, I want to appeal to your human
13 side, and you've had to listen to a lot of people
14 stumble through fairly technical testimony about things
15 that we know very little on, and this is sort of like
16 if you look at the constellations in the sky, some of
17 them are easier to see if you don't look directly at
18 them, like the Pliates, so I want to share this poem
19 with you, it's by Mary Oliver, *The Lamb*.

20 I did not know that in the world there
21 lurked various death, fangs, and fruits and falling
22 trees, mushrooms and arriving mud. I did not know that
23 in the world grew sinister berries and dubious roots, I
24 was young and quick, I was wary of none of these. I
25 drank black water and clattered through caves, I was a

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1 creature of the shepherd and this was my game. All day
2 long I sipped and I nibbled shoots from glistening
3 trees, tart berries for the sake of their shining
4 husks, garlands that fostered a bane under their bright
5 petals, pools with fevers in their dark mirrors, I
6 found and drank from every one.

7 And not until I law swelled and cracked on
8 the grass did I guess what I had eaten, not until I lay
9 with crumbling hooves kicking the grass did I guess
10 what I had done. My shepherd and my flock called for
11 me down the dusky fields, but childhood had no potion
12 that could lave over this fever, and they called and
13 they called in vein.

14 Thank you.

15 (Applause)

16 MR. KARLIN: Thank you.

17 Mr. Sachs, Gary Sachs?

18 MR. SACHS: I felt like walking down here
19 with my pants pulled down to my ankles because that's
20 kind of like how it feels speaking before you guys,
21 like we are sort of like, literally, you are the ones
22 with the power, we are the ones walking with our pants
23 down and you just turn around and do what you want.

24 Okay, thank you very much for letting me
25 speak today. Nothing fancy to say. I don't know if

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1 you have heard much about this, if anybody has raised
2 this issue, I want to speak about the unquantified
3 impacts of the uprate, i.e. the low level waste.

4 Down at Vermont Yankee, I think it's the
5 South Field, no one knows how much low level waste
6 Entergy plans on putting in the spray zone, which is
7 within the cooling towers. That's an unknown, it's
8 just, it's a quantity greater than zero, it's a
9 quantity that increases as a result of the uprate,
10 unquantified. It's not a question of whether Entergy
11 is exceeding the NRC limits, it's more a question of
12 the quantity of impact on the environment. Now I've
13 looked at the original licensing agreements back from
14 1967 and I know that when this plant closes, it's to e
15 brought back to a condition known as green field. You
16 gentlemen, I'm sure, are aware of that, green field.

17 To me, this whole issue is one of the
18 quality assurance and quality control, and I bring up
19 this unquantified impacts of the uprate because I guess
20 I've seen, I don't know if I would call it a habit but
21 a practice of Entergy of seeking a federal bailout. I
22 sat before the Vermont State Nuclear Advisory Panel
23 back in October of 2004 and three times the
24 commissioner of that panel turned to Dave McKelby, the
25 senior liaison officer for Entergy, and said, Dave,

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1 Entergy likely will be long gone by the time these,
2 this was on the dry cask issue, excuse me, by the time
3 these dry casks have to be swapped out, they have a
4 lifetime of 100 years, dry cask storage, who do you
5 think will be taking care of swapping out these casks
6 in 100 years?

7 Three times Mr. McKelby responded the
8 federal government. To me, that's a relationship with
9 the environment that's an unquantifiable issue or it
10 should be a quantifiable issue that is unaccounted for.
11 Today, Entergy is seeking a federal bailout, \$750,000
12 of community block grants, for New Orleans. That's
13 Entergy, that's the company, that's after they sought
14 the federal bailouts just after the New Orleans issue.
15 Regarding the fire in 2004 in the transformer bus bars
16 or generator bus bars, basically it sent electrical
17 charges through the, there was a small fire inside as
18 well that basically sent an electrical charge
19 throughout the reactor.

20 There were 30 foot high flames. There
21 were federal notices to repair or there were GE notices
22 to repair that part of the reactor for about 14 years
23 prior to that fire, both VY and Entergy knew it, that's
24 why Entergy took full responsibility for the fact that
25 that fire occurred. But apparently in Entergy's \$60

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1 million plus eager investment in the uprate, they chose
2 to disregard the 14 years of repair notices, they chose
3 that lack of maintenance in favor of doing the uprate
4 related issues and, to me, those all signify a lack of
5 quality assurance and quality control, and those are
6 our neighbors.

7 Thank you.

8 MR. KARLIN: Thank you, Mr Shaw. I'm
9 sorry, Mr. Sachs, sorry.

10 (Applause)

11 MR. KARLIN: Next speaker is Mary Alice
12 Herbert.

13 MS. HERBERT: Thank you. I've lived in
14 Putney, Vermont, which is north of here, since 1966.
15 And I've seen how people have worried about, first of
16 all, when the plant was built, and all through its
17 operation. This has been something that people in this
18 area feel was visited on us from people who don't live
19 around here and I think there is an awful, a great deal
20 of concern. We wonder why on earth if you are going to
21 put a plant, like, for example, we use the old car, the
22 vintage car model example. If you were going to start
23 running a vintage car at a higher rate of speed, you
24 would do, you just probably would not do it.

25 And so we wonder why on earth there has

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1 not been an independent safety assessment done at
2 Vermont Yankee before this uprate began. People are
3 very concerned. I belong to the New England Coalition,
4 the Citizens Awareness Network and Nuclear Free Vermont
5 and, as part of being in the Citizens Awareness
6 Network, I felt moved to go to Entergy headquarters,
7 back in January when it was cold and freezing, and got
8 arrested for being there. Our group was trying to
9 deliver a letter to Entergy inviting them to change
10 from nuclear power and, instead of continuing with an,
11 instead of asking for a license extension to become a
12 green corporation, to change to renewable energy
13 because we love the Green Mountain State and we feel as
14 though nuclear power is just out of character.

15 We have wonderful scenery here, we have
16 pure Vermont products. One nuclear accident and all
17 that would be gone. We just, we've done, there has
18 been research done which has shown that the energy that
19 we get from Vermont Yankee could be replaced by
20 conservation. If money were, if that amount of money
21 were given to Efficiency Vermont, we could, through
22 efficiency and green energy, we could create more jobs
23 than Vermont Yankee provides.

24 After getting arrested, I decided I wasn't
25 going to do that anymore, so the next Thursday I

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1 started having a green energy vigil, every Thursday
2 afternoon from 4:00 to 5:00 in front of the Wells
3 Fountain in Downtown Brattleboro.

4 And that's been a pretty good gauge of
5 public support for Yankee shutting down on schedule in
6 2012. The signs that we put out reflect what's going
7 on, the signs that say we can replace Vermont Yankee
8 with renewable energy and conservation. After there
9 were three fires in three years, I made a sign that
10 said three fires in three years is three fires too
11 many. Our sign that calls for an, that asks whether
12 Vermont Yankee could pass an independent safety
13 assessment gets lots of honks and waves.

14 And sometimes when we are standing there,
15 during that hour, we count how many positive responses
16 we get, how many thumbs up, how many people say thank
17 you for being out there, the waves and victory signs,
18 compared to thumbs down or the catcalls we get, and
19 it's 12-15 to 1. So I think we are a good kind of
20 public opinion poll standing out there and we plan to
21 keep that vigil going until, we have signs, nuclear
22 free Vermont in 2012, and we plan to be out there until
23 Entergy decides to close that plant down on schedule in
24 2012.

25 Thank you.

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1 And I would like to invite anybody in the
2 audience to come join us from 4:00 to 5:00 any
3 Thursday.

4 Thank you.

5 (Applause)

6 MR. KARLIN: Thank you.

7 I'm going to try to call one more time
8 Robert Saffway? Did he show up? He signed up, someone
9 indicated he had left. I think I've got that wrong,
10 but I guess not.

11 With that, we have concluded our meeting
12 and our three, our series of three meetings. Everyone
13 who has signed up has had a chance to speak, some a
14 couple times. I appreciate all of you coming here. We
15 will take this information into consideration, we will
16 have a transcript. If you want to submit something in
17 writing, limited appearance statements, you may. With
18 that, this meeting is adjourned, thank you.

19 Oh, were you signed up before? Oh, okay,
20 I'm sorry. It doesn't seem to be here, but, please.
21 Your name is?

22 MS. FRANK: Shawna Frank.

23 MR. KARLIN: Frank, okay. Shawna Frank.

24 MS. FRANK: I'm at the top of the page. I
25 wasn't sure if I would be prepared to speak, but I

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1 would like to speak, thank you. Gentleman and ladies,
2 I'm pleased that you are here to hear our testimony,
3 I'm reflecting on the wide range of types of comments
4 you've received from highly technical to highly
5 emotional and I believe that the decision that you are
6 faced with needs to incorporate all different points
7 of, all different aspects of the question.

8 Personally, I would like to remind you to
9 take a long view of what's at stake here. The uranium
10 mining has a life cycle of its own, as you know, from
11 the milling of the uranium, that has caused countless
12 deaths in Native Americans who are faced with breathing
13 the yellow cake and their children who play in it not
14 knowing the dangers, everything from that to the fact
15 that there is no answer for the storage of the waste.
16 And regarding the uprate specifically, I urge you to
17 take into consideration all the contentions that have
18 been brought forward, the ones that received merit by
19 the state, but although the state is not continuing
20 with that, they certainly deserve your attention, as
21 well as the ones, that were mentioned today, that were
22 submitted at a later date.

23 The uprate itself, if we look at it, is a
24 matter of a corporation looking to increase its
25 profits. Their bottom line is how much money can they

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1 pay their investors and keep their jobs? Our bottom
2 line is the safety of our friends, our neighbors and
3 this planet in general. Radioactive leaks don't stay
4 within a ten mile radius, in fact they travel around
5 the whole atmosphere, as seen in Chernoble and the
6 radiation that was found in plants in North America and
7 throughout Europe. So, while there is a great risk for
8 the radiation, we also appreciate that you are looking
9 into the safety of the matter.

10 One of the nuclear engineers who has
11 testified on behalf of the New England Coalition says
12 he is not anti nuclear, he is pro safe nuclear and that
13 the Navy, not today but in other settings, uses far
14 more stringent standards when they operate their
15 nuclear power subs than they do in the public sector,
16 in the nuclear power stations that are used
17 commercially. And so while I personally believe that
18 there are much better alternatives, renewable energy,
19 which is free and safe, the sun is not going to go
20 away, if there were to be nuclear energy, we need the
21 independent safety assessment to determine if this
22 particular plant, from top to bottom, from its design,
23 its construction, its operation, its maintenance, all
24 facets of this are safe, as safe as humanly can be made
25 possible.

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1 And also to remember that not only does
2 Entergy want the uprate, they want the uprate because
3 then they can, it's more profitable to extend the
4 license and I, along with many, many people, believe
5 that the license should be not continued and, even
6 though that's not part of what you are addressing, it
7 is tied directly to the uprate.

8 So I appreciate you taking the time to
9 consider all aspects of the uprate, all the contentions
10 and to make your decision wisely.

11 Thank you.

12 (Applause)

13 MR. KARLIN: Thank you. And thank you to
14 everyone who has come out today, and this morning and
15 last night. Again, we'll take this into consideration.
16 Has anyone else signed up who has not, I haven't called
17 their name? Okay, I didn't think so. Well, with that,
18 we are going to adjourn.

19 This board will be back, we are planning
20 to be back here in the week of September 11th for the
21 evidentiary hearing, that will be a time, and we
22 haven't set the exact time and dates yet, but we have
23 that week reserved, as well as a week in October, and
24 that would be a time when we will have the parties, the
25 litigants, the people who have actually filed in this

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1 adjudicatory hearing, the New England Coalition, the
2 NRC staff and Entergy, lawyers and Mr. Shatus, who is
3 the pro se representative of NEC will be there, and
4 perhaps some of their witnesses. And we'll ask them
5 questions and this will be a more formal evidentiary
6 proceeding in the Newfane Courtroom up there, that's
7 the only place we could get to be available.

8 I know it's up the road a little bit and
9 so we'll have it there, so we will be back at that time
10 and what we will do is take what we have heard here and
11 think about it in terms of how it relates with our
12 jurisdiction, and the contentions and the uprate issues
13 and see if there is questions we want to ask, that
14 maybe are supplemental, based upon what we've seen here
15 and the transcript that we'll read. Yes?

16 MR. DIAMONDSTONE: Is that hearing going
17 to exclude the consideration of those contentions that
18 were claimed but not being considered because they were
19 filed late?

20 MR. KARLIN: It will only consider the
21 contentions that have been admitted, yes, that's right.
22 If new content, there is one contention that's pending
23 right now, that is filed, so that's, we still haven't
24 issued a ruling on that. Well the regulation, Judge
25 Rubenstein is deciding the regulation, 2.206 is another

1 process but, okay, only the contentions that have been
2 admitted into the proceeding will be covered in that
3 hearing, yes.

4 Okay, we are now adjourned, thank you all
5 for coming out.

6 (Whereupon, at 3:13 p.m., the session
7 was adjourned.)

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CERTIFICATE

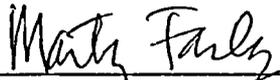
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Entergy Nuclear Vermont
Yankee, LLC and Entergy
Nuclear Operations, Inc.
Limited Appearances

Docket Number: 50-271-OLA and
ASLBP No.04-832-02-OLA

Location: Brattleboro, VT

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



Marty Farley
Official Reporter
Neal R. Gross & Co., Inc.

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