

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Progress Energy Florida, Inc.
Levy County Nuclear Power Plant

Docket Number: 52-029-COL, 52-030-COL

DOCKETED
USNRC

January 9, 2012 (2:15 pm)

ASLBP Number: 09-879-04-COL-BD01

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Location: (telephone conference)

Date: Thursday, January 5, 2012

Work Order No.: NRC-1371

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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PREHEARING CONFERENCE CALL

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In the Matter of: : Docket No.
PROGRESS ENERGY FLORIDA, : 52-029-COL,
INC. : 52-030-COL
(Levy County Nuclear Power : ASLBP No.
Plant, Units 1 and 2) : 09-879-04-COL-BD01

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Thursday, January 5, 2012

The above-entitled matter was convened
telephonically, pursuant to notice, at 2:00 p.m.

BEFORE:

ALEX S. KARLIN Chairman
ANTHONY J. BARATTA Administrative Judge
RANDALL J. CHARBENEAU Administrative Judge

1 APPEARANCES:2 On Behalf of Progress Energy Florida, Inc.:

3 ROBERT B. HAEMER, ESQ.

4 of: Pillsbury Winthrop Shaw Pittman, LLP

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17 GARY HECKER

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On Behalf of the Nuclear Regulatory Commission:

KEVIN ROACH, ESQ.

LAURA GOLDIN, ESQ.

JODY MARTIN, ESQ.

of: Office of the General Counsel

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U.S. Nuclear Regulatory Commission

Washington, D.C. 20555-0001

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ALSO PRESENT:

BRIAN ANDERSON, NRC

SARA CULLER, NRC

MATTHEW FLYNTZ, NRC

JOSHUA KIRSTEIN, NRC

MICHAEL MASNIK, NRC

PAUL SMEAD, Progress Energy Florida

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

(2:04 p.m.)

1
2
3 CHAIRMAN KARLIN: Good afternoon. This is
4 Alex Karlin. I am one of the Judges on the Atomic
5 Safety and Licensing Board of the Nuclear Regulatory
6 Commission.

7 We are convening a prehearing conference
8 call, and I would just like to doublecheck, is the
9 Court Reporter on the line?

10 THE COURT REPORTER: Yes, I am, Your Honor.

11 CHAIRMAN KARLIN: Great. Okay. I believe
12 that all of the parties are on the line, and we will
13 have -- give them an opportunity to introduce
14 themselves in a moment.

15 Just for the record, we would like to
16 reflect that this is in the matter of Progress Energy
17 Florida, Docket Number 52-029-COL and 52-030-COL, and
18 the Atomic Safety and Licensing Board Panel Number 09-
19 879-04-COL, with COL standing for combined license,
20 which is the type of application in this matter.

21 This prehearing conference call is being
22 held pursuant to a notice that we issued -- this Board
23 issued on December 28th of 2011. Today's date is
24 January 5, 2012.

25 And we are conducting this telephonically.

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1 And so we have here in Rockville, Maryland, the ASLBP
2 and NRC headquarters, I'm in the room, Alex Karlin.
3 Dr. Anthony Baratta is here with me. He is another
4 one of the Judges. Josh Kirstein, Matt Flyntz are two
5 lawyers who are working with the Board. And Sara
6 Culler our Administrative Assistant.

7 Telephonically, I believe we have Dr. Randy
8 Charbeneau on the line. Dr. Charbeneau, are you
9 there?

10 JUDGE CHARBENEAU: I'm here and listening.

11 CHAIRMAN KARLIN: Very good. Okay. Now
12 let's just have the parties introduce themselves,
13 please. We will start with the intervenors. Ms.
14 Olson, Mary Olson, please tell us -- confirm you are
15 on the line and tell us who else is on the line with
16 -- as a representative of your three intervenors.

17 MS. OLSON: This is Mary Olson, Nuclear
18 Information and Resource Service on the phone from
19 Asheville, North Carolina. And Gary Hecker from the
20 Ecology Party of Florida is on the line from his
21 location.

22 CHAIRMAN KARLIN: Okay. And, Mr. Hecker,
23 you're there, right?

24 MR. HECKER: Yes, sir, I am.

25 CHAIRMAN KARLIN: Okay. And that's all from

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1 the petitioners. No one from --

2 MS. OLSON: Yes.

3 CHAIRMAN KARLIN: -- the Green Party, for
4 example.

5 MS. OLSON: Not today.

6 CHAIRMAN KARLIN: Okay. Progress Energy?
7 Could, Mr. Haemer, perhaps you introduce the team from
8 Pillsbury and from Progress, please.

9 MR. HAEMER: Certainly, Your Honor. This is
10 Robert Haemer, Pillsbury Winthrop Shaw Pittman, LLP,
11 counsel for the applicant. Also speaking on the line
12 should be Paul Smead from Progress Energy. Paul, are
13 you here?

14 MR. SMEAD: Yes, I'm here.

15 CHAIRMAN KARLIN: Good. All right. Anyone
16 else from Pillsbury or Progress on the line?

17 MR. HAEMER: There is nobody else here in
18 D.C. but me. Paul, I assume you're --

19 MR. SMEAD: I don't believe so, not on the
20 speaker line, Your Honor.

21 CHAIRMAN KARLIN: Okay. And from the staff,
22 Ms. Zabler or Mr. Martin, you're on the line. Could
23 you tell us who from the staff is on the line?

24 MR. ROACH: This is Kevin Roach for the
25 staff, Your Honor. With me in the room I have Safety

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1 Project Manager Brian Anderson, and I have Michael
2 Masnik, who is a senior aquatic biologist. Also on
3 the line for the staff are Jody Martin and Laura
4 Goldin.

5 CHAIRMAN KARLIN: Okay. Thank you. Is
6 there anyone else on the line other than the Court
7 Reporter? Shouldn't be, but worth asking anyway.

8 (No response.)

9 Okay. Let us then commence. As we have
10 done in the past, the logistics of this particular
11 prehearing conference call are that we will have the
12 speaking lines for the litigants, the representatives
13 of the parties, and there is a public listen line,
14 listen in line, so they can hear this, although there
15 is no opportunity to speak. It is just like being in
16 a courtroom where the public can watch it, but they
17 don't do speaking roles. And media may or may not be
18 on that public line as well, I don't know.

19 The purpose of the -- a little background on
20 this call is we had our last -- well, we are having a
21 site visit next week down in Florida, and we issued a
22 site visit order in December, on December 7th. And
23 subsequent to that site visit order, the applicant has
24 filed a clarification with some information that is of
25 value, and the intervenors have filed a motion -- some

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1 clarification on a motion to amplify -- or augment,
2 I'm sorry -- the status conference -- I'm sorry, the
3 site visit.

4 And so the purpose of this call is to talk
5 about the site visit, make sure it runs appropriately.
6 So the sole purpose today is talk about the purpose,
7 protocol, and logistics of the site visit.

8 We are not going to have a generalized
9 status conference on the case. The more general
10 status conference on the case will be next week. On
11 January 12th, we've got a separate status conference,
12 prehearing conference, that will be in person after
13 the afternoon session of the limited appearance
14 statement session down there in Crystal River.

15 So, really, what we just want to try to
16 cover here today is, as I say, issues related to the
17 site visit.

18 Is there anything else from the parties at
19 this point that is urgent or you think you want to add
20 -- you would like to recommend adding to the agenda?

21 (No response.)

22 Okay. Hearing nothing, anything from my
23 colleagues, Judge Baratta or Judge Charbeneau?

24 JUDGE BARATTA: No. This is Judge Baratta.
25 No.

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1 JUDGE CHARBENEAU: Judge Charbeneau. No.

2 CHAIRMAN KARLIN: Okay. All right. We have
3 planned a site visit, and first we want to talk a
4 little bit about the purpose of it. Initially, I want
5 to thank the applicant for making its vehicles and
6 providing the -- its training center available for us
7 to conduct this site visit.

8 We think it will be a useful way for the
9 Board to orient itself as to a lot of the documents of
10 DEIS and the various ER, the other things that have
11 been -- we have been looking at and reading. And we
12 also think the intervenor has made some constructive
13 suggestions with regard to, you know, the site visit
14 and maybe the logistics of how to handle it.

15 Let's just keep in mind -- and one of the
16 things we want to say, I think we said it before, we
17 said it in the site visit order, that the purpose is
18 to orient the Board regarding the contention, the
19 admitted contention of C4(a).

20 The decision we render ultimately on the
21 merits of C4(a) is going to be based on -- and can
22 only be based on -- evidence that is put into the
23 evidentiary record at the hearing.

24 Site visit is not evidence, it's not in the
25 record, and thus this is not a time or place for the

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1 applicant to give us a sales pitch or the intervenor
2 to give us a sales pitch as to what their take is on
3 the situation, nor is it a time for the parties or
4 their experts to ask questions or to argue about
5 things.

6 The only thing that really happens is the
7 Board sees the site, and we ask orientation questions.

8 In the site visit order we tried to specify
9 those locations and items that we wanted to see, and
10 there were 13 items, although I'm not sure they break
11 down quite that easily. And we think that's a good
12 start or good coverage.

13 May I ask at this point, just sort of
14 informational, the attendees? Intervenor, Ms. Olson,
15 can you tell us the names of the three people you
16 expect to have on the site visit?

17 MS. OLSON: Yes. We anticipate -- well, for
18 sure it will be myself and Gary Hecker, and we have
19 every reason to believe that Dr. Sydney Bacchus will
20 be able to join us. But, once again, she is having
21 some challenges in the Health Department. So I am
22 just putting a slight little question mark there.

23 CHAIRMAN KARLIN: Okay.

24 MS. OLSON: If she is not available, we are
25 hoping that we might be able to have a third person,

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1 but that was a question today.

2 CHAIRMAN KARLIN: Well, I think that what we
3 said in the order was we wanted you to give the names
4 to us and to Progress, you know, five days in advance.
5 I'm not even sure what that day is. Maybe it's today,
6 I don't know.

7 MS. OLSON: It's today, I think, and we will
8 endeavor to do that, in which case those are the names
9 I will give.

10 CHAIRMAN KARLIN: Yes, okay. I mean, if
11 there has to be a substitution from Dr. Bacchus to
12 someone else, I don't suspect it will be a big problem
13 for anyone. So, but you ought to let everybody know
14 as soon as possible --

15 MS. OLSON: Okay.

16 CHAIRMAN KARLIN: -- if something like that
17 -- if Bacchus is for some reason not able to attend at
18 the last minute and you want to substitute.

19 You don't have any problem with that, do
20 you, Mr. Haemer?

21 MR. HAEMER: No, there's no security
22 requirements to get onto the site. So we have no
23 constraints.

24 CHAIRMAN KARLIN: Okay, great. Okay. The
25 protocol for the site visit is I think pretty clear.

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1 It's orientation of the Board. And consistent with
2 that purpose, we have limited the attendance. I mean,
3 theoretically, if the Board wanted to orient itself
4 with regard to the site, we could just go out there by
5 ourselves.

6 Presumably, we would have to have the
7 permission of the applicant, and the applicant would
8 have to be with us. That could present a problem for
9 the other parties, because of the potential for
10 inappropriate ex parte communications between the
11 Board members and the applicant.

12 Therefore, with a site visit, we conduct it
13 in a relatively disciplined way and allow the staff
14 and the intervenors the opportunity to accompany us to
15 listen in on the conversations and to make sure that
16 they are assured that no inappropriate ex parte
17 communications occur.

18 That's why when we have this vehicle it's
19 good that you have a six-person vehicle available,
20 because that vehicle will -- what we hope to do, plan
21 to do, is to have the three Judges in that vehicle,
22 one member from the applicant -- that would probably
23 be the guide or the guide leader -- and one member
24 from the intervenor community. So that we have six --
25 I guess that's six -- staff, applicant, intervenor,

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1 and three Judges in that vehicle.

2 Before we go further, I'm sorry, I should
3 have asked -- we know -- we understand what the
4 intervenor is sending. How about the staff? Staff,
5 do you have persons identified?

6 MR. ROACH: Yes, Judge Brown. There will be
7 two NRC staff representatives attending, Jody Martin
8 and me, Kevin Roach.

9 CHAIRMAN KARLIN: Great. Okay. And,
10 applicant, how many people do you expect to have
11 helping us out here?

12 MR. HAEMER: We expect to have two counsel,
13 John O'Neill and myself. We expect to have the
14 driver's guides. That's three personnel familiar with
15 the site.

16 Paul, is somebody else coming, or is that --

17 MR. SMEAD: That's going to be -- those
18 three, which would be Paul Smead, Bob Kitchen, and Amy
19 Dierolf, and we will also have Tim Leljedal with us.
20 So there will be four from the applicant in the three
21 vehicles.

22 MR. HAEMER: If it matters, Your Honor, we
23 will -- we were planning on making three vehicles
24 available, simply because it might be a little crowded
25 in two. And, obviously, if we don't use the third

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1 vehicle, we won't have the third driver.

2 CHAIRMAN KARLIN: Yes. No problem. I think
3 one of the things we are saying, though, is in one of
4 the vehicles we will -- all three Judges will be
5 there, one representative from -- at least one
6 representative from the applicant and the staff and
7 the intervenor.

8 Now, if you -- it only fits six people, then
9 I guess neither Mr. O'Neill nor yourself will be
10 sitting in the vehicle with the three Judges, unless
11 you want to drive.

12 MR. HAEMER: Yes, we understand, Your Honor.
13 No, I certainly don't want to drive. I think it's
14 going to be enough of a challenge for somebody
15 experienced on the site to get around without getting
16 stuck.

17 CHAIRMAN KARLIN: Right, right. Well, okay.
18 Well, I appreciate that. So that's how we will
19 approach it. At each spot, what we hope to do is
20 probably get out. We will all assemble in one little
21 group or something, and we will say, "What are we
22 looking at?" And whatever it is, we will look at it,
23 and then we will move on.

24 The Board may ask a question or two to
25 orient ourselves about what we are looking at, but

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1 that's pretty much it. We are not going to entertain
2 questions from the parties -- the intervenor, the
3 staff -- and the Board is going to try to avoid any
4 side bar discussions on any substantive matter with
5 any party. You know, we don't -- so we will just
6 proceed and look at it.

7 We will meet at the Progress training
8 facility, and we will -- hopefully, you will be able
9 to give us a brief safety and itinerary briefing
10 before we begin. Let me ask this: we have asked in
11 our order for a couple of maps. Will you have those
12 maps available for us?

13 MR. SMEAD: Yes, sir. Everyone who will be
14 going on the tour will have access to an individual
15 map to follow as we go along.

16 CHAIRMAN KARLIN: Okay, great. I mean, we
17 have asked for two specific maps. Will those specific
18 maps also be available?

19 MR. SMEAD: Yes.

20 CHAIRMAN KARLIN: Okay. Great.

21 MR. SMEAD: And in order to address all of
22 the 13 items that you have asked for, we may add a few
23 extra maps to help explain that as we go around the
24 site.

25 CHAIRMAN KARLIN: Sure, sure. That would be

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1 fine. That's great. And I think that covers it.
2 Let's see here.

3 Oh. One of the things we may talk about a
4 little bit here is whether or not we want -- can meet
5 earlier and start a little earlier. Is that a
6 feasible thing, that we -- instead of meeting at a
7 relatively leisurely 9:00 a.m. at the training center,
8 we meet at 8:00 or 8:30?

9 MR. SMEAD: That's fine with Progress
10 Energy, whatever time you prefer, Your Honor.

11 CHAIRMAN KARLIN: Thank you. Okay, good.
12 We might -- might do that. We'll talk about some of
13 the logistics later.

14 Okay. With regard to Progress'
15 clarification, what you filed, that was helpful. You
16 have indicated we may be able to commence earlier.
17 It's feasible for us to do so as far as you are
18 concerned.

19 In terms of a rest break, I mean, I guess we
20 are -- you are contemplating that this may end up --
21 and of course it depends on how much time we take
22 getting in and out of vehicles and stopping around on
23 the facility and taking walks where we want to walk --
24 but this is going to take more than half a day, I
25 guess is what our estimate is.

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1 MR. SMEAD: Yes, sir.

2 CHAIRMAN KARLIN: And, therefore, in terms
3 of a break, you all mentioned, you know, well, you
4 know, there's sort of a rest stop, you know, bathroom
5 facilities, quick snack, a gas station is nearby.
6 That's in -- how far is -- it's in Inglis, the little
7 town there?

8 MR. SMEAD: Yes, sir. It's in Inglis. And
9 we were proposing that because we were proposing to
10 give a tour of the site, and then we wanted to go down
11 to the southern part of the property, which we could
12 go out to the main road to come back down to, and your
13 order indicated you wanted to see the Cross Florida
14 Barge Canal. So we can access that easier from the
15 public roads to the south.

16 And so in order to get there, to the south,
17 we would pass through the intersection of Inglis,
18 which there is a convenience store/gas station that we
19 were going to suggest might be an opportune time if we
20 had been out in the field for a few hours to stop and
21 let people relieve themselves or grab a snack or
22 something like that. That was just our suggestion,
23 but --

24 CHAIRMAN KARLIN: All right. That was
25 useful because, you know, we didn't really know

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1 whether this would take a half a day and we'd be done,
2 or whether it might take a little bit longer, which
3 would probably warrant having some sort of a break
4 somewhere along the line.

5 MS. OLSON: Your Honor?

6 CHAIRMAN KARLIN: Yes.

7 MS. OLSON: I just want to mention that at
8 the north end we also have the --

9 CHAIRMAN KARLIN: Who is speaking?

10 MS. OLSON: I'm sorry. This is Mary Olson.

11 CHAIRMAN KARLIN: Okay. Yes, we are going
12 to get to that in a minute, Ms. Olson. Okay.

13 MS. OLSON: Just on the subject of rest
14 break, that's all.

15 CHAIRMAN KARLIN: Right. No, that's a good
16 point. We're going to get to that in a minute.

17 So does the applicant -- I'm sorry, the
18 applicant -- do you have any other concerns, guidance,
19 or things you want to raise with regard to the site
20 visit, the itinerary for the site visit? Is this
21 going to be -- it's a relatively dry time of year?
22 What kind of conditions can we expect in terms of the
23 -- not just the temperature, you know, how -- in the
24 wetlands, how much water are we going to be walking
25 in?

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1 MR. SMEAD: We don't expect that we will be
2 walking in a lot of water, but I can't predict the
3 rainfall. If we have rain the day before or rain the
4 day of, it certainly could be wet. But normally the
5 areas we will be visiting we shouldn't be traipsing
6 through water.

7 CHAIRMAN KARLIN: Yes. Okay, yes. Good.
8 This is the dry season generally, is that -- would
9 that be correct?

10 MR. SMEAD: Generally, if you can predict
11 Florida weather.

12 (Laughter.)

13 CHAIRMAN KARLIN: Yes, okay. Well, yes.
14 And if we get rain, it will be a less enjoyable outing
15 I suspect, but we will do it anyway.

16 Okay. Let's turn to the logistics of the
17 intervenor's motion. I know, Ms. Olson, you all have
18 asked us to expand the site visit to "include
19 additional sites we believe are vital to
20 understanding" the contention C4. And you have, among
21 other things, talked about the wetlands and cypress
22 areas of the Goethe State Forest, the springs activity
23 on the region of the Cross Florida Barge Canal, the
24 Withlacoochee River, the Big King and Little King
25 Springs, and the flood plain west area near the Tarmac

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1 mine.

2 Now, you all seem to represent in that
3 motion that the NRC and Progress didn't have any
4 objection or concern about that. Is that correct, Ms.
5 Olson?

6 MS. OLSON: What I was basically told by
7 both of them was that this was your visit and they
8 would be okay with whatever you decided, and which I
9 believe is roughly what I said in the certification.

10 CHAIRMAN KARLIN: Okay. Is that basically
11 correct, Mr. Haemer? I mean, if we can accommodate it
12 and it's feasible, you don't have any objections to
13 those --

14 MR. HAEMER: Well, Your Honor, I think when
15 you started off you explained that the basic reason
16 why the parties are along with the Board is because we
17 are visiting Progress-owned property. The areas that
18 the intervenors are adding are not Progress-owned
19 property, and in fact I am -- we are not 100 percent
20 sure who the private owner of the Big King Springs is.
21 But it is not the state and it's not the -- and it's
22 not Progress.

23 So from that standpoint, we don't object to
24 the Board coordinating additional reviews off of the
25 Progress property or the Progress-controlled property.

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1 And, you know, as a service, if we are driving around
2 the area, we are happy to take you, you know, other
3 places that you want to go. That is our position.
4 but we are not in a position to coordinate the visit
5 to the areas that the intervenors have identified.

6 CHAIRMAN KARLIN: Okay. That makes sense I
7 think.

8 Staff, any thoughts you have or concerns?
9 You're amenable to this if it can be worked out? Is
10 that basically what I'm hearing?

11 MR. ROACH: That's correct, Your Honor. We
12 don't have any concerns. We are amenable to the
13 expanded itinerary.

14 CHAIRMAN KARLIN: Okay. Let me ask this.
15 I'm looking at the motion to augment, and on the page
16 -- well, it's not numbered. Ms. Olson, in the future,
17 you need to start numbering your pleadings, because we
18 have had this problem before. But in any event, in
19 the very -- penultimate page, there is a list of four
20 things, one, two, three, four, that are numbered. And
21 then there is a list of three other things.

22 And I'm going to look at them, because one
23 is the proposed -- the following list should not add
24 any additional time, since they are located within the
25 site itself or collocated with features already

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1 identified by the order.

2 I'm quoting, "Intervenors and our expert
3 request that the ASLBP ensure visiting: 1) the
4 proposed barge slip at the CFBC," Cross Florida Barge
5 Canal. Let me ask -- I was assuming we probably would
6 get a look at that. Is that correct, Mr. Haemer? Is
7 that within the scope of what you have already got
8 planned?

9 MR. HAEMER: Yes, within the scope of -- one
10 of the stops we have planned would include a small
11 trek off to the Progress easement onto that land to be
12 able to view those features. If you want to see the
13 actual -- walk on the actual banks, that would be --
14 we could coordinate that with the state. But we were
15 planning on going on our section of easement, and from
16 which you will be able to view that.

17 CHAIRMAN KARLIN: Okay. So we are going to
18 be able to view that. Okay. Thank you.

19 MR. SMEAD: Your Honor, in general, we have
20 -- the state has no problem with us visiting that
21 property at any time, and we can look at -- you know,
22 we will let them know we're coming, but we will
23 certainly --

24 CHAIRMAN KARLIN: Could you identify
25 yourself as well?

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1 MR. SMEAD: I'm sorry. This is Paul Smead
2 with Progress Energy.

3 CHAIRMAN KARLIN: Okay. I thought so. Just
4 for the record I think --

5 MR. SMEAD: We have no problem, you know,
6 showing you the barge slip, especially at the location
7 where we expect to have our facilities.

8 MR. HAEMER: I would just -- I don't mean to
9 disagree with Paul. I just was trying to clarify that
10 our current planning is that we would be on our
11 easement, but we can coordinate other aspects on the
12 state land if you want. But right now we will be
13 viewing it from our easement.

14 CHAIRMAN KARLIN: And that's Mr. Haemer?

15 MR. HAEMER: Yes, sir.

16 CHAIRMAN KARLIN: Okay. I'm sorry. Perhaps
17 I could ask everyone to try to identify themselves
18 when they speak.

19 The second item on that motion, "The
20 locations of each of the bore holes used in the
21 analysis referenced in PEF/NRC presentation to the
22 ACRS Subcommittee on AP1000 on October 18, 2011." And
23 there's more to it than that.

24 Let me ask Mr. Smead or Mr. Haemer -- and
25 please identify yourself -- are we going to see that

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1 in the main itinerary we have already got covered? We
2 did ask to see bore holes. Can we see those bore
3 holes?

4 MR. HAEMER: Your Honor, this is Bob Haemer.
5 The answer is that those are the bore holes in
6 question, and what we are into, then, is a question of
7 how close and personal the Board wants to get to them
8 within the timeframe.

9 Our proposal -- the proposal I made to the
10 Board's clerk on this -- is that the Board had said
11 they wanted to see a sample of the bore holes, and we
12 would pick one that was relatively close to the travel
13 path and show -- you know, and physically go to that
14 bore hole, and then from there, as you travel around
15 the site, you'll be able to see the other areas of the
16 bore holes that were taken.

17 Paul, can you give us sort of an idea -- I
18 mean, these bore holes are taken over several acres of
19 the site, correct?

20 MR. SMEAD: Well, yes. Your Honor, this is
21 Paul Smead. Just to clarify, the figure that was
22 referred to for the ACRS Subcommittee, we will be able
23 to see the location of a lot of those bore holes.

24 But understand, these bore holes have been
25 filled in and grouted, and so they are not necessarily

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1 -- there is not necessarily a monument there to that
2 bore hole, but we will certainly pick out some that
3 are going to be in the area that we are planning to
4 visit anyway and point them out to you while we are
5 out there in our tour.

6 JUDGE BARATTA: This is Judge Baratta here.
7 Mr. Haemer or Mr. Smead, will we be able to see the
8 road or the location of the ones? I don't -- from my
9 point of view, I don't feel it is absolutely necessary
10 to physically walk up to each of them. But will we be
11 able to see their relative location relative to other
12 features on the property?

13 MR. SMEAD: Yes, sir, Judge Baratta. This
14 is Paul Smead. We were planning to provide you pretty
15 much the same figure that was referenced in the motion
16 that was provided to the ACRS. And once we are there,
17 we can point out this is where we are located, and you
18 can see it relative to the other proposed features and
19 structures.

20 JUDGE BARATTA: Okay. Dr. Charbeneau, do
21 you have any questions or -- you want to ask on that,
22 or are you okay?

23 JUDGE CHARBENEAU: No, I'm okay. It sounds
24 like all of these have been grounded in, and so there
25 is no monitoring well present to look at.

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1 MR. SMEAD: No, there are monitoring -- this
2 is Paul Smead with Progress Energy again. We do have
3 monitoring wells, which are capped and are maintained
4 for future monitoring if we need to. The bore holes
5 you are referring to are the geotechnical bore holes
6 that were performed for the geotechnical analysis of
7 the site, and those for the most part are filled in
8 and grouted and identified, but we don't have them
9 marked in the field.

10 JUDGE CHARBENEAU: So there really isn't
11 anything to see.

12 MR. SMEAD: Well, we can point to the ground
13 where the bore hole was made, and note on a map for
14 you where that is.

15 JUDGE CHARBENEAU: That will be fine.

16 CHAIRMAN KARLIN: Okay. So I think the
17 answer to that one is, yes, i.e. we are going to see
18 the locations of the bore holes. We may not see --
19 walk up to every one of them and kick the tires and it
20 may -- but we will see them, and we will see
21 representative samples of them.

22 And then, with regard to number three on the
23 motion by the intervenors, the location of all of the
24 proposed retention ponds, surface water retention
25 ponds, that was certainly our intent, and could you

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1 confirm for us, Mr. Smead or Mr. Haemer, that we will
2 be seeing all of the proposed retention ponds?

3 MR. SMEAD: Yes, sir. This is Paul Smead,
4 and it is our intent to show you the location of all
5 three of the proposed retention ponds.

6 CHAIRMAN KARLIN: Okay. Great. That is
7 helpful.

8 Now, let's talk a little bit about, you
9 know, the Caruth Sheriff's Youth Camp, which I
10 understand will be close, perhaps immediately north of
11 or very close to the site, and there on that youth
12 camp is located the Little King Spring.

13 Ms. Olson, is this -- who runs this youth
14 camp? Is it run by the sheriff's office? Is it a
15 governmental entity or something?

16 MS. OLSON: I believe it is a charity of the
17 sort of statewide sheriffs of Florida.

18 CHAIRMAN KARLIN: Oh, okay.

19 MS. OLSON: It is a public location that we
20 can have access to. But in order to access the
21 spring, one is accessible by vehicle, the second,
22 which is not on their property but they do have
23 authority to take people to it, we would not be
24 trespassing with the company of the camp program
25 director, Ms. Cori Welbes, W-E-L-B-E-S, I have spoken

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1 to.

2 My sense is that that might be a bit of a
3 hike, but we can definitely see the spring that is on
4 their property by driving in. And she is available
5 that entire day. It would be nice for her to know
6 what we thought was an approximate timeframe, but she
7 has marked it off on her calendar should we want to
8 make that visit.

9 CHAIRMAN KARLIN: Okay. From a
10 feasibility/logistics point of view, does -- Mr.
11 Smead, Mr. Haemer, does that -- it looks like that
12 might work as a feasible rest stop after our visit to
13 the tight northern portion, the site itself I should
14 say. Your reactions and thoughts? I mean, you live
15 there, you know the area. Please help us here. Does
16 that work? It seems to work.

17 MR. SMEAD: Your Honor, this is Paul Smead
18 with Progress. We -- you know, if we -- if the Board
19 wants to go there and we can make it a rest stop, that
20 could be a rest stop in lieu of the other.

21 Or we could add them both if you still want
22 to stop at the other place, if someone wants to pick
23 up something. But I would think if there's a restroom
24 facility there that people could use that would make
25 people more comfortable. But we have no problem. It

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1 wouldn't be far to drive up to the -- that location at
2 the Caruth Youth Camp.

3 CHAIRMAN KARLIN: Okay.

4 MS. OLSON: This is Mary Olson, and Ms.
5 Welbes has confirmed that we would have access to
6 bathroom facilities, and she went so far as to offer
7 a meeting room if we wanted to have a bag lunch there,
8 or -- they are very welcoming. They are glad to help
9 in any way they can.

10 CHAIRMAN KARLIN: Great. Okay. Well, let's
11 see if we've got any more questions about it. I think
12 our approach -- we talked about this beforehand, and
13 I think what you have explained to us helps sort of
14 confirm our approach. I mean, our approach is, look,
15 we can't see everything.

16 We are going to have a pretty full day, and
17 we have identified things that are both on the site,
18 technically the site, and off the technical site but
19 a property adjacent to -- immediately adjacent to,
20 owned or controlled essentially by Progress. And so
21 I think that is good.

22 With regard to the motion to augment, I
23 guess we -- our reaction is to grant it in part and
24 deny it in part. We have confirmed that we are going
25 to be seeing anyway the three items listed on the

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1 motion that the -- on the penultimate page. I think
2 we are not going to take a foray into the Goethe State
3 Forest, nor are we going to go off to the west area in
4 the proximity to the Tarmac mine.

5 We are already going to see the Cross
6 Florida Barge Canal area, but we do think it would be
7 useful to have -- see the Little King Springs at the
8 Caruth Sheriff's Youth Camp or whatever, since that is
9 -- would be in connection with a rest stop, both
10 hopefully for lunch and for bathroom break and that
11 sort of thing.

12 So our thought is we will -- we would like
13 to ask the applicant to work with the intervenor and
14 to arrange for the logistics of using the Caruth
15 Sheriff's Youth Camp as a mid-site visit rest stop and
16 lunch break I guess we'd call it.

17 And, you know, everyone should buy their
18 lunches beforehand, bring a brown bag with them in the
19 morning, and, you know, maybe bring a bottle of water
20 or something like that. And, you know, just -- when
21 we get a chance to stop at the youth camp, we will.
22 It may be at 11:00, it may be at 1:30, whatever it
23 works out to be it will work out to be, and we'll have
24 our lunch stuff that way. That's our approach.

25 We want to see the Little Spring -- Little

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1 King Spring, which is actually on the site. We do not
2 want -- and that's accessible, it's easier, it's by
3 car, and we are not going to take a hike to see the
4 Big King one. It's off the technical property. And
5 it may even be hunting season down there, and I don't
6 plan to be wearing a lot of orange, quite frankly. So
7 maybe we'd just better stay on the little -- on the --
8 see the Little King Spring.

9 And, again, please thank the people at the
10 -- and we will thank the Caruth Sheriff's Youth Camp
11 people -- Cori Welbes or whatever. But, again, they
12 are not to give us a sales pitch either. We are just
13 going to go to the place, have our break, go look at
14 the spring, orient ourselves as to -- and then that's
15 it.

16 We don't need -- I'm sure they have
17 educational programs that explain the spring and talk
18 about those sort of things, and we are -- we are not
19 going to sit through or have one of those.

20 MS. OLSON: Yes, Your Honor. I have already
21 conveyed that. I will do so again.

22 CHAIRMAN KARLIN: Great. Okay. I think we
23 have covered everything. Well, let me ask this.
24 We're adding this to the -- this additional stop to
25 the site visit. It may make sense for us to convene

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1 and start this thing a little bit earlier. Do you
2 have any thoughts on that, Mr. Smead?

3 MR. SMEAD: No. I would agree we could
4 start earlier, and that would give us more time. But
5 we are certainly accommodating for that, and we will
6 just begin, at your request, a half hour or an hour
7 earlier.

8 CHAIRMAN KARLIN: How long would it take for
9 us to get from the training center, you know, to the
10 site itself?

11 MR. SMEAD: I would think, depending on
12 traffic, it might be a 25- or 30-minute drive.

13 CHAIRMAN KARLIN: Oh, okay. Okay. Well,
14 that's not too bad then.

15 MR. SMEAD: No, it's not.

16 CHAIRMAN KARLIN: Yes. Why don't we -- we
17 are going to change the timeframe and make it -- let's
18 make it 8:30 at the training center. And everyone
19 needs to be there on time ready to go at 8:30, you
20 know, so be sharp on arrival before that. We will
21 meet. We will then look forward to if you -- are you
22 contemplating a brief safety or, you know, session for
23 us, just to give us the maps, that sort of thing, Mr.
24 Smead?

25 MR. SMEAD: Yes, sir. We do want to have a

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1 brief safety discussion, and then we will hand you out
2 the maps. And if you have any questions about them,
3 we can talk about them quickly. But I think you will
4 be looking at them through the course of the day. So
5 we don't have to spend a lot of time at the beginning
6 on that.

7 CHAIRMAN KARLIN: Right. Okay, yes.

8 JUDGE BARATTA: This is Judge Baratta. Is
9 the training center inside of a secure area or inside
10 of a -- I expect it's not inside the controlled access
11 area. But is it inside the owner controlled area?

12 MR. SMEAD: No, sir. It is actually at our
13 emergency operations facility 10 miles away from the
14 Crystal River plant. So it is not -- I mean, there is
15 security for the building, but it's not in the nuclear
16 security portion for the Crystal River site.

17 JUDGE BARATTA: All right. So we don't have
18 to allot any time to go through any formal security.

19 MR. SMEAD: No, sir. We just have to walk
20 into the conference room where we are going to convene
21 and then back out to the parking lot.

22 JUDGE BARATTA: Okay. That was just a
23 logistical question to make sure.

24 MR. SMEAD: And, again, this is Paul Smead
25 answering your question. Thank you.

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1 JUDGE BARATTA: Thank you.

2 CHAIRMAN KARLIN: Yes, that's good. Okay.
3 Well, why don't we meet there at 8:30 crisply,
4 everyone. We have covered, by virtue of this
5 conference call, some of the stuff we would have
6 probably had to say and talk about at the site visit
7 orientation meeting. So that may shorten our time and
8 allow us to get out on the road quicker to just go on
9 up to the site and start taking a look. And so that's
10 good.

11 Let me just summarize where we are, what
12 we're going to do. We are going to meet at 8:30 at
13 the training center.

14 MR. SMEAD: Your Honor, this is Paul Smead.
15 Let me just clarify for Ms. Olson and others who may
16 not have visited Crystal River before. When we say
17 it's the Crystal River Nuclear Training Center on West
18 Venable Street, that is on the south side of the town
19 of Crystal River. And the Crystal River nuclear plant
20 is on the north side of the town.

21 So don't go to the Crystal River nuclear
22 plant trying to find that facility. West Venable
23 Street is right off of Highway 19, right across from
24 the armory and the airport in south Crystal River.

25 CHAIRMAN KARLIN: Could you send an email

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1 out to the parties and to the Board with the
2 directions? Most importantly, to the parties, so they
3 -- Ms. Olson and the others will have that?

4 MR. SMEAD: Sure. I will coordinate that
5 with Mr. Haemer, but we will be glad to do that.

6 CHAIRMAN KARLIN: Great. Okay. Please do
7 that in the next day or so, so we can all make sure we
8 find the spot promptly.

9 All right. 8:30 we meet there, a short
10 briefing. Everybody bring some water and a bag lunch,
11 snack, whatever. We will have a midpoint break at the
12 Caruth Sheriff's Youth Camp. We will see the Little
13 King Spring while at the youth camp, either before or
14 after we actually have our lunch.

15 We will have a brief lunch there, and then
16 we will continue on to the -- I guess the southern
17 part of the site visit, and then we will return to the
18 training center at the end of the day or the end of
19 the afternoon or whatever, and get in our cars and
20 that sort of thing.

21 MS. OLSON: Your Honor?

22 CHAIRMAN KARLIN: Yes.

23 MS. OLSON: This is Mary Olson.

24 CHAIRMAN KARLIN: Yes.

25 MS. OLSON: I understand that you are making

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1 a decision, but if by some miracle we have time and
2 it's, say, mid-afternoon and we're done, would you
3 want me to reserve the services of the guide for
4 Goethe as a possibility? Just because that is the
5 area that has a lot of the wetlands and cypress growth
6 and other things that are definitely central to our
7 contention. So that's why we put it first as our kind
8 of top priority. I mean, I'm glad we're going to the
9 spring -- don't get me wrong -- but, you know --

10 CHAIRMAN KARLIN: Yes, yes. Answer: no.

11 MS. OLSON: Okay.

12 CHAIRMAN KARLIN: Here is our -- keep in
13 mind, the purpose of the site visit is for orientation
14 of the Board, not evidence. Now --

15 MS. OLSON: Right.

16 CHAIRMAN KARLIN: -- you know, when we get
17 to the evidentiary part of this thing, and we are
18 going to be talking about that next week on the 12th
19 at the prehearing conference, you are going to have
20 the opportunity and the responsibility to put
21 everything you want into evidence.

22 Now, you know, so, I mean, it is possible
23 for you to put in exhibits about Goethe and the -- and
24 maybe photographs of that area, or expert testimony
25 about that area. And so, I mean, if we are not -- we

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1 are just not in a position, even if we had an extra
2 half an hour or an hour, or whatever, to go that far
3 afield at this point.

4 But you certainly are encouraged, if you
5 think it's important, then obviously anything that is
6 important needs to be put into evidence, you know, in
7 terms of photographs, exhibits, maps, data, witness
8 testimony, expert witness testimony, that sort of
9 thing. So please handle it in that way.

10 MS. OLSON: Thank you, Your Honor. I will.

11 CHAIRMAN KARLIN: Okay. And while we're
12 kind of on that, I want to give you all an early
13 heads-up on our prehearing conference next week, what
14 to expect. You know, we have got a number of things
15 happening. We've got the site visit, we've got a
16 limited appearance statement session on the afternoon
17 of the 12th, and one on the evening of the 12th.

18 At the end of the afternoon session of the
19 limited appearance statement session, we are going to
20 take a short break -- five-, 10-minute break -- after
21 everyone who has wanted to speak gets their chance to
22 speak, and hopefully we will have then the time, take
23 a 15-minute break, 10-minute break, come back and have
24 a prehearing conference with the parties.

25 At that point, of course, the public will --

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1 can watch, and they can sit there and watch and
2 listen. But the litigants, the parties, will be the
3 speakers, just like this conference, although this is
4 telephonic. And what we want to talk about is
5 essentially the process and schedule for the filings
6 associated with the evidentiary hearing that is coming
7 up.

8 As we understand it, the staff happily --
9 thank you, you filed your status report today at
10 around 1:30. That was great. I appreciate that,
11 because that was one of our questions. And your
12 status report indicates that the FEIS, the final
13 environmental impact statement, will be -- is expected
14 to be completed in April of 2012. So that is
15 unchanged, that is the way it has been, that's good.
16 The entire schedule is built around that happening,
17 and when that trigger event occurs lots of filings are
18 going to be due.

19 So let me just ask, if I may, the staff --
20 when you say -- I notice your words are, "The FEIS
21 will be completed in April." Does that mean issued?
22 Does that mean "issued" in the sense of the parties
23 will all be seeing it, the intervenors will be seeing
24 it?

25 MR. ROACH: Yes, Your Honor, that is the

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1 plan.

2 CHAIRMAN KARLIN: Okay. And do you have any
3 feel for -- there has been no slippage in that date --
4 I'm happy to hear that -- whether it will be April 1st
5 or April 30th.

6 MR. ROACH: I'm not sure we have a good idea
7 at what point in April at this point.

8 CHAIRMAN KARLIN: Okay.

9 MR. MARTIN: This is Jody Martin, if I can,
10 from the staff. I think from earlier discussions I
11 had it is most likely to be closer to the 30th of
12 April.

13 CHAIRMAN KARLIN: Okay. All right. Well,
14 you know, it is what it is, and it is an important
15 date in the schedule here.

16 Okay. That said, the conference next week,
17 the prehearing conference next week is going to talk
18 about -- we want to talk about with you submissions
19 and presentations that are going to be made as part of
20 the evidentiary hearing.

21 So I would ask you -- and please write this
22 down -- to read and be prepared, after thinking about
23 the following items -- 10 CFR Section 1 -- 1207 --
24 1207. That is the process for schedule and
25 submissions related to the oral evidentiary hearing.

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1 Next, our initial scheduling order of August
2 27, 2009, particularly Section 2H and 2J. This deals
3 with the evidentiary hearing filings.

4 Next, we issued an order on April 7, 2010,
5 dealing with deadlines for dispositive motions. And
6 we issued another order to -- please look at March 17,
7 2011, denying an extension request for dispositive
8 motions.

9 So read those provisions, and anything else
10 you want to, because we are going to be talking about
11 the duties and responsibilities and what the
12 expectations of this Board are with regard to our
13 schedule, because once the FEIS occurs, we are on a
14 crisp, specific schedule to have an evidentiary
15 hearing later in this year.

16 And, you know, we think that schedule has
17 been out there for two years now, and that's our plan,
18 and hopefully you all will study it, make sure you are
19 on -- you are able to accommodate that, follow that.

20 Also, I believe Matt Flyntz, our law clerk,
21 has sent out an email asking you to provide us with
22 "blackout dates" we call them. We are thinking that
23 the evidentiary hearing -- if the FEIS is issued in
24 April of 2012, the evidentiary hearing will be
25 September, October, or November of 2012.

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1 I mean, several years ago, a year or so ago,
2 the -- you, the parties, jointly filed something
3 saying the expectation was October 2012, and I think
4 that may turn out to be true. So send those blackout
5 dates to Matt Flyntz in the next few days, or be
6 prepared to -- be prepared to give them to us next
7 week on the 12th, I'm sorry, and that will help us on
8 the planning, getting down to a little more brass
9 tacks.

10 And, of course, everything is dependent upon
11 the FEIS actually coming out. And who knows? It
12 could come out at a different time.

13 And, finally, I guess we ought to note that
14 there is this separate thing called a mandatory
15 hearing that -- an uncontested hearing, which we are
16 not handling. And if the FEIS is issued, once the
17 FEIS is issued, the Commissioners will hold a
18 mandatory hearing on this COL application, and that
19 may be going on in parallel, likely will be going on
20 in parallel, with the contested hearing that we are
21 going to be conducting.

22 So with that, I think we're done. Anything
23 else from Judge Baratta or Judge Charbeneau?

24 JUDGE BARATTA: This is Judge Baratta. I
25 have nothing else.

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1 JUDGE CHARBENEAU: Neither does Charbeneau.

2 CHAIRMAN KARLIN: Any of the parties have
3 anything else they need to add or question?

4 MR. HAEMER: Your Honor?

5 CHAIRMAN KARLIN: Yes?

6 MR. HAEMER: Your Honor, this is Bob Haemer
7 from Progress. I was just wondering, in addition to
8 talking about preparations and filings to the hearing,
9 are we also going to talk about stipulations and
10 simplification of the pleadings? I know that was an
11 issue that we had left outstanding from your -- from
12 the discussions we had a couple of years ago in
13 preparation for the initial scheduling order. I was
14 wondering if that was on the agenda in terms of what
15 the Board's expectations were in terms of simplifying
16 the pleadings or the stipulation.

17 CHAIRMAN KARLIN: Okay. Yes, I think we
18 will have that. And if you have some ideas on that,
19 we can certainly talk with the parties. If you've got
20 some stipulations, we always come -- try to
21 accommodate that sort of thing.

22 MR. HAEMER: I think the parties have been
23 discussing these things. I think it would help if the
24 Board could explain their expectations with regard to
25 the stipulations. That might help move along the

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1 negotiations on those sorts of points. Otherwise --

2 CHAIRMAN KARLIN: We are encouraging --

3 MR. HAEMER: Yes.

4 CHAIRMAN KARLIN: We will address that next
5 week, but we certainly encourage people to work things
6 out if they can.

7 Finally, I guess I would just say we look
8 forward to going down to the site. We appreciate the
9 applicant making the site available and accommodating
10 the logistics for us, Mr. Haemer and Mr. Smead, and
11 the suggestions made by the -- by you, Ms. Olson, and
12 your team.

13 We look forward to the limited appearance
14 statement sessions from the public.

15 To the extent that it is within your power,
16 I hope you will encourage explaining to the public
17 what the limited appearance statement session is and
18 what it is not.

19 This will be different from perhaps some of
20 the other public hearings or public meetings that the
21 NRC has held in that community where the NRC staff
22 and/or the applicant sometimes give presentations and
23 respond to and answer questions. That is not what
24 happens at a limited appearance statement session.

25 At a limited appearance statement session,

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1 we listen to the public. We are not answering
2 questions. We are not putting on a dog and pony show.
3 And so hopefully if you can help explain that to any
4 of your constituents or members who might be attending
5 that and let them know and help them understand what
6 this -- what the ASLBP is and what this limited
7 appearance statement session is and what it is not, so
8 we have a positive and useful I think session of
9 listening to public comment.

10 And, again, it is not a time or place for
11 the parties to speak. It is a time or place for the
12 members of the public to speak and for us to listen.

13 With that, I think we are going to adjourn.
14 And I look forward to seeing you all at 8:30 on the
15 11th.

16 We stand adjourned. Thank you.

17 (Whereupon, at 2:57 p.m., the proceedings
18 in the foregoing matter were adjourned.)
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CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory
Commission

Proceeding: Pre-Hearing Conference
Progress Energy Florida, Levy Co. Plant

Docket Number: 52-029-COL, 52-030-COL

ASLBP Number: 09-879-04-COL-BD01

Location: (teleconference)

were held as herein appears, and that this is the
original transcript thereof for the file of the
United States Nuclear Regulatory Commission taken
and thereafter reduced to typewriting under my
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