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United States of America

Nuclear Regulatory Commission

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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:

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Marcia Simon, Esq.

Christine Jochim Boote, Esq.

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| 1 | | | | | |
| 2 | Party: Nuclear Regulatory Commission | | | | |
| 3 | Exhibit No.: NRC000001-MA-BD01 | 151 | 151 | | |
| 4 | Title: NRC staff responses to | | | | |
| 5 | licensing board's initial | | | | |
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| 8 | Exhibit No.: NRC000002-MA-BD01 | 151 | 151 | | |
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| 5 | Exhibit No.: NRC000009-MA-BD01 | 151 | 151 | | |
| 6 | Title Affidavit of Christopher Tripp | | | | |
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| 9 | Title: Affidavit of Rex Wescott | | | | |
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| 13 | qualifications for Greg Chapman | | | | |
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| 20 | Title: Statement of professional | | | | |
| 21 | qualifications for Keith Everly | | | | |
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| 23 | Exhibit No.: NRC000014-MA-BD01 | 151 | 151 | | |
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| 3 | Title: Statement of professional | | | | |
| 4 | qualifications for Breeda Reilly | | | | |
| 5 | | | | | |
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| 15 | Title: Statement of professional | | | | |
| 16 | qualifications for Christopher Tripp | | | | |
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| 19 | Title: Statement of professional | | | | |
| 20 | qualifications for Rex Wescott | | | | |
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| 22 | Exhibit No.: NRC000020-MA-BD01 | 151 | 151 | | |
| 23 | Title: NRC staff responses to the Boards | | | | |
| 24 | initial non-publicly available | | | | |
| 25 | questions | | | | |

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| 2 | Exhibit No.: NRC000021-MA-BD01 | 151 | 151 | | |
| 3 | Title: Affidavit of Michael Norris | | | | |
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| 6 | Title: Statement of professional | | | | |
| 7 | Qualifications for Michael Norris | | | | |
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| 9 | Exhibit No.: NRC000023-MA-BD01 | 151 | 151 | | |
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| 14 | Exhibit No.: NRC000024-MA-BD01 | 151 | 151 | | |
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| 17 | | | | | |
| 18 | Exhibit No.: NRC000025-MA-BD01 | 151 | 151 | | |
| 19 | Title: Affidavit of Thomas Pham | | | | |
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| 22 | Exhibit No.: NRC000026-MA-BD01 | 151 | 151 | | |
| 23 | Title: Statement of professional | | | | |
| 24 | Qualifications for Thomas Pham | | | | |
| 25 | | | | | |

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| 1 | | | | | |
| 2 | Exhibit No.: NRC000027-MA-BD01 | 151 | 151 | | |
| 3 | Title: NRC staff response to the | | | | |
| 4 | board's additional questions of | | | | |
| 5 | financial assurance | | | | |
| 6 | | | | | |
| 7 | Exhibit No.: NRC000028-MA-BD01 | 151 | 151 | | |
| 8 | Title: Affidavit of Kenneth Kline | | | | |
| 9 | Dated January 4, 2011 | | | | |
| 10 | | | | | |
| 11 | Exhibit No.: NRC000029-MA-BD01 | 151 | 151 | | |
| 12 | Title: Affidavit of Roman Przygodzki | | | | |
| 13 | dated December 29, 2010 | | | | |
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| 15 | Exhibit No.: NRC000030-MA-BD01 | 151 | 151 | | |
| 16 | Title: Statement of professional | | | | |
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| 20 | Title: Standard review plan for the | | | | |
| 21 | review of a licensee application for | | | | |
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| 1 | | | | | |
| 2 | Exhibit No.: NRC000032-MA-BD01 | 151 | 151 | | |
| 3 | Title: Safety evaluation report for the | | | | |
| 4 | Eagle Rock facility, NUREG 1951 | | | | |
| 5 | | | | | |
| 6 | Exhibit No.: NRC000033-MA-BD01 | 151 | 151 | | |
| 7 | Title: Safety evaluation report for the | | | | |
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| 11 | Title: National Enrichment Facility | | | | |
| 12 | SafetyAnalysis Report, revision seven, | | | | |
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| 14 | | | | | |
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| 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 | 151 | 151 | | |
| 8 | Title: Request for expedited approval of | | | | |
| 9 | quality assurance program | | | | |
| 10 | dated October 30, 2009 | | | | |
| 11 | | | | | |
| 12 | Exhibit No.: NRC000039-MA-BD01 | 151 | 151 | | |
| 13 | Title: Safety evaluation report for the | | | | |
| 14 | Eagle Rock facility, NUREG 1951 | | | | |
| 15 | | | | | |
| 16 | Exhibit No.: NRC000040-MA-BD01 | 151 | 151 | | |
| 17 | Title: Request for exemption from | | | | |
| 18 | 10CFR 21.3 dated January 29, 2010 | | | | |
| 19 | | | | | |
| 20 | Exhibit No.: NRC000041-MA-BD01 | 151 | 151 | | |
| 21 | Title: Approval of AREVA Enrichment | | | | |
| 22 | Services part 21 exemption request | | | | |
| 23 | dated July 28, 2010 | | | | |
| 24 | | | | | |
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| 2 | Exhibit No.: NRC000042-MA-BD01 | 151 | 151 | | |
| 3 | Title: Revised quality assurance program | | | | |
| 4 | description dated September 10, 2010 | | | | |
| 5 | | | | | |
| 6 | Exhibit No.: NRC000043-MA-BD01 | 151 | 151 | | |
| 7 | Title: Response to request for additional | | | | |
| 8 | information dated September 28, 2009 | | | | |
| 9 | | | | | |
| 10 | Exhibit No.: NRC000044-MA-BD01 | 151 | 151 | | |
| 11 | Title: Response for request for additional | | | | |
| 12 | Information dated, no date. Enclosure 3 | | | | |
| 13 | | | | | |
| 14 | Exhibit No.: NRC000045-MA-BD01 | 151 | 151 | | |
| 15 | Title: Letter regarding quality assurance | | | | |
| 16 | requirements for fire protection items relied | | | | |
| 17 | on for safety dated March 25, 2010 | | | | |
| 18 | | | | | |
| 19 | Exhibit No.: NRC000046-MA-BD01 | 151 | 151 | | |
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| 22 | | | | | |
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| 24 | Title: FCSS Interim Staff Guidance | | | | |
| 25 | dated June, 2005 | | | | |

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| 1 | | | | | |
| 2 | Exhibit No.: NRC000048-MA-BD01 | 151 | 151 | | |
| 3 | Title: Confirmatory calculations for fire | | | | |
| 4 | protection review of National Enrichment | | | | |
| 5 | Facility Safety Analysis | | | | |
| 6 | dated March 22, 2005 | | | | |
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| 9 | Title: "A Physics Based Approach to Modeling | | | | |
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| 11 | Wildland Fire dated 2007 | | | | |
| 12 | | | | | |
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| 14 | Title: ANS N14.1-2001 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 | 151 | 151 | | |
| 20 | Title: Nuclear Fuel Cycle Facility | | | | |
| 21 | Accident Analysis Handbook Dated March 1998 | | | | |
| 22 | | | | | |
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| 1 | | | | | |
| 2 | Exhibit No.: NRC000052-MA-BD01 | 151 | 151 | | |
| 3 | Title: NRC information notice 1997-20 | | | | |
| 4 | identification of certain uranium | | | | |
| 5 | hexafluoride cylinders that do not | | | | |
| 6 | comply with ANSI standard N14.1 | | | | |
| 7 | fabrication standard, | | | | |
| 8 | dated April 17, 1997 | | | | |
| 9 | | | | | |
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| 12 | dated October 31, 2002 | | | | |
| 13 | | | | | |
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| 15 | Title: Safety Evaluation Report for | | | | |
| 16 | American Centrifuge Plant in | | | | |
| 17 | Piketon, Ohio, NUREG-1851 | | | | |
| 18 | dated September 2006 | | | | |
| 19 | | | | | |
| 20 | Exhibit No.: NRC000055-MA-BD01 | 151 | 151 | | |
| 21 | Title: Safety Evaluation Report for | | | | |
| 22 | National Enrichment Facility in Lea | | | | |
| 23 | County, New Mexico, NUREG-1827 | | | | |
| 24 | June 2005 | | | | |
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| 1 | | | | | |
| 2 | Exhibit No.: NRC000056-MA-BD01 | 151 | 151 | | |
| 3 | Title: United States Enrichment | | | | |
| 4 | Corporation, The UF6 Manual, | | | | |
| 5 | USEC-561, excerpts | | | | |
| 6 | | | | | |
| 7 | Exhibit No.: NRC000057-MA-BD01 | 151 | 151 | | |
| 8 | Title: ANSI/ANS-8.1 1998, Nuclear | | | | |
| 9 | Criticality Safety in Operations with | | | | |
| 10 | Fissionable Material Outside Reactors, | | | | |
| 11 | dated September 9, 1998 | | | | |
| 12 | | | | | |
| 13 | EXHIBIT NO.: NRC000058-MA-BD01 | 151 | 151 | | |
| 14 | Title: USEC Safety Evaluation Report, | | | | |
| 15 | Appendix A Integrated Safety Analysis and | | | | |
| 16 | ISA Summary | | | | |
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| 18 | EXHIBIT NO.: NRC000059-MA-BD01 | 151 | 151 | | |
| 19 | Title: American Nuclear Insurance letter | | | | |
| 20 | to AREVA Enterprises regarding Eagle Rock | | | | |
| 21 | Enrichment Facility | | | | |
| 22 | dated September 22, 2008 | | | | |
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| 2 | EXHIBIT NO.: NRC000060-MA-BD01 | 151 | 151 | | |
| 3 | Title: License for the Louisiana | | | | |
| 4 | Enrichment Services National Enrichment | | | | |
| 5 | Facility dated June 23, 2006 | | | | |
| 6 | | | | | |
| 7 | EXHIBIT NO.: NRC000061-MA-BD01 | 151 | 151 | | |
| 8 | Title: License for the Louisiana | | | | |
| 9 | Enrichment Services National Enrichment | | | | |
| 10 | Facility dated March 14, 2008 | | | | |
| 11 | | | | | |
| 12 | EXHIBIT NO.: NRC000062-MA-BD01 | 151 | 151 | | |
| 13 | Title: Safety Evaluation Report for | | | | |
| 14 | Louisiana Energy Service request to | | | | |
| 15 | amend license related to possession of | | | | |
| 16 | byproduct material dated March 14, 2008 | | | | |
| 17 | | | | | |
| 18 | EXHIBIT NO.: NRC000063-MA-BD01 | 151 | 151 | | |
| 19 | Title: Consolidated NMSS Decommissioning | | | | |
| 20 | Guidance Financial Assurance, Record | | | | |
| 21 | Keeping and Timeliness, NUREG 1757 Volume | | | | |
| 22 | Three, excerpts | | | | |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: NRC000064-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 | | | | |
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| 13 | EXHIBIT NO.: NRC000066-MA-BD01 | 151 | 151 | | |
| 14 | Title: Safety evaluation report for the | | | | |
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| 20 | Title: Eagle Rock Enrichment Facility | | | | |
| 21 | ISA Summary Revision 2, Appendix D | | | | |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: NRC000068-MA-BD01 | 151 | 151 | | |
| 3 | Title: Kuntz 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 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 15 | Title: Standard Review Plan for the review | | | | |
| 16 | of a license application for a fuel cycle | | | | |
| 17 | facility, NUREG 1510 rev. one, | | | | |
| 18 | May, 2010 | | | | |
| 19 | | | | | |
| 20 | EXHIBIT NO.: NRC000071-MA-BD01 | 151 | 151 | | |
| 21 | Title: Overview of changes to NUREG 1510, | | | | |
| 22 | Standard Review Plan for the review of a | | | | |
| 23 | license application | | | | |
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| 1 | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 2 | EXHIBIT NO.: NRC000072-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 17 | Title: NUREG 0700, revision 2 Human | | | | |
| 18 | System Interface Design review guidelines | | | | |
| 19 | May 2002 | | | | |
| 20 | | | | | |
| 21 | EXHIBIT NO.: NRC000076-MA-BD01 | 151 | 151 | | |
| 22 | NUREG 1718, Standard Review | | | | |
| 23 | Title: Plan for the review of an application | | | | |
| 24 | for a Mixed Oxide, or MOX, Fuel Fabrication | | | | |
| 25 | Facility, Chapter 12 dated August, 2000 | | | | |

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| 1 | | | | | |
| 2 | EXHIBIT NO.: NRC000077-MA-BD01 | 151 | 151 | | |
| 3 | Title: NUREG 1748, Environmental Review | | | | |
| 4 | Guidance for licensing action | | | | |
| 5 | associated with NMSS Programs Chapters | | | | |
| 6 | four and five dated July, 2003 | | | | |
| 7 | | | | | |
| 8 | EXHIBIT NO.: NRC000078-MA-BD01 | 151 | 151 | | |
| 9 | Title: NFPA 801 Standard for Fire Protection | | | | |
| 10 | for facilities handling Radioactive | | | | |
| 11 | Material, 2008 edition | | | | |
| 12 | | | | | |
| 13 | EXHIBIT NO.: NRC000079-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 20 | Title: Safety Evaluation Report for the | | | | |
| 21 | Eagle Rock Enrichment Facility in | | | | |
| 22 | Bonneville County, Idaho, NUREG 1951, | | | | |
| 23 | Appendix E | | | | |
| 24 | | | | | |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: NRC000081-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 11 | Title: Request for exemption from | | | | |
| 12 | 10 CFR 70.4, 10 CFR 70.23(a)(7), | | | | |
| 13 | 10 CFR 30.4, 10 CFR 30.33(a)(5) | | | | |
| 14 | et al., requirement governing | | | | |
| 15 | Control, June 17, 2009 | | | | |
| 16 | | | | | |
| 17 | EXHIBIT NO.: NRC000084-MA-BD01 | 151 | 151 | | |
| 18 | Title: Approval of AREVA Enrichment | | | | |
| 19 | Services for part 21 exemption request | | | | |
| 20 | dated July 28, 2010 | | | | |
| 21 | | | | | |
| 22 | | | | | |
| 23 | | | | | |
| 24 | | | | | |
| 25 | | | | | |
| 26 | | | | | |

1 EXHIBIT NO.: NRC000085-MA-BD01 151 151

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 151 151

9 Title: NRC Regulatory Issue Summary,
10 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 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 151 151

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

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: NRC000088-MA-BD01 | 151 | 151 | | |
| 3 | Title: Eagle Rock Enrichment Facility | | | | |
| 4 | Emergency Plan revision one | | | | |
| 5 | section 3.7 | | | | |
| 6 | | | | | |
| 7 | EXHIBIT NO.: NRC000089-MA-BD01 | 151 | 151 | | |
| 8 | Title: NUREG-0654/FEMA REP-1 revision one, | | | | |
| 9 | "Criteria for Preparation and | | | | |
| 10 | Evaluation of Radiological Emergency | | | | |
| 11 | Response Plan and Preparedness in | | | | |
| 12 | Support of Nuclear Power Plants" | | | | |
| 13 | | | | | |
| 14 | EXHIBIT NO.: NRC000090-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 |
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| 2 | EXHIBIT NO.: NRC000092-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 14 | Title: 2000 Census data SEC POP 2000 output | | | | |
| 15 | | | | | |
| 16 | EXHIBIT NO.: NRC000095-MA-BD01 | 151 | 151 | | |
| 17 | Title: Eagle Rock Enrichment Facility | | | | |
| 18 | environmental report revision one, | | | | |
| 19 | page 4.12-8 | | | | |
| 20 | | | | | |
| 21 | EXHIBIT NO.: NRC000096-MA-BD01 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 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 | 151 | 151 | | |
| 18 | Title: Billings, Montana National | | | | |
| 19 | Compensation Survey August, 2010, | | | | |
| 20 | U.S. Bureau of Labor Statistics December 2010 | | | | |
| 21 | | | | | |
| 22 | EXHIBIT NO.: NRCR00101-MA-BD01 | 178 | 179 | | |
| 23 | Title: The staff's presentation on | | | | |
| 24 | Topic 2A, foreign ownership | | | | |
| 25 | and control, | | | | |

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHBIT NO. NRC000102-MA-BD01 | 178 | 179 | | |
| 3 | Title: Statement of professional | | | | |
| 4 | qualifications for Anneliese Simmons | | | | |
| 5 | | | | | |
| 6 | EXHBIT NO.: NRC000103-MA-BD01 | 178 | 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 | 213 | | |
| 12 | Title: Staff presentation number 3, | | | | |
| 13 | license condition and exemption | | | | |
| 14 | | | | | |
| 15 | EXHIBIT: NRC0000106-MA-BD01 | 236 | 237 | | |
| 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. | | | | |

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: NRC000114-MA-BD01 | 212 | 213 | | |
| 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 | 213 | | |
| 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 | 213 | | |
| 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 | 213 | | |
| 19 | Title: NUREG 1757 consolidated decommissioning | | | | |
| 20 | guidance volume 2 revision one appendix A | | | | |
| 21 | implementing the MARSSIM approach for conducting | | | | |
| 22 | final radiological surveys. | | | | |
| 23 | | | | | |
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| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT: NRC000118-MA-BD01 | 212 | 213 | | |
| 3 | Title: Table one, comparison of AES and | | | | |
| 4 | LES request for exemption and special | | | | |
| 5 | authorization | | | | |
| 6 | | | | | |
| 7 | EXHIBIT: NRC000119-MA-BD01 | 212 | 213 | | |
| 8 | Title: table two, comparison of | | | | |
| 9 | AES and LES license conditions. | | | | |
| 10 | | | | | |
| 11 | EXHIBIT: NRCR00120-MA-BD01 | 244 | 244 | | |
| 12 | Title: Staff's presentation four on | | | | |
| 13 | commitment follow-up and tracking | | | | |
| 14 | | | | | |
| 15 | EXHIBIT: NRC000121-MA-BD01 | 244 | 244 | | |
| 16 | Title: Statement of professional | | | | |
| 17 | qualifications for Deborah Seymour | | | | |
| 18 | | | | | |
| 19 | EXHIBIT: NRC000122-MA-BD01 | 244 | 244 | | |
| 20 | Title: NRC Inspection Manual | | | | |
| 21 | Chapter 1252 dated December 7, 2009 | | | | |
| 22 | | | | | |
| 23 | EXHIBIT: NRC000123-MA-BD01 | 244 | 244 | | |
| 24 | NRC Inspection Manual Chapter 2696 | | | | |
| 25 | dated October 19, 2006 | | | | |

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT: NRC000124-MA-BD01 | 244 | 244 | | |
| 3 | NRC Inspection Manual Chapter 2630 | | | | |
| 4 | dated May 18, 2005. | | | | |
| 5 | | | | | |
| 6 | Party: AREVA | | | | |
| 7 | EXHIBIT NO.: AES000001-MA-BD01 | 157 | 157 | | |
| 8 | Title: The AES response to the publicly | | | | |
| 9 | available questions | | | | |
| 10 | dated December 19, 2010 | | | | |
| 11 | | | | | |
| 12 | EXHIBIT NO.: AES000002-MA-BD01 | 157 | 157 | | |
| 13 | Title: Affidavit of William Hackett | | | | |
| 14 | dated November 19, 2010 | | | | |
| 15 | | | | | |
| 16 | EXHIBIT NO.: AES000003-MA-BD01 | 157 | 157 | | |
| 17 | Title: Affidavit of George Harper | | | | |
| 18 | dated November 19, 2010 | | | | |
| 19 | | | | | |
| 20 | EXHIBIT NO.: AES000004-MA-BD01 | 157 | 157 | | |
| 21 | Title: Affidavit of James Kay | | | | |
| 22 | dated November 19, 2010 | | | | |
| 23 | | | | | |
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| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000005-MA-BD01 | 157 | 157 | | |
| 3 | Title: Affidavit of Sam Shakir | | | | |
| 4 | dated November 19, 2010 | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000006-MA-BD01 | 157 | 157 | | |
| 7 | Title: Affidavit of Mark Stum | | | | |
| 8 | dated November 19, 2010 | | | | |
| 9 | | | | | |
| 10 | EXHIBIT NO.: AES000007-MA-BD01 | 157 | 157 | | |
| 11 | Title: Affidavit of Barry Tilden | | | | |
| 12 | dated November 19, 2010 | | | | |
| 13 | | | | | |
| 14 | EXHIBIT NO.: AES000008-MA-BD01 | 157 | 157 | | |
| 15 | Title: Affidavit of Scott Tyler | | | | |
| 16 | dated November 19, 2010 | | | | |
| 17 | | | | | |
| 18 | EXHIBIT NO.: AES000009-MA-BD01 | 157 | 157 | | |
| 19 | Title: Affidavit of Eric Wiener | | | | |
| 20 | dated November 19, 2010 | | | | |
| 21 | | | | | |
| 22 | EXHIBIT NO.: AES000010-MA-BD01 | 157 | 157 | | |
| 23 | Title: Statement of professional | | | | |
| 24 | qualifications | | | | |
| 25 | for William Hackett | | | | |

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000011-MA-BD01 | 157 | 157 | | |
| 3 | Title: Professional qualifications | | | | |
| 4 | for George Harper | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000012-MA-BD01 | 157 | 157 | | |
| 7 | Title: Professional qualifications | | | | |
| 8 | for James Kay | | | | |
| 9 | | | | | |
| 10 | EXHIBIT NO.: AES000013-MA-BD01 | 157 | 157 | | |
| 11 | Title: Professional qualifications | | | | |
| 12 | for Sam Shakir | | | | |
| 13 | | | | | |
| 14 | EXHIBIT NO.: AES000014-MA-BD01 | 157 | 157 | | |
| 15 | Title: Professional qualifications | | | | |
| 16 | for Mark Stum | | | | |
| 17 | | | | | |
| 18 | EXHIBIT NO.: AES000015-MA-BD01 | 157 | 157 | | |
| 19 | Title: Professional qualifications | | | | |
| 20 | for Barry Tilden | | | | |
| 21 | | | | | |
| 22 | EXHIBIT NO.: AES000016-MA-BD01 | 157 | 157 | | |
| 23 | Title: Professional qualifications | | | | |
| 24 | for Scott Tyler | | | | |
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| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000017-MA-BD01 | 157 | 157 | | |
| 3 | Title: Professional qualifications | | | | |
| 4 | for Eric Wiener | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000018-MA-BD01 | 157 | 157 | | |
| 7 | Title: AES response to non-publicly | | | | |
| 8 | available questions | | | | |
| 9 | dated November 19, 2010 | | | | |
| 10 | | | | | |
| 11 | EXHIBIT NO.: AES000019-MA-BD01 | 157 | 157 | | |
| 12 | Title: Affidavit of Christopher Andrews | | | | |
| 13 | dated November 19, 2010 | | | | |
| 14 | | | | | |
| 15 | EXHIBIT NO.: AES000020-MA-BD01 | 157 | 157 | | |
| 16 | Title: Affidavit of Scott McCain | | | | |
| 17 | dated November 19, 2010 | | | | |
| 18 | | | | | |
| 19 | EXHIBIT NO.: AES000021-MA-BD01 | 157 | 157 | | |
| 20 | Title: Affidavit of Scott Tyler | | | | |
| 21 | dated November 19, 2010 | | | | |
| 22 | | | | | |
| 23 | EXHIBIT NO.: AES000022-MA-BD01 | 157 | 157 | | |
| 24 | Title: Professional qualifications | | | | |
| 25 | for Christopher Andrews | | | | |

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000023-MA-BD01 | 157 | 157 | | |
| 3 | Title: Professional qualifications | | | | |
| 4 | for Scott McCain | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000024-MA-BD01 | 157 | 157 | | |
| 7 | Title: AES response to ASLB supplemental | | | | |
| 8 | publicly available questions | | | | |
| 9 | dated December 13, 2010 | | | | |
| 10 | | | | | |
| 11 | EXHIBIT NO.: AES000025-MA-BD01 | 157 | 157 | | |
| 12 | Title: Affidavit of Christopher Andrews | | | | |
| 13 | dated December 13, 2010 | | | | |
| 14 | | | | | |
| 15 | EXHIBIT NO.: AES000026-MA-BD01 | 157 | 157 | | |
| 16 | Title: Affidavit of George Harper | | | | |
| 17 | dated December 13, 2010 | | | | |
| 18 | | | | | |
| 19 | EXHIBIT NO.: AES000027-MA-BD01 | 157 | 157 | | |
| 20 | Title: Affidavit of James Kay | | | | |
| 21 | dated December 13, 2010 | | | | |
| 22 | | | | | |
| 23 | EXHIBIT NO.: AES000028-MA-BD01 | 157 | 157 | | |
| 24 | Title: Affidavit of Barry Tilden | | | | |
| 25 | dated December 13, 2010 | | | | |

| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000029-MA-BD01 | 157 | 157 | | |
| 3 | Title: AES response to ASLB supplemental | | | | |
| 4 | non-publicly available questions | | | | |
| 5 | dated December 13, 2010 | | | | |
| 6 | | | | | |
| 7 | EXHIBIT NO.: AES000030-MA-BD01 | 157 | 157 | | |
| 8 | Title: Affidavit of Christopher Andrews | | | | |
| 9 | dated December 13, 2010 | | | | |
| 10 | | | | | |
| 11 | EXHIBIT NO.: AESR20031-MA-BD-1 | 157 | 157 | | |
| 12 | Title: AES response to ASLB second | | | | |
| 13 | supplemental publicly available | | | | |
| 14 | questions dated January 14, 2011 | | | | |
| 15 | | | | | |
| 16 | EXHIBIT NO.: AES000033-MA-BD01 | 157 | 157 | | |
| 17 | Title: Affidavit of Jean Luke Palayer | | | | |
| 18 | dated January 14, 2011 | | | | |
| 19 | | | | | |
| 20 | EXHIBIT NO.: AES000034-MA-BD01 | 157 | 157 | | |
| 21 | Title: Affidavit of Don Le Francois | | | | |
| 22 | dated January 14, 2011 | | | | |
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| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000035-MA-BD01 | 157 | 157 | | |
| 3 | Title: Professional qualifications | | | | |
| 4 | for Jean Luke Palayer | | | | |
| 5 | dated January 14, 2011 | | | | |
| 6 | | | | | |
| 7 | EXHIBIT NO.: AES000036-MA-BD01 | 157 | 157 | | |
| 8 | Title: Professional qualifications | | | | |
| 9 | for Don Le Francois | | | | |
| 10 | dated January 14, 2011 | | | | |
| 11 | | | | | |
| 12 | EXHIBIT NO.: AES000037-MA-BD01 | 157 | 157 | | |
| 13 | Title: Eagle Rock Enrichment Facility | | | | |
| 14 | safety analysis report revision two | | | | |
| 15 | | | | | |
| 16 | EXHIBIT NO.: AESR0038-MA_BD01 | 157 | 157 | | |
| 17 | Title: Eagle Rock Enrichment Facility | | | | |
| 18 | Emergency Plan rev. two Section 7.2 | | | | |
| 19 | | | | | |
| 20 | EXHIBIT NO.: AES000039-MA-BD01 | 157 | 157 | | |
| 21 | Title: Fundamental Nuclear Material | | | | |
| 22 | Control Plan rev. two | | | | |
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| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000040-MA-BD01 | 157 | 157 | | |
| 3 | Title: Integrated Safety Analysis | | | | |
| 4 | Summary rev. two Chapter 3 | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000041-MA-BD01 | 157 | 157 | | |
| 7 | Title: ASTM 108 Standard Test Methods for | | | | |
| 8 | Fire Test of Roof Coverings | | | | |
| 9 | | | | | |
| 10 | EXHIBIT NO.: AES000042-MA-BD01 | 157 | 157 | | |
| 11 | Title: ASTM Standard C 787-06 | | | | |
| 12 | Standard Specification for Uranium | | | | |
| 13 | Hexafluoride for Enrichment | | | | |
| 14 | | | | | |
| 15 | EXHIBIT NO.: AES000043-MA-BD01 | 157 | 157 | | |
| 16 | Title: ASTM C996 Standard Specification | | | | |
| 17 | for Uranium Hexafluoride Enriched | | | | |
| 18 | to Less than Five Percent | | | | |
| 19 | | | | | |
| 20 | EXHIBIT NO.: AES000044-MA-BD01 | 157 | 157 | | |
| 21 | Title: ANSI M 14.1 Uranium Hexafluoride | | | | |
| 22 | packaging for transport, excerpts | | | | |
| 23 | | | | | |
| 24 | | | | | |
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| 2 | EXHIBIT NO.: AES000045-MA-BD01 | 157 | 157 | | |
| 3 | Title: USEC-651 Uranium Hexafluoride a | | | | |
| 4 | Manual of Good Handling Practices, excerpts | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000046-MA-BD01 | 157 | 157 | | |
| 7 | Title: Blong, RJ "Volcanic Hazards," | | | | |
| 8 | a source book on the effects of eruptions | | | | |
| 9 | | | | | |
| 10 | EXHIBIT NO.: AES000047-MA-BD01 | 157 | 157 | | |
| 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 | 157 | 157 | | |
| 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 | 157 | 157 | | |
| 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 | 157 | 157 | | |
| 3 | Title: Kuntz et. al. 1994, Geologic Map | | | | |
| 4 | of the Idaho National Engineering Lab | | | | |
| 5 | | | | | |
| 6 | EXHIBIT NO.: AES000051-MA-BD01 | 157 | 157 | | |
| 7 | Title: Link and Mink 2002, Geology, | | | | |
| 8 | Hydrogeology and Environmental | | | | |
| 9 | Remediation | | | | |
| 10 | | | | | |
| 11 | EXHIBIT NO.: AES000052-MA-BD01 | 157 | 157 | | |
| 12 | Title: AES Procedure QA-02-03-001 Lead | | | | |
| 13 | Auditor Training and Certification | | | | |
| 14 | | | | | |
| 15 | EXHIBIT NO.: AES000053-MA-BD01 | 157 | 157 | | |
| 16 | Title: AES Procedure QA-16-03-001 | | | | |
| 17 | Corrective Action | | | | |
| 18 | | | | | |
| 19 | EXHIBIT NO.: AES000054-MA-BD01 | 157 | 157 | | |
| 20 | AES Procedure QA-16-03-002 Stop Work | | | | |
| 21 | | | | | |
| 22 | EXHIBIT NO.: AES000055-MA-BD01 | 157 | 157 | | |
| 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 157 157

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 157 157

9 Title: Inspection Procedure 82302 A

10 review of exercise objectives and

11 scenarios for power reactors

12

13 EXHIBIT NO.: AES000058-MA-BD01 157 157

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 157 157

19 Title: NUREG 1140, The Regulatory

20 Analysis on Emergency Preparedness for

21 Fuel Cycle and other Radioactive Material

22 Licensees

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| | EXHIBITS: | MARK | ADMT | WITH | RJCT |
|----|---------------------------------|------|------|------|------|
| 1 | | | | | |
| 2 | EXHIBIT NO.: AES000060-MA-BD01 | 157 | 157 | | |
| 3 | Title: Affidavit of Scott Tyler | | | | |
| 4 | dated December 13, 2010 | | | | |
| 5 | | | | | |
| 6 | EXHIBIT No.: AES000061-MA-BD01 | 163 | 164 | | |
| 7 | Title: AES Presentation on | | | | |
| 8 | Topic One | | | | |
| 9 | | | | | |
| 10 | EXHIBIT No.: R00062-MA-BD01 | 181 | 181 | | |
| 11 | Title: Presentation on | | | | |
| 12 | Topic 2B | | | | |
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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

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

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

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

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

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

24 CHAIRMAN BOLLWERK: All right, thank you very much. By way of
25 background, I would note that if proceeding to license the construction and

1 operation of a uranium enrichment facility such as that proposed by AES, in
2 addition to AEA related safety issues, including the facility plan for coping
3 with emergencies, there is also National Environmental Policy Act, or NEPA,
4 related environmental protection matters that will be considered at a
5 subsequent evidentiary hearing this summer.

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

24 In the context of this mandatory hearing the board must make
25 certain findings regarding the adequacy of the NRC staff's safety and

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

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

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

22 At this juncture the board is only receiving written limited
23 appearance statements, that being said, with respect to the NEPA related
24 aspects of this proceeding in accord with the boards, October 7, issuance in
25 which it outlined the schedule for the proceeding that would include

1 evidentiary hearing sessions on such environmental issues during the summer
2 2011. The board is contemplating conducting those hearings in the vicinity of
3 the proposed Eagle Rock facility and will in conjunction with that hearing
4 afford members of the public an opportunity to appear before the board and
5 provide oral limited appearance statements. The place, dates, and times for
6 such a hearing and any associated or limited appearance sessions will be
7 subject of a future board issuance and federal register notice.

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

25 Additionally, we'll be recording the proceeding which the parties

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

17 Finally as we begin today's mandatory hearing, I would note that
18 this is my cell phone and I'm turning it off. I would appreciate it if
19 everyone would do the same thing. We would ask that any cell phones and
20 similar electronic devices in the hearing room be turned off or placed on
21 vibrate and that any cell phone conversation be conducted outside this room.
22 That will be the rule throughout this proceeding. Also, no food or beverages
23 other than water are to be consumed in the hearing room and we thank you for
24 following these few brief rules. Allow me to turn to staff counsels
25 presentation. Let me suggest that those of you that are standing in the back

1 if you like at this point to take a seat this would probably be a good time.
2 Unfortunately, this is sort of like a religious service, if you come in late
3 you got to kind of climb over people. But go ahead and take a seat and make
4 yourself comfortable.

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

8 MAURI LEMONCELLI: Yes, your honor.

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

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

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

22 As the commission indicated in its notice of hearing for the Eagle
23 Rock Enrichment Facility when conducting an uncontested mandatory hearing the
24 board should conduct a simple sufficiency review. That is the board should
25 inquire whether the NRC staff's findings support license issuance are based on

1 an adequate review of the information provided by the applicant. The staff
2 submits that it's safety evaluation report, which the staff will offer into
3 evidence in this proceeding, provides the necessary basis for the board to make
4 the requisite findings as required by the commission. Earlier in this
5 proceeding the staff responded to the boards detailed written questions on
6 safety topics. In its presentation for this hearing the staff will focus on
7 specific areas of its review as identified by the board and the staff looks
8 forward to responding to the boards questions in these areas. The staff is
9 confident that the presentations will highlight that the staffs review
10 sufficiently addressed all commission applicable regulations. Thank you.

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

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

22 Finally I want to say, I think on behalf of the applicant we'd
23 express our appreciation of the board for the very rigorous review that you
24 have undertaken. The questions have all been focused. They have, I think
25 framed the issues that we thought it was important to answer and hopefully our

1 answers have been responsive to the areas identified by the board and together
2 with today's presentations we'll address any remaining concerns that you have.
3 The final comment I would make is I think we appreciate the timeliness of the
4 board's involvement in this proceeding. This is, after all, an application
5 undertaking commercial like enterprise and that's exactly what the applicant
6 intends to do upon issuance of the carry, so we appreciate both the robust
7 review and the timely advice and questions and orders that the board has
8 issued. We thank you for that.

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

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

24 From our perspective I think the board, to agree we have a feeling
25 that we might going that or we're going to try to identify that as part of our

1 question but in the end we sort of have to rely on you all and the witnesses to
2 tell us that were getting into an area that we may need to close the hearing.
3 Our preference at this point and I'll listen to comments that you all might
4 have as well would be to go ahead and have any closed sessions at the end of
5 the day or whatever presentation we do that day. So basically what we'd do.
6 If we could do two presentations today as an example if any non-public
7 information questions came up about those at the end of the day we'd simply
8 recess the public hearing, do what we needed to do to make sure everyone in the
9 room is appropriately there and then have a separated session to deal with
10 those particular questions. But I'll listen to any suggestions that you all
11 might have. Ms. Lemoncelli or Mr. Curtiss?

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

14 CHAIRMAN BOLLWERK: Good.

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

19 CHAIRMAN BOLLWERK: -- All right.

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

22 CHAIRMAN BOLLWERK: The important part here from our perspective,
23 if you think we're getting into an area, do something raise your hand, stop us
24 because we don't want for lack of a better term pollute the public record with
25 non-public information because that causes the information technology folks all

1 kinds of headaches in terms of wiping drives and doing all kinds of things they
2 really don't want to do. So it would be better, if a witness isn't sure, for
3 instance, to take a second pause maybe we'll even go off and have a recess to
4 talk with counsel about it. We do want to get the information, I should make
5 that clear. But if we need to get it in a non-public forum and then frankly,
6 moving after that we would hope we could go back and look at the transcript
7 from that and if we need, if we can we'll redact it and put some information
8 out publicly depending on what's in the transcript and what needs to be
9 maintained in non-public so --

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

17 Okay. The second thing I think I wanted to mention briefly was the
18 presentation order. At this point I think we are fairly well satisfied with
19 the one, two, three, four, that I read before, will work. Having said that I
20 know there's also some weather concerns potentially tomorrow afternoon. And
21 the one thing we may want to see as we get to the end of today is where we're
22 at, what time it is. One thing we thought was possible, it might be possible
23 for instance to do presentation four before we do presentation three. I think
24 there's a certain logic to doing it last but if we needed to we could move it
25 up if we had time and that way we may be able to get done tomorrow a little

1 earlier. But let's see where we're at. Also, frankly, at noon time I'll go
2 and check the weather and see where we're at. Cause it looks like this is one
3 of these storms where they're not sure what is going to happen when, although
4 at this point again it seems to be later in the evening that they're concerned
5 about. So, reports say it's not overnight into tomorrow morning which would be
6 a bigger issue. All right? Any questions then about the presentation order
7 then for anybody? All right?

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

21 DR. KAYE LATHROP: No, sir.

22 CHAIRMAN BOLLWERK: Ok, everybody's happy. All right. Now we have
23 something which may take a little time and is not necessarily pleasant for
24 those of you in the audience but it is a very important part of what is the
25 administrative process. For we're going to admit some evidentiary material

1 that relates to the questions that were asked by the board and responded to in
2 writing. Now we're going to go ahead and put those into the administrative
3 record. That's going to take us several minutes. Particularly for those of
4 you who might be watching on the Web-stream it's probably not a bad idea at
5 this point if you want to go get a cup of coffee or take a break cause it's
6 going to take us 15 or 20 minutes to move this evidentiary material into the
7 record. At that point then we'll probably take our first morning break and
8 then we'll move on to the first presentation. If we could the way I would like
9 to do this and I tend to be sort of the old school on this, I would appreciate
10 it if we could go through and give a brief description of each witness -- I'm
11 sorry of each exhibit and its number so that we have a one to one relationship
12 on the record. And then we'll go ahead and have them all identified and then
13 we'll have them all admitted into evidence. Why don't we go ahead and start
14 with the staff first and then we'll turn to AES. And again, just a brief
15 description. The number and a brief description of the exhibit and these will
16 be marked and used for identification. I'll let you go ahead. I don't know
17 who's got, who has this unfortunate task.

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

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

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

1 MARCIA SIMON: Okay. The staff would like to identify the
2 following exhibits:
3 NRC000001, NRC staff responses to the licensing board's initial publicly
4 available questions, dated November 19, 2010.
5 NRC000002, Affidavit of Greg Chapman (spelled phonetically) dated
6 November 16, 2010
7 NRC000003, Affidavit of Ira Dinitz (spelled phonetically) dated November
8 10, 2010
9 NRC000004, Affidavit of Keith Everly (spelled phonetically) dated
10 November 16, 2010
11 NRC000005, Affidavit of Roman Przygodzki (spelled phonetically) dated
12 November 15, 2010
13 NRC000006, Affidavit of Breeda Reilly (spelled phonetically) dated
14 November 16, 2010
15 NRC000007, Affidavit of John Stomatatos (spelled phonetically) dated
16 November 10, 2010
17 NRC000008, Affidavit of Cynthia Taylor (spelled phonetically) dated
18 November 18, 2010
19 NRC000009, Affidavit of Christopher Tripp (spelled phonetically) dated
20 November 15, 2010
21 NRC000010, Affidavit of Rex Wescott (spelled phonetically) dated November
22 10, 2010
23 NRC000011, Statement of professional qualifications for Greg Chapman
24 NRC000012, Statement of professional qualifications for Ira Dinitz
25 NRC000013, Statement of professional qualifications for Keith Everly

1 NRC000014, Statement of professional qualifications for Roman Przygodzki

2 NRC000015, Statement of professional qualifications for Breeda Reilly

3 NRC000016, Statement of professional qualifications for John Stomatatos

4 NRC000017, Statement of professional qualifications for Cynthia Taylor

5 NRC000018, Statement of professional qualifications for Christopher Tripp

6 NRC000019, Statement of professional qualifications for Rex Wescott

7 NRC000020, NRC staff responses to the Board's initial non-publicly
8 available questions dated November 19, 2010

9 NRC000021, Affidavit of Michael Norris (spelled phonetically) dated
10 November 15, 2010

11 NRC000022, Statement of professional qualifications for Michael Norris

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

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

15 NRC000025, Affidavit of Thomas Pham dated December 7, 2010

16 NRC000026, Statement of professional qualifications for Thomas Pham

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

19 NRC000028, Affidavit of Kenneth Kline (spelled phonetically) dated
20 January 4, 2011

21 NRC000029, Affidavit of Roman Przygodzki dated December 29, 2010

22 NRC000030, Statement of professional qualifications for Kenneth Kline

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

24 CHAIRMAN BOLLWERK: All right.

25 CHRISTINE JOCHIM BOOTE: OK.

1 NRC000031, Standard Review Plan for the review of the license application
2 for fuel cycle, NUREG 1520

3 NRC000032, Safety evaluation report for the Eagle Rock facility, NUREG
4 1951

5 NUREG 000033, Safety evaluation report for Eagle Rock facility --

6 CHAIRMAN BOLLWERK: -- That was NRC, right? As opposed to NUREG?

7 CHRISTINE JOCHIM BOOTE: Sorry. NRC000033 --

8 CHAIRMAN BOLLWERK: --There you go.

9 CHRISTINE JOCHIM BOOTE: Safety evaluation report for Eagle Rock
10 facility, NUREG 1951 Appendix A

11 NRC000034, National Enrichment Facility Safety Analysis Report, revision
12 seven, dated June 2005

13 NRC000035, Eagle Rock Enrichment Facility Integrated Safety Analysis
14 Summary, Chapter 3.7

15 NRC000036, Eagle Rock Enrichment Facility Integrated Safety Analysis,
16 Chapter 3.8

17 NRC000037, Follow up response to quality assurance requirements for fire
18 protection items relied on for safety

19 NRC000038, Request for expedited approval of quality assurance program
20 dated October 30, 2009

21 NRC000039, AREVA quality assurance program description for the Eagle Rock
22 Enrichment Facility, letter and enclosure

23 NRC000040, Request for exemption from 10CFR 21.3 dated January 29, 2010

24 NRC000041, Approval of AREVA Enrichment Services part 21 exemption
25 request dated July 28, 2010

1 NRC000042, Revised quality assurance program description dated September
2 10, 2010

3 NRC000043, Response to request for additional information dated September
4 28, 2009

5 NRC000044, Response to request for additional information dated, no date.
6 Sorry. Enclosure 3

7 NRC000045, Letter regarding quality assurance requirements for fire
8 protection items relied on for safety dated March 25, 2010

9 NRC000046, Eagle Rock Enrichment Facility Integrated Safety Analysis,
10 Appendix A

11 NRC000047, FCSS Interim Staff Guidance dated June, 2005

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

14 NRC000049, "A Physics-Based Approach to Modeling Grassland Fires,"
15 International Journal of Wildland Fire dated 2007

16 NRC000050, ANS N14.1-2001 American national standard for nuclear
17 materials packaging for transport of uranium hexafluoride dated April 3, 2002

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

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

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

22 NRC000051, Nuclear Fuel Cycle Facility Accident Analysis Handbook dated
23 March 1998

24 NRC000052, NRC information notice 1997-20 identification of certain
25 uranium hexafluoride cylinders that do not comply with ANSI standard N14.1

1 fabrication standard, dated April 17, 1997

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

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

5 NRC000055, Safety Evaluation -- excuse me, Safety evaluation report for
6 National Enrichment Facility in Lea County, New Mexico, NUREG 1827, June, 2005

7 NRC000056, United States Enrichment Corporation the UF6 Manual USEC-U51,
8 excerpts only

9 NRC000057, ANSI/ANS-8.1 1998 Nuclear Criticality, Safety and Operation
10 with Fissionable Material Outside Reactors, dated September 9, 1998

11 NRC000058, USEC Safety Evaluation Report, Appendix A, Integrated Safety
12 Analysis and ISA Summary

13 NRC000059, American Nuclear Insurance letter to AREVA Enterprises
14 regarding Eagle Rock Enrichment Facility dated September 22, 2008

15 NRC000060, License for the Louisiana Enrichment Services National
16 Enrichment Facility dated -- excuse me, dated June 23, 2006

17 NRC000061, License for the Louisiana Enrichment Services National
18 Enrichment Facility dated March 14, 2008

19 NRC000062, Safety Evaluation Report for Louisiana Energy Services'
20 request to amend license related to possession of byproduct material dated
21 March 14, 2008

22 NRC000063, Consolidated NMSS Decommissioning Guidance, Financial
23 Assurance, Record Keeping and Timeliness, NUREG 1757 Volume Three, excerpts

24 NRC000064, AES proposal for authorization to make changes to license
25 commitments dated August 20, 2010

1 NRC000065, Redacted draft safety evaluation report for the application to
2 possess and use radioactive material at the Mixed Oxide Fuel Fabrication
3 Facility dated July, 2010

4 NRC000066, Safety evaluation report for the renewal of SNM-1107 Columbia
5 Fuel Fabrication Facility in Columbia, South Carolina section 14.1.1 August
6 2007

7 NRC000067, Eagle Rock Enrichment Facility ISA Summary Revision 2,
8 Appendix D.

9 NRC000068, Kuntz et al. an overview of the basaltic volcanism of the
10 eastern Snake River Plain Idaho Chapter 12 Geological Society of America dated
11 1992

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

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

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

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

22 NRC000073, NUREG 800, revision 2 Chapter 18 Human Factors Engineering
23 dated March, 2007

24 NRC000074, NUREG 0711, revision 2 Human Factors Engineering Program
25 review model dated February, 2004

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

3 NRC000076, NUREG 1718, Standard Review Plan for the review of an
4 application for a Mixed Oxide, or MOX Fuel Fabrication Facility, Chapter 12
5 dated August, 2000

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

8 NRC000078, NFPA801 Standard for Fire Protection for facilities handling
9 radioactive material, 2008 edition

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

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

14 NRC000081, Safety Evaluation Report for the Eagle Rock Enrichment
15 Facility, Appendix H

16 NRC000082, Approval of AREVA Enrichment Services, LLC. exemption request
17 related to requirements governing commencement of construction dated March 17,
18 2010

19 NRC000083, Request for exemption from 10 CFR 70.4, 10 CFR 70.23(a)(7), 10
20 CFR 30.4, 10 CFR 33. -- excuse me, 10CFR 30.33A5 et. al. requirements governing
21 commencement for construction dated June 17, 2009

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

24 NRC000085, Request for exemption from 10CFR 21.3 definitions for
25 commercial grade item, basic component, critical characteristic dedication and

1 dedicating entity dated January 29, 2010

2 NRC000086, NRC regulatory issue summary, or RIS, 2005-31, entitled

3 "Control of Security-Related Sensitive Unclassified Non-Safeguards Information

4 Handled by Individuals, Firms and Entities Subject to NRC Regulation of

5 the Use of Source, Byproduct, and Special Nuclear Material" Including

6 attachments two and three, dated December 22, 2005

7 NRC000087, NUREG 1513, Integrated Safety Analysis Guidance Document dated

8 May, 2001

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

10 Plan revision one section 3.7

11 NRC000089, NUREG 0654/FEMA-REP 1 revision one, "Criteria for Preparation

12 and Evaluation of Radiological Emergency Response Plan and Preparedness in

13 Support of Nuclear Power Plants"

14 MARCIA SIMON: NRC000090, NRC inspection manual, inspection

15 procedure 88051, evaluation of exercises and drills dated July 28, 2006

16 NRC000091, NUREG 1140, a regulatory analysis on the emergency

17 preparedness for fuel cycle and other radioactive material licenses, page 11

18 NRC000092, Regulatory guide 1.183, Alternative Radiological Source Terms

19 for Evaluating Design Basis Accidents at Nuclear Power Reactors, page 16

20 NRC000093, Eagle Rock Enrichment Facility ISA Summary revision one

21 Section 2.2.2 page E2

22 NRC000094, 2000 Census data SEC POP 2000 output

23 NRC000095, Eagle Rock Enrichment Facility environmental report revision

24 one, page 4.12-8

25 NRC000096, NUREG 1757, "Consolidated NMSS Decommissioning Guidance,

1 Financial Assurance, Record Keeping and Timeliness" volume three, excerpts

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

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

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

8 NRC000100, Billings, Montana Compensation Survey August, 2010, U.S.
9 Bureau of Labor Statistics December 2010

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

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

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

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

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

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

25 (The documents referred to having been previously marked for identification as

1 Exhibits NRC000001-MA-BD01 through NRC000100-MA-BD01 were received in
2 evidence.)

3 And hopefully we get all the zeros in there in the right place, but
4 we'll fix that if we didn't, if it's not, all right? Let me just turn to Mr.
5 Welkie one second. The ones that were identified on the information they gave
6 us as non-public those jive with what you have in the terms of what is in the
7 DDMS.

8 MR. WELKIE: Yes.

9 CHAIRMAN BOLLWERK: Ok. We just want to make sure we don't send
10 anything up to SECY and then a non-public document becomes public. That would
11 be a bad thing. So...

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

13 (laughter)

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

15 CHAIRMAN BOLLWERK: -- Right. Ok.

16 JIM CURTISS: But --

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

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

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

23 AES000001, the AES response to the publicly available questions dated
24 December 19, 2010

25 AES000002, Affidavit of William Hackett (spelled phonetically) dated

1 November 19, 2010

2 AES000003, Affidavit of George Harper (spelled phonetically) dated

3 November 19, 2010

4 AES000004, Affidavit of James Kay dated November 19, 2010

5 AES000005, Affidavit of Sam Shakir dated November 19, 2010

6 AES000006, Affidavit of Mark Stum (spelled phonetically) dated November

7 19, 2010

8 AES000007, Affidavit of Barry Tilden dated November 19, 2010

9 AES000008, Affidavit of Scott Tyler (spelled phonetically) dated November

10 19, 2010

11 AES000009, Affidavit of Eric Wiener (spelled phonetically) dated November

12 19, 2010

13 AES000010, Statement of professional qualifications for William Hackett

14 AES000011, Professional qualifications for George Harper

15 AES000012, Professional qualifications for James Kay

16 AES000013, Professional qualifications for Sam Shakir

17 AES000014, Professional qualifications for Mark Stum

18 AES000015, Professional qualifications for Barry Tilden

19 AES000016, Professional qualifications for Scott Tyler

20 AES000017, Professional qualifications for Eric Wiener

21 AES000018, AES response to non-publicly available questions dated

22 November 19, 2010

23 AES000019, Affidavit of Christopher Andrews (spelled phonetically) dated

24 November 19, 2010

25 AES000020, Affidavit of Scott McCain (spelled phonetically) dated

1 November 19, 2010

2 AES000021, Affidavit of Scott Tyler dated November 19, 2010

3 AES000022, Professional qualifications for Christopher Andrews

4 AES000023, Professional qualifications for Scott McCain

5 AES000024, AES response to ASLB supplemental publicly available questions

6 dated November -- I'm sorry, dated December 13, 2010

7 AES000025, Affidavit of Christopher Andrews dated December 13, 2010

8 AES000026, Affidavit of George Harper dated December 13, 2010

9 AES000027, Affidavit of James Kay dated December 13, 2010

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

11 AES000029, AES response to ASLB supplemental non-publicly available

12 questions dated December 13, 2010

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

14 AESR20031, AES response to ASLB second supplemental publicly available

15 questions dated January 14, 2011

16 AES000033, Affidavit of Jean Luke Palayer dated January 14, 2011

17 AES000034, Affidavit of Don Le Francois dated January 14, 2011

18 AES000035, Professional qualifications for Jean Luke Palayer dated

19 January 14, 2011

20 AES000036, Professional qualifications for Don Le Francois dated January

21 14, 2011

22 AES000037, Eagle Rock Enrichment Facility safety analysis report revision

23 two

24 AESR0038, Eagle Rock Enrichment Facility Emergency Plan rev. two Section

25 7.2

1 AES000039, Fundamental Nuclear Material Control Plan rev. two
2 AES000040, Integrated Safety Analysis Summary rev. two Chapter 3
3 AES000041, ASTM 108 Standard Test Methods for Fire Test of Roof
4 Coverings
5 AES000042, ASTM Standard C 787-06 Standard Specification for Uranium
6 Hexafluoride for Enrichment
7 AES000043, ASTM C996 Standard Specification for Uranium Hexafluoride
8 Enriched to Less than Five Percent
9 AES000044, ANSI M 14.1 Uranium Hexafluoride packaging for transport,
10 excerpts
11 AES000045, USEC-651 Uranium Hexafluoride a Manual of Good Handling
12 Practices, excerpts
13 AES000046, Blong, RJ "Volcanic Hazards," a source book on the effects of
14 eruptions
15 AES000047, Champion et. al. Accumulation and subsidence of late
16 Pleistocene basaltic lava flows of the eastern Snake River Plane
17 AES000048, Geslin et. al. Pliocene and quaternary stratigraphic
18 architecture in drainage systems of the Big Lost Trough, Northeastern Snake
19 River Plain, Idaho
20 AES000049, Hackett et. al. 2002, Volcanic Hazards of the Idaho National
21 Engineering and Environmental Laboratory
22 AES000050, Kuntz et. al. 1994, Geologic Map of the Idaho National
23 Engineering Lab
24 AES000051, Link and Mink 2002, Geology, Hydrogeology and Environmental
25 Remediation

1 AES000052, AES Procedure QA-02-03-001 Lead Auditor Training and
2 Certification

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

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

5 AES000055, INPO 01-002 Guidelines for the conduct of operations and
6 nuclear power stations

7 AES000056, RIS 2005-31 Control of Security Related Sensitive Unclassified
8 Non-safeguard Information

9 AES000057, Inspection Procedure 82302 A review of exercise objectives and
10 scenarios for power reactors

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

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

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

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

20 MR. WELKIE: No, I do not have an r.

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

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

24 CHAIRMAN BOLLWERK: No "R" okay.

25 TYSON SMITH: Yes. AES000038.

1 CHAIRMAN BOLLWERK: Okay. So no "R"? All right, then one other
2 question. It had showed up coming through the agency's document processing
3 system as a non-public document, and I don't think you had that indicated on
4 the list that you gave us but we just want to make sure that it is in fact non-
5 public.

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

7 CHAIRMAN BOLLWERK: --Non-public document. Ok just wanted to make
8 sure.

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

11 CHAIRMAN BOLLWERK: -- Ok.

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

14 CHAIRMAN BOLLWERK: Number 32. You're correct. I should have said
15 that.

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

17 CHAIRMAN BOLLWERK: Is non-public.

18 TYSON SMITH: That's correct.

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

21 TYSON SMITH: That's correct.

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

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

4 All right.

5 TYSON SMITH: We now request that we admit these exhibits into
6 evidence.

7 CHAIRMAN BOLLWERK: All right. Any objections? There being no
8 objections then exhibits, once again, AES000001 through AES000030, exhibit
9 AESR20031, exhibits AES000033 through AES000060 are admitted into evidence.

10 (The documents referred to having been previously marked for identification as
11 Exhibit AES000001-MA-BD01 through AES000030-MA-BD01, exhibit AESR20031-MA-BD01,
12 exhibits AES000033-MA-BD01 through AES000060-MA-BD01 were received in
13 evidence.)

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

24 The topics of the presentations that we are going to be hearing
25 today are actually a subset of what we already interacted with the parties

1 about. Things that we still had additional questions on or we thought that
2 clarification for the public record would be useful in the context of the
3 mandatory hearing. So that's what we are going to be doing over the next two
4 days, hearing information about those particular subjects that I mentioned
5 previously. Having said that, anyone that's interested there is a large body
6 of evidentiary material out there that anyone wants to look through, that we've
7 already received into evidence and will be part of the record for decision that
8 we'll be rendering in regard to the mandatory hearing. So, that's why we were
9 doing all that. So it's now before the board as a matter of formal evidence
10 and we can consider it and use it as part of our decision material. Anything
11 the parties have at this point about the evidentiary material we dealt with?

12 MAURI LEMONCELLI: Not at this time your honor.

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

25 (Whereupon, a short recess was taken)

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

8 MAURI LEMONCELLI: That's correct, your honor. At this time would
9 you like the NRC staff?

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

12 MAURI LEMONCELLI: Miss Reilly, Mr. Everly, and Mr. Wescott,
13 please.

14 CHAIRMAN BOLLWERK: All right.

15 MAURI LEMONCELLI: Thank you, your honor.

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

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

25 (talking simultaneously)

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

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

5 CHAIRMAN BOLLWERK: OK.

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

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

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

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

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

22 WHERUPON,

23 SCOTT TYLER

24 GEORGE HARPER

25 CHRIS ANDREWS

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

3 SCOTT TYLER: I do.

4 GEORGE HARPER: I do.

5 CHRIS ANDREWS: I do.

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

8 JIM CURTISS: Yes, sir. I would ask the witnesses if they have a
9 copy of AES 61 on the screen in front of them?

10 MALE SPEAKER: No.

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

12 SCOTT TYLER: Yes.

13 GEORGE HARPER: Yes.

14 CHRIS ANDREWS: Yes.

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

16 SCOTT TYLER: Yes.

17 GEORGE HARPER: Yes.

18 CHRIS ANDREWS: Yes.

19 JIM CURTISS: Did you prepare a written presentation for filing in
20 this proceeding?

21 SCOTT TYLER: Yes.

22 GEORGE HARPER: Yes.

23 CHRIS ANDREWS: Yes.

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

1 SCOTT TYLER: Yes.

2 GEORGE HARPER: Yes.

3 CHRIS ANDREWS: Yes.

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

6 SCOTT TYLER: Yes.

7 GEORGE HARPER: Yes.

8 CHRIS ANDREWS: Yes.

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

11 SCOTT TYLER: Yes.

12 GEORGE HARPER: Yes.

13 CHRIS ANDREWS: Yes.

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

16 SCOTT TYLER: No.

17 GEORGE HARPER: No.

18 CHRIS ANDREWS: No.

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

20 (laughter)

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

23 MALE SPEAKER: Yes.

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

1 SCOTT TYLER: Yes.

2 GEORGE HARPER: Yes.

3 CHRIS ANDREWS: Yes.

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

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

8 JIM CURTISS: Yes, sir.

9 CHAIRMAN BOLLWERK: Let the record reflect then that Exhibit AES
10 000061, as identified by counsel, is marked for identification.

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

13 And any objection to its admission?

14 MAURI LEMONCELLI: No objection, your honor.

15 CHAIRMAN BOLLWERK: Then that Exhibit AES 000061 is admitted into
16 evidence.

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

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

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

25 BREEDA REILLY: I'm Breeda Reilly, and I'm the senior project

1 manager.

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

4 REX WESCOTT: I'm Rex Wescott. I'm a senior fire protection
5 engineer.

6 CHAIRMAN BOLLWERK: All right, thank you. Again, I'm going to go
7 ahead and swear the three of you in as well. You would need to raise your
8 right hand, and I need an oral statement from you in response to the question.
9 Is the testimony that you give in this proceeding the truth, the whole truth,
10 and nothing -- I'm sorry -- do you swear or affirm that the testimony you give
11 in this proceeding is the truth, the whole truth, and nothing but the truth?

12 WHERUPON,

13 REX WESCOTT

14 BREEDA REILLY

15 KEITH EVERLY

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

18 REX WESCOTT: Yes.

19 BREEDA REILLY: I do.

20 KEITH EVERLY: Yes.

21 CHAIRMAN BOLLWERK: All right. One, two, three, we heard
22 everybody? All right. I think we're done then in terms of the witnesses being
23 sworn in. Let me just explain then the process here very briefly, and we use
24 this for all the witness panels we're going to have today and tomorrow. We
25 have a lead party for each presentation. In this case that's the AREVA

1 Enrichment Services. And these gentlemen are going to make a presentation
2 based on the slides that they just -- we just admitted into evidence, talk to
3 us about the presentation topic. We've also brought -- and we have witnesses
4 from the NRC staff that are available to the board to ask any questions of.

5 And the only sort of ground rule that I have with respect to these
6 sorts of presentations where we have both sets of witnesses on the stand at the
7 same time is that all your responses should be addressed to the board, so
8 you're talking with us and responding to our questions. There may be some
9 dialogue back and forth to the degree that we may ask you a question, we then
10 may turn to them and ask them a question, and that may get a dialogue going,
11 but again, it's directed to us, not each other. So, again, you're testifying
12 before the board. Any questions about that or any clarification? All right.
13 At this point, unless other board members have anything they want to say at
14 this point?

15 MALE SPEAKER: No, sir.

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

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

24 Chris Andrews, sitting to my left, is also -- has expertise in the
25 ISA methodology that was used in the development of the license application for

1 Eagle Rock, and also his expertise is in the area such as centrifuges and the
2 cascades.

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

5 The slide here on page two here is broken into four bullets. I'm
6 not going to read each individual bullet, but essentially what we did is we
7 took the presentation question that was received by the ASLB, and we broke it
8 into four parts, and essentially these four bullets here are verbatim, the
9 presentation question that AES received from the ASLB. As we go through the
10 presentation here, each of the -- the presentation, therefore, broken into four
11 major sections will be addressed to each of the four questions, and then we
12 repeat this question for the lead-in slide for each section of the
13 presentation.

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

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

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

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

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

5 AES used the NUREG 1520 guidance to develop two discreet sets of
6 hazards for the Eagle Rock facility. The first is process related hazards that
7 come from process components. The second is Idaho specific external events
8 that are those events that happen outside the facility and could impact the
9 facility. In development of the process related hazards, we used the HAZOP
10 methodology and applied the Enrichment Technology Corporation HAZOPS for their
11 base processes as our starting point. These were modified by Eagle Rock
12 specific ISATs that used AES HAZOP guidewords. The guidewords flow from the
13 HAZOP process. They address process deviation initiations in site specific
14 external events. We did not do an explicit comparison to European or Louisiana
15 Enrichment Services centrifuges. That was not required under 1520. This
16 process is independent of a comparison, however, and it's guided by the
17 experience of the team members. It's intended to be a standalone analysis
18 specific to the Eagle Rock facility.

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

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

22 CHAIRMAN BOLLWERK: All right.

23 SCOTT TYLER: The -- or maybe -- yes, at the bottom of the next
24 slide, but guidewords are a term of art from the HAZOP methodology, and it's
25 the combination of the process parameter that -- for which you would apply

1 guidance, either -- to deviate from that parameter. And they're taken in
2 combination to generate a deviation to initiate a potential sequence or
3 accident event.

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

6 SCOTT TYLER: The next section goes into some detail about the
7 methodology that was applied, and it expounds upon what I previously mentioned.
8 Again, the ISA process was described in the ISA summary in section 3.1. As I
9 noted, we did not compare process related hazards or Idaho specific events to
10 those of other sites. We used the existing ETC HAZOPs as our starting point
11 and modified them to the specific design for Eagle Rock. That was -- that's
12 where the systems are broken into individual nodes that are reflective of the
13 specific process designed for the plant.

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

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

23 So some examples of process deviation would be to take a process
24 parameter such as heat, or pressure, or temperature, and then apply a guideword
25 that deviates from normal conditions, so more, or high, low, or less, and when

1 we combine those with the parameter, that gives us a specific deviation
2 initiator, more heat, less heat, high temperature, low temperature, high flow,
3 low flow, and that's applied to the process analysis on a nodal basis on a per
4 system segment. It was not done as a comparative analysis for other sites, but
5 we did have team members on the team that have conducted the analysis for other
6 facilities, so we had the benefit of team members from the centrifuge vendor
7 that have performed this work in European facilities and in other North
8 American facilities.

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

12 SCOTT TYLER: That's correct.

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

20 BREEDA REILLY: Well, I think in terms of our regulations, we
21 provide guidance in 1520, our standard review plan, and the licensing followed
22 that guidance, which they've described the HAZOP procedure, and I think that
23 satisfies our regulatory requirements.

24 REX WESCOTT: Yeah, HAZOPs is a pretty standard procedure for this
25 type of analyses. And a number of our plants have done that. It's one of the

1 processes, Breeda said this, that's under 1513, in fact, recommended under
2 certain conditions, and we felt that when we were to do that (spelled
3 phonetically), they use that appropriately.

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

7 REX WESCOTT: Well, OK, the staff has that information available to
8 them, and for LES, of course, AREVA did also. And they followed a lot of what
9 was done at LES. And, of course, when the staff reviewed it, we also have
10 knowledge of what was done for other plants, and so I think we do look for some
11 consistency through there. I mean, if we see that there is an accident
12 analysis that was done for another plant that should've been done for this one
13 because of the type of equipment that's being used, we'd ask that question. So
14 the staff certainly doesn't operate in a vacuum; we have the knowledge of what
15 other plants have done. The licensee, on the other hand, has to use what's
16 available to him or to the public, and -- but in this case we didn't see any
17 problems with the way they did their analyses.

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

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

24 CHAIRMAN BOLLWERK: Oh, OK.

25 GEORGE HARPER: What we did on external events is I was the

1 representative for external events on the ISAT, but we drew on studies, and
2 reports, and analyses that had been done -- that were done by some of our
3 consultants also to support the ISA, so in the case of volcanism we had -- Dr.
4 Hackett he came in and prepared a site specific probabilistic study, and then
5 we took that information and then brought that to the ISA team meeting.
6 Similar with seismic, and with tornadoes, and extreme precipitation, we follow
7 basically the same approach, too, so they explicitly -- some of the
8 consultants, they didn't explicitly sit on the ISA team, but my own experience,
9 you know, I -- I'm familiar with these types of analyses and so I basically was
10 able to take their information and bring that to the ISA team meeting myself.

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

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

21 DR. CRAIG WHITE: Thank you.

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

25 DR. KAYE LATHROP: As I understand the HAZOPs process, it's an

1 attempt to use the experience of knowledgeable people to identify accident
2 initiators and then to analyze those and see which are the most likely
3 resulting in protective measures if necessary. During this process is there
4 ever a point where you try to imagine things beyond your experience that might
5 cause accidents? That is, what is it I have not thought of that might happen?

6 SCOTT TYLER: Yes, that's very much a part of the HAZOP process.
7 It's intended to bring together multiple expertise and to brainstorm, if you
8 will, around those process deviation initiators that I mentioned. So when we
9 postulate a given deviation such as high heat or more heat, we try to think of
10 all potential initiators that could cause that condition to occur. Once that's
11 been identified, then it's fully vetted through the HAZOP process to identify
12 safeguards, associated mitigations.

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

15 SCOTT TYLER: Yes.

16 DR. KAYE LATHROP: Yeah.

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

20 SCOTT TYLER: Yes.

21 MALE SPEAKER: Yes.

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

1 Associated with the process related hazards, the team did not
2 identify any that were unique because of the locality in Idaho. There are
3 unique process hazards of course specific to the design of the facility, and
4 those were vetted through our validation existing HAZOPs. The centrifuges
5 processes are sub-atmospheric or vacuum processes so they're closed systems
6 normally. They only require venting or purging at certain points when there
7 are connections or disconnections made. Those operations are operational, and
8 they are sensitive to atmospheric pressure as a vacuum system. With respect to
9 the unique events that were identified at the site, Mr. Harper already really
10 spoke to those in some detail, and they are presented in our safety analysis
11 method, those specific events that were considered for the Idaho facility.

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

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

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

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

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

7 CHRIS ANDREWS: All right.

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

10 CHRIS ANDREWS: Yes.

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

13 CHRIS ANDREWS: No.

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

15 CHRIS ANDREWS: Correct.

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

17 CHRIS ANDREWS: That's correct.

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

20 CHRIS ANDREWS: That's correct.

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

24 CHRIS ANDREWS: That's correct.

25 GEORGE HARPER: Yeah, the bullet with regard to the set points

1 would be no different than normal set point calculations that would be run
2 through during the detail design so that the right parameters would be set for
3 the equipment.

4 DR. KAYE LATHROP: Thank you.

5 SCOTT TYLER: The next slide, section four is really just a
6 summation of what we've talked about, if we can move to slide 11. As I noted,
7 if there were unique process related hazards that were specific to the Eagle
8 Rocks design, those were identified in the HAZOP processes and pulled forward
9 to the ISA methodology. We did not have unique process related hazards
10 specific to the Idaho site. The issues associated with instruments and set
11 points are common to any centrifuge facility no matter where it's built. It
12 would just need to take into account local conditions. And we identified all
13 process related hazards and external events as required under the NUREG 1513
14 ISA or HAZOP methodology in 1520, and those site specific differences did not
15 lead us to any conclusions that there were any special or significant safety
16 accommodations associated with the location.

17 CHAIRMAN BOLLWERK: Any other board questions then?

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

19 MALE SPEAKER: No.

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

21 MALE SPEAKER: Yes.

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

24 MALE SPEAKER: Yeah.

25 CHAIRMAN BOLLWERK: All right. That's it then. Thank you very

1 much. We appreciate the information you provided. All right, and we thank the
2 staff witnesses as well. I think some of you we will see again at -- for those
3 of you that may not testify again, we thank you for your service to the board
4 and the information you provided us. I guess we'll move on then to the next
5 presentation topic which deals with foreign ownership and controls. And just
6 get here --

7 JIM CURTISS: Your honor, we have one witness from AES who's coming
8 up to the table now.

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

17 MARCIA SIMON: Thank you, your honor. The staff has three
18 witnesses for this presentation, Topic 2A and 2B. I'll just have the witnesses
19 introduce themselves, although you've met two of them already.

20 CHAIRMAN BOLLWERK: All right.

21 BREEDA REILLY: I'm Breeda Reilly. I'm the NRC senior project
22 manager.

23 KEITH EVERLY: Keith Everly with the Office of Nuclear Security and
24 Incident Response.

25 ANNELIESE SIMMONS: I'm Anneliese Simmons. I'm a financial analyst

1 for NRR.

2 CHAIRMAN BOLLWERK: All right. Mr. Everly and Ms. Reilly, you've
3 already been sworn, and obviously you remain under oath, so I am not going to
4 swear you in again obviously. Let me swear in Ms. Simmons. Could you raise
5 your right hand, please? And I need a verbal response to my question. Do you
6 swear or affirm that the testimony you will give in this proceeding is the
7 truth, the whole truth, and nothing but the truth?

8 WHERUPON,

9 ANNELIESE SIMMONS

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

12 ANNELIESE SIMMONS: It is. I do.

13 CHAIRMAN BOLLWERK: Thank you. All right.

14 MARCIA SIMON: Your honor, the staff has three exhibits to identify
15 for this presentation.

16 CHAIRMAN BOLLWERK: All right.

17 MARCIA SIMON: Those exhibits are NRC-R00101, the staff's
18 presentation on Topic 2A, foreign ownership and control, NRC-000102, statement
19 of professional qualifications for Anneliese Simmons, and NRC-000103, the final
20 Standard Review Plan on foreign ownership control or domination, dated
21 September 28, 1999. And at this time -- that's all, your honor.

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

25 MR. WELKIE: I am going to turn it down.

1 CHAIRMAN BOLLWERK: OK, all right. The staff has identified the
2 following three exhibits, NRC-R00101, NRC-000102, NRC-000103. I'm sorry, just
3 101 and 102, right? Sorry, am I getting ahead of myself? Yes.

4 MARCIA SIMON: Well, 101, 102, and 103.

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

7 MARCIA SIMON: It's R00101.

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

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

13 And you want to move them into evidence?

14 MARCIA SIMON: Yes, we'd like to move those into evidence, please.

15 CHAIRMAN BOLLWERK: Any objection?

16 JIM CURTISS: No.

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

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

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

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

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

7 WHERUPON,

8 SAM SHAKIR

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

11 SAM SHAKIR: Yes, I do.

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

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

17 CHAIRMAN BOLLWERK: You have --

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

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

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

24 SAM SHAKIR: Yes.

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

1 SAM SHAKIR: Yes, I do.

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

4 SAM SHAKIR: Yes, it is.

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

7 SAM SHAKIR: Yes.

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

10 SAM SHAKIR: No, I don't.

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

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

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

18 Any objections to its submission?

19 MARCIA SIMON: No objection, your honor.

20 CHAIRMAN BOLLWERK: Then exhibit AES R00062 is admitted into
21 evidence.

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

24 All right, then I believe we're ready for presentation 2A. I don't
25 know who from the staff gets to speak first.

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

2 CHAIRMAN BOLLWERK: All right.

3 MARCIA SIMON: Could we please have exhibit NRC-R00101 on the
4 screen, please?

5 BREEDA REILLY: Well, basically, your honor, this presentation
6 describes the statutory and regulatory framework regarding foreign ownership
7 and control for uranium enrichment facilities such as the Eagle Rock Enrichment
8 Facility.

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

17 Slide three, please? In July of 2009, the Commission issued a
18 notice of receipt of application for license which included a notice of
19 consideration of issuance of license and a notice of hearing and Commission
20 order. Section six of the order, titled Applicable Requirements, provided
21 direction concerning the licensing of the Eagle Rock Enrichment Facility. This
22 section directs that the facility be licensed and regulated in accordance with
23 the Atomic Energy Act of 1954 as amended, but it also provided direction in a
24 number of the review areas for licensing the facility. One of these areas is
25 foreign ownership.

1 Basically the Commission stated that the AES application is
2 governed by Sections 53 and 63 the Atomic Energy Act. And consequently, the
3 Commission directed the staff to determine issues of foreign involvement
4 pursuant to Sections 57 and 69 of the Act, and not Sections 103, 104, or
5 1939(f).

6 And in the next slide I'll discuss Sections 57 and 69. Slide four,
7 please? Sections 57 and 69 of the Atomic Energy Act require an affirmative
8 finding that the issuance of a license for the Eagle Rock Enrichment Facility
9 cannot be inimical to the common defense and security.

10 Slide five, please. Section 103 of the Act contains similar
11 language and prohibits the issuance of a license that would be inimical to the
12 common defense and security. However, it also has specific language
13 prohibiting issuance of a license for a power reactor to any entity owned,
14 controlled, or dominated by an alien foreign corporation or a foreign
15 government.

16 Slide six, please. So in response to the board's request on this
17 topic, we've prepared information that outlines the regulatory framework and
18 approach for both power reactors under Parts 50 and 52 and the regulatory
19 requirements under Part 70, which includes regulatory requirements under Part
20 95, which covers facility security clearance. Anneliese will cover the next
21 two slides concerning Parts 50 and 52, and I'll cover these slides concerning
22 the licensing of enrichment facilities. So I'll turn it over to Anneliese for
23 slide 7.

24 ANNELIESE SIMMONS: Thanks, Breeda. I'm going to talk again, as
25 Breeda mentioned, about the reactor side of things. Foreign ownership

1 restrictions are -- they're actually more restrictive under Parts 50 and 52.

2 In 1999, the Commission was looking at deregulation in the industry --

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

6 ANNELIESE SIMMONS: And so they developed a Standard Review Plan
7 which the staff uses to look at applicants and license transfers for foreign
8 ownership, control, and domination issues. And that's the document that we use
9 in reviewing our part of foreign ownership.

10 In general, the Standard Review Plan does prohibit 100 percent of
11 foreign ownership on the reactor side; however, there's no other thresholds
12 that are set, either something that's below foreign ownership review or above
13 except the 100 percent foreign ownership restriction, and that's true on 50 and
14 52.

15 For the next slide, slide eight, if the staff -- the staff is --
16 it's pretty broad definition, so we look at really the totality of information
17 that we can determine regarding corporate structure, financial arrangements,
18 but the goal of the Standard Review Plan and what we're trying to do is isolate
19 and mitigate foreign influence over safety and security decisions. If it turns
20 out in our review process that there's some indication that there's foreign
21 involvement, the applicant or the licensee can submit what's called a negation
22 action plan. And that would be a summary of the measures that they're going to
23 take to insure that safety, security, and reliability decisions are held in the
24 hands of U.S. citizens. OK? And it's handled on a case by case basis.
25 There's a variety of negation action plans that have been approved, but they

1 might include measures such as setting up an advisory council of U.S. citizens
2 that would look at safety and security measures or decisions, or changing the
3 governance documents so that those decisions are held in the hands of
4 Americans. So that's really probably the best summary of Parts 50 and 52.

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

8 CHAIRMAN BOLLWERK: OK. Well, let me just stop you right there,
9 and let me -- so the basic approach on the reactor side is then 100 percent
10 control is prohibited.

11 ANNELIESE SIMMONS: Yes, sir.

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

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

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

17 ANNELIESE SIMMONS: The language of the SRP talks about less than
18 100 percent, however, Commission direction and precedent would indicate or
19 suggest that, that would be prohibited, yes.

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

25 ANNELIESE SIMMONS: Correct, in theory, yes.

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

5 ANNELIESE SIMMONS: That's correct.

6 CHAIRMAN BOLLWERK: All right. OK.

7 BREEDA REILLY: OK? Slide nine, please. Enrichment facilities are
8 licensed under Part 70 for special nuclear material, and Part 40 for source
9 material, and Part 30 for byproduct material. 10CFR 70.31 and 10CFR Part 40.32
10 codify the requirements of Sections 57 and 69 of the AEA in reference to the --
11 that they state that the issuance of a license should not be inimical to the
12 common defense and security.

13 In addition, Part 70 has other requirements related to foreign
14 ownership and control. The requirement that's relevant to the Eagle Rock
15 application is 70.22(a)(1), which requires that the applicant provide
16 information of foreign ownership. And this requirement is discussed in our
17 Standard Review Plan, which is NUREG 1520. The Standard Review Plan specifies
18 that the license application which must include a description of the extent of
19 foreign ownership or influence. And AES provided such information in its
20 license application.

21 And Part 70 also includes a requirement that is specific to the
22 United States Enrichment Corporation, also known as USEC, and that's in part
23 10CFR 70.40. And that provision is specific to USEC and its successors. And
24 the section was added in 10CFR -- in February of 1997 to conform to regulations
25 to the USEC Privatization Act. And it basically refers to the ineligibility of

1 certain applicants and prohibits the issuance of a license to USEC or its
2 successors if owned, controlled, or dominated by an alien foreign corporation
3 or foreign government. But again, this requirement is specific to USEC.

4 Part 70 also contains provisions for the protection against theft,
5 unauthorized viewing of classified enrichment equipment, and unauthorized
6 viewing of classified matter, in accordance with Parts 25 and 95. 10 CFR
7 70.22(m) requires a description of security programs in accordance with 10CFR
8 95. Thus Part 95 is of interest since it requires a determination regarding
9 foreign ownership. Part 95 contains the requirements for obtaining a facility
10 security clearance, and AES submitted such a request under 10CFR Part 95.

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

16 BREEDA REILLY: That's right. Part 95 addresses protection of
17 information. So related to foreign ownership, Section 95.17 requires a
18 determination that granting a facility clearance is not inconsistent with the
19 national interest, including a finding that the facility is not under foreign
20 ownership control or influence, which we refer to as FOCI, to such a degree
21 that the determination cannot be made. Thus, FOCI factors are reviewed as part
22 of the facility clearance process.

23 As part of this review, the NRC staff has determined that there's
24 no additional benefit that would result from placing FOCI mitigation measures
25 on the AES, related to national security. The staff bases its conclusion on

1 the fact that the information and technology that would be classified as
2 restrictive data in the United States are already owned and controlled by the
3 European governments (spelled phonetically) and the foreign control companies
4 associated with AREVA. And this is consistent with a recommendation that was
5 made as yielding to NRC regarding waiving the FOCI requirements for the LES
6 application. Thus, the staff found that any additional FOCI mitigation
7 measures placed on AES would provide no additional benefit to the national
8 security of the United States.

9 Slide number 12, please? So basically in conclusion, the
10 application is governed by the Sections 53 and 63 of the Atomic Energy Act.
11 Part 70 through Part 70.31 and Part 40 through 10CFR 40.32 codify this
12 statutory requirement that the issuance of the license not be inimical to the
13 common defense and security. As required by Part 70, staff considered FOCI
14 under the 10 CFR Part 95 of facility security clearance review. The applicant
15 adequately described the information related to FOCI and its plans to secure
16 classified material for a facility clearance under 10CFR Part 95. Thus, the
17 staff found that granting the license would not be inimical to common defense
18 and security.

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

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

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

7 ANNELIESE SIMMONS: That's correct.

8 CHAIRMAN BOLLWERK: If a -- for whatever -- just hypothetically, if
9 they had 100 percent influence and control, but didn't have 100 percent
10 ownership, they wouldn't be prohibited under the statute, is that correct?

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

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

25 ANNELIESE SIMMONS: That's correct.

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

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

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

8 ANNELIESE SIMMONS: Absolutely.

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

11 MALE SPEAKER: I don't.

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

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

17 SAM SHAKIR: OK, good morning. As I introduce myself, my name is
18 Sam Shakir. I'm the president and CEO of AES, and I'm here to address Topic
19 2B, and I have this presentation that you should have displayed electronically
20 on your screen. I'm going to turn to page number 2, and basically as with the
21 previous AES presentation, we tried to capture the three topics that were
22 included in the questions that we received from the ASLB (spelled
23 phonetically). They're basically around foreign ownership and control, and
24 then we'll just try to summarize it here. And then as I go through the
25 presentation, I will focus in more detail on each of the questions.

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

7 And finally there's a question about how does the structure of AES
8 management, and financial structure, and operational is similar or different
9 from other corporations that may have foreign ownership and whether they're
10 under regulations similar to that of the NRC or not. So with that sort of
11 background, I'll go into the details here, and I'll turn to the next slide,
12 please.

13 This first one deals with AES, and management, and financial
14 independence, and the question that came to us was explain how the management
15 and financial structure of AES, relative to AREVA SA (spelled phonetically),
16 parent company, provides AES with appropriate management and financial
17 independence, and describe potential effect foreign ownership could have on the
18 ability of AES to meet its safety, environmental, financial, and security
19 responsibilities. I could turn to the next slide, please.

20 This one, basically I want to start with describing our corporate
21 structure and then compare it to other corporate structures that we have here
22 in the United States under NRC licenses, just to draw that comparison. With
23 respect to AES, AES LLC is a U.S. company, 100 percent owned by AREVA NC, Inc.,
24 also a U.S. company. That in turn is owned by -- 100 percent owned by AREVA
25 NCSA, which is in turn owned by AREVA SA, a company that is foreign under the

1 laws of France. That is the -- you know, basically the corporate structure
2 that we have.

3 AES LLC will be the licensee here, the licensed holder that will
4 own and operate the Eagle Rock facility. This structure is really, as I said
5 earlier, very similar, in fact, identical to the structure we have for other
6 AREVA facilities licensed under Part 7 here in the United States, namely the
7 Richland facility in Washington for fabrication of fuel and the Lynchburg
8 (spelled phonetically) facility for doing the same. So this structure that
9 we've proposed in the license is essentially the same.

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

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

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

22 DR. KAYE LATHROP: Yes.

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

25 SAM SHAKIR: OK.

1 CHAIRMAN BOLLWERK: That's the basic question.

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

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

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

21 SAM SHAKIR: Yes, they do. At the AREVA NP SAS level they are
22 again a multinational company providing reactor -- what we call reactors and
23 services, a multitude of services to nuclear operators around the world, not
24 just in the area of providing fuel fabrication which is what Richland does.
25 They're a -- they design, manufacture, and install reactors, and provide all

1 services essentially that these operators require at their reactor sites.

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

5 SAM SHAKIR: That's correct.

6 CHAIRMAN BOLLWERK: All right. All right. That answer your
7 question about (unintelligible)?

8 DR. KAYE LATHROP: Yes, thank you.

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

25 Turn it to slide number six. As the president and CEO of AES, and

1 as with any company, I report to a board. We call them management committee.
2 This management committee has representatives of the shareholders of AES LLC
3 representatives from AREVA NC, Inc. (spelled phonetically) and AREVA NCSA. The
4 management committee's responsibility at a higher level is to oversee the
5 business and commercial activities, making decisions on investments, like the
6 one we're about to make to build this facility, financial performance of the
7 business organization. They hire me and they can fire me as the CEO, and other
8 key commercial, industrial, and financial strategies associated with the
9 business. They have no influence on the safety or the QA, quality assurance
10 implementation, in the various phases of this project from design,
11 construction, operation, and decommissioning. As I said earlier, that is the
12 sole responsibility and the authority of the president and CEO of AES. There
13 are no foreign ownership considerations that went into the way we structured
14 this business. The business could have been owned by a domestic company or a
15 foreign company and it would have been the same. The responsibilities and the
16 distribution of the authority as I described it here would have been identical.
17 So there's no unique considerations here because of the foreign ownership
18 involved.

19 Next slide, page seven. Try and address the financial independence
20 of AES. During the operation of Eagle Rock, the enrichment contracts that were
21 ultimately building the facility here to provide the service here to our
22 customers, those contracts are directly with AES. That means the revenues from
23 the sale of SWUs go to AES. We have the responsibility of paying our bills
24 like any other business and then, at the end of the day if there are any
25 profits, those are paid through dividends to the parent company. But the

1 finances and the revenues all flow through AES first. Financial arrangements
2 are similar to a project company structure used by other NRC licenses. There
3 is nothing special about how we structured our business. And again, in this
4 case, there are no unique foreign ownership considerations relative to our
5 financial independence here. Contracts are directly with AES and revenues flow
6 through AES.

7 So in summary for this particular question, foreign ownership does
8 not have any immediate effects on the ability of an entity like AES to meet the
9 safety, environmental, financial security obligations. The approach that we've
10 taken to corporate governance in compliance with responsibilities is similar to
11 other NRC licensees, whether the ultimate parent is foreign or domestic and no
12 unique foreign ownership considerations relative to the management independence
13 vis-à-vis Eagle Rock.

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

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

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

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

1 CHAIRMAN BOLLWERK: OK. Right.

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

5 CHAIRMAN BOLLWERK: (affirmative)

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

9 CHAIRMAN BOLLWERK: All right. OK. And then let me turn to, in
10 terms of other facilities, I take it this is consistent with what you've seen?
11 For instance, I don't know the Richland facility or some of the others that
12 he's been talking about? And you need to pull your mic down -- your mic -- we
13 got it, OK. Thank you.

14 BREEDA REILLY: I'm not familiar with the operation of the Richland
15 facility, but it is one of our licensed fuel fabrication facilities under Part
16 70, so --

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

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

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

24 SAM SHAKIR: I'm on slide titled Financial Qualifications Section
25 2.

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

2 SAM SHAKIR: Yeah, I'm not sure why this one doesn't have a number.
3 I apologize for that. The question that came to us was explain whether
4 financial difficulties of the parent corporation can result in truncation or
5 termination of the Eagle Rock project or conversely, if AES cannot otherwise
6 obtain necessary funding, whether the parent corporations can supply such
7 capital. This is an area of financial qualifications. On slide number 10,
8 financial qualifications overview, subject to certain conditions, the NRC has
9 made a determination in reviewing the AES application that essentially we are
10 financially qualified to construct and operate the Eagle Rock. Having said
11 that, commercial considerations such as the one embedded in the question,
12 meaning difficulties financially at the parent level or changing market
13 conditions where SWU prices drop to rock bottom or some unforeseen conditions
14 resulting in the shutting down reactors and slowing demand. Those are all --
15 could impact the business and just like any other business, we would like at
16 whether the continuation of construction or operation of the facility is
17 feasible.

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

24 Turning to slide number 11, dealing with the construction of this
25 facility. The construction in each phase of Eagle Rock cannot commence before

1 funding is available or committed. That is a license condition. So we have
2 the obligation to demonstrate to the NRC that the funding necessary to complete
3 that phase of construction is available and we have the sources of funds
4 available to us and those can be in various forms that have been identified in
5 the license application and listed here. There'll be a review and
6 documentation of budgeted cost and source of funds available or committed to
7 pay for those costs. So again, part of the license condition is to on an
8 ongoing basis is to demonstrate that we have the wherewithal to execute the
9 project.

10 Turning to slide -- page 12. This is a license commitment for the
11 operation of Eagle Rock, that operation Eagle Rock will not commence until AES
12 has in place one of the following items: for long-term contracts lasting five
13 years or more that provide sufficient funding, the estimated cost of operating
14 the facility -- and of course, we wouldn't be operating the facility if we
15 didn't have those contracts to begin with -- documentation of the availability
16 of one or more alternative sources of funds that provide sufficient funding for
17 the estimated cost of operating the facility, and then some combination of one
18 or two. I wanted to share with you the current status just to give you an idea
19 of how important this facility is to U.S. customer base. We currently have
20 several billion dollars worth of contracts for SWU supply from Eagle Rock even
21 before the license has been granted by the NRC. So we don't see any
22 possibility for not having contracts that would satisfy this license
23 commitment.

24 CHAIRMAN BOLLWERK: Is that sum sufficient for operating the
25 facility for five years?

1 SAM SHAKIR: It is much more than five years. Choosing commercial
2 conditions, slide -- page 13. From a regulatory perspective, if a license
3 condition on financial assurance is not satisfied, as I mentioned earlier,
4 construction will not proceed. From a commercial perspective, changes in
5 commercial market conditions may impact Eagle Rock as I said earlier and at all
6 stages of operations sufficient funds will be available to decommission the
7 facility and dispose of tails. Current status as I mentioned earlier is that
8 contracts do exist to secure funding for this plant during operation.

9 Proceeding to section number three which is the third question in
10 this topic, explain whether the AES management and the AES financial and
11 operational structure differ from that of a typical U.S. subsidiary of a
12 foreign company, in an instance when there are no statutory or regulatory
13 controls on foreign ownership such as exist under the AEA and NRC regulations.

14 Page 15, foreign ownership considerations, as I mentioned earlier,
15 we're not the driving force, if you will, in the way we've structured AES: its
16 management structure, its financial structure, and its governance. It was
17 standard practice for us. We have multiple businesses here in the United
18 States with 6,000 employees today that we operate in a variety of areas and we
19 structured AES consistent with that. The governance that we have gives the
20 authority on safety, QA, and design, construction, operation, decommissioning
21 of Eagle Rock to the president and CEO of the entity. The president also is
22 empowered to ensure compliance with federal, state, and local laws and
23 requirements for safety, security, environmental, and financial matters. We
24 are not aware of any differences between our approach at AES and other NRC
25 licensees. Whether the ultimate parent is foreign or domestic -- I've put some

1 examples here of other nuclear companies operating under Part 70 licenses.
2 This might answer the question that was asked earlier. LES is an example.
3 Very similar facility under a Part 70 license. Westinghouse, operating fuel
4 fabrication facility here in the United States. Global Nuclear Fuels, similar
5 situation. And ourselves with AREVA NP in the Richland facility that I
6 mentioned earlier. Those are all examples of entities operating under an NRC
7 Part 70 license with -- at the parent level having some foreign ownership and
8 control.

9 CHAIRMAN BOLLWERK: Let me stop you one second there in terms of --
10 you say foreign ownership considerations are not driving the AES corporate
11 structure. So if there was no prohibition in the Atomic Energy Act on foreign
12 ownership and control and no regulations that had made that a consideration,
13 would you have the same corporate structure?

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

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

22 SAM SHAKIR: Yes.

23 CHAIRMAN BOLLWERK: All right. Can I turn to the staff, do you
24 think that would be true that the corporate structures that we see out there
25 would be the same if the NRC had no foreign ownership restrictions or

1 requirements or regulations?

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

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

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

10 CHAIRMAN BOLLWERK: All right.

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

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

16 SAM SHAKIR: Yes. Really, I just have a conclusion slide that
17 tries to summarize what I have said already and that is on slide -- page 15. I
18 apologize again for being repetitive here, but trying to make sure we are
19 comprehensive in answering the questions. As I mentioned earlier, the AES
20 president has the sole responsibility and decision-making authority for
21 operating Eagle Rock in compliance with federal, state, and local laws in
22 safety aspect for design, construction, operation, and decommissioning and for
23 quality assurance related to zoning, construction, operation, and
24 decommissioning of Eagle Rock. In our case, there are no unique foreign
25 ownership considerations for Eagle Rock. AES has appropriate management and

1 financial independence. License conditions ensure that AES remains financially
2 qualified to construct, operate, and decommission Eagle Rock. AES financial
3 and operations structure is similar to that of other NRC licensees, whether or
4 not the parent company is foreign or domestic.

5 CHAIRMAN BOLLWERK: All right.

6 SAM SHAKIR: Thank you.

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

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

11 CHAIRMAN BOLLWERK: Sure.

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

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

19 JIM CURTISS: No, I -- we don't. I think the -- having had some
20 familiarity with the LES application having appeared.

21 CHAIRMAN BOLLWERK: You certainly did, yes sir.

22 JIM CURTISS: -- before you Mr. Chairman, I think I can say
23 relative to the questions that the board has posed here, with respect to
24 foreign ownership and its role here where the -- for a materials licensee there
25 are no foreign ownership control or domination bars and hence no mitigation

1 negation plan. The finding has been reached as I think the staff witness
2 identified -- the issuance and license would not be inimical to the common
3 defense and security, and that's reflected in the testimony that was delivered
4 today. Relative to these considerations that have been discussed, we would
5 have no objection if a witness testified that the foreign ownership framework
6 is identical to and the structure is essentially what Mr. Shakir has described
7 here. But we have no objection to a witness testifying to that effect.

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

9 MALE SPEAKER: Yes.

10 CHAIRMAN BOLLWERK: If you don't mind then maybe we can bring -- if
11 you say we had the folks here for some -- for another purpose, but if they
12 don't mind, we can put them on out of order and swear them in, that'd be fine.

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

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

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

24 TIMOTHY JOHNSON: My name is Tim Johnson. I am currently the
25 project manager -- licensing project manager for the General Electric Laser

1 Enrichment Facility, but I was also the project manager through the licensing
2 at the LES facility.

3 CHAIRMAN BOLLWERK: All right.

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

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

9 MAURI LEMONCELLI: Yes, please, your honor. We have two documents
10 that we would like to have identified. NRC 000110 (spelled phonetically),
11 statement of professional qualifications for Timothy Johnson and NRC 000111
12 (spelled phonetically), statement of professional qualifications for Tyrone
13 Naquin.

14 CHAIRMAN BOLLWERK: All right, and let the record reflect that NRC
15 exhibits NRC 000110 and NRC 000111 as described by counselor and marked for
16 identification.
17 (Whereupon, the documents referred to were marked as Exhibits NRC000110-MA-BD01
18 and NRC000111-MA-BD01 for identification.)

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

22 CHAIRMAN BOLLWERK: All right, any objection?

23 MALE SPEAKER: No.

24 CHAIRMAN BOLLWERK: There being no objection then, exhibits NRC
25 000110 and NRC 000111 are admitted into evidence.

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

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

9 WHERUPON,

10 TIMOTHY JOHNSON

11 TYRONE NAQUIN

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

14 TIMOTHY JOHNSON: Yes, sir.

15 TYRONE NAQUIN: Yes.

16 CHAIRMAN BOLLWERK: Thank you. All right. The question that was
17 posed was the relationship or the -- not the relationship, the comparison of
18 the corporate structure, as to the degree you know it, from LES and what exists
19 for AREVA, as you've heard it described or you're aware of it. Can you speak
20 to that?

21 TIMOTHY JOHNSON: Yes, I think I can address that. During the
22 original licensing, LES was formed as part of a partnership, limited (spelled
23 phonetically) liability partnership, with Urenco, two utilities in Westinghouse
24 Enrichment Services. The LES was the operating entity of that facility and LES
25 itself was organized very similar to the way that AREVA Enrichment Services is.

1 In other words, they had a chief nuclear officer. They also had a president
2 and it was oriented so that you had one person that was responsible for making
3 decisions regarding health and safety and for whom quality assurance input
4 could be provided. And I think that's something that we look for in reviewing
5 the license application of any applicant is we want to see one person who is
6 responsible for making health and safety decisions as well as being a conduit
7 for providing any quality assurance input. Shortly after the license was
8 issued, LES as part of a partnership agreement changed its organization. The
9 partners -- the utility partners in Westinghouse Enrichment Services dropped
10 out and Urenco became the 100 percent owner of the corporation and they
11 converted into a limited liability corporation. But the LES entity, the
12 operating entity of the Enrichment Services Program, didn't change as part of
13 that reorganization. Of course, because it ended up being a reorganization, we
14 did review that as part of a license amendment for the facility.

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

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

19 CHAIRMAN BOLLWERK: All right. And in terms of -- in other words
20 there's a concern about the QA and safety matters, what about in terms of the
21 passage of information that you might have concerns about? Is there anything
22 different between what you're aware of with AREVA and what you're aware of with
23 LES in terms of information going to foreign governments or foreign entities
24 that the NRC would prefer not, not to disseminated?

25 TIMOTHY JOHNSON: I think we looked at the same issues with the LES

1 licensing as being addressed here with AREVA. In other words, we had the issue
2 of the foreign ownership aspect under Part 70 and we also had the issue of
3 classified information protection under Part 95. So in that sense, I believe
4 our review is very similar to what is being performed under AREVA.

5 CHAIRMAN BOLLWERK: All right, you had mentioned as well I guess
6 that you're currently on the AVLIS project. Does that have similar concerns
7 involved?

8 TYMOTHY JOHNSON: I'm sorry? (unintelligible)

9 CHAIRMAN BOLLWERK: The -- you're -- GE.

10 TIMOTHY JOHNSON: I'm sorry -- yes, Silex. Yes, that's an entity
11 that also has foreign interest in -- Cameco is a partner in Global Laser
12 Enrichment which is the entity that will operate the facility, and there's also
13 Hitachi which is a Japanese company. They own a total of 49 percent of the
14 corporation. Again, the same issues come up with respect to who controls the
15 corporation and who controls making safety decisions and also we have similar
16 issues with respect to classified information under Part 95.

17 CHAIRMAN BOLLWERK: And is the corporate structure the same -- is
18 there -- is it similar to what --

19 TIMOTHY JOHNSON: Well, it's similar. You have the internals are
20 different with the parents, there's a whole series of different parents, but
21 essentially from our review, we're looking at Global Laser Enrichment, as
22 having the responsibility for making the health and safety decisions within the
23 operating entity of the facility. And we're looking at any parents and
24 partners and foreign partners as being primarily associated with the financial
25 end of the business and business type-related decisions, but not the health and

1 safety-related decisions.

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

4 MALE SPEAKER: No.

5 MALE SPEAKER: No.

6 CHAIRMAN BOLLWERK: All right. I think that has answered the
7 questions we have. I appreciate you bringing these additional witnesses in.
8 Why don't you stay there for one second -- I think we may be done. So, any
9 questions that either of you have for anyone?

10 MAURI LEMONCELLI: No, your honor.

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

12 CHAIRMAN BOLLWERK: All right, thank you, sir, for your testimony
13 and thank you all for your testimony as well. We'll see some of you again, but
14 those of you we may not see, we appreciate the information you provided to the
15 board. All right, at this point, I guess we're ready for presentation three.
16 This is sort of moving along faster than I thought. I think at this point,
17 let's go ahead and take a lunch break. I think we're at a good stopping point
18 for that. I have a little -- approximately a quarter to 12, actually about
19 12:40. Why don't we say 2:00? Or 1:45?

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

21 CHAIRMAN BOLLWERK: 2:00 work for everyone? The NRC cafeteria is
22 open until 2. So you certainly -- nobody's going to kick -- even if you got
23 there at 1:59, they will not kick you out. There just may not be much food
24 left, but that's a different issue. All right then, why don't we come back at
25 2:00 and we'll reconvene at that point. Thank you.

1 (Whereupon, at 12:40 p.m., the above-entitled matter recessed to
2 reconvene 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
7 mood necessarily but apparently we're told that this actually makes it so they
8 can see us better on the web stream. So maybe it has something to do with the
9 light off my balding head here, rapidly baldly head. In any event -- but I
10 think we're ready for our presentation this afternoon on topic three which is
11 license 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
15 so we can move them in and out. Is that the way that works or do you want to
16 have 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
25 test slide call the witness, wait and see if the board has questions and then

1 call 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
20 introduce 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

1 a number of different documents at this time associated with the presentation
2 to 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-S-S-I-M or MARSSIM 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
9 in 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 WHERUPON,

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
2 no other evidentiary matters, I think we're ready for the presentation. And if
3 you want to go ahead Mr. Welkie and pull up R00104. There we go. And Ms.
4 Reilly I turn it over to you.

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

15 I have the lead for this presentation but as you know we have
16 several technical reviews here to help answer any specific questions you may
17 have about the license conditions and exemptions. The presentation itself does
18 not contain any sensitive information. However, some of the technical
19 evaluations that supported the development of these license conditions do
20 contain sensitive information. We'll answer those questions in a very
21 sensitive manner to the best of our ability and identify any places we may need
22 to go for non-public 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 for LES and compares them to
2 AES. Table two lists each of the license conditions that we might impose on
3 the AES license and compares those to the LES conditions and their license.
4 The reason I did not point that out because in my slides I summarized the
5 conditions, I didn't 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
14 exemptions and special authorizations and contrasts those with the license for
15 NEF. Slide three please.

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

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

1 Basically safety evaluation imposing 16 license conditions to be
2 included in the Eagle Rock Enrichment Facility. These include the four
3 standard license conditions, 10 specific license conditions, one exemption, and
4 one special authorization. And the exemption and special authorization would
5 be incorporated as license conditions. We have also provided some information
6 on exemption that AES requested separate from the license application.

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

17 This slide discusses the license condition related to financial
18 qualifications. This is the first license condition identified in the SER and
19 described in Chapter 1. This license condition was developed as an outcome of
20 the staff's evaluation of AES's estimate of the cost to construct and operate
21 the Eagle Rock Enrichment Facility. And AES's statement that they will make
22 updated cost estimates for each incremental phase prior to initiating
23 construction. So in essence, this license condition requires AES to
24 demonstrate that suitable funding for each phase of construction is available
25 and committed before construction of that phase begins. In this case, AES did

1 not have a similar license condition; they made a commitment that the
2 construction of the NEF would not begin before funding was fully committed.

3 Slide five please.

4 This slide discusses the license condition concerning nuclear
5 liability insurance. This license condition is also described in Chapter 1 of
6 the SER. It was developed as an outcome of the staff's evaluation of the
7 requirement 10 CFR 140.13(b) and AES's statement that it will provide proof of,
8 and maintain, nuclear liability insurance in the maximum amount prior to taking
9 possession of license material. Under 10 CFR 140.13(b) a uranium enrichment
10 facility is required to carry liability insurance to cover public claims
11 arising from any occurrence that causes injury, sickness, death, or loss or
12 damage to property arising from licensed material. In its license application,
13 AES included a letter from the American Nuclear Insurers stating its
14 expectation to provide nuclear liability insurance in the maximum policy amount
15 of \$300 million dollars. Because the license insurance will not be provided
16 until AES takes possession of source material or special nuclear material, the
17 staff would impose a license condition that AES provide proof of full liability
18 insurance at least 30 days prior to the planned date for obtaining licensed
19 material. In comparison, in its license application LES proposed having and
20 maintaining nuclear energy liability insurance also in the amount of \$300
21 million dollars. In that case, staff imposed a license condition number 15 in
22 the license for the NEF. The license condition for NEF also states that NRC
23 approval is needed if the licensee proposes to provide less than the \$300
24 million dollars of liability insurance coverage. Slide six please.

25 CHAIRMAN BOLLWERK: Let me stop you right there one second. On

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

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

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

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

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

16 BREEDA REILLY: OK.

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

22 BREEDA REILLY: What AES committed to is having the funding in
23 place before constructing the increments and so our license condition would
24 capture getting that information at each incremental phase. LES made a
25 commitment that they wouldn't begin construction until it was fully committed.

1 CHAIRMAN BOLLWERK: So it's a difference between phases as opposed
2 to I guess LES intended to build the entire facility?

3 BREEDA REILLY: I believe that's true.

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

6 BREEDA REILLY: Slide six discusses a license condition related to
7 information security. Again, this license condition is described in Chapter 1.
8 When the NRC staff reviewed the standard practice procedure plan which is also
9 referred to as a classified matter plan for the Eagle Rock facility, they found
10 it satisfies the requirements of 10 CFR Part 95. The NRC would perform a
11 readiness review of the Eagle Rock Enrichment facilities against the classified
12 plan once the facilities are in place and prior to classified material being
13 allowed inside. Authorization for the applicant to begin implementation of the
14 classified matter plan is contingent upon the NRC inspection and findings, as
15 applicable. This license condition stipulates that classified matter shall not
16 be processed, handled, or accessed without this authorization. This license
17 condition is needed to ensure that the clearances required under 10 CFR Part 95
18 are obtained before classified material is processed, handled or accessed.
19 Staff imposed a similar license condition which was license condition number 26
20 in LES license for the NEF.

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

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

24 CHAIRMAN BOLLWERK: All right.

25 BREEDA REILLY: Slide seven. This slide also addresses a license

1 condition related to information security. In this case, it address that the
2 AES will handle classified information. In its standard practice procedure
3 plan, AES commits to following the guidelines in Nuclear Energy Institute 08-11
4 information security program guidelines for protection of classified material
5 at uranium enrichment facilities. These guidelines address the protection of
6 classified information, equipment and technology. To ensure that the area used
7 for disseminating classified information are properly protected, AES will
8 notify NRC prior to designating such areas. Because AES has not yet designated
9 the areas where the use and handling of classified information will routinely
10 occur, this license condition is needed to allow NRC to ensure that the areas
11 used for handling classified information are properly protected. This license
12 condition also appears in the NEF license as license 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
15 it these are in lieu -- does there need to be a rule change at some point so
16 that you don't have to keep putting the same license conditions on them or is
17 this -- I mean obviously the agency can proceed by rulemaking or order,
18 whatever way it prefers, but I'm seeing license conditions here that seem to
19 flow automatically. Does the agency need to rule making at some point or is
20 that...

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

1 confident that that information will be handled correctly according to the
2 programmatic and plans that the licensee has put in place.

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

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

8 CHAIRMAN BOLLWERK: OK.

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

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

23 BREEDA REILLY: I actually don't know why LES didn't need one, but
24 since AES committed to collect this additional information that the staff felt
25 was needed to characterize the background radiation levels we included it also

1 in a license condition for AES.

2 CHAIRMAN BOLLWERK: All right then Judge Lathrop, do you have a
3 question?

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

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

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

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

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

23 JIM KAY: This was a commitment we made because we knew we would
24 have to have some type of soil sample to go back to during decommissioning and
25 decommissioning planning. This would have had to be done. We had an original

1 plan and as a result of discussions with the staff, we needed to expand that
2 plan. And that's why we defined 60 samples in various locations across the
3 site to represent the soil conditions so we had something to go back to.

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

5 JIM KAY: Yes.

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

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

11 DR. CRAIG WHITE: OK.

12 CHAIRMAN BOLLWERK: All right?

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

21 This license condition supports an exemption request that was
22 submitted with the license application. This condition is needed to ensure
23 AES's compliance with the proposed methodology in providing financial assurance
24 on an incremental, forward-looking basis. AES' initial approach for providing
25 financial assurance was to fully fund the estimated cost of decontamination and

1 decommissioning of the full size facility. And to fully fund the estimated
2 cost to disposition the depleted uranium tanks generated during the first three
3 years of operation. This approach was later modified to incrementally fund the
4 areas and buildings as they were being placed into operation. So this license
5 condition is similar to the original license conditions in the LES license
6 which were 16, 17, and 18 and part of 23. 16 was later modified and 17 and 18
7 were later deleted as that information was provided to the agency. Slide 10
8 please.

9 The next three license conditions are related to items relied on
10 for safety. The first license condition identified is in appendix A to the
11 SER. Upon completion of design, AES will define IROF boundaries according to
12 their guidance as listed in Appendix A of their ISA Summary. This guidance
13 requires the identification of a support system and components necessary to
14 ensure that an IROF is capable of performing its safety function. The
15 guidelines also require that appropriate measures are identified and applied to
16 all components within the IROFS boundary.

17 One of the lessons learned from the enrichment facility is that in
18 implementing its boundary definition packages, the applicant should ensure that
19 the resulting IROFS boundaries meet the NRC's guidance provided in Appendix B
20 to Chapter 3 of NUREG 1520 revision one. This guidance states that IROFS
21 boundaries must include everything necessary for the IROF to perform its
22 intended safety function and that the reliability and availability qualities of
23 every component within the IROFS boundary be considered in evaluating the total
24 IROFS likelihood.

25 This license condition highlights the importance of the guidance in

1 ISG-1, which is actually this Appendix B to Chapter 3 of NUREG-1520. So the
2 license condition incorporates a reference to this revised -- to this NRC
3 guidance. The guidance is needed to ensure that the final design is adequate
4 and acceptable to the staff and that the IROFS perform as designed to provide
5 or mitigate the consequences of an event.

6 In its license application, LES stated that upon completion of the
7 the final design, the IROFS boundaries would be defined using their internal
8 procedure. To ensure that the final design would be acceptable to the staff,
9 license condition 19 was imposed in the license for the NEF. The language for
10 the proposed condition for Eagle Rock is similar but not identical to the
11 license condition for NEF since we've included this reference to Appendix B
12 Chapter 3 of NUREG-1520. Based on the experience from inspecting the NEF,
13 staff found that the boundary packages were important documentation on the
14 IROFS and needed to be made available to the NRC prior to the operational
15 readiness review. And that's incorporated into the license condition, as well
16 Slide 11 please.

17 This slide also discusses the license condition related to IROFS.
18 This condition is identified in Appendix D to the SER. Appendix D describes
19 the staff's evaluation of AES' commitments to incorporate accepted human
20 factors, engineering guidance and practices, and the design and implementation
21 of human system interfaces that support IROFS. In its license application, AES
22 states that the guidance and NUREG-700 and NUREG-711 would be used to conduct a
23 human factors engineering review of the human system.

24 In addition and in response to and RAI from the staff, AES provided
25 an implementation plan for conducting its Human Factors Engineering Review.

1 The implementation plan addresses at a high level the criteria contained in
2 NUREG-711. In its supplemental response, AES committed to incorporate the
3 implementation plan section 3.3.8 of its Safety Analysis Report. This license
4 condition formalizes AES' commitments to NUREG 700 and 711 into its
5 implementation plan. In its license application LES similarly committed to
6 using the applicable guidance in NUREG-700 and 711 for IROFS required operator
7 actions. Staff did not impose a similar license condition except as part of
8 another license conditions for IROFS requiring NRC approval for the
9 incorporation of digital features.

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

11 BREEDA REILLY: Basically, LES committed to using the two NUREGS.
12 For AES we planned to impose this condition because it also incorporates the
13 implementation plan that they've committed to incorporate in their safety
14 analysis report.

15 CHAIRMAN BOLLWERK: OK.

16 BREEDA REILLY: The next license condition on slide 12 also
17 addresses IROFS. This license condition is discussed in Appendix E to the SER
18 for the Eagle Rock and Enrichment facility. The staff evaluated AES's design
19 criteria commitments, quality assurance requirements and management measures
20 regarding the proposed elements of the electrical utility and instrumentation
21 and controls IROFS. Since the proposed design was not complete at the time of
22 the review, it did not include IROFS that use software, firmware, microcode,
23 programmable logic controllers, and or any other digital devise. The staff
24 will impose this license condition. If AES should choose to incorporate
25 digital controls or any of these features in their design, prior NRC approval

1 would be necessary. This license condition is needed to ensure that prior NRC
2 approval is sought for any completed IROFS design that will use digital
3 controls as listed in the license condition. Staff imposed a similar license
4 condition on LES in license condition number 20 for the NEF.

5 CHAIRMAN BOLLWERK: I might ask AES what is the status of digital
6 controls in the facility. Are you still thinking about that?

7 GEORGE HARPER: We're currently in the process of getting the
8 design to the IROFS right now. So we have no hard fast design right now that
9 incorporates these features. But we're aware of the requirements if they do
10 evolve that way.

11 CHAIRMAN BOLLWERK: OK, all right.

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

21 This condition will also assure that AES will obtain NRC approval
22 of changes that could decrease the effectiveness of the MC&A program and that
23 the record is kept of changes to the MC&A program. Staff imposed a similar
24 license condition on LES which was license condition number 24 for the license
25 for the NEF. Slide 14 please.

1 DR. KAYE LATHROP: Just a second please.

2 BREEDA REILLY: Yeah.

3 DR. KAYE LATHROP: This change or this condition must surely apply
4 to changes that would knowingly affect safety. What happens if a change is
5 made and then later found to affect safety? Is there a procedure for notifying
6 the NRC to approve that change at that point or to...

7 BREEDA REILLY: Well initially the licensee makes the determination
8 as to whether the change affects safety or decreases the effectiveness of the
9 program. I suppose that if it was found that they had made a change that they
10 initially believed did not decrease effectiveness then that would become an
11 issue for NRC inspection staff to take a look at.

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

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

17 DR. KAYE LATHROP: Yes please AES?

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

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

21 JIM KAY: That's correct.

22 DR. KAYE LATHROP: Thank you.

23 BREEDA REILLY: Slide 14 please. Slide 14 discusses one of the
24 standard license conditions which we refer to as a "tie-down" condition. The
25 tie-down condition is a standard practice for licensing fuel cycle facilities.

1 This condition is needed to incorporate by reference the license application
2 documents such as the safety analysis report and other document such as the
3 emergency plan and environmental report and the physical security plan that are
4 part of the license application. Through this tie-down condition, the
5 applicant's statements and commitments that support the staff safety and
6 security reviews become enforceable. And the staff imposed a similar condition,
7 license condition number 10 in the LES license.

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

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

24 CHAIRMAN BOLLWERK: I take it you all consider this a fairly
25 important license condition. I mean this is a basic check on the applicant to

1 make sure they've done everything they've said they're going to do in a general
2 sense?

3 BREEDA REILLY: Right, this is important because it's a regulatory
4 requirement and because it is a check of how they constructed the facility and
5 whether it complies with the statements they make in their license application.
6 Slide 16 please.

7 This slide describes the license condition that grants an exemption
8 request. I'll describe the exemption request in slide 19. Basically, this is
9 the mechanism for documenting our approval of the exemption request which was
10 made in the license application. Staff imposed a similar license condition in
11 the license for the LES license. Slide 17.

12 This license condition is related to the expiration date of the
13 license. The regulations in 10CFR70.22(a)(3) require that the applicant state
14 the period of time for which the license is requested. The maximum possible
15 term of a fuel cycle facility license is a matter of policy and practice and
16 not codified in the regulations. In 2006 NRC established a policy extending
17 the maximum license term for any part 70 fuel cycle licensees, specifically
18 those required to submit an ISA summary, from 10 years to 40 years. AES
19 requested a 30 year license which is within this maximum term for the license.
20 So the license condition will state the 30 year term. This license condition is
21 similar to one imposed in the LES license which is license condition number 13.

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

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

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

3 BREEDA REILLY: We have timeliness provision in our Part 70
4 regulations that they can come in within 30 days before the license expires and
5 submit an application to us for the renewal.

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

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

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

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

19 The next couple of slides I'm going to talk about the exemptions
20 that AES requested and a special authorization that they requested. Separate
21 from the license application, AES requested an exemption related to pre-
22 construction activities. The staff granted AES an exemption from the
23 requirements of 10CFR30.4, 30.33 (a) (5), 40.4, 40.32 (e), 70.4, and 70.23 (a)
24 (7) which governed the commencement of construction. They granted this
25 exemption in response to a request from AES that was dated June 17, 2009. The

1 exemption allows AES to commence certain construction of the Eagle Rock
2 Facility before completion of NRC's environmental review under 10 CFR Part 50,
3 provided that none of the facilities or activates subject to the exemption will
4 be at a later date a component of AES' physical security plan or it's standard
5 practice and procedures plan for the protection of classified matter or
6 otherwise subject to NRC review or approval. LES did not request a similar
7 exemption when they were constructing the NEF.

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

11 BREEDA REILLY: Well the exemption only exempts them from the NRC
12 requirements. They would still have to comply with any state or local
13 requirements. The activities that are exempt are things that do not fall under
14 NRC jurisdiction. For example, clearing land or building fences for investment
15 protection purposes for beginning construction.

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

19 JIM KAY: With the exemption requests, we did provide the relative
20 impacts that would be associated with those preconstruction activities as part
21 of our activities. So that was considered in the granting of the exemption.
22 And that comprises a subset of the total impacts for the total construction of
23 the facility.

24 DR. KAYE LATHROP: But again, other environmental protection
25 agencies than the NRC would review those construction activities is that

1 correct?

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

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

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

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

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

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

23 CHAIRMAN BOLLWERK: OK. Let's be a little more specific here.

24 What sorts of things are we talking about here in terms of actual
25 preconstruction activities?

1 JIM KAY: In the actual exhibit that NRC 00082 are the nine
2 activities that are permitted, clearing the site, site grading and erosion
3 control, excavating the site including rock blasting and removal, installing
4 parking areas, constructing storm water detention (unintelligible),
5 constructing highway access, roadways and site roads, installing utilities,
6 installing fences and installing construction buildings offices warehouses, and
7 guardhouse.

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

10 JIM KAY: Yes we have. We've done some road construction, culvert
11 work, and some site clearing in the later part of later year.

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

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

16 CHAIRMAN BOLLWERK: All right.

17 JIM KAY: Late winter and early spring.

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

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

21 BREEDA REILLY: Slide 19. Slide 19 addresses the exemption request
22 for forward-looking, incremental funding. In its license application, AES
23 requested an exemption for incremental forward-looking decommissioning funding.
24 The applicant requested an exemption from the decommissioning funding
25 requirements of 10 CFR 40.36(d) of 10 CFR 70.25(e). These sections address

1 financial assurance and recordkeeping for decommissioning and require that a
2 licensee certified the financial assurance has been provided in the amount of
3 the cost estimate for decommissioning. If incremental funding is not used, the
4 applicant would need to fund a decommissioning cost for the entire plant even
5 if only a portion of the centrifuges have been installed.

6 In addition, the application would need to fund a disposition cost
7 for the full amount of depleted uranium expected to be generated during the 30
8 year operating life. AES's exemption request asked for the ability to provide
9 financial assurance on the forward-looking, incremental basis. The criteria
10 for granting exemptions are given in a 10 CFR 40.14 and 10 CFR 70.17. Staff
11 evaluated the request against these criteria and determined that the request
12 met the criteria for granting the exemption. As I mentioned, a separate
13 license condition will be imposed to address AES's schedule for updating the
14 decommissioning funding plan and financial assurance instruments over time and
15 I discuss that in slide number nine. Slide 20 please.

16 Slide 20 addresses an exemption request that AES made separate from
17 the license application. The request is related to 10 CFR Part 21 reporting
18 for non-conformance. Staff has granted AES an exemption from the 10 CRF Part
19 21.3 definitions for commercial grade item, basic component, critical
20 characteristic, dedication and dedicated entity in a separate licensing action
21 from the license application. This is an exemption that is similar to one that
22 was granted to LES in 2009.

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

25 BREEDA REILLY: I don't think I can answer that questions. You may

1 want want to call one of the technical reviewers.

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

7 BREEDA REILLY: I think this would be a good question maybe to have
8 Damaris Arroyo come up and talk about the exemption request.

9 CHAIRMAN BOLLWERK: OK.

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

13 DAMARIS ARROYO: Hi my name is Damaris Arroyo. I'm a quality
14 assurance engineer.

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

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

18 CHAIRMAN BOLLWERK: Oh please go ahead.

19 MAURI LEMONCELLI: Thank you. We would like to identify NRC
20 0000106 statement of professional qualifications for Ms. Damaris Arroyo.

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

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

24 CHAIRMAN BOLLWERK: 106 all right. OK let's go ahead then and mark
25 for identification exhibit NRC 000106 as described by counsel and then do you

1 want to move it into evidence?

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

4 MAURI LEMONCELLI: Yes your honor, thank you.

5 CHAIRMAN BOLLWERK: All right any objections?

6 MALE SPEAKER: No objections.

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

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

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

15 WHERUPON,

16 DAMARIS ARROYO

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

19 DAMARIS ARROYO: I do.

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

23 DAMARIS ARROYO: In the procurement process of IROFS in case of
24 AES, single IROFS will have to be procured as basic components. The
25 definitions that are in Part 21.34 for Part 70 licensees are pretty stringent.

1 So they decided to go with the definitions that are approved for reactor
2 facilities.

3 MALE SPEAKER: Which are less stringent?

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

8 CHAIRMAN BOLLWERK: OK.

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

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

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

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

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

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

25 CHAIRMAN BOLLWERK: All right. Any further questions?

1 DR. KAYE LATHROP: No.

2 CHAIRMAN BOLLWERK: Thank you very much. Thank you for your
3 service to the board.

4 BREEDA REILLY: OK slide 21. This slide discusses a special
5 authorization that AES requested in its license application. In section 11.1.4
6 which discusses change control in their safety analysis report, AES states that
7 each change to the facility or activities of personnel would be evaluated in
8 accordance with requirements of 10CFR70.72. In reviewing the AES application,
9 the staff determined that certain changes should not be made to the SAR prior
10 to NRC approval. This determination is based in part on lessons learned from
11 the NEF operational readiness review. This authorization is consistent with
12 the approach used for 70.72 changes, in that it parallels the three elements of
13 70.72, namely it provides the criteria to be used to evaluate changes to
14 determine when pre-approval by the NRC is required. It provides for
15 documentation of the evaluation of changes and it provides for recordkeeping.
16 It also provides for the timely update of onsite documentation and reporting of
17 changes to the NRC.

18 This authorization is similar to ones that we've granted to other
19 licensees for example Westinghouse. The staff evaluated AES' request and
20 granted the authorization. This is documented in the safety evaluation report.
21 Staff will impose the special authorization as a license condition. LES did
22 not request a similar authorization for the NEF but the staff has gained
23 insights into the issue of changes to the license application in the time since
24 they issued the LES license and since they conducted the operational readiness
25 review for the NEF. So in the special authorization, AES addressed the staff's

1 concerns that it not make changes to the SAR that would decrease the
2 effectiveness of commitments and the special authorization identifies the
3 criteria that AES will use to identify changes that cannot be made without
4 prior NRC approval.

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

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

11 DR. KAYE LATHROP: Yeah.

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

15 BREEDA REILLY: Again, that would fall into our inspection space
16 and our enforcement space. We would evaluate any changes that they sent us
17 that needed prior approval but they made a determination and documented their
18 approach for those changes that they believe did not need prior approval -- in
19 a case where they didn't get prior approval and maybe we disagree and think
20 they need it I think that would fall into inspection and enforcement inspection
21 space.

22 CHAIRMAN BOLLWERK: So they proceed at their own risk essentially?
23 At their own risk?

24 BREEDA REILLY: Essentially. I think it's probably fairly --
25 there's a lot of things in the license application that are probably pretty

1 clear that don't impact safety that they can go ahead and change but there may
2 be other areas that they're proceeding at their own risk.

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

5 BREEDA REILLY: Westinghouse.

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

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

11 CHAIRMAN BOLLWERK: And yet it would become a matter of inspection
12 and enforcement if you found that it was not being used -- the exemption and
13 authorization is not being used appropriately?

14 BREEDA REILLY: Right.

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

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

24 CHAIRMAN BOLLWERK: All right.

25 BREEDA REILLY: Slide 22. So just basically in summary we are

1 currently considering imposing 16 license conditions for the Eagle Rock
2 Enrichment Facility. This includes 10 license conditions that are discussed in
3 the SER. Staff identified through their evaluation. It includes four standard
4 license conditions and the license conditions for one exemption and one special
5 authorization. In general, these license conditions are comparable to the 15 -
6 - or to 15 of the license conditions to LES. Since licensing LES the staff
7 have identified several areas where licensing can be strengthened. Those were
8 considered in crafting the licensing conditions for Eagle Rock Enrichment
9 Facility.

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

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

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

21 BREEDA REILLY: Thank you.

22 CHAIRMAN BOLLWERK: Your service to the board and the information
23 you provided all of you. Thank you. We're right about a little bit past 3:00.
24 Let me find out if you have a preference. Would like you to break or to
25 proceed to the next presentation?

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

2 CHAIRMAN BOLLWERK: That's certainly acceptable.

3 MAURI LEMONCELLI: Thank you.

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

6 (off the record)

7 CHAIRMAN BOLLWERK: We've made very good progress today. We're
8 farther than I thought we'd be. It looks like we will definitely finish this
9 up this afternoon which is probably a good thing since they are now talking
10 about five to eight inches of snow tomorrow. So, all things being equal,
11 probably better that we're out -- not here tomorrow afternoon. The last topic
12 we have is on commitment follow-up and tracking. And when we've done with this
13 one, then we have some administrative things we want to talk with the parties
14 about obviously, but we will obviously finish this one up first. We have staff
15 witnesses I think and some exhibits that we need to take care of. Switch over
16 here. OK, OK. I see the AES witness, we've already sworn you in before, sir,
17 and you're still under oath. And I guess we have a new staff witness to swear
18 in and some exhibits to put in, at least one. All right.

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

22 DEBORAH SEYMOUR: Deborah Seymour, Region 2. My title is Branch
23 Chief, Construction Projects Branch 1.

24 CHAIRMAN BOLLWERK: All right. Let me go ahead and swear you in,
25 if you would raise your right hand, please. And I need a vocal answer to the

1 question. Do you swear or affirm that the testimony you'll give here today is
2 the truth, the whole truth, and nothing but the truth?

3 WHERUPON,

4 DEBORAH SEYMOUR

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

7 DEBORAH SEYMOUR: Yes.

8 CHAIRMAN BOLLWERK: Thank you and we have exhibits.

9 CHRISTINE JOCHIM BOOTE: The staff would like to identify five
10 exhibits.

11 CHAIRMAN BOLLWERK: All right.

12 CHRISTINE JOCHIM BOOTE: NRC R 00120, staff's presentation four on
13 commitment follow-up and tracking; NRC 000121, statement of professional
14 qualifications for Deborah Seymour; NRC 000122, NRC Inspection Manual Chapter
15 1252 dated December 7, 2009; NRC 000123, NRC Inspection Manual Chapter 2696
16 dated October 19, 2006; and NRC 000124, NRC Inspection Manual Chapter 2630
17 dated May 18, 2005.

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

21 (The documents referred to were marked as Exhibits NRCR00120-MA-BD01,
22 NRC000121-MA-BD01 through NRC000124-MA-BD01for identification.)

23 Would you like to have those admitted?

24 CHRISTINE JOCHIM BOOTE: Yes, we would.

25 CHAIRMAN BOLLWERK: Any objections?

1 JIM CURTISS: No objections.

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

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

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

12 CHAIRMAN BOLLWERK: All right. Certainly, we would appreciate it,
13 thank you.

14 DEBORAH SEYMOUR: Thank you. I wanted to mention that when a
15 licensee makes changes in accordance with 10 CFR 7072 (spelled phonetically)
16 and they've made a determination that these changes do not need authorization
17 by the NRC, whether it's under the special authorization or whether it's for a
18 program like material control and accounting as discussed earlier in
19 presentation three, these changes are all logged. Records are kept of their
20 determination and the basis for that determination. And this information is
21 sent on a periodic basis up to headquarters for review by the different license
22 reviewers. The headquarters reviewers look at that information and will send
23 communications to Region 2, to the inspectors on which of those changes they
24 believe the inspectors should include in their inspection program to see if we
25 agree with the licensee's determination that prior authorization wasn't needed.

1 In addition, on a regular basis, our inspectors for each of the different
2 safety areas, whether it's operations, maintenance, will look at the 7072
3 changes that were made without prior authorization from the NRC and take a
4 sampling of those and review them to see if they agree with the licensee's
5 determination that an authorization wasn't needed. If it's determined that we
6 do not agree, then that brings that issue into enforcement space.

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

11 DEBORAH SEYMOUR: I can't speak as to whether they have exactly
12 that authorization but they are required to compile their list of 7072s for our
13 review.

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

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

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

20 MALE SPEAKER: No.

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

23 DEBORAH SEYMOUR: Thank you. OK. Good afternoon, this
24 presentation is in response to the board's question on the NRC's commitment
25 follow-up and tracking processes that are used to ensure -- that will be used

1 to ensure AREVA Enrichment Services satisfactorily meet their license
2 commitments and their commitments in the safety analysis report. This
3 presentation will address that issue and each of its subparts. Slide two,
4 please. Again, I am Deborah Seymour out of the Region 2 office in Atlanta,
5 Georgia. Slide three, please.

6 First I'd like to discuss the management structure under this
7 process. And this slide shows the structure of the NRC in Region 2. If you
8 look halfway down the slide, right above the blue, the blue highlighted, the
9 first blue highlighted box, you see the box for the regional administrator,
10 Victor McCree is the Region 2 Regional Administrator. Charles Casto is the
11 deputy regional administrator for the Region 2 Center for Construction
12 Inspection. There are two divisions in the Center for Construction Inspection,
13 the Division of Construction Projects and the Division of Construction
14 Inspection. Construction Projects Branch 1 is responsible for the oversight of
15 the NRC Construction Inspection Program for fuel facility construction in the
16 U.S. As such, it has responsibility for the Eagle Rock Enrichment Facility
17 Construction Inspection Program.

18 Slide four, please. This is an expanded view of the management
19 structure of the Center for Construction Inspection. This slide illustrates
20 the hierarchy of the organization. And it also illustrates some of the
21 communications -- pathways present in the organization. These communications
22 travel both ways in the organization and also to the Office of Nuclear Material
23 Safety and Safeguard which is depicted on the right. In addition to these
24 communications, we also communicate with other headquarters' offices, such as
25 NSIR (spelled phonetically), NRO, and NRR. The solid lines represent very

1 frequent communications, typically on a daily or near daily basis. The dotted
2 lines represent slightly less frequent communications. They are still
3 communications on a near daily or weekly basis. Numerous types of
4 communications occur, we have internal communications. This includes weekly or
5 biweekly calls with NMSS (spelled phonetically). We have periodic, typically
6 daily, phone calls with the senior resident inspectors at our sites. We have
7 weekly Center for Construction Inspection management meetings. We have
8 periodic post inspection debriefs. We also have external communications.
9 These are typically weekly phone calls with the licensee, periodic management
10 meetings with the licensee, inspection reports and performance reviews where we
11 assess the licensee's performance and share this information with interested
12 stakeholders in a public meeting. Slide five, please.

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

15 DEBORAH SEYMOUR: That is correct.

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

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

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

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

25 DR. KAYE LATHROP: (affirmative)

1 DEBORAH SEYMOUR: OK.

2 DR. KAYE LATHROP: Thank you.

3 DEBORAH SEYMOUR: You're welcome. Now I'll discuss management
4 responsibilities under this process. The program management responsibility for
5 the Construction Inspection Program is in accordance with the formal inspection
6 manual chapter. For example, Inspection Manual Chapter 2696 addresses
7 oversight of the National Enrichment Facility Construction Inspection Program.
8 Inspection Manual Chapter 2630 addresses the oversight of the MOX Fuel
9 Fabrication Facility Construction Inspection Program. Region 2 conducts the
10 construction oversight in accordance with these inspection manual chapters and
11 they are publicly available.

12 Inspection Manual Chapter 2635, Fuel Facility Construction and
13 Preoperational Readiness Review Inspection Programs, will be an inspection
14 manual chapter that will address oversight in the Eagle Rock Enrichment
15 Facility. This inspection manual chapter is not issued at this time but it's
16 imminent. Insights gained from implementing the inspection manual chapters for
17 National Enrichment Facility and for MOX were incorporated into the new Fuel
18 Facility Construction Inspection Manual chapter. In conclusion for this slide,
19 Region 2 is responsible for the planning, performance, documentation and
20 enforcement associated with the Fuel Facility Construction Inspection Program.
21 Slide six, please.

22 Next I will discuss the approximate number of individuals engaged
23 in this effort. Region 2 will have a branch chief and a senior project
24 inspector assigned to this project. These individuals will be responsible for
25 tracking implementation of the requirements and oversight and tracking of the

1 Construction Inspection Program. Slide four depicted the structure of the
2 Division of Construction's projects and provided a high level of approximation
3 of the numbers of individuals engaged in these efforts. This included the
4 branch chiefs, senior project inspector, and the technical specialists and
5 staff. Region 2 fuel facility construction resources are allocated by NMSS
6 (spelled phonetically), sufficient resources have been included in the budget
7 requests. As a point of reference for the number of individuals involved, this
8 slide summarizes the resources used by Region 2 in each of the past four years
9 to perform the construction inspections at the National Enrichment Facility.
10 The Y axis is the number of hours and the X axis is the fiscal year. The hours
11 are not cumulative, they do not include project management hours or NMSS
12 inspections or licensing hours. The hours include Region 2 inspection,
13 inspection preparation, inspection travel, and inspection report documentation.
14 As you can see, as construction progressed, our resource output increased. The
15 number on the top of the bars is the number of inspectors involved in the
16 inspections, as an inspector may have been involved in one inspection per year
17 or multiple inspections.

18 In 2010 there were 38 inspectors involved and they performed
19 approximately 5,000 hours of work. We anticipate that the time schedule and
20 the number of individuals needed for the Eagle Rock Enrichment Facility project
21 will be less than that for LES NEF and could be as much as 40 percent less.
22 The primary reason is because AREVA has the benefit of the LES licensing and
23 construction experience. However, please recognize there are many variables in
24 this assumption, including if AREVA is able to obtain construction staff with
25 previous nuclear experience. Regardless, we do not anticipate the time

1 schedule and number of individuals to be greater than that of LES. Slide
2 seven, please.

3 This slide discusses how we will plan for this effort. Region 2
4 staff will hold discussions with AES representatives to review the Eagle Rock
5 Enrichment Facility construction schedule. As part of these discussions, we
6 will verify that their construction schedule includes construction activities
7 that pertain to IROFS (spelled phonetically) and construction quality assurance
8 (spelled phonetically) activities for each phase of construction. Using their
9 construction schedule, the senior project manager in consultation with the NMSS
10 senior project manager will develop an NRC construction inspection schedule.
11 The construction inspection schedule will typically look ahead for several
12 months and will be updated as needed according to changes to the licensee's
13 construction schedule. During periodic internal scheduling and planning
14 meetings, the project inspector will discuss inspector resource allocations for
15 these inspections with the appropriate branch chiefs from Region 2 and NMSS.
16 Slide eight, please.

17 There are several steps in the inspection planning process. A key
18 step is identifying the program requirements. These may be regulatory
19 requirements from 10 CFR Part 70 or they may be requirements included in the
20 licensing basis documents, for example the safety analysis report. The
21 inspectors are required to be familiar with the applicable requirements in
22 their area of technical expertise. This requires the inspectors to be familiar
23 with and understand applicable portions of the licensee's safety analysis
24 report, the integrated safety analysis summary, and other applicable license
25 application requirements.

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

4 DEBORAH SEYMOUR: Yes, there is and on a further slide we'll
5 discuss this.

6 DR. KAYE LATHROP: All right.

7 DEBORAH SEYMOUR: OK but, yes, there is. So that's one of the
8 things that the senior project inspector puts together. NMSS has worked with
9 the senior project inspector to identify the most important items relied on for
10 safety, or IROFS. Our inspections will include these IROFS. Other than these
11 IROFS, our inspections are based on samples -- sampling. Our inspection sample
12 size is expanded if problems are identified. Once the inspectors understand
13 the requirements for their inspections, they develop their inspection plans.
14 The inspection plans provide focus to the inspectors and delineate the
15 inspection activities performed to verify implementation of the license
16 requirements. The inspection plans are reviewed by the inspector's branch
17 chiefs, by the senior project inspector for the facility, and by the project
18 branch chief to ensure that appropriate focus was obtained. When the
19 inspections are completed, the results are documented and any inspection
20 findings are tracked.

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

23 DEBORAH SEYMOUR: What happens is if there is a problem that has
24 been identified at one facility during the inspection briefs that we hold on a
25 routine basis, that information is shared with the other inspectors. And it is

1 evaluated for inclusion into inspection plans.

2 DR. KAYE LATHROP: Thank you.

3 DEBORAH SEYMOUR: Slide nine, please. This slide discusses the
4 requirements and training for construction inspectors. A formally issued IMC
5 (spelled phonetically), IMC 1252 Construction Inspector Training and
6 Qualification Program defines the initial training and qualification
7 requirements for staff performing inspections of reactor and fuel facility
8 construction activities. IMC 1252 ensures that the NRC staff has the necessary
9 knowledge and skill to successfully implement the construction inspection
10 program. There are also other -- many other opportunities for training. We
11 hold inspector counterpart meetings, we have lessons learned seminars which
12 include both internal and external issues from recent industry and agency
13 activities and we require continued technical training. Slide 10, please.

14 CHAIRMAN BOLLWERK: Can I ask one question?

15 DEBORAH SEYMOUR: Sure.

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

17 DEBORAH SEYMOUR: OK.

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

21 DEBORAH SEYMOUR: Once they're qualified, they can do both, but
22 they do have areas of expertise like quality assurance is an area,
23 instrumentation and control, welding, structural steel, there are civil in
24 terms (spelled phonetically) of back fill, et cetera, concrete. These are all
25 different areas where different -- we actually try to hire people out of

1 college or get mid-career individuals or train our inspectors in an area.

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

5 DEBORAH SEYMOUR: That's right.

6 CHAIRMAN BOLLWERK: Right.

7 DEBORAH SEYMOUR: OK, slide ten. Slide ten, please. OK, slide ten
8 discusses the estimated time schedule for completing this process. Although a
9 firm date for the time schedule is not yet available, I anticipate the
10 inspections starting late 2011 or early 2012 and continuing for several years.
11 Startup of the first cascade could occur as early as 2014. As noted earlier,
12 the inspection process will be detailed in a forthcoming inspection manual
13 chapter. The construction inspections will start after the license is issued,
14 when the licensee commences construction activities that could affect safety
15 and are required by regulations, the license, and/or license conditions. The
16 completion of the construction inspections and the operational readiness review
17 inspections is determined by the licensee's construction schedule. Our goal is
18 to manage our resources to ensure to the extent practical that our construction
19 inspection and oversight activities do not become critical path and that they
20 do not adversely impact the oversight of operating facilities. The staff
21 expects that the time schedule for completion of the Eagle Rock Enrichment
22 Facility process will be less than that of the National Enrichment Facility
23 process based on the lessons learned.

24 CHAIRMAN BOLLWERK: We heard in the previous presentation about the
25 pre-construction exemption and I take it because construction, quote on quote,

1 hasn't started, are you doing any inspections out there now in terms of the
2 work they've done land clearing or whatever else?

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

5 CHAIRMAN BOLLWERK: All right.

6 DEBORAH SEYMOUR: Slide 11, please. Slide 11 discusses how we will
7 coordinate this process with AREVA Enrichment Services. The NRC staff
8 anticipates changes to the Eagle Rock Enrichment Facility construction
9 schedule. As a result, we will request periodic updates to the construction
10 schedule. We have several methods for receiving these updates; this includes
11 periodic schedule updates during construction status meetings. On slide four I
12 discussed communications, these included internal and external communications
13 such as weekly or biweekly phone calls with NMSS and the licensee.
14 Construction schedule updates are topics discussed during these communications.
15 Slide 12, please.

16 Slide 12 discusses the methodology for compiling and updating
17 commitments. The licensee is responsible for constructing the facility in
18 accordance with the license including meeting all enforceable regulatory
19 requirements. I would like to take a moment to discuss what I mean by a safety
20 commitment. A safety commitment is a commitment that is enforceable. It is a
21 requirement. For the purposes of the Eagle Rock Enrichment Facility, it is
22 tied down by a license condition which was discussed in one of the earlier
23 presentations.

24 For example, the license will require AES to conduct authorized
25 activities in accordance with their safety analysis report. The safety

1 analysis report may require AES to apply a specific construction code. This
2 would then be a safety commitment and we would inspect to make sure that it was
3 being implemented. The Construction Inspection Program will be focused on
4 AES's quality assurance program and verifying that it is in place and
5 implemented appropriately. It will be focused on the inspection of items
6 relied on for safety. There are approximately 100 items relied on for safety
7 identified for the facility. And as I mentioned earlier, NMSS technical staff
8 have identified the most significant of these and other than these IROFS, our
9 inspections would be based -- we'll inspect those and then the rest will be
10 based on sampling.

11 And our Construction Inspection Program is also focused on the
12 operational readiness reviews, this is required by a license condition or it
13 will be required by a license condition for the Eagle Rock Enrichment Facility.
14 And they're performed before the authorization to commence operations is
15 granted. They will be performed in phases as programs are implemented by AES.
16 ORR, the Operational Readiness Review inspections include safety program
17 readiness and that would include nuclear criticality safety, radiation safety,
18 just to name two. It also includes system, facility, component, and equipment
19 readiness as associated with requirements and the IROFS. Any inspection
20 findings identified during these inspections are documented in the inspection
21 reports for tracking and follow up. Slide 13, please.

22 This is an excerpt of a table used to compile the IROFS for the LES
23 facility and this is one of the ways that we communicated these IROFS to the
24 inspection staff. So we actually, the licensee has tables of the IROFS in
25 their documents already. And we use those tables, but we -- to share that

1 information with the staff. Slide 14.

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

8 Slide 15 discusses the process for resolving disputes. We do not
9 expect disputes, however occasionally differences of technical opinions do
10 arise. An important fact to remember is that the NRC will not authorize
11 operations until we verify that the facility has been constructed in accordance
12 with the requirements of the license. If an NRC inspector identifies that AES
13 has not fulfilled a safety requirement, the inspector would initially engage
14 AES in a discussion to insure a full understanding and communication of the
15 identified issue. Typically, a licensee responds to the identification of an
16 issue by capturing the issue in their corrective action program and moving
17 forward with correcting the issue. Depending on the complexity of the issue,
18 prior to the NRC's final characterization of the issue in an inspection report,
19 discussions could be held with the Program Office and other technical
20 specialists as needed to develop a full understanding of the issue. If it is
21 determined that it is a failure to meet an enforceable requirement, the issue
22 is evaluated using the NRC's enforcement policy. Once we are in enforcement
23 space, the process for resolution is structured by our existing enforcement
24 policy and program. Ultimately, the inspection findings would be documented in
25 an inspection report including any enforcement actions. Slide 16, please.

1 This slide discusses some of the lessons learned from previous fuel
2 facility construction activities. There are important lessons learned from
3 these activities including the activities at the LES NEF and the MOX Fuel
4 Fabrication Facilities. These include the value of having frequent
5 communications with involved stakeholders. Frequent communications are key to
6 successful project management of the construction inspection program. Secondly
7 --

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

10 DEBORAH SEYMOUR: This is a general principal, but one of the
11 lessons we did learn is it's really -- you almost need to over communicate
12 because especially if you're communicating over a distance, you really have to
13 have very robust communications. And that leads to the next bullet which is
14 the value of construction resident inspector. A resident inspector greatly
15 facilitates understanding and coordination of construction activities and
16 inspections because they are on site. They're seeing it with their eyes and
17 there isn't any nuances of understanding or interpretation which happens. OK,
18 so that's the value of a construction resident inspector, a very important
19 lesson learned. A third lesson learned is that a finalized design prior to the
20 onset of construction or near finalized design minimizes the need to repeat
21 inspections as the design and the commitments change. Frequent design changes
22 can challenge inspectors and require additional resources. The fourth lesson
23 learned is that adequate resource planning is key to program success. This
24 includes planning for a resident inspector. In addition to the enhanced
25 communications, resident inspectors will reduce the number of regional

1 inspections needed because a resident inspector can perform some of these
2 inspections.

3 CHAIRMAN BOLLWERK: LES, did they start out with a resident or did
4 not?

5 DEBORAH SEYMOUR: They did not.

6 CHAIRMAN BOLLWERK: OK.

7 DEBORAH SEYMOUR: And they still do not have a resident.

8 CHAIRMAN BOLLWERK: OK, what about MOX?

9 DEBORAH SEYMOUR: MOX has two residents, a senior resident and a
10 resident.

11 CHAIRMAN BOLLWERK: And obviously I guess LES is far enough along
12 now that they don't need a construction resident any more, I mean they're
13 operating essentially. So -- or is that not correct statement?

14 DEBORAH SEYMOUR: They are pretty far along, but right now what we
15 have at the site, we actually have a rotation. An inspector who is spending
16 two months there, he is not a resident. He's a construction project inspector
17 but there he's acting like a resident so we have these enhanced communications
18 as they move through the process of bringing the cascades online. So -- and it
19 has proved to be extremely helpful.

20 CHAIRMAN BOLLWERK: All right. Did these resident inspectors for
21 construction, do they turn into resident inspectors for operation? Or is that
22 -- basically at this point, once it's constructed, they're finished?

23 DEBORAH SEYMOUR: They can with additional training --

24 CHAIRMAN BOLLWERK: That has been on the reactor side for years, I
25 wasn't --

1 DEBORAH SEYMOUR: Yes, it is possible because we will take resident
2 inspectors for operating reactors and bring -- with training, they can move
3 into a resident inspector at a construction site. And they can go the other
4 way with training also. But you have to have the specific training and go
5 through the qualification process to do that.

6 CHAIRMAN BOLLWERK: All right. Is there any thought to keeping a
7 resident, either at LES or the Eagle Rock Facility once the construction is
8 finished?

9 DEBORAH SEYMOUR: My understanding is at this time, no.

10 CHAIRMAN BOLLWERK: All right.

11 DEBORAH SEYMOUR: So, the next lessons learned is that adequate
12 resource planning is a key to program success. This includes planning -- I'm
13 sorry, I already did this one for the resident inspector. The last lessons
14 learned is that early program reviews are key for early identification and
15 correction of issues before discrepancies are promulgated. So we'd like to
16 have our inspectors get on site as soon as possible to start looking at the
17 programs' and the activities' quality assurance of construction and identify
18 the problems early on, if there are problems. Slide 17.

19 CHAIRMAN BOLLWERK: Can we back up to one more second -- the
20 advantage of a finalized design, is that something I can take it came from LES
21 in terms of the design there being insufficiently finalized? It caused issues?
22 Or is this a MOX issue? Or is this again --

23 DEBORAH SEYMOUR: I don't think it's unusual for construction
24 activities to have a less than complete design when they start constructing and
25 to complete design as they're going. And also even with a finalized design, as

1 you move into construction it's very normal to have to redesign different
2 pieces of it because what works sometimes on paper, doesn't work in three
3 dimensions. But the closer the design is to being finalized, the less those
4 changes will occur and the more streamlined the inspection process would be.

5 CHAIRMAN BOLLWERK: Let me turn to AES, how committed are you all
6 to a finalized design at some point or early in the process, I guess, is the
7 NRC seems to be -- would like to have?

8 JIM KAY: We are committed to as close to final design before we
9 begin construction and that's been reinforced in -- with management meetings
10 with NRC.

11 CHAIRMAN BOLLWERK: OK, I'm sorry, go ahead.

12 DEBORAH SEYMOUR: Thank you. Slide 17, please. In conclusion,
13 operations will not be authorized by the NRC until the Commission verifies
14 through inspection that the facility has been constructed in accordance with
15 the requirements of the license as required by 10 CFR 70.32(k). The Region 2
16 Center for Construction Inspection has a management structure, processes,
17 tools, training, and resources needed to verify that the Eagle Rock Enrichment
18 Facility is constructed in accordance with their license requirements and all
19 needed inspections will be scheduled and conducted.

20 CHAIRMAN BOLLWERK: How much do you know about the details of the
21 inspection process that went on with LES in terms of different -- there were
22 several different things that were found that I know.

23 DEBORAH SEYMOUR: I know quite a bit about it.

24 CHAIRMAN BOLLWERK: What do you think were the major issues that
25 came out of the construction inspection process there?

1 DEBORAH SEYMOUR: I think there -- a big issue that has come out
2 and not even just in LES but construction that's going on, nuclear construction
3 across the globe is making sure that you have a very robust quality assurance
4 program. And that those requirements of that program are rolled down to your
5 contractors and vendors and that they understand them and are implementing them
6 because you can't just check on paper their quality assurance program. If you
7 have a vendor, you need to actually see that it's implemented and that it's
8 robust and that it's strong. So, that's been a stumbling block because you can
9 check a program on paper and it'll look great but it actually has to be
10 implemented in a very robust way.

11 CHAIRMAN BOLLWERK: All right and what is LES's -- I'm sorry, what
12 is AES's commitment in that regard, in terms of the program that you're going
13 to be putting in place?

14 JIM KAY: First off is that, you know, from lessons learned this is
15 one that we have picked up on and we'll definitely focus on in our plans for
16 construction. So -- yes, I believe, I endorse Deborah's statement and that's
17 our objective as well.

18 CHAIRMAN BOLLWERK: All right, I take it you're saying that they
19 need to be contacting, not just taking the paperwork but contacting and going
20 out looking at what's going on in terms of the QAQC (spelled phonetically), and
21 whether the parts they're buying and the way things are being constructed. Is
22 that your point?

23 DEBORAH SEYMOUR: That's my point and as an add-on to that point, I
24 think that it's been a surprise to the different organizations globally how
25 many individuals they need in their quality assurance program to do this

1 because they start out thinking oh, five people because we're going to rely on
2 their quality assurance programs. They need a lot more people to do it than
3 one might think.

4 CHAIRMAN BOLLWERK: Do you agree, Judge Lathrop?

5 DR. KAYE LATHROP: I certainly do.

6 CHAIRMAN BOLLWERK: Any other major issues besides that one?

7 DEBORAH SEYMOUR: Another issue to be aware of is that it's very
8 important that issues that are identified by some of these different
9 organizations don't fall between the cracks. So what a lot of the construction
10 entities have discovered is that they need to roll these issues up into one
11 program in order to adequately control them.

12 CHAIRMAN BOLLWERK: So it's a way of identifying them and making
13 sure that, I guess this is sort of, your tracking the commitments they've made
14 but they also need to be tracking commitments, not commitments, but tracking
15 issues or problems that are raised through the construction inspection program.

16 DEBORAH SEYMOUR: In other words, if you have four vendors on site,
17 you don't want to have five different corrective action programs, one for each
18 of the entities if you can avoid it. It's not required by the regs but what --
19 where it becomes a regulatory issue is when an issue is identified and then
20 it's not followed up on. And then we go out as inspectors, review that and
21 determine that it was identified but not followed up on because it was rolled
22 up in a different corrective action program.

23 CHAIRMAN BOLLWERK: So sort of one overall responsibility for
24 corrective action programs, is that --

25 DEBORAH SEYMOUR: It's something that would strengthen it,

1 something to look at, but it is not a regulatory requirement, I want to make
2 that very clear.

3 CHAIRMAN BOLLWERK: All right, do you have anything you want to say
4 about that in terms of what you've heard and your approach?

5 JIM KAY: The Eagle Rock approach would be very much similar in
6 terms of a focus program to collect corrective action and condition reports and
7 appropriately apply the corrective action to all entities.

8 CHAIRMAN BOLLWERK: All right. What specific problem, was this an
9 LES problem or a MOX problem or is this just general?

10 DEBORAH SEYMOUR: This is just a general problem.

11 CHAIRMAN BOLLWERK: OK, anything else in terms of major issues with
12 LES or MOX?

13 DEBORAH SEYMOUR: Those are the two issues that come to mind, not
14 specific to either of those. But the construction has been going on
15 satisfactorily at both of those facilities.

16 CHAIRMAN BOLLWERK: I understand, wasn't there some problems with
17 some paperwork at one point in terms of people filling out -- not having
18 appropriately signed off on some documentation about whether they had certain -
19 - some of the workers didn't have proper safety training. I am trying to
20 remember exactly what I read in the trade press about it. And again, I may not
21 have this right.

22 DEBORAH SEYMOUR: I'm not, I'm sorry; I can't remember a specific
23 incident.

24 CHAIRMAN BOLLWERK: I think it was with one of the contractors but
25 maybe that's -- either of you know what I'm referring to -- sort of, not very

1 well? OK. All right. Anything else you would like us to know about the
2 regional inspection program in terms of how you're going to be tracking things?

3 DEBORAH SEYMOUR: I think that the experience of developing the
4 programs to manage the Construction Inspection Program for LES NEF has left us
5 in a strong position to move forward smartly with Eagle Rock. And I'm looking
6 forward to the challenge.

7 CHAIRMAN BOLLWERK: All right. And let me turn to AES, anything
8 further that you want to say on this subject in terms of what you've heard or
9 what we've asked?

10 JIM KAY: We've begun our discussions with Region 2 and, you know,
11 and in terms of anticipating how we're going to integrate the construction
12 inspection into the construction schedule, so that work has begun. And again,
13 I think in terms of Deborah, we've been in communication and look forward to
14 working together.

15 DEBORAH SEYMOUR: Thank you.

16 CHAIRMAN BOLLWERK: All right. Let me see if it -- any of the
17 board members have any questions at this point on the subject?

18 MALE SPEAKER: Nothing further.

19 MALE SPEAKER: No, nothing.

20 CHAIRMAN BOLLWERK: All right, then I thank you both for the
21 information that you provided and for your service to the board. Thank you.

22 All right, at this point that we've finished the presentations that
23 we've had for today, it's a little bit after four o'clock. Do you want to take
24 a couple of minute break before we wrap up or should we just go into the wrap-
25 up?

1 MAURI LEMONCELLI: We're fine to proceed, your honor.

2 CHAIRMAN BOLLWERK: All right. We'll go ahead and do that then.

3 The -- at this point in the process, there are some schedules that we have.

4 The first thing that what we have of course is the transcription corrections
5 and we're hoping to have a transcript in a couple of days from today's date.

6 The transcript corrections then are due about seven days from today's date

7 which would be Tuesday, February 1. And if there's any problems with it,

8 obviously get back to the board if there's a delay with the transcript or if

9 there's an issue. One of the things that we're hoping is that because you have

10 access both to the Web stream archive as well as the DVMS (spelled

11 phonetically) information, hopefully the transcript correction will not be a

12 large problem. Again, in part that depends on the quality of the transcript,

13 but we're very hopeful that we're going to get a very quality transcript. And

14 the court reporter is smiling, so that's a good sign. And again, transcript

15 corrections are to correct the transcript so that it is accurate, not that it

16 reads as the way you wished you said it. And I'm sure there are things that I

17 wish I had said a lot better in this, so you just have to kind of move past

18 that. And we're not trying to change the transcript or add what we wanted in

19 there, but actually trying to reflect as closely as we can what was actually

20 said during the hearing. So that's the purpose of transcript corrections.

21 Once we have those and any other corrections you might have to the

22 record -- and let me just stop one second and make sure since we admitted most

23 of the exhibits here. There were a couple that we didn't -- the couple of

24 staff exhibits, let me just check sure that we -- that I have an accurate count

25 here in terms of what we did not put in. My records reflect that we didn't put

1 in NRC 105, or 107,108, or 109, or NRC 112, or 113. I believe that as well all
2 the other NRC exhibits as well as all of the AES exhibits were put into the
3 record. If I'm not correct in that, please let me know or let our law clerk
4 know and we'll do what's necessary. But once we have the transcript
5 corrections in and in theory there are no other changes in the admitted
6 evidentiary material, then we can go ahead and close the record on this portion
7 of the proceeding. There's also some additional questions that we had on
8 financial assurance that I believe would be due seven days from today's date as
9 well.

10 And I'm -- I think I'm confident that that will wrap up that
11 portion of our questioning on that subject. And once we have that, we'll
12 probably go ahead and issue our admitting those answers marked as exhibits and
13 you'll have to supplement your exhibit numbers into evidence. And then we'll -
14 - that'll be part of the closure of the record as well. If you do need to put
15 any other affidavits in or whatever, just go ahead and mark them as exhibits.
16 You may already have the folks you need to answer our questions already as part
17 of the record, hopefully that's the case.

18 The next thing would be the proposed findings of fact, that date is
19 Friday, February 25. Again if there's an issue, we'll certainly entertain
20 requests for an extension if someone runs into a problem. That's the date at
21 this point. And then the board has a date at the beginning of April, I
22 believe, to issue an initial decision on -- with respect to the safety portion
23 of this proceeding. I should mention, we didn't set a schedule or put into the
24 schedule an opportunity for response of findings of fact. I don't think that
25 will be necessary, having said that, if after looking at each other's findings

1 of fact you see anything you want to respond to, you need to get back to us
2 relatively promptly and let us know you want to do that so we can set up a
3 brief schedule for doing that. I'm not opposed to it but I don't think it's
4 going to be necessary. But if you do see something, I would prefer that the
5 record be clear then that because we didn't put it in, it's not allowed, that's
6 not the purpose of it. So I'm more than willing to entertain it, it just
7 didn't seem to be necessary to put in the schedule. So, the other thing that I
8 guess we need to talk a little bit about in terms of the next step is the
9 environmental hearing. I guess one of the first questions that I would have
10 coming up on our periodic report, but does the staff have anything that they
11 can tell us about the current estimate on the final environmental impact
12 statement?

13 MAURI LEMONCELLI: At this time, it is our understanding that we
14 are on schedule and we should be issuing the final environmental impact
15 statement toward the end of next month, the end of February.

16 CHAIRMAN BOLLWERK: It's the end of February, OK. I sort of
17 figured that's probably what it was. That's fine, that's what we needed to
18 know. Obviously if that changes, you will let us know.

19 FEMALE SPEAKER: Yes, your honor.

20 CHAIRMAN BOLLWERK: We heard a little bit about the status of
21 onsite construction, there apparently is some things that are going on,
22 something that will be going on in the future, in the spring. One of the
23 questions I guess the board had was in conjunction with the potential trip to
24 Idaho in the June, July timeframe, do you think it would be worthwhile for the
25 board to have a site visit? Again with LES, that was never an issue because

1 there was nothing there but a piece of land that you could look across for many
2 miles. Here there is something that has actually happened, at least in terms
3 of some preconstruction work. So something to think about, any comments that
4 you want to make about that at this point? I don't know.

5 MALE SPEAKER: I think we'll consult on that if the board is
6 interested in visiting the site perhaps at the time that they're out there.
7 Otherwise I think we wouldn't have any objection to that and would certainly
8 work to accommodate that.

9 CHAIRMAN BOLLWERK: All right and again this is slightly different
10 than LES as something is actually is there, so. So that's something that we'll
11 follow up with you if that becomes a possibility. The hearing at this point,
12 we haven't really set a specific date. The weeks of the 13, the 27 of June and
13 also the week of July 11 are what we've sort of committed to Judge Carlen
14 (spelled phonetically) several months ago to keep open. And so let's continue
15 to do that, but until the staff has actually issued the FEIS (spelled
16 phonetically), I think we are going to wait in terms of setting a final date.
17 But we certainly -- those dates are the ones we're focusing on and we will do
18 it one of those dates, it's just a question of which one. All right. Let me
19 see, do you all have any questions for us at this point, any administrative
20 matters or issues that you want to discuss? You've got us here, so this is an
21 opportunity for you to ask us any questions or any clarification.

22 MAURI LEMONCELLI: Thank you, your honor, the NRC staff does not
23 have any questions at this time.

24 CHAIRMAN BOLLWERK: All right.

25 JIM CURTISS: And nor does the applicant.

1 CHAIRMAN BOLLWERK: OK. Let me see if any of the board members
2 have anything to say that they wish to say at this point.

3 DR. KAYE LATHROP: No, thank you.

4 CHAIRMAN BOLLWERK: All right.

5 DR. CRAIG WHITE: No, thank you all.

6 CHAIRMAN BOLLWERK: Well, I would like to sort of as we wrap toward
7 -- move towards wrapping this up say thanks to Jon Eser, our law clerk, who has
8 done an excellent job getting all this together. I wouldn't have my book here
9 without all his work here although you all did a lot of the key punch (spelled
10 phonetically) and allowed him to give it to me. Ashley Prange, who did the,
11 sort of our administrative person who put this together, Andy Welkie and the IT
12 staff here who did I think an excellent job on the displays and giving
13 everybody a heads up on what the IT situation is, DDMS training. Joe Deucher,
14 who did our Web streaming. Mac Cutchin, who also is an IT person here and does
15 a lot of work. Both of you, I appreciate the efforts that you and all of the
16 other witnesses and the information that you provided to the board. I think it
17 was a useful hearing for us; we got a lot of information.

18 Now the onus (spelled phonetically) is on, well first you all to
19 give us the finding of fact and then to us to issue a decision on the safety
20 aspects of this mandatory hearing. And again, there is an environmental side
21 to this, that's something that we'll be revisiting -- or visiting for the first
22 time actually in the near future. There will be questions that we'll be
23 generating once we see the final environmental impact statement and we'll start
24 this process sort of once more in terms of the way we had it.

25 I didn't the last time specify in your answers putting in

1 evidentiary -- putting in exhibits, now that you've seen how that works, if
2 it's better for you to go ahead and do that in the first instance we can
3 certainly go ahead and do that. Sort of looking toward -- you don't
4 necessarily have to give us a pretrial exhibits but we can certainly start
5 marking them or sort of giving them a number and that may save you some time on
6 the backside. And I appreciate your doing that, I think it made for a clearer
7 record in terms -- I know it had required additionally we had to do the same
8 thing twice to some degree but I think it was a little clearer in terms of the
9 way it turned out. The one last thing that I would mention, if you have anyone
10 who has been watching on the Web stream, on the webcast, if you have any
11 comments on the use of the Web streaming, if it was useful or not useful in any
12 way, please send us an e-mail at webstreammaster, that's all one word,
13 .resource@NRC.gov. We would very much appreciate hearing from you because we
14 want to know if this is a viable way to in some instances get the information
15 out to members of the public. All right, again, if no one has any comments,
16 then we are adjourned for the day. And now we can all go home and don't have
17 to worry about the snow tomorrow. So, thank you.

18 MAURI LEMONCELLI: Thank you, your honor.

19 (Whereupon, at 4:13 p.m. the above-entitled matter was concluded)

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

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