REACTOR OVERSIGHT PROCESS
INITIAL IMPLEMENTATION EVALUATION PANEL MEETING

Date & Time:

Tuesday, December 12, 2000

Location:

U.S. Nuclear Regulatory Commission
Region II Office
Sam Nunn Atlanta Federal Center, 24 T20
Atlanta, Georgia 30303-8931

Agenda:

Tuesday, December 12, 2000

8:00-8:30	Recap of Previous Day's Meeting/Meeting
8:30-12:00	Presentation of Stakeholder Issues/Views
12:00-1:00	Lunch
1:00-3:00	Panel Discussion of Stakeholder Issues/Views
3:00-4:00	Agenda Planning for January Meeting - Schedule March Meeting Dates
4:00-5:00	Public Comments/General Discussion
5:00	Adjourn

REACTOR OVERSIGHT PROCESS INITIAL IMPLEMENTATION EVALUATION PANEL MEMBER ROSTER

Randy Blough	Mr. A. Randolph Blough Director - Division of Reactor Projects, Region I U.S. Nuclear Regulatory Commission
Bill Borchardt	Mr. R. William Borchardt Director - Office of Enforcement U. S. Nuclear Regulatory Commission
Ken Brockman	Mr. Kenneth E. Brockman Director - Division of Reactor Projects, Region IV U. S. Nuclear Regulatory Commission
Mary Ferdig	Ms. Mary A. Ferdig Ph.D. Candidate, Organization Development Program, Benedictine University; Ferdig, Inc. Organizational Research and Development
Steve Floyd	Mr. Steve Floyd Director - Regulatory Reform and Strategy Nuclear Energy Institute
Dave Garchow	Mr. David F. Garchow Vice President of Operations PSEG Nuclear LLC
Richard Hill	Mr. Richard Hill General Manager - Support - Farley Project Southern Nuclear Operating Company
Rod Krich	Mr. Rod M. Krich Vice President - Nuclear Regulatory Services Commonwealth Edison Company
Robert Laurie	Mr. Robert A. Laurie Commissioner - California Energy Commission

PANEL MEMBER ROSTER (Continued)

Jim Moorman	Mr. James H. Moorman, III Senior Resident Inspector - Alto Verde Site U.S. Nuclear Regulatory Commission
Thomas Moughton	Mr. Thomas Moughton NEI
Loren Plisco	Mr. Loren R. Plisco Director - Division of Reactor Projects, Region II U.S. Nuclear Regulatory Commission
Steve Reynolds (Not present)	Mr. Steven A. Reynolds Deputy Director - Division of Reactor Projects, Region III U.S. Nuclear Regulatory Commission
Ed Scherer	Mr. A. Edward Scherer Manager, Nuclear Oversight and Regulatory Affairs Southern California Edison Company
James Setser	Mr. James L. Setser Chief - Program Coordination Branch Environmental Protection Division Georgia Department of Natural Resources
Ray Shadis (Not present)	Mr. Raymond G. Shadis New England Coalition on Nuclear Pollution
Jim Trapp	Mr. James M. Trapp Senior Reactor Analyst U.S. Nuclear Regulatory Commission
Chip Cameron (Not present)	Mr. Francis X. Cameron Special Counsel Office of the General Counsel U.S. Nuclear Regulatory Commission

PANEL MEMBER ROSTER: (Continued)

John Monninger	Mr. John Monninger Technical Assistant - Associate Director for Inspections and Programs Office of Nuclear Reactor Regulation U.S. Nuclear Regulatory Commission

PROCEEDINGS

(8:26 a.m.)

MR. PLISCO: Welcome to the second day of our meeting.

Are there any, I guess, follow-up issues or questions? I know we were kind of running out of steam late yesterday.

MR. SCHERER: Neurons or world --

MR. PLISCO: Any neurons?

I just wanted to, I guess, recap and see if there is any remaining issues or, I guess, just in thinking things over in the evening whether had any other views or issues you wanted to throw at David or move on with the agenda.

MS. FERDIG: I think we should move on with the agenda.

I did do some thinking and I have some things that at break we can print out, but not with conversation.

MR. PLISCO: Well, as we discussed at our first meeting, one of the groups that we want to hear from, get their views on were the states. There were a number of states that were specifically spelled out and even active in development of program and evaluation of

program. And we are lucky enough to have two of them here today.

There are several others we know that are interested and couldn't make it. And when we talk about our agenda later in the day, we are going to schedule some time for them in January.

But today the State of Vermont and the State of Illinois, specifically.

MR. SHERMAN: I am William Sherman. I am the State Nuclear from the State of Vermont, and I really appreciate the panel's invitation to speak.

Let me summarize what I have to say and then I have a few slides.

I would like to register as a data point for you expressing pretty strong skepticism about the program. So strong, as a matter of fact, that you may not want to hear -- you may not want to listen to me. But I'll try and explain why we're skeptical of the program. And I know that when I do this, I run the risk of saying things that you have dealt with because Vermont, even though we follow nuclear issues, nuclear safety issues fairly closely, we are one of four or five states that have a defined nuclear safety state presence.

We have not been a pilot plant state. Vermont Yankee was not chosen. And so the State of New Jersey has certainly put more effort than Vermont has. Nevertheless, let me give you our views.

And before I start, I notice that, well, I'm older than a lot of you. Maybe your looks are deceiving. And I thought I'd try a test before I got started just to see what ground I'm treading on.

If I say the name Saul Berstein. Does any -- do any of you know who that was?

MR. KRICH: Yes.

MR. SHERMAN: You do?

MR. KRICH: Yes, because I'm older than you.

MR. SHERMAN: Oh, well, see that might be.

If I say Andy Walford, do you know? anybody?

(No response.)

No? Good. Then I can say things and get away with it.

MR. GARCHOW: I'm not sure I want to pass the test. That when I pass you say I'm old.

MR. SHERMAN: See that's right. There you go. There you go.

I'm here representing Governor Howard Dean of

Vermont. I work for the Dean Administration. And we here in Vermont neither anti-nuclear or nor pro-nuclear.

Because we are from New England the panel member, Shadis, knows us pretty well. I am the primary spokesman for nuclear issues for the State of Vermont, often in the papers. Mr. Shadis is occasionally in the paper and has accused me of being in bed with the industry.

The Vermont Yankee people have accused me of being a nuclear "nay-sayer." So I think maybe I am doing some part of my job right.

We have weighed in and so in February, before the implementation of the program we did send a letter, which I believe Loren or John, you have copies over there. The letter made some fairly simple points. It basically endorsed New Jersey's comments because we work very closely with New Jersey. And it did urge a slower implementation, which ultimately wasn't chosen.

So because we are fairly strongly opposed, for some reasons, I hope you will bear with me. And I would like to try and make my presentation interesting so that you would like to listen to some of it. So you will have to bear with this, you know. But I'll try

not to take Gary's time. And Gary has a little bit different view, I think.

When I put those items up on there all of us, have been around and so those all ring bells. We all know what those refer to. I mean we know what the Brown's Ferry fire was. Everybody knows what Three Mile Island was. Most everybody knows about the loss of feed water at Davis Bessie.

And these are all events that took place over our history in which things did not work the way that we might have thought. And yet they were not disasters. Well, Three Mile Island was an economic disaster but it wasn't really a public health disaster.

Tom Early instituted what is called the "near miss nureg." Does anybody know what that nureg number is? I mean I thought some of the NRC folks would --

MR. MONNINGER: Is that the access sequence free person?

MR. SHERMAN: I think that is what it is.

MR. MONNINGER: I can find it.

MR. SHERMAN: You don't need to. But that's what I'm referring to. And I have been involved in some of that. The "near miss nureg," is that still put out?

(Yeses.)

Because I think that's a very, very valuable tool. It identifies events that occur, I guess every year. At least I thought it was put out every year.

Vermont Yankee had a near miss back in '91. Vermont Yankee had a complete loss of off-site power incident.

Here's what happened. Even though it had been undetected for almost 20 years of operation, there was a common mode failure in the switch yard.

Actually it was something called "zener diodes" if any of you have gotten down to that level. And it had been an industry issue that through industry experience had been found, could have been corrected, it was non-safety equipment in the ship -- in the switch yard, so it was detected earlier, and it caused a complete failure of the switch yard.

Now coupled with that -- and the diesels started correctly, as planned. But coupled with that there had been an engineering modification a year-and-a-half previously, which was simply inadequate engineering. Inadequate safety engineering evaluation where they had modified service water such that service water flow was starved. It wasn't something that they

knew was going to happen but it did happen.

On that incident they burned out all of the station air compressors because of over heating. And just by luck they did not over heat and burn out the diesel generators.

But it was just luck. Because -- and the operators were not able to understand what was happening. It took them probably four hours, or five hours, to grasp why service water was starved and what they needed to do. They only -- they needed to open one valve in order to provide the head differential on service water, but the operators didn't realize that. So this really was a near miss.

Had we not had the layers of conservatism that are implicit in the design from the '70's we could have had something way more serious in Vermont in '91 because of all of those unforeseen things.

MR. TRAPP: Bill, a question. Was the Vernon Tie, do you know if that was available or unavailable?

MR. SHERMAN: Oh, I love it. The Vernon Tie was available and, of course, that would have mitigated it.

The Vernon Tie, for those who are not northeasterners, Vermont Yankee has kind of a dooms day

electrical system than, when everything else fails, it can tie to a local dam. That's a good thing. Thanks.

All of this is just history, so I can say what I want to say later.

You know, all of what we are at in the agency -- all of what you are in the agency really developed in the '70's. The '70's was a wonderful time to be alive. And this is a quote from the '70's. An explanation from documentation in the '70's that talks about defense in depth. I don't need to read it. I think we all know.

In the '70's, I mean, the agency set its course. Here's an example of maybe one of the most famous statements and speeches that were made with the agency. It's James Kissinger famous Bell Harbor speech where he says, "You should not expect the NEC...", well it was before NRC, 1971, "...to fight the industry's political, social and commercial battles."

It set the tone. It set the philosophy for the foundation of nuclear safety regulations. You can see it all through the '70's. Take a look at this -- at this quote from Chairman Anders in 1976. "Overriding goal consideration is safety. Though we are interested in regulatory efficiency, we will take

as long as necessary to ensure the plant is safe before it is allowed to operate."

This isn't the Regulatory Oversight Program but it makes me feel good to be able to say all of these things.

Here's another statement from Chairman Rowden also in '76 who took over from Chairman Anders. This is shortly after NRC was established from AEC. "The strong criticism we have received from the regulated industry responding to what it views as undue regulatory conservatism reflects the reality that NRC has taken measures it deemed necessary, notwithstanding the substantial impact on the industry."

Interesting that it is a letter to our third presidential candidate.

What this did is it set the tone for agency. This is where you started and it formed the foundation of what has been the most successful regulated industry, well, most successful. I don't have that breadth. One of the most successful regulated industries in history.

I mean, you have -- have an exemp -- exemp -- I can't say it. Very good. You have a very good record of -- of doing your job, having public health

protected. And it's all because of this -- this ground work which was laid in the '70's and the philosophy that was established in the '70's.

Now I didn't -- I didn't do a slide on Chairman Jackson's statement. But most of you know that -- that she did a speech -- if I had had three more minutes before catching the plane I would have done a slide. And basically she says just the opposite. I mean what she says is that our goal as an agency has to consider making your industry commercially viable. You know the opposite philosophy then has proven safety and a safe situation.

And I wanted to just throw these up to show you, you know, just exactly where that foundation was.

Now you may have cornerstones but you have a severely eroded foundation right now. An NRC or an AEC that talks like Chairman's Slesinger, Anders, or Rowden is an NRC that the public could have confidence in. I won't finish that.

Now I mentioned Saul Berstein and Andy Walford and those of you who do remember will remember old Saul as the -- the head of the nuclear program. It was Wisconsin Electric. Andy Walford was the head of the nuclear program at Lilco.

Both of them in the '70's declared war on the NRC. Make nucleonics weak was public statement. It could be very well within the '76 Chairman Rowden's comment to Mr. Nadar was related to the industry efforts Steve -- that Berstein and Walford and others were making about how -- how awful regulation was.

But the Commission in the '70's didn't give in to this warring, or whining, whichever one you want to call it.

And the other point that I'd make about all of this is that all of these quotes and all of this that I am stating are all pre-TMI II. The industry has sort of written the history as -- as Three Mile Island happened and then awful things happened to us after Three Mile Island. But this -- this foundation Berstein, Walford were all before what some call the over regulation of TMI II.

Okay. Now the revised oversight program in our view in Vermont is kind of an out growth of where NRC is going. An out growth of changing the philosophy that is reflected in the difference in views from Chairman Rowden's statement. This is what Chairman Jackson would say and probably Chairman Messer has said, though I haven't picked out any of his

statements.

If we think about the previous over sight program we think about and SALP -- what can you say about SALP? SALP wasn't perfect. SALP wasn't -- SALP was subjective. In my view SALP was effective. And I could explain that more if you needed. And SALP may have been efficient maybe even more efficient than this regulatory conference system that I hear you describe which seems to me to be very inefficient arguing about red, white, blue, green. I mean it is just seems to be -- but I'll say more about that.

So I'd like to do a little exercise at this point. Randy, we are both in Region 1.

MR. BLOUGH: Right.

MR. SHERMAN: What's the worst -- who is the worst performer in Region 1?

MR. BLOUGH: Well, IP II is in multiple degrading cornerstones.

MR. SHERMAN: I know, I know, but -- but I know they're cornerstones but I want you to back off. Are they really the worst performer?

MR. BLOUGH: Yes.

MR. SHERMAN: Just because of the cornerstones? Well, wait you don't have to answer

that. I mean because I know the cornerstones say that. But so now I'd like to ask --

MR. BLOUGH: Well, I agree with that assessment.

MR. SHERMAN: So you think that even before the cornerstones were bad they were the worst performer in the region? Well, don't answer that. Let me --

MR. BLOUGH: It depends on how far back you go. But, yes.

MR. SHERMAN: I wanted to ask the same question of Ken and, Steve is not here, didn't come back, and -- and Loren. I mean in your regions, I mean, what I -- I wanted to do some guided imagery. I mean, I wanted to kind of have you close your eyes, imagine things that are and then I wanted you to imagine the worst performer in your region.

And then I wanted to find out, you know, from Steve, who is not here, is it really quad-cities? I asked Gary that this morning. He said it was. Loren is it really Farling? Richard?

(Laughter)

And kind of my experience is that having been in the industry as long as I have, Randy, I can kind of close my eyes and I know in New England who has been

Category I self-plants, who has been Category II self-plants. I can differentiate who are -- and I can differentiate that not because of -- of the performance indicators. I can differentiate that just because of what I know which is subjective. But maybe it is because I remember SALP is why -- is how I can do that.

If -- if -- if it does -- if it is true that when you closed your eyes and imagined plants and you came up with the same plants that the performance indicators indicated then maybe that's an indication that the system works. If it isn't true that the performance indicators are showing what you kind of know from -- you said it, Jim, yesterday "gut feel". What you know from "gut feel" is the worst plant then you have to question as a panel whether the performance indicators are working.

All right. Let me say --

MR. FLOYD: Just one question for you if I could?

MR. SHERMAN: Yes, please.

MR. FLOYD: When you say performance indicator. Do you also mean the infection finding results? Because the performance indicators are actually are relatively small portion of the overall

program. I think everybody in the room would agree that 18 performance indicators don't give you a complete picture of the plant in any rational sense.

MR. SHERMAN: Well, good. And, again, Gary and I were speaking about that this morning. And I think what you said to me was that the performance indicators make up about 15 percent of, or something, and --

MR. FLOYD: That's about my judgement.

MR. SHERMAN: And so that is a good thing. Let me say more about that and show you where I would go with that. Let me tell you what I think the problem is if I may.

This is my attempt at a flow chart of a sort. And on the left side there was something left off when I printed it. Under it says "Plant Performance Culture" I meant to have the word "methods" under the word "culture."

And what this is meant to show is that -- well, first you've got plant performance. You've got culture, methods, the way that -- that the plant is -- the way that the people are functioning. The way that management is assigning priorities. Everything to do with performance.

And the SALP Evaluation System attempted to measure performance. When it measured operations, engineering, maintenance, and plant support, it attempted assign a rating on performance. Now what derives from performance is, well, what I call the results of plant performance. And the results of plant performance can be a lot of things. I mean it could be a capacity factor, it could be -- but what we've boiled that down to, to a great extent, is cornerstones, and performance indicators, and then, Steve, as you say the inspection results too.

Now what you want -- what you want to regulate and what you want to be the best it can be is performance. And the SALP was a direct measure of what you wanted to regulate. In other words, you want the culture to be good. You want the methods to be good.

The results are one removed from -- are one step removed from what it is you are trying to regulate. And so what you can see first is that what you -- one of the problems that you are all talking about, and that I listened to yesterday, is trying to struggle with why it is, or what it is, that the performance indicators do. And it is all related to the fact that the performance indicators are once

removed from the thing that you are trying to regulate and influence.

A second problem with this is that -- that once you -- trying to regulate on the performance indicator results allows, I mean, in order -- in order to deal -- in order to get to the problem you have to have the degraded results first before you have the problem identified. In other words, if you are trying to focus on the performance you are trying to focus their -- did I disconnect you? You are trying to focus on -- on stopping the trend before the performance indicator is degraded.

Where in the system that is being created you are waiting till -- till there is degradation before you -- before you have some concern about it.

Now the most serious aspect is that the performance indicators may not identify poor performers. In other words, the question that I asked you that, Randy, you answered correctly because you are working the system but maybe is right. The performance indicators may not -- it may be true that -- that degraded performance indicators do not really indicate the poor performers.

And so what I think that one of the efforts

of the panel has to be and probably is already is to determine whether the performance indicator system identifies poor performers.

MR. BLOUGH: When you say performance indicator system do you mean this scheme of both performance indicators and are colorizing the inspection findings?

MR. SHERMAN: Right.

MR. BLOUGH: Okay.

MR. SCHERER: Why is -- I'm trying to understand how is inspection findings different now under the oversight process versus under the SALP process? Isn't it -- is an inspection different in your mind if it somehow results oriented as opposed to what it was looking at before? Aren't they looking at the same thing?

MR. SHERMAN: I think that I have to answer that question, "I don't know." But -- but I think they are looking at 75 or 85 percent of the same things. And as I'm going to say here in just a minute, the most confidence that I -- that I have is the confidence in the judgement of the senior residents. You know I -- but I have confidence in their subjective judgement. Or maybe subjective is the wrong term. I have

confidence in their developed -- their developed assessment of the program that is not related at all to performance indicators. So maybe we are saying the same thing.

MR. BROCKMAN: It is really an interesting moment because I'm trying to make sure that I'm understanding where you are coming from. We keep on coming back to the performance indicators.

I can tell you in Region 4 the inspection program -- I've got license -- I have one plant, one site in the region, who is getting less inspection under the new program than under the old program. I have 13 sites that are getting more inspection. Anywhere from five to 15 percent more inspection under the new program. More intrusiveness. More interaction with resident inspection staff and with the regional inspection staff.

This would seem to challenge your premise that you're coming from. Because the PI's provide one bit of data and if in fact that had caused us to make a substantive reduction in amount of inspection, well, I could -- I could line up with your logic pattern very soundly. I mean it would really hold the line, it'd be quite clear.

But when I'm looking at on the average about a 15 percent inspection growth of the baseline program compared to the core program that we had before then I begin -- I'm seeing a bit of a disconnect and having a hard time following your logic. So, I mean, if you could help me I really want to understand where you are coming from.

MR. SHERMAN: And -- and I too. So let me ask you a question. You know, is what's -- what is it that is driving the additional inspection? Is it the performance indicators or is it other things?

MR. BROCKMAN: Oh, it’s the program. The program is laid out -- is bigger than the -- is flat bigger than the old one. Than the old core inspection program. I mean, it --

MR. SHERMAN: Then maybe my objection is not in the program, per say, as much as it is in the emphasis that the program provides on performance indicators.

And -- and this interminable discussion that we had yesterday about green white boundaries and all that stuff which don't make any difference at all. I mean, that is useless discussion, foolish discussion. Sort of silly discussion.

MR. BROCKMAN: Is part of the crime getting -- I'm wondering what's wrong, and I really do want to understand, if I've got an additional data set that I didn't have before. If my inspection -- if I'm comparing the current to the old and I say that the baseline inspection program now is as big or bigger than the old, looking at more areas than the old program did, and I gain an additional data set off of PI's to give me further insight, where do I have an erosion?

MR. SHERMAN: Again, probably not an erosion. But the emphasis -- but -- but my skepticism relates to the emphasis that does exist on the performance indicators. If the program and the embedded content of the program works and provides what you say that's a good thing.

But the emphasis on the performance indicators I would still remain skeptical on.

MR. BROCKMAN: Let me try one more thing because I want to make sure I've got common terminology with what your are calling performance indicators and that might be where -- where I could get my connection.

When you are talking performance indicators are you talking about the 18, which we got rid of

number 19, the 18 data bites that are submitted on a quarterly basis from --

MR. SHERMAN: Yes, I mean --

MR. BROCKMAN: Okay, that's what you are discussing. Okay, you are not talking about the entire concept of differentiating on this significant risk impact inspection findings and what have you in their overall safety significance. You are talking that page right there of the data bites.

MR. SHERMAN: I am talking about this page which -- which obviously there is a great deal of concern based on the discussion that you had yesterday that Steve, and Ed, and Rich, and Dave, and Rod, you know, kind of talked about.

Now what I pose to you is -- and here's the way I wanted to state this question in exactly these terms. Is it possible for performance to degrade without indicators degrading? That's what I wanted to ask. In other words, is it possible for this performance to degrade without these indicators degrading? And the answer is probably "yes."

MR. FLOYD: Okay, if you are limiting it to the 18 performance indicators the answer is probably "no."

MR. SHERMAN: Okay, good. Now you know you are walking into a little bit of trap. I'm not trying to set this trap but you are walking into a little bit of trap, you know, in terms of where I'm going with this. And the trap is eventually what you show to the public and what the public is able to glean. But I'll get to that.

MR. BROCKMAN: But likewise under the old sub-station it was possible for performance to degrade and the SALP not to reflect it at all.

MR. GARCHOW: We're talking looking backwards so you don't have to talk about possibilities. You can come up with seven, eight plants that SALP missed totally if the plants sort of got into very significant issues and had some events, I won't say significant events, but certainly had a pattern, a very large pattern, of poor performance that was not seen by SALP until it ended being a fairly large issue for both the utility and the NRC when it finally it surfaced exactly what the magnitude of the problems were.

MR. BROCKMAN: I didn't want to focus on a miss. I want to focus on an acknowledge within SALP. I have Level I, Level II, Level III performance. Level III whether you got worse or better within three, I

don't have another level to move to. But I mean there was still movement that we would recognize. Movement within the one band. And once again you get to a threshold. Did they come out of the -- the Level I performance level? No, they are still in Level I performance. So I mean there was movement acknowledged, change in performance, better, worse, that the old system did not reflect.

And I don't -- I think we want to make sure that we understand that, too, when we are doing the compare and contrast.

MR. GARCHOW: That was my point.

MR. SHERMAN: Right. Dave, I think that your point is the very best and I think that the point about SALP missed degrading performance --

MR. GARCHOW: Some.

MR. SHERMAN: Some.

MR. GARCHOW: Also corrected some plants in that process actually -- actually turned some plants on.

MR. SHERMAN: That's exactly what I feel. What I feel is that SALP -- SALP was an imperfect system but SALP did some thing right and missed some things. And what I think that this panel should do,

again, I wanted to state this carefully. The panel should determine whether the PI System identifies poor performers. It might be useful to kind of look and try and figure out if the PI System flags these performers worse or better than the SALP System did.

MR. SCHERER: I'm worried about communication between, at least myself, in understanding your point. You seem to be indicated that the 18 performance indicators are the oversight program. And that is not, in my mind, what we have been talking about yesterday and certainly today. It's a combination of the performance indicator and the inspection results, all of which are on the web page, all of which are colored, and -- and make up -- remember if you have all green PI's but you have white or yellow or red inspection results then you are into the degraded performance condition.

So there seems -- you seem to be saying, or what I thought you were hear -- was hearing you say is this performance indicator is the oversight program and we might miss something that we were picking up in SALP because in SALP we had inspection.

My problem correlating it and listening to Ken's discussion is to us, at least to me, the

performance indicators is only a small sub-set of what we are looking at. We are doing performance indicators plus inspection and the inspections as you know get color coded based on their risk significance and they also go into a degraded performance.

So when I think of degraded performance somebody could be all green in terms of their performance indicators, the 18 performance indicators, but if they are getting inspection results that would have gone into the same inspection modules, and as Ken says, "more inspection hours," that would have gone into a subjective SALP then outgoing into that quote "degraded performance."

What am I missing in terms of --

MR. FLOYD: Impact, amplify what Ed just said, because the question "Should we not go back and see if the performance indicators would have picked up plants that had problems?" That was exactly what was done that you can read about in SALP, what is it 99007? And 007 --

MR. SHERMAN: Right. I suspect that its in --

MR. FLOYD: What we've concluded when we went back and did that was that yes indeed the set of 18 performance indicators while it picked up some, missed

some others because the performance indicators, as an example, don't do a very good job of picking up design related issues. Okay, at the plant, therefore, you need an expanded set of inspection areas to compliment and supplement the inspection findings. And it is the combination of both the performance indicators and the inspection program that gives you the insight. Certainly not one by themselves.

The performance indicators certainly missed some key areas that could provide some insight in some key areas but certainly not enough to give you a picture.

MR. SHERMAN: Then again maybe my skepticism can be better cast in terms of the visibility that is created -- the visibility that you have created by the performance indicator system which I know you are worried about because of what I thought was kind of a silly discussion about -- about green and white boundaries.

And so obviously you are very concerned about this and so there's some middle ground between what you are saying and I'm saying.

And what I was going to suggest to you, you know, what I was going to suggest that the panel

consider is that if you are going to create these performance indicators to give external visibility then I think that you ought to add number 19. And number 19 is I want to avoid using subjective. I want to use number 19 as the developed assessment -- the developed overall assessment of performance cultured methods from the -- from the senior resident and the branch chiefs and the directors of projects.

You hate to hear that from me because you say, "Whoa that's going back and that's doing SALP." But you've already said that the inspections are a big part so let's get it up here in top level. Let's get it up here where you can see the senior inspectors and the -- the kind of the assessment of the program.

MR. FLOYD: We're looking at a roll up of just the performance indicator tables.

MR. SHERMAN: Yeah, that's what came off the web.

MR. FLOYD: No, no, no. That's only one thing that comes off the web.

MR. SHERMAN: No, I know, but it did come off the web.

MR. FLOYD: If you look at the individual web site, you will see that the performance indicator

results and the inspection finding results going back over the past four quarters in each of the seven cornerstone areas. And it’s the combination of the PI results and the inspection finding results that give you that overall perspective of the plant.

I think IP II is a good case in point. I think they've got, what, one yellow PI but they've got three white inspection findings and a red inspection finding. So if you just looked at the performance indicated for IP II you would say, "Gee they're all green except for one" so that's not a very good indication.

MS. FERDIG: Well, I just think that what I'm hearing Mr. Sherman say, Dr. Sherman, is --

MR. SHERMAN: Oh, no, not doctor.

MS. FERDIG: It's

MR. SHERMAN: Although I once answered to His Governorship.

MS. FERDIG: But I do think that there's a lot of information about what -- what the public, the impression the public has based on the information that's available and how that can be balanced in a way to offer a whole lot more confidence to reflect what the programs really about.

MR. BROCKMAN: I understand the communication issue. Very --

MS. FERDIG: And the other thing I'm wondering about is the -- you talked about a 19th indicator but one of the things I'm also curious about are the ways in which the performance indicators can become more predictive, more leading information about performance in the future.

And there may be openness throughout to continue to refine those indicators and you may have, you and others, may have ideas about that.

Again, with the notion of thinking of them as a way of measuring or indicating performance, a method for indicating performance, not unlike methods that were used to assess performance in the SALP. I mean, it just how to --

MR. SHERMAN: Yeah. I don't have any specific value to add to that except that I think that's what you should be doing. And I think that's what you have done as well. I mean, you've given lots and lots of thought.

I am going to put a caveat as I get to the end a little bit on that. But mostly, Mary, I agree with what you said.

MR. BROCKMAN: Can I ask another question?

MR. SHERMAN: Okay, yes. We want to leave some time for Gary. All of his flights are canceled it doesn't make any difference.

MR. BROCKMAN: One of the things that I have heard you emphasize was that how easily it was for the old program to differentiate between the different sites. And the lead in question is, "Who's your worst?" "Who's your worst?" Who's the worst performer or the one you've got the most concerns --

MR. SHERMAN: That's just a mechanism.

MR. BROCKMAN: Yeah, and let's not get hung up on the word. But one of the things that I think the new program is doing, and I'm most interested in your insight as saying, "I don't care who's number one. I don't care who's number 14 if they all meet an acceptance -- an acceptable performance level in many different areas. It doesn't make any difference as long as I can say everyone of them -- I'm confident in their program and that ebb and flow within this area of concern --

MR. SHERMAN: It’s a great way to 80 where I want to go and I'd -- I'd like to make some cute comment. But let instead just the way to where I was

going to go.

MR. BLOUGH: And correlated to that is they all have substantial margin between it's -- from above unacceptable performance. If there are of substantial margin does it matter that you can differentiate if they're all fairly far away from --

MR. SHERMAN: That's why I'm really interested in the viewpoint -- let me make my quip and then I'll go way into -- my quip was that's the day Garchow, did I pronounce it correctly?

MR. GARCHOW: Close enough.

MR. SHERMAN: Okay, that's the day Garchow will be gone analogy of nuclear plants which can, Loren and Randy, I hope you don't believe. I don't believe it. And I hope you don't believe it.

MR. GARCHOW: The issue in that and I can make the whole talk about how the economic deregulations actually driving all the plants to excellence.

MR. SHERMAN: I don't believe it.

MR. GARCHOW: I actually believe that's absolutely true. So I think their pattern and the performance over the last five years the data would suggest that that's happening. That the difference

between top floor tile, and medium in most categories is less than two percent now. And levels of performance greater than when your slides -- when the commissioners were standing up talking about an industry who had much, much relatively poor performance by several orders of magnitude in most areas in '78, '79, and '80.

So it’s a different industry so -- but now it’s a promise after the debate.

MR. SHERMAN: I don't believe that and let me say some things which will go along -- you wanted -- what we've established is that you won't agree with what I'm going to say next. So let me say this.

What I'd like to concentrate now on and I have about three more things to say. I'd like to concentrate on the concept of incentives. Incentives. The regulation that I described from the foundation that was created in the '70's created systems which established positive incentives for increased performance for bettering performance.

You can see that on the slide that I still have up there. With the SALP program which is essentially defined in this left side of this. When you have an evaluation of those categories if you are a

Category 3 you have a strong incentive to change your maintenance program or your engineering program to make it a two or a one.

If you are a Category 2 plant and if you are in Vermont which expects nothing short of true excellence then you have a strong incentive in the SALP program to bring that performance from a two to a one.

Now, again, let me be clear Vermont Yankee was a solid Category 2 SALP plant. It still is as a matter of fact.

With plant support trending toward one and engineering, well, engineering solidly mired in sub-category two. Still the system that was set up established these incentives. SALP created an incentive to make plant performance better. When plant performance was worse and needed to have a different message sent Bill -- the enforcement program and the escalated enforcement program kicked in.

This is something from the -- from recent trends in escalated enforcement. Escalated enforcement was never understood as punitive. Nobody ever thought that the fines that were levied caused anybody any financial harm. Everybody understood that escalated enforcement was completely motivational. As a matter

of fact there is a wonderful quote that, again, came out of material from the '70's. Not attributed to any individual it was from interviews with NRC folks.

"A civil penalty's largest cost is the stigma attached to it." Plan and simple. What the agency could do, did do, always has done, well until now, is to send messages to nuclear -- nuclear plants through civil penalties that they expect better performance. It's an incentive. The escalate enforcement system that creates an incentive to get your performance better.

Now what I'd like to do is just look at these results. These are things that you all know from -- from the history because most everyone in the room is -- is thoroughly understanding of the history. The one thing that I didn't -- I couldn't grab enough information to go back to '94 and '93. I wish I had been able to get that, Bill, so that I could've known that.

But you can see that in '95 we had about 20, I guess it's this column right here that's the civil penalty. You had about 25 civil penalties and then you had kind of the agency's knee jerk response to the Time Magazine article in Millstone. So you had 52 and 70

civil penalties, which again, is the major problem for the SALP system and the agency's performance. It's knee jerk reactions.

And then -- but now you see that we're down to -- to, I guess, this is 26 escalated notice of violation. Only seven -- only seven civil penalties in '99. I don't know, do you know what 2000 has been so far, Bill?

MR. BORCHARDT: I think it's about that number but under new oversight process the only civil penalties you'll have normally are the ones outside of the STP, you know, for discrimination.

MR. SHERMAN: In other words, the willful -- the willful stuff, you know, stuff that is still flowing through. And that's the point that I'm trying to make is that you had a system which created incentives for better performance. And I would -- if I had only been able to go back further I would like to show you that in your previous history you probably had some equilibrium level of fines before this Millstone stuff. And that's probably about the right level that you needed to send messages to utilities to do better.

Now here we have the difference between kind of the Sherman view and the Garchow view of history.

If you believe that -- that all of the sudden -- all of the sudden here that you draw a line and all of the sudden the industry was completely baffled and it had been through the history which Dave believes.

MR. GARCHOW: I actually don't believe that.

MR. SHERMAN: Okay, maybe that's true. But -- but I believe that the industry is almost exactly the way it's always been. It's -- it's an industry that is staffed by professionals who put safety first but there are ebbs and flows in every utility depending on both management and personnel. And I believe that the system that we had from the '70's up until now which established incentives and sent messages was an effective system that needed to be in place and still needs to be in place.

What you get -- if you learned anything from -- from this history here, I mean, what you learned here is you learned about Main Yankee and Millstone. What's -- what's the commonality between Main Yankee and Millstone? Both of them got themselves where they were by cost cutting. Economic pressure, cost cutting, I mean, that was the finding in the Main Yankee report and we all know that that was kind of the base of Millstone's maladies.

Now, if you think that -- that's not going to --I mean, if you think that based on that it's not going to happen in the future then we don't agree.

MR. SCHERER: My problem --

MR. SHERMAN: Wait. I want to make one more point with that.

And then you can take -- where else do you know, I mean, you also know, Rod, your acquired partners from the United Kingdom got themselves into the exactly the same trouble in Britain in regulation by cost cutting.

And we all know what -- what the root cause of Tokomera's problem was -- is cost cutting.

MR. SCHERER: I was just trying to follow your logic.

MR. SHERMAN: Okay.

MR. SCHERER: You -- you opened your presentation talking about the problems TMI, Brown's Ferry, which I understand, and the current -- the existing cell process and now you are talking about the previous enforcement policy that essentially didn't prevent the issues that -- I'll wait.

MR. SHERMAN: Yeah, no, no. Go ahead. I --

MR. BROCKMAN: Leave your enforcement graph

up for a minute if you would. Okay.

MR. SCHERER: I'm trying to understand you -- you point out that we've had industry near misses --

MR. SHERMAN: Yes, go ahead. We've had industry near misses --

MR. SCHERER: We've had Millstones, we've had DC Corp which was a SALP One plant, if I recall, that we shut down. We've had enforcement imposition of civil penalties that didn't prevent these events from occurring. And now when we're looking at a process that may or may not be better or we're trying to come up with a process that is more effective at spotting these trains the answer you seem to be giving is "Well, don't change this robust system that was in existence in the past." I'm having trouble finding that logic that be.

You've outlined problems we've had with the past system. You acknowledge it was robust system and it did prevent catastrophes. I mean, there's a lot of defense and depth. There was a lot of -- of margins built into these plants and into the regulatory process that over saw them. And there was a lot of direct inspection of the plants to make sure that utilities are doing what they're doing.

It was an imperfect system at best. It didn't prevent these near misses that you outlined. It didn't prevent SALP One plants from, in fact, being on a downward trend. SALP didn't pick up for some period of time.

MR. SHERMAN: Let me catch you just keep your train of thought. It did make the misses near.

MR. SCHERER: Understand.

MR. SHERMAN: In other words they were misses. They -- or it made the near misses, misses.

MR. SCHERER: You're talking about all of the enforcement trends in financial -- in penalties whether they're, and I tend to agree, there's no utility that went bankrupt paying an NRC fine. But the utilities that paid NRC fines and had enforcement were much more concerned about their reputation and publicity they received than receiving an NRC fine.

Now you then say but that didn't prevent the Millstone, it didn't prevent the Main Yankee, why is it that we should hold on to -- to a system that didn't function. Why shouldn't be looking for a system that would function better in the future.

MR. SHERMAN: My point is exactly 180 degrees over from the way that you are saying it. My point is

that the previous system did prevent Millstone and Main Yankee. Even with what they had it prevented them from -- from being public health problems.

The near misses -- the near miss I described in -- in the Vermont Yankee loss of power event in '91, it was a near miss. And the reason it was a near miss was because of the regulatory system which created conservatism.

And -- and what stopped -- what prevented a problem in Vermont wasn't regulatory oversight, per say, it was overall conservative regulation which required conservative -- enough conservatism in the service water system calc's such that even though you had about half the flow you still had enough to do the cooling.

So my point -- my point is that all of these systems created incentives for better performance that didn't -- didn't stop there being problems but it always exercised positive influences.

MR. KRICH: Let me, if I could -- I think I understand what you are saying and it's -- it's an interesting theory. But I think you also have to look at the other data as well. So how would you then reconcile, and I don't want to make more of this than

it is, but there's the other side of this that how would you reconcile the fact that performance in terms of safety measures. You go back to the AEOD performance indicators that AEOD used to put out semi-annually and annually. Number of scrams, number of safety systems that were not available goes to the workers for those measures of safety having been over that type that you you've just shown here. How do you reconcile that with your -- as your theory?

MR. SHERMAN: I think that it is a very good thing that the industry has -- has -- the industry performance has improved as it has in terms of sp -- fewer scrams, fewer forced outages, higher capacity factor. I think most of that is economically driven. But I think -- but I still -- I think it's a very --

MR. KRICH: And you get to the same point. Who cares?

MR. SHERMAN: Exactly. Nobody cares. The point that I made was that I think the panel has to -- has to come with grips with whether that really -- whether the fact that you have -- whether the fact that you have fewer scrams over here really catches whether your culture and your methods are degrading or not.

MR. KRICH: I guess that gets to my own point

-- and I might not express this correctly. Steve could maybe do a better job than me but what we -- what we, I think, all concluded that we were interested in is where did we put the public with respect to risk of operation of the plant?

And we were all looking for a means of questioning how to find that risk as opposed to a subjective assessment of these performance in these areas. Instead what we're looking for is some means of actually measuring where the plant is relative to its risk to the public.

Steve, if --

MR. SHERMAN: I know -- I mean, I understand that as the basis and again I think -- I think that kind of the key focus, one of the key focuses of the panel needs to -- needs to be this -- this question that New Jersey posed before you started which was "Do the performance indicators really highlight whether you've got, you know, do they catch degraded performance?"

But let me finish this concept that I'm on which is on incentives. You know, the reason I had the enforcement graph up is an example of incentives which just by your comment, Bill, you know, that -- that

method of descending incentives is basically not there because you're not -- you're not really doing -- I want to -- hold on -- I'll take your questions in a minute.

What are the incentives that are created by this system of performance indicators? Now think about that for a minute. What's the incentive that -- what's the incentive created by this? You heard it all yesterday. I mean it was interesting listening to you.

Rod, you mentioned the incentive to change the ALARA threshold. In other words this program creates the incentive to change the ALARA threshold.

And, Dave, you -- you -- right after he said that you gave another example of where the incentive is to change it from white to green.

Ed, you used the phrase "don't", in regard to this, "don't wanna penalize the plant." Because your incentive is -- is to have these be green not white. Your incentive is to somehow change this and even -- even change the basis that you -- and Jim, your statement, I think, I may -- I tried to do the best with meeting you all and getting your names right. Your statement was "Some plants would -- vowed they would not get white at all costs."

Now, so they have an incentive to -- go on, you said it. An incentive to delay that decision to down power. That's what incentive is created.

Now, so -- so where before the incentives by self were incentives that were an incentive to make operations better. To make engineering better. Now the incentive is to -- you fill it in -- delay, you know, the incentive is to tamper -- tamper with the indicator -- tamper. I don't mean to be that negative. To -- to avoid the indicator. But even in some cases to be less safe. Because delaying the dat -- delaying the down power perhaps is on some -- some ten to the sixth, ten to the seventh, Lord knows what, less safe.

So my point is that -- that what the panel needs to do, and then I'll take all those questions. The panel should investigate methods to create positive incentives which are visible to the public for superior performance.

I don't believe the performance indicator system creates those incentives. It creates just the opposite incentives. Creates incentives for -- for, again, somebody else said it. I think it was you, Ed. It creates incentives for the plant to work toward the indicators.

MR. KRICH: Bill, I -- I agree with you entirely with what you're saying there. And maybe I -- maybe I'm missing something here. But the whole reason of this panel and the whole reason for a bunch of other working groups that are existence right now with that work that are -- groups that are comprised of the NRC and the industry are to do exactly that. Which is we've identified some problems with the performance indicators and we are working to get those cleared up.

The ALARA example that I used was something that we'd just come to realize. Is the potential of shortcoming of the performance indicator in the ALARA case.

So I think it's better --

MR. SHERMAN: The problem -- the problem is that -- that the indicators, the results are often things you can't avoid. Like equipment failures causes unavailabilities. So over on this side of the table you were complaining about unavailability. And that's because -- that's not a really valid indicator of performance. I mean, you can't help the equipment failures and if you happen to have a couple of random equipment failures that cause you to be a white, or who knows a yellow, that is not necessarily indicative of

poor performance.

MR. SCHERER: I disagree with that. I think equipment failures is an indicator of poor performance. What I was arguing yesterday is don't penalize plants that want to do preventative maintenance to avoid the equipment failure when it is required.

So I think the discussion yesterday was different than the way you are characterizing it in that we were trying to look at each of the performance indicators. All of which were selected to initially be a good thing. It's got to be a good thing to have less reactor cooling system leakage than more reactor cooling system leakage.

I think, my hope for everybody in this room might agree with that. But let me take that premise to -- to less reactor cooling system is bet -- leakage is better than more reactor cooling system leakage.

What we wanted to do and what I thought we were doing yesterday was to take each of these performance or several of them and say how could that not drive superior performance? Exactly your goal. I agree with your incentive.

What we were struggling with yesterday is trying to find a perverse consequence in even the best

intended goal. If you set a goal for perfect attendance at school for your child, does that mean that your child will go to school sick and bring illness to the class?

I mean, no matter what easily identified superior performance goal you want to set, I think it's a healthy situation to sit around and try to think of all the unintended consequences that could occur and then try to correct it.

That doesn't mean you don't try to set performance indicators but the panel we should, I thought that's, very frankly, I agree with your slide. I would endorse it 100 percent.

MR. SHERMAN: Yeah. I'm not -- I'm not, as I say any new pup. You know, we're basically in agreement. I mean we're friends.

MR. FLOYD: Heck we only talked about performance indicators yesterday that we thought had these problems. We have a number of performance indicators, and as you probably noticed, we didn't dwell on positives very much yesterday. We were looking for issues.

We have a number of performance indicators which are exactly doing what this slide says.

Particularly in the emergency preparedness area where people weren't exercising their full range of -- of drill teams in terms of getting them ready to handle an actual emergency. And the performance indicators driving them to cause more training for the lesser what was considered to be not the "A" team but the teams that were just as likely to have to handle an emergency at the plant.

So there is a lot of positives. But I'd like to go back to your enforcement slide if I could.

MR. SHERMAN: Okay.

MR. FLOYD: Just a second. There's a -- your postulating, and I agree with your premise that the civil penalties did not impose enough of an economic burden on utilities to --

MR. SHERMAN: No, they were never punitive.

MR. FLOYD: They were never punitive, I agree. What was punitive was the fact that they got a notice of violation and got the press associated with getting a notice of violation. And you're saying that maybe the level of around 25 historically, taking out the Millstone, might have been about the right level.

I just want to point out that the oversight process, forget the PI's for a second, because where

the NOV's really come in in the oversight process are in the inspection finding area. Okay.

What's -- I think the new oversight process has the same incentives that the old one did. Particularly when you consider that the civil penalty aspect of it was not the major incentive. It was the fact that you got an escalated violation was the incentive.

The new oversight process in areas that are just to be significant you get a white, a yellow, or a red cited violation. Okay, you don't have a civil penalty associated with it but you still get the press release, you still get a citation issued, you still have to respond back on the docket to the agency. And there is a stigma associated with having posted on the public web site a white, a yellow, and a red.

Now what's the level that we're seeing those at? Through the first six months of the program we had 11 of those that went through the process. Multiply that times two, that's 22. Your threshold is 25 seems to be about the right number. I would argue 22 isn't too far off from 25.

So we're still seeing about 25 escalated NOV's, the ones that actually get a citation, with a

color posted on the public web site which is a stigma to the utility. No utility wants a white, a yellow, or a red posted on the public web site.

So there is all the incentive that existed under the previous program to not have conditions at the plant which draw that attention to you. At about the same level as what we had in the past, I think. It's pretty close.

MR. BROCKMAN: Okay, my comment was similar to that. I didn't have the command or the data and I was just going to bring up the point, I think, to really -- your point is an exceptionally good point as to where it is and what causes that hump is that establish of the level as it changes in some inspection focus that the agency made where we went out and very aggressively pursued some engineering issues as an initiative.

You -- you've got to look at that. But to really get the data that you're trying to portray there you need to realize that the new program has substituted an incentive mechanism. And that being the red conference and the acting matrix of meeting after that for the civil penalty. And you, I think, you did agree that the money wasn't the issue. It's the going

through the process and putting it in the public eye.

I don't know whether it would be the same but it's an interesting -- an interesting thing to you.

MR. SHERMAN: Let me interject though to you. I have not participated nor -- nor am I very familiar with the regulatory conference.

MR. BROCKMAN: Okay.

MR. SHERMAN: And so you have to -- you can't gang up on me I'm just a poor state guy. (Laughter)

MR. BROCKMAN: It takes another 10 or 20 of us to really gang up on you, right?

MR. SHERMAN: Right. But from what I heard yesterday if the regulatory conference -- if the time in the regulatory conference is spent arguing over whether something is green or white that is not productive.

That -- that is totally non-productive. And you can almost say that by -- by stepping back, doing this guided imagery that I did with you. I mean, what's the problem plant in New England now? Duh. I mean, it's an end point.

Is it red? Do they have a red performance indicator? Not yet. No, not on -- not on -- well, wait --

(All talking at the same time; undistinguishable)

I understand. How about -- how about -- how about in the South? You know, what's the in the South? Well, Virgil Summers, duh. You know, Virgil Summer --

MR. FLOYD: Bill, I agree with you. You have an extremely valid point. If we created the perception on public web site that all they need to do is click on that one summary chart and get a picture of the plant performance --

MR. SHERMAN: It's handy.

MR. FLOYD: We have done a horrible disservice because that is not what the new oversight process is all about if I understand it right. I think we should rethink that.

MR. SHERMAN: But I think you can make it better by creating a number 19 and -- and

MR. FLOYD: Actually you got 28.

MR. SCHERER: I guess my concern is that all our stakeholders, at least so far, have not gone to that sheet. They've gone to the sand sheet which shows -- there it is. That would show what the -- the PI's and the inspection findings are for the plant. They don't go to look at the industry. Our stakeholders come and look at our plant. And our plant has not only

the PI's that we report but all the inspection findings.

So doesn't that address the issue that you're speaking to?

MR. MONNINGER: There is -- there is an effort underway with MNR to put together a table, not exactly similar, but very similar to the PI. You know, it shows the entire industry, you know, all the different colors without --

MR. SHERMAN: I understand -- I understand the confusion. Can I go back to civil penalties just for one second. You hauled that there was great mitigating -- Communication disaster.

MR. BORCHARDT: You had hauled that there was great value in the issuance of a civil penalty to a licensee.

MR. SHERMAN: Yes.

MR. BORCHARDT: And I assume --

MR. SHERMAN: And I believe that.

MR. BORCHARDT: Both from the communicating the importance of the issue to the public as well as to the licensee so that corrective actions could be taken in performance improvement.

Would you support the concept that there

could be equally effective incentives other than a civil penalty?

MR. SHERMAN: Yes.

MR. BORCHARDT: And that is, I think, the basis upon which we have withdrawn the more common use of civil penalties. And it was -- it's the theory of this oversight process that was developed that these other mechanisms, the assignment of a significance color to inspection findings and notices of violations and the web site and all the rest could provide that equivalent incentive to the civil penalty.

Is your view that that's not working? That what's been constructed so far is not effective? Or --

MR. SHERMAN: No. That -- my view is that -- my view is that the panel needs to wrestle with the issue -- wrestle with exactly that issue. And the issue as I framed it was an issue of incentives because I believe the -- the enforcement program wasn't punitive. It was something that was meant to send messages to do incentives.

And so the panel should -- should work on what it is that creates -- creates the incentive.

But I do -- I have another -- I have another quick point to make on the incen -- no, I don't, I'm

sorry.

MR. GARCHOW: Before you get to that. This is sort of an interesting slide in that it's a slide that's hard to disagree with. But --

MR. SHERMAN: I didn't mean it to be so -- to be so pablum like that.

MR. GARCHOW: If the -- I'm struggling just a little bit from if you read the front of 10-C-FR-50 and you read what the NRC Agency's role is. The role isn't written by Congress to drive the commercial nuclear industry to excellent or superior performance. There's no words like that at all in the charter of the NRC.

The charter of the NRC is very clearly around establishing the regulatory framework and system around in assuming public health and safety. And within that the whole right, wrong, or indifferent, the oversight process is about -- there's a lot of performance which assures that.

There's also a great deal of performance above that, that assures public health and safety that goes well beyond that. And the NRC's mandate is health and safety.

My -- our industry people, in my specific case, I have other drives that are driving me to

superior performance. It's not "late will be gone" they're real drivers. And public health and safety clearly is a driver.

But it's -- I can have very high public health and safety in this environment and still not have superior performance. And still have issues I need to work on my plant to get to superior performance for other drivers.

So the process of SALP in the oversight process never was designed, I don't believe, to get every plant to superior performance. It's not in the NRC's charter. I get confused between the role of the NRC and the role of management if we start mixing those -- those goals together.

MR. SHERMAN: In the states we also preferred ALAP instead of ALARA. Anybody go back that far? Guess not. ALAP, as low as possible, instead of ALARA, as low as reasonably achievable.

But -- but the NRC is committed to it through it's strategic goal of establishing public confidence. To establish public confidence you have to -- you have to strive -- the regulator has to encourage you to strive for excellence.

MR. PLISCO: I would disagree with that.

Because our first goal right now is to maintain safety. And those words weren't just thrown out there. There was a lot of debate on that first word. And it doesn't say "continue to improve" --

MR. SHERMAN: We were able to be tested by our disagreement on that the concept of only maintain. But we asked you here -- but to build public confidence you can't do that -- you have to -- you can't work for mediocrity and establish public confidence.

MR. BROCKMAN: We asked you here to give us your insights as to that, not our insights as to what is establishing public confidence, and you're sharing with us the State of Vermont's viewpoint establishing public confidence is key and establishing as high of a margin for safety as there can be.

MR. SHERMAN: Thank you. You said it better than I could. Thank you very much.

I want to finish this concept of incentives. I have one more -- one more statement and it will -- a conclusion.

Still what I'm saying about incentives, you know, and I appreciate putting up the -- the inspection finding colors. But what I'm saying about incentives is really true.

Take again, let's go back to yesterday's discussion on, what was the word? Piggy backing. That's not the -- what was --

MR. FLOYD: Stacking.

MR. SHERMAN: Stacking. Again, you have created an incentive to stack which is not what is desirable.

MR. BROCKMAN: Absolutely.

MR. SHERMAN: And that's the incentive that you've done that. And that's, again, that's because over here on this side the incentives that are created are not the kind of incentives that were created previously.

And -- and to the extent that the system that you've created is establishing incentives to do stacking, to do delaying down powering, to do not get -- not get white at any cost. That's a problem with your system.

And I suggest, though I'll leave it to the panel to go and ferret this out, I suggest that every instance where the incentive is an adverse incentive is an example where the performance indicator doesn't really work toward performance.

MR. PLISCO: Sure. I think we agreed to that

yesterday.

MR. SHERMAN: Yeah, and that's a structural problem in the way that the system is created. And, again, another thing that's obvious that I think would be the best is -- you're right I -- I focused a lot on -- on this which is so easily attainable at the web. I think that you need to take those inspection findings and make another column here. Maybe condense these down into eight columns. You all got that.

Okay, my last comment. This and maybe with the inspection findings gives the impression that Dave is right about Lake Wilbegone. That there are not poor performers.

In other words, from the public's point of view you take a look at this and you cannot differentiate between -- between what's there very well. Part of my own problem is that Vermont Yankee is completely green. But I know that Vermont Yankee is a SALP 2 plant. Solid SALP 2 plant. I mean, goodness in the last ... the folks climbed over the fence and took over the plant.

And so what are you going to do about that? Differentiation. Now, here's something that has been expressed in public in another form to you before but I

manage a panel in Vermont called the Vermont State Nuclear Advisory Panel. This is a panel of -- of two politicians, two public citizens, three bureaucrats, I'm one of the three, and my boss the Commissioner is the Chair of this panel.

It's existed since the early '80's and its -- its function is to observe Vermont Yankee and to kind of oversee Vermont Yankee. They're people who have other jobs and other lives so they don't spend their lives in these things. They are honest public -- public people. They are not anti-nuclear people. They are not pro-nuclear people. We have had legislators who are -- who are -- have those kind of colors but -- and when Bill came down and presented this program to us, an honest public comment, is that this color scheme is childish.

The person that -- that presented it was a doctor and professor at St. Michael's College; a professor of physics. He said, "This is something that you would do in elementary school for first graders." It's childish.

The greater problem is that it doesn't give differentiation. You can't -- it doesn't give the public what the public needs to differentiate.

So what I pose as a question is "What method do you use to determine the need or to create incentives for improved performance?" Dave, what you were saying before, you know, management systems. What is it that management uses to know that performance needs to be improved?

If you said "none" that's a problem. Because I don't believe, you know, I believe that there are plants which need improvement.

MR. GARCHOW: We actually use performance indicators much in the same way that they have -- several orders of magnitude --

MR. SHERMAN: If you say performance indicators and if these performance indicators are similar to the cornerstones and the -- then -- but that would be something for the panel to consider is -- is if you say you use judgement or if the NRC -- if in the NRC determining whether they felt the plant's performance needed to be -- if you say that you needed -- you need the judgement of the senior resident's then you should have that as some 19th indicator.

And I wanted to get to this point. If you say that you use to determine whether the plant needs to have better performance, then you need to make the

IMPO system public so that the public can understand what's out there, because we can't understand from this.

So if the plant is using IMPO ratings at all, and this panel could determine that those indicators need to be made public.

Now if you're using something else and not using IMPO, but I suspect that IMPO is one of the primary drivers for providing incentive to create performance. And I think that that's -- it's a shell game. I mean, you kind of switch this for the performance indicators that were there with DESALP, and then you're using the numerical performance indicator from IMPO to create your own incentives.

Regardless of what you decide on, the public, in my opinion, needs a numerical system. I know that through the process, Steve, that your folks have created and kind of done with these folks, you've made that numerical system an athena. But the public really needs that. There needs to be a bottom quartile.

So I would urge the panel to struggle with that and to come up with some system of creating numerical ratings so that the public can understand who are good performers and who are not.

MR. SCHERER: Let me understand that. Dick, your slide on differentiation and the bottom quartile, what is you believe that the public information is valuable public information? Is it that the plant from Main Yankee or any plant is the top, middle or bottom performer? Or is it more important to the members of the public and for your benefit, to understand whether it is a good performer, well within regulatory margins and marginal performer, or an inadequate performer?

Those could be two different things. Even compared to the region. You asked four regions. You didn't ask the question: Is the worst performer in Region I better than the best performer in a different region?

At some point what does it mean to be in the bottom quartile? There will always be a bottom quartile. There will always be a top quartile. The question to me is: What's the relevant question? Is the relevant question which quartile you're in, or is the relevant question: Are you a superior -- well within regulatory marginal or below acceptable safety levels? Which is the question did you think needs to be answered?

MR. SHERMAN: I have an answer for that

question, and here's what it is. The model that I believe -- the truth that I believe is that nuclear plant performance ebbs and flows.

In the past there were times when it was useful, necessary, helpful to send messages to plant management that there needed to be changes.

So sometimes the bottom quartile changed. I mean, it's terrible to face the bottom quartile. Now, we always -- I always go to great lengths to justify to the public that when Vermont Yankees operatings went from three one's and a two, to two one's and two two's, and then one-one and three two's, that that still reflected safe operation in public health operation.

What it shows is that there's improvement that can be made at Vermont Yankee, and I'm happy for the pressure that Salp allowed for them to make it. I would still send public messages that they were safe, and that things were -- you know, the safety was there.

The problem, Ed, is that the public knows this isn't true. The public knows that there are good performers and bad performers. You already know that the public has skepticism of nuclear power. So when you, the industry, creates a system which says, "We're all good," the public doesn't believe you.

I hate to say this in public. Turn your machine off. You are your own worst enemy often, because, when you have a regulator who is regulating you strictly, the public has confidence. The public has more confidence in Chairman Slesinger, Anders and Rowden's statement then what's happening now.

The war that you have won is not good. I don't know. You won't invite me back, so...

My last comment. We would like you, the panel, to conclude that now that the system is in place, we should develop some numerical rating through it. I don't care. Give the whites all, give the greens and whites numbers and then add them all up. Do whatever you want to, but -- because if you won't, somebody else will.

If you don't create a numerical system, Lockbaum will do it for you. And then the rest of the world will use Lockbaum's system. Because the public desires an ability to differentiate. And again this was a true public comment, a true public reaction to your system from my Visnet member.

MR. FLOYD: I also find your comments very interesting and thought provoking as well. Do you have any insight as to why the public needs this for a

nuclear power but they don't need it for automobiles, for airplanes.

I mean, FAA doesn't say this airline is a 1.6 airline or 1.3 airline, and don't buy this car because it's in the bottom quartile.

This is the only industry thus far that we have -- used to have a rating system. I'm wondering, do we like the rating system, the numerical scores? This is what we used to have. And now we don't. Or do we feel we really need it relative to other risks in society. And I would just like to hear your insights on that.

MR. SHERMAN: Again, I hate to be cute. If I tell my wife I love her, if she doesn't think I love her, it doesn't matter how much I tell her.

The public is scared of radiation. They are scared of the word "radiological, radiation," and whatever. Goodness knows in Vermont we would like to transport nuclear waste to a more environmentally suitable location in Nevada. That's because Vermont is not environmental suited for ...

(Laughter)

You understand, don't you?

UNIDENTIFIED PERSON: Oh, I understand

perfectly.

MR. SHERMAN: Good. I mean, you can't help where the public is on this. And you've done lots of studies, and, Mary, folks like you have studied that industry or the public as to why they believe it. I mean, but the public knows that -- I mean, this isn't helpful to the public, because the public doesn't believe you.

I mean, if you create Dave's system, the public knows that's not right. So the best you can do is to come up with a system that does provide some gradation but continues to explain that it's safe.

Here's my last point. My last point in my conclusion is to thank you all for enduring with our views here. And if there's anything I have said that's useful, I hope the panel will consider it.

The strongest statement that we feel is, I work for the agency in Vermont, the Department of Public Service, basically the Public Utility Commission. I'm part of the public advocate system in Vermont. We monitor electricity deregulation. We monitor the money as well as nuclear safety. And we are really concerned about the impact that deregulation is going to have on nuclear performance.

The reason that I gave you the Chairman Anders statement and Chairman Rowden's statement is because we believe the direction toward reducing regulation at a time when the pressure on the utility dollar is going to be stronger than you've ever experienced is the wrong direction. And we believe that regulation needs to be especially vigilant at this time.

So my last comment to the panel is that the panel should recommend the creation of a performance indicator and appropriate inspection procedures to gauge whether cost cutting is effecting safety.

I hate to kind of be a harbinger of bad news. That was what created the Millstone and the Main Yankee issues, is what created Tokomura, and what has got regulatory problems with British energy, and it is going to happen again.

I mean what we learned from utility history is that utility don't learn from history. And so if you believe that the utilities all saw Millstone and Main Yankee and know that it's foolish to cut costs because, ultimately, that will result in bad things, maybe they will learn those messages.

But I believe that there will be someone out

there who, when the dollars are just so tight, the maintenance budget will erode and the decision to put off this and that -- and I believe that there needs to be specific inspection methods to look just for that. Again, that's going to be what happens in the 2000s here.

Thanks.

MR. BROCKMAN: Would I be correct in saying you'll probably be making that statement on the old program, the new program no matter what. That's irrespective of the new program. It's an overriding concern.

MR. SHERMAN: Ken, you're real good at cutting through, but, yes. I mean that's something that we expressed in our letter in February, and something we believe very strongly.

But I believe that in the creation of the revised Oversight Program you have the ability to develop the mechanisms within this. You know, a performance indicator that gauges whether cost cutting is a driver.

And, Steve, your folks won't like that.

MR. FLOYD: No, no, no. If we can find a good one, that's a good one.

MR. SHERMAN: Do you have any thoughts on what that indicator might look like?

MR. FLOYD: No. Quite honestly, Bill, we looked. We have looked in -- with the data we have available, and maybe we don't have the right data, but we've looked at a fair amount of data. And every time we saw where we thought we could detect a degradation in safety, where there was a cost-cutting measure in place, we could find another plant that had an improvement in safety with an almost identical cost-cutting measure in place. So maybe we don't have the right metrics yet, but we have looked.

MR. SHERMAN: I think that the people that Jim represents at the table here can have a feel for whether this is happening.

It may be part of this developed assessment you would call subjective, rather than, but I spent five years or so starting with an interaction I had with Commissioner Rogers, and then moving from that.

There are things that you can look at that are gauges of cost-cutting affecting plant performance. Like, maintenance backlog; like the decisions to put off things. You can find that.

I think you should have a color indicator

that, if you have more than one of those things, you should be in some color other than green or white, if you can attribute the degraded performance indicator to cross cutting. Could the decision not to have done something that you otherwise would have done.

So I think it is possible to do.

MR. BLOUGH: If you don't mind I'll -- well, I think this has been very interesting. I just wanted to comment on the area of the developed assessment, because I think you make good points there.

I think it is important to me that no matter what our program is that we still be thinking about those things you had on the left side of your slide that are the cultural in the south areas.

I think it is important that all the inspectors, as well as everyone associated with industry, is thinking about those issues. And I guess under the old program that developed assessment became the assessment.

The way I see it in our new program is that (1) I'm worried that inspectors and managers really in the agency will kind of stop thinking about those other things, and so we have to have counter measures against that.

But the way I see them working is that (1) in discussing internally, you develop assessment. If we think it is way off from what the new program is showing us for that plant, that's like the agency as to whether the program is really working for that facility.

And secondly, it has to feed into the inspection planning. Not deciding what inspections you do, but what samples you pick and how you go about the inspection. If we lose that and the inspection becomes too rout, we've got a problem.

I guess that's where I am. If that developed assessment is way off from what the new program tells us, that's a problem. I guess for the purpose of the panel, I don't know how we would figure this out. But if the panel had a sense the new program could be way off on a plant. And I think we differ on that 'cause you want differentiation. I just want differentiation of the straights. The ones that are into some substantial degradation of margin, if we can be that far off. I think that's a problem. I think the panel has to think about that: Could the new program be way off on plants.

MR. SHERMAN: I think our interests are a

little bit different. I mean, my interest in kind of engaging with the public, and your interest in being able to assure. They're a little bit different.

MR. FLOYD: Right.

MR. SHERMAN: And so there's a reason for...but one thing I do believe about developed assessment, you know, notwithstanding our desire to have you not put this program in quite as fast as you have, we are still confident that safety is being maintained and regulatory safety is being maintained.

But primarily because of the people that ran to you, Ken, Loren, and Steve, and then you at the table, Jim, represent, we have high confidence in the senior resident inspectors that you put out there. Because after all is said and done, I believe that their integrity is strong enough so that they would raise, create, and resolve serious issues if they came up.

Now to the extent that this new system will degrade that, that's another problem.

MR. GARCHOW: We'll take a 15-minute break.

(Off the record at 10:05 a.m., and reconvened at 10:26 a.m., same date.)

MR. WRIGHT: My name is Gary Wright. I'm

basically here today to provide you with our observations in Illinois with the new program, and some things we think are very good; a few things that we think needs improvement; and a few areas we have concerns with; and basically our conclusions at this point, realizing, of course, the program is brand new and evolving.

I'm actually Manager of Nuclear Facility Safety with the Agency, and that includes our Resident Inspection Program and some other things as well.

As most of you are aware, we've got at this point in time six operating stations in Illinois. We'd had seven. Of course, Corsime, unfortunately, is no longer operating. So we have a significant investment in nuclear power in Illinois. And a real strong program in terms of nuclear safety.

To kind of give you a little background and perspective on where my comments are coming from, and what I've experienced thus far in the program, is that we have resident inspectors at each of the plants. And these are high-qualified people. Most have had 15-20 years experience in nuclear industry. Former SROs, STAs, etc., degree engineers, so they're all people have a lot of experience and have a high confidence in.

In putting this talk together, I actually went out to each of these inspectors and said, "Give your comments about the new program. What's your experience? What do you see are the good points? And what do you see are the bad points?"

And also with their management, I talked with them as well.

And realizing, of course, that this still a very immature stage in the program, there's some misunderstandings among my people. I'm sure there is among NRC people. It is pretty clear there's still a lot of concerns out there.

In any case, in addition to our resident inspectors, we also have couple of ASME Code Enforcement Agency in Illinois, and we have two people who are both degree engineer. One of them is a member of a number of sub-committees of the ASME itself, Larry Sage. And he's been actually working with the PRA standards group that's working on a new standard.

And these people, of course, I talk with them as well. And they're out in the plants on a regular basis, so I have some confidence in what they have to say.

Of course, Quad City was one of the pilot

plants, and I want to correct the record here. We don't think Quad City is a problem plant. Of course, they had an unfortunate situation in the yellow. In fact, the inspector there feels that that plant probably is not significantly different than the other plants. I just wanted to correct the record there, even though the fact the system may actually be showing worse than what it is. Anyway, I want to correct the record there.

And I also was a member of the pilot panel that preceded this group, so I have a little extra perspective on the questions that are coming up here.

We've had quite a bit of involvement up to this point in the new program, and want to share our experience with you.

Like I say, these aren't just my comments. I kind of polished them up a little bit. Basically, my people feel that under the new program regulation is a consistent and less subjective. Of course, that's one of the goals, is to try to get rid of some of this subjective regulation that the industry feels has been a problem.

It was kind of interesting listening to Bill because several points were kind of 180 degrees out, if

you will. I remember the 70s quite well, too, but the thing I remember most about the 70s was Morgan Rasmus and the Worst 1400 Report. And at the time that came out I looked at it and said, "Guys, why don't we use this to inspect the plants."

And my big question is, "Why did it take 25 years to put this into play?" So we're directly opposed there, I guess. Because to me that kind of science makes a lot more sense. Focus on what is important and have confidence that you are really looking at the important things, and they are working.

And based on feedback from my people so far, they believe that inspections are more focuses on significant items. They feel that the new system provides more structure for the inspectors, and in some cases -- I'll talk a little bit later -- maybe a little too much structure.

But in any case it seems that the people out there feel that things are being focused on in a more structured manner by inspectors.

And my favorite part of it is that the process is more scrutable by people who aren't directly involved with it, like myself, more of a manager.

I can go in and look at the new web site, for

example. And here again Bill and I -- this is kind of another area where Bill and I disagree. I should say we disagree on the details, but our goal is the same. We want safe plants and plenty of protection for the public's health and safety. It's just that we didn't feel the old program was near as good as a lot of the other states thought it was. And we'd kind of liked it to have been better.

The color coded plaque-status items we think are easy to understand. I mean, it was always -- if you remember the public, and you're looking at South reports, is one better than three, three better than one? Looking at violations, is a Level 4 worse than a Level 1?

If you're looking at the audience as being the general public, we kind of think that color coded is not all that bad. In any case, that's my take on it. I like the way it is presented in terms of if I go into a finding, click on that, go down to that specific cornerstone and issue, and take a look at it; I can have access to the inspection report. I can dig right in; go right down to and find out exactly what the problems were; call my inspection and say, "Okay. What's your take on this?" For me, I think it works

very well.

Problems with the new system, I see that might be a problem for the general public is in cases where you have a past problem, so to speak, like Quad City, it's not clear that that yellow was a past problem that may have been totally fixed, but it is carrying over into the present in terms of the way things are calculated. So there's some problems with it.

But in general if you just to say: Guys, how is my plant doing? And you’re a member a public, and go in there and take a look, it tells you in basically and readily understandable terms by the general public, I think, what the status of your plant is. I think the system itself is not all that bad. There's certainly room for improvement, but I kind of like it, folks. And it gives me quick access to the information being on web. Those are things I like about it. So I guess it is kind of like the Bush-Gore thing.

MR. BROCKMAN: Looking there and very quickly and get a perception and differentiate between different plants. Is that something you are going to talk about later, or is that a --

MR. WRIGHT: Just a little bit. I'm going to

talk about the green findings. We'll get to that.

MR. BROCKMAN: Okay. Put on hold.

MR. WRIGHT: I want to talk about areas that we see some opportunity for improvement in the system. We for some time, and you're probably tired of hearing us whine about it, but we feel that good PRAs are the cornerstone of the cornerstone, so to speak. If you don't have good PRAs for a risk-based system, how good is the system. And we're hopeful that this new standard will be helpful that ASME is working on.

I was talking with my guy who has been working with them, and he thinks maybe February or March, hopefully, they'll have something that people can agree on. I don't know how good that will end up being, but hopefully it will spur on.

I think probably out there -- I know Tom and Ed got PRAs and probably most of the plants out there do. But I think it is important to have across-the-board standard that everybody meets so you have common ground to work on. Because if you've got a system that is built on a lousy foundation, you know, the house is not -- you're going to less confident it is going to stand for a while. So we're still pressing for that.

We also would like that data available to the

stakeholders, the public, etc., people interested in digging in and finding out. And I think this is something that even the chairman suggested recently would be good to have is access to the data. And we certainly in Illinois would like to have access to that data.

MR. GARCHOW: What data would you use as PRA data? It is hard for many people outside of our big group of PRA folks to really understand totally the construct of a model. It is sort of a specialty deal. What data would you think from the PRA would be beneficial to the public?

MR. WRIGHT: The name of the code escapes me. There's a code that NRC uses.

MR. TRAPP: Safire?

MR. WRIGHT: Safire. We got Safire. It would be nice to have the actual plant into those. We've got now the generic data. But actually have data, as much as possible, on failure rates on special systems or components of the plant. What are the utilities actually using for failure rates, etc? It would be nice to have that data.

And I know according to Gillespie the current system, the envelope in these STPs covers the worst

case situation. So if anybody has a PRA that's halfway of quality, they ought to be able to better the numbers in that STP process. That was his argument.

Now that may, in fact, be true, but I think our people are a little concerned that they'd like to have a good strong PRAs to rely on in doing the STPs.

Corrective Action PI. There again, well, the backbone of the system, of course. All the green findings go into the correction action program. And one of the problems with that is that, if you have a bad Corrective Action Program, that will probably go back into correction action program.

We would like to see strengthening of the corrective action inspection activities. And I guess this newest version of the PI&R inspection procedure does now provide for the process of your baseline inspections actually taking a look at that.

The only thing that's not clear to us is how that will feed into the annual inspection, and how that will all play out. But we're glad to see more emphasis is on that now, because that really is a backbone that needs to be very strong for this new system to work.

MR. PLISCO: Do you have any ideas on that?

MR. WRIGHT: No, I don't have any good ideas

on that, whether it would somehow to rate from a risk standpoint the corrective action items, and then to somehow look at the percentage of those that have been implemented over a period of time, I don't know. But that would be the kind of thing, I think, you would want to look at to make sure that they are, in fact, aggressively addressing the more risk significant items that are a problem. And I don't have any good suggestions on exactly how to go about that. But certainly that should be the intent of any PI in that area.

Of course, steam-generator PI, we were harping on that back sometime ago, too. That somehow didn't end up in the system. I guess they're looking at that again now with the Indian Point situation.

I was kind of interested in Ed's comment that certainly less leakage is better than more leakage. So those kind of things, I think, I'd want to look at in terms of a PI for steam generators.

MR. GARCHOW: What would that look like? What kind, like percentage of tubes plugged?

MR. WRIGHT: Yeah, it could be a percentage of tubes plugged, leak rate, gallons per minute or whatever. I don't know. I think there's several

things to be considered. I'm not an expert in that area.

MR. GARCHOW: Because that would tend to focus on whether you're managing your steam generators as opposed to the construct of the process, which is supposed to be giving you an idea of how your management is.

MR. WRIGHT: See, from our standpoint we're in an off-site agency primarily concerned with public health and safety. We look at PWRs as getting a major, primary, secondary leak during an accident situation, you can end up with a direct release to the atmosphere. So that's our primary concern, that we look on that as a fairly important piece of equipment, so to speak, and are surprised that its not played a bigger role.

I guess if you look at possible event, maybe it doesn't play out to be a major factor. But certainly, from our standpoint, we're always interested in direct releases to the environment.

Areas for Improvement. Some areas that we're concerned about. During the pilot panel it was, in fact, stated that there wouldn't be any old system any more. That there'd be the new system, and then maybe some variation of the new system. And it appears that

all plants are reporting now PIs -- or under the Risk Based Inspection Program.

But now I see the chairman has been talking about the fact that maybe dual oversights are coming back into play. And I don't understand how that would play out. Would you have deterministic type inspectors and risk informed? I don't know how that would work. It may be something you want to take a look at, or maybe people have talked about that already and solved that problem.

When I see that, it kind of raised the flag in mind. But you'd end up with a real problem trying to regulate under a dual scheme there for different types of situations.

MR. FLOYD: From our conversations with him, I think where he's coming from on this -- and maybe some other testimony on this, too -- but where he is coming from here is, is that the regulations are deterministically based. And the NRC has the responsibility to make sure that the plant is in conformance with the regulations, because that's the licensing basis. And what they wouldn't want to have happen would be to make the inspection process purely risk informed, and not also pay attention to why you're

preserving the licensing basis for the plant, which is still deterministic.

Because position is that until such time as we make the regulations be risk-informed, and adjust some of the deterministic requirements to make them be risk informed, you can't get full alignment. They're very sensitive to the issue of -- if a plant were to start to degrade and get a lot of publicity, and it came out that the NRC was no longer looking at whether or not they were complying with deterministic requirements, which is the basis for the plant, that would be a pretty tough argument to sell to the public. So that's where, I think, he's coming from.

MR. BORCHARDT: I think -- I may be overly personal, sensitive to that, but I'm not allowing the enforcement program to be used as a way to rewrite the regulations. I don't believe it's appropriate to selectively enforce some regulations and not others.

If there are regulations that need to be changed, given our best more recent thinking, being more risk informed, then let's change the regulation, and obviously enforcement will go away with it.

And so I think the dilemma that the chairman has been referring to, and we've had some interaction

with recently, in that we cannot ignore the relevance of compliance with the existing licensing basis, regulatory basis.

Now even though we're trying to become more risk informed than what we do, and what the regulatory response is, I think that's where there might be some confusion.

MR. WRIGHT: That confused me. I was wondering how this would play out.

MR. PLISCO: That was part of the issue I was talking about yesterday too. The guys who really feel it are resident inspectors, because they're being trained to use the risk information; they're being trained to focus on risk-significant issues. But when they find it, I mean I'll over simplify it for purely a compliance issue and really not the risk significance, they still have to deal with that.

And I think some of them get -- I wouldn't use the word "confused" but it has caused some frustration. I think they still have to deal -- they know it is not important but they still have to deal with it. But until that requirement gets changed, they have to deal with it. They feel that on a day-to-day basis.

Now part two is, we're seeing some overflow into how the utility does business too. We've had a number of situations where utility was not complying with their text-spec, and they had a very rational, good technical reason on why it was not important that they follow the text-spec. But it was good rationale to change the text-spec, not a rationale not to follow that.

And they are falling into that same trap, as they're starting to use this risk information in making their decisions. But they forget there's still this regulatory framework that hasn't caught up yet that they still have to follow. And we've seen a number of those kinds of situations occur. Part of it is getting ahead of the other part of the process.

MR. SCHERER: You're making a very good point, and I think we were discussing some of that yesterday. But I think we ought to make sure we capture that thought.

MR. WRIGHT: I said earlier that there's more structure for the inspectors, but I don't know how widespread this is. I guess Mr. Reynolds isn't here today. But Region III seems to be interpreting that fairly tightly. You know, this is how many hours I've

got to do this, and I can't spend more time doing that; I need to move on.

Ken indicated that maybe that's not the case in his region.

But in any case I think that while, you know, we don't advocate inspectors running amuck or going on fishing expeditions. I think if there's a key interest in a particular safety issue that an inspector is pursuing, if he runs out of hours according to his inspection plan, he shouldn't be cut off from doing that.

And I think that maybe the message that's going out there to some extent, at least to some of the regions, is that, guys, you've got to keep within these hours. And I think that would be a mistake to be too closely limit the hours of the inspectors. I think they should have the opportunity to dig into things if they consider them important, without a whole lot of approvals from regions.

MR. BROCKMAN: You have summarized very well. Certainly if an inspector is out there pursuing a safety-related issue and his clock goes off, take the dial and shoot it back around and let it keep on ticking and you keep on doing your thing. You don't

worry about that.

If you get to the end of the hours and you've met the inspection, what it is meant to do is say, all right, you have sampled that to the degree that was right. We haven't turned up significant issues to go on because there are other things that also need your attention. And that's how we're approaching the hours aspect. It becomes very much a budgeting tool as to how large is the program and how many resources do you have to comply with the program.

When you go over, there's a price that's going to have to be paid. And it's either taking resources out of my discretionary basket or causes me to go into overtime; causes me to dedicate other resources to go out and supplement, what have you. That's not a problem. It should never come in to compromise on following up safety issues.

MR. WRIGHT: Yes.

MR. SCHERER: Are you aware -- do you know of any cases where you think an inspector didn't follow up on an item because of --

MR. WRIGHT: Not specifically. I'm careful here not to get into specifics, because part of these are impressions from the inspectors. One of the

impressions is -- you notice I don't want to mention any specifics. One of the impressions is that there's a lot of pressure not to exceed their inspection hours out there, at least in our region.

During the pilot process, I mean we were clear to state that, gosh, maybe the goal was 15 percent in inspector hours over the long haul. That's what we expect to get. But we don't want to make that a goal, because we certainly don't want to short safety here.

So I just caution that that message needs to be clarified out there.

MR. PLISCO: I can't speak for Region II, but I know Ken and Randy, we talked about this before. There was a concern about this.

And I know for Region II, and they can speak for their regions, the guidance we put out is, especially during this first year, conduct the procedure, conduct every line item in the procedure, and whatever it takes. An hour. That's what it takes. I mean they were estimates. They may be wrong.

And as you know there's lots of variables on how long it takes to do an inspection. How many issues come up. How easy it is to retrieve the information.

There's a lot of other variables. The experience level the inspector has. Those numbers are really constructive to help us budget resources, rather than to see that inspection has to be done in that amount of time. A lot of those numbers may change after we've gone to this first year.

MR. WRIGHT: That's what I think was expected. With time you'll find there are some areas that's just not worth spending much time on. And it may be different than what you originally thought. And other areas down the road where you want to spend more time on it. And those should be guided by the risk significance of those particular areas and on a particular plant.

MR. MOORMAN: Our guidance has been to do the inspection, and let the hours fall where they may. If we have an issue, we follow the issue until it is resolved. What we have used the hours for is just a general guidance of the depth that we should go into the procedure.

If there's any question about any sort of interpretation with that particular inspection procedure, we'll say, well, this is what the author had intended.

Now I can tell you that it doesn't take us nine hours to do a evaluation, and it takes us more than two hours to do a surveillance observation. So there are some imbalances in there that we're working out in the first year.

But the hours have not constrained us to any amount in pursuing the safety issue. I've charged a bunch of hours to one particular module because I had to pursue the safety issue.

MR. TRAPP: We've heard feedback from inspectors that say something like a maintenance observation. They feel that's an important activity that the new program doesn't allow them to look at maintenance. So I don't know if those kind of constraints would fall into this category. But it might be something you want to think about.

MR. PLISCO: I think that's more of a scope of the procedure rather than just the hours.

MR. TRAPP: Right.

MR. PLISCO: We've been very cautious to make sure, when we ask questions about hours, that we are not implying that the number they've written down is wrong. We've had that experience in the past from the old inspection. If you keep asking why isn't this 32

hours, eventually they're going to tell you it took 32 hours. Once they figure out that's the right answer. We've been very cautious not to ask questions that way.

One thing we have done is to make sure what we see hours significantly high or significantly low to the estimate is to find out why. And we do talk to inspectors frequently when we see real high numbers or real low numbers. And to make them understand that it falls into what we thought was the normal variables. Maybe there weren't any issues they had to develop. Everything was clean. To make sure we understand why there is a variance, so at the end of the year, when we look at all these numbers, we have some logic as far as what the next year what that estimate should be. If we need to revise that estimate, make sure we understand that.

But I know we're careful when we ask that question: Why did it only take ten hours? Why did you take this many hours? How we ask that question.

If you're asking a question and you have the data, let people know it sticks out. They're going to be asking why. Even so, it's very comforting.

That very building has the categories -- the elements are built into two categories: One is

legitimate variability, based on the complexity of the inspection; the difficulty -- I said all this yesterday.

The second is inconsistency. The procedure is misunderstood. So you do need to try to find the inconsistency without ironing out the legitimate variability. I think it's a challenge. No matter how many times you try to re-enforce the message, it's a challenge.

MR. WRIGHT: ...fight the fight that people are going to get -- it’s a danger, I think, if the impression is a good inspection is one that's done on time, you know. You want to make sure --

MR. GARCHOW: That's the message that we give our staff is, we're out there saying we have the time to do it right. That's the same message. Take the time to do it correctly.

MR. MOORMAN: There is a way we charge our hours, Randy, and that is, if you have a safety issue that you have to follow, like I had one in the surveillance area, the only place I can charge my time is to that surveillance procedure. So we're going to be way high on surveillance hours. And that's going to skew the numbers. But, I had no choice.

MR. BLOUGH: I call that a legitimate variable, and that would be the worst of all cases. I haven't got any feedback that we're at that point, but I am getting feedback that because of the immensity of the task in this first year, at least, people felt squeezed a bit for the time especially the residents in some cases. And in other cases, like you said, the depth of -- the estimate provides a framework for the depth.

So it's not once you do -- what you do once you think you have an issue, but before that how many questions you ask in each particular area before you decide, well, there's probably not an issue here. Let's move on. Or there might be an issue here, let's dig deeper. That's something to be worried about.

That formatory stage before there's an actual issue to pursue, when it is just the question stage.

MR. WRIGHT: Just like the greens and whites for the utilities is, they don't want a lot of whites, or yellows or whatever. You want to make sure the inspectors don't have the impression that they're going to be standing out for doing a good job, you know. That was the only point we were trying to make. And hopefully it is not happening.

MR. BROCKMAN: The point which you bring up here is very key, and it is something I think all the management teams be sensitive to. You've got to have a degree of confidence and trust with your inspector staff that are gathering data. Being outlier is absolutely fine. We know we're going to have outliers. We need to have the reasons. There's a problem there that can be fixed. Is it just going to be the part of the cost of doing business that you know. We have to reflect on a training program improving that. I mean, there's all sorts of things. Is it reflective of licensee organization that's hard to get information from.

There is some licensee organizations, in dealing with their infra-structure, it's a very smooth infra-structure to deal with or its not a smooth infra-structure to deal with. And that can vary from topic to topic on an individual license. So you gain some insights into that type of aspect.

If you don't have the trust with your staff, you're right, the data would -- trying to gather the data would have a very adverse impact.

MR. WRIGHT: One of the thing that I do agree on is, there's a lot of greens out there. And maybe

they're right. But the impression that people are getting is that maybe we aren't looking hard enough. Or maybe the thresholds for -- the furnace indicator is maybe a little too low.

I looked at it just before I left. I think on the performance indicators there were something like 1700, 1800 status indicators. And of those about one percent were other than green, which I don't have a feel for whether it is good, bad or what. But it is not a very high percentage.

And one of the things we keep hearing back from inspection people are that, gosh, everything reads out. And I tell them, well, maybe it should. But I think one of the things we really need to look at is going to be thresholds are, in fact, set so that we get the differentiation Bill was talking about.

If everybody thinks -- I'm more concerned about the inspectors down the road. If they feel like their efforts are going to drain out, they're going to be less original with time and really digging into things.

My only comment here is that obviously a lot of green out there has a problem for you in this new oversight program. Maybe it's justified, but it is

certainly a political problem with the public and a lot of people I've talked to. I'm kind of the whipping boy at times for pandering to these, whatever.

Actually, the fact of the matter is, we were present for a risk base type of inspection activity, and we were working on one ourselves years before the NRC started. So we kind of thought that was the way to go for a long time. So it's not that we support it because NRC is doing it now, but we think it is a great way to do things. But in any case this is a problem for you.

As Bill mentioned, I've gotten it from inspectors from other states that all our green out there is making it hard for people to believe that that is, in fact, true. So for better for worse, it's an area of concern. I don't know. Maybe it's correct.

The other thing is, I think that people don't realize that green doesn't mean everything is perfect. That's the other problem. To maintain the system you've got to educate people that green means that there's problems there, but it is up to the utility to fix them, and they don't require extra NRC oversight. And I think that message is not getting out as well that the green doesn't mean there are no problems.

There again, I think that's something -- if the thresholds are okay, then you're going to have to do some education, I think.

MR. SCHERER: When you're saying most findings are green, you're referring to NRC inspection findings or PIs?

MR. WRIGHT: No, I was referring specifically to the PIs.

MR. SCHERER: Okay. Is there some -- I just want to pursue that with you.

MR. WRIGHT: Yeah.

MR. SCHERER: I asked in an earlier session whether this panel was prepared to accept all green at some point in the future. If you say we need to revisit that, not accept all green, what percentage do you -- do you have a number in your mind? Is there a 10 percent? Is there a 50 percent that you would think to be other than green?

MR. WRIGHT: No. If there were a way, like Bill is attempting to do, I think, try to relate the current system with what went before, assuming that back when this started that the plants didn't change over night, there was some way you could figure out what the transition was from one system to another, so

that we would have a better idea what to expect out there.

I don't know that one percent is bad. All I know is, it's a small number. And it's causing you trouble. That's all I'm really saying here.

And I think it's an education process, plus the perception that green is -- everything is okay, when, in fact, it isn't.

MR. KRICH: ...causes you trouble in terms of the inspectors following through, as you said earlier.

MR. WRIGHT: To some extent, yeah. But with I think many of the people that are procipherous against the program, really don't understand that 85 percent of a new program is still inspections. And in some cases actually exceeds the time from the old system. So I think it is more of a communication thing on the whole new system.

If you could correlate the greens with something that would be kind of a root cause situation here that show, in fact, that's what you would expect, then are able to communicate that well, I think that would help to go a long way towards selling the program.

MR. SCHERER: Interesting comment to add.

Green is not perfect.

MR. WRIGHT: Exactly.

MR. SCHERER: It is something less than perfect but --

MR. WRIGHT: Yes.

MR. SCHERER: -- I think you raised some very interesting thoughts, though.

MR. WRIGHT: Like I say, I see the perception out there and that's why I'm presenting these.

MR. SCHERER: Did you discuss extensive judgement in the STP process?

MR. WRIGHT: This one kind of relates back to the PRA data and the way the STPs on the specific plants are constructed.

We've had a few cases where my people, in particular, and I don't want to get into the specifics -- but felt that the STP process leaves some room for manipulation, if you will, by the utilities.

MR. GARCHOW: It would be helpful without saying the inspector dealing with Joe, the NRC guy. Don't get that specific. Can you give me the flavor of like which STP that was true in?

MR. WRIGHT: Yeah.

MR. GARCHOW: And give me something to work

with in the comment. Was it one STP over others? Was it all of them? Without getting into, you know, I don't really care who. It would be helpful to know the types of issues.

MR. WRIGHT: Well, it was (Pause) -- well, I'm reluctant to go there.

MR. GARCHOW: That's just hard to deal with such a broad thing.

MR. WRIGHT: Well, these were in a loss of essential service water for extended periods of time in one case. The train limit was out. Another one that they had some containment isolation problems that were -- like I say, I don't want to give the details.

MR. SCHERER: I'm trying to understand what the issue is. Is it that the perception -- and I'm not trying to -- is that the NRC was manipulating the process or the utility was manipulating the process? I'm trying to --

MR. WRIGHT: It wasn't utility no. It was a feeling that there's a lot of judgement in the STP process and a particular situation that one of my inspectors observed, along with the resident, and our chief resident at the plant.

It was a situation where they thought it was

actually worse than it was, and when they went to the reactor analyst and they worked through the STP process, it got greened out, and these people thought it shouldn't have greened out on this particular case.

MR. GARCHOW: Stay with that. So in that process, whatever STP you were using, the inspectors felt that process that allowed it to, I guess --

MR. WRIGHT: Graded out as green when they thought it had been less than --

MR. GARCHOW: -- created a new term "green out." You thought there was a lot of subjectivity in that as opposed to --

MR. WRIGHT: Not me, personally, but out --

MR. GARCHOW: Or your inspectors as opposed to taking like real plant features and real plant something --

MR. WRIGHT: Right. They felt that in that particular case if they'd look at specific plant features more closely, it probably wouldn't have greened out. And there again --

MR. GARCHOW: Okay. That's all.

MR. WRIGHT: So they just felt -- like I say, this is a preliminary concern. I'm not saying that this is fact. That, in fact, it was too serious.

Apparently there's still a lot of room for judgement in some of these situations.

MR. SCHERER: Let me see if I can repeat it back.

MR. WRIGHT: And the more we can specifically come up with PRAs that identify the plant and STPs that specifically use plant data, the less of a problem it is going to be, I think.

MR. SCHERER: I just want to repeat it back, so I understand it.

MR. WRIGHT: Yeah.

MR. SCHERER: There's a perception, at least, an issue which was raised that by use of judgement that wasn't transparent somehow got downgraded out to a green finding.

MR. WRIGHT: Right.

MR. SCHERER: And it wasn't clear or transparent to the person why that happened.

MR. WRIGHT: Right.

MR. SCHERER: Somebody just -- quote -- applied judgement.

MR. WRIGHT: Right.

MR. SCHERER: And it went from a potential white finding down to a green finding.

MR. WRIGHT: Right.

MR. SCHERER: And there was no satisfactory explanation given.

MR. WRIGHT: Right. And I think it's -- yeah. And it is a training thing, I think, and a long-term confidence building type of thing. It's the kind of thing you're going to run into in a new program. You run into this basically everywhere, with NRC inspectors as well.

MR. SCHERER: But basically it's a transparency issue.

MR. WRIGHT: Exactly.

MR. SCHERER: That the person that is expressing this concern wasn't able to see --

MR. WRIGHT: To see definitively recreate those steps.

MR. SCHERER: Thank you.

MR. FLOYD: I'm not undermining or minimizing the importance of getting a call right under those codes. I guess the question I really want to know the answer to in that particular was: Were your inspectors or the NRC inspectors satisfied, even though it wasn't determined to be a green instead of a white? Did the issue get fixed and addressed?

MR. WRIGHT: Yeah, it was fixed and addressed because --

MR. SCHERER: Is there any shortcomings in that area because of the classification of green versus white?

MR. WRIGHT: Yeah. That turned out was, you know, it was a calculation thing. The system was back in service.

MR. FLOYD: The corrective action taken wouldn't have differed whether it was green or white. Did the inspectors agree with the corrective action? That's what I'm trying to get to.

I want to make sure doesn't happen is because it was green instead of white, and they thought it should have been white, that less was done to fix it.

MR. WRIGHT: In a particular -- like I say, it is -- but the situation was it was a system that was left out of service way too long, the inspector thought. And should have, because it was out of service after going back into operation, that it should, in fact, have come up more serious than a green.

MR. FLOYD: I see.

MR. WRIGHT: Because it was an essential

system that would have been needed. The minimal thing happened, of course, so it was kind of like the back calculation that Claude had. The situation where...In any case, you're going to run across these.

It just supports the point, the more factual we can make all the data in the system, the less these problems you are going to have, and perception will improve that thing.

MR. WRIGHT: The jury is still out on cross-cutting areas. How good this new system is going to identify those, and I think everybody is aware of that, so that's not news to anybody.

And also the second one still too soon to know whether they do oversight, process is going to work. Those are determinaries that I think there is no disagreement on.

Conclusions. I guess all things considered, and looking at the time frame in particular involved, that things have went fairly well as far as getting a new system into place. I was amazed that you got most of the plants, after the pilot process, actually reporting and the inspection process in place. So to that extent, I think it's -- after watching NRC move in glacial motion for 25 years or so, I'm amazed that this

1 happened. It's great. I mean as far as able to get it
2 into place.
3 We believe, unlike many other states, that
4 the new system has potential for improved oversight.
5 And hopefully down the road maybe even less oversight.
6 And I don't think we want to rush that. We want to
7 focus on an improved system for all concerned, really.
8 We haven't noticed any fatal flaws yet. And
9 although the corrective actionary, if we have one,
10 eventually will be there, it will jump up and bite us.
11 I think we got to look closely at that. And of course
12 having good PRAs. Those are kind of the areas that we
13 feel that if there's a real major problem it would be
14 in one of those.
15 And, of course, there's a lot of work left to
16 be done, as you are all well aware, because you are
17 doing part of it.
18 That's all I have to say.
19 MR. KRICH: You know the way that the old
20 inspection was done for the Corrective Action Program,
21 was that more satisfying to you than what's being done
22 today?
23 MR. WRIGHT: Not really. I think what we
24 just want to make sure of is that in the Corrective

Action Program -- because the new system relies on it -- that, in fact, it's doing a good job basically. Because it is kind of relied up now as a substitute for NRC oversight. Whereas, before it was just involved as part of the oversight. So we just want to be sure that that, in fact, the program is a good program.

MR. GARCHOW: Not suggesting that we go there, but it's the power of language, but you can say Corrective Action Program to a room full of different utilities and --

MR. WRIGHT: Actually it's PI&R.

MR. GARCHOW: -- needs are different, needs are a different thing, because, you know, if you say EQ program I can go grab something, and we could all read something, and pretty soon we're having a pretty good conversation, at least there's some basis on the EQ program.

I think the industry is moving closer together to having the Corrective Action Programs have the basic same elements, but I think that's one of the challenges of the inspectors at Plant A versus Plant B, because of their ability to know what those programs look like. They all may be effective...to how they actually operate.

MR. TRAPP: I think another problem with the Corrective Action Programs on the back-end is that when you find one -- we've kind of addressed, if you find one you like, it's okay; if you find a Corrective Action Program you don't like, then what do we do. You know, it's not clear to me how that works through the matrix or what we are going to do with that when we find it. And I don't know if we've found that animal yet. But I don't know what to do with it.

MR. FLOYD: There are two areas of concern: PRA and Corrective Action Program. For PRA you outline that hopefully when the standard comes out --

MR. WRIGHT: Yeah, when the standard comes out.

MR. FLOYD: -- that it is endorsed, and public availability of data that some of those concerns would go away. Do you have any specifics or thoughts on what you think either the industry or the NRC should be doing to help alleviate some of the concerns in the corrective action area?

MR. WRIGHT: Well, Corrective Action Program?

MR. FLOYD: Yeah. How do we get confidence that a licensee has a good Corrective Action Program?

MR. WRIGHT: I don't have a good answer for

that. I would like to see -- and that's something this panel may think about. Is there an indicator that could be developed that would provide some insight into the Quality Protective Action Program.

I just have the problem. I don't have the solution, unfortunately.

MR. FLOYD: Would a standard of some kind help in the corrective action area? I mean like the PRA? I mean we're coming out with a PRA standard. I'm just thinking off the top of my head.

MR. WRIGHT: No. I'm thinking that we want to make sure -- like I said before, maybe look at the risk significance of problems that have been identified and put in to their Corrective Action Program, and then somehow be able to come up with a cumulative indicator, based on risk, of the items that are in there while they're being addressed.

Because they do a lot of things in the Corrective Action Program that are not really risk significant. And I think I saw one number in some study that just a very few of them have risk significance at all. And so those are the ones you want to make sure are being taken care of.

How you would go about doing that, I mean, I

don't have a solution at hand. But certainly those are the ones you want to make sure get corrected.

I want to make a statement, too, that most of these comments are general. We don't find specific problems with our Illinois plants in these areas. These are areas that we just see as a general problem.

MR. PLISCO: Any more questions?

(No response.)

Thanks a lot. We appreciate it.

We've got some time before we break for lunch. I said there's several other states that we're hear from. New Jersey. We've already talked to. They were going to come, and they said they had some schedule conflicts and they're going to plan on coming to our January meeting.

MR. MONNINGER: Correct. And they will also submit a letter --

MR. PLISCO: Yeah. I gave you a copy of that.

MR. SCHERER: I've read the letter and it causes some questions in my mind that we'll have an opportunity to discuss in January?

MR. PLISCO: Yes.

MR. GARCHOW: Spend a fair amount of time

discussing these issues in various forums, informal and formal.

MR. PLISCO: And at some point Jim and Bob, too, I'm sure we'd all be interested in hearing your views, too, from the states perspectives.

I think we were planning today to tie that up in our January meeting, and plan on setting some time for you two to talk about your views.

I talked to Mary. She had a couple of issues. She worked on her issues last night, and I was going to suggest that we talk to her between now and our break for lunch. We'll continue our conversation from yesterday on she's in the program. Do you want to do that now?

MS. FERDIG: I can do that.

MR. GARCHOW: Before Mary gets started, do you want to frame out what the rest of the day looks like for us?

MR. PLISCO: Yeah. I know people have flights. We do have some time. My optimistic hope is that we will finish earlier than on the schedule. Yeah. I think a lot of people are leaving anyway, so we'll -- except those going to Chicago.

And really as far as business to conduct, the

only thing this afternoon we really need to get done is plan for January as far as topics, agenda, and what we want to get accomplished there, and if there's anyone else we want to invite so we can get working on that.

I think our March dates. Based on our discussion yesterday, and weighing out our plans, who else we want to focus on as far as soliciting to, and who we can start formulating --

MR. SCHERER: Did we confirm our January meeting?

MR. PLISCO: Yes, we have firmed January meeting. We did that our last meeting. It's 22nd and 23rd of January.

MR. BROCKMAN: Yeah.

MR. PLISCO: We're going to do that in Rockville. We're still working on the exact location. We did have the ACRS meeting room, and we got bumped last week.

MR. GARCHOW: By the ACRS.

MR. PLISCO: Yes, the ACRS bumped us.

MR. MONNINGER: Well, wait a minute, we're an independent --

MR. PLISCO: Yes.

MR. BROCKMAN: You may want to introduce the

potential third meeting time and everyone could check calendars or make phone calls during lunch, instead of waiting.

MR. PLISCO: We're looking at -- actually one of the weeks I was looking at was actually the last week in February and the first couple days of March. The 26th of February through March 2nd. That week.

MR. GARCHOW: Mondays and Tuesdays probably are better for people that are flying.

(Discussion regarding logistics of meetings.)

MR. PLISCO: So the 26th and 27th, how does it look, of February?

MR. BROCKMAN: Monday and Tuesday.

(Discussion regarding logistics.)

MR. MONNINGER: There was a thought that if anyone knew of interested stakeholders in a certain area of the country, maybe it would be more credible or more beneficial to do that.

MR. PLISCO: The end of February we still want to stay away from Chicago.

MR. GARCHOW: So that might be a case to go because Pennsylvania state has some interest. They've talked to the Peach Bottom folks, I know. The Pennsylvania folks. The New Jersey folks will have in.

We might want to think about doing it somewhere in that area.

MR. SCHERER: My suggestion is default position being Washington. If there's a reason not to have it in Washington, I think we ought to do that.

MR. PLISCO: As we piece the agenda together that might be targeted as far as what will be better locations. We'll do that this afternoon.

We also wanted to pass out -- David Lockbaum just sent me a letter. Enforcement issue having to do with the Beepers, and I'll pass that out.

(Discussion on logistics.)

MR. FLOYD: We have a related day blocked that not everybody is aware of, and that is that he has filed a Petition for Rulemaking, Performance Indicator data submittals by utilities, non-voluntary, but actually make that a regulatory requirement that that data be provided.

MR. PLISCO: That's from last week.

MR. SCHERER: I heard that as well.

(Discussion on logistics.)

MR. SCHERER: So your concept is to take information in January and February, and then March, via working meeting? Is that drafting meeting, if you

will?

MR. PLISCO: Yes. And I think someone suggested that we may want to leave the door open for late April to have a one-day final wrap up of the report.

MR. GARCHOW: During the PeepUp, it was helpful when the equivalent of John took a shot at what he thought he heard and then sent it out by e-mail. And then for each section we were able to write our name, and then write on that we concurred, didn't concur, here's some additional thoughts. That got all assembled by the equivalent of John and brought back out.

And then when we had that meeting we were able to very quickly see that we could get to consensus on a large number of things, and then the meeting became let's hash out the place where it's detriment. And it made it where it a real efficient way for 15 people to build something that would take us a week to determine what time it is.

MR. BROCKMAN: Just going back, if we were thinking about having a meeting in March and April, it is much easier to have a date picked that we don't use than wait till then and try to find one that nobody can

meet.

MR. GARCHOW: Well spoken. Then you're getting into outage sessions.

MR. MONNINGER: One thought there as you brought up PeepUp. And I think our work there was -- the numbers critiqued each and every performance indicator that the staff had developed. And there was about 20. So you basically had 20 paragraphs developed by each member and an overall conclusion.

For these performance measures, there's 50, which is quite a bit more. So I'm not quite sure if the panel is planning on critiquing each and every one? Or is there some roll-up that you had envisioned, or what?

You know, if you're looking at a parallel between the previous panel, the metrics the staff had. Twenty metrics to judge the PeepUp.

MR. HILL: Are you talking about the self-assessment PeepUp; is that what you're talking about?

MR. MONNINGER: Yes. And now the staff has 50 for the self-assessment.

MR. PLISCO: And that's something we can talk about, what the best approach is, and decide how we're going to address the issues.

MR. GARCHOW: One more comment. During the PeepUp we actually had this conversation repetitively at every meeting. So then when it became time to do it, having these conversations for 15 minutes, 20 minutes, a half hour, each time, it all started to frame out as the meetings went on to sort of what it was going to look like.

MR. PLISCO: Do you want to wait until after lunch to do your's?

MS. FERDIG: It won't take long.

MR. PLISCO: A lot of people have promised that.

(Laughter)

MS. FERDIG: I think my questions are at a more global perspective and, therefore, probably less likely to lead us into detail conversations. And they may be inherent and probably are, in fact, in all of what we've covered up to this point.

The first is, what challenges most significant that are emerging from the experience of the initial implementation thus far?

Most significantly challenged the degree to which the ROP can continue to create the space for constructive, creative conversations among the

regulator, the industry and public representatives who share the commitment and responsibility for safe, efficient nuclear power generation.

So I'm really interested in the specific kind of examples that have an impact on that space for continuing conversation, because I think that's the strength of the program, from my field.

Related to that then, the second question is, what are the challenges impacting the development of, at least adequate, exemplary interaction guidelines which will enable those constructive creative conversations to occur around the cross-cutting issues.

I think there are some real potential concerns that the nebulas nature of the cross-cutting issues could inadvertently lead back to some of those arbitrary kinds of decisions and actions that don't fully get out all the implications around those cross-cutting issues.

So I'm just again wanting to focus on experiences to date that could challenge the effectiveness of that or provide possible recommendations to lead toward that. And that certainly would relate to the whole notion of the problem identification program, and the significant

impact that that has on the way the ROP is enacted, as well as safety conscious work environment and human performance issues.

The third one, again not coming from a technical point of view, the question is a global one for me. But it's just that continuing questions to the extent to which the PIs are meaningful and leading indicators of safe plant performance, and how the program enables continued evolving enhancement of those indicators as more data become available. And just what that means. I don't know from a technical point of view. So that's a public interactive kind of question.

And the last one. I worded it in a certain way last night, and I'm just hearing it again as being a real underlying question, philosophical question, that certainly relates to public confidence, and also just that the way we want to -- what the objectives are of this whole effort. And it has to do with what are the practical implications regarding the underlying philosophy and assumption of what I'm calling the 95-5 percent model for collective plant performance.

That is to say are the expectations, the definitions of safe enough to manage plants internally

sufficient to sustain a level of public confidence, if they would all end up in the green ban performance.

And if that is the case, what is it that we need to do to communicate what that means in a way that that can create and sustain public performance, or is indeed public confidence, or is the philosophy that regardless how well plants are doing, relative to those agreed upon standards of safety, that there will always be some at the lower end of the spectrum that will desire added regulatory scrutiny just because.

Just because it happens to be the nuclear kind of environment versus other kinds of phenomena in our society that requires -- I don't know the answer to that question, but it is one that I think is present in all of these conversations.

MR. GARCHOW: That question has underlined a lot of the discussion in the last two days.

MS. FERDIG: Yes. Yes. It's really there all the time. I don't know what the answer is, but I do think that the public participation in coming to some understand then is critical. Because ultimately if they're making a lot of noises because there's not enough red out there somewhere, and that that somehow means that the nuclear industry isn't performing

safely, then there's a flaw somehow.

Those are the things that were on my mind. Not technical at all.

MR. PLISCO: We'll get you copies of those after the break.

Can anyone answer those questions?

MR. SCHERER: No, but I had a reaction to the comment -- you use the phrase "conversation." And I would encourage you to -- are you thinking really of conversation or communication? There's a lot of conversations that go on. I'm not really convinced especially as I think about other stakeholders that we have effective communication. And were you using the phrase "conversation" in your outline, were you meaning, at least in my semantics, "communication"? Getting effective communication.

MS. FERDIG: Well, conversation for me is communication. And it implies a kind of communication that requires participants to fully engage from each of their own perspectives, and lends to understand the perspectives of the others. So it is much more than just tunneling information in one direction or another, depending upon the strategy of the outcome.

MR. SCHERER: Thank you. That's helpful.

MR. KRICH: A comment I had, and it appeared a couple of times over the last day and a half now, is the performance indicators need to be more meaning. At least I have understood this from the beginning, these indicators were never intended to be leading indicators because they're the outcomes, the results.

Now each of us, in our own way, at the utilities, at least, have developed a set of internal performance indicators that get tracked very carefully. In some cases we've identified leading indicators for us to properly manage the safe operation of the plant.

Let me give you an example. Maintenance Rule A-1 Systems. A-1 is if the system is in A-1 category means that it is not performing properly. It's not reliable enough or hasn't been available enough for some problem that falls in the A-1 category.

So in order to have some indication of what's going on, the way things are heading at Commonwealth Edison, we have a system health indicator which measures a lot of variables, and looks at where systems are headed before they get into the A-1 category. That's a leading indicator. We do that to manage by.

These indicators, at least in my opinion -- these are not indicators I use to manage by. These are

indicators that tell me the end result.

MS. FERDIG: And I think I have a lot to learn. Like I said, even my own professional work doesn't deal much in the arena of measure.

MR. KRICH: It's very difficult to come up with --

MS. FERDIG: Yeah. And it may be that that's part of then what I do one very small of the public. But we have to understand and feel confident that whatever you are doing internally then to manage toward that gives you enough early information to take action to avoid problems.

MR. SCHERER: I would say the same thing that you just said if I was having an internal discussion at my utility. Nevertheless, in the context that we are talking about here these very same indicators may, in fact, be leading indicators when the standard isn't the green/white threshold, but the standard is whether or not this is sufficient regulatory margin for the safe operation of the plant.

And so that's why I'm getting into the issue of -- are we having conversation or are effectively communicating. Because there's a big difference between a conversation I would have internal.

MR. KRICH: What I meant was trying to address was, this is not a leading indicator if you're looking for the thing which we keep talking about, which is the last item, which is the public wants some differentiation.

You know, we're used to all being in school where somebody got the highest grade on the test and somebody got the lowest grade on the test, and we could all kind of know where we all fit into that.

If you are looking for these indicators to give you that type of leading indication of differentiation, it's not going to do that. Those give you leading indication on where you are relative to risk and safety, absolutely.

MS. FERDIG: And that's what I mean.

MR. FLOYD: It raises a good point because you really have to ask yourself when you say, "Is this a leading indicator?" Leading to what.

MR. KRICH: Right.

MS. FERDIG: Right. And maybe that's all -- I think for me, just from a philosophical use of a metaphor, for me it's a question of what is the standard? What is the objective overall? And it is for everyone in the class to learn as much as they

possibly can, relative to a level of knowledge. And to the extent that we can achieve that, then we're all in the green. And I do not comply with the perspective that says we grade on a bell curve, and regardless how well the class does, there's --

MR. BORCHARDT: Yeah. That really goes to the issue of, you know, is it okay to be all green.

MS. FERDIG: Yes.

MR. BORCHARDT: The classroom analogy is, if you have a classroom of all A-math students, and the bottom guy in the class gets a 93 percentile for the semester, do you put him on academic probation because he's the lowest.

MS. FERDIG: And that's where the question of public confidence is really critical. If we are only confident when there's a number of clients that are being indicated as -- but what I want to know is what you are measuring or looking at in the way of indicators are giving you information early enough to take actions to --

MR. BORCHARDT: There's been a fundamental change in the construct of the program. In the past, I believe it was the NRCs objective to identify, as early as possible, any decline in performance. No matter how

much margin remained for adequate protection of public health and safety, it was our objective to have the resident inspector...and the rest of the NRC program identified, at the earliest onset, any decline in performance.

What this program does is proposed that there is an acceptable band of performance within which we don't need to try to identify those variations in performance.

Mr. Sherman will disagree with the validity of that premise.

MR. SHERMAN: Yes.

MR. BORCHARDT: Yes? Okay.

And there's one of the major disconnects. It's a problem for the inspection staff to get used to that idea. It's a problem for the NRC management and for licensing management, and the general public to all come to a common understanding of that. But that's a fundamental promise of this new process.

MR. GARCHOW: And that makes this process more consistent with other regulatory processes across other industries. You can say we're different because we're nuclear, but on a technical basis, if you look at the difference between the chemical plants sitting on

the river, and the nuclear plant sitting on the river, depending on what the chemical plant makes, there really isn't a fundamental lack of different between the two, even though in regulatory space the difference is huge for any number of political and social reasons.

Like we were talking at the break, the FAA has a minimum standard that allows airplanes to fly. And we all get on an airplane with the confidence that it sort of go/no go. That the FAA is either going -- that we're all getting on the airplane based on the assumption that the FAA would ground the plane if the relative significance of safety of the airline got to the point where it wasn't safe for the public, they would stop flying the airplane. The FAA would mandate that to happen.

So, really, the model one and the oversight process is really getting back to what I think a more closer model of other regulatory agencies are over the industries that they regulate, even though they is something -- and I agree with Mr. Sherman -- you can't dispute the fact through a motion or through politics or through peoples fears, there is something. You can't argue there is something different about the nuclear industry. And it hits us every time you go out

in public.

With that being said, the framework for what we created is more similar to other industries that appear to be successful, at least in the public's eyes.

MR. BORCHARDT: And even if we could agree on that, and I think we can, I think the NRC would like to have leading performance indicators.

It's not that we want to design indicators that weren't leading, but it is just that we haven't been able to. And the language that you hear is that of recognition that these are not leading. We don't want to mislead people to imply that they are.

MR. GARCHOW: There was one that was close to leading, and actually the NRC staff did some of the statistics around it. When you went back and looked at the plants that had challenges, the one that was most clearly leading was the -- and it's the one we struggle with the most in conversation was the unanticipated power changes greater than 20 percent.

MR. FLOYD: Actually that was the second one. The safety system functional ability.

MR. GARCHOW: The safety system functional ability. If both of those predicted the -- you took that the -- look at the data three years prior to some

of the challenged plants, you could actually pick up an increasing trend in those two to where, you know, if they had any action matrix if that plant system would have been in place, you might have had some confidence that you changed the conversation, and get the kind of incentive that Mr. Sherman was talking about to actually change the performance before something actually happened.

MS. FERDIG: And it is my understanding of the program, as it evolves, that when more data becomes available the indicators can become more refined toward that end.

MR. KRICH: More differentiated.

MS. FERDIG: I don't know if differentiation is what I'm talking about.

MR. SCHERER: I think we will constantly look for better performance indicators. I personally don't believe we'll ever find an indicator or set of indicators that will be an absolute predictor of the future.

We will constantly want to visit that process, and that's one of the things I was talking about yesterday is having a process in place for the oversight process that constantly challenges and

doesn't say, okay, we have 18 indicators. We're done. Let's move on. But constantly see whether they're better indicators; whether some be dropped; and some should be added; and some should be changed.

But basically every indicator always has some unintended consequence, and we have to look for that.

At the break I was talking also with the airline not only to what I prefer that the airline that I'm getting on be the top in terms of maintenance, and only the top, but I'm satisfied that whatever quartile airline I happen to be flying on is in, it will have a wide band away from the regulatory minimum standard, well, the FAA ground that airline.

But also when the airlines, in drawing an analogy, set on time arrivals, a nice standard. All of a sudden when I was in Connecticut, the flight that I used to take to Washington got 15 minutes longer. Well, Connecticut was no further away than Washington, and the planes were no slower, but the airlines realized they allowed an hour. If they were five minutes late, they would be late arrivals; but if they allowed an hour and fifteen minutes, they would have to be twenty minutes late and they'd still be on time.

MS. FERDIG: Right.

MR. SCHERER: So there are always unintended consequences and everybody faces these issues. We have to face it. That doesn't mean that we should throw it out. It means we need to have a process in place to constantly look back over our shoulder to figure out an improvement.

MS. FERDIG: Right.

MR. GARCHOW: I'd say we have to be careful, though. There is no limit to what data we could produce, assemble and mail into the NRC. So you have to be careful. I mean even in our plants. I'm sure we see it everywhere. Computers now on everybody's desk, and teaching everybody how to use these wonderful programs. It actually becomes a problem of having too much data as opposed to the right data. So there's no limit. We could come up with 150 PIs, but would they really tell us something. I don't know.

MR. FLOYD: Not that this is a definitive answer, but on these performance indicators, while we will continue to look to see if we can find one, specifically looking for one of these for 20 years. And we're in communication with them and seeing what insights they have. And the feedback they still gives us is...found one that we think is predictive and tells

us anything meaningful.

MR. SCHERER: On the other hand, I was involved in the process when we were first looking at these PIs, and there was an effort, I hope other people are aware of, to go back and look at some of the previous problem plants. Plants that eventually went on the NRC watch list; some that didn't. Some that were essentially SALP I, IMPO I plants that went into a noticeable declining trend. Would these PIs have given earlier warning then the previous? Or would they have just been totally blind to the declining trends. And at least the PIs looked at showed a correlation. In fact, an earlier correlation. Does that mean it's perfect? I don't believe so. Does that mean I can guarantee we'll have a high degree of confidence that it will predict the next declining plant?

I don't think I can predict, as Bill points out, that it would define the next declining plant. I have a lot more confidence that it, plus the inspection program, can identify the plant before it hits those regulatory standards that we would consider minimal standards.

MR. GARCHOW: Especially when you include the event response. IP2 is a very good example. That the

program does allow for event response. So when something happens of some significance that does allow the event response inspection to occur, which then has the opportunity to potentially surface things that weren't discovered during the PI or the normal inspection program.

I consider that one of the real strengths of the program. That is the backstop, because that allows the NRC to come in and look much more broader, once after something of some minimal or moderate significance is approved.

MR. SETSER: Let me offer an observation. Whereas, the nuclear profession has its own unique issues, and jargon and in potentially possible perception for logical reasons, the process that we're going through here is not unique. We surfaced exactly the same cultural issues that anyone else in any other professional that started a cultural change project is faced in environmental area the business between compliance and proportions.

If I take fewer reports of an action, am I perceived as going soft on the industry? If I have too high a rate of compliance, does that mean I'm not looking hard enough? Those are all cultural issues and

walls you come up against. And you have to get by.

The issue of how much information you give out and where you put it and so forth is a cultural issue.

The business of improvement is a cultural issue, believe it or not.

I come out of a culture for the last 38 years where I've managed environmental programs under probably the best developed command in control. Controls top processes where there were times when I couldn't even drag a person off the street to a public meeting, to the point where I don't have enough room for them all now.

Changing in terms of that process, we've changed from a public perception, where they didn't give a damn about what government did to now, everybody's got their hands in the till. We're all wrong and we're all rotten to the core.

But having served on both sides of the picture from a corporate industry standpoint, and also from a "public service standpoint," we can't let ourselves get bogged down in this issue. We've got to go forward.

The future is built on the strength of the

partnerships that we generate with the people we regulate.

We've solved all of the easy problems. The difficult problems that lie ahead depend on our sharing our strengths. We have to move away from "we" and "they," the "regulated" versus the "regulator." It is sort of like somebody said God created the good and the bad, and he gave the good the right to determine which one was which. Now you think about that a little bit.

(Laughter)

We've got to move beyond that concept. So what works? What doesn't work? And if it doesn't work, what do we need to change to make it work? That's what we're all about here.

And there will come a time when you talk about public involvement and whether you know have a proactive program or a reactive program. But I submit to you there's a lot we don't know about public involvement at this point in time. Who is the public? I get very few calls on my desk about this process from the public. But I get a lot of calls from public interest groups or special interest groups about the process.

So we need to tackle that. But right now I

think the lessons learned, and making it go forward, -- I don't think we have the option to go back -- the driving forces there won't let us go back. We're going to return to the days of yester-year when riding a horse in the City of Atlanta was better than taking a train. So we're going to have to move forward.

I think you're doing some great things and some good things. You don't have all the answers, but that's the beauty of the process when you're willing to get new answers, and you're willing to see what works and what doesn't work. But it is going to take all of us working together and changing respective rules in order to refine this process down the line.

And as I said yesterday, five years from now you may have 50 more questions. That's good. Just because you have questions doesn't mean that you have insurmountable problems that you need to go on, because you got something to fix.

I didn't want to pontificate too much, but there are a lot of salient issues here that you're surfacing, and that's good. That's exactly what we need to know. But that doesn't mean that any of those issues or release officials say let's go back to the way it was. Because I just don't think we're going to

get back to the way it was. We got too much at stake to go back and not forward.

MR. GARCHOW: Very good.

MR. PLISCO: Ready for a lunch break? One hour?

(Whereupon, at 11:56 a.m. a luncheon recess was taken.)

AFTERNOON SESSION

(1:11 p.m.)

MR. PLISCO: The last thing in our agenda is the agenda planning for January meeting and our next set of couple meetings, fix some dates, and also work on topics of what we want to have covered specifically for the January meeting. Is it time to go back and look at the February dates? Did people have time to check on those?

(Discussion)

We'll check with the others members as soon as they come back in.

MR. SCHERER: I thought there was some ruling of holding one meeting in each region. I thought that was in, like, your bylaws or something. Can I make a motion?

(Laughter)

MR. PLISCO: Well, I think one of the suggestions before lunch was let's look at the agenda, it looks like there's certain groups who want to hear for a certain topic that might make it more amenable. Stay way from Chicago before what(?) April.

MR. SCHERER: I can pretty much give a high reliability on snow if you come to California.

(Laughter)

Perhaps electricity, but no snow.

MR. KRICH: Right. Right. We do have electricity.

(Discussion)

MR. PLISCO: Let's talk January. We have those dates, the 22nd, 23rd. We'll have that in Rockville.

Let me go over what I -- I've been collecting potential topics through last meeting and this meeting. I've got two states that we still wanted to hear from, Pennsylvania and New Jersey.

John, Pennsylvania, were they coming in January or --

MR. MONNINGER: As of yet, they would like to eventually but they believe they need more and more information before they can form authoritative views.

MR. PLISCO: We'll go ahead and invite them and --

MR. GARCHOW: We can invite them right after we're sure --

MR. PLISCO: And I know New Jersey is planning on coming.

MR. TRAPP: We'll be finishing the report in

March, so I mean there's no sense coming.

MR. GARCHOW: It's how you ask the question. Say really, if it's interim feedback, we really need your feedback.

MR. MONNINGER: Actually I did express to them a view that not enough time to form a basis is a good decision. It's good feedback.

MR. PLISCO: We'll go ahead and invite them to the January meeting.

We also have input from the staff on the initial status on the metrics. We'll have the data through the first six months, and should have their internal evaluation. What they've got so far to talk about.

MR. GARCHOW: Were they planning to write -- I mean I don't need a 500-pound gorilla, but were they going to write like a formal six-month assessment report? So take the data and draw conclusions or just give us the data?

MR. PLISCO: We'll just going to have them give us the data. I think at that point they'll have some insights they can share. They're not going to have a report that I know of. A formal written report.

MR. BROCKMAN: But the end of your time -- by

January, they'll probably by that stage of the game know what the chapters of the gorilla are. What are the different -- so we'll receive the data plus insights.

MR. PLISCO: We also talked about having the staff address where they were with respect to the recommendations from the previous panel. And some short-term and long-term reactions, and in the staff requirements memo there were some actions.

We talked at the last meeting about having them addressed before we get to our recommendations. See where they are on recommendations from the previous panel.

MR. SCHERER: Loren, was it covered or is soon to be covered in the first item if the staff is planning changes that they're planning to recommend to the oversight process. They need to change definitions of PIs. Are they planning to add a PI?

I'm not talking about stuff that's a year down the road. I'm saying, if there's anything eminent that either is in their report and they're intending to change, those are things I would like to have highlighted to us so that we either say, oh, well, that addresses one of the concerns we had; or (b) we want to

know a little bit more about this change before you implement it.

MR. GARCHOW: So approved or nearly approved changes that are awaiting implementation.

MR. PLISCO: Or changes in process already.

MR. SCHERER: Yeah.

MR. PLISCO: The last time we talked about having some senior reactor analyst come in, like a panel.

MR. BROCKMAN: Could we sort of coordinate that amongst his peers?

MR. PLISCO: I was going to suggest that.

MR. TRAPP: Okay. How many do you want?

(Laughter)

MR. GARCHOW: How many are there?

MR. TRAPP: It's limited. I mean, we would probably get one from here and -- Region IV you're not going to get, unless its me. I think I'll be sitting in for you by that time. But we could get one from Region III and I.

MR. BROCKMAN: Jones works for me now. I can avail him.

MR. SCHERER: My view is you are look at (a) whether you want to invite them in, including the SRA

that used to be in Region IV.

MR. GARCHOW: Well, he's still there.

MR. PLISCO: I would suggest why don't we leave it up to Jim.

MR. SCHERER: Yeah. And the thing is you could also make a presentation of you've collected as a representative, like we are, in this case of the SRAs.

MR. GARCHOW: Right. So that's a maybe get together or a may not get together, maybe e-mail or voice mail. Get some consensus so you're coming in here and saying, here is the SRA perspective. And then, after you give it, leave it open for questions. I think that would be very helpful.

MR. TRAPP: We can do that.

MR. SCHERER: For example, the issue that was just discussed the scrutibility or transparency of the STP process, as it leaves the inspector and comes back.

MR. MONNINGER: Isn't there also a need for a fill-in?

MR. PLISCO: Residents and seniors.

MR. BROCKMAN: I think we need to focus on the regional inspectors and make sure you get a cross section of resident inspector work force but also the

regional work force.

(Yeses.)

MR. PLISCO: I don't want to set any specific numbers.

MR. BROCKMAN: If you get more than six or eight.

MR. PLISCO: I mean you're familiar with a whole lot of views out there. I think you can get us a cross section.

MR. GARCHOW: We don't want to be out numbered.

(Laughter)

I suggest also you figure out a way, via e-mail or some conference call, getting a collective view point for questions, wherein we could hear the different perspectives.

MR. PLISCO: And I think I've got a good two days already.

MR. FLOYD: One thing I would like to add, if possible, a cross-cutting issues working group. I think it would be nice to have a sort of a status feedback on where they are, you know, in making progress and reaching any consensus. I mean if you just had a joint meeting with the industry yesterday, I

guess it was.

MR. PLISCO: We can work that in with the staff and talk about any process changes or things that are going on.

MR. FLOYD: Well, Dean, might be able to report on that.

MR. LAURIE: With 50, 60, or 70 issues. We need to consolidate those; we need to fund those; and you have to do it in January because you can't determine what more information you need until you look at those set of issues. So we have to do that in January. And it will probably take a half day to get that done.

MR. GARCHOW: If we could get those out ahead of time, we might be able to rank them and then get them back to John, where we could have some -- he could take some liberty and say, you know, here's seven that are worded. They are essentially the same. And if we word them this way, they sort of capture --

MR. PLISCO: Yeah, John and I talked about that last night. What we will do is take all the inputs and try to prepare a consolidated list, look for implications, related issues through some kind of grouping that we'll propose to you.

MR. LAURIE: I went to talk to Chip last night but I couldn't get him off the stage.

(Laughter)

MR. PLISCO: I'd like to set a cutoff as far as getting -- I mean, obviously, we're going to have stuff that we put together as a preliminary list, but we'd like to get everyone's input that hasn't provided it as of now to help us with putting together that list. If you can get that to us in the next two weeks, if anyone else has any issues.

MR. FLOYD: I don't know how much structure we want to do this, but if we just send the list out and ask everybody to prioritize it. Everybody is probably going to come up with their own priority scheme.

Just thinking -- put this on the table. Maybe just three categories we want to put them in?

Do we see any that if they're not fixed we think the program fundamentally won't work significant enough that it would trash the program? That would be one category.

Second category would be items that we think are very important prediction for the program, high priority items.

And then maybe the third category is enhancements. You know, things that, given the work load that everybody has, it would be nice to make some improvements of some kind. But these aren't really high priority issues, but these certainly are things that are could improve the program.

MR. TRAPP: Maybe we could cut it down to two meetings. Anybody think of a fatal flaw that would go into --

MR. FLOYD: I would propose that too, but I didn't want to preclude anybody from saying they think there's one.

MR. TRAPP: I certainly haven't heard any.

MR. BORCHARDT: The list that we're coming up with are as much issues that we want the process to consider as recommendations to change?

I mean, we're not necessarily saying that the end result will even be a change after it's all considered, right?

(Yeses.)

I mean, that's just a way of framing. Not necessarily that you need to come up with a fix for each of these programs.

MR. TRAPP: Another thing that still bothers

me about this list is that it would be nice to compare it to what Bill Dean has on his list. I still feel we're creating another list of the same items that are already on a list somewhere. And it seems like it would be nice if we could get Dean's list and somehow --

MR. PLISCO: But I don't see this as a problem in the same way. If that were true, that would be a good sign. We haven't seen his list. I think we were really asked. To me, part of our success is if we go through the list and they go through the list, and they do line up. We're getting different inputs and looking at it from a different perspective. That's what we're asked to do, and make sure something wasn't missed, or something significant wasn't missed.

I think it would be helpful to find out where they are, and we may hear a different perspective. And I think we will hear some of that the way we're going to line up this presentation next month.

MR. GARCHOW: I think we need to ask Bill Dean, whose into this every day, and then some of the region folks may have this perspective, where might there be a perceived disconnect between what data is showing and whether the intelligent, educated people in

the region really think about a plant. And then just see what -- have a conversation around what is it about that perception. Somebody must be doing that in the NRC, I would hope. And maybe there are no examples. That would be information on its own. But there has to be some examples out there where maybe there's a feeling in the region that this plant's different than what the collective PIs and assessment are telling us.

MR. BORCHARDT: I'm not so sure that's a valid question, because the whole program is driven towards giving you the answers of the new program. I think your question would be valid if we had -- if you had a plant that was undergoing the old inspection program and the new in parallel and comparing the results. But how could you have the agency coming to a different opinion utilizing the same information?

MR. GARCHOW: I talked to Hub Miller quite a bit. And Hub uses words: You've still got some itches that are unscratched. Right. So, I mean -- and Louis and probably -- they have a -- by their experience and their experience base in doing this, they have a -- I mean we talk like Gut Fields, like they're lost, but there's actually parts to Gut Fields. And any of us who are in management we use that to steer to go look

in our management.

So I'd be interested in some of the Gut Fields that the regional administrators and their staff might have as they struggling through the process 'cause they --

MR. BORCHARDT: Have them come talk to us.

MR. GARCHOW: -- it's not a perfect world.

MR. PLISCO: You going to ask direct questions when the resident inspectors come in.

MR. GARCHOW: May that's the --

MR. BROCKMAN: From the regional viewpoint, pretty much more regional project representations here. I mean, within the panel --

MR. GARCHOW: Maybe we just need to have that conversation.

MR. BROCKMAN: Because I know Hub's real worried about his ability to get a sense. I'll represent Hub's position because he's worried that, in some of the coss-cutting issues, the residents are seeing these issues occur, because they're at the site every day. In the old process they might have had an in to go pull the string a little further, and maybe they don't find anything; maybe they do. But right now those strings are just sitting there unpulled.

As more of these types of examples at a particular plant -- this is Hub's conversation -- he's wondering if that's not leading to a chance of missing a declining performance like the collective, I'll say, judgement and experience base of the residents, is telling him that there's something going on, but they haven't quite to do an inspection yet.

MR. SCHERER: On that end a little bit. When both Jim and Jim come back and put together some presentation, I'd be very interested. We've got some experience now, actual experience in the plant. And I'd like to hear both the concerns that people have, which I think we've been hearing, but also what experience there is out there that either validates that concern or doesn't. Because I'm having trouble separating some of the information I've heard as to, well, there's a concern here that we won't be able to pull on this string. And, you know, what is the actual experience.

Don't need an answer now, but I'm saying, are there residents and senior residents that have back to you and say, yeah, here's a couple or three examples of things I just didn't have a chance to pull a string on. Or the answer, yes, I'm still concerned about that, but

I don't have any experience. I've always been able to pull on that string. So it's a legitimate concern but there's no practical experience. I'm trying to get data based on the experience that's --

MR. GARCHOW: That's where I'm at. So we've either got to kill -- I won't say kill it. We've got to pass just on data.

MR. SCHERER: Yeah, I'm trying to get some hard data that says, yes, here is some experiences that we haven't been able to --

MR. GARCHOW: When you talk to Hub that's the first thing out of his -- he's concerned about the ability to plan and the clients -- issues that haven't opted through. And the PIs are the inspection.

MR. MOORMAN: A lot of that right now goes back to a threshold and people not really being comfortable with the threshold at which we're identifying issues, and for us feeling that we need to be predicted to a certain extent, because nobody wants to be standing there when things are going bad. That causes us a lot of discomfort.

So in order to be pro-active or at least try to be, the desire is to go and be able to take issues and be able to make an assessment and have something

change. I'm not sure that we'd be able to hold up any specific examples, although I think we have a particular senior in mind that can talk to you about culturing corrective action programs and where there's possibility.

MR. BROCKMAN: I have a good example in that area right now -- correct me, if I'm wrong -- IPT. Just the work force that is going on, the agency's inspection to seek generator results. To determine if the inspection that we've got in adequate because this thing occurred, and should our inspection program been able to identify it before it occurred.

MR. KRICH: You talking about IP2?

MR. BROCKMAN: Yeah, on IP2. And the anxiety you're hearing on anyone when all of a sudden when you go from a green to a red on an issue or something is, even though you said no, that will occur, the after-the-fact review in looking of that often causes us to build a process to preclude that from happening again.

MR. GARCHOW: That's a while another discussion, because the design basis of the power plants wasn't that a 104 plants, if they were all PWRs, were never have primary to secondary --

MR. BROCKMAN: That's the anxiety associated with the discomfort on the present thresholds.

MR. SCHERER: I understand. And I'm trying to get it in legitimate concerns we need to address, and what does the data show as far as the experience to date, so that I can understand just what level of recommendation does it -- or correction action, if any, does it deserve.

MR. GARCHOW: That captures my issue better than I communicated. That's the issue.

MR. MOORMAN: I think in addressing this perhaps we'll also address some of the other issues we've heard from Bill morning about us not appearing at a level that will allow us to be predictable.

MR. BLOUGH: Dave mentioned that you kind of want to -- you responded in part of the talks about threshold. There's an element of that question, though, that is inspection, and it is kind of the continual look at cross-cutting issues, particularly corrective action.

One of the really good things about the new program is that the inspectors don't -- under the old program inspectors kind of owned the issues when they found them. We shouldn't own those issues; the

licensee should own the issues. And so the things that the inspectors used to follow up on, everyone of them are now go to licensee's corrective action system. The question is should be some element of cycling back to kind of mid-level issues quicker than the annual PI&R that'll give you more insight into the performance. It really gets an all cross-country issues if you do that. That's the other half of that question.

MR. MOORMAN: I personally would like to see it factored back into the inspection program as the ability and prescribed way for us to go in and be able to paint a picture of the corrective action program on a continual basis, as opposed to having that one.

MR. BLOUGH: There's nothing in your baseline now which allows you to do that?

MR. MOORMAN: There is, but it’s a threshold issue again.

MR. PLISCO: Is it an issue that may have time allotted to look but the threshold on what they actually can put in that report and document is high. So they look but they don't say anything. That's where some of the frustrations is in some of those issues having to do with the corrective action program.

MR. KRICH: When you say -- not documenting

the inspection report.

MR. PLISCO: That's correct.

MR. KRICH: This is a discussion we've had many times. If an inspector finds something out there and it doesn't rise to a level of the inspection, we really want to hear about it. Please talk to us.

MR. MOORMAN: And that's what I'm seeing going on right now.

MR. SHERMAN: I can't help when this discussion takes place, going back a couple of years, when I had Bill Dean's job. I spent nine months responding to the Towers Report, which was highly critical of the NRC inspectors, raising issues to licensing management and causing some corrective actions to take place, and not documenting it or having a regulatory basis. And now we've gone 180. Now you're asking for it.

And now you're saying give us the feedback. Don't put it in a report but give us the feedback. I don't think I will ever become comfortable with that.

MR. GARCHOW: That's the beauty of America that allows that kind of --

(Laughter)

I think the pendulum is the answer, right? I

mean the truth is probably somewhere between the two. Come back to some place that's right.

MR. SCHERER: I'm still looking. Maybe it is because I have the oversight function within my company, so I find myself in an analogous role where I'm charged by my management to provide an early warning. But money's internal.

We've moved the follow-up corrective action to the line organization instead of following it ourselves. And there's a discomfort on the part of my QA, QC inspectors is to, you know, the measure of control and how we are trend it, and if it goes to the line organization. From hearing the same discussion internally, and I'm trying to -- internally, you also separate out okay, what issues didn't get followed up, what issues, you know -- give me some facts I can understand. We can mid-course correction. And what I would attribute to a legitimate concern with a change in the process, and a change in control and shifting from something in the nuclear oversight function at my plant QA used to control that now they are providing oversight for the line organization to self-correct.

It is in may ways very analogous and I wanted to be data driven organization that makes corrections

based on the actual results, but recognizing that there are legitimate concerns that we have address programmatically as well.

MR. MOORMAN: And this may turn out to be a change of management issue whether we all have to come around and understand what is --

MR. FLOYD: I'm trying to get a little baseline here, and I don't understand. I thought the new baseline program works the following way -- and, correct me, if this is not right -- you go and find a green finding that's turned over to licensee. It's written up on the inspection report outside the violation...licensee corrective action program. I had always presumed, the way the baseline program is written, that the inspector was once expected at some time to go back and make sure that the licensee did the corrective action that was associated with the green finding.

MR. PLISCO: Not under the new program. The only time you do that is as part of the PI&R inspection.

MR. FLOYD: This is part of the PI program.

MR. PLISCO: There is I think a 20 percent sample in the PI&R section.

MR. FLOYD: You got a ten percent sampling in each module.

MR. PLISCO: No, the ten percent is time.

MR. FLOYD: Yeah, the ten percent is time.

MR. BROCKMAN: There are not that many green findings. I mean there's a lot, but I mean spread across the country there's a handful to play on. You would think in a ten percent time sampling program for an inspection would be more than adequate time for the inspector to go to corrective action. The minute you guys complete that action, what did you do?

MR. PLISCO: We're on a transition now too, remember. A lot of PI&R inspections that we did, what they're looking at is NCVs in the old program from a year ago. We haven't gotten to the point where your looking back a year and its just stuff in the new program, too. I think the NCV sample has been fairly large, I know the ones that we've done so far because of that time period.

MR. GARCHOW: What's the data show?

MR. FLOYD: What I'm looking at here is Jill's data, 207 green findings in the first quarter of the program; 246 in the second. So we have 450 or so findings right across 103 units. You're looking at

about four or five per unit on average. But on average you're looking at four or five of things that you'd think the inspector would have time to go back and pull the string on a little bit. Within the ten percent available. And annualize that.

MR. TRAPP: Why would it be more important for them to look at those, though, than everything else in the program?

MR. FLOYD: These were at least findings that rose to the level of being a cited violation and passing the threshold of being NO610 started, at least having some identified level of significance that got them classified as a green, as opposed to a minor violation on what was in the past an observation.

MR. BORCHARDT: Just for the sake of conversation, not all greens are violations. And so, the PI&R of --

MR. FLOYD: I agree.

MR. BORCHARDT: NCVs are green findings.

MR. MOORMAN: I think its written as NCVs right now.

MR. GARCHOW: Its more green findings.

MR. SCHERER: I agree with Steve's point. But there's also an element in the PI&R inspection that

says go back and sample previous findings and go look at how they got resolved. And part of the reason I'm comfortable with that is that the resident is familiar with it, the NRC inspectors are familiar with it and therefore, a review is probably a more meaningful review than picking up an issue code that they reidentified that the resident may or may not be intimate with. But any of the green findings they would be familiar with, and therefore, they could determine whether or not there's been any way that diminishment in the follow-up, because it was a green finding turned over to the utilities corrective action program as opposed to being documented, written up, NOV and captured in that manner as a regulatory commitment. It gives you essentially a comparison to what would be the old system of writing it up as an NOVA versus just turning it over to the utilities corrective action program.

MR. PLISCO: And in practice I know that the residents will read it too. I know they do this. During the year a corrective action document comes in that they have some discomfort with or they think needs a relook, and they have a folder, and they throw it in the folder. And when the inspection comes up, they

meet with the team leader and they give them his folder. That's how -- they need to take a closer look at.

MR. TRAPP: Kind of in the spirit of the new program, though. I guess my point of view is an SRA would be -- we've already determined this is very low, one in a million chances, increases in core damage. Rather than dwell on that, move on and go find me something significant.

Why take a green that you've already found and spend a lot of time looking at corrective actions, when the best you're going to do is find it is green.

I'd rather have you spend your time going out and find some significant to do.

MR. FLOYD: The itch trying to be scratched is, because we are turning it over to you in your corrective action program, how do we know you're really following through and taking care of the condition. That's the follow-up.

MR. PLISCO: This is the one programmatic review really that there is.

MR. SCHERER: In our case we hope answer your question by our prioritization. Essentially that means go to cap one corrective actions. Those are the ones

that have the most risk significance, because that's why they were categorized as one. Then you look at the two three's to make sure that we didn't mischaracterize a one as a two-three. Basically, most of the green findings are cap four.

MR. GARCHOW: That's what we're saying too. Because left to the NRC taking the time to identify them and even characterize them to be green is actually more time than what, if we identified it correctly as a program, we would ever spend on it in the pursuit of more risky issues.

MR. BLOUGH: That's kind of the other question about with a PI&R whether there might be some -- you know, checking some of those things in the mid-level on your system a little more often than that little PI&R piece of each inspection. Get a real time understanding of how the licensee's PI&R process functions. Not that we would follow-up on all of them or all events the way we used to, but is there indeed some middle ground.

Were we going to agenda planning or are we on something else?

(Laughter)

MR. PLISCO: Back to January, I think we have

a full plate.

MR. MONNINGER: We do have a full plate.

MR. PLISCO: Maybe they'll move to the next meeting. Pencil it in.

Actually, I think we're in the middle of a conversation about Bob's comment about the issues themselves and drifted off.

I think what the plan is, is John and I will take the inputs, we'll prepare a summary listing. Everyone agrees with Steve's -- well, we'll get that out to you, each individual, set a priority, and then when we meet back we'll try to work through this priority list. At least agree among these higher category priorities.

MR. GARCHOW: There's another perspective I think we missed, too. I mean...at NEI is pretty much eating, living, and breathing this. To the extent that we all have representatives, we sort of have invited the utility folks. We have a view of the industry, but its only based on our information. In fact, Steve has the collective view with his staff. Is there room for -- I mean I think there's room for this panel to hear what the collective industry view on the good, the bad, the ugly since --

MR. LAURIE: I think it is important to do that from someone other than the panel members.

MR. GARCHOW: Right. I think at some future we need to have, you know, one of Steve's staff come and say, hey, we've been meeting as an industry every two weeks for two years, pouring over all this, what does that perspective tell us.

MR. BORCHARDT: I would propose to add to the wish list, like, putting your shopping --

(Laughter)

I draw the line through Wednesday.

(Laughter)

-- some press representation. Matt Wald, some inside NRC reporters, some people that are a little bit more of the interface between our activities and the public. That will give us a perspective on how understandable this is.

MR. BROCKMAN: If you're going to go there you've almost got to Wall Street. You've almost got to go to the other once-removed stakeholder who is driving a lot of actions, and that's Wall Street. They're the ones who added four SALPs for us, one and three 2s and you came out and you were a 1.75, which we heard this morning. Why do we need that number? So we can add

them up and divide by four and come up with a number.

And what is Wall Street doing with the data because that is what's going to put pressures on utilities.

MR. GARCHOW: Why didn't Jim ask them what were they going to do?

MR. BROCKMAN: I don't know the answer to the question. Somebody's giving insights I think of very valuable bit of information.

MR. MONNINGER: What are some names or organizations?

MR. GARCHOW: Jim Assilteen, is that how you pronounce it?

MR. MONNINGER: Assilstein.

MR. GARCHOW: Works for one of the rating agencies, a nuclear power.

MR. KRICH: Let me just add to that, Ken, because that brought to mind that a year ago this past August I met with the Illinois delegation of the staff members, and representatives of the senators from Illinois about the new oversight process. That was arranged by the governmental affairs people. And it is was interesting listening to the discussion today. What they were interested in was, give me a number.

Give me something that I can go to the constituents and say, yes, we know what's going on with the nuclear plants in our congressional district, and they're okay because they have this number.

They were concerned about we knew SALP, we understood SALP, one, two, three. They had a number. How does that work under the new process. And I assured them that the new process was going to be fine. It's the same type of -- you get the same kind of feedback. We need something to point to to say, this says to me it's good. This says it's average. This says it's a problem.

MR. GARCHOW: It is not a either/or discussion. We want them both, right? Having something that's simple and easy to understand is totally grounded -- I mean, I'll say will over sell it, totally grounded into subjectivity. Because it was understandable because you were a 1.75, in some respects leadership is doing what's right. And what's right, you know -- that isn't right, even though it might have been understandable, and the people thought it was right, to the constituents it wasn't right. You need both.

MR. SCHERER: I guess I had a concern about -

- my favorite phrase is "slippery slope" in terms of trying to identify all the possible uses of the metric or the findings. And when you get to financial -- I know this is important, because I think those in congress and other stakeholders I think we're on a slippery slope of how other people might use this information, and that's a very, very, very broad spectrum.

I sort of like the press because of the direct uses is public communication. And if we go back to the metric we talked about, and the goals, and the key success criteria, it was public understanding, and we tried to hear from some of the public. But the link to most of it is the press, because they take the information directly and they act as the filter, if you will, to a lot of our public including the stock analysts and some of the others.

But if we try to identify every possible user of the information that we're going to publish, I think we'll be here forever. I think we just don't have enough time between now and then to identify every possible user.

MR. LAURIE: On the other side of that, Ed, in determining your goals, your company goals, your

plant goals, you're going to look at a variety criteria.

Certainly whether stated or unstated...to satisfy the needs of the financial analyst. And so I think it is important for the program to understand what they're hearing, and how they're interpreting it, and what language they need to satisfy themselves, which would in turn satisfy industry. I'm very interested in their knowledge about the program and what their needs are.

I think they're a substantial -- we can subjective. We can guesstimate what the public is looking for. I think the financial world has much more concrete criteria to...what they're looking for. So whether it is part of a formal hearing or not, I'm personally interested in what these folks needs are for language purposes. Whether green and white satisfies them or if they need something else. Because I think that in large measure or some substantial measure guides you all.

MR. KRICH: I guess I take this conversation as throwing out ideas about --

MR. PLISCO: Yes.

MR. KRICH: -- groups that we may want to

hear from. So I don't see that as -- we're not yet on the slippery slope.

So one other thing I would like to throw out is that back when we implemented the program, each of the regions went out and had a meeting at the local sites, talked to the local government agencies. I attended some of those. They were pretty non-events. But would we want them to bring some of those people back in and talk to them since now we'll start off the program telling them, here's what it is. We've worked it for almost a year. Would it be worth bringing some of them back in and we ask them what they think, how they see the work?

MR. PLISCO: I can speak for Region II. We had a hard enough time getting them to come to the first meeting. We had very little participation or interest.

MR. GARCHOW: We could ask Alan Anderson and his group be prepared to discuss that. I'm not sure that this panel has to do all the leg work.

MR. PLISCO: But it's a thought.

MR. GARCHOW: Or summarize what's been done.

MR. MONNINGER: Certain segments within the NRC -- in the PeepUp against the process. He mentioned

it may be a good idea to invite some of those same inspectors or managers or whatever.

MR. GARCHOW: Steve, do you recall? I don't recall anybody on the record --

MR. FLOYD: Yeah, there was.

MR. GARCHOW: -- that gives from the NRC.

MR. KRICH: That was someone from Region III, I think came to --

MR. BROCKMAN: I think it was Mark --

MR. KRICH: Thank you, Steve, I was going to say that. The thing for Region III, I was going to stay out of that one.

MR. BROCKMAN: There was one other besides Mark.

MR. GARCHOW: It's not about Mark. Those have actually been used. Now I remember. We got them out there. So it was nothing against Mark.

MR. BORCHARDT: How about the PeepUp members? They went through their stage; now they're booked from their respective positions; that the initial implementation may have a very well educated perspective of what they thought existed, however long ago that was. And now from where it is today.

MR. PLISCO: I think that was part of the

thought at the first meeting was why we wanted to hear Phil Dean talk about what they did with the PeepUp recommendations. I don't know if there's more than a dozen of them on any report to find out what's happening, whether those are resolved or not.

MR. GARCHOW: Actually Steve and I are living links.

MR. KRICH: And Ken.

MR. GARCHOW: And Ken. That's right. Living links to that panel.

MR. BORCHARDT: I think there's some others. I would harken to suggest Jeff Leiberman might have a view; Frank Gillespie. I don't know who all the industry people were.

MR. GARCHOW: We heard -- is it Gary from Illinois? He was on the panel.

MR. SCHERER: And Jim Chase from Omaha.

MR. GARCHOW: Jim Chase.

MR. PLISCO: Any other thoughts?

(No response.)

MR. BLOUGH: We need to prioritize the issues. That will have to be I think a heavily facilitated activity which the group processes thought out of the substantial degree in advance in order just

to make progress in this group.

And so the group dynamics type things, I mean we're going to have some real expertise and some process to get there.

The other thing is on hearing from stakeholders. One thing which to look at is, who we have when just in fairness to them. For example, if we have a meeting and we've invited certain stakeholders, and then we have others at a different meeting, is it the right group such that ones who should be able to hear what others are telling us and kind of respond, or all there at the same time.

I'm not crazy in that, but if we had some come in in January and some come in in February, some findings go into who comes in when because the individuals to be able to sit there and hear what others tell us, and then relate that to what they want to tell us. As opposed to making two trips to the panel.

For example, if UCS or Ricky Oats group or someone wants to come in. We should look at what's going to be most convenient for them to be able to experience as much of the process as they can while they're providing us their input.

That's all.

MR. MONNINGER: Going through all of the names, what I was thinking was, the third meeting, which will be January 22nd and 23rd, and close up with the State of New Jersey and Pennsylvania. Men with basically all kinds of different views from the staff, whether it's Bill Dean's shop, whether it's SRAs, whether it's SRIs or the cross-cutting working group, etc. That pretty much filled the agenda in January. Then it looks like February will be the NEI group, the UCS publicists and financial analysts, local government agencies, you know, the PeepUp members. So it did look like there was some organization.

MR. PLISCO: Anything else on the agenda for January?

(No response.)

MR. GARCHOW: I have a question on OCS view, sort of clearing the issues, running the real time mode. Was it your intent to sort of get us all on a roll off of issues sort of independent of where they came from, because of this panel it seems to me it shouldn't be dependent on who had the issue, and get them back to us. Was that the plan?

MR. MONNINGER: The thought was, we seem to

like Rod's format at the table. So the thought is, I start with the table, expand a little bit. And we heard the Region III stakeholder meeting first, and then we have the Region IV. So I was just going to keep inserting, inserting, inserting, and then Mary's issues, the state issues, everyone would have their line items and our four different categories, PI inspections, whatever. Our five categories without reference to where they came from.

MR. GARCHOW: And then I entrust you to consolidate the --

MR. MONNINGER: Yeah, Loren and I will consolidate on the multiple people mentioned, 955, that kind of stuff, and then we would come to a pretty good agreement. And then I put that then in the meeting summary, because all the inputs came from me through the transcript, whatever. We would then issue that, hopefully, within two weeks. It takes a week for the transcript to come in. Hopefully we have that out in two weeks.

MR. GARCHOW: And then that would be the list that we'd start with, per Randy's suggestion that start to facilitate the review process to come up with whatever the final list would be. I understand.

MR. TRAPP: Should a subcommittee rank them for the first shot through and then we could just come in and discuss differences, if there was any?

MR. PLISCO: What are your thoughts on that?

MR. MONNINGER: Does that mean you have to have a subcommittee meeting?

MR. GARCHOW: How about an informal gathering of interested personnel?

MR. PLISCO: Well, Jim's suggestion was, before we meet as a group to talk about the prioritization. Maybe break it up into groups.

MR. GARCHOW: We start with that, figuring out how to do that.

MR. MONNINGER: I mean when we shoot it out via a meeting summary everyone can shoot their feedback back in, but you can't cross comment on how someone ranks them. Or you can -- maybe four or five people would shoot their inputs back as to how they ranked it and then --

MR. BROCKMAN: The only way to do it is to put together a table for you to get it back. And if everybody ranks them from one to X, or high, medium, low or whatever we've got, then you could have a table for each person on the list of issues, and then send

that out to everybody and you've got your final.

MR. MONNINGER: Yeah, we were told on the one, two, three ranking, I think Steve came --

MR. BROCKMAN: Whatever we've got. That you could take all the issues everybody sends in, you fill out the table, the table is completed, boom.

MR. PLISCO: Let me go over that again, so we can be clear on that. Steve's suggestion was three categories, when you go through this initial ranking. One is, you know, if it's not fixed, would it cost -- I think you said trash the program. I can think of another word. I will put it in the context of an original objective as something when it's not meeting one of the agency goals.

Two is a high priority. Something that should be addressed. And three is enhancement. Something that we would recommend should be done, but it's not in these first two categories.

MR. BROCKMAN: Going into that attachment you talked about.

MR. FLOYD: I hate to say it but there might be a fourth category, too, and that's "other." It's neither an enhancement or anything we may think we can do anything with. I mean, some of the comments are

kind of regional exclusive of some of the principles of the program. And unless we're going to change the principles of the program...

MR. BORCHARDT: I think I tried to make this point earlier, so this will be my last time. Rather than say "enhancements" as the third category, I'd say "areas for evaluation."

MR. GARCHOW: Or items for consideration.

MR. BORCHARDT: Whatever the language is. But enhancement to me means this is something that you eventually need to fix, maybe two years from now. But I'd like to have the freedom to say, I don't know if this is a good idea or not, but I think it's a good idea for you to look at it.

MR. PLISCO: It might be you don't need a fourth category then.

"Items for consideration."

MR. SCHERER: I would include in that, so I don't want to create a fourth category, things that we want to maintain on the list to worry about in the future. Potential issues that need to be watched and not necessarily enhancement. We're not saying you need to fix something. But it's things that we would say, you know, the future self-assessment need to address.

MR. GARCHOW: So that would be to consider.

MR. SCHERER: Yes. I could easily find myself comfortable putting that sort of issue on that third category, and then we keep it down to just three.

MR. MONNINGER: What happened to the "other"?

MR. GARCHOW: Turns into "items for consideration."

MR. PLISCO: "Items for consideration," the third category.

MR. MONNINGER: There may be issues you don't even want people to consider.

MR. SCHERER: Then they shouldn't be issues.

MR. MONNINGER: We're putting everyone's issues in the table, and that doesn't mean that that's the table that goes forward.

MR. PLISCO: Well, I always say if we assume it's blank --

MR. GARCHOW: Let's address what John's --

MR. PLISCO: -- none of these three.

MR. FLOYD: Nobody felt it deserved further consideration.

MR. GARCHOW: But for completeness, John, you're on to something, because you saw that this morning. That list of everybody's could be an

attachment in the report, so that the document that we're in sort of shows the process. Or you could see the big list, then you could say, okay. The panel has come up with that ranking, and that list is an attachment.

And that whatever our deliberation would show actually goes forward in the report. But at least for the record we would have the attachments to show the journey, so that it was shown in the public record that every issue got deliberated and had a process to get discussed by the board, which is why the PeepUp report ended up that thick for a 15-page document, cause you could see the whole pack.

MS. FERDIG: I just have a thought that's coming to my mind, and like Bill I'll just say it once more and not bother to say it again.

But in this conversation are we assuming that we will have specific data point examples associated with each of the issues that get played out in the report, number one.

And how do we intend to give the kind of consideration to the things that are going well with data point. Specific example that I suggest also be included in this report and deserves at least some

level of energy equal to that that we're spending on the issue guidance. And how do we go about that?

MR. FLOYD: I think that's a different list. I agree with the suggestion. I just think it's a different list.

MS. FERDIG: Right. And is it something we do later or is it something we do concurrently, or how does that fit into our cognitive processes?

MR. GARCHOW: That's an -- you just heard the pregnant side on this.

MS. FERDIG: Right.

MR. GARCHOW: We don't do that at all.

MR. PLISCO: I did it already.

MS. FERDIG: Well, given the timeliness of yesterday's conversation, I guess --

MR. PLISCO: That I can put together.

MR. BORCHARDT: I would suggest that we would want to make some kind of global statements about some of the positives. But given the limited amount of time we have, and the resources available to draw on, it would not be efficient or -- the right thing for us to do is to spend an equal amount of effort looking for positives that we want to have continue as we are trying to identify where there are some areas that need

to be improved.

MR. SCHERER: With one exception, if you would, Bill. Those areas which we may or may not believe. If you start eliminating that positive attribute, we up the program at risk. A potential example is the FAQ process.

If this group were to decide that we need to continue, will we need to at least focus on the benefits that are provided by NFAQ process, then we would want to put in our report that staff ought to give consideration before eliminating that, or at least put some other process in place that would provide a suitable dialogue for clarification.

So I'm not suggesting that it would be in the report. I'm simply saying there might be some things we find help make the process accessible thus far, and we want to reflect some degree of assurance that it would either continue or that an adequate substitute would be identified.

I'm not saying that there's a long list of them, but I think eventually there's some that could exist, and we would want to have the ability to put those in.

I don't feel the need to say, you know, a

positive thing and a bad thing, and a positive thing, and an opportunity for improvement, and somehow, you know -- you've been handed a process. I'm much more interested in focusing on those areas that we can improve, as opposed to saying well, this is so much better than anything else.

MR. GARCHOW: We're not really selling it. The commission has already approved it.

MR. FLOYD: Might I suggest in the interest of time 'cause we won't get everybody's input today. We really hadn't thought about it in those terms. I think that's a good way to think about it.

Make a homework assignment for folks as much as we did this last time for identified issues of things that need to be improved. Could we not think for the next time to come in with a prepared list of items that we think that if they were removed from the program would it substantially hurt the program.

MR. BROCKMAN: A list of successes.

MR. FLOYD: Successes. Right. I can think of another one would be the web site for communicating information to the public.

For some reason as a result of one of the other items, let's scrub oversight. It's confusing,

you know, to certain elements of the public. That might be viewed as not a success.

MS. FERDIG: But I do hear your point about not wasting time on things that are given already.

MR. PLISCO: That list and my input as far as this part wasn't necessarily my list. I sat through a lot of workshops and a lot of feedback sessions with inspectors, and I've been collecting that list over the last year of what things -- at least in the groups that I talked to have agreed to things that are working. And even some side benefits that weren't anticipated. There's a number of those things, too, in the communications area, especially where its some things that really weren't meant to be part of the program fell out as a positive.

MR. GARCHOW: Can I add to that? Did Steve find, looking to Jim and Jim in putting together your presentation, I would that there is some facts that we may or may not be aware of in terms of things that have been key training issues or communication issues within the agency that may or may not be important to the success of this process that we want to capture.

So we have an opportunity to hear from both of you or from SRAs and residents. That may be one of

the questions you want to ask so that we can get to the feedback and consider those.

MR. GARCHOW: And the training of the inspectors isn't very robust that -- I would say be a key element of the program -- really we haven’t talked about at all.

MR. SCHERER: But I think the presence was such we would pick up if the training was not robust enough. But if one of the reasons we got as far as we did is that, hypothetically, the training was robust, then let's put that in. Because as we make changes we need to make sure we capture that a retraining has-to approach.

MS. FERDIG: Right.

MR. SCHERER: I thought this --

MR. PLISCO: And we can answer on part of that already. The answer is, the training isn't robust. There's already a working group that's working on it. They actually been working for about four months now.

MR. SCHERER: Well, I'm optimistic. The points are positive.

MR. PLISCO: Yeah. But I'm saying some of those issue, I think it gets back to the original point

that Steve made, someone made, as far as these things are already ongoing. There are some things that probably everyone is not aware of.

MS. FERDIG: Are there other unintended positive outcomes that just manifested themselves that need to be noted in the overall description?

MR. PLISCO: There are.

Did we miss anything?

MS. FERDIG: We haven't heard from this guy.

MR. MOUGHTON: I recall the last time I didn't say too much.

MR. FLOYD: I think intentionally when the program was developed with that 95-5 threshold, I think the bottom line intent was to essentially combine what was the SALP I, SALP II category, and say that really isn't a -- by in large nobody was worried about the plants that had SALP IIs. Those were considered to be average performers. And the program was really designed to go after the outlier who is effectively the SALP III.

One way to look at this is what we've done. We've combined the SALP I and SALP II category, and that's the green, and taken a SALP III category, and said, well, they're below average in this area, but

what's the significance of being where they are on this particular issue. We've really taken SALP III and upgraded it now.

You can argue about how many categories we got, but what we've done is we've combined SALP I and II, and we've expanded SALP III into three separate potential categories, depending upon significance. Focusing on the outlier aspect rather than trying to rank anybody collectively across the industry.

I don't know if that will Bill from Vermont. Maybe or maybe not. I don't think of it in those terms, but that's really what it did.

MR. PLISCO: At least from the point as indicators.

MR. FLOYD: Yeah.

MS. FERDIG: I'm going to ask a question, not having any sense of the background that got to the color coding with absence of numbers. What would happen if it became denoted through numbers instead of colors? What are the complications of that?

MR. FLOYD: I think from the industry's perspective, the unintended consequences is it is too easy numerically. If you mix green, white, yellow and red, I don't know what you get, an omelet or something.

(Laughter)

You can't really do that very easy.

MS. FERDIG: You have to do numeric averages and something --

MR. FLOYD: There would be people to try to come up with a number, and then they try to rank this one and that one.

MS. FERDIG: Okay.

MR. FLOYD: Then you get what was going on on Wall Street where they were making a difference between having a plant be a 1.5 or 1.75, and then recommending to investors that if you're going to invest in the utility stock that has a nuclear plant, you ought to go with the 1.5 plant instead of the 1.75 plant, you know. Crazy things like that that had no meaning.

MR. SCHERER: The concerns that I heard expressed were exactly that. It would imply a precision that doesn't exist. If you take numbers, you can add them together, you can divide, you can weight them, and then you come out with 1.89...send a message that plant that's rated 1.89 is, in fact, materially less safe than a plant that's rated 1.88.

What you can do with numbers is apply a precision that doesn't exist in this process.

MR. MOUGHTON: It also doesn't mean anything to the score in initiating events with EP. If someone is very week in EP, that's important. An averaging is not actionable. Whereas, the cornerstones were set up to areas that we wanted to see effective performance. And we can understand what that means in a cornerstone. An average of four set of numbers has no inherent meaning.

MR. BLOUGH: The colors are actually -- the risk spectrum of each color covers a decade. So you know, at least in theory, is ten times more significant risk-wise than white on an average. But they're both covering -- the white is covering a whole range. The fact of ten and the yellows covering a whole range.

MR. GARCHOW: For the reactor cornerstones.

MR. BLOUGH: For the reactor cornerstones.

MR. GARCHOW: You couldn't make that agreement in security or --

MR. BLOUGH: No.

MR. PLISCO: Anything else, John? Closing business.

MR. MONNINGER: I guess the last time we said what we were going to do with that letter from the individual from Pennsylvania. Now we have the letter,

so I guess the board -- the OB letter that was actually forwarded to Loren. Everyone got copies of it. So it was forwarded to the panel with no recommended action on it, but is there a decision as to what the panel would like to do with the letter?

MR. PLISCO: I suggest we just consider it and develop our thoughts on the area of the enforcement, and look at the issues and see whether we want to raise any issues on that.

MR. BORCHARDT: I will provide a copy of the answer to the panel when it's completed.

MR. SCHERER: I don't have a particular problem, subject to the chairman and the other members of the committee. If there's a desire, as we did in the last case, I don't have a problem acknowledging that it's a letter and that we'll take it into account in our deliberation.

MR. PLISCO: Acknowledge it by e-mail.

MR. SCHERER: I would also independently state that...you had with...and I thought that was a good exchange. And I don't think the committee has to do anything with it, the panel has to do anything else.

MR. PLISCO: That's why my suggestion is that you read it. And as you're developing your own

personal input, I think his input is really focused on enforcement. When you're looking at the enforcement issues, just take that into consideration and see if there's any issues in there.

MR. SCHERER: My suggestion, just for the record, since this is a public meeting, you may want to ask whether anybody else on the panel has any -- I thought your letter back was appropriate. Certainly addressed any concerns about it.

MR. FLOYD: John, were you going to include on the list Joe's letter?

MR. MONNINGER: Yes.

MR. FLOYD: Some of those were quite interesting.

MR. PLISCO: And I didn't raise those here because they're planning to be here at the meeting. If you have any issues -- that's really more preliminary information.

MR. SCHERER: Well, I have some questions. I need to try and understand some of the issues.

MR. MONNINGER: I believe I will try to break her's out on the table also, to the extent possible.

MR. PLISCO: Any input we've got to date, I'll give you two more weeks. Anything we get within

the next few weeks we'll put together in a preliminary table.

Anything else?

MR. BROCKMAN: Motion to adjourn.

MR. PLISCO: January is two days. But the February one is in jeopardy.

(Laughter)

(Whereupon, at 2:34 p.m. the meeting was concluded.)