

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: North Anna Early Site Permit  
Pre-Hearing Conference

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

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

(2:04 p.m.)

1  
2  
3 ADMIN. JUDGE KARLIN: Good afternoon. My  
4 name is Alex Karlin. I'm one of the judges on this  
5 Atomic Safety and Licensing Board.

6 We are convening today in the matter of  
7 Dominion Nuclear North Anna, LLC. It is an early site  
8 permit application, Docket No. 52-008, ASLBP No. 04-  
9 822-02-ESP.

10 Today's date is April 18th, a propitious  
11 date since the ESP regulations were issued on April  
12 18th, 1989. So we have an anniversary to celebrate or  
13 whatever -- to at least note.

14 And beside me here is Judge Dr. Cole,  
15 Judge Cole. And on the phone should be Dr. Elleman.  
16 Dr. Elleman, are you with us?

17 ADMIN. JUDGE ELLEMAN: This is Judge  
18 Elleman, yes.

19 ADMIN. JUDGE KARLIN: Very good, great.

20 Let's see, this is a prehearing conference  
21 in this matter pursuant to the second revised  
22 scheduling order that we issued on January 4th of '07.

23 In a minute, I'll ask everyone to  
24 introduce themselves, those on the phone as well. I  
25 understand, Mr. Lewis, your lawyers and your client

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1 are on the phone?

2 MR. LEWIS: This is Dave Lewis. That's  
3 correct, Judge Karlin.

4 ADMIN. JUDGE KARLIN: Great. Okay. Well  
5 in a minute, you can introduce. Please speak into the  
6 microphones and especially for those who are on the  
7 phone, if you could identify yourself as you begin  
8 speaking, that would be helpful to the Court Reporter.

9 Okay, why don't we start with the people  
10 in the room here. The staff attorneys, Mr. Weisman,  
11 could you introduce your team and anyone else you  
12 think it appropriate to introduce.

13 MR. WEISMAN: Yes, thank you, Judge  
14 Karlin.

15 I'm Robert Weisman. Sitting with me at  
16 counsel table are Brooke Poole, Jerry Bonanno, and  
17 James Biggins.

18 ADMIN. JUDGE KARLIN: Welcome, welcome.

19 MR. WEISMAN: We have a Project Manager  
20 from the NRC staff sitting in the audience. And I  
21 don't believe that we have anybody on the line. But  
22 they might call in.

23 ADMIN. JUDGE KARLIN: Okay. Well, let's  
24 just check. Is there anyone on the line from the NRC  
25 staff?

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1 (No response.)

2 ADMIN. JUDGE KARLIN: Okay. I didn't  
3 think so.

4 And the applicant, Dominion Nuclear North  
5 Anna, Mr. Lewis, could you introduce your team and  
6 your clients who are with you please?

7 MR. LEWIS: Yes, Judge Karlin, this is  
8 David Lewis from the Law Firm of Pillsbury Winthrop  
9 Shaw Pittman representing Dominion Nuclear North Anna.  
10 With me is Lillian Cuoco, Dominion's Senior Counsel  
11 responsible for nuclear matters.

12 I also have with me Mr. Robert Haemer from  
13 my office. And in addition, Mr. Blake Nelson from my  
14 office. Mr. Nelson has not yet entered a notice of  
15 appearance but will do so shortly.

16 ADMIN. JUDGE KARLIN: Okay. Welcome. Is  
17 there anyone else with you on the line or on another  
18 line from Dominion?

19 MR. LEWIS: No, Judge Karlin.

20 ADMIN. JUDGE KARLIN: Okay. Fine. Thank  
21 you.

22 With that, the background of this  
23 proceeding here today is that we issued an order on  
24 the 20th of March setting forth some of the mechanics  
25 and the specifics of how we thought the evidentiary

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1 hearing could operate and run efficiently.

2 Pursuant to that and to earlier orders,  
3 the parties have submitted a substantial amount of  
4 material mostly on April 10th, a couple days ago. And  
5 now we have the uncontested evidentiary hearing set  
6 for next Tuesday, April 24th, at 9:00 a.m.

7 So the purpose of this meeting is just to  
8 talk about the mechanics and facilitate, make sure  
9 we're all on the same wave length about the best way  
10 to proceed on the evidentiary hearing.

11 I've got as sort of usual a few specific  
12 topics we could talk about to make sure we're clear  
13 and on the same wave length. And then if you have  
14 anything that you think needs to be added, Mr. Weisman  
15 or Mr. Lewis, you know we can add that to the agenda  
16 as appropriate.

17 So agenda topics, you know, the Board has  
18 sort of thought about these sort of things. And the  
19 first item will be to respond to Dominion's request to  
20 make an adjustment of the schedule. We sent a short  
21 note out on that and we'll cover that quickly and  
22 easily, I think.

23 Second is we want to check in terms of the  
24 filings. We've gotten a lot of material from both  
25 parties in the last week or so. And a lot of material

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1 earlier, of course.

2 And we want to make sure we've got  
3 everything and if there is -- we think there might be  
4 a couple of things where there is something missing or  
5 we are uncertain as to what was intended. So a check  
6 of the filings that we have received.

7 Third is we'll go over and review the  
8 evidentiary hearing process. We, I think, laid it out  
9 -- tried to lay it out in the order of March 20th but  
10 we thought it would be useful to just sort of go over  
11 it now and there may even be a few modifications and  
12 clarifications we will give you right now.

13 Fourth is our legal questions. We'll give  
14 you a list of the legal questions we think we'd like  
15 to ask you to address in the oral argument.

16 Fifth are sort of a list of mechanical  
17 points and questions and maybe some to-do items for  
18 the mechanics of the proceeding.

19 And those are the sort of five things  
20 we've got in mind for today. Is there anything that  
21 the parties would suggest or would like to have  
22 addressed in this conference today?

23 MR. LEWIS: Judge Karlin, this is David  
24 Lewis. I think that there a couple of items but I  
25 think they fall within your categories.

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1 ADMIN. JUDGE KARLIN: Okay. Could you  
2 give me a hint what are they. And let's see if they  
3 do fall in.

4 MR. LEWIS: Just mechanics, for example,  
5 will there be a projector and screen at the hearing  
6 room for the presentations? Or if we are doing  
7 slides, should we do blow ups, those kinds of  
8 questions.

9 And, of course, I am very interested in  
10 knowing with respect to the prefiled base testimony,  
11 if you have decided whether you want to question those  
12 panelists or whether any of them can be told that they  
13 are not needed.

14 ADMIN. JUDGE KARLIN: Oh, could you  
15 clarify that one? What was that point?

16 MR. LEWIS: In your prior scheduling  
17 order, you had indicated that we should file our main  
18 case-in-chief, that it might be the case that the  
19 Board would have no questions for the prefiled  
20 testimony witnesses. And it was understanding that at  
21 this prehearing conference, you might so indicate.

22 ADMIN. JUDGE KARLIN: Yes, yes, I will  
23 cover that. Okay. Was there anything else you were  
24 thinking of, Mr. Lewis?

25 MR. LEWIS: No, Judge Karlin.

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1 ADMIN. JUDGE KARLIN: The answer was no?

2 MR. LEWIS: Yes. Nothing further, Judge  
3 Karlin.

4 ADMIN. JUDGE KARLIN: All right. Thank  
5 you, Mr. Lewis.

6 Mr. Weisman?

7 MR. WEISMAN: Judge Karlin, the staff has  
8 really only one issue that we would like to add. And  
9 it is in connection with the discussion on the order  
10 of the topics to be heard at the hearing.

11 While the staff witnesses are certainly  
12 available for both weeks, it might be a convenience to  
13 the staff, some of the witnesses, the environmental  
14 witnesses are coming in from the West Coast and it  
15 might be a convenience to them if we could hear those  
16 issues first. So that is something that we might like  
17 to ask the Board to consider.

18 ADMIN. JUDGE KARLIN: Okay. All right.  
19 Then we'll cover that with our agenda. That will be  
20 added to the agenda.

21 MR. WEISMAN: Thank you, Your Honor.

22 ADMIN. JUDGE KARLIN: Great. Okay. With  
23 that, let's go ahead and address the first issue which  
24 I think will get to the item Mr. Weisman also talked  
25 about which was Dominion's request to adjust the

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1 schedule.

2 We double checked and the staff did not  
3 file any request. And I think you had no problem with  
4 Dominion's request nor do we. It seems reasonable.

5 As I understand it, Dr. Coutant wanted to  
6 speak on the surface water impacts. And he is only  
7 available in the first week. And with regard to  
8 seismic, Dr. Lettis, because of his honeymoon, was not  
9 going to be available until the 26th. And so we  
10 thought that would be no problem.

11 And our approach and plan in response to  
12 that would be to grant those requests and to move the  
13 surface water impacts item to the first topic on the  
14 agenda. This would assure -- absolutely assure that  
15 Dr. Coutant could speak early and we'd be dispensed  
16 with that.

17 MR. LEWIS: Thank you, Judge Karlin, much  
18 appreciated.

19 ADMIN. JUDGE KARLIN: No problem. I hope  
20 that works with the staff as well.

21 Then for the seismic issue, we thought the  
22 best way to play that one was to put that last on the  
23 agenda, leaving everything else in the sequence we  
24 laid out before.

25 And we would also commit that not only

1 would seismic be the last item but would not come up  
2 before Thursday the 26th. So even if we ended up  
3 early on whatever -- Wednesday, then we would just  
4 take the afternoon off and we'd reconvene in the  
5 morning so that Dr. Lettis could be there on the 26th.

6 ADMIN. JUDGE COLE: Of if we finish  
7 everything by Tuesday, we'll wait until Thursday.

8 ADMIN. JUDGE KARLIN: Right. Right.

9 So surface impacts is first. Seismic is  
10 last. That means the sequence is surface water  
11 impacts, hydrology and groundwater, tritium, zero  
12 release, radiological releases from normal operations,  
13 NEPA alternatives, and seismic.

14 That was our plan. Any questions? I mean  
15 I'm not sure what we can do vis-~~vis~~-vis the staff.

16 MR. WEISMAN: I guess the -- Your Honor,  
17 this is Bob Weisman. And moving the seismic to the  
18 last, that, in part, addresses the staff's --

19 ADMIN. JUDGE KARLIN: Okay, good, that  
20 helps.

21 MR. WEISMAN: -- issue. It does help. I  
22 think that the staff would like to see, if possible,  
23 issues one and three moved towards the end so that an  
24 order of five, two --

25 ADMIN. JUDGE KARLIN: Well, you'll have --

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1 the numbering now is a bit confusing. Which ones are  
2 you referring to specifically?

3 MR. WEISMAN: Okay. So that --

4 ADMIN. JUDGE KARLIN: I mean we thought --  
5 we always thought there was some logical sort of flow  
6 going from hydrology and groundwater to tritium to  
7 zero release.

8 MR. WEISMAN: The staff understands that,  
9 Your Honor.

10 ADMIN. JUDGE KARLIN: Okay.

11 MR. WEISMAN: And we appreciate that.

12 ADMIN. JUDGE KARLIN: Yes.

13 MR. WEISMAN: This is only a matter of  
14 convenience for a few witnesses. So I think that if  
15 we could move, for instance, if we could move -- I  
16 believe that the site characterization -- probably if  
17 we could move the zero release commitment, that is  
18 item number three, and make that before the seismic.  
19 Make that next to last --

20 ADMIN. JUDGE KARLIN: Oh, next to last?

21 MR. WEISMAN: -- that that would probably  
22 help the staff.

23 ADMIN. JUDGE KARLIN: That seems  
24 reasonable to me. Judge Cole is nodding. Judge  
25 Elleman, any problem with moving zero release to the

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1 second to last? The penultimate item.

2 ADMIN. JUDGE ELLEMAN: I see no problem.

3 ADMIN. JUDGE KARLIN: Okay. Then that is  
4 what we'll do. Zero release will be after NEPA  
5 alternatives and before seismic, seismic being the  
6 last topic on the agenda. Okay?

7 MR. WEISMAN: Yes, thank you very much,  
8 Your Honor.

9 ADMIN. JUDGE KARLIN: We actually think  
10 zero release commitment will be a short one. So --

11 MR. WEISMAN: Okay.

12 ADMIN. JUDGE KARLIN: -- there is that  
13 element. I think that is going to be one of the  
14 shorter ones.

15 Okay, that's great. We will proceed on  
16 that basis. I don't think we're going to reissue any  
17 order that would reflect that. But as I have it now,  
18 it is surface water impacts, hydrology and  
19 groundwater, tritium, radiological releases, NEPA  
20 alternatives, zero release, and seismic.

21 Great, okay. And we won't start seismic  
22 until at least the morning of the 26th. Okay, great.

23 The second item on the agenda, we wanted  
24 to double check the filings, the material that we  
25 received, and to see if we have got everything. And

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1 we have a couple questions on that.

2 First, I think all three members of the  
3 Board would express appreciation of the obvious  
4 substantial amount of work that the applicant and the  
5 staff put into answering our questions in an earlier  
6 phase of this thing. And then also submitting this  
7 material. It is a lot of material and we appreciate  
8 there.

9 There was a flurry of stuff coming in on  
10 the 10th and we want to make -- we think we are  
11 missing an item or two. So let's just check.

12 On the 10th, we were supposed to get  
13 written statements of position. And we've got that.  
14 Written testimony from both parties, we've got that.

15 We're supposed to have all of your  
16 exhibits. We have -- the staff has submitted a number  
17 of exhibits. Dominion has submitted one. We might  
18 talk a little later about the mechanics of that but I  
19 think we're covered there.

20 The electronic exhibit list, we've gotten  
21 that. The answers to the three questions we asked,  
22 check, we received that.

23 The attendee list, on the 17th, we asked  
24 the parties to submit on the 17th, April 17th, a list  
25 of the attendees to the hearing. Those included

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1 witnesses, counsel, and representatives of the parties  
2 who just might happen to be in the audience, that sort  
3 of thing. It is useful for security and other  
4 purposes. And we have received lists like that.

5 The one problem we have is the list of  
6 witnesses for the topics. We've got something from  
7 Dominion but we do not have something from the staff  
8 on the list of witnesses you intend -- we have seven  
9 topics.

10 As you will see, the applicant gave us,  
11 you know, a list -- a panel of witnesses. I don't  
12 know. Maybe we're missing something. But do we have  
13 a list of witnesses?

14 We received something on the 17th, which  
15 is NRC staff's witness and counsel list, which is not  
16 what we expected. And it was not submitted on the  
17 10th. Was there something else you submitted?

18 MR. WEISMAN: Your Honor, this is Bob  
19 Weisman for the staff. And it appears to us that we  
20 did submit that on April 10th. It is attached to the  
21 exhibit list. And we list the witnesses and the  
22 topics -- and the associated topics. It is on page  
23 three. It is Exhibit 18 through 24.

24 ADMIN. JUDGE KARLIN: Oh, I see. In your  
25 exhibit list, you have some names in the category

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1 and/or witness column. And that -- oh, so that is  
2 your witness list. I see.

3 MR. WEISMAN: Yes.

4 ADMIN. JUDGE KARLIN: I see. Okay. I  
5 think that will suffice but we were looking for a  
6 separate piece of paper. I guess that might have  
7 confused us. But I think that covers it.

8 MR. WEISMAN: Okay. We would be pleased  
9 to provide you with a separate list if that will help.

10 ADMIN. JUDGE KARLIN: No, I don't think  
11 so.

12 ADMIN. JUDGE COLE: We got it now.

13 ADMIN. JUDGE KARLIN: Yes, we've got it  
14 now. We didn't really read that. We were looking for  
15 a separate filing. And this tells us what we need to  
16 know -- just the names of the witnesses.

17 Good, okay. I think that -- list of  
18 witnesses for topics -- good, I think we are covered  
19 there.

20 Next topic would be to review the  
21 evidentiary hearing process a little bit. And to make  
22 sure we're on the same wavelength. As we've discussed  
23 before, each party has had the opportunities to submit  
24 their case-in-chief by virtue of their written  
25 position, their prefiled written testimony, their

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1 prefiled exhibits.

2 And the purpose of the evidentiary hearing  
3 next week is for us to ask questions of witnesses and  
4 obtain clarification on matters where we think are  
5 important. And it is not for the parties to fill in  
6 gaps or present their case-in-chief.

7 With that said and that in mind, you know,  
8 we see the process going kind of as follows. First,  
9 there will be a little introduction by us to the  
10 public, anyone who is attending, on what this is all  
11 about -- our normal presentation.

12 Second, as we laid out in the March 20th  
13 order, the opening statements by the parties -- up to  
14 30 minutes each. This will be not a testimonial event  
15 but more of an opening statement event.

16 The third item is the proffer of exhibits.  
17 What we would expect -- in order to get these  
18 documents into the record, we would ask each party --  
19 and starting with the staff, I think, because we've  
20 got the order and then Dominion to individually  
21 identify each of its exhibits, present them to our law  
22 clerk.

23 They will be pre-marked and our law clerk  
24 will then take them in and we will number them  
25 appropriately so we make sure we've got everything we

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1 need to have into the record. And then Dominion will  
2 do the same thing. Everything you want to present,  
3 everything that you have previously told us you were  
4 going to present.

5 Then we'll go to the topics, each of the  
6 topics. We've got seven of them. Let's just pretend  
7 -- well, I'll just use surface water impacts and  
8 possible mitigation as an example. We've got it down  
9 that the staff will go first and that Dominion would  
10 go second.

11 Although I haven't talked with my  
12 colleagues much about this, if the parties have some  
13 strong concern that they would like to change their  
14 order either generically or on any particular case or  
15 particular topic, we would be amenable to that. But  
16 we thought the staff going first might be the most  
17 logical.

18 MR. LEWIS: Judge Karlin, this is David  
19 Lewis. Dominion has no objection to that order.

20 ADMIN. JUDGE KARLIN: Okay. Well, then  
21 we'll proceed that way. I mean if you really think  
22 there is some more efficient way to do it, you can let  
23 us know. But we'll proceed with the staff first,  
24 Dominion second.

25 The parameters of each topic, you know,

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1 are laid out, I think, both in the March 20th order  
2 and in the questions that we asked that relates to  
3 that topic. So if you want to figure out what are we  
4 interested in, hopefully those will inform you  
5 generally what we are interested in.

6 The staff witnesses, I'm starting with the  
7 staff, would be sworn in. They'll be introduced and  
8 presumably we need to have all their CVs in the record  
9 if they are not already in.

10 And we don't need -- I think we suggest in  
11 the order of March 20th that there might be some  
12 initial voir dire or other questioning by the parties.  
13 We don't think that is necessary. Just put the  
14 witnesses on. Make sure we've got the CVs. And we'll  
15 take it from there I guess.

16 We would appreciate -- and this is kind of  
17 a mechanical item -- if you could bring name tents,  
18 you know, so that when they sit there, we can have the  
19 names of the individuals kind of in front of them as  
20 we question them. That would be helpful.

21 So you'll put them on. You'll identify  
22 them. And then you have the CVs. And then we will  
23 proceed.

24 There will then be a brief presentation.  
25 Note that on only five of the topics is a brief

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1 presentation called for. There is no brief  
2 presentation needed or appropriate for the zero  
3 release matter or for the NEPA alternatives matter.  
4 Therefore, we're not looking for nor will we receive  
5 a brief presentation on those matters. We did that  
6 intentionally.

7 While we're on that topic, and we'll get  
8 to it later, we also said with regard to NEPA  
9 alternatives and the zero release commitment issue or  
10 topic that we only wanted to hear from the staff.

11 I think we ought to correct that and say  
12 if Dominion wants to put or makes some witnesses  
13 available on that topic, we would welcome that and be  
14 glad to have that. Right now we don't see there is a  
15 need for it but we don't want to preclude it either.

16 So, Mr. Lewis, if you decide you want to  
17 put some witnesses on for that, we would accept that.  
18 We'd like for you to let us know, you know, maybe by  
19 Friday whether you plan to do that.

20 MR. LEWIS: Okay, Judge Karlin, I had not  
21 been planning on putting on witnesses on those two  
22 topics. But I will just consult and double check and  
23 let you know.

24 ADMIN. JUDGE KARLIN: Right. I'm sorry it  
25 is kind of a short notice-type of thing but we just

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1 didn't want to totally preclude you from that if you  
2 wanted to do it.

3 So the brief presentation on five of the  
4 topics, we do want a presentation. We would prefer  
5 you not simply say oh, we have none. We'll just go  
6 straight to the questions.

7 But we want to keep it short. We've had  
8 some discussion as what does a brief presentation  
9 mean. We're thinking a total maximum of 15 minutes.  
10 Some of us think 10, some of us think 20, you know, it  
11 might even be a bigger range. But we wanted to -- and  
12 this would be a total time.

13 So that if there are five witnesses, we  
14 don't want five individuals to give us a 15-minute  
15 presentation. It is a total of 15 minutes and, you  
16 know, if you want to break it into two different  
17 presents, you know, seven and eight minutes or  
18 something, fine.

19 But before we proceed on that, we wanted  
20 to confirm with you and see if you have any other  
21 concerns, ideas, you know, do you need more time?  
22 What do you think about, you know, 15 minutes as a  
23 maximum time for the presentation? And I might add  
24 that that excludes our questioning. So, you know --

25 MR. LEWIS: Judge Karlin, this is David

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1 Lewis. We must be psychic because we told our  
2 panelists to shoot for 15 minutes. We do have on some  
3 panels a number of individuals who may not be involved  
4 in the presentations but are on the panel simply in  
5 case there are additional questions that go their  
6 subject matter areas to field. So we have been trying  
7 to tailor presentations to approximately 15 minutes.

8 ADMIN. JUDGE KARLIN: Okay. Good.

9 MR. WEISMAN: Your Honor, I think that the  
10 staff would probably like to see it about 20 minutes,  
11 particularly I am thinking about topic five because  
12 for the staff we view that as a fairly complicated  
13 topic.

14 ADMIN. JUDGE KARLIN: Well, did you notice  
15 that in all of the topics where we asked for a  
16 presentation, all except for seismic, we had indicated  
17 a brief presentation.

18 MR. WEISMAN: Yes, Your Honor.

19 ADMIN. JUDGE KARLIN: And did you notice  
20 that the brief wasn't there?

21 MR. WEISMAN: Yes, we did.

22 ADMIN. JUDGE KARLIN: Is that the only one  
23 you might need extra time on?

24 MR. WEISMAN: I think that topic five is  
25 the one we would need extra time on. I don't think

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1 that any of the others would call for any extra time.

2 ADMIN. JUDGE KARLIN: Well, the 15 is a  
3 guide which we'd like to stick to.

4 MR. WEISMAN: All right. We will try and  
5 keep it brief.

6 ADMIN. JUDGE KARLIN: Yes, I think if you  
7 need 20 on seismic -- is that the one you are  
8 referring to, Mr. Lewis?

9 MR. WEISMAN: I was referring actually to  
10 topic five which is surface water impacts and possible  
11 mitigation.

12 ADMIN. JUDGE KARLIN: Okay. Yes, he's --  
13 the number has changed so five is --

14 MR. WEISMAN: What is now our topic one.

15 ADMIN. JUDGE KARLIN: -- which is now one.

16 MR. WEISMAN: Surface water.

17 ADMIN. JUDGE KARLIN: Okay. All right.  
18 So you want 20 minutes on surface water? Surface  
19 water?

20 MR. WEISMAN: Yes, Your Honor.

21 ADMIN. JUDGE KARLIN: Okay. And were you  
22 also addressing seismic? Or you are probably okay  
23 with 15?

24 MR. WEISMAN: I think that we are probably  
25 okay with that.

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1 ADMIN. JUDGE KARLIN: I mean if it gets to  
2 be 15 and it's 20 and it's productive, you know, but  
3 I think people should plan -- have something to plan  
4 by obviously.

5 MR. WEISMAN: Yes, Your Honor.

6 ADMIN. JUDGE KARLIN: So let's -- and  
7 we're going to try to, you know, we'll note when the  
8 15 minutes is up. And we'll probably to say okay, can  
9 you wrap it up? But 15 minutes generally, 20 minutes  
10 for surface water by the staff.

11 MR. WEISMAN: I think that is  
12 approximately --

13 ADMIN. JUDGE KARLIN: With the staff going  
14 first, it seems to me that it might be more productive  
15 for, you know, the staff to have a little extra time  
16 on that perhaps.

17 MR. WEISMAN: Yes, thank you.

18 ADMIN. JUDGE KARLIN: So that's fine. All  
19 right, 15 and 20 for staff surface water.

20 Let's see here. Now in terms of the  
21 slides for the presentation, what we are anticipating  
22 is simply the slides for the presentation, not  
23 prefiled written testimony, you know, verbatim reading  
24 something to us on a presentation. But just the  
25 slides. Is that -- hopefully that was clear from the

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1 way we wrote it. But that is what we are looking for  
2 in terms of written submissions.

3 MR. WEISMAN: Yes, Your Honor, the staff  
4 understood it that way.

5 ADMIN. JUDGE KARLIN: Okay.

6 MR. WEISMAN: If I might ask a question  
7 though --

8 ADMIN. JUDGE KARLIN: Sure.

9 MR. WEISMAN: -- and that is if the staff  
10 identifies some supporting document, would that be  
11 appropriate to then offer as an exhibit at that time?  
12 Or should that be done up front?

13 ADMIN. JUDGE KARLIN: Well, our  
14 contemplation would be at the beginning of the panel  
15 you would bring your four or three witnesses on. You  
16 would then introduce as exhibits or for  
17 identification, you know, the slides and any other  
18 exhibits you think are going to be needed in that  
19 presentation. It would be proffered, it would be  
20 accepted as evidence. And then we would proceed. And  
21 they would speak and testify.

22 MR. WEISMAN: Thank you, Your Honor.

23 ADMIN. JUDGE KARLIN: So if you do have a  
24 couple of additional exhibits, okay. Yes, fine. I  
25 mean we were hoping to get them all in ahead of time.

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1 But what are you talking about? Just several --

2 MR. WEISMAN: We were only talking about  
3 a couple of -- just a couple of documents in, I think,  
4 two or possibly three of the topics. So it is not a  
5 lot of material.

6 ADMIN. JUDGE KARLIN: Okay. All right.  
7 All right, good. Well those exhibits, as it were,  
8 both the slides and the exhibits will be entered as  
9 exhibits at the outset of that panel or by you or  
10 whatever lawyer is handling it on the staff. Okay?

11 MR. WEISMAN: Yes, thank you, you know.

12 ADMIN. JUDGE KARLIN: Mr. Lewis, are you  
13 okay with everything so far?

14 MR. LEWIS: Yes, Judge Karlin, we were  
15 just planning on bullets. We don't have additional  
16 exhibits. Some of our slides have some pictures but  
17 in every case, we've tried to take a picture that is  
18 already in the record in the SER application.

19 ADMIN. JUDGE KARLIN: Okay. Great.  
20 Great. Let's see here. Okay. And on the  
21 presentations, we want to avoid duplication if  
22 possible between the staff and the applicant.

23 But we also don't want to be caught into  
24 a situation where whoever goes first -- let's say it  
25 is the staff witness and we ask them a question and

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1 they say oh, don't ask us that question. That is for  
2 the later presentation by the applicant. We want  
3 everyone to be prepared to address everything.

4 But we understand that if you could  
5 coordinate a little bit or at least avoid duplication  
6 on your presentations, that would be helpful.

7 Okay. Then we'll -- after the  
8 presentation, we will go to the Board questions. And,  
9 again, there are two topics where there will be no  
10 presentations and no slides and no exhibits. But then  
11 we'll ask questions. And that presumably should be,  
12 you know, the meat of the topic.

13 And then at the end of that or a thought  
14 is if the sponsor of those witnesses will have the  
15 opportunity to ask some questions and redirect, as it  
16 were, to clarify -- for clarification purposes only.

17 I mean if the Board has asked questions  
18 and we have gotten way off base or something has been  
19 garbled or confused, you would have to opportunity --  
20 the sponsor would have the opportunity to ask some  
21 clarification questions to get us back on track. But  
22 kind of limited to that. And that would be the  
23 sponsor of the witnesses.

24 The non-sponsoring party of those  
25 witnesses would not have such an opportunity unless

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1 there was some dire, dire matter and you had to raise  
2 your hand and say oh, there is absolutely something  
3 very important that has to be clarified here.

4 So that is our approach. Any questions  
5 about that? No?

6 MR. LEWIS: No, Judge Karlin.

7 ADMIN. JUDGE KARLIN: Okay. And the  
8 Dominion witnesses, you know, again would be the same  
9 procedure -- a brief presentation, avoid duplication  
10 if possible.

11 One of the things that the witnesses  
12 should probably do is listen to the testimony of the  
13 first panel of the staff so that -- because one of our  
14 questions maybe well, is there anything new or  
15 different that you have to say about these same  
16 topics? Or is there any clarifications or corrections  
17 that you need to make as to what you heard the staff  
18 witnesses say.

19 Applicant, being politically correct,  
20 would probably not want to correct the staff but might  
21 want to clarify things. But in any event, I think  
22 that will work.

23 And we have no new topics. I think a  
24 question -- I think, Mr. Lewis, you asked that  
25 question based on anything else. Based on anything

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1 else, are there new topics based on the written  
2 testimony that was submitted that we want to add to  
3 the agenda, we don't have any written new topics.

4 MR. LEWIS: Judge Carlin, just to confirm,  
5 my understanding then is the prefiled testimony would  
6 simply be admitted up front as an exhibit without  
7 further questions and that would be the end of that.

8 ADMIN. JUDGE KARLIN: Yes, yes, that is  
9 our plan. Prefiled written testimony. You proffer it  
10 into evidence as exhibit marked. And unless the staff  
11 objects, we don't think there is going to be a problem  
12 with its admission into evidence.

13 MR. LEWIS: Thank you, Judge Karlin.

14 ADMIN. JUDGE KARLIN: Yes. But we do want  
15 to go through that protocol at the beginning.

16 MR. LEWIS: Yes. What I'm really trying  
17 to confirm is a few witnesses, for example, Mr.  
18 Cutworth and Ms. Patterson who are on the NEPA  
19 testimony are coming from Atlanta. And if they won't  
20 be needed to respond to questions, then at this point  
21 I'd ask them to cancel their travel plans.

22 ADMIN. JUDGE KARLIN: Right. Again,  
23 subject to your reviewing with your client whether you  
24 want to have witnesses available on the NEPA topic --

25 MR. LEWIS: Yes.

1 ADMIN. JUDGE KARLIN: -- the NEPA  
2 alternatives topic. So that would be fine. I mean  
3 I'd also note, for example, the staff's witness and  
4 counsel list includes Dr. Scott relating to  
5 environmental justice. We did have a question  
6 relating to environmental justice.

7 Those questions have been -- at least the  
8 factual questions we think have been answered. So we  
9 don't see any place on the agenda where Dr. Scott will  
10 be testifying unless you think he is relevant to the  
11 alternative or something.

12 MR. WEISMAN: He may actually be -- he may  
13 actually have something to offer on surface water  
14 impacts. So --

15 ADMIN. JUDGE KARLIN: Oh, okay. Okay.  
16 That's fine. If it is some other subject, all right.

17 Next item on the agenda, list of legal  
18 questions. We indicated we would try to identify some  
19 legal questions or if we had any for what we were  
20 calling, for lack of a better word, oral argument. We  
21 don't have adversarial parties here so it is a little  
22 strange.

23 As an intro -- I mean we've asked a number  
24 of legal questions here. You all have answered those  
25 questions in writing in various ways. We may not

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1 necessarily agree with all of the answers we have  
2 gotten. But we've gotten them and I think we  
3 understand them.

4 The questions that we are going to ask you  
5 to address at oral argument are only those subset  
6 where we think there might be some productive  
7 discussion to occur rather than just regurgitating  
8 what we had in writing already.

9 I had only three topics that I thought we  
10 might ask you to address. One is environmental  
11 justice. This is oral argument for the lawyers, not  
12 witnesses. Whether or not the Commission's  
13 environmental justice policy was met -- has been  
14 satisfied or met.

15 Second legal topic would be we hear that  
16 there is a new Part 52 that has been issued this week.  
17 It is not in the Federal Register yet. But if there  
18 is anything from the new Part 52 that would inform or  
19 help us address or think through the issues of the  
20 partial or early site permits and the adequacy of  
21 information needed for early site permits.

22 You will remember on April 18th, 1989, the  
23 Federal Register discussed this issue and raised some  
24 concerns we had. You have answered those questions.  
25 And we would like to understand whether there is

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1 anything -- for example, statement of consideration  
2 may address or change some -- tweak that in some way.

3 We are operating under the assumption that  
4 the new rules do not apply to this proceeding because  
5 this is, at it were, grandfathered. And the existing  
6 rules are the ones that apply.

7 But new Part 52, anything that informs or  
8 helps answer our questions related to partial ESPs and  
9 adequate/inadequate information supporting ESPs.

10 Third item is how the Commission's recent  
11 decisions in Grand Gulf and Clinton regarding the zero  
12 release commitment apply to this case. What do the  
13 Commission's decisions mean? What does the language  
14 that the Commission issued mean in your understanding?

15 And another tweak to it is NEPA, I see the  
16 decision is focusing on safety considerations. There  
17 may be some NEPA issues associated with the zero  
18 release commitment, i.e., we don't need to look at any  
19 environmental impacts associated with groundwater  
20 because there will be none. So be it. I think our  
21 questions -- our written questions raise that issue.

22 And I'm not sure whether the Commission's  
23 decision focused on NEPA. I don't think it did.

24 And there may be other legal questions  
25 that arise during the evidentiary hearing that either

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1 we think of or that you may urge that you get a chance  
2 to address. And we might consider those. But that  
3 would be a little more impromptu and that sort of  
4 thing.

5 Other topics for the agenda -- did we have  
6 any other topics? Let's see if we have covered --  
7 mechanics -- we'll get to mechanics in a minute, Mr.  
8 Lewis.

9 Prefiled testimony, I think we answered  
10 your question on that, did we not?

11 MR. LEWIS: Yes, Judge Karlin, you did.  
12 Thank you.

13 ADMIN. JUDGE KARLIN: Okay. Just hold on  
14 a second. Let me just ask the law clerk.

15 Judge Elleman, anything you want to add at  
16 this point? We're going to move to mechanical and  
17 action item sort of points. But anything you would  
18 like to add?

19 ADMIN. JUDGE ELLEMAN: I think not.

20 ADMIN. JUDGE KARLIN: Okay. Thank you.

21 Okay, final item, mechanical action item-  
22 type of points. We'll try to start at 9:00 a.m. sharp  
23 on Tuesday, the 24th.

24 Louisa County Counsel, I would urge you to  
25 contact Amanda Lloyd -- particularly I think the staff

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1 needs to contact them. And the number is 540-967-  
2 3461. Ms. Lloyd is, I believe, the person -- the  
3 administrative person in charge of making that  
4 facility available to us.

5 She has one room available for each of the  
6 parties, you know, counsel and parties to use as a  
7 conference room. And I think you need to contact her  
8 -- the staff, if you would, to let her know if you  
9 want that room or not.

10 I believe Mr. Lewis has already done that.

11 MR. WEISMAN: Thank you, Your Honor.

12 MR. LEWIS: That's right, Judge Karlin, we  
13 made an arrangement to --

14 ADMIN. JUDGE KARLIN: Okay.

15 MR. LEWIS: -- obtain a room. But I'll  
16 call and just confirm the arrangements --

17 ADMIN. JUDGE KARLIN: Good.

18 MR. LEWIS: -- are the same ones that  
19 we've made.

20 ADMIN. JUDGE KARLIN: It is kind of a  
21 small room. And we will be, you know, crammed in a  
22 little bit.

23 The staff -- the way try to arrange it is  
24 the staff and the applicant counsel tables will be  
25 sitting sort of to the side on the walls -- on each

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1 side of the wall. And the witness table will be in  
2 front of us in the very front of the little  
3 auditorium. So that is the best way we can work it.

4 We've talked about it. And if we have to  
5 go a second week, which we don't think we will, but if  
6 we do, we think we will be here in Rockville rather  
7 than continuing down there. And we would reconvene on  
8 Tuesday rather than Monday. And that would be May 1st  
9 here in Rockville at 9:00 a.m. So that would be our  
10 plan.

11 The next item is if you could bring name  
12 tents for your witnesses, that would be helpful. We  
13 have the staff list of witnesses for its topics so  
14 that's covered.

15 Dominion will get back to us with regard  
16 to whether you want to present witnesses on the two  
17 topics in question, zero release and NEPA  
18 alternatives. If you could do that by say noon this  
19 Friday -- could you do that, Mr. Lewis?

20 MR. LEWIS: Yes, Judge Karlin.

21 ADMIN. JUDGE KARLIN: Okay.

22 Brief presentations mean 15 minutes or  
23 less. No need to cover all 15 minutes if you don't  
24 need it. Twenty minutes for the staff on surface  
25 water.

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1 We need to make sure we have CVs on all  
2 the witnesses in evidence in the record.

3 In terms of slides and associated  
4 exhibits, the hearing room down there, which is  
5 relatively nice and looks like it is set up pretty  
6 well, I think you need to contact Amanda Lloyd for  
7 projection and computer sort of things. And make sure  
8 whatever you've got is compatible and will work down  
9 there.

10 She is very helpful. And so long as we  
11 don't overwhelm them, they have been very hospitable  
12 in helping us out down there.

13 I think that is it. Is there any other  
14 mechanical or other item that we need to cover? Let  
15 me ask Mr. Lewis first. Do you have any other  
16 questions or items that we need to cover?

17 MR. LEWIS: No, Judge Karlin.

18 ADMIN. JUDGE KARLIN: Okay.

19 Yes, Mr. Weisman?

20 MR. WEISMAN: None from the staff, Your  
21 Honor.

22 ADMIN. JUDGE KARLIN: Judge Cole, Judge  
23 Elleman, anything?

24 ADMIN. JUDGE ELLEMAN: No, I think I'm  
25 good. Thank you.

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1 ADMIN. JUDGE KARLIN: Okay. I think we  
2 are in good shape. I appreciate the time. Hopefully  
3 this will help expedite the process. And we'll look  
4 forward to seeing you all next Tuesday.

5 This proceeding is adjourned. Thank you.

6 (Whereupon, the above-entitled pre-hearing  
7 conference was concluded at 2:47 p.m.)  
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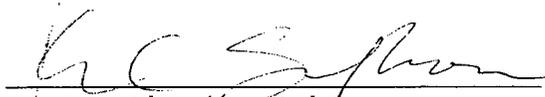
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