

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Dominion Nuclear North Anna, LLC  
Pre-Hearing Conference

Docket Number: 52-008-ESP; ASLBP No. 0482202ESP

Location: (telephone conference)

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

PRE-HEARING CONFERENCE

In the Matter of:

DOMINION NUCLEAR

ASLBP No. 0482202ESP

NORTH ANNA, LLC,

Docket No. 52-008-ESP

Applicant.

Wednesday,

February 22, 2006

11:30 a.m.

BEFORE:

ALEX KARLIN, Administrative Judge

RICHARD COLE, Administrative Judge

THOMAS ELLEMAN, Administrative Judge

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9 NRC STAFF PRESENT:

10 LAURA DUDES

11 ANDY KUGLER

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14 GEORGE WUNDER

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16 ALSO PRESENT:

17 JONATHAN RUND, ESQ., ASLBP Law Clerk

18 SHERVERNE CLOYD, ASLBP Administrative Assistant

19

20

21

22

23

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

11:39 A.M.

JUDGE KARLIN: On the record.

Accordingly, we're going to have to ask each one to introduce themselves once we're on the record as we are now. But let me just start the proceeding.

This is a pre-hearing conference call, being held on February 22, 2006 in the matter of Dominion Nuclear North Anna, LLC, which is an early site permit application for the North Anna site, ASLB No. 0482202ESP and Docket No. 52008-ESP.

Here in Rockville, the Board is convening with myself, Alex Karlin, Dr. Cole, Richard Cole, another Administrative Law Judge; Jonathan Rund, our lawyer and law clerk, and SherVerne Cloyd who is our Administrative Assistant.

Judge Elleman is participating via phone from his home in North Carolina, I think it is.

Right, Judge Elleman?

JUDGE ELLEMAN: That's correct.

JUDGE KARLIN: Very good. We are on the record, as I indicated earlier and I would appreciate it if each of the parties could once again introduce themselves, who is the room with them and who they're representing.

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1                    Could we start with the Applicant?

2                    MR. LEWIS: Yes, this is David Lewis with  
3                    the law firm of Pillsbury Winthrop Shaw Pittman  
4                    representing Dominion Nuclear North Anna and I don't  
5                    have anybody in the room with me.

6                    JUDGE KARLIN: Thank you.

7                    MS. CUOCO: This is Lillian Cuoco from  
8                    Dominion Resource Services, also representing Dominion  
9                    Nuclear North Anna, and I do not have anyone with me.

10                   JUDGE KARLIN: Thank you, Ms. Cuoco.

11                   Intervenors, please?

12                   MR. PARRISH: Yes, this is Richard Parrish  
13                   at the Southern Environmental Law Center. With me is  
14                   Morgan Butler and we are representing the Intervenors  
15                   in this matter.

16                   JUDGE KARLIN: All right, fine. And Mr.  
17                   Weisman?

18                   MR. WEISMAN: Yes, this is Robert Weisman,  
19                   representing the NRC Staff; co-counsel, Michael Woods.  
20                   With me in the room from the NRC Staff are Laura  
21                   Dudes, Anthony Kugler, Miten Patel, Jack Cushing and  
22                   George Wunder.

23                   JUDGE KARLIN: All right, thank you, Mr.  
24                   Weisman.

25                   Is there anyone else on the call?

1 JUDGE ELLEMAN: This is Thomas Elleman.  
2 NRC Administrative Judge.

3 JUDGE KARLIN: Oh, okay. Thank you, Judge  
4 Elleman.

5 Anyone else on the call? Hearing none, I  
6 will proceed. Sometimes, I think as everyone knows,  
7 the public and/or press have asked to participate in  
8 some of these, or at least to listen in. We do not  
9 have any of them participating or listening at the  
10 moment.

11 This proceeding will, of course, be  
12 transcribed and the public can have access to this  
13 meeting, by virtue of the transcription which I think  
14 will be out in about 10 days.

15 As a matter of just housekeeping, if  
16 everyone could identify themselves as they begin  
17 speaking, so that the court reporter and the rest of  
18 us can follow carefully what's going on.

19 I expect this will probably will be short  
20 call. We really have not had any proceeding or call,  
21 it seems to me, for over a year. And so it's timely,  
22 perhaps, to check our status and to see how we can  
23 manage this matter in an efficient and fair way.

24 Presumably you all have read our January  
25 5th order where we've asked you to provide us with

1 certain information and perhaps be prepared to discuss  
2 any ideas you would have for managing the process.  
3 The ordered called for Dominion to give us some  
4 estimated times for their submission; the Staff to  
5 give us some estimated times for the time and work  
6 that they would have to do; and then for a discussion  
7 of any mechanisms we might have for the efficient  
8 management, possibly even a suspension of proceeding  
9 in some way or some of the requirements, in any event.  
10 So that's kind of what our agenda will be. We'll hear  
11 from Dominion, we'll hear from the Staff, and then  
12 we'll throw it open for discussion and proposals, if  
13 you have any on managing the matter.

14 Are there any other suggestions right now  
15 or burning issues that anyone thinks that should be or  
16 would request to be added to the agenda?

17 Okay, hearing none, let's just jump right  
18 to Dominion's report, if you would, Mr. Lewis. I know  
19 you've submitted the January 13th supplement to the  
20 application and we received a copy of that. We also  
21 note that the Staff has sent you a letter or sent  
22 Dominion a letter dated February 10th requesting  
23 certain additional information. So I guess our  
24 question really focuses more on at this point, if you  
25 could tell us what you think your time frames will be

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1 to respond to the information requests of the Staff  
2 sent in on the February 10th letter.

3 MR. LEWIS: Yes, Judge Karlin. This is  
4 David Lewis. We're working on the responses to submit  
5 them as expeditiously as possible. We don't have a  
6 firm submittal date for the responses to the Staff's  
7 questions. Our objective is given the schedule in the  
8 Staff's February 10th letter, our objective is to get  
9 all our information in in time to allow the Staff to  
10 complete that schedule by the end of the year. If you  
11 work backwards, that means that we really need to  
12 provide all the information for the Staff and any  
13 follow up prior to mid-April. I think we'll beat that  
14 schedule, but right now, all I can say is that we're  
15 working to try and get that information in as quickly  
16 as possible.

17 JUDGE KARLIN: Okay, so you think you will  
18 be providing the Staff the information it requested by  
19 mid-April?

20 MR. LEWIS: At the latest.

21 JUDGE KARLIN: Okay, it's -- at this point  
22 it's the Staff and the Applicant who have, obviously,  
23 some homework to do and they're doing it, you're doing  
24 it. I'm glad to hear that. And I know you're working  
25 as quickly as you can for this, so there's probably

1 not much we can do to crack the whip and make you go  
2 any faster than I know you already want to go.

3 JUDGE COLE: Mr. Lewis, this is Judge  
4 Cole. I'm looking at the Attachment 2 and time t is  
5 involved. Is that the -- mid-April, will you be  
6 submitting revision 6 to the early site permit  
7 application, is that what you meant by that?

8 MR. LEWIS: Yes. That plus the request  
9 the NRC made in Attachment 1. So I think in order to  
10 get this schedule rolling so that the t plus 260 days  
11 is before the end of the year, we need to both respond  
12 to the Staff's questions and submit the complete  
13 revision of the application, rolling all of that  
14 information into it.

15 JUDGE KARLIN: Okay, Judge Elleman, do you  
16 have any questions of Dominion?

17 JUDGE ELLEMAN: Not at this point.

18 JUDGE KARLIN: Okay, good. That's  
19 helpful. Now I guess we could turn to the Staff.  
20 Your letter of February 16th was quite helpful and I  
21 think laid it all out reasonably well. Is there  
22 anything you would add or want to say about that, Mr.  
23 Weisman?

24 MR. WEISMAN: I guess -- this is Bob  
25 Weisman. As Judge Cole note, the t equals zero is

1 when Dominion provides the information that Staff  
2 requested in its letter. And that schedule after that  
3 would be 260 days, approximately 8 and a half months.  
4 I guess we would just emphasize that if the  
5 information in Dominion's submittal is somehow  
6 incomplete or lacking, that that schedule might not be  
7 able to be kept. We do need to have complete  
8 information in order for the schedule to hold.

9 JUDGE KARLIN: Right, we understand that  
10 if you feel there's something incomplete that that  
11 might cause a further delay. So hopefully, your  
12 questions to the Applicant were clear and hopefully,  
13 they will be able to provide you that information.

14 I note on your schedule, your milestones,  
15 last sentence, "It will take a nominal 12 months for  
16 the Board and the Commission to issue the early site  
17 permit."

18 Is that 12 months supposed to be t 12  
19 months plus 260 or are we supposed to be doing this  
20 within the remaining 100 days?

21 MR. WEISMAN: Your Honor, we meant that to  
22 be a placeholder that would be commenced at t plus  
23 260.

24 JUDGE KARLIN: All right, okay.

25 MR. WEISMAN: To prepare testimony, have

1       hearings on whatever contentions there and then  
2       proceed to the uncontested portion of the proceeding.

3               JUDGE KARLIN: Right. Okay. All right,  
4       those are helpful reports. The documents you  
5       submitted previously, I think, moved that quite along.

6               Now the next item we really had in this is  
7       open for proposals or discussions. We encouraged, as  
8       the order indicated, you all talk separately or  
9       together to see if you had any proposals. Is there  
10      anything we can do to make the next year or so, while  
11      we're waiting for these documents to be submitted and  
12      completed, to manage this proceeding in some better  
13      way?

14              MR. WEISMAN: This is Bob Weisman of the  
15      Staff and the Applicant, the Intervenor and the Staff  
16      had a -- Staff counsel -- had a conference call  
17      yesterday where we spoke about your question.

18              JUDGE KARLIN: Right.

19              MR. WEISMAN: We believe that there's  
20      really no advantage in meeting.

21              JUDGE KARLIN: I'm sorry, no advantage in  
22      what?

23              MR. WEISMAN: We don't believe, in answer  
24      to your third question, we don't believe there's any  
25      advantage to suspending the proceeding and the reason

1 for that is we were tasked to do all the work in  
2 preparing our updates for hearing file as we go on in  
3 any case because it's just impractical for us to wait  
4 at the end and then prepare a massive hearing file  
5 update.

6 So as long as we're preparing those  
7 updates, that's -- as long as we're gathering the  
8 information, we may as well go ahead and update the  
9 hearing file. That makes all the information readily  
10 available to all the parties on a timely basis. So we  
11 think all the parties agree that we ought not to  
12 suspend the proceeding.

13 MR. LEWIS: This is David Lewis, let me  
14 just underscore what Mr. Weisman said. We do also --  
15 the Intervenors and the Applicant -- have disclosure  
16 obligations. We'd like that to continue as it has  
17 been going on for the last year so that our disclosure  
18 obligations don't otherwise mount up and have to  
19 result in a major effort at t plus 260. And in  
20 addition, if there are matters that arise that  
21 warrant motions or what have you, we'd rather those be  
22 raised on a current basis rather than being put off so  
23 for all those reasons, we would urge the Board to keep  
24 this proceeding going much the way it's been going for  
25 the last year, which is fairly quiet, but the parties

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1 are performing their obligations.

2 JUDGE KARLIN: All right, Mr. Parrish or  
3 Mr. Butler, do you concur in this approach?

4 MR. PARRISH: Yes, Your Honor. This is  
5 Rick Parrish for the Intervenors and we do agree, this  
6 is the most efficient way to proceed.

7 JUDGE KARLIN: All right, fine. I think  
8 it is worth noting and I believe Mr. Lewis did refer  
9 to the fact that the duties of disclosure that are  
10 imposed apply both to the Staff, the Applicant and of  
11 course, to the Intervenors as well as parties. So  
12 those obligations apply to everyone at the table.

13 Let me ask this of the Staff, a couple of  
14 questions, Mr. Weisman. Your submittals are on a  
15 regular, but -- an irregular basis -- frequent, but  
16 irregular. Are you doing this within 14 days of a new  
17 document being generated? Is that your approach?

18 MR. WEISMAN: That is our approach, Your  
19 Honor. In order to assure that we do that, we look  
20 and see if we have any new documents every week. If  
21 there are none, then we simply don't file an update.  
22 Otherwise, you have seen many weekly updates from us.

23 JUDGE KARLIN: Exactly, and you're  
24 following 2.336(d) in the 14-day rule, I guess.

25 MR. WEISMAN: I believe that that is the

1 correct citation, yes.

2 JUDGE KARLIN: I think your submissions  
3 referred to a hearing file, but I assume you  
4 understand then that you also have the obligation  
5 under 336(b) to make filings as well?

6 MR. WEISMAN: Under the mandatory  
7 disclosure?

8 JUDGE KARLIN: Yes.

9 MR. WEISMAN: Yes, and this -- the hearing  
10 file update includes all of our mandatory disclosures.

11 JUDGE KARLIN: Okay, good. I mean hearing  
12 file is a reference to 1203 whereas 336(b) or some  
13 disclosures in addition to the hearing file, so the  
14 word hearing file threw me off in your submissions,  
15 but it did look like you were covering both.

16 MR. WEISMAN: Yes, you are correct, Your  
17 Honor. We have combined our reviews. All the  
18 information required by 2.36(b) is combined with our  
19 hearing file update.

20 JUDGE KARLIN: Okay, could you, just for  
21 clarity in the future, perhaps make reference to both  
22 of those when you're submitting these updates?

23 MR. WEISMAN: Yes, Your Honor, we'll be  
24 pleased to do that.

25 JUDGE KARLIN: That would be helpful. And

1 turning to the Intervenor, I note that you have very  
2 few submissions at this point. I guess you have a  
3 very limited number of documents, Mr. Parrish?

4 MR. PARRISH: That's correct, Your Honor.  
5 We are not generating documents ourselves at this  
6 point, mostly simply reviewing Staff and Applicant  
7 documentation.

8 JUDGE KARLIN: Okay, just keep in mind  
9 you're subject to this requirement as well. May I ask  
10 you if you've discussed the idea of -- rather than  
11 suspending these obligations, perhaps regularizing  
12 them into a once a month activity, rather than more  
13 frequently.

14 We could set a date to just say the first  
15 of the month or the 10th of the month everybody needs  
16 to send their updates, rather than every 14 days or  
17 having two or three or four filings from the Staff per  
18 month.

19 MR. PARRISH: This is Rick Parrish, Your  
20 Honor, for the Intervenor. We have not really  
21 discussed that amongst ourselves, but the Intervenor  
22 would not be opposed.

23 MR. LEWIS: This is David Lewis. We  
24 wouldn't have any opposition. We do have a set up  
25 where our clients are informed to deliver any new,



1 relevant documents to us so we can meet the 14-day  
2 deadline and that's the way we've been proceeding.  
3 We're also quite comfortable continuing to proceed in  
4 that manner.

5 JUDGE KARLIN: Okay. Mr. Weisman, would  
6 you have any objection or concern about making it a  
7 once-a-month affair?

8 MR. WEISMAN: The Staff would not have any  
9 objection to making it a once-a-month disclosure.

10 JUDGE KARLIN: Okay, maybe we'll do that.  
11 I think that's probably a good idea and it would just  
12 make it a bit easier. So we'll probably issue  
13 something which would reflect once a month disclosure.

14 You understand, of course, that we also  
15 have -- there are other time frames. 2.309(f)(2)  
16 talks about the filing of new or amended contentions,  
17 given that things are changing, significant changes to  
18 the application might occur, I think we need to think  
19 about that possibility, given that documents will be  
20 made regularly available and the contentions in a  
21 timely way will also continue to be forced.

22 I propose and suggest that we establish a  
23 30-day time frame so that these -- in order to be  
24 considered timely under 2.309(f)(2) the motion would  
25 have to be filed within 30 days.

1 MR. LEWIS: Judge Karlin, this is David  
2 Lewis. Within 30 days of new information or the cause  
3 for a late filed contention, is that your proposal?

4 JUDGE KARLIN: Yes.

5 MR. LEWIS: That would be acceptable to  
6 Dominion.

7 MR. PARRISH: This is Rick Parrish for the  
8 Intervenors. That would be acceptable.

9 MR. WEISMAN: Bob Weisman for the NRC  
10 Staff. That is acceptable to the Staff.

11 JUDGE KARLIN: Finally, we noted and  
12 unless you had anything else, we've noted that the  
13 initial scheduling order of January of '05, several of  
14 the events in there may or may not need to be  
15 adjusted, particularly -- I'm not sure whether you  
16 discussed the need to deal with anything to do with  
17 the motions for summary disposition. There's one  
18 contention admitted here. I'm not sure what things  
19 would change if cooling structures are built in lieu  
20 of the thermal from Unit -- for 3. But we're thinking  
21 about whether that deadline of June 1, '05, I guess it  
22 was, still works.

23 MR. LEWIS: Judge Karlin, this is David  
24 Lewis. I did speak to Mr. Parrish about this  
25 yesterday. We do intend to file a second motion for

1 summary disposition. We have committed to Mr. Parrish  
2 that we wouldn't do so prior to the Staff issuing its  
3 draft environmental EIS supplement, but at some point  
4 after that, based on the new information, we would  
5 propose to file a second motion for summary  
6 disposition.

7 JUDGE KARLIN: Draft EIS, do you have any  
8 problem with that, Mr. Parrish?

9 MR. PARRISH: No, Your Honor. This is  
10 Rick Parrish for the Intervenor. That's pretty much  
11 what we would expect.

12 JUDGE KARLIN: Okay, well, we do have a  
13 deadline here that has passed, so we wanted to make  
14 sure that this -- new significant changes. So I think  
15 we'll have to address that in a revised order as well.

16 With that, I think we've covered pretty  
17 much what we need to do in the call, unless -- well,  
18 first let me ask the parties whether you have anything  
19 else you think needs to be covered or questions you  
20 have?

21 MR. LEWIS: This is David Lewis. I don't  
22 have anything else, Judge Karlin.

23 JUDGE KARLIN: Okay.

24 MR. PARRISH: Rick Parrish, there's  
25 nothing else on our end.

1 MR. WEISMAN: Bob Weisman for the Staff.  
2 The Staff doesn't have any other concerns.

3 JUDGE KARLIN: Okay, Judge Elleman,  
4 anything you'd like to add here or questions you want  
5 to ask?

6 JUDGE ELLEMAN: No, the future and  
7 schedule sounds pretty clear at this point.

8 JUDGE KARLIN: Good, good, okay. Anything  
9 else, Judge Cole?

10 JUDGE COLE: I'm just looking at the  
11 schedule here. It looks like if everything goes on  
12 schedule, we'll probably have the hearing some time in  
13 the spring of 2007.

14 JUDGE KARLIN: Yes, so it appears. We've  
15 got a significant delay, but I guess that's a  
16 significant change in the application. So that's the  
17 way it works.

18 All right, I thank everyone for  
19 participating on the call and for the efficiency of  
20 this. What I think we will do is get out an order in  
21 the next week or two to reflect these modifications to  
22 the initial scheduling order. We may actually  
23 elaborate a little bit further on what's required in  
24 terms of submissions of written testimony and the  
25 availability of witnesses.

1 If and when we get to the hearing on this  
2 thing, the mandatory hearing, the contention hearings,  
3 and so we can expect a new initial scheduling or a new  
4 scheduling order from us in the next few weeks.

5 With that, thank you. The meeting is  
6 adjourned. I will go off the record at this point.  
7 If the court reporter has any questions for the  
8 parties, it might be appropriate to get names or  
9 anything you need.

10 (Whereupon, at 12:01 p.m., the telephone  
11 conference was concluded.)  
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CERTIFICATE

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

Name of Proceeding: Dominion Nuclear


North Anna ESP

Docket Number: 52-008-ESP;

ASLBP No. 04-822-02-ESP

Location: (Telephone Conference)

were held as herein appears, and that this is the  
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