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**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: Oyster Creek Nuclear Generating Station  
Limited Appearance

Docket Number: 50-219-LR

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USNRC

June 7, 2007 (10:01am)

Location: Toms River, New Jersey

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Date: Thursday, May 31, 2007

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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LIMITED APPEARANCE STATEMENT SESSIONS

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REGARDING: | Docket No. 50-219-LR  
AMERGEN COMPANY LLC |  
Oyster Creek Nuclear |  
Generating Station |

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Thursday, May 31, 2007

Ocean County Administration Building  
Room 119  
101 Hooper Avenue  
Toms River, New Jersey

The above-entitled session commenced at 2:00 pm  
on May 31, 2007.

BEFORE:

Administrative Judge, E. Roy Hawkins, Chair  
Administrative Judge, Anthony J. Baratta  
Administrative Judge, Paul B. Abramson

ALSO PRESENT:

DEBRA WOLF Law Clerk

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P R O C E E D I N G S

[2:01 p.m]

JUDGE HAWKINS: Would people be kind enough to take their seats, so we can proceed. It's a little bit after 2:00 o'clock.

Good afternoon. My name is Roy Hawkins. I'm joined at the table by Dr. Paul Abramson and Dr. Tony Baratta. We're administrative judges. We've been appointed to adjudicate the issues raised in this case, and the case involves a challenge brought by six groups, which, for now, I'll refer to collectively as "citizens," pursuant to their request, and they bring a challenge to an application by AmerGen for a 20 year license renewal for the Oyster Creek nuclear generating station.

The board is not here today to adjudicate the issue raised by these six groups. Rather, we're here today to hold a limited appearance session and there's a distinction between those two functions and I'd like to take a few minutes to address those distinctions.

First, with regard to the adjudication, as I mentioned, it's being brought by six groups and I'd like to take this moment, now, to identify who those six groups are, for the benefit of those assembled.

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1                   Number one, Nuclear Information and  
2 Resource Service. Two, Jersey Shore Nuclear Watch,  
3 Incorporated. Three, Grandmothers and More for Energy  
4 Safety. Four, New Jersey Public Interest Research  
5 Group. Five, New Jersey Sierra Club, and six, New  
6 Jersey Environmental Federation.

7                   Previously, this board determined that  
8 citizens, these six groups, raised an issue that  
9 should be litigated under the governing federal  
10 regulations, and that issue relates to whether  
11 AmerGen's proposed ultrasonic testing monitoring  
12 program for a portion of its drywell shell is adequate  
13 for the period of extended operation.

14                   The board has scheduled an evidentiary  
15 hearing, or trial, where we'll adjudicate the issues  
16 raised by citizens, and that trial, the hearing will  
17 commence on September 24th, 2007, and the parties, at  
18 that trial, will have an opportunity to present  
19 evidence to the board, create a full record, and make  
20 arguments in support of their positions based on the  
21 evidence they put into the record before the board.

22                   The hearing will be open to the public,  
23 it'll be held at a location here in this area, that  
24 location has not yet been determined, but I must say  
25 the board is very impressed with this particular

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1 venue. So if we can get the cooperation of the  
2 owners, we may try to get it here.

3 But in any event, the location will be  
4 announced when that's been determined, and after the  
5 hearing, the board will issue a written decision based  
6 on the record before us, created by the parties.

7 That decision can be appealed by any party  
8 to the administrative appellate body, which is a five  
9 member commission of the Nuclear Regulatory  
10 Commission. Their decision can, in turn, be appealed  
11 by a party to the United States Court of Appeals, and  
12 to the extent any party's unhappy with the Court of  
13 Appeals' decision, they may seek review in the U.S.  
14 Supreme Court.

15 That, in a nutshell, is our adjudicative  
16 function, which is distinguished from what we're doing  
17 here today, which is a limited appearance session.

18 Federal regulations provide that a board  
19 may entertain a written or an oral statement from any  
20 person who is not a party to the litigation. So that  
21 person will have the opportunity to present his or her  
22 position on a related issue.

23 Now the regulation recognizes the value in  
24 having public citizens who are not actually parties to  
25 the litigation present their views, because although

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1 they may not be a party to the litigation, they may  
2 have a very significant interest in a matter related  
3 to the litigation.

4 At this point, I'd like to take a moment  
5 and address exactly what it means when it says the  
6 board may entertain oral statement from any person  
7 who's not a party to the litigation, because that has  
8 raised some questions in this particular case.

9 A party, normally, is easily defined when  
10 you have a person bringing a suit or a single person  
11 being sued. That person is a party. The question as  
12 to what is a party is not as easily answered when you  
13 have, on one side, a very large corporation with a  
14 number of paid employees. He's a paid employee, a  
15 party, regardless of his position in the workforce.

16 Is it the entire corporate board? Is it  
17 any officer, regardless of seniority, regardless of  
18 length of service? And likewise, with regard to the  
19 six groups who are challenging AmerGen's license  
20 application renewal, should "party" be construed  
21 broadly, so that any individual who's a member of an  
22 organization cannot speak today?

23 Should it be limited simply to the  
24 corporate, or the officers of those six organizations?

25 There's some elasticity in the term, in

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1 the context of this case, and this board, in an effort  
2 to be as inclusive as possible, has tried to construe  
3 that term as narrowly as possible, and therefore, we  
4 requested that the attorney for each party provide a  
5 single name, a party representative.

6 For example, for citizens it would be one  
7 individual who is the party representative for that  
8 organization. And so to that extent, we've limited  
9 the individuals who would be restricted from speaking  
10 and try to be as inclusive as we can, so we can hear  
11 from everybody.

12 Statements that you will make today are  
13 not considered part of the evidentiary record. It's  
14 up to the parties to create their evidentiary record  
15 for the issues they've brought and they will be  
16 creating that record at the trial we'll hold in  
17 September.

18 But I do want to emphasize that the  
19 statements you make today are, nevertheless,  
20 important. They are being transcribed. They're going  
21 to be put into the official Agency docket for this  
22 proceeding, and it may help the board and the parties,  
23 in their consideration of the issues of this  
24 proceeding.

25 At this point, something else I would like

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1 to emphasize is that we members of the board up here,  
2 we're adjudicators, we're judges, we're independent of  
3 the NRC. We're not policy makers for the NRC. Our  
4 role in the adjudicative is limited, by regulations,  
5 to resolving the issues brought before us by the  
6 parties.

7 So our responsibility, our duty, our  
8 authority, does not extent beyond that. So to the  
9 extent you wish to make statements today, which may be  
10 helpful to us, or to the parties in this case, we ask  
11 you to keep that in mind and seek to make statements  
12 which may be relevant to the issue pending before the  
13 board, which as I mentioned earlier, goes to the  
14 safety margin, the drywell shell, it goes to corrosive  
15 environment in the drywell shell and it goes to UT  
16 frequency measurements in the drywell shell.

17 At this moment I'd like to ask--I know  
18 there's at least one attorney representing the parties  
19 here, and I'd like any other attorneys--we'll start  
20 with the attorney for citizens. I'd ask them to rise,  
21 introduce themselves for the record, and for the  
22 benefit of everybody else, and if you have anybody  
23 with you, that you'd like to introduce, please feel  
24 free to do so.

25 Excuse me, Mr. Webster, could you speak

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1 louder. Come up to the microphone, please. Thank  
2 you.

3 MR. WEBSTER: Yes. Thank you, Judge  
4 Hawkins, for giving me the chance to just introduce  
5 myself. I'm Richard Webster. I'm an attorney at the  
6 Rutgers Environmental Law Clinic. We represent the  
7 six citizens groups that Judge Hawkins has just  
8 mentioned, and today we have a couple of people who  
9 won't be speaking because they are party  
10 representatives.

11 Can I just clarify, Judge. When you said  
12 there was one party representative, did you mean one  
13 person per organization, or one person for the  
14 citizens as a whole?

15 JUDGE HAWKINS: One person per  
16 organization.

17 MR. WEBSTER: Right; okay. That's what  
18 I'd understood before. Thank you.

19 So there are some people here today who  
20 can't speak because they are party representatives.  
21 They are sitting over here.

22 There's Janet Tauro. There's Paul Gunter.  
23 Janet is from Grammys. Paul is from Nuclear  
24 Information Resource Service.

25 So you won't be hearing from them today,

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1 but I'm sure--oh, and Edith Gbur; sorry. Edith Gbur  
2 is Jersey Shore Nuclear Watch.

3 Abigail from New Jersey PIRG also won't be  
4 speaking. So there are a number of people here today  
5 who won't be speaking. I will endeavor to do my best  
6 to speak on their behalf, if and when we have an  
7 evidentiary hearing on the issues at hand.

8 JUDGE HAWKINS: Thank you very much.

9 Do we have the attorney representatives  
10 from AmerGen here?

11 MR. FERRARO: Good afternoon, Judge  
12 Hawkins. My name is Don Ferraro. I'm assistant  
13 general counsel for Exelon and for AmerGen. We have  
14 a few personnel here from AmerGen. We have Mike  
15 Hufnagel and Mike Gallagher from our Kennet Square  
16 office.

17 JUDGE HAWKINS: All right. Thank you very  
18 much.

19 The third party who will be participating  
20 in the litigation is the NRC staff. Do we have a  
21 representative of the staff here?

22 Ms. Baty, how are you?

23 MS. BATY: I'm good. My name is Mary Baty  
24 and Mitzi Young will be joining me. I can see her  
25 coming in. She was parking the car. We had a little

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1 difficulty with our government car this morning.

2 JUDGE HAWKINS: All right. Thank you very  
3 much.

4 With that, I'd like to briefly discuss the  
5 procedure for making statements today.

6 We've had some individuals who did pre-  
7 register. They'll be given the first opportunity to  
8 speak.

9 After that, we'll move on to whoever does  
10 arrive and registers outside. If you do wish to  
11 speak, it's required that you register first.

12 So if you wish to speak and have not  
13 registered, just step outside and our administrative  
14 assistant, Ms. Libby Perch, will give you the  
15 necessary documents for registering, and she will  
16 provide us with the list, periodically, through this  
17 session, and we'll just call them in order.

18 If anybody is here who wishes to express  
19 a view but is disinclined to stand up and make an oral  
20 statement, you're welcome to provide a written  
21 statement, and to assist you in that, our law clerk,  
22 Ms. Debra Wolf, xeroxed nearly a 100 pieces of paper  
23 which have the relevant docketing information on it.  
24 I think they're located out there also with Ms. Perch.

25 So you're welcome to provide a written

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1 statement as well, and leave it with Ms. Perch before  
2 you leave.

3 We'll be keeping track of each speaker's  
4 time. As we indicated in the Federal Register notice,  
5 it will not be longer than five minutes, and we will  
6 be keeping track of it.

7 Ms. Wolf has cue cards, an amber card when  
8 you have one minute left, I believe, and a red card  
9 when your time has lapsed, and when you see the red  
10 card come up, if you'd do us the courtesy of making an  
11 effort to rapidly wrap up your comments, we'd be  
12 grateful.

13 And to the extent five minutes is not  
14 enough, you're welcome to supplement your oral  
15 statement with written comments provided.

16 And as a final note, because pretty soon  
17 Debra will be holding up that red card for me to stop  
18 speaking, but it is important to the board, and the  
19 parties, to everybody in attendance, that everybody  
20 has the opportunity to hear the full statement of each  
21 person making a statement, and I'd therefore ask that  
22 everybody here assembled respect the person who's  
23 making the statement, allow them to make it without  
24 any distraction, without interruption, or without any  
25 sounds or comments, either in support of or in

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1 opposition to the individual.

2 I'd also ask people to turn off any  
3 cellphones or any electronic devices they may have,  
4 and I would likewise ask my fellow board members to  
5 turn off any cellphones or electronic devices they  
6 have.

7 Judge Abramson has correctly said that it  
8 may be well to emphasize that this session is for you  
9 to make a statement presenting your views on a related  
10 issue and so we will not be engaging in a dialogue, we  
11 won't be responding, but I assure you that we will be  
12 listening, with great attention, to what you have to  
13 say.

14 With that, let us proceed, allowing the  
15 people to make their comments, and as I said, we'll  
16 start with those who pre-registered.

17 Mr. David McKeon, who's the planning  
18 director for the Ocean County Planning Board.

19 Good afternoon, sir.

20 MR. McKEON: Good afternoon. Thank you.  
21 Thank you, panel.

22 I am presenting, for the record, comments  
23 on behalf of the Ocean County Board of Chosen  
24 Freeholders, and its director, John P. Kelly.

25 As director of law and public safety,

1 Freeholder Kelly has closely monitored for the board  
2 the licensing procedures for the Oyster Creek  
3 Generating Station.

4 Throughout this process, there have been  
5 concerns expresses to the Board of Freeholders, by  
6 residents and officials of this county, regarding  
7 safety and security issues at Oyster Creek.

8 These concerns, including on-site storage  
9 of spent fuel, evacuation plans, quality integrity of  
10 the original plant construction, and security,  
11 especially related to the threat of terrorism, have  
12 been forward to the Nuclear Regulatory Commission.

13 On April 18th, 2007, the Board of Chosen  
14 Freeholders passed a resolution urging the NRC to  
15 reverse its current position and include an evaluation  
16 of terrorism threats in its relicensing review  
17 process.

18 The county is prepared to join the State  
19 of New Jersey in a judicial review of this issue. As  
20 recently as May 24th, 2007, Director Kelly and the  
21 county administrator met with the NRC's state liaison  
22 officer and senior resident inspector for an update on  
23 these issues.

24 During the relicensing process for the  
25 Oyster Creek Generating Station, this board has heard

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1 from both supporters and critics of the relicensing  
2 application.

3 The board appreciates the contribution of  
4 the Oyster Creek facility to the local energy grid and  
5 to the local economy. Freeholders have also heard  
6 continuing concerns from residents and local  
7 organizations regarding the safety and reliability of  
8 the facility.

9 It was the first, and is now the oldest  
10 operating nuclear facility in the country. The board  
11 has not taken a position opposing or supporting the  
12 plant's relicensing because we are relying on the NRC  
13 as the sole regulatory agency authorized to provide a  
14 decision following a full and thorough review of all  
15 the issues and concerns that have been raised, whether  
16 by this board or by residents.

17 This board has fully participated in the  
18 review process so far, has diligently worked to make  
19 certain that the concerns and issues have been heard  
20 and are addressed.

21 It is imperative the NRC's decision takes  
22 all this into consideration.

23 As it is understood, the scope of this  
24 meeting is limited to the integrity of the drywell  
25 liner below the sandbed region and the ultrasonic

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1 testing methods proposed by AmerGen, the owners of the  
2 facility.

3 In that regard, there appear to be two  
4 major concerns that have been expressed to the board  
5 and appear not to have been addressed to date by the  
6 federal regulating body that ultimately will determine  
7 whether the license to operate Oyster Creek is  
8 renewed.

9 The first issue is the current integrity  
10 of the drywell liner as measured by two recent but  
11 separate rounds of testing. There is ongoing concern  
12 over various data regarding the actual thickness of  
13 the liner and whether adequate testing can be done to  
14 ensure that the proper thickness threshold is  
15 maintained.

16 These results need to be adequately  
17 explained to the public.

18 It is apparent from the May 23rd annual  
19 performance report meeting in Toms River, that there  
20 is still sharp disagreement over this issue.

21 AmerGen's proposed periodic testing  
22 program cannot be considered appropriate if  
23 uncertainty remains regarding the current thickness  
24 and safety of the drywell liner.

25 The NRC must determine that the plan is

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1 not only safe to operate now but also 20 years into  
2 the future, and this decision needs to be adequately  
3 understood and supported by the public to resolve the  
4 concerns about safety and health issues.

5 The second issue pertains to the  
6 documented leaks associated with the drywell liner.  
7 The NRC's position is that it is satisfied that the  
8 leak has subsequently been addressed following the  
9 application of sealer to the liner.

10 However, the source and reason for the  
11 original leak do not appear to have been determined.  
12 Until this information is discovered and properly  
13 explained, mere application of sealer does not  
14 eliminate a serious concern.

15 Again, it is the responsibility of the NRC  
16 to ensure that the application of sealer eliminates  
17 the serious concern and that they are fully satisfied,  
18 as should be the public, that the problem is resolved.

19 Other points of concern brought to the  
20 freeholders, and which have certainly been placed on  
21 the record, are issues with the initial quality of the  
22 construction of the drywell floor, the steel liner and  
23 the sandbed floor.

24 The NRC needs to adequately explain that  
25 these portions of the facility, which were given

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1 approval when the plant first began operating in 1969,  
2 continue to meet the appropriate safety standards.

3 This is particularly important because  
4 many of the suspected flaws or corroded areas are not  
5 easily accessible and difficult to adequately inspect  
6 or test.

7 As stated earlier, the Ocean County Board  
8 of Chosen Freeholders appreciates the contributions of  
9 the Oyster Creek Generating Station to the community;  
10 however, questions remain as to the ability of this  
11 facility to continue safe operations beyond the  
12 current licensing period.

13 The public has the right to raise concerns  
14 regarding the drywell liner and other safety-related  
15 issues. It is the responsibility of the NRC to  
16 address all of these concerns and adequately respond  
17 to them prior to the decision on relicensing.

18 Thank you for the opportunity to present  
19 these comments outlining the ongoing concerns of our  
20 residents and the Ocean County Board of Chosen  
21 Freeholders.

22 JUDGE HAWKINS: Next we'll hear from Paula  
23 Gotsch, please. Joseph Mangano will be on dick.

24 MS. GOTSCH: Hi. I'm a local citizen,  
25 living about 15 miles from the plant, and I wanted to

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1 talk today about two things. Institutional knowledge  
2 and surprises.

3 One of the biggest surprises we had at the  
4 May 23rd meeting, when the public--this was a meeting  
5 open to all. I want to say also, that I have  
6 attended, since I moved down here, every NRC meeting  
7 that's been held, and patiently trying to figure out  
8 why decisions are made the way they are.

9 But anyway, the surprise was that when  
10 asked what are the numbers and the data that is  
11 actually used for you to say that the safety margins  
12 in the drywell liner are sound, and that because we're  
13 hearing it's safe, the drywell liner's safe.

14 So I'm waiting, I'm sitting there, and  
15 it's like they're throwing the ball around, to AmerGen  
16 people, to NRC people. No one can give the reasons.  
17 No one can give the figures. They don't have the  
18 figures.

19 Okay. That was a surprise to me. I  
20 thought people knew what they were talking about. And  
21 in surprises -- I do want to digress a little to  
22 David-Bessie, because I see a lot of parallels here,  
23 and I know that then-Chairman Richard Meserve of the  
24 NRC said the unexpected head corrosion was a surprise.

25 Well, talking about institutional memory,

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1 30 years ago, a nuclear plant in Switzerland, it was  
2 called the Beznau, I think that's how you--was found  
3 to have a hole in the head similar to Davis-Bessie.

4 An alert was sent out to all the--it's the  
5 pressurized reactors, this time, saying, "Keep an eye  
6 on the boric acid, especially if it's coming in  
7 contact with important components, because there's a  
8 bori-generic problem here. Okay?

9 But Chairman Meserve was surprised,  
10 because somehow, in all the layers of things that  
11 happened, things get lost, things don't get picked up.  
12 Okay. And I see the same thing with Oyster Creek,  
13 what's happened there.

14 You know, I know many of us, senior  
15 citizens, we come to meetings and say, you know, where  
16 is the data from the UT testings. We want to feel  
17 like we're secure. And so we were politely told, you  
18 know, patted on the head, little old ladies in tennis  
19 shoes--You wouldn't understand it if we gave it to  
20 you.

21 So since, you know, we've been accused of  
22 being emotional and hysterical, we're saying we just  
23 want the facts. We just want the facts. So finally,  
24 somehow, a citizen got ahold of some data from the NRC  
25 and looked at the facts and said, oh, my God, there's

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1 a discrepancy in these figures in the last ten years.  
2 No one has picked up that the figures are not right.

3 And I won't go into that because it's--you  
4 probably know about that already. But the figures  
5 were not right in that it seemed to have thickened,  
6 and so again, in terms of surprises, an engineer at  
7 the nuclear plant at Oyster Creek said he was  
8 surprised. Oh, you're surprised to hear that?

9 So, you know. And then, at this last  
10 meeting on the 23rd also, people from the regional--  
11 this was the regional meeting with Sam Collins and  
12 company--said, made the comment, two or three times,  
13 that they were concerned about the institutional  
14 memory loss because of the fact that people had left  
15 the plant and they were training new people to come  
16 on, and they said you have to make sure that that  
17 doesn't get lost.

18 Well, we also learned that there was a  
19 "white" finding that they couldn't close because  
20 people still weren't convinced that they needed to  
21 follow proper procedure, that they could skip around.

22 A worker said, well, it's okay if I skip  
23 around, and they said, no, no, you can't skip around.  
24 So they haven't been able to close a two year old  
25 "white" problem.

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1                   Now a few years ago, there was another  
2 "white" problem at the plant which related to cables,  
3 and they were very important because they were hooked  
4 up to the vital safety component.

5                   They were cited for failure to replace  
6 4,000 volt underground cables from the emergency  
7 generator to vital safety components.

8                   Now license documents contain engineering  
9 analysis and design specifications. They should have  
10 known that they kept replacing that, cause this  
11 happened three times, with the wrong cable. And the  
12 reason they were rotting and they were wearing out is  
13 cause they had three times in a row replaced this  
14 cable with the wrong cable, instead of going back to  
15 the licensing documents.

16                   The same thing happened with the "green"  
17 finding. They kept replacing a fuse, that was, again,  
18 related to fairly important things. I lose track of  
19 it all here. But again, the license documents  
20 contained that information.

21                   You know, why didn't they go back there  
22 and do that? Because I think when that plant started  
23 up, there was 1000 employees. When Exelon bought it,  
24 when AmerGen bought it, now it's down to four hundred,  
25 I think under four hundred fifty.

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1 A lot of them are not the original  
2 employees. So what I'm saying to you is that Oyster  
3 Creek is a heavily-corroded reactor, with leakage that  
4 has not had root-cause identification, and which  
5 AmerGen plans to monitor, not identify and fix.

6 AmerGen and NRC do not know if the  
7 corrosion in the drywell liner meets the safety margin  
8 standards that they themselves have established.

9 The GE analysis of the drywell, which  
10 AmerGen and NRC staff have chosen to rely upon, even  
11 though they had Sandia do a study, which disagreed  
12 with GE, other corrosion experts "weighing in" are  
13 also in disagreement with the GE analysis that AmerGen  
14 is choosing to use as the basis.

15 In other words, we've got a lot of experts  
16 that don't agree here. That does not mean problem  
17 solved. That means we better look at this problem.

18 We have faithfully attended--I should say  
19 I have--

20 JUDGE HAWKINS: Excuse me, I hate to  
21 interrupt you, but your time did lapse about a minute  
22 ago. If you could wrap it up.

23 MS. GOTSCH: Oh, that was nice of you. I  
24 will. Okay. All I'm saying is we have no reason to  
25 believe that Oyster Creek is the Good Ship Lollipop,

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1 that AmerGen would like us to believe it is. And I'm  
2 not going to joke anymore because this is our homes,  
3 this is our families.

4 We are concerned that we're going to be  
5 left with a corroded plant, with a lot of workers that  
6 are still having problems, you know, running the  
7 thing, and it's not--it's scary. That's all I have to  
8 say. Thank you.

9 JUDGE HAWKINS: Thank you very much.

10 Mr. Mangano. Marianne Clemente is on  
11 deck.

12 MR. MANGANO: Good afternoon, gentlemen,  
13 and thank you very much for this opportunity.

14 I'm Joseph Mangano and I'm the director of  
15 the Radiation and Public Health Project. We are a  
16 independent group of health research professionals and  
17 our work is to do studies on health risks posed by  
18 nuclear weapons explosions and nuclear reactors.

19 My remarks today will be focused in some  
20 way on the specific issue, the drywell liner, but  
21 also, in general, about all mechanical parts of the  
22 Oyster Creek reactor and the need to improve safety of  
23 all parts as a contingent for relicensing.

24 Our members believe that the only way to  
25 do this properly is a way that has not, to this point,

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1       been followed by the NRC, is to analyze evidence on  
2       how much radiation escapes from nuclear reactors, how  
3       much of it winds up in the environment, how much of it  
4       winds up in the human body, and how much harm does it  
5       cause to these human bodies.

6               And if you'll let me, I will just go  
7       through a few basic data to indicate what we have  
8       found so far.

9               First of all, the emissions. As we all  
10       know, routinely, and through accidental releases, over  
11       100 radioactive chemicals that are only found in  
12       reactors and atomic bombs, are released into the  
13       atmosphere, including Strontium 90, Iodine 131,  
14       Plutonium 239, etcetera.

15              For years, the amounts of emissions have  
16       been calculated. Oyster Creek, for the first 25 years  
17       of its life, was the reactor with the highest level of  
18       releases of what we call I 131 and effluents, in other  
19       words, airborne chemicals with a half-life of more  
20       than eight days, are likely to get into the  
21       environment.

22              In the most recent years, according to the  
23       NRC Web site, Oyster Creek ranks in the top five in  
24       chemicals, such as strontium and iodine. So releases  
25       have always been relatively high and are still

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1 relatively high.

2 As far as environmental levels go, again,  
3 for years, this has been requirements from the Federal  
4 Government, that each reactor operator measure, how  
5 much radiation is in the local air, in the water, and  
6 soil, and so forth.

7 We have only spotty data, but, for  
8 example, in the drinking water in Waretown, which is  
9 only about three miles from the reactor, levels of  
10 radiation are anywhere from two to eight times as high  
11 as they are in Trenton, which is a long distance from  
12 any reactor.

13 The next step. How much radiation  
14 actually gets in the body. Well, until our group came  
15 along a decade ago, this was a completely unknown  
16 issue, how much radiation are in bodies of people  
17 living near nuclear plants.

18 In the past decade, we have conducted a  
19 study of Strontium 90 in baby teeth, again, Strontium  
20 90 being one of these 100-plus chemicals, it's a lot  
21 like calcium when it's taken into the body, it  
22 attaches to the bone and the teeth, where it remains  
23 for a long time.

24 We have found, and this is based on almost  
25 5000 teeth measured, and the results of which were

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1 published in five medical journal articles, we have  
2 found that after years of decline, beginning in the  
3 '60s, when the nuclear test ban treaty was signed, to  
4 the '70s and '80s, there was a decline in average  
5 Strontium 90. But beginning in the late '80s, there  
6 was a reversal, and an actual increase in the average  
7 Strontium 90 in baby teeth.

8 Over five hundred of the teeth were  
9 collected in New Jersey, and we found, in New Jersey,  
10 if I'm allowed to, I will leave copies of these  
11 charts, that from the late '80s to the late '90s, the  
12 average Strontium 90 in New Jersey baby teeth doubled.  
13 Okay.

14 This cannot be old bomb test fallout. It  
15 can only be a current source of energy.

16 Now quickly on to health effects. In  
17 terms of cancer, Ocean County has the second highest  
18 cancer rate of any New Jersey county, right behind  
19 Cape May county. It's 18 percent above the U.S., and  
20 it's 33 percent higher for children under ten who are  
21 especially sensitive to radiation.

22 Ocean County is actually a low death  
23 county except for cancer. All the other major causes,  
24 like respiratory diseases, and nervous system  
25 diseases, and so on, are below the U.S. but cancer is

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1 above. We have begun to find a linkage between  
2 radiation and health, and that is that the trends in  
3 Strontium 90 in baby teeth, in Ocean and Monmouth  
4 county are matched, several years later, by the same  
5 trends in Strontium 90.

6 The two lines, over time, would look  
7 exactly the same. It's almost like comparing smoking  
8 to lung cancer. My conclusion is this.

9 That before any decision is made by this  
10 board, or by the NRC, to determine whether or not the  
11 drywell lining, and all the mechanical parts of Oyster  
12 Creek are safe, they must take into account actual  
13 emission levels of radiation, body, and local cancer  
14 rates. Thank you very much.

15 JUDGE HAWKINS: Thank you, Mr. Mangano.  
16 If you want to leave that as part of a written  
17 statement, you may do so with Ms. Perch out there.  
18 Thank you.

19 Ms. Marianne Clemente. On deck is Ms.  
20 Joyce Kuschwara.

21 MS. CLEMENTE: Hello. My name is Marianne  
22 Clemente from Barnegat. I live approximately three  
23 and a half miles from the power plant. I have  
24 recently, within the last couple of years, got  
25 involved, you know, on the periphery of the opponents

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1 to relicensing the power plant.

2 What I'd like to do is read portions of  
3 the factsheet that the New Jersey Public Interest  
4 Research Group put out, and it basically states  
5 exactly how I feel about this relicensing, much more  
6 eloquently than I can write myself.

7 All right. Oyster Creek is quickly  
8 approaching the end of its lifetime. The plant has  
9 age-related degradation and outdated design. Oyster  
10 Creek is a potential terrorist target. The population  
11 in the area has more than tripled in size since the  
12 plant was first built and continues to grow at one of  
13 the fastest rates in the nation.

14 In the case of an accident, which becomes  
15 more likely as the plant ages, or a terrorist attack,  
16 evacuation is nearly impossible, as we all in Ocean  
17 County have seen, especially in Barnegat, where I  
18 live, with the recent fire that we had in--the forest  
19 fire in Barnegat, traffic was at a standstill, and  
20 that was for a very limited number of population.

21 Oyster Creek's time is up. Built in 1969,  
22 Oyster Creek Nuclear Generating Station is quickly  
23 approaching the end of its lifetime.

24 The plant is currently licensed for four  
25 years because major safety components are designed to

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1 withstand a limited number of thermal cycles.

2           Nationwide, the risks of a nuclear  
3 accident have been found to increase with the age of  
4 the plant. Thirty percent of recent equipment  
5 failures at nuclear plants are due, at least in part,  
6 to age-related degradation.

7           Oyster Creek is currently in its "wear  
8 out" phase. If Oyster Creek is allowed to operate an  
9 additional 20 years, the plant will only become  
10 increasingly prone to accidents.

11           If an accident were to occur at Oyster  
12 Creek, and the containment system couldn't withstand  
13 the pressure, the plant's design is such that the  
14 public would be directly exposed to radioactive steam.

15           Oyster Creek is a security risk, is the  
16 second piece.

17           Oyster Creek stores two- to three thousand  
18 highly radiative spent fuel assemblies in a spent fuel  
19 pool located directly above the reactor. The spent  
20 fuel pool and the reactor are not structurally robust  
21 and are not designed to resist an aircraft attack.

22           According to Stephen Lazorchak, a  
23 consulting structural engineer and former employee at  
24 Oyster Creek, the impact from one 1000-pound object  
25 traveling at 300 miles per hour, and hitting the

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1 reactor building's concrete floor near the spent pool  
2 fuel, at an angle of 30 degrees above horizontal,  
3 exceeds Oyster Creek's strongest floor beam capacity  
4 by more than 500 percent, and the weakest beam  
5 capacity by more than 8000 percent.

6 The impact of a large aircraft into the  
7 reactor building's concrete floor near the spent fuel  
8 pool would result in catastrophic building failure,  
9 causing a water leak that would uncover the spent fuel  
10 assemblies, resulting in burning fuel leaking on to  
11 the floors below, damaging vital wiring and equipment  
12 needed to shut down the reactor.

13 The result of a terrorist attack on Oyster  
14 Creek's reactor building would exceed a Chernobyl  
15 meltdown event, because there is more fuel in Oyster  
16 Creek's fuel pool than there was in Chernobyl's  
17 reactor.

18 The next and last point is Ocean County's  
19 population continues to grow. When Oyster Creek was  
20 built, Ocean County was still relatively rural. In  
21 fact, because of the dangers, most nuclear power  
22 plants are located in less-populated, out-of-the way  
23 locations. No one can claim that Ocean County is "out  
24 of the way" anymore.

25 Ocean County's population has tripled in

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1 size since the plant was built, to more than half a  
2 million people in 2000. During the summertime, the  
3 population along the shore typically doubles in size.

4 Population growth in Ocean County  
5 continues, in fact, and it's increasing twice as fast  
6 as the rest of the state and has one of the fastest  
7 rates in the country.

8 If the population continues to grow at its  
9 current rate, Ocean County will have more than 800,000  
10 residents by nearly two--by two thousand [sic].

11 It is highly unlikely that the population  
12 living within a 10-mile radius of Oyster Creek would  
13 be able to escape radioactive release. Evacuation is  
14 nearly impossible.

15 Even if the evacuation plan worked  
16 according to plan, it would take too long to  
17 adequately protect public safety. State police  
18 estimate that it will take nine and a half hours to  
19 evacuate a ten mile radius during the summer, and  
20 about seven hours during the winter.

21 Depending on weather patterns, radiation  
22 could be released within as little as one to two hours  
23 of the start of some types of accidents.

24 Making matters worse, most people living  
25 anywhere close to the plant will attempt to evacuate.

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1 And they should. A radioactive plume won't stop at  
2 the ten mile border. Clearly, the current unworkable  
3 evacuation plan will only be more impossible if Oyster  
4 Creek's license is extended another years.

5 I can't tell you how important it is to  
6 me, personally, as a citizen of Ocean County, that  
7 this plant not be relicensed.

8 I am not necessarily against nuclear  
9 power. I am against the dangers that this plant  
10 presents to the people of Ocean County. Thank you.

11 JUDGE HAWKINS: Thank you.

12 Ms. Joyce Kuschwara. I beg your pardon,  
13 if I'm mispronouncing your name.

14 MS. KUSCHWARA: Thank you. Some of the  
15 things that I'm going to say will have already been  
16 said. However, I feel that it warrants being said  
17 again, just to stress how important these issues are  
18 to those of us who live here. I live within the ten  
19 mile evacuation zone. Therefore, I really do have a  
20 great concern about what is going on with this plant.

21 I do not feel the amount of attention  
22 given to the corrosion and thickness of the drywell  
23 liner by AmerGen is sufficient. Corrosion and  
24 thinning of the barrier meant to protect us from a  
25 "radiological" meltdown has me greatly concerned.

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1 To have us at risk of a nuclear accident  
2 every two years, when the plant closes for refueling,  
3 is totally irresponsible and is reason enough to deny  
4 the request for continued operation of this plant.

5 I'm remembering the people that had to  
6 deal with the Hurricane Katrina. They were reassured  
7 that the levees would hold and that there was no  
8 danger to them. And look at what happened. We  
9 couldn't evacuate them, the levees did not hold, the  
10 devastation was unbelievable. Something like that  
11 could happen here as well.

12 Are you going to evacuate everyone in the  
13 10 mile evacuation zone before refueling as a public  
14 safety measure? There is no workable evacuation plan  
15 in existence.

16 I have been concerned about safety issues  
17 related to the operation of this plant as far back as  
18 the eighties. Conditions have worsened since that  
19 time. The plant continues to be a source of pollution  
20 for radioactive emissions into the atmosphere, causing  
21 an increase in cancer among the population.

22 The elevated spent fuel pool, 119 feet  
23 above ground, that stores highly radioactive spent  
24 fuel rods, is vulnerable to a terrorist attack, houses  
25 more fuel rods than the structure was built to hold,

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1 which was 1,800 fuel assemblies, and has been  
2 increased to 2,645. The fuel rods weigh approximately  
3 200 tons.

4 According to an article by John  
5 Witherspoon, and I'm quoting: "The catastrophic  
6 meltdown from the spent fuel pool of a nuclear power  
7 plant could cause fatal, radiation-induced cancer in  
8 thousands of people as far as 500 miles from the site.  
9 Those living in close proximity to the plant will be  
10 prompt casualties."

11 There are so many safety and health issues  
12 regarding the relicensing of this plant, far too many  
13 for one person to comment on today.

14 I am not saying anything that you don't  
15 already know but I do ask that you listen to what all  
16 of us are telling you. We will be the ones to suffer  
17 the consequences of a license renewal. Please do not  
18 write us off as dispensable by ignoring our valid  
19 concerns. Thank you.

20 JUDGE HAWKINS: Thank you very much.

21 Ms. Liz Arnone. Ms. Grace Costanzo will  
22 be on deck.

23 MS. ARNONE: Thank you, sir.

24 Speaking as an ordinary concerned citizen,  
25 I would like to address two particular things. The

1 preponderance of evidence by the six groups that are  
2 presenting this suit is overwhelming to prove how  
3 serious an issue this is. Aside from that, as  
4 concerned citizens who are not technologically  
5 knowledgeable about all the details, we fear, we fear.  
6 We've seen what happened at Chernobyl. We've seen  
7 what happened in Katrina. We've seen how our  
8 Government does not respond, is not able to respond.

9           There are many flaws in the way our  
10 Government operates. The bureaucracy is horrendous,  
11 and since this has begun, several years ago, it's  
12 already several years and we're still talking in  
13 circles. It's like the dog wagging the tail or the  
14 tail wagging the dog. I'm not sure which.

15           But every day that this continues, we are  
16 at continued risk. We've seen how our Government  
17 operates, it's very frightening to citizens in this  
18 area, and as far as 500 miles away.

19           The other issue is that I believe that  
20 alternative energy sources must be looked into,  
21 evaluated, and implemented. We cannot continue to  
22 increase the amount of depleted uranium and waste that  
23 we're accumulating and leave it to generations to come  
24 to resolve.

25           It's an accident waiting to happen and we

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1 will be the victims. It's a terrible, terrible thing  
2 when corporations look at their profit margin before  
3 they look at the safety and health of the people  
4 around them.

5 And I think that we, as citizens, will  
6 continue to step up to the plate, until corporations  
7 really listen to us. And I commend the organizations  
8 that have come and have served the people by bringing  
9 this suit forward, and I hope that they continue, and  
10 we will support them and we will shut this plant down,  
11 sooner or later. Thank you.

12 JUDGE HAWKINS: Thank you. Mr. Richard  
13 Fuller is on deck.

14 MS. COSTANZO: Hi. My name is Grace  
15 Costanzo and I live a 10 mile radius of Oyster Creek,  
16 and I've been at this since 2001, trying to get this  
17 plant closed, which I hope we succeed.

18 Now, there are many reasons that the  
19 Oyster Creek Generating Station should not be  
20 relicensed. However, at this time, I want to focus on  
21 the nuclear spent fuel storage, namely, the dry casks  
22 sitting 400 feet from Route 9. We all know what a  
23 parking lot that is. We've seen it in the last fire.

24 As you know, when spent fuel is removed  
25 from the reactor, the core is a million times more

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1 radioactive than when it was put into the fuel pool.

2 The dry casks at Oyster Creek presently  
3 hold tons of this deadly, highly radioactive waste.  
4 There's no place on Earth, where one can confidently  
5 predict that radioactive could remain safely isolated  
6 from the environment for hundreds of thousands, or  
7 millions of years. The hazard of irradiated fuel  
8 will continue for millions of years.

9 Not only is the fuel pool vulnerable to an  
10 attack by terrorists, but so are the dry casks.

11 The NRC--and this is a quote from the NRC--  
12 -contends that possibility of a terrorist attack on a  
13 nuclear facility is so remote and speculative, that  
14 the potential consequences of such an attack need not  
15 be considered at all.

16 I beg to differ. All our nuclear plants,  
17 especially Oyster Creek, are vulnerable to air  
18 strikes, truck bombs, boat bombs, and well-equipped  
19 and well-armed terrorists. Haven't we learned  
20 anything from history?

21 The first time the Trade Center was bombed  
22 was a warning. Who could even imagine that there  
23 would be a second time, and thousands would die at the  
24 hands of these madmen?

25 Ever year, more and more of this deadly

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1 radioactive spent fuel keeps piling up and none of our  
2 nuclear, quote, experts, unquote, know how to dispose  
3 of it safely.

4           Transporting it off site would be another  
5 deadly hazard. What a temptation for the terrorists.  
6 And how about an accident in transporting? Accidents  
7 do happen, you know.

8           Oyster Creek will need more and more dry  
9 casks to store the spent fuel and will have a cemetery  
10 of deadly coffins along Route 9.

11           If the unthinkable should happen, such as  
12 a terrorist attack or a catastrophe, there could be  
13 hundreds of thousands of casualties and over \$80  
14 billion in property damage.

15           Compare this to the \$12 million tax break  
16 Lacey citizens get each year and will continue to get,  
17 even if the plant is closed.

18           Is this worth the risk? What a horrible  
19 legacy we leave for our children, grandchildren and  
20 generations to come. We need to convert nuclear  
21 plants to clean, safe, renewable energy such as wind,  
22 solar, hydroelectric, natural gas, and other non-  
23 deadly sources of energy.

24           Imagine \$80 billion being used for these  
25 renewable energies. What a clean environment we'd

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1 have then. It's time for a change. Let's begin today  
2 by closing the Oyster Creek Nuclear Generating Station  
3 now. Thank you.

4 I just want to say that I object to  
5 gagging some people here. I think that everybody  
6 should be given the freedom to speak, because this is  
7 still America, and I do believe that freedom of speech  
8 is still here; but sometimes I wonder.

9 JUDGE HAWKINS: Thank you.

10 Mr. Richard Fuller, to will be followed by  
11 Ms. Barbara McAulay.

12 MR. FULLER: Good afternoon. My name is  
13 Richard Fuller. I'm a citizen of Hazlet. I'm also  
14 the coordinator for the Green Party in Monmouth County  
15 and I speak on their behalf.

16 Thank you, Judge, and colleagues, for this  
17 opportunity to speak.

18 The Oyster Creek nuclear plant should not  
19 be relicensed, for several reasons. First, our  
20 country already has 70,000 plus tons of accumulated  
21 waste to dispose of, with no truly safe place to store  
22 it. The target waste site at Yucca Mountain has not  
23 proven a safe storage site. Transporting Oyster  
24 Creek's nuclear waste to Yucca Mountain, or any other  
25 designated waste storage site, would be a security

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1 nightmare. A terrorist attack on a truck or train  
2 loaded with nuclear waste would threaten citizens, far  
3 and wide, with radioactive cancer-causing poisons.

4 We should look at the Oyster Creek nuclear  
5 plant as a nuclear weapon in itself. One suicide  
6 plane attack on the facility, or a missile launch upon  
7 it, could have devastating consequences for New Jersey  
8 citizens, our soil and our ocean waters.

9 In making a decision, we should be guided  
10 by the wisdom of the European Union, which recognizes  
11 the potential dangers of genetically-engineered food  
12 and thereby uses the precautionary principle. Thus,  
13 first do no harm and wait long and cautiously before  
14 undertaking an environmentally risk-laden experiment.

15 If the same precautionary principle had  
16 been applied to nuclear energy years ago, we would not  
17 now be facing this relicensing decision, based on  
18 Chernobyl, Three Mile Island, and the age of this  
19 facility, and accidents in other, less well-known  
20 facilities. We must reject the relicensing plan.

21 In making a possible relicensing plan, we  
22 must also be guided by the native American principle  
23 of the seventh generation. When the first Americans  
24 circled with their elders to make difficult choice or  
25 decision, that decision had to pass the seventh

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1 generation test, which meant if the issue in question  
2 would negatively affect the community or the  
3 environment, generations henceforth, then that issue  
4 would be rejected.

5 Some of you may be old enough to recall  
6 the public service video clip of the native American  
7 who is sadly observing what we've done by littering  
8 our shoreline with debris, our debris of discarded  
9 packaging, as a tear rolled down his cheek, you  
10 remember.

11 I see his tear again in what I am about to  
12 say. So what about the waste products of the nuclear  
13 industry that are not destined for storage?

14 As some people know, depleted uranium may  
15 result from reprocessing of spent nuclear fuel. Gary  
16 Null, investigative reporter and producer of such  
17 nuclear-related documentaries as Fatal Fallout and  
18 Friendly Fire, killing our own, has revealed again and  
19 again the horrific dangers of depleted uranium.

20 Thousands of our U.S. Iraq veterans are  
21 suffering from Gulf War syndrome, to say nothing of  
22 untold Iraqi citizens. Depleted uranium has  
23 contributed to the devastating effects of Gulf War  
24 syndrome. That reprocessed or recycled nuclear waste  
25 was placed into U.S. antitank ammunition which, upon

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1 impact, created a cancer-causing dust that filled many  
2 GI lungs.

3 The pictures and references I was on the  
4 Internet last night confirmed what Gary Null has  
5 stated. That he has pictures of Iraqi children born  
6 with one eye in the middle of the head, and a child  
7 born with a head and no eyes, both attributed to  
8 depleted uranium.

9 Considering that the half-life of depleted  
10 uranium is 4.5 billion years, our armed forces have  
11 poisoned the soil and nearby waters of Iraq for all  
12 time.

13 I leave you with that tragic image of a  
14 nuclear system gone awry. In conclusion, nuclear  
15 power plants produce abundant, uncontrollable waste  
16 products that have proven to be hazardous to the  
17 health of people in its surrounding communications and  
18 all mankind, hazardous to the environment of land, sea  
19 and air for current and future generations.

20 Thank you very much.

21 JUDGE HAWKINS: Thank you, Mr. Fuller.

22 MS. McAulay to be followed by Mr. Charles  
23 Hassler.

24 MS. MCAULAY: Thank you for the  
25 opportunity to speak and I want to say how impressed

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1 I am with the people who spoke before me, because they  
2 really have done research, they've done a lot of  
3 digging and they spoke beautifully. I, on the other  
4 hand, have only gone on the Internet this morning and  
5 looked at some reports that were put out by Exelon.  
6 I browsed a 64-page report that they put out just a  
7 year ago, in May of 06, to assess the ground level  
8 water for radionuclides.

9 And not surprisingly, everything came out  
10 great, below levels considered dangerous by the  
11 Government.

12 My only "take" on this is why is this  
13 testing not done independently? Why is Exelon allowed  
14 to hire the company that tests the levels of  
15 radioactivity in our water? Does this make any sense?  
16 It should be done independently.

17 I'm very concerned, like others, about the  
18 threat assessment, both to our environment and the  
19 terrorist potential threat.

20 I live in Lakewood, which is not within  
21 the 10 mile radius, but two my children live in New  
22 Jersey and two of my grandchildren live in New Jersey,  
23 and I'd like to live here too. So I'm very concerned  
24 about the safety of Oyster Creek, the corrosion of the  
25 drywell, which everybody's mentioned. I'm not going

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1 to repeat all those concerns.

2 The only other thing I would mention, that  
3 hasn't been mentioned before, is that should the  
4 judgment be that, yes, this license will be extended,  
5 I think an extension of 20 years is madness,  
6 especially with a 40 year old facility that is  
7 becoming degraded.

8 If you agree to extend the license, off  
9 the top of my head, I would say no more than five  
10 years, and all testing should be done independently.  
11 Thanks.

12 JUDGE HAWKINS: Thank you very much.

13 Mr. Hassler to be followed by Mr. Daniel,  
14 I believe it's Lindy.

15 MR. HASSLER: Good afternoon. I'm here  
16 today as a representative of the IBEW Local 94 to  
17 offer support of relicensing Oyster Creek Generating  
18 Station, a clean, safe, reliable, critical components  
19 of the New Jersey electrical, energy, manufacturing  
20 family.

21 I'm Charles Hassler. I'm a business agent  
22 for Local 94 in Hightstown, New Jersey. Prior to my  
23 assuming the current responsibilities I have, I spent  
24 more than two decades working in the nuclear energy  
25 industry.

1                   Additionally, I'm also a member of the New  
2 Jersey IBEW, the umbrella organization representing 23  
3 New Jersey IBEW locals, with more than 35,000 members.

4                   New Jersey IBEW also is on record as  
5 supporting the relicensing of the Oyster Creek  
6 Generating Station.

7                   Our support is based upon our  
8 understanding of the findings of the NRC during the  
9 relicensing effort. It is an informed, rational  
10 support that comes only with our belief that the  
11 safety of our members, and the public at large, will  
12 be assured by the continued operation of this plant.

13                   Oyster Creek Generating Station has  
14 operated at 95 to 98 percent capacity, has done so  
15 admirably. Any issues that have been uncovered during  
16 the relicensing process have been openly and promptly  
17 addressed by the operator and then corrected to a  
18 standard that meets or exceeds the NRC requirements.

19                   What other industry has improved the  
20 standards and operating capacity in the way that it's  
21 been done with the nuclear? This is truly the most  
22 watched from the outside, and scrutinized from the  
23 inside.

24                   The Institute of Nuclear Power Operators,  
25 the Nuclear Regulatory Commission and NUMARC, do more

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1 internal evaluations in groups than any other  
2 industry. This is an industry where, if you're not  
3 bumping the top quartile in performance, you better  
4 have a plan ready or you'll be in trouble. This is  
5 the only industry that I know of that has to do a  
6 voluntary shutdown before the keys are taken away, and  
7 you don't get them back.

8           The output from Oyster Creek represents  
9 approximately 9 percent of New Jersey's electric  
10 consumption needs, producing that electricity without  
11 the creation of greenhouse gases, an important and  
12 critical component to this discussion, given the  
13 global warming situation.

14           In fact, along with its sister reactors  
15 at Salem and Hook Creek, these workhorses produce 52  
16 percent of New Jersey's electrical needs.

17           Without this output from Oyster Creek, the  
18 reliability of electric delivery to meet demand would  
19 be at risk.

20           Next, America's reliance on foreign energy  
21 imports continues to stress our economy, costing  
22 American job and putting the middle class itself at  
23 risk. Sound energy policy is in our nation's best  
24 interests and nuclear energy has to have an important  
25 role to play in that policy.

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1                   Finally, we must all recognize that  
2 license renewal does not come open-ended and without  
3 ongoing monitoring. Safety and performance standards,  
4 just as they are today, will continue for the entirety  
5 of the time the plan operates.

6                   If the plan falls below acceptable  
7 standards, I and my members will be among the first to  
8 speak out, and if ever a major safety issue arises in  
9 the future, we can all be assured that the NRC has the  
10 ultimate power to come in, take away the keys, shut  
11 the doors and close the plant. Thank you.

12                   JUDGE HAWKINS: Thank you. On deck is Ms.  
13 Jane DeMarzo.

14                   MR. LUNDY: Hi. My name is Dan Lundy.  
15 I'm here on behalf of myself and many of my neighbors  
16 on Long Beach Island.

17                   We've had two recent experiences where the  
18 Government agencies let us down on a question of  
19 safety. One, the beach replenishment that we've had  
20 resulted in more than one thousand items, and possibly  
21 danger ordnance, and closed our beaches until last  
22 week.

23                   Two, the United States Air Force testing  
24 avoidance of heat-seeking missiles put 14,000 acres of  
25 our pine lands on fire and resulted in the evacuation

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1 of 2500 people.

2 We've seen the Corps of Engineers and the  
3 Department of Environmental Protection squabble over  
4 the entire replenishment program. We're not confident  
5 that assurances we get will be adequate. We see a  
6 redux of FEMA and Hurricane Katrina, and the homeland  
7 security aftermath of 9/11, as to the effectiveness of  
8 intragovernmental operations. We ask you to connect  
9 the dots, please, among the different agencies  
10 involved, among the different parties at interest  
11 here, special interests, the employees, corporation,  
12 and the town that receives these big tax breaks,  
13 against the citizens at large and their safety.

14 Many of us firmly believe in the  
15 importance of nuclear power, but our concerns are that  
16 this is the wrong plant in the wrong place at the  
17 wrong time. The plant has a Mark One reactor, which  
18 I understand is of obsolete design. Its safety record  
19 has been besmirched by operational errors and it is  
20 ranked in the lowest third of the 103 plants operating  
21 throughout the country.

22 It's in the wrong place, located in a  
23 population center of almost 600,000 people. The means  
24 of egress are wholly inadequate, and everyone I know  
25 admits this. The spent fuel pool, located 100 feet

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1 above ground, and being close to the ocean, in an area  
2 that cannot be made a no-fly zone, it is extremely  
3 vulnerable to terrorist attack.

4 On LBI, Long Beach Island, ten miles south  
5 of here, we get more than 250,000 people staying with  
6 us in the summertime. In the event of a catastrophe,  
7 we would be trapped. We're told that you cannot  
8 consider vulnerability to terrorist attack and  
9 inadequacy of egress in determining to relicense for  
10 another 20 years.

11 Gentlemen, you are avoiding the "elephant  
12 in the kitchen." Terrorist and egress. And as an  
13 affected citizen, I am upset.

14 MS. MARSH SAX: My name is Gail Marsh Sax,  
15 and I'm a local citizen here, and I realize it's after  
16 lunch and everybody's tired, but it really is  
17 inappropriate for one of you to sit there and have  
18 your eyes closed so much of the time. It gives one  
19 the impression that perhaps you're not hearing us.  
20 Thank you.

21 JUDGE HAWKINS: Thank you. Ms. Jane  
22 DeMarzo, to be followed by Mr. Ben Mukherjef.

23 MS. DeMARZO: I'm a resident Barnegat, New  
24 Jersey, which is within the ten mile radius.  
25 Reasonable doubt. We all know what reasonable doubt

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1 does in a court of law. I believe that the concerned  
2 citizens have, and are continuing to present facts  
3 that lead to reasonable doubt as to the ability of a  
4 40-year-old facility to maintain a safe and secure  
5 level of energy production over the next 40 years.

6 You gentlemen have in your hands the  
7 ability to save our future, the future of New Jersey,  
8 the future of atomic energy, the future of our  
9 country.

10 There will be no one to say you're sorry  
11 to, after a disaster happens. Thank you. Just  
12 remember--reasonable doubt.

13 JUDGE HAWKINS: Thank you.

14 Mr. Ben Mukherjef, to be followed by Ms.  
15 Jeffrey Brown.

16 MR. MUKHERJEF: I live within one mile of  
17 the tower. Every time this blinks, I can hear, see in  
18 my living room, that plant. I heard all about it.  
19 I've been living--well, by the way, I'm living in,  
20 since 1999. I used to live in Montclair. We moved.  
21 What I heard is I think a lot of confusing  
22 information's been given to the people, and I'm one of  
23 them.

24 I don't know about the thickness, I don't  
25 know about the design, drywell seepage. I'm a civil

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1 engineer, by profession. Thirty-five years I work as  
2 a civil engineer. I know more about this thing  
3 because I built some of them, and I know about the  
4 liner because I work the thickness of liner measured  
5 by the, you know, different widths. So all the  
6 information gone--is that correct? Never got good  
7 information. We need the good information.

8 Design criteria, drywell. And needless to  
9 say, we need electricity, all the gadgets coming in.  
10 Where are you going to get the power? We are not only  
11 doing nuclear. There are other country. France.  
12 China building forty nuclear. India building nuclear  
13 power plant. There are safe way of doing it. Don't  
14 tell that cannot be done; but there is safe way of  
15 doing it. That's one.

16 Second point. What the plant has done,  
17 nobody had mentioned that, because they don't know,  
18 they don't live there. Because I live there. They  
19 have dredged that river, South River, three, four  
20 years ago, making it deep, make it impossible for us  
21 navigate any our boat, because they deepen it up and  
22 push the muck both sides. And I can't get my boat  
23 out.

24 I bought a boat. It's sitting there. So  
25 these two points I have. First, we need the correct

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1 information, not the ambiguous information with  
2 thickness, seepage, this and that. The NRC should do  
3 it. Because I work for FERC, the sister department of  
4 nuclear. FERC is Federal Energy Regulatory  
5 Commission. We did license dam and other aspect.

6 So my point here is two things. One, we  
7 need the correct information from this Agency, they  
8 are supposed to give it to the citizens, and second,  
9 what they have done to the river. I can't get my boat  
10 out at this point. Those are the two things I have.  
11 Thank you very much.

12 JUDGE HAWKINS: Thank you.

13 Mr. Brown, to be followed by Joan Finn.

14 MR. BROWN: Gentlemen, I was disappointed  
15 to hear that you're not going to give answers, because  
16 I signed up hoping to get a question answered, and the  
17 question I had was what could you possibly hope to  
18 gain from us today.

19 The context, as I understand it, is that  
20 you have spent months narrowing the citizens efforts  
21 to bring several contentions down to a very highly  
22 technical, very narrow issue of the drywell liner, and  
23 there's been a stable of lawyers in the NRC that have  
24 fought our lawyer.

25 There's a stable of lawyers at

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1 AmerGen/Exelon, a multibillion company, fighting our  
2 lawyers. It required us to dog into our pockets for  
3 expert advice of engineers, into the thousands of  
4 dollars, to have a presence before your board.

5 And you're judges. So I can't understand  
6 if this is a judiciary process, what you're letting  
7 yourself be contaminated for. From public opinion?  
8 Is there really some expert advice that you think will  
9 come out of the grassroots. I'm very confused by  
10 that. It seems to be--I don't know if that's an  
11 intention, to confuse us, but it seems very  
12 contradictory to the judicial process.

13 I was at the meeting last week of the NRC,  
14 the safety exit meeting also. I heard Mr. Conte of  
15 the NRC become Mr. Kante when Mr. Webster asked him,  
16 What are the figures that you used to determine that  
17 the drywell liner is currently operating safety? and  
18 he could not produce those figures.

19 So again, we have the possibility that the  
20 plant is currently in violation of its own standards  
21 for operation, if it's 9 square feet versus one square  
22 foot, or whatever the thickness is, etcetera, and to  
23 date, as far as I know, we still have not gotten the  
24 raw data, the figures upon which the NRC engineers  
25 calculated that this plant, for this year, is

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1 currently operating safely.

2 It's not convincing.

3 We have discovered in the process of the  
4 contention, that AmerGen has repeatedly violated  
5 commitments. They knew that they had the wrong data,  
6 the 1996 UT tests. They relied on it to make reports.  
7 They promised to monitor the water. They did not  
8 monitor the water. They found water. They dumped it.  
9 They promised they're not going to do it again.

10 It's not credible, and so we need you to  
11 take seriously our concerns. We're not just a bunch  
12 of emotional people. We've studied the facts. We  
13 find a lot of inconsistencies. We find, it seems,  
14 that the NRC is there to facilitate the continued  
15 operation of this plant as opposed to protect us and  
16 to regulate it.

17 And I close by agreeing with the prior  
18 speaker who said that it makes no sense not to let  
19 people speak in this country. None of the people that  
20 have been excluded from speaking today have spoken  
21 before you. Only our lawyer has spoken before you and  
22 it seems to me extremely un-American to tell these  
23 people that they cannot speak. Thank you.

24 JUDGE HAWKINS: Thank you, Mr. Brown. Ms.  
25 Finn, to be followed by Michele Donato.

1 MS. FINN: Thank you. I live in Waretown  
2 for the past year, and I can echo some of the concerns  
3 of the people who've spoken so far, one of which the  
4 position of the pool that carries the waste, and the  
5 other is the condition of the drywell.

6 I have a third concern, and that's to what  
7 extent is NRC really responsible for the people in the  
8 environment? NRC has messed up several times. One  
9 time in 1997, to '92, I heard it from Senator Connors--  
10 -it was 1982, rather--I heard from Senator Connors,  
11 who used to be the head of the freeholders, that there  
12 was something wrong with the pool that needed to be  
13 investigated.

14 When they asked for investigation or  
15 inspection, they were given a part-time inspection.  
16 They said no, we need a 24-hour inspection; it could  
17 be dangerous.

18 It took a call and a letter and a request  
19 to then Jimmy Carter, president, who's a nuclear  
20 scientist, nuclear physicist, to say no, we will have  
21 a 24-hour inspection. At that time they found out  
22 that the pool of water was 18 feet down and it was in  
23 a dangerous condition. That the backup water was also  
24 broken. Had that not been inspected, 24 hours, there  
25 would have been a meltdown.

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1 Now in whose purview is the care,  
2 condition of the people, the welfare of the people and  
3 the welfare of the environment? It is not in NRC's,  
4 let's face it, and let's not--you know, there's an  
5 "elephant in the living room"--let's admit it. And  
6 who, then, is going to inspect?

7 Well, look at the drywell. I asked at a  
8 recent meeting of the Environmental Protection Agency,  
9 a Lisa Jackson. I said, How about the drywell? It  
10 hasn't been measured since '96. Her basic answer:  
11 It's essentially not measurable.

12 Now I echo that women who spoke before.  
13 Her concern is reasonable doubt. The main piece here  
14 for me is where is the morality in this? If NRC  
15 doesn't stand for the people and the environment, who  
16 does? We do. We have a right to our own integrity,  
17 not just the people on the island, not just the people  
18 in Waretown.

19 There's a principle here. We live in a  
20 society that opts for life. If a 2-year-old child  
21 falls down a well, we use all the human power we can,  
22 in the hope that she's alive. Shouldn't the reverse  
23 be true if there's a chance of death? Thank you.

24 JUDGE HAWKINS: Thank you. Nick Morale is  
25 on deck.

1 MS. DONATO: My name is Michele Donato.  
2 I live in Ocean County and I'm a practicing attorney  
3 as well; but I'm here on my own behalf.

4 And I'm here because I recognize that this  
5 particular body of individuals has the ability to help  
6 us to get to the truth of the situation that confronts  
7 us.

8 When the citizen groups filed the  
9 contention with the NRC regarding this bathtub ring of  
10 corrosion in the drywell, at that point all that we  
11 knew was that it had been identified, and the citizens  
12 also knew that it hadn't been monitored, as would have  
13 been required by the NRC.

14 So we recognized that the system had  
15 failed in keeping up with this very, very critical  
16 aspect of the plant.

17 Since then, the citizens have really been  
18 fighting to get information and it's somewhat  
19 appalling, that at this stage of the game, for the  
20 bathtub ring itself, it's about 500 square feet of  
21 area, and AmerGen has tested one percent of that area  
22 only. One percent. 99 percent is unknown.

23 And revealed at the hearing, last Thursday  
24 evening, is the fact that they aware, that is,  
25 AmerGen, that there is a 9 square foot area that falls

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1 below the critical safety margin of .736, thus  
2 violating the plant's own current safety licensing  
3 basis.

4 So not only do they not have an ability to  
5 age manage this corrosion for the next 20 years, they  
6 don't meet it right now, and how can we ever conclude  
7 that they can manage something, that we don't know  
8 what they're managing? 99 percent of it is unknown.  
9 How can this possibly be in this tightly regulated  
10 system? How can this possibly be?

11 It is because the NRC and the industry  
12 work hand in glove. The NRC doesn't understand its  
13 mission. The NRC thinks it is here to promote nuclear  
14 power. The NRC is here to regulate. The Agency was  
15 separated, specifically, because of the fact that it  
16 had a confusion in its mission, and that confusion  
17 continues to this day.

18 We do not have independent regulatory  
19 control. The citizens in this room have little say.  
20 Our congressional delegation has little say.

21 The congressional delegation convinced the  
22 NRC that there should be an independent scientific  
23 evaluation of the drywell issue, and the NRC obtained  
24 the services of Sandia National Laboratories, a well-  
25 know, well-respected group of scientists.

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1 Sandia looked at the measurements, looked  
2 at the mathematics modeling that had been conducted by  
3 Exelon, and said this is incorrect. You're double-  
4 counting safety factors. The hoop factor. They're  
5 taking it into account more than once.

6 So the drywell is less than what Exelon  
7 would like us to believe. And what does the NRC do?  
8 They ignore their own scientific evaluation. They  
9 ignore the congressional delegation's request for  
10 independent evaluation.

11 You cannot ignore it. You have got to  
12 stand up for this. You are judges. I see you are all  
13 administrative judges. And I trust that you will have  
14 the objectivity and the fairness to evaluate this  
15 data, and realize less than one percent of the  
16 corroded region that they have identified has been  
17 measured. What about what they haven't even looked at  
18 at all? Can you really hang your hat on that? Can  
19 you really let this entire state be subjected to that  
20 danger, with that minuscule amount of data in support?

21 I close by quoting from the CEO of Exelon  
22 who stated: "License renewal has become a routine  
23 undertaking. License extension will enable us to  
24 extract value for our customers, far in excess of what  
25 we imagined ten to fifteen years ago."

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1 JUDGE HAWKINS: Thank you, Ms. Donato.  
2 Mr. Morales. On deck is Mr. Jim  
3 LeTellier.

4 MR. MORALES: Hi. My name is Nick  
5 Morales. I'm here representing myself, my little  
6 brother who's in the audience, and my family. We're  
7 long-standing residents of Lavalette which is out on  
8 the barrier island. It's just about ten miles past  
9 the Oyster Creek zone, and our family owns a small  
10 business there, it depends on summer tourists coming  
11 in and purchasing goods, and those summer tourists  
12 come because of our beautiful ocean and our beautiful  
13 bay and the beautiful scenery around here.

14 And all of that is at stake if this  
15 critical radiation should fail and should poison what  
16 we love to call the Jersey Shore around here. So  
17 there's a lot of uncertainty over what assumptions to  
18 use, what data, where to draw the line as to what is  
19 safe and what is not safe.

20 But when you look at both sides, when you  
21 compare what Oyster Creek has said and what the  
22 community groups have said, you have to conclude that  
23 there has been no proof that the drywell meets the  
24 minimum safety operating standards so far.

25 Just to echo Ms. Donato's comments, that

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1 so little of that actual corroded barrier has been  
2 tested. There's just so much that we don't know right  
3 now, that we can't draw any firm conclusions in the  
4 positive to say that it's safe.

5 It's a critical radiation barrier that  
6 Oyster Creek has repeatedly said was safe, yet, at the  
7 insistence of community groups and our neighborhood  
8 law clinic have demanded testing, and found that there  
9 were significantly corroded areas and potential  
10 problems.

11 Oyster Creek will continue to avoid and  
12 dodge, and insist upon the minimum amount of testing,  
13 and a minimum frequency of testing. But it's NRC's  
14 job to stand there and protect the interests of our  
15 public health and safety.

16 So as i said before, there is a lot at  
17 stake here if that barrier should fail, and I humbly  
18 ask you to err on the side of caution and require  
19 frequent and thorough testing of the barrier. Thank  
20 you.

21 JUDGE HAWKINS: Thank you, Mr. Morales.

22 MS. CLEMENTE: I don't want anybody to  
23 think I'm schizophrenic but Jim LeTellier had to  
24 respectfully leave you, was called away. So I didn't  
25 want his name to go unnoticed.

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1 JUDGE HAWKINS: All right. Thank you.  
2 No. I would have been waiting for him for probably  
3 quite some time. Thank you very much.

4 Mr. Ed Stroup.

5 MR. STROUP: Good afternoon My name is  
6 Edward Stroup and I thank you for the opportunity to  
7 speak about what a good plant Oyster Creek is, and why  
8 it should be quickly relicensed.

9 For the record, I and my family live close  
10 to the plant. I speak today as a private citizen.

11 At Oyster Creek, in the early 1980's,  
12 some small leaks in a refueling liner were found, and  
13 those coupled with an improperly functioning rough  
14 drain led to some corrosion of the drywell shell.  
15 This leakage no longer affects the drywell.

16 Refueling cavity liner is now temporarily  
17 covered during refueling outages with materials that  
18 minimize leakage.

19 The trough drain below the reactor cavity  
20 has been improved, so that any minor leakage now  
21 enters the drain.

22 This drain is monitored daily during  
23 refueling outages. Also, all sand was removed from  
24 the sandbed region in 1992, and the sandbed drains  
25 were cleaned, the sandbed floor was improved to

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1 promote drainage, should any water enter the region.

2 Finally, a multilayer of epoxy coating was  
3 applied to the exterior of the drywell shell to  
4 prevent further corrosion. Oyster Creek has performed  
5 ultrasonic inspections of both the upper and sandbed  
6 regions of the drywell during the recent 2006  
7 refueling outage.

8 Those results confirm that the drywell  
9 shell was thick enough to meet design requirements.  
10 In short, the measurements confirm the integrity of  
11 the drywell shell.

12 It should also be noted that the interior  
13 of the drywell is not a corrosive environment.  
14 Corrosion during plant operations is expected to be  
15 almost nonexistent since the drywell operates inerted  
16 with nitrogen and no oxygen is present to drive the  
17 corrosion reaction.

18 Now more than ever, America and New Jersey  
19 needs safe, clean, reliable nuclear power. Reliable  
20 electricity that we have counted on for 40 years.  
21 Safe power that we can count on for 20 more years.

22 Please relicense Oyster Creek quickly.  
23 It's in everybody's best interests. Thank you.

24 JUDGE HAWKINS: Thank you very much.

25 That's all that has registered. Is there

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1 anybody here who did not register but would  
2 nevertheless like to register and then come back and  
3 speak to us? I'm afraid, consistent with the  
4 regulations, we may not permit that.

5 Ms. Donato.

6 MS. DONATO: I don't understand why Mr.  
7 Stroup, who just presented AmerGen and Exelon data to  
8 this group, is allowed to speak, and yet another a  
9 citizen is not allowed to speak. I mean, can't she  
10 speak as an individual? I mean, he gave data that  
11 only somebody inside the plant would know.

12 I don't understand why somebody like Janet  
13 Tauro cannot speak. I mean, I know that this was, as  
14 I understand it from reading the information, that the  
15 exclusion of the public from this process was at the  
16 urging of Exelon as opposed to this group's choice.  
17 But it just doesn't seem fair to me, I mean, that Mr.  
18 Stroup, and that the union representative can come up,  
19 but Mr. Stroup, in particular, because he gave you  
20 information that came from the plant.

21 I just don't think it's fair and I think  
22 you're in a difficult position, but I just--I can  
23 understand the sense that there's truth to be stated  
24 and I know that Exelon doesn't want the truth, but we  
25 suspect that you do and we hope that you do.

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1 JUDGE HAWKINS: Thank you, Ms. Donato.

2 Anybody else? I suspect Mr. Stroup wants  
3 a rebuttal.

4 MR. STROUP: Would you indulge me for a  
5 minute.

6 JUDGE HAWKINS: You may come forward and  
7 you may have a minute, although you need not take the  
8 entire time; but you're welcome to take it.

9 MR. STROUP: I'll be brief. I'd just like  
10 to say that I'm here as a private citizen, not  
11 testifying on behalf of anybody other than myself  
12 today, and I note that the--Ms. Donato, Mrs. Donato,  
13 who just spoke about me, has been involved in this  
14 process every step and every turn, as much as I have.  
15 She's involved with the people, in great depth, whose  
16 only agenda is to close Oyster Creek and end all  
17 nuclear power. She has worked with them at every turn  
18 and every step, and she was afforded the opportunity  
19 to speak as a private individual.

20 I think there are people here, today, that  
21 are trying to make an issue out of a nonissue, and I  
22 think that's just what we heard from the opposition.  
23 Thank you.

24 JUDGE HAWKINS: Thank you very much.

25 And the board is grateful--one second. We

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1 may have a late-arriving speaker. Ms. Carol Birns.

2 MS. BIRNS: I'm a grandmother, I have  
3 grandchildren, and I don't live within the ten mile  
4 radius but I live in Marlton, but my grandkids, they  
5 have a house in Forked River and they come here on  
6 weekends.

7 I agree with everything that has been said  
8 here about the safety factors, from everything I've  
9 read, there seem to be great problems with that.

10 I just don't understand why they want to  
11 extend the life of this plant. I understand that it  
12 was extended five years already. I read that it was  
13 extended five years ago, that the original life of the  
14 plant was supposed to be 35 years, and they extended  
15 it to forty. Why do want to extend it for another 20  
16 years?

17 The new plants, from everything I've read,  
18 and we're going to have like 30 more nuclear plants,  
19 are supposed to be much safer. You know, they say  
20 don't worry about it, the new plants are much safer.

21 I would not take a 40-year-old car and  
22 drive it across country. I'd rather have my fairly  
23 new Honda than a 40-year-old Rolls Royce, much less a  
24 60-year-old Rolls Royce. The new cars are better.

25 I was near the Pentagon during 9/11. This

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1 is my big worry. A couple of blocks from the Pentagon  
2 at 9/11 and I know there was gridlock. You cannot get  
3 out. There was smoke all over; but that's okay. It  
4 was not nuclear. But if it's nuclear, what are you  
5 going to do?

6 Have you ever driven up Route 9 on an  
7 ordinary day? Has there been a study of evacuation  
8 route? has there been any new roads built since this  
9 nuclear power plant was built? None that I know of.  
10 And that's all I have to say. Thank you.

11 JUDGE HAWKINS: That's quite a bit, and  
12 we'll let you have the last word, Mrs. Birns.

13 I thank everybody for coming and for  
14 presenting their well-researched and, clearly,  
15 strongly-held views.

16 It's 3:37. In our effort to be inclusive,  
17 we will certain permit her to register at this time  
18 and speak. I apologize, Mrs. Birns.

19 The board is prepared to be here for the  
20 full two hours, so you need not be sorry. One second,  
21 please. Let's get your name.

22 Helen Mahtaban.

23 MS. MAHTABAN: Helen Mahtaban.

24 JUDGE HAWKINS: Mahtaban.

25 MS. MAHTABAN: Private citizen; not

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1 affiliated with anyone. I thought this would be a  
2 question-and-answer situation. So I went into the  
3 library yesterday to "bone up" on my nuclear physics  
4 and on understanding what the structure is that we're  
5 talking about, and I realized, even though my son is  
6 a structural engineer, I couldn't accumulate all that  
7 knowledge in one day.

8 But I did come across a few documents,  
9 one, the Sandia report, which was an independent study  
10 commissioned by the NRC, and the title of the report  
11 is to study the degradation, the amount of degradation  
12 of the drywell liner. A priori, they admit there's  
13 degradation.

14 Now, to me, in the first lien of a safety  
15 structure of a nuclear plant, there should be no  
16 degradation. There shouldn't be quibbling about  
17 whether it's .5 or point whatever. There should be no  
18 degradation in the first outpost, in the first safety  
19 structure that's containing the nuclear reaction;  
20 okay.

21 But then, of course, the second line of  
22 defense, or the final line of defense, is the  
23 containment structure, the concrete thing that  
24 surrounds.

25 Well, Oyster Creek very old. It was the

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1 first of its kind. It's a Mark One boiling water  
2 reactor, which in 1972, was determined never to be  
3 licensed again. That type of design was never to be  
4 licensed again because they found flaws in the actual  
5 containment structure.

6 We're talking about the final line of  
7 defense has a great flaw, so most of the plants were  
8 retrofitted in 1972 by a system which allowed direct  
9 venting of any build up of steam, radioactive steam  
10 which escaped any other safety structure, allows the  
11 direct venting of steam, radioactive steam into the  
12 environment, unfiltered and directly, to prevent  
13 rupture of the containment structure.

14 So instead of what people like to call a  
15 redundancy of safety features, we have two of the most  
16 vital safety structures of that plant to be not  
17 redundant but deficient; both of them. So that if the  
18 drywell liner breaches under a catastrophic condition,  
19 which is when we want our safety structures to  
20 function, we don't care if they mishap here or there,  
21 but when there's a catastrophic problem, we want it to  
22 function then. That's when we need it. Sorry. I'm  
23 a little nervous.

24 So, in conclusion, at Oyster Creek,  
25 because of its age, because of the situation there is

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1 recognized degradation of the primary safety structure  
2 of the plant, there is also a problem with the very  
3 design of the final containment structure of the  
4 plant.

5 What we have are two deficient safety  
6 structures in that plant. One of them has to be a 100  
7 percent for us to feel safe. And safe, reliable  
8 energy? I don't think so. Thank you.

9 JUDGE HAWKINS: Thank you, Ms. Mahtaban.

10 MS. CLEMENTE: Marianne Clemente from  
11 Barnegat. This is the third time I'm up here. Twice  
12 as Marianne and once as Jim. Can I just ask a  
13 question? Are you judges going to be taking under  
14 advisement everything that has been stated here, in  
15 your determination on this relicensing? Is that--

16 JUDGE HAWKINS: I don't know if you were  
17 here at the outset but I explained what is done with  
18 this. We do not look at this as part of the  
19 evidentiary record. The parties to the litigation  
20 make the evidentiary record, they're the master of  
21 their case, and that's what we consider.

22 They make their case, we consider the  
23 record they make, the testimony they put forward, the  
24 evidence they put, and the arguments they make, based  
25 on the record they create.

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1 MS. CLEMENTE: So what is the purpose for  
2 us all coming out here today to speak?

3 JUDGE HAWKINS: Again--and I'm reluctant  
4 to answer because--

5 MS. CLEMENTE: I was there. Maybe I  
6 didn't understand it. Maybe I didn't understand what  
7 you said.

8 JUDGE HAWKINS: But I will repeat what I  
9 said earlier. The regulations provide for the limited  
10 appearance session, and it's because it allows  
11 individuals who are not parties but may have a very  
12 significant interest, as everybody here has shown, in  
13 the issues involved in the litigation, and the  
14 testimony--not the testimony--the statements that are  
15 made are transcribed, they're considered by the  
16 parties who are in attendance, they're considered by  
17 the judges, and they're made part of the official  
18 docket in this particular case.

19 MS. CLEMENTE: So it will be used in--

20 JUDGE HAWKINS: To the extent anything has  
21 been said that a counsel here, who represents the  
22 parties, feels should be introduced as part of the  
23 evidentiary record for the litigation.

24 MS. CLEMENTE: Okay. I'm not a lawyer, so  
25 I don't understand--

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1 JUDGE HAWKINS: I appreciate that. And  
2 before we close, I believe Judge Abramson had a  
3 comment that he wanted to make.

4 JUDGE ABRAMSON: I think this follows up  
5 on your last question, and on a question we had  
6 earlier. It's important to recognize that we're  
7 judges, not part of the NRC staff, we don't take  
8 marching orders from the commissioners. Our job is  
9 very narrow, and that is, our job is to adjudicate  
10 this question about the corrosion in the drywell liner  
11 that's been put before us.

12 Your comments are not in the record of  
13 this litigation. If you have information that's  
14 useful to that litigation, then you should make sure  
15 that information gets to the parties to the  
16 litigation.

17 The purpose of these limited appearance  
18 statements is to allow, as public citizens, as Judge  
19 Hawkins said, to make your comments. We would have  
20 hoped they would have been focused on this issue. We  
21 do not make policy for the Commission. We do not make  
22 policy for the Government. We are simply judges who  
23 will adjudicate the particular issue that's in front  
24 of us.

25 So the Commission will have access to the

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1 transcript of your comments, and if you are interested  
2 in trying to influence policy, then you should contact  
3 the Commission itself and suggest that they go look at  
4 your comments.

5 JUDGE HAWKINS: We have another session  
6 scheduled for this evening, from 7:00 to 9:00. This  
7 concludes the limited appearance session for this  
8 afternoon. Thank you very much.

9 [Whereupon, at 3:43 p.m., the session was  
10 concluded.]

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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: Oyster Creek Nuclear  
Limited Appearance

Docket Number: 50-219-LR

Location: Toms River, New Jersey

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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