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United States of America

Nuclear Regulatory Commission

+ + + + +

ATOMIC SAFETY AND LICENSING BOARD PANEL

+ + + + +

HEARING

IN THE MATTER OF

DOCKET NO: 70-7015-ML

AREVA ENRICHMENT SERVICES, LLC

EAGLE ROCK ENRICHMENT FACILITY

Tuesday,

January 25, 2011

+ + + + +

Rockville, Maryland

+ + + + +

The trial commenced in Room T-3B45 of Two White Flint
North, Rockville Pike, Rockville, Maryland, at 10:00 a.m.

BEFORE:

G. Paul Bollwerk, III, Chair

Dr. Kaye D. Lathrop, Administrative Judge

Dr. Craig M. White, Administrative Judge

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APPEARANCES:

On Behalf of AES LLC:

Jim Curtiss, Esq.

Tyson Smith, Esq.

Winston & Strawn LLP

1700 K Street NW

Washington, DC 20006

On Behalf of the United States Nuclear Regulatory

Commission:

Mauri Lemoncelli, Esq.

Marcia Simon, Esq.

Christine Jochim Boote, Esq.

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WITNESSES

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TIMOTHY JOHNSON, TYRONE NAQUIN	206
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	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Party: Nuclear Regulatory Commission				
3	Exhibit No.: NRC000001-MA-BD01	152	152		
4	Title: NRC staff responses to				
5	licensing board's initial				
6	publicly available questions				
7					
8	Exhibit No.: NRC000002-MA-BD01	152	152		
9	Title: Affidavit of Greg Chapman				
10					
11	Exhibit No.: NRC000003-MA-BD01	152	152		
12	Title: Affidavit of Ira Dimitz				
13					
14	Exhibit No.: NRC000004-MA-BD01	152	152		
15	Title: Affidavit of Keith Everly				
16					
17	Exhibit No.: NRC000005-MA-BD01	152	152		
18	Title: Affidavit of Roman Prisigodski				
19					
20	Exhibit No.: NRC000006-MA-BD01	152	152		
21	Title: Affidavit of Breeda Reilly				
22					
23	Exhibit No.: NRC000007-MA-BD01	152	152		
24	Title: Affidavit of John Stomatatos				
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Exhibit No.: NRC000008-MA-BD01	152	152		
3	Title Affidavit of Cynthia Taylor				
5	Exhibit No.: NRC000009-MA-BD01	152	152		
6	Title Affidavit of Christopher Tripp				
8	Exhibit No.: NRC000010-MA-BD01	152	152		
9	Title: Affidavit of Rex Wescott				
11	Exhibit No.: NRC000011-MA-BD01	152	152		
12	Title: Statement of professional				
13	qualifications for Greg Chapman				
15	Exhibit No.: NRC000012-MA-BD01	152	152		
16	Title: Statement of professional				
17	qualifications for Ira Dimitz				
19	Exhibit No.: NRC000013-MA-BD01	152	152		
20	Title: Statement of professional				
21	qualifications for Keith Everly				
23	Exhibit No.: NRC000014-MA-BD01	152	152		
24	Statement of professional				
25	qualifications for Roman Prisigodski				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Exhibit No.: NRC000015	152	152		
3	Title: Statement of professional				
4	qualifications for Breeda Reilly				
5					
6	Exhibit No.: NRC000016-MA-BD01	152	152		
7	Title: Statement of professional				
8	Qualifications for John Stomatatos				
9					
10	Exhibit No.: NRC000017-MA-BD01	152	152		
11	Title: Statement of professional				
12	Qualifications for Cynthia Taylor				
13					
14	Exhibit No.: NRC000018-MA-BD01	152	152		
15	Title: Statement of professional				
16	qualifications for Christopher Tripp				
17					
18	Exhibit No.: NRC000019-MA-BD01	152	152		
19	Title: Statement of professional				
20	qualifications for Rex Wescott				
21					
22	Exhibit No.: NRC000020-MA-BD01	152	152		
23	Title: NRC staff responses to the boards				
24	to the non-publicly available				
25	questions				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	Exhibit No.: NRC000021-MA-BD01	152	152		
3	Title: Affidavit of Michael Morris				
4					
5	Exhibit No.: NRC000022-MA-BD01	152	152		
6	Title: Statement of professional				
7	Qualifications for Michael Morris				
8					
9	Exhibit No.: NRC000023-MA-BD01	152	152		
10	Title: NRC staff responses to the boards				
11	to the non-publicly available				
12	questions dated December 13, 2010				
13					
14	Exhibit No.: NRC000024-MA-BD01	152	152		
15	Title: Affidavit of Keith Everly				
16	Dated December 8, 2010				
17					
18	Exhibit No.: NRC000025-MA-BD01	152	152		
19	Title: Affidavit of Thomas Fan				
20	Dated December 7, 2010				
21					
22	Exhibit No.: NRC000026-MA-BD01	152	152		
23	Title: Statement of professional				
24	Qualifications for Thomas Fan				
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Exhibit No.: NRC000027-MA-BD01	152	152		
3	Title: NRC staff response to the				
4	board's additional questions of				
5	financial assurance				
6					
7	Exhibit No.: NRC000028-MA-BD01	152	152		
8	Title: Affidavit of Kenneth Klein				
9	Dated January 4, 2011				
10					
11	Exhibit No.: NRC000029-MA-BD01	152	152		
12	Title: Affidavit of Roman Prisigodski				
13	dated December 29, 2010				
14					
15	Exhibit No.: NRC000030-MA-BD01	152	152		
16	Title: Statement of professional				
17	Qualifications for Kenneth Klein				
18					
19	Exhibit No.: NRC000031-MA-BD01	152	152		
20	Title: Standard review plan for the				
21	review of the licensee application for				
22	fuel cycle,				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Exhibit No.: NRC000032-MA-BD01	152	152		
3	Title: Safety evaluation report for the				
4	Eagle Rock facility, NUREG 1951				
5					
6	Exhibit No.: NRC000033-MA-BD01	152	152		
7	Title: Safety evaluation report for the				
8	Eagle Rock facility, NUREG 1951				
9					
10	Exhibit No.: NRC000034-MA-BD01	152	152		
11	Title: National Enrichment Facility				
12	SafetyAnalysis Report, revision seven,				
13	Dated June 2005				
14					
15	Exhibit No.: NRC000035-MA-BD01	152	152		
16	Title: Eagle Rock Enrichment Facility				
17	Integrated Safety Analysis Summary,				
18	Chapter C.7				
19					
20	Exhibit No.: NRC000036-MA-BD01	152	152		
21	Title: Eagle Rock Enrichment Facility				
22	Integrated Safety Analysis Summary,				
23	Chapter 3.8				
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	Exhibit No.: NRC000037-MA-BD01	152	152		
3	Title: Follow up response to quality				
4	Assurance requirements for fire protection				
5	items relied on for safety				
6					
7	Exhibit No.: NRC000038-MA-BD01	152	152		
8	Title: Request for expedited approval of				
9	quality dated October 30, 2009				
10					
11	Exhibit No.: NRC000039-MA-BD01	152	152		
12	Title: Safety evaluation report for the				
13	Eagle Rock facility, NUREG 1951				
14					
15	Exhibit No.: NRC000040-MA-BD01	152	152		
16	Title: Request for exemption from				
17	10CFR 21.3 dated January 29, 2010				
18					
19	Exhibit No.: NRC000041-MA-BD01	152	152		
20	Title: Approval of AREVA Enrichment				
21	Services part 21 exemption request				
22	dated July 28, 2010				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	Exhibit No.: NRC000042-MA-BD01	152	152		
3	Title: Revised quality assurance				
4	description dated September 10, 2010				
5					
6	Exhibit No.: NRC000043-MA-BD01	152	152		
7	Title: Response request for additional				
8	information dated September 28, 2009				
9					
10	Exhibit No.: NRC000044-MA-BD01	152	152		
11	Title: Response for request for additional				
12	Information dated, no date. Enclosure 3				
13					
14	Exhibit No.: NRC000045-MA-BD01	152	152		
15	Title: Letter reminding quality assurance				
16	requirements for fire protection items relied				
17	on for safety dated March 25, 2010				
18					
19	Exhibit No.: NRC000046-MA-BD01	152	152		
20	Title: Eagle Rock Enrichment Facility				
21	Integrated Safety Analysis, Appendix A				
22					
23	Exhibit No.: NRC000047-MA-BD01	152	152		
24	Title: FCSS Interim Staff Guidance				
25	dated June, 2005				

1	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Exhibit No.: NRC000048-MA-BD01	152	152		
3	Title: Confirmatory calculations for fire				
4	protection review of National Enrichment				
5	Facility Safety Analysis				
6	dated March 22, 2005				
7					
8	Exhibit No.: NRC000049-MA-BD01	152	152		
9	Title: "Physics Based Approach to Modeling				
10	Grassland Fires," International Journal of				
11	Wildland Fire dated 2007				
12					
13	Exhibit No.: NRC000050-MA-BD01	152	152		
14	Title: ANSNM 14.1-2001 American national				
15	standard for nuclear materials packaging				
16	for transport of uranium hexafluoride				
17	dated April 3, 2002				
18					
19	Exhibit No.: NRC000051-MA-BD01	152	152		
20	Title: Nuclear Fuel Cycle Facility				
21	Accident Analysis Handbook Dated March 1998				
22					
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	Exhibit No.: NRC000052-MA-BD01	152	152		
3	Title: NRC information notice 1997-20				
4	identification of certain uranium				
5	hexafluoride cylinders that do not				
6	comply with NC ANSI standard N14.1				
7	fabrication standard,				
8	dated April 17, 1997				
9					
10	Exhibit No.: NRC000053-MA-BD01	152	152		
11	Title: FCSS Interim Staff Guidance				
12	dated June, 2005				
13					
14	Exhibit No.: NRC000054-MA-BD01	152	152		
15	Title: Confirmatory calculations for				
16	fire protection review of National				
17	Enrichment Facility Safety Analysis				
18	dated March 22, 2005				
19					
20	Exhibit No.: NRC000055-MA-BD01	152	152		
21	Title: "Physics Based Approach to Modeling				
22	Grassland Fires," International Journal of				
23	Wildland Fire dated 2007				
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	Exhibit No.: NRC000056-MA-BD01	152	152		
3	Title: ANSNM 14.1-2001 American national				
4	Standard for nuclear materials packaging				
5	for transport of uranium hexafluoride				
6	dated April 3, 2002				
7					
8	Exhibit No.: NRC000057-MA-BD01	152	152		
9	Title: Nuclear Fuel Cycle Facility				
10	Accident Analysis Handbook				
11	Dated March 1998				
12					
13	EXHIBIT NO.: NRC000058-MA-BD01	152	152		
14	Title: USEC Safety Evaluation Report,				
15	Appendix A Integrated Safety Analysis and				
16	ISA Summary				
17					
18	EXHIBIT NO.: NRC000059-MA-BD01	152	152		
19	Title: American Nuclear Insurance letter				
20	to AREVA Enterprises regarding Eagle Rock				
21	Enrichment Facility				
22	dated September 22, 2008				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT NO.: NRC000060-MA-BD01	152	152		
3	Title: License for the Louisiana				
4	Enrichment Services National Enrichment				
5	Facility dated June 23, 2006				
6					
7	EXHIBIT NO.: NRC000061-MA-BD01	152	152		
8	Title: License for the Louisiana				
9	Enrichment Services National Enrichment				
10	Facility dated March 14, 2008				
11					
12	EXHIBIT NO.: NRC000062-MA-BD01	152	152		
13	Title: Safety Evaluation Report				
14	Louisiana Energy Service request to				
15	amend license related to possession of				
16	by product material dated March 14, 2008				
17					
18	EXHIBIT NO.: NRC000063-MA-BD01	152	152		
19	Title: Consolidated NMSS Decommissioning				
20	Guidance Financial Assurance, Record				
21	Keeping and Timeliness, NUREG 1757 Volume				
22	Three, excerpts				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: NRC000064-MA-BD01	152	152		
3	Title: AES proposal for authorization to				
4	make changes to license commitments				
5	dated August 20, 2010				
6					
7	EXHIBIT NO.: NRC000065-MA-BD01	152	152		
8	Title: Redacted draft safety evaluation				
9	report for the application to possess and				
10	use radioactive material at the Mixed Oxide				
11	Fuel Fabrication Facility dated July, 2010				
12					
13	EXHIBIT NO.: NRC000066-MA-BD01	152	152		
14	Title: Safety evaluation report for the				
15	renewal of SNM-1107 Columbia Fuel Fabrication				
16	Facility in Columbia, South Carolina				
17	section 14.1.1 August 2007				
18					
19	EXHIBIT NO.: NRC000067-MA-BD01	152	152		
20	Title: Eagle Rock Enrichment Facility				
21	ISA Summary Revision 2, Appendix D				
22					
23					
24					
25					

1	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT NO.: NRC000068-MA-BD01	152	152		
3	Title: Cum et al. an overview of the				
4	basaltic volcanism of the eastern Snake				
5	River Plain Idaho Chapter 12 Geological				
6	Society of America dated 1992				
7					
8	EXHIBIT NO.: NRC000069-MA-BD01	152	152		
9	Title: Procedures and criteria for				
10	assessing seismic soil liquefaction at				
11	nuclear power plant sites regulatory				
12	guide 1.198 dated November, 2003				
13					
14	EXHIBIT NO.: NRC000070-MA-BD01	152	152		
15	Title: Standard Review Plan for the review				
16	of a license application for a fuel cycle				
17	facility, NUREG 1520 rev. one, revision				
18	one that is, May, 2010				
19					
20	EXHIBIT NO.: NRC000071-MA-BD01	152	152		
21	Title: Overview of changes to NUREG 1520,				
22	Standard Review Plan for the review of a				
23	license application				
24					
25					

1	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT NO.: NRC000072-MA-BD01	152	152		
3	Title: NRC memorandum, United States				
4	Enrichment Corporation license detail				
5	regarding the level of information needed				
6	for 10CFR Part 70 licensing				
7	date August 4, 2006				
8					
9	EXHIBIT NO.: NRC000073-MA-BD01	152	152		
10	Title: NUREG 800, revision 2 Chapter 18				
11	Human Factors Engineering dated March, 2007				
12	EXHIBIT NO.: NRC000074, NUREG 0711, revision				
13	2 Human Factors Engineering Program review				
14	model dated February, 2004				
15					
16	EXHIBIT NO.: NRC000075-MA-BD01	152	152		
17	Title: NUREG 0700, revision 2 Human				
18	System Interface Design review guidelines				
19	May 2002				
20					
21	EXHIBIT NO.: NRC000076-MA-BD01	152	152		
22	NUREG 1718, Standard Review				
23	Title: Plan for the review of an application				
24	for a Mix Oxide, or MOX, Fuel Fabrication				
25	Facility, Chapter 12 dated August, 2000				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: NRC000077-MA-BD01	152	152		
3	NUREG 1748, Environmental Review				
4	Title: Guidance for licensing action				
5	associated with NMSS Programs Chapters				
6	four and five dated July, 2003				
7					
8	EXHIBIT NO.: NRC000078-MA-BD01	152	152		
9	NFPA801 Standard for Fire Protection				
10	Title: for facilities handling radioactive				
11	material, 2008 edition				
12					
13	EXHIBIT NO.: NRC000079-MA-BD01	152	152		
14	Title: Safety Evaluation Report for the				
15	Eagle Rock Enrichment Facility in				
16	Bonneville County, Idaho, NUREG 1951,				
17	Appendix D				
18					
19	EXHIBIT NO.: NRC000080-MA-BD01	152	152		
20	Title: Safety Evaluation Report for the				
21	Eagle Rock Enrichment Facility in				
22	Bonneville County, Idaho, NUREG 1951,				
23	Appendix E				
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: NRC000081-MA-BD01	152	152		
3	Title: Safety Evaluation Report for the				
4	Eagle Rock Enrichment Facility, Appendix H				
5	EXHIBIT NO.: NRC000082, Approval of AREVA Enrichment				
6	Services, LLC. Exemption request related to				
7	requirements governing commencement of				
8	construction dated March 17, 2010				
9					
10	EXHIBIT NO.: NRC000083-MA-BD01	152	152		
11	Title: Request from exemption from				
12	10CFR 70.4, 10CFR 20.23A7, 10CFR 30.4,				
13	10CFR 30.33A5 requirements governing				
14	commencement for construction				
15	dated June 17, 2009				
16					
17	EXHIBIT NO.: NRC000084-MA-BD01	152	152		
18	Title: Approval of AREVA Enrichment				
19	Services for part 21 exemption request				
20	dated July 28, 2010				
21					
22					
23					
24					
25					

1 EXHIBIT NO.: NRC000085-MA-BD01 152 152

2 Title: Request for exemption from
3 10CFR 21.3 definitions for commercial
4 grade item, basic component, critical
5 characteristic dedication and dedicating entity
6 dated January 29, 2010
7

8 EXHIBIT NO.: NRC000086-MA-BD01 152 152

9 NRC regulatory issue summary,
10 Title: or RIS, 2005-31, entitled "Control
11 of Security-Related Sensitive Unclassified
12 Non-Safeguards Information Handled by
13 Individuals, Firms and Entities Subject
14 to EXHIBIT NO.: NRC Regulation of the Use of
15 Source, Byproduct, and Special Nuclear Material"
16 Including attachments two and three,
17 dated December 22, 2005
18

19 EXHIBIT NO.: NRC000087-MA-BD01 152 152

20 Title: NUREG 1513, Integrated Safety
21 Analysis Guidance Document
22 dated May, 2001
23
24
25

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: NRC000088-MA-BD01	152	152		
3	Title: Eagle Rock Enrichment Facility				
4	Emergency Plan revision one				
5	section 3.7				
6					
7	EXHIBIT NO.: NRC000089-MA-BD01	152	152		
8	NUREG 0654/FEMA REP one revision one,				
9	Title: "Criteria for Preparation and				
10	Evaluation of Radiological Emergency				
11	Response Plan and Preparedness in				
12	Purport of Nuclear Power Plants"				
13					
14	EXHIBIT NO.: NRC000090-MA-BD01	152	152		
15	Title: NRC inspection manual, inspection				
16	procedure 88051, evaluation of				
17	exercises and drills				
18	dated July 28, 2006				
19					
20	EXHIBIT NO.: NRC000091-MA-BD01	152	152		
21	Title: NUREG 1140, a regulatory analysis				
22	on the emergency preparedness for fuel				
23	cycle and other radioactive material				
24	licenses, page 11				
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT NO.: NRC000092-MA-BD01	152	152		
3	Title: Regulatory guide 1.183, Alternative				
4	Radiological Source Terms for Evaluating				
5	Design Basis Accidents at Nuclear Power				
6	Reactors, page 16				
7					
8	EXHIBIT NO.: NRC000093-MA-BD01	152	152		
9	Title: Eagle Rock Enrichment Facility				
10	ISA Summary revision one Section 2.2.2				
11	page E2				
12					
13	EXHIBIT NO.: NRC000094-MA-BD01	152	152		
14	Title: 2000 Census data SEC POP 2000 output				
15					
16	EXHIBIT NO.: NRC000095-MA-BD01	152	152		
17	Title: Eagle Rock Enrichment Facility				
18	environmental report revision one,				
19	page 4.12-8				
20					
21	EXHIBIT NO.: NRC000096-MA-BD01	152	152		
22	Title: NUREG 1757, "Consolidated NMSS				
23	Decommissioning Guidance, Financial Assurance,				
24	Record Keeping and Timeliness"				
25	volume three, excerpts				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT NO.: NRC000097-MA-BD01	152	152		
3	Title: Salt Lake City, Utah National				
4	Compensation Survey May, 2009, U.S.				
5	Bureau of Labor Statistics October 2009				
6					
7	EXHIBIT NO.: NRC000098-MA-BD01	152	152		
8	Title: Salt Lake City, Utah National				
9	Compensation Survey May, 2010, U.S. Bureau				
10	of Labor Statistics October 2010				
11					
12	EXHIBIT NO.: NRC000099-MA-BD01	152	152		
13	Title: Billings, Montana National				
14	Compensation Survey August, 2009, U.S.				
15	Bureau of Labor Statistics January 2010				
16					
17	EXHIBIT NO.: NRC000100-MA-BD01	152	152		
18	Title: Salt Lake City, Utah National				
19	Compensation Survey August, 2010,				
20	U.S. Bureau of Labor Statistics December 2010				
21					
22	EXHIBIT NO.: NRCR00101-MA-BD01	179	179		
23	Title: The staff's presentation on				
24	Topic 2A, foreign ownership				
25	and control,				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHBIT NO. NRC000102-MA-BD01	179	179		
3	Title: Statement of professional				
4	qualifications for Anneliese Simmons				
5					
6	EXHBIT NO.: NRC000103-MA-BD01	179	179		
7	Title: The final Standard Review Plan				
8	on foreign ownership control or domination,				
9	dated September 28, 1999				
10					
11	EXHBIT NO.: NRCR00104-MA-BD01	212	212		
12	Title: Staff presentation number 3,				
13	license condition and exemption				
14					
15	EXHIBIT: NRC0000106-MA-BD01	236	236		
16	Title: Statement of professional				
17	qualifications for Ms. Damaris Arroyo.				
18					
19	EXHIBIT NO.: NRC 000110-MA-BD01	205	205		
20	Title: Statement of professional				
21	qualifications for Timothy Johnson				
22					
23	NRC000111-MA-BD01	205	205		
24	Title: Statement of professional				
25	qualifications for Tyrone Naquin.				

1	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT NO.: NRC000114-MA-BD01	212	212		
3	Title: License for Louisiana Energy				
4	Services National Enrichment Facility,				
5	amendment 45 dated December 30, 2010				
6					
7	EXHIBIT NO.: NRC000115-MA-BD01	212	212		
8	Title: Approval of Louisiana Energy Services				
9	part 21 exemption request				
10	dated February 11, 2009				
11					
12	EXHIBIT: NO.: NRC000116-MA-BD01	212	212		
13	Title: NEI08-11 information security program				
14	guidelines for protection of classified				
15	material at uranium and enrichment facilities				
16	dated May 2009.				
17					
18	EXHIBIT: NRC000117-MA-BD01	212	212		
19	Title: NUREG 1757 consolidated decommissioning				
20	guidance volume 2 revision one appendix A				
21	implementing the MARFFIM approach for conducting				
22	final radiological surveys.				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT: NRC000118-MA-BD01	212	212		
3	Title: Table one, comparison of AES and				
4	LES request for exemption and special				
5	authorization				
6					
7	EXHIBIT: NRC000119-MA-BD01	212	212		
8	Title: table two, comparison of				
9	AES and LES license conditions.				
10					
11	EXHIBIT: NRCR00120-MA-BD01	243	243		
12	Title: Staff's presentation four on				
13	commitment follow-up and tracking				
14					
15	EXHIBIT: NRC000121-MA-BD01	243	243		
16	Title: Statement of professional				
17	qualifications for Deborah Seemore				
18					
19	EXHIBIT: NRC000122-MA-BD01	243	243		
20	Title: NRC Inspection Manual				
21	Chapter 1252 dated December 7, 2009				
22					
23	EXHIBIT: NRC000123-MA-BD01	243	243		
24	NRC Inspection Manual Chapter 2696				
25	dated October 19, 2006				

1	EXHIBITS:	MARK	ADMT	WITH	RJCT
2	EXHIBIT: NRC000124-MA-BD01	243	243		
3	NRC Inspection Manual Chapter 2630				
4	dated May 18, 2005.				
5					
6	Party: AREVA				
7	EXHIBIT NO.: AES000001-MA-BD01	158	159		
8	Title: The AES response to the publicly				
9	available questions				
10	dated December 19, 2010				
11					
12	EXHIBIT NO.: AES000002-MA-BD01	158	159		
13	Title: Affidavit of William Hackett				
14	dated November 19, 2010				
15					
16	EXHIBIT NO.: AES000003-MA-BD01	158	159		
17	Title: Affidavit of George Harper				
18	dated November 19, 2010				
19					
20	EXHIBIT NO.: AES000004-MA-BD01	158	159		
21	Title: Affidavit of James Kaye				
22	dated November 19, 2010				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000005-MA-BD01	158	159		
3	Title: Affidavit of Sam Shacker				
4	dated November 19, 2010				
5					
6	EXHIBIT NO.: AES000006-MA-BD01	158	159		
7	Title: Affidavit of Mark Strung				
8	dated November 19, 2010				
9					
10	EXHIBIT NO.: AES000007-MA-BD01	158	159		
11	Title: Affidavit of Barry Tilden				
12	dated November 19, 2010				
13					
14	EXHIBIT NO.: AES000008-MA-BD01	158	159		
15	Title: Affidavit of Scott Tyler				
16	dated November 19, 2010				
17					
18	EXHIBIT NO.: AES000009-MA-BD01	158	159		
19	Title: Affidavit of Eric Wiener				
20	dated November 19, 2010				
21					
22	EXHIBIT NO.: AES000010-MA-BD01	158	159		
23	Title: Statement of professional				
24	qualifications				
25	for William Hackett				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000011-MA-BD01	158	159		
3	Title: Professional qualifications				
4	for George Harper				
5					
6	EXHIBIT NO.: AES000012-MA-BD01	158	159		
7	Title: Professional qualifications				
8	for James Kaye				
9					
10	EXHIBIT NO.: AES000013-MA-BD01	158	159		
11	Title: Professional qualifications				
12	for Sam Shacker				
13					
14	EXHIBIT NO.: AES000014-MA-BD01	158	159		
15	Title: Professional qualifications				
16	for Mark Strung				
17					
18	EXHIBIT NO.: AES000015-MA-BD01	158	159		
19	Title: Professional qualifications				
20	for Barry Tilden				
21					
22	EXHIBIT NO.: AES000016-MA-BD01	158	159		
23	Title: Professional qualifications				
24	for Scott Tyler				
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000017-MA-BD01	158	159		
3	Title: Professional qualifications				
4	for Eric Wiener				
5					
6	EXHIBIT NO.: AES000018-MA-BD01	158	159		
7	Title: AES response to non-publicly				
8	available questions				
9	dated November 19, 2010				
10					
11	EXHIBIT NO.: AES000019-MA-BD01	158	159		
12	Title: Affidavit of Christopher Andrews				
13	dated November 19, 2010				
14					
15	EXHIBIT NO.: AES000020-MA-BD01	158	159		
16	Title: Affidavit of Scott McCain				
17	dated November 19, 2010				
18					
19	EXHIBIT NO.: AES000021-MA-BD01	158	159		
20	Title: Affidavit of Scott Tyler				
21	dated November 19, 2010				
22					
23	EXHIBIT NO.: AES000022-MA-BD01	158	159		
24	Title: Professional qualifications				
25	for Christopher Andrews				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000023-MA-BD01	158	159		
3	Title: Professional qualifications				
4	for Scott McCain				
5					
6	EXHIBIT NO.: AES000024-MA-BD01	158	159		
7	Title: AES response to ASLB supplemental				
8	publicly available questions				
9	dated December 13, 2010				
10					
11	EXHIBIT NO.: AES000025-MA-BD01	158	159		
12	Title: Affidavit of Christopher Andrews				
13	dated December 13, 2010				
14					
15	EXHIBIT NO.: AES000026-MA-BD01	158	159		
16	Title: Affidavit of George Harper				
17	dated December 13, 2010				
18					
19	EXHIBIT NO.: AES000027-MA-BD01	158	159		
20	Title: Affidavit of James Kaye				
21	dated December 13, 2010				
22					
23	EXHIBIT NO.: AES000028-MA-BD01	158	159		
24	Title: Affidavit of Barry Tilden				
25	dated December 13, 2010				

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000029-MA-BD01	158	159		
3	Title: AES response to ASLB supplemental				
4	non-publicly available questions				
5	dated December 13, 2010				
6					
7	EXHIBIT NO.: AES000030-MA-BD01	158	159		
8	Title: Affidavit of Christopher Andrews				
9	dated December 13, 2010				
10					
11	EXHIBIT NO.: AESR20031-MA-BD-1	158	159		
12	Title: AES response to ASLB second				
13	supplemental publicly available				
14	questions dated January 14, 2011				
15					
16	EXHIBIT NO.: AES000033-MA-BD01	158	159		
17	Title: Affidavit of Jean Luke Palliet				
18	dated January 14, 2011				
19					
20	EXHIBIT NO.: AES000034-MA-BD01	158	159		
21	Title: Affidavit of Don Le Francois				
22	dated January 14, 2011				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000035-MA-BD01	158	159		
3	Title: Professional qualifications				
4	for Jean Luke Palliet				
5	dated January 14, 2011				
6					
7	EXHIBIT NO.: AES000036-MA-BD01	158	159		
8	Title: Professional qualifications				
9	for Don Le Francois				
10	dated January 14, 2011				
11					
12	EXHIBIT NO.: AES000037-MA-BD01	158	159		
13	Title: Eagle Rock Enrichment Facility				
14	safety analysis report revision two				
15					
16	EXHIBIT NO.: AESR0038-MA_BD01	158	159		
17	Title: Eagle Rock Enrichment Facility				
18	Emergency Plan rev. two Section 7.2				
19					
20	EXHIBIT NO.: AES000039-MA-BD01	158	159		
21	Title: Fundamental Nuclear Material				
22	Control Plan rev. two				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000040-MA-BD01	158	159		
3	Title: Integrated Safety Analysis				
4	Summary rev. two Chapter 3				
5					
6	EXHIBIT NO.: AES000041-MA-BD01	158	159		
7	Title: ASTM 108 Standard Test Methods for				
8	Fire Test of Roof Coverings				
9					
10	EXHIBIT NO.: AES000042-MA-BD01	158	159		
11	Title: ASTM Standard C 787-06				
12	Standard Specification for Uranium				
13	Hexafluoride for Enrichment				
14					
15	EXHIBIT NO.: AES000043-MA-BD01	158	159		
16	Title: ASTM C996 Standard Specification				
17	for Uranium Hexafluoride Enriched				
18	to Less than Five Percent				
19					
20	EXHIBIT NO.: AES000044-MA-BD01	158	159		
21	Title: ANSI M 14.1 Uranium Hexafluoride				
22	packaging for transport, excerpts				
23					
24					
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000045-MA-BD01	158	159		
3	Title: USEC-651 Uranium Hexafluoride a				
4	Manual of Good Handling Practices, excerpts				
5					
6	EXHIBIT NO.: AES000046-MA-BD01	158	159		
7	Title: Blong, RJ "Volcanic Hazards,"				
8	a source book on the effects of eruptions				
9					
10	EXHIBIT NO.: AES000047-MA-BD01	158	159		
11	Title: Champion et. al. Accumulation				
12	and subsidence of late Pleistocene basaltic				
13	lava flows of the eastern Snake River Plane				
14					
15	EXHIBIT NO.: AES000048-MA-BD01	158	159		
16	Title: Geslin et. al. Pliocene and				
17	quaternary stratigraphic architecture				
18	in drainage systems of the Big Lost Trough,				
19	Northeastern Snake River Plain, Idaho				
20					
21	EXHIBIT NO.: AES000049-MA-BD01	158	159		
22	Title: Volcanic Hazards of the Idaho				
23	National Engineering and Environmental				
24	Laboratory, Hackett et. al. 2002				
25					

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000050-MA-BD01	158	159		
3	Title: Kuntz et. al. 1994, Geologic Map				
4	of the Idaho National Engineering Lab				
5					
6	EXHIBIT NO.: AES000051-MA-BD01	158	159		
7	Title: Link and Mink 2002, Geology,				
8	Hydrogeology and Environmental				
9	Remediation				
10					
11	EXHIBIT NO.: AES000052-MA-BD01	158	159		
12	Title: AES Procedure QA-02-03-001 Lead				
13	Auditor Training and Certification				
14					
15	EXHIBIT NO.: AES000053-MA-BD01	158	159		
16	Title: AES Procedure QA-16-03-001				
17	Corrective Action				
18					
19	EXHIBIT NO.: AES000054-MA-BD01	158	159		
20	AES Procedure QA-16-03-002 Stop Work				
21					
22	EXHIBIT NO.: AES000055-MA-BD01	158	159		
23	Title: INPO 01-002 Guidelines for the				
24	conduct of operations and nuclear				
25	power stations				

1 EXHIBITS: MARK ADMT WITH RJCT

2 EXHIBIT NO.: AES000056-MA-BD01 158 159

3 RIS 2005-31 Control of Security

4 Title: Related Sensitive Unclassified

5 Non-safeguard Information

6

7 EXHIBITS: MARK ADMT WITH RJCT

8 EXHIBIT NO.: AES000057-MA-BD01 158 159

9 Title: Inspection Procedure 82302 A

10 review of exercise objectives and

11 scenarios for power reactors

12

13 EXHIBIT NO.: AES000058-MA-BD01 158 159

14 Title: NUREG 0654 FEMA rep-one supplement

15 one Criteria for Utility Offsite Planning

16 and Preparedness

17

18 EXHIBIT NO.: AES000059-MA-BD01 158 159

19 Title: NUREG 1140, The Regulatory

20 Analysis on Emergency Preparedness for

21 Fuel Cycle and other Radioactive Material

22 Licensees

23

24

25

	EXHIBITS:	MARK	ADMT	WITH	RJCT
1					
2	EXHIBIT NO.: AES000060-MA-BD01	158	159		
3	Title: Affidavit of Scott Tyler				
4	dated December 13, 2010				
5					
6	EXHIBIT No.: AES000061-MA-BD01	164	165		
7	Title: AES Presentation on				
8	Topic One				
9					
10	EXHIBIT No.: R00062-MA-BD01	181	181		
11	Title: Presentation on				
12	Topic 2B				
13					
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P-R-O-C-E-E-D-I-N-G-S

10:00 a.m.

CHAIRMAN BOLLWERK: Can we go on the record please? Good morning.

Let me begin by introducing ourselves. To my right is Dr. Kaye Lathrop, a computational physicist, is a part time member of the Atomic Safety and Licensing Board panel. To my left is Dr. Greg -- Dr. Craig White. Judge White is a geologist and a part time member of the panel. My name is Paul Bollwerk. I'm an attorney, a full time panel member, and the chair of this Atomic Safety and Licensing Board.

Each of us an independent administrative judge appointed by the five member Nuclear Regulatory Commission. As members of the Atomic Safety and Licensing Board panel, members of the panel are designated to serve on three judge licensing boards, such as this one, that preside over hearings the agency, licensing, or enforcement proceedings in which the Atomic Energy Act, or the AEA, permits or mandates that a hearing be held. The panel of administrative judges do not work for or with the NRC staff relative to the staffs own review of such licensing enforcement matters. Rather, we're charged with deciding in the first instance what issues will be litigated in the hearing and for those issues that we find litigable making the determination regarding their substantive validity in terms of granting, conditioning or denying the request of the license or sustaining or modifying the proposed enforcement action. Our decisions on hearing matters generally are subject to review.

First, by the commission as the agency supreme court and then by the federal courts, including, in appropriate instances, the United States Supreme Court. This licensing board is here today to conduct an evidentiary hearing

1 regarding the safety related aspects of the so-called mandatory portion of the
2 licensing proceeding concerning the December, 2008 application of AREVA
3 Enrichment Services, LLC, or AES, under parts 30, 40, and 70 of Title 10 of the
4 Code of Federal Regulations for the CFR. For authority to possess and use a
5 source byproduct and special nuclear material and to enrich natural uranium to a
6 maximum of five percent uranium 235 by the gas centrifuge process.

7 Under such a license AES would be authorized to construct and
8 operate the proposed Eagle Rock Enrichment Facility located in Bonneville
9 County, Idaho. Relative to that AES application, over the next several days we
10 will be considering issues relating to the public health and safety and the
11 common defense and security that arise under the Atomic Energy Act. With us
12 today as the parties to the so-called safety portion of this mandatory hearing
13 are the NRC staff and AES. Let's have the parties identify themselves for the
14 record, starting with the NRC staff. If you would, please?

15 MAURI LEMONCELLI: Good morning your Honors, my name is Mauri
16 Lemoncelli, counsel for the NRC staff. With me at counsel table to my near
17 right is Christine Jochim Boote, to Ms. Boote's right, Ms. Marcia Simon.

18 CHAIRMAN BOLLWERK: All right, thank you very much. And AES if you
19 would, please?

20 JIM CURTISS: Thank you, your Honor. I'm Jim Curtiss, counsel to
21 AES, LLC, on the application and to my right is Tyson Smith with Winston and
22 Strong.

23 CHAIRMAN BOLLWERK: All right, thank you very much. By way of
24 background, I would note that if proceeding to license the construction and
25 operation of a uranium enrichment facility such as that proposed by AES, in

1 addition to AEA related safety issues, including the facility plan for coping
2 with emergencies, there is also National Environmental Policy Act, or NEPA,
3 related environmental protection matters that will be considered at a subsequent
4 evidentiary hearing this summer.

5 Moreover in a licensing proceeding, such as this one, such safety or
6 environmental issues can come before a hearing board, such as this one, in two
7 ways. The first is as part of the contested portion of the proceeding in which
8 specific challenges to the application and the staffs associated NEPA review,
9 referred to as contentions, can be raised by an individual group or government
10 entity in a hearing petition. Although the commission issued a notice in the
11 federal register back in July, 2009, outlining the process for becoming a party
12 in a contested hearing regarding the AES application, no intervention petitions
13 were submitted. As a consequence, no contested hearing has been convened in
14 this proceeding. Alternatively, and is the case in this instance, safety or
15 environmental issues regarding an enrichment facility application may come
16 before a licensing board as part of the mandatory hearing portion of the agency
17 licensing proceeding. This involves consideration of matters that have not been
18 the subject of contentions or issue statements submitted by any (unintelligible)
19 parties challenging the license application that contest proceeding and be as
20 the commission noted in its July, 2009, notice of hearing for this proceeding
21 which is found in volume 74 of the federal register at page 3054.

22 In the context of this mandatory hearing the board must make certain
23 findings regarding the adequacy of the NRC staff's safety and environmental
24 reviews. To carry out its safety review related responsibilities on the Atomic
25 Energy Act this licensing board has taken a series of steps. First, in accord

1 with board issuances, dated May 19, 2010 and October 7, 2010, outlining the
2 procedures associated with both the safety and environmental aspects of this
3 mandatory hearing. By issuance, dated October 29, 2008, the board provided --
4 rather 2010, the board provided a set of nearly three dozen questions regarding
5 a variety of matters, including some involving non-public information for
6 response by the NRC staff or AES as part of the mandatory hearing record. Both
7 the staff and AES responded to the board's questions in filings dated, November
8 19, 2010. Thereafter, in a December 3, 2010, issuance the board requested
9 additional information regarding several of its previous questions to which AES
10 responded on December 13.

11 Finally, on December 17, 2010, the board issued an order that in
12 addition to specifying four safety related topics for party presentations to the
13 board during this evidentiary hearing, outlined in detail the procedures
14 governing the submission of pre-filed evidentiary exhibits and posed four
15 additional questions to which the staff and AES responded on January 14, 2011.
16 As outlined in the boards December 17 issuance the presentation topics and their
17 order are tentatively as follows. Presentation 1 would be on site specific
18 process related hazards, presentation 2, phone ownership and control,
19 presentation 3, license conditions and exemptions, and presentation 4 commitment
20 follow up and tracking. Additionally, in our December 17t issuance we indicated
21 that to the extent appropriate we contemplated paneling both the NRC staff and
22 AES witnesses on these subjects at the same time to expedite and focus the
23 presentations.

24 Finally, while we do not anticipate extensive witness cross
25 examination by counsel for the staff or AES, as part of our December 17 guidance

1 on the conduct of this mandatory hearing, we indicated we would afford counsel
2 the opportunity to make opening statements. In that regard, in a moment we'll
3 turn first to counsel for the NRC staff for its opening statement followed by
4 the opening statement of AES counsel. Then we'll move on to some administrative
5 matters, including the order of presentation, dealing with potential non-public
6 information relative to those presentations, and the admission of various
7 exhibits associated with the boards earlier round of written questions and then
8 we'll begin with the parties presentations themselves. Before we do so however,
9 I want to make mention of another aspect of this proceeding, as the board has
10 noted in two issuances, its October 7th memorandum and order and a notice
11 regarding this week's safety related evidentiary hearing sessions published in
12 the federal register volume 76 at page 387 under section 2.315(a) of Title 10 of
13 the Code of Federal Regulations presiding officers are authorized to entertain
14 limited appearance statements from members of the public who are not otherwise a
15 party to the proceeding. These statements which are placed in the official
16 agency docket of the proceeding are intended as an opportunity for members of
17 the public to express their views and may help the board and the parties in
18 their consideration of the issues in the proceeding.

19 At this juncture the board is only receiving written limited
20 appearance statements, that being said, with respect to the NEPA related aspects
21 of this proceeding in accord with the boards, October 7, issuance in which it
22 outlined the schedule for the proceeding that would include evidentiary hearing
23 sessions on such environmental issues during the summer 2011. The board is
24 contemplating conducting those hearings in the vicinity of the proposed Eagle
25 Rock facility and will in conjunction with that hearing afford members of the

1 public an opportunity to appear before the board and provide oral limited
2 appearance statements. The place, dates, and times for such a hearing and any
3 associated or limited appearance sessions will be subject of a future board
4 issuance and federal register notice.

5 In addition, I will observe that today we will be utilizing some
6 technology in the hearing room that will aid the board and the parties in
7 conducting a more efficient proceeding. During this proceeding we will be
8 employing some of the technology that was originally developed for the Yucca
9 Mountain (spelled phonetically) high level waste repository licensing
10 proceeding. Mainly the Digital Data Management System, or DDMS. The DDMS is
11 the licensing board panels attempt to digitize both the video and documentary
12 record of an evidentiary proceeding and make it accessible and usable to the
13 board and the litigants in a court room setting. One of the things we will be
14 doing with the DDMS during this mandatory proceeding is marking the party's
15 exhibits electronically rather than using an ink stamp or labels as is customary
16 in many judicial proceedings. This may involve some interchange between the
17 board and our information technology technicians sitting here to my right.
18 Also, each of the parties has access to the DDMS from its counsel table by which
19 it should be able to track the status of various exhibits as well as search for
20 and view and of the materials that currently reside in the docket of this
21 proceeding.

22 Additionally, we'll be recording the proceeding which the parties
23 will have available to them via DDMS after the hearing for, among other things,
24 making any transcript corrections. Further we anticipate using display
25 technology as part of the evidentiary presentations which hopefully will make

1 the information we'll be discussing with various witness more accessible and
2 understandable to those in the audience today. Finally, this proceeding is
3 being Web-streamed allowing anyone with access to a computer and an internet
4 connection to hear and view today's proceeding. That video will be archived and
5 will remain available for 90 days following the completion of this session. And
6 to those who might be viewing this proceeding via the internet Webcast, we'd
7 appreciate it if at some point during or after the proceeding you take the time
8 to send any comments or suggestions you might have regarding the Web-streaming
9 technology in an email addressed to, webstreammaster, that's all one word,
10 .resource@nrc.gov. Again that's webstreammaster, that's one word,
11 .resource@nrc.gov. Your comments are important in helping the licensing board
12 panel to assess the efficacy of this technology as a way of making our
13 proceedings available to a broader public audience.

14 Finally as we begin today's mandatory hearing, I would note that
15 this is my cell phone and I'm turning it off. I would appreciate it if everyone
16 would do the same thing. We would ask that any cell phones and similar
17 electronic devices in the hearing room be turned off or placed on vibrate and
18 that any cell phone conversation be conducted outside this room. That will be
19 the rule throughout this proceeding. Also, no food or beverages other than
20 water are to be consumed in the hearing room and we thank you for following
21 these few brief rules. Allow me to turn to staff counsels presentation. Let me
22 suggest that those of you that are standing in the back if you like at this
23 point to take a seat this would probably be a good time. Unfortunately, this is
24 sort of like a religious service, if you come in late you got to kind of climb
25 over people. But go ahead and take a seat and make yourself comfortable.

1 Say the benches are pretty much filled today so there must be some
2 interest in what we're doing. For whatever reason, I'm not sure, but that's a
3 good thing, so -- all right. Ms. Lemoncelli are you ready?

4 MAURI LEMONCELLI: Yes, your honor.

5 CHAIRMAN BOLLWERK: If you would, please? Thank you.

6 MAURI LEMONCELLI: Thank you, once again and good morning, your
7 Honors. My name is Mauri Lemoncelli, counsel for the NRC staff. Thank you for
8 the opportunity to make an opening statement.

9 The staff submit that its review of safety matters concerning the
10 AREVA Eagle Rock Enrichment Facility has been adequate and complies with all
11 applicable commission regulations. Specifically, for purposes of safety related
12 matters which are currently an issue in this bi-furcated proceeding. The staff
13 carefully reviewed the information presented in the AREVA Eagle Rock application
14 concerning areas such as radiation protection, nuclear criticality safety,
15 chemical process safety, fire safety, emergency management, and environmental
16 protection and performed a thorough analysis to support its findings.

17 As the commission indicated in its notice of hearing for the Eagle
18 Rock Enrichment Facility when conducting an uncontested mandatory hearing the
19 board should conduct a simple sufficiency review. That is the board should
20 inquire whether the NRC staff's findings support license issuance are based on
21 an adequate review of the information provided by the applicant. The staff
22 submits that it's safety evaluation report, which the staff will offer into
23 evidence in this proceeding, provides the necessary basis for the board to make
24 the requisite findings as required by the commission. Earlier in this
25 proceeding the staff responded to the boards detailed written questions on

1 safety topics. In its presentation for this hearing the staff will focus on
2 specific areas of its review as identified by the board and the staff looks
3 forward to responding to the boards questions in these areas. The staff is
4 confident that the presentations will highlight that the staffs review
5 sufficiently addressed all commission applicable regulations. Thank you.

6 CHAIRMAN BOLLWERK: Thank you. Mr. Curtiss or --?

7 JIM CURTISS: Thank you, your Honor. I'll be very brief and begin
8 by agreeing with the comments of Ms. Lemoncelli, in so far as the standard for
9 review and the robustness of the staff's review. I think from the applicants
10 perspective following the submission of the application in December, 2008, I
11 think we can say through the interaction that we've had with the staff, the REI
12 process, the detailed discussions that we've had at least from our perspective
13 we consider this to be a very robust review. And I trust that the board, as it
14 examines the responses that we have submitted and hears the presentations today
15 and the opportunity to ask questions and have those questions addressed, it is
16 my hope that the board will likewise conclude that it was a very robust review.

17 Finally I want to say, I think on behalf of the applicant we'd
18 express our appreciation of the board for the very rigorous review that you have
19 undertaken. The questions have all been focused. They have, I think framed the
20 issues that we thought it was important to answer and hopefully our answers have
21 been responsive to the areas identified by the board and together with today's
22 presentations we'll address any remaining concerns that you have. The final
23 comment I would make is I think we appreciate the timeliness of the board's
24 involvement in this proceeding. This is, after all, an application undertaking
25 commercial like enterprise and that's exactly what the applicant intends to do

1 upon issuance of the carry, so we appreciate both the robust review and the
2 timely advice and questions and orders that the board has issued. We thank you
3 for that.

4 CHAIRMAN BOLLWERK: OK. I would mention that Judge Carlisle
5 (spelled phonetically) actually started this case of and got it going I think
6 rather robustly moving it forward I've tried to keep -- he had to other matters
7 that he needed to be -- that caused some scheduling conflicts and I was put on
8 the case but I'm hoping we're going to carry it forward the way he started it
9 off. That's my intent certainly I think it's the board's intent so...

10 All right. At this point I think we are ready to take care of a
11 couple of administrative items. Let me raise the question of the possibility of
12 getting into non-public information. I know that was a concern I heard that the
13 parties had. Something the board has actually talked about as well. While most
14 of the evidentiary -- well, I think all the evidentiary information up to this
15 point relative to the presentations that we are going to be hearing today and
16 tomorrow I think, deal with -- are public information. Obviously there's a
17 possibility from time to time that a question might be raised might get into
18 something that may go into the non-public area.

19 From our perspective I think the board, to agree we have a feeling
20 that we might going that or we're going to try to identify that as part of our
21 question but in the end we sort of have to rely on you all and the witnesses to
22 tell us that were getting into an area that we may need to close the hearing.
23 Our preference at this point and I'll listen to comments that you all might have
24 as well would be to go ahead and have any closed sessions at the end of the day
25 or whatever presentation we do that day. So basically what we'd do. If we

1 could do two presentations today as an example if any non-public information
2 questions came up about those at the end of the day we'd simply recess the
3 public hearing, do what we needed to do to make sure everyone in the room is
4 appropriately there and then have a separated session to deal with those
5 particular questions. But I'll listen to any suggestions that you all might
6 have. Ms. Lemoncelli or Mr. Curtiss?

7 MAURI LEMONCELLI: Thank you, Your Honor. No comments. The staff
8 agrees with that approach.

9 CHAIRMAN BOLLWERK: Good.

10 JIM CURTISS: And we only have in our presentations, Your Honor, the
11 two that we have the lead on only one exhibit that is non-public and we don't
12 intend to refer to it in the presentation itself so the extent to which it would
13 need to be referred to, it's Exhibit Number 40, --

14 CHAIRMAN BOLLWERK: -- All right.

15 JIM CURTISS: would depend upon the questions asked by the panel.
16 We'll defer to that process; we think it's an appropriate way to handle that.

17 CHAIRMAN BOLLWERK: The important part here from our perspective, if
18 you think we're getting into an area, do something raise your hand, stop us
19 because we don't want for lack of a better term pollute the public record with
20 non-public information because that causes the information technology folks all
21 kinds of headaches in terms of wiping drives and doing all kinds of things they
22 really don't want to do. So it would be better, if a witness isn't sure, for
23 instance, to take a second pause maybe we'll even go (unintelligible) and have a
24 recess to talk with counsel about it. We do want to get the information, I
25 should make that clear. But if we need to get it in a non-public forum and then

1 frankly, moving after that we would hope we could go back and look at the
2 transcript from that and if we need, if we can we'll redact it and put some
3 information out publicly depending on what's in the transcript and what needs to
4 be maintained in non-public so --

5 Then again I should mention there will be a process when we need to
6 clear the room that we make sure that everybody that's here, is in the room, is
7 someone that has a need to know to be there. That's the basic standard. And
8 again hopefully we will not, even in the non-public session, have to get into
9 any safeguards or classified information. I don't think we're headed there, but
10 if we are let us know because that means even the DDMS needs to be turned off so
11 --

12 Okay. The second thing I think I wanted to mention briefly was the
13 presentation order. At this point I think we are fairly well satisfied with the
14 one, two, three, four, that I read before, will work. Having said that I know
15 there's also some weather concerns potentially tomorrow afternoon. And the one
16 thing we may want to see as we get to the end of today is where we're at, what
17 time it is. One thing we thought was possible, it might be possible for
18 instance to do presentation four before we do presentation three. I think
19 there's a certain logic to doing it last but if we needed to we could move it up
20 if we had time and that way we may be able to get done tomorrow a little
21 earlier. But let's see where we're at. Also, frankly, at noon time I'll go and
22 check the weather and see where we're at. Cause it looks like this is one of
23 these storms where they're not sure what is going to happen when, although at
24 this point again it seems to be later in the evening that they're concerned
25 about. So, reports say it's not overnight into tomorrow morning which would be

1 a bigger issue. All right? Any questions then about the presentation order
2 then for anybody? All right?

3 I guess that also talks -- we have a protocol I think you are aware
4 of. If we have any weather delays there's a number that we have given you all
5 that you can call. And we can change that announcement rather readily on that
6 if we had to delay the proceeding in the morning. One thing we should also talk
7 about toward the end of the day is when we want to start tomorrow. Depending on
8 how much we get today -- done today, a 10 a.m. start I think more -- it's better
9 for the folks out in Idaho, it's eight o'clock there for folks watching on the
10 Web-stream. I'd hate to have them have to get up at seven or six to see what's
11 going on but there's a possibility if weather became an issue that we can start
12 the proceeding tomorrow a little earlier. But let's talk about that later this
13 afternoon when we have a better idea of where we're at. All right? At this
14 point, let me turn -- do any of the two board members have anything they want to
15 say to this point?

16 DR. KAYE LATHROP: No, sir.

17 CHAIRMAN BOLLWERK: Ok, everybody's happy. All right. Now we have
18 something which may take a little time and is not necessarily pleasant for those
19 of you in the audience but it is a very important part of what is the
20 administrative process. For we're going to (unintelligible) some evidentiary
21 material. That relates to the questions that were asked by the board and
22 responded to in writing. Now we're going to go ahead and put those into the
23 administrative record. That's going to take us several minutes. Particularly
24 for those of you who might be watching on the Web-stream it's probably not a bad
25 idea at this point if you want to go get a cup of coffee or take a break cause

1 it's going to take us 15 or 20 minutes to move this evidentiary material into
2 the record. At that point then we'll probably take our first morning break and
3 then we'll move on to the first presentation. If we could the way I would like
4 to do this and I tend to be sort of the old school on this, I would appreciate
5 it if we could go through and give a brief description of each witness -- I'm
6 sorry of each exhibit and its number so that we have a one to one relationship
7 on the record. And then we'll go ahead and have them all identified and then
8 we'll have them all admitted into evidence. Why don't we go ahead and start
9 with the staff first and then we'll turn to AES. And again, just a brief
10 description. The number and a brief description of the exhibit and these will
11 be marked and used for identification. I'll let you go ahead. I don't know
12 who's got, who has this unfortunate task.

13 MAURI LEMONCELLI: Ms. Simon will take the first step Your Honor.

14 MARCIA SIMON: Your Honor, may I just ask, with respect to the
15 exhibit number would you like the full nine digit number for each exhibit?

16 CHAIRMAN BOLLWERK: Let's go ahead and for this purpose yes. When
17 we refer to them later, no. Once we get them all into evidence then we just
18 call them NRC-1. But for this purpose, I hate to do that to you, cause I'm
19 going to have the same problem you are getting all those zeros in the middle but
20 I'd appreciate it if you could do that, yes. Thank you.

21 MARCIA SIMON: Okay. The staff would like to identify the following
22 exhibits:

23 NRC000001, NRC staff responses to the licensing board's initial publicly
24 available questions, dated November 19, 2010.

25 NRC000002, Affidavit of Greg Chapman (spelled phonetically) dated November

1 16, 2010

2 NRC000003, Affidavit of Ira Dimitz (spelled phonetically) dated November

3 10, 2010

4 NRC000004, Affidavit of Keith Everly (spelled phonetically) dated November

5 16, 2010

6 NRC000005, Affidavit of Roman Prisigodski (spelled phonetically) dated

7 November 15, 2010

8 NRC000006, Affidavit of Breeda Reilly (spelled phonetically) dated

9 November 16, 2010

10 NRC000007, Affidavit of John Stomatatos (spelled phonetically) dated

11 November 10, 2010

12 NRC000008, Affidavit of Cynthia Taylor (spelled phonetically) dated

13 November 18, 2010

14 NRC000009, Affidavit of Christopher Tripp (spelled phonetically) dated

15 November 15, 2010

16 NRC000010, Affidavit of Rex Wescott (spelled phonetically) dated November

17 10, 2010

18 NRC000011, Statement of professional qualifications for Greg Chapman

19 NRC000012, Statement of professional qualifications for Ira Dimitz

20 NRC000013, Statement of professional qualifications for Keith Everly

21 NRC000014, Statement of professional qualifications for Roman Prisigodski

22 NRC000015, Statement of professional qualifications for Breeda Reilly

23 NRC000016, Statement of professional qualifications for John Stomatatos

24 NRC000017, Statement of professional qualifications for Cynthia Taylor

25 NRC000018, Statement of professional qualifications for Christopher Tripp

1 NRC000019, Statement of professional qualifications for Rex Wescott

2 NRC000020, NRC staff responses to the boards to the non-publicly
3 available questions dated November 19, 2010

4 NRC000021, Affidavit of Michael Morris (spelled phonetically) dated
5 November 15, 2010

6 NRC000022, Statement of professional qualifications for Michael Morris

7 NRC000023, NRC staff responses to the board's supplemental publicly
8 available questions dated December 13, 2010

9 NRC000024, Affidavit of Keith Everly dated December 8, 2010

10 NRC000025, Affidavit of Thomas Fan (spelled phonetically) dated December
11 7, 2010

12 NRC000026, Statement of professional qualifications for Thomas Fan

13 NRC000027, NRC staff response to the board's additional questions of
14 financial assurance dated January 14, 2011

15 NRC000028, Affidavit of Kenneth Klein (spelled phonetically) dated January
16 4, 2011

17 NRC000029, Affidavit of Roman Prisigodski dated December 29, 2010

18 NRC000030, Statement of professional qualifications for Kenneth Klein

19 And I'm going to turn it over to Ms. Boote, who will continue.

20 CHAIRMAN BOLLWERK: All right.

21 CHRISTINE JOCHIM BOOTE: OK.

22 NRC000031, Standard review plan for the review of the licensee application
23 for fuel cycle, NUREG 1520

24 NRC000032, Safety evaluation report for the Eagle Rock facility, NUREG

25 1951

1 NUREG 000033, Safety evaluation report for Eagle Rock facility --
2 CHAIRMAN BOLLWERK: -- That was NRC, right? As opposed to NUREG?
3 CHRISTINE JOCHIM BOOTE: Sorry. NRC000033 --
4 CHAIRMAN BOLLWERK: --There you go.
5 CHRISTINE JOCHIM BOOTE: Safety evaluation report for Eagle Rock
6 facility, NUREG 1951 Appendix A
7 NRC000034, National Enrichment Facility Safety Analysis Report, revision
8 seven, dated June 2005
9 NRC000035, Eagle Rock Enrichment Facility Integrated Safety Analysis
10 Summary, Chapter C.7
11 NRC000036, Eagle Rock Enrichment Facility Integrated Safety Analysis,
12 Chapter 3.8
13 NRC000037, Follow up response to quality assurance requirements for fire
14 protection items relied on for safety
15 NRC000038, Request for expedited approval of quality assurance program
16 dated October 30, 2009
17 NRC000039, AREVA quality assurance program description for the Eagle Rock
18 Enrichment Facility, letter and enclosure
19 NRC000040, Request for exemption from 10CFR 21.3 dated January 29, 2010
20 NRC000041, Approval of AREVA Enrichment Services part 21 exemption request
21 dated July 28, 2010
22 NRC000042, Revised quality assurance description dated September 10, 2010
23 NRC000043, Response request for additional information dated September 28,
24 2009
25 NRC000044, Response for request for additional information dated, no date.

1 Sorry. Enclosure 3

2 NRC000045, Letter reminding quality assurance requirements for fire
3 protection items relied on for safety dated March 25, 2010

4 NRC000046, Eagle Rock Enrichment Facility Integrated Safety Analysis,
5 Appendix A

6 NRC000047, FCSS Interim Staff Guidance dated June, 2005

7 NRC000048, Confirmatory calculations for fire protection review of
8 National Enrichment Facility Safety Analysis dated March 22, 2005

9 NRC000049, "Physics Based Approach to Modeling Grassland Fires,"
10 International Journal of Wildland Fire dated 2007

11 NRC000050, ANSNM 14.1-2001 American national standard for nuclear
12 materials packaging for transport of uranium hexafluoride dated April 3, 2002

13 I'll pass over to Miss Lemoncelli at this point.

14 CHAIRMAN BOLLWERK: All right. Everybody gets to share the pain
15 here I take it.

16 MAURI LEMONCELLI: That's right, your Honor.

17 NRC000051, Nuclear Fuel Cycle Facility Accident Analysis Handbook dated
18 March 1998

19 NRC000052, NRC information notice 1997-20 identification of certain
20 uranium hexafluoride cylinders that do not comply with NC ANSI standard N14.1
21 fabrication standard, dated April 17, 1997

22 NRC000053, NRC information notice, dated October 31, 2002

23 NRC000054, Safety evaluation report for the American Centrifuge Plant in
24 Piketon, Ohio, NUREG 1851, dated September, 2006

25 NRC000055, Safety Evaluation -- excuse me, Safety evaluation report for

1 National Enrichment Facility in Lea County, New Mexico, NUREG 1827, June, 2005
2 NRC000056, United States Enrichment Corporation the UF6 manual USEC-U51,
3 excerpts only
4 NRC000057, ANSI/ANS-8.1 1998 Nuclear Criticality, Safety and Operation
5 with Fissionable Material Outside Reactors, dated September 9, 1998
6 NRC000058, USEC Safety Evaluation Report, Appendix A, Integrated Safety
7 Analysis and ISA Summary
8 NRC000059, American Nuclear Insurance letter to AREVA Enterprises
9 regarding Eagle Rock Enrichment Facility dated September 22, 2008
10 NRC000060, License for the Louisiana Enrichment Services National
11 Enrichment Facility dated -- excuse me, dated June 23, 2006
12 NRC000061, License for the Louisiana Enrichment Services National
13 Enrichment Facility dated March 14, 2008
14 NRC000062, Safety Evaluation Report Louisiana Energy Service request to
15 amend license related to possession of by product material dated March 14, 2008
16 NRC000063, Consolidated NMSS Decommissioning Guidance, Financial
17 Assurance, Record Keeping and Timeliness, NUREG 1757 Volume Three, excerpts
18 NRC000064, AES proposal for authorization to make changes to license
19 commitments dated August 20, 2010
20 NRC000065, Redacted draft safety evaluation report for the application to
21 possess and use radioactive material at the Mixed Oxide Fuel Fabrication
22 Facility dated July, 2010
23 NRC000066, Safety evaluation report for the renewal of SNM-1107 Columbia
24 Fuel Fabrication Facility in Columbia, South Carolina section 14.1.1 August 2007
25 NRC000067, Eagle Rock Enrichment Facility ISA Summary Revision 2, Appendix

1 D

2 NRC000068, Cum et al. an overview of the basaltic volcanism of the eastern
3 Snake River Plain Idaho Chapter 12 Geological Society of America dated 1992

4 NRC000069, Procedures and criteria for assessing seismic soil liquefaction
5 at nuclear power plant sites regulatory guide 1.198 dated November, 2003

6 NRC000070, Standard Review Plan for the review of a license application
7 for a fuel cycle facility, NUREG 1520 rev. one, revision one that is, May, 2010

8 NRC000071, Overview of changes to NUREG 1520, Standard Review Plan for the
9 review of a license application

10 NRC000072, NRC memorandum, United States Enrichment Corporation license
11 detail regarding the level of information needed for 10CFR Part 70 licensing
12 date August 4, 2006

13 NRC000073, NUREG 800, revision 2 Chapter 18 Human Factors Engineering
14 dated March, 2007

15 NRC000074, NUREG 0711, revision 2 Human Factors Engineering Program review
16 model dated February, 2004

17 NRC000075, NUREG 0700, revision 2 Human System Interface Design review
18 guidelines May 2002

19 NRC000076, NUREG 1718, Standard Review Plan for the review of an
20 application for a Mix Oxide, or MOX, Fuel Fabrication Facility, Chapter 12 dated
21 August, 2000

22 NRC000077, NUREG 1748, Environmental Review Guidance for licensing action
23 associated with NMSS Programs Chapters four and five dated July, 2003

24 NRC000078, NFPA801 Standard for Fire Protection for facilities handling
25 radioactive material, 2008 edition

1 NRC000079, Safety Evaluation Report for the Eagle Rock Enrichment Facility
2 in Bonneville County, Idaho, NUREG 1951, Appendix D

3 NRC000080, Safety Evaluation Report for the Eagle Rock Enrichment Facility
4 in Bonneville County, Idaho, NUREG 1951, Appendix E

5 NRC000081, Safety Evaluation Report for the Eagle Rock Enrichment
6 Facility, Appendix H

7 NRC000082, Approval of AREVA Enrichment Services, LLC. exemption request
8 related to requirements governing commencement of construction dated March 17,
9 2010

10 NRC000083, Request from exemption from 10CFR 70.4, 10CFR 20.23A7, 10CFR
11 30.4, 10CFR 33. -- excuse me, 10CFR 30.33A5 et. al. requirements governing
12 commencement for construction dated June 17, 2009

13 NRC000084, Approval of AREVA Enrichment Services for part 21 exemption
14 request dated July 28, 2010

15 NRC000085, Request for exemption from 10CFR 21.3 definitions for
16 commercial grade item, basic component, critical characteristic dedication and
17 dedicating entity dated January 29, 2010

18 NRC000086, NRC regulatory issue summary, or RIS, 2005-31, entitled
19 "Control of Security-Related Sensitive Unclassified Non-Safeguards Information
20 Handled by Individuals, Firms and Entities Subject to NRC Regulation of
21 the Use of Source, Byproduct, and Special Nuclear Material" Including
22 attachments two and three, dated December 22, 2005

23 NRC000087, NUREG 1513, Integrated Safety Analysis Guidance Document dated
24 May, 2001

25 NRC000 -- excuse me, NRC000088, Eagle Rock Enrichment Facility Emergency

1 Plan revision one section 3.7

2 NRC000089, NUREG 0654/FEMA REP one revision one, "Criteria for Preparation
3 and Evaluation of Radiological Emergency Response Plan and Preparedness in
4 Purport of Nuclear Power Plants"

5 MARCIA SIMON: NRC000090, NRC inspection manual, inspection
6 procedure 88051, evaluation of exercises and drills dated July 28, 2006

7 NRC000091, NUREG 1140, a regulatory analysis on the emergency preparedness
8 for fuel cycle and other radioactive material licenses, page 11

9 NRC000092, Regulatory guide 1.183, Alternative Radiological Source Terms
10 for Evaluating Design Basis Accidents at Nuclear Power Reactors, page 16

11 NRC000093, Eagle Rock Enrichment Facility ISA Summary revision one Section
12 2.2.2 page E2

13 NRC000094, 2000 Census data SEC POP 2000 output

14 NRC000095, Eagle Rock Enrichment Facility environmental report revision
15 one, page 4.12-8

16 NRC000096, NUREG 1757, "Consolidated NMSS Decommissioning Guidance,
17 Financial Assurance, Record Keeping and Timeliness" volume three, excerpts

18 NRC000097, Salt Lake City, Utah National Compensation Survey May, 2009,
19 U.S. Bureau of Labor Statistics October 2009

20 NRC000098, Salt Lake City, Utah National Compensation Survey May, 2010,
21 U.S. Bureau of Labor Statistics October 2010

22 NRC000099, Billings, Montana National Compensation Survey August, 2009,
23 U.S. Bureau of Labor Statistics January 2010

24 NRC000100, Salt Lake City, Utah National Compensation Survey August, 2010,
25 U.S. Bureau of Labor Statistics December 2010

1 CHAIRMAN BOLLWERK: All right. Thank you for your efforts. So,
2 basically we're talking about the identification of NRC's exhibits NRC000001
3 through NRC000100. That's correct?

4 MAURI LEMONCELLI: That's correct, Your Honor.

5 CHAIRMAN BOLLWERK: All right. Consecutively. All right. The
6 record should then reflect that NRC -- that exhibits NRC000001 through NRC000100
7 that's identified by counsel are marked by identification in the record.

8 (Whereupon, the documents referred to were marked as Exhibits NRC000001-MA-BD01
9 through NRC000100-MA-BD01 for identification.)

10 MAURI LEMONCELLI: Your Honor, at this time the NRC staff requests
11 that these documents be admitted into the record into evidence.

12 CHAIRMAN BOLLWERK: All right. Any objection? All right, there
13 being no objection then the record should reflect that NRC000001 through exhibit
14 NRC000100 are admitted into evidence.

15 (The documents referred to having been previously marked for identification as
16 Exhibits NRC000001-MA-BD01 through NRC000100-MA-BD01 were received in evidence.)

17 And hopefully we get all the zeros in there in the right place, but
18 we'll fix that if we didn't, if it's not, all right? Let me just turn to Mr.
19 Welke (spelled phonetically) one second. The ones that were identified on the
20 information they gave us as non-public those jive with what you have in the
21 terms of what is in the DDMS.

22 MR. WELKE: Yes.

23 CHAIRMAN BOLLWERK: Ok. We just want to make sure we don't send
24 anything up to (unintelligible) and then a non-public document becomes public.

1 That would be a bad thing. So...

2 All right, well unfortunately it's your turn.

3 (laughter)

4 JIM CURTISS: We're much less democratic. --

5 CHAIRMAN BOLLWERK: -- Right. Ok.

6 JIM CURTISS: But --

7 CHAIRMAN BOLLWERK: You also have half the exhibits too.

8 JIM CURTISS: He drew the short straw so he'll do the entirety of
9 our brief for exhibits.

10 TYSON SMITH: At this point I'm going to identify the AREVA exhibits
11 associated with the written responses to the board's questions. First we have:

12 AES000001, the AES response to the publicly available questions dated
13 December 19, 2010

14 AES000002, Affidavit of William Hackett (spelled phonetically) dated
15 November 19, 2010

16 AES000003, Affidavit of George Harper (spelled phonetically) dated
17 November 19, 2010

18 AES000004, Affidavit of James Kaye (spelled phonetically) dated November
19 19, 2010

20 AES000005, Affidavit of Sam Shacker (spelled phonetically) dated November
21 19, 2010

22 AES000006, Affidavit of Mark Strung (spelled phonetically) dated November
23 19, 2010

24 AES000007, Affidavit of Barry Tilden (spelled phonetically) dated November
25 19, 2010

1 AES000008, Affidavit of Scott Tyler (spelled phonetically) dated November
2 19, 2010

3 AES000009, Affidavit of Eric Wiener (spelled phonetically) dated November
4 19, 2010

5 AES000010, Statement of professional qualifications for William Hackett
6 AES000011, Professional qualifications for George Harper
7 AES000012, Professional qualifications for James Kaye
8 AES000013, Professional qualifications for Sam Shacker
9 AES000014, Professional qualifications for Mark Strung
10 AES000015, Professional qualifications for Barry Tilden
11 AES000016, Professional qualifications for Scott Tyler
12 AES000017, Professional qualifications for Eric Wiener
13 AES000018, AES response to non-publicly available questions dated November
14 19, 2010

15 AES000019, Affidavit of Christopher Andrews (spelled phonetically) dated
16 November 19, 2010

17 AES000020, Affidavit of Scott McCain (spelled phonetically) dated November
18 19, 2010

19 AES000021, Affidavit of Scott Tyler dated November 19, 2010
20 AES000022, Professional qualifications for Christopher Andrews
21 AES000023, Professional qualifications for Scott McCain
22 AES000024, AES response to ASLB supplemental publicly available questions
23 dated November -- I'm sorry, dated December 13, 2010

24 AES000025, Affidavit of Christopher Andrews dated December 13, 2010
25 AES000026, Affidavit of George Harper dated December 13, 2010

1 AES000027, Affidavit of James Kaye dated December 13, 2010

2 AES000028, Affidavit of Barry Tilden dated December 13, 2010

3 AES000029, AES response to ASLB supplemental non-publicly available
4 questions dated December 13, 2010

5 AES000030, Affidavit of Christopher Andrews dated December 13, 2010

6 AESR20031, AES response to ASLB second supplemental publicly available
7 questions dated January 14, 2011

8 AES000033, Affidavit of Jean Luke Palliet (spelled phonetically) dated
9 January 14, 2011

10 AES000034, Affidavit of Don Le Francois (spelled phonetically) dated
11 January 14, 2011

12 AES000035, Professional qualifications for Jean Luke Palliet dated January
13 14, 2011

14 AES000036, Professional qualifications for Don Le Francois dated January
15 14, 2011

16 AES000037, Eagle Rock Enrichment Facility safety analysis report revision
17 two

18 AESR0038, Eagle Rock Enrichment Facility Emergency Plan rev. two Section
19 7.2

20 AES000039, Fundamental Nuclear Material Control Plan rev. two

21 AES000040, Integrated Safety Analysis Summary rev. two Chapter 3

22 AES000041, ASTM E 108 Standard Test Methods for Fire Test of Roof Coverings

23 AES000042, ASTM Standard C 787-06 Standard Specification for Uranium
24 Hexafluoride for Enrichment

25 AES000043, ASTM C996 Standard Specification for Uranium Hexafluoride

1 Enriched to Less than Five Percent

2 AES000044, ANSI M 14.1 Uranium Hexafluoride packaging for transport,

3 excerpts

4 AES000045, USEC-651 Uranium Hexafluoride a Manual of Good Handling

5 Practices, excerpts

6 AES000046, Blong, RJ "Volcanic Hazards," a source book on the effects of

7 eruptions

8 AES000047, Champion et. al. Accumulation and subsidence of late

9 Pleistocene basaltic lava flows of the eastern Snake River Plane

10 AES000048, Geslin et. al. Pliocene and quaternary stratigraphic

11 architecture in drainage systems of the Big Lost Trough, Northeastern Snake

12 River Plain, Idaho

13 AES000049, Hackett et. al. 2002, Volcanic Hazards of the Idaho National

14 Engineering and Environmental Laboratory

15 AES000050, Kuntz et. al. 1994, Geologic Map of the Idaho National

16 Engineering Lab

17 AES000051, Link and Mink 2002, Geology, Hydrogeology and Environmental

18 Remediation

19 AES000052, AES Procedure QA-02-03-001 Lead Auditor Training and

20 Certification

21 AES000053, AES Procedure QA-16-03-001 Corrective Action

22 AES000054, AES Procedure QA-16-03-002 Stop Work

23 AES000055, INPO 01-002 Guidelines for the conduct of operations and

24 nuclear power stations

25 AES000056, RIS 2005-31 Control of Security Related Sensitive Unclassified

1 Non-safeguard Information

2 AES000057, Inspection Procedure 82302 A review of exercise objectives and
3 scenarios for power reactors

4 AES000058, NUREG 0654 FEMA rep-one supplement one Criteria for Utility
5 Offsite Planning and Preparedness

6 AES000059, NUREG 1140, The Regulatory Analysis on Emergency Preparedness
7 for Fuel Cycle and other Radioactive Material Licensees

8 AES000060, Affidavit of Scott Tyler dated December 13, 2010

9 CHAIRMAN BOLLWERK: All right, so basically we had exhibits
10 AES000001 through 60 with a couple of "R's" in there. Let me ask a couple of
11 questions. With respect to exhibit number 38, which is -- you identified as
12 AESR00038, do we--is that the number that we have in the system?

13 MR. WELKE: No, I do not have an r.

14 CHAIRMAN BOLLWERK: I don't have an r either, that was why I was
15 wondering on the --

16 TYSON SMITH: -- it should be AES0 without the r.

17 CHAIRMAN BOLLWERK: No "R" okay.

18 TYSON SMITH: Yes. AES000038.

19 CHAIRMAN BOLLWERK: Okay. So no "R"? All right, then one other
20 question. The (unintelligible) had showed up coming through the agency's
21 document processing system as a non-public document, and I don't think you had
22 that indicated on the list that you gave us but we just want to make sure that
23 it is in fact non-public.

24 TYSON SMITH: Correct. That is a non-public document--

25 CHAIRMAN BOLLWERK: --Non-public document. Ok just wanted to make

1 sure.

2 TYSON SMITH: We did not end up resubmitting it. We were informed
3 that we didn't need to do that. That's why the "R" came--

4 CHAIRMAN BOLLWERK: -- Ok.

5 TYSON SMITH: I want to point out there was a exhibit in there that
6 we did not -- that we had filed as a pre-file exhibit but we did not --

7 CHAIRMAN BOLLWERK: Number 32. You're correct. I should have said
8 that.

9 MALE SPEAKER: Your Honor, number 38 is non-public.

10 CHAIRMAN BOLLWERK: Is non-public.

11 TYSON SMITH: That's correct.

12 CHAIRMAN BOLLWERK: That's how it showed in our system we just
13 wanted to make sure we were all on the same page.

14 TYSON SMITH: That's correct.

15 CHAIRMAN BOLLWERK: All right, so, then the record then should
16 reflect, give me one second here, that exhibits AES000001 through exhibit
17 AES000030, exhibit AESR20031 and exhibits AES000033 through exhibit AES000060
18 are marked for identification as described by counsel.

19 (Whereupon, the documents referred to were marked as Exhibits AES000001-MA-BD01
20 through exhibit AES000030-MA-BD01, exhibit AESR20031-MA-BD01 and exhibits
21 AES000033-MA-BD01 through exhibit AES000060 for identification).

22 All right.

23 TYSON SMITH: We now request that we admit these exhibits into
24 evidence.

25 CHAIRMAN BOLLWERK: All right. Any objections? There being no

1 objections then exhibits, once again, AES000001 through AES000030, exhibit
2 AESR20031, exhibits AES000033 through AES000060 are admitted into evidence.
3 (The documents referred to having been previously marked for identification as
4 Exhibit AES000001-MA-BD01 through AES000030-MA-BD01, exhibit AESR20031-MA-BD01,
5 exhibits AES000033-MA-BD01 through AES000060-MA-BD01 were received in evidence.)

6 All right, I appreciate your patience. The patience of the members
7 of the public and the audience. I should explain, I apologize I should have
8 said -- indicated before, these evidentiary materials were submitted previously
9 to the board. They were part of the answers that the parties provided to, I
10 mentioned, the three dozen -- to the approximately three dozen questions that we
11 asked. It constitutes a large body of evidentiary material that the board will
12 be using as it makes a decision based on the answers that we got to those
13 questions. Which dealt with a number of subjects, volcanism, I'm trying to
14 think of the number of subjects that we dealt with. Just a wide variety of
15 things that we raised with the parties previously.

16 The topics of the presentations that we are going to be hearing
17 today are actually a subset of what we already interacted with the parties
18 about. Things that we still had additional questions on or we thought that
19 clarification for the public record would be useful in the context of the
20 mandatory hearing. So that's what we are going to be doing over the next two
21 days, hearing information about those particular subjects that I mentioned
22 previously. Having said that, anyone that's interested there is a large body of
23 evidentiary material out there that anyone wants to look through, that we've
24 already received into evidence and will be part of the record for decision that
25 we'll be rendering in regard to the mandatory hearing. So, that's why we were

1 doing all that. So it's now before the board as a matter of formal evidence and
2 we can consider it and use it as part of our decision material. Anything the
3 parties have at this point about the evidentiary material we dealt with?

4 MAURI LEMONCELLI: Not at this time your honor.

5 CHAIRMAN BOLLWERK: Okay. All right. Very good. Anything from
6 AES? All right. All right. We've been at it about an hour. Why don't we go
7 ahead and take a brief break. I think Mr. Welke would like to make sure
8 everything is OK in terms of what he has to do with quick processing all this
9 information. So why don't we take about a 10 minute break at this point. I
10 should mention we are doing our best to try to get the temperature lowered in
11 here. It got a little hot. We always want to have the lights on, and that's
12 one of the things about it, we have -- bulbs are always going out. We now have
13 all the bulbs operating but they get warm. So now we're trying to lower the
14 temperature so it'll be a little more comfortable. But hopefully that will help
15 us out when we come back in about 10 minutes after our break. Thank you very
16 much.

17 (Whereupon, a short recess was taken)

18 CHAIRMAN BOLLWERK: All right if we could come to order please.
19 And if we can go back on the record. All right, I think we're ready at this
20 point to begin our first presentation which is on site specific process related
21 hazards. And for this presentation the lead party was AREVA Enrichment
22 Services. They have three presenters who I see are seated at the table there.
23 And also I had understood there were going to be three NRC staff witnesses
24 available.

25 MAURI LEMONCELLI: That's correct, your honor. At this time would

1 you like the NRC staff?

2 CHAIRMAN BOLLWERK: Yes, if they would come up, please, and I'll
3 explain what we're going to do then, that would be great. Thank you.

4 MAURI LEMONCELLI: Miss Reilly, Mr. Everly, and Mr. Wescott,
5 please.

6 CHAIRMAN BOLLWERK: All right.

7 MAURI LEMONCELLI: Thank you, your honor.

8 CHAIRMAN BOLLWERK: And I don't see any evidentiary materials
9 dealing with this presentation, just want to check and make sure we're all on
10 the same page, that correct? All right. All these folks have already had
11 their curriculum vitae put in the record on another -- of what we just did, so
12 we're good with that. So all we need to do is then to swear everybody in. And
13 maybe we -- you want to go ahead and introduce your witnesses first? I'm
14 sorry.

15 JIM CURTISS: Yes, and we do have the presentation itself that we
16 will (unintelligible) --

17 (talking simultaneously)

18 CHAIRMAN BOLLWERK: Oh, the -- you're, yeah, exactly right, yes, I
19 -- yes, yep.

20 JIM CURTISS: -- one exhibit here. All the other exhibits on which
21 this panel will rely have been introduced as exhibits.

22 CHAIRMAN BOLLWERK: OK.

23 JIM CURTISS: So if I could just turn to the AES panel, which is
24 here at the table to the left of me, and ask them each respectively to identify
25 themselves and their title.

1 SCOTT TYLER: Scott Tyler, Advisory Engineer for AREVA.

2 GEORGE HARPER: I'm George Harper, Vice President of Engineering
3 and Licensing for AREVA Enrichment Services.

4 CHRIS ANDREWS: Chris Andrews, Design Safety and Licensing Manager
5 for Enrichment Technology, U.K.

6 CHAIRMAN BOLLWERK: All right. Let's go ahead then, and let me
7 swear them in, and then we'll get the evidentiary material in, and then we'll
8 turn to the staff witnesses, all right? Gentlemen, if you could, if you could
9 -- all three of you raise your right hand, please? And I would need a verbal
10 response from each of you to this question, and we'll just start at this end
11 and just go down the line, do you swear or affirm that the testimony you will
12 give in this proceeding is the truth, the whole truth, and nothing but the
13 truth?

14 WHERUPON,

15 SCOTT TYLER

16 GEORGE HARPER

17 CHRIS ANDREWS

18 was called as a witness for AES and, having been first duly sworn,
19 assumed the witness stand, was examined and testified as follows:

20 SCOTT TYLER: I do.

21 GEORGE HARPER: I do.

22 CHRIS ANDREWS: I do.

23 CHAIRMAN BOLLWERK: Thank you, gentlemen. All right. Do you want
24 to go ahead and do the exhibit?

25 JIM CURTISS: Yes, sir. I would ask the witnesses if they have a

1 copy of AES 61 on the screen in front of them?

2 MALE SPEAKER: No.

3 JIM CURTISS: It's coming up here I believe shortly.

4 SCOTT TYLER: Yes.

5 GEORGE HARPER: Yes.

6 CHRIS ANDREWS: Yes.

7 JIM CURTISS: You have that on the screen before you?

8 SCOTT TYLER: Yes.

9 GEORGE HARPER: Yes.

10 CHRIS ANDREWS: Yes.

11 JIM CURTISS: Did you prepare a written presentation for filing in
12 this proceeding?

13 SCOTT TYLER: Yes.

14 GEORGE HARPER: Yes.

15 CHRIS ANDREWS: Yes.

16 JIM CURTISS: And do you recognize the document that's on the
17 monitor before you?

18 SCOTT TYLER: Yes.

19 GEORGE HARPER: Yes.

20 CHRIS ANDREWS: Yes.

21 JIM CURTISS: And is this the pre-filed presentation on topic
22 number one?

23 SCOTT TYLER: Yes.

24 GEORGE HARPER: Yes.

25 CHRIS ANDREWS: Yes.

1 JIM CURTISS: Is it your understanding that your professional
2 qualifications have previously been entered into the record?

3 SCOTT TYLER: Yes.

4 GEORGE HARPER: Yes.

5 CHRIS ANDREWS: Yes.

6 JIM CURTISS: Do you have any corrections, revisions, additions, or
7 deletions to the document before you?

8 SCOTT TYLER: No.

9 GEORGE HARPER: No.

10 CHRIS ANDREWS: No.

11 CHAIRMAN BOLLWERK: Thank you. That's good.

12 (laughter)

13 JIM CURTISS: Is your written testimony true and correct to the
14 best of your information, knowledge, and belief?

15 MALE SPEAKER: Yes.

16 JIM CURTISS: And do you adopt this presentation as your sworn
17 testimony in this proceeding?

18 SCOTT TYLER: Yes.

19 GEORGE HARPER: Yes.

20 CHRIS ANDREWS: Yes.

21 JIM CURTISS: With that, your honor, I would move that the document
22 identified AES 61 -- 000061 be entered as an exhibit in this proceeding.

23 CHAIRMAN BOLLWERK: All right. And that's the AES presentation on
24 topic one?

25 JIM CURTISS: Yes, sir.

1 CHAIRMAN BOLLWERK: Let the record reflect then that Exhibit AES
2 000061, as identified by counsel, is marked for identification.

3 (Whereupon, the document referred to was marked as Exhibit AES000061-MA-BD01
4 for identification.)

5 And any objection to its admission?

6 MAURI LEMONCELLI: No objection, your honor.

7 CHAIRMAN BOLLWERK: Then that Exhibit AES 000061 is admitted into
8 evidence.

9 (The document referred to having been previously marked for identification as
10 Exhibit AES000061-MA-BD01 were received in evidence.)

11 All right. If you will hold on one second, gentlemen, we'll just -
12 - we'll deal with the staff witnesses, and then we'll be ready. If you would,
13 Miss Lemoncelli?

14 MAURI LEMONCELLI: Your honor, the staff offers three witnesses for
15 purposes of the first presentation, and I will ask that the NRC staff witnesses
16 please introduce themselves along with your title.

17 BREEDA REILLY: I'm Breeda Reilly, and I'm the senior project
18 manager.

19 KEITH EVERLY: I'm Keith Everly. I'm a senior program manager with
20 the Office of Nuclear Security and Incident Response.

21 REX WESCOTT: I'm Rex Wescott. I'm a senior fire protection
22 engineer.

23 CHAIRMAN BOLLWERK: All right, thank you. Again, I'm going to go
24 ahead and swear the three of you in as well. You would need to raise your
25 right hand, and I need an oral statement from you in response to the question.

1 Is the testimony that you give in this proceeding the truth, the whole truth,
2 and nothing -- I'm sorry -- do you swear or affirm that the testimony you give
3 in this proceeding is the truth, the whole truth, and nothing but the truth?

4 WHERUPON,

5 REX WESCOTT

6 BREEDA REILLY

7 KEITH EVERLY

8 was called as a witness for NRC staff and, having been first duly sworn,
9 assumed the witness stand, was examined and testified as follows:

10 REX WESCOTT: Yes.

11 BREEDA REILLY: I do.

12 KEITH EVERLY: Yes.

13 CHAIRMAN BOLLWERK: All right. One, two, three, we heard
14 everybody? All right. I think we're done then in terms of the witnesses being
15 sworn in. Let me just explain then the process here very briefly, and we use
16 this for all the witness panels we're going to have today and tomorrow. We
17 have a lead party for each presentation. In this case that's the AREVA
18 Enrichment Services. And these gentlemen are going to make a presentation
19 based on the slides that they just -- we just admitted into evidence, talk to
20 us about the presentation topic. We've also brought -- and we have witnesses
21 from the NRC staff that are available to the board to ask any questions of.

22 And the only sort of ground rule that I have with respect to these
23 sorts of presentations where we have both sets of witnesses on the stand at the
24 same time is that all your responses should be addressed to the board, so
25 you're talking with us and responding to our questions. There may be some

1 dialogue back and forth to the degree that we may ask you a question, we then
2 may turn to them and ask them a question, and that may get a dialogue going,
3 but again, it's directed to us, not each other. So, again, you're testifying
4 before the board. Any questions about that or any clarification? All right.
5 At this point, unless other board members have anything they want to say at
6 this point?

7 MALE SPEAKER: No, sir.

8 CHAIRMAN BOLLWERK: All right. Then we'll return to the AREVA
9 witnesses and see what they have to say on the subject.

10 GEORGE HARPER: OK, could we start with page two, please? OK,
11 yeah, before we get started here, I just would like to explain first our areas
12 of expertise and why we have three people on the panel here. Scott Tyler,
13 sitting to my right, his area of expertise is with the ISA methodology that was
14 used by AREVA Enrichment Services, and he was also in charge of performing and
15 managing the external event fire portion for the ISA.

16 Chris Andrews, sitting to my left, is also -- has expertise in the
17 ISA methodology that was used in the development of the license application for
18 Eagle Rock, and also his expertise is in the area such as centrifuges and the
19 cascades.

20 And myself, my area of expertise for this particular topic was in
21 the area of the external event analyses for the ISA.

22 The slide here on page two here is broken into four bullets. I'm
23 not going to read each individual bullet, but essentially what we did is we
24 took the presentation question that was received by the ASLB, and we broke it
25 into four parts, and essentially these four bullets here are verbatim, the

1 presentation question that AES received from the ASLB. As we go through the
2 presentation here, each of the -- the presentation, therefore, broken into four
3 major sections will be addressed to each of the four questions, and then we
4 repeat this question for the lead-in slide for each section of the
5 presentation.

6 And just in advance I would have to say here that at some points it
7 may look like some of our presentation information is a little bit repetitive,
8 but we answered each of the four questions in their entirety without having to
9 refer back to the other questions, so just bear with us after maybe a little
10 bit of repetitiveness, but it was part of our process of going through the --
11 to address each of the four questions.

12 So I'd like to turn it over to Scott Tyler, who is going to start
13 with the presentation on the first question.

14 SCOTT TYLER: Thank you. If we could advance to slide four,
15 please?

16 CHAIRMAN BOLLWERK: Make sure you push that microphone as close as
17 you can to your mouth. It's very directional, so...

18 SCOTT TYLER: Yeah, if we could back up one. Sorry I jumped on
19 ahead. Thank you. This first section of the first slide I'm going to speak to
20 is the overview of the process hazards evaluation that was performed in
21 response to the section one of the question. Next slide, please.

22 AES used the NUREG 1520 guidance to develop two discreet sets of
23 hazards for the Eagle Rock facility. The first is process related hazards that
24 come from process components. The second is Idaho specific external events
25 that are those events that happen outside the facility and could impact the

1 facility. In development of the process related hazards, we used the HAZOP
2 methodology and applied the Enrichment Technology Corporation HAZOPS for their
3 base processes as our starting point. These were modified by Eagle Rock
4 specific ISATs that used AES HAZOP guidewords. The guidewords flow from the
5 HAZOP process. They address process deviation initiations in site specific
6 external events. We did not do an explicit comparison to European or Louisiana
7 Enrichment Services centrifuges. That was not required under 1520. This
8 process is independent of a comparison, however, and it's guided by the
9 experience of the team members. It's intended to be a standalone analysis
10 specific to the Eagle Rock facility.

11 CHAIRMAN BOLLWERK: When you mentioned guidewords, what sorts of
12 things are you talking about? Just can you give us some examples, please?

13 SCOTT TYLER: Yes, I believe that's on the next slide.

14 CHAIRMAN BOLLWERK: All right.

15 SCOTT TYLER: The -- or maybe -- yes, at the bottom of the next
16 slide, but guidewords are a term (unintelligible) from the HAZOP methodology,
17 and it's the combination of the process parameter that -- for which you would
18 apply guidance, either -- to deviate from that parameter. And they're taken in
19 combination to generate a deviation to initiate a potential sequence or
20 (unintelligible) event.

21 GEORGE HARPER: We have some specific examples of those guidewords
22 on page seven, and we'll get to those a little later.

23 SCOTT TYLER: The next section goes into some detail about the
24 methodology that was applied, and it expounds upon what I previously mentioned.
25 Again, the ISA process was described in the ISA summary in section 3.1. As I

1 noted, we did not compare process related hazards or Idaho specific events to
2 those of other sites. We used the existing ETC HAZOPs as our starting point
3 and modified them to the specific design for Eagle Rock. That was -- that's
4 where the systems are broken into individual nodes that are reflective of the
5 specific process designed for the plant.

6 JIM CURTISS: And maybe I could just ask Mr. Welke to flip over
7 then to slide six, which is the topic (unintelligible) Mr. Tyler.

8 SCOTT TYLER: Oh, yes. I'm sorry. I'm sorry. I missed that. And
9 at the bottom, the -- this is where we detail the guidewords. The HAZOPs
10 included the supplemental guidewords that were developed specific for Eagle
11 Rock. We applied each of those guidewords to each of the specific Eagle Rock
12 system nodes. And they include process deviation initiations and the Idaho
13 specific events. And in developing each of those, they're shown on slide
14 seven.

15 So some examples of process deviation would be to take a process
16 parameter such as heat, or pressure, or temperature, and then apply a guideword
17 that deviates from normal conditions, so more, or high, low, or less, and when
18 we combine those with the parameter, that gives us a specific deviation
19 initiator, more heat, less heat, high temperature, low temperature, high flow,
20 low flow, and that's applied to the process analysis on a nodal basis on a per
21 system segment. It was not done as a comparative analysis for other sites, but
22 we did have team members on the team that have conducted the analysis for other
23 facilities, so we had the benefit of team members from the centrifuge vendor
24 that have performed this work in European facilities and in other North
25 American facilities.

1 CHAIRMAN BOLLWERK: So I guess what you're saying is that while you
2 didn't do an explicit comparison, that there were folks there that had
3 knowledge that was informed by what's happened at other sites?

4 SCOTT TYLER: That's correct.

5 CHAIRMAN BOLLWERK: Is that correct? Let me turn to the staff and
6 just ask a question. I mean, obviously there's a lot of information out there
7 about LES and about other facilities. Is this the approach that's compatible
8 with what you all want to see them doing in terms of this process, this sort of
9 -- I mean, they're -- they're sort of saying it's there -- the information's
10 there, but they're not explicitly taking it into account, and if I'm
11 understanding what they're saying ...

12 BREEDA REILLY: Well, I think in terms of our regulations, we
13 provide guidance in 1520, our standard view plan, and the licensing followed
14 that guidance, which they've described the HAZOP procedure, and I think that
15 satisfies our regulatory requirements.

16 REX WESCOTT: Yeah, HAZOPs is a pretty standard procedure for this
17 type of analyses. And a number of our plants have done that. It's one of the
18 processes, Breeda said this, that's allowed other 1513 (spelled phonetically),
19 in fact, recommended under certain conditions, and we felt that when we were to
20 do that (spelled phonetically), they use that appropriately.

21 CHAIRMAN BOLLWERK: I guess I'm still -- I mean, I'm trying to
22 understand. We have all this other information about these other facilities.
23 How does this get integrated into the process then?

24 REX WESCOTT: Well, OK, the staff has that information available to
25 them, and for LES, of course, AREVA did also. And they followed a lot of what

1 was done at LES. And, of course, when the staff reviewed it, we also have
2 knowledge of what was done for other plants, and so I think we do look for some
3 consistency through there. I mean, if we see that there is an accident
4 analysis that was done for another plant that should've been done for this one
5 because of the type of equipment that's being used, we'd ask that question. So
6 the staff certainly doesn't operate in a vacuum, (unintelligible) the knowledge
7 of what other plants have done. The licensing, on the other hand, has to use
8 what's available to him or to the public, and -- but in this case we didn't see
9 any problems with the way they did their analyses.

10 DR. CRAIG WHITE: I'd like to ask Mr. Tyler, regarding the makeup
11 of the ISA team, who -- were there any participants on that team that had
12 explicit local knowledge regarding external hazards in the area of Idaho the
13 plant will be located?

14 SCOTT TYLER: That question's probably best directed to Mr. Harper,
15 who led the external events analysis.

16 CHAIRMAN BOLLWERK: Oh, OK.

17 GEORGE HARPER: What we did on external events is I was the
18 representative for external events on the ISAT, but we drew on studies, and
19 reports, and analyses that had been done -- that were done by some of our
20 consultants also to support the ISA, so in the case of volcanism we had -- Dr.
21 Hackett he came in and prepared a site specific probabilistic study, and then
22 we took that information and then brought that to the ISA team meeting.
23 Similar with seismic, and with tornadoes, and extreme precipitation, we follow
24 basically the same approach, too, so they explicitly -- some of the
25 consultants, they didn't explicitly sit on the ISA team, but my own experience,

1 you know, I -- I'm familiar with these types of analyses and so I basically was
2 able to take their information and bring that to the ISA team meeting myself.

3 DR. CRAIG WHITE And so as far as identifying potential external
4 hazards then the ISA team essentially identified potential external hazards and
5 then brought in consultants that would have experience locally with regards to
6 those hazards, is that correct?

7 GEORGE HARPER: Yeah, we started with -- you know, we looked at the
8 publicly available application for the LES project, reviewed those external
9 events, and then added some or deleted some that were not opinion specific for
10 Idaho. For instance, we added volcanism, we eliminated natural gas since there
11 were no gas lines on site, so we took it -- we had a starting point, and then
12 we modified it accordingly for the region.

13 DR. CRAIG WHITE: Thank you.

14 CHAIRMAN BOLLWERK: All right. Judge Lathrop you looked like you
15 had a question. I'm sort of -- I'm not trying to prompt you, but I don't want
16 you to get left behind here. We're at a point where you need to ask it, so...

17 DR. KAYE LATHROP: As I understand the HAZOPs process, it's an
18 attempt to use the experience of knowledgeable people to identify accident
19 initiators and then to analyze those and see which are the most likely
20 resulting in protective measures if necessary. During this process is there
21 ever a point where you try to imagine things beyond your experience that might
22 cause accidents? That is, what is it I have not thought of that might happen?

23 SCOTT TYLER: Yes, that's very much a part of the HAZOP process.
24 It's intended to bring together multiple expertise and to brainstorm, if you
25 will, around those process deviation initiators that I mentioned. So when we

1 postulate a given deviation such as high heat or more heat, we try to think of
2 all potential initiators that could cause that condition to occur. Once that's
3 been identified, then it's fully vetted through the HAZOP process to identify
4 safeguards, associated mitigations.

5 DR. KAYE LATHROP: And you did this -- you did that in this
6 analysis that you've reported on.

7 SCOTT TYLER: Yes.

8 DR. KAYE LATHROP: Yeah.

9 CHAIRMAN BOLLWERK: All right, any other questions at this point?
10 I think we were -- we kind of interrupted you. I think we were still on slide
11 seven. Have I got the right --

12 SCOTT TYLER: Yes.

13 MALE SPEAKER: Yes.

14 SCOTT TYLER: I think we had finished the content on slide seven if
15 I'm not mistaken, so if we could move to the next slide, please. Again, we
16 talked a little bit in response to questions about site specific hazards and
17 any underlying differences. Next slide, please.

18 Associated with the process related hazards, the team did not
19 identify any that were unique because of the locality in Idaho. There are
20 unique process hazards of course specific to the design of the facility, and
21 those were vetted through our validation existing HAZOPs. The centrifuges
22 (spelled phonetically) processes are sub-atmospheric or vacuum processes so
23 they're closed systems normally. They only require venting or purging at
24 certain points when there are connections or disconnections made. Those
25 operations are operational, and they are sensitive to atmospheric pressure as a

1 vacuum system. With respect to the unique events (unintelligible) identified
2 the site, Mr. Harper already really spoke to those in some detail, and they are
3 presented in our safety analysis method, those specific events that were
4 considered for the Idaho facility.

5 DR. CRAIG WHITE: I have one question that I'm curious about with
6 regards to the instrument set points. Could you give us some examples of the
7 kinds of instruments and the systems that they might either control or monitor
8 that would need to have the set points changed because of the differences in
9 atmospheric pressure between the Idaho site and, say, a site that might be at
10 sea level?

11 SCOTT TYLER: Of course at elevation we have a lesser external
12 atmospheric pressure, so the exhausting and ventilation systems would -- their
13 performance would be related to outside air temperature -- I'm sorry -- air
14 pressure. And also there are some pressure trips, specifically one inside the
15 autoclave that measures for high pressure. So it would be sensitive to
16 atmospheric pressure as components were introduced and taken out. There are
17 other pressure instruments in the plant that are not safety, but that are
18 operational, that are also sensitive to atmospheric pressure.

19 DR. KAYE LATHROP: When you say that the centrifuges are a closed
20 system, you refer to the piping connecting the centrifuges, the centrifuges
21 themselves, but not to the cascade building, is that correct?

22 SCOTT TYLER: Yes, I'm only speaking to the process system.

23 CHAIRMAN BOLLWERK: Right, so pull -- if you could push that
24 microphone a little bit -- there you go. Thank you.

25 CHRIS ANDREWS: All right.

1 DR. KAYE LATHROP: And so the cascade building is at ambient air
2 pressure, is that right?

3 CHRIS ANDREWS: Yes.

4 DR. KAYE LATHROP: And therefore the instrument and control systems
5 that measure atmospheric pressure are in the cascade building?

6 CHRIS ANDREWS: No.

7 DR. KAYE LATHROP: No. They're outside the cascade building?

8 CHRIS ANDREWS: Correct.

9 DR. KAYE LATHROP: So the electronics is at ambient pressure.

10 CHRIS ANDREWS: That's correct.

11 DR. KAYE LATHROP: Does the -- does the bullet about instrument set
12 points assert that they're -- these have no safety effects?

13 CHRIS ANDREWS: That's correct.

14 DR. KAYE LATHROP: So your analysis showed that even though the
15 pressure was lower at this site, that it really had no measurable safety
16 effects.

17 CHRIS ANDREWS: That's correct.

18 GEORGE HARPER: Yeah, the bullet with regard to the set points
19 would be no different than normal set point calculations that would be run
20 through during the detail design so that the right parameters would be set for
21 the equipment.

22 DR. KAYE LATHROP: Thank you.

23 SCOTT TYLER: The next slide, section four is really just a
24 summation of what we've talked about, if we can move to slide 11. As I noted,
25 if there were unique process related hazards that were specific to the Eagle

1 Rocks design, those were identified in the HAZOP processes and pulled forward
2 to the ISA methodology. We did not have unique process related hazards
3 specific to the Idaho site. The issues associated with instruments and set
4 points are common to any centrifuge facility no matter where it's built. It
5 would just need to take into account local conditions. And we identified all
6 process related hazards and external events as required under the NUREG 1513
7 ISA or HAZOP methodology in 1520, and those site specific differences did not
8 lead us to any conclusions that there were any special or significant safety
9 accommodations associated with the location.

10 CHAIRMAN BOLLWERK: Any other board questions then?

11 MALE SPEAKER: No, I don't think so.

12 MALE SPEAKER: No.

13 CHAIRMAN BOLLWERK: And you finished with your presentation then.

14 MALE SPEAKER: Yes.

15 CHAIRMAN BOLLWERK: And told us everything you want us to hear, all
16 right? You finished then?

17 MALE SPEAKER: Yeah.

18 CHAIRMAN BOLLWERK: All right. That's it then. Thank you very
19 much. We appreciate the information you provided. All right, and we thank the
20 staff witnesses as well. I think some of you we will see again at -- for those
21 of you that may not testify again, we thank you for your service to the board
22 and the information you provided us. I guess we'll move on then to the next
23 presentation topic which deals with foreign ownership and controls. And just
24 get here --

25 JIM CURTISS: Your honor, we have one witness from AES who's coming

1 up to the table now.

2 CHAIRMAN BOLLWERK: I believe we have this one divided into an A
3 and a B part, the A part being the lead party being the staff, and the B
4 presentation the lead party being a -- and I guess we need -- let's -- since
5 staff is the lead on A, let's go ahead and get that piece of evidentiary
6 material admitted, and we'll swear the additional witness in. And then I'll
7 swear the witness in for AES, and we'll do that one, and then we'll do the B
8 part when we get to that one. So I'll go ahead and let you all introduce your
9 witness.

10 MAURI LEMONCELLI: Thank you, your honor. The staff has three
11 witnesses for this presentation, Topic 2A and 2B. I'll just have the witnesses
12 introduce themselves, although you've met two of them already.

13 CHAIRMAN BOLLWERK: All right.

14 BREEDA REILLY: I'm Breeda Reilly. I'm the NRC senior project
15 manager.

16 KEITH EVERLY: Keith Everly with the Office of Nuclear Security and
17 Incident Response.

18 ANNELIESE SIMMONS: I'm Anneliese Simmons. I'm a financial analyst
19 for NRR.

20 CHAIRMAN BOLLWERK: All right. Mr. Everly and Ms. Reilly, you've
21 already been sworn, and obviously you remain under oath, so (unintelligible)
22 swear you in again obviously. Let me swear in Ms. Simmons. Could you raise
23 your right hand, please? And I need a verbal response to my question. Do you
24 swear or affirm that the testimony you will give in this proceeding is the
25 truth, the whole truth, and nothing but the truth?

1 WHERUPON,

2 ANNELIESE SIMMONS

3 was called as a witness for NRC staff and, having been first duly sworn,
4 assumed the witness stand, was examined and testified as follows:

5 ANNELIESE SIMMONS: It is. I do.

6 CHAIRMAN BOLLWERK: Thank you. All right.

7 MAURI LEMONCELLI: Your honor, the staff has three exhibits to
8 identify for this presentation.

9 CHAIRMAN BOLLWERK: All right.

10 MAURI LEMONCELLI: Those exhibits are NRC-R00101, the staff's
11 presentation on Topic 2A, foreign ownership and control, NRC-000102, statement
12 of professional qualifications for Anneliese Simmons, and NRC-000103, the final
13 Standard Review Plan on foreign ownership control or domination, dated
14 September 28, 1999. And at this time -- that's all, your honor.

15 CHAIRMAN BOLLWERK: All right. Let's go ahead and -- let me just
16 ask Mr. Welke one question. We're getting kind of a ringing over there from
17 her mike, is there anything we can do about that at some point?

18 MALE SPEAKER: (unintelligible)

19 CHAIRMAN BOLLWERK: OK, all right. The staff has identified the
20 following three exhibits, NRC-R00101, NRC-000102, NRC-000103. I'm sorry, just
21 101 and 102, right? Sorry, am I getting ahead of myself? Yes.

22 MAURI LEMONCELLI: Well, 101, 102, and 103.

23 CHAIRMAN BOLLWERK: And 103, OK. Hold on one second here. Let me
24 write something. OK.

25 MAURI LEMONCELLI: It's R00101.

1 CHAIRMAN BOLLWERK: 101, right, so with respect to NRC-R00101, and
2 NRC-000102, and NRC000103, those exhibits as described by counsel are marked
3 for identification.

4 (Whereupon, the documents referred to were marked as Exhibit NRC-R00101 MA-
5 BDO1, and NRC-000102 MA-BDO1, and NRC000103-MA-BDO1 for identification.)

6 And you want to move them into evidence?

7 MAURI LEMONCELLI: Yes, we'd like to move those into evidence,
8 please.

9 CHAIRMAN BOLLWERK: Any objection?

10 JIM CURTISS: No.

11 CHAIRMAN BOLLWERK: There being none -- no objection, then the
12 Exhibits NRC-R00101, and NRC-000102, and NRC-000103 are admitted into evidence.
13 (The documents referred to having been previously marked for identification as
14 Exhibit NRC-R00101 MA-BDO1, and NRC-000102 MA-BDO1, and NRC000103-MA-BDO1 were
15 received in evidence.)

16 All right, then I think we have the AES witness, please.

17 JIM CURTISS: Thank you, your honor. We have one witness on the
18 questions addressed in 2 Bravo of this presentation, and I would ask Mr. Shakir
19 to introduce himself and his title.

20 SAM SHAKIR: My name is Sam Shakir. I'm the president and chief
21 executive officer for AES.

22 CHAIRMAN BOLLWERK: All right. If you would, please, sir, if you
23 could raise your right hand, and I need a verbal response to my question, do
24 you swear or affirm the testimony you will give in this proceeding will be the
25 truth, the whole truth, and nothing but the truth?

1 WHERUPON,

2 SAM SHAKIR

3 was called as a witness for AES and, having been first duly sworn,
4 assumed the witness stand, was examined and testified as follows:

5 SAM SHAKIR: Yes, I do.

6 CHAIRMAN BOLLWERK: Thank you, sir. All right, again the same sort
7 of protocol that I mentioned before applies, any questions that are directed to
8 either sets of witnesses, to the AES witness or to the staff witnesses, if you
9 would, please, respond to the board, all right? All right --

10 JIM CURTISS: And, your honor, we have one --

11 CHAIRMAN BOLLWERK: You have --

12 JIM CURTISS: -- exhibit to introduce (unintelligible) --

13 CHAIRMAN BOLLWERK: OK. Hold on one second, thank you.

14 JIM CURTISS: -- Mr. Shakir's presentation, and so the exhibit is
15 identified as AES R00062, which should be on the screen before the witness.
16 And I would ask, did you prepare a written presentation this proceeding, Mr.
17 Shakir?

18 SAM SHAKIR: Yes.

19 JIM CURTISS: And do you recognize the document before you?

20 SAM SHAKIR: Yes, I do.

21 JIM CURTISS: And is this your pre-filed presentation on issue
22 number two for this proceeding?

23 SAM SHAKIR: Yes, it is.

24 JIM CURTISS: Is it your understanding that your professional
25 qualifications have been earlier introduced into the record?

1 SAM SHAKIR: Yes.

2 JIM CURTISS: And do you wish to make any revisions, corrections,
3 or deletions to your presentation?

4 SAM SHAKIR: No, I don't.

5 JIM CURTISS: All right, with that, your honor, we would move AES
6 R00062, the presentation on Topic 2B, Bravo, on foreign ownership and control,
7 as an exhibit in this proceeding.

8 CHAIRMAN BOLLWERK: OK. The record should reflect that Exhibit AES
9 R00062 as described by counsel is marked for identification.

10 (Whereupon, the document referred to was marked as Exhibit R00062-MA-BD01 for
11 identification.)

12 Any objections to its submission?

13 MAURI LEMONCELLI: No objection, your honor.

14 CHAIRMAN BOLLWERK: Then exhibit AES R00062 is admitted into
15 evidence.

16 (The documents referred to having been previously marked for identification as
17 Exhibit R00062-MA-BD01 were received in evidence.)

18 All right, then I believe we're ready for presentation 2A. I
19 (unintelligible) who from the staff gets to speak first.

20 BREEDA REILLY: That would be me, your honor.

21 CHAIRMAN BOLLWERK: All right.

22 BREEDA REILLY: Could we please have exhibit NRC-R00101 on the
23 screen, please? Well, basically, your honor, this presentation describes the
24 statutory and regulatory framework regarding foreign ownership and control for
25 uranium enrichment facilities such as the Eagle Rock Enrichment Facility.

1 Slide two, please? I will be presenting the information regarding
2 the framework for the enrichment facilities. And as you know I'm joined by my
3 colleagues, Keith Everly at NSIR and Anneliese Simmons at NRR. So I'll cover
4 the Commission order, which provided direction in foreign ownership, and the
5 framework under Part 70 for enrichment facilities. And Anneliese will discuss
6 the regulations applicable to power reactors constructed and operated under
7 Parts 50 and 52. And myself, Anneliese, and Keith are available to answer any
8 of your questions.

9 Slide three, please? In July of 2009, the Commission issued a
10 notice of receipt of application for license which included a notice of
11 consideration of issuance of license and a notice of hearing (unintelligible)
12 Commission order. Section six of the order, titled Applicable Requirements,
13 provided direction concerning the licensing of the Eagle Rock Enrichment
14 Facility. This section directs the facility license and regulated in
15 accordance with the Atomic Energy Act of 1954 as amended, but it also provided
16 direction in a number of the review areas for licensing the facility. One of
17 these areas is foreign ownership.

18 Basically the Commission stated that the AES application is
19 governed by Sections 53 and 63 the Atomic Energy Act. And consequently, the
20 Commission directed the staff to determine issues of foreign involvement
21 pursuant to Sections 57 and 69 of the Act, and that's Sections 103, 104, or
22 193F (spelled phonetically).

23 And in the next slide I'll discuss Sections 57 and 69. Slide four,
24 please? Sections 57 and 69 of the Atomic Energy Act require an affirmative
25 finding that the issuance of a license for the Eagle Rock Enrichment Facility

1 cannot be inimical (spelled phonetically) to the common defense and security.

2 Slide five, please. Section 103 of the Act contains similar
3 language and prohibits the issuance of a license that would be inimical to the
4 common defense and security. However, it also has specific language
5 prohibiting issuance of a license for a power reactor to any entity owned,
6 controlled, or dominated by an alien foreign corporation or a foreign
7 government.

8 Slide six, please. So in response to the board's request on this
9 topic, we've prepared information that outlines the regulatory framework and
10 approach for both power reactors under Parts 50 and 52 and the regulatory
11 requirements under Part 70, which includes regulatory requirements under Part
12 95, which covers facility security clearance. Anneliese will cover the next
13 two slides concerning Parts 50 and 52, and (unintelligible) slides concerning
14 the licensing of enrichment facilities. So I'll turn it over to Anneliese for
15 slide 7.

16 ANNELIESE SIMMONS: Thanks, Breeda. I'm going to talk again, as
17 Breeda mentioned, about the reactor side of things. Foreign ownership
18 restrictions are -- they're actually more restrictive under Parts 50 and 52.
19 In 1999, the Commission was looking at deregulation in the industry --

20 CHAIRMAN BOLLWERK: OK. Hold on one second. You got the mic over
21 there -- OK, I can see -- yeah, if it is there, all right, good, all right, go
22 ahead.

23 ANNELIESE SIMMONS: And so they developed a Standard Review Plan
24 which the staff uses to look at applicants and license transfers for foreign
25 ownership, control, and domination issues. And that's the document that we use

1 in reviewing our part of foreign ownership.

2 In general, the Standard Review Plan does prohibit 100 percent of
3 foreign ownership on the reactor side; however, there's no other thresholds
4 that are set, either something that's below foreign ownership review or above
5 except the 100 percent foreign ownership restriction, and that's true on 50 and
6 52.

7 For the next slide, slide eight, if the staff -- the staff is --
8 it's pretty broad definition, so we look at really the totality of information
9 that we can determine regarding corporate structure, financial arrangements,
10 but the goal of the Standard Review Plan and what we're trying to do is isolate
11 and mitigate foreign influence over safety and security decisions. If it turns
12 out in our review process that there's some indication that there's foreign
13 involvement, the applicant or the licensee can submit what's called a negation
14 action plan. And that would be a summary of the measures that they're going to
15 take to insure that safety, security, and reliability decisions are held in the
16 hands of U.S. citizens. OK? And it's handled on a case by case basis.
17 There's a variety of negation action plans that have been approved, but they
18 might include measures such as setting up an advisory council of U.S. citizens
19 that would look at safety and security measures or decisions, or changing the
20 governance documents so that those decisions are held in the hands of
21 Americans. So that's really probably the best summary of Parts 50 and 52.

22 And generally speaking we do require license conditions when
23 there's any kind of foreign ownership concerns. And Breeda's going to take the
24 rest of it.

25 CHAIRMAN BOLLWERK: OK. Well, let me just stop you right there,

1 and let me -- so the basic approach on the reactor side is then 100 percent
2 control is prohibited.

3 ANNELIESE SIMMONS: Yes, sir.

4 CHAIRMAN BOLLWERK: All right, so there's nothing -- if it's 100
5 percent control, there's nothing you can do about that.

6 ANNELIESE SIMMONS: That -- yes, that is --

7 CHAIRMAN BOLLWERK: I mean, a negation plan is not going to work.
8 It's 100 percent is 100 percent and --

9 ANNELIESE SIMMONS: The language of the SRP talks about less than
10 100 percent, however, Commission direction and precedent would indicate or
11 suggest that, that would be prohibited, yes.

12 CHAIRMAN BOLLWERK: And you mentioned above, below, I was trying to
13 think how you get above 100 percent, I don't think -- I think that's probably
14 the ceiling, but anyway, that's -- but basically anything less than 100
15 percent, if it's 99 percent foreign owned, then in theory you would look to a
16 negation plan.

17 ANNELIESE SIMMONS: Correct, (unintelligible).

18 CHAIRMAN BOLLWERK: And then -- so then you're looking at things
19 like advisory councils, directives, governance directives, those sorts of
20 things, to try to mitigate that in some way, OK. So that's the basic construct
21 that you use on the reactor side.

22 ANNELIESE SIMMONS: That's correct.

23 CHAIRMAN BOLLWERK: All right. OK.

24 ANNELIESE SIMMONS: OK? Slide nine, please. Enrichment facilities
25 are licensed under Part 70 for special nuclear material, and Part 40 for source

1 material, and Part 30 for byproduct material. 10CFR 70.31 and 10CFR Part 40.32
2 codify the requirements of Sections 57 and 69 of the AEA in reference to the --
3 that they state that the issuance of a license should not be inimical to the
4 common defense and security.

5 In addition, Part 70 has other requirements related to foreign
6 ownership and control. The requirement that's relevant to the Eagle Rock
7 application is 70.22 A1, which requires that the applicant provide information
8 of foreign ownership. And this requirement is discussed in our Standard Review
9 Plan, which is NUREG 1520. The Standard Review Plan specifies that the license
10 application which must include a description of the extent of foreign ownership
11 or influence. And AES provided such information in its license application.

12 And Part 70 also includes a requirement that is specific to the
13 United States Enrichment Corporation, also known as USEC, and that's in part
14 10CFR 70.40. And that provision is specific to USEC and its successors. And
15 the section was added in 10CFR -- in February of 1997 to conform to regulations
16 the USEC Privatization Act. And it basically refers to the ineligibility of
17 certain applicants and prohibits the issuance of a license to USEC or its
18 successors if owned, controlled, or dominated by an alien foreign corporation
19 or foreign government. But again, this requirement is specific to USEC.

20 Part 70 also contains provisions for the protection against theft,
21 unauthorized viewing of classified enrichment equipment, and unauthorized
22 viewing of classified matter, in accordance with Parts 25 and 95. 10CFR 70.22M
23 (spelled phonetically) requires a description of security programs in
24 accordance with 10CFR 95. Thus Part 95 is of interest since it requires a
25 determination regarding foreign ownership. Part 95 contains the requirements

1 for obtaining a facility security clearance, and AES submitted such a request
2 under 10CFR Part 95.

3 CHAIRMAN BOLLWERK: So that suggestion that while (unintelligible)
4 -- there are two things involved here. One is the question of control or
5 concerns about control. The other is the passage of information that would --
6 you would prefer remain -- or not go to a foreign entity. Is that the basic
7 construct?

8 ANNELIESE SIMMONS: That's right. Part 95 addresses protection of
9 information. So related to foreign ownership, Section 95.17 requires a
10 determination that granting a facility clearance is not inconsistent with the
11 national interest, including a finding that the facility is not under foreign
12 ownership control or influence, which we refer to as foci (spelled
13 phonetically), to such a degree that the determination cannot be made. Thus,
14 foci factors are reviewed as part of the facility clearance process.

15 As part of this review, the NRC staff has determined that there's
16 no additional benefit that would result from placing foci mitigation measures
17 on the AES, related to national security. The staff bases its conclusion on
18 the fact that the information and technology that would be classified as
19 restrictive data in the United States are already (unintelligible) controlled
20 by the European governments (spelled phonetically) and the foreign control
21 companies associated with AREVA. And this is consistent with a recommendation
22 that was made as yielding to NRC regarding waiving the foci requirements for
23 the LES application. Thus, the staff knew that any additional foci mitigation
24 measures placed on AES would provide no additional benefit to the national
25 security of the United States.

1 Slide number 12, please? So basically in conclusion, the
2 application is governed by the Sections 53 and 63 of the Atomic Energy Act.
3 Part 70 through Part 70.31 and Part 40 through 10CFR 40.32 codify this
4 statutory requirement that the issuance of the license not be inimical to the
5 common defense and security. As required by Part 70, staff considered foci
6 under the 10CFR Part 95 of facility security clearance review. The applicant
7 adequate described the information related to foci and its plans to secure
8 classified material for a facility clearance under 10CFR Part 95. Thus, the
9 staff found that granting the license would not be inimical to common defense
10 and security.

11 CHAIRMAN BOLLWERK: OK. Going back again to on the reactor side
12 for a second, talked about 100 percent foreign ownership. And when you say
13 ownership, you mean they own it. That's -- I mean, that's different from
14 influence and control, correct? I mean, that means they actually -- they hold
15 the assets essentially.

16 ANNELIESE SIMMONS: That's correct. Its stock ownership is what
17 that's referring to.

18 CHAIRMAN BOLLWERK: All right, so the fact they -- if they don't
19 have 100 percent ownership, but let's say just hypothetically they had 100
20 percent influence and control, that wouldn't necessarily violate what you're
21 concerned about in terms of 100 percent ownership. Let's put the -- we're
22 talking about two different concepts. One is ownership. One is control or
23 influence.

24 ANNELIESE SIMMONS: That's correct.

25 CHAIRMAN BOLLWERK: If a -- for whatever -- just hypothetically, if

1 they had 100 percent influence and control, but didn't have 100 percent
2 ownership, they wouldn't be prohibited under the statute, is that correct?

3 ANNELIESE SIMMONS: Yes, and I can give you an example that's been
4 a common misconception of that. Many people would say, "Well, why wouldn't you
5 allow minority interests?" So let's say somebody just owned five percent of a
6 company. "Why wouldn't that be OK? Why do you need all these additional
7 mitigation measures?" If you look at governance agreements, you could have
8 something that says, "Well, any safety or security decision might require
9 unanimous consent of the board." OK? In that way, a minority owner could have
10 a veto power over something that would be applicable to NRC regulations. So
11 that would be an example of, as you've mentioned, where the control factor
12 would be something that we'd be needing to look at as separate from the
13 ownership percentage.

14 CHAIRMAN BOLLWERK: OK. And again, that is something -- putting
15 aside the fact they don't have 100 percent ownership, you're then going to get
16 into the control and influence aspects of it and be concerned about that --

17 ANNELIESE SIMMONS: That's correct.

18 CHAIRMAN BOLLWERK: All right. All right. And again I take it
19 with respect to a facility like AREVA, you really are more in the control, and
20 influence, and security information area as well -- that's your focus?

21 BREEDA REILLY: That's right. That's primarily our focus.

22 CHAIRMAN BOLLWERK: All right. I take it on the reactor side
23 obviously the passage of secure information to entities that we don't -- that
24 the Agency doesn't want to have it would be a matter of concern as well.

25 ANNELIESE SIMMONS: Absolutely.

1 CHAIRMAN BOLLWERK: All right. All right. Let me see if there's
2 any questions from any (spelled phonetically) of the board members.

3 MALE SPEAKER: I don't.

4 MALE SPEAKER: No. The answers that were given on slide 11
5 elaborated on questions and answered questions that I had.

6 CHAIRMAN BOLLWERK: All right. Well, at this point then I thank
7 you for the information. We'll turn then to the 2B presentation and may be
8 coming back to you obviously with some questions. Thank you.

9 SAM SHAKIR: OK, good morning. As I introduce myself, my name is
10 Sam Shakir. I'm the president and CEO of AES, and I'm here to address Topic
11 2B, and I have this presentation that you should have displayed electronically
12 on your screen. I'm going to turn to page number 2, and basically as with the
13 previous AES presentation, we tried to capture the three topics that were
14 included in the questions that we received from the ASLB (spelled
15 phonetically). They're basically around foreign ownership and control, and
16 then we'll just try to summarize it here. And then as I go through the
17 presentation, I will focus in more detail on each of the questions.

18 The questions were around basically management, financial
19 independence of AES in terms of its decision making with respect to safety,
20 security, environmental, and financial. There was a question about possible
21 financial difficulties at the parent level that could have an influence on the
22 progress of the project during construction and at -- on the plant during
23 operation. I will try to address that this morning.

24 And finally there's a question about how does the structure of AES
25 management, and financial structure, and operational is similar or different

1 from other corporations that may have foreign ownership and whether they're
2 under regulations similar to that of the NRC or not. So with that sort of
3 background, I'll go into the details here, and I'll turn to the next slide,
4 please.

5 This first one deals with AES, and management, and financial
6 independence, and the question that came to us was explain how the management
7 and financial structure of AES, relative to AREVA SA (spelled phonetically),
8 parent company, provides AES with appropriate management and financial
9 independence, and describe potential effect foreign ownership could have on the
10 ability of AES to meet its safety, environmental, financial, and security
11 responsibilities. I could turn to the next slide, please.

12 This one, basically I want to start with describing our corporate
13 structure and then compare it to other corporate structures that we have here
14 in the United States under NRC licenses, just to draw that comparison. With
15 respect to AES, AES LLC is a U.S. company, 100 percent owned by AREVA NC, Inc.,
16 also a U.S. company. That in turn is owned by -- 100 percent owned by AREVA
17 NCSA, which is in turn owned by AREVA SA, a company that is foreign under the
18 laws of France. That is the -- you know, basically the corporate structure
19 that we have.

20 AES LLC will be the licensee here, the licensed holder that will
21 own and operate the Eagle Rock facility. This structure is really, as I said
22 earlier, very similar, in fact, identical to the structure we have for other
23 AREVA facilities licensed under Part 7 here in the United States, namely the
24 Richland facility in Washington for fabrication of fuel and the Lynchburg
25 (spelled phonetically) facility for doing the same. So this structure that

1 we've proposed in the license is essentially the same.

2 DR. KAYE LATHROP: Do AREVA NCSA and AREVA NC, Inc. have other
3 businesses than AES LLC? Are they engaged in any other enterprises besides
4 control of AES LLC?

5 SAM SHAKIR: Yes, they are. They -- we are one of the entities
6 that are owned by AREVA NC, Inc. as well as AREVA SA. The company is involved
7 in essentially every element of the fuel cycle around the world, from mining
8 uranium to conversion enrichment, fuel fabrication, reactor construction, and
9 operation. So we are a fully integrated provider of nuclear services. We're
10 also involved in non-nuclear technologies such as solar and wind.

11 CHAIRMAN BOLLWERK: And what -- just to clarify again, which one of
12 the wholly owned subsidiaries -- I mean, are we talking at the top? Are we a
13 couple levels down? I guess that -- was that part of your question?

14 DR. KAYE LATHROP: Yes.

15 CHAIRMAN BOLLWERK: I think what Judge Lathrop's trying to figure
16 out is what do the two companies in the middle do besides hold AES LLC?

17 SAM SHAKIR: OK.

18 CHAIRMAN BOLLWERK: That's the basic question.

19 SAM SHAKIR: Yeah. AREVA NC, Inc., which is the other U.S. company
20 that is 100 percent owner of AES LLC, is involved in other businesses in the
21 United States. They're involved in the sale of front end -- what we call front
22 end uranium and conversion as well as enrichment services in the United States,
23 using other facilities that we own here in the U.S., as I mentioned, the
24 enrichment facility, or in facilities around the world, to provide those
25 services to basically U.S. customers, the utilities. That's at the AREVA NC,

1 Inc. level.

2 AREVA NC, Inc. is also involved in providing engineering services
3 to the Department of Energy under another subsidiary called AREVA Federal
4 Services (spelled phonetically), providing engineering services there. So
5 those are examples of businesses that AREVA NC, Inc. executes here in the
6 United States. At the SA level is the answer that I gave you earlier, which is
7 a bigger multinational multi-product company that offers it worldwide.

8 CHAIRMAN BOLLWERK: With respect to -- for you -- you also have on
9 this slide, this is slide four, you have the parent companies of AREVA NP,
10 Inc., which are AREVA NP U.S.A., Inc., and AREVA NPSAS, do those companies
11 perform other -- have other responsibilities or have other activities besides
12 holding AREVA NP, Inc.?

13 SAM SHAKIR: Yes, they do. At the AREVA NP SAS level they are
14 again a multinational company providing reactor -- what we call reactors and
15 services, a multitude of services to nuclear operators around the world, not
16 just in the area of providing fuel fabrication which is what Richland does.
17 They're a -- they design, manufacture, and install reactors, and provide all
18 services essentially that these operators require at their reactor sites.

19 CHAIRMAN BOLLWERK: OK. So I guess your basic answer is that all
20 these companies are doing something besides simply holding the company at the
21 bottom as it were.

22 SAM SHAKIR: That's correct.

23 CHAIRMAN BOLLWERK: All right. All right. That answer your
24 question about (unintelligible)?

25 DR. KAYE LATHROP: Yes, thank you.

1 SAM SHAKIR: OK. Moving on, I'd turn to slide -- page number 5, and
2 here I wanted to give you a quick description of the -- well, first of all, this
3 is to try and answer the management independence question and I want to start by
4 giving you a sort of a general picture of the -- how we are structured in
5 management of AES. I myself am the president and chief executive officer of
6 AES. I have the sole responsibility, decision-making authority on safety,
7 security, environmental, financial matters as was described in the question. My
8 responsibility is to operate Eagle Rock in compliance with federal, state, and
9 local safety, security, environmental, and financial requirements. I also have
10 responsibility for safety for design during construction, operation, and
11 ultimately commissioning -- decommissioning of this facility, and I have the
12 ultimate responsibility for the implementation of the quality assurance
13 requirements through all of those phases. My role is really no different than
14 any chief nuclear officer of a facility licensed by the NRC in the United
15 States. It's essentially saying the same level of responsibility and authority.

16 Turn it to slide number six. As the president and CEO of AES, and
17 as with any company, I report to a board. We call them management committee.
18 This management committee has representatives of the shareholders of AES LLC
19 representatives from AREVA NC, Inc. (spelled phonetically) and AREVA NCSA. The
20 management committee's responsibility at a higher level is to oversee the
21 business and commercial activities, making decisions on investments, like the
22 one we're about to make to build this facility, financial performance of the
23 business organization. They hire me and they can fire me as the CEO, and other
24 key commercial, industrial, and financial strategies associated with the
25 business. They have no influence on the safety or the QA, quality assurance

1 implementation, in the various phases of this project from design, construction,
2 operation, and decommissioning. As I said earlier, that is the sole
3 responsibility and the authority of the president and CEO of AES. There are no
4 foreign ownership considerations that went into the way we structured this
5 business. The business could have been owned by a domestic company or a foreign
6 company and it would have been the same. The responsibilities and the
7 distribution of the authority as I described it here would have been identical.
8 So there's no unique considerations here because of the foreign ownership
9 involved.

10 Next slide, page seven. Try and address the financial independence
11 of AES. During the operation of Eagle Rock, the enrichment contracts that were
12 ultimately building the facility here to provide the service here to our
13 customers, those contracts are directly with AES. That means the revenues from
14 the sale of SWUs go to AES. We have the responsibility of paying our bills like
15 any other business and then, at the end of the day if there are any profits,
16 those are paid through dividends to the parent company. But the finances and
17 the revenues all flow through AES first. Financial arrangements are similar to
18 a project company structure used by other NRC licenses. There is nothing
19 special about how we structured our business. And again, in this case, there
20 are no unique foreign ownership considerations relative to our financial
21 independence here. Contracts are directly with AES and revenues flow through
22 AES.

23 So in summary for this particular question, foreign ownership does
24 not have any immediate effects on the ability of an entity like AES to meet the
25 safety, environmental, financial security obligations. The approach that we've

1 taken to corporate governance in compliance with responsibilities is similar to
2 other NRC licensees, (unintelligible) the ultimate parent is foreign or domestic
3 and no unique foreign ownership considerations relative to the management
4 independence vis-à-vis Eagle Rock.

5 CHAIRMAN BOLLWERK: Can I stop you right there? Let me turn to the
6 staff. Given what he's just described, for instance, indicating that other NRC
7 licensees have similar governance structures, would this be on the reactor side,
8 the material side? I mean, for instance, do you have companies where the
9 president basically has -- I mean, as top executive of AES LLC has safety,
10 financial, and security responsibilities and the parents above that company,
11 that president don't have any control over those sorts of things? Is this
12 different from reactors?

13 ANNELIESE SIMMONS: I can speak to the reactor side.

14 CHAIRMAN BOLLWERK: Yes. Right, that's fine.

15 ANNELIESE SIMMONS: Yes, in fact, that would probably -- it's quite
16 different on the material side. They have a different threshold.

17 CHAIRMAN BOLLWERK: OK. Right.

18 ANNELIESE SIMMONS: And yes, we do mitigate. That's one of the
19 things that we would do is isolate those safety and security decisions down to
20 the lower level that would depend on a case by case basis.

21 CHAIRMAN BOLLWERK: (affirmative)

22 ANNELIESE SIMMONS: And typically we require as, you know, there's a
23 chief nuclear officer, those key U.S. members need to be U.S. citizens. That
24 would be a condition of the license.

25 CHAIRMAN BOLLWERK: All right. OK. And then let me turn to

1 (unintelligible) in terms of other facilities, I take it this is consistent with
2 what you've seen? For instance, (unintelligible) of the Richland (spelled
3 phonetically) facility or some of the others that he's been talking about? And
4 you need to pull your mic down -- your mic -- we got it, OK. Thank you.

5 BREEDA REILLY: I'm not familiar with the operation of the Richland
6 facility, but it is one of our licensed field fabrication facilities under Part
7 70 (spelled phonetically), so --

8 CHAIRMAN BOLLWERK: Is there another facility you're aware of that
9 has similar structure? To the best of your knowledge, anybody else?

10 BREEDA REILLY: Yeah, I really can't answer that. I guess if you
11 need an answer to that, we'd have to get back to you.

12 CHAIRMAN BOLLWERK: OK, well, think about that while we're going
13 through the presentation. All right? OK, sorry I interrupted you. You are on
14 slide --

15 SAM SHAKIR: I'm on slide titled Financial Qualifications Section 2.

16 CHAIRMAN BOLLWERK: OK. Probably nine, I guess it is.

17 SAM SHAKIR: Yeah, I'm not sure why this one doesn't have a number.

18 I apologize for that. The question that came to us was explain whether
19 financial difficulties of the parent corporation can result in truncation or
20 termination of the Eagle Rock project or conversely, if AES cannot otherwise
21 obtain necessary funding, whether the parent corporations can supply such
22 capital. This is an area of financial qualifications. On slide number 10,
23 financial qualifications overview, subject to certain conditions, the NRC has
24 made a determination in reviewing the AES application that essentially we are
25 financially qualified to construct and operate the Eagle Rock. Having said

1 that, commercial considerations such as the one embedded in the question,
2 meaning difficulties financially at the parent level or changing market
3 conditions where SWU prices drop to rock bottom or some unforeseen conditions
4 resulting in the shutting down reactors and slowing demand. Those are all --
5 could impact the business and just like any other business, we would like at
6 whether the continuation of construction or operation of the facility is
7 feasible.

8 However, what's important here and relevant to the question is the
9 NRC requires that we have assurances for adequate financial assurances and
10 arrangements in place to properly decommission Eagle Rock should the facility
11 cease to operate. So that's the critical element here is those assurances have
12 to be in place to assure that if there's a commercial disruption to the
13 operation, funding is available to decommission the facility.

14 Turning to slide number 11, dealing with the construction of this
15 facility. The construction in each phase of Eagle Rock cannot commence before
16 funding is available or committed. That is a license condition. So we have the
17 obligation to demonstrate to the NRC that the funding necessary to complete that
18 phase of construction is available and we have the sources of funds available to
19 us and those can be in various forms that have been identified in the license
20 application and listed here. There'll be a review and documentation of budgeted
21 cost and source of funds available or committed to pay for those costs. So
22 again, part of the license condition is to on an ongoing basis is to demonstrate
23 that we have the wherewithal to execute the project.

24 Turning to slide -- page 12. This is a license commitment for the
25 operation of Eagle Rock, that operation Eagle Rock will not commence until AES

1 has in place one of the following items: for long-term contracts lasting five
2 years or more that provide sufficient funding, the estimated cost of operating
3 the facility -- and of course, we wouldn't be operating the facility if we
4 didn't have those contracts to begin with -- documentation of the availability
5 of one or more alternative sources of funds that provide sufficient funding for
6 the estimated cost of operating the facility, and then some combination of one
7 or two. I wanted to share with you the current status just to give you an idea
8 of how important this facility is to U.S. customer base. We currently have
9 several billion dollars worth of contracts for (unintelligible) SWU supply from
10 Eagle Rock even before the license has been granted by the NRC. So we don't see
11 any possibility for not having contracts that would satisfy this license
12 commitment.

13 CHAIRMAN BOLLWERK: Is that sum sufficient for operating the
14 facility for five years?

15 SAM SHAKIR: It is much more than five years. Choosing commercial
16 conditions, slide -- page 13. From a regulatory perspective, a license
17 condition on financial qualifications is not satisfying. As I mentioned
18 earlier, construction will not proceed. From a commercial perspective, changes
19 in commercial market conditions may impact Eagle Rock as I said earlier and at
20 all stages of operations sufficient funds will be available to decommission the
21 facility and dispose of (unintelligible). Current status as I mentioned earlier
22 is that contracts do exist to secure funding for this plant during operation.

23 Proceeding to section number three which is the third question in
24 this topic, explain whether the AES management and the AES financial and
25 operational structure differ than that of a typical U.S. subsidy (spelled

1 phonetically) of a foreign company, (unintelligible) when there are no statutory
2 or regulatory controls on foreign ownership such as exist under the AEA and NRC
3 regulations.

4 Page 15, foreign ownership considerations. As I mentioned earlier,
5 we're not the driving force, if you will, in the way we've structured AES: its
6 management structure, its financial structure, and its governance. It was
7 standard practice for us. We have multiple businesses here in the United States
8 with 6,000 employees today that we operate in a variety of areas and we
9 structured AES consistent with that. The governance that we have gives the
10 authority on safety, QA, and design, construction, operation, decommissioning of
11 Eagle Rock to the president and CEO of the entity. The president also is
12 empowered to ensure compliance with federal, state, and local laws and
13 requirements for safety, security, environmental, and financial matters. We are
14 not aware of any differences between our approach at AES and other NRC
15 licensees. Whether the ultimate parent is foreign or domestic -- I've put some
16 examples here of other nuclear companies operating under Part 70 licenses. This
17 might answer the question that was asked earlier. LES is an example. Very
18 similar facility under a Part 70 license. Westinghouse, operating
19 (unintelligible) fabrication facility here in the United States. Global Nuclear
20 Fuels, similar situation. And ourselves with AREVA (unintelligible) in the
21 Richland facility that I mentioned earlier. Those are all examples of entities
22 operating under an NRC Part 70 license with -- at the parent level having some
23 foreign ownership and control.

24 CHAIRMAN BOLLWERK: Let me stop you one second there in terms of --
25 you say foreign ownership considerations are not driving the AES corporate

1 structure. So if there was no prohibition in the Atomic Energy Act on foreign
2 ownership and control and no regulations that had made that a consideration,
3 would you have the same corporate structure?

4 SAM SHAKIR: I believe we would. If there were any prohibitions of
5 restrictions, we would probably end up with some mitigating factors. I don't
6 think the foreign ownership would have changed the way we've structured the
7 business.

8 CHAIRMAN BOLLWERK: So you would -- so all the safety and financial
9 -- the safety and QA authority that rests with the president would still be with
10 the president even if you didn't have these sorts of concerns about foreign
11 ownership given the Atomic Energy Act and the regulations?

12 SAM SHAKIR: Yes.

13 CHAIRMAN BOLLWERK: All right. Can I turn to the staff, do you
14 think that would be true that the corporate structures that we see out there
15 would be the same if the NRC had no foreign ownership restrictions or
16 requirements or regulations?

17 ANNELIESE SIMMONS: Again, it's a speculative question.

18 CHAIRMAN BOLLWERK: Right. Well, yes, but --

19 ANNELIESE SIMMONS: One of the -- there's many reasons that foreign
20 parents are often set up U.S. subsidiaries to function in the United States.
21 Some of those are solely commercial reasons, there's tax reasons, of course one
22 big reason is because there's prohibitions on foreign ownership. So, you know,
23 I'm uncertain as to, you know, in other industries if that would be the case if
24 they would a similar setup. But it's quite possible.

25 CHAIRMAN BOLLWERK: All right.

1 SAM SHAKIR: If I may interject just to clarify. The title may be
2 not president, may be chief nuclear officer, but that's what I meant by top
3 management and chief nuclear officer would have a similar responsibility.

4 CHAIRMAN BOLLWERK: OK, all right. Let's see. I think I
5 interrupted you on slide 15.

6 SAM SHAKIR: Yes. Really, I just have a conclusion slide that tries
7 to summarize what I have said already and that is on slide -- page 15. I
8 apologize again for being repetitive here, but trying to make sure we are
9 comprehensive in answering the questions. As I mentioned earlier, the AES
10 president has the sole responsibility and decision-making authority for
11 operating Eagle Rock in compliance with federal, state, and local laws in safety
12 aspect for design, construction, operation, and decommissioning and for quality
13 assurance related to zoning, construction, operation, and decommissioning of
14 Eagle Rock. In our case, there are no unique foreign ownership considerations
15 for Eagle Rock. AES has appropriate management and financial independence.
16 License conditions ensure that AES remains financially qualified to construct,
17 operate, and decommission Eagle Rock. AES financial and operations structure is
18 similar to that of other NRC licensees, whether or not the parent company is
19 foreign or domestic.

20 CHAIRMAN BOLLWERK: All right.

21 SAM SHAKIR: Thank you.

22 CHAIRMAN BOLLWERK: The one slide just before that, number 15
23 mentions LESs. Is there anything that the staff can say relative to the LES
24 corporate structure versus this one -- similar, different?

25 MAURI LEMONCELLI: Your honor, if I may interject --

1 CHAIRMAN BOLLWERK: Sure.

2 MAURI LEMONCELLI: We do have listed as NRC staff witnesses who are
3 here, they're present and prepared to discuss. We've had both the prior and
4 current LES project managers on hand and if the board so desires we'd be happy
5 to introduce them and have them discuss if our -- if the NRC witnesses right now
6 are unable to, perhaps we can turn to the LES project managers to further
7 discuss LES if the board desires?

8 CHAIRMAN BOLLWERK: Would the applicant have any objection to that?

9 JIM CURTISS: No, I -- we don't. I think the -- having had some
10 familiarity with the LES application (unintelligible) --

11 CHAIRMAN BOLLWERK: I certainly did, yes sir.

12 JIM CURTISS: -- before you Mr. Chairman, I think I can say relative
13 to the questions that the board has posed here, with respect to foreign
14 ownership and its role here where the -- for a materials licensee there are no
15 foreign ownership control or domination bars and hence no mitigation negation
16 plan. The finding has been reached as I think the staff witness identified --
17 the issuance and license would not be inimical (spelled phonetically) to the
18 common defense and security, and that's reflected in the testimony that was
19 delivered today. Relative to these considerations that have been discussed, we
20 would have no objection if a witness testified that the foreign ownership
21 framework is identical to and the structure is essentially what Mr. Shakir has
22 described here. But we have no objection to a witness testifying to that
23 effect.

24 CHAIRMAN BOLLWERK: All right, would that be useful to the board?

25 MALE SPEAKER: Yes.

1 CHAIRMAN BOLLWERK: If you don't mind then maybe we can bring -- if
2 you say we had the folks here for some -- for another purpose, but if they don't
3 mind, we can put them (unintelligible) out of order and swear them in, that'd be
4 fine.

5 MAURI LEMONCELLI: I believe so, your honor. Mr. Johnson? Thank
6 you, and Mr. Naquin? Is Mr. Naquin available?

7 CHAIRMAN BOLLWERK: Why don't you all -- if there's enough seats up
8 there you can certainly stay or we can move over or we can get another seat in
9 there if we need to, maybe get some extra chairs there, we can pull them around
10 to the side. I'm not trying to kick anybody out here; we're just trying to make
11 more room, so. Everybody all right? Can you get close to a microphone if you
12 need to? All right? I'm going to let you introduce the witnesses, if you don't
13 mind.

14 MAURI LEMONCELLI: Sure, if the two -- Mr. Johnson and Mr. Naquin,
15 if you could please introduce yourselves?

16 TIMOTHY JOHNSON: My name is Tim Johnson. I am currently the
17 project manager -- licensing project manager for the General Electric Laser
18 Enrichment Facility, but I was also the project manager through the licensing at
19 the LES facility.

20 CHAIRMAN BOLLWERK: All right.

21 TYRONE NAQUIN: Ty (spelled phonetically) Naquin. I'm the project
22 manager for LES since July of 2009.

23 CHAIRMAN BOLLWERK: OK, do we need to get their qualifications in?
24 A little bit out of order, but again, it shouldn't be a problem, why don't we go
25 ahead and do that?

1 MAURI LEMONCELLI: Yes, please, your honor. We have two documents
2 that we would like to have identified. NRC 000110 (spelled phonetically),
3 statement of professional qualifications for Timothy Johnson and NRC 000111
4 (spelled phonetically), statement of professional qualifications for Tyrone
5 Naquin.

6 CHAIRMAN BOLLWERK: All right, and let the record reflect that NRC
7 exhibits NRC 000110 and NRC 000111 as described by counselor and marked for
8 identification.

9 (Whereupon, the documents referred to were marked as Exhibits NRC000110-MA-BD01
10 and NRC000111-MA-BD01 for identification.)

11 MAURI LEMONCELLI: Now at this time, we'd like to have these -- we
12 request that these exhibits be offered -- that these documents be offered into
13 the record as exhibits.

14 CHAIRMAN BOLLWERK: All right, any objection?

15 MALE SPEAKER: No.

16 CHAIRMAN BOLLWERK: There being no objection then, exhibits NRC
17 000110 and NRC 000111 are admitted into evidence.

18 (The documents referred to having been previously marked for identification as
19 Exhibits NRC000110-MA-BD01 and NRC000111-MA-BD01 were received in evidence.)

20 OK, just one second here. Did you all hear the question that I
21 posed? Oh, I'm -- let me swear you in; that would be an important thing. Can
22 you raise your right hand, please? I'm sorry. And I need an affirmative --
23 sorry, I need a verbal response to my question. Do you swear or affirm that the
24 testimony you will give in this proceeding will be the truth, the whole truth,
25 and nothing but the truth?

1 WHERUPON,

2 TIMOTHY JOHNSON

3 TYRONE NAQUIN

4 was called as a witness for NRC staff and, having been first duly sworn,
5 assumed the witness stand, was examined and testified as follows:

6 TIMOTHY JOHNSON: Yes, sir.

7 TYRONE NAQUIN: Yes.

8 CHAIRMAN BOLLWERK: Thank you. All right. The question that was
9 posed was the relationship or the -- not the relationship, the comparison of the
10 corporate structure as to the (unintelligible) from LES and what exists for
11 AREVA, as you've heard it described or you're aware of it. Can you speak to
12 that?

13 TIMOTHY JOHNSON: Yes, I think I can address that. During the
14 original licensing, LES was formed as part of a partnership, limited (spelled
15 phonetically) liability partnership, with Uranco (spelled phonetically), two
16 utilities in Westinghouse Enrichment Services. The LES was the operating entity
17 of that facility and LES itself was organized very similar to the way that AREVA
18 Enrichment Services is. In other words, they had a chief nuclear officer. They
19 also had a president and it was oriented so that you had one person that was
20 responsible for making decisions regarding health and safety and for whom
21 quality assurance input could be provided. And I think that's something that we
22 look for in reviewing the license application of any applicant is we want to see
23 one person who is responsible for making health and safety decisions as well as
24 being a conduit for providing any quality assurance input. Shortly after the
25 license was issued, LES as part of a partnership agreement changed its

1 organization. The partners -- the utility partners in Westinghouse Enrichment
2 Services dropped out and Uranco became the 100 percent owner of the corporation
3 and they converted into a limited liability corporation. But the LES entity,
4 the operating entity of the Enrichment Services Program, didn't change as part
5 of that reorganization. Of course, because it ended up being a reorganization,
6 we did review that as part of a license amendment for the facility.

7 CHAIRMAN BOLLWERK: All right. Anything you want to say with
8 respect to that given you're the current project manager?

9 TYRONE NAQUIN: There's been minor tweaks in their structure
10 locally, but all still pointing towards one guy at the top.

11 CHAIRMAN BOLLWERK: All right. And in terms of -- (unintelligible)
12 others, (unintelligible) there's a concern about the QA and safety matters, what
13 about in terms of the passage of information that you might have concerns about?
14 Is there anything different between what you're aware of with AREVA and what
15 you're aware of with LES in terms of information going to foreign governments or
16 foreign entities that the NRC would prefer not? (unintelligible)

17 TYRONE NAQUIN: I think we looked at the same issues with the LES
18 licensing as being addressed here with AREVA. In other words, we had the issue
19 of the foreign ownership aspect under Part 70 and we also had the issue of
20 classified information protection under Part 95. So in that sense, I believe
21 our review is very similar to what is being performed under AREVA.

22 CHAIRMAN BOLLWERK: All right, you had mentioned as well I guess
23 that you're currently on the Avalos (spelled phonetically) project. Does that
24 have similar concerns involved?

25 TYRONE NAQUIN: I'm sorry? (unintelligible)

1 CHAIRMAN BOLLWERK: The -- you're -- (unintelligible)

2 TYRONE NAQUIN: I'm sorry -- yes, SILEX (spelled phonetically).

3 Yes, that's an entity that also has foreign interest in -- Chemico (spelled
4 phonetically) is a (unintelligible) in Global Laser Enrichment which is the
5 entity that will operate the facility, and there's also Hitachi which is a
6 Japanese company. They own a total of 49 percent of the corporation. Again,
7 the same issues come up with respect to who controls the corporation and who
8 controls making safety decisions and also we have similar issues with respect to
9 clients' (unintelligible) information under Part 95.

10 CHAIRMAN BOLLWERK: And is the corporate structure the same -- is
11 there -- is it similar to what --

12 TYRONE NAQUIN: Well, it's similar. You have the internals (spelled
13 phonetically) of different -- the parents, there's a whole series of different
14 parents, but essentially from our review, we're looking at Global Laser
15 Enrichment, and it's having the responsibility for making the health and safety
16 decisions within the operating entity of the facility. And we're looking at any
17 parents and partners and foreign partners as being (unintelligible) associated
18 with the financial end of the business and business type-related decisions, but
19 not the health and safety-related decisions.

20 CHAIRMAN BOLLWERK: All right. Any questions that the other board
21 members have at this point?

22 MALE SPEAKER: No.

23 MALE SPEAKER: No.

24 CHAIRMAN BOLLWERK: All right. I think that has answered the
25 questions we have. I appreciate you bringing these additional witnesses in.

1 Why don't you stay there for one second -- I think we may be done. So, any
2 questions that either of you have for anyone?

3 MAURI LEMONCELLI: No, your honor.

4 JIM CURTISS: No, that concludes AES's presentation.

5 CHAIRMAN BOLLWERK: All right, thank you, sir, for your testimony
6 and thank you all for your testimony as well. We'll see some of you again, but
7 those of you we may not see, we appreciate the information you provided to the
8 board. All right, at this point, I guess we're ready for presentation three.
9 This is sort of moving along faster than I thought. I think at this point,
10 let's go ahead and take a lunch break. I think we're at a good stopping point
11 for that. I have a little -- approximately a quarter to 12, actually about
12 12:40. Why don't we say 2:00? Or 1:45?

13 MALE SPEAKER: 2:00 ought to do it.

14 CHAIRMAN BOLLWERK: 2:00 work for everyone? The NRC cafeteria is
15 open until 2. So you certainly -- nobody's going to kick -- even if you got
16 there at 1:59, they will not kick you out. There just may not be much food
17 left, but that's a different issue. All right then, why don't we come back at
18 2:00 and we'll reconvene at that point. Thank you.

19 (Whereupon, at 12:40 p.m., the above-entitled matter recessed to reconvene
20 at 2:00 p.m.)

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 2:00 p.m.

3 CHAIRMAN BOLLWERK: Back from our lunch break for a period of a
4 little over an hour. I think that probably was good to everyone. Get a chance
5 to get resuscitated. Just to make a mention, you may note the lighting is a
6 little different up front and that's not because we're trying to change the mood
7 necessarily but apparently we're told that this actually makes it so they can
8 see us better on the web stream. So maybe it has something to do with the light
9 off my balding head here, rapidly baldly head. In any event -- but I think
10 we're ready for our presentation this afternoon on topic three which is license
11 conditions and exemptions.

12 Now, logistically I think we need to make sure that we -- we can't
13 put 16 people on the witness box obviously. And I take it that some of these --
14 there's a series of slides and some people have something to do with slides so
15 we can move them in and out. Is that the way that works or do you want to have
16 one person call them forward if we need them? What's your preference?

17 MAURI LEMONCELLI: I think initially, your honor, the staff would
18 recommend that we call our primary panelist, Breeda Reilly; she'll be giving
19 presentation three and then we do have as you indicated 15 subject matter
20 specific witness prepared to answer any additional specific board questions --

21 CHAIRMAN BOLLWERK: OK.

22 MAURI LEMONCELLI: -- to the extent the board has additional
23 questions; we would be prepared to ask those witnesses to step forward.

24 CHAIRMAN BOLLWERK: OK, so you'd prefer then rather we get to a test
25 slide call the witness, wait and see if the board has questions and then call

1 the witness up. All right.

2 MAURI LEMONCELLI: Yes, your honor.

3 CHAIRMAN BOLLWERK: That's fine. OK, then let's go ahead and have
4 the witness for this panel come up. I'm sorry; the witnesses for this
5 presentation come up. And I believe there were also a couple of witnesses
6 again, the staff has a lead here there are a couple of AES witness that will be
7 available. And let's take care of the -- since this is staff has the lead on
8 this, let's take care of the evidence issues with the staff first as well as
9 getting the witness sworn in. All right. I take it if we see the need to call
10 the -- have a supplemental witness come forward, that's when we would put their
11 statement qualifications in. We don't need to do all those right now. I
12 certainly have no problem doing them all and we can certainly wait until we
13 actually use them.

14 MAURI LEMONCELLI: Your preference your honor but the staff is
15 prepared to introduce the statements of professional qualifications up front.

16 CHAIRMAN BOLLWERK: OK, I'll tell you what, just to keep the record
17 a little clearer, if we don't call someone forward, there's probably no reason
18 to have it in the record. So let's just wait and if they come forward, we'll
19 just swear them in. Because we have to swear them in anyway and we'll introduce
20 the professional qualification statement at that point if we need to.

21 MAURI LEMONCELLI: Thank you, your honor.

22 CHAIRMAN BOLLWERK: All right. Ms. Reilly welcome back. You have
23 already been sworn and we need to I guess go ahead and get the minimum of the
24 presentation exhibited so...

25 MAURI LEMONCELLI: That's right your honor and the staff does have a

1 number of different documents at this time associated with the presentation to
2 identify.

3 CHAIRMAN BOLLWERK: OK.

4 MAURI LEMONCELLI: May I first identify the presentation itself,
5 staff presentation number 3, license condition and exemption, NRCR 00104. In
6 addition, your honor, NRC 000114 license for Louisiana Energy Services National
7 Enrichment Facility, amendment 45 dated December 30, 2010. NRC 000115 approval
8 of Louisiana Energy Services part 21 exemption request dated February 11, 2009.
9 NRC 000116 NEI08-11 information security program guidelines for protection of
10 classified material at uranium and enrichment facilities dated May 2009. NRC
11 000117 NUREG 1757 consolidated decommissioning guidance volume 2 revision one
12 appendix A implementing the M-A-R-F-F-I-M or MARFFIM approach for conducting
13 final radiological surveys. NRC 000118 table one, comparison of AES and LES
14 request for exemption and special authorization and finally NRC 000119 table
15 two, comparison of AES and LES license conditions.

16 CHAIRMAN BOLLWERK: All right so check and make sure we're both on
17 the same page, what we're talking about is the identification of exhibits NRCR
18 00104, NRC 000114 through NRC 000119?

19 MAURI LEMONCELLI: That's correct your honor.

20 CHAIRMAN BOLLWERK: All right. Let the record reflect that NRC
21 exhibit -- NRCR 00104 and NRC exhibits NRC 000114 through NRC 000119 are marked
22 for identification as described by counsel.

23 (The documents referred to were marked as Exhibits NRCR00104-MA-BD01,
24 NRC000114-MA-BD01 through NRC 000119-MA-BD01 for identification.)

25 MAURI LEMONCELLI: At this time your honor, the staff moves to have

1 the exhibits admitted into evidence.

2 CHAIRMAN BOLLWERK: Any objections?

3 JAMES BONGARRA: No objection.

4 CHAIRMAN BOLLWERK: All right then the record should reflect that
5 exhibits NRCR 00104 as well as exhibits NRC 000114 through NRC 000119 are
6 admitted into evidence.

7 (The documents referred to having been marked as Exhibits NRCR00104-MA-BD01,
8 NRC000114-MA-BD01 through NRC 000119-MA-BD01 for identification were received in
9 evidence.)

10 And I think then we have AREVA witness or witnesses I should say.
11 And one of them has already been sworn in I believe. Is that correct?

12 JIM CURTISS: Yes. Mr. George Harper was sworn in previously and
13 our back up witness in addition to Mr. Harper is Jim Kay.

14 CHAIRMAN BOLLWERK: All right. And you don't have any exhibits for
15 this presentation (inaudible)?

16 JIM CURTISS: No.

17 CHAIRMAN BOLLWERK: All right. Mr. Kay if you could raise your
18 right hand please and I need a verbal response from you to the question do you
19 swear or affirm that the testimony you will give in this proceeding is the
20 truth, the whole truth, and nothing but the truth?

21 WHEREUPON,

22 JIM KAY

23 was called as a witness for AES and, having been first duly sworn,
24 assumed the witness stand, was examined and testified as follows:

25 JIM KAY: Yes I do.

1 CHAIRMAN BOLLWERK: Thank you sir. All right, I think if there's no
2 other evidentiary matters, I think we're ready for the presentation. And if you
3 want to go ahead Mr. Welke and pull up R00104. There we go. And Ms. Reilly I
4 turn it over to you.

5 BREEDA REILLY: All right thank you. This presentation concerns the
6 license conditions and exemptions for the AVENA Eagle Rock Enrichment facility.
7 As you know on November 19, 2010 answer to publically available question 26, the
8 staff provided a listing of conditions and exemptions that would be imposed on a
9 Part 70 license that might be issued to AES. On December 17, the board
10 requested a presentation that outlines the reasons for each of these license
11 conditions and exemptions and explains many differences that exist between
12 license conditions and exemptions and provisions of the LES Part 70 license for
13 the national enrichment facility and any exemptions granted relative to the LES
14 license. Slide two please.

15 (unintelligible) this presentation but as you know we have several
16 technical reviews here to help answer any specific questions you may have about
17 the license conditions and exemptions. The presentation itself does not contain
18 any sensitive information. However, some of the technical evaluations that
19 supported the development of these license conditions do contain sensitive
20 information. We'll answer those questions in a very sensitive manner to the
21 best of our ability identify any places we may need to go for non-public
22 information.

23 CHAIRMAN BOLLWERK: All right.

24 BREEDA REILLY: In addition, as background information I'd like to
25 utilize the exhibits for tables one and two. Those are exhibits 118 and 119.

1 Table one lists the exemptions that were granted to LES and compares them to
2 AES. Table two lists each of the license conditions that they might impose on
3 the AES license and compares those to the LES conditions and their license.
4 (unintelligible) because of my slides I summarized the conditions, I didn't
5 write up all the verbage.

6 CHAIRMAN BOLLWERK: All right.

7 BREEDA REILLY: And I also want to point out that we compared the
8 AES license to the license issued for the NEF as it was originally worded
9 basically. But the license has changed over the past four years since it was
10 issued and so we also made some places where the current license has conditions
11 that are comparable to the ones that we chose for the AES license.

12 CHAIRMAN BOLLWERK: All right.

13 BREEDA REILLY: So my presentation basically outlines the exemptions
14 and special authorizations and contracts of those for NEF. Slide three please.

15 (unintelligible) include license conditions in the license to impose
16 requirements and ensure the commitments made during the licensing process are
17 legally binding. Standing license conditions may be imposed. Some examples we
18 deal with possession (unintelligible) the duration of the license and the
19 reference of license application documents.

20 In addition to the standard license conditions, the staff also
21 developed specific license conditions that impose requirements for issues that
22 were (unintelligible) what was on during the license application related to a
23 particular facility. And those are frequently used to capture requirements for
24 future licensing actions.

25 Basically safety evaluation imposing 16 license conditions to be

1 included in the Eagle Rock Enrichment Facility. These include the four standard
2 license conditions, 10 specific license conditions, (unintelligible) and special
3 authorization. And the exemption special authorization would be incorporated as
4 license conditions. (unintelligible) information and exemption that AES
5 requested separate from the license application.

6 Safety evaluation report describes the staff's evaluation findings
7 by (unintelligible) and with the (unintelligible) identifies the license
8 conditions that the staff would impose. (unintelligible) the license conditions
9 themselves are discussed in chapters of the SER under the pertinent review
10 areas. SER also discusses the staff's evaluation of the request for function
11 and special authorization that were submitted with the license application. So
12 basically my presentation provide an overview of the license conditions, the
13 reason each is needed, and an explanation of any differences between the ones
14 who are proposing for AES and those that had been issued from AES. Slide four
15 please.

16 This slide discusses the license condition related to financial
17 qualifications. This is the first license condition identified in the SER and
18 described in Chapter 1. This license condition was developed as
19 (unintelligible) staff's evaluation of AES estimate of the cost to construct and
20 operate the Eagle Rock Enrichment Facility. And AES statement that they were
21 updating (unintelligible) for each incremental phase planned to initiate
22 construction. So for instance, this license condition requires AES to
23 demonstrate considerable funding for each phase of construction is available and
24 committed before construction of that phase begins. In this case, AES did not
25 have a similar license condition (unintelligible) indicate that the construction

1 would be (unintelligible) not begin before funding was fully committed. Slide
2 five please.

3 This slide discusses the license condition (unintelligible)
4 liability insurance. This license condition is also described in Chapter 1 of
5 the SER. It is a (unintelligible) of the staff's evaluation of the requirement
6 10CFR 140.13B analyze the statement that they will provide proof of
7 (unintelligible) insurance. A maximum of -- prior to taking possession of
8 license material. Under 10CFR140.13B (unintelligible) enrichment facility is
9 required to carry liability insurance to cover public claims arising from any
10 occurrence that causes injury, sickness, death, or loss or damage to property
11 arising from license material. In its license application, AES included a
12 letter from the (unintelligible) insurers stating its expectation to provide
13 (unintelligible) liability insurance and the maximum policy named \$300 million.
14 Because the license insurance will not be provided until AES takes possession of
15 source material or special (unintelligible) material, the staff would impose a
16 license condition that AES can provide proof of full liability insurance at
17 least 30 days prior to (unintelligible) for obtaining license material. In
18 comparison, in its license application LES proposed having and maintaining
19 (unintelligible) energy liability insurance also (unintelligible) of \$300
20 million. In that case, staff imposed a license condition number 15 in the
21 license for the NEF. The license condition for NEF also states that NRC
22 approval is needed; the licensee proposes to provide the rest of the \$300
23 million of liability insurance coverage. Slide six please.

24 CHAIRMAN BOLLWERK: Let me stop you right there one second. On
25 slide five, I guess some places you use the word similar some places you use the

1 word same. I take it when you use the word similar it's similar in most
2 respects or are we using the same word sort of different words that mean the
3 same word just so I...

4 BREEDA REILLY: In this case LES had an additional clause that if
5 they provide less than \$300 million of liability insurance then they would need
6 prior NRC approval.

7 CHAIRMAN BOLLWERK: OK. And again, to avoid having this license
8 condition placed on them, what would AES have had to have done?

9 BREEDA REILLY: In this case, they required they had liability
10 insurance but they don't obtain the liability insurance until they're much
11 closer to bringing material on site. So in this case there may not have been
12 any (unintelligible) not to have this license condition imposed.

13 CHAIRMAN BOLLWERK: All right. Can I jump back to slide four a
14 second, I'm getting caught up here.

15 BREEDA REILLY: OK.

16 CHAIRMAN BOLLWERK: It says the construction of each incremental
17 phase of the (inaudible) Eagle Rock Facility shall not commence. The LES
18 condition was that construction would not begin before funding was fully
19 committed. So what's the difference between the incremental phases as opposed
20 to the LES constructing anything? Is that the difference between the two?

21 BREEDA REILLY: What AES committed to is having the funding in place
22 before constructing the increments. So a license condition to capture getting
23 that information at each incremental phase. LES made a commitment that they
24 would begin construction once fully committed.

25 CHAIRMAN BOLLWERK: So it's a difference between phases as opposed

1 to I guess LES intended to build the entire facility?

2 BREEDA REILLY: I believe that's true.

3 CHAIRMAN BOLLWERK: I'm sorry I interrupted you. I think you were
4 about start slide six.

5 BREEDA REILLY: Slide six discusses a license condition related to
6 information security. Again, this license condition is described in Chapter 1.
7 When the NRC staff reviewed the practice procedure plan which is also referred
8 to as a classified (unintelligible) plan for the Eagle Rock facility, they found
9 it fairly satisfies the requirements of 10CFO Part 85. (unintelligible) review
10 of the Eagle Rock Enrichment facilities against the classified (unintelligible)
11 are in place prior to classified material being allowed inside. Authorization
12 for the applicant to begin implementing of the classified (unintelligible) is
13 continued upon this NRC inspection and findings as applicable. This license
14 condition stipulates the classified manner, shall not be processed, handled, or
15 accessed without this authorization. This license condition is needed to ensure
16 that the (unintelligible) required and detained CFO part 85 are obtained before
17 classified material is processed, handled or accessed. Staff imposed a similar
18 license condition which was license condition number 26 in LES license for the
19 NEF.

20 CHAIRMAN BOLLWERK: Would I be right in supposing this is the sort
21 of licensing condition again, they probably couldn't avoid?

22 BREEDA REILLY: Right this one they could not avoid.

23 CHAIRMAN BOLLWERK: All right.

24 BREEDA REILLY: Slide seven. This slide also addresses a license
25 condition related to information security. In this case, it address that the

1 AES will handle classified information. In its standard practice procedure
2 plan, AES commits to following the guidelines in nuclear energy institute 08-11
3 information security program guidelines for protection of classified material at
4 (unintelligible) enrichment facilities. These guidelines address the protection
5 of classified information, equipment and technology. To insure that the area is
6 used for (unintelligible) classified information and properly protected, AES
7 will notify NRC prior to designating such areas. AES has not yet designated the
8 areas with use and handling of classified information will routinely occur.
9 This license condition is needed to allow NRC to ensure that the
10 (unintelligible) is used for handling classified information and properly
11 protected. This license condition also appears in the NEF license as license
12 condition number 31.

13 CHAIRMAN BOLLWERK: Can I ask a sort of policy question perhaps?
14 Given these license conditions, again another one they couldn't avoid, I take it
15 these are in lieu -- does there need to be a rule change at some point so that
16 you don't have to keep putting the same license conditions on them or is this --
17 I mean obviously the agency can proceed by rulemaking or order, whatever way it
18 prefers, but I'm seeing license conditions here that seem to flow automatically.
19 Does the agency need to rule making at some point or is that..

20 BREEDA REILLY: I guess I don't have a good answer for that. In
21 this case, these license conditions typically only appear in the enrichment
22 facility licenses. And I think the reason they appear is that at the time the
23 license is corrected, the locations where the information be handled haven't
24 been constructed yet and so the required inspection before the NRC feels
25 confident that that information will be handled correctly according to the

1 programmatic and plans that the licensee has put in place.

2 CHAIRMAN BOLLWERK: So you're saying these are fairly narrow
3 conditions that apply only to a very limited class of licenses? Is that one of
4 the things I'm hearing?

5 BREEDA REILLY: That's one fact that would probably preclude us from
6 having...

7 CHAIRMAN BOLLWERK: OK.

8 BREEDA REILLY: Slide eight please. Slide eight discusses a license
9 condition related to the applicant's decommissioning strategy. This license
10 condition is discussed in Chapter 10, for the SEI for the Eagle Rock Enrichment
11 Facility. This condition is a result of the staff's review of the applicant's
12 decommissioning strategy. Specifically the initial radiation survey to document
13 the background radiation models. (unintelligible) requested eight months to
14 revise the initial radiation survey before prior (unintelligible) operation. In
15 response to our request to additional information, AES committed to perform
16 additional safety to characterize the site both (unintelligible) 15 -- 1757.
17 This license condition formalizes AES' commitment to collect and analyze samples
18 that determine a background value for the site. In this instance, staff did not
19 impose a similar license condition on the license for LES.

20 CHAIRMAN BOLLWERK: And why didn't LES need one if you know?

21 BREEDA REILLY: I actually didn't know why LES didn't need one, but
22 since AES committed to collect this additional information that the staff felt
23 was needed to characterize the background radiation levels we included also in
24 license condition for AES.

25 CHAIRMAN BOLLWERK: All right then Judge Lathrop, do you have a

1 question?

2 DR. KAYE LATHROP: Is the purpose of this condition to determine the
3 initial background so that you can return the site when it is decommissioned to
4 that background level?

5 BREEDA REILLY: Yes, at a future point when we go to decommission
6 the facility they would use this information as a part of their planning for the
7 activities to return the site to unrestricted use.

8 DR. KAYE LATHROP: So why is that a safety condition rather than an
9 environmental condition?

10 BREEDA REILLY: Part of our safety review is to evaluate the
11 environmental protection issues, which is slightly different from evaluating
12 different environmental impacts. And so the review of environmental protection
13 issues is part of our safety evaluation. We don't really call it an
14 environmental license condition as opposed to a safety license condition. But
15 our standard review plan for safety does include an evaluation of the
16 environmental protection aspects of the facility.

17 CHAIRMAN BOLLWERK: Let me ask the AES witnesses, this wasn't
18 something LES was required to do. You obviously committed to doing it. Why did
19 you feel you needed to given LES wasn't required to do it? If you know, or
20 whatever your position is?

21 JIM KAY: This was a commitment we made because we knew we would
22 have to have some type of soil sample to go back to during decommissioning and
23 decommissioning planning. This would have had to be done. We had an original
24 plan and as a result of discussions with the staff, we needed to expand that
25 plan. And that's why we defined 60 samples in various locations across the site

1 to represent the soil conditions so we had something to go back to.

2 CHAIRMAN BOLLWERK: So you felt it was a good practice then?

3 JIM KAY: Yes.

4 DR. CRAIG WHITE: Would there have been any consideration of the
5 fact that the location of the AES site adjacent to the INL site, why this would
6 be more likely -- why you would be more likely to do this than LES? Or is that
7 not a factor at all in this?

8 JIM KAY: I don't think that's a factor.

9 DR. CRAIG WHITE: OK.

10 CHAIRMAN BOLLWERK: All right?

11 BREEDA REILLY: Slide nine please. This slide discusses the license
12 condition related to financial assurance for decommissioning. AES intends to
13 provide financial assurance for the site and facility decommissioning and
14 disposition of depleted uranium incremental over time. This license condition
15 requires updates to decommissioning funding plan and the facility
16 decommissioning cost estimate at least six months in advance of the start up of
17 the initial separations (unintelligible) module. In each additional module at
18 the facility at the time they're brought online.

19 This license condition supports an exemption request that was
20 submitted with the license application. This condition is needed to ensure
21 AES's compliance with the proposed methodology in providing financial assurance
22 on an incremental, forward-looking basis. AES' initial approach for providing
23 financial assurance was to fully fund estimated cost and (unintelligible) and
24 decommissioning a full size facility. And to fully fund the estimated cost to
25 disposition the depleted uranium tanks to (unintelligible) during the first

1 three years of operation. This approach was (unintelligible) fully operational
2 (unintelligible) and dealings as (unintelligible). So this license condition is
3 similar to the original license conditions and the LES license which was 16, 17,
4 18 and part of 23 and 16 was a little bit modified and 17 and 18
5 (unintelligible) diluted as that information was provided to the agency. Slide
6 10 please.

7 The next three license conditions are related to items permitted for
8 safety. The first license condition identified is in appendix A to the SER.
9 Upon completion of (unintelligible) AES will define (unintelligible) according
10 to the guidance as listed in appendix A (unintelligible). This guidance
11 requires the identification of a support system and components necessary to
12 assure that (unintelligible) is capable of performing its safety function. The
13 (unintelligible) also require that (unintelligible) measures are identified and
14 applied to all components within the IROFS boundary.

15 One of the lessons learned from the enrichment facility is that in
16 implementing its boundary definition packages, the applicant should ensure that
17 the resulting IROFS boundaries meet NRC guidance provided in Appendix B to
18 Chapter 3 of NUREG 20 1520 revision one. This guidance states that IROFS
19 boundaries must include everything necessary for the IROF to perform its
20 intended safety function and that the (unintelligible) of every component within
21 the IROFS boundary be considered (unintelligible).

22 This license condition holds the importance of the guidance which is
23 actually this Appendix B to Chapter 3 NURGE1520. So the license condition
24 incorporates a reference to this revised -- to this NRC guidance. The guidance
25 is needed to ensure that the final design is acceptable staff and that the IROFS

1 performance designed to mitigate the consequences of an event.

2 In its license application, LES stated that upon completion of the
3 the IROFS (unintelligible) internal procedure. To ensure that the final design
4 is acceptable to the staff, license condition 19 is imposed in the license for
5 the NEF. For the proposed condition for Eagle Rock is similar but not identical
6 to the license condition for NEF since we've included this reference to Appendix
7 B Chapter 3 of NUREG1520. Based on the experience from (unintelligible) staff
8 (unintelligible) packages were important documentation (unintelligible) and need
9 to be made available to the NRC prior to the implementation of (unintelligible)
10 and that's incorporated into the license conditions. Slide 11 please.

11 This slide also discusses the license condition related to IROFS.
12 This condition is identified in Appendix D to the SER. Appendix D describes the
13 staff's evaluation of AES' commitments to incorporate accepted (unintelligible)
14 factors, engineering guidance and practices, and (unintelligible) implementation
15 of (unintelligible) system interfaces that support IROFS. In its license
16 application, AES states that the guidance and NUREG 700 and NUREG 711 would be
17 used to conduct (unintelligible) factors, engineering review of the union system
18 interfaces.

19 In addition and in response to (unintelligible) from the staff, AES
20 provided an implementation plan for conducting its Human Factors Engineering
21 Review. The implementation plan addresses at a high level the criteria
22 contained in NUREG 711. In its implemental response, AES committed to
23 incorporate implementation plan section 3.3.8 and safety analysis report. This
24 license condition formalizes AES' commitments to NUREG 700 and 711 into its
25 implementation plan. In its license application LES similarly committed to

1 using the applicable guidance in NUREG 700 and 711 for all IROFS requirement
2 operator actions. Staff did not impose a similar license condition except as
3 part of another license conditions for all IROFS requiring NRC approval for
4 incorporation of digital features.

5 CHAIRMAN BOLLWERK: And why was that? Why wasn't that imposed?

6 BREEDA REILLY: Basically, LES committed to using the two new regs.
7 For AES we planned to impose this condition because it also incorporates the
8 implementation plan that they've committed to incorporate in their safety
9 analysis report.

10 CHAIRMAN BOLLWERK: OK.

11 BREEDA REILLY: The next slide is condition on slide 12 also
12 addresses IROFS. This license condition is discussed in Appendix E to the SER
13 to the Eagle Rock and Enrichment facility. The staff evaluated AES's design
14 criteria commitments, quality assurance commitments and management measures
15 regarding (unintelligible) elements of the electrical utility and
16 instrumentation and controls IROFS. Since the proposed design was not complete
17 at the time of review, it did not include IROFS that use software, firmware,
18 microcode, programmable logic controllers, and or any other digital devise. The
19 staff will impose this license condition. If AES should choose to incorporate
20 digital controls or any of these features in their design, prior NRC approval
21 would be necessary. This license condition is needed to ensure that prior NRC
22 approval is sought for any completed IROFS design that we use digital controls
23 as listed in the license condition. Staff imposed a similar license condition
24 on LES in license condition number 20 for the NES.

25 CHAIRMAN BOLLWERK: I might ask AES what is the status of digital

1 controls in the facility. Are you still thinking about that?

2 GEORGE HARPER: We're currently in the process of getting the design
3 to the IRS right now. So we have no hard fast design right now that
4 incorporates these features. But we're aware of the requirements if they do
5 evolve that way.

6 CHAIRMAN BOLLWERK: OK, all right.

7 BREEDA REILLY: Slide 13 please. This slide discusses the license
8 condition related to material control in accounting. In this condition is
9 described and discussed on Appendix H, non-public version of the SER for the
10 Eagle Rock Enrichment Facility. Appendix H describes staff's review for the
11 fundamental nuclear material control program for the Eagle Rock Facility. This
12 license conditions require pursuit to 10 CFR 70.32 (c)(1) which requires the
13 licensee maintain and follow a program for control and counting nuclear source
14 material at the uranium enrichment facility and special nuclear material at
15 (unintelligible) facilities.

16 This condition will also assure that AES will obtain NRC approval of
17 changes that could decrease the effectiveness of the FNMC (spelled phonetically)
18 program and that the record is kept of changes to the FNMCA program. Staff
19 imposed a similar license condition on LES which was license condition number 24
20 for the license for the NER. Slide 14 please.

21 DR. KAYE LATHROP: Just a second please.

22 BREEDA REILLY: Yeah.

23 DR. KAYE LATHROP: This change or this condition must surely apply
24 to changes that would knowingly affect safety. What happens if a change is made
25 and then later found to affect safety? Is there a procedure for notifying the

1 NRC to approve that change at that point or to...

2 BREEDA REILLY: Well usually the licensee makes the determination as
3 to whether the change affect safety or decreases the effectiveness of the
4 program. I suppose that if it was found that they had made a change that they
5 initially believed did not decrease effectiveness then that would become an
6 issue for NRC inspection staff to take a look at.

7 DR. KAYE LATHROP: But how would they know about it if there was no
8 requirement to notify the NRC that the change had been made? The change could
9 be made thinking it would not affect safety but then later found to effect
10 safety. How would the NRC know?

11 CHAIRMAN BOLLWERK: Want to ask what their approach would be?

12 DR. KAYE LATHROP: Yes please AES?

13 JIM KAY: Yes if we found such a condition we would be obligated to
14 notify NRC. And then we would then take corrective action.

15 DR. KAYE LATHROP: Under conditions that are already in place?

16 JIM KAY: That's correct.

17 DR. KAYE LATHROP: Thank you.

18 BREEDA REILLY: Slide 14 please. Slide 14 discusses one of the
19 standard license conditions which we refer to as a "tie-down" condition. The
20 tie-down condition is a standard practice for licensing fuel cycle facilities.
21 This condition is needed to incorporate by reference the license application
22 documents such as the safety analysis report and other document such as the
23 emergency plan and (unintelligible) report and the physical security plan that
24 are part of the licensing application. Through this tie-down condition, the
25 applicants statements or commitments that support the staff safety and security

1 reviews become enforcing. And the staff imposed similar condition, license
2 condition number 10 in the LES license.

3 CHAIRMAN BOLLWERK: I take it this is another one they couldn't
4 avoid correct?

5 BREEDA REILLY: This was a (unintelligible) fuel cycle facilities.
6 Slide 15. Slide 15 discusses the license condition for operation readiness
7 review. Although the enrichment facility licensee can start construction
8 following issuance of the license, it may not be an operation of the facility
9 until after it's successfully completes a second step. The 10 CFR 70.32(k)
10 stipulates that prior to operation NRC must verify through inspection that the
11 facility has been constructed in accordance with the requirements of the
12 license. Only after this step is successfully completed, would AES be able to
13 begin operation of the Eagle Rock facility. This license condition states the
14 requirement for the successful completion of the operational readiness review
15 and provides additional direction to the licensee concerning advanced notice of
16 a (unintelligible) introduction of (unintelligible) any module of the Eagle Rock
17 Enrichment Facility. Staff imposed a similar license condition which was number
18 11 in the license for LES.

19 CHAIRMAN BOLLWERK: I take it you all consider this a fairly
20 important license condition. I mean this is a basic check on the applicant to
21 make sure they've done everything they've said they're going to do in a general
22 sense?

23 BREEDA REILLY: Right, this is important because it's a regulatory
24 requirement and because it is a check of how they constructed the facility and
25 whether it complies with the statements (unintelligible) inside the application.

1 Slide 16 please.

2 This slide describes the license condition that creates an exemption
3 requests. I'll describe an exemption request in slide 19. Basically, this is
4 the mechanism for documenting approval of the exemption request which was made
5 in the licensing application. Staff imposed a similar license condition in the
6 license for the LES license. Slide 17.

7 This license condition is related to the expiration date of the
8 license. The regulations in 10CFR70.22(a)(3) require that the applicant state
9 the period of time for which the license is requested. The maximum possible
10 term of a fuel cycle facility license is (unintelligible) policy and
11 (unintelligible) not qualified in the regulations. 2006 NRC established a
12 policy extending the maximum licensing term part 70 fuel cycle licensees.
13 Specifically those were required to submit an ISA summary from 10 years to 40
14 years. AES requested a 30 year license which is within its maximum term for the
15 license. So the license condition will state a 30 term. This license condition
16 is similar to the one imposed in the LES license which is license condition
17 number 13.

18 CHAIRMAN BOLLWERK: Are they permitted to come in and ask for a
19 license renewal at some point?

20 BREEDA REILLY: Excuse me. I'm didn't hear the beginning of the
21 question.

22 CHAIRMAN BOLLWERK: Are they permitted to come in and ask for a
23 license renewal at some point? When the 30 years is up?

24 BREEDA REILLY: We have time (unintelligible) provision in our part
25 70 regulations that they can come in within 30 days before the license expires

1 (unintelligible) application proven --

2 CHAIRMAN BOLLWERK: Since the agency's policy is 10 to 40 years, can
3 they ask for another 10 years or can they ask for a 30 year renewal or how would
4 that work?

5 BREEDA REILLY: I'm not sure but I think they can probably come in
6 and ask for whatever term is within the maximum at that point and then we would
7 evaluate that at that time. Because part of the process would be looking at the
8 environmental impact statement for whatever period time they would propose a
9 renewal (unintelligible).

10 CHAIRMAN BOLLWERK: So in theory, they could ask for a 40 year
11 renewal if they wanted one since that's within the policy area that they could,
12 again, present you an application to show that was appropriate.

13 BREEDA REILLY: I think if they can support that then that's within
14 the policy. Slide 18 please.

15 The next couple of slides I'm going to talk about the exemptions
16 that AES requested and a special authorization that they requested. Separate
17 from the license application, AES requested an exemption related to pre-
18 construction activities. The staff granted AES an exemption from the
19 requirements of 10CFR30.4, 30.33 (a) (5), 40.4, 40.32 (e), 70.4, and 70.23 (a)
20 (7) which governed the commencement of construction. They granted this
21 exemption in response to a request from AES that was dated June 17, 2009.
22 Exemption allows AES to commence certain construction at the Eagle Rock facility
23 before completion and NRC's environmental review under 10CFR.50 provided that
24 none of the facilities or activates subject to the exemption (unintelligible)
25 component that AES' physical security plan and standard practice procedures plan

1 for the protection of classified matter or otherwise subject to NRC review or
2 approval. In LES did not request a similar exemption in construction
3 (unintelligible).

4 DR. KAYE LATHROP: In this case, exemption allows them to begin
5 construction activities without final NRC environmental review. Is there an
6 environmental review required by anybody before construction begins?

7 BREEDA REILLY: Well the exemption (unintelligible) from the NRC
8 requirements. They would still have to comply with any state or local
9 requirements. The activities that are exempt do not fall under NRC
10 jurisdiction. For example, clearing land or building fences for investment
11 protection purposes for getting construction.

12 DR. KAYE LATHROP: So would AES like to comment on the environmental
13 rules that apply to things that exempted from the NRC environmental inspection?

14 JIM KAY: With the exemption requests, we did provide the relative
15 impacts that would be associated with those preconstruction activities as part
16 of our activities. So that was considered in the granting of the exemption.
17 And that comprises a subset of the total impacts for the total construction of
18 the facility.

19 DR. KAYE LATHROP: But again, other environmental protection
20 agencies than the NRC would review those construction activities is that
21 correct?

22 JIM KAY: We still have to get an NDPS permit in order to begin any
23 preconstruction activities and that was obtained. And the environmental
24 assessment that was done with the granting of the exemption was part of that
25 process.

1 DR. KAYE LATHROP: So the NRC did do an environmental assessment of
2 these activities?

3 BREEDA REILLY: As part of the draft EIS that would be included in
4 the final EIS would be considered cumulative impacts or impacts of these
5 preconstruction activities. But the exemption permits AES to begin those
6 preconstruction activities prior to our finalizing the EIS under part 51. To
7 support the exemption request we did have an environmental assessment that
8 varied basically the fact that these activities are outside NRC jurisdiction
9 and will be evaluated as part of the environmental impact statement.

10 DR. KAYE LATHROP: So if they are outside NRC jurisdiction they
11 presumably apply to somebody else's jurisdiction or were included in somebody
12 else's jurisdiction and I'm asking if those permits were obtained and I think
13 there is or will be obtained.

14 GEORGE HARPER: What we need to do in order to exercise that
15 preconstruction authorization would be to obtain any state or local permits that
16 are required for any type of construction activity.

17 DR. KAYE LATHROP: Thank you that was the answer I was looking for.

18 CHAIRMAN BOLLWERK: OK. Let's be a little more specific here. What
19 sorts of things are we talking about here in terms of actual preconstruction
20 activities?

21 JIM KAY: In the actual exhibit that NRC 00082 are the nine
22 activities that are permitted, clearing the site, site grading and erosion
23 control, excavating the site including rock blasting and removal, installing
24 parking areas, constructing storm water detention (unintelligible), constructing
25 highway access, roadways and site roads, installing utilities, installing fences

1 and installing construction buildings offices warehouses, and guardhouse.

2 CHAIRMAN BOLLWERK: And have you undertaken any of those activities
3 up until this point?

4 JIM KAY: Yes we have. We've done some road construction,
5 (unintelligible) work, and some site clearing in the later part of later year.

6 CHAIRMAN BOLLWERK: And do you have anything planned on those sorts
7 of activities over say the next six months?

8 JIM KAY: Sometimes in the springtime we'll return and start
9 blasting and site excavation.

10 CHAIRMAN BOLLWERK: All right.

11 JIM KAY: Late winter and early spring.

12 DR. KAYE LATHROP: Good. Give us something to look at.

13 CHAIRMAN BOLLWERK: OK I think -- does anybody have any questions on
14 that slide? No? All right.

15 BREEDA REILLY: Slide 19. Slide 19 addresses the exemption request
16 for forward-looking, incremental funding. In its license application, AES
17 requested an exemption for incremental forward-looking decommissioning funding.
18 The applicant requested an exemption from the decommissioning funding
19 requirements of 10CFR40.360 of 10CFR70.25 (e). These sections address financial
20 assurance and record keeping for decommissioning and (unintelligible) the
21 licensee certified the financial assurance has been provided in the amount of
22 the cost estimate for decommissioning. If incremental funding is not used, the
23 applicant would need to fund a decommissioning cost for the entire
24 (unintelligible) even if only a portion of the centrifusions have been
25 installed.

1 In addition, the application would need to fund a disposition cost
2 for the full amount of the (unintelligible) uranium expected to be generated
3 during the 30 year operating life. AES exemption request asked for the ability
4 to provide financial assurance on the forward looking incremental basis. The
5 criteria for granting exemptions are given a 10 CFR40.14 (unintelligible) 70.17.
6 (unintelligible) evaluated this request against this criteria and determined
7 that the request (unintelligible) criteria for granting the exemption. As I
8 mentioned, a certain license condition would be imposed to address AES' schedule
9 for updating the decommissioning funding plan and financial assurance
10 instruments over time and discuss that in slide number nine. Slide 20 please.

11 Slide 20 addresses an exemption request that AES made separate from
12 the license the application. The request is related to 10.CFR.21 reporting for
13 non-conformance. Staff is granting AES an exemption from the 10.CRF part 21.3
14 definitions for commercial grade item, basic component, critical characteristic,
15 dedication and dedicated entity in a separate licensing action from a licensed
16 application. This is an exemption that was granted to LES in 2009.

17 DR. KAYE LATHROP: Could you give some examples of typical uses of
18 this exemption? What does it apply to?

19 BREEDA REILLY: I don't think I can answer that question if you
20 wanted to call one of the technical reviewers.

21 MAURI LEMONCELLI: Initially if we could pull up NRC115 regarding
22 the approval of, this is LES's part 21 exemption request. I believe we have
23 AES' as well. That's NRC41 please. Thank you. That might help the board. In
24 addition, Ms. Reilly would you recommend one of your colleagues to assist the
25 board?

1 BREEDA REILLY: I think this would be a good question if Damaris
2 Arroyo would come up and talk about the exemption request.

3 CHAIRMAN BOLLWERK: OK.

4 MAURI LEMONCELLI: Your honor if that's permissible, Mr. Arroyo.
5 I'm sorry Ms. Thank you. Ms. Arroyo could you please introduce yourself and
6 include your title for the board?

7 DAMARIS ARROYO: Hi my name is Damaris Arroyo I'm the quality
8 assurance engineer.

9 CHAIRMAN BOLLWERK: All right and is there any exhibit that goes or
10 are we already (inaudible)?

11 MAURI LEMONCELLI: Your honor we would like to --

12 CHAIRMAN BOLLWERK: Oh please go ahead.

13 MAURI LEMONCELLI: Thank you. We would like to identify NRC 0000106
14 statement of professional qualifications for Ms. Damaris Arroyo.

15 CHAIRMAN BOLLWERK: OK can you give me the number again I'm sorry.
16 Just the last three digits.

17 MAURI LEMONCELLI: I'm sorry your honor. NRC 000106, 106.

18 CHAIRMAN BOLLWERK: 106 all right. OK let's go ahead then and mark
19 for identification exhibit NRC 000106 as described by counsel and then do you
20 want to move it into evidence?

21 (The document referred to was marked as Exhibit NRC000106-MA-BD01 for
22 identification.)

23 MAURI LEMONCELLI: Yes your honor, thank you.

24 CHAIRMAN BOLLWERK: All right any objections?

25 MALE SPEAKER: No objections.

1 CHAIRMAN BOLLWERK: Then exhibit NRC 000106 is admitted into
2 evidence and Ms. Arroyo I need to swear you in.

3 (The document referred to having been marked as Exhibit NRC000106-MA-BD01 for
4 identification was received in evidence.)

5 One second here. All right if you could raise your right hand please and
6 I need a verbal response to my question. Do you swear or affirm that the
7 testimony you'll give in this proceeding is the truth the whole truth and
8 nothing but the truth?

9 WHERUPON,

10 DAMARIS ARROYO

11 was called as a witness for NRC staff and, having been first duly sworn,
12 assumed the witness stand, was examined and testified as follows:

13 DAMARIS ARROYO: I do.

14 CHAIRMAN BOLLWERK: Thank you very much. I think the question was
15 what sorts of examples can you give us of the types of definitions -- the
16 affected definitions that have been granted exemption from.

17 DAMARIS ARROYO: In the procurement process of IROFS and
18 (unintelligible) AES single IROFS who had to be procured as basic components.
19 Definitions that are in part 21.34 for part 70 licensees are pretty stringent.
20 So they decided to go with the definitions that are approved for reactor
21 facilities.

22 MALE SPEAKER: Which are less stringent?

23 DAMARIS ARROYO: No it's not stringent they given them the
24 flexibility to procure some additional vendors and they will have to apply their
25 QAPD, their quality assurance program description instead of a approved vendor.

1 CHAIRMAN BOLLWERK: OK.

2 DR. KAYE LATHROP: That's good thanks.

3 CHAIRMAN BOLLWERK: Anything AES wants to say about this in any way?

4 GEORGE HARPER: Yes just to echo comments there. The change in the
5 definitions allows us the flexibility to be able to use a commercial grade
6 dedication program in procuring some IROF components. Especially it's helpful
7 with some overseas suppliers let's say.

8 DR. KAYE LATHROP: Commercial grade as opposed to some higher grade?

9 DAMARIS ARROYO: Thank you. In the definitions for Part 21, yeah
10 the basic components and you have the flexibility to do a commercial grade
11 dedication program. A commercial grade dedication program means that you will be
12 able to go to a vendor and obtain the component and then you will dedicate the
13 component yourself, meaning you will verify the quality of the component by
14 yourself instead of by some vendor that is approved.

15 DR. KAYE LATHROP: Thank you I understand the distinction.

16 CHAIRMAN BOLLWERK: All right. Any further questions?

17 DR. KAYE LATHROP: No.

18 CHAIRMAN BOLLWERK: Thank you very much. Thank you for your service
19 to the board.

20 BREEDA REILLY: OK slide 21. This slide discusses a special
21 authorization that AES requested in its license application. In section 11.1.4
22 which discusses change control in their safety analysis report, AES states that
23 each change to the facility or activities of personnel will be evaluated in
24 accordance with requirements of 10CFR70.72. In reviewing the AES application,
25 the staff determined that certain changes should not be made to the

1 (unintelligible) prior to NRC approval. This determination is based in part on
2 lessons learned from the AEF operational readiness review. This authorization
3 is consistent with the approach used for 70.72 changes and that is parallel to
4 three elements of 70.72 namely provides the criteria to be used to evaluate
5 changes to determine when pre-approval by the NRC is required. It provides for
6 documentation of the evaluation of changes and provides for record keeping. It
7 also provides for the timely update of onsite documentation and reporting of
8 changes to the NRC.

9 This authorization is similar to ones that we've granted to other
10 licensees for example Westinghouse. The staff evaluated AES' request and
11 granted the authorization. This is documented in the safety evaluation report.
12 Staff will impose the special authorization as a license condition. LES did not
13 request a similar authorization for the NEF but the staff has gained insights
14 into the issue of changes to the license application in a time since they issued
15 the LES license and since they conducted the operational readiness review for
16 the NEF. So in the special authorization, AES addressed the staff's concerns
17 that it not make changes to the SAR that would decrease the effectiveness of
18 commitments and the special authorization identifies the criteria that AES would
19 use to identify changes that cannot be made without prior NRC approval.

20 DR. KAYE LATHROP: And if I understood you correctly, AES is
21 required to notify you of such changes, but they may make the changes without
22 prior approval, is that...

23 BREEDA REILLY: Well what we're trying to do is identify the
24 criteria under which some changes could be made without prior approval. They do
25 have to notify us of all changes.

1 DR. KAYE LATHROP: Yeah.

2 CHAIRMAN BOLLWERK: What would be the process if you decided that
3 their decision to go ahead and make a change without seeking authorization first
4 was incorrect how do things proceed from there?

5 BREEDA REILLY: Again, that would fall into our inspection space and
6 our enforcement space. We would evaluate any changes that they sent us that
7 needed prior approval but they made a determination document that their approach
8 for those changes that they believe did not need prior approval -- in a case
9 where they didn't get prior approval and maybe we disagree and think they need
10 it I think that would fall into enforcement inspection space.

11 CHAIRMAN BOLLWERK: So they proceed at their own risk essentially?
12 At their own risk?

13 BREEDA REILLY: Essentially. I think it's probably fairly --
14 there's a lot of things in the license application that are probably pretty
15 clear that don't impact safety that they can go ahead and change but there may
16 be other areas that they're proceeding at their own risk.

17 CHAIRMAN BOLLWERK: Are there any other -- I think you may have
18 mentioned this. Any other facilities that have similar conditions now?

19 BREEDA REILLY: Westinghouse.

20 CHAIRMAN BOLLWERK: Westinghouse and how is that working out in
21 terms of their utilizing it?

22 BREEDA REILLY: I don't have that information. I haven't heard that
23 there's been any issues with that condition and we actually use that as the
24 model for putting in the special authorization.

25 CHAIRMAN BOLLWERK: And yet it would become a matter of inspection

1 and enforcement if you found that it was not being used -- the exemption and
2 authorization is not being used appropriately?

3 BREEDA REILLY: Right.

4 CHAIRMAN BOLLWERK: Was the term authorization just one that they
5 used and that's why -- I'm trying to think about authorized exemptions, we
6 talked about exemptions, we talked about license conditions, this is an
7 authorization which it wasn't an exemption it was a special permission is that
8 why you're using that term?

9 BREEDA REILLY: Right, well in part 70 licenses typically have a
10 section in them titled exemptions and special authorizations. In this case they
11 didn't need an exemption to put this process in place but they did need to tell
12 us that's what they're going to do.

13 CHAIRMAN BOLLWERK: All right.

14 BREEDA REILLY: Slide 22. So just basically in summary we are
15 currently considering imposing 16 license conditions for the Eagle Rock
16 Enrichment Facility. This includes 10 license conditions that are discussed in
17 the SER. Staff identified through their evaluation. It includes four standard
18 license conditions and the license conditions for one exemption and one special
19 authorization. In general, these license conditions are comparable to the 15 of
20 those license conditions to LES. Since licensing LES the staff have identified
21 several areas where licensing can be strengthened. Those were considered in
22 crafting the licensing conditions for Eagle Rock Enrichment Facility.

23 CHAIRMAN BOLLWERK: The staff has not yet issued the final
24 environmental impact statement. Is it possible of any additional licensing
25 conditions coming from that?

1 BREEDA REILLY: The only one that's possible that I'm aware of is
2 possibly related to mitigation efforts. AES will have a plan for conducting
3 mitigation and there is some consideration of whether that needs -- because
4 identification of cultural of historic resources would go on through
5 construction, whether that needs to be a license condition. But other than
6 that, I'm not aware of anything.

7 CHAIRMAN BOLLWERK: All right. Any other board questions for any of
8 the witnesses? All right I thank you very much then.

9 BREEDA REILLY: Thank you.

10 CHAIRMAN BOLLWERK: Your service to the board and the information
11 you provided all of you. Thank you. We're right about a little bit passed
12 3:00. Let me find out if (unintelligible) would like you to break or to proceed
13 to the next presentation?

14 MAURI LEMONCELLI: A very brief break would be (inaudible).

15 CHAIRMAN BOLLWERK: That's certainly acceptable.

16 MAURI LEMONCELLI: Thank you.

17 CHAIRMAN BOLLWERK: Let's go ahead and take a 10 minute break and
18 we'll be back at 10 after 3:00 eastern time.

19 (off the record)

20 CHAIRMAN BOLLWERK: We've made very good progress today. We're
21 farther than I thought we'd be. It looks like we will definitely finish this
22 up this afternoon which is probably a good thing since they are now talking
23 about five to eight inches of snow tomorrow. So, all things being equal,
24 probably better that we're out -- not here tomorrow afternoon. The last topic
25 we have is on commitment follow-up and tracking. And when we've done with this

1 one, then we have some administrative things we want to talk with the parties
2 about obviously, but we will obviously finish this one up first. We have staff
3 witnesses I think and some exhibits that we need to take care of. Switch over
4 here. OK, OK. I see the AES witness, we've already sworn you in before, sir,
5 and you're still under oath. And I guess we have a new staff witness to swear
6 in and some exhibits to put in, at least one. All right.

7 CHRISTINE JOCHIM BOOTE: OK. There is one panelist for the NRC
8 presentation four, Ms. Seymour, could you introduce yourself to the board and
9 state your title, please?

10 DEBORAH SEEMORE: Deborah Seymour, Region 2. My title is Branch
11 Chief, Construction Projects Branch 1.

12 CHAIRMAN BOLLWERK: All right. Let me go ahead and swear you in,
13 if you would raise your right hand, please. And I need a vocal answer to the
14 question. Do you swear or affirm that the testimony you'll give here today is
15 the truth, the whole truth, and nothing but the truth?

16 WHERUPON,

17 DEBORAH SEYMOUR

18 was called as a witness for NRC staff and, having been first duly sworn,
19 assumed the witness stand, was examined and testified as follows:

20 DEBORAH SEYMOUR: Yes.

21 CHAIRMAN BOLLWERK: Thank you and we have exhibits.

22 CHRISTINE JOCHIM BOOTE: The staff would like to identify five
23 exhibits.

24 CHAIRMAN BOLLWERK: All right.

25 CHRISTINE JOCHIM BOOTE: NRC R 00120, staff's presentation four on

1 commitment follow-up and tracking; NRC 000121, statement of professional
2 qualifications for Deborah Seemore; NRC 000122, NRC Inspection Manual Chapter
3 1252 dated December 7, 2009; NRC 000123, NRC Inspection Manual Chapter 2696
4 dated October 19, 2006; and NRC 000124, NRC Inspection Manual Chapter 2630
5 dated May 18, 2005.

6 CHAIRMAN BOLLWERK: All right, then the record should reflect that
7 exhibits NRC R 00120, as well as exhibits NRC 000121 through NRC 000124, as
8 described by counsel are marked for identification.

9 (The documents referred to were marked as Exhibits NRCR00120-MA-BD01,
10 NRC000121-MA-BD01 through NRC000124-MA-BD01 for identification.)

11 Would you like to have those admitted?

12 CHRISTINE JOCHIM BOOTE: Yes, we would.

13 CHAIRMAN BOLLWERK: Any objections?

14 JIM CURTISS: No objections.

15 CHAIRMAN BOLLWERK: Then the record should reflect that NRC exhibit
16 NRC R 00120, as well as NRC exhibits 000121 through NRC 000124 are admitted
17 into evidence.

18 (The document referred to having been marked as Exhibit NRCR00120-MA-BD01,
19 NRC000121-MA-BD01 through NRC000124-MA-BD01 for identification were received in
20 evidence.)

21 CHRISTINE JOCHIM BOOTE: With the board's permission, Ms. Seymour
22 would like to provide additional insight into Judge Lathrop's question in
23 presentation three regarding the special authorizations before she begins
24 presentation four.

25 CHAIRMAN BOLLWERK: All right. Certainly, we would appreciate it,

1 thank you.

2 DEBORAH SEYMOUR: Thank you. I wanted to mention that when a
3 licensee makes changes in accordance with 10 CFR 7072 (spelled phonetically)
4 and they've made a determination that these changes do not need authorization
5 by the NRC, whether it's under the special authorization or whether it's for a
6 program like material control and accounting as discussed earlier in
7 presentation three, these changes are all logged. Records are kept of their
8 determination and the basis for that determination. And this information is
9 sent on a periodic basis up to headquarters for review by the different license
10 reviewers. That headquarters reviewers look at that information and will send
11 communications to Region 2, to the inspectors on which of those changes they
12 believe the inspectors should include in their inspection program to see if we
13 agree with the licensee's determination that prior authorization wasn't needed.
14 In addition, on a regular basis, our inspectors for each of the different
15 safety areas, whether it's operations, maintenance, will look at the 7072
16 changes that were made without prior authorization from the NRC and take a
17 sampling of those and review them to see if they agree with the licensee's
18 determination that an authorization wasn't needed. If it's determined that we
19 do not agree, then that brings that issue into enforcement space.

20 CHAIRMAN BOLLWERK: Excellent. Thank you. Let me ask you the same
21 question I asked the prior witness. I guess Westinghouse, I believe it was
22 Westinghouse, has been -- has a similar license condition I believe or a
23 similar authorization?

24 DEBORAH SEYMOUR: I can't speak as to whether they have exactly
25 that authorization but they are required to compile their list of 7072s for our

1 review.

2 CHAIRMAN BOLLWERK: OK, have there been any issues with what
3 they've been doing that you're aware of?

4 DEBORAH SEYMOUR: I am not aware of any issues with what they've
5 been doing but I have not been following that specifically.

6 CHAIRMAN BOLLWERK: OK. Thank you. All right, any other
7 questions from the board members on that item?

8 MALE SPEAKER: No.

9 CHAIRMAN BOLLWERK: All right, all right, then if you would like to
10 start with presentation four. Thank you.

11 DEBORAH SEYMOUR: Thank you. OK. Good afternoon, this
12 presentation is in response to the board's question on the NRC's commitment
13 follow-up and tracking processes that are used to ensure -- that will be used
14 to ensure AREVA Enrichment Services satisfactorily meet their license
15 commitments and their commitments in the safety analysis report. This
16 presentation will address that issue and each of its subparts. Slide two,
17 please. Again, I am Deborah Seymour out of the Region 2 office in Atlanta,
18 Georgia. Slide three, please.

19 First I'd like to discuss the management structure under this
20 process. And this slide shows the structure of the NRC in Region 2. If you
21 look halfway down the slide, right above the blue, the blue highlighted, the
22 first blue highlighted box, you see the box for the regional administrator,
23 Victor McCree is the Region 2 Regional Administrator. Charles Casto is the
24 deputy regional administrator for the Region 2 Center for Construction
25 Inspection. There are two divisions in the Center for Construction Inspection,

1 the Division of Construction Projects and the Division of Construction
2 Inspection. Construction Projects Branch 1 is responsible for the oversight of
3 the NRC Construction Inspection Program for fuel facility construction in the
4 U.S. As such, it has responsibility for the Eagle Rock Enrichment Facility
5 Construction Inspection Program.

6 Slide four, please. This is an expanded view of the management
7 structure of the Center for Construction Inspection. This slide illustrates
8 the hierarchy of the organization. And it also illustrates some of the
9 communications -- pathways present in the organization. These communications
10 travel both ways in the organization and also to the Office of Nuclear Material
11 Safety and Safeguard which is depicted on the right. In addition to these
12 communications, we also communicate with other headquarters' offices, such as
13 NSIR (spelled phonetically), NRO, and NRR. The solid lines represent very
14 frequent communications, typically on a daily or near daily basis. The dotted
15 lines represent slightly less frequent communications. They are still
16 communications on a near daily or weekly basis. Numerous types of
17 communications occur, we have internal communications. This includes weekly or
18 biweekly calls with NMSS (spelled phonetically). We have periodic, typically
19 daily, phone calls with the senior resident inspectors at our sites. We have
20 weekly Center for Construction Inspection management meetings. We have
21 periodic post inspection debriefs. We also have external communications.
22 These are typically weekly phone calls with the licensee, periodic management
23 meetings with the licensee, inspection reports and performance reviews where we
24 assess the licensee's performance and share this information with interested
25 stakeholders in a public meeting. Slide five, please.

1 DR. KAYE LATHROP: Excuse me a second. Resident inspector means
2 at the EREF site, is that correct?

3 DEBORAH SEYMOUR: That is correct.

4 DR. KAYE LATHROP: How about the inspectors, are they are resident
5 there too?

6 DEBORAH SEYMOUR: Well, the term resident inspector is reserved for
7 an inspector who lives near the site and reports to the site for his work,
8 except for, you know, holidays and training.

9 DR. KAYE LATHROP: But the individual, individual technical
10 inspectors visit the site from afar, is that typical?

11 DEBORAH SEYMOUR: They're (unintelligible), they're regional or
12 headquarters inspectors.

13 DR. KAYE LATHROP: (affirmative)

14 DEBORAH SEYMOUR: OK.

15 DR. KAYE LATHROP: Thank you.

16 DEBORAH SEYMOUR: You're welcome. Now I'll discuss management
17 responsibilities under this process. The program management responsibility for
18 the Construction Inspection Program is in accordance with the formal inspection
19 manual chapter. For example, Inspection Manual Chapter 2696 addresses
20 oversight of the National Enrichment Facility Construction Inspection Program.
21 Inspection Manual Chapter 2630 addresses the oversight of the MOX Fuel
22 Fabrication Facility Construction Inspection Program. Region 2 conducts the
23 construction oversight in accordance with these inspection manual chapters and
24 they are publicly available.

25 Inspection Manual Chapter 2635, Fuel Facility Construction and

1 Preoperational Readiness Review Inspection Programs, will be an inspection
2 manual chapter that will address oversight in the Eagle Rock Enrichment
3 Facility. This inspection manual chapter is not issued at this time but it's
4 imminent. Insights gained from implementing the inspection manual chapters for
5 National Enrichment Facility and for MOX were incorporated into the new Fuel
6 Facility Construction Inspection Manual chapter. In conclusion for this slide,
7 Region 2 is responsible for the planning, performance, documentation and
8 enforcement associated with the Fuel Facility Construction Inspection Program.
9 Slide six, please.

10 Next I will discuss the approximate number of individuals engaged
11 in this effort. Region 2 will have a branch chief and a senior project
12 inspector assigned to this project. These individuals will be responsible for
13 tracking implementation of the requirements and oversight and tracking of the
14 Construction Inspection Program. Slide four depicted the structure of the
15 Division of Construction's projects and provided a high level of approximation
16 of the numbers of individuals engaged in these efforts. This included the
17 branch chiefs, senior project inspector, and the technical specialists and
18 staff. Region 2 fuel facility construction resources are allocated by MNSS
19 (spelled phonetically), sufficient resources have been included in the budget
20 requests. As a point of reference for the number of individuals involved, this
21 slide summarizes the resources used by Region 2 in each of the past four years
22 to perform the construction inspections at the National Enrichment Facility.
23 The Y axis is the number of hours and the X axis is the fiscal year. The hours
24 are not cumulative, they do not include project management hours or MNSS
25 inspections or licensing hours. The hours include Region 2 inspection,

1 inspection preparation, inspection travel, and inspection report documentation.
2 As you can see, as construction progressed, our resource output increased. The
3 number on the top of the bars is the number of inspectors involved in the
4 inspections, as an inspector may have been involved in one inspection per year
5 or multiple inspections.

6 In 2010 there were 38 inspectors involved and they performed
7 approximately 5,000 hours of work. We anticipate that the time schedule and
8 the number of individuals needed for the Eagle Rock Enrichment Facility project
9 will be less than that for LES NEF and could be as much as 40 percent less.
10 The primary reason is because AREVA has the benefit of the LES licensing and
11 construction experience. However, please recognize there are many variables in
12 this assumption, including if AREVA is able to obtain construction staff with
13 previous nuclear experience. Regardless, we do not anticipate the time
14 schedule and number of individuals to be greater than that of LES. Slide
15 seven, please.

16 This slide discusses how we will plan for this effort. Region 2
17 staff will hold discussions with AES representatives to review the Eagle Rock
18 Enrichment Facility construction schedule. As part of these discussions, we
19 will verify that their construction schedule includes construction activities
20 that pertain to IROFS (spelled phonetically) and construction quality assurance
21 (spelled phonetically) activities for each phase of construction. Using their
22 construction schedule, the senior project manager in consultation with the MNSS
23 senior project manager will develop an NRC construction inspection schedule.
24 The construction inspection schedule will typically look ahead for several
25 months and will be updated as needed according to changes to the licensee's

1 construction schedule. During periodic internal scheduling and planning
2 meetings, the project inspector will discuss inspector resource allocations for
3 these inspections with the appropriate branch chiefs from Region 2 and MNSS.
4 Slide eight, please.

5 There are several steps in the inspection planning process. A key
6 step is identifying the program requirements. These may be regulatory
7 requirements from 10 CFR Part 70 or they may be requirements included in the
8 licensing basis documents, for example the safety analysis report. The
9 inspectors are required to be familiar with the applicable requirements in
10 their area of technical expertise. This requires the inspectors to be familiar
11 with and understand applicable portions of the licensee's safety analysis
12 report, the integrated safety analysis summary, and other applicable license
13 application requirements.

14 DR. KAYE LATHROP: There must be somewhere in this process a means
15 of listing of all of the requirements that are made and provision for tracking
16 the satisfaction of those requirements?

17 DEBORAH SEYMOUR: Yes, (unintelligible) there is and on a further
18 slide we'll discuss this.

19 DR. KAYE LATHROP: All right.

20 DEBORAH SEYMOUR: OK but, yes, there is. So that's one of the
21 things that the senior project inspector puts together. MNSS has worked with
22 the senior project inspector to identify the most important items relied on for
23 safety, or IROFS. Our inspections will include these IROFS. Other than these
24 IROFS, our inspections are based on samples -- sampling. Our inspection sample
25 size is expanded if problems are identified. Once the inspectors understand

1 the requirements for their inspections, they develop their inspection plans.
2 The inspection plans provide focus for the inspectors and delineate the
3 inspection activities performed to verify implementation of the license
4 requirements. The inspection plans are reviewed by the inspector's branch
5 chiefs, by the senior project inspector for the facility, and by the project
6 branch chief to ensure that appropriate focus was obtained. When the
7 inspections are completed, the results are documented and any inspection
8 findings are tracked.

9 DR. KAYE LATHROP: Identifying problems that occur, does that
10 include at similar facilities like LES?

11 DEBORAH SEYMOUR: What happens is if there is a problem that has
12 been identified at one facility during the inspection briefs that we hold on a
13 routine basis, that information is shared with the other inspectors. And it is
14 evaluated for inclusion into inspection plans.

15 DR. KAYE LATHROP: Thank you.

16 DEBORAH SEYMOUR: Slide nine, please. This slide discusses the
17 requirements and training for construction inspectors. A formally issued IMC
18 (spelled phonetically), IMC 1252 Construction Inspector Training and
19 Qualification Program defines the initial training and qualification
20 requirements for staff performing inspections of reactor and fuel facility
21 construction activities. IMC 1252 ensures that the NRC staff has the necessary
22 knowledge and skill to successfully implement the construction inspection
23 program. There are also other -- many other opportunities for training. We
24 hold inspector counterpart meetings, we have lessons learned seminars which
25 include both internal and external issues from recent industry and agency

1 activities and we require continued technical training. Slide 10, please.

2 CHAIRMAN BOLLWERK: Can I ask one question?

3 DEBORAH SEYMOUR: Sure.

4 CHAIRMAN BOLLWERK: Looking back on slide, I guess it was three.

5 DEBORAH SEYMOUR: OK.

6 CHAIRMAN BOLLWERK: Starting with the organizational chart and then
7 what you just said, are the inspectors, do they specialize in terms of reactor
8 construction versus a fuel facility or do they do both? How does that work?

9 DEBORAH SEYMOUR: Once they're qualified, they can do both, but
10 they do have areas of expertise like quality assurance is an area,
11 instrumentation and control, welding, structural steel, there are several in
12 terms (spelled phonetically) of back fill, et cetera, concrete. These are all
13 different areas where different -- we actually try to hire people out of
14 college or get mid-career individuals or train our inspectors in an area.

15 CHAIRMAN BOLLWERK: But again, I don't see any distinction at least
16 in terms of the organizational chart between reactors and fuel facilities, it's
17 all basically everybody's there and they're assigned as appropriate?

18 DEBORAH SEYMOUR: That's right.

19 CHAIRMAN BOLLWERK: Right.

20 DEBORAH SEYMOUR: OK, slide ten. Slide ten, please. OK, slide ten
21 discusses the estimated time schedule for completing this process. Although a
22 firm date for the time schedule is not yet available, I anticipate the
23 inspections starting late 2011 or early 2012 and continuing for several years.
24 Startup of the first cascade could occur as early as 2014. As noted earlier,
25 the inspection process will be detailed in a forthcoming inspection manual

1 chapter. The construction inspections will start after the license is issued,
2 when the licensee commences construction activities that could affect safety
3 and are required by regulations, the license, and/or license conditions. The
4 completion of the construction inspections and the operational readiness review
5 inspections is determined by the licensee's construction schedule. Our goal is
6 to manage our resources to ensure to the extent practical that our construction
7 inspection and oversight activities do not become critical path and that they
8 do not adversely impact the oversight of operating facilities. The staff
9 expects that the time schedule for completion of the Eagle Rock Enrichment
10 Facility process will be less than that of the National Enrichment Facility
11 process based on the lessons learned.

12 CHAIRMAN BOLLWERK: We heard in the previous presentation about the
13 pre-construction exemption and I take it because construction, quote on quote,
14 hasn't started, are you doing any inspections out there now in terms of the
15 work they've done land clearing or whatever else?

16 DEBORAH SEYMOUR: No, we're not doing any inspections out there
17 now.

18 CHAIRMAN BOLLWERK: All right.

19 DEBORAH SEYMOUR: Slide 11, please. Slide 11 discusses how we will
20 coordinate this process with AREVA Enrichment Services. The NRC staff
21 anticipates changes to the Eagle Rock Enrichment Facility construction
22 schedule. As a result, we will request periodic updates to the construction
23 schedule. We have several methods for receiving these updates; this includes
24 periodic schedule updates during construction status meetings. On slide four I
25 discussed communications, these include internal and external communications

1 such as weekly or biweekly phone calls with MNSS and the licensee.

2 Construction schedule updates are topics discussed during these communications.

3 Slide 12, please.

4 Slide 12 discusses the methodology for compiling and updating
5 commitments. The licensee is responsible for constructing the facility in
6 accordance with the license including meeting all enforceable regulatory
7 requirements. I would like to take a moment to discuss what I mean by a safety
8 commitment. A safety commitment is a commitment that is enforceable. It is a
9 requirement. For the purposes of the Eagle Rock Enrichment Facility, it is
10 tied down by a license condition which was discussed in one of the earlier
11 presentations.

12 For example, the license will require AES to conduct authorized
13 activities in accordance with their safety analysis report. The safety
14 analysis report may require AES to apply a specific construction code. This
15 would then be a safety commitment and we would inspect to make sure that it was
16 being implemented. The Construction Inspection Program will be focused on
17 AES's quality assurance program and verifying that it is in place and
18 implemented appropriately. It will be focused on the inspection of items
19 relied on for safety. There are approximately 100 items relied on for safety
20 identified for the facility. And as I mentioned earlier, MNSS technical staff
21 have identified the most significant of these and other than these IROFS, our
22 inspections would be based -- we'll inspect those and then the rest will be
23 based on sampling.

24 And our Construction Inspection Program is also focused on the
25 operational readiness reviews, this is required by a license condition or it

1 will be required by a license condition for the Eagle Rock Enrichment Facility.
2 And they're performed before the authorization to commence operations is
3 granted. They will be performed in phases as programs are implemented by AES.
4 ORR, the Operational Readiness Review inspections include safety program
5 readiness and that would include nuclear predicality (spelled phonetically)
6 safety, radiation safety, just to name two. It also includes system, facility,
7 component, and equipment readiness as associated with requirements and the
8 IROFS. Any inspection findings identified during these inspections are
9 documented in the inspection reports for tracking and follow up. Slide 13,
10 please.

11 This is an excerpt of a table used to compile the IROFS for the LES
12 facility and this is one of the ways that we communicated these IROFS to the
13 inspection staff. So we actually, the licensee has tables of the IROFS in
14 their documents already. And we use those tables, but we -- to share that
15 information with the staff. Slide 14.

16 This is an example of a table used to track inspection status. We
17 plan to implement a table similar to this one to track the status of Eagle Rock
18 Enrichment Facility's requirements. So you can see it's color coded and you
19 can see at the bottom the key -- either it's been closed and there's no follow-
20 up needed or it's going to need one or more weeks of inspection, less than a
21 week of inspection. Slide 15, please.

22 Slide 15 discusses the process for resolving disputes. We do not
23 expect disputes, however occasionally differences of technical opinions do
24 arise. An important fact to remember is that the NRC will not authorize
25 operations until we verify that the facility has been constructed in accordance

1 with the requirements of the license. If an NRC inspector identifies that AES
2 has not fulfilled a safety requirement, the inspector would initially engage
3 AES in a discussion to insure a full understanding and communication of the
4 identified issue. Typically, a licensee responds to the identification of an
5 issue by capturing the issue in their corrective action program and moving
6 forward with correcting the issue. Depending on the complexity of the issue,
7 prior to the NRC's final characterization of the issue in an inspection report,
8 discussions could be held with the Program Office and other technical
9 specialists as needed to develop a full understanding of the issue. If it is
10 determined that it is a failure to meet an enforceable requirement, the issue
11 is evaluated using the NRC's enforcement policy. Once we are in enforcement
12 space, the process for resolution is structured by our existing enforcement
13 policy and program. Ultimately, the inspection findings would be documented in
14 an inspection report including any enforcement actions. Slide 16, please.

15 This slide discusses some of the lessons learned from previous fuel
16 facility construction activities. There are important lessons learned from
17 these activities including the activities at the LES NEF and the MOX Fuel
18 Fabrication Facilities. These include the value of having frequent
19 communications with involved stakeholders. Frequent communications are key to
20 successful project management of the construction inspection program. Secondly
21 --

22 CHAIRMAN BOLLWERK: Did you discover this because there wasn't
23 enough communication or is this just a general principal?

24 DEBORAH SEYMOUR: This is a general principal, but one of the
25 lessons we did learn is it's really -- you almost need to over communicate

1 because especially if you're communicating over a distance, you really have to
2 have very robust communications. And that leads to the next bullet which is
3 the value of construction resident inspector. A resident inspector greatly
4 facilitates understanding and coordination of construction activities and
5 inspections because they are on site. They're seeing it with their eyes and
6 there isn't any nuances of understanding or interpretation which happens. OK,
7 so that's the value of a construction resident inspector, a very important
8 lesson learned. A third lesson learned is that a finalized design prior to the
9 onset of construction or near finalized design minimizes the need to repeat
10 inspections as the design and the commitments change. Frequent design changes
11 can challenge inspectors and require additional resources. The fourth lesson
12 learned is that adequate resource planning is key to Program 6S (spelled
13 phonetically). This includes planning for a resident inspector. In addition
14 to the enhanced communications, resident inspectors will reduce the number of
15 regional inspections needed because a resident inspector can perform some of
16 these inspections.

17 CHAIRMAN BOLLWERK: LES, did they start out with a resident or did
18 not?

19 DEBORAH SEYMOUR: They did not.

20 CHAIRMAN BOLLWERK: OK.

21 DEBORAH SEYMOUR: And they still do not have a resident.

22 CHAIRMAN BOLLWERK: OK, what about MOX?

23 DEBORAH SEYMOUR: MOX has two residents, a senior resident and a
24 resident.

25 CHAIRMAN BOLLWERK: And obviously I guess LES is far enough along

1 now that they don't need a construction resident any more, I mean they're
2 operating essentially. So -- or is that not correct statement?

3 DEBORAH SEYMOUR: They are pretty far along, but right now we have
4 at the site, we actually have a rotation. An inspector who is spending two
5 months there, he is not a resident. It's a construction project inspector but
6 there he's acting like a resident so we have these enhanced communications as
7 they move through the process of bringing the cascades online. So -- and it
8 has proved to be extremely helpful.

9 CHAIRMAN BOLLWERK: All right. Did these resident inspectors for
10 construction, do they turn into resident inspectors for operation? Or is that
11 -- basically at this point, once it's constructed, they're finished?

12 DEBORAH SEYMOUR: They can with additional training --

13 CHAIRMAN BOLLWERK: (unintelligible) the reactor site for years, I
14 wasn't --

15 DEBORAH SEYMOUR: Yes, it is possible because we will take resident
16 inspectors for operating reactors and bring -- with training, they can move
17 into a resident inspector at a construction site. And they can go the other
18 way with training also. But you have to have the specific training and go
19 through the qualification process to do that.

20 CHAIRMAN BOLLWERK: All right. Is there any thought to keeping a
21 resident, either at LES or the Eagle Rock Facility once the construction is
22 finished?

23 DEBORAH SEYMOUR: My understanding is at this time, no.

24 CHAIRMAN BOLLWERK: All right.

25 DEBORAH SEYMOUR: So, the next lessons learned is that adequate

1 resource planning is a key to program success. This includes planning -- I'm
2 sorry, I already did this one for the resident inspector. The last lessons
3 learned is that early program reviews are key for early identification and
4 correction of issues before discrepancies are promulgated. So we'd like to
5 have our inspectors get on site as soon as possible to start looking at the
6 programs and the activities quality assurance (spelled phonetically)
7 construction and identify the problems early on, if there are problems. Slide
8 17.

9 CHAIRMAN BOLLWERK: Can we back up to one more second -- the
10 advantage of a finalized design, is that something I can take it came from LES
11 in terms of the design there being insufficiently finalized? It caused issues?
12 Or is this a MOX issue? Or is this again --

13 DEBORAH SEYMOUR: I don't think it's unusual for construction
14 activities to have less than complete design when they start constructing and
15 to complete design as they're going. And also even with a finalized design, as
16 you move into construction it's very normal to have to redesign different
17 pieces of it because what works sometimes on paper, doesn't work in three
18 dimensions. But the closer the design is to being finalized, the less those
19 changes will occur and the more streamlined the inspection process would be.

20 CHAIRMAN BOLLWERK: Let me turn to AES, how committed are you all
21 to a finalized design at some point or early in the process, I guess, is the
22 NRC seems to be -- would like to have?

23 JIM KAY: We are committed to as close to final design before we
24 begin construction and that's been reinforced in -- with management meetings
25 with NRC.

1 CHAIRMAN BOLLWERK: OK, I'm sorry, go ahead.

2 DEBORAH SEYMOUR: Thank you. Slide 17, please. In conclusion,
3 operations will not be authorized by the NRC until the Commission verifies
4 through inspection that the facility has been constructed in accordance with
5 the requirements of the license as required by 10 CFR 70.32K. The Region 2
6 Center for Construction Inspection has a management structure, processes,
7 tools, training, and resources needed to verify that the Eagle Rock Enrichment
8 Facility is constructed in accordance with their license requirements and all
9 needed inspections will be scheduled and conducted.

10 CHAIRMAN BOLLWERK: How much do you know about the details of the
11 inspection process that went on with LES in terms of different -- there were
12 several different things that were found that I know.

13 DEBORAH SEYMOUR: I know quite a bit about it.

14 CHAIRMAN BOLLWERK: What do you think were the major issues that
15 came out of the construction inspection process there?

16 DEBORAH SEYMOUR: I think there -- a big issue that has come out
17 and not even just in LES but construction that's going on, nuclear construction
18 across the globe is making sure that you have a very robust quality assurance
19 program. And that those requirements of that program are rolled down to your
20 contractors and vendors and that they understand them and are implementing them
21 because you can't just check on paper their quality assurance program. If you
22 have a vendor, you need to actually see that it's implemented and that it's
23 robust and that it's strong. So, that's been a stumbling block because you can
24 check a program on paper and it'll look great but it actually has to be
25 implemented in a very robust way.

1 CHAIRMAN BOLLWERK: All right and what is LES's -- I'm sorry, what
2 is AES's commitment in that regard, in terms of the program that you're going
3 to be putting in place?

4 JIM KAY: First off is that, you know, from lessons learned this is
5 one that we have picked up on and we'll definitely focus on in our plans for
6 construction. So -- yes, I believe, I endorse Deborah's statement and that's
7 our objective as well.

8 CHAIRMAN BOLLWERK: All right, I take it you're saying that they
9 need to be contacting, not just taking the paperwork but contacting and going
10 out looking at what's going on in terms of the QAQC (spelled phonetically), and
11 whether the parts they're buying and the way things are being constructed. Is
12 that your point?

13 DEBORAH SEYMOUR: That's my point and as an add-on to that point, I
14 think that it's been a surprise to the different organizations globally how
15 many individuals they need in their quality assurance program to do this
16 because they start out thinking oh, five people because we're going to rely on
17 their quality assurance programs. They need a lot more people to do it than
18 one might think.

19 CHAIRMAN BOLLWERK: Do you agree, Judge Lathrop?

20 DR. KAYE LATHROP: I certainly do.

21 CHAIRMAN BOLLWERK: Any other major issues besides that one?

22 DEBORAH SEYMOUR: Another issue to be aware of is that it's very
23 important that issues that are identified by some of these different
24 organizations don't fall between the cracks. So what a lot of the construction
25 entities have discovered is that they need to roll these issues up into one

1 program in order to adequately control them.

2 CHAIRMAN BOLLWERK: So it's a way of identifying them and making
3 sure that, I guess this is sort of your tracking their equipment
4 (unintelligible) but they also need to be tracking commitments, not
5 commitments, but tracking issues or problems that are raised through the
6 construction inspection program.

7 DEBORAH SEYMOUR: In other words, if you have four vendors on site,
8 you don't want to have five different corrective action programs, one for each
9 of the entities if you can avoid it. It's not required by the regs but what --
10 where it becomes a regulatory issue is when an issue is identified and then
11 it's not followed up on. And then we go out as inspectors, review that and
12 determine that it was identified but not followed up on because it was rolled
13 up in a different corrective action program.

14 CHAIRMAN BOLLWERK: So sort of one overall responsibility for
15 corrective action programs, is that --

16 DEBORAH SEYMOUR: It's something that would strengthen it,
17 something to look at, but it is not a regulatory requirement, I want to make
18 that very clear.

19 CHAIRMAN BOLLWERK: All right, do you have anything you want to say
20 about that in terms of what you've heard and your approach?

21 JIM KAY: The Eagle Rock approach would be very much similar in
22 terms of a focus program to collect corrective action and condition reports and
23 appropriately apply the corrective action to all entities.

24 CHAIRMAN BOLLWERK: All right. What specific problem, was this an
25 LES problem or a MOX problem or is this just general?

1 DEBORAH SEYMOUR: This is just a general problem.

2 CHAIRMAN BOLLWERK: OK, anything else in terms of major issues with
3 LES or MOX?

4 DEBORAH SEYMOUR: Those are the two issues that come to mind, not
5 specific to either of those. But the construction has been going on
6 satisfactorily at both of those facilities.

7 CHAIRMAN BOLLWERK: I understand, wasn't there some problems with
8 some paperwork at one point in terms of people filling out -- not having
9 appropriately signed off on some documentation about whether they had certain -
10 - some of the workers didn't have proper safety training. I am trying to
11 remember exactly what I read in the trade press about it. And again, I may not
12 have this right.

13 DEBORAH SEYMOUR: I'm not, I'm sorry; I can't remember a specific
14 incident.

15 CHAIRMAN BOLLWERK: I think it was with one of the contractors but
16 maybe that's -- either of you know what I'm referring to -- sort of, not very
17 well? OK. All right. Anything else you would like us to know about the
18 regional inspection program in terms of how you're going to be tracking things?

19 DEBORAH SEYMOUR: I think that the experience of developing the
20 programs to manage the Construction Inspection Program for LES NEF has left us
21 in a strong position to move forward smartly with Eagle Rock. And I'm looking
22 forward to the challenge.

23 CHAIRMAN BOLLWERK: All right. And let me turn to AES, anything
24 further that you want to say on this subject in terms of what you've heard or
25 what we've asked?

1 JIM KAY: We've begun our discussions with Region 2 and, you know,
2 and in terms of anticipating how we're going to integrate the construction
3 inspection into the construction schedule, so that work has begun. And again,
4 I think in terms of Deborah, we've been in communication and look forward to
5 working together.

6 DEBORAH SEYMOUR: Thank you.

7 CHAIRMAN BOLLWERK: All right. Let me see if it -- any of the
8 board members have any questions at this point on the subject?

9 MALE SPEAKER: Nothing further.

10 MALE SPEAKER: No, nothing.

11 CHAIRMAN BOLLWERK: All right, then I thank you both for the
12 information that you provided and for your service to the board. Thank you.

13 All right, at this point that we've finished the presentations that
14 we've had for today, it's a little bit after four o'clock. Do you want to take
15 a couple of minute break before we wrap up or should we just go into the wrap-
16 up?

17 MAURI LEMONCELLI: We're fine to proceed, your honor.

18 CHAIRMAN BOLLWERK: All right. We'll go ahead and do that then.
19 The -- at this point in the process, there are some schedules that we have.
20 The first thing that what we have of course is the transcription corrections
21 and we're hoping to have a transcript in a couple of days from today's date.
22 The transcript corrections then are due about seven days from today's date
23 which would be Tuesday, February 1. And if there's any problems with it,
24 obviously get back to the board if there's a delay with the transcript or if
25 there's an issue. One of the things that we're hoping is that because you have

1 access both to the Web stream archive as well as the DVMS (spelled
2 phonetically) information, hopefully the transcript correction will not be a
3 large problem. Again, in part that depends on the quality of the transcript,
4 but we're very hopeful that we're going to get a very quality transcript. And
5 the court reporter is smiling, so that's a good sign. And again, transcript
6 corrections are to correct the transcript so that it is accurate, not that it
7 reads as the way you wished you said it. And I'm sure there are things that I
8 wish I had said a lot better in this, so you just have to kind of move past
9 that. And we're not trying to change the transcript or add what we wanted in
10 there, but actually trying to reflect as closely as we can what was actually
11 said during the hearing. So that's the purpose of transcript corrections.

12 Once we have those and any other corrections you might have to the
13 record -- and let me just stop one second and make sure since we admitted most
14 of the exhibits here. There were a couple that we didn't -- the couple of
15 staff exhibits, let me just check sure that we -- that I have an accurate count
16 here in terms of what we did not put in. My records reflect that we didn't put
17 in NRC 105, or 107,108, or 109, or NRC 112, or 113. I believe that as well all
18 the other NRC exhibits as well as all of the AES exhibits were put into the
19 record. If I'm not correct in that, please let me know or let our
20 (unintelligible) know and we'll do what's necessary. But once we have the
21 transcript corrections in and in theory there are no other changes in the
22 admitted evidentiary material, then we can go ahead and close the record on
23 this portion of the proceeding. There's also some additional questions that we
24 had on financial assurance that I believe would be due seven days from today's
25 date as well.

1 And I'm -- I think I'm confident that that will wrap up that
2 portion of our questioning on that subject. And once we have that, we'll
3 probably go ahead and issue our admitting those answers marked as exhibits and
4 you'll have to supplement your exhibit numbers into evidence. And then we'll -
5 - that'll be part of the closure of the record as well. If you do need to put
6 any other affidavits in or whatever, just go ahead and mark them as exhibits.
7 (unintelligible) need to answer or questions already part of the record,
8 hopefully that's the case.

9 The next thing would be the proposed findings of fact, that date is
10 Friday, February 25. Again if there's an issue, we'll certainly entertain
11 requests for an extension if someone runs into a problem. That's the date at
12 this point. And then the board has a date at the beginning of April, I
13 believe, to issue an initial decision on -- with respect to the safety portion
14 of this proceeding. I should mention, we didn't set a schedule or put into the
15 schedule an opportunity for response of findings of fact. I don't think that
16 will be necessary, having said that, if after looking at each other's findings
17 of fact you see anything you want to respond to, you need to get back to us
18 relatively promptly and let us know you want to do that so we can set up a
19 (unintelligible) schedule for doing that. I'm not opposed to it but I don't
20 think it's going to be necessary. But if you do see something, I would prefer
21 that the record be clear then that because we didn't put it in, it's not
22 allowed, that's not the purpose of it. So I'm more than willing to entertain
23 it, it just didn't seem to be necessary to put in the schedule. So, the other
24 thing that I guess we need to talk a little bit about in terms of the next step
25 is the environmental hearing. I guess one of the first questions that I would

1 have coming up on our periodic report, but does the staff have anything that
2 they can tell us about the current estimate on the final environmental impact
3 statement?

4 FEMALE SPEAKER: At this time, it is our understanding that we are
5 on schedule and we should be issuing the final environmental impact statement
6 toward the end of next month, the end of February.

7 CHAIRMAN BOLLWERK: It's the end of February, OK. I sort of
8 figured that's probably what it was. That's fine, that's what we needed to
9 know. Obviously if that changes, you will let us know.

10 FEMALE SPEAKER: Yes, your honor.

11 CHAIRMAN BOLLWERK: We heard a little bit about the status of
12 onsite construction, there apparently is some things that are going on,
13 something that will be going on in the future, in the spring. One of the
14 questions I guess the board had was in conjunction with the potential trip to
15 Idaho in the June, July timeframe, do you think it would be worthwhile for the
16 board to have a site visit? Again with LES, that was never an issue because
17 there was nothing there but a piece of land that you could look across for many
18 miles. Here there is something that has actually happened, at least in terms
19 of some preconstruction work. So something to think about, any comments that
20 you want to make about that at this point? I don't know.

21 MALE SPEAKER: I think we'll consult on that if the board is
22 interested in visiting the site perhaps at the time that they're out there.
23 Otherwise I think we wouldn't have any objection to that and would certainly
24 work to accommodate that.

25 CHAIRMAN BOLLWERK: All right and again this is slightly different

1 than LES as something is actually is there, so. So that's something that we'll
2 follow up with you if that becomes a possibility. The hearing at this point,
3 we haven't really set a specific date. The weeks of the 13, the 27 of June and
4 also the week of July 11 are what we've sort of committed to Judge Carlen
5 (spelled phonetically) several months ago to keep open. And so let's continue
6 to do that, but until the staff has actually issued the FEIS (spelled
7 phonetically), I think we are going to wait in terms of setting a final date.
8 But we certainly -- those dates are the ones we're focusing on and we will do
9 it one of those dates, it's just a question of which one. All right. Let me
10 see, do you all have any questions for us at this point, any administrative
11 matters or issues that you want to discuss? You've got us here, so this is an
12 opportunity for you to ask us any questions or any clarification.

13 MAURI LEMONCELLI: Thank you, your honor, the NRC staff does not
14 have any questions at this time.

15 CHAIRMAN BOLLWERK: All right.

16 JIM CURTISS: And nor does the (unintelligible).

17 CHAIRMAN BOLLWERK: OK. Let me see if any of the board members
18 have anything to say that they wish to say at this point.

19 DR. KAYE LATHROP: No, thank you.

20 CHAIRMAN BOLLWERK: All right.

21 DR. CRAIG WHITE: No, thank you all.

22 CHAIRMAN BOLLWERK: Well, I would like to sort of as we wrap toward
23 -- move towards wrapping this up say thanks to (unintelligible), our
24 (unintelligible), who has done an excellent job getting all this together. I
25 wouldn't have my book here without (unintelligible) work here although you all

1 did a lot of the key punch (spelled phonetically) and allowed him to give it to
2 me. (unintelligible), who did the sort of our administrative person who put
3 this together, Andy Welke and the IT staff here who did I think an excellent
4 job on the displays and giving everybody a heads up on what the IT situation
5 is, DVMS training. Joe Deucher (spelled phonetically), who did our Web
6 streaming. Matt Kutchen (spelled phonetically), who also is an IT person here
7 and does a lot of work. Both of you, I appreciate the efforts that you and all
8 of the other witnesses and the information that you provided to the board. I
9 think it was a useful hearing for us; we got a lot of information.

10 Now the onus (spelled phonetically) is on, well first you all to
11 give us the finding of fact and then to us to issue a decision on the safety
12 aspects of this mandatory hearing. And again, there is an environmental side
13 to this, that's something that we'll be revisiting -- or visiting for the first
14 time actually in the near future. There will be questions that we'll be
15 generating once we see the final environmental impact statement and we'll start
16 this process sort of once more in terms of the way we had it.

17 I didn't the last time specify in your answers putting in
18 evidentiary -- putting in exhibits, now that you've seen how that works, if
19 it's better for you to go ahead and do that in the first instance we can
20 certainly go ahead and do that. Sort of looking toward -- you don't
21 necessarily have to give us a pretrial exhibits but we can certainly start
22 marking them or sort of giving them a number and that may save you some time on
23 the backside. And I appreciate your doing that, I think it made for a clearer
24 record in terms -- I know it had required additionally we had to do the same
25 thing twice to some degree but I think it was a little clearer in terms of the

1 way it turned out. The one last thing that I would mention, if you have anyone
2 who has been watching on the Web stream, on the webcast, if you have any
3 comments on the use of the Web streaming, if it was useful or not useful in any
4 way, please send us an e-mail at webstreammaster, that's all one word,
5 .resource@NRC.gov. We would very much appreciate hearing from you because we
6 want to know if this is a viable way to in some instances get the information
7 out to members of the public. All right, again, if no one has any comments,
8 then we are adjourned for the day. And now we can all go home and don't have
9 to worry about the snow tomorrow. So, thank you.

10 FEMALE SPEAKER: Thank you, your honor.

11 (Whereupon, at 4:13 p.m. the above-entitled matter was concluded)

12 E-N-D-P-R-O-F-P-R-O-C-D-E-E-D-I-N-G-S
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
AREVA ENRICHMENT SERVICES, LLC) DOCKET NO. 70-7015-ML
(Eagle Rock Enrichment Facility))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Transcript of Licensing Board Evidentiary Hearing on January 25, 2011**, have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission.
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001

G. Paul Bollwerk, Chair
Administrative Judge
paul.bollwerk@nrc.gov

Kaye D. Lathrop
Administrative Judge
kaye.lathrop@nrc.gov

Craig M. White
Administrative Judge
craig.white@nrc.gov

Anthony C. Eitrem, Esq.
Chief Counsel
ace1@nrc.gov
Jonathan Eser, Law Clerk
jonathan.eser@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-15D21
Washington, DC 20555-0001
Christine J. Boote, Esq.
christine.boote@nrc.gov
Mauri T. Lemoncelli, Esq.
mauri.lemoncelli@nrc.gov
Carrie M. Safford, Esq.
carrie.safford@nrc.gov
Catherine Scott, Esq.
clm@nrc.gov
Marcia J. Simon, Esq.
marcia.simon@nrc.gov
OGC Mail Center
OGCMailCenter@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16C1
Washington, DC 20555-0001
ocaamail@nrc.gov

AREVA ENRICHMENT SERVICES, LLC (Eagle Rock Enrichment Facility) – 70-7015-ML
Transcript of Licensing Board Evidentiary Hearing on January 25, 2011

Counsel for Applicant

Winston & Strawn, LLP
1700 K Street, N.W.
Washington, DC 20006
Rachael Miras-Wilson, Esq.
rwilson@winston.com
Carlos Sisco, Sr. Paralegal
csisco@winston.com

Winston & Strawn, LLP
101 California Street
San Francisco, CA 94111
Tyson Smith, Esq.
trsmith@winston.com

Curtiss Law
P.O. Box 153
Brookeville, MD 20833
James Curtiss, Esq.
curtisslaw@gmail.com

Applicant

AREVA Enrichment Services LLC
Eagle Rock Enrichment Facility
400 Donald Lynch Boulevard
Marlborough, MA 01752
Jim Kay, Licensing Manager
jim.kay@areva.com

[Original signed by Linda Lewis]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 1st day of February 2011