

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Oyster Creek NGS: Evidentiary Hearing

Docket Number: 50-0219-LR; ASLBP No.: 06-844-01-LR

Location: Rockville, Maryland

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USNRC

September 24, 2007 (10:30am)

OFFICE OF SECRETARY
RULEMAKINGS AND
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Date: Thursday, September 20, 2007

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1 UNITED STATES NUCLEAR REGULATORY COMMISSION

2 ATOMIC SAFETY AND LICENSING BOARD

3 - - - - -
4 EVIDENTIARY HEARING
5 - - - - -6
7 IN THE MATTER OF: ||

8 AMERGEN ENERGY COMPANY, LLC || Docket No.: 50-0219-LR

9 (License Renewal for Oyster || ASLBP No.: 06-844-01-LR

10 Creek Nuclear Generating ||

11 Station) ||
12

13 Third Floor Hearing Room

14 Two White Flint North

15 11555 Rockville Pike

16 Rockville, MD 20852-2738

17
18 Thursday, September 20, 200719
20 The above-entitled matter came on for
21 hearing, pursuant to notice at 10:00 a.m.

22 BEFORE:

23 THE HONORABLE E. ROY HAWKENS, Chairman

24 THE HONORABLE PAUL B. ABRAMSON

25 THE HONORABLE ANTHONY J. BARATTA

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1 APPEARANCES:

2 On Behalf of the AmerGen Energy Company, LLC:

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4 RAPHAEL P. KUYLER, ESQ.

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9
10 On Behalf of the NRC:

11 MARY BATY, ESQ.

12 MITZI YOUNG, WSQ.

13 US Nuclear Regulatory Commission

14 Office of the General Counsel

15 Mail Stop - O-15 D21

16 Washington, DC 20555-0001

17
18 On Behalf of Citizens:

19 RICHARD WEBSTER, ESQ. (via telephone)

20 Rutgers Environmental Law Clinic

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1 APPEARANCES: (CONT.)

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P R O C E E D I N G S

10:01 A.M.

1 JUDGE HAWKENS: My name is Roy Hawkens.
2
3 I'm the Chairman of this Licensing Board, and I'm
4
5 joined by Judge Paul Abramson. The third Member of
6
7 the Board is Dr. Tony Baratta who is not with us
8
9 today. He had a conflict, but the Commission
10
11 regulations do permit us to proceed in his absence and
12
13 he agreed that we should proceed in his absence.

14 Would counsel for the parties please
15
16 introduce themselves for the record, starting with the
17
18 NRC staff?

19 MS. BATY: My name is Mary Baty and co-
20
21 counsel Mitzi Young.

22 MR. SILVERMAN: My name is Don Silverman.
23
24 I'm with Morgan Lewis and Bockius and counsel to
25
26 AmerGen Energy. And with me is Mr. Ray Kyler, also
27
28 counsel to the company.

29 MR. WEBSTER: I am Richard Webster. I'm
30
31 with Rutgers Environmental Law Clinic and we represent
32
33 the six citizens' groups who are the Intervenors in
34
35 this proceeding.

36 JUDGE HAWKENS: Thank, and you have an
37
38 agent here representing you, Mr. Webster?

39 MR. WEBSTER: Yes, I have Mr. Kevin Kamps

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1 from Beyond Nuclear who serves as an agent for the
2 Nuclear Information Resource Service who is one of the
3 six citizens, which is one of the six citizens'
4 groups.

5 JUDGE HAWKENS: Thank you. I can note for
6 the record Mr. Webster is participating by telephone.
7 Mr. Webster, if you have any difficulty hearing us,
8 please let us know and we'll speak a little bit more
9 loudly more directly into the microphones.

10 MR. WEBSTER: Will do. Thank you, Judge.

11 JUDGE HAWKENS: I should also note for the
12 record, the docket number is 50-0219-LR.

13 As explained in the Board's notice of
14 September 7, we'll convene an evidentiary hearing in
15 Tom's River, New Jersey on this coming Monday,
16 September 24th to consider Citizens' challenge to
17 AmerGen's application for a license renewal for the
18 Oyster Creek plant.

19 Because the parties seek to complete the
20 evidentiary hearing in two and a half days, that is by
21 noon on Wednesday, to accommodate the observance of
22 Sukkot, they suggested and we agreed to convene today
23 to admit evidence and exhibits into the record.

24 The parties previously have provided to
25 each other and to the Board the material that will be

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1 admitted today. They've had the opportunity to submit
2 motions in limine, challenging the initial written
3 submissions and the written responses and they've
4 taken advantage of that opportunity, moving to strike
5 certain matters on various grounds including the
6 ground that a witness' expertise did not extend to
7 issues about which he provided testimony.

8 The Board issued written rulings on those
9 motions and the objections in those motions need not
10 be advanced again today or next week. The objections
11 in the motions in limine are noted for the record on
12 the transcript and they are preserved for purposes of
13 appellate review.

14 The Board has two motions in limine
15 pending before it. First, we have AmerGen's motion to
16 exclude portions of Citizens' surrebuttal and that
17 motion is dated September 18. The NRC staff supports
18 the motion in part. Citizens opposed that motion.

19 The second motion we have before us is the
20 NRC staff's motion to exclude portions of Citizens'
21 reply and the NRC staff's motion is dated September 18
22 also. AmerGen supports the motion and Citizens'
23 oppose it.

24 The Board has considered the motions and
25 the responses to those motions and the Board denies

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1 both motions. We also note that those motions in
2 limine dated September 18 of the staff and of AmerGen
3 are noted for the record on the transcript and
4 preserved for purposes of appellate review. So those
5 objections need not be repeated today or next week.

6 If there are no questions on those
7 matters, let's proceed to the admission of the
8 parties' exhibits. As I previously stated, the
9 parties have already provided one another and the
10 Board with copies of the material that will be
11 submitted today as exhibits into evidence. The
12 Board's law clerk, Ms. Wolf, has provided instructions
13 regarding the proper marking and indexing of that
14 material and let's go through the mechanics of the
15 admission process right now. Let's start with the NRC
16 staff, if they're prepared --

17 MS. YOUNG: Judge Hawkens, the staff had
18 a glitch in preparing its exhibits for SECY this
19 morning which is the reason for our tardiness in
20 attending this morning and we preferred not to go
21 first if that's possible.

22 JUDGE HAWKENS: That is possible. We can
23 proceed to AmerGen, if AmerGen is prepared.

24 MR. SILVERMAN: We are prepared, Your
25 Honor.

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1 JUDGE HAWKENS: I would suggest, Mr.
2 Silverman, if you haven't already, if you would
3 provide Ms. Wolf with the material. What you can do
4 then is have counsel for AmerGen go through the index,
5 identify each item by number or by letter, and give a
6 brief description so that Ms. Wolf can confirm the
7 proper identification of each exhibit and confirm that
8 each one is actually what it says it is. I don't
9 anticipate it will take more than a couple of seconds
10 for each item. And then after we've completed that
11 with all of your exhibits, we'll go through the
12 mechanics of actually introducing them into evidence.

13 MR. SILVERMAN: Very good.

14 (Pause.)

15 JUDGE HAWKENS: Mr. Silverman, when you're
16 ready to start marching through the index, identifying
17 each item and giving it a brief description, Ms. Wolf
18 says she's ready to go.

19 MR. SILVERMAN: Okay, we'll do that now.
20 Thank you, Your Honor.

21 Good morning, and I will go through the
22 list of exhibits and if anyone has any questions along
23 the way, please let me know.

24 We have Applicant's Exhibit A which is a
25 comprehensive list of Applicant's exhibits in

1 accordance with the Board's prior orders.

2 We have Applicant's Exhibit B which is
3 Applicant's initial direct testimony that was pre-
4 filed.

5 We have Applicant's Exhibit C which is the
6 pre-filed rebuttal testimony of Applicant's.

7 We have C.1 which is our surrebuttal
8 testimony.

9 We have Exhibit D which is the curriculum
10 vitae of all of our witnesses.

11 We then go to the numbered exhibits.
12 Exhibit 1 is also a set of curriculum vitae. This
13 includes all of our witnesses with the exception of
14 one, that's Dr. Har Mehta, M-E-H-T-A. He is included
15 in Exhibit D. He is not included in Exhibit 1, but
16 his -- so that is somewhat duplicative, but his bio
17 also appears at Applicant's Exhibit 36.

18 Applicant's Exhibit 2 are extracts from
19 AmerGen's license renewal application for the Oyster
20 Creek plant, Section 2.4.1 and Table 3.0-2.

21 Applicant's Exhibit 3 is a letter from
22 Michael P. Gallagher to the NRC, dated December 8,
23 2006 enclosing AmerGen's submittal of information to
24 the Advisory Committee on Reactor Safeguards License
25 Renewal Subcommittee on the drywell corrosion issue

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1 history.

2 Exhibit 4 is a schematic drawing of the
3 cross section of the drywell, the portion embedded
4 into a concrete pedestal atop the reactor building
5 concrete foundation.

6 Exhibit 5 is a schematic drawing of the
7 drywell shell exterior.

8 Exhibit 6 is a schematic drawing showing
9 the top view of the ten bays in the sandbed region.

10 Exhibit 7 is a schematic drawing showing
11 detail of the lower drywell sandbed region.

12 Exhibit 8 is a schematic drawing showing
13 detail of the reactor cavity seal and trough drain.

14 Exhibit 9 is a schematic drawing showing
15 detail of the reactor cavity.

16 Exhibit 10 is a letter from Michael P.
17 Gallagher to the NRC dated February 15, 2007,
18 enclosing AmerGen's additional commitments related to
19 aging management program for the drywell shell.

20 Exhibit 11 is drawings of the .536 inch
21 local buckling acceptance criterion tray front and
22 isometric views.

23 Exhibit 12 is a letter from Michael P.
24 Gallagher to the NRC, dated December 3, 2006,
25 enclosing AmerGen's license renewal application

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1 supplement, post 2006 refueling outages, pages 13 and
2 14.

3 Exhibit 13 is a letter from Michael P.
4 Gallagher to the NRC, dated April 7, 2006, enclosing
5 AmerGen's response to the NRC request for additional
6 information related to corrosion in the sandbed
7 region, pages 3 through 7.

8 Exhibit 14 is an email from George Beck,
9 Exelon, to Donnie Ashley and Roy Matthew of the NRC,
10 dated April 5, 2006, enclosing AmerGen's response to
11 NRC audit question AMP, that's A-M-P, dash 210,
12 subquestion 3, regarding drywell corrosion in the
13 sandbed region.

14 Exhibit 15 is the NRC safety evaluation
15 report related to license renewal for the Oyster Creek
16 Generating Station, dated March 2007. The pages there
17 are pages 4-53 to 4-60.

18 Exhibit 16 is Exelon calculation number C-
19 1302-187-5320-024, rev. 2, dated May 18, 2007 entitled
20 OC drywell exterior UT evaluation in the sandbed.

21 Exhibit 17 is GPU calculation number C-
22 1302-187-5320-24, rev. 0, dated April 16, 1993,
23 entitled OC drywell exterior UT evaluation in the
24 sandbed.

25 Exhibit 18 is Exelon calculation number C-

1 1302-187-5320-024, rev. 1, dated September 21, 2006
2 entitled OC drywell exterior UT evaluation in the
3 sandbed.

4 Exhibit 19 is technical evaluation AR-A
5 2152754E09, dated November 7, 2006, regarding water
6 found in drywell trench 5, UT data evaluation.

7 Exhibit 20 --

8 MS. WOLF: Give me one second.

9 MR. SILVERMAN: Sure.

10 MS. WOLF: Okay.

11 MR. SILVERMAN: Exhibit 20 is Exelon
12 calculation number C-1302-187-E310-041, December 15,
13 2006, entitled statistical analysis of drywell vessel
14 sandbed thickness data 1992, 1994, 1996, and 2006.

15 Exhibit 21 is AmerGen's Oyster Creek
16 Generating Station license renewal ACRS presentation,
17 slide 75 through 76, dated January 18, 2007, showing
18 statistical methodology used to evaluate external UT
19 grid measurements.

20 Exhibit 22 is GPU calculation number C-
21 1302-187-5300-005, dated February 2, 1989 entitled
22 statistical analysis of drywell thickness data through
23 12/31/88.

24 Exhibit 23 is GPU calculation number C-
25 1302-187-5300-011, pages 1 to 40, dated April 12,

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1 1991, entitled statistical analysis of drywell
2 thickness data through 4/24/90.

3 Exhibit 24 is ASME IWE Class MC
4 containment visual examination records, recording the
5 VT visual examinations of the drywell shell in all 10
6 bays in the sandbed region during the 2006 refueling
7 outage, dated October 2006.

8 Exhibit 25 is a table showing the location
9 mean thickness by date and the 95 percent confidence
10 interval of the internal UT grid data for the sandbed
11 region, 1992.

12 MS. WOLF: I'm sorry, can you hold on for
13 one moment?

14 MR. SILVERMAN: Absolutely.

15 MS. WOLF: Can you repeat that?

16 MR. SILVERMAN: Yes, table showing the
17 location mean thickness by date and the 95 percent
18 confidence interval of the internal UT grid data for
19 the sandbed region, 1992.

20 MR. WEBSTER: This is Richard here. Could
21 I just ask you if people are asking you questions,
22 because it appears that you're responding to
23 questions, but I don't hear a question.

24 MR. SILVERMAN: The questions are really
25 Ms. Wolf just asking me to slow down and wait for her

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1 to catch up in reviewing the documents.

2 MR. WEBSTER: Okay, thank you. Sorry.

3 MR. SILVERMAN: This table was prepared in
4 response to a Licensing Board order.

5 Exhibit 26 is AmerGen's Oyster Creek
6 Generating Station license renewal ACRS presentation,
7 slide 94, dated January 18, 2007, showing a table of
8 general sandbed region thicknesses at 19 grid
9 locations.

10 Exhibit 27 is Oyster Creek drywell vessel
11 corrosion mitigation, TDR number 1108, dated April 29,
12 1993.

13 Exhibit 28 is AmerGen's Oyster Creek
14 Generating Station ACRS Full Committee presentation,
15 slide 14, showing a comprehensive map of all interior
16 and exterior 2006 UT inspection results, dated
17 February 1, 2007.

18 Exhibit 29 is AmerGen Oyster Creek
19 Generating Station license renewal ACRS presentation,
20 dated January 18, 2007, two slides showing photographs
21 of the exterior UT inspection locations.

22 Exhibit 30 is ACRS License Renewal
23 Subcommittee meeting transcript excerpts discussing
24 sources of water in the sandbed region, dated October
25 3, 2006.

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1 Exhibit 31 is ACRS License Renewal
2 Subcommittee meeting transcript excerpts discussing
3 sources of water in the sandbed region, dated January
4 18, 2007.

5 Exhibit 32, propose change to OCNGLSPM,
6 preventive maintenance data base, for drywell and
7 torus to implement license renewal commitments, PM
8 18704M, as in Mary, July 12, 2006.

9 Exhibit 33 is OCNGLS work order number
10 R2076388, dated October 2, 2006, leakage monitoring of
11 torus, sandbeds and reactor drain.

12 Exhibit 34 is tuboscope TK-7, modified
13 phenolic coating product technical information.

14 Exhibit 35 is DIVO coatings data sheets
15 for the epoxy coating system installed in the Oyster
16 Creek sandbed region, DIVO pre-prime 167 and DEVRAN
17 184, 100 percent solids epoxy tank coating.

18 Exhibit 36 is the curriculum vitae of Dr.
19 Har Mehta which is also included, as I indicated
20 earlier, in Exhibit D.

21 Exhibit 37 is NRC safety evaluation, dated
22 April 24, 1992, drywell structural integrity, Oyster
23 Creek Nuclear Generating Station.

24 Exhibit 38 is Oyster Creek Nuclear
25 Generating Station updated final safety analysis

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1 report, revision 13, dated April 2003, portions
2 discussing design of Category 1 structures including
3 the Mark 1 containment system drywell.

4 Exhibit 39 is a letter from Dr. H.S. Mehta
5 of GE to Dr. S. Tuminelli, T-U-M-I-N-E-L-L-I, Oyster
6 Creek, entitled "sandbed local thinning and raising
7 the fixity height analyses", line items 1 and 2 in
8 contract number PC-0391407, December 11, 1992. This
9 letter summarizes the sensitivity analysis used to
10 established the sandbed region local buckling
11 acceptance criterion.

12 Exhibit 40 is AmerGen Oyster Creek
13 Generating Station License Renewal ACRS presentation,
14 dated January 18, 2007, all slides.

15 Exhibit 41 is AmerGen Oyster Creek
16 Generating Station ACRS Full Committee presentation,
17 February 1, 2007, all slides.

18 Exhibit 42 is ASME Code Section 3, Case
19 N284-1, metal containment shell buckling design.

20 Exhibit 43 is figure showing Bay 19 UT
21 thickness measurements and the significant difference
22 between two types of statistical confidence limits.

23 Exhibit 44 are scaled maps of internal and
24 external UT thickness measurements for Bays 1, 13, 17,
25 and 19.

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1 Exhibit 45 is ASME Code Section 11, Case
2 N, as in Nancy, 513, evaluation criteria for temporary
3 acceptance of flaws in Class 3 piping.

4 Exhibit 46 is NRC Bulletin 87-01, entitled
5 "Thinning of Pipe Walls in Nuclear Power Plants."

6 Exhibit 47 is NRC Generic Letter 89-08
7 entitled "Erosion Corrosion Induced Pipe Wall
8 Thinning."

9 Exhibit 48 is ASME Code Section 11,
10 article IWE, In-Service Inspection, Repair, and
11 Replacement of Class MC Pressure Retaining Components.

12 Exhibit 49 is API Standard 653, dated
13 January 1992, tank inspection, repair, alteration, and
14 reconstruction, selections discussing in-service
15 inspection of tanks.

16 Exhibit 50 is OCNCS work order number
17 R2091019, inspect poly bottles for presence of water,
18 8/25/2006 inspection results.

19 Exhibit 51 --

20 MR. HALL: Ms. Wolf is wondering where the
21 date on the documents are, Mr. Silverman?

22 MR. SILVERMAN: I believe it's on the
23 second page of the document.

24 MS. WOLF: Got it.

25 MR. SILVERMAN: Are you ready, Ms. Wolf?

1 Take your time.

2 MS. WOLF: Are you on Exhibit 51?

3 MR. SILVERMAN: Yes. And you'll find the
4 date, I believe, in the next several documents on the
5 second page. They're all very similar work orders.
6 Let me know if you don't see them.

7 51. OCNGS work order number R2091083,
8 inspect poly bottles for presence of water, 11/25/2006
9 inspection results.

10 Exhibit 52, OCNGS work order number
11 R2095404, inspect poly bottles for presence of water,
12 2/13/2007 inspection results.

13 Exhibit 53, OCNGS work order number
14 R2099351, inspect poly bottles for presence of water,
15 5/22/2007 inspection results.

16 Exhibit 54, OCNGS work order number
17 R2104033, inspect poly bottles for presence of water,
18 8/28/2007 inspection results.

19 Exhibit 55, OCNGS work order number
20 R2088495, inspect poly bottles for presence of water,
21 12 RFO daily inspection results.

22 MS. WOLF: You are doing Exhibit 55?

23 MR. SILVERMAN: 55.

24 MS. WOLF: What I have for Exhibit 55 says
25 leakage monitoring torus sandbags in RX stream?

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1 (Pause.)

2 It doesn't match up with your exhibit
3 list.

4 (Pause.)

5 MR. SILVERMAN: If you don't mind, Ms.
6 Wolf, I'm going to have Mr. Kyler look at it. We
7 think it's the same document. We may not have
8 described it the same way in my list here.

9 (Pause.)

10 MS. WOLF: 56.

11 MR. SILVERMAN: 56. Exhibit 56, OCNCS
12 work order number R2088493, camera inspection of
13 reactor cavity drain line 12 RFO inspection results.

14 Exhibit 57, R.H. Hausler, et al., paper
15 NACE, N-A-C-E, paper, 1996 entitled "Corrosion
16 Management in the Arun Oil Field." A-R-U-N.

17 Exhibit 58, R.H. Hausler, et al., NACE
18 paper 1999, entitled "Development of a Corrosion
19 Inhibition Model 1 Laboratory Studies."

20 Exhibit 59, R.H. Hausler, et al., NACE
21 paper 1999, entitled "Development of a Corrosion
22 Inhibition Model Roman 2 Verification of Model by
23 Continuous Corrosion Rate Measurements Under Flowing
24 Conditions With a Novel Down Hole Tool."

25 Exhibit 60, L. Bertolini, B-E-R-T-O-L-I-N-

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1 I, et al., paper entitled "Corrosion of Steel and
2 Concrete Prevention, Diagnosis, Repair", Wiley/VCH,
3 Weinheim, W-E-I-N-H-E-I-M, Germany, 2004, selections
4 describing corrosion rates in concrete.

5 Last, but not least, Exhibit 61, NRC
6 Generic Aging Lessons Learned GALL Report, Volume 2,
7 Rev. 1 at Roman 2, 8.1 through 5, portions discussing
8 concrete containment structures.

9 Those are all of our exhibits, Your Honor.

10 JUDGE HAWKENS: Let me know when you're
11 ready for the next group.

12 The Applicant AmerGen has submitted
13 Exhibits A through D, and Exhibits 1 through 61. The
14 NRC staff and Citizens previously have had an
15 opportunity to review that material.

16 Does the staff have any objection to
17 receiving those exhibits into evidence?

18 MS. BATY: No, Your Honor, we don't.

19 JUDGE HAWKENS: Thank you. Mr. Webster,
20 do Citizens have any objection to receiving those
21 exhibits into evidence?

22 MR. WEBSTER: No, Your Honor, we don't.

23 JUDGE HAWKENS: Thank you.

24 (Whereupon, the above-referred

25 to documents were marked as

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1 Applicant's Exhibits A-D and 1-
2 61 and were received in
3 evidence.)

4 Mr. Webster, when Ms. Wolf is receive the
5 next batch of marked exhibits, we can proceed with
6 you, if Mr. Kamps feels comfortable with the process?

7 He's shaking his head in the affirmative
8 that he's ready to go.

9 MR. WEBSTER: That's fine. I should warn
10 you there are going to be a couple of corrections on
11 the way, since we had a few computer glitches which I
12 would ask Mr. Kamps if he can hand correct. Would
13 that be appropriate?

14 JUDGE HAWKENS: You broke up on the last
15 sentence. Can you repeat that, Mr. Webster, please?

16 MR. WEBSTER: I'm going to ask Mr. Kamps
17 if that's acceptable to the Board to make some very
18 small changes to a couple of the exhibit list.
19 There's a couple of things which I think need to be
20 changed slightly, so I'm going to ask Mr. Kamps if he
21 can make those changes to the exhibits before we
22 actually submit them formally. Is that appropriate
23 for the Board?

24 JUDGE HAWKENS: We'll deal with it as it
25 unfolds.

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1 MR. WEBSTER: Okay.

2 JUDGE HAWKENS: Before Mr. Kamps delivers
3 it to Ms. Wolf, Mr. Webster, I want to confirm that
4 you have expunged the material from the exhibits
5 consistent with the Board's order?

6 MR. WEBSTER: I believe we have. We have
7 made our best efforts to do that. And I think we
8 have. There are a couple of duplicates and I think we
9 managed to catch those duplicates, so yes, I believe
10 we have.

11 JUDGE HAWKENS: That will be fine. We're
12 concerned primarily just to make sure the offending
13 material identified in our order that was directed to
14 be removed was, in fact, removed and it sounds like
15 you have complied with that order.

16 MR. WEBSTER: We have done our absolute
17 best to comply with the order, Judge.

18 JUDGE HAWKENS: Good. Thank you.

19 MR. WEBSTER: May I begin?

20 JUDGE HAWKENS: Not yet, Mr. Webster. Ms.
21 Wolf has asked if the other stacks of exhibits from
22 AmerGen be submitted.

23 (Pause.)

24 If you can stand by, Mr. Webster, I'll
25 tell you when we're ready.

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1 MR. WEBSTER: Okay, thank you.

2 (Pause.)

3 MS. BATY: Judge Hawkens, if there are
4 going to be modifications, could we have a chance to
5 see those?

6 JUDGE HAWKENS: Yes, Mr. Webster, did you
7 hear Ms. Baty's request?

8 MR. WEBSTER: Yes, we have copies for the
9 other parties, and yes, we do intend to make the
10 changes on all the copies prior to handing them over,
11 or the parties may, if they wish, have the copy in
12 advance and have the changes as we go along.

13 There aren't very many. I don't want to
14 make a big fuss about it.

15 JUDGE HAWKENS: I understand. Ms. Baty,
16 do you have a preference? Do you want to make them as
17 he identifies them or would you prefer to receive them
18 after they've been made?

19 MS. BATY: We would prefer to receive them
20 and make them ourselves.

21 JUDGE HAWKENS: Very well. Mr. Kamps do
22 you want to provide the exhibits, as well as the
23 parties?

24 (Pause.)

25 MR. WEBSTER: My apologies. I believe the

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1 exhibit list which forms the first part of the exhibit
2 is missing a stamp. I apologize for that.

3 JUDGE HAWKENS: We're taking one moment,
4 Mr. Webster, while Ms. Wolf gets the materials
5 organized.

6 MR. WEBSTER: I believe the copies for the
7 Board are tabbed in two binders and then the other
8 copies are in complete stacks.

9 (Pause.)

10 JUDGE HAWKENS: Mr. Webster and Mr. Kamps,
11 we are ready to proceed, so if you would like Mr.
12 Silverman just did, identify each item by its number
13 or letter with a brief description of the item as
14 well.

15 MR. WEBSTER: Okay. Similarly to AmerGen,
16 the Citizens have the exhibits organized both by --
17 first by letter and then by number.

18 The letter corresponds to Exhibit A, is an
19 exhibit list and then a number of numbered exhibits.

20 Exhibit B is the pre-filed direct
21 testimony of Dr. Hausler with some number of
22 attachments.

23 Exhibit C is the pre-filed rebuttal
24 testimony of Dr. Hausler, again with an attachment.

25 Exhibit C1 is the surrebuttal of Dr.

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1 Hausler, again with an attachment.

2 Exhibit D are qualification documents
3 relating to Dr. Hausler.

4 Returning to the numbered exhibits of
5 Exhibit A, Exhibit 1 is GPU nuclear drywell sheet
6 plate thickness reduction, dated January 21, 1995.

7 MS. BATY: Is there a correction to that
8 document?

9 MR. WEBSTER: Yes, I believe there is.
10 That document appears to be dated for the final
11 approval -- oh. I see there are two dates appearing
12 on the document. We have taken the date placed on the
13 bottom of the document on every page, but there are
14 other dates on the approval sheet. And so I'm not
15 sure which dates we should use actually.

16 MS. BATY: Would AmerGen be able to
17 provide a better idea of which date is the appropriate
18 date?

19 MR. SILVERMAN: The document I'm looking
20 at and Mr. Webster can confirm, this is Mr. Silverman,
21 the last date on this document is 8/2/95, it looks
22 like. And maybe a better way to identify and confirm
23 that we all have the same document is we look at the
24 OCLR number on the bottom.

25 Mr. Webster?

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1 MR. WEBSTER: This is the cover sheet, the
2 approval sheet on the document is OCLR 1306.

3 MR. SILVERMAN: Yes.

4 MR. WEBSTER: We have excerpted the
5 document and the OCLR numbers of the excerpt is 1345
6 through 1363.

7 MR. SILVERMAN: Those are the correct --
8 those are consistent with our numbers.

9 MS. BATY: Do you mean January or July?

10 MR. WEBSTER: July.

11 MS. WOLF: If you look at the bottom of
12 the pages it says July 21, 1995.

13 MR. WEBSTER: That's what it says. You
14 know, this is a document we received in document
15 disclosure. I'm not familiar with the way the
16 licensee has written the data on the document.

17 MR. SILVERMAN: Mr. Webster, I think the
18 only confusion we had was that you said January and
19 perhaps you meant July.

20 MR. WEBSTER: Actually it is July 21,
21 1995.

22 JUDGE HAWKENS: Thank you, Mr. Webster.
23 If there are no other comments, you can proceed.

24 MR. WEBSTER: Exhibit 2 is a drawing
25 entitled partial cross-section of drywell and torus.

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1 Exhibit 3 is a memorandum from Peter
2 Tamburro regarding unclear documentation which is
3 dated March -- well, it looks like it was created
4 March 3, 2006.

5 Exhibit 4 is deliberately omitted. There
6 should be --

7 MR. SILVERMAN: Mr. Webster, I'm sorry,
8 this is Mr. Silverman. Just to be clear, we're
9 looking at the same document. It says origination
10 date March 3rd. Is the title AR-00461639 report?

11 MR. WEBSTER: It is.

12 MR. SILVERMAN: Thank you.

13 MS. BATY: Is there a correction on the
14 date? On the exhibit list it says March 30th.

15 What's the date of the document?

16 MR. WEBSTER: The date of the document,
17 the origination date of the document is actually March
18 3rd.

19 MS. BATY: Okay. That's a correction just
20 to the exhibit.

21 MR. WEBSTER: The correction to the date.
22 It should be dated March 3rd.

23 Exhibit 4 --

24 MS. BATY: Richard, can you hold on for
25 one moment?

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1 (Pause.)

2 JUDGE HAWKENS: You can proceed, Mr.
3 Webster, please.

4 MR. WEBSTER: Exhibit 4 was going to be an
5 AmerGen calculation. However, that calculation was
6 submitted by AmerGen as Exhibit 18. We therefore
7 deliberately omitted this exhibit from our package in
8 order to avoid duplication of exhibits.

9 Exhibit 5 again has been submitted by
10 AmerGen as Applicant Exhibit 20.

11 Exhibit 6 is an affidavit from Peter
12 Tamburro, dated March 26, 2007.

13 Exhibit 7 is an AmerGen email document
14 responding to an NRC request regarding audit question
15 numbers AMP 141210 --

16 JUDGE HAWKENS: One moment, please, Mr.
17 Webster.

18 (Pause.)

19 MS. WOLF: Richard?

20 MR. WEBSTER: Yes.

21 MS. WOLF: Just to go back, I'm sorry, you
22 said Exhibit and I don't know if it's just a typo, but
23 your Exhibit 5 that you say that was AmerGen Exhibit
24 20?

25 MR. WEBSTER: That's what I have here.

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1 Let me check that.

2 MS. WOLF: Okay, you have it dated
3 December 12th. AmerGen has it dated December 15th.

4 MR. WEBSTER: Ms. Wolf, I can't hear you,
5 I'm sorry.

6 MS. WOLF: One second.

7 (Pause.)

8 MS. WOLF: You have it dated December
9 12th, Exhibit 5. AmerGen has it dated December 15th.
10 Is that just a typo on your part to the exhibit list?

11 MR. WEBSTER: Yes, I think that's a typo
12 on our part. My apologies.

13 MS. WOLF: Okay. Okay, you can continue.

14 MR. WEBSTER: Picking up with Exhibit 7,
15 that's an AmerGen response to an NRC information
16 request regarding audit question numbers AMP 141, 210,
17 356, dated April 5, 2006.

18 Exhibit 8 has once again been deliberately
19 omitted because it was submitted by AmerGen as
20 Applicant Exhibit 19.

21 Exhibit 9 is a report from Structural
22 Integrity Associates, Incorporated entitled
23 "Statistical Analysis of Oyster Creek Drywell
24 Thickness Data," dated January 4, 2007.

25 Exhibit 10, another AmerGen response to an

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1 NRC information request regarding audit the question
2 numbers ANP 357, 356, and 210.

3 I have two dates on the list --

4 MR. SILVERMAN: Mr. Webster, we're not
5 sure that our exhibit matches up with yours, your
6 Exhibit 10.

7 MS. BATY: The staff agrees. We're
8 looking through our exhibit. It doesn't match.

9 MR. WEBSTER: Well, I see. Let me see.
10 I think there's a compilation of emails here. The
11 first email is an email from John Hufnagel to Donnie
12 Ashley, which attaches a number of PDFs, which are not
13 submitted. It shows on the next couple of pages, an
14 NRC information request regarding ANP 357. Then there
15 is an information request regarding ANP 356. There is
16 an information request regarding ANP 210.

17 MS. WOLF: I think the email is inaccurate
18 and I think that the document is accurate. I mean,
19 when you go past the first page, it is ANP 357, 356,
20 and 210.

21 MR. WEBSTER: Well, I think the documents
22 that, what we have here is what we got from AmerGen,
23 which is an email with the documents attached, and
24 we've submitted the cover email and the relevant
25 documents which were attached.

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1 MR. KUYLER: This is Mr. Kuyler. The
2 Applicant agrees that these are accurate descriptions
3 of these documents, or of this exhibit.

4 MR. WEBSTER: Is the staff similarly in
5 agreement?

6 MS. BATY: The description that you
7 provided is accurate. It corresponds with what we
8 have in hard copy here.

9 MR. WEBSTER: May I proceed, then?

10 JUDGE HAWKENS: Please continue.

11 MR. WEBSTER: Exhibit 11 is an email from
12 Peter Tamburro to Ahmed, I am probably going to
13 butcher this name, Ouaou, dated June 6, actually it
14 looks like it is dated June 8th, 2006. There should
15 be a correction there.

16 Do we all agree that the email is actually
17 dated June 8, 2006?

18 MS. BATY: The staff agrees.

19 MR. SILVERMAN: Applicant agrees.

20 MR. WEBSTER: I think the time is also
21 incorrect there, so let's delete that time where it
22 says 14:03 EST. I think we should delete that.

23 MS. WOLF: You can go on to 12.

24 MR. WEBSTER: Exhibit 12 is a memorandum
25 from Dr. Rudolph Hausler, dated April 25th, 2007. It

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1 is identical to attachment 2 of Dr. Hausler's initial
2 testimony which is included in Exhibit B.

3 Exhibit 13 is a memorandum from Dr. Rudolf
4 Hausler, dated July 19, 2007 and it is identical to
5 attachment 3 of Dr. Hausler's initial testimony.

6 MS. WOLF: Do you mean July 18th? Your
7 exhibit lists the wrong date.

8 MR. WEBSTER: I do mean July 18th.

9 Exhibit 14 is a single page from an
10 AmerGen presentation to the ACRS entitled "Bay 5
11 Before Shell Coating."

12 Exhibit 15 is an excerpted transcript of
13 the ACRS meeting on January 18, 2007.

14 Exhibit 16 is an excerpted transcript from
15 the ACRS meeting dated October 3, 2006.

16 Exhibit 17 is an email from Stephen
17 Hutchins from John Hufnagel, dated September 18, 2006
18 with an attachment entitled White Paper. I think it
19 is DW Dry Well White Paper.

20 Exhibit 18 is an affidavit to Jon Cavallo,
21 dated March 26, 2007.

22 Exhibit 19 is an Action Request Form to
23 determine the proper sealant for drywell sand bed
24 floor voids, dated October 23, 2006.

25 Exhibit 20 is a letter from Richard Conte

1 of the NRC to somebody called Richard Webster, dated
2 November 9, 2006.

3 MS. BATY: Mr. Webster, could you stop for
4 one moment? We had a question about the date on
5 Exhibit 19, what the proper date is for that?

6 MR. WEBSTER: The proper date on Exhibit
7 19.

8 MS. BATY: It lists several dates.
9 October 23rd and October 25th both.

10 MR. WEBSTER: I think the reference -- we
11 can agree whichever date you would prefer.

12 MS. BATY: Does AmerGen have an opinion on
13 what the proper date is for that document?

14 MR. SILVERMAN: No, I think it is fine to
15 just clearly identify it. Perhaps the parties could
16 agree that up in the right-hand corner, the status
17 date is October 23, 2006. The last update date is
18 October 25, 2006, and the print date is October 25,
19 2006. So I guess the document was printed October
20 25th.

21 MR. WEBSTER: That's correct. You know,
22 I'm happy to agree all of those dates.

23 MS. WOLF: Richard, do you want to change
24 your exhibit list then to reflect October 25th instead
25 of October 23rd?

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1 MR. WEBSTER: Well, I mean I don't think,
2 if you look at the exhibit, all of the text has 23rd,
3 October 2006 next to it. So it appears in the text
4 that it was created on October 23, 2006.

5 MS. BATY: Looking at page seven, it looks
6 like some of the data is from the 24th. So I guess,
7 or the 25th. Staff's preference would be to use the
8 printed date.

9 MR. WEBSTER: Okay.

10 MS. BATY: Of October 25th.

11 MR. WEBSTER: So if everybody would prefer
12 the printed date, I would be very happy to use the
13 printed date. So let's correct that to October 25,
14 2006.

15 MS. BATY: Thank you, Mr. Webster.

16 MR. WEBSTER: You're very welcome.

17 MS. WOLF: You can move on to Exhibit 20.

18 MR. WEBSTER: Exhibit 20, I think I
19 already read the description.

20 Exhibit 21 is a letter from J.C. Devine of
21 GPU Nuclear to the NRC dated December 5, 1990. And
22 there is an attachment to that document, attachment
23 three, which is a detailed summary addressing water
24 intrusion and leakage effects related to the Oyster
25 Creek Dry Well.

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1 Exhibit 22 is a document from GPU Nuclear
2 entitled Clearing of the Oyster Creek Drywell Sandbed
3 Drains, dated February 15, 1999.

4 Again, I see two dates on this document.
5 The date we've referenced is the date given by the
6 originator's signature. I see there is another date,
7 the approval signature date, which is March the 3rd,
8 1989. Citizens has no strong preference on how to
9 reference this document.

10 MR. SILVERMAN: Applicant would prefer to
11 reference this document as March 3, 1989.

12 MR. WEBSTER: All right.

13 JUDGE HAWKENS: Staff have any objection
14 to March 3, 1989?

15 MS. BATY: No, Your Honor.

16 JUDGE HAWKENS: Thank you. Please correct
17 it to March 3rd, Mr. Webster.

18 MR. WEBSTER: So that's corrected Exhibit
19 22. The Exhibit A, Exhibit List corrected to March 3,
20 1989.

21 Exhibit 23 is a single page disclosed by
22 AmerGen related to drywell leakage, perhaps best
23 identified by OCLR number, which is OCLR 13354.

24 Exhibit 24 is a transcript of the ACRS
25 from, an excerpted transcript of the ACRS from

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1 February 1, 2007.

2 Exhibit 25 is a letter from the NRC to Mr.
3 Christopher Crane dated January 17th, 2007. It
4 attaches an inspection report.

5 Exhibit 26 is an email from Stephen
6 Dunsmuir to Howie Ray, among others, dated October 22,
7 2006.

8 Exhibit 27 is an email from Tom Quintenz
9 to Kevin Muggleston and others, dated February 1,
10 2006.

11 Exhibit 28 is a GPU Nuclear document
12 entitled Evaluation of February 1990 Drywell UT
13 Examination Data, dated, see, again, we have dated it
14 from the originator's signature, March 8, 1990. There
15 is an approval signature which is April 18, 1990.
16 Again, we have no strong feeling on which date to
17 identify this document. If the Applicant has a
18 preference?

19 MR. KUYLER: April 18, 1990 would be the
20 Applicant's preference.

21 JUDGE HAWKENS: NRC staff?

22 MS. BATY: No objection.

23 JUDGE HAWKENS: It is corrected to April
24 18th, Mr. Webster.

25 MR. WEBSTER: Okay. Exhibit 29 is an

1 affidavit from Barry Gordon, dated March 26, 2007.

2 Exhibit 30 is a letter from Jill Lipoti of
3 the State of New Jersey to the NRC regarding --
4 attaching a report from an expert regarding interior
5 corrosion of the drywell.

6 Exhibit 31 has been deliberately omitted
7 because the relevant excerpts have been submitted by
8 AmerGen as Exhibit 23.

9 MS. WOLF: I'm sorry, Richard, for Exhibit
10 31 and maybe you just accidentally dropped a one, but
11 it could be a different calculation. AmerGen's
12 Exhibit 23 is the 011 calc and you have the last digit
13 as 01. Is that just a typo? Did you mean 011?

14 MR. WEBSTER: Let me just have a look.

15 (Pause.)

16 MR. WEBSTER: Yes, that's right. It
17 should be 011.

18 MS. WOLF: Okay.

19 MR. WEBSTER: The description of Citizens
20 Exhibit 31 is amended to be calculation
21 C13021875300011.

22 Exhibit 32 --

23 MS. WOLF: I'm just going to stop you
24 because your Exhibit 32 which is Applicant Exhibit 17,
25 you have the wrong -- also, you have it as revision 0.

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1 My bad eyes, I shouldn't have stopped you. Never
2 mind. Sorry about that.

3 MR. WEBSTER: Let me just check. Citizens
4 Exhibit 32 --

5 JUDGE HAWKENS: One second, please, Mr.
6 Webster.

7 MS. BATY: The staff has a question.
8 We're looking at -- what was the -- Exhibit 31, what
9 was the AmerGen exhibit number that it was equivalent
10 to?

11 MR. WEBSTER: AmerGen Exhibit 23.

12 MS. BATY: Twenty-three. Okay, we missed
13 that.

14 And number 32 was equivalent to AmerGen
15 Exhibit --

16 MR. WEBSTER: Number 32 is equivalent to
17 AmerGen Exhibit 17.

18 MS. BATY: Okay. Thank you, Mr. Webster.

19 MR. WEBSTER: And then 33 is equivalent to
20 AmerGen Exhibit 16, so it's therefore deliberately
21 omitted.

22 No. 34 is an ACRS information packet which
23 again is deliberately omitted. It was submitted as
24 Applicant Exhibit 21.

25 Exhibit 35 --

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1 MS. BATY: Just a moment, the date for the
2 ACRS packet of 34 is December 2006 and for 21 of
3 AmerGen it says January 18th.

4 MR. KUYLER: The Applicant's ACRS
5 submittal is Applicant's Exhibit 3.

6 MR. WEBSTER: Yes, my apologies. That's
7 incorrect.

8 The ACRS submittal indeed is Applicant
9 Exhibit 3, so my apologies.

10 Exhibit 34 has been deliberately omitted
11 because it is equivalent to Applicant Exhibit 3.
12 There is an error there in our production. So Exhibit
13 21 on the sheet which says deliberately omitted should
14 be changed to Exhibit 3.

15 Exhibit 35 is a letter, is an excerpted
16 letter from AmerGen to the NRC, dated December 3,
17 2006.

18 Exhibit 36 -- I see a problem with the
19 description of Exhibit 36. Exhibit 36 contains the
20 email from Caroline Schlaserman of MPR Associations to
21 Howie Ray, dated November 2, 2006 which is listed on
22 our exhibit list, but I think it's probably better
23 described as an email from Barry Gordon to Harry Ray,
24 among others, dated November 2, 2006.

25 (Pause.)

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1 That's an email string which includes the
2 email which was have listed on the exhibit list.

3 (Pause.)

4 Exhibit 37 is a statement of facts --

5 MS. BATY: Just a moment. The time for
6 Exhibit Number 36, the time on the e-mail, is
7 1:52 p.m., and the list says 12:09 EST.

8 MR. WEBSTER: Yes. The --

9 MS. BATY: Do you want to just --

10 MR. WEBSTER: -- description given in the
11 exhibit list relates to the e-mail in the string there
12 from Caroline Schlaseman. We agree it is probably
13 better described in the way I described it orally
14 today.

15 MS. BATY: Without the date. I mean,
16 without -- yes, without the time stamp, because if you
17 were going to describe it as from Barry Gordon to
18 Howie Ray, that e-mail was at 1:52.

19 MR. WEBSTER: Well, that's correct, yes.

20 MS. BATY: Should we update that, or just
21 drop time?

22 MR. WEBSTER: Well, I think we should
23 change the description perhaps -- let me go back over
24 the description. I suggest we -- we've described this
25 e-mail out of the e-mail from Barry Gordon to Howie

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1 Ray dated November 2, 2006, containing or forwarding
2 or -- let me just say containing e-mail from Caroline
3 Schlaseman, NPR Associates, to Howie Ray, you know, in
4 the same way that we've listed on our exhibit list.
5 Would that be acceptable?

6 MS. BATY: Yes. Yes, that's fine.

7 CHAIRMAN HAWKENS: AmerGen, is that
8 acceptable to you as well?

9 MR. SILVERMAN: It is.

10 CHAIRMAN HAWKENS: Thank you. Mr.
11 Webster, I trust you're keeping close track of all
12 these administrative corrections, because no later
13 than Monday morning, before we proceed, I'd like you
14 to provide all the parties, as well as the Board and
15 SECY, with clean, corrected replacements.

16 MR. WEBSTER: Oh, yes. Indeed so. That
17 will be fine, Judge. Thank you.

18 CHAIRMAN HAWKENS: Thank you.

19 MS. WOLF: And just also, when you do
20 that, if you could provide a new sheet for Citizens
21 Exhibit 34.

22 MR. WEBSTER: Yes.

23 MS. WOLF: Okay. Thank you. I think you
24 can go on to 37.

25 MR. WEBSTER: Okay. Exhibit 37 is a

1 statement of facts, which is identical to Attachment 5
2 of Dr. Hausler's initial testimony. Exhibit 38 is a
3 memorandum from Dr. Hausler dated August 16, 2007, and
4 titled "Response to the Questions About Statistics."

5 Exhibit 39 is a memorandum from Dr.
6 Hausler entitled "Further Discussion of the Nature of
7 the Corroded Surfaces and the Residual Wall Thickness,
8 Thicknesses of the Oyster Creek Drywell," dated
9 August 16, 2007. Exhibit 40 is an e-mail.

10 I see, again, we have a similar issue
11 here. The substantive e-mail is the one described in
12 our exhibit list. I don't know if the parties have a
13 preference for listing these as the final e-mail. Are
14 the parties happy with the listing as provided?

15 MR. KUYLER: The Applicant has no
16 preference. The listing, as provided, is fine.

17 CHAIRMAN HAWKENS: Is the NRC Staff
18 satisfied with the listing?

19 MS. BATY: Yes.

20 CHAIRMAN HAWKENS: Thank you. You may
21 continue, Mr. Webster.

22 MR. WEBSTER: Okay. So it's an e-mail
23 from William Russell to Frederick Polaski regarding
24 Challenge Board Number 1 comments, dated November 30,
25 2006. Oh, indeed, the description then says,

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1 "Attached to e-mail from John Hufnagel to Ahmed Ouaou
2 dated November 30, 2006."

3 Exhibit 41 is a GPU Nuclear document
4 entitled -- well, it's -- on the top it's entitled
5 "Technical Functions: Safety/Environmental
6 Determination and 50.59 Review," dated January 5,
7 1993. Excerpts of that document are provided.

8 Exhibit 42 is an e-mail from Peter
9 Tamburro to Ahmed Ouaou, cc'd to others -- oh, it's --
10 yes, cc'd to others, regarding the surface area of the
11 drywell, dated April 3, 2006. Exhibit 43 is an e-mail
12 from John O'Rourke -- sorry, it's an e-mail -- ah, I
13 see. It's another one of these e-mails.

14 There's a -- the substantive e-mail is as
15 provided in the list, which is an e-mail from John
16 O'Rourke -- hang on. Ah, yes, here we are. Sorry.
17 From John O'Rourke to Michael Gallagher dated
18 October 10, 2006, and then is attached to the e-mail
19 from John Hufnagel to John O'Rourke on the same date.

20 Exhibit 44 is a memorandum -- a GPU
21 Nuclear memorandum from KL Whitmore regarding
22 inspection of the drywell sandbed region, January 28,
23 1993. Exhibit 45 is AmerGen Technical Evaluation
24 3305922727, dated April 20, 2007. I'm just verifying
25 that date. That's correct.

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1 Exhibit 46, this e-mail from John O'Rourke
2 to Marcos Herrera, cc'd to others, regarding Oyster
3 Creek Drywell Thicknesses.

4 MS. WOLF: I'm sorry, Richard. Exhibit
5 45, can you just point me where the date is on this?

6 MR. WEBSTER: 45 -- yes, I just had to
7 check that myself. It's actually on the last --
8 there's a page before the figures, which is page 7 of
9 12.

10 MS. WOLF: Okay. Got it. April 20th.
11 Sorry, you can continue.

12 MR. WEBSTER: Okay. So where was I? 46,
13 yes, is an e-mail from John O'Rourke to Marcos
14 Herrera, attaching Subject: Oyster Creek Drywell
15 Thickness, to be used for base case analysis, and they
16 attach a document entitled "Oyster Creek Drywell
17 Thickness Reanalysis" -- well, it's entitled "Oyster
18 Creek Drywell Reanalysis: Drywell Thicknesses for
19 Base Case."

20 46 -- oh, sorry, Exhibit 47 is an Issue
21 Report Number 0557180, and the document is headed
22 "Exelon Nuclear Issue Statement of Confirmation."
23 Exhibit 48 is an e-mail from Tom Quintenz to John
24 O'Rourke attaching the notes regarding a TOP
25 inspection. The e-mail is dated October 10, 2006.

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1 The date of the TOP inspection is unclear. The sheet
2 is headed November 5, 1996, the attached sheet.

3 MS. BATY: Staff has a question about
4 Exhibit 47 and the title. The issue number is
5 correct, but it looks like the title on the document
6 says "Commitments Made for Generic Letter 87-05 Are
7 Not in the RA Database."

8 MR. WEBSTER: Well, I agree with you the
9 subject of the document says that, yes.

10 MS. BATY: So what about the description
11 of the document in the exhibit list, is that --

12 MR. WEBSTER: Well, on the second box
13 down, the description -- the document reflects exactly
14 what's in the list.

15 MS. BATY: Okay. I see that. Thank you.
16 Thank you.

17 MR. WEBSTER: Shall I move forward from
18 the TOP inspection?

19 MS. BATY: Yes, that's fine. Thank you.

20 MR. WEBSTER: The TOP inspection, again,
21 was Exhibit 48. Exhibit 49 is -- let me find my page
22 here. Exhibit 49 is a report from GPU Nuclear,
23 Material Non-Conformance Report, dated October 26,
24 1986.

25 MS. WOLF: I think -- and this could be

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1 handwriting. I think it's October 21st. Maybe
2 AmerGen would be better equipped to answer, but --

3 MR. WEBSTER: I think that could be
4 correct. I will just have a look -- if there's any
5 other dates on this document.

6 MR. KUYLER: On the last page there are
7 notes dated October 27th. October 27th looks --

8 MR. WEBSTER: Yes.

9 MR. KUYLER: -- like the correct date.

10 MR. WEBSTER: Let's just do it this way.
11 The OCLR numbers for this document are 15023 through
12 to 15025. The date in the exhibit list is reflected,
13 as Mr. Kuyler rightly points out, on the last page.

14 MS. WOLF: Okay. That's fine.

15 MR. WEBSTER: Exhibit 50 is a memorandum
16 from -- is a GPU Nuclear memorandum from R. Miranda,
17 and the subject is 14R, Reactor Cavity Leak Detection
18 Effort. It's dated February 1, 1993.

19 Exhibit 51 is a single page, which
20 discusses curvature effects on the UT data. Its OCLR
21 number is 26641. Exhibit 52 is an e-mail from Tom
22 Quintenz to Ahmed Ouaou and John Hufnagel dated
23 September 20, 2006, and a report AR-00547236.
24 Exhibit 53 is a letter from Dromerick of the NRC --

25 MS. BATY: Richard, excuse me, could you

1 repeat just what you last said, the description of
2 Exhibit 52? We just missed it.

3 MR. WEBSTER: I'm sorry. Exhibit 52 is an
4 e-mail from Tom Quintenz to Ahmed Ouaou and John
5 Hufnagel dated September 20, 2006, and an AR report
6 numbered 00547236.

7 MS. BATY: Thank you.

8 MR. WEBSTER: Exhibit 53 is a letter from
9 Dromerick to Barton, Dromerick of the NRC to Barton of
10 GPU Nuclear, dated November 19, 1991. Exhibit 54 is
11 another letter from Dromerick to Barton dated
12 September 2, 1993.

13 Exhibit 55 is a memorandum from Goutam
14 Bagchi -- or to -- hang on -- is a memorandum for --
15 for John Stolz. Let me just correct the description.
16 It should read, "Memorandum from Goutam Bagchi for
17 John L. Stolz, dated April 9, 1992," with an attached
18 Safety Evaluation Report with supporting analysis by
19 Brookhaven National Laboratory.

20 Exhibit 56 is a letter from Dromerick to
21 Barton dated April 24, 1992. Exhibit 57, a letter
22 from Devine of GPU Nuclear to the NRC dated May 26,
23 1992. Exhibit 58 is another letter from Dromerick to
24 Barton dated June 30, 1992. Exhibit 59 has been
25 deliberately omitted, because it has been submitted by

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1 AmerGen as Applicant Exhibit 39.

2 Exhibit 60 has been excerpted, because we
3 have submitted the portions of the report, the
4 relevant portions of the report that the Staff is not
5 including in its exhibit -- in Staff Exhibit 6. So we
6 have only included pages 77 to 85 of the Sandia -- the
7 report from Sandia National Laboratories regarding
8 drywell stability.

9 MS. WOLF: The Staff -- since we don't
10 have your exhibits yet, is that correct, is it going
11 to be -- it's Exhibit 6, the Sandia study?

12 MS. BATY: Yes. Excerpts of the Sandia
13 study are Staff Exhibit 6.

14 MS. WOLF: Okay, great. Thanks.

15 MR. WEBSTER: Exhibit 61 is a memorandum
16 from Rudolf Hausler, further discussion of the
17 external corrosion on the drywell shell in the sandbed
18 region, dated September 13, 2007. That is identical
19 to Attachment 1 to Dr. Hausler's surrebuttal testimony
20 in Exhibit C-1.

21 Exhibit 62 is an excerpt from the ACRS
22 meeting held on September 6, 2001. Exhibit 63 is an
23 AmerGen drawing entitled "Lower Drywell Sandbed
24 Region." Exhibit 64 --

25 MS. WOLF: Hold on, Richard. I don't have

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1 Exhibits 64 and 65. The last thing I have here is
2 Exhibit 63. I don't -- let me make --

3 MR. WEBSTER: I agree. The copy -- the
4 hard copy I have here is missing Exhibits 64 and 65.
5 I will submit those urgently tomorrow. Referring to
6 our pleadings, Exhibit 64 is a string of e-mails
7 ending in an e-mail from Barry Gordon to George Licina
8 dated October 24, 2006, which was originally
9 proprietary but we have redacted to be non-proprietary
10 in accordance with an agreement with AmerGen.

11 And Exhibit 65 is an e-mail from O'Rourke
12 to Herrera dated February 7, 2007, and, again, that
13 has been redacted to be non-proprietary.

14 MS. BATY: Mr. Webster, we're having
15 trouble finding -- did you submit -- did you prefile,
16 what is it, from 62 on? 64 and 65, did you prefile
17 those? We're having --

18 MR. WEBSTER: We did prefile those. They
19 were prefiled with Citizens testimony, surrebuttal
20 testimony, on September 14, 2007. Can the Applicant
21 confirm that?

22 MR. KUYLER: Give us a second, Richard.

23 MR. WEBSTER: All right.

24 (Pause.)

25 My apologies to the Panel. Obviously,

1 these exhibits were prepared at a time when there was
2 a lot of intensive work to do, since we had to get
3 them ready a couple of days ahead of time. And,
4 obviously, a couple of things got lost in the shuffle
5 here. We will make sure that they're corrected as
6 soon as possible.

7 MR. KUYLER: The Applicant can confirm
8 that in the electronic copies we received from you,
9 Mr. Webster, that the last exhibit was Exhibit
10 Number 62. So we're missing 63 through 65.

11 MR. WEBSTER: Unfortunately, my e-mail is
12 actually down right now. I can't access that. I am
13 trying the hard copy.

14 CHAIRMAN HAWKENS: Mr. Webster, if you
15 would stand by for a moment, Ms. Wolf is going to
16 retrieve the materials she received and see if it's
17 included in that.

18 MS. BATY: Are copies of 64 and 65 in the
19 room somewhere? I don't know if Mr. Kamps has them.
20 He doesn't -- oh, okay.

21 (Pause.)

22 CHAIRMAN HAWKENS: Mr. Webster, Ms. Wolf
23 retrieved her copy of your written submission, and 63
24 through 65 were included in that. She is now sharing
25 that with the NRC Staff and AmerGen.

1 MS. YOUNG: The question the Staff would
2 have, was that copy received on the 14th, the hard-
3 bound copy? Because what we received on the 14th we
4 believe was the electronic version filed by e-mail,
5 and it was not included, based on the representation
6 from Applicant.

7 MS. WOLF: I can't tell you for sure.

8 CHAIRMAN HAWKENS: Mr. Webster, here is
9 what we're going to do, and, Staff, please make sure
10 I'm articulating this correctly. Your records show
11 that you timely received exhibits through Number 62.
12 We're going to act upon those exhibits today.

13 Mr. Webster, I would ask you to coordinate
14 with the Staff and AmerGen prior to Monday and resolve
15 whether, in fact, those were previously submitted. If
16 you determine they were properly, timely submitted,
17 please provide everybody with copies prior to the
18 start of the hearing on Monday along with the
19 replacement of your exhibit list that's corrected and
20 clean, and we will then take steps, if appropriate, to
21 enter those exhibits into evidence at that time.

22 MR. WEBSTER: Judge, may I ask, the hard
23 copies that AmerGen and the NRC received, which should
24 have been overnighted to them, can we confirm that
25 those hard copies do reflect those exhibits?

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1 CHAIRMAN HAWKENS: I'm going to let you
2 work with the Staff on that. That remains an
3 unresolved question that I'm not prepared to address
4 right now.

5 MR. WEBSTER: Okay.

6 CHAIRMAN HAWKENS: For the time being,
7 Citizens have submitted Exhibits A through D and
8 Exhibits 1 through 62.

9 (Whereupon, the above-referred
10 to documents were marked as
11 Citizens Exhibits A through D
12 and Exhibits Numbers 1 through
13 62 for identification.)

14 Do the NRC Staff and AmerGen have any
15 objection to receiving those exhibits into evidence,
16 taking into account that the motions in limine, the
17 objections that you have already submitted, are
18 preserved for the record?

19 MS. BATY: No objection from the Staff.

20 MR. SILVERMAN: And no objection from the
21 Applicant, Your Honor.

22 CHAIRMAN HAWKENS: Thank you. citizens
23 Exhibits A through D and Exhibits 1 through 62 are
24 received into evidence.

25 (Whereupon, the above-referred

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1 to documents, previously marked
2 as Citizens Exhibits A through
3 D and Exhibits Numbers 1
4 through 62 for identification,
5 were received into evidence.)

6 Ms. Wolf is now receiving the additional
7 copies, Mr. Webster, from Mr. Kamps. After she
8 receives them and puts them away, we'll proceed to the
9 NRC Staff's submissions.

10 MR. SILVERMAN: Judge Hawkens, Don
11 Silverman. When you have a moment, I don't believe
12 you actually stated on the record that the Applicant's
13 exhibits were admitted into evidence. I could be
14 wrong.

15 CHAIRMAN HAWKENS: I believe I did, but
16 let me repeat myself --

17 MR. SILVERMAN: I may be wrong.

18 CHAIRMAN HAWKENS: -- if I didn't. The
19 Applicant's -- AmerGen's Exhibits A through D and
20 Exhibits 1 through 61 are received into evidence.

21 MR. SILVERMAN: Thank you very much.

22 CHAIRMAN HAWKENS: Better to err on the
23 side of caution, I agree, Mr. Silverman.

24 (Pause.)

25 Would the NRC Staff please identify their

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1 exhibits by number and letter and then provide a brief
2 description? When you're ready.

3 MS. WOLF: Richard, did you have any
4 errata?

5 MR. WEBSTER: Oh. Yes, I have one very
6 minor. There was -- we submitted an errata which
7 corrected an exhibit problem. And I haven't -- I have
8 basically used the final version of the exhibit, as
9 corrected by the errata. We renumbered the rebuttal
10 testimony, I believe of Dr. Hausler. The exhibit
11 cover sheet reflects that the testimony has been
12 renumbered, but it has not been otherwise changed.

13 And with regard to Exhibit C-1, the
14 surrebuttal, there are a couple of very minor
15 renumberings I think we should do. On page 11 of the
16 surrebuttal testimony there's a Question 27. On
17 page 12, there's another Question 27, and I propose
18 that we renumber that second Question 27 Question 27A,
19 and then Answer 27A.

20 With regard to the next question, which is
21 Question 28 on page 12, there's then a second
22 Question 28 on page 12. I propose we renumber that
23 second Question 28 to 28A, and the corresponding
24 answer to 28A.

25 MS. WOLF: Okay. That sounds fine.

1 MR. WEBSTER: Thank you. Thank you for
2 the reminder.

3 MS. WOLF: So you didn't have anything
4 more substantive that needed a separate errata sheet
5 for the Board, correct?

6 MR. WEBSTER: No, that's correct.

7 MS. WOLF: Okay.

8 CHAIRMAN HAWKENS: Would all the parties
9 please confirm that the statements provided by their
10 witnesses have, in fact, been signed and declared to
11 be truth or true and correct consistent with
12 Section 17.46 of Title 28?

13 MR. SILVERMAN: The Applicant will do
14 that, Your Honor. Our statements have been signed and
15 declared in accordance with 28 U.S. Code 17.46,
16 correct.

17 MS. BATY: The Staff's testimony is all
18 covered by an affidavit -- by affidavits, declares
19 under penalty of perjury that statements are all true
20 and correct, including the errata. We have added --

21 CHAIRMAN HAWKENS: Thank you.

22 MS. BATY: -- an affidavit.

23 CHAIRMAN HAWKENS: And, Mr. Webster,
24 likewise, you --

25 MR. WEBSTER: That's correct. Likewise,

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1 our testimony has been signed and sworn in accordance
2 with the requirements of the Code.

3 CHAIRMAN HAWKENS: All right. Thank you.

4 MS. WOLF: I'm ready.

5 MS. BATY: Okay. The Staff has -- first
6 exhibit, Staff Exhibit A, list of exhibits. Exhibit B
7 is the NRC staff testimony of Hansraj Asher, Dr. James
8 Davis, Dr. Mark Hartzman, Timothy L. O'Hara,
9 concerning drywell contention, dated -- original date
10 is July 20th, as corrected, through September 20,
11 2007.

12 Staff Exhibit C is NRC Staff rebuttal
13 testimony of Hansraj G. Asher, Dr. James Davis, Dr.
14 Hark Hartzman, Timothy L. O'Hara, and Arthur D.
15 Salomon, in answer to Board's question dated August 17
16 -- originally dated August 17th with corrections
17 through September 20, 2007.

18 Staff Exhibit C-1, NRC Staff surrebuttal
19 of Hansraj G. Asher --

20 MR. WEBSTER: Could I just ask a question
21 with regard to the corrections? I see corrections
22 dated August 23rd here.

23 MS. BATY: This is a supplement in
24 addition to the correction we filed with the party --
25 with the Board and the parties on August 23rd. We

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1 have provided to your agent here and to the Applicant,
2 and the Board, as instructed by Ms. Wolf, copies of
3 our markup, and then clean copies provided.

4 MR. WEBSTER: Could you provide us --

5 MS. BATY: We'll overnight -- Mr. Webster,
6 we'll overnight you a copy of our errata.

7 MR. WEBSTER: Well, could you provide a
8 description now?

9 MS. BATY: We have distributed hard
10 copies. We do not have an electronic -- describe
11 them? They're -- the changes are to correct grammar,
12 like you would do to a transcript of a deposition.
13 There were a number of errors, including a pagination
14 error with Mr. Salomon's professional qualifications.

15 MR. WEBSTER: Does the Staff represent
16 that these changes are not material to the meaning of
17 the testimony?

18 MS. BATY: Can you ask the question again,
19 Mr. Webster?

20 MR. WEBSTER: Are these changes material
21 to the meaning of the testimony?

22 MS. BATY: To the extent that they clarify
23 mistakes that Staff made, oversights, grammatical
24 mistakes, then they are material.

25 MR. WEBSTER: I guess I'm interrupting the

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1 word "material" there to mean going beyond merely a
2 grammatical mistake to actually change the meaning?

3 MS. BATY: Well, grammatical mistakes
4 could --

5 CHAIRMAN HAWKENS: Ms. Baty, he's
6 wondering about substantive changes that will catch
7 him cold on Monday during the hearing. He,
8 understandably, not having seen them, would not want
9 to agree to them being admitted into evidence. I
10 assume you haven't made any substantive material
11 changes to these individuals' testimony.

12 MS. BATY: There is one change that we --
13 with -- the one change that we have made is a -- oh.

14 MR. WEBSTER: Can I just clarify that?
15 I'm referring, in general, to all of the testimony,
16 not just the August 23rd, but also including the
17 July 20th and September 14th.

18 MS. BATY: Yes. No, what I was about to
19 explain -- it's understood that it's -- this is in
20 addition to August 23rd, and I was just going to
21 explain that specifically in the Staff's surrebuttal
22 testimony of September 14, 2007, Answer A48 -- an
23 opportunity to locate it. Let me know when you --

24 MR. WEBSTER: I'm looking at Answer A48 of
25 the surrebuttal testimony right now.

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1 MS. BATY: Okay. The sentence beginning
2 at the -- the fifth line, it states, "GE invoked the
3 symmetry" -- it originally stated, "GE invoked the
4 symmetry about the middle plane of a bay between two
5 vent lines to reduce the size of the analysis for
6 performing the reduced wall thickness calculations."
7 And you have that sentence before you?

8 MR. WEBSTER: I see that sentence, yes.

9 MS. BATY: Okay. The Staff has -- Dr.
10 Hartzman reviewed his testimony and discovered an
11 error, and he has -- in his description of the
12 symmetry that GE invoked, and so he has revised that
13 sentence as follows, "GE invoked the symmetry about
14 the center plane between two bays to reduce the size
15 of the analysis report forming the reduced wall
16 thickness calculations." Is that clear?

17 MR. WEBSTER: So the word "middle" is
18 deleted and "center" is substituted?

19 MS. BATY: Yes, with "center."

20 MR. WEBSTER: The words "of a bay" are
21 deleted?

22 MS. BATY: Yes.

23 MR. WEBSTER: And the word "vent" is
24 deleted and substituted for "bays" or "bays" is
25 substituted for the word "vent"?

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1 MS. BATY: It's substituted -- "bays" is
2 substituted for the words "vent line" -- "vent" and
3 "lines." "Vent lines" is deleted.

4 MR. WEBSTER: Okay.

5 MS. BATY: Okay. Then, at the bottom of
6 the page, second-to-the-last line on that page there's
7 a sentence that begins, "It is not clear whether
8 Dr. Hausler understands that the analysis of a 36-
9 degree pie slice of the drywell shell applies to each
10 bay of the shell." There is -- Dr. Hartzman has a
11 correction to that line as well. The last line of the
12 page, the word "each" is replaced with "alternate,"
13 and an S is added to the word "bay." And --

14 MR. WEBSTER: Alternate bays.

15 MS. BATY: Bays, that's correct. And the
16 same change is made later on in a sentence as it
17 carries over to page 6. The word "each" in that
18 sentence -- in that line is replaced with "alternate"
19 and an S added to the word "bays." Is that clear?

20 MR. WEBSTER: Okay. So with the exception
21 of those changes, which I agree are material, are
22 there any other material changes in the Staff's
23 errata, which is being submitted today I understand?

24 MS. BATY: There is one other, and made
25 throughout the Staff's testimony, initial rebuttal,

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1 and surrebuttal, and Staff has made a change to be
2 more precise about the applicability of the ASME,
3 American Society of Mechanical Engineers Code -- code
4 case, the N284, Section 3NE, Code Case 284. The Staff
5 has changed the words "required" and replaced it
6 generally with "specified" by the code case or
7 "provisions" of the code case.

8 This is to clarify that it -- Oyster Creek
9 is not required to comply with the code case. It is
10 part of their current licensing basis. It's not
11 incorporated -- Section 3NE is not incorporated -- is
12 not a regulatory requirement under 50.55(a). But
13 Oyster Creek has incorporated that code case in its
14 licensing basis through its use in the -- its FSAR.
15 And so it's a commitment.

16 MR. WEBSTER: Can I ask, have the
17 witnesses sworn to that change?

18 MS. BATY: Yes, they have.

19 MR. WEBSTER: And was the basis of their
20 -- of the change, legal advice provided to them by the
21 Commission -- by the Staff counsel?

22 MS. BATY: No. It was the members of the
23 Staff, the experts, witnesses made that correction.

24 MR. WEBSTER: No, I understand they made
25 that correction. But what --

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1 MS. BATY: On --

2 MR. WEBSTER: I think it's important --
3 I'd like to understand why they made that correction.
4 Is it not -- it doesn't sound like a miswording.

5 MS. BATY: It's a clarification and
6 precision and perhaps -- and the use of the word
7 "required" in the everyday parlance as opposed to what
8 -- the legal meaning of that term in terms of NRC
9 regulations.

10 CHAIRMAN HAWKENS: Thank you, Ms. Baty.
11 Are there other changes which you want to bring to Mr.
12 Webster's attention?

13 MS. BATY: No, Your Honor.

14 CHAIRMAN HAWKENS: All right. Please
15 continue.

16 MS. BATY: Staff Exhibit D --

17 CHAIRMAN HAWKENS: Let me interrupt you,
18 Ms. Baty. You're going to be overnight expressing
19 this to Mr. Webster?

20 MS. BATY: Yes, we will.

21 CHAIRMAN HAWKENS: Thank you.

22 MS. BATY: Staff Exhibit D is the
23 professional qualifications of the Staff witnesses.
24 This is -- this exhibit contains all of the statements
25 of professional qualifications that are also included

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1 in Staff Exhibits B and C and C-1. No, there are --
2 B and C. And it also includes the professional
3 qualifications of A. Louis Lund and Kamal Manoly.

4 Staff Exhibit 1 is excerpts from NUREG
5 1875 Safety Evaluation Report.

6 MR. WEBSTER: Ms. Baty, can I just ask you
7 a question about Ms. Lund and Mr. Manoly? For the
8 record, when were those qualifications submitted?

9 MS. BATY: The qualifications were
10 submitted on Tuesday after the decision was made by
11 management that in order to respond to the questions
12 -- the topics identified by the Board in their
13 September 12th order that -- directing the Staff to
14 bring individuals to the hearing who would be prepared
15 to address the topics in that order.

16 MR. WEBSTER: And so these are individuals
17 who have not provided any testimony whatsoever so far.

18 MS. BATY: That's correct. They're here
19 to -- they will appear to address -- only address the
20 matter in the Board's order, and that would be the
21 reasonable assurance, and that would be the first
22 numbered topic area in the Board's September 12th
23 order.

24 CHAIRMAN HAWKENS: Mr. Webster, this is
25 Judge Hawken. We're going to discuss the

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1 appropriateness of them testifying after we get these
2 exhibits admitted into evidence. But from the Board's
3 perspective, there is -- should not be a problem with
4 admitting this list of their professional
5 qualifications into evidence, because it does not
6 involve any commitment to having them testify.

7 MR. WEBSTER: Okay. Yes, on the -- can I
8 just say I haven't -- I assume that later on we'll
9 have a chance to object prior to these exhibits being
10 submitted into evidence.

11 CHAIRMAN HAWKENS: I'm sorry? Say that
12 again.

13 MR. WEBSTER: I'm assuming that at some
14 point there will be a moment for objection.

15 CHAIRMAN HAWKENS: There will be. We will
16 provide you with that opportunity.

17 MR. WEBSTER: Thank you. Thank you,
18 Judge.

19 MS. BATY: Okay. I will -- I was on Staff
20 Exhibit 1, the excerpts from NUREG-1875, Safety
21 Evaluation Report related to the license renewal
22 application of Oyster Creek Generating Station, dated
23 -- or published April 2007. Pages included in this
24 exhibit are pages 1-1 to 1-18, pages 3 -- page 3-114
25 to page 3-143, page 3-163 to page 3-167, page 3-420 to

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1 page 3-430, page 4-41 to page 4-75, page 6-1, page
2 A-1 --

3 MR. WEBSTER: Ms. Baty, isn't page 5-3
4 through 5-11 also included?

5 MS. BATY: Per the Board's order, we have
6 relocated -- we have removed those pages and placed
7 them in Staff Exhibit 3.

8 MR. WEBSTER: Ah. Okay.

9 MS. BATY: The ACRS report.

10 MR. WEBSTER: Thank you for that
11 clarification.

12 MS. BATY: So page A-1, and A-18 to A-33,
13 and A-40 to A-41.

14 Staff Exhibit 2 is ASME Code Section Roman
15 Numeral 9 -- it's 11. The Staff -- there's a
16 correction to the Staff's exhibit list. There should
17 be another -- it should have another "I."

18 MS. WOLF: It's 11 or 12? Because you
19 have 11.

20 MS. BATY: Oh, it's 11. That's correct.
21 Sorry.

22 MS. WOLF: You're fine.

23 MS. BATY: Okay. It's correct.
24 Subsection IWE excerpts, and it's from 1992.

25 Staff Exhibit 3 is the ACRS report to the

1 Commission dated February 2 -- February 8, 2007.
2 Staff Exhibit 4, Exelon procedure, TQ-AA-122, Rev 3,
3 qualification and certification of non-destructive
4 (NDE) personnel. It's 52 pages in length.

5 Staff Exhibit 5 is NRC inspection report
6 05-000-29/2006007, dated September 21, 2006. Staff
7 Exhibit 6 is SAND2007-0055, structural integrity
8 analysis of the degraded drywell containment at the
9 Oyster Creek Nuclear Generating Station, Sandia
10 report, pages 15 through 76 and 91 through 100, dated
11 January 2007.

12 Oh, excuse me, there's a correction. It's
13 not page 15. It's the beginning of the document
14 through page 76. We'll have to -- the Staff will have
15 to correct -- it's Exhibit A -- to reflect the
16 beginning of the report through page 76 is included.

17 CHAIRMAN HAWKENS: Ms. Baty, you're done
18 describing --

19 MS. BATY: Yes, we are.

20 CHAIRMAN HAWKENS: -- the exhibits? The
21 Staff has submitted Exhibits A through D and Exhibits
22 1 through 6 for admission into evidence.

23 (Whereupon, the above-referred
24 to documents were marked as NRC
25 Staff Exhibits A through D and

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1 Exhibits Numbers 1 through 6
2 for identification.)

3 Do AmerGen or Citizens have any objection
4 to receiving those exhibits into evidence?

5 MR. SILVERMAN: No objection from AmerGen,
6 Your Honor.

7 MR. WEBSTER: From Citizens, Your Honor,
8 we believe that the errata -- some of the errata made
9 today are material. We would, therefore, like the
10 chance to provide questions to the Board regarding
11 those errata in order to, you know -- provided that
12 chance is provided and we have a reasonable time to
13 prepare those questions --

14 CHAIRMAN HAWKENS: Your objection, Mr.
15 Webster, is to certain of the errata which you are
16 going to be receiving overnight express from the
17 Staff, is that correct?

18 MR. WEBSTER: That's correct. Where the
19 errata make material changes, similarly to previously
20 when the Staff made material changes, we would like the
21 opportunity to ask the witnesses about those material
22 changes.

23 CHAIRMAN HAWKENS: You will have that
24 opportunity to raise any objections or advance --
25 raise objections to that evidence on Monday after

1 you've seen it. Until then, though, your objection is
2 overruled, and the NRC Staff's Exhibits A through D
3 and Exhibits 1 through 6 are received into evidence.

4 (Whereupon, the above-referred
5 to documents, previously marked
6 as NRC Staff Exhibits A through
7 D and Exhibits Numbers 1
8 through 6 for identification,
9 were received into evidence.)

10 MS. BATY: Your Honor, I believe Mr.
11 Webster was asking -- also asked for an opportunity to
12 submit -- to propound questions or propose questions
13 for the Board to ask on the material changes to --

14 CHAIRMAN HAWKENS: The Board -- yes, Mr.
15 Webster, I'm sorry if I misunderstood your question.
16 To the extent that you view changes in the errata to
17 be material changes that you think entitle you to ask
18 questions which you did not previously ask, you may
19 submit those questions to the Board. And submit them
20 Monday morning.

21 MR. WEBSTER: Monday morning. Thank you
22 very much, Judge.

23 CHAIRMAN HAWKENS: We'll take a few
24 moments while Ms. Wolf obtains the material, and then
25 turn to the qualification of the parties' witnesses to

1 testify as experts.

2 NRC Staff, to the extent that there were
3 changes on your -- NRC Staff, are you with me?

4 MS. BATY: Yes.

5 CHAIRMAN HAWKENS: To the extent there are
6 changes to be made to your exhibit list, would you
7 please submit them, provide parties to the Board and
8 to the parties before we start the hearing on Monday
9 morning?

10 MS. BATY: Yes.

11 CHAIRMAN HAWKENS: Thank you.

12 MS. BATY: Thank you.

13 CHAIRMAN HAWKENS: As the Board has
14 explained previously, it's necessary for the Board on
15 the record to recognize that witnesses are qualified
16 to testify as experts. And for the moment, we are
17 going to put to one side Ms. Lund and Mr. Manoly,
18 whose names and statements of qualifications were
19 provided on Tuesday, September 18th, by the NRC Staff.

20 We'll start with the NRC's proposed
21 experts. This question is posed to AmerGen and
22 Citizens. You've had the opportunity to review the
23 Statement of Professional Qualifications of their
24 proposed expert witnesses. Do you have any objection
25 to receiving their prefiled written statements as

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1 expert testimony?

2 MR. SILVERMAN: AmerGen has no such
3 objection.

4 MR. WEBSTER: Citizens has no objection.

5 CHAIRMAN HAWKENS: Thank you. Another
6 question directed to AmerGen and Citizens, do you have
7 any objection to them testifying orally as experts on
8 the panel topics identified by the Staff?

9 MR. SILVERMAN: No objection from AmerGen.

10 MR. WEBSTER: No objection from Citizens.

11 CHAIRMAN HAWKENS: Thank you. And to be
12 clear for the record, I'm going to identify the six
13 topics and the NRC witnesses, and please confirm that
14 my listing of the -- your witnesses is correct. For
15 Topic 1, the drywell physical structure, history, and
16 commitments, Mr. Ashar, Dr. Davis, Dr. Hartzman, and
17 Mr. O'Hara. For Topic 2, acceptance criteria, Mr.
18 Ashar, Dr. Davis, Dr. Hartzman, Mr. O'Hara, Mr.
19 Salomon.

20 Topic 3, available margin, Mr. Ashar, Dr.
21 Davis, Dr. Hartzman, Mr. O'Hara, Mr. Salomon.
22 Topic 4, sources of water, Mr. Ashar, Dr. Davis, Mr.
23 O'Hara. Topic 5, epoxy coating, Mr. Ashar, Dr. Davis,
24 Mr. O'Hara. Topic 6, future corrosion, Mr. Ashar, Dr.
25 Davis, Dr. Hartzman, Mr. O'Hara, Mr. Salomon.

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1 The Board finds that these witnesses are
2 qualified to testify as experts. We accept their
3 prefiled written statements as expert testimony, and
4 we find they are qualified to give expert opinion
5 testimony on those panel topics.

6 Let's proceed to AmerGen's proposed expert
7 witnesses. The Staff and Citizens have had the
8 opportunity to review the Statement of Professional
9 Qualifications of those proposed expert witnesses.
10 NRC Staff and Citizens, do you have any objection to
11 receiving their prefiled written statements as expert
12 testimony?

13 MS. BATY: The Staff has no objection.

14 MR. WEBSTER: Citizens questions whether
15 all of AmerGen's witnesses really are experts. We
16 believe some of their witnesses are actually fact
17 witnesses; specifically, Michael Gallagher, who was
18 clearly more of a manager than a technical expert.

19 CHAIRMAN HAWKENS: You object to him
20 testifying as an expert witness because you view him
21 as a fact witness, do I understand you correctly, Mr.
22 Webster?

23 MR. WEBSTER: That's correct. Well, there
24 may be a narrow area of expertise that he may be able
25 to qualify in. I'm not quite sure exactly what -- how

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1 big the scope AmerGen is attempting to qualify him in.

2 CHAIRMAN HAWKENS: Could I hear from
3 AmerGen on that, please?

4 MR. SILVERMAN: Yes, in just a moment,
5 Your Honor.

6 (Pause.)

7 This is Don Silverman for AmerGen, Your
8 Honor. We would strongly oppose any characterization
9 of Mr. Gallagher, or any objection to Mr. Gallagher's
10 qualifications, on a number of counts. The first one
11 is that this is the first we've heard of this, and
12 Citizens had the opportunity to raise this objection
13 on a number of occasions.

14 Mr. Gallagher has been on these panels
15 since our direct prefiled testimony was originally
16 filed. And, furthermore, he is Vice President of
17 License Renewal Projects for the company. He has
18 broad responsibility for a lot of the topics and
19 issues that are raised on the various panels.

20 He has got a bachelor degree in chemical
21 engineering. He is supported in his testimony by
22 others as well, that in some cases may have more
23 detailed facts. But, nevertheless, Mr. Gallagher can
24 testify and has sworn he can testify to the things he
25 is testifying to. And so we think there is no basis

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1 at all for any kind of caveat on his qualifications.

2 CHAIRMAN HAWKENS: Thank you. NRC Staff,
3 would you like to weigh in?

4 MS. BATY: The Staff joins with AmerGen's
5 objection for the reasons stated by Mr. Silverman.

6 MR. WEBSTER: May I clarify, Judge? The
7 reason they haven't objected so far is because so far
8 we regard his testimony as fact-based testimony.
9 There is a danger that he may stray into expert
10 testimony if he is allowed to.

11 CHAIRMAN HAWKENS: Mr. Webster, your
12 objection is overruled.

13 Let me go to the second part of my
14 question. Do either NRC Staff or Citizens have any
15 objection to AmerGen's proposed expert witness
16 testifying orally as experts on the panel topics
17 identified by AmerGen?

18 MS. BATY: The Staff has no objection.

19 MR. WEBSTER: Yes, we do. My apologies.
20 Perhaps I was a bit premature. With regard to Mr.
21 Gallagher, we believe he is a fact witness, not an
22 expert witness.

23 CHAIRMAN HAWKENS: Thank you. For the
24 same reasons which were previously mentioned by
25 AmerGen, that objection is overruled. The Board finds

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1 that the witnesses offered by AmerGen are qualified to
2 testify as experts.

3 MR. WEBSTER: I'm sorry. May I just for
4 the record?

5 CHAIRMAN HAWKENS: You may.

6 MR. WEBSTER: There are a couple of other
7 witnesses I'd like to object to.

8 CHAIRMAN HAWKENS: Say that again, please,
9 Mr. --

10 MR. WEBSTER: If I could, I would like to
11 have -- I would like to state my objection to a couple
12 of other AmerGen witnesses with regard to their
13 qualifications.

14 CHAIRMAN HAWKENS: Go ahead.

15 MR. WEBSTER: Okay. Citizens, likewise,
16 objects to Mr. Polaski, who again is more in the
17 nature of a fact witness than an expert witness, and
18 the qualifications of Mr. O'Rourke, who is,
19 similarly --

20 CHAIRMAN HAWKENS: Is that it? Mr.
21 Polaski and Mr. O'Rourke, any others?

22 MR. WEBSTER: No others, Your Honor.

23 CHAIRMAN HAWKENS: Response, please, by
24 AmerGen?

25 MR. SILVERMAN: Your honor, the same

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1 objection with respect to the fact that Citizens have
2 had plenty of time to raise these objections, and they
3 are completely untimely at this point. Mr. Polaski
4 has been on Panel 1 for quite some time. Mr. O'Rourke
5 has been a witness from the very beginning, I believe,
6 completely out of order as far as we're concerned.

7 If it's important for your ruling for us
8 to go through their qualifications, I would be happy
9 to do so.

10 MR. WEBSTER: May I clarify, Judge? We
11 are not objecting to their testimony submitted so far.
12 We have not made objection to that, because we regard
13 their testimony as fact-based testimony. We are
14 objecting to their providing expert testimony in
15 response to Panel questions.

16 CHAIRMAN HAWKENS: Why don't you address
17 their expertise as well, Mr. Silverman?

18 MR. SILVERMAN: Thank you.

19 JUDGE ABRAMSON: Mr. Silverman, while
20 you're working on that -- this is Judge Abramson --
21 let me just note for the record, the procedures of
22 Atomic Safety and Licensing Board Panels are informal
23 by their nature. We take, with a grain of salt, what
24 we hear from people. We have two technical members of
25 this Panel. We will certainly be able to sort out

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1 what we give credibility to and what we do not, as we
2 have said in several rulings.

3 It's for that reason we have declined to
4 bar or strike certain testimony, and for that same
5 reason I am disinclined to limit or eliminate any
6 particular expert whom we may wish to question.

7 MR. WEBSTER: Sorry, Judge. May I just
8 make one other -- with regard to Mr. Tamburro, again,
9 we question his qualifications with regard to, again,
10 we believe he's a fact witness, not an expert on
11 statistical analysis.

12 CHAIRMAN HAWKENS: Mr. Silverman, let me
13 relieve you of having to look at that. The Board is
14 familiar with the professional qualifications, the
15 record submitted by AmerGen, and is satisfied that
16 these individuals identified by Mr. Webster have the
17 experience, background, education, to testify as
18 experts. And, moreover, we agree with your
19 observations that the principles of timeliness,
20 principles of waiver, strongly compel against
21 entertaining his objection.

22 So those objections, Mr. Webster, are
23 overruled. The Board finds the witnesses offered by
24 AmerGen are qualified to testify as experts. We do
25 accept their prefiled written testimony, and we find

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1 they are qualified to give expert opinion testimony on
2 the Panel topics identified for AmerGen. I am going
3 to identify the topics and the witnesses that will be
4 testifying as experts orally on behalf of AmerGen, and
5 please confirm that I am correct when I identify them,
6 Mr. Silverman.

7 Topic 1, drywell physical structure,
8 history, and commitments, Mr. O'Rourke, Mr. Polaski,
9 and Mr. Gallagher. Topic 2, acceptance criteria, Mr.
10 Gallagher, Mr. Tamburro, Mr. Awahoo (phonetic).

11 MR. SILVERMAN: Ahmed Ouaou.

12 CHAIRMAN HAWKENS: Thank you. And Dr.
13 Mayta.

14 MR. SILVERMAN: Correct.

15 CHAIRMAN HAWKENS: Topic 3, the available
16 margin, Mr. Polaski, Mr. Tamburro, Dr. Harlow, Mr.
17 Abramovici.

18 MR. SILVERMAN: Abramovici.

19 CHAIRMAN HAWKENS: Abramovici, and Mr.
20 McAllister. Topic 4, sources of water, Mr. O'Rourke,
21 Mr. Ouaou, Mr. Ray, Mr. Hawkins, Mr. Erickson.
22 Topic 5, the epoxy coating, Mr. Ouaou, Mr. Hawkins,
23 Mr. Erickson, Mr. Cavallo, Mr. McAllister. Topic 6,
24 future corrosion, Mr. Gallagher, Mr. Tamburro, Mr.
25 Gordon, and Mr. Hosterman.

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1 MR. SILVERMAN: And Topic 7, which is our
2 concluding topic, which appears in our direct
3 testimony, would be Mr. Gallagher and Mr. Tamburro.

4 CHAIRMAN HAWKENS: All right. Thank you.

5 Let's move to Citizens' proposed expert.
6 AmerGen and the NRC Staff have had the opportunity to
7 review the Statement of Professional Qualifications of
8 Dr. Hausler. Aside from the objections you've already
9 made in your motions in limine, which the Board has
10 ruled upon and which are preserved for purposes of
11 appeal, do you have any objection to receiving Dr.
12 Hausler's prefiled written statements contained in
13 Citizens' Exhibits as expert testimony?

14 MS. BATY: The Staff has no additional
15 objections.

16 MR. SILVERMAN: And Applicant has no
17 additional objections.

18 CHAIRMAN HAWKENS: Thank you. And aside
19 from the objections you made in those motions in
20 limine, which I said are preserved for purposes of
21 appeal, do you have any objection to him testifying
22 orally as an expert on the topic matters that we will
23 discuss next week?

24 MR. SILVERMAN: We do not.

25 MS. BATY: No additional objections.

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1 CHAIRMAN HAWKENS: Thank you. The Board
2 finds Dr. Hausler is qualified to testify as an
3 expert. We accept his prefiled written statements and
4 Citizens' exhibits as expert testimony, and we find he
5 is qualified to provide expert opinion testimony in
6 the hearing next week.

7 And let's turn, finally, to Ms. Lund and
8 Mr. Lanoly.

9 MS. BATY: It's Mr. Manoly.

10 CHAIRMAN HAWKENS: Mr. Lanoly (phonetic).
11 Thank you.

12 MS. BATY: Manoly, M.

13 CHAIRMAN HAWKENS: Oh, Manoly. All right.

14 The NRC Staff submitted the Statement of
15 Professional Qualifications in the names of these
16 individuals on Tuesday indicating they will be
17 available to answer questions regarding reasonable
18 assurance posed by the Board at the hearing.

19 Mr. Webster, I understand that you have
20 objections to them testifying generally, and
21 specifically in a capacity of experts. Can we hear
22 from you now on that?

23 MR. WEBSTER: Well, perhaps I wouldn't
24 characterize it quite that way, Judge. The objection
25 we have is that Staff was notified by the Board of the

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1 question in August prior to rebuttal testimony. They
2 did not submit any testimony whatsoever from these
3 witnesses.

4 So allowing these witnesses to testify
5 orally at this point, without submitting any prefiled
6 testimony, would deprive Citizens of the chance to
7 propound questions, and it would also deprive Citizens
8 of the chance to rebut that testimony.

9 We note that in 10 CFR 2.1202(a)(3), it
10 states that once the NRC Staff chooses to participate
11 as a party, it shall have all the rights and
12 responsibilities of a party with respect to the
13 admitted contention. Staff decided to participate as
14 a party on April 3, 2005, by letter from Anne Hopton
15 to the Board.

16 Citizens, therefore, suggests that NRC
17 Staff has not met the responsibility of a party, which
18 is to submit prefiled testimony for the other parties
19 to have a chance to propound questions and submit
20 rebuttal. However, we recognize that the Board wishes
21 to have a full answer on this topic, and we do believe
22 it's an important topic. And we certainly do not wish
23 to stand in the way of the Board getting a full
24 answer.

25 Therefore, we suggest that we carve out

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1 this issue and have a separate session on this issue
2 at a later date, and then NRC Staff can have the
3 opportunity to provide initial testimony for these
4 witnesses. We can have an opportunity to provide
5 rebuttal and perhaps present our own witness on the
6 same issue, and then we can have a -- and then we can
7 propound questions as well, and then the Board can
8 both gets answers to these questions as it desires,
9 quite correctly, and Citizens can also have their
10 rights preserved.

11 CHAIRMAN HAWKENS: Thank you for your
12 suggestion. Let's hear from the NRC Staff.

13 MS. BATY: The Staff vigorously objects to
14 Mr. Webster's assertion that the Staff is like any
15 other party. The Staff is not treated like another
16 party. In the rules, under 2336, it says the
17 requirements are for parties other than the NRC Staff,
18 and that's where the requirement is to identify
19 witnesses.

20 But, more importantly, these witnesses are
21 -- Staff identified these witnesses in response to the
22 Board's question in its September 12th Order, and they
23 directed the -- in which the board directed the Staff
24 to provide witnesses, or to provide testimony, be
25 prepared to provide testimony on reasonable assurance,

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1 and provide specific examples of the reasonable
2 assurance standard, has it been used in matters
3 involving measurements of parameters that are at issue
4 in license renewal proceedings.

5 MR. WEBSTER: Can I --

6 MS. BATY: This is as a result -- the
7 Staff's addition of these witnesses is as a result of
8 -- only of the September 12th Order. And they are
9 only going to address Question 1 or Topic Area 1
10 identified by the Board in the September 12th Order.
11 They are not rebuttal witnesses. Their purpose is to
12 provide the Board with the information it requested on
13 September 12th. So no additional session should be
14 needed.

15 MR. WEBSTER: Can I just clarify that the
16 question relates back to an August 9th Order.
17 Citizens did not object to having an evidentiary
18 session with regard to a response to this question.
19 Citizens agree that this question did provide some
20 clarification. Citizens would also like the chance to
21 provide an expert witness on this issue.

22 We believe that because the
23 responsibilities of a party are to submit initial
24 testimony, so that other parties have a chance to
25 rebut, but we cannot add a witness on this issue at

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1 this late stage, and in any event it's very difficult
2 to schedule a witness on this issue.

3 There is one exception to the rules --
4 that the NRC Staff has the responsibility of the party
5 -- that is only in the discovery area. We are now
6 well beyond discovery. Once testimony has been
7 submitted, obviously, the fact that the Staff is not
8 to disclose testimony in advance, it becomes
9 immaterial.

10 The Staff had a chance to submit these
11 witnesses before. Because the Staff has waited until
12 this late date to add them, we think it's only
13 appropriate to provide Citizens with the chance to
14 address these questions in the same way the Staff
15 wished to address these questions. And, moreover, we
16 believe that the Board will get a more complete answer
17 to its remaining questions if we have a session later
18 on.

19 The sessions that we already have
20 scheduled I think will be amply taken up by the other
21 issues that are to be heard in this matter.

22 Thank you.

23 CHAIRMAN HAWKENS: Thank you. AmerGen, do
24 you have any comments on this?

25 MR. SILVERMAN: Just a few brief ones,

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1 Your Honor. One, we concur with the Staff on this.
2 We think that the issue was occasioned very
3 specifically by the Board's question in its
4 September 12th Order, which was -- Mr. Webster is
5 correct -- an adjunct of prior questions you raised,
6 but nevertheless is very specific about the
7 information you want witnesses to speak to.

8 And I would add that Mr. Webster, in his
9 -- which has been ruled on, of course, but in his
10 motion in limine, one of my motions in limine has --
11 pardon me one second.

12 I'm sorry. In his surrebuttal testimony
13 he had a second opportunity to raise -- to present
14 evidence, and he did present evidence on this question
15 of reasonable assurance.

16 Finally, and most emphatically, we would
17 strongly oppose a delay in the proceeding, a carve-out
18 of the proceeding, to address an issue such as this.
19 We'd like to get this issue resolved and the hearing
20 completed on time next week.

21 CHAIRMAN HAWKENS: The Board can well
22 understand AmerGen and the staff's reluctance to
23 extend the proceeding any longer than absolutely
24 necessary. But I have to say I do believe that the
25 eleventh hour naming of these individuals does put Mr.

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1 Webster at a serious disadvantage in the sense that he
2 is completely unaware of what they may say, so he
3 can't provide questions to the Board, and his expert
4 witness won't be prepared in advance to respond,
5 because he doesn't know what he's going to respond to.

6 Having said that, the Board is going to
7 defer making any decision at this point on whether
8 we'll hear testimony from them. It's our great hope
9 that the questions we have about reasonable assurance
10 can be answered by the NRC Staff's witnesses without
11 having to resort to Ms. Lund and Mr. Manoly.

12 Having said that, unless the Board intends
13 to withdraw them as proposed witnesses, the Staff
14 should have them there at the full session of the
15 hearing next week in the event that the Board has
16 determined that the responses provided by your other
17 witnesses are not adequate on the reasonable assurance
18 issue.

19 JUDGE ABRAMSON: Are you going to let me
20 speak to this now?

21 CHAIRMAN HAWKENS: And Judge Abramson
22 would like to speak to this.

23 JUDGE ABRAMSON: Let's get this perfectly
24 clear. What reasonable assurances means to the Staff
25 is all we're after. And while it may be possible that

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1 somebody outside the Staff would have an idea what
2 reasonable assurances mean in my view, and I suspect
3 in the view of Judge Baratta, we want to know what the
4 Staff means by "reasonable assurances," if we have to
5 deal with that.

6 And we intend, and you will -- you have
7 seen this in other proceedings in which we have been
8 involved, that when we're asking expert witnesses
9 questions, at the end we will certainly ask counsel
10 for the other parties whether they think we've covered
11 everything they want to ask.

12 So, Mr. Webster, you will have every
13 opportunity to ask questions of these witnesses. If,
14 in fact, you believe you have an expert who knows
15 something about how this agency has applied its
16 definition and what its definition is of reasonable
17 assurances, in other instances similar to this, then
18 by all means bring your reasonable assurances expert
19 who knows what this agency does to the hearing. And
20 if you think you can dig somebody up afterward, then
21 we'll talk about it at the hearing.

22 We don't know at this point whether we're
23 going to need to dig into this. Everybody understands
24 what's at issue in this case, and we'll try to deal
25 with this on the basis of the technical facts. If we

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1 need reasonable assurances questions answered, we're
2 going to go after them.

3 MR. WEBSTER: Judge, may I just respond
4 respectfully that it's much more difficult to provide
5 cogent questions for the Board when we're responding
6 in real time rather than having the chance to consult
7 with other individuals on prefiled testimony where we
8 get around a week to think about those questions and
9 try to make them as cogent as possible.

10 JUDGE ABRAMSON: If, Mr. Webster, as you
11 assert, you've known since our early questions that
12 this is what we were after, then your testimony should
13 address this already. We've been trying to probe
14 this, as you suggest, for some time and we've with our
15 last questions tried to clarify it to get a little
16 more meat into the responses we've been getting.

17 I'm sympathetic with your concern about
18 not being able to foresee what questions we're going
19 to ask and what answers we're going to get, but that
20 applies to every single expert witness that's going to
21 be talked to by us. Remember, we do the questionings.
22 This is a very different kind of proceeding from what
23 you might normally be accustomed to.

24 MR. WEBSTER: No, I think I understand
25 that, Judge. But with the other witnesses we've had

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1 the advantage that we've been able to see their
2 testimony, we've been able to rebut their testimony,
3 and we've been able to propound questions for the
4 Board regarding their testimony.

5 This question, I mean, I don't -- I hope
6 I don't misrepresent that this issue was raised by the
7 Board on August 9th. We agree -- I think all the
8 parties agree that there was a greater specificity
9 with regard to the Board's wishes provided on
10 September 12th. And I think all the parties agree
11 that it was very difficult to -- on that date, when
12 the surrebuttal was due on September 14th, to submit
13 a responsive prefiling to this question.

14 The issues in this question I think can be
15 answered not only by the Staff. It asks -- it asks
16 for specific examples where the reasonable assurance
17 standard has been used in matters involving
18 measurement of parameters that are at issue in license
19 renewal proceedings, as well as in making
20 determinations as to whether a licensee is in
21 compliance with its current licensing basis.

22 It's certainly my experience that -- and
23 I think it's generally a principle -- that an
24 adjudicatory tribunal should try to hear both sides of
25 the story. And so where Staff has made

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1 determinations, I agree it might be very useful for
2 the Panel to hear what the Staff has got to say. But
3 I also believe that it might be useful for the Panel
4 to hear another perspective on the same decision.

5 CHAIRMAN HAWKENS: Thank you, Mr. Webster.
6 We understand your concern.

7 MS. BATY: If I may, Your Honor, a couple
8 extra additional points from the Staff. The Order --
9 the Board's August -- excuse me, September 12th Order
10 specifically states that the parties should be
11 prepared to have their experts testify about
12 reasonable assurance at hearing. The Board did not
13 direct the Staff to address the issue raised in the
14 September 12th Order in rebuttal testimony.

15 And also, the Board indicated during the
16 teleconference on the 5th of September that they
17 expected the parties to provide testimony at hearing
18 on the topics that they would memorialize in an Order,
19 which was the September 12th Order. So to that
20 extent, no one would have an opportunity to know in
21 advance what the parties were going to say on this
22 topic, what experts might say on this topic, or the
23 proposed questions.

24 MR. WEBSTER: Let me be more specific,
25 Judge. My problem here --

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1 MS. BATY: Excuse me, Mr. Webster. I had
2 another point to make, and it's a matter of
3 clarification from Judge Abramson about Mr. Webster's
4 ability to ask questions. I understand this is a
5 Subpart L proceeding, which the Board propounds the --
6 only the Board propounds questions to the witnesses,
7 and I didn't know whether there might have been some
8 ambiguity about his -- him -- not Mr. Webster having
9 an opportunity to ask Ms. Lund or Mr. Manoly
10 questions.

11 JUDGE ABRAMSON: The cross examination
12 procedures for Subpart L are quite clear, but our
13 practice has been -- and I expect it to continue on my
14 part and on the part of Judge Baratta and I expect on
15 the part of Judge Hawkens -- that after or in the
16 middle of cross examine -- while we're asking a
17 witness what we think, it is likely that we will ask
18 counsel for the other parties whether they think we
19 have missed anything. And we will ask those counsel
20 to tell us what they think we've missed.

21 We will also, as we have indicated to all
22 of you, ask other experts what they think about what
23 we're hearing. Our focus here is fact-finding, and
24 that's what we're going to do, and we're going to do
25 it with the aid of everybody and with the

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1 participation of all parties.

2 MR. WEBSTER: May I just make one point?

3 At this stage, Citizens -- unfortunately, the expert
4 I have in my mind has confirmed to me that he is not
5 available for the three days of the hearing, but may
6 be available at a later date. And so I think if we
7 are to go ahead with these questions on the last day
8 of the hearing --

9 CHAIRMAN HAWKENS: I think we're beating
10 a dead horse here. As I indicated, we're going to try
11 to get the information we need without resort to using
12 these individuals. If we need to resort to them, if
13 the NRC Staff believes they have new information which
14 is important to put on the record, we'll hear from
15 them and we'll determine what the proper process to
16 ensure fairness to Citizens is at that time.

17 MR. WEBSTER: Okay. Thank you, Judge.

18 CHAIRMAN HAWKENS: All right. Let's wrap
19 up some loose ends. The NRC Staff had inquired about
20 procedures and timing for the transcript corrections.
21 I am going to ask one of you if you would please poll
22 the parties and reach agreement as to a date on the
23 submission of a motion for transcript corrections.
24 And if you would, once you select a date, advise Ms.
25 Wolf.

1 And I believe also either at the
2 conclusion of this hearing or another time Ms. Wolf
3 will let you know -- she will provide the parties with
4 suggested formats for the preparation of that motion.
5 Will that be after this hearing, Ms. Wolf, or will
6 that be another time?

7 MS. WOLF: I can do it today.

8 CHAIRMAN HAWKENS: Sure. Ms. Wolf will
9 provide that to you at the close of this hearing.

10 Our next session is going to be at the
11 Ocean County Administrative Building in Tom's River,
12 New Jersey, on Monday. The hearing session will open
13 at 0900. We're informed that the facility itself
14 opens at 0700. And if that's incorrect, Ms. Wolf will
15 advise the parties.

16 MR. SILVERMAN: Your Honor, when you are
17 finished, there's one additional item we'd like to
18 raise today.

19 CHAIRMAN HAWKENS: Please go ahead.

20 MR. SILVERMAN: Thank you. There is a
21 matter we've been able to coordinate with Citizens,
22 but we have not been able to coordinate with Staff.
23 And I wondered if we could just take five minutes to
24 speak with the Staff offline, and then we can get back
25 on the record and explain the item to you.

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1 CHAIRMAN HAWKENS: Let's recess for five
2 minutes.

3 (Whereupon, the proceedings in the
4 foregoing matter went off the record at
5 12:41 p.m. and went back on the record at
6 12:46 p.m.)

7 CHAIRMAN HAWKENS: All right. We're back
8 in session.

9 Mr. Silverman, you have the floor.

10 MR. SILVERMAN: Okay. Thank you, Your
11 Honor. AmerGen has a physical model of a quarter of
12 the drywell. Mr. Webster has seen it, and Staff has
13 seen it. We have agreed with the parties that we are
14 going to bring it to the session in case the Board
15 would like to use it or in case any witness from any
16 of the parties would like to use it as a -- to, you
17 know, make it clearer, the physical configuration,
18 etcetera.

19 We wouldn't be able to turn that physical
20 piece of -- that model over, but what we will do, and
21 the parties have agreed to this, is we will -- if it
22 becomes used, and you would like an exhibit, we will
23 have photographs of all four sides of the model and
24 the top down, and we could use that as -- introduce
25 that as an exhibit.

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1 All the parties have agreed to that
2 procedure. We may not need it, but it might be
3 helpful to have the model.

4 CHAIRMAN HAWKENS: That would be fine.
5 Have it ready.

6 MR. SILVERMAN: Thank you. And then, I
7 don't know whether Mr. Webster had something else or
8 not here.

9 MS. YOUNG: Richard, was there something
10 you wanted to raise about the transcript delivery?

11 MR. WEBSTER: I was saying -- Ms. Young
12 was asking me on what date we could have the
13 transcripts corrected. And I was asking her, well,
14 what date could we expect the agency to supply it to
15 us?

16 CHAIRMAN HAWKENS: I will let the NRC
17 Staff coordinate that with you, provide you with that
18 information, and establish an agreed-upon date.

19 MS. YOUNG: Judge Hawken, just to refresh
20 Mr. Webster and what I said to him previously, the
21 Staff cannot provide copies of transcripts to
22 intervenors. There is a prohibition against providing
23 intervenors assistance. I believe it's an Attorney
24 General Opinion and something that got put in the
25 Atomic Energy Act at some point.

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1 But there is a normal processing time when
2 things are in ADAMS and becomes available in
3 electronic hearing docket. If there is any way for
4 the Board to expedite that, that's how Mr. Webster
5 would obtain a copy of the transcript. It wouldn't be
6 from the Staff directly.

7 CHAIRMAN HAWKENS: Mr. Webster, Ms. Wolf
8 will look into that. And to the extent we're able to
9 influence getting it quickly onto ADAMS, we will do
10 that, and she will let the parties know about that.

11 MR. WEBSTER: Thank you very much, Judge.

12 CHAIRMAN HAWKENS: Are there any other
13 matters to be addressed? NRC Staff?

14 MS. BATY: Yes, Your Honor, one other
15 question. When we -- when can we expect to get the
16 transcript from today's proceeding?

17 MS. WOLF: We asked for a one-day
18 turnaround, so I -- whenever it gets to you -- I think
19 it's supposed to be hard copy tomorrow I think at
20 10:00. Is that normal delivery time? I think it's by
21 10:00. So someone from this office normally sends it
22 up to your office in hard copy. So when it comes in
23 it will be sent to you.

24 MS. BATY: Thank you.

25 MS. WOLF: Richard, for your information,

1 you can arrange, at a cost obviously, with the Neal
2 Gross Company that does our court reporting to get
3 your own immediate turnaround if you'd like. Just so
4 you know.

5 MR. WEBSTER: Okay. And how will -- when
6 will the transcript be available for all the parties?

7 MS. WOLF: How about I'll give you a call
8 after this, and I can explain to you the transcript
9 process.

10 MR. WEBSTER: Thank you.

11 CHAIRMAN HAWKENS: Thank you. Anything
12 from AmerGen?

13 MR. SILVERMAN: No.

14 CHAIRMAN HAWKENS: Mr. Webster, anything
15 else?

16 MR. WEBSTER: Nothing further. Thank you.

17 CHAIRMAN HAWKENS: All right. We're in
18 recess until Monday, 0900. Thank you very much.

19 (Whereupon, at 12:50 p.m., the
20 proceedings in the foregoing matter were
21 adjourned.)

22

23

24

25

CERTIFICATE

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

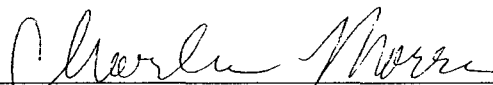
Name of Proceeding: Oyster Creek NGS

Evidentiary Hearing

Docket Number: 50-0219-LR

Location: Rockville, Maryland

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,
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transcript is a true and accurate record of the
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Charles Morrison
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