

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Dominion Nuclear North Anna, LLC

Docket Number: 52-008-ESP; ASLBP No. 04-822-02-ESP

Location: Rockville, Maryland

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

+ + + + +

IN THE MATTER OF:

DOMINION NUCLEAR NORTH

Docket No. 52-008-ESP

ANNA, LLC

ASLBP No. 04-822-02-ESP

Nuclear Regulatory Commission

Hearing Room T-3 B45

11545 Rockville Pike

Rockville, Maryland

Thursday, January 25, 2007

The above-entitled matter came on for pre-hearing conference, pursuant to notice, at 2:00 p.m., Administrative Judge Alex Karlin, Chair, presiding.

BEFORE:

ALEX S. KARLIN, Chair, Administrative Judge

RICHARD F. COLE, Administrative Judge

THOMAS S. ELLEMAN, Administrative Judge

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23                    MEGAN PARRISH, ASLBP Law Clerk

24

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

(1:57 p.m.)

JUDGE KARLIN: Good afternoon. Before we begin, I want to doublecheck -- Judge Elleman, are you on the line?

JUDGE ELLEMAN: I am on the line, and I'm hearing you quite well.

JUDGE KARLIN: Great. Very good. Then, let me commence this proceeding and go on the record. This is the Atomic Safety and Licensing Board convening in the matter of the Dominion North Anna -- Nuclear North Anna LLC proceeding. The Docket Number is 52-008-ESP, and the ASLBP Number is 04-822-02-ESP.

We're convening in this uncontested mandatory hearing proceeding for the early site permit for two units down at -- located in the -- on Lake Anna, or proposed to be located on Lake Anna.

This matter is being recorded by the Court Reporter. The date today is January 25, 2007.

We have the Board, consisting of myself, Alex Karlin. I'm the Chairman and the legal judge on this Board. To my right is Dr. Cole, Richard Cole, one of our technical judges. And on the phone is Dr. Elleman, who is another one of our technical judges. Do either of you guys want to say anything at this

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1 point?

2 JUDGE COLE: Not at this time.

3 JUDGE KARLIN: Judge Elleman?

4 JUDGE ELLEMAN: Nothing.

5 JUDGE KARLIN: Okay, fine. Perhaps we  
6 could then ask the parties to identify themselves  
7 before we start. Mr. Weisman, perhaps you could tell  
8 us --

9 MR. WEISMAN: Good morning.

10 JUDGE KARLIN: Good morning. Good  
11 afternoon.

12 MR. WEISMAN: Good afternoon, Your Honor,  
13 yes. Bob Weisman for the NRC Staff. With me at  
14 counsel table is Pat Moulding. Several members of the  
15 NRC staff are in attendance in the audience.

16 JUDGE KARLIN: Great. Thank you for  
17 coming.

18 Mr. Lewis.

19 MR. LEWIS: Good afternoon, Judge Karlin,  
20 Judge Cole, Judge Elleman. My name is David Lewis  
21 from the law firm of Pillsbury Winthrop Shaw Pittman,  
22 representing Dominion Nuclear North Anna, and with me  
23 is Mr. Robert Haemer, also from my firm.

24 JUDGE KARLIN: Welcome. Welcome, Mr.  
25 Haemer, Mr. Lewis.

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1           Okay.   Background -- oh, I might also  
2 mention -- I'm sorry I didn't do this before -- our  
3 law clerk -- Meg Parrish is our law clerk, and she is  
4 a lawyer who assists the Board on these matters. She  
5 has been helping us for many months on this.

6           Background -- why are we here today? As  
7 you'll remember, on December 14th we met here in this  
8 hearing room to talk about how we should proceed with  
9 the mandatory hearing, and what was the most efficient  
10 way to handle the responsibilities this Board has, and  
11 how the staff and the applicant could provide the  
12 relevant information.

13           We got a lot of good input then, and we  
14 issued the second revised scheduling order in January  
15 -- January 4th of this year -- laying out a plan that  
16 we think is consistent with much of what was said, and  
17 hopefully will work if we all roll up our sleeves and  
18 work on it. And this Board hopes that we can achieve  
19 the timeframes that the Commission experts of  
20 mandatory hearing ESP boards.

21           Pursuant to that order, we issued on the  
22 18th of January a list of primarily safety-related  
23 questions. They're not exclusively safety-related,  
24 but primarily following what was in the SER and the  
25 SAR, and so we issued that wave. And we hope if we

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1 can get full and fair answers to that that there will  
2 be -- that will be a single wave related to safety  
3 questions, and we won't have to ask too many followup  
4 questions, if any at all.

5 The answers to those questions, as  
6 everyone probably knows, are due on February 8th, and  
7 the purpose of this meeting, the sole purpose, really,  
8 of this meeting is to allow the applicant and the  
9 staff to seek clarification from us about any of the  
10 questions that we ask.

11 This was a suggestion by the staff, by Mr.  
12 Moulding, when we met in December. And it seemed like  
13 a good one, and hopefully we'll try it out and see if  
14 it works. I don't think the other two ESP boards did  
15 anything quite like this, but it seems like it might  
16 work, and maybe you can help us and you answer the  
17 questions more directly and more clearly.

18 This is not the time for oral argument or  
19 objections and motions and that sort of thing, but  
20 mostly and exclusively, really, for clarification of  
21 the questions we ask. We think, of course, those  
22 questions are very clear and there should be no --  
23 this should be a very short session, but we may find  
24 out otherwise. I'm not sure if you have many  
25 questions.

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1 But before I proceed, are there any other  
2 items on the agenda that anyone thinks -- either party  
3 thinks they need to raise at this time?

4 MR. WEISMAN: No, Your Honor.

5 JUDGE KARLIN: Okay.

6 MR. LEWIS: No.

7 JUDGE KARLIN: Okay, great. Okay. What  
8 we'd like to do is proceed as follows. On the 18th we  
9 issued the order, which had about three pages of cover  
10 instructions, I guess, and then it had 116 questions  
11 related to safety, primarily safety.

12 What we thought we'd do is let the  
13 applicant go first, cover the questions in groups --  
14 you know, groups of five, groups of 10 -- we'll see.  
15 Do you have any questions on the first 10 questions?  
16 And then, hear what you have to say, and try to  
17 respond right then and there, to give you as much  
18 clarification as we can, if there are questions about  
19 our questions.

20 You've got to listen carefully and take  
21 notes, because we're not planning to issue an order  
22 pursuant to this meeting and clarifying anything. So  
23 there will be a transcript. Of course, you can resort  
24 to that. We've got a three-day turnaround ordered on  
25 the transcript. If anybody wants to get it faster

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1       than that, I guess they'll have to pay, whoever it is,  
2       to get it faster than that. But we're shooting for --  
3       we're just asking for a three-day turnaround on the  
4       transcript.

5               It may be that as you raise questions we  
6       come up to something that requires us to have a  
7       consultation, the Judges to talk about it. And with  
8       Judge Elleman being down in North Carolina, what we'll  
9       have to do is sort of collect any type of questions  
10      like that, save them until the end, probably adjourn  
11      for a little while, go and have a consultation with  
12      Judge Elleman separately, and then reconvene and try  
13      to give whatever answers or instructions we can at  
14      that point -- clarification. And as I said, we hope  
15      that this procedure helps, and that we can keep safety  
16      questions to one wave.

17             With that, absent anything else --  
18      anything else from Judge Elleman or Judge Cole?

19             JUDGE COLE: I was just tempted to say  
20      this is liable to be your penultimate opportunity to  
21      ask the Board questions, because it rarely happens.

22             JUDGE KARLIN: Yes, we're not used to  
23      this. We're not sure how comfortable we are in  
24      this --

25             JUDGE COLE: The EIS questions, there will

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1 be another opportunity.

2 JUDGE KARLIN: Mr. Moulding, you know,  
3 this is an experiment here, so we're not sure how  
4 comfortable we are being put on the spot. But we're  
5 willing to proceed and give it a try.

6 So with that -- first, I guess let's ask,  
7 any questions about the cover order of the 18th and  
8 the instructions in there? Mr. Lewis?

9 MR. LEWIS: No, Judge Karlin.

10 JUDGE KARLIN: No?

11 MR. WEISMAN: I have no questions, Your  
12 Honor.

13 JUDGE KARLIN: Okay, great. Great. Well,  
14 let's go to the questions themselves. We tried to  
15 organize them in some, you know, sequence that  
16 followed the SER primarily. And hopefully we've  
17 eliminated most of the overlapping questions that some  
18 of us had, but let me ask Mr. Lewis -- first 10  
19 questions, do you have any questions about  
20 clarification of those?

21 MR. LEWIS: Judge Karlin, I only have one  
22 question, and it relates to item 115, so --

23 JUDGE KARLIN: Oh, okay. Well, we can  
24 jump right ahead there. That's good to know. Okay.  
25 That helps us.

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1 Mr. Weisman?

2 MR. WEISMAN: We don't have any on 1  
3 through 10. Our first question has to do with items  
4 17, 20, and 21.

5 JUDGE KARLIN: Okay. Well, then, why  
6 don't we go to those. Since you have the questions,  
7 why don't you please tell us -- 17 -- now, in --  
8 because Judge Elleman is on the phone here, everyone  
9 please talk into the mikes, because I think that's  
10 where his pickup will -- his pickup. And whenever we  
11 have a question, you have a question about a question,  
12 identify the number, so that in the transcript and for  
13 our own notetaking we can make sure what we're --  
14 we're all on the same page. So it's number 17?

15 MR. WEISMAN: Right. Board questions 17,  
16 20, and 21. And all three of these questions relate  
17 to dispersion characteristics. In all three  
18 questions, the Board is requesting an explanation of  
19 why the staff didn't set forth some kind of error  
20 limits with respect to the dispersion characteristics  
21 chosen.

22 As we read it, question 17 adds the  
23 thought of percentile values or probability that the  
24 value chosen would be exceeded. But we don't see any  
25 other differences, and our question is: did the Board

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1 intend any other differences in the other two  
2 questions?

3 JUDGE KARLIN: Okay. I think -- I think  
4 we did. I would probably ask Judge Elleman to focus  
5 on this, if you could, their question 17, 20, and 21.  
6 And you're trying to ascertain what the differences  
7 are in those questions?

8 MR. WEISMAN: Yes, Your Honor. Yes.

9 JUDGE KARLIN: Judge Elleman?

10 JUDGE ELLEMAN: All right. First of all,  
11 I would say you correctly assessed what we were  
12 looking for. We were wanting to get some way of  
13 reflecting the fact that there could be values that  
14 were higher or produced a more severe condition than  
15 were stated, and we're asking you to respond to why  
16 you couldn't properly represent that.

17 Now, as to the differences, let's take a  
18 look here. The first one has to do with predicting  
19 chi over Q values for different time intervals.  
20 That's 17.

21 The next one was 20. All right. That one  
22 differs only in that instead of time intervals it is  
23 different wind velocities that were averaged to get an  
24 appropriate wind velocity selected for the chi over Q  
25 calculation.

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1                   21 -- well, I confess at this point I  
2 would concur that 21 is duplicative of 17, as I look  
3 at it. And so I would say that slipped through our  
4 screening process at the time we put it in.

5                   JUDGE KARLIN:     Okay.     Well, that's  
6 unfortunate. I guess what we would say is that if you  
7 really think that those are -- those are duplicative,  
8 I don't know whether -- do you agree, Judge Cole?

9                   JUDGE ELLEMAN:    Well, the wording is  
10 certainly different, but as I sit here and page back  
11 and forth between them, they both appear to be dealing  
12 with the question of different release times.

13                  JUDGE KARLIN:    Okay.    Good question I  
14 guess, and perhaps we could then just say it does  
15 appear that 17 and 21 overlap or are duplicative,  
16 perhaps exactly. And perhaps when you answer 21 just  
17 say, "See answer to 17."   Okay, good.

18                  JUDGE COLE:    Does that answer your query,  
19 though?

20                  MR. WEISMAN:     Yes, Your Honor.    We  
21 appreciate the guidance. We are interested in being  
22 responsive to the Board, and we didn't want to miss  
23 anything.

24                  JUDGE KARLIN:    Good catch.   Okay.   Thank  
25 you.

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1 All right. Let's see, I'll just turn to  
2 the staff really because, Mr. Lewis, you said your  
3 first concern was 115?

4 MR. LEWIS: Yes, sir.

5 JUDGE KARLIN: Okay. So we've got a long  
6 way to go. Staff, have you got anything between here  
7 and 115?

8 MR. WEISMAN: We do have a couple.

9 JUDGE KARLIN: Okay.

10 MR. WEISMAN: Our next question has to do  
11 with Board questions 22, 26, 29, and 30. And this is  
12 really a very simple question to make sure that staff  
13 didn't miss anything. We understand the questions as  
14 they relate to doses, but the one thing that caught  
15 our attention was the questions are raised with  
16 reference to the section that discusses -- the section  
17 of the SER that discusses chi over Qs, the dispersion  
18 coefficients.

19 And we wanted to make sure that there  
20 wasn't anything in the questions that appear to relate  
21 to dose that would require us to answer something  
22 about this dispersion coefficients. It doesn't appear  
23 to us that there is anything that calls for a response  
24 with respect to the dispersion coefficients.

25 JUDGE ELLEMAN: To the specific values of

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1 the dispersion coefficients?

2 MR. WEISMAN: Yes, that -- we're just --  
3 we don't understand the questions as asking about  
4 dispersion coefficients. It's only asking about dose.  
5 That's how we're understanding it. We want to make  
6 sure that that's true.

7 JUDGE ELLEMAN: All right. Let's look at  
8 them individually. Say again, the first one was?

9 MR. WEISMAN: It's 22.

10 JUDGE ELLEMAN: 22. Yes. No, that  
11 doesn't say anything about specific values of  
12 dispersion coefficients. The next is 26?

13 MR. WEISMAN: 26. It's about the milk  
14 exposure pathway.

15 JUDGE ELLEMAN: Right.

16 JUDGE KARLIN: With no cows.

17 JUDGE ELLEMAN: With no cows, yes, right.  
18 Again, it is not related to specified values. Both of  
19 these are related to process, why were they done or  
20 not done in the way that we perceived.

21 Okay. The next is 29?

22 MR. WEISMAN: 29. And that's tritium.

23 JUDGE ELLEMAN: Yes, okay. Again, no  
24 requirement for specific chi over Q values. And the  
25 next is 30?

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1 MR. WEISMAN: 30.

2 JUDGE ELLEMAN: Right. Again, no  
3 requirement for specific values. That one relates to  
4 what we perceived as being missing information.

5 MR. WEISMAN: All right. Well, thank you.  
6 I think that -- I mean, just confirms the staff's  
7 reading of the questions, kind of an overly  
8 conservative question on our part.

9 JUDGE KARLIN: No, that's fine. It's good  
10 if we can clarify that. Great. Because otherwise you  
11 might end up having to spend more time answering  
12 something that didn't need to be answered.

13 Okay. Next?

14 MR. WEISMAN: Our next one is a little bit  
15 of a jump. We go all the way up to 66.

16 JUDGE KARLIN: 66?

17 MR. WEISMAN: 66.

18 JUDGE KARLIN: Okay.

19 MR. WEISMAN: And 66, the question relates  
20 to measurements of radioactive materials in the air,  
21 soil, and groundwater. And the staff understands this  
22 as a question that would be measurements following an  
23 accident, and we want to make sure that that's what  
24 the Board intended.

25 JUDGE KARLIN: Measurements following an

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1 accident.

2 MR. WEISMAN: Yes.

3 JUDGE KARLIN: I didn't think so. Judge  
4 Elleman?

5 JUDGE ELLEMAN: No. The intent was for  
6 normal circumstances why hasn't there been  
7 measurements of this kind reported in the SER.

8 MR. WEISMAN: Okay. So this is for  
9 normal --

10 JUDGE ELLEMAN: Normal release.

11 MR. WEISMAN: -- normal environmental  
12 monitoring?

13 JUDGE ELLEMAN: That's correct.

14 JUDGE COLE: Which might have already been  
15 taking place and continued from operations of Unit 1  
16 and 2?

17 MR. WEISMAN: I don't know, but we will --  
18 the staff will address that when we answer the  
19 question.

20 Okay. But so since this is normal  
21 effluence, and normal environmental monitoring, we can  
22 answer the question that way. That's --

23 JUDGE KARLIN: Great. And, you know, part  
24 of that is I think that, as we indicated in the  
25 instructions, both the staff and the applicant are --

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1 you know, may respond to these questions even if they  
2 are questions about why the SER has this or that or  
3 the other. If the staff -- if the applicant has  
4 something they need to say, or think they can  
5 contribute, that's good, or you can coordinate as you  
6 see fit on that. But this is not meaning that the  
7 applicant has -- you know, doesn't have any  
8 responsibility here presumably.

9 MR. WEISMAN: Thank you, Your Honor.

10 JUDGE KARLIN: Thank you.

11 JUDGE ELLEMAN: I would make another  
12 comment at this point. Some of these questions were  
13 generated before we had a chance to look closely at  
14 the EIS, and it does turn out that there is peripheral  
15 information in the EIS on some of these questions that  
16 are posed.

17 JUDGE KARLIN: Yes.

18 JUDGE ELLEMAN: Although not necessarily  
19 direct answers to the questions.

20 JUDGE KARLIN: Yes, that's a good point.  
21 We should have raised that at the outset. Yes, that  
22 is true. We have generated these safety -- primarily  
23 safety-related questions in a sequential order. We  
24 are now working on the EIS questions. We see that the  
25 EIS contains -- may contain some information that is

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1 responsive to some of these questions.

2 If that's true, it may be useful for you  
3 to cross reference to the EIS. But I would -- and say  
4 so, although it would be much better, I think, if you  
5 would not simply cross reference us to some -- you  
6 know, some section of the EIS where we have to sort of  
7 root around and figure out how is that responsive to  
8 this question.

9 Spoon-feed us if you can, give us a little  
10 bit of what the answer is, and cross reference us if  
11 you could, because cross reference to some document  
12 that we have trouble understanding or understanding  
13 how it answers this question is not going to help us  
14 very much. But that is a good point, Judge Elleman.

15 Okay. 66 -- do you have the answer you  
16 need on that one?

17 MR. WEISMAN: Yes, Your Honor.

18 JUDGE KARLIN: Okay. Good, good. Next?

19 MR. WEISMAN: The next question is 76.

20 JUDGE KARLIN: Okay. 76, yes.

21 MR. WEISMAN: It's the first of the  
22 question. The Board is asking: what radiation dose  
23 is received immediately outside the reactor  
24 containment? And the staff presumes that the Board is  
25 asking about outside the secondary containment rather

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1 than outside the primary containment.

2 JUDGE KARLIN: Yes. Yes, that's correct.

3 MR. WEISMAN: And having made that --  
4 gotten that right, the question is: at what location  
5 outside, immediately outside the secondary  
6 containment? Because it does make a difference.

7 JUDGE KARLIN: I would think that you  
8 would apply, as the highest values, the most -- you  
9 know, the highest, worst-case, you know, location  
10 shall we say.

11 MR. WEISMAN: Okay. So it will be the  
12 worst-case location that we know of.

13 JUDGE KARLIN: Yes, please. And I think  
14 some of this is maybe answered in the EIS as well.  
15 There is some information on this point in the EIS.

16 The exclusionary boundary -- EAB boundary  
17 -- maybe that's a little redundant -- is the edge of  
18 the boundary. That is where someone could be, you  
19 know, not in the exclusionary area but right at the  
20 fence line as it were the line.

21 MR. WEISMAN: Oh, yes. We have a complete  
22 understanding of the EAB.

23 JUDGE KARLIN: Right.

24 MR. WEISMAN: The exclusionary boundary.

25 JUDGE KARLIN: Good, okay.

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1 MR. WEISMAN: It's just "outside the  
2 containment" that was bothering us.

3 JUDGE KARLIN: Okay.

4 MR. LEWIS: And specifying the worst area  
5 outside the secondary containment, do you mean the  
6 worst area that's accessible to a worker? I mean, it  
7 could be the roof or --

8 JUDGE KARLIN: Yes, the highest area where  
9 it's humanly accessible, sort of the reasonably  
10 maximally exposed individual, you know, outside of the  
11 secondary containment area. Okay?

12 MR. WEISMAN: Yes, thank you.

13 JUDGE KARLIN: That's 76. Okay. Next?

14 MR. WEISMAN: Next question is 80, and  
15 this is one that's identified as a legal question. It  
16 appears to the staff that at least part of the  
17 question may be within the technical staff's expertise  
18 as opposed to better -- susceptible to an answer by  
19 counsel.

20 For instance, the question of how  
21 compliance would be monitored and measured, I think  
22 that the staff -- we believe the staff could describe  
23 how that would be done. And so we were wondering if  
24 the portions of the question that appear to be more  
25 susceptible to a technical answer, if we could fold

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1 that into the staff's answers rather than putting it  
2 into our brief.

3 JUDGE KARLIN: I think that would be fine.  
4 Our point in identifying it as a legal question is  
5 asking that, to the extent that there are legal  
6 citations or authorities that we are looking for, and  
7 hopefully you can inform us, how is the 25 millirem  
8 per year standard that's imposed by EPA Part 190 to be  
9 allocated amongst the multiple reactors, the multiple  
10 units, the multiple licensees, if at all.

11 And, you know, if there is Federal  
12 Register type of citations or case law or something  
13 else that helps inform that, we would like to see the  
14 authorities cited to help us understand whether that  
15 really works or not. The specifics of how compliance  
16 would be monitored -- yes, if you want to put that  
17 into -- I mean, what we're anticipating is that you  
18 will, as a general rule, give us this chart back with  
19 the blocks filled in, with attachments or references  
20 to exhibits as you see fit.

21 Yes, the answer is -- I think the long and  
22 short of it is please give us some legal citations, if  
23 there are any. And if there aren't, address it in  
24 your brief anyway. But if there is a factual  
25 component, you can answer that on the chart, if you

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1 want.

2 MR. WEISMAN: Thank you, Your Honor.

3 JUDGE KARLIN: Okay.

4 MR. WEISMAN: Our next one is Board  
5 question 90, and it's not really a question. We --  
6 this is an easy question to answer.

7 JUDGE KARLIN: 90. 9-0, okay.

8 MR. WEISMAN: This has to do with the  
9 evacuation time estimate, the ETE.

10 JUDGE KARLIN: Right.

11 MR. WEISMAN: And it's just a request from  
12 the staff that the staff would appreciate some  
13 indication if the Board intends to ask technical  
14 questions about the ETE, because the staff will have  
15 to retain that contractor support if that's the case,  
16 and we need some time to do that. So it's just a  
17 request and --

18 JUDGE KARLIN: Okay.

19 MR. WEISMAN: -- to get some indication if  
20 the Board wants to get into that more deeply.

21 JUDGE KARLIN: Okay.

22 JUDGE COLE: That report isn't available  
23 readily to you?

24 MR. WEISMAN: Well, the report is  
25 available, and we can -- we're going to provide it in

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1 our answers.

2 JUDGE KARLIN: Okay.

3 MR. WEISMAN: But the question is: if  
4 you're going to ask technical questions regarding the  
5 report after you receive it, if you want to -- if  
6 you're going to expect some testimony on that, or pose  
7 some final -- a second round of questions on that --

8 JUDGE KARLIN: Okay.

9 MR. WEISMAN: -- then we'll need to know  
10 that sooner rather than later, so we can arrange for  
11 our --

12 JUDGE KARLIN: We'll try to give you a  
13 heads-up on that. I mean, our plan is we've got these  
14 questions, you give us answers, we study them. Then,  
15 we would have a time when we focus and issue some  
16 order laying out the topics we would like to have  
17 addressed in the -- in the written testimony you're  
18 going to submit.

19 Then, perhaps all or perhaps even some  
20 subset of that will be the subject of oral testimony  
21 at the hearing. If we think we're going to be getting  
22 into this, we'll try to give you as early a notice as  
23 possible, but you'll certainly get that notice at the  
24 time we issue our order about the topics for the pre-  
25 hearing -- for the evidentiary hearing.

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1 But we'll try to do it ahead of that if we  
2 think -- but I think we had a problem because it kept  
3 referring to "the ETE," and that was -- you know, the  
4 question speaks for itself, I think.

5 MR. WEISMAN: We understand now.

6 JUDGE KARLIN: Hopefully, yes. Okay?  
7 Next?

8 MR. WEISMAN: The next question is  
9 question 99. And I -- we think we know what this is,  
10 what the answer is, we just want to get it on the  
11 record. The question has to do with design basis  
12 accidents, and at one point makes reference to DNBs.  
13 We assume that that is meant to mean DBAs, design  
14 basis accidents.

15 JUDGE ELLEMAN: Yes.

16 JUDGE KARLIN: Yes. Typo. Thank you.  
17 yes.

18 JUDGE ELLEMAN: Right. They're both  
19 referring to the design basis accidents.

20 JUDGE KARLIN: Right. Okay.

21 MR. WEISMAN: And, finally, we're getting  
22 to question 115.

23 JUDGE KARLIN: Oh, you're at -- all right.  
24 So, Mr. Lewis?

25 MR. LEWIS: Thank you, Judge Karlin. 115

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1 actually is part of -- goes with 114. 114 refers to  
2 the portion of the safety evaluation report that lists  
3 the COL action items. And then, 115 has five items  
4 that the Board is asking, how come these weren't  
5 included in that table?

6 And when I first looked at this question,  
7 I presumed that these were either some commitment that  
8 had been made in the application that didn't make it  
9 into the table, or perhaps was something the staff in  
10 the body of the SER had said needed to be done that  
11 was not included in the table.

12 But having now looked, I have not been  
13 able to find any discussion of these five items. So  
14 I just wanted to confirm that the items that are  
15 listed as A through E in 115 don't -- aren't referred  
16 to, that there's not some reference in the SER that we  
17 need to know about.

18 The question is not: why does the staff  
19 say one of these items needs to be addressed in the  
20 body of the SER, and then, you know, does not include  
21 it in the table.

22 JUDGE KARLIN: Well, it -- the reference  
23 I think is SSER, Appendix A. Is that Appendix A, 1  
24 through 7? I'm not sure. Oh, it's -- yes, it's a list  
25 of COL action items.

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1 JUDGE ELLEMAN: Would you like me to speak  
2 to that?

3 JUDGE KARLIN: Yes, please, Dr. Elleman.

4 JUDGE ELLEMAN: All right. 115 are really  
5 the subparts of 114. And you're correct, those items  
6 are not listed as followup items, but they are items  
7 that I would have expected should have been listed as  
8 followup items, because they seem to me of sufficient  
9 importance that there should be some tag listing them  
10 for further inquiry.

11 And so the thrust of the question is  
12 basically simple. It is: why didn't these kinds of  
13 items show up as items to be pursued in the future?

14 MR. LEWIS: Okay.

15 JUDGE KARLIN: Is that helpful?

16 MR. LEWIS: Yes.

17 JUDGE KARLIN: Okay. So that was your --

18 MR. LEWIS: Yes.

19 JUDGE COLE: And looking at this list, it  
20 seems that at least several of them have been  
21 addressed in the EIS.

22 JUDGE KARLIN: Yes. I mean, if that's the  
23 case --

24 JUDGE ELLEMAN: If that's true, then a  
25 reference to the EIS would be appropriate.

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1 JUDGE KARLIN: Right. With perhaps a  
2 little bit of an answer here if it's not readily  
3 apparent from the page of the EIS that supposedly  
4 you're going to point us to.

5 All right. Any other questions?

6 MR. WEISMAN: The staff has three more  
7 questions, two specific to Board question 115.

8 JUDGE KARLIN: 115. Okay. We're still on  
9 115.

10 MR. WEISMAN: In Part A, the question  
11 relates to doses to construction workers, and comments  
12 that those doses should be reevaluated in light of the  
13 specific steam supply chosen. The way the staff would  
14 understand doses to construction workers, they would  
15 result from radiation from operation of the existing  
16 units.

17 JUDGE ELLEMAN: Of 1 and 2, that's  
18 correct.

19 MR. WEISMAN: And so our question is:  
20 what is the reference to the specific steam supply  
21 chosen, what is that -- what is that asking for?

22 JUDGE ELLEMAN: Well, I would agree we  
23 should have put two parts in that question. It would  
24 include an evaluation during accident conditions,  
25 which would relate to the specific steam supply

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1 chosen. And then, as you said, it would relate to the  
2 normal exposures from 1 and 2.

3 MR. WEISMAN: I guess I'm going to ask for  
4 some additional clarification. Is this -- well, for  
5 instance, while Unit 3 is being built, there would not  
6 be any exposure resulting from the construction of  
7 Unit 3.

8 JUDGE ELLEMAN: That's correct.

9 MR. WEISMAN: Is the assumption that when  
10 Unit 4 is being built that perhaps there would be  
11 exposures resulting from the already-built Unit 3?

12 JUDGE ELLEMAN: Yes.

13 MR. WEISMAN: All right. I'm still not  
14 certain that I understand where the accident dose  
15 would come from.

16 JUDGE ELLEMAN: Well, the accident dose  
17 would have to come from a Unit 1 or 2 accident that  
18 would release radioactivity to construction personnel  
19 on 3 or 4.

20 MR. WEISMAN: Okay. I think that that  
21 clarifies it for the staff.

22 JUDGE KARLIN: All right. It seemed like  
23 a reasonable question.

24 Are there any other --

25 MR. WEISMAN: I have another question on

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1 115.

2 JUDGE KARLIN: All right.

3 MR. WEISMAN: And it's Part B. The  
4 question relates to impact of localized fogging on  
5 transportation accidents. And the question the staff  
6 has is: well, what kind of transportation accidents  
7 are we talking about?

8 JUDGE COLE: Fog-caused.

9 JUDGE ELLEMAN: Well, the thrust of the  
10 question in formulating it was you have acknowledged  
11 that there would be fogging that can occur with  
12 increased frequency up to a distance of I think a  
13 mile. And there are a variety of vehicles that would  
14 be encountering that. There would be people coming to  
15 and from work. There would be trucks arriving and  
16 departing with various items on them.

17 And the question would cover all aspects  
18 of those. What's the potential for accidents based on  
19 experience and prior analyses for these circumstances.

20 MR. WEISMAN: All right. So the -- just  
21 to repeat it to make sure I understand it. The  
22 question is that the fog on local roads could result  
23 in traffic accidents on whatever local traffic was  
24 around the site.

25 JUDGE ELLEMAN: That's correct.

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1 JUDGE COLE: You might want to add icing  
2 to that also.

3 JUDGE ELLEMAN: Yes.

4 JUDGE KARLIN: Well, we didn't ask that.  
5 But do we want to add that?

6 JUDGE COLE: Well, moisture-induced icing.

7 JUDGE KARLIN: All right. Could we ask  
8 you to address that as well?

9 MR. WEISMAN: Yes, Your Honor.

10 JUDGE KARLIN: Okay. Thank you.

11 MR. WEISMAN: The staff has really only  
12 one other question. Judge Karlin, you alluded to the  
13 fact that these were primarily safety questions.  
14 We're going to point out some questions that we  
15 thought were more appropriately responded to in the  
16 context of the environmental review, and we will do  
17 that.

18 JUDGE KARLIN: Okay.

19 MR. WEISMAN: The only other general  
20 question that I have is some of the -- there are --  
21 the variety of questions appear to have some kind of  
22 a legal component to it, and it's a format question.  
23 May we answer those in the context of our brief, what  
24 we see as the legal issues raised, and put the  
25 technical part of it in the table?

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1 JUDGE KARLIN: Well, we have identified  
2 specifically a number of legal questions, which --

3 MR. WEISMAN: Yes, Your Honor.

4 JUDGE KARLIN: Are you suggesting you have  
5 others that you think might also have a legal  
6 component?

7 MR. WEISMAN: There may be a couple of  
8 others that have --

9 JUDGE KARLIN: Okay.

10 MR. WEISMAN: -- a legal component to it.

11 JUDGE KARLIN: Well, if -- yes, if there  
12 is a legal component that you think -- of a question  
13 we haven't identified as such, please do take a crack  
14 at addressing it in your brief and giving us  
15 authorities or other such citations that will help us  
16 think this through and write a decision, because we  
17 may be -- we will be writing a decision ultimately,  
18 and sometimes we're asking you for something as simple  
19 as a definition, which everyone knows what that means,  
20 but you can't -- for the life of me, I can't find a  
21 reg that gives me the definition. And if you can help  
22 us in some of those ways, great.

23 Yes. So if there are other legal elements  
24 that you want to address in your brief, please do so.  
25 Try to be as clear as you can as to what question you

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1 are correlating your discussion with, and, you know,  
2 answer the -- and you may want to reference that in  
3 your answer on the chart, that we have addressed this  
4 in our brief at page such and such. And we encourage  
5 both of the parties to address these legal issues,  
6 unless you have agreed upon some single statement on  
7 that point.

8 MR. WEISMAN: Thank you, Your Honor.

9 JUDGE KARLIN: Okay. Did you want to --  
10 you say there's some of them you think are  
11 environmentally-related. Do you want to just note  
12 that when you give us your answers?

13 MR. WEISMAN: Yes, we'll note that in the  
14 answers.

15 JUDGE KARLIN: Okay. But you will provide  
16 the answers. Otherwise, we may -- you know, we don't  
17 want to have to ask them again, or we're going to try  
18 to avoid asking them again. We may, but we'll try to  
19 minimize it.

20 MR. WEISMAN: Yes, Your Honor.

21 JUDGE KARLIN: Okay. All right. Anything  
22 else we need to cover at this point, Mr. Weisman?

23 MR. WEISMAN: The staff doesn't have  
24 anything right now.

25 JUDGE KARLIN: Okay.

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1 MR. WEISMAN: Although I might want to  
2 consult with --

3 JUDGE KARLIN: Okay.

4 MR. WEISMAN: -- the project managers.

5 JUDGE KARLIN: Yes. Well, do you want to  
6 do that?

7 Mr. Lewis?

8 MR. LEWIS: Nothing more at this point.

9 JUDGE KARLIN: Okay. All right. Why  
10 don't you -- we'll take a minute, and go ahead and  
11 consult with your project manager. We'll go off the  
12 record for a moment.

13 MR. WEISMAN: Thank you.

14 (Whereupon, the proceedings in the  
15 foregoing matter went off the record at  
16 2:35 p.m. and went back on the record at  
17 2:36 p.m.)

18 JUDGE KARLIN: Anything else, Mr. Weisman?

19 MR. WEISMAN: We don't have anything else,  
20 Your Honor.

21 JUDGE KARLIN: Okay. Great.

22 And, Mr. Lewis, you have already said  
23 you're okay.

24 Dr. Elleman, anything you or Dr. Cole need  
25 to add at this point?

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1 JUDGE ELLEMAN: I think not.

2 JUDGE KARLIN: Okay. I think this has  
3 been helpful. Mr. Moulding, it was a good idea, it  
4 seems. At any rate, hopefully this has helped you.  
5 We will do the same thing with regard to the  
6 environmental questions in I guess a month or  
7 something like that. We will presumably see some or  
8 all -- many of you down in Louisa County High School  
9 on February 8th.

10 With that, we're adjourned. thank you  
11 very much.

12 (Whereupon, at 2:37 p.m., the proceedings  
13 in the foregoing matter were adjourned.)  
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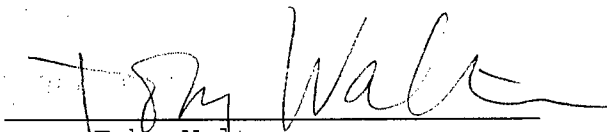
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