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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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IN THE MATTER OF: : Docket No. 52-008-ESP
DOMINION NUCLEAR : ASLBP No. 04-822-02-ESP
NORTH ANNA LLC :

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Nuclear Regulatory Commission

3rd Floor Hearing Room

11545 Rockville Pike

Rockville, Maryland

Thursday, December 14, 2006

10:00 a.m.

BEFORE:

ALEX S. KARLIN, Chair, Administrative Judge

THOMAS ELLEMAN, Administrative Judge

RICHARD F. COLE, Administrative Judge

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

(9:58 a.m.)

1
2
3 ADMIN. JUDGE KARLIN: Good morning. My
4 name is Alex Karlin. I'm the chairman of the Atomic
5 Safety and Licensing Board for the matter of -- and
6 we're on the record now, Mr. Court Reporter.
7 Hopefully you've got that. In the matter of Dominion
8 Nuclear North Anna LLC. It's an early site permit
9 proceeding, and it's docket number 52-008-ESP, ASLBP
10 Number 04-822-02-ESP.

11 I want to welcome everyone to the pre-
12 hearing conference this morning and thank you for
13 coming in person in lieu of a conference call. We
14 thought it might be useful to all just sort of get
15 together and talk about the process and the planning
16 for the uncontested mandatory hearing that we are
17 going to conduct in this matter.

18 Before we proceed, I would just introduce
19 the members of the board. I'm Alex Karlin, as I said,
20 the legal judge and chairperson of this board. To my
21 right is Dr. Elleman. To my left is Dr. Cole, and our
22 law clerk and lawyer who is assisting us in this
23 matter is Megan Parrish, to my left here.

24 Probably good if the parties could
25 introduce themselves at this juncture. Let's start

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1 with Dominion, please. Mr. Lewis, good morning.

2 MR. LEWIS: Good morning, Judge Karlin.
3 My name is David Lewis. I'm with the law firm of
4 Pillsbury Winthrop Shaw Pittman. With me is Robert
5 Haemer, and we are representing Dominion Nuclear North
6 Anna. In the audience, also, is Lillian Cuoco, who is
7 the senior counsel for Dominion, who is responsible
8 for nuclear matters and a number of other individuals,
9 if you'd like me to introduce them.

10 ADMIN. JUDGE KARLIN: No, that's probably
11 unnecessary, but welcome to everyone. Welcome. Glad
12 you could make it. Staff, please? Mr. Weisman?

13 MR. WEISMAN: Good morning, Judge Karlin.

14 ADMIN. JUDGE KARLIN: Good morning.

15 MR. WEISMAN: I'm Robert Weisman for the
16 NRC staff. With me at counsel table are Brooke Poole
17 and Patrick Moulding. Mr. Moulding will speak to the
18 order of procedure, and Ms. Poole will speak to the
19 scheduling.

20 ADMIN. JUDGE KARLIN: Great, thank you.
21 Welcome, good morning. The purpose of our get
22 together here today is essentially defined or outlined
23 briefly in our order of November -- I'm sorry -- no,
24 November 17th, and that is really to discuss the
25 conduct and the timing of the mandatory hearing and

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1 limited appearance statement sessions, and it's -- I
2 think we contemplate this as a nature, as I said, of
3 a planning session, to achieve -- discharge our
4 responsibility to conduct the mandatory hearing and
5 make the appropriate decisions and finding and do this
6 in a fair and efficient way.

7 I think it's worth, before we start,
8 recounting a little bit of what we see as a relevant
9 history of this proceeding and our responsibility at
10 this juncture. We had our last pre-hearing conference
11 call back in September. At that time, this was still
12 a contested proceeding. Blue Ridge Environmental
13 Defense League and other groups were interveners and
14 had a contention in play.

15 We ruled verbally at that time and in
16 writing on October 24th that that contention -- we
17 granted the motion for summary disposition by Dominion
18 on that matter, and that was the sole remaining
19 contention, so now we are turning to an uncontested
20 proceeding approach, and what we will all probably
21 refer to many times as the mandatory hearing
22 requirement of section 189A of the Atomic Energy Act.

23 So, we ask you all to submit some
24 calendars and some locations for ideas of how we
25 conduct the mandatory hearing in our November 17th

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1 order, and on the 8th of December, you submitted
2 those, and I appreciate that. That was helpful.

3 In addition, the staff has been working
4 away, and has issued on November 15th, I guess it was,
5 a letter saying that NUREG 1835, supplement 1 was
6 finished, and we got a copy of that, and that's very
7 helpful. You also have indicated to us previously
8 that you expect to issue the supplemental final
9 environmental impact statement on December 29th, 2006.

10 I just want to double-check. Are you
11 still on schedule, or any changes to that?

12 MS. POOLE: As it happens, the staff
13 intends to deliver the FEIS to EPA tomorrow. That
14 would be the 15th, and the notice of availability
15 should be published in the federal register on
16 December 22nd, so that would put us about a week
17 ahead.

18 ADMIN. JUDGE KARLIN: Okay, great. And we
19 will get a hard copy of that at what point, basically?

20 MS. POOLE: Tomorrow. We will provide it
21 tomorrow.

22 ADMIN. JUDGE KARLIN: Okay.

23 MS. POOLE: And if you would like CDs, we
24 would also provide those if you would --

25 ADMIN. JUDGE KARLIN: Yes --

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1 MS. POOLE: -- like that electronically.

2 ADMIN. JUDGE KARLIN: -- I think that
3 would be helpful if we could have both a hard copy and
4 CDs, great.

5 MS. POOLE: All right.

6 ADMIN. JUDGE KARLIN: Good. Well, that's
7 ahead of schedule. Thanks for that data point. Okay.
8 We want to then turn basically -- so that's a brief
9 history of where we are. Our responsibilities. What
10 do we think we need to do in this mandatory hearing
11 process.

12 I'm going to talk a little bit about that,
13 and then what we'd like to do is ask each of you to
14 speak to the mandatory hearing process, and I know Mr.
15 Lewis, for example, back in September, on our pre-
16 hearing conference call, suggested that they had some
17 ideas, he had some ideas about how we might approach
18 this, and I expect, hopefully, you'll be able to give
19 us some of that today too.

20 But anyway, our take is that, you know,
21 the laws and the regulations establish our
22 responsibilities, and those come primarily from 51-
23 105, which is the NEPA requirements, and 52-21, I
24 think it is, which is the safety requirements. I
25 really don't see 2.104B as the primary source of our

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1 duties. That's essentially a reg which lays out what
2 the notice is supposed to say. Our duties come from
3 more fundamental requirements, and we are going to try
4 to approach it that way.

5 Obviously, we have the federal register
6 that was issued back in December, I think, of 2003,
7 and we will focus on that. The commission answered
8 certified questions that we in the other boards posed
9 back -- and they answered that in July of 2005. We
10 have obviously read that. We're going to pay
11 attention to those instructions.

12 We also take lessons from the commission's
13 ruling of July of 2006, where they were instructing
14 the Clinton and the Grand Gulf boards, and I think we
15 are going to try to learn from that and do something
16 that follows the commission's approach.

17 Most specifically, the commission
18 indicated, for example, that they expected and wanted
19 boards to try to issue their mandatory initial
20 decisions in an uncontested proceeding within six
21 months of the issuance of the FSER and the FEIS. We
22 take that to heart and are going to try to reach that
23 goal, which means basically June. June 30th, June
24 15th, something like that.

25 We would like to be issuing -- have our

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1 initial decision issued by then. That's what we're
2 going to try to do. With your help, maybe we can do
3 that. We're all going to have to work pretty hard,
4 but I think we can do that.

5 We also are going to look to the Appendix
6 A to part B that was deleted in 2004. The
7 commission's ruling and last -- just this last I guess
8 it was 2005, said that that is still an authoritative
9 source of instruction on at least some matters, and so
10 we think that's a source of understanding our
11 responsibilities here.

12 And as I said before, we are going to
13 learn from the Grand Gulf board and the Clinton board
14 we've studied, and we are studying how they are
15 approaching it, and we think that's a useful example,
16 and maybe we can even build upon and, you know, be
17 more efficient based upon what we've seen them do.

18 All that said, our agenda is really pretty
19 simple. We would like to talk about, ask you all to
20 speak to, and then us, all of us, perhaps talk about
21 three main things. One, the process. What do we see
22 is the appropriate and best process for discharging
23 our responsibilities to make the decisions on these
24 sort of six issues which are posed in our Appendix A
25 to our order of November 17th.

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1 So, what's the process? Where's the
2 location? And what's the schedule? So that we can
3 then take what we've heard, cogitate on it, and then
4 issue some order which will, you know, establish a
5 plan for us to discharge those responsibilities.

6 Now, those are the three action items.
7 Process, location, calendar. Anything else that
8 either of you parties think that we should discuss or
9 want to add to that agenda today?

10 MR. LEWIS: No, Judge Karlin.

11 ADMIN. JUDGE KARLIN: Okay, great. With
12 that, why don't we turn to process. We -- I guess I
13 would like to hear from Dominion first. If your
14 suggestions, ideas, any suggestions you have in terms
15 of the best process, the most appropriate process for
16 the mandatory hearing on on contested proceeding.

17 Have you -- I don't know whether any -- if
18 any of you recall, but I know you've thought about
19 this, so perhaps you can give us some ideas.

20 MR. LEWIS: We have thought about it, and
21 Dominion has also spoken with counsel for the NRC
22 staff to try and share ideas, and hopefully we can --

23 ADMIN. JUDGE KARLIN: Good, good.

24 MR. LEWIS: -- here at presentation. And
25 actually, the NRC staff has now been through this

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1 twice. I'm still the neophyte, so they have, perhaps,
2 some more informant views, but my view has always been
3 that, as the commission said in its initial decision
4 on how these proceedings should be conducted, that the
5 board could rely on the uncontested testimony of the
6 parties.

7 I'm not suggesting for a second that's all
8 the board should do, but I think that the primary
9 vehicle for presenting to the board the information
10 that the board needs to make its decision is the
11 testimony from both the applicant and the staff.

12 And my view is that Dominion would present
13 its application in testimony, provide it as an
14 exhibit, and sponsor it, and provide a piece of
15 testimony that essentially indicates that we looked at
16 what we were meant to look at under the rules, and we
17 applied the NRC standards and guidance and followed
18 the standard view plan, and what we conclude in our
19 application was consistent with the standards for
20 issuance of the ESP, and that the staff would provide
21 a similar piece of testimony that presented their SER
22 and FEIS and similarly provided a piece of testimony
23 at a fairly high level but indicating that the staff
24 looked at what it needed to look at and had a probing
25 process for checking the information and asking

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1 questions and getting public input and then reached
2 its decisions.

3 So that I would propose would be the
4 primary means of providing the board with what it
5 needs to know. I think that the additional piece that
6 both the staff and applicant needs is some input from
7 the board on are there specific areas where the board
8 would like more in-depth testimony, or are there
9 specific areas where the board wants a particular
10 subject matter expert to be able to ask questions.

11 And my thinking in talking with the staff
12 is that if we could have a pre-hearing conference,
13 another one a little while later after the board has
14 had a chance to look at the staff review documents,
15 where the board can signal whether it has particular
16 areas or questions and perhaps at a pre-hearing
17 conference, we can then understand those questions and
18 simply roll the answers into our testimony.

19 I would like to avoid the sort of multiple
20 iterations that I saw in some of the other ESP
21 proceedings. They seem to have a lot of pleadings,
22 and I think if we're going to meet the six-month
23 schedule, we can't submit briefs and proposed findings
24 and answers to questions in testimony and have six
25 months before we even start the proceeding, so it

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1 seemed to me, talking with the staff, that if we
2 understand that we are presenting initial testimony
3 and if some time before that testimony is due, we can
4 have a further pre-hearing conference, what the board
5 says here is the areas where we are really interested
6 in you providing more specific discussion, we could
7 then roll it into the testimony and present it all at
8 the hearing.

9 ADMIN. JUDGE KARLIN: Okay. Any
10 questions?

11 ADMIN. JUDGE ELLEMAN: What length of time
12 would you think would be appropriate to make the
13 presentation that you've outlined?

14 MR. LEWIS: To present the testimony?

15 ADMIN. JUDGE ELLEMAN: To present your
16 overview of the application that you wanted to give to
17 us.

18 MR. LEWIS: The testimony would be pre-
19 filed. I'm not a believer in reading pre-filed
20 testimony, repeating it. If it's good pre-filed
21 testimony as presented, I think the pre-filed
22 testimony should be pre-filed and submitted to the
23 board probably at least two weeks before the mandatory
24 hearing so the board has time to digest it and think
25 of its questions, and if there is anything else that

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1 comes up, there is time for the parties to react.

2 I think the actual hearing itself is
3 probably a week process and maybe less. It really
4 depends on how many questions the board has and how
5 good a job the applicant and staff does at answering
6 the questions in the first place, but I would see the
7 hearing as somewhere within a week.

8 ADMIN. JUDGE KARLIN: Okay. That's
9 helpful. Thank you. Mr. Weisman, Ms. Poole, who is
10 going to address this one?

11 MR. WEISMAN: Mr. Moulding.

12 ADMIN. JUDGE KARLIN: Okay, sorry, sorry.
13 Mr. Moulding.

14 MR. MOULDING: Good morning.

15 ADMIN. JUDGE KARLIN: Good morning.

16 MR. MOULDING: I guess we can just pick up
17 from where Mr. Lewis left off. I think we generally
18 agree with the --

19 COURT REPORTER: Is your mic on?

20 MR. MOULDING: It should be. Should I
21 speak --

22 COURT REPORTER: That's helpful, yes.
23 Thank you.

24 MR. MOULDING: Okay, sorry. I think we
25 can just pick up from where Mr. Lewis left off. He

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1 discussed the overall purpose in a way that I think we
2 agree with. I think we talked, when we talked with
3 Mr. Lewis, we spoke a little bit in more specifics
4 about some of the steps that the process might take,
5 and so I will just provide a little bit more detail on
6 how we see the stages progressing.

7 I guess, as a starting point, we agree
8 that the application and the staff's FSER and FEIS
9 should be the starting point for the board's review,
10 and so we think of that as sort of the first stage of
11 the mandatory hearing process, and I guess that's
12 already begun, and we'll be able to continue when the
13 EIS is issued.

14 And proceeding from that point, once the
15 board has completed its review of those two documents,
16 we would see the board issuing a set of written
17 questions on each of the issues, environmental and
18 safety, and include both legal and technical questions
19 in those questions.

20 And as Mr. Lewis mentioned, maybe two or
21 three weeks after those questions are issued, we would
22 like to see a pre-hearing conference, and the purpose
23 of that pre-hearing conference would be first and
24 foremost to make sure that we understand the board's
25 questions and understand how we can best address them.

1 The pre-hearing conference would primarily
2 be conducted with counsel and the board. Technical
3 witnesses would be present to consult with counsel,
4 but the primary purpose of the pre-hearing conference
5 would be just to confirm our understanding of the
6 board's questions and make sure we understand how you
7 would want those addressed in the written form.

8 DR. COLE: Is it two to three weeks after
9 you have received the questions?

10 MR. MOULDING: Yes. That would give us
11 sufficient time to review the questions and begin
12 preparing our responses. So we would be coming into
13 the pre-hearing conference with an idea of how to
14 respond to the board's questions, but we want to make
15 sure that when we present the final written responses,
16 we are clear about what the board is concerned about
17 with both the legal and the technical questions.

18 ADMIN. JUDGE KARLIN: Okay.

19 MR. MOULDING: So, proceeding from there,
20 approximately one month after the -- well, I guess I
21 should mention also, if the board would prefer to
22 stagger issuing safety and environmental questions, if
23 the board believes that would be more expeditious --

24 ADMIN. JUDGE KARLIN: Yes, that's
25 possible.

1 MR. MOULDING: -- the staff would be able
2 to support two pre-hearing conferences, one safety and
3 one environmental. But if the board would prefer to
4 issue a single set of questions, the pre-hearing
5 conference could address both safety and environmental
6 issues. Whatever the board thinks would be most
7 efficient.

8 ADMIN. JUDGE KARLIN: Okay, yes.

9 MR. MOULDING: Approximately one month
10 after the pre-hearing conference or pre-hearing
11 conferences, both the staff and the applicant would
12 submit their formal written responses to the board,
13 and as Mr. Lewis mentioned, at that time, I think the
14 parties would want to submit, along with the responses
15 to the specific questions, a fairly general piece of
16 testimony addressing at a very general level how the
17 board's six required findings have been addressed by
18 the written record.

19 And I think at that time, we would also
20 use that general piece of testimony to sponsor the EIS
21 and SER in application into the evidentiary record.

22 ADMIN. JUDGE KARLIN: Let me ask on that
23 step, this goes along with what Mr. Lewis was saying,
24 we pose questions, and the parties answer those
25 questions, and in addition, the parties present pre-

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1 filed written testimony. Should the answers to the
2 questions be -- are they going to be in the record in
3 the sense of testimony or exhibits?

4 How are they in the record? Should they
5 be answered under oath in the same way pre-filed
6 written testimony would be?

7 MR. MOULDING: Yes, that would be the
8 staff's position --

9 ADMIN. JUDGE KARLIN: Okay.

10 MR. MOULDING: -- that we would submit it
11 either by sworn affidavit and as pre-filed direct
12 testimony.

13 ADMIN. JUDGE KARLIN: Because I think the
14 other boards have, you know, had written questions in
15 the nature of kind of interrogatories, and then there
16 has been, at least in the Grand Gulf pre-filed written
17 testimony, which that was under oath, but I'm not sure
18 whether the answers to the questions were.

19 MR. MOULDING: No, the questions were not
20 submitted under oath.

21 ADMIN. JUDGE KARLIN: Yes.

22 MR. MOULDING: But our intention would be
23 to submit the full set of --

24 ADMIN. JUDGE KARLIN: Yes, we want to make
25 sure we've got the record right here on what we're

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1 deciding, and it seems like it's got to be in the
2 record in order for it to be a basis for our decision.

3 MR. MOULDING: Okay, we agree.

4 ADMIN. JUDGE KARLIN: Please continue.

5 MR. MOULDING: And again, at that time
6 that we would submit the pre-filed testimony and all
7 the written responses, we would anticipate that coming
8 approximately ten business days, two weeks, before a
9 scheduled formal hearing date, and the idea behind
10 submitting all of the written responses under oath,
11 including sponsoring the EIS and SER and the
12 testimony, would be that if the board was satisfied
13 with the written responses, the board could choose to
14 issue its decision based on the written record.

15 However, after reading the submissions, if
16 the board determined that there were further questions
17 regarding the submitted responses or other questions,
18 the staff could inform the parties approximately one
19 week before the scheduled hearing date about generally
20 what those issues would be and which technical
21 witnesses they would like to have available for
22 further questioning.

23 And then counsel and the applicable
24 technical witnesses would appear at the pre-set
25 hearing date, and they would sponsor the written

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1 responses and respond to any board questions to
2 supplement and clarify the record at that time.

3 ADMIN. JUDGE KARLIN: Right, so that there
4 would be, perhaps, questions that we would pose,
5 answers that would be provided in writing, and perhaps
6 as part of pre-filed written testimony or in addition
7 to pre-filed written testimony, and then we would
8 decide -- the board would need to decide whether we
9 needed to have a hearing or live testimony on any of
10 those issues.

11 It may be just a subset of those questions
12 that would warrant the hearing or that we would want
13 to have the hearing on.

14 MR. MOULDING: Yes, Your Honor, and --

15 ADMIN. JUDGE KARLIN: Right, so there is
16 a step in there, right.

17 MR. MOULDING: -- we would -- but we would
18 schedule a firm hearing date, so that depending on
19 what the board's reading of the written responses was,
20 we would be prepared --

21 ADMIN. JUDGE KARLIN: Right.

22 MR. MOULDING: -- to appear in person and
23 answer any remaining questions.

24 ADMIN. JUDGE KARLIN: Okay. Good, good.
25 That's helpful. Any questions?

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1 ADMIN. JUDGE ELLEMAN: Not on that, no.

2 ADMIN. JUDGE KARLIN: Okay. Yes, proposed
3 findings and fact and conclusions of law. We would
4 expect that would be something that would come soon
5 after the actual hearing. But we would think that
6 that would be appropriate and helpful to us to have.
7 You might even start on that at an earlier step, and
8 as we narrow down the funnel of what questions we
9 actually have at the hearing, you can narrow down
10 those areas that you have to leave open until after
11 the hearing, before you give those proposed findings
12 of fact and conclusions.

13 MR. MOULDING: Yes, Your Honor, I think we
14 would anticipate that the basis for the proposed
15 findings would be similar to that general piece of
16 testimony submitted with the written --

17 ADMIN. JUDGE KARLIN: Right.

18 MR. MOULDING: -- written submissions, but
19 then it would be supplemented by any questions that
20 were addressed at a live hearing or other issues
21 identified by the board.

22 ADMIN. JUDGE KARLIN: Right.

23 ADMIN. JUDGE ELLEMAN: Neither of you have
24 spoken to the limited appearance statements that would
25 occur. Would you care to address when those, in your

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1 judgment, should occur?

2 ADMIN. JUDGE KARLIN: Yes, Mr. Lewis, why
3 don't you go first.

4 MR. LEWIS: Judge, I think that probably
5 earlier would be the better since I think the purpose
6 of those is to alert the board. It's an opportunity
7 for members of the public to indicate whether there
8 are specific issues that concern it, so the board can
9 take that into consideration in deciding whether it
10 wants to formulate any questions.

11 And therefore, I think that those sessions
12 should be before whatever date the board sets to be
13 asking its questions. I think that probably means
14 probably sometime in January if we're -- well, I guess
15 it depends when the hearing is, but I think it's an
16 early step. Not at the end if the board really wants
17 to factor that into its questions.

18 ADMIN. JUDGE KARLIN: Ms. Poole?

19 MS. POOLE: Generally, the staff would
20 agree with Mr. Lewis. I think, I would also note that
21 when we provided our calendar, that speaks to hearing
22 availability, and I think the staff is much more
23 flexible with respect to schedule for limited
24 appearances since we would certainly not need --

25 ADMIN. JUDGE KARLIN: Right.

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1 MS. POOLE: -- extensive technical
2 witnesses to be present at that time.

3 ADMIN. JUDGE KARLIN: And in fact, you
4 don't need to be present at all.

5 MS. POOLE: Right, right.

6 ADMIN. JUDGE KARLIN: But it is important
7 to know when we might if we're going to have one, with
8 the timing.

9 MS. POOLE: But January --

10 DR. COLE: But we would like to have you
11 there.

12 MS. POOLE: Oh, absolutely. But
13 January/February would certainly be convenient
14 depending upon --

15 ADMIN. JUDGE KARLIN: Right, okay.

16 MS. POOLE: -- the whole schedule.

17 ADMIN. JUDGE KARLIN: All right. Good.
18 Good. All right, that's helpful. You know, we, I
19 guess at this juncture, it would probably be useful.
20 We've spent some time thinking about this too, and it
21 sounds like we're all thinking of the same general
22 approach.

23 Ms. Parrish, perhaps you could share with
24 the parties a draft that we have. We have a one-page
25 ten-step process, you know, a ten-step process that

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1 might inform our discussion, and this is just
2 tentative. It's certainly not dispositive, but
3 similar to, I think, what you all were talking about.

4 That will give you a chance to look at
5 that and talk about it. Okay, let me walk through
6 this. I think it's similar in many ways to what both
7 of you were saying, particularly Mr. Moulding's more
8 detailed, I think, outline and the steps.

9 Obviously, we have to do our homework. We
10 are doing our homework. We're studying the materials
11 now, and there are different universes of materials we
12 need to study, and we might ask a question about that
13 later, but the first step is for us to read these
14 materials, and then steps two and three is that we
15 issue questions to you.

16 We think of this, I think of this, kind of
17 as a litigation almost, although not adversarial,
18 where first we start with interrogatories and then we
19 have the live testimony, and these would be questions.
20 Safety and NEPA perhaps could come at the same time,
21 but if we are ready with one or the other first, we
22 would ask them first, and we would just get them out
23 and start getting the answers, perhaps, you can start
24 working on the answers.

25 We had contemplated that you would answer

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1 the questions in writing at that stage. As I
2 understand, what Mr. Moulding was suggesting, and it's
3 worth us considering, certainly, is that if you need
4 some refinement or questions about our questions, I
5 guess, rather than going off on a tangent, we might
6 have a discussion at that point that would help
7 clarify these things for you.

8 What we are contemplating is one wave of
9 questions relating to safety, one wave related to
10 NEPA. If possible. I mean, we are going to really
11 try to get them in in one wave each. We may miss. We
12 may have a couple of follow-ups that we end up asking.
13 We will try to avoid that, but that's our goal.

14 Likewise, what we would like to achieve is
15 one set of answers rather than having an iterative
16 process where you give answers that are either -- you
17 don't understand our questions or they are too cagey
18 in terms of an answer, and it doesn't answer our
19 question.

20 I mean, we may end up with I wouldn't call
21 it other waves, but follow-up questions. If you don't
22 answer the questions that we ask the first time, we
23 may have to ask them again, and so I think we can do
24 this the hard way, and we can do this the easy way.
25 It seems like the easy way is for us to try to ask all

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1 our questions in one shot and for you, in good faith,
2 to try to answer those questions in one shot and not,
3 you know, not try to read them too narrowly.

4 Thus, it might be useful to have some
5 discussion. If you have questions about our
6 questions. That adds another step in there, quite
7 frankly. It's an additional step, but anyway, at some
8 point, you answer these questions in writing, and I
9 think it might be useful to say that those would be
10 under oath.

11 I don't want to cause everyone to clam up
12 and get real narrow on this, but I think, you know, we
13 do need to have a record, and I think putting the --
14 somehow, this has to be put into the record.
15 Somewhere along the line, we conduct the limited
16 appearance statement.

17 I think it, like Mr. Lewis and Ms. Poole
18 are saying, I think it needs to be at some earlier
19 stage, so it can help inform our questions and our
20 thinking. Six, we inform you of the issues we think
21 need to be, you know, addressed in a mandatory
22 hearing. This would be addressed in pre-filed written
23 testimony and possibly questions at the hearing.

24 Then, seven, you submit the pre-filed
25 written testimony and exhibits on the issues that we

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1 specified, areas of concern or whatever we want to
2 call it, and then we conduct the mandatory hearing,
3 which might very well be a subset, but I think not.

4 I think if we've specified issues, we've
5 gone through written questions, we've gotten the
6 answers to written questions, we now have some further
7 questions we need to probe some witnesses on, we will
8 then say these are the areas we want you to bring your
9 witnesses in on. Your subject matter experts or
10 whatever.

11 We conduct the mandatory hearing, you
12 propose findings of fact, and we issue our ruling.
13 Those are the sequence and steps. Any additional
14 comments?

15 DR. COLE: Mr. Moulding, I think your
16 comment about having a session with the board to
17 discuss possible problems with questions or to try to
18 find out really what the board is asking, I think it's
19 interesting, but I will be concerned about two to
20 three weeks after the questions are filed to do that
21 because we were anticipating getting the answers back
22 in, say, three weeks or twenty days.

23 But I think it's -- it would be very
24 helpful to have some sort of dialogue, if there
25 appeared to be some problems in interpreting what the

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1 questions are.

2 MR. MOULDING: But the --

3 DR. COLE: So you might want to try to fit
4 that in.

5 MR. MOULDING: Yes, I think the idea of
6 two to three weeks is flexible. The purpose of having
7 a delay between the issuance of the questions and the
8 pre-hearing conference is to make sure that we will
9 have spent that time preparing the answers to the
10 extent possible.

11 We will not be coming cold into any pre-
12 hearing conference. The pre-hearing conference would
13 be focused on making sure that all the questions -- we
14 understand exactly what you're asking, but work will
15 be done during that time.

16 DR. COLE: So you don't anticipate two to
17 three weeks after that session to then provide the
18 answers?

19 MR. MOULDING: No, sir.

20 ADMIN. JUDGE KARLIN: Well, yes, but it
21 might be two weeks or something depending, or a week.
22 It adds a step between three and four, I would say, on
23 this particular chart, which is we issue the
24 questions, and then there is a session to clarify
25 questions or talk about them, and then you answer the

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1 questions.

2 And, you know, obviously everyone has to
3 have some time to do their work and do it right, so
4 okay. I mean, that's certainly worth considering.
5 Any other comments by the parties? Mr. Lewis, any
6 thoughts on this schedule?

7 MR. LEWIS: No, Judge Karlin. I mean,
8 this process works too. It looks, I guess --

9 ADMIN. JUDGE KARLIN: I mean, it's just
10 tentative, so if you think it'll give you some real
11 heartburn or there's a better way to do it, you
12 know --

13 MR. LEWIS: There's probably a dozen ways
14 to --

15 ADMIN. JUDGE KARLIN: Yes.

16 MR. LEWIS: I just want to stand, though,
17 on step seven, the testimony that we would present, if
18 we had prepared the response to questions, that would
19 -- and then would provide that under oath that could
20 be admitted into the record, that would probably
21 answer most of the questions.

22 The testimony that would then be submitted
23 would only be on specific issues that the board wanted
24 for their information or would we still --

25 ADMIN. JUDGE KARLIN: Yes.

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1 MR. LEWIS: -- be providing an overview?

2 ADMIN. JUDGE KARLIN: I think that's
3 right. I hadn't really -- I think that the -- if you
4 answer the questions under oath, then the areas that -
5 - we will identify areas for testimony, and that might
6 be a more narrative sort of discussion of those issues
7 for us by a witness that would -- both of them would
8 end up being in the record, you know.

9 MR. LEWIS: I would agree with you with
10 that when we receive questions that, you know, we
11 probably could respond to them in a fairly short time
12 frame. Hopefully in -- if there is a need for a pre-
13 hearing conference or a conference call, you know,
14 perhaps it could be in the week of the questions or
15 less.

16 I mean, I think that would be at least
17 enough time for us to know whether there is a problem
18 with a question.

19 ADMIN. JUDGE KARLIN: Yes, okay, well,
20 you'll need some time to actually read the questions,
21 think about it, get with your, you know, the
22 appropriate experts and seek clarification, but it's
23 obviously -- this would be a little bit of a switch,
24 where the parties get to ask questions of the board,
25 you know, rather than vice versa.

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1 I'm not sure whether I like that, you
2 know, but maybe it's the best way to proceed. I
3 guess, all right, I think we ought to turn to the
4 timing. Well, let's talk location, but before we move
5 to that, I would add that you mentioned, Mr. Lewis,
6 that we might have, in addition to testimony and
7 evidentiary type of questions and answers or issues,
8 we might have some legal questions that we also would
9 want to have briefed or have your thoughts and briefs
10 on certain legal questions.

11 I think those questions could be part of
12 these, this ten-step process, or could float sort of
13 independently of that. There might be some
14 fundamental or independent, as it were, legal
15 questions. I have a few questions, and I think I
16 might value some input from you, from both parties, on
17 some of the legal issues.

18 MR. LEWIS: I would urge that it be in the
19 same question/answer schedule. It had not been my
20 recommendation to have extra rounds of briefings
21 simply because I think that, again, it will make it
22 very hard. So I think either accommodate it with
23 additional questions or addressing it at the hearing
24 is probably the best way.

25 ADMIN. JUDGE KARLIN: Oh yes. I'm not

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1 expecting that that would add to the critical path or
2 the time frame. I would be, you know, it would be
3 concurrent with this schedule and separately. For
4 example, I have a question about the safety evaluation
5 report. This is just a supplement. And I'm not going
6 to ask you to address it here, but I'll just give you
7 an example of something that's troubling me a little
8 bit.

9 It's that you have this Appendix A to both
10 the SERs, the final and the supplemental. And
11 Appendix A are permit conditions, COL action items,
12 blah-de-blah, and there's quite a long list, and it
13 shows us somebody's done a lot of work.

14 And at the intro to the executive summary
15 to the SER supplement on page viii, the staff says
16 staff determined that these items on Appendix A are
17 more appropriately addressed at later stages in the
18 licensing process. COL stage I think you're talking
19 about. That whole paragraph there talks about that.

20 I'm not sure how that works with regard to
21 52.39, which is the finality issues associated with
22 ESPs. I'm not going to go into it right now, but I
23 think it might be helpful for me. I think that's a
24 key, the crux, of much of what we're doing -- what are
25 we doing now, what is resolved now, what isn't

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1 resolved now, what would be open for litigation later.

2 And we might pose a question on that
3 subject, for example. I know the other boards have
4 struggled, I think, with that issue to some extent as
5 well, and we studied what they're doing, and I still
6 have some questions. So legal questions will -- might
7 come in. We might issue something on that as well.

8 Location. Let's turn to that second
9 topic. You have already given us your ideas in terms
10 of locations for limited appearance statement and the
11 hearing, the mandatory hearing, so you don't need to
12 repeat that, but we have thought about it, and our
13 approach is that certainly the limited appearance
14 statement needs to be down in the vicinity -- I'll
15 pre-stage this and say we probably think late January
16 or early February is a good time frame if we can get
17 appropriate facility.

18 That's always a contingency, whether we
19 can find a place to do it, and we also think the
20 mandatory hearing needs to be held down there, in the
21 vicinity of the facility that is being permitted. We
22 do not think that Rockville is the vicinity of North
23 Anna, and if it's a choice between the public getting
24 in a car and driving two hours, and us getting in a
25 car and driving two hours, we're working for the

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1 public, and so we're going to go down there, and they
2 can -- so we're going to try to have it as close to
3 the facility as we can if we can find facilities down
4 there that will accommodate that.

5 So location-wise, we're going to try to
6 have the mandatory hearing down there. With that
7 said, we have had the chance to look at, and Ms.
8 Parrish has, I think, talked, tried to solicit views,
9 and you all have shared views. We don't have a
10 facility located yet, but I think the Louisa County
11 Middle School is a possibility, the Louisa County
12 government building counsel meeting room.

13 Are you all familiar with that meeting
14 room? We haven't seen it. It sounds like it might
15 work, if it's available, of course.

16 MS. POOLE: The staff has been there, and
17 I understand there's a bit of a dias up at the
18 beginning, and it seats -- it has fixed seating for
19 about 85.

20 ADMIN. JUDGE KARLIN: Like benches? Like
21 here? All right.

22 MR. LEWIS: Judge Karlin, the middle
23 school, of course, will be in session during the day,
24 so --

25 ADMIN. JUDGE KARLIN: Yes.

1 MR. LEWIS: -- want to be available during
2 the evening.

3 ADMIN. JUDGE KARLIN: Right, yes, that's
4 an issue. Well, when's their spring break? Easter
5 break, whatever it is. There are some other places,
6 and if you have any suggestions in terms of
7 facilities. I guess the Betty Queen Intergenerational
8 Center is a smaller place down in Louisa County
9 somewhere? We might even go as far afield as
10 Charlottesville or Fredericksburg, I guess it is.
11 That's within 30, 40 miles I think.

12 MR. LEWIS: Judge Karlin, there is another
13 facility that I didn't put on the list because I did
14 not know whether it would have additional rooms for --
15 and judge's chambers, but there's North Anna winery --

16 ADMIN. JUDGE KARLIN: Ah, now we're
17 talking.

18 (Laughter.)

19 MR. LEWIS: Which also has a large -- I
20 have not seen it, but it apparently has a large
21 conference room that does events and may be enough to
22 accommodate the --

23 ADMIN. JUDGE KARLIN: And where is that
24 located? On the lake somewhere or something?

25 MR. LEWIS: In Spotsylvania County, on the

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1 other side, and I understand it's within fifteen miles
2 of the plant?

3 SPEAKER: Yes.

4 MR. LEWIS: So that's another possibility.

5 ADMIN. JUDGE KARLIN: Good, well, let's
6 check into that. What size -- does anyone know the
7 size of how many people it might accommodate?

8 SPEAKER: It actually can seat more than
9 the Louisa County administration building --

10 ADMIN. JUDGE KARLIN: Which is over 100?

11 SPEAKER: It's an open area, though.

12 ADMIN. JUDGE KARLIN: All right, yes. We
13 would have to have it set up in some way to get the
14 appropriate, you know, desks and that sort of thing.
15 Okay, great. Any other ideas that you come up with,
16 but we're going to try to get -- to hold it down
17 there.

18 This will create some problem, we
19 understand, in terms of scheduling, in terms of
20 bringing people down there, and I guess unless there's
21 anything more on location, we can move to the
22 scheduling and calendar. Anything more on location
23 while we're talking about it?

24 Okay. Schedule calendar. Thank you for
25 submitting your calendars. We understand that that --

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1 that's helpful. We see that there is a, you know,
2 there's not a whole lot of dates you all seem to have
3 available. There's a couple of, you know, weeks here,
4 and a couple of days there.

5 We want to go through that a little bit,
6 but let me state at the outset I guess we understand
7 that in addition to the lawyers that are sitting here,
8 behind each party are a dozen or more witnesses who
9 might be called, and you don't know which one of those
10 witnesses are going to be called, and there's a lot of
11 people and subject matter experts and that sort of
12 thing on the environmental and on the safety side.

13 And if you just look at the safety and
14 environmental and the number of experts that the staff
15 has put in there, there's a dozen or so, so the hope
16 of finding a date when all those people are all
17 available is, we recognize, probably impossible, and
18 that maybe is a driver behind your shall we say
19 conservatism in putting out schedules and times of
20 availability and blackout dates.

21 We understand that, and we are going to
22 try to work around or work with the parties so that we
23 can schedule whatever issues that we have, and it's
24 going to be a subset of issues, I think, in a way that
25 accommodates the schedules of the relevant subject

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1 matter experts or witnesses that we might need to be
2 calling or asking to testify.

3 With that, I think we looked at this and
4 say April-- in order to do these steps and get us to
5 a hearing, we are talking about late April or May.
6 This will give us enough time but not much more to get
7 our decision out in June 30th of 2007. So, with that,
8 our idea would be to talk, let's talk about these
9 schedules that you all have submitted for April and
10 May, and maybe I can understand your concerns.

11 Let's -- April. The first week of April.
12 April -- I see that Dominion has got availability, it
13 appears, except for Friday. The staff has a problem.
14 Can you help us? What is the nature of that?

15 MS. POOLE: We have counsel and witnesses
16 who will be unavailable between April 2nd and April
17 10th due to Passover.

18 ADMIN. JUDGE KARLIN: Passover, okay, and
19 that's a subset of your counsel and witnesses, right?

20 MS. POOLE: That is correct. That is
21 correct.

22 ADMIN. JUDGE KARLIN: And that is the
23 issue for that, okay. That's Passover. We will try
24 to accommodate that, yes. I mean, do you think you
25 could proceed with some of the witnesses?

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1 MS. POOLE: We could proceed with some
2 issues.

3 ADMIN. JUDGE KARLIN: You've got three
4 counsels -- yes, some issues? Yes. Okay, I'm not
5 sure whether we can define those out, but we certainly
6 will honor that issue. That is an important one.

7 Okay, the second week in April, April 8th.
8 The week of April 8th, staff and Dominion both
9 indicate problems. I guess the staff shows okay 11th,
10 12th, and 13th. That's good.

11 MS. POOLE: That's correct.

12 ADMIN. JUDGE KARLIN: Your Monday and
13 Tuesday, is that sort of -- the 9th and 10th?

14 MS. POOLE: That's two more days of
15 Passover.

16 ADMIN. JUDGE KARLIN: Passover. That's
17 Passover. Okay. Mr. Lewis, Dominion, now you have a
18 problem that whole week? Do you know what the cause
19 of that one is?

20 MR. LEWIS: It's mainly one of the project
21 managers, and if we had to do it that week, we would
22 make it work.

23 ADMIN. JUDGE KARLIN: Okay. Good. And it
24 may be that we don't call that particular project
25 manager. I don't know. You don't know, we don't

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1 know, it's very hard to plan, but we are going to have
2 to push to find something that will work. So you have
3 one project manager that is --

4 MR. LEWIS: Well, it's the main project
5 director.

6 ADMIN. JUDGE KARLIN: The main project
7 director. Well, okay, that's an important one.

8 MR. LEWIS: But, as I said --

9 ADMIN. JUDGE KARLIN: And what is the
10 nature of his or her conflict?

11 MR. LEWIS: Vacation plan.

12 ADMIN. JUDGE KARLIN: Vacation. And the
13 vacation is? Is it some exotic location, or is it
14 just going down to Nags Head for the week? Have you
15 already bought the cruise tickets?

16 (Laughter.)

17 ADMIN. JUDGE KARLIN: I mean, if it's a
18 trip to Egypt for three weeks, I mean, and you've
19 already bought the tickets, that's a little different
20 than going down to your cottage in the mountains or
21 something for a week. Thank you. Thank you for that.

22 And the week of the fifteenth, sixteenth.
23 Staff looks good the whole week. That's great.
24 Dominion, Monday/Tuesday is bad, and Friday is bad.
25 Mr. Lewis, what's the issue there, do you know?

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1 MR. LEWIS: We just have multiple
2 individuals who are unavailable on the 16th and
3 17th --

4 ADMIN. JUDGE KARLIN: Okay.

5 MR. LEWIS: -- and I don't know all the
6 stories, but one of our main biologists was not
7 available during that week, and two of the project
8 managers were not available. Our --

9 ADMIN. JUDGE KARLIN: Okay. All right.
10 Well, we might have to -- I mean, we'll just have to
11 think about that. I mean, again, if you've got a pre-
12 planned court date, if you've got a pre-planned,
13 tickets-bought foreign vacation, but if there's
14 something we can work with, we might ask people to
15 work with that, and we'll certainly try to have some
16 flexibility.

17 MR. LEWIS: Judge Karlin, going back, I'm
18 sorry, on the week on the 9th, I was --

19 ADMIN. JUDGE KARLIN: Okay.

20 MR. LEWIS: -- one individual. Our main
21 seismic expert, if the board has questions on the
22 probable seismic hazard analysis, he was one of the
23 main reasons why were unavailable from the tenth
24 through the thirteenth.

25 ADMIN. JUDGE KARLIN: The tenth through

1 thirteenth, okay.

2 MR. LEWIS: That was also a conflict.
3 Again, if we don't need to present expert testimony at
4 that level of detail, that would not be a problem.

5 ADMIN. JUDGE KARLIN: Okay. And we might
6 also need to know what your seismic expert's problem
7 is. Why he can't come, or maybe he can reschedule,
8 but I understand that as an initial matter, you -- if
9 he's got some prior issue there, you've indicated that
10 there's a problem.

11 It may be that we need to have a seismic
12 expert in, and it may be that, you know, we'll have to
13 probe that a little further. Week of the 23rd.
14 Dominion, you look good that week, staff has a problem
15 that week. Ms. Poole?

16 MS. POOLE: We have our air quality
17 environmental expert is occupied the entire week and
18 actually the following week. I did not inquire as to
19 the reason. It's a pre-planned engagement, but I
20 don't know the nature of it and can find out. Also,
21 Dr. Lee, who is our expert on design basis and severe
22 accidents, is unavailable that week also, and our
23 environmental project manager is unavailable on Friday
24 the 27th.

25 But again, we can make inquiries and see

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1 if that can be worked out.

2 ADMIN. JUDGE KARLIN: Okay. It may be
3 that we might have Ms. Parrish talk with you all, you
4 know, and work on some of these things and see what
5 the issues are, and arrange issues and presentations
6 and testimony to try to move them. And even if it's
7 not in what we would think would be the normal order,
8 if it accommodates your witnesses, that would be
9 helpful.

10 But we're going to have to schedule
11 something in there somewhere. Back of April 30th,
12 first week of May. Let's see here. Staff and
13 Dominion both have some problems with that week. Mr.
14 Lewis, let's start with you. What -- do you know what
15 those are?

16 MR. LEWIS: It was a co-counsel conflict
17 who is on vacation and does have an exotic vacation.
18 We could work around that --

19 ADMIN. JUDGE KARLIN: Okay.

20 MR. LEWIS: -- indicated that it had to be
21 that week and she wasn't there, that we could still
22 proceed.

23 ADMIN. JUDGE KARLIN: Okay, so it's one of
24 the lawyers that's got a difficulty with that week.
25 Okay? Is that what you are saying?

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1 MR. LEWIS: Yes.

2 ADMIN. JUDGE KARLIN: Okay, great. I
3 appreciate that. I mean, don't try to -- we don't
4 want to mess up people's vacations if we've got them,
5 but we're going to have to hold this some time in a
6 relatively narrow window, I think, and we'll all have
7 to try to work with that.

8 I mean, we could, quite frankly, we could
9 -- I mean, we try to move it up as early as we can.
10 Ultimately, we could move it later and do this in
11 June, you know, but I don't think any of us wants to
12 do that if we can help it, you know, or July. We'd
13 rather move this along and meet the commission's
14 expectations.

15 Now, it may be that something happens in
16 between now and then. We set it down for the first
17 week in May, and all of a sudden, I don't know, we
18 need to ask follow-up questions because you all
19 haven't answered our questions or we have some
20 difficulty, and so, you know, who knows?

21 But if we can plan for the best and --
22 expect the worst and plan for -- I'm not sure what the
23 saying is, but okay. The week of May 7th. Staff is
24 good, Dominion has got some issues.

25 ADMIN. JUDGE ELLEMAN: Let's see, on the

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1 week of the 30th, we don't know what the staff's
2 conflict is.

3 ADMIN. JUDGE KARLIN: Oh, I'm sorry, we
4 didn't ask the staff. Yes, go on.

5 MS. POOLE: Our air quality expert is out
6 a second week --

7 ADMIN. JUDGE KARLIN: Oh yes.

8 MS. POOLE: -- and Mr. Sakchuski, who is
9 our expert on terrestrial ecology, will be working at
10 the Vogel writing session. So that is perhaps
11 something we can work out.

12 ADMIN. JUDGE KARLIN: The Vogel writing
13 session?

14 MS. POOLE: The Vogel writing session for
15 the draft environmental impact --

16 ADMIN. JUDGE KARLIN: Oh, okay.

17 MS. POOLE: -- in conjunction with that
18 ESP application.

19 ADMIN. JUDGE KARLIN: And who is your air
20 quality expert, and what is his or her problem? Two
21 weeks out?

22 MS. POOLE: That would be Bill Sandusky,
23 and I don't know, but I can find out.

24 ADMIN. JUDGE KARLIN: Okay, yes, maybe you
25 could find out and see if there's anything there. All

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1 right. Now, week of the 7th of May, staff is okay
2 until Friday, I see. Dominion has got a problem for
3 the week. Mr. Lewis?

4 MR. LEWIS: We have three individuals who
5 are unavailable that week, and I don't know all the
6 reasons, but one of our hydrologists, one of the civil
7 engineers who was responsible for some of the lake
8 issues, was unavailable that week.

9 Another environmental scientist who was
10 responsible for the entrainment and impingement
11 analyses are unavailable that week, and the
12 environmental project manager was available at the end
13 of that week. So it was just -- it was a number of
14 individuals.

15 ADMIN. JUDGE KARLIN: Okay. All right.
16 The week of the 14th of May, nobody seems to be happy
17 with that week. Mr. Lewis, what's Dominion's issues
18 there?

19 MR. LEWIS: I believe that's mainly the
20 environmental -- two individuals. The environmental
21 project manager and the limnologist.

22 ADMIN. JUDGE KARLIN: And the what?
23 Limnologist?

24 MR. LEWIS: -- responsible for lake
25 issues.

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1 ADMIN. JUDGE KARLIN: Limnologist. I know
2 how to spell it, but I'm not sure what it means.
3 Okay. Ms. Poole?

4 MS. POOLE: Mike Scott, our socioeconomics
5 expert, is hosting a conference all that week, and Dr.
6 Lee is unavailable, and I don't know why. Pre-
7 scheduled leave.

8 ADMIN. JUDGE KARLIN: Okay. Dr. -- you
9 mentioned Dr. Lee before.

10 MS. POOLE: Dr. Lee for design basis and
11 severe --

12 ADMIN. JUDGE KARLIN: Oh, right, design
13 basis. And the week of the 21st. Again, problematic
14 for everyone. Mr. Lewis?

15 MR. LEWIS: That was the -- mainly the
16 project director for the project was unavailable that
17 week.

18 ADMIN. JUDGE KARLIN: Okay. Not
19 available, project director. He's --

20 MR. LEWIS: Our -- also, on one day, the
21 vice-president in charge of the project was not
22 available on the 24th, but that was just that one day.

23 ADMIN. JUDGE KARLIN: I see.

24 MR. LEWIS: The main is that the project
25 manager --

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1 ADMIN. JUDGE KARLIN: Bob Dylan's
2 birthday, actually, he's not available. He must be
3 celebrating that day. Okay. Staff?

4 MS. POOLE: The 21st is a challenging week
5 for us. Dr. Lee is out. I would go ahead and say Dr.
6 Lee is out for the remainder of the month, although
7 for the week of the 28th, he is the only witness that
8 we would have out.

9 ADMIN. JUDGE KARLIN: I'm sorry, Dr. Lee?

10 MS. POOLE: Dr. Lee is out for the rest of
11 the month of May.

12 ADMIN. JUDGE KARLIN: Gee, where is he
13 going?

14 MS. POOLE: I don't know. We'll find out
15 though.

16 ADMIN. JUDGE KARLIN: This is an important
17 person, I guess, or whatever.

18 MS. POOLE: Yes. But also, on the week of
19 the 21st, who is our meteorological expert on the
20 safety and environmental side, his daughter is getting
21 married, so he will be out that week.

22 ADMIN. JUDGE KARLIN: Yes, I think so.

23 MS. POOLE: And on the 23rd and 24th, we
24 have a counsel conflict due to religious holiday.

25 ADMIN. JUDGE KARLIN: Okay. Those are the

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1 23rd and 24th?

2 MS. POOLE: 24th, yes.

3 ADMIN. JUDGE KARLIN: Okay.

4 MR. LEWIS: Judge Karlin, just to confirm
5 that, if we had to rearrange, we could do the week of
6 the 21st, just so long as --

7 ADMIN. JUDGE KARLIN: Okay.

8 MR. LEWIS: -- so that things could be
9 rearranged.

10 ADMIN. JUDGE KARLIN: Great, okay, and
11 with regard to the religious holiday on the 23rd and
12 24th, that's a counsel --

13 MS. POOLE: That's a counsel obligation.

14 ADMIN. JUDGE KARLIN: And could we
15 proceed, possibly, with the matter? I mean, you've
16 got three lawyers here.

17 MS. POOLE: Absolutely.

18 ADMIN. JUDGE KARLIN: Mr. Weisman, I don't
19 know, you know --

20 MS. POOLE: We'd like to have him, but --

21 ADMIN. JUDGE KARLIN: Yes, we do too.

22 MS. POOLE: -- but we will make ourselves
23 available as necessary.

24 ADMIN. JUDGE KARLIN: Okay, good. All
25 right, that's probably enough of that.

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1 MR. LEWIS: Judge Karlin?

2 ADMIN. JUDGE KARLIN: Yes?

3 MR. LEWIS: Can I make my pitch for the
4 last week in March?

5 ADMIN. JUDGE KARLIN: Sure, sure.

6 MR. LEWIS: I just want to point out
7 that --

8 ADMIN. JUDGE KARLIN: I mean, do you think
9 we can -- look at these steps.

10 MR. LEWIS: Yes, I know --

11 ADMIN. JUDGE KARLIN: Tell me how we're
12 going to make this happen.

13 MR. LEWIS: -- but that is, I think --

14 ADMIN. JUDGE KARLIN: Okay.

15 MR. LEWIS: -- mainly available for both
16 the staff and applicant, and so if the steps would fit
17 within that --

18 ADMIN. JUDGE KARLIN: Oh yes.

19 MR. LEWIS: -- that would work.

20 ADMIN. JUDGE KARLIN: We see that, but the
21 last two weeks aren't, you know -- of March. The 19th
22 and the week of the 26th. Both seem to be pretty
23 good. I mean, Dominion's got a couple of maybes there
24 on two of those days, but yes, if we can get something
25 moving by that date, we'd like to take it too.

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1 I mean, we've got to deal with facility
2 availability. Whether we can get this winery that
3 date, and whether, you know, that sort of thing, but -
4 - and if ultimately we cannot find a place down there
5 that meets any reasonable schedule, we may end up
6 having to come back here, but we are very loathe to do
7 that and want to try to be down there, even for the
8 evidentiary hearing.

9 That's helpful. I guess -- is there
10 anything else we need to talk about Judge Elleman?

11 ADMIN. JUDGE ELLEMAN: Well, some times
12 have been indicated as work-arounds, and others sound
13 like they are more difficult. Do you want to try and
14 pin down what our possible work-around dates or just
15 leave it open at this point until we can --

16 ADMIN. JUDGE KARLIN: Yes.

17 ADMIN. JUDGE ELLEMAN: -- pull out a
18 proposed schedule and see if they are work-arounds?

19 ADMIN. JUDGE KARLIN: Yes, I think -- I
20 don't know, I think we -- it would be probably hard to
21 nail it down today. We have to talk about facilities,
22 you know, and we have to -- so I don't know whether
23 it's worth pushing people to the limit in terms of
24 whether they can really make it, you know, on any
25 given day.

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1 And they don't know which party is, which
2 witness is going to be needed. We don't know that
3 yet, certainly, until we have digested this material
4 and begun to ask the questions and gotten some
5 answers.

6 DR. COLE: But we certainly can be
7 flexible with respect to placing witnesses at whatever
8 time.

9 ADMIN. JUDGE KARLIN: And it sounds like
10 we probably -- we may end up having to have two
11 separate sessions, you know, three days here, two days
12 there, whatever it ends up being. One day here, one
13 day there, so that if there's a given week when a
14 certain witness is not available, well, we'll just
15 have to deal with it.

16 And it may end up that we come back here
17 for something or other. We will want to tell you
18 ahead of time, certainly, or have you designate ahead
19 of time. It may work either way, or the witnesses
20 that are going to have to go down to Louisa County or
21 Spotsylvania, whatever it is, so that it's not going
22 to be like the Grand Gulf board, where it's right here
23 and people can just walk down the hall from the other
24 building, from the staff, for example.

25 Maybe it will be easier for the Dominion

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1 experts because it will be closer to their facility
2 and their home base. Anything else?

3 ADMIN. JUDGE ELLEMAN: On that subject,
4 no.

5 ADMIN. JUDGE KARLIN: Yes, I don't know
6 that we can push it any harder on that. We might ask,
7 you know, as I say, Ms. Parrish may be talking with
8 you and getting more detail as we sort of sort this
9 out. Okay. Is there anything else the parties have
10 to add on what we've talked about or would like to
11 suggest?

12 All right, thank you. I mean, this has
13 been helpful to us. It's really kind of a planning
14 session. We want to try to do this right and fairly
15 and efficiently. I think we can build upon what the
16 other boards have done, learn from them, and maybe
17 even do a little better.

18 This is a learning process. There haven't
19 been too many mandatory hearings ESP held in recent
20 decades, and you know, so I think we're learning, and
21 I think we can do it. I mean, what do we plan to do?
22 Where are we going to go from here is I guess we would
23 probably issue an order sometime in the next -- before
24 the end of the year, okay. End of the month, which
25 would lay out some reservation dates. Reserve these

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1 dates to the maximum extent you can.

2 You know, recognizing that some witnesses
3 will have some issues. I'm not sure how much more
4 will be in that order. We probably will be issuing
5 safety-related questions to you in mid-January, maybe
6 by the 19th. We will probably be issuing
7 environmental issues to you in early February, maybe
8 by the 9th.

9 We hope to have a limited appearance
10 statement session in late January, early February,
11 somewhere down there. We think the mandatory hearing,
12 given the steps that we think we're going to go
13 through, will be in April. Late April or May. We're
14 shooting for an initial decision in the end of June.
15 That's our plan.

16 I think the input you've given us today,
17 particularly about possibly having a conference
18 somewhere between the questions and your answers to
19 make sure that the answers can be done as best as
20 possible might -- is a helpful new idea. We hadn't
21 thought about that.

22 With that, I think we're done, and thank
23 you all for coming in and everything else.

24 ADMIN. JUDGE ELLEMAN: I would like to ask
25 a question about information sources.

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1 ADMIN. JUDGE KARLIN: Sure, sure, yes,
2 that's right.

3 ADMIN. JUDGE ELLEMAN: Yes, we have the
4 most recent version of the application. We have both
5 the draft and the final safety evaluation report.
6 We've got the draft EIS, and we're going to be getting
7 soon the hard copy, final copy.

8 We're aware of the reg review standard for
9 approval of ESPs. We're aware of ACRS information
10 meetings that have been held. The information related
11 to ACRS that is in the final safety evaluation report
12 really contains very little information about their
13 deliberations.

14 I would like to post the question of what
15 additional information sources you would suggest to us
16 as valuable for best conducting our review and our
17 side of the evaluation.

18 ADMIN. JUDGE KARLIN: Is there anything
19 else that we should -- do you think we need to look at
20 or would be helpful for us to help focus our inquiry
21 and our responsibilities?

22 MR. LEWIS: No, Judge Karlin, I can't
23 think of other sources, not off the top of my head.

24 MS. POOLE: Off the top of our heads, you
25 could also certainly look at the ACRS. The

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1 transcripts of ACRS sessions that were held in
2 connection with the application, and we might also
3 suggest relevant sections of the standard review plan.

4 ADMIN. JUDGE ELLEMAN: And do you have the
5 ACRS documents in your possession to convey to us?

6 MS. POOLE: I think we can obtain them.

7 ADMIN. JUDGE KARLIN: All right.

8 ADMIN. JUDGE ELLEMAN: Okay.

9 ADMIN. JUDGE KARLIN: Yes.

10 ADMIN. JUDGE ELLEMAN: I think we would
11 like to receive those.

12 ADMIN. JUDGE KARLIN: Okay, well, we'll --
13 if we need them, let us first see if we can get them
14 directly. I mean, they may be on the transcripts,
15 they may be on ADAMS or something like that that we
16 could get directly. In the July of 2006 commission
17 ruling, they were a little concerned or questions were
18 raised about the board asking the staff to produce
19 documents of the ACRS that the staff didn't
20 necessarily be the primary provider of, but if you can
21 help us, if we can't find it ourselves, we might have
22 to ask the parties --

23 MS. POOLE: Certainly.

24 ADMIN. JUDGE KARLIN: -- you know, to give
25 us some help.

1 MS. POOLE: Certainly.

2 ADMIN. JUDGE ELLEMAN: Every little bit
3 helps.

4 ADMIN. JUDGE KARLIN: Yes, we don't want
5 to offend anybody, but we're just trying to get the
6 right stuff and read it. Okay, with that, thank you
7 very much for coming in in person. I thought -- I
8 think that was a little bit more helpful way to
9 discuss it, and we will be trying to issue an order
10 laying some of the preliminary planning out within the
11 next few weeks.

12 With that, we're adjourned. Thank you.

13 (Whereupon, at 11:01 a.m., the foregoing
14 matter was adjourned.)

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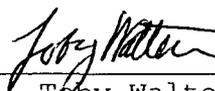
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CERTIFICATE

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

Name of Proceeding: Dominion Nuclear ESP
Pre-Hearing Conference
Docket Number: 04-822-02-ESP
Location: (Telephone conference)

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



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