

UNITED STATES NUCLEAR REGULATORY COMMISSION

BRIEFING ON EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAMS

+ + + + +

THURSDAY

JULY 27, 2006

1:30 pm – 3:00 pm

+ + + + +

The Commission convened at 1:30 p.m., Dale E. Klein, Chairman, presiding.

NUCLEAR REGULATORY COMMISSION:

DALE E. KLEIN, CHAIRMAN

EDWARD MCGAFFIGAN, JR., COMMISSIONER

JEFFREY S. MERRIFIELD, COMMISSIONER

GREGORY B. JACZKO, COMMISSIONER

PETER B. LYONS, COMMISSIONER

PRESENT:

LUIS A. REYES, EDO

1

JAMES F. MCDERMOTT, HR

2

CORENTHIS B. KELLEY, DIRECTOR, SBCR

3

P-R-0-C-E-E-D-I-N-G-S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CHAIRMAN KLEIN: Good afternoon. It is afternoon. Time is moving fast today, it seems like.

The Commission meeting this afternoon will be to discuss our challenges, progress, and status of the agency's Equal Employment Opportunity Program. I will probably refer to this as the Equal Opportunity Employment, rather than EEO. So forgive me for that.

The NRC staff briefs the Commission semiannually on this subject, as required by Section 209(C) of the Energy Reauthorization Act. The last meeting was held on November 30, 2005.

This is my first official brief as Chairman, so it is a pleasure to be here to learn about your programs, although I have been briefed previously on some of your programs, and I've been impressed with what I've heard so far.

I'm certainly familiar with EEO programs, both at the Department of Defense and the University of Texas, being a state institution. I think ensuring equal opportunity employment is really a program of national importance for us, and certainly for the NRC it is of critical importance as we look at our hiring practices over the upcoming years, with our increasing workload.

And as I had stated during our diversity activities, I think it is important that the NRC have a workforce that is reflective of our population, which is diverse.

Our briefing today will cover our general trends and accomplishments in providing equal opportunities in the agency. We will not

1 discuss nor would it be appropriate to discuss any specific concerns about any
2 pending cases that might be before the agency. At this time, I'll see if my
3 colleagues have any comments.

4 (No response.)

5 CHAIRMAN KLEIN: With that, I'll –

6 COMMISSIONER JACZKO: Mr. Chairman, if I could just make a
7 brief comment. I just want to say, I had the opportunity to go to the Diversity Day
8 program. I know that is something that we organize every year. One of the things
9 that is – and I'll perhaps talk about this a little bit later. But one of the things that I
10 was somewhat disappointed in was the participation of the rest of the agency.

11 I think, as the Office of Small Business Civil Rights puts a lot of
12 effort into organizing that, and I think it is a good opportunity for us as an agency
13 to get together and celebrate diversity. I do hope that certainly in the future, we
14 will really make an effort to make sure that we have a much larger participation on
15 the part of the staff because I do think it is a nice opportunity to take a little break
16 from the normal workload, and I certainly encourage in the future that we continue
17 to do that, and I look forward to hearing the rest of the presentation today.

18 CHAIRMAN KLEIN: Thank you. With that, I'll turn it over to Luis
19 Reyes, the EDO.

20 MR. REYES: Good afternoon, Chairman and Commissioners. It is,
21 indeed, my pleasure to brief the Commission along with my colleagues on the
22 agency's equal employment opportunity activities.

23 We briefed the Commission last in November of '05, and you may

1 realize that through the fiscal year, we do what is supposed to be a short brief.
2 Well, we have a wealth of activity to discuss today, so we are going to try to
3 summarize it in the time we have allotted. But we do have a lot of good news to
4 report today.

5 Can I have Viewgraph number 1, please? Three topics we are
6 going to concentrate on. The first one is regarding the agency growth, our
7 recruitment efforts, and how those reflect our equal employment opportunity
8 activities.

9 The second one is institutionalizing the Comprehensive Diversity
10 Management Plan, and we call that CDMP for short. That is a business strategy
11 on how to use diversity as a business strategy to improve the effectiveness and
12 efficiency of the agency. The last item we want to talk about is the recognition the
13 agency received regarding its small business activities.

14 With that, I'm going to introduce Ren Kelley. She is the office
15 director of the Office of Small Business and Civil Rights, and she is going to do
16 the bulk of the presentation.

17 MS. KELLEY: Thank you very much, Luis. Chairman and
18 Commissioners, good afternoon. During today's briefing, we will be providing
19 status update information under the topics that Luis mentioned: implementation of
20 the Comprehensive Diversity Management Plan, giving information on the
21 agency's leadership development programs, its recruitment and outreach
22 activities, its civil rights complaints activity and small business activity.

23 May I have slide 2. The next slide, please. With regard to the

1 implementation of the Comprehensive Diversity Management Plan, we convened
2 a work group that was a diverse group at different levels, including members from
3 across different offices and regions. And that group developed a set of draft
4 measures. We vetted those measures with the offices, and we incorporated the
5 office comments into that draft document, which is now with the EDO for
6 approval. And we recognize that at the last meeting, the Commission indicated
7 that it wanted to have an opportunity to see those before they are finalized, and
8 we are certainly planning to do that.

9 Next slide, please. This next series of slides provides information
10 on the agency's primary leadership development programs. These programs
11 serve to position employees to move into senior positions, be they supervisory
12 positions or into the SES. May I have the next slide, please.

13 The SES candidate development program: This slide provides
14 information on the makeup and the applicant pool of the 2006 class. That class is
15 underway now. There were 25 individuals selected for that class, and with that
16 particular class, you can see that it is diverse. We had a diverse applicant pool for
17 that class as well, to some extent. And I wanted to also highlight that the 2005
18 class was also diverse. And right now, two African-Americans and nine
19 Caucasian men remain to be placed out of the 2005 class.

20 Next slide, please. Regarding the leadership development program,
21 this is a program that enables employees to broaden their experience and
22 background in preparation for receiving supervisory positions. Here again, we did
23 have a diverse applicant pool and a diverse number of individuals selected for the

1 last class. And there are four individuals remaining to be placed out of the 2004
2 class. We can see the breakdown of who those -- the group that those individuals
3 are in.

4 The Team Leader Development Program is somewhat new for the
5 agency, and it was put in place to kind of answer what was somewhat of a
6 challenge because the -- residents and team leaders were not eligible to
7 participate in the leadership potential program. So this is a way of providing a
8 vehicle for these individuals to have a developmental opportunity and move up
9 the line.

10 So with this first class, you can see this slide provides the diversity
11 of that group. I'm on slide 6, please. Would you show slide 6. Thank you. There
12 are 53 individuals in that class, and that group is also diverse. Even though we
13 don't show a slide for it -- the agency does not have a developmental program --
14 there is a parallel track for individuals who are less interested in being supervisors
15 or managers but are interested in moving up the ladder. The agency does have
16 senior level service opportunities. And certainly the on-the-job training and
17 rotational opportunities are ways for employees to broaden their base and make
18 themselves more competitive for those positions as well.

19 The next slide, please. One thing that I will say here is that we have
20 put in place a lot of energy -- the agency has -- in terms of its recruitment
21 initiatives. And at the onset of this series of slides, I would just like to say that the
22 agency has had a lot of successes as a result of the efforts that have been
23 implemented by lots of people across the agency, be they the program offices,

1 the Office Of Human Resources, and others that certainly make this possible.

2 And I'm going to give some information on some of the vehicles that the agency
3 has implemented and is using in order to facilitate that.

4 With the passing of the Energy Policy Act, NRC obtained authority
5 that it did not previously have that enable us to increase our chances of attracting
6 new recruits and, in a lot of other cases, in terms of maintaining the staff that we
7 have on board.

8 One thing that I will mention is that in my office, we previously had
9 an HBCU program prior to the Energy Policy Act being put in place. At one time,
10 that program was a grants program, research in the science and technology
11 fields. And we have taken a look at that post the Energy Policy Act. We have
12 broadened that to include HSI, which is the Hispanic Serving Institutions
13 programs, and our Tribal Colleges and Universities Program, and we continue to
14 have the Historically Black Colleges and Universities Program.

15 One of the differences in what we are presently doing verses what
16 we had been doing is to make that program a vehicle that supports the agency's
17 overall recruitment efforts. We are putting that program in place. We will track
18 the individuals who participate in that program and make sure that they are aware
19 that the funds that they receive come from the Nuclear Regulatory Commission.
20 And we will use -- as you see here it, the agency has a University Champions
21 Program. We will make sure that University Champions across the agency know
22 who the recipients are at the various colleges and universities that receive NRC
23 funds so that we can keep in touch with those individuals and make sure that they

1 are familiar with us and that they consider NRC as a place to work when they look
2 for permanent employment.

3 In terms of recruitment tools, the Office Of Human Resources has a
4 very broad tool kit of programs, strategies, and initiatives to assist in the agency's
5 recruitment efforts. I will touch on some of those: the Pension Offset Waiver
6 Program, the Referral Program, which is an opportunity for employees to identify
7 other potential employees, and to get money for doing that. Somewhat of a
8 headhunter program, you might say.

9 As a part of the co-op program, the agency can pay for the last year
10 of education for college students. There are a number of different initiatives that
11 the agency has put in place, and these are helping us to meet our goals for
12 recruitment. The MSIP, the Minority Serving Institutions Program, is only a part of
13 that. But it is certainly a viable part. And we're continuing to build and look at that
14 and see how we can use fully the opportunities that we have under the Energy
15 Policy Act.

16 Next slide, please. I guess the most important part of data point on
17 this slide is that as of June 30, 2006, the agency had on board 212 new hires.
18 That's a remarkable accomplishment, but if you look at that in conjunction with the
19 next slide, you can see that our overall hiring activity goes beyond 400 employees
20 or selectees, because the next slide shows individuals who are in the pipeline
21 somewhere. They are not on board yet. But if you add the two numbers together,
22 we are in excess of 400 employees or selectees for 2006.

23 The agency has attracted a diverse group of people among those

1 who have come on board and are in the pipeline to come on board for 2006. And
2 I will emphasize that with this vigilant effort, the agency has continued to maintain
3 its policy to select the best and brightest, to select the best qualified person for
4 the job, and not yield to any non-merit factor in terms of making the selections.

5 The next slide, please. The No Fear Act, which was signed by the
6 President in 2002, required Federal agencies to do a number of things, and we
7 have been complying with that Act. For instance, it required that the agency train
8 all employees, post statistical data on the website, conduct trend analyses, and
9 report a number of statistical information to Congress.

10 Regarding our reporting information to Congress, we have not
11 issued our first report to Congress yet because the Office of Personnel
12 Management's implementing guidance and direction in terms of how agencies
13 should do this has not been issued, and we are awaiting that guidance before we
14 issue our first report. But we are working on the components of that report as I
15 speak.

16 Next slide please.

17 COMMISSIONER MERRIFIELD: For the sake of clarity, do you
18 otherwise believe we are in compliance with the law at this time? Even though we
19 haven't done the report, do you believe we are in compliance?

20 MS. KELLEY: Yes. We are in compliance with the requirements of
21 the Act, yes. As part of that, I guess one of the data points on that,
22 Commissioner Merrifield, is that in terms of training NRC employees, 2006 was
23 the first time that we did that. And we used an online document or instrument to

1 do that.

2 As of June 30, 99 percent of NRC employees have been trained.

3 We do post the statistical information on the web quarterly, and we have
4 conducted trend analysis information as a part of the requirement under the
5 EEOC's Management Directive 715, which requires us to do analysis across the
6 agency. So we have used that and other vehicles in order to meet the
7 requirements of that Act.

8 There are some additional things that we will do regarding 715.
9 That particular requirement from the Equal Employment Opportunity Commission
10 states that we should look at -- my office should look at regional offices to do
11 somewhat of a review and assessment, and that is something we have planned to
12 implement this year.

13 The next series of slides on the agency's complaint activity -- I
14 believe we've got five of them -- provide an overall statistical summary on the civil
15 rights complaint activity, and I will provide key messages that we see from this
16 series of slides.

17 The Civil Rights Program remains very active at both the formal and
18 informal stages. And we continue to receive a high volume of contacts from
19 managers and staff alike concerning personnel issues in the workplace. Even
20 though it is not captured in either the informal or the formal complaint activity, it
21 requires quite a bit of staff effort to be available to managers and staff in order to
22 respond to these issues. But we believe that it's well worth the investment of
23 time, and we continue to do it. But we believe that it's probably one of the best

1 ways to try to address these issues because it allows us to tackle them early and
2 maybe, in some cases, just from talking with managers and staff, we have been
3 able to try to resolve the matters early in the process before we got a complaint
4 that came into the formal or informal process. So I just wanted to note that.

5 During fiscal year 2006, we have seen somewhat of an increase in
6 our formal and our informal complaint activity. Go to slide 12, please. In terms of
7 possible reasons for that, we believe that, overall, as the agency grows, you can
8 expect some increase in complaint activity. However, we believe there are some
9 other things that may also contribute to that increase.

10 Through the training, employees across the agency have increased
11 awareness of their rights and responsibilities under EEO laws, and the agency
12 has called for more realistic performance appraisals, and we have seen some
13 activity in the performance appraisal area, and we've had an increase in the
14 number of complaints that we've gotten from applicants. That's probably because
15 of the enormous hiring activity that the agency has had underway.

16 We have presently three formal complaints that exceed the 180-day
17 time line that EEOC recommends for processing complaints, but we remain very
18 vigilant to improve the timeliness of complaints processing. Though we have
19 these three cases, in terms of – in the Equal Employment Opportunity
20 Commission's most recent annual report, they did give statistics, and NRC's
21 average complaint processing time was lower than the average for the Federal
22 Government overall.

23 Another important data point is that if you look at our participation in

1 the alternative dispute resolution process, both for the formal and informal
2 complaint activity, we tend to be low in our usage of ADR. And this point was
3 made by the Equal Employment Opportunity in its annual report to us. And we
4 are looking at this. We have made that information known to office directors,
5 regional administrators, and we have asked them to help us encourage
6 managers, and supervisors, and employees to avail themselves to the ADR
7 program as a way to resolve workplace conflicts.

8 And I will note that this is the Equal Employment Opportunity
9 Commission's preferred way of resolving complaints. So we want to take full
10 advantage of that. And we believe there are some additional things that we can
11 do in order to make this program more known across the agency and encourage
12 its use further. So we are looking at those as well.

13 The next slide, slide 13, provides information on complaints by
14 basis. And complaints may be filed in eight basis: race, color, gender, age,
15 religion, national origins, physical or mental disability, and reprisal. The most
16 frequent basis for those complaints that we have processed this year tend to be
17 race, age, reprisal and gender.

18 The next slide, please. Complaints are also filed based on stated
19 issues. The most frequent include nonsexual harassment, promotion or non-
20 selection, assignment of duties, performance evaluations, and training.
21 Performance of duties: maybe an employee may feel that I'm carrying more than
22 my fair share. What you're requiring me to do exceeds what you pay me for, and
23 they believe that maybe managers have placed on them responsibilities that they

1 do not believe fall within the purview of their job.

2 There is an increase in issues related to nonsexual harassment, and
3 the assignment of duties, and performance evaluations. The new pending
4 anti-harassment policy statement is designed to prevent and eliminate harassing
5 conduct in the workplace, advise employees of their rights and responsibilities,
6 provide procedures for reporting incidents at the earliest stages, and provide a
7 statement in the final processing stage.

8 This particular anti-harassment policy is being processed. It is in the
9 final stages of being processed and should be out relatively soon. I will not
10 commit to a particular date.

11 COMMISSIONER MERRIFIELD: Let me ask a clarifying question,
12 because I'm a little confused. On slide 14, Complaint Trends By Most Frequent
13 Issues, for 2006, those add up to 35. For the previous slide, Complaint Trends By
14 Most Frequent Basis, those filed in 2006 add up to 21

15 MS. KELLEY: Okay.

16 COMMISSIONER MERRIFIELD: On the previous slide 11, complaint
17 processing, it says initiated 20. I don't understand. Can you clarify how those
18 numbers come together?

19 MS. KELLEY: A single complainant can bring multiple issues. And
20 so it's not a one-to-one in terms of the basis and the issues that are brought forth.
21 You can have multiple basis under a single complaint and multiple issues raised by
22 a single complainant. So the numbers would not foot in terms of adding them up.

23 COMMISSIONER MERRIFIELD: So the problem you get into is that

1 by subdividing it by this, to a certain extent, there is some degree of double
2 counting. I don't mean that in a pejorative way, but the number of initiated
3 complaints we have is 20, but a single individual may have three different reasons
4 for filing that.

5 MS. KELLEY: Exactly.

6 COMMISSIONER MERRIFIELD: I was discriminated against
7 because it was a promotion based on my gender and based on my race.

8 MS. KELLEY: And it's common to have that.

9 COMMISSIONER MERRIFIELD: That was not clear on its face.

10 Thank you.

11 MS. KELLEY: I think we are at slide 15, please. For slide 15, I would
12 just like to point out that the single largest group of individuals filing complaints
13 happen to be the Caucasians, but I want to note that this does not indicate that the
14 basis for these complaints was race. The basis could have been selection,
15 harassment -- anything other than race. And race did not tend to necessarily stand
16 out inordinately among those in that group.

17 Slide 16, please. Slide 16 shows very much a success story for the
18 agency as well. The shaded areas show the goals that the agency met versus the
19 goals that are set. Mutually agreeable between the agency and the Small Business
20 Administration, we have done well. However, as you do well, your goal tends to go
21 up. So with the agency having a lot of additional contracting activity over the next
22 few years, we will have to remain very vigilant in order to continue to have this level
23 of success.

1 Another thing that I would like to note is that in the last two categories,
2 the HUB Zone and service disabled, we have been challenged as an agency to
3 meet those, but we not at zero in this service disabled veteran owned category any
4 more, and we have issued at least two contracts in that area. It certainly does
5 improve our percentage. We continue to try to work to get those types of contracts,
6 as well as the others. But overall, the agency does very well in terms of placing
7 contracting activity with small businesses.

8 Also, during 2006, the agency was the recipient of the Small Business
9 Award in this area. And that award was given to three agencies across the Federal
10 Government, NRC being one, the State Department was another, and the Housing
11 and Urban Development was the third. And as a part of that effort, we did
12 celebrate here on campus to recognize the offices that really contributed to that.
13 And, essentially, all offices did, and we did provide some token of appreciation to
14 let the offices know that this is important, including the Commission offices. You
15 did very well, and I compliment your efforts as well. Thank you.

16 The next slide, please. I pretty much have given you the activity. The
17 additional thing I will note from slide 17 is that we have used procurement fairs on
18 campus to help pair contractors with program offices that have the needs. That has
19 served us well, and we have had some successes in terms of, after having a
20 procurement fair, we have had some instances where it has resulted in contracts
21 being let.

22 I think that we will continue to do that. Sometimes we focus on a
23 particular area, and other times we hold it broad and general. We also participate

1 in procurement fairs that are held outside of NRC, and those have proven to be
2 very helpful to us as well in terms of identifying contractors who can do work for
3 NRC. We give special emphasis to contractors that can do technical work. That is
4 an area where at one time we were somewhat challenged, and the program offices
5 at one time were a little bit reluctant to give that type work to a small business.

6 We have had some successes in that area, and we believe it has
7 caused everyone to recognize that small businesses can do technical work. But we
8 continue to try to provide a real competent list of contractors to program offices for
9 their consideration in their program support efforts.

10 The agency has been, as Luis mentioned, we have been very busy.
11 We have been doing a lot of thing. We have been implementing new programs
12 and taken part in the agency's hiring efforts. We have been successful in hiring a
13 diverse group of individuals for the agency in trying to, as Chairman Klein said, for
14 the agency to reflect the nation and its diversity.

15 We believe that there's another dimension to that; that to the extent
16 that the agency has a diverse group of people centered around its mission, you are
17 more apt to cover the bases and be able to see the entire picture around issues, in
18 your problem-solving issues.

19 So one of the messages in the Comprehensive Diversity Management
20 Plan is for the agency to continue to build a positive work environment where all
21 employees can use their diverse talents to meet the agency's mission.

22 I believe that we have made progress in that. We still have work do,
23 but we will continue to be very engaged in all of the areas. And I would like to

1 compliment the Office Of Human Resources, and the Office of General Counsel,
2 and all the offices that worked with us to make this possible for the agency.

3 I will emphasize again that though we attempt to meet the goals that
4 are identified in the Comprehensive Diversity Management Plan, the agency does
5 not do that without giving full consideration to merit selection principles. And we
6 believe that if we do a good job of looking at expanding the diversity of the applicant
7 pool, which increases the chances that we will have a diverse best-qualified list, we
8 don't have to bend the rules or do anything that's untoward in order to have a
9 diverse workforce.

10 So I believe that that is something that I wanted to emphasize. And I
11 very much thank you for the opportunities – I'm sorry. Before I go to that, there is
12 one other point. And I thank the Commission for supporting us in our efforts to
13 carry out our mission as an office.

14 We are a small office, and I know that a lot of times, resources are
15 very tight. I thank the Commission for providing additional resources to us in 2007.
16 And I appreciate whatever support you can give us in the future. I thank you very
17 much for the opportunity to present to you today.

18 MR. REYES: Mr. Chairman and Commissioners, that completes our
19 prepared remarks. We are now available for questions.

20 CHAIRMAN KLEIN: I am impressed by your program. You've done a
21 good job, and I'm sure during our consultations on the FY '08 budget, we will keep
22 those factors in mind.

23 One thing I would just like to comment on is, during my confirmation

1 hearings, there was a lot of concern about the workforce and being able to hire the
2 number of people. I think you have done a great job of balancing not only of the
3 hires, but balancing those hires to reflect the diversity. Now if Jim would just make
4 sure they have office space for every one –

5 (Laughter.)

6 CHAIRMAN KLEIN: Normally at this time, it is my understanding that
7 we have a presentation by NTEU. It is my understanding that they will not be
8 making a presentation today, at their choice. So we will move on with the
9 questioning. Commissioner McGaffigan, would you start?

10 COMMISSIONER MCGAFFIGAN: Thank you, Mr. Chairman. I
11 apologize for the cell phone going off. I thought I had it on vibrate. I needed to
12 take that call.

13 A couple of items. First, I want to associate myself with
14 Commissioner Jaczko's comments. I would have been involved in the Diversity
15 Day activities but for a medical issue that I needed to deal with. I think it's very
16 important.

17 I happen to be a white male Caucasian, but I grew up in Boston. I'm
18 the son of an Irish immigrant. "Irish need not apply" signs were out in my father's,
19 mother's, and grandfather's memory. We are a diverse group of folks, and even
20 white males encounter discrimination or hear tales of it. I have not personally
21 encountered discrimination, but I have heard tales very close to me. So it's in our
22 blood, even if we look like a bunch of white males from this side of the table.

23 The issue of knowledge -- I'm going to divert a little bit. Let me

1 commend you on getting above zero on veteran's small business. You've gotten
2 questions from me in the past about that. Because of extraordinary advances in
3 medical technology, we are going to have a large number of people that would
4 have died in previous conflicts who are surviving this conflict and coming home.
5 Hopefully, they are going to be forming small businesses -- some of them -- and I
6 want to some day see this agency in the forefront of giving them opportunities.

7 We just today received a paper, an overdue paper, from the EDO on
8 NRC's knowledge management program, SECY-06-0164. This is a widely
9 attended meeting. I would encourage a lot of staff -- I have only had a chance to
10 glance at it, it came in, according to the date stamp on the back here, it's dated
11 Tuesday, but we received it at 9:10 a.m., when we were engaged in another
12 meeting this morning.

13 It is an important paper. I'm going to get to a question. I don't always
14 do soliloquies. When Mr. Reyes was last before us talking about this program, he
15 talked about the difficulty getting the offices onto the same chapter of knowledge
16 management, let along the same page.

17 Could you update us -- given this paper has come in and given how
18 critical it is to our ability to perform going forward, can you report today that you
19 think the offices are on the same chapter?

20 MR. REYES: Much improvement since last we talked on this topic, but
21 we are not stopping there. We are now going across offices in terms of the
22 initiatives. It's a campus-wide type of activity.

23 You probably are aware that Dr. David DeLong, who is the author of

1 the book that we use as a reference in our senior manager's meeting -- and the
2 Commission received a copy of that. We have contracted him as a facilitator to
3 work with some of the offices in the groups. There's going to be interoffice groups,
4 so much better news to report. I know the paper was late, but we wanted to have
5 quality. There were some issues that we needed to get everybody together.

6 COMMISSIONER MCGAFFIGAN: I think having Dr. DeLong on board
7 is terribly important because -- I thought the most powerful part of that book -- and
8 we should get a copy for the new Chairman, if you haven't already given it to him.
9 We all got it in January, and several of us used it for bedtime reading. It was the
10 stories he told. It's the anecdotes he tells in there about undocumented processes
11 that, oh, gosh, yeah, that's may be what the book says, but I've been doing it this
12 other way for years, and that's why it works. And yeah, I didn't bother to document
13 that.

14 It's those powerful anecdotes that we have to have in our bones
15 around here if we are going to succeed going forward. So you have made news
16 today by saying you've got Dr. DeLong on your side.

17 MR. REYES: Yes. In fact, we are getting unwarranted or maybe
18 uncalled for advertisement because he's worked with us so much. Now at his
19 lectures, he uses us as an example.

20 (Laughter.)

21 MR. REYES: No, it is a good example in that he has used the
22 challenge that we have in front of us, which is a real challenge, with a very
23 experienced workforce that will be moving on in the not-too-distant future,

1 combined with unprecedented growth in terms of the demand for our services. And
2 that is the ultimate challenge for somebody who is in this situation. He has used us
3 in terms of the kinds of things that we are doing to deal with the challenges. So we
4 are still using him, and we still have work to do, and we'll report this in the future,
5 but much progress since last we talked.

6 COMMISSIONER MCGAFFIGAN: Let me ask a second question on
7 the same. The other big area that you have been working on -- and I know you
8 have been a champion yourself, Mr. Reyes, and within the staff -- is the corrective
9 action lessons learned program. I think of it as NRC's corrective action program,
10 but also it's going to have a big learning.

11 It documents where we messed up, what we did to fix it, and how we
12 going to try to keep from messing up in that area again. And so the correct
13 -- when I glanced at the paper -- obviously, I have not mastered the knowledge
14 management paper, but do you see the two initiatives connected? And how are you
15 going to connect the two initiatives?

16 MR. REYES: Definitely, the answer is yes. We have a Commission
17 meeting scheduled in the fall to just talk about that topic. But since you gave me
18 the opportunity. The key thing on the agency-wide lessons learned is that there's
19 also effectiveness reviews.

20 So if we did not transfer the knowledge effectively, then there is a
21 mechanism to feed back through the knowledge transfer and say, okay, we didn't
22 succeed, and for whatever reason in transferring this knowledge, it is not shown in
23 the results. Let's go back, retrace what we did, and see what we have to modify.

1 So there is a connection at the hip on the two efforts.

2 COMMISSIONER MCGAFFIGAN: Obviously Senators Domenici and
3 Bingaman come from a State which is minority majority. Hispanics and Indians are
4 greater than 50 percent of the New Mexico population, which may be why, on
5 EPAct, we got this broadening of our minority programs to include Hispanic serving
6 institutions and tribal colleges. I think there might be a correlation there.

7 I hope that we aggressively use that. I think the place where we still
8 fall down on our statistics among Hispanics, with the EDO being a glaring exception
9 -- but we need to continue to work aggressively in places like Texas, New Mexico,
10 and large parts of the -- former Chairman Diaz would kill me if I didn't mention
11 Florida. But there are a lot of places in this country where we have to compete for
12 young Hispanics and mid-career Hispanics to diversify this place. I'll leave it at that,
13 Mr. Chairman.

14 CHAIRMAN KLEIN: Thank you. Commission Merrifield?

15 COMMISSIONER MERRIFIELD: Thank you very much, Mr.
16 Chairman. I would agree with my two fellow Commissioners. I hope we can
17 increase our participation at the program next year in terms of diversity. I could not
18 go because of a personal family matter that called my attention that morning. But I
19 certainly agree with the overall result of the two of them.

20 I always note Commissioner McGaffigan's comments and the pride,
21 as he should have, in his Irish ancestry. I've got more flavors than Heinz has
22 ketchup. But my birthright is the same as everyone else in this room. My gender
23 and race were completely out of my control, but what we do have within our control

1 is the ability to try to create an environment here at the agency that allows all of our
2 employees to succeed to the highest of their levels. And I think that is certainly the
3 dedication that we certainly try to focus on in these particular meetings. Blame me
4 for being a lawyer. I did have control over that.

5 In terms of -- you talked about on slide 12, we aren't quite where EEO
6 would like to have us on alternative dispute resolution, and as the Commission's
7 champion on alternative dispute resolution, I would have to add my concurrence to
8 that. What is the action plan that we have in order to try to get us on the right side
9 of the EEOC relative to ADR?

10 MS. KELLEY: Well, we've done some things already. We sent out
11 an e-mail to all office directors, regional administrators, to inform them of this data
12 point and to ask their help in encouraging their managers and staff to use ADR.

13 We are going to talk about this at future management retreats, and
14 we are looking at ways to market this particular option to managers and staff across
15 the agency. We think we need to raise awareness. One suggestion was to do a
16 seminar and bring in the experts in terms of helping us understand better, in a
17 broader sense, the benefits of using ADR versus the conventional approach to
18 complaint processing.

19 COMMISSIONER MERRIFIELD: Does EEOC have any explanatory
20 materials or things that they use to encourage folks to use ADR? Have we looked
21 at -- have you asked them for suggestions about how we might improve that
22 program?

23 MS. KELLEY: In terms of that specifically, we have not. But we will

1 and we can ask EEOC and other agencies alike. One of the things that I plan to do
2 is to look at those agencies that have a very high success rate in this area and
3 learn from them. And the report recently came out, and we will get that information
4 and use it in order to get insights from other agencies.

5 COMMISSIONER MERRIFIELD: Just so that Jim McDermott is – to
6 make sure that he is not mute in this presentation: you have in the back – in some
7 of the backup slides, you have a program for University Champions. I note the
8 University of Texas is not one of those, and there may be a champion sitting to my
9 right.

10 (Laughter.)

11 CHAIRMAN KLEIN: I think we can correct that.

12 COMMISSIONER MERRIFIELD: I have a particular institution I have
13 a kind eye on as well. But I'm wondering how we selected those and what the
14 focus of the folks on that list is in terms of actually being champions and how we
15 expect that to actually engender the increased attention at these programs?

16 MR. MCDERMOTT: I would say the selection was the result of – I'm
17 looking for a word -- positive -- encouraged volunteerism to link the right people with
18 the right schools. Obviously, first they're an alumnus who knows people, or alumni
19 who knows people at the school. What they do is -- if I had one word, I would say
20 outreach, outreach, outreach. It is to establish ongoing relationships with the right
21 people at the university. How would that manifest itself? Appearing there
22 occasionally to do a seminar or a range of seminar presentations to the
23 departments that we're very interested in.

1 Every time I go on out on campus, the market for that is high. People
2 say please, have somebody back, come talk to my class, this and that. When
3 you've done that, you know well how –

4 COMMISSIONER MERRIFIELD: I've given five lectures at Tufts this
5 past year –

6 COMMISSIONER MCGAFFIGAN: You wanted to be on the list?

7 COMMISSIONER MERRIFIELD: I didn't get asked but I would be
8 happy to volunteer.

9 MR. MCDERMOTT: It is a work in progress. We had a session with
10 the University Champions just the other day, saying, I'm trying to get feedback from
11 them, what do you guys think would work in doing this? But the first product is
12 simply engagement, getting us up on the university's screen and keeping us there.

13 MR. REYES: Let me supplement that. If you rewind the tape, we
14 several years ago were measuring our success on how many trips, recruitment
15 trips, we made, not on the outcomes. Then what we did is, we did an analysis and
16 said, where are the places where we get the most results from? And then we
17 trimmed down the list. And then the second dimension was -- what led to this
18 program is that we need to get what I'll call a partnership with the university. They
19 know who we are, what we do. We hire their products, they ask us how can we
20 improve the product because we are one of the customers. And it's a much more
21 fruitful relationship.

22 And then once we decided on that, we worked around about who
23 could be champion, who volunteered, who is an obvious person that can help us in

1 recruitment. And that's how we got where we are. But it's been a change through
2 several years now, and we are looking forward to it. We now go to some
3 universities who know what the NRC is, what we do. Professors actually refer to us
4 some of their brightest students, et cetera, et cetera. We want to further that
5 relationship.

6 MR. MCDERMOTT: That other Texas institution, the one that's at
7 College Station, sent us resumes of nine graduating nuclear engineers last fall, and
8 we hired some of them.

9 COMMISSIONER MCGAFFIGAN: I think they are trying to bait you
10 Mr. Chairman. .

11 CHAIRMAN KLEIN: We keep hearing there's another institution in
12 the State.

13 (Laughter.)

14 COMMISSIONER LYONS: That is a big state.

15 CHAIRMAN KLEIN: With that comment, Commissioner Jaczko?

16 COMMISSIONER JACZKO: I have a question following up on one of
17 the comments that Commissioner Merrifield made regarding the alternative dispute
18 resolution. It was news to me today that that is the EEOC's preferred way to
19 resolve issues, and certainly just looking at our numbers, we have some way to go
20 in getting people to use that process.

21 One of the questions I had is getting back to the process that seems
22 to be more frequently used, which is the formal complaint process. One of the
23 things you mentioned is that I guess we have about three cases pending that are

1 over the 180-day processing time that's recommended. That is better than the
2 Federal Government in terms -- we are actually doing better than the Federal
3 Government in term of having that few over the 180-day period. I think I got all of
4 the greater and less than right in that.

5 The question I'm wondering is, what would it take to get that number
6 down to zero? We are very close, with only a couple of cases. What kinds of
7 things would it take to get that really to where we want it to be?

8 MS. KELLEY: Well, I guess I can't resist this opportunity. Staff
9 definitely does help, and it is not the only thing that will contribute to that. But
10 actually an increase in ADR would be another way in terms of avoiding an increase
11 of numbers of cases that go beyond the 180 days. And I wanted to clarify --

12 COMMISSIONER JACZKO: Is that because ADR just gets done
13 quicker, or ADR does not count in the formal --

14 MS. KELLEY: It actually gets done quicker. ADR is an opportunity for
15 the parties around an issue to come together with an independent mediator to talk
16 through the issues and to discuss -- both parties get to say what's on their mind.
17 And they can be very honest and frank, and sometimes managers and staff have
18 been. And we have had some Kodak moments to come out of those sessions.

19 Even through the matter may not have been resolved, staff may have
20 come to understand the manager's position better, and vice versa. And so it is a
21 good way to bring the parties together to talk. What we've found is that
22 communication or lack of effective communication is really at the root of a lot of
23 complaints.

1 And so this is a way to get the parties together and talk through the
2 issues. In terms of benefits in other ways, if we are able to resolve a complaint
3 through an ADR session -- we offer ADR to almost 100 percent of the complainants
4 that come. We even offer it to applicants, where it really doesn't have as much
5 application for applicants, because you don't usually have those issues. You either
6 didn't get the job or you didn't, so -- I assume that if you are coming in, you didn't
7 get the job. And there is a reason for that. But we still have offered it to applicants.

8 Some of the benefits, though, of ADR are less costs. It costs a lot
9 less. If we are able to resolve a case through an ADR session, we don't have to go
10 through the full counseling, and informal processing, and hearing stage, and --

11 COMMISSIONER MERRIFIELD: Get the lawyers out of it. That's a
12 good --

13 MR. REYES: Amen.

14 COMMISSIONER JACZKO: Besides the ADR, are there other kinds
15 of things we can do to -- until we get to the place where ADR really becomes the
16 preferred alternative here, are there other kinds of things that would help? You
17 mentioned staffing, but besides staffing, are there some other things that we can do
18 to --

19 MS. KELLEY: Yes. We have had some challenges with the
20 contracting. We use contractors to conduct our investigations. And we're small in
21 this business compared to most other Federal agencies. And so when it comes to --
22 I get the sense -- and I can't prove this, but I get the sense that the contractors tend
23 to put their better staff on those contracts for their big customers.

1 And so we have had some challenges with the reports coming in
2 complete. So we have had to send them back for supplementals, and sometimes
3 to even use your own staff to even supplement that further in order to have a
4 complete report of investigation.

5 We also have had instances where there have been maybe other --
6 an employee or a complainant may have had an issue in another venue. Maybe
7 there is a grievance that is being processed concurrently. So maybe there's some
8 hesitation to move the complaint process along until something is resolved in
9 another area.

10 Also, challenges for scheduling: The agency is very busy, and so
11 there are things that need to happen if we are going have management contacts
12 and what have you. And I can't say that we have necessarily had a problem in that
13 area, but certainly that does happen as well.

14 MR. REYES: I just want to add, when you go through the formal
15 process, the critical path in our case and in most cases have been the actual formal
16 investigation through the contractor.

17 We actually changed contractors because we were very disappointed
18 with the quality and the timeliness. And once you take so long to do an
19 investigation and it gets to Ren, and the quality is not there, and you have to
20 remedy that through reinvestigation or her staff having to supplement it, you can't
21 meet the goal. So we have put a lot of effort -- she deserves a lot of credit. We
22 have put a lot of effort into that.

23 COMMISSIONER JACZKO: In those places where we have had

1 trouble with the contractor, do we have any ability to –

2 MR. REYES: We took care of that. They're no longer a contractor,
3 but it happened to us twice. So it was not a simple issue because we are not a big
4 customer. The firms that do this get a lot of income and a lot of business from
5 other places. So we are glad that we're a small customer. That is the good news.
6 The bad news is that you don't necessarily get the best services.

7 COMMISSIONER JACZKO: Just to briefly follow-up: Has the new
8 contractor produced any reports at this point, or have we not yet used them? And if
9 they have produced reports, are they much better?

10 MS. KELLEY: Yes, we've taken off contractors from the list; put
11 others on. I will say, though, that we still remain to be a little challenged in this area
12 because we have had additional instances where reports have come in, and they
13 were not timely, and they were not complete. And so we continue to look at this
14 and try to come up with ways of other things that we can do in order to resolve this
15 problem.

16 But we have to have a list. We have multiple contractors that we use
17 because if we just use one, it would really get a backlog because we may have five,
18 or six, or seven, or eight cases – well, probably not seven or eight, but we may have
19 as many as five cases at the investigative stage, and we would not want to put
20 them all with one contractor. We think that would just exacerbate the problem.

21 I also wanted to clarify my statement in terms of the agency beating
22 the government-wide statistics that the EEOC put out. They gave an average
23 number of days to process complaints, and for the Federal Government overall, it

1 was 440, I believe -- something of that range. And NRC's average processing time
2 for all of its complaints was 370, or something, days.

3 So in terms of the average processing time for all complaints, we did
4 beat the average for the Federal Government overall.

5 COMMISSIONER JACZKO: Thank you.

6 CHAIRMAN KLEIN: Commissioner Lyons?

7 COMMISSIONER LYONS: Ren, thank you very much for a very good
8 presentation. And I don't think that there can be any question that you're reporting
9 on programs that are just of vital importance for the future of this agency. I really
10 do appreciate the accomplishments that you, your staff, Jim, and Luis all together
11 have done in these areas.

12 If I were to highlight just a few things: I was extremely impressed in
13 looking at the diversity of the recruitments in the current year. Just very, very
14 impressive. And that speaks so very positively to the efforts that have been
15 ongoing, the various initiatives that you have undertaken. Commissioner Merrifield
16 talked a little bit about the University Champions program. And I want to
17 particularly single that out. I have been very, very impressed with it.

18 I have had an opportunity to go down to New Mexico State with Roy
19 Caniano and some of his championing activities down there. And Commissioner
20 McGaffigan mentioned the New Mexico institutions, and certainly New Mexico State
21 is very much one that we want to focus on. Roy has been working with them in
22 creating a new minor program in nuclear engineering. It's fabulous.

23 It's opened up opportunities for discussions not only with students at

1 New Mexico State, but also with students in grades seven to twelve who are in
2 summer programs. And to me, it is just very, very positive. And I'm sure that there
3 are many examples like what Roy is doing at New Mexico State. But at least that's
4 one I've gotten to see up close and personal, and it is a great program.

5 And then also there have been some comments about, we can do
6 better on small business. And yes, we can. But the award, the Star Award this last
7 year, that's fabulous, and I will just be cheering you on to try to continue to improve.

8 A question outside the technical area: Certainly the agency has
9 immense needs for hiring. Many of those will be in technical areas, but not all of
10 them. And we also need -- and I'm sure you are paying a great deal of attention to
11 hiring and retention outside of the technical specialties. And I was just curious if
12 you could talk a little bit about what we may be doing in terms of trying to utilize
13 existing administrative and support personnel and trying to assist them with upward
14 mobility in term of moving towards filling higher positions in the non-technical ranks.
15 I'm not diminishing the importance of the technical, but we need both.

16 MS. KELLEY: We do have a developmental program for
17 administrative employees, and I believe Jim can provide more information on what
18 those are.

19 MR. MCDERMOTT: These are longstanding programs that we have
20 always had, but things have changed over the years. There's been a real big
21 change in the nature of the work we do.

22 My examples are, as you go and buy a car in the old days, the busiest
23 person was the administrative assistant between the sales person and the manager

1 who said okay. They did all the work. That person is gone at the car dealership.
2 The sales guy hits a key and all this paper work, your loan and everything, spits out
3 of a computer.

4 To some extent, that has happened to us. We don't have anywhere
5 near as many para-professional positions in the agency as we used to have. The
6 shift has been definitely into professional, not just science and engineering, but in
7 administrative professions, too.

8 There is a new pattern that's emerging. Many of the entry-level
9 secretaries that we hire today are degreed. And, you know, I hire them – and I did
10 this recently. I say, hey, we have a secretary job for you. If you're in this job a year
11 from now, shame on you and shame on me. We move along. I hired one, and two
12 weeks ago, she took a professional position, because she had a very good degree
13 from the University of Michigan, in NSIR. This is the real path.

14 Now, I also have another secretary who is taking one college course
15 after another, because she is a very intelligent woman, and she does not have a
16 degree. But we will help her get a degree. It is about education. That's the path
17 forward now. Let me be candid. That's bad news to some people. What about the
18 good old days, where you just learned how things were done around here and you
19 could go up the chain? Those were great. But today, we work differently, and the
20 premium on analytical skills, writing skills, and IT type skills and things like that are
21 such that it's not fair to suggest to people that, well, you just keep working here and
22 be a good person and you will get ahead. No, you have to do other things. And
23 primarily, the other thing you'll have to do is get education.

1 MR. REYES: We have a substantial amount of money and resources
2 in our training budget on the non-technical side of the house. I want to make a plug
3 for the -- we have an advisory committee of the Federal Women's Program, and
4 they are very active in helping the membership take advantage of every program
5 we have. And some of them are not NRC only, but which are government-wide
6 programs. And the way we support all that is principally with the resources in the
7 budget for non-technical training, which is a sizeable amount.

8 COMMISSIONER LYONS: Thank you. I'm out of time.

9 CHAIRMAN KLEIN: Thank you. Other than money, and space, what
10 can the Commissioners do to help this program on?

11 MS. KELLEY: I'd say the first thing would be for the Commission to be
12 champions of the issue, to keep it before the eyes of the managers and staff of the
13 agency, to model the behavior that we are talking about, and to use the
14 opportunities that you have to keep us all aware of this issue. And I think I'll stop at
15 that point.

16 MR. MCDERMOTT: To steal somebody's line, hold us accountable.
17 That's the big thing. We've got all kinds of plans, and you need to hold us
18 accountable, the "us" being really managers and supervisors, to advance the
19 program. And that's why these sessions are very good, because you ask us how
20 come we get in papers late and things like that, and that's good. That's exactly
21 what you need to do.

22 MR. REYES: I want to echo that. I think what's left is execution, and
23 that's up to us. The Commission has provided all the tools that we need from

1 monetary to human resources, supported all the programs. I know some of the
2 Commissioners have physically gone to recruitment activities. I can't think of
3 anything else that we can ask you that you have not provided. We now need to go
4 ahead and execute it.

5 I want to thank the whole team for the effort. The results you see
6 today are not a single individual accomplishment; it is a team effort. I believe the
7 staff and management team are really committed to these goals.

8 CHAIRMAN KLEIN: Thanks. Any other questions?

9 COMMISSIONER MERRIFIELD: I did have one other question. We
10 are working our way through a concern about a hostile work environment, where
11 harassment is alleged. Ultimately, it is determined that there was not a finding of
12 discrimination. But nevertheless, we have instances where we may have had an
13 employee or a supervisor who didn't act appropriately. There is a distinction, and
14 there's a compendium. Somewhere along the line, you get up to harassment. And
15 along the way, you can do a lot of things that are not appropriate and nonetheless
16 not get to that threshold.

17 I guess what I'm trying to understand, and I never quite understood,
18 is: what do we do about those circumstances where we find that we've got an
19 insensitive supervisor who didn't discriminate, but they are not exhibiting the kind of
20 conduct that the Commission expects of its staff? What do we do there?

21 MS. KELLEY: We bring those matters to the attention -- we use
22 mostly deputy executive directors for operation as deciding officials in the cases.
23 And as we review those reports and if we identify untoward behavior on the part of

1 a manager or supervisor, those individuals are counseled. That is brought to the
2 attention of the deciding official in that case, and there will be information taken
3 back to the supervisory chain, and those individuals will be counseled. It's been
4 dealt with in that way.

5 MR. REYES: You first take a hard look at the situation, and you
6 identify if there is something we can do to assist the individual to remedy the
7 behavior, whatever the behavior is. Once that is done, then we are very short on
8 tolerance if the behavior continuance, and especially of supervisors.

9 So we first try to deal with the issue where a remedy can be provided
10 to support the individual to succeed. We do want everybody to succeed, but there
11 is a point in time where the behavior, if it is not modified, then we take some drastic
12 actions.

13 COMMISSIONER MERRIFIELD: I appreciate that. That is a good
14 clarification. In terms of the previous questions, Ren, in answer to the Chairman's
15 question on what can the Commission do, I liked your answer, but I might modify it
16 only slightly. You asked us to be champions, and I would probably suggest that you
17 say that we continue to be champions, because having sat through -- and I have
18 lost count; this is probably the 15th or 16th EEO meeting that I have had the
19 pleasure of being a participant in, and well before I got here, Commissioner
20 McGaffigan and Former Chairman Diaz were pretty darn strong champions, too. I
21 think we have made tremendous progress in this Commission, in this agency, in
22 terms of what we are doing. It's because of the work the staff has done. And I
23 think the Commission itself has been cheering you along and holding you

1 accountable the whole way.

2 MS. KELLEY: I agree wholeheartedly, Commissioner, and I should
3 have said "continue to be." Thank you.

4 COMMISSIONER LYONS: I just wanted to take a second to highlight
5 perhaps another kind of champion, but it's one that I thought was a very, very good
6 story that was in the May issue of the Inspector's Newsletter. And it talked about
7 actions that a gentleman by the name of Mark Marshfield, who is one of our
8 inspectors at -- and I mispronounce this every time -- Ginna. Am I close?

9 MR. REYES: You've got it. Practice makes perfect.

10 COMMISSIONER LYONS: I'm getting there. But he has been taking
11 his own personal time to lecture at a local college, talking to students about the
12 fundamentals of nuclear energy. And it just brings home to me the importance of
13 educational outreach wherever it is practiced throughout the agency and the
14 importance of trying to build an educated population. And from that educated
15 population, we will do a better and better job of drawing a diverse workforce. But
16 this is the kind of -- it's just a very good example of what some of our employees
17 are doing.

18 CHAIRMAN KLEIN: I think a comment that was made earlier was,
19 times have changed, it is now lifetime learning. I think some of us have gone
20 through academic programs, and you sort of thought that you stopped at that point.
21 But we are in a lifetime learning mode.

22 I think this concludes our program. I would like to thank you for the
23 presentation. It's very enlightening, and I think you have done a great job. I think

1 what we need to do as a Commission is to keep from becoming complacent. We
2 want to keep the program one that is good. We do want to make it better. If there
3 are things that we need to do as a Commission to make it better, please let us
4 know. As Commissioner Merrifield said, I think we are all champions, and we will
5 continue to be champions. But anything we can do to make it better, we will do it.
6 But you have got a great program. I was definitely impressed with not only your
7 hiring, but also your diversity in hiring.

8 Now if Jim just finds that space to put everybody, we will be in good
9 shape.

10 COMMISSIONER JACZKO: I thought we resolved the space issue
11 this morning.

12 (Laughter.)

13 CHAIRMAN KLEIN: This concludes our meeting. Just a comment:
14 For those that are attending the 3 o'clock meeting, if we could move up there as
15 quickly as possible, Commissioner McGaffigan has another commitment. Thank
16 you.

17 (Whereupon, the session was adjourned.)

18

19

20